

**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 Plan; (3) An Order : Case No. 2017-00179  
Approving Its Tariffs And Riders; (4) An Order Approving :  
Accounting Practices To Establish Regulatory Assets Or Liabilities; :  
And (5) An Order Granting All Other Required Approvals And :  
Relief. :**

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**PETITION FOR REHEARING OF  
KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.**

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Pursuant to KRS 278.400, Kentucky Industrial Utility Customers, Inc. (“KIUC”) petitions the Kentucky Public Service Commission (“Commission”) for rehearing of its January 18, 2018 Order (“Order”). KIUC requests that the Commission lower Kentucky Power Company’s (“Kentucky Power” or “Company”) base rate increase by \$1.31 million to reflect decreases in the federal corporate income tax expense (not including amortization of excess accumulated deferred income tax, or “ADIT”) associated with the Unit Power Agreement for Rockport Unit Nos. 1 and 2 (“Rockport UPA”) resulting from the Tax Cuts and Jobs Act. A Memorandum in Support of this recommendation follows.

**MEMORANDUM IN SUPPORT**

**I. The Commission Should Lower Kentucky Power’s Rate Increase By \$1.31 Million To Reflect Reduced Federal Corporate Income Tax Expense Associated With The Unit Power Agreement For Rockport Units 1 and 2.**

In its Order, the Commission reduced Kentucky’s Power’s historic test year expense to reflect the decrease in the federal corporate income tax rate (from 35% to 21%) set forth in the Tax Cuts and Jobs Act (“TCJA”).<sup>1</sup> This was essentially a post-test year adjustment for a known and measurable reduction in tax expense. Explaining its rationale, the Commission stated that “*due to the economic conditions in Kentucky*

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<sup>1</sup> Order at 41, 74-75, and Appendix F.

*Power's service territory, the Commission believes that the impact of the federal corporate income tax reduction on rates should be put into place effective with the date of this Order. In addition, the lower rates should serve as an impetus for economic development through recruiting new businesses as well as maintaining existing business customers.*"<sup>2</sup> The Commission's tax adjustment reduced Kentucky Power's proposed revenue requirement by \$19.4 million.<sup>3</sup>

The Commission did not similarly reduce the Rockport UPA tax expense included in the Company's test year to reflect the impacts of the TCJA.<sup>4</sup> But the economic and ratemaking rationale underlying the tax adjustment set forth in the Order applies equally to the Rockport Units. Kentucky Power's base rate increase reflected the test year level of Rockport UPA purchase power expense, including the recovery of federal corporate income tax expense at 35%. However, beginning January 1, 2018, the Rockport UPA formula rate will reflect the actual tax expense at 21%. The Rockport UPA formula rate changes monthly to reflect actual fuel, O&M, and other expenses, including tax expense. So tax expense at 21% is all that Kentucky Power will incur beginning January 1, 2018. That makes this recommendation a post-test year adjustment for a known and measurable change. Moreover, the Settlement expressly provides that the Commission has authority to alter Kentucky Power's rates to reflect changes in the tax code.<sup>5</sup>

Accordingly, KIUC recommends that the Commission further adjust the Company's revenue requirement to reflect the lower federal corporate income tax expense associated with Rockport Units 1 and 2. As shown on Attachment 1, KIUC calculates that making such an adjustment for Rockport Unit 1 would reduce Kentucky Power's revenue requirement by \$1.647 million and that making such an adjustment for Rockport Unit 2 would increase the Company's revenue requirement by \$0.337 million, for a net reduction of \$1.31 million.

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<sup>2</sup> Order at 41-42.

<sup>3</sup> Order, Appendix F.

<sup>4</sup> Direct Testimony and Exhibits of Lane Kollen (October 3, 2017) at 7:21-15:17; Kentucky Power Company Responses to KIUC First Set of Data Requests (August 14, 2017), No. 1-43; Order at 1, 5, and 37-40.

<sup>5</sup> Settlement at 9.

This \$1.31 million adjustment is only for the reduction in tax expense. It does not include the amortization of excess ADIT, even though the Rockport UPA purchase power expense will in fact include the amortization of excess ADIT beginning January 1, 2018. The Commission's Order reserved issues regarding the amortization of excess ADIT to the KIUC tax complaint case (now Case No. 2018-00035).

**CONCLUSION**

**WHEREFORE**, for the reasons discussed above, the Commission should lower Kentucky Power's base rate increase by \$1.31 million to reflect the impacts of the TCJA on the Rockport UPA purchase power expense.

Respectfully submitted,



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**COUNSEL FOR KENTUCKY INDUSTRIAL  
UTILITY CUSTOMERS, INC.**

February 7, 2018

# ATTACHMENTS

**Kentucky Power Company**  
**KIUC Calculation of Rockport 1 Income Tax Expense in Base Rates**  
**Case No. 2017-00179**  
**For the Test Year Ended February 28, 2017**  
**(\$)**

**Source: Rockport Invoices Provided in Response to KIUC 1-43**

	Rockport 1 KPCo Portion 30%
Income Tax Expense - KPCo 30% Portion	
Mar-16	307,825
Apr-16	341,880
May-16	341,973
Jun-16	330,660
Jul-16	320,800
Aug-16	318,764
Sep-16	341,215
Oct-16	325,477
Nov-16	320,104
Dec-16	333,168
Jan-17	133,894
Feb-17	243,321
Test Year Income Tax Expense Billed to KPCo for Rockport Unit 1 - Total Co	3,659,081
Jurisdictional Factor - Energy EAF	98.6%
Test Year Income Tax Expense Billed to KPCo for Rockport Unit 1 - KY Jurisd	3,607,854

