

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF KENTUCKY)	CASE NO.
POWER COMPANY TO UPDATE ITS PURCHASE)	2023-00318
POWER ADJUSTMENT RATES)	

ORDER

On June 14, 2024, the Commission issued a final Order addressing Kentucky Power Company's (Kentucky Power) tariff filing to revise its rates for Tariff Purchase Power Adjustment (Tariff P.P.A.).¹ On July 5, 2024, Kentucky Power requested a partial rehearing of the June 14, 2024 Order. The Attorney General of the Commonwealth of Kentucky, through the Office of Rate Intervention (Attorney General), and Kentucky Industrial Utility Customers, Inc. (KIUC) are intervenors in this case. The intervenors did not oppose Kentucky Power's motion for rehearing.² Pursuant to an Order issued on June 28, 2024, an in-person informal conference (IC) was conducted on July 2, 2024. By Order issued July 25, 2024, the Commission granted, in part, and denied, in part, Kentucky Power's motion for rehearing. Kentucky Power responded to one additional request for information from Commission Staff. On October 9, 2024, Kentucky Power,

¹ Final Order (Ky. PSC June 14, 2024).

² Attorney General and KIUC's Joint Response to Kentucky Power's Motion for Rehearing (filed July 8, 2024).

the Attorney General, and KIUC requested that this matter be submitted for a decision without a hearing.³

LEGAL STANDARD

KRS 278.400 governs rehearing motions and allows “any party to the proceedings may, within twenty (20) days after the service of the order, apply for a hearing with respect to any of the matters determined.” Additionally, the Commission is required to “either grant or deny the application for rehearing within (20) days after it is filed, and failure of the commission to act upon the application within that period shall be deemed a denial of the application.”

KRS 278.220 states that the Commission may establish a uniform system of accounts for utilities, and in Kentucky Power’s case, the system of accounts shall conform as nearly as practicable to the system adopted or approved by the Federal Energy Regulatory Commission (FERC). FERC established its Uniform System of Accounts (USoFA) for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act in 18 CFR Part 101.

The FERC USoA provides for regulatory assets, or the capitalization of costs that would otherwise be expensed but for the actions of a rate regulator. It must be probable that the utility will recover approximately equal revenue through the inclusion of these costs for ratemaking purposes, with the intent to recover the previously incurred cost not a similar future cost. The Financial Accounting Standards Board’s Statement of Financial

³ An informal conference was held in Case No. 2024-00289, *Electronic Tariff Filing of Kentucky Power Company to Update Its Purchase Power Adjustment Rates* (filed Aug. 15, 2024) on Feb. 6, 2025. Case No. 2023-00318 was discussed to the extent that it affected the subsequent year’s filing in Case No. 2024-00289.

Accounting Standards No. 71, Accounting for the Effects of Certain Types of Regulation, which was codified as Accounting Standards Codification (ASC) 980, Regulated Operations, provides the criteria for recognizing a regulatory asset. ASC 980-340-25-1 provides, in full, as follows:

25-1 Rate actions of a regulator can provide reasonable assurance of the existence of an asset. An entity shall capitalize all or part of an incurred cost that would otherwise be charged to expense if both of the following criteria are met:

a. It is probable (as defined in Topic 450) that future revenue in an amount at least equal to the capitalized cost will result from the inclusion of that cost in allowable costs for rate-making purposes.

b. Based on available evidence, the future revenue will be provided to permit recovery of the previously incurred cost rather than to provide for expected levels of similar future costs. If the revenue will be provided through an automatic rate-adjustment clause, this criterion requires that the regulator's intent clearly be to permit recovery of the previously incurred cost.

A cost that does not meet these asset recognition criteria at the date the cost is incurred shall be recognized as a regulatory asset when it does meet those criteria at a later date.

DISCUSSION AND FINDINGS

Kentucky Power was granted rehearing on three issues, at least one of which was resolved in the Order granting rehearing.⁴ However, the Commission will discuss the remaining issues.

⁴ Order (Ky. PSC, July 25, 2024). The Order clarified the securitization from 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.*

Historical Calculation of Tariff P.P.A. – Kentucky Power asserted that the factual findings in the final Order regarding calculating the Tariff P.P.A. rate and the true-up mechanism are incorrect and not supported by record evidence.⁵

The Commission's final Order denied Kentucky Power's request for a regulatory asset or liability for over- and under-collections associated with the Tariff P.P.A., stating that these issues could be addressed more appropriately by requiring Kentucky Power to use forecasted billing determinants. On rehearing, Kentucky Power contended that the calculation of the Tariff P.P.A. rate and the true-up mechanism were based on incorrect findings and not supported by record evidence.⁶

In response to Commission Staff's rehearing data requests, Kentucky Power clarified that it does not object to the use of forecasted billing determinants, as evidenced by its 2024 filing employing this methodology.⁷ Rather, Kentucky Power expressed concerns about altering its calculation methods, asserting that such changes could complicate the implementation of Tariff P.P.A.⁸

Upon reviewing the additional information provided during rehearing, the Commission finds that using forecasted billing determinants is a critical step toward reducing the frequency and magnitude of under-recoveries. As a result, the Commission does not find that the additional evidence and argument put forth by Kentucky Power compels it to reverse its findings regarding the use of forecasted billing determinants to

⁵ Kentucky Power's Motion for Partial Rehearing (filed July 5, 2024).

⁶ Kentucky Power's Motion for Partial Rehearing at 1.

