COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE ELECTRONIC APPLICATION OF EAST	)	
KENTUCKY POWER COOPERATIVE, INC.	)	
FOR A GENERAL ADJUSTMENT OF RATES,	)	Case No. 2021-00103
APPROVAL OF DEPRECIATION STUDY,	)	
AMORTIZATION OF CERTAIN REGULATORY	)	
ASSETS AND OTHER GENERAL RELIEF	)	

REBUTTAL TESTIMONY OF ISAAC S. SCOTT

PRICING MANAGER

ON BEHALF OF EAST KENTUCKY POWER COOPERATIVE, INC.

Filed: July 27, 2021

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME, TITLE, AND BUSINESS ADDRESS.

A. My name is Isaac S. Scott and I am the Pricing Manager for East Kentucky Power Cooperative, Inc. ("EKPC"). My business address is 4775 Lexington Road, Winchester, Kentucky 40391.

Q. DID YOU FILE DIRECT TESTIMONY AND DATA RESPONSES IN THIS PROCEEDING?

A. Yes, I filed direct testimony, Exhibit 13 of the Application, and provided responses to data requests propounded by the Commission Staff, the Attorney General ("AG") and Nucor Steel Gallatin ("Nucor"), and AppHarvest Morehead Farm, LLC ("AppHarvest").

Q. PLEASE PROVIDE THE PURPOSES OF YOUR REBUTTAL TESTIMONY.

A. The purpose of my testimony is to respond to numerous issues raised in the direct testimony filed on behalf of the AG, Nucor, and AppHarvest. I will address the revenue requirement issues raised by Mr. Lane Kollen on behalf of the AG and Nucor. I will address the interruptible credit proposal raised by Mr. Stephen J. Baron on behalf of Nucor. I will comment on the economic impact analysis offered by Mr. Barry J. Kornstein on behalf of Nucor. I will address the comments offered by Ms. Cathy Waddell on behalf of Nucor. Lastly, I will address the issues raised by Ms. Suedeen G. Kelly on behalf of AppHarvest.

II. KOLLEN TESTIMONY

Q. WHAT ARE THE BASIC RATEMAKING PRINCIPLES AND CONCEPTS TO BE CONSIDERED IN THE DETERMINATION OF REVENUE REQUIREMENTS?

A. The primary ratemaking principle is known as the matching principle, where adjustments to the test year are not made unless all revenues, expenses, rate base, and capital items have been adjusted to reflect the same time periods. In conjunction with the matching principle is the concept that proposed adjustments must be known and measurable. This is particularly critical when the historic test year is utilized, where actual costs are the basis for the revenue requirement determination rather than budgeted or forecasted amounts. However, the utilization of a historic test year with known and measurable adjustments is not unlimited. Even if the proposed adjustment satisfies the concept of known and measurable, the recognition of the proposed adjustment should not violate the matching principle. It is EKPC's understanding that the Commission will only deviate from these principles and concepts when sufficient evidence has been provided to justify the deviation.

Q. WOULD YOU EXPLAIN HOW EKPC APPLIED THESE PRINCIPLES AND CONCEPTS IN ITS APPLICATION?

A. In evaluating the possible adjustments to the historic test year, EKPC identified known and measurable events that occurred within a six month period after the end of the historic test year. It is EKPC's understanding and belief that this post-test-year window has generally been accepted by the Commission as being an acceptable period of time to consider adjustments without seriously conflicting with the matching principle.

Q. WHAT TEST YEAR DID EKPC UTILIZE FOR ITS APPLICATION?

A. EKPC utilized a historic test year reflecting the 12 month period ending December 31, 2019. It recognized adjustments that were known and measurable and generally occurring within the six months after the end of the historic test year, through June 30, 2020.

Q. DID MR. KOLLEN UTILIZE THE SAME TEST YEAR AS EKPC AND DID HE HAVE ANY COMMENTS ABOUT THE SELECTED TEST YEAR?

A. Actually, it is difficult to determine. Mr. Kollen never clearly stated what his test year was. Mr. Kollen started with EKPC's determination of the full revenue increase which was based on the historic test year ending December 31, 2019, but then recognized several adjustments stretching out to December 31, 2020. Mr. Kollen contends that his adjustments are known and measurable and were "necessary to provide a more comprehensive and balanced set of post-test year adjustments and for a more accurate quantification of the Company's base revenue deficiency or surplus."[1] Mr. Kollen further claimed that EKPC only used the 12 month period ending December 31, 2019 as a "starting point" and then modified the period to the 12 month period ending June 30, 2020, recognized adjustments reflecting September 2020 costs, and used average costs based on the 2015 through 2019 period.[2]

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[1] Direct Testimony of Lane Kollen, pages 5 and 6.

[2] Updated Responses to Requests for Information to the AG and Nucor from EKPC, Response 1(b).

