Goss Samford

ATTORNEYS AT LAW | PLLC

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AUG 14 2019

PUBLIC SERVICE COMMISSION

David S. Samford
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August 14, 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 Staff's Second Request for Information dated July 30, 2019. 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.

RECEIVED

AUG 14 2019

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 COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION TO EAST KENTUCKY POWER COOPERATIVE, INC.

DATED JULY 30, 2019

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 OF REGULATORY ASSETS FOR PRESENT AND FUTURE MAINTENANCE EXPENSES	)))))	**CASE NO. 2019-00146**

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 Public Service Commission Staff's Second Request for Information in the above-referenced case dated July 30, 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 14th day of August, 2019.

Gwyn M. Willoughby #590567
Notary Public

GWYN M. WILLOUGHBY
Notary Public
Kentucky – State at Large
My Commission Expires Nov 30, 2021

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 OF REGULATORY ASSETS FOR PRESENT AND FUTURE MAINTENANCE EXPENSES	)))))	**CASE NO. 2019-00146**

CERTIFICATE

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 Public Service Commission Staff's Second Request for Information in the above-referenced case dated July 30, 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.

Subscribed and sworn before me on this 14th day of August, 2019.

Gwyn M. Willoughby #590567
Notary Public

GWYN M. WILLOUGHBY
Notary Public
Kentucky – State at Large
My Commission Expires Nov 30, 2021

EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2019-00146
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION DATED 07/30/19
REQUEST 1
RESPONSIBLE PARTY: Mike McNalley and Michelle K. Carpenter

Request 1. Refer to EKPC's responses to Commission Staff's First Request for Information (Staff's First Request), Item 1, Exhibit 1, and Staff's First Request, Item 8. Explain why it is appropriate to record a regulatory asset for amounts that will be expensed before they are included for rate recovery, i.e., amounts for which it is not probable that they will be included in a different period for the purpose of developing rates.

Response 1. It is appropriate to record regulatory assets when authorized by the Commission and the utility believes it is probable that such costs will be recovered through future revenue from rates allowed by the Commission. Separately, it is appropriate to begin amortization of those regulatory assets consistent with Commission orders. In this case, EKPC is requesting authorization to record regulatory assets for certain expenditures that otherwise would be expensed, as described in the Application. EKPC proposes to begin amortization promptly in part to ensure that the regulatory assets do not remain on the books for an extended period (e.g., until the next rate case is concluded), and potentially extend amortization beyond the period benefitted or run up against the end of life for the underlying asset. This approach also maximizes the "smoothing" of costs that is core to the Application.

EKPC is willing to accept that some amortization may never be explicitly recovered in future rates because of this approach; however, the Company believes it provides the best overall solution to the issues presented. Ideally, major maintenance should be amortized over the period benefitted. If such amortization can occur in any given year without triggering a rate case, those amortized costs are appropriately expensed in that year as it is assumed that current rates were sufficient for recovery. Any remaining unamortized costs would still be eligible for recovery in the next rate case. Therefore, the amount carried as regulatory asset at any given point in time, represents costs eligible for recovery in future revenue.

EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2019-00146
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION DATED 07/30/19
REQUEST 2
RESPONSIBLE PARTY: Mike McNalley and Michelle K. Carpenter

Request 2. Refer to EKPC's response to Staff's First Request, Item 2. Confirm that, through the settlement provisions accepted in Case No. 2015-00358,[1] the total balance of the regulatory asset for the stranded costs associated with the cancellation of the Smith Station coal-fired Unit #1 will be recovered through rates. If this cannot be confirmed, explain.

Response 2.

The total balance of the regulatory asset for Smith Unit 1 will not be recovered in rates. The settlement provisions provide that the regulatory asset begin amortization in January, 2017 and continue for a ten-year period. Through June 2019, 30 months have elapsed and $30,069,299 has been amortized. No rate increase has been implemented (or proposed) in that time period. The intent of the settlement was that, to the extent possible, the revenue from PJM's capacity market would offset the amortization expense for Smith Unit 1 and, that in the next base rate case both the capacity market revenue and the amortization of the regulatory asset would be components of that case.

