

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF KENTUCKY)	CASE NO.
POWER COMPANY ROCKPORT DEFERRAL)	2022-00283
MECHANISM)	

ORDER

The Commission, on its own motion, initiates this case, pursuant to KRS 278.030, KRS 278.260, and KRS 278.270, to investigate the appropriate amortization period and recovery mechanism of Kentucky Power Company's (Kentucky Power) Rockport Unit Power Agreement (UPA) deferral regulatory asset (Rockport Deferral Regulatory Asset), as well as a credit for Rockport Fixed Costs Savings and Rockport Offset, which are discussed below.

In the January 13, 2021¹ and February 22, 2021² Orders in Case No. 2020-00174, the Commission stated that it would initiate a separate proceeding to address the appropriate amortization period and recovery mechanism (Rockport Deferral Mechanism) for the Rockport Deferral Regulatory Asset after Kentucky Power filed certain information regarding the Rockport UPA replacement capacity source and price for capacity replacement. Kentucky Power filed the required information as Post Case Correspondence on August 12, 2022, in Case No. 2020-00174.

¹ Case No. 2020-00174, *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) Approval of a Certificate of Public Convenience and Necessity; and (5) All Other Required Approvals and Relief* (Ky. PSC Jan. 13, 2021), Order at 65.

² Case No. 2020-00174, Feb. 22, 2021 Order at 25–26 and 29, ordering paragraph 14.

Further, the Commission finds that a procedural schedule is established for the orderly processing of this case. A procedural schedule is set forth in the Appendix to this Order.

Finally, because the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General) and Kentucky Industrial Utility Customers (KIUC) (jointly Attorney General/KIUC) jointly requested that the Commission schedule an informal conference in Case No. 2020-00174 to “resolve” the Rockport Regulatory Asset amortization period and deferral mechanism, the Commission finds that the Attorney General and KIUC shall be made parties to this proceeding.³

BACKGROUND

Case No. 2017-00179

Under the Rockport UPA, Kentucky Power purchases capacity and energy produced at the Rockport Plant in Spencer County, Indiana. The Rockport UPA expires on December 8, 2022; Kentucky Power will not renew or extend the Rockport UPA.

In a settlement agreement proposed in Case No. 2017-00179, Kentucky Power agreed to defer a total of \$50 million in non-fuel, non-environmental Rockport UPA expense for later recovery, with deferral of Rockport UPA expenses of \$15 million in 2018, \$15 million in 2019, \$10 million in 2020, \$5 million in 2021, and \$5 million in 2022.⁴ As

³ Case No. 2020-00174, Attorney General/KIUC’s Response and Request for an Informal Conference (filed Aug. 17, 2021). The Commission denied the request to schedule an informal conference because this proceeding will address the Rockport Deferral Mechanism issues.

⁴ Case No. 2017-00179, *Electronic Application of Kentucky Power Company for (1) A General Adjustment of Its Rates for Electric Service; (2) An Order Approving Its 2017 Environmental Compliance Plan; (3) An Order Approving Its Tariffs and Riders; (4) An Order Approving Accounting Practices to Establish Regulatory Assets and Liabilities; and (5) An Order Granting All Other Required Approvals and Relief* (Ky. PSC Jan. 18, 2018), Order, Appendix A at 4.

proposed, the \$50 million in Rockport UPA expenses would be deferred into the Rockport Deferral Regulatory Asset, subject to carrying charges based on a weighted average cost of capital (WACC) of 9.11 percent until the regulatory asset was fully recovered. Between January 1, 2018, and December 8, 2022, the WACC was to be applied to the monthly regulatory asset principal balance net of accumulated deferred income taxes (ADIT). From December 9, 2022, until the regulatory asset was fully recovered, the WACC would be applied to the monthly regulatory asset balance including deferred carrying charges net of ADIT. As of the date of the settlement agreement, Kentucky Power estimated that the Rockport Deferred Regulatory Asset balance would be approximately \$59 million on December 8, 2022.⁵