Q. HOW DO YOU RESPOND TO MR. KOLLEN'S COMMENTS?

A. I strongly disagree with Mr. Kollen's claim that EKPC shifted its test year to the 12 month period ending June 30, 2020. The adjustments that recognized known and measurable items up to six months after the end of the historic test year were consistent with EKPC's understanding of the approach accepted by the Commission in other historic test year cases. It would also appear that, based on Mr. Kollen's proposed adjustments, he believes that the known and measurable concept is superior to the matching principle. EKPC does not believe that is accurate. EKPC believes that the matching principle has primacy and the known and measurable concept is used to define what adjustments can be considered in conjunction with the matching principle.

Q. DID MR. KOLLEN AGREE WITH THE PREMISE THAT THE COMMISSION GENERALLY CONSIDERS KNOWN AND MEASURABLE ADJUSTMENTS THAT OCCUR UP TO SIX MONTHS BEYOND THE END OF THE TEST YEAR?

A. Not exactly. Mr. Kollen correctly noted that the Commission has not adopted a standard that limits post-test year adjustment to six months beyond the end of the test year. Mr. Kollen contends that in other proceedings the Commission has allowed post-test year adjustment that were known and measurable but not limited to six months after the end of the test year. He also cited Case No. 2006-00472, a previous EKPC base rate case, as an example of how the Commission addressed requests for post-test year adjustments and noted that the accepted post-test year adjustments were determined consistent with the matching principle.[3]

Q. HAVE YOU REVIEWED THE COMMISSION'S ORDER IN CASE NO. 2006-00472 AND MR. KOLLEN'S INTREPRETATION OF ITS PROVISIONS?

A. Yes, I have extensively reviewed the December 5, 2007 in Case No. 2006-00472.[4] This case was the most recent EKPC base rate application utilizing a historic test year. Mr. Kollen is correct that throughout that Order the Commission stressed the importance of adjustments being consistent with the matching principle. In addition, I would note that every post-test year adjustment accepted by the Commission in Case No. 2006-00472 reflected events occurring no more than six months beyond the end of the historic test year.

Q. DOES THE COMMISSION'S DECISIONS IN CASE NO. 2006-00472 ADDRESS ANY OTHER ISSUES RAISED IN MR. KOLLEN'S TESTIMONY?

A. Yes. In the December 5, 2007 Order the Commission specifically outlined how proposed adjustment to interest income[5] and interest expense on long-term debt[6] were to be determined. I referenced these section of the December 5, 2007 Order in my direct testimony where I discussed the proposed adjustments for interest

[3] *Id.*, Response 1(c).

[4] *See In the Matter of General Adjustment of Electric Rates of East Kentucky Power Cooperative, Inc.*, Case No. 2006-00472, (Ky. P.S.C. Dec. 5, 2007).

[5] *Id.*, pages 15-16.

[6] *Id.*, pages 20-22.

income and interest expense on long-term debt.[7] In those adjustments, I provided the applicable interest rates as of test year end and through June 30, 2020, but also stated that EKPC would provide updates on those rates as directed by the Commission. The Commission subsequently requested that EKPC provide the updated interest rates[8] and EKPC has submitted monthly updates consistent with those requests. On page 5 of his direct testimony, Mr. Kollen cites the proposed adjustments to the interest income and interest expense on long-term debt as examples of EKPC's deviation from a strict adherence to the historic test year. As I have documented here, EKPC was following established Commission practice for those adjustments.

Q. HAVE YOU REVIEWED THE ADJUSTMENTS PROPOSED BY MR. KOLLEN ON PAGE 4 OF HIS DIRECT TESTIMONY?

A. Yes, I have reviewed Mr. Kollen's proposed adjustments and developed recommendations on whether they should be included in the determination of EKPC's revenue requirements.

Q. WHAT IS YOUR RECOMMENDATION CONCERNING MR. KOLLEN'S RECOGNITION OF THE "EKPC COST CONTAINMENT MEASURES" SHOWN ON PAGE 4 OF HIS DIRECT TESTIMONY?

A. Mr. Kollen has taken EKPC's response to the Commission Staff's Second Request for Information, Request 12, and treated the response like a known and measurable adjustment. In this response, EKPC was describing the areas where it believed it

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[7] Application Exhibit 13, Direct Testimony of Isaac S. Scott, pages 14-16.

[8] EKPC Response to the Commission Staff's Second Request for Information, Requests 15(c) and 16(c).

could reduce its costs and be able to operate with a revenue increase lower than the amount determined from its proposed adjustments to the test year. I would note that in its response to Request 14 in that same request from Commission Staff, EKPC stated that these were general categories of costs and detailed specific adjustments had not been developed. These savings were aspirational in nature and were not offered as any sort of concession. In fact, the Application and testimony of EKPC's witnesses made it clear that any adjustments to EKPC's rate proposal should be made to the $48.9 million increase that it believed it could justify.

