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JUL 17 2019

PUBLIC SERVICE
COMMISSION

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Goss
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ATTORNEYS AT LAW | PLLC

July 17, 2019

VIA HAND DELIVERY

Ms. Gwen Pinson
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601

RE: *In the Matter of the Application of East Kentucky Power Cooperative, Inc. for an Order Approving the Establishment of Regulatory Assets for Present and Future Maintenance Expenses*, Case No. 2019-00146

Dear Ms. Pinson:

Enclosed, please find an original and six copies of the East Kentucky Power Cooperative, Inc.'s ("EKPC") responses to Nucor Steel Gallatin's First Data Request for Information dated June 26, 2019, Staff's Initial Request for Information and Attorney General's Data Requests both dated June 27, 2019. In addition, EKPC is filing an original and six copies of a Motion for Confidential Treatment. Please return a file-stamped copy of this filing to my office.

Please let me know if you have any questions.

Sincerely,



David-S. Samford

Enc.

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**PUBLIC SERVICE
COMMISSION**

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

IN THE MATTER OF:

**THE APPLICATION OF EAST KENTUCKY)
POWER COOPERATIVE, INC. FOR AN)
ORDER APPROVING THE ESTABLISHMENT) CASE NO. 2019-00146
OF REGULATORY ASSETS FOR PRESENT)
AND FUTURE MAINTENANCE EXPENSES)**

**RESPONSES TO ATTORNEY GENERAL'S INITIAL DATA REQUESTS
TO EAST KENTUCKY POWER COOPERATIVE, INC.**

DATED JUNE 27, 2019

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PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF EAST KENTUCKY)
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ORDER APPROVING THE ESTABLISHMENT) CASE NO. 2019-00146
OF REGULATORY ASSETS FOR PRESENT)
AND FUTURE MAINTENANCE EXPENSES)

CERTIFICATE

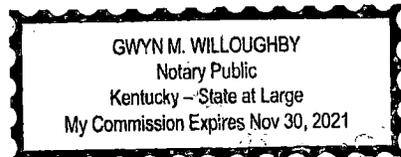
STATE OF KENTUCKY)
)
COUNTY OF CLARK)

Michelle K. Carpenter, being duly sworn, states that she has supervised the preparation of the responses of East Kentucky Power Cooperative, Inc. to the Attorney General's Initial Data Requests in the above-referenced case dated June 27, 2019, and that the matters and things set forth therein are true and accurate to the best of her knowledge, information and belief, formed after reasonable inquiry.

Michelle K. Carpenter

Subscribed and sworn before me on this 17th day of July, 2019.

Gwyn M. Willoughby #590567
Notary Public



COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF EAST KENTUCKY)
POWER COOPERATIVE, INC. FOR AN)
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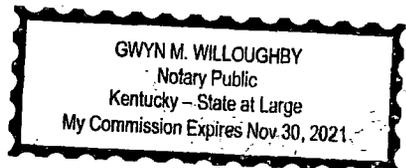
STATE OF KENTUCKY)
)
COUNTY OF CLARK)

Mike McNalley, being duly sworn, states that he has supervised the preparation of the responses of East Kentucky Power Cooperative, Inc. to the Attorney General’s Initial Data Requests in the above-referenced case dated June 27, 2019, and that the matters and things set forth therein are true and accurate to the best of his knowledge, information and belief, formed after reasonable inquiry.

[Handwritten signature]

Subscribed and sworn before me on this 17th day of July, 2019.

[Handwritten signature: Gwyn M. Willoughby #590567]
Notary Public



EAST KENTUCKY POWER COOPERATIVE, INC.

PSC CASE NO. 2019-00146

RESPONSE TO INFORMATION REQUEST

ATTORNEY GENERAL'S INITIAL DATA REQUESTS DATED 06/27/19

REQUEST 1

RESPONSIBLE PARTY: Michelle K. Carpenter

Request 1. Provide the authority for each assertion or statement in paragraphs 14-15 of the Application (e.g., citations to standards, laws, or regulations that support the assertions or statements). Narrative responses as to how a standard supports an assertion are not required, but would be appreciated.

Response 1. Listed below are the specific sections of RUS Bulletin 1767-B-1, Uniform System of Accounts - Electric, that that support the discussion in paragraphs 14 and 15 of the Application.

1767.10 DEFINITIONS

Minor items of property are the associated parts or items of which retirement units are composed.

