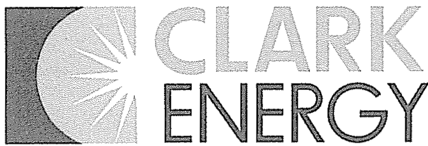

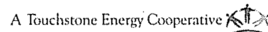

RECEIVED

JAN 04 2010

PUBLIC SERVICE
COMMISSION

December 29, 2009

Mr. Jeff Derouen, Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, Kentucky 40602

Re: Application of Clark Energy Cooperative, Inc. for an Adjustment of Rates
Case No. 2009-00314

Dear Mr. Derouen:

Please find enclosed the original and seven (7) copies of the responses to the Office of Attorney General is reference to "Attorney General's Initial Requests for Information to Clark" dated December 16, 2009.

Please contact me at (859) 231-0000 or Paul G. Embs at (859)744-4251 with any questions regarding this filing.

Respectfully submitted,
Frost Brown Todd, LLC

Mark David Goss
Counsel for Clark Energy Cooperative, Inc.

Enclosure

2640 Iron Works Road • P.O. Box 748 • Winchester, Kentucky 40392 • Tel. (859) 744-4251 • 1-800-992-3269 • Fax (859) 744-4218

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COMMISSION

Clark Energy Cooperative

Case No. 2009-00314

AG's Initial Requests for Information

Witness: Alan Zumstein

Clark Energy Cooperative
Case No. 2009-00314
AG's Initial Requests for Information

1. Clark's application states it is seeking relief from the order entered in PSC Case No. 92-219. Provide the date of the order Clark references, and please provide a copy of that order.

a. Explain why Clark believes it will need "full margins", as set forth in numerical paragraph 5(e) of its application, for future years in order to restore the company's financial status.
b. If the PSC grants this relief, how does Clark propose to retire its capital credits in excess of a 2.0 TIER?

Response

A copy of that order is attached.

1.a. "Full margins" can be described as margins excluding G&T capital credits.

1.b. Clark will review its financial condition and retire capital credits when it deems that it is financially viable to do so.

AG-1-1

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CLARK RURAL ELECTRIC COOPERATIVE CORPORATION TO ADJUST ELECTRIC RATES	)))	CASE NO. 92-219

O R D E R

On June 26, 1992, Clark Rural Electric Cooperative Corporation ("Clark") applied for a $1,423,766 increase in retail electric service rates. The requested increase is 9.06 percent over normalized test-year operating revenues. Clark stated that the proposed increase was required to cover increased operating costs, improve its financial condition, and provide the margin necessary to meet the requirements of its joint mortgage agreement. By this Order, the Commission grants Clark an increase in revenues of $804,266 or a 4.91 percent increase over normalized test-year operating revenues.

The Commission granted a motion to intervene filed by the Utility and Rate Intervention Division of the Office of the Attorney General ("AG").

A public hearing was conducted in the Commission's offices in Frankfort, Kentucky, on January 8, 1993. Briefs were filed on February 19, 1993, and the information requested during the hearing has been submitted.

COMMENTARY

Clark is a consumer-owned rural electric cooperative corporation, organized under KRS Chapter 279, engaged in the

distribution and sale of electric energy to approximately 17,603 member-consumers in the Kentucky counties of Bourbon, Clark, Madison, Powell, Bath, Menifee, Estill, Rowan, Fayette, Morgan, Wolfe, and Montgomery. Clark has no electric generating facilities and purchases its total power requirements from the East Kentucky Power Cooperative, Inc. ("East Kentucky").

TEST PERIOD

Clark proposed and the Commission has accepted the 12-month period ending March 31, 1992 as the test period for determining the reasonableness of the proposed rates. In utilizing the historical test year, the Commission has considered appropriate known and measurable changes.

VALUATION

Clark proposed a net investment rate base of $26,137,821 based on the test-year-end value of plant in service, the 13-month average for materials and supplies and prepayments, and excluding the adjusted accumulated depreciation and the test-year-end level of customer advances for construction. Clark also proposed to include working capital based on one-eighth of adjusted operation and maintenance expenses, exclusive of depreciation, taxes, and other deductions. The Commission concurs with this proposal with the exception that the adjustment to accumulated depreciation has been limited to the expense portion of the depreciation adjustment and that working capital has been adjusted to reflect the pro forma adjustments to operation and maintenance expenses found reasonable herein.

Based on these adjustments, Clark's net investment rate base for rate-making purposes is as follows:

Utility Plant in Service	$31,146,740
Construction Work in Progress	725,431
Total Utility Plant	$31,872,171
ADD:	
Materials and Supplies	$ 370,199
Prepayments	94,178
Working Capital	396,940
Subtotal	$ 861,317
DEDUCT:	
Accumulated Depreciation	$ 6,415,011
Customer Advances for Construction	203,257
Subtotal	$ 6,618,268
NET INVESTMENT RATE BASE	$26,115,220

Capital Structure

The Commission finds that Clark's capital structure at test-year-end for rate-making purposes was $27,733,303. This capital structure consisted of $10,148,547 in equity and $17,584,756 in long-term debt. The Commission has excluded generation and transmission capital credits ("GTCCs") in the amount of $2,599,476.

