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April 23, 2012

RECEIVED

APR 24 2012

PUBLIC SERVICE
COMMISSION

VIA: FEDERAL EXPRESS

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

RE: PSC Case No. 2011-00096

Dear Mr. Derouen:

I send herewith ten (10) copies of the petition for rehearing which I file in the above-referenced matter. I faxed a copy yesterday to the Commission.

Yours truly,



Darrell L. Saunders

DLS: mw

Enclosure

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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APR 24 2012

PUBLIC SERVICE
COMMISSION

In the Matter of:

APPLICATION OF SOUTH KENTUCKY RURAL)
ELECTRIC COOPERATIVE CORPORATION FOR) CASE NO.
AN ADJUSTMENT OF RATES) 2011-00096

PETITION FOR REHEARING

Comes South Kentucky Rural Electric Cooperative Corporation (“South Kentucky”), by and through its counsel, and applies to the Kentucky Public Service Commission (“Commission”) pursuant to KRS 278.400 and related sections and 807 KAR 5:001, Section 4 and related sections for rehearing of the Commission’s Order dated March 30, 2012 (“Order”). South Kentucky requests rehearing contending the following:

1. The Commission erroneously disallowed a depreciation expense of \$1,189,025.00 in total distribution plant depreciation because that amount was based upon a depreciation study utilizing the same criterion which had been accepted by the Commission in at least seven (7) prior cases.
2. The Commission erroneously disallowed \$578,105.00 in depreciation for retired meters based upon a fifteen year life of the meters which is inconsistent with a recent Shelby Energy Cooperative, Inc. case where depreciation for retired meters were permitted upon a five year life.
3. The Commission erroneously disallowed a depreciation expense of \$359,166.00 for AMI expenditures which are/were incurred during a finite thirty six month period which were at all times “known and measurable” and should be allowed even though part of the expenses were actually incurred outside of the test year.
4. The Commission erroneously disallowed \$642,736.00 in depreciation expense for the U.S. Department of Energy’s grant for the AMI system in light of Public Service Commission of Kentucky v. Dewitt Water District, 720 S.W.2d 725 (Ky. 1986).

All issues presented for rehearing address depreciation and, as shown on attached Exhibit A, the total of the depreciation disallowances as set forth above is \$2,769,032.00 which the Commission is requested to allow upon rehearing.

The aforesaid four (4) issues are described below in further detail.

I
THE COMMISSION ERRONEOUSLY DISALLOWED A
DEPRECIATION EXPENSE OF \$1,189,025.00 IN TOTAL
DISTRIBUTION PLANT DEPRECIATION BECAUSE THAT
AMOUNT WAS BASED UPON A DEPRECIATION STUDY
UTILIZING THE SAME CRITERION WHICH HAD BEEN ACCEPTED
BY THE COMMISSION IN AT LEAST SEVEN (7) PRIOR CASES

South Kentucky conducted and presented to the Commission a depreciation study for its distribution plant and requested a total depreciation expense in the first year after approval of the rate of \$6,565,437.00. The Commission allowed \$5,376,412.00 thereby disallowing the amount of \$1,189,025.00 which amount is again requested on rehearing.

South Kentucky's depreciation study was conducted utilizing the same method as depreciation studies used by at least seven (7) other electric cooperatives in rate cases which were all previously approved by the Commission. Those rate cases are as follows: (a) Cumberland Valley Electric, Case No. 2005-00187; (b) Fleming-Mason Energy Cooperative Case No. 2007-00022; (c) Blue Grass Energy Cooperative Corporation Case No. 2008-00011; (d) Grayson Rural Electric Cooperative Corporation Case No. 2008-00254; (e) Big Sandy Rural Electric Cooperative Corporation Case No. 2008-00401; (f) Licking Valley Rural Electric Cooperative Corporation Case No. 2009-00016; and (g) Clark Energy Cooperative, Inc. Case No. 2009-00314.

In each of the seven rate cases set forth above, the Commission accepted the requested depreciation rates which were based upon the same depreciation study as used

by South Kentucky in the instant action. In contrast, South Kentucky requested a composite rate of 4.210% and was granted a composite rate of only 3.300%. The difference between these two results in the \$1,189,025.07 requested by rehearing.