As proposed, if Kentucky Power did not extend the Rockport UPA, beginning December 9, 2022, the deferral period would end and the recovery of the Rockport Deferral Regulatory Asset would begin. Kentucky Power would credit the Rockport Fixed Cost Savings⁶ through the demand component of Tariff Purchased Power Adjustment (Tariff PPA) until new base rates were set.⁷ For 2023 only, the Rockport Fixed Cost Savings credit would be offset by an amount necessary for Kentucky Power to earn its Commission-authorized return on equity (ROE) for 2023 (Rockport Offset).⁸ The

⁵ Case No. 2017-00179, Jan. 18, 2018 Order, Appendix A at 5.

⁶ See Case No. 2017-00179, Jan. 18, 2018 Order, Appendix A at 6. Rockport Fixed Cost Savings are the annual amount of non-fuel, non-environmental Rockport UPA expense included in base rates for rates effective in November 2022.

⁷ Case No. 2017-00179, Jan. 18, 2018 Order, Appendix A at 6.

⁸ Case No. 2017-00179, Jan. 18, 2018 Order, Appendix A at 6.

Rockport Offset, which cannot exceed the Rockport Fixed Cost Savings, would include a true up of estimated and actual Rockport Offset revenue.⁹

Under the proposed settlement agreement, the process for implementing the Rockport Fixed Cost Savings credit included Kentucky Power filing on or before November 15, 2022, an updated purchase power adjustment factor for Tariff PPA for rates effective December 9, 2022. The November 15, 2022 filing would reflect the Rockport Fixed Cost Savings and the estimated Rockport Offset as part of the purchase power adjustment factor and reflect the start of the recovery of the Rockport Deferral Regulatory Asset.¹⁰ Kentucky Power would make a Tariff PPA filing on August 15, 2023, for rates effective in October 2023, with the Rockport Fixed Cost Savings and estimated Rockport Offset factored into the purchase power adjustment factor calculation through the end of 2023.¹¹ Beginning in January 2024, the estimated Rockport Offset would not be included in the purchase power adjustment factor calculation.¹² On or before February 1, 2024, Kentucky Power would file an updated purchase power adjustment factor for Tariff PPA for rates effective March 1, 2024, that would include the Rockport Offset true-up, which would be recovered or credited over a three-month period.¹³ Beginning with an August 15, 2024 Tariff PPA filing, Kentucky Power would incorporate the Rockport Fixed Cost Savings in the annual calculation of the purchase power adjustment factor.¹⁴

⁹ Case No. 2017-00179, Jan. 18, 2018 Order, Appendix A at 6–7.

¹⁰ Case No. 2017-00179, Jan. 18, 2018 Order, Appendix A at 7.

¹¹ Case No. 2017-00179, Jan. 18, 2018 Order, Appendix A at 7.

¹² Case No. 2017-00179, Jan. 18, 2018 Order, Appendix A at 8.

¹³ Case No. 2017-00179, Jan. 18, 2018 Order, Appendix A at 8.

¹⁴ Case No. 2017-00179, Jan. 18, 2018 Order, Appendix A at 8.

In the January 18, 2018 Order, the Commission approved the Rockport Deferral Mechanism for accounting purposes only, explaining that the appropriate ratemaking treatment for the Rockport Deferral Regulatory Asset would be addressed in Kentucky Power's next general rate case.¹⁵

Kentucky Power requested rehearing of, among other things, the amortization time period and other conditions for the Rockport Deferral Mechanism. In a February 27, 2018 Order, the Commission agreed that it approved future rate recovery of the Rockport Deferral Regulatory Asset and that the Commission retained the authority to determine the manner and timing of cost recovery of the Rockport Deferral Regulatory Asset.

