

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF THE)	CASE NO.
SERVICE, RATES AND FACILITIES OF)	2021-00370
KENTUCKY POWER COMPANY)	

ORDER

On February 21, 2024, Kentucky Power Company (Kentucky Power) filed a motion to strike both the direct testimony¹ and rebuttal testimony² of Lane Kollen, filed jointly by the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention, and Kentucky Industrial Utilities Customers, Inc. (jointly, Attorney General/KIUC), from the record. Kentucky Power argued that the testimonies of Lane Kollen were outside the scope of the proceeding and not of evidentiary value.³ Specifically, Kentucky Power stated that Lane Kollen’s testimony discussed an allegation that poor performance by Kentucky Power’s generation units for the past five years has increased fuel and purchase power costs.⁴ Kentucky Power noted that those issues were being addressed by the Commission in Case No. 2023-00008,⁵ Kentucky Power’s Fuel Adjustment Clause examination case, and it was not relevant to Kentucky Power’s ability

¹ Direct Testimony of Lane Kollen (filed Dec. 22, 2023).

² Rebuttal Testimony of Lane Kollen (filed Feb. 21, 2023).

³ Kentucky Power’s Motion to Strike (filed Feb. 21, 2024) at 1, 3.

⁴ Kentucky Power’s Motion to Strike at 4.

⁵ Case No 2023-00008, *An Electronic Examination of the Application of the Fuel Adjustment Clause of Kentucky Power Company from November 1, 2020 through October 31, 2022* (filed Sept. 6, 2023).

to meet customers' energy demand.⁶ Kentucky Power also stated that the disposition of Kentucky Power's interest in the Mitchell plant was outside the scope of the proceeding.⁷ Additionally, Kentucky Power argued that Mr. Kollen's discussion of both the merger of Kentucky Power with another utility as well as its transmission expenses and distribution investments were outside the scope of this Show Cause proceeding.⁸ Kentucky Power averred that these topics do not relate to the sufficiency of Kentucky Power's access to generation capacity and energy.⁹ Kentucky Power stated that the Commission had addressed the issues of transmission and distribution investments in Case No. 2023-00159.¹⁰

On February 26, 2024, Attorney General/KIUC filed a response to the motion to strike. According to Attorney General/KIUC, Mr. Kollen's testimony argued that:

(1) Kentucky Power's baseload units performed poorly and imposed excessive costs on customers, (2) the disposition of the Mitchell plant has the potential to negatively impact customers if not properly treated, (3) the current transmission arrangement is unreasonable, and (4) the Company's failure to properly invest in its distributions system has negatively impacted customers.¹¹

⁶ Kentucky Power's Motion to Strike at 4.

⁷ Kentucky Power's Motion to Strike at 5.

⁸ Kentucky Power's Motion to Strike at 5.

⁹ Kentucky Power's Motion to Strike at 6.

¹⁰ Case No. 2023-00159, *Electronic Application of Kentucky Power Company for (1) A General Adjustment of Its Rates for Electric Service; (2) Approval of Tariffs and Riders; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; (4) A Securitization Financing Order; and (5) All Other Required Approvals and Relief* (Ky. PSC Jan. 19, 2024).

¹¹ Attorney General/KIUC's Response to Motion to Strike (filed Feb. 26, 2024) at unnumbered page 2.

Attorney General/KIUC stated that each of these items is squarely within the scope of this proceeding.¹² Specifically, Attorney General/KIUC noted that “[n]othing is more relevant to whether a utility offered adequate, efficient and reasonable service than the performance of its generating units.”¹³ Attorney General/KIUC stated that the Commission has the discretion to evaluate the evidence and determine the weight to give the testimony provided by all parties to this proceeding.¹⁴ Attorney General/KIUC asked the Commission to overrule the motion to strike.¹⁵

