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September 20, 2019

RECEIVED *VIA HAND DELIVERY*
SEP 20 2019
PUBLIC SERVICE
COMMISSION

Ms. Gwyn 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 ten copies of Response Comments and a Motion to Submit filed on behalf of East Kentucky Power Cooperative, Inc. in the above-referenced docket. 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.

cc: Kent Chandler (w/enclosure)
Larry Cook (w/enclosure)
Justin McNeil (w/enclosure)
Mike Kurtz (w/enclosure)
Jody Kyler Cohn (w/enclosure)

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

IN THE MATTER OF:

SEP 20 2019

PUBLIC SERVICE
COMMISSION

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

**EAST KENTUCKY POWER COOPERATIVE'S
MOTION TO SUBMIT CASE ON THE RECORD**

Comes now East Kentucky Power Cooperative, Inc. ("EKPC"), by counsel, pursuant to the June 16, 2019 Procedural Order entered by the Kentucky Public Service Commission ("Commission") and does hereby move to submit the case for adjudication based upon the existing administrative record unless the Commission or Commission Staff believes that an informal conference would be useful, respectfully stating as follows:

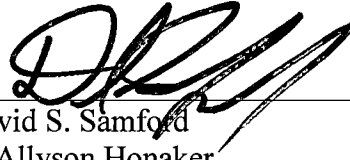
I. Introduction

EKPC filed its application on May 13, 2019, requesting the Commission to authorize the establishment of certain regulatory assets on the terms and conditions set forth in the application and the adoption of a proposed regulatory asset reporting plan. The Commission entered an Order on May 21, 2019 to establish a schedule for the case. Contemporaneous with the filing of this motion, EKPC tendered its responsive comments in support of the application, thereby completing the written record of the case. EKPC does not believe that a formal hearing is necessary, however, it understands and acknowledges that there is value in face-to-face communication regarding

topics such as accounting standards. EKPC is willing to participate in an informal conference if the Commission or Commission Staff believes that such an activity would be helpful. However, if an informal conference is unnecessary, EKPC hereby waives its right to a formal hearing and moves the Commission to adjudicate the case based upon the existing administrative record.

This 20th day of September, 2019.

Respectfully submitted,



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*Counsel for East Kentucky Power
Cooperative, Inc.*

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing was sent via U.S. Mail, postage pre-paid, and via email to the following individuals on this the 20th day of September, 2019, addressed to the following:

Mr. Kent Chandler
Mr. Larry Cook
Mr. Justin McNeil
Assistant Attorneys General
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Mr. Mike Kurtz
Ms. Jody Kyler Cohn
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36 East Seventh Street
Cincinnati, OH 45202



*Counsel for East Kentucky Power
Cooperative, Inc.*

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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**EAST KENTUCKY POWER COOPERATIVE'S
COMMENTS**

Comes now East Kentucky Power Cooperative, Inc. ("EKPC"), by counsel, pursuant to the June 16, 2019 Procedural Order entered by the Kentucky Public Service Commission ("Commission") and does hereby offer further comments in support of its application to approve the establishment of regulatory assets for present and future maintenance expenses, respectfully stating as follows:

I. Introduction

EKPC filed its application on May 13, 2019, requesting the Commission to authorize the establishment of certain regulatory assets on the terms and conditions set forth in the application and the adoption of a proposed regulatory asset reporting plan. The Commission entered an Order on May 21, 2019 to establish a schedule for the case. Orders granting motions for leave to intervene by Nucor/Gallatin Steel ("Nucor") and the Attorney General were respectively entered on June 7, 2019 and June 18, 2019. EKPC responded to initial information requests issued by Commission Staff, the Attorney General and Nucor on July 17, 2019 and supplemental information

requests issued by Commission Staff on August 14, 2019. Nucor filed comments supportive of EKPC's application and the Attorney General filed comments in opposition to EKPC's application on August 28, 2019.

