

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

Kentucky Power Company’s Reply To Kentucky Industrial Utility Customers, Inc.’s Response
To The Company Motion for Partial Rehearing

Kentucky Power Company states for its reply to Kentucky Industrial Utility Customers, Inc.’s February 12, 2018 response to the Company’s motion for partial rehearing:

- A. The Commission’s Calculation Of The Reduction In Kentucky Power’s Federal Corporate Income Tax Expense.

Kentucky Power, the Commission, and KIUC agree the Company’s customers should enjoy in this case the benefits of the reduction in the Kentucky Power’s federal corporate income tax expense following the Tax Cuts and Jobs Act. But those savings must be accurately calculated. As KIUC correctly notes, the Commission’s calculation of the reduction in the Company’s federal corporate income tax expense does not reflect the manner in which that expense is calculated on the Company’s books or in its application.¹

Now that the Company has had the opportunity to supplement the Commission’s calculations, there is no principled basis for rejecting the evidence of record, or abandoning the manner in which the Company reflects its income tax expense (and hence any savings) on its

¹ KIUC Response at 2 ([The Commission’s methodology does not reflect] ... how the Company calculates income tax expense on its accounting books.... [The Company’s methodology]... also appears reasonable and is arguably more consistent with the rate case filing.”)

accounting records. The Commission should grant the Company's motion for partial rehearing and increase the Company's revenue requirement by \$765,030 to reflect accurately the Company's income tax savings of \$13,178,860.

B. Accounting Authority With Respect To Forced Outage Expense.

KIUC accurately notes that Kentucky Power's requested accounting authority with respect to forced outage expense, if granted, should reflect the difference between the actual unrecovered forced outage expense – either above *or below* – and the test year amount of \$1,158,285 that was not recovered through the fuel adjustment clause. KIUC and the Company further agree that the Company's revenue requirement, and hence its base rates, should be increased by the test year amount of forced outage expense not recovered through the fuel adjustment clause (\$1,158,285).² The Rate Case Order indicated the test year amount was properly recoverable through base rates,³ but then inadvertently failed to adjust the Company's revenue requirement to provide Kentucky Power the opportunity to do so.⁴

KIUC nevertheless errs in suggesting that the requested deferral authority is the functional equivalent of recovering the forced outage expense through Tariff P.P.A. as authorized by the Commission in Case No. 2012-00578 and 2014-00396, but rejected in this case without the required findings, reasoned explanation, or evidence. Not only is the delay in recovery (a delay of approximately three years vs. concurrent recovery) a fundamental difference, the Company's right to recover, or obligation to refund, any difference remains subject to later Commission determination. The forced outage expense deferral thus is unlike the

² *Id.*

³ Rate Case Order at 55.

⁴ Kentucky Power Partial Motion for Rehearing at 9-11.

Rockport deferral amounts, which the Company has an absolute right under the Supremacy Clause of the Constitution of the United States to recover.⁵

The Company respectfully requests that the Commission grant Kentucky Power the required accounting authority to create a regulatory asset or liability (as the case may be) to reflect the difference between the Company's actual and test year forced outage expense not recovered through the fuel adjustment clause. The Company's right to recover, or obligation to refund, the asset or liability would be subject to review in the Company's next base rate case.

C. The Commission Must Amend The Rate Case Order On Rehearing To Reflect The Company's Increased Revenue Requirement.

KIUC and the Company agree that the Commission's order on rehearing must amend the Rate Case Order to reflect the Company's increased revenue requirement. That is not an issue for Case No. 2018-00035 or any other proceeding.

The Commission must also indicate in its order on rehearing in this proceeding the manner in which the increased revenue requirement is to be funded: either by amending the Commission's previously ordered rates, or, if the Commission prefers to preserve those rates, by expressly reserving for that purpose a portion of the Company's excess accumulated deferred income tax to be refunded in Case No. 2018-00035. Nothing about the different postures of this case and Case No. 2018-00035, or the parties differing evidentiary burdens in the two proceedings, prevents the Commission from unambiguously declaring in this case, if it chooses

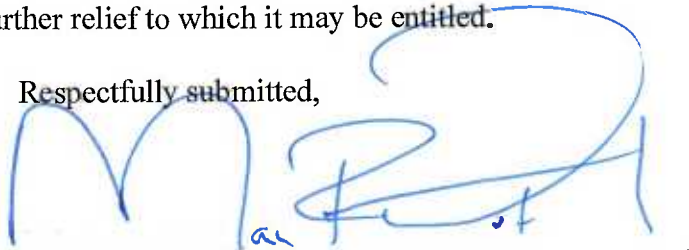
⁵ *Mississippi Power & Light Co. v. Mississippi*, 487 U.S. 354, 369-370 (1988) ("We hold that our decision in *Nantahala* rests on a foundation that is broad enough to support the order entered by FERC in this case and to require the MPSC to treat MP&L's FERC-mandated payments for Grand Gulf costs as reasonably incurred operating expenses for the purpose of setting MP&L's retail rates."); *Nantahala Power & Light Co. v. Thornburg*, 476 U.S. 953 (1986); Order, *In the Matter of: The Application Of Kentucky Power Company For Approval Of An Amended Compliance Plan For Purposes Of Recovering Additional Costs Of Pollution Control Facilities And To Amend Its Environmental Cost Recovery Surcharge Tariff*, Case No. 2006-00307 at 11 (Ky. P.S.C. January 24, 2007) ("the judicial doctrine of federal preemption forecloses any inquiry here into the reasonableness of ... [a FERC-approved] rate or the costs recovered through that rate.")

to fund the increased revenue requirement through excess ADIT, that the appropriate amounts of ADIT are reserved to fund the \$2,315,017 increased annual revenue requirement.

Wherefore, Kentucky Power Company respectfully requests the Public Service Commission of Kentucky to enter an Order:

1. Granting the Company's motion for partial rehearing and increasing the Company's revenue requirement by \$2,315,017;
 2. Expressly declaring in this case the manner in which the increase is to be funded;
- and
3. Granting the Company all further relief to which it may be entitled.

Respectfully submitted,



Mark R. Overstreet
STITES & HARBISON PLLC
421 West Main Street
P.O. Box 634
Frankfort, Kentucky 40602-0634
Telephone: (502) 223-3477
Facsimile: (502) 223-4124
moverstreet@stites.com

Kenneth J. Gish, Jr.
Katie M. Glass
STITES & HARBISON PLLC
250 West Main Street, Suite 2300
Lexington, Kentucky 40507
Telephone: (859) 226-2300
Facsimile: (859) 253-9144
kgish@stites.com
kglass@stites.com

COUNSEL FOR KENTUCKY POWER
COMPANY