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COMMISSION

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY POWER ) CASE NO.  
COOPERATIVE, INC., FOR GENERAL ) 2010-00167  
ADJUSTMENT OF ELECTRIC RATES )

**REPLY OF GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION  
TO RESPONSE OF EAST KENTUCKY POWER COOPERATIVE, INC.**

Comes now Grayson Rural Electric Cooperative Corporation (GRAYSON), by and through counsel, and for its reply to the Response of East Kentucky Power Cooperative, Inc., (EKP) states as follows:

1. GRAYSON attaches hereto an Affidavit of Carol Hall Fraley, its President and CEO, as Exhibit 1 to this Reply.
2. The Response of EKP asserts that GRAYSON erred in asserting in its Motion that it had not executed a verification and acknowledgment of the over-earning mechanism as ordered by the Commission in the January 14, 2011, Order. The Response further asserts that due diligence was not exercised in determining whether such a document had been signed. The Affidavit attached hereto of the President and CEO of GRAYSON sets forth the basis for GRAYSON's belief that the document had not been signed and is an acknowledgment of the fact that, after further review, it evidently was signed. The Commission has posted its documents received following the January 14, 2011, Order in a fashion that is not readily discernable by one who looks at the website under 2010 cases and certainly this one assigned with the number 167. After a review again on Friday, April 24, and Saturday, April 25, 2014, by the undersigned, still not seeing the filing of the verification and acknowledgment, nor seeing the filing of GRAYSON's own Motion, the undersigned

counsel while at Commission's headquarters on Monday, April 28, 2014, sought and received assistance from Commission staff members in navigating the website. After a few minutes of clicking on the keyboard, a couple of staffers ascertained the method and manner of finding post order documents and assisted the undersigned in navigating the system. Only after this personal assistance was given to the undersigned was the undersigned able to navigate through the website and find the existence of GRAYSON's Motion and the filed verification and acknowledgments. Several attempts had been made prior to the filing of the Motion and subsequent thereto before the seminar process from the Commission staff enlightened the undersigned in the method and steps to be followed locating the documents. The undersigned apologizes to the parties and the Commission herein, as well as gives apologies to guitarist and singer/songwriter Joe Walsh (writer of "Analog Man") for this attorney's analog mind being trapped in a digital world, enveloped by information technology. Nevertheless, the points raised by GRAYSON with respect to the uncontested facts and the Order of January 14, 2011, command the granting of the relief requested by GRAYSON's Motion.

3. The execution of the verification and acknowledgment of the over-earning mechanism and the filing of same detracts in no way from the substantive relief sought by GRAYSON nor the fact that the requested relief is appropriate and should be granted.
4. EKP in its Response sets forth, its belief that its equity levels and financial successes since the Liberty Management audit are such that it should be praised and GRAYSON's Motion denied. The Response is, when read in its entirety, simply an assertion that, philosophically, the differences between its belief as to its financial picture and how that financial picture should be maintained differs from that which is requested by GRAYSON

in its Motion. For example, EKP states that anytime GRAYSON disagrees with a Board decision that GRAYSON tries to challenge it with a lawsuit or a PSC case. The fact that GRAYSON disagrees with EKP and the fact that GRAYSON has stated that it believes that EKP should have a mindset different than that which is expressed by EKP is not a crime. Those differences are ones which are held by GRAYSON because it believes that its members have been put in financial straits by the decisions of EKP. GRAYSON is as principled in its belief as EKP seems to be in its belief. These differing principles are ones which must be resolved by the Commission.