Since neither Nucor nor the Attorney General tendered sworn intervenor testimony, there is no reason for EKPC to propound its own information requests to either intervenor. Accordingly, the next milestone in the Commission's procedural Order is the filing of responsive comments or rebuttal testimony by EKPC, which is due on October 10, 2019. EKPC must request or waive a formal hearing in this matter on or before October 17, 2019. There being no reason for delay, EKPC seeks to advance the case by tendering its responsive comments well-prior to the Commission's deadline.

II. Comments

A. The Regulatory Asset Approvals Requested by EKPC are Reasonable and Appropriate

1. EKPC's Request is Consistent with Modern Accounting Practices

Regulatory assets are defined in Accounting Standards Codification Topic 980, Regulated Operations ("ASC 980") and enable regulated utilities to capitalize incurred costs that would otherwise be charged to expense if it is probable that such costs will be considered allowable for rate-making purposes.¹ Regulatory assets serve a vital role in managing the accounts of a utility

¹ EKPC has been granted regulatory assets in several instances. *See In the Matter of the Application of East Kentucky Power Cooperative, Inc. for an Order Approving the Establishment of a Regulatory Asset for the Depreciation and Accretion Expenses Associated with the Smith Station Landfill Asset Retirement Obligations*, Order, Case No. 2018-00027 (Ky. P.S.C. Mar. 8, 2018); *In the Matter of the Application of East Kentucky Power Cooperative, Inc. for an Order Approving the Establishment of a Regulatory Asset for the Undepreciated Balance of the William C. Dale Generating Station*, Order, Case No. 2015-00302 (Ky. P.S.C. Feb. 11, 2016); *In the Matter of the Application of East Kentucky Power Cooperative, Inc. for an Order Approving the Establishment of Regulatory Assets for the Depreciation and Accretion Expenses Associated with Asset Retirement Obligations*, Order, Case No. 2014-00432 (Ky. P.S.C., Mar. 6, 2015); *In the Matter of the Application of East Kentucky Power, Cooperative, Inc. for an Order Approving the Establishment of a Regulatory Asset for the Amount Expended on its Smith 1 Generating Unit*, Order, Case No. 2010-00449 (Ky. P.S.C. Feb. 28, 2011); *In the Matter of the Application of East Kentucky Power Cooperative, Inc. for an Order Approving the Accounting Practices to Establish a Regulatory Asset Related to Certain Replacement Power Costs Resulting from Generation Forced Outages*, Order, Case No. 2008-00436 (Ky. P.S.C. Dec. 23, 2008).

as they help match revenues and expenses and offset the impact of margin volatility associated with the regulatory lag that occurs between when allowable costs are incurred and when the next rate-making action takes place. Using Generally Accepted Accounting Principles (“GAAP”) as a roadmap, ASC 980 permits the establishment of a regulatory asset when certain criteria are met without requiring any approval outside the corporate structure.

However, KRS 278.220 states that “[t]he [C]ommission may establish a system of accounts to be kept by utilities subject to its jurisdiction...and may prescribe the manner in which such accounts shall be kept.”² This statutory authority has been interpreted to require the Commission’s approval as a pre-requisite to establishing a regulatory asset.³ In considering whether to approve a specific request to establish a regulatory asset, the Commission has considered whether the expense in question is: (a) an extraordinary, nonrecurring expense which could not have reasonably been anticipated or included in the utility’s planning; (b) an expense resulting from a statutory or administrative directive; (c) an expense in relation to an industry sponsored initiative; or (d) an extraordinary or nonrecurring expense that over time will result in a saving that fully offsets the cost.⁴ In articulating these criteria, the Commission held:

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.⁵

² For electric cooperatives such as EKPC, the Commission adopted the Uniform System of Accounts (“USoA”), as issued by the United States Department of Agriculture, Rural Utilities Service (“RUS”), as the means by which to maintain its financial accounts. Codified as 7 CFR Part 1767, the current version of the RUS USoA became effective on May 27, 2008 and is also published and referenced as RUS Bulletin 1767B-1.

³ 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. 4 (Ky. P.S.C., Dec. 23, 2008). RUS approval is also required. See EKPC Response to Commission Staff’s Supplemental Request for Information, Response No. 3 (Aug. 14, 2019).

