

RECEIVED

DEC 17 2014

PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

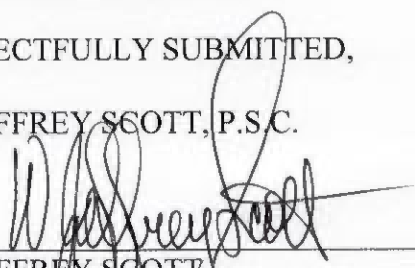
AN EXAMINATION OF THE APPLICATION OF)	
THE FUEL ADJUSTMENT CLAUSE OF EAST)	CASE NO.
KENTUCKY POWER COOPERATIVE, INC.)	2014-00226
FROM NOVEMBER 1, 2013 THROUGH APRIL)	
30, 2014)	

**POST HEARING BRIEF OF GRAYSON RURAL
ELECTRIC COOPERATIVE CORPORATION**

RESPECTFULLY SUBMITTED,

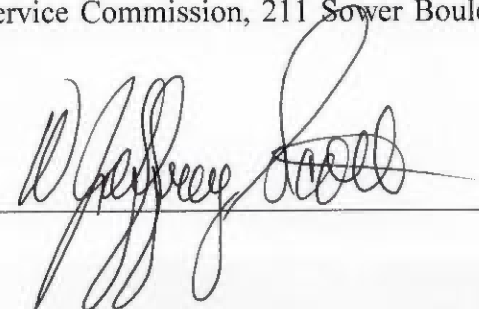
W. JEFFREY SCOTT, P.S.C.

BY:


 W. JEFFREY SCOTT
 ATTORNEY FOR GRAYSON
 311 WEST MAIN STREET
 P.O. BOX 608
 GRAYSON, KY 41143
 (606) 474-5194

I hereby certify that the original, plus ten (10) copies, of the Brief of GRECC was filed with the Public Service Commission with a copy served upon all parties of record on December 16, 2014.

1. Kentucky Public Service Commission, 211 Sower Boulevard, P.O. Box 615, Frankfort, KY 40602-0615
2. Hon. David S. Samford, Goss-Samford, PLLC, 2365 Harrodsburg Road, Suite B-325, Lexington, KY 40504
3. Hon. Jeb Pinney, Attorney for Public Service Commission, 211 Sower Boulevard, P.O. Box 615, Frankfort, KY 40602-0615



BACKGROUND

Grayson Rural Electric Cooperative Corporation (hereinafter Grayson) is an electric distribution cooperative serving its members in the counties of Carter, Greenup, Elliott, Lawrence, Lewis, and Rowan in northeast Kentucky. Grayson is a member/owner of East Kentucky Power (EKP) and, subject to the terms of its Wholesale Power Contract with EKP, purchases its electric power from EKP.

Grayson's members, located in a particularly economically distressed portion of Kentucky, have been adversely impacted by the rising costs of electricity attributable to the practices and procedures of EKP. Grayson has, in an effort to reduce those costs, sought to purchase a portion of its power from a source other than EKP as provided for in the above-referenced Wholesale Power Contract. EKP has resisted those efforts resulting in Grayson pursuing a remedy before this body to purchase 9.3 megawatts of power from a source other than the higher priced power charged by EKP. That request is still pending before the Public Service Commission and has been since the year 2012. In addition before this body in action number 2010-00167 Grayson has sought an order directing EKP to follow through with its January 2011 Order fixing rates so as to comply with the provisions of said Order relative to a new base rate application. That motion was filed in the spring of 2014, and a subsequent motion seeking a final hearing has been filed to which there has been no response nor any other action.

In the instant proceeding, EKP has sought to implement a methodology in the application of the Fuel Adjustment Clause, the result of which, if granted, would result in a bastardization of the Fuel Adjustment Clause.

EKP prior to June 1, 2013, was a "stand-alone balancing authority" as it served its native load on its own and generated nearly all of its own power served to Grayson and the other fifteen distribution cooperatives that are owners of EKP. EKP provides no data to support its assertion

that the use of the PJM codes would be identical to the fuel costs associated with it had EKP remained a stand-alone balancing authority. As such, such an assertion is arbitrary and without meaning.

On June 1, 2013, EKP became a member of PJM and as such became subject to the “PJM Day Ahead Balancing”.

EKP began altering the method in which it applied the Fuel Adjustment Clause to its fuel purchases in January of 2014. Certain codes from PJM in the billing to EKP, namely Code 1375-Balancing Operating Reserves, and Code 2375-Balancing Credits, were incurred and in January of 2014 were utilized by EKP in their Fuel Adjustment Clause application. EKP asserts that the Code 1375 is the daily costs of operating reserve in the balancing market related to resources identified as credits for deviations and that Code 2375 is a daily credit for specified operating period segments provided to eligible pool-schedule generators (see Response to Data Request by EKP and see also February 18, 2014, Memorandum to Public Service Commission from EKP representatives, its Executive Vice-President and CFO, Director of Regulatory and Compliance Services, and Pricing Manager). EKP asserts that the costs for actual purchases of energy from PJM in January of 2014 were allowable under 807 KAR 5:056 Section 1 (3) (b). EKP asserts that the purchases made through PJM were in addition to, not a substitute for, the generation from all of EKP’s available generation. However, the facts seem to indicate that it is in fact a substitute. EKP made a conscious decision to idle and winterize the Dale Number 3 and Number 4 Plant in December of 2013 and, despite the record cold in early January, made a conscious decision to keep that plant idled thereafter.