5. EKP goes on to assert that GRAYSON was not a party to the within action, did not participate in the case in any manner, and, therefore, should not be heard to complain in the within proceeding. However, while GRAYSON was not a party it was ordered to, along with the other distribution cooperatives, to participate in a post hearing and post order directive to do something that is required to be done under certain facts and provisions of the Order and agreement giving rise to same, the existence of which facts GRAYSON believes are present. Those facts include the requirement that EKP file a base rate case, the attainment of a TIER by EKP of 1.50, (even if it was after 2011) and the lack of transparency as EKP believes it has demonstrated, but to which GRAYSON takes exception. This lack of transparency is in its post order increase in salaries to its high level executives, its shroud of secrecy regarding its executives' compensation retirement program in addition to its regular retirement, and what GRAYSON believes is an exorbitant margin occurring so far in 2014. It matters not, that high margins are attained solely because of, what EKP refers to as the result of the polar vortex. Should a polar vortex occur repeatedly, should hell's fury descend upon the Commonwealth in the summer time,

or some other event cause exorbitant margins then the fact remains that EKP should not reap the benefits therefrom. Its rate case was based in part upon a futuristic look. The Commission decided in the January 14, 2011, Order that because of this futuristic look, after the passage of time with facts then being known, the rate should be revisited.

6. The facts raised by GRAYSON in its Motion are ones occurring post January 14, 2011, but which relate to, quite clearly, considerations that the Commission referenced in the January 14, 2011, Order and facts which were adjudicated and ordered in that disposition. For example, the 1.5 TIER contemplated in the Order and the subsequent high margins occurring as a result of the rate level given, were certainly contemplated by the Commission in the Order. Numerical paragraph 6 of the agreement adopted by the January 14, 2011, Order provides as follows:

“EKPC agrees to file a base rate case as soon as practical, but no less than one year in the event EKPC’s TIER exceeds 1.50 after 2011 financial results are known in order for the Commission to determine that rates are appropriate. This base rate case will also allow the parties an opportunity, through discovery, to review EKPC’s expenditures. If the results of the base rate case produce an increase or decrease to rates, such increases or decreases will be allocated proportionally to all eligible rate schedules so as to produce an equal percentage increase or decrease in the total rates of all eligible rate schedules”

7. Furthermore, the agreement provides for a credit to Gallatin Steel to be in effect for a three (3) year period which obviously long since passed. The agreement also provides that EKP would absorb the revenue loss as a result of that credit. The Commission should examine the extent of that loss and how the absorption of that loss has, if at all, affected the rates paid by all of the distribution cooperatives.

8. KRS 278.390 provides that the Commission has the authority to enforce its orders. While GRAYSON is not requesting Court action for enforcement it is seeking merely to have the Commission do that which the legislature has determined it has the authority to do.
9. With respect to salaries and wages, EKP simply says that their salaries are in line with other such corporations and in fact may even be lower than they should be. EKP is a generation and transmission cooperative owned by its members who are distribution cooperatives serving many of the poorest areas in the Commonwealth of Kentucky. GRAYSON understands that some of the areas served by owners of EKP are not as poor as others. The areas that are served with more affluence, more industrial activity, higher family incomes, and a way of life that is separate and distinct from the wretched conditions of Eastern Kentucky, may not understand the difficulties in paying a monthly electric bill. But GRAYSON's service territory, Big Sandy's service territory, Clark Energy's service territory, Cumberland Valley's service territory, Fleming-Mason's service territory, Jackson-Energy's service territory, Licking Valley Rural Electric Cooperative Corporation's service territory, South Kentucky Rural Electric Cooperative Corporation's service territory, and even a portion of Inter-County and a small portion of Bluegrass Energy Cooperative Corporation's service territory, are in the counties of Kentucky with the highest percentage of people living in poverty (i.e. 25% of their inhabitants). The per capita income in these counties is only \$18,158.00<sup>1</sup>. That simply is an insufficient amount of money with which to pay ever increasing electric bills. Too much of their money has ended up in the coffers of EKP and a fair, just, and reasonable approach would mandate

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<sup>1</sup> Source: Kentucky Center for Education and Workforce Statistics 2014 – 15 County Profile

that some of that money be returned. The body before whom this Motion is filed is the *Public Service Commission* (emphasis added).