⁴ See *id.*; see also *In the Matter of Application of East Kentucky Power Cooperative, Inc. for an Order Approving the Establishment of a Regulatory Asset for the Amount Expended on Its Smith 1 Generating Unit*, Order, Case No. 2010-00449, p. 7 (Ky. P.S.C., Feb. 28, 2011).

⁵ See Order, Case No. 2008-00436, p. 12 (Dec. 23, 2008).

In this case, the categories of costs in question are established by the RUS USoA which requires that all utility property consist of retirement units and minor items of property. Retirement units are considered major components that are separately identified on EKPC's books. Minor items of property are the associated parts or items of which the retirement units are composed (the term "minor" does not refer to the size or scope of an item, only that it is a part of a retirement unit). When minor items of depreciable property are replaced independently of the retirement unit of which it is a part, the cost of replacement must be charged to the maintenance expense account appropriate for the item unless it constitutes a betterment. EKPC anticipates the need to replace high-cost, non-routine minor items of property that in the absence of a regulatory deferral will be required to be expensed under the USoA and GAAP.

EKPC also periodically incurs major maintenance expenses associated with the inspection and repair or replacement of minor components of the combustion turbines, steam turbines, and their associated generators. These inspections are performed as specified by original equipment manufacturers or as required based upon observed equipment condition. These projects, which are costly in nature, must also be expensed when incurred. As EKPC's power plants age, the costs to keep them operational are becoming higher and occurring more frequently than in the past. Therefore, EKPC anticipates these types of projects could result in regular requests for regulatory asset treatment in the future.

EKPC respectfully requests the Commission in this case to authorize it to: (1) establish regulatory assets for the replacement of high-cost, non-routine minor items of property and major maintenance costs that would otherwise be accounted for as maintenance expenses, so long as: (a) the replacement of minor items of property is in the amount of \$500,000 or greater due to unanticipated equipment failures or obsolescence; and (b) major maintenance costs of at least

\$1,500,000.00, which are not expected to recur for at least five years;⁶ and (2) amortize those regulatory assets over a reasonable time period for which they will provide benefits. This request satisfies the extraordinary, nonrecurring expense criteria set forth above. Moreover, there is nothing in the Commission's Order in Case No. 2008-00436, KRS 278.220, the RUS USoA, GAAP or ASC 980 that prevents other criteria from being taken into account. The only applicable accounting standard is whether it is probable that such costs will be considered allowable for rate-making purposes.

EKPC is unaware of any case where the Commission has denied a utility's request to recover the costs of replacement of minor items of property and major maintenance expense. Indeed, recovery of these two categories of expense are safely embedded within every known and conceivable notion of regulated cost recovery, good utility practice and principles of cost causation. It would be unjust and arbitrary to deny the establishment of a regulatory asset for these two categories of utility costs simply because they are requested to be deferred rather than immediately recovered in the context of a base rate increase.⁷ If recovery is ever "likely to occur,"⁸ and precedent suggests that is the case, then the accounting standards are no obstacle to approving the relief sought.

2. EKPC's Request Includes Appropriate Safeguards to Prevent Abuse

EKPC is not unsympathetic to the concerns raised by the AG with regard to what outcomes an unfettered ability to create regulatory assets might allow. Before addressing the AG's specific concerns below, EKPC points out that its application anticipated such a concern and included

⁶ Expenses for maintenance of this magnitude are insufficient to trigger New Source Reviews or the acquisition of Prevention of Significant Deterioration permits from the United States Environmental Protection Agency. *See* EKPC Response to Staff's Initial Request for Information, Request No. 13 (filed July 17, 2019).

⁷ EKPC does not concede that its request does not satisfy the existing criteria.

⁸ *See* EKPC Response to Staff's Initial Request for Information, Request No. 1 (filed July 17, 2019).

several important guardrails to prevent abuse or unfavorable rate outcomes. For instance, EKPC further proposes to: (1) give the Commission notice of its intent to establish a regulatory asset under the provisions set forth in this case; (2) make an annual filing providing updates as to the status of all regulatory assets established under the provisions of this case in order to provide an appropriate level of transparency; (3) begin amortizing the regulatory assets immediately upon completion based on a reasonable time period not to exceed the number of years the expenditure is expected to provide benefit to EKPC; (4) deferring the consideration of recovering any unamortized balances until its next base rate case proceeding; (5) excluding projects that qualify for recovery as maintenance expense under KRS 278.283; and (6) not applying a carrying charge for the regulatory assets to compensate for the time-value of money, even though Commission precedent would support such an award.

