

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

Kentucky Industrial Utility Customers, Inc.)	
)	
Complainant)	
)	
v.)	Case No. 2018-00035
)	
Kentucky Power Company)	
)	
Defendant)	

**KENTUCKY POWER COMPANY'S MOTION
TO AMEND PROCEDURAL SCHEDULE**

Kentucky Power Company moves the Public Service Commission of Kentucky to amend the March 13, 2018 Order establishing a procedural schedule in this case. Kentucky Power requests the procedural schedule be modified as set forth below to include the opportunity for the parties to provide sworn testimony in support of their positions. The record currently consists solely of KIUC's complaint and Kentucky Power's answer. As Complainant, KIUC bears the burden of proving that the Company's rates are no longer fair, just, and reasonable following enactment of the Tax Cuts and Jobs Act. The March 13, 2018 procedural schedule provides no avenue for KIUC to provide evidence to meet its burden. Similarly, to the extent the Tax Cuts and Jobs Act results in excess accumulated deferred income tax, the March 13, 2018 procedural schedule provides no avenue for Kentucky Power to quantify the amount of excess accumulated deferred income tax or to propose the manner in which the Company's customers are to receive the benefit of the excess amounts.

Because the current procedural schedule permits the Company to make filings and to introduce evidence only in response to discovery propounded to it, if any, there is no assurance that Kentucky Power will have the opportunity to be heard. Due process at a minimum requires that the Company be provided the opportunity to know and test the evidence upon which the Commission will make its determination, and if appropriate, the ability to make a contrary presentation.¹ Further, KRS 278.260(3) unambiguously grants both KIUC and Kentucky Power the right to introduce evidence. The current procedural schedule denies these rights.² Finally, the current procedural schedule denies Kentucky Power the ability to take discovery of the very party asserting claims against the Company, while providing all parties to the proceeding to propound discovery to Kentucky Power.

The Company joins the Commission in its desire to streamline the procedural schedule. But at the end of the day efficiency must take a back seat to fairness.

The proposed procedural schedule provides other benefits. Sworn testimony will make the Commission's task easier by providing it with organized record evidence in support of the parties' positions. The filing of testimony at the outset also will prevent the parties from having to speculate as to the specifics of the others' positions in drafting discovery requests. As a result, the discovery process will be more focused and efficient. The proposed schedule aligns with the Company's proposed procedural schedule on rehearing in Case No. 2017-00179.

Kentucky Power has confirmed with counsel for KIUC that KIUC does not object to the revised schedule.

¹ *Utility Regulatory Comm'n v. Kentucky Water Serv. Co.*, 642 S.W.2d 591, 593 (Ky. App. 1982).

² *Kentucky Power Co. v. Energy Reg. Com'n*, 623 S.W.2d 904, 908 (Ky. 1981) ("Even a public utility has some rights, one of which is the right to a final determination...in accordance with due process.")

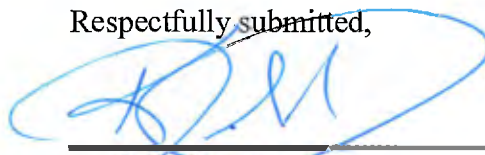
Kentucky Power proposes the following revised schedule:

TASK	DATE
Simultaneous testimony filed	04/20/18
Requests for information filed	05/04/18
Responses to requests for information filed	05/18/18
Last day to request hearing or that case be submitted on the record	05/25/18

WHEREFORE, Kentucky Power Company respectfully requests the Commission to enter an Order:

1. Establishing the proposed, revised procedural schedule in this case; and
2. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



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