Attached hereto as Exhibit B is a schedule listing the within rate case of South Kentucky and the seven (7) listed above. The distribution plant is broken down in twelve (12) different areas with a combined composite rate. Then, comparisons are made for (1) pre-rate case filing rates; (2) requested rates by the cooperative in the rate case and (3) the rates approved by the Commission's ultimate order. It is readily apparent that the Commission permitted and approved the requested rates of all seven (7) of the listed cooperatives yet granted South Kentucky only 78% of the requested rate. The average rates of the above cooperatives as approved by the Commission is 4.30% while the Commission approved a rate of only 3.30% (one whole percentage point less) for South Kentucky.

The effect of the refusal of the Commission to accept South Kentucky's depreciation study yields a difference in the first year of \$1,189,025.00. The Commission is requested upon rehearing to accept South Kentucky's depreciation study as it has in the other cited cases and permit a composite rate of 4.210% depreciation as per the specific items as set forth on Exhibit B and to thereby allow this additional \$1,189,025.00 depreciation expense. South Kentucky seeks a rehearing on what appears to be an inadvertent oversight by the Commission since it readily approved the same depreciation study in the prior cases.

II

THE COMMISSION ERRONEOUSLY DISALLOWED
\$578,105.00 IN DEPRECIATION FOR RETIRED METERS
BASED UPON A FIFTEEN YEAR LIFE OF THE METERS
WHICH IS INCONSISTENT WITH A RECENT SHELBY ENERGY
COOPERATIVE, INC. CASE WHERE DEPRECIATION FOR RETIRED
METERS WERE PERMITTED UPON A FIVE YEAR LIFE

South Kentucky proposed in its rate case to depreciate old meters which were replaced by reason of implementation of its AMI system over five (5) years amounting to a total of \$622,343.00 in the initial one year period. The Commission slashed that to \$44,238.00 thereby reducing South Kentucky's claim by \$578,105.00. The Commission indicates that it would permit the meters to be written off only for a fifteen (15) year period.

In the matter of the Request of Shelby Energy Cooperative for Approval to Establish a Regulatory Asset in the Amount of \$443,560.75 and Amortize the Amount Over a Period of Five (5) Years, Case No. 2012-00102, the Commission entered an order on April 16, 2012 for Shelby Energy, which also recently installed an AMI system. For the meters which were replaced by the AMI meters Shelby requested, and the Commission granted, approval to amortize the meters over a five year period which is the same request that has been made by South Kentucky.

The value of South Kentucky's old meters was known and measurable at all times during its rate case and the entire value of such should have been recognized for purposes of depreciation. The total basis to depreciate is \$4.4 million dollars and South Kentucky believes it should be allowed to depreciate over five years the same as was allowed for Shelby Energy which necessitates allowance of the \$578,105.00 previously disallowed.

A rehearing is requested regarding this issue so the Commission can make its ruling in the within case consistent with its ruling in the Shelby Energy case cited above.

III

THE COMMISSION ERRONEOUSLY DISALLOWED A DEPRECIATION EXPENSE OF \$359,166.00 FOR AMI EXPENDITURES WHICH ARE/WERE INCURRED DURING A FINITE, THIRTY SIX MONTH PERIOD WHICH WERE AT ALL TIMES “KNOWN AND MEASURABLE” AND SHOULD BE ALLOWED EVEN THOUGH PART OF THE EXPENSES WERE ACTUALLY INCURRED OUTSIDE OF THE TEST YEAR

Incident to installation of its AMI system, South Kentucky requested that it be allowed to depreciate in the first year the amount of \$667,000.00 which amount was reduced to \$307,834.00 by the Commission for a difference of \$359,166.00. South Kentucky requests that it be allowed to depreciate the entire amount and that the \$359,166.00 disallowance be corrected. Again, the amount for the meters was known and measurable. It was not based on growth, but, rather, was based upon a contract with the Department of Energy over a set, definite period of time. As such, the write-off as requested by South Kentucky is reasonable and should be allowed.