To assure there is transparency in the process EKPC proposes, EKPC commits to take the following steps to keep the Commission informed and updated on the establishment of new regulatory assets: (1) assign a unique identifier for the regulatory asset; (2) provide the date the regulatory asset is established; (3) provide a description of the project and costs to be included in the regulatory asset; (4) state the known or anticipated amount of the regulatory asset; (5) define the amortization period expected to be used; (6) describe the rationale for the amortization period pertaining to the regulatory asset; and (7) supply a copy of the general ledger entries that would be used to establish and amortize the regulatory asset. In addition, EKPC will also file an annual written report with the Commission listing all existing regulatory assets established under the provisions of this case and include the accrued balances and the amortization to date. EKPC is

also willing to provide a forecast of the anticipated projects which would qualify for regulatory asset treatment in the following year as well.⁹

Finally, EKPC wants to be expressly clear that it is not proposing to impact, limit or affect the Commission's existing jurisdiction or policies and procedures for seeking approval to recover regulatory assets.¹⁰ Should the Commission ever find that EKPC's establishment of a regulatory asset has been undertaken in bad faith or without reasonable justification, the Commission could of course revoke the authority sought to be granted herein so as to once again require EKPC to seek prior authorization before establishing any additional future regulatory assets of a like kind or nature.

3. EKPC's Request Will Benefit EKPC, Its Owner-Member Cooperatives and their End Use Retail Members

This application presents the favorable situation where the interests of the utility, its owners and customers are all in perfect alignment. For instance, the proposal enables EKPC to properly match expenses with future revenue and prevents dramatic and unnecessary swings in its annual expenses and margins. Avoiding spikes in operating expenses and dips in margins will further enable EKPC to avoid prematurely triggering base rate increases and the costs associated with those base rate cases. When rate increases due eventually occur, they will provide for a more gradual rate impact of significant expenses to customers. And to the extent that a regulatory asset is established and at least partially amortized prior to EKPC filing its next base rate increase, EKPC's Owner-members and their retail members will never see the amortized amount in rates.¹¹

⁹ See EKPC Response to Staff's Initial Request for Information, Request No. 11d (filed July 17, 2019).

¹⁰ See *id.*, Request No. 11.

¹¹ See *id.*, Request Nos. 8 and 10b.

Finally, properly employed regulatory assets simply allow a utility to maintain a record of accounts that is more accurate and consistent with modern accounting standards. It is well understood that the lag in timing between when costs are incurred and regulatory approval to establish a regulatory asset is obtained results in financial statement volatility between reporting periods. Both margin and equity are initially understated due to the costs being recognized as expense and then, large entries are subsequently made to reverse the original expense impact when the Order is granted. In this case at least, such volatility in financial statements is wholly avoidable and unnecessary.

The foregoing principles are readily applicable to the expenses for which EKPC seeks regulatory asset treatment. First, the expenses noted above are not currently recovered in base rates. Second, including these maintenance costs in rates could result in significant rate swings (up and down), depending on the timing of when these costs are incurred in correlation to a rate case. If the costs were not incurred in a test year, EKPC would lose the opportunity for recovery. However, if the costs had been incurred and included in the historic test year, base rates could be set too high for future years when such maintenance costs are not incurred. The remedy for this is make an adjustment within a rate case to amortize the costs over a specified period of time. This is effectively the same relief that EKPC is seeking in this case. It would elevate form over substance to say that amortizing significant maintenance costs is appropriate in a rate case, but inappropriate via a regulatory asset. Therefore, establishment of regulatory assets for these specific types of maintenance projects will enable EKPC to defer these expenses and match them with future related revenues, thus eliminating unnecessary adverse margin, rate and financial statement impacts.

