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APR 29 2010

PUBLIC SERVICE
COMMISSION

April 28, 2010

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

Re: Case No. 2009-00545

Dear Mr. Derouen:

Please find enclosed the original and twelve (12) copies of the RESPONSE OF KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC. TO COMMISSION STAFF'S FIRST SET OF DATA REQUESTS filed in the above-referenced matter. By copy of this letter, all parties listed on the Certificate of Service have been served.

Please place this document of file.

Very Truly Yours,



David F. Boehm, Esq.

Michael L. Kurtz, Esq.

BOEHM, KURTZ & LOWRY

MLKkew
Attachment

cc: Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by mailing a true and correct copy via electronic mail (when available) and by first-class postage prepaid mail, to all parties on the 28th day of April, 2010.

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY POWER)	
COMPANY FOR APPROVAL OF)	
RENEWABLE ENERGY PURCHASE)	CASE NO.
AGREEMENT FOR WIND ENERGY)	2009-00545
RESOURCES BETWEEN KENTUCKY)	
POWER COMPANY AND FPL ILLINOIS)	
WIND, LLC)	

KIUC RESPONSES TO COMMISSION STAFF'S
FIRST SET OF DATA REQUESTS

1. Refer to page four of the Direct Testimony and Exhibits of Lane Kollen (“Kollen Testimony”), lines 14-16, and Kentucky Power Company’s (“Kentucky Power”) response to Item 1 of the Commission Staff’s second Data Request. Identify and describe in detail all evidence relied upon by Mr. Kollen to support his statement, regarding renewable resources, that, “[t]here is significant uncertainty as to whether there ever will be a federal or Kentucky legislative mandate to acquire such resources and the company does not claim otherwise.” (Emphasis added).

RESPONSE:

The Company has presented no evidence in this proceeding that federal or Kentucky renewable or carbon legislation is imminent, certain or even likely. There have been intermittent attempts at federal carbon legislation at least since the 1992-1993 legislative session, but these attempts have not succeeded. In Mr. Kollen’s opinion, there does not appear at present a political consensus to pass such legislation.

2. Refer to page 5, line 15, continuing to page 6, line 2, of the Kollen Testimony.

a. While Kentucky Power has not yet filed its 2009 Annual Report (FERC Form 1) with the Commission, its 2006, 2007, and 2008 reports show that in each of those years only 50 to 60 percent of its off-system sales were sales to the American Electric Power Pool. Explain how Mr. Kollen determined that 100 percent of Kentucky Power's off-system sales during the 12 months ended September 30, 2009, were sales to the AEP pool.

b. If the distribution of Kentucky Power's off-system sales during the 12 months ended September 30, 2009 was similar to the distribution in the three preceding calendar years, explain how that would affect Mr. Kollen's recommendation.

RESPONSE:

a. Mr. Kollen used the term "AEP pool" to encompass sales to other AEP East utilities and third parties. Pursuant to the Interconnection Agreement, energy that is excess to the AEP system requirements is sold off-system and the margins are shared among the AEP East utilities based on each utility's MLR.

b. The assumption has no effect on Mr. Kollen's recommendation.

3. Refer to page 7 of the Kollen Testimony, lines 4-9. Identify the cases Mr. Kollen relied upon in making the statement regarding the demonstration by a utility that a proposed resource is the least-cost resource, that, "[t]his is the traditional standard applied by this Commission and other state commission..." (Emphasis added).

RESPONSE:

Mr. Kollen has not performed a comprehensive review of all Commission orders, but has identified the following orders and Staff Reports that illustrate the Commission's reliance on the traditional least cost standard as the selection criterion for generation and transmission alternatives.

In Case No. 92-005, KU's Application for a CCN to construct a scrubber at Ghent 1, the Commission approved KU's request and relied on KU's determination of "an optimal compliance plan by using a minimum net present value of revenue requirement criteria over a 30-year period," which was the "least costly alternative."

In Case No. 92-112, EKPC's Application for a CCN to construct certain Smith CTs, the Commission found that "East Kentucky requires 300 megawatts of peaking capacity by 1995 and constructing CTs at the J.K. Smith Power Station without purchasing additional capacity from other sources is the least cost alternative available to East Kentucky to meet this requirement."

In Case Nos. 2005-00467 and 2005-00472, LG&E's and KU's Applications to construct certain transmission facilities, the Commission authorized the least cost alternative despite other factors that may have favored alternative routes.

In Case No. 2006-00206, KU's Application to amend its CPCN and its environmental compliance plans to delay construction of the Ghent 2 SCR and to remove it from the approved ECR compliance plan. The Commission authorized KU's requests and concurred with KU that "construction at this time was no longer the least-cost option" and stated that "[i]f at a future date KU determines that constructing the Ghent Unit 2 SCR is the least-cost alternative it will apply for a new CPCN and request authority to recover the costs through its environmental surcharge."