IV

THE COMMISSION ERRONEOUSLY DISALLOWED \$642,736.00 IN DEPRECIATION EXPENSE FOR THE U.S. DEPARTMENT OF ENERGY’S GRANT FOR THE AMI SYSTEM IN LIGHT OF PUBLIC SERVICE COMMISSION OF KENTUCKY V. DEWITT WATER DISTRICT, 720 S.W.2D 725 (KY. 1986)

South Kentucky seeks to depreciate the amount of \$642,736.00 as the grant portion, that is the funds received from the U.S. Department of Energy, of the new AMI meters installed. The Commission disallowed any depreciation and the effect is reduction of South Kentucky’s claimed depreciation expense in the first year of

\$642,736.00. South Kentucky urges the Commission to rehear this issue and to allow the entire \$642,736.00 depreciation expense.

First, as in III above, the amount of the meters was known and measurable and the expenditure was not based on growth but, rather, was based upon a contract with the U.S. Department of Energy and South Kentucky requests the allowance of the \$642,736.00 amount the same as the \$359,166.00 which was disallowed for South Kentucky's portion of AMI meter costs.

Second, in its Order the Commission flatly denied South Kentucky the right to depreciate any of the grant funds received by the U.S. Department of Energy for its AMI system. South Kentucky continues to rely upon Public Service Commission v. Dewitt Water District, 720 S.W.2d 725 (Ky. 1986) whereby the Supreme Court under no uncertain terms determined that depreciation expense on contributed plant property may be considered as an operating expense for rate-making purposes in matters involving a public utility as opposed to an investor-owned utility. Seizing upon the "publicly held water districts as distinguished from investor-owned companies" language of Dewitt, the Commission states that Dewitt shall forever only apply to water districts and not any of the other utilities regulated by the Commission. In its Order sought to be reheard, the Commission allows that South Kentucky is a private corporation formed under KRS Chapter 279 and is owned by its members/customers, not the public. Therefore, it reasons Dewitt does not apply.

Yes, South Kentucky is organized pursuant to KRS Chapter 279. But is it a private corporation such that it is not afforded the relief granted in Dewitt? At page 731 of Dewitt, the court provides the following:

It is important to remember that this case involves water districts which are nonprofit utilities organized under Chapter 74 of the Kentucky Revised Statutes. The owners and consuming ratepayers are essentially the same individuals because the districts are political subdivisions of county government. They have no private capital and no corporate investors who must be satisfied as to traditional profits. Their rates do not generate a return on rate base. The water districts are permitted to earn net revenues based on a debt service formula or on an operating ratio computed in accordance with a percentage of operating expenses. Lowering operating expenses means lowering rate recovery.

and

Chapter 74, by definition, does not apply to privately owned utilities which have investors to provide needed funds on their behalf in expectation of legitimate monetary dividends. The water districts sole concern is continuous water service to its members and consumers who are one and the same.

(Emphasis added)

Dewitt indicates that depreciation expense for contributed property should be allowed since in the water districts then before it:

1. The owners and consuming rate payers are essentially the same individuals.
2. The utility has no private capital.
3. The utility has no corporate investors who must be satisfied as to traditional profits.

The court indicated that privately owned utilities have investors to provide needed funds on their behalf in expectation of legitimate monetary dividends. Where are South Kentucky's investors which provide needed funds on South Kentucky's behalf in expectation of legitimate monetary dividends? Indeed, South Kentucky is no more a "private corporation" as described in Dewitt as any water district. South Kentucky's

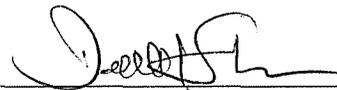
owners are its members who are its consuming rate payers. South Kentucky has no private capital and no corporate investors to satisfy with traditional profits. Indeed, in its Order, the Commission has determined that capital credits need not be paid by cooperative corporations or at least they cannot be a factor in determining rates. If Kentucky Utilities obtained a similar grant from the U.S. Department of Energy and requested in a rate case to depreciate the contributed property resulting from the government grant, Dewitt would surely apply as it has private capital and corporate investors to provide needed funds in expectation of legitimate and monetary dividends. But South Kentucky does not. Just like the Dewitt Water District did not.