Note: Assumes all Environmental Costs During Test Year Included in Environmental Base Calculation in Base Rates - See Elliot at 10 and Exh AJE-4

**Federal Income Tax Rate Assumptions**

New Federal Income Tax Rate	21.00%
Old Federal Income Tax Rate	35.00%
Combined Federal and State Income Tax Rate With 35% Federal Tax Rate	38.82%
Combined Federal and State Income Tax Rate With 21% Federal Tax Rate	25.64%
Percentage Reduction in Federal and State Income Tax Rate	33.95%

**Reduction in Income Tax Expense**

Total Federal and State Income Tax Expense With 35% Federal Rate	3,607,854
Total Federal and State Income Tax Expense With 21% Federal Rate	2,383,098
Reduction in Federal and State Income Tax Expense	(1,224,756)
Gross-Up Factor - Federal and State Income Taxes Only	1.34
<b>Reduction in Annual Revenue Requirement</b>	<b>(1,647,077)</b>

**Kentucky Power Company**  
**KIUC Calculation of Rockport 2 Income Tax Expense in Base Rates**  
**Case No. 2017-00179**  
**For the Test Year Ended February 28, 2017**  
**(\$)**

**Source: Rockport Invoices Provided in Response to KIUC 1-43**

	Rockport 2 KPCo Portion 30%
Income Tax Expense - KPCo 30% Portion	
Mar-16	(65,127)
Apr-16	(69,149)
May-16	(71,361)
Jun-16	(74,436)
Jul-16	(55,230)
Aug-16	(57,400)
Sep-16	(43,938)
Oct-16	(63,315)
Nov-16	(89,882)
Dec-16	(92,301)
Jan-17	(82,721)
Feb-17	14,678
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Test Year Income Tax Expense Billed to KPCo for Rockport Unit 1 - Total Co	(750,182)
Jurisdictional Factor - Energy EAF	98.6%
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Test Year Income Tax Expense Billed to KPCo for Rockport Unit 1 - KY Jurisd	<u>(739,679)</u>
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Note: Assumes all Environmental Costs During Test Year Included in Environmental Base Calculation in Base Rates - See Elliot at 10 and Exh AJE-4	
<b>Federal Income Tax Rate Assumptions</b>	
New Federal Income Tax Rate	21.00%
Old Federal Income Tax Rate	35.00%
Combined Federal and State Income Tax Rate With 35% Federal Tax Rate	38.82%
Combined Federal and State Income Tax Rate With 21% Federal Tax Rate	25.64%
Percentage Reduction in Federal and State Income Tax Rate	33.95%
<b>Increase in Income Tax Expense</b>	
Total Federal and State Income Tax Expense With 35% Federal Rate	(739,679)
Total Federal and State Income Tax Expense With 21% Federal Rate	(488,581)
Reduction in Federal and State Income Tax Expense	251,099
Gross-Up Factor - Federal and State Income Taxes Only	<hr/> 1.34
<b>Increase in Annual Revenue Requirement</b>	<hr/> <hr/> <b>337,683</b>

KPCO Gross Revenue Conversion Factor  
As Filed and With KIUC Recommendations  
Case No. 2017-00179  
Test Year Ending February 28, 2017

Source: Section V, Exhibit 1, Workpaper S-2 Page 2 of 3

	Taxes Only As Filed By KPCO	Taxes Only With 21% Fed Rate
Additional Revenue	100.00%	100.00%
Less: Uncollectible Expense		
KPSC Maintenance Fee		
Income Before Income Taxes	100.00%	100.00%
Less: State Income Taxes	-5.874221%	-5.874221%
Income Before Federal Income Taxes before Prod Activities Deduction	94.13%	94.13%
a. Production Rate		
b. Allocation to Production Income (% of Prod Plant)		
Steam Production Plant - Adjusted Test Year - Section V Sch 4		
Hydro Production Plant - Adjusted Test Year		
Other Production Plant - Adjusted Test Year		
Total Production Plant In Service - Adjusted Test Year		
Total Plant In Service - Adjusted Test Year - Section V Sch 4		
Allocation to Production Income		
c. Allocated Production Rate (a x b)		
Less: Production Tax Deduction		
Taxable Income for Federal Income Tax	94.13%	94.13%
Less: Federal Income Taxes (35%)	-32.94%	-19.77%
Operating Income Percentage	61.18%	74.36%
Gross Revenue Conversion Factor	1.63447416	1.34482051
Combined Effective Tax Rate	-38.82%	-25.64%
State Income Tax Effective Rate		
State Income Tax Rate - Illinois	7.7500%	7.7500%
Apportionment Factor	1.8070%	1.8070%
Effective Kentucky State Income Tax Rate	0.1140043%	0.140043%
State Income Tax Rate - KY	6.0000%	6.0000%
Less: Effect of Production Activities Deduction (100% - (6% x 36.62%))	6.0000%	100.0000%
Adjusted Tax Rate - KY	72.0635%	6.0000%
Apportionment Factor	4.323810%	72.0635%
Effective Kentucky State Income Tax Rate	0.005016%	4.323810%
State Income Tax Rate - Michigan	6.0000%	6.0000%
Apportionment Factor	0.0836%	0.0836%
Effective Kentucky State Income Tax Rate	1.405352%	0.005016%
State Income Tax Rate - WVA	6.5000%	6.5000%
Apportionment Factor	21.6208%	21.6208%
Effective West Virginia State Income Tax Rate	5.874221%	1.405352%
Total Effective State Income Tax Rate	5.874221%	5.874221%