In Case No. 2007-00375, EKPC's Application for a CPCN to construct an FGD at Spurlock 2, the Commission approved EKPC's request and relied on EKPC's studies that determined "this course of action continues to be the least-cost option available."

In addition, a review of Staff Reports on recent IRP filings by LG&E, KU, and EKPC indicate that these utilities rely on the traditional least cost standard in the selection of supply side and demand side options. For example, in Case No. 2008-00148, the 2008 IRP for LG&E and KU, the Staff Report described the Companies' IRP as follows: "LG&E/KU examine the economics and practicality of supply-side and demand-side options in order to forecast the least-cost options available to meet forecasted customer needs" and summarized the final step in the LG&E/KU resource planning process as "development of the optimal economic plan from the available resource options." More specifically, the Staff noted that "LG&E/KU developed their ultimate resource assessment and acquisition plan based on minimizing expected Present Value Revenue Requirements (PVRR) over a 30-year planning horizon."

As another example of a Staff Report on a recent IRP filing by EKPC in Case No. 2006-00471, the Staff stated that "[t]he goal of the Commission in establishing the IRP process was to ensure that all reasonable options for the future supply of electricity were being examined and pursued and that ratepayers were being provided a reliable supply of electricity at the lowest possible cost." The Staff Report also stated that its "goals are to ensure that: . . . [t]he selected plan represent the least-cost, least-risk plan for the end use customers served by EKPC and its member cooperatives."

4. Refer to page 7, line 20, and page 9, line 22, of the Kollen Testimony. Confirm that the case number referenced in these lines of text should be to 2009-00459 rather than 2009-00549.

RESPONSE:

The correct case number is 2009-00459.

5. Refer to page 8, line 16, continuing to page 9, line 2, of the Kollen Testimony. Provide the evidence relied upon by Mr. Kollen when, referring to biomass co-firing, biomass injection, and purchasing renewable energy certificates, he makes the statement that, “[t]hese alternatives may represent lower cost options if indeed the federal government or the Commonwealth implements a renewable mandate.”

RESPONSE:

This statement was an observation that there are other options and that those options may represent lower costs if indeed the federal or state governments implement a renewable mandate. Mr. Kollen has not performed studies to determine the viability or the economics of such options, although he is aware that the Company presently is evaluating biomass co-firing and biomass injection at the Big Sandy 2 unit based on Scott Weaver’s Direct Testimony in this proceeding.

6. Refer to page 11, lines 7 through 22, of the Kollen Testimony, regarding the impact of “the purchased power agreement debt equivalents” on Kentucky Power’s capital structure and increased equity return.

a. Explain whether Mr. Kollen agrees that ratepayers would not see the impact of an increased equity return immediately upon approval of the proposed purchased power agreement and would see the impact only as part of a base rate case subsequent to such approval.

b. Explain whether Mr. Kollen believes there are measures that the Commission could take so that the greater equity return component of the costs associated with the purchased power agreement could be offset so that the impact on customers’ bills would be neutral.

RESPONSE:

a. Mr. Kollen generally agrees with the statement; however, the proposed PPA will be incorporated into the debt rating agencies’ computations of the Company’s credit metrics regardless of whether there is a rate case pending and this will put downward pressure on the Company’s bond ratings.

b. Yes. The Commission could condition its approval through a hold harmless provision. This could take the form of requiring an explicit ratemaking adjustment that would reduce the Company’s common equity ratio to remove the effects on common equity of the PPA debt equivalent.

7. Refer to Kentucky Power's response to Item 29 of Commission Staff's Third Data Request in Case No. 2009-00459, the company's pending base rate case.¹

a. Explain whether Mr. Kollen believes it would be appropriate, if the purchased power agreement were to be approved, for the risks and costs associated therewith to be shared in some fashion by ratepayers and shareholders.

b. If the costs of the agreement, above some threshold amount, were to be deferred as a regulatory asset, and only amortized and borne by ratepayers upon the enactment of a renewable portfolio standard, explain how Mr. Kollen would view such an approach.

RESPONSE:

a. The Company's proposal will result in the assignment of all risks and costs to ratepayers and none to shareholders. That is an inappropriate sharing. The Company is not obligated to proceed with the contract if the Commission does not approve the contract as proposed, according to the terms of the contract itself. Nevertheless, if the Commission were to approve the contract, it could condition its approval. Such conditions might include a hold harmless on the costs associated with additional common equity, although as a practical matter that would be difficult to implement.

b. Mr. Kollen would oppose such a proposal in concept even without further detail, primarily because it presumes that there will be a renewable portfolio standard mandate and presumes that there will be recovery regardless of whether there is such a mandate either now or in the future. In any event, such a proposal does not represent a sharing of risks between the ratepayers and the Company; it merely defers recovery.

¹ Case No. 2009-00459, Application of Kentucky Power Company for a General Adjustment of Electric Rates, filed January 15, 2010.