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[1] Case No. 2015-00358, *Application of East Kentucky Power Cooperative, Inc. for Deviation from Obligation Resulting from Case No. 2012-00169* (Ky. PSC Jan. 10, 201 7).

EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2019-00146
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION DATED 07/30/19
REQUEST 3
RESPONSIBLE PARTY: Mike McNalley and Michelle K. Carpenter

Request 3. Refer to EKPC's response to Staff's First Request, Item 12.

Request 3a. Refer also to 7 C.F.R. § 1767.13(b)(1).[2] Explain why EKPC does not consider its proposal to amortize the requested regulatory assets before they are included for rate recovery to be a departure from 7 C.F.R. § 1767.18, which identifies the various asset and other debit accounts to be used by all Rural Utilities Service (RUS) borrowers and sets forth instructions for those accounts, including Account 182.3 Other Regulatory Assets.

Response 3a. EKPC believes that RUS will approve an application consistent with the Application, after the Commission has issued a favorable order. EKPC believes this Application is supportive of RUS's interests in maintaining affordable rates, serving rural America, and ensuring repayment of debt owed to the federal government by EKPC.

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[2] 7 C.F.R. § 1767.13(b){1) provides, in full, as follows:

> (b) RUS borrowers subject to the jurisdiction of a state regulatory authority with jurisdiction over rates and/or accounting for electric utilities will not:
>
> > (1) Request approval of such authority to use accounting methodologies and principles that depart from the provisions herein

Request 3b. Refer also to 7 C.F.R. § 1767. 13(c).[3] Explain whether approval of EKPC's application in this proceeding could require EKPC to maintain separate books, records, and accounts for the purposes of complying with the provisions of the RUS loan documents and any impact this requirement would have on EKPC's decision to file a base rate application.

Response 3b. EKPC does not believe the Application adversely impacts RUS's interests as described in 7 C.F.R. § 1767. 13(c) and accordingly, separate books are not required or appropriate. However separate records for the regulatory assets and their associated amortization will be maintained, as discussed in the Application and Data Request Responses.

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[3] 7 C.F.R. § 1767.13(c) provides, in full, as follows:

> (c) If any state regulatory authority with jurisdiction over an RUS borrower prescribes accounting methods or principles for the borrower that are inconsistent with the provisions of this part, the borrower must immediately notify the Director, BAD, and provide such documents, information, and reports as RUS may request to evaluate the impact that such accounting methods or principles may have on the interests of RUS.
>
> (1) If RUS determines that the accounting methods and principles do not adversely impact RUS interests, RUS will permit the borrower to use the accounting methods and principles prescribed by the state regulatory authority to comply with the provisions of the RUS loan documents.
>
> (2) If RUS determines that the accounting methods and principles may adversely impact RUS's interests, RUS may require that, for the purposes of complying with provisions of RUS loan documents, including, without limitation, those provisions relating to financial Coverage standards (e.g. "TIER"), the borrower continue to maintain books, records, and accounts in accordance with this subpart.
>
> (i) RUS may, however, approve requests by the borrower to maintain such additional books, records, and accounts as necessary to comply with the requirements of the state regulatory authority
>
> (ii) Such approval will not waive, modify or amend the requirements of the RUS loan documents or of this subpart.

Request 3c. Refer also to 7 C.F.R. § 1767.13(d).[4] Confirm that deferrals must comply with Statement of Financial Accounting Standards No. 71, which states in part that:

> Rate actions of a regulator can reduce or eliminate the value of an asset. If a regulator excludes all or part of a cost from allowable costs and it is not probable that the cost will be included as an allowable cost in a future period, the cost cannot be expected to result in future revenue through the rate-making process. Accordingly, the carrying amount of any related asset shall be reduced to the extent that the asset has been impaired. Whether the asset has been impaired shall be judged the same as for enterprises in general.