Denying South Kentucky's request to depreciate the U.S. Department of Energy grant because it is not a "public utility" but, instead, a cooperative corporation created pursuant to KRS Chapter 279 is a distinction without significance. South Kentucky is no less public than the Dewitt Water District and none of the factors which could impose private investor status pursuant to Dewitt are present as to South Kentucky. It is not unlike imposing the "law of the road" in negligence cases, which requires motor vehicles to stay to the right hand side of the road, only upon Chevrolets but not upon Fords. It is motor vehicles that are subject to the law of the road, not individual type of motor vehicles. Likewise, it is utilities (not necessarily only water districts) that have no private capital and no corporate investors to provide needed funds that are subject to the holding of Dewitt. Form most certainly must take a back seat to substance in this sense. South Kentucky is not an investor owned utility and relies solely upon the rates paid by its members and funds from the federal government through Rural Utilities Service to

subsist. In that sense it is no less public than the water districts relied upon by the Commission.

South Kentucky urges the Commission to rehear this issue and to determine that its obligation to follow Dewitt is not limited solely to water districts but, rather, to all utilities it regulates. Dewitt does permit the depreciation requested by South Kentucky unless dealing with a privately owned utility which has investors to provide needed funds on its behalf. South Kentucky has no such private investors and the same rationale permitting depreciation of contributed property in Dewitt applies to South Kentucky regardless of what chapter of the Kentucky Revised Statutes gave it birth.

Respectfully submitted,

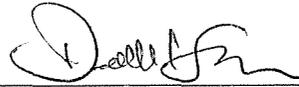


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CERTIFICATE OF SERVICE

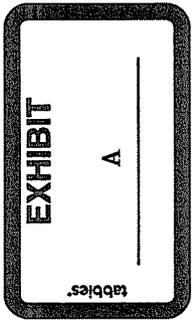
I hereby certify that a true and correct copy of the above and foregoing was this 23rd day of April, 2012 deposited in the regular United States mail, all postage prepaid and addressed for delivery to Mr. Richard Raff, Public Service Commission, 211 Sower Blvd., P.O. Box 615, Frankfort, KY 40602-0615.

Ten (10) copies to: Mr. Jeff Derouen, Executive Director, Public Service Commission, 211 Sower Blvd., P.O. Box 615, Frankfort, KY 40602-0615.



ATTORNEY FOR SOUTH KENTUCKY
RURAL ELECTRIC COOPERATIVE
CORPORATION

SOUTH KENTUCKY RURAL ELECTRIC COOPERATIVE CORPORATION
DEPRECIATION TREATMENT PER COMMISSION'S ORDER



Depreciation Adjustment By Commission

(\$2,769,032.00)

Depreciation	DEPRECIATION EXPENSE-One year			TOTAL COST BASIS		
	Requested	Order	Difference	Requested	Order	Difference
Distribution Plant	6,565,437	5,376,412	(1,189,025)	167,482,829	167,482,829	0
General Plant	1,059,243	1,059,243	0	19,992,289	19,992,289	0
AMI-SKRECC	667,000	307,834	(359,166)	10,000,000	4,615,202	(5,384,798)
AMI-Grant	642,736	0	(642,736)	9,636,215	0	(9,636,215)
Old Meters-3.00						
Depr. Rate	122,400	122,400	0	3,737,389	3,737,389	0
Old Meters-6.00						
Depr. Rate	622,343	44,238	(578,105)	663,566	663,566	0
TOTAL DEPRECIATION:	9,679,159	6,910,127	(2,769,032)	211,512,288	196,491,275	(15,021,013)