A hearing was held in this matter on November 12, 2014, at which various representatives of EKP offered testimony.

The thrust of the testimony was that while these codes are admittedly not within the regulatory definition as set forth in 807 KAR 5:056, EKP believes that it should be allowed to simply change its methodology for FAC purposes since it no longer is a stand-alone generating utility.

However, the decision to not be a stand-alone generating utility was one that was made by EKP as well as internal decisions being made to idle certain of its generating capacity including the Dale Station (see digital counter number of November 12 hearing 10:58) (no long term contract for the Dale Plant). The representatives of EKP testified that the Dale generating capacity when idled, in the winter of 2013-2014, had a 36 hour startup period but when winterized the startup period changed to a five (5) day period. This is as set forth in the Response to the Supplemental Data Request following the hearing. EKP has, while noting the existence of extreme weather conditions in early January 2014, i.e. January 6, done nothing to alter that idle plant well into January but yet complains about weather conditions on January 29, 2014.

The insertion of these codes into a non-existent formula in order to try to make them applicable to the costs for which the Fuel Adjustment Clause was created in the first place is simply done to increase the profit margin of EKP.

No purchaser of its power nor the end user thereof would ever be able to make any knowledgeable decision about the costs of power were EKP allowed to continue this procedure that it has implemented on its own following its statement to the Commission Staff on February 17, 2014. Such an allowance would definitely result in a violation of KRS 278.030(1) as such exacting of these costs would not be fair, nor just, nor reasonable.

CONCLUSION

The arbitrariness of the action by EKP is pointed out in their collective testimony through Ms. Tucker, Ms. Carpenter, and Mr. Warren, demonstrating that the codes set forth in the PJM

billing were reviewed from time to time and there was a passage of several months before those codes were ever utilized as a part of the Fuel Adjustment Clause. EKP representatives also testified, therefore, that all purchases are through the Fuel Adjustment Clause.

EKP has made a decision that is a contractual one through entering into PJM, but has also made internal decisions concerning the idling of plants for which it should not be allowed to profit. Fair, just, and reasonable rates and service dictate that the request by EKP in the within matter be denied. Grayson respectfully submits that the amounts already exacted by EKP be immediately returned to Grayson in its proportionate share and that EKP be directed to make all other pecuniary recompense as may be appropriate under the circumstances to place Grayson in the same footing as it would have been without this improper action by EKP.

Just because EKP has “made a fundamental change” is no basis for violating the regulatory scheme nor the statutory mandate upon EKP to provide fair, just, and reasonable rates (digital counter number of November 12 hearing 11:11:42).

Simply put, the costs for the actual purchase of energy from PJM cannot, under any scenario, be allowable under 807 KAR 5:056 Section 1 (3) (b). The regulation is clear in its definitions and in its formula. That which EKP desires to include in the formula is simply not within the purview of the regulation.

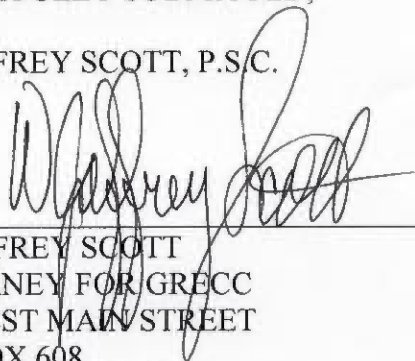
EKP representatives state in their February 2014 letter that “the peak demand events in January 2014 have affected EKP’s previous evaluation of these billing codes”. That sentence by itself demonstrates the arbitrariness of such an activity and is obviously something that is prohibited by the regulation and the applicable statutory scheme that demands that rates be fair, just, and reasonable. What “EKPC may be called upon by PJM” to do in the summer months is not dispositive of proper application of these facts to the Fuel Adjustment Clause. Such speculation has no place in regulatory activity.

WHEREFORE, Grayson prays for the appropriate order and all other relief to which it may appear to be entitled.

RESPECTFULLY SUBMITTED,

W. JEFFREY SCOTT, P.S.C.

BY: _____

A handwritten signature in black ink, appearing to read "W. Jeffrey Scott", is written over a horizontal line. The signature is cursive and somewhat stylized.

W. JEFFREY SCOTT
ATTORNEY FOR GRECC
311 WEST MAIN STREET
P.O. BOX 608
GRAYSON, KY 41143
(606) 474-5194