

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

**IN THE MATTER OF:**

<b>ELECTRONIC TARIFF FILING OF SOUTH</b>	)	
<b>KENTUCKY RURAL ELECTRIC COOPERATIVE</b>	)	<b>CASE NO.</b>
<b>CORPORATION TO REVISE THE PEOPLE</b>	)	<b>2020-00205</b>
<b>FUND TARIFF</b>	)	

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**MOTION TO HOLD CASE IN ABEYANCE PENDING  
FURTHER COMMISSION ORDERS**

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Comes South Kentucky Rural Electric Cooperative Corporation (“South Kentucky”), by counsel, and moves the Kentucky Public Service Commission (“Commission”) for an order placing this case in abeyance until further orders of the Commission. In support of its motion South Kentucky states as follows:

1. On June 24, 2020, South Kentucky made an electronic filing with the Commission requesting that it be permitted to alter its Tariff for The People Fund R-32, allowing members to not only voluntarily round up their monthly South Kentucky power bill to the next highest dollar amount, but also to contribute additional whole dollar amounts they desire to assist various charitable endeavors and communities throughout its service territory.
2. On June 29, 2020, Commission Staff entered an order initiating an investigation of South Kentucky’s request, and on July 16, 2020, issued a First Request for Information to South Kentucky. Among the questions posed was whether South Kentucky was aware that it had been administratively dissolved by the Kentucky Secretary of State for failure to timely file one or more annual reports.

3. On July 31, 2020, South Kentucky provided detailed responses to the Commission Staff's First Information Requests, including a discussion of the measures South Kentucky had undertaken with the Kentucky Secretary of State's Office to secure reinstatement of the referenced administrative dissolution.

4. On August 10, 2020, Commission Staff propounded a Second Request for Information to South Kentucky to be answered on or before August 20, 2020. Question one (1) of the Requests states:

**Refer to South Kentucky RECC's response to the Commission Staff's Initial Request for Information (South Kentucky RECC's response), Item 4. Confirm that The People Fund, Inc's (People Fund) legal status as a charitable organization for either federal or state tax purposes was not affected by being administratively dissolved by the Kentucky Secretary of State.**

5. Upon information and belief, South Kentucky acknowledges that administrative dissolution of The People Fund, Inc., by the Kentucky Secretary of State adversely affects its tax-exempt status but such status is subject to reinstatement without re-application to the United States Internal Revenue Service (IRS) once reinstatement of the original state administrative dissolution is granted. However, in the course of performing research to develop and provide a substantive response to this request South Kentucky consulted web-based records on the IRS website. Much to its surprise, South Kentucky learned that it had been placed on the IRS's Tax Exempt Organizations "Auto-Revocation List" which contains those organizations whose federal tax exempt status was automatically revoked for not filing a Form 990-series return or notice for three (3) consecutive years.<sup>1</sup> According to the IRS's Auto Revocation List, South Kentucky's tax-

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<sup>1</sup> The link to the IRS website discussing this list and access to it can be found at: <https://www.irs.gov/charities-non-profits/automatic-revocation-of-exemption>. The printed page from this list for the People Fund, Inc. (with its EIN redacted) is attached as Exhibit 1 to this Motion.

exempt status was revoked on May 15, 2011, and the posting of the revocation was made on February 22, 2012.

6. Upon information and belief, the three consecutive years that The People Fund, Inc., failed to file Form 990's were 2008, 2009 and 2010. Apparently, upon receiving notice from the IRS of the revocation posting on or about February 22, 2012, former South Kentucky staff prepared, and on March 19, 2012, late-filed Form 990's on behalf of The People Fund, Inc. for these years.<sup>2</sup> However, according to IRS rules once an organization's tax-exempt status has been automatically revoked for failing to file its annual Form-990 returns, exempt status cannot be reinstated unless it submits a new exemption application in accordance with Revenue Procedure 2014-11. It is also possible to seek and obtain retroactive reinstatement from the IRS, meaning that if granted The People Fund, Inc.'s tax-exempt status could be given effect back to the original revocation on May 15, 2011.<sup>3</sup>

7. Because of the uncertainty surrounding The People Fund, Inc.'s current corporate and tax-exempt statuses, the time which will be necessary to receive reinstatement from both the Kentucky Secretary of State's Office and the IRS, and considerations of administrative economy of the Commission's resources, South Kentucky believes it advisable to place this case in abeyance to allow cure of the described deficiencies so that the original tariff revision can be considered and adjudged by the Commission with certainty as to The People Fund, Inc.'s corporate and tax-exempt standing.

8. Should the Commission sustain South Kentucky's Motion to Hold in Abeyance, and until further orders of the Commission, South Kentucky will immediately put the following

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<sup>2</sup> The Form 990's for these years were placed in U.S. Certified Mail on March 12, 2012, and accepted by the IRS on March 19, 2012 as shown by the receipt copies provided as Exhibit 2 to this Motion.

<sup>3</sup> Upon information and belief, Form 990's have been filed with the IRS for The People Fund, Inc. for all years since its inception in 2004.

procedures in place pertaining to The People Fund, Inc., and any others the Commission might order:

a. Current average quarterly receipts of member contributions by South Kentucky for the benefit of and transfer to The People Fund, Inc. is approximately \$4,500.00 (or \$1,500.00 per month). As of this date, there is \$4,789.04 in The People Fund, Inc.'s bank account. Until this case is concluded and the Commission provides authorization, South Kentucky will continue collecting member contributions but will account for and retain them without transfer to The People Fund, Inc.<sup>4</sup>

b. South Kentucky will ensure that The People Fund, Inc. neither awards nor pays further grants to recipient organizations, but may allow for the payment of non-grant-related incidental charges, if any, incurred in the normal course of The People Fund's activities.

c. South Kentucky is willing and able to provide periodic status reports on both Kentucky and IRS reinstatement, and any other subjects, which the Commission desires during the period of abeyance.<sup>5</sup>

9. South Kentucky regrets this most unfortunate situation but firmly believes The People Fund, Inc., is an important part of the Cooperative's mission of service to its members and the communities in which they reside, and it is very much worth saving and insuring that the current situation is not repeated.

10. Because of the requested abeyance South Kentucky will refrain from responding to the Commission Staff's Second Requests for Information due on August 20, 2020, until the reinstatement matters are resolved. Should the Commission desire that South Kentucky proceed

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<sup>4</sup> South Kentucky maintains detailed records of contributions made for the benefit of The People Fund, Inc. by each contributing South Kentucky member.

<sup>5</sup> South Kentucky has already made telephone contact with the IRS about the reinstatement process and estimates that it will take from 90-180 days to complete.

with its responses to these requests it will certainly comply upon notice of same from the Commission.

WHEREFORE, South Kentucky Rural Electric Cooperative Corporation respectfully requests the Commission to enter an order placing this case in abeyance and declaring that South Kentucky is excused from responding to the Commission Staff's Second Information Requests until further orders of the Commission, all for the reasons provided herein.

This 18<sup>th</sup> day of August, 2020.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Mark David Goss", written over a horizontal line.

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