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[4] 7 C.F.R. § 1767.13(d) provides, in full, as follows:

(d) RUS borrowers will not implement the provisions of Statement of Financial Accounting Standards (SFAS) No. 71, Accounting for the Effects of Certain Types of Regulation, SFAS No. 90, Regulated Enterprises - Accounting for Abandonments and Disallowances of Plant Costs, SFAS No. 92, Regulated Enterprises - Accounting for Phase-in Plans, without the prior written approval of RUS except as provided for in paragraphs (d)(1) through (d)(S) of this section. Requests for approval shall be addressed in writing, to the Director, PASO. The specific deferrals set forth in paragraphs (d)(1) through (d)(S) of this section may be implemented without the prior written approval of RUS provided that the deferrals comply with Statement No. 71 and that the RUS borrowers implementing such deferrals continue to meet the requirements set forth in Statement No. 71 for doing so:

(1) The deferral and amortization of prior service pension costs (See § 1767.41, Interpretation No. 606, Pension Costs), remapping expenses (See § 1767.41, Interpretation No. 613, Mapping Costs), and preliminary survey and investigation charges (See § 1767.17, Interpretation No. 111, Engineering Contracts for System Planning);

(2) The deferral of any current period expense or expenses, on a cumulative basis for the fiscal year, only if a borrower would not have met each of its financial tests or coverage ratios that is has covenanted with RUS to meet for that fiscal year, had the deferral not been made;

(3) The deferral of any cost that will be fully amortized within the next 12 succeeding months;

(4) The accelerated amortization of any previously deferred expense; and

(5) The deferral of revenues coincident with a moratorium imposed by the National Rural Electric Cooperative Association on its Retirement and Security Program, provided, however, that the deferral is for the sole purpose of offsetting future pension costs.

Response 3c.

EKPC confirms this. However, it should be noted that SFAS No. 71 was codified into ASC 980.

Request 3d. If confirmed, explain how EKPC's proposal to defer the full amount of the maintenance expenses and amortize the proposed regulatory assets before they are included for rate recovery would not depart from this standard.

Response 3d. If amortization of the regulatory asset, together with other factors, resulted in EKPC filing a base rate application, EKPC expects that the allowed rates would be sufficient to recover all costs including the amortization expense. If these costs are not of a magnitude to trigger filing a base rate increase, then arguably these costs are being recovered sufficiently in existing rates. Thus, we believe a reasonable interpretation of the standard would conclude that rate recovery is likely and sufficient such that the regulatory asset would not be impaired.

Request 3e. Refer also to 7 C.F.R. § 1767.13(d)(2). Explain whether EKPC would need prior written approval from RUS for any deferrals that cumulatively affect its debt covenants with RUS for any fiscal year.

Response 3e. EKPC confirms this and plans to request, in writing, approval from RUS for these deferrals and their amortization if and as approved by the Commission.

EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2019-00146
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION DATED 07/30/19
REQUEST 4
RESPONSIBLE PARTY: Mike McNalley and Michelle K. Carpenter

Request 4. Refer to EKPC's response to Nucor Steel Gallatin's First Request for Information (Nucor's First Request), Item 4. Explain whether EKPC has considered establishing the threshold for retirement units in a manner that would allow it to capitalize the material components of its generation units as separate retirement units.

Response 4. Retirement units are established at inception of the units. EKPC is reviewing its existing retirement units and their costs for the purpose of segregating them into smaller retirement units. However, this requires accurate cost data or reasonable engineering/manufacturing estimates of those costs. To the extent EKPC is successful, regulatory assets for those revised retirement units will not be needed as frequently. However, this effort will not be economic to pursue for older units such as Cooper. Going forward, it is EKPC's intent to establish retirement units at a more granular level than has been its past practice.

EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2019-00146
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION DATED 07/30/19
REQUEST 5
RESPONSIBLE PARTY: Mike McNalley and Michelle K. Carpenter

Request 5. Refer to EKPC's response to Nucor's First Request, Item 7, pages 4-6 of 6. Confirm that EKPC's Board of Directors were explicitly informed of and approved EKPC's proposal to immediately begin amortization of the proposed regulatory assets.

Response 5. EKPC confirms that its Board of Directors was informed of and approved the proposed accounting treatments including creation of regulatory assets and immediately beginning amortization, as well as inclusion of the remaining balances in future base rate applications.