Case No. 2020-00174

In Kentucky Power's next rate case, Kentucky Power requested a five-year amortization period for the Rockport Deferral Regulatory Asset and authority to recover the amortization through Tariff PPA, as proposed in the settlement agreement in Case No. 2017-00179.¹⁶ In the January 13, 2021 Order in Case No. 2020-00174, the Commission denied as premature Kentucky Power's request to establish an amortization period and recovery mechanism. The Commission explained that it did not determine an amortization period in Case No. 2017-00179 because the amortization period should be determined after Kentucky Power's plans regarding renewal of the Rockport UPA were more certain.¹⁷ The Commission further explained that if Kentucky Power's proposed replacement capacity was more expensive than initially anticipated, a longer amortization

¹⁵ Case No. 2017-00179, Jan. 18, 2018 Order at 40.

¹⁶ Case No. 2020-00174, Jan. 13, 2021 Order at 64.

¹⁷ Case No. 2020-00174, Jan. 13, 2021 Order at 64.

period might be more reasonable to reduce the rate impact to customers.¹⁸ The Commission stated that, because Kentucky Power was unable to confirm the Rockport Deferral Regulatory Asset amortization amount or the savings once the Rockport UPA terminated, the determination of the amortization period and recovery mechanism would be deferred to a separate proceeding that the Commission would initiate.¹⁹ The Commission stated that it would also review and clarify items related to Kentucky Power's ability to use the Rockport Fixed Cost Savings to earn the Commission-approved ROE in calendar year 2023.²⁰

Kentucky Power requested rehearing for the Commission to provide a date certain for the Commission-initiated proceeding to be established and to delete reference to a review of Kentucky Power's ability to use the Rockport Offset to earn a Commission-approved ROE in 2023. In a February 22, 2021 Order, the Commission stated that it would initiate a new proceeding to address the Rockport Deferral Regulatory Asset deferral mechanism and amortization period once Kentucky Power made a written filing identifying, by name, the capacity replacement for Rockport UPA and the expected costs.²¹

The Commission rejected Kentucky Power's argument on rehearing that the Rockport Deferral Regulatory Asset amortization balance and expected savings is not subject to Commission review, explaining that the assertion is contrary to the

¹⁸ Case No. 2020-00174, Jan. 13, 2021 Order at 64.

¹⁹ Case No. 2020-00174, Jan. 13, 2021 Order at 65.

²⁰ Case No. 2020-00174, Jan. 13, 2021 Order at 65.

²¹ Case No. 2020-00174, Feb. 22, 2021 Order at 25–26.

Commission's statutory duty to ensure that rates are fair, just and reasonable.²² The Commission reiterated that Kentucky Power was unable to provide sufficient evidence of the amortization amount or expected savings once Rockport UPA terminates, and that these amounts had to be determined in a separate proceeding to ensure that Kentucky Power's proposed rate recovery of the Rockport Deferred Regulatory Asset was fair, just and reasonable.²³

On August 12, 2022, Kentucky Power filed the required information, identifying the Rockport UPA replacement capacity through May 31, 2024, would be obtained through a power coordination bridge agreement between Kentucky Power and AEP Operating Companies, priced at PJM Interconnection, LLC (PJM) Base Residual Auction Clearing Prices for PJM planning years 2022/2023 and 2023/2024.²⁴ Kentucky Power explained that the capacity purchases through the power coordination bridge agreement are intended as an interim measure, with long-term capacity replacement identified in Kentucky Power's integrated resource plan that would be filed with the Commission in December 2022.²⁵ Kentucky Power argued that, if the terms of the settlement agreement were modified in a subsequent proceeding that delayed recovery of the Rockport Deferral Regulatory Asset or reduced the amount of the Rockport Offset, that Kentucky Power could face credit agency downgrades and increased borrowing costs.

²² Case No. 2020-00174, Feb. 22, 2021 Order at 26.

²³ Case No. 2020-00174, Feb. 22, 2021 Order at 26.