10. With respect to the interest expense associated with the regulatory asset provided for by the Commission, EKP believes that GRAYSON has asserted some meritless claim. However, the Order provides, based upon the agreement adopted, that six million dollars was the interest associated with that regulatory asset. There is nothing in the agreement to articulate the basis upon which that six million dollar amount was derived. Actually, the number was six millions dollars plus TIER. A review by the Commission of the actual interest rate should be undertaken so as to ensure a fair, just, and reasonable assignment of that interest expense to the regulatory asset itself rather than an arbitrary number. EKP implicitly acknowledges in its Response that the interest rate has in fact been lower.
11. EKP argues that a show cause order should be issued against the undersigned and that the Commission should direct a management audit of GRAYSON. The undersigned is saddened by the vitriol set forth in the EKP Response and the personal attack. Suffice to say that GRAYSON welcomes any ordered management audit and has absolutely nothing to fear with such an audit. Any investigation that one attorney believes should be made regarding another attorney should be done through the Kentucky Bar Association. Counsel for EKP is probably aware of the location of the Kentucky Bar Association and the method for filing complaints against another attorney. The undersigned will respond if such action is taken and will do so with a head held high.
12. EKP in its Response states that the request to intervene is one that contains “facial absurdity”. Again the judgment exercised by EKP in its response is disappointing when all GRAYSON is trying to do is to have this Order enforced and the provisions in it

complied with by EKP in a fair, just, and reasonable manner. EKP does not deny the existence of the increased margins occurring as a result of those rates granted in the January 14, 2011, Order, but believes that it is necessary to “question the source” for the data included in the spreadsheet attached to the Motion. An assertion that that data is confidential is also quite disturbing. GRAYSON, as an owner of EKP must utilize information that it can find regarding EKP’s financial performance, in order to adequately govern its own corporation. It is very difficult for GRAYSON to acquire information from EKP as attempts to do so in the past have been unsuccessful on many levels. Requests for assistance have gone unheeded and GRAYSON’s board member is even barred from executive sessions conducted by the EKP board.

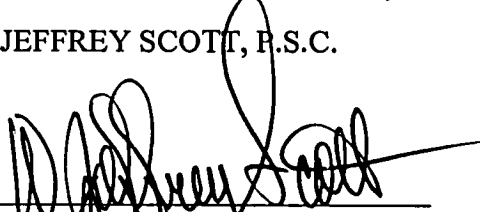
13. The November 29, 2010, telephonic board meeting that EKP believes was appropriately done, flies in the face of the transparency requirement of the Liberty Management audit. A thorough examination by the board should have been undertaken with the settlement agreement in front of them so that they could thoroughly review it and give time to its consideration. Obviously that was not done.
14. EKP has entered into the PJM market and GRAYSON’s request that that be examined is solely for the purpose to determine whether there has been a significant savings to EKP necessitating further rate reduction.
15. EKP has bragged about, in its Response, its higher credit rating and has bragged that the Commission in the 2013-00306 case through one of the Commissioners, commended EKP on lowering its interest expense “thereby securing savings for itself, its member owners, and their retail customers” (emphasis added). GRAYSON believes, therefore, that these savings, if the Commission believes have been for the benefit of the member owners of

EKP and the retail customers of the member owners, should be passed along to those retail customers. Any increase credit rating gained by EKP is not something to be bragged about but rather should be a siren signaling and warning of the need for rate reduction so as to provide a more equitable financial structure to the EKP system serving over 500,000 people in Kentucky, many of whom are in the Appalachian, economically distressed regions referred to hereinabove.

**WHEREFORE**, Grayson Rural Electric Cooperative Corporation respectfully asks for itself, its nearly 15,000 member owners, and for a step toward a better way of life for those members, and the rest of the members of the distribution cooperatives, that its Motion be granted and that the Public Service Commission conduct all appropriate hearings and inquiries in order to achieve the purposes desired.

RESPECTFULLY SUBMITTED,  
W. JEFFREY SCOTT, P.S.C.

BY: \_\_\_\_\_

  
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This is to certify that the foregoing has been served upon the parties by mailing a true and correct copy of same to:

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