Depreciation Rates

	Pre Rate Case Filing Rates							
	SKRECC	Bluegrass	Clark	Fleming Mason	Big Sandy	Licking Valley	Grayson	Cumberland Valley
DISTRIBUTION PLANT								
Land	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%
Station Equipment	3.000%	8.33%			3.30%	3.00%	3.00%	3.10%
Poles, Towers, and Fixtures	3.000%	3.50%	3.00%	3.00%	3.30%	4.23%	3.00%	4.00%
Overhead Conductors and Devices	3.000%	2.56%	3.00%	3.00%	3.30%	2.85%	3.00%	2.80%
Underground Conduit	3.000%		3.00%		3.30%			
Underground Conductors and Devices	3.000%	2.65%	3.00%	3.00%	3.30%	2.83%	3.00%	4.00%
Line Transformers	3.000%	2.86%	3.00%	3.00%	3.30%	3.68%	3.00%	3.10%
Services	3.000%	3.35%	3.00%	3.00%	3.30%	4.75%	3.00%	3.60%
Meters, Existing Mechanical Meters	3.000%	3.14%	3.00%	3.00%	3.30%	3.86%	3.00%	3.40%
Meters, AMI Project	6.670%	3.14%	3.00%		3.30%		3.00%	3.40%
Security Lights	3.000%	4.15%	3.00%	3.00%	3.30%	5.36%	3.00%	4.00%
Street Lights	3.000%	5.00%	3.00%					
Composite rate	3.000%	3.24%	3.00%	3.00%	3.30%	3.80%	3.00%	3.43%

	Requested Rates							
	2011-096 SKRECC	2008-011 Bluegrass	2009-314 Clark	2007-022 Fleming Mason	2008-401 Big Sandy	2009-016 Licking Valley	2008-254 Grayson	2005-187 Cumberland Valley
DISTRIBUTION PLANT								
Land	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%
Station Equipment	6.670%	4.17%			6.67%	3.12%	2.86%	3.99%
Poles, Towers, and Fixtures	4.170%	3.30%	3.73%	3.96%	4.75%	4.65%	4.99%	6.14%
Overhead Conductors and Devices	4.300%	4.05%	5.05%	2.87%	4.54%	4.50%	4.84%	5.35%
Underground Conduit	2.690%		3.09%		3.91%			
Underground Conductors and Devices	4.820%	4.88%	4.19%	3.14%	2.80%	2.50%	3.13%	7.25%
Line Transformers	2.220%	2.63%	3.03%	3.60%	2.33%	2.50%	3.45%	2.33%
Services	4.230%	5.08%	2.38%	3.80%	4.97%	3.71%	4.02%	4.83%
Meters, Existing Mechanical Meters	20.000%	4.55%	3.00%	4.78%	3.30%	3.86%	3.00%	3.40%
Meters, AMI Project	6.670%	6.67%	6.67%		6.67%	6.67%	6.67%	6.25%
Security Lights	5.020%	3.23%	6.07%	3.42%	6.35%	4.26%	4.09%	6.25%
Street Lights	7.520%	4.35%	7.33%					
Composite rate	4.210%	3.88%	4.15%	3.60%	4.60%	4.05%	4.68%	5.11%

	Order Rates							
	2011-096 SKRECC	2008-011 Bluegrass	2009-314 Clark	2007-022 Fleming Mason	2008-401 Big Sandy	2009-016 Licking Valley	2008-254 Grayson	2005-187 Cumberland Valley
DISTRIBUTION PLANT								
Land	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%
Station Equipment	3.075%	4.17%			6.67%	3.12%	2.86%	3.99%
Poles, Towers, and Fixtures	3.750%	3.30%	3.73%	3.96%	4.75%	4.65%	4.99%	6.14%
Overhead Conductors and Devices	2.675%	4.05%	5.05%	2.87%	4.54%	4.50%	4.84%	5.35%
Underground Conduit	2.175%		3.09%		3.91%			
Underground Conductors and Devices	2.775%	4.88%	4.19%	3.14%	2.80%	2.50%	3.13%	7.25%
Line Transformers	2.975%	2.63%	3.03%	3.60%	2.33%	2.50%	3.45%	2.33%
Services	3.475%	5.08%	2.38%	3.80%	4.97%	3.71%	4.02%	4.83%
Meters, Existing Mechanical Meters	3.275%	4.55%	3.00%	4.78%	3.30%	3.86%	3.00%	3.40%
Meters, AMI Project	6.670%	6.67%	6.67%		6.67%	6.67%	6.67%	6.25%
Security Lights	4.175%	3.23%	6.07%	3.42%	6.35%	4.26%	4.09%	6.25%
Street Lights	4.175%	4.35%	7.33%					
Composite rate	3.300%	3.88%	4.15%	3.60%	4.60%	4.05%	4.68%	5.11%