REVENUES AND EXPENSES

Clark proposed several adjustments to revenues and expenses to reflect more current and anticipated operating conditions. The Commission finds the proposed adjustments are generally proper and acceptable for rate-making purposes, with the following modifications:

Customer Growth Adjustment

The AG proposed an $84,417 increase in revenue to compensate for Clark's customer growth during the test year. The AG's witness

testified that Clark incurred expenses to place new customers on its system but made no corresponding adjustment to its revenue. Clark responded that it does not maintain records on customers added and removed by rate class, but did provide a list of total customers added and removed by month. The AG based this proposed adjustment on this data. During the hearing, Clark did not rebut the AG's proposed adjustment or cross examine its witness on this issue. The Commission finds the proposed adjustment is reasonable and accepts it.

Labor and Labor-Related Costs

Clark proposed adjustments to increase the test-year operating expenses by $61,056 for labor and labor-related costs. The adjustment consisted of increases to wages and salaries of $57,037 and FICA taxes of $4,019.

Wages and Salaries. In its application, Clark proposed an adjustment to normalize total wages and salaries in the amount of $80,334, of which $23,297 was capitalized and $57,037 was expensed. Clark later indicated that a computation error had been made and that the corrected adjustment should be $88,643.[1] Using the same capitalization rates, the corrected adjustment to expense is $62,937.[2] Clark normalized its wages and salaries using the wage and salary rates in effect as of test-year-end. Full-time employees, new employees hired in the test year, and employees

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1 Response to the Commission's Order dated August 12, 1992, Item 12, page 1 of 32.

2 $88,643 - ($88,643 times 29%) = $62,937.

returning from disability leave were assumed to work 2,080 hours. Part-time employees were assumed to work the number of hours actually worked during the test year. Employees terminated during the test year were excluded from the calculations. The test-year actual overtime hours were included at 1.5 times the test-year-end wage rates.

Using most of these assumptions, the Commission has recalculated the proposed adjustment. The Commission, however, assumed the employee on disability worked only the test-year actual work hours, not 2,080. The Commission has determined that an increase in wages and salaries of $82,793 is reasonable. After applying the test-year capitalization rate, the Commission will include an adjustment to increase the expense by $58,783.

Federal Insurance Contributions Act ("FICA") Taxes. Clark proposed to increase its FICA tax by $5,358, based on the proposed normalized wages and salaries and reflecting an increase in the FICA base wage limit from $53,400 to $55,500. Of this amount, $1,340 was capitalized and $4,019 was expensed. When Clark reported the error in its normalization of wages and salaries, it provided a corrected adjustment to the FICA taxes of $7,095.[3] Using the same capitalization rates, the corrected adjustment to FICA tax expense would be $5,321.[4]

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[3] Response to the Commission's Order dated August 12, 1992, Item 15.

[4] $7,095 - ($7,095 times 25%) = $5,321.

The Commission has recalculated this adjustment, based on the level of normalized wages and salaries found reasonable and using the FICA base wage limit of $55,500, and determined a total increase of $6,168. After applying the test-year capitalization rate, the increase in FICA tax expense would be $4,626. However, the Commission is reducing this increase in FICA tax expense by $624, related to FICA tax expense on life insurance policies provided by Clark to its employees. This adjustment is discussed in detail below. Therefore, the Commission will allow a net increase in FICA tax expense of $4,002.

Federal and State Unemployment Taxes. Clark did not propose an adjustment to its federal and state unemployment taxes related to its normalization of wages and salaries. The Commission has determined that total federal and state unemployment taxes should be reduced by $246, based on the normalized wages and salaries found reasonable. After applying the test-year capitalization rate, the Commission has determined a reduction of $184 should be made to federal and state unemployment tax expense.

Accrued Sick Leave. The AG proposed to remove the test-year expense of $91,200 for accrued sick leave. The AG contended that, without this adjustment, the normalization of wages and salaries could overstate labor expenses. Clark contended that accrued sick leave serves as a short-term disability insurance policy for its employees. Clark further stated that, under normal circumstances, employees are paid for all unused accrued sick leave when they terminate their employment with Clark.

Based on Clark's description of the nature and use of the accrued sick leave, the final disposition of the accrued leave will result in additional expense which is not reflected in the normalized wages and salaries expense. Under accrual accounting, this expense is reflected in the current financial reporting period rather than the future period when the cash outlay actually occurs. The Commission finds that this cost is appropriately reflected as a cost of service in the period the customers receive the benefit of the employees' employment rather than the future period when the accrued unused sick leave is paid, upon employee termination. Thus, no double counting of the expense occurs and the cost is properly included in the adjusted test-year level of expense.