In spite of this information, Mr. Kollen proceeded to treat the cost containment suggestions as known and measurable adjustments that should be made against the determination of EKPC's revenue requirement. This is not the case and only serves to overstate the revenue reduction proposed by Mr. Kollen. These so-called adjustments should be excluded from the determination of EKPC's revenue requirements as they do not represent known and measurable adjustments to the test year.

Q. WHAT IS YOUR RECOMMENDATION CONCERNING MR. KOLLEN'S PROPOSAL TO NORMALIZE CAPACITY BENEFIT REVENUES?

A. I disagree with Mr. Kollen's use of the balance for the capacity benefit revenues as of December 31, 2020, which is a full 12 months beyond the end of the test year. As Mr. Kollen did not propose to "move" EKPC's test year to the 12 months ending December 31, 2020, I believe his adjustment violates the matching principle. I would recommend that Mr. Kollen's proposed adjustment to normalize capacity benefit revenues be rejected.

Q. WHAT IS YOUR RECOMMENDATION CONCERNING MR. KOLLEN'S PROPOSED ADJUSTMENT TO LEASED PROPERTY INCOME – NET REVENUES?

A. Again, I disagree with Mr. Kollen's determination of this adjustment reflecting balances as of December 31, 2020, as I believe the adjustment as proposed violates the matching principle. I also disagree with the calculation as it utilized an estimated net margin percentage based on 2019 information. The net revenue from leased property reflects the revenues recorded in Account 412000 and the associated costs recorded in the Account 413000 series. I would recommend Mr. Kollen's proposed adjustment to leased property income be rejected.

Q. HAVE YOU REVIEWED MR. KOLLEN'S PROPOSED ADJUSTMENT TO PAYROLL AND PAYROLL TAXES?

A. Yes, I have and I must respectfully disagree with his analysis. Mr. Kollen's cursory analysis only looks at the total change in dollars between the test year and EKPC's proposed normalization adjustment to reflect the effects of the 2020 merit increase authorized by the Board of Directors. While noting there were increases in the number of employees between test year end and the September 2020 payroll, he makes no attempt to quantify how much of the normalization increase was associated with increased headcounts and how much was related to the merit increases. Mr. Kollen summarily dismisses the increase in the number of employees after test year end as not known and measurable, apparently relying on statements EKPC had made concerning cost containment actions it would take in the future. Citing no evidence or analysis, Mr. Kollen proclaims on page 11 that "the payroll expense increases reflect the addition of new positions that do not reflect the actual operation of the Company in the test year and that have not been justified as necessary to operate the Company now or in the future."

The driver for wage and salary increases at EKPC is the annual merit evaluations. There are no other company-wide or cost of living wage and salary adjustments. However, there are wage and salary adjustments made for particular employees to bring wages and salaries into line with market position survey results and reflect promotions or transfers. Depending on the number of employees affected, these adjustments impact the percentages that Mr. Kollen cites in his Exhibit LK-5, EKPC's response to the Commission Staff's First Request for Information, Request 23, pages 2 and 3 of 5. I would also note that the *merit increases* shown in the response to Request 23, pages 4 and 5 of 5 are generally in line with the information from the Duke Energy Kentucky natural gas base rate case, Case No. 2021-00190, which Mr. Kollen provided in his data responses to EKPC.[9]

Concerning the number of employees, as noted previously, the reliance on statements made in response to questions about EKPC's possible cost containment actions do not constitute known and measurable adjustments that should be recognized in the determination of the revenue requirements. EKPC's total number of employees in the months after test year end are not unusual, as was noted in EKPC's response to the Commission Staff's First Request for Information, Request 20, page 3 of 8. In addition, the Commission has recognized the addition of employees beyond the end of the test year in the determination of payroll

[9] Updated Responses to Requests for Information to the AG and Nucor from EKPC, Response 4(c).

normalizations, as it did in the December 5, 2007 Order in Case No. 2006-00472.[10] Finally, Mr. Kollen's assumptions that the addition of new positions do not reflect the actual operations of EKPC are simply that – assumptions with no foundation in evidence. Mr. Kollen could have had his clients request any clarifying information needed about EKPC's employee numbers during the two rounds of data requests afforded them by the procedural schedule, but no such requests were made. Consequently, I must recommend that Mr. Kollen's proposed adjustment to EKPC's payroll adjustment be rejected in total. As Mr. Kollen's proposed adjustment to the payroll taxes is dependent on the payroll adjustment, I recommend it be rejected as well. I support EKPC's original proposals for payroll and payroll taxes, as described in my direct testimony at pages 19 and 20.

