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COMMISSION

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF THE FUEL	)	
ADJUSTMENT CLAUSE REGULATION 807 KAR	)	CASE NO.
5:056, PURCHASED POWER COSTS, AND	)	2022-00190
RELATED COST RECOVERY MECHANISMS	)	

**COMMENTS FROM THE KENTUCKY OFFICE OF ENERGY POLICY**

The Kentucky Office of Energy Policy (“Office” or “OEP”) provides the following initial comments in response to the November 2, 2022 order of the Kentucky Public Service Commission (“Commission”) in this docket. In the order, the Commission solicited input from interested parties in order to investigate the fuel adjustment clause, purchased power cost recovery, current and future fuel and power price volatility, and related cost recovery mechanisms.

The OEP’s mission is to support the utilization of Kentucky’s energy resources for the betterment of the Commonwealth while protecting and improving the environment. In addition, the OEP is responsible for overseeing and implementing Kentucky Energy Assurance and Security Plan and acting in the emergency support role for energy issues during a disaster or disrupting event.

In reviewing, 807 KAR 5:056, the administrative regulation is specific in section 1 that eligible fuel costs include fossil fuel and nuclear fuel costs. Furthermore, in CASE NO. 2012-00319, AN EXAMINATION OF THE APPLICATION OF THE FUEL ADJUSTMENT CLAUSE OF EAST KENTUCKY POWER COOPERATIVE, INC. FROM

NOVEMBER 1, 2011 THROUGH APRIL 30, 2012, East Kentucky Power Cooperative requested authority to recover through its FAC the cost of "any fuels that are economic when compared to traditional fossil fuels," specifically biomass resources and tire-derived fuel.

The Commission responded to the request as follows:

*"... the expressed language of the FAC does not allow an electric utility to recover through the FAC the cost of non-fossil fuels consumed in its own plants; however, as stated by East Kentucky, tire-derived fuel is petroleum based. Accordingly, the Commission finds that the cost of tire-derived fuel is recoverable through the FAC. As with purchases of coal, natural gas, and other fossil fuel for generation, recovery of tire-derived fuel is subject to the limitations prescribed under 807 KAR 5:056, Section 1(11). The Commission further finds that while there may be "non-fossil" fuels such as switch grass and biomass that may be economic when consumed in the utility's own plants, the expressed language of the FAC does not authorize the recovery of non-fossil fuels through the FAC. Rather, the cost of non-fossil fuels that are economic can be recovered by a utility, along with all its other reasonable expenses, in a base rate proceeding, as fully satisfying the statutory mandate that rates be "fair, just and reasonable,"*

The FAC; therefore, creates a bifurcated system where choices are made between the flexibility offered under the FAC for fossil and nuclear fuels versus the use of base rate proceedings for other non-fossil fuel related expenses. Specifically, not fuel neutral, the FAC could be interpreted as incentivizing fossil fuel choices given that the FAC is a mechanism for an electric utility to recover its current fuel expense from its customers

through an automatic rate adjustment without the necessity for a full regulatory rate proceeding.

As was the case a decade ago, significant federal incentives are currently being devoted to biomass and new fuels such as hydrogen which can be blended with natural gas or burned singularly for electricity generation. As such and without perfect foresight to predict the fuels of the future or geopolitical circumstances that may determine fuel choices, the OEP acknowledges that fuel decision today include criteria such as (1) the economically competitiveness of fuels to maintain competitive pricing of Kentucky's electricity, (2) fuels that increase security and resilience of the generation asset, and (3) fuels that contribute to the economic prosperity of Kentucky.

The OEP does not offer any position on a path forward but rather questions for consideration. As noted by the Public Service Commission, the FAC originated in 1978 amidst global and domestic economic and energy volatility. Technological advances, research and development activities and significant federal incentives since 1978 have changed the fuel landscape of today, whether hydrogen, renewable natural gas, waste to energy, or agriculturally based fuels, the fuels of the future may be ones that were never envisioned in 1978. While Kentucky's electricity generation portfolio remains ~ninety percent fossil based, it is difficult to predict what that mix will look like 45-50 years into the future.

As such, the relevance of the FAC rests in its flexibility as an automatic rate adjustment mechanism. For consideration, would the FAC remain relevant today if the base rate case proceedings offered such flexibility to include automatic rate adjustment mechanisms, streamlined proceedings, or multi-year rate plans? The OEP is noting the

recent “Costs, Benefits, And Methods of Implementing Alternative Rate Mechanisms For Utility Ratemaking” report issued by the Kentucky Legislative Research Commission<sup>1</sup>.

Would issues such as fuel procurement practices, fuel security and diversity, and fuel economic development criteria be better addressed under the “reasonableness” criteria contained in Integrated Resource Planning processes, Certificates of Public Convenience and Necessity<sup>2</sup> processes, and fuel contract reviews? For instance, the CPCN statutory language in KRS 278:020(1)(c)<sup>3</sup> regarding Kentucky coal considerations point to the General Assembly’s support of fuel economic development opportunities and local fuel considerations. However, the OEP notes that this statutory language supports only one type of Kentucky fuel rather than a broader consideration of local fuel availability and fuel security considerations. The OEP further notes the fuel security work most recently conducted in PJM in valuing fuel security<sup>4</sup> and the NERC 2022 Winter Reliability Assessment which found the following:

- **Generator Owners (GO) face additional fuel and supply risk.** Reliable operation of the thermal generating fleet is critical to winter reliability, and assured fuel supplies is an ongoing winter reliability concern. Current domestic and global affairs warrant even greater attention to generator fuel supplies, including natural gas, fuel oil, and coal for the upcoming winter. Inventories of coal and fuel oil in most areas are lower than usual due to a summer of high electricity demand and high natural gas prices that made other fuels more economically advantageous for electricity generation. Low fuel storage levels coupled with a range of potential fuel resupply challenges are creating additional risks for winter regional BPS reliability. Careful attention should be paid to periodic fuel surveys that provide early indication of fuel supply risks.

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<sup>1</sup> [https://drive.google.com/file/d/1j5Xrog7i7eO-Pg\\_IJE54sVzlyG53fn1U/view](https://drive.google.com/file/d/1j5Xrog7i7eO-Pg_IJE54sVzlyG53fn1U/view)

<sup>2</sup> [https://psc.ky.gov/agencies/psc/presentations/CPCN\\_2018-00005\\_July\\_9\\_2018.pdf](https://psc.ky.gov/agencies/psc/presentations/CPCN_2018-00005_July_9_2018.pdf)

<sup>3</sup> <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=48756>

<sup>4</sup> <https://www2.pjm.com/-/media/committees-groups/committees/oc/2021/20210610/20210610-item-13-fuel-security-update-presentation.ashx>

The OEP thanks the Commission for the opportunity to provide comments on this matter.



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11.28.22

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Date