Accrued Payroll Adjustments. The AG proposed to reduce test-year payroll expense by $14,291 to reflect removal of certain payroll accruals made in April of 1991, the beginning of the test year. The AG contends that, because of the normalization adjustment made for wages and salaries, these April 1991 accrual adjustments should be removed. During the hearing, Clark agreed with the AG's proposal. The Commission finds the proposed adjustment is reasonable and has reduced expenses by $14,291.

Employee Life Insurance. Clark provides each employee with life insurance coverage in an amount three times his base salary. Clark does not require any employee contribution for this coverage. Clark was unable to cite any formal compensation studies to support its practice.

While the Commission does not view the provision of life insurance coverage for a utility's employees unfavorably, we are concerned about Clark's current practice. Under current federal law, the cost for insurance coverage in excess of $50,000 constitutes wages subject to FICA taxes.[5] Once the $50,000 coverage level is reached, Clark incurs additional employer-share FICA tax expense. To include the expenses associated with employee life insurance coverage in excess of $50,000, utilities must clearly demonstrate the need for this additional compensation. Clark has not done so. Therefore, the Commission has limited test-year life insurance premium expense to the cost to provide each Clark employee with $50,000 worth of coverage. This results in a reduction in operating expenses of $8,160. A corresponding reduction has also been made to test-year FICA tax expense.

Property Taxes

Clark proposed an increase of $22,517 to its property tax expense to reflect the effects of additions to its utility plant in service. Clark used a proportional calculation based on the increase in utility plant to determine the amount of the increase. The Kentucky Revenue Cabinet ("Revenue Cabinet") uses a different methodology, which is based on the actual original cost of the property, to determine tax assessments. Clark's accounting witness testified that the Revenue Cabinet approach results in a more

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[5] 26 U.S.C. § 79 (1992).

accurate estimate of the property tax expense.[6] The Commission has recalculated Clark's property taxes using the Revenue Cabinet methodology, and has determined that an increase in property tax expense of $46,538 is reasonable.

PSC Assessment

Clark proposed an increase in its PSC Assessment to reflect the effects of its normalization of revenues and purchased power expense, as well as the impact of its proposed revenue increase. Clark followed the methodology normally used to determine the assessable revenues and applied the PSC Assessment rate in effect for 1991. The Commission agrees with the need for this adjustment. We have recalculated the adjustment to reflect the normalizations of revenue and purchased power found reasonable in this Order and applied the current PSC Assessment rate. This calculation results in an increase in the PSC Assessment of $854. The Commission has also determined the impact of the revenue increase granted herein and provided for an additional PSC Assessment expense of $1,153.

Right-of-Way Crews

Clark proposed an increase of $94,081 to its right-of-way clearing expense to reflect the normalization of its use of an additional work crew added during the test year. During the test year, Clark sprayed its right-of-ways. It also employed two firms to clear right-of-ways. Competitive bidding was not used to select these firms. Clark stated that the additional crew was used to

6 Transcript of Evidence ("T.E."), January 8, 1993, pages 157 and 158.

establish a right-of-way clearing cycle, and to deal with rapid plant growth experienced during recent years.[7]

Noting that Clark had begun a spraying program to limit growth, the AG opposed the adjustment. He also questioned whether the need existed for the additional crew on an on-going basis. During the hearing, Clark's general manager testified that Clark had neither established a right-of-way clearing cycle nor performed any study to determine such a cycle.

The Commission cannot accept the proposed adjustment. Clark failed to demonstrate an on-going need for the additional crew and also failed to consider the effects of its spraying program. Moreover, Clark has failed to show that its hiring of two firms without using competitive bidding procedures produced any savings or cost reductions.

Rate Case Expense

Clark estimated its rate case expense at $18,000. It proposed to recover this expense through a three-year amortization. The estimated cost did not include in-house labor. Throughout this proceeding, Clark has been providing updates of the actual expenses incurred in presenting this rate case. Each update has been accompanied by adequate supporting documentation. As of the February 19, 1993 update, Clark has expended $24,091 for this rate case. The Commission believes that a three-year amortization of the actual expenses for this rate case is reasonable, and will

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7 Response to the Commission's Order dated August 12, 1992, Item 22, page 1 of 18.

allow an increase in operating expense of $8,030, to reflect the first year of the amortization for rate-making purposes.

Interest on Long-Term Debt

Clark proposed an increase of $154,253 to interest on long-term debt to recognize the normalization of the interest expense on the outstanding amounts on its Rural Electrification Administration ("REA") and National Rural Utilities Cooperative Finance Corporation ("CFC") loans. However, when Clark normalized the interest expense, it failed to recognize the repricing of two CFC loans from the fixed interest rate of 9.75 percent to 8.5 percent, which occurred during the test year.