Q. WHAT IS YOUR RECOMMENDATION CONCERNING MR. KOLLEN'S PROPOSED ADJUSTMENT TO THE ANNUALIZATION OF BENEFITS EXPENSE?

A. I disagree with Mr. Kollen's use of the balance for this expense as of December 31, 2020. I believe that going 12 months beyond the end of the test year is a violation of the matching principle. Therefore, I would recommend that Mr. Kollen's proposed adjustment to annualize benefits expense be rejected.

Q. WHAT IS YOUR RECOMMENDATION CONCERNING MR. KOLLEN'S PROPOSED ADJUSTMENT TO ANNUALIZE FORCED OUTAGE AND HIGHEST PURCHASED POWER EXPENSES?

[10] Case No. 2006-00472, December 5, 2007 Order, pages 17-19.

A. First, I continue to disagree with utilizing expense balances based on the 12 months ending December 31, 2020 for adjustments to the test year because I believe it constitutes a violation of the matching principle. Second, Mr. Kollen's conclusion that half of the 2015 highest cost purchase power expense exclusion was highly unusual is arbitrary and based solely on his opinion. Likewise, Mr. Kollen's conclusion that the multiple forced outages at Spurlock Units 2, 3, and 4 are not typical is based solely on his opinion. To determine if an event is "highly unusual" or "not typical" there must be some analysis or evidence to support the conclusion and Mr. Kollen has offered none. Therefore, I recommend that both Mr. Kollen's proposed and alternative recommendations be rejected and EKPC's proposed adjustments be accepted.

Q. WHAT IS YOUR RECOMMENDATION CONCERNING MR. KOLLEN'S PROPOSED NORMALIZATION ADJUSTMENT FOR GENERATION MAINTENANCE EXPENSE?

A. In addition to my belief that utilizing expense balances based on the 12 months ending December 31, 2020 for adjustments to the test year constitutes a violation of the matching principle, I find it extraordinary that Mr. Kollen also dismisses the impacts of the COVID-19 pandemic on generation maintenance expenses incurred during 2020. Contending that as a specific matter the rescheduling of generation outages due to the pandemic is part of the norm in the ordinary course of business and not unusual[11] is unbelievable. It is also curious that Mr. Kollen, who has been an intervenor witness in numerous base rate cases for Kentucky Utilities Company

[11] Updated Responses to Requests for Information to the AG and Nucor from EKPC, Response 9(b).

("KU"), Louisville Gas and Electric Company ("LG&E"), Kentucky Power Company ("Kentucky Power"), and Duke Energy Kentucky, could not provide information about the generation maintenance expense normalization treatments for those companies.[12]

As for the concept of utilizing an averaging approach for this expense, I have concerns about its reasonableness, given the fact that EKPC's generating fleet is aging and will likely experience levels of maintenance expense more in line with the 2017 to 2019 levels rather than those of 2015, 2016, or 2020. It would seem to me that if an averaging approach were going to be utilized, it should incorporate a couple of budgeted or forecasted years along with several historic years. To avoid having the budgeted or forecasted data skew the calculations, I would believe it would be reasonable that more historic years should be used than budgeted or forecasted. While I have not done an extensive review of these adjustments in other Kentucky utility rate cases, it is my general understanding that this historic and budgeted approach is utilized for the KU and LG&E adjustments.

Consequently, I recommend Mr. Kollen's proposed adjustment to normalize generation maintenance expense should be rejected.

Q. WHAT ARE YOUR RECOMMENDATIONS CONCERNING THE FOUR DEPRECIATION EXPENSE ADJUSTMENTS PROPOSED BY MR. KOLLEN?

A. Based on the rebuttal testimony of EKPC's depreciation expert, Mr. John J. Spanos, I am recommending that all four of Mr. Kollen's depreciation adjustments be

[12] *Id.*, Response 7(b).

rejected and EKPC's proposals should be adopted by the Commission, including the approval of the new depreciation study.

Q. WHAT IS YOUR RECOMMENDATION CONCERNING MR. KOLLEN'S PROPOSED SMITH 1 REGULATORY ASSET AMORTIZATION EXPENSE?

A. In Case No. 2015-00358,[13] EKPC, the AG, and Nucor[14] negotiated and the Commission approved a Stipulation Agreement that included provisions for the amortization of the Smith 1 regulatory asset. Section 1.2.5 of the Stipulation Agreement specified that in its next base rate case EKPC shall request its rates be adjusted to reflect the amortization expense of the Smith 1 regulatory asset. The amortization adjustment shall be spread over the remaining months of the 10-year amortization period that began on January 1, 2017. The adjustment shall be based on the Smith 1 regulatory asset balance as of January 1, 2017 and reduced by the actual results of EKPC's mitigation and salvage efforts during the period of January 1, 2017 through the end of the test year employed in the rate case and the net PJM Capacity Market Benefit earned by EKPC beginning with the 2016/2017 PJM Delivery Year and concluding at the end of calendar year 2019, with EKPC reflecting the full net PJM Capacity Market Benefit realized through 2019. In my direct testimony I describe EKPC's determination of the proposed Smith 1 regulatory asset amortization adjustment.[15] EKPC proposed to spread the

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[13] *See In the Matter of Application of East Kentucky Power Cooperative, Inc. for Deviation from Obligation Resulting from Case No. 2012-00169*, Case No. 2015-00358, (Ky. P.S.C. Jan. 10, 2017).