²⁴ Case No. 2020-00174, Kentucky Power Filing in Compliance with Feb. 22, 2021 Order (filed Aug. 12, 2022) (Aug. 12, 2022 Filing) at unnumbered pages 1–2.

²⁵ Case No. 2020-00174, Kentucky Power Aug. 12, 2022 Filing at unnumbered page 2.

On August 17, 2022, Attorney General/KIUC filed a joint response to Kentucky Power's filing and requested that an informal conference be scheduled to make an expeditious determination regarding the amount of non-fuel, non-environmental Rockport costs currently recovered in base rates and the amount of Rockport environmental savings.²⁶ Attorney General/KIUC identified issues arising from the termination of the Rockport UPA, some of which should reduce rates and others that would increase expenses. Attorney General/KIUC expressed a concern that unless the Rockport Offset was calculated based upon a historic test year that did not include projected transaction costs from the pending acquisition of Kentucky Power by Liberty Utilities Co. (Liberty) Kentucky Power ratepayers could pay for additional acquisition costs not envisioned in the settlement agreement approved, as modified, in Case No. 2017-00179. Attorney General/KIUC also expressed a concern that the Commission would have an abbreviated review of the Rockport Fixed Cost Savings credit and Rockport Offset calculation if Kentucky Power filed the information no later than November 15, 2022, for rates effective December 9, 2022. Finally, Attorney General/KIUC argued that it was not clear what WACC Kentucky Power was using or the amount of the unamortized Rockport Deferral Regulatory Asset balance.

On August 22, 2022, Kentucky Power filed a response to Attorney General/KIUC's filing, requesting that the Commission's "expeditious establishment of rates" to recover

²⁶ Case No. 2020-00174, Attorney General/KIUC Response and Request for an Informal Conference (Attorney General/KIUC Response and Request) (filed Aug. 17, 2022).

the Rockport Deferral Regulatory Asset and Rockport Offset, with a procedural schedule that provides a prompt decision in response to Kentucky Power's August 12, 2022 filing.²⁷

DISCUSSION AND FINDINGS

Consistent with the Commission's findings in the January 13, 2021 Order in Case No. 2020-00174, this proceeding is initiated to determine the appropriate amortization period and recovery mechanism of the Rockport Deferral Regulatory Asset as well as a credit for the Rockport Fixed Costs Savings and Rockport Offset. In response to Kentucky Power's assertion that the settlement agreement terms should not be modified in this proceeding, the Commission reiterates what was said in the February 22, 2021 Order in Case No. 2020-00174: the amortization amount of the Rockport Deferral Regulatory Asset or expected savings from the termination of the Rockport UPA are properly before the Commission in accordance with the Commission's statutory duty to ensure that Kentucky Power's rates are fair, just and reasonable.

The Commission has established a procedural schedule attached to this Order that provides for discovery to Kentucky Power only. The Commission finds that Kentucky Power shall file its proposal for the amortization period and recovery mechanism of the Rockport Deferral Regulatory Asset, as well as the credit for the Rockport Fixed Costs Savings and Rockport Offset, supported by testimony, within seven days of service of this Order.

²⁷ Case No. 2020-00174, Kentucky Power Response to Attorney General/KIUC Response and Request (filed Aug. 22, 2022) at unnumbered page 1.

Because the settlement agreement as modified by the Commission provided for the Rockport Fixed Costs and Rockport Offset with an effective date of December 9, 2022, the Commission shall use its best efforts to render a decision before that date.

IT IS THEREFORE ORDERED that:

1. This proceeding is initiated to determine the amortization period and deferral mechanism for the Rockport Deferral Regulatory Asset, and the credit for the Rockport Fixed Costs Savings and Rockport Offset.

2. The procedural schedule set forth in the Appendix to this Order shall be followed.

3. Within seven days of service of this Order, Kentucky Power shall file its proposal for the amortization period and recovery mechanism of the Rockport Deferral Regulatory Asset and the credit for the Rockport Fixed Costs Savings and Rockport Offset, supported by testimony.