The AG contends that closer Commission review of the refinancing of Clark's long-term debt is needed[8] and urged the Commission to consider the effects of the repricing and to recognize the general trend of continued interest rate decreases.[9]

Clark's witnesses testified about its CFC loans and the possible conversion of some of its fixed interest rate loans to the variable interest rate program. Defending its decision not to convert some CFC loans, Clark's general manager testified that the fixed interest rate loans made it easier to program, plan, and anticipate expenses. He also feared that variable interest rates would expose Clark to sudden and pronounced increases in interest

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[8] DeWard Direct Testimony, pages 7 and 8.

[9] Brief of the AG, pages 4 and 5.

rates.[10] He testified that the absence of conversion fees to change interest rate loan programs did not alter Clark's position.

With any rate application, the Commission must examine the reasonableness of all utility transactions and proposed adjustments. The Commission finds that Clark has not reasonably managed its loan portfolio to take advantage of the lowest cost of money available from CFC and Clark's proposed normalization does not represent a reasonable level of expense. As Clark had the opportunity to reduce interest costs by repricing loans during the test year at a lower variable interest rate and failed to do so, the Commission finds the proposed adjustment is not reasonable.

Clark's reasons for not converting CFC loans to the variable interest rate program are not persuasive. Within the last calendar year, 10 jurisdictional rural electric cooperatives have converted fixed interest rate loans to the variable interest rate and achieved savings. Clark has ignored those same opportunities to reduce its interest expense.

The Commission ordered Clark to evaluate the conversion of four additional CFC loans to the variable interest rate program. Its evaluation showed that, even after conversion fees were recognized, additional interest savings were possible.[11] As with the two CFC loans repriced during the test year, Clark continues to have the opportunity to reduce costs by converting to lower

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10 T.E., pages 79 through 82.

11 Response to the Commission's Order dated September 15, 1992, Item 15.

variable interest rates. As Clark has failed to demonstrate that its reliance on fixed rate loans under present market conditions is reasonable, we find that the proposed normalization of the interest expense on these four CFC loans should not be allowed and have reduced the interest expense by an additional $8,794.[12]

The Commission has determined the normalized interest expense on long-term debt by recognizing the effect of variable interest rates on Clark's outstanding CFC loans. These adjustments result in a total increase in interest on long-term debt, over the test-year amount, of $74,250.

Other Interest Expense

The AG proposed to remove the test-year balance for Other Interest Expense, a reduction in expense of $59,179. The AG argues that allowing an annualization of interest on long-term debt and the other interest expense is duplicative. Clark responded that a portion of the AG's proposed reduction included the interest expense on customer deposits. It further stated that short-term borrowings cover items which are not normally reimbursed by long-term financing.

Given the revenue increase granted herein and Clark's test-year drawdowns from REA and CFC, the Commission finds that Clark's need for short-term borrowings will be reduced. The interest expense relating to customer deposits is an appropriate item to include for rate-making purposes. Inasmuch as Clark has stated

[12] Id. Amount based on the 4th period difference in cash flows shown on pages 5, 10, 15, and 20 of 21.

that the interest expense paid on short-term borrowings during the test year was $40,050,[13] we will reduce Other Interest Expense by $40,050.

Automated Mapping/Facility Management System

The AG proposed to adjust operating expenses by $6,669 to reduce the test-year amount expensed for an automated mapping and facility management system to reflect a three-year amortization of the costs of this system. The total estimated cost for this system is $124,322, with $48,113 of that amount expensed during the test year.

While the Commission agrees with the concept behind the proposed adjustment, we find the amortization of an amount which has been expensed already to be inappropriate. Clark should have capitalized the costs of this system. As Clark did not, the non-expensed portion of the estimated costs should be amortized over a three-year period. The first year amortization of this cost is $25,403.[14] Subtracting the first year amortization from the test-year expense results in a reduction of $22,710. Therefore, the Commission will reduce test-year operating expenses by $22,710.

Storm Damage Expense

The AG proposed to reduce Clark's storm damage expense by $35,872 to reflect a six-year historic average of expense, adjusted

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13 Response to the AG's Data Request dated August 12, 1992, Item 10, page 2 of 2.

14 $124,322 minus $48,113 = $76,209; $76,209 divided by 3 = $25,403.

for inflation. The AG contends this adjustment is necessary because the test-year level of storm damage expense was significantly higher than the levels experienced during the past six years. To reflect the effects of inflation in the proposed adjustment, the AG used a compounded rate of 3 percent.[15]

While the Commission agrees with the concept, it has several problems. The AG did not include test year or calendar year 1991 damages in his calculation of the adjustment. Moreover, the Commission historically uses the Consumer Price Index - Urban ("CPI-U") when computing the effects of inflation. The Commission has calculated a seven-year historic average of storm damage expense, including calendar year 1991 and using the appropriate CPI-U values. The test-year expense was not included because nine months of calendar year 1991 are also included in the test year. The resulting average, adjusted for inflation, is $56,361, which is $28,133 lower than the test-year actual storm damage expense.