Retirement Units are those items of electric plant which, when retired with or without replacement, are accounted for by crediting the book cost thereof to the electric plant account in which included.

1767.16 ELECTRIC PLANT INSTRUCTIONS

(j) Additions and retirement of electric plant.

- 1) For the purpose of avoiding undue refinement in accounting for additions to and retirements and replacements of electric plant, all property shall be considered as consisting of retirement units and minor items of property.
- 3) The addition and retirement of minor items of property shall be accounted for as follows:
 - i. When a minor item of property which did not previously exist is added to plant, the cost thereof shall be accounted for in the same manner as for the addition of a retirement unit, as set forth in Item in paragraph (j)(2)(i) of the section, if a substantial addition results, otherwise the charge shall be to the appropriate maintenance expense account.
 - ii. When a minor item of property is retired and not replaced, the book cost thereof shall be credited to the electric plant account in which it is included; and in the event the minor item is a part of depreciable plant, the account for accumulated provision for depreciation shall be charged with the book cost and cost of removal and credit with the salvage. If, however, the book cost of the minor item retired and not replaced has been or will be accounted for by its inclusion in the retirement unit of which it is a part when such unit is retired, no separate credit to the property account is required when such minor item is retired.
 - iii. When a minor item of depreciable property is replaced independently of the retirement unit of which it is a part, the cost the replacement shall be charged to the maintenance account appropriate for the item, except that if the replacement effects

a substantial betterment (the primary aim of which is to make the property affected more useful, more efficient, of greater durability, or of greater capacity), the excess cost of the replacement over the estimated cost at current prices of replacing without betterment shall be charged to the appropriate electric plant accounts.

EKPC notes that the above listed provisions of the Uniform System of Accounts apply regardless of the cost, period benefitted or other attributes of the projects. Generally, unless a project is for new construction or a betterment, it must replace a retirement unit in order to be treated as a capital project. The costs of all other projects must be expensed. However many projects required to be expensed under the above-listed criteria are high cost and benefit a plant for an extended period of time. It is these projects for which EKPC seeks to use regulatory asset treatment.

EAST KENTUCKY POWER COOPERATIVE, INC.

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RESPONSE TO INFORMATION REQUEST

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REQUEST 2

RESPONSIBLE PARTY: Mike McNalley

Request 2. Confirm that EKPC's most recent rate case used a future test period.

Response 2. Confirmed, the 12 months ending December 31, 2011.

EAST KENTUCKY POWER COOPERATIVE, INC.

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RESPONSE TO INFORMATION REQUEST

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REQUEST 3

RESPONSIBLE PARTY: Mike McNalley

Request 3. Explain how in EKPC's most-recent rate case, there were no level of expenses assumed and/or included in the test year for the entirety of the categories at issue in this request.

Response 3. While the forecasted test year of the 12 months ending December 31, 2011 certainly included maintenance expenses, the expenses discussed in EKPC's application have all been incurred since EKPC's last base rate case. In addition, the cost categories identified in the current application reflect amounts above and beyond the normal, routine maintenance expenses that would have been reflected in the last base rate case. Also, according to EKPC's Production maintenance records, there was no major maintenance that occurred in 2010 or 2011, which further supports that major maintenance was not factored into the forecasted test year.

EAST KENTUCKY POWER COOPERATIVE, INC.

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REQUEST 4

RESPONSIBLE PARTY: Michelle K. Carpenter

Request 4. Provide the total amount of expenses incurred for the categories at issue in this request that EKPC has incurred since its last base rate case, broken out by year and identified by account and project.

Response 4. See the response to Staff's Request #5a. As noted in the response to Staff's Request #5a, EKPC's historical accounting records were not maintained to separately identify those costs within maintenance expense that represented high-cost, non-routine minor item of property and major maintenance costs. Therefore, further breakdown by account and project for these categories could not be provided.

EAST KENTUCKY POWER COOPERATIVE, INC.

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RESPONSE TO INFORMATION REQUEST

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REQUEST 5

RESPONSIBLE PARTY: Mike McNalley

Request 5. Reference the application, wherein EKPC states that since the current process for establishing regulatory assets is, in its opinion “sometimes time consuming,” the Company is now seeking authority to establish regulatory assets for “certain costs that would otherwise be accounted for as maintenance expenses.”

Request 5a. Confirm that if approved, placing such costs into regulatory assets would remove the traditional scrutiny applied to O&M expenses received in base rate cases.