4. The Attorney General and KIUC are made parties to this proceeding.

5. Any party filing documents with the Commission shall serve a copy of those documents upon all other parties. Unless otherwise ordered by the Commission, the procedures set forth in 807 KAR 5:001, Section 8, related to service and electronic filing of papers shall be followed in this proceeding.

6. The Commission directs the parties to the Commission's July 22, 2021 Order in Case No. 2020-00085²⁸ regarding filings with the Commission. Electronic

²⁸ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked.

7. As set forth in 807 KAR 5:001, Section 4(11)(a), a person requesting permissive intervention in a Commission proceeding is required to demonstrate either (1) a special interest in the proceeding that is not adequately represented in the case, or (2) that the person requesting permissive intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Therefore, any person requesting to intervene in a Commission proceeding must state with specificity the person's special interest that is not otherwise adequately represented, or the issues and facts that the person will present that will assist the Commission in fully considering the matter. A mere recitation of the quantity of utility service consumed by the movant or a general statement regarding a potential impact of possible modification of rates will not be deemed sufficient to establish a special interest. In addition, any motion to intervene filed after the date established in the procedural schedule shall also show good cause for being untimely. If the untimely motion is granted, the movant shall accept and abide by the existing procedural schedule.

8. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of service of this Order, Kentucky Power, Attorney General, and KIUC, respectively, shall file a written statement with the Commission that:

a. Certifies that it, or its agent, possesses the facilities to receive electronic transmissions; and

b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding shall be served.

9. A hearing in this matter shall be held on November 28-29, 2022, at 9 a.m. Eastern Standard Time, in the Richard Raff Hearing Room at the offices of the Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky.

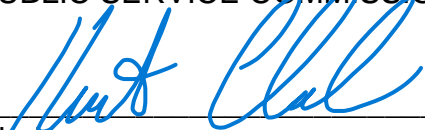
10. Kentucky Power shall give notice of the hearing in compliance with 807 KAR 5:001, Section 9(2)(b). In addition, the notice of hearing shall include the following statements: "This hearing will be streamed live and may be viewed on the PSC website, psc.ky.gov"; and "Public comments may be made at the beginning of the hearing. Those wishing to make oral public comments may do so by following the instructions listed on the PSC website, psc.ky.gov." At the time the notice is mailed, or publication is requested, Kentucky Power shall forward a duplicate of the notice and request to the Commission.

11. Pursuant to KRS 278.360 and 807 KAR 5:001, Section 9(9), a digital video transcript shall be made of the hearing.

12. The Commission does not look favorably upon motions for continuance. Accordingly, motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.


13. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

PUBLIC SERVICE COMMISSION



Chairman

Vice Chairman



Commissioner



ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2022-00283 DATED SEP 02 2022

Last day for intervention requests to be accepted..... 09/15/2022

All initial requests for information to Kentucky Power
shall be filed no later than 09/26/2022

Kentucky Power shall file responses to initial requests for
information no later than..... 10/05/2022

All supplemental requests for information to Kentucky Power
shall be filed no later than 10/13/2022

Kentucky Power shall file responses to supplemental requests
for information no later than 10/20/2022

Intervenor testimony, if any, in verified prepared
form shall be filed no later than 10/26/2022

All requests for information to Intervenors shall
be filed no later than 11/01/2022

Intervenors shall file responses to requests for
information no later than..... 11/08/2022

Kentucky Power shall file, in verified form, its rebuttal
testimony no later than 11/10/2022

Public Hearing to be held at 9 a.m. Eastern Standard Time,
in the Richard Raff Hearing Room at the offices of the
Public Service Commission at 211 Sower Boulevard,
Frankfort, Kentucky, for the purpose of cross-examination
of witnesses of Kentucky Power and Intervenors..... 11/28-29/2022

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