Annual Meeting Expenses

The AG proposed to reduce Annual Meeting expenses by $44,371. The AG stated that the level of expenses associated with the annual meeting was excessive in light of the relatively low attendance. The AG's adjustment reflects a 75 percent reduction of the test-year expenses.

This proposed reduction is unsupported by the record. The Commission has reviewed the test-year expenses for the annual

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[15] DeWard Direct Testimony, Schedule 7.

meeting and has reduced them by $2,320. Removed are the payments to the nominating committee in the amount of $1,020 and the scholarships in the amount of $1,300. The payment of compensation to the members of Clark's nominating committee is not consistent with the cooperative spirit and shared responsibility which non-profit cooperatives embody. Clark has failed to demonstrate that the provision of scholarships is a necessary function of an electric cooperative.

Insert Expense for Kentucky Living Magazine

The AG proposed to reduce the test-year expense for inserts in the Kentucky Living Magazine by 75 percent, or $41,690. The AG argues that less costly means exist for Clark to convey information to its members.

This proposed reduction is also unsupported by the record. The AG has neither provided supporting evidence for his proposal nor identified alternatives to the magazine inserts. He has offered no evidence that the use of magazine inserts is unreasonable.

Miscellaneous Expenses

The AG proposed to remove $49,949 from test-year operating expenses which he asserted were inappropriate for rate-making purposes. These included various educational programs, an employee picnic, certain promotional items, and expenses related to the promotion, sale, and installation of heat pumps. Defending these expenses, Clark asserts that its members have requested many of the

challenged programs and that these programs represent reasonable expenses for a cooperative.

The cost of promotional items, gifts to employees and directors, flowers, and employee picnics are generally excluded because they deal with public relations rather than the provision of electric service. In addition, Clark has not adequately demonstrated that the cost of staff dinners and East Kentucky's 50th anniversary lunch should be included for rate-making purposes. A listing of the disallowed expenses totalling $23,323 is included in Appendix B.

The Commission also has disallowed for rate-making purposes the purchase of Electric Thermal Storage ("ETS") and Geothermal units and the related installation costs. Clark has recorded the purchase and installation costs in Account No. 912, Demonstrating and Selling Expenses. Any revenues or expenses associated with the merchandising of such equipment should be recorded in Account Nos. 415 or 416.[16] Further, the cost of ETS and Geothermal units should be recorded in Account No. 156, Other Materials and Supplies, at the time of purchase. The installation costs of the ETS and Geothermal units are not included for rate-making purposes, because the installation of such units is not required in the provision of electric service.

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16 Account No. 415 - Revenues from Merchandising, Jobbing and Contract Work; Account No. 416 - Costs and Expenses of Merchandising, Jobbing and Contract Work.

Educational programs offered by cooperatives raise special concerns. In the case of an investor-owned utility, these expenses are classified for rate-making purposes below the line and are borne by its shareholders. With a cooperative, its customers are its owners. There is no shareholder to bear the cost of educational program expenses. The types of programs which have been disallowed do not deal with the provision of electric service or electric safety information. Despite Clark's contention that its members desire these programs, it cannot point to any membership surveys to support its contention. Until a cooperative clearly demonstrates that the majority of its membership supports cooperative sponsorship of such programs, the Commission finds the expenses associated with them should not be considered appropriate for rate-making purposes.

Member Education Dinners

During the test year, Clark expended $1,172 for member education dinners. Clark held these meetings to inform various members about the changing direction of the electric industry and Clark's response. They also provide attendees with the opportunity to convey concerns and comments to Clark's management. Clark's directors select the attendees. Different members are selected for each meeting. Clark contends that these meetings are the equivalent of consumer advisory councils, which the Commission has encouraged.

Clark's member education dinners are not comparable to a consumer advisory council. A council is drawn from a cross section

of customers. Its purpose is to establish a regular, ongoing dialogue between management and customers. The customers determine the composition of a council's membership, not utility management. A consumer advisory council provides customer input to the utility management on rate and service issues. It is not a forum for management to disseminate information to a small select group of consumers. Council members should serve for a definite period of time and not be changed with each meeting. The Commission finds that Clark's member education dinners are designed primarily to promote a positive corporate image and not to engender a dialogue between customers and management. The cost of $1,172 should not be allowed for rate-making purposes.

Professional Services Expense

These expenses related to legal, accounting, consulting, and engineering services provided during the test year. Clark contends that all were reasonable and should be included for rate-making purposes.

Meter Reading and Line Extension Cases. During the test year, Clark spent $6,834 for consultants and $5,488 for legal services for two proceedings before the Commission. Clark contends that these expenses are recurring. Given each case's unique nature, the Commission finds that Clark is not likely to incur this level of expense on a recurring basis.

