

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In The Matter of:

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)	CASE No.
Plan; (3) An Order Approving Its Tariffs and)	2017-00179
Riders; (4) An Order Approving Accounting)	
Practices to Establish a Regulatory Asset or)	
Liability Related to the Big Sandy 1 Operation)	
Rider; and (5) An Order Granting All Other)	
Required Approvals and Relief)	

**ATTORNEY GENERAL’S REPLY TO KENTUCKY POWER COMPANY’S
RESPONSE TO ATTORNEY GENERAL’S MOTION FOR LEAVE TO FILE
REBUTTAL TESTIMONY LIMITED TO INTERVENOR TESTIMONY
REGARDING COST OF SERVICE, COST ALLOCATION, AND RATE OF
RETURN ISSUES**

Comes now the intervenor, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention (“Attorney General” or “AG”), and tenders his reply to Kentucky Power Company (“KPCo” or “the Company”)’s response to the Attorney General’s previously-filed Motion to Amend the Procedural Schedule in this matter issued on July 17, 2017, in order to allow intervenors the right to file rebuttal testimony limited solely to the issues of cost of service, cost allocation, and rate of return as addressed in other intervenors’ pre-filed testimony.

1. The requested relief will not prejudice Kentucky Power in any manner. The rebuttal testimony will rebut the positions taken by *intervenors*, not the Company. As KPCo itself noted when citing the Kentucky American matter, a party *does* have a right to reply to evidence when a new matter is introduced in rebuttal. The testimony of Kentucky League of Cities (“KLC”), Kentucky Commercial Utility Customers (“KCUC”), and Wal-Mart

constitutes new evidence in and of itself. Moreover, KCUC witness Higgins states he has conducted two cost of service studies (“COSS”) of his own, using production demand cost allocation methods differing from those in the Company’s CCOSS. KPCo’s position is thus contradictory to the law they cite.

2. The AG is not asking for sur-rebuttal to respond to KPCo’s testimony regarding COSS and the related issues of allocation and rate of return. The Attorney General’s motion would not deprive KPCo from having the last word. Rather, the motion is merely a request to provide intervenors the opportunity to rebut any assertions made by *other* intervenors. Thus, the Company is not prejudiced. The testimony the AG proposes to file will not support the COSS-related testimony filed by KLC, KCUC and Wal-Mart, but it may well support at least some portions of KPCo’s COSS and proposed allocation. For instance, KCUC’s testimony, which introduced entirely new COSS methodology, is provided specifically to make the argument that residential customers should pay *more*. It is hard to understand why KPCo believes the AG’s ability to address that argument somehow affects their rights. Any claimed prejudice by KPCo’s is clearly premature.

3. Contrary to KPCo’s assertion, this Commission has indeed allowed intervenors to file additional testimony limited to addressing COSS issues, in Case No. 2016-00370 and its companion Case No. 2016-00371.¹ In fact, in those cases, the Commission went so far as to amend the procedural schedules to allow intervenor supplemental testimony to be filed on the same date as the petitioners’ rebuttal testimony, *and* allowed for additional discovery. In the

¹ Case Nos. 2016-00371 and 2016-00370, order dated April 7, 2017, accessible at: https://psc.ky.gov/pscscf/2016%20Cases/2016-00371//20170407_PSC_ORDER.pdf

instant case, the Attorney General is not seeking leave to add the additional measures set forth in that order, but *only* for the right to file testimony to address COSS-related issues other intervenors have raised. Thus, there will be no prejudice to any party. In fact, allowing the AG to file such rebuttal testimony will expedite the handling of the remaining steps in the procedural schedule, and will assist the Commission in understanding the issues in advance of the December 6, 2017 evidentiary hearing.

4. Although revenue allocation among classes and the gradual reduction of perceived subsidies were addressed in the direct testimony of Company witnesses, when other parties provide additional cost of service studies, with new methodologies that affect the interests of another intervenor, the intervenor should have the opportunity to rebut that assertion. The Company has little interest in who pays their rates, inasmuch as they are concerned with recovery of the rates generally.

5. Regardless of whether intervenors discussed in their motions to intervene any intent of addressing cost of service and related issues, it is impossible to rebut arguments made in direct testimony without the opportunity for rebuttal. KPCo seems to presume that the AG has ‘Carnac the Magnificent’ on the payroll to determine the substance of another parties’ testimony, prior to filing. The truth is, in this matter and in any case before the Commission, the inability of intervenors to file rebuttal to assertions made by other intervenors in direct testimony is unduly prejudicial, but certainly *not* to the Company.

6. The Company inconsistently argues that allowing intervenors to file rebuttal simultaneously with the Company’s rebuttal testimony will somehow lead to a never-ending procession of sur-rebuttals, but then later asserts an argument nullifying that assertion. As the Company notes, when a party files testimony creating new, novel or original issues/positions,

that party has the burden of proving that assertion going forward. By allowing only rebuttal testimony, the Commission allows parties, the Company included, to rebut those arguments. Merely allowing rebuttal provides an adequate and reasonable middle ground to the peril of never-ending sur-rebuttal that KPCo seemingly argues that precedent *requires*.

Allowing intervenors to file rebuttal limited to cost of service, cost allocation and rate of return would cause no burden for the Commission, KPCo or any other intervenor. Accordingly, the Attorney General respectfully requests that the Commission grant his motion.

Respectfully submitted,

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Certificate of Service and Filing

Counsel certifies that the foregoing is a true and accurate copy of the same document being filed in paper medium with the Commission within two business days; that the electronic filing has been transmitted to the Commission on October 13, 2017; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

This 13th day of October, 2017.

A handwritten signature in blue ink, appearing to be the initials 'ME', is placed on a light blue rectangular background.

Assistant Attorney General