4. EKPC's Request Promotes Administrative Efficiency

EKPC also notes that its proposal will likely serve to reduce the number of total cases requesting approval of regulatory assets that would otherwise be filed with the Commission. By approving a class of regulatory assets satisfying a narrow-criteria as being either minor replacements or major maintenance, administrative efficiency is promoted and the burden of processing additional cases is removed from the Commission. Likewise, EKPC's proposal removes the time-sensitive pressure that often befalls requests for regulatory assets. If a limited category of maintenance expense regulatory assets is preapproved by the Commission, the unyielding and unforgiving requirement to issue an order prior to the closing of the utility's books for a year is nullified.¹² Given that EKPC anticipates a greater amount of investment in these types of expenses in coming years, this administrative benefit is real and tangible.

B. The Attorney General's Opposition to EKPC's Proposal is Misplaced

While Nucor supports EKPC's application, the Attorney General asks the Commission to deny the application. The Attorney General's arguments rely upon errant circular logic and false comparisons to arrive at two general conclusions: (1) EKPC's proposal is barred by the accounting standards; and (2) the requested regulatory asset does not satisfy the Commission's traditional criteria for securing a regulatory asset.

¹² On this point, the relief sought by EKPC is similar to the relief previously awarded by the Commission to EKPC in Case No. 2014-00432. In that case, the Commission granted EKPC permission to record additional AROs and use regulatory asset treatment for the associated accretion and depreciation without further Commission approval if AROs by type and location were previously approved by the Commission. In lieu of obtaining prior authorization, EKPC agreed to file an annual report of the changes in the ARO calculations with the Commission. Here, EKPC is also similarly proposing to file a report annually of all regulatory assets established under the criteria set forth in the application.

1. The Attorney General Misunderstands Accounting and Ratemaking Standards

With regard to accounting standards, the Attorney General's first argument is that the application should be denied because, to the extent that EKPC may forego the future recovery of any amortized balances attributed to the regulatory assets, that foregone revenue is by definition not likely to be recovered and therefore in violation of ASC 980.¹³ This argument relies upon a concession that EKPC is willing to make to benefit its Owner-Members and their retail members to argue that the proposal is not appropriate to begin with. Clearly, this is incorrect. EKPC could withdraw its willingness to amortize a portion of the regulatory assets in the period of time between their establishment and the filing of a base rate case and completely negate the Attorney General's argument. However, doing so would only serve to *increase* the rate impact of the regulatory asset upon customers, which is the opposite of the Attorney General's frequent goal. EKPC may clearly choose to voluntarily forego future revenue for the benefit of its Owner-Members and retail members without violating any accounting standards. The Attorney General's argument would harm customers for no reason whatsoever.

The Attorney General's second argument is that the request presented by EKPC in this case is distinguishable from the ongoing amortization of the regulatory asset associated with the Smith 1 Unit ("Smith 1").¹⁴ EKPC admits that, of course, there is a distinction between the amortization of the Smith 1 asset and the proposal contained in this case, however, the distinction is one without a meaningful difference. In the Smith 1 case, EKPC is amortizing the regulatory asset by offsetting it with revenue generated via EKPC's participation in the PJM Interconnection, LLC ("PJM") capacity market. As EKPC stated in its application, this is akin to how maintenance and

¹³ See Attorney General's Comments, pp. 2-3 (Aug. 28, 2019).

¹⁴ See *id.*, pp. 3-4.

replacement regulatory assets will be amortized over time through EKPC's existing margins. But when the Attorney General goes on to state that, "contrary to its proposal in this matter, EKPC will recover for rate-making purposes revenue at least equal to the capitalized costs of the Smith 1 Regulatory Asset,"¹⁵ the analogy breaks down. The amortization of the Smith 1 regulatory asset was approved well-after EKPC's current base rates were established and no part of EKPC's current base rates are allocated to the Smith 1 deferral. Rather, the Smith 1 regulatory asset is being amortized based upon EKPC's actual experience in the PJM capacity market and pursuant to an obligation imposed upon EKPC as part of its integration into PJM. As set forth above,¹⁶ the better analogy is the ARO accretion and depreciation regulatory asset established in Case No. 2014-00432, as it provides a better comparison as to what EKPC has done in the past as it relates to what is proposed herein.