Grounds Survey. Clark spent $2,590 during the test year on surveys of selected areas of its property. Clark stated that the surveys were needed because it acquired property and added

structures which were not reflected on its plat. Clark contended that this expense is recurring but has not provided any supporting evidence. Given the circumstances relating to this expenditure, the Commission does not believe the expense reflects a recurring transaction.

Remodeling Restroom Facilities. Clark spent $451 during the test year to remodel restroom facilities to provide for handicapped access. While conceding such remodeling jobs may not be performed on a recurring basis, Clark contends the expenditures for other projects such as roof and parking area repairs would be incurred. As Clark has failed to produce any evidence to support its contentions of future expenditures and has conceded the test-year expenses are not likely to recur, the Commission will not include them for rate-making purposes.

Legal Expenses. During the test period, Clark paid its attorney a per diem and all expenses to attend a seminar and conference, as well as a Christmas gift. The Commission finds no evidence that these expenses are either reasonable or consistent with normal business practices. Accordingly, we have excluded such expenses for rate-making purposes. However, we have included the monthly retainer paid by Clark for legal services.

After reviewing these items, the Commission finds that none of the transactions discussed above and listed in Appendix B should be included for rate-making purposes. Accordingly, the Commission reduces Clark's operating expenses by $18,081.

The effect of the pro forma adjustments on Clark's net income is as follows:

	Actual Test Period	Pro Forma Adjustments	Adjusted Test Period
Operating Revenues	$15,849,077	$ 544,827	$16,393,904
Operating Expenses	14,781,462	417,153	15,198,615
Net Operating Income	1,067,615	127,674	1,195,289
Interest on Long-Term Debt	848,957	74,250	923,207
Other Income and (Deductions) - Net	240,216	(161,405)	78,811
NET INCOME	$ 458,874	$ (107,981)	$ 350,893

REVENUE REQUIREMENTS

Times Interest Earned Ratio ("TIER") Indexing

Clark proposed a plan referred to as "TIER Indexing" whereby rates would be adjusted annually to reflect increases in depreciation expense, property taxes, interest on long-term debt, and other interest expense. Clark contended its plan is patterned after a plan currently in effect in Michigan, which allows annual rate adjustments based on the earnings of the cooperative. Under Clark's proposal, the total annual increase in the specified expense accounts would be multiplied by the authorized TIER to determine the amount of increased revenues to be reflected in rates. Clark contends that this approach is an innovative solution to the problems of the current regulatory system.

The AG opposed the TIER Indexing proposal and noted several problems. He contended that the proposal would increase customer's rates by $2,800,000 over the next nine years, rather than reducing rates by $1,200,000 as claimed by Clark. He further noted that the plan does not include a mechanism to automatically reduce rates

when the key expense accounts experienced a total annual reduction. The AG also noted that the TIER Indexing proposal does not recognize the effects of increased revenues resulting from sales growth. No review of operating and maintenance expenses is part of the proposal. Finally, the AG contended Clark had not demonstrated a need for the adoption of the proposal.

Clark's plan is a type of automatic adjustment clause, and is similar to the Fuel Adjustment Clause ("FAC"). The primary reason for the FAC is the volatility of fuel and purchased power costs. These costs are subject to changes on a monthly basis. The FAC allows for rapid recognition of fuel cost fluctuations in rates. It is designed to be income neutral as changes in fuel costs are flowed through on a dollar-for-dollar basis. A true-up mechanism is incorporated in the FAC, thus assuring that a utility neither gains nor loses through the FAC's operation.

The TIER Indexing proposal should not be adopted. The proposal is fatally defective in its failure to recognize increased revenues resulting from customer growth, and to reflect overall decreases in the key accounts. Moreover, Clark has failed to demonstrate any compelling need for the proposal's adoption. Clark's inclusion of capital credit refunds to minimize the potential for excessive earnings does not make the proposal more palatable. Clark's customers will not realize the benefit of refunded capital credits if their electric rates are subject to annual increases.

Clark has failed to demonstrate that its fiscal operations are unique in comparison with other Kentucky cooperatives. Clark's proposal represents a radical departure from traditional rate-making practices. The Commission believes it would be unwise to embark upon this new approach without the comment or input of the other Kentucky jurisdictional cooperatives. Such an approach should only be considered on an industry-wide basis where some uniformity can be maintained. The Commission is willing to consider any motion of Kentucky jurisdictional cooperatives for an administrative case on this issue.

Modified Cash TIER

In the proposal for TIER Indexing, as well as in its Equity Management Plan, Clark utilized a "Modified Cash TIER." When determining the revenue requirements for cooperatives, the Commission historically has calculated the TIER using net income exclusive of the GTCCs. Clark's Modified Cash TIER excludes not only GTCCs, but capital credits assigned by other associated organizations. Clark argued that the capital credits from these other organizations should only be recognized in the TIER calculation when cash is received. However, in calculating its revenue requirements in this case, it was not clear if Clark included the cash received during the test year from these other associated organizations.