[14] Nucor was represented by the Kentucky Industrial Utility Customers, Inc. in the proceeding.

[15] Application Exhibit 13, Direct Testimony of Isaac S. Scott, pages 24-26.

amortization amount over 63 months, the remaining time from the expected effective date of rates in this proceeding of October 2021 through December 2026. Mr. Kollen contends that the Stipulation Agreement "defines how the regulatory asset is to be calculated as of December 31, 2019 and the calculation of the amortization expense based on the remaining months from January 2020 through December 2026 for ratemaking purposes, or a period of 84 months; it does not define the calculation of the amortization expense based on the remaining months from October 2021 through December 2026 as proposed by the Company."[16] Mr. Kollen then proposes that the amortization expense should be spread over an 84 month period, which would end at September 30, 2028.

While I am not an attorney, and neither is Mr. Kollen, I am concerned that Mr. Kollen makes a proposal that appears to be amending the terms of a Commission approved Stipulation Agreement. Mr. Kollen has attempted to tie the allowed amortization of the Smith 1 regulatory asset to the to-date book depreciation. Absent the Stipulation Agreement, I could see his point. However, the Stipulation Agreement in Section 1.2.5 does not make this connection. The underlying assumption in the Stipulation Agreement was that the Smith 1 regulatory asset would be recovered through three means – the net PJM Capacity Market Benefits, the mitigation and salvage efforts of EKPC, and amortization of the remaining balance through base rates. Section 1.2.5 clearly states that the amortization adjustment shall be spread over the remaining months of the 10 year amortization period that began on January 1, 2017. That ending date is December 31, 2026, not

[16] Direct Testimony of Lane Kollen, pages 37 and 38.

September 30, 2028. The amortization adjustment provided for in Section 1.2.5 of the Stipulation Agreement is unique and not like the usual approach followed for the amortization of a regulatory asset. I believe that EKPC has calculated its proposed adjustment consistent with the provisions of the Stipulation Agreement. Consequently, I recommend that Mr. Kollen's adjustment be rejected and EKPC's proposed adjustment be adopted.

Q. WHAT IS YOUR RECOMMENDATION CONCERNING MR. KOLLEN'S PROPOSED ADJUSTMENT RELATED TO EKPC'S SHORT-TERM INVESTMENT PORTFOLIO?

A. Based on the rebuttal testimony of Mr. Thomas J. Stachnik, I recommend that Mr. Kollen's proposed adjustments to remove interest expense and interest income associated with EKPC's short-term investment portfolio be rejected.

Q. DO YOU HAVE ANY COMMENTS ABOUT MR. KOLLEN'S PROPOSED ADJUSTMENT IN ADDITION TO MR. STACHNIK'S REBUTTAL TESTIMONY?

A. Yes, I do. First, on page 39 of his direct testimony Mr. Kollen states: "The Company is not entitled to recover the interest expense incurred to finance non-utility investments and a related TIER through the ratemaking process unless there is interest income that exceeds the interest expense and related TIER." However, when asked to provide the authority for this statement, Mr. Kollen responded that he was not aware that there was a codification of this ratemaking theory.[17] As Mr.

[17] Updated Responses to Requests for Information to the AG and Nucor from EKPC, Response 20(a).

Kollen can cite no authority or regulatory commission decision in support of his statement, it appears this is his opinion rather than a standard.

Second, Mr. Kollen argues on page 41 of his direct testimony that EKPC's short-term investment portfolio is financed by long-term debt, this in spite of the fact EKPC has provided a data response indicating this is not the case.[18] Mr. Kollen contends this response is "patently incorrect". He further notes that by definition the balance sheet always has to balance, and that total assets always equal total liabilities plus members' equity, long-term debt, and short-term debt. On the point about the balance sheet must balance, Mr. Kollen and I are in agreement. However, looking at the December 31, 2019 balance sheet provided in my direct testimony as Exhibit ISS-2, the balance for net utility plant is $2,870,399,343 while the total long-term debt balance is $2,463,892,891. The net utility plant balance exceeds the total long-term debt balance by $406,506,452. With this difference, there does not appear to be any long-term debt available to finance the short-term investment portfolio. It thus would appear that Mr. Kollen is the one who is incorrect about the financing of the short-term investment portfolio.