The Attorney General's third argument is even less plausible when he claims, "if EKPC amortizes any portion of a regulatory asset in an accounting period prior to the test-year in a subsequent rate case, the Commission's ability to deny recovery of those amortized costs is limited, if not impossible."¹⁷ By definition, the portion of a regulatory asset that is amortized prior to a subsequent rate case's test year is not being sought for recovery in the subsequent rate case. Doing so would unnecessarily increase the amount to be recovered in future rates and negate any advantage to customers' rates. But even if the Commission for some reason wanted to force EKPC to recover the full unamortized value of a regulatory asset it had already begun to amortize, EKPC has conceded the Commission would have that authority.¹⁸

¹⁵ *See id.*, p. 4.

¹⁶ *See supra*, n. 12 and accompanying text.

¹⁷ *See* Attorney General's Comments, p. 4 (Aug. 28, 2019).

¹⁸ *See supra*, Section II, A, 2.

2. The Attorney General Interprets Commission Precedent Unreasonably Narrowly

The Attorney General's other objection essentially boils down to the charge that EKPC's proposal does not satisfy any of the four criteria set forth in Case No. 2008-00436. Specifically, the Attorney General claims that the expenses which are the subject of this application are neither "extraordinary" nor "non-recurring." The claim relies upon a false premise that every piece of equipment in a large generation fleet operates precisely as advertised each moment of every day and that minor replacements and major maintenance is as routine and anticipatable as the church bells calling parishioners to service on Sunday. Anyone who has experience operating such complex machines knows that the timing of such maintenance and replacements is seldom easy to precisely anticipate. Contrary to the Attorney General's claim, EKPC has presented substantial evidence that the types of projects which are requested to be included in regulatory assets are in fact extraordinary and non-recurring. For instance, EKPC identified all the projects that would qualify for 2019 as part of its application, provided a forecast of major maintenance and minor item replacement expenses for 2019-2029,¹⁹ and explained the processes in place to anticipate when maintenance will be necessary.²⁰ The Attorney General had an opportunity to challenge any of these assertions, but chose not to do so.

Ample Commission precedent supports this conclusion. The largest single category of the Commission's prior Orders authorizing regulatory assets have arisen following major storm events.²¹ If one were to take the Attorney General's logic to its ultimate conclusion, a utility should

¹⁹ See EKPC Response to Staff's Initial Request for Information, Request No. 5 (filed July 17, 2019).

²⁰ See *id.*, Request No. 9b.

²¹ See *In the Matter of Application of Louisville Gas and Electric Company for An Order Approving the Establishment of a Regulatory Asset*, Order, Case No. 2008-00456, (Ky. P.S.C., Dec. 22, 2008); *In the Matter of Application of Kentucky Utilities Company for An Order Approving the Establishment of a Regulatory Asset*, Order, Case No. 2008-00457, (Ky. P.S.C., Dec. 22, 2008); *In the Matter of Application of Duke Energy Kentucky, Inc. for An Order Approving the Establishment of a Regulatory Asset*, Order, Case No. 2008-00476, (Ky. P.S.C., Jan. 7, 2009); *In the Matter of Application of Kentucky Utilities Company for An Order Approving the Establishment of a Regulatory Asset*,

not be able to defer storm restoration expenses because certainly it is foreseeable that another major storm will occur at some point in the future. Under the Attorney General’s logic, if it is foreseeable, it absolutely cannot be extraordinary, and if it is repeatable, it absolutely cannot be non-recurring. The reality is that major storms – just like maintenance expenses – will happen no matter what degree of planning or preparation a utility employs. Likewise, any maintenance/replacement expenses not already embedded in a utility’s base rates are “extraordinary” by definition. A utility could embed the full costs of preparing for the worst possible storm or the worst possible equipment failure in its base rates and recover those from customers each year, but such a strategy is patently absurd and economically inefficient. What EKPC is proposing is perfectly consistent with the manner in which the Commission has treated extraordinary expenses that are not included in base rates – a utility can defer recovery of its expenses (and in this case, likely less than those full costs) in recognition that restoring a system after a storm or replacing a malfunctioning piece of equipment is far preferable to losing the system.