As previously noted, there is an important difference between the GTCCs and the capital credits assigned by other organizations. Where GTCCs only have been assigned to Clark, the other

organizations have periodically assigned and paid a portion of the capital credits. Due to the nature and the small likelihood that any GTCCs will be paid, the exclusion of GTCCs is well-justified. However, it is likely that over a reasonable time period the capital credits assigned by the other associated organizations will be paid. The calculation of TIER is determined from the income statement. The assignment of capital credits is an income statement item, while the receipt of cash for those previously assigned credits would be reflected as a balance sheet transaction. The Commission finds that Clark has not provided adequate justification to support the use of a Modified Cash TIER. Therefore, the Commission will utilize the TIER excluding GTCCs in determining Clark's revenue requirements. Clark should amend its Equity Management Plan to reflect the use of TIER excluding GTCCs, rather than its proposed Modified Cash TIER.

Revenue Increase

The actual rate of return earned on Clark's net investment rate base established for the test year was 4.09 percent. Clark requested rates that would result in a Modified Cash TIER of 2.25X and a rate of return of 8.49 percent on its proposed rate base of $26,137,821.

Clark's actual TIER excluding GTCCs for the test period was 1.30X. For the calendar years 1990 and 1991, it was 1.50X and 1.42X respectively. After taking into consideration pro forma adjustments, Clark would achieve a 1.38X TIER excluding GTCCs without an increase in revenues. Clark's equity to total

capitalization ratio is 36.59 percent based on the approved capital structure.

Revenue requirements calculated to produce a TIER excluding GTCCs of 2.25X should be approved, on the condition that Clark refunds annually all margins earned in excess of a 2.00X TIER excluding GTCCs. To achieve the 2.25X TIER, Clark should be allowed to increase its annual revenues by $804,266. This increase includes an additional $1,153 to reflect the associated increase in Clark's PSC Assessment. This additional revenue should produce net income of $1,154,006, which should be sufficient to meet the requirements of servicing Clark's mortgage debts.

Refunding of Capital Credits

Clark's board of directors has adopted an Equity Management Plan which requires that all earnings in excess of a 2.00X Modified Cash TIER be used to refund capital credits owed to its members. During its 55 years of operation, Clark has never made a general retirement, or refund, of capital credits. Some capital credits have been refunded to estates of deceased members. As noted earlier, Clark proposed to establish its revenue requirement using a 2.25X Modified Cash TIER. The AG opposed the authorizing of a 2.25X TIER and the rotation methodology outlined in Clark's Equity Management Plan.

There are four cooperatives under the Commission's jurisdiction which currently follow Commission approved capital credit refunding plans. Each has rates based on a TIER excluding GTCCs in excess of 2.00X, but is required to refund on an annual

basis capital credits in an amount at least equal to all total margins in excess of a 2.00X TIER excluding GTCCs. These cooperatives are required to provide the Commission with the calculation of the annual calendar year refund. This determination is made using the income statement contained in the Annual Report filed with the Commission, and adjusted to eliminate any costs that are not normally allowed by the Commission for rate-making purposes.

The Commission believes it is appropriate for Clark to begin the general refunding of member capital credits and will provide a level of revenue in this case to achieve that objective. Clark shall begin to make refunds of capital credits to members in an amount at least equal to the margins earned in excess of 2.00X TIER excluding GTCCs. The amount to be refunded shall be determined using the income statement from that calendar year's Annual Report filed with the Commission. The calculation of the refund shall be provided when the Annual Report is filed, and shall show all adjustments included in the determination of the refund amount.

At this time, the Commission will not require a specific rotation methodology for the refunding of the member capital credits. Given that Clark has never made a general refund, the methodology proposed by Clark would appear presently to be reasonable.

PRICING AND TARIFF ISSUES

Residential Rate Design

The AG proposed that Clark's residential rates, which consist of a two-step declining block rate, be restructured to a flat rate. Based on his analysis of Clark's monthly power costs, the AG reasoned that under Clark's existing rate structure, customers are being encouraged to overuse or waste energy, resulting in higher costs for all customers.

Clark opposed the AG's proposal to restructure residential rates. Other than stating its current rate structure had been in place for many years, Clark presented no evidence in support of that rate structure. It did not submit a cost-of-service study or other persuasive argument to support its position.

As the flat rate should promote conservation and eliminate a perceived incentive for customers to use more electricity, thus promoting objectives of demand side management programs, Clark's rates should be restructured to a flat rate.

Residential Minimum Bill

Clark has proposed to increase its minimum residential bill from $4.89 to $7.25. This increase is based on an average of East Kentucky's 17 distribution cooperative's minimum bill. No cost-of-service study has been performed. The AG contends that, absent a supporting cost-of-service study, Clark should be allowed to increase the minimum residential bill only by the same percentage that rates are allowed to increase. The Commission agrees. We find that, to maintain consistency, minimum bills for all rate

schedules should be increased by the same percentage that rates are increased.