Q. WHAT IS YOUR RECOMMENDATION CONCERNING MR. KOLLEN'S PROPOSAL TO ADJUSTMENT INTEREST ON LONG-TERM DEBT FOR THE CONSTRUCTION WORK IN PROGRESS BALANCE RECOVERED THROUGH THE ENVIRONMENTAL SURCHARGE?

A. Mr. Kollen contends that EKPC's proposed adjustment to remove interest expense on long-term debt associated with the environmental surcharge was not sufficient

[18] EKPC's Response to the Supplemental Data Requests of the AG and Nucor, Request 21(c).

as it did not recognize any interest expense associated with the construction work in progress ("CWIP") included in the environmental surcharge. Mr. Kollen argues this treatment in effect allows EKPC to recover the interest expense associated with the CWIP balance in the environmental surcharge through both base rates and the environmental surcharge. His solution was to apply an imputed interest expense rate based on long-term debt supporting surcharge assets to the CWIP balance in the environmental surcharge as of test year end and deduct that CWIP-related interest expense from the long-term debt interest expense included in the determination of the base rate revenue requirement.

I agree with Mr. Kollen to the extent that there should have been some further adjustment to the long-term debt interest expense to recognize the financing of the CWIP included in the environmental surcharge. As Mr. Kollen correctly notes, EKPC stated in its application for the inclusion of projects associated with the CCR/ELG compliance these projects would initially be financed using the credit facility. However, I do not agree with Mr. Kollen's use of an imputed long-term debt interest rate for this adjustment. I believe the reasonable solution is to apply the interest rate of the credit facility to the CWIP balance included in the environmental surcharge and remove that calculated interest expense from the determination of the revenue requirement. I have calculated such an adjustment using the interest rate effective June 30, 2020, consistent with the original adjustment to the long-term debt interest expense adjustment. This adjustment results in a reduction of the calculated revenue requirement of $2,317,925. I have prepared a revised version of Mr. Kollen's revenue requirement determination reflecting the adjustment, which is attached to this testimony as Rebuttal Exhibit ISS-1. I would note that as the Commission has requested that the interest rates used for interest expense should be updated throughout this proceeding, the final adjustment will be dependent on the interest rate utilized for the long-term debt interest expense adjustment.

In addition, this treatment will also require a change in the determination of the interest expense component used to calculate the rate of return on environmental compliance rate base ("Surcharge ROR"). Until CWIP has been completed and classified as utility plant in service, EKPC cannot secure long-term debt financing for those assets. The determination of the interest rate component in the Surcharge ROR is a weighted average approach reflecting the net book value of the surcharge plant and the long-term debt interest rates associated with that utility plant. To achieve a proper match, I would propose that the CWIP balance in the surcharge at the time the Surcharge ROR is determined be included with the net book value amount and the current interest rate on the credit facility recognized as supporting the CWIP balance. This would achieve the appropriate matching of the interest expense as well as avoiding any double recovery of interest expense for the financing of the CWIP balance. To maintain the appropriate balance in cost recovery from base rates and the environmental surcharge, this revision to the determination of the Surcharge ROR should be recognized at the effective date of the Commission's decision in this proceeding and the Surcharge ROR recalculated using the revised debt information and appropriate TIER.

Therefore I am recommending that both of my revised adjustments associated with the CWIP in the environmental surcharge be adopted.

Q. WHAT IS YOUR RECOMMENDATION CONCERNING MR. KOLLEN'S RECOMMENDATION TO LOWER THE AUTHORIZED TIER FOR EKPC?

A. Based on Mr. Stachnik's rebuttal testimony, I am recommending that Mr. Kollen's proposal be rejected and the Commission authorize a TIER of 1.50 for EKPC.

Q. WHAT IS THE FINAL RESULT OF YOUR RECOMMENDATIONS CONCERNING MR. KOLLEN'S PROPOSED ADJUSTMENTS?

A. After incorporating my recommendations on Mr. Kollen's adjustments and recognizing the changes I have identified, my Rebuttal Exhibit ISS-1 shows an EKPC rebuttal position of an increase in base rate revenues of $46.666 million.

III. BARON TESTIMONY

Q. HAVE YOU REVIEWED MR. BARON'S PROPOSAL CONCERNING THE INTERRUPTIBLE DEMAND CREDIT FOR NUCOR'S 10-MINUTE INTERRUPTIBLE LOAD?

A. Yes. On pages 40 through 43 of his direct testimony, Mr. Baron discusses Nucor's interruptible rates, the benefits of interruptible loads to EKPC, and his opinion that the current 10-minute interruptible demand credit of $6.22 per kW understates the value of this interruptible load to EKPC. Mr. Baron proposes that Nucor's 10-minute interruptible demand credit should be raised to $7.57 per kW, to reflect a current measure of avoided capacity cost for EKPC. In support of this amount, Mr. Baron notes that in a recent Kentucky Power proceeding the Commission determined this rate was the appropriate avoided generation capacity cost, the PJM Net CONE rate, for Kentucky Power. Mr. Baron concludes his direct testimony by noting that the 10-minute interruptible demand credit should not exceed the firm demand charge and observes that even if there were a full offset of the firm demand charge the interruptible load would still contribute to EKPC's fixed costs.