Order, Case No. 2009-00174, (Ky. P.S.C., Sep. 30, 2009); *In the Matter of Application of Louisville Gas and Electric Company for An Order Approving the Establishment of a Regulatory Asset*, Order, Case No. 2009-00175, (Ky. P.S.C., Sep. 30, 2009); *In the Matter of Application of Kentucky Power Company for An Order Approving Accounting Practices to Establish Regulatory Assets and Liabilities Related to the Extraordinary Expenses Incurred by Kentucky Power Company in Connection with Three Major Event Storms in 2009*, Order, Case No. 2009-00352, (Ky. P.S.C., Dec. 22, 2009); *In the Matter of Application of Louisville Gas and Electric Company for An Order Approving the Establishment of a Regulatory Asset*, Order, Case No. 2011-00380, (Ky. P.S.C., Dec. 27, 2011); *In the Matter of Application of Kentucky Power Company for An Order Approving Accounting Practices to Establish Regulatory Assets and Liabilities Related to the Extraordinary Expenses Incurred by Kentucky Power Company in Connection with Four 2012 Major Storm Events*, Order, Case No. 2012-00445, (Ky. P.S.C., Jan. 7, 2013); *In the Matter of Application of Kentucky Power Company for An Order Approving Accounting Practices to Establish Regulatory Assets and Liabilities Related to the Extraordinary Expenses Incurred by Kentucky Power Company in Conjunction with the Two 2015 Major Storm Events*, Order, Case No. 2016-00180, (Ky. P.S.C., Nov. 3, 2016 and Dec. 12, 2016); *In the Matter of Electronic Joint Application of Kentucky Utilities Company and Louisville Gas and Electric Company for An Order Approving the Establishment of Regulatory Liabilities and Regulatory Assets*, Order, Case No. 2018-00304, (Ky. P.S.C., Dec. 20, 2018); *In the Matter of Application of Duke Energy Kentucky, Inc. for An Order Approving the Establishment of a Regulatory Asset*, Order, Case No. 2018-00416, (Ky. P.S.C., Mar. 25, 2019); *In the Matter of Electronic Application of Louisville Gas and Electric Company for An Order Approving the Establishment of a Regulatory Asset*, Order, Case No. 2019-00017, (Ky. P.S.C., Mar. 25, 2019).

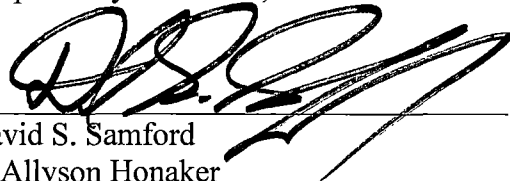
EKPC appreciates the Attorney General's arguments, but they lack evidentiary support and fail to measure up against the applicable accounting standards and Commission precedent. Accordingly, the Attorney General's comments should be given no consideration.

III. Conclusion

EKPC's proposal is entirely consistent with the applicable standards of accounting and offers tangible value to EKPC, its Owner-Members and retail members. In addition, the safeguards EKPC has suggested at the outset of this case, and has agreed to in the course of responding to discovery, provide additional certainty that granting the relief requested is reasonable and appropriate. Accordingly, EKPC respectfully requests the Commission to enter an Order authorizing the establishment of the regulatory assets on the terms set forth herein.

This 20th day of September, 2019.

Respectfully submitted,



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*Counsel for East Kentucky Power
Cooperative, Inc.*

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing was sent via U.S. Mail, postage pre-paid, and via email to the following individuals on this the 20th day of September, 2019, addressed to the following:

Mr. Kent Chandler
Mr. Larry Cook
Mr. Justin McNeil
Assistant Attorneys General
700 Capital Ave., Suite 20
Frankfort, KY 40601-8204

Mr. Mike Kurtz
Ms. Jody Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street
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*Counsel for East Kentucky Power
Cooperative, Inc.*