Returned Check, Collection and Reconnect-Disconnect Charges

Clark proposed to increase its charges for these services based on costs associated with providing the services. Clark has filed information in its application to support these costs. The AG notes that the proposed increases range from 33 percent to 160 percent. He contends the proposed increases violate the regulatory principles of rate continuity and gradualism and, therefore, should be limited to the same percent as the overall increase. The Commission has examined Clark's cost justification for returned check charges and finds them reasonable.

Clark's proposed collection and reconnect-disconnect charges contained mileage charges for heavy trucks. The cost of heavy trucks should be excluded because such trucks are not used for this purpose. This adjustment would reduce mileage costs from $.67 per mile to $.55 per mile. The Commission finds that the collection and reconnect-disconnect charges for Clark should be modified to exclude mileage on heavy trucks.

SUMMARY

The Commission, after consideration of the evidence of record and being otherwise sufficiently advised, finds that:

1. The rates in Appendix A, attached hereto and incorporated herein, are the fair, just, and reasonable rates for Clark to charge for service rendered on and after the date of this Order.

2. The rate of return and TIER granted herein are fair, just, and reasonable and will provide for Clark's financial obligations.

3. The rates proposed by Clark would produce revenue in excess of that found reasonable herein and should be denied.

IT IS THEREFORE ORDERED that:

1. The rates in Appendix A are approved for service rendered by Clark on and after the date of this Order.

2. The rates proposed by Clark are denied.

3. Within 30 days from the date of this Order, Clark shall file with this Commission its revised tariff sheets setting out the rates approved herein.

4. Within 60 days from the date of this Order, Clark shall file a revised copy of its Equity Management Plan, incorporating the changes described herein.

5. Clark shall begin to make general retirements of its capital credits starting with the 1993 calendar year, under the conditions described herein.

Done at Frankfort, Kentucky, this 23rd day of April, 1993.

By the Commission

ATTEST:

Don Mills

Witness: Alan Zumstein

Clark Energy Cooperative
Case No. 2009-00314
AG's Initial Requests for Information

2. Exhibit 14 states Clark will remove $125,811.28 from Account 593.20, Ice Storm Expenses. Will Clark seek any amounts in other accounts or otherwise from its ratepayers regarding expenses it incurred as a result of the 2009 ice storm, or wind events of 2008 and 2009?

Response

No. There are no other costs as a result of the ice storm, or wind events of 2008 and 2009.

Witness: Alan Zumstein

Clark Energy Cooperative
Case No. 2009-00314
AG's Initial Requests for Information

3. Clarify whether the proposed "Facility Charge" referenced in the company's proposed new tariffs is merely another name for a monthly customer charge, or is it another charge in addition to the customer charge?

Response

"Facility Charge" is a more descriptive name than "monthly customer charge"; this is not an additional charge. Facility Charge merely replaces customer charge.

Witness: Alan Zumstein

Clark Energy Cooperative
Case No. 2009-00314
AG's Initial Requests for Information

4. Identify by name the organization in which employees of Clark or members of its Board of directors serve as directors. Identify the nature of each such organization's business.

Response

Directors:

East Kentucky Power Cooperative (EKPC) – purchase power.

Kentucky Association of Electric Cooperatives (KAEC) – statewide association of electric cooperatives.

National Rural Electric Cooperative Association (NRECA) – national association of electric cooperatives.

Employee:

Rural Electric Cooperative Credit Union (RCCU) – statewide electric cooperative credit union.

Witness: Alan Zumstein

Clark Energy Cooperative
Case No. 2009-00314
AG's Initial Requests for Information

5. State whether Pacificare Health Plan Administrators, Inc. (d/b/a Preferred Plan; d/b/a Preferred Plan of Kentucky) conducts any business with Clark, and if so, the nature of those business transactions.

Response

No.

Witness: Alan Zumstein

Clark Energy Cooperative
Case No. 2009-00314
AG's Initial Requests for Information

6. With regard to account 593.90 (Contract Right of Way), state the reason for the increase in the test year amount of $888,539 from the prior year, $659,289. Provide the total sum spent in this account for each for the past five (5) years.

Response

Refer to PSC-2-23.d.

Witness: Alan Zumstein

Clark Energy Cooperative
Case No. 2009-00314
AG's Initial Requests for Information

7. With regard to account 598.00 (Maintenance, Misc. Distribution), state the reason for the increase in the test year of $103,644 from the prior year, $65,034.

Response

During 2007, Clark discovered that security light maintenance items were being capitalized. These are now being expensed properly. This level of activity and expense is expected to continue in future years.

Witness: Alan Zumstein

Clark Energy Cooperative
Case No. 2009-00314
AG's Initial Requests for Information

8. With regard to account 920.00 (Administrative Salaries), state the reason for the increase from the test year sum of $440,654 to the prior year's sum of $403,914.

Response

An additional accounting and finance employee was hired during January 2008.