Q. DO YOU HAVE ANY COMMENTS ON MR. BARON'S PROPOSAL?

A. Quite frankly, I was surprised Mr. Baron would propose a 21.7% increase in the 10-minute interruptible demand credit without any analysis specific to EKPC supporting such an increase. While Mr. Baron confirmed that he had filed testimony in EKPC's 2010 rate case supporting the $6.22 per kW credit,[19] he at no time in his direct testimony in this case discusses what has changed to now support the increase in the credit. To further confuse the issue, when asked by Commission Staff to provide cost support for the $6.22 per kW credit, Mr. Baron references the PJM 2022-2023 Delivery Year Net CONE as supporting a credit of $6.60 per kW.[20] It is not clear to me whether Mr. Baron still supports his original 21.7% increase in the 10-minute interruptible demand credit or now supports a 10-minute interruptible demand credit of $6.60 per kW, a 6.1% increase.

In any event, I find it extraordinary that Mr. Baron should suggest that any interruptible demand credit should be equal to the firm demand charge. At no time does he assert that this is a fair, just, and reasonable rate situation. EKPC's rates are supposed to be designed for it to have a reasonable opportunity to recover its

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[19] Responses of Nucor to EKPC's Initial Data Requests, Response 4.

[20] Nucor's Response to the Commission Staff's First Request for Information, Response 4.

costs to serve its customers. It cannot be considered fair, just, or reasonable that a customer should have a significant portion of its load priced at a net rate of $0.

Q. DO YOU HAVE A RECOMMENDATION CONCERNING THE 10-MINUTE INTERRUPTIBLE CREDIT FOR NUCOR?

A. I recommend that the Commission make no change in the 10-minute interruptible credit. However, if the Commission believes an increase in the demand credit is warranted, I would encourage the Commission not to set the demand credit so high as to produce a net demand charge of $0 for that portion of Nucor's load.

III. KORNSTEIN TESTIMONY

Q. HAVE YOU REVIEWED MR. KORNSTEIN'S REPORT ON THE LOCAL, REGIONAL, AND STATEWIDE ECONOMIC AND FISCAL IMPACTS OF THE NUCOR PLANT?

A. I have reviewed Mr. Kornstein's report and would like to offer some comments. I do not question the results from the IMPLAN modeling Mr. Kornstein utilized to perform his analysis. However, while this report was supposed to include a view on the statewide economic and fiscal impacts of the Nucor facilities, the report appears to focus primarily on the economic and fiscal impacts on the 16-county "triangle area" bound by Interstates 64 and 75 and the Ohio River. It is not surprising that the counties physically closest to the Nucor facilities would experience the majority of the economic and fiscal impacts in the Commonwealth. Mr. Kornstein's report does provide two sets of statistics that would seem to diminish some of the claimed benefits to the Commonwealth as a whole. First, approximately 30% of the total existing plant workforce and approximately 47% of the galvanizing facility workforce reside outside Kentucky.[21] Second, purchases from vendors located in Kentucky for the existing plant comprise approximately 35% of total spending and for the galvanizing facility it is approximately 15% of total spending.[22] As a final comment, as Mr. Kornstein has acknowledged, his analysis did not take into account any incentives paid, awarded, or made available to Nucor or its affiliates.[23]

Q. DO YOU HAVE ANY OBSERVATIONS RELATIVE TO MR. KORNSTEIN'S REPORT AS IT RELATES TO THIS RATE PROCEEDING?

A. Yes. I do not question that the Nucor facilities at Ghent, Kentucky provide certain positive economic impacts to the 16-county "triangle area" and to some extent beyond to the Commonwealth as a whole. However, in my opinion, these economic benefits have little impact in determining what the fair, just, and reasonable rates are for EKPC and customers like Nucor.

IV. WADDLE TESTIMONY

Q. HAVE YOU REVIEWED MS. WADDLE'S TESTIMONY?

A. Yes, I have and I would like to offer some comments. Throughout this proceeding, Nucor has repeatedly noted the significant contribution that the new galvanizing line brings to the table. When Nucor, Owen Electric Cooperative, Inc., and EKPC negotiated the second amendment to the Nucor contract, it was indicated that the

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[21] Responses of Nucor to EKPC's Initial Data Requests, Response 12.

[22] *Id.*, Response 13.

[23] *Id.*, Response 10.

galvanizing line would increase demand by approximately 40 MW.[24] However, after nearly 21 months of operation the on-peak billing demand for the galvanizing line has not exceeded 50% of this level. In addition, Nucor has consistently argued there are revenue impacts from the expansion, but has failed to acknowledge there are corresponding costs to service the expansion that need to be taken into consideration when determining the overall benefits provided by the galvanizing line expansion.