On March 4, 2024, Kentucky Power filed a reply in support of its motion to strike. Kentucky Power argued that Attorney General/KIUC did not address the issues raised in the motion to strike nor did it address the argument that Mr. Kollen’s testimony was unreasoned and unsupported by evidence.¹⁶ Kentucky Power alleged that the decision to rebut Mr. Kollen’s testimony does not mean the company acquiesces to its validity.¹⁷

Having reviewed the motions and the evidence, the Commission denies the motion to strike evidence from the record. Attorney General/KIUC is correct in noting that the Commission is the finder of fact and can determine the weight and relevance of the evidence before it.¹⁸ Each of the items listed by Kentucky Power, in its motion, as not relevant are, in fact, within the scope of this proceeding, regardless of whether another

¹² Attorney General/KIUC’s Response to Motion to Strike at unnumbered page 2.

¹³ Attorney General/KIUC’s Response to Motion to Strike at unnumbered page 2.

¹⁴ Attorney General/KIUC’s Response to Motion to Strike at unnumbered page 3.

¹⁵ Attorney General/KIUC’s Response to Motion to Strike at unnumbered page 4.

¹⁶ Kentucky Power’s Reply in Support of its Motion to Strike (filed Mar. 4, 2024) at 1–2.

¹⁷ Kentucky Power’s Reply in Support of its Motion to Strike at 1–2.

¹⁸ *Energy Regulatory Comm’n vs. Kentucky Power Co.*, 605 S.W. 2d. 46, 50-51 (Ky. App. 1980).

case may address them. The case heading in this matter states an “...investigation of the service, rates and facilities...” The Commission did not close the original case, and the Commission has jurisdiction to investigate utilities.¹⁹ Based on the incorporation of several case records²⁰ as well as Orders in this case,²¹ Kentucky Power is on notice that this proceeding is not limited solely to generation capacity.

IT IS HEREBY ORDERED that Kentucky Power’s motion to strike is denied.

¹⁹ KRS 278.260.

²⁰ Case No. 2023-00092, *Electronic 2022 Integrated Resource Planning Report of Kentucky Power Company* (filed Mar. 20, 2023); Case No. 2019-00443, *Electronic 2019 Integrated Resource Planning Report of Kentucky Power Company* (Ky. PSC June 4, 2021).

²¹ Order (Ky. PSC Dec. 1, 2023); Order (Ky. PSC June 23, 2023).

PUBLIC SERVICE COMMISSION



Chairman



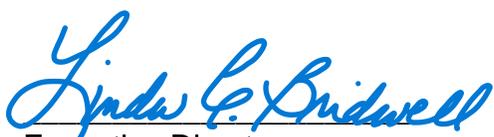
Vice Chairman



Commissioner

ENTERED
MAR 13 2024 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

*Angela M Goad
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Kentucky Power Company
1645 Winchester Avenue
Ashland, KY 41101

*Honorable Mark R Overstreet
Attorney at Law
Stites & Harbison
421 West Main Street
P. O. Box 634
Frankfort, KENTUCKY 40602-0634

*Brett Mattison
COO
Kentucky Power Company
1645 Winchester Avenue
Ashland, KY 41101

*Kentucky Power Company
Kentucky Power Company
1645 Winchester Avenue
Ashland, KY 41101

*Carrie H Grundmann
Spilman Thomas & Battle, PLLC
110 Oakwood Drive, Suite 500
Winston-Salem, NORTH CAROLINA 27103

*Kenneth J Gish, Jr.
Stites & Harbison
250 West Main Street, Suite 2300
Lexington, KENTUCKY 40507

*Jody Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Katie M Glass
Stites & Harbison
421 West Main Street
P. O. Box 634
Frankfort, KENTUCKY 40602-0634

*Joe F. Childers
Childers & Baxter PLLC
300 Lexington Building, 201 West Sho
Lexington, KENTUCKY 40507

*Larry Cook
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*John Horne
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Michael West
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Honorable Kurt J Boehm
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Honorable Michael L Kurtz
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202