Response 5a. EKPC does not agree with this assumption. Traditionally when a utility has sought recovery of the costs included in regulatory assets as part of a base rate case, the Commission, as well as intervening parties, have scrutinized those costs as closely as any O&M expense included in a base rate case.

EAST KENTUCKY POWER COOPERATIVE, INC.

PSC CASE NO. 2019-00146

RESPONSE TO INFORMATION REQUEST

ATTORNEY GENERAL'S INITIAL DATA REQUESTS DATED 06/27/19

REQUEST 6

RESPONSIBLE PARTY: Mike McNalley

Request 6. Confirm that in the instant application, at least one reason why EKPC seeks authority to establish regulatory assets for “certain costs that would otherwise be accounted for as maintenance expenses,” is to avoid what the company states are “spikes in operating expenses.” Confirm that by definition, such spikes frequently represent extraordinary and non-recurring costs which may qualify for treatment as a regulatory asset under current procedures.

Response 6. EKPC confirms the first statement. Concerning the second statement, EKPC believes that these costs often represent extraordinary and non-recurring costs which might qualify for regulatory asset treatment.

EAST KENTUCKY POWER COOPERATIVE, INC.

PSC CASE NO. 2019-00146

RESPONSE TO INFORMATION REQUEST

ATTORNEY GENERAL'S INITIAL DATA REQUESTS DATED 06/27/19

REQUEST 7

RESPONSIBLE PARTY: Mike McNalley

Request 7. Confirm that if approved, EKPC's petition would broaden the category(ies) of expenses that might qualify for regulatory asset treatment.

Response 7. EKPC does not agree that approval of its application will broaden the categories of expenses that might qualify for regulatory asset treatment. Any utility seeking regulatory asset treatment for a category of expense will have the same burden of proof and requirement to demonstrate the request is reasonable as is currently required.

EAST KENTUCKY POWER COOPERATIVE, INC.

PSC CASE NO. 2019-00146

RESPONSE TO INFORMATION REQUEST

ATTORNEY GENERAL'S INITIAL DATA REQUESTS DATED 06/27/19

REQUEST 8

RESPONSIBLE PARTY: Mike McNalley

Request 8. Confirm that should the Commission approve EKPC's application, existing Commission precedent regarding the establishment of regulatory assets would be overturned.

Response 8. EKPC does not agree that approval of its application in the proceeding will overturn existing Commission precedent regarding the establishment of regulatory assets. EKPC is seeking Commission approval to establish regulatory assets for expenses falling within a category of expenses. No Commission precedent currently prohibits this request. Therefore, granting the relief sought will not require the Commission to overturn any precedent.

EAST KENTUCKY POWER COOPERATIVE, INC.

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REQUEST 9

RESPONSIBLE PARTY: Mike McNalley

Request 9. Confirm that in Case No. 2008-00436, Commissioner Clay in a dissenting opinion stated in part: "Establishing a regulatory asset for costs that are otherwise normal, routine and ordinary establishes a dangerous precedent. Just because the Commission has discretion to approve a regulatory asset, it should not always exercise that discretion."

Response 9. EKPC confirms that the quoted statements were included in Commissioner Clay's dissenting opinion in Case No. 2008-00436.¹ However, EKPC notes that the majority stated:

However, in exercising discretion to allow the creation of a regulatory asset, the Commission's overarching consideration is the context in which the regulatory asset is sought to be established and not necessarily the specific nature of the costs incurred.² (footnote omitted)

¹ See *In the Matter of The Application of East Kentucky Power Cooperative, Inc. for an Order Approving Accounting Practices to Establish a Regulatory Asset Related to Certain Replacement Power Costs Resulting from Generation Forced Outages*, Order, Case No. 2008-00436, p. 12 (Ky. P.S.C., Dec. 23, 2008).

² *Id.*, p 4-5.

Clearly, the facts of each case must be adjudicated on their own merit and the situation that EKPC faced in 2008 is very, very different from the Company's position today. As pointed out in the application, the proposed regulatory asset is a reasonable effort to prevent fluctuations in maintenance and replacement costs from having an unwarranted impact upon EKPC's financial performance. In 2008, EKPC sought a regulatory asset because an increase in base rates would have been insufficient to satisfy its financial metrics. In this case, EKPC seeks a regulatory asset in part so that it can delay seeking an increase in base rates.