⁷ Kentucky Power's Response to Commission Staff's Rehearing Request for Information (Staff's Rehearing Requests) (filed Oct. 7, 2024), Response 6.

⁸ Kentucky Power's Response to Staff's Rehearing Requests, Responses 3 and 6.

calculate the Tariff P.P.A. rate. As noted in the final Order, the Commission finds it reasonable to utilize these forecasted billing determinants to calculate the Tariff P.P.A. rate a strategy to reduce the total under-recovery and prevent the regulatory asset from growing each year.⁹

The Commission reiterates the necessity for Kentucky Power to provide detailed data in its 2025 true-up filing. Specifically, Kentucky Power must include an analysis of:

- The financial impact of removing the PJM LSE OATT expense from Tariff P.P.A.
- The effect of securitization on the regulatory asset balance.
- The forecasted billing determinants' role in mitigating under-recoveries.

This enhanced transparency will ensure that the Commission's goals of equity and accuracy in the rate-setting process are met.

Elimination of the True-Up Mechanism – Kentucky Power argued that the final Order effectively eliminates the true-up mechanism for Tariff P.P.A. by requiring Kentucky Power to write off the portion of the over/under recovery from the previous year not be recovered through Tariff P.P.A. at the time of its annual filing.¹⁰ Kentucky Power argued that it understands the write-off to mean the over- or under-recovery regulatory liability/asset from the previous year, thus eliminating the true-up mechanism.¹¹ Kentucky Power requested that ordering paragraph 4 be modified to add “or securitization” if the Commission does not grant Kentucky Power's request:

From the date of its next effective Tariff P.P.A. rates, Kentucky Power shall write off any remaining Tariff P.P.A. under/over

⁹ Final Order (Ky. PSC June 14, 2024).

¹⁰ Kentucky Power's Motion for Partial Rehearing at 1.

¹¹ Kentucky Power's Motion for Partial Rehearing at 11.

recovery that will not be recovered through the Tariff P.P.A. rates or securitization.¹²

Kentucky Power claimed that the final Order violates federal law by trapping the FERC-jurisdictional costs, which must be passed through to retail consumers.¹³ Kentucky Power argued that under the Federal Power Act, the Commission cannot second-guess the reasonableness of FERC-approved costs and must allow its recovery.¹⁴

The Commission acknowledges that Kentucky Power is entitled to recover the expenses deemed reasonable and approved for recovery through the Tariff P.P.A. As such, the Commission will strike ordering paragraph 4 of the final Order.¹⁵ The Commission believes that reducing the under-recovery occurring with the Tariff P.P.A. should be a goal of Kentucky Power. The use of forecasted billing determinants represents an initial step toward reducing the overall under-recovery occurring through the mechanism's approved formula.

Therefore, the Commission directs Kentucky Power to:

- Provide detailed documentation in its 2025 true-up filing regarding:
 - The impact of securitization;
 - The impact of using forecasted determinants;
 - The impact of the Commission's approval of the PJM LSE OATT expense removal going forward;
- Continue to maintain and implement the true-up mechanism in accordance with the approved formula and methodologies.

¹² Kentucky Power's Motion for Partial Rehearing at 10.

¹³ Kentucky Power's Motion for Partial Rehearing at 16-17.

¹⁴ Kentucky Power's Motion for Partial Rehearing at 16.

¹⁵ Order (Ky. PSC, June 14, 2024) at 7, ordering paragraph 4.

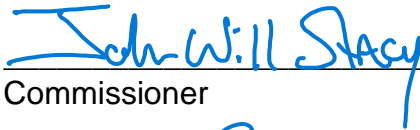
Legal Inconsistencies and Federal Law Issues –The Commission finds that, by addressing the issues raised by Kentucky Power in this Order, it is unnecessary to address these arguments. The rehearing process has clarified the Commission’s intent while preserving Kentucky Power’s ability to recover prudently incurred costs, consistent with the FERC regulations and federal law. The modifications outlined above address the substantive concerns raised by Kentucky Power and render its legal arguments moot.


IT IS THEREFORE ORDERED that:

1. Kentucky Power shall implement the modifications outlined in this Order to the Tariff P.P.A. calculation and true-up mechanism.
2. Within 20 days of the date of service of this Order, Kentucky Power shall file with the Commission, using the Commission’s electronic Tariff Filing System, its revised tariff sheets reflecting that the Tariff P.P.A. modifications that were authorized pursuant to this Order, if it has not already done so.
3. Kentucky Power shall submit additional data in its 2025 true-up filing as described above.
4. Ordering paragraph 4 of the June 14, 2024 final Order, as amended by Order entered July 25, 2024, is stricken from the record.
5. All other aspects of the June 14, 2024 final Order, as amended by Order entered July 25, 2024, not in conflict with this Order, remain in effect unless specifically modified herein.
6. This matter is closed and removed from the Commission’s docket.

PUBLIC SERVICE COMMISSION

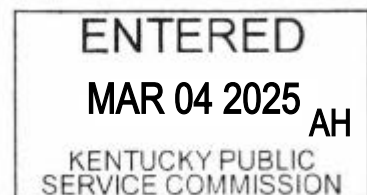

Chairman


Commissioner


Commissioner

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

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

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

*Honorable Michael L Kurtz
Attorney at Law
Boehm, Kurtz & Lowry
425 Walnut Street
Suite 2400
Cincinnati, OHIO 45202

*Jody M Kyler Cohn
Boehm, Kurtz & Lowry
425 Walnut Street
Suite 2400
Cincinnati, OHIO 45202

*John Horne
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

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

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