On page 3 of her direct testimony, Ms. Waddle lists the components of the current expansion project – a single shell electric arc furnace, a twin shell ladle metallurgical facility, a caster, two additional stands in the rolling mill, a baghouse, a pumphouse, and an air separation facility. When asked to provide the estimated additional load in MWs for each expansion plant component, she provided the total of the expansion project instead of the individual components.[25] While it is known that 15 MWs of this expansion will be firm demand, the balance will either be 10-minute interruptible load or 90-minute interruptible load. In order to evaluate Nucor's concerns about the increase in rates, it would have been helpful to provide this information so EKPC could better understand the concerns.

Lastly, on page 4 of her direct testimony, Ms. Waddle notes the economic development benefits provided by the Nucor facilities at Ghent. To bring some balance to the discussion of benefits, I believe it is important to acknowledge the unique features in the rate structure established in the contract, as amended, that benefit Nucor. Of the total demand billed during the test year, only 9.2% of the

[24] Second Amendment to the Industrial Power Agreement with Interruptible Service dated April 30, 2013.
[25] Responses of Nucor to EKPC's Initial Data Requests, Response 17.

demand was billed at the full demand charge rate. Of the total demand billed during the test year, 73.8% of the demand was billed at 10-minute interruptible service and at a net demand charge rate reflecting a 90% discount. The weighted average demand charge billed to Nucor for the test year, reflecting the blend of firm demand and the interruptible demands, was $1.62 per kW. While Nucor's on-peak and off-peak energy is measured during the same time periods as all other tariffed rates, Nucor enjoys the added benefit of having weekends and holidays classified as fully off-peak. For the galvanizing line, there is a special energy rate crediting mechanism that will be in effect for five years. For the current expansion, there is an additional special energy rate crediting mechanism that will be in effect for six years. I believe EKPC has over the years recognized both the economic benefits provided by Nucor as well as the unique characteristics of it operations in the rates charged for service.

V. KELLY TESTIMONY

Q. HAVE YOU REVIEWED MS. KELLY'S TESTIMONY AND THE ISSUES SHE RAISES FOR THE RATE CASE?

A. Yes, and I would offer these comments. Concerning Ms. Kelly's conclusion that the Cooper Station is no longer used and useful, I would note that Ms. Kelly offers no quantitative analyses in support of her conclusions. Apparently, the only research Ms. Kelly performed was to look at selected pages from RUS Form 12s that EKPC provided in response to a data request from the AG and Nucor. Examining the financial data associated with any generating station would be part of an evaluation of used and useful. However, it would only be the starting point for the thorough analysis that needs to be undertaken when making a determination of the used and usefulness of a generating station. Ms. Kelly's opinion, which is based upon limited facts, is not sufficient evidence to determine the used and usefulness of any of EKPC's generating assets. In addition, issues concerning the generating resources of a regulated electric utility in Kentucky are more appropriately addressed in an integrated resource plan review rather than a base rate case.

Concerning Ms. Kelly's comments about retail customers participating in PJM's wholesale market, her testimony suggests an unfamiliarity with the practical effect of the Commission's final Order in Case No. 2017-00129.[26] That Order is clearly inconsistent with the position she has staked out in her testimony. Moreover, during Ms. Kelly's tenure at the Federal Energy Regulatory Commission ("FERC") the Commission approved Kentucky Power's entry into PJM subject to FERC's acknowledgement that the Commission retained all jurisdiction over retail programs, which FERC acknowledged:

> Finally, the Commission also notes that the Settlement does not change the authority of this Commission or of the Kentucky Commission. In sum, the Commission approves the Settlement as a reasonable resolution of the complex matters at issue in this proceeding as they pertain to the laws, rules, and regulations of Kentucky.[27]

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[26] *See In the Matter of Application of East Kentucky Power Cooperative, Inc. for a Declaratory Order Confirming the Effect of Kentucky Law and Commission Precedent on Retail Electric Customers' Participation in Wholesale Electric Markets*, Case No. 2017-00129, (Ky. P.S.C. Jun. 6, 2017).

[27] *In the Matter of New PJM Companies and PJM Interconnection, LLC*, Order, Docket No. ER03-2620009, p.5, 107 FERC ¶ 61,272 (F.E.R.C. June 17, 2004).

Concerning Ms. Kelly's comments on re-establishing a commercial and industrial energy efficient lighting incentive, she fails to explain why an incentive program should be developed to encourage AppHarvest to install LED lighting when it had already considered that option and rejected it as too costly. She further fails to explain why it is fair, just, and reasonable for the other retail customers of the EKPC owner-members to subsidize through an incentive to AppHarvest to encourage an action it considered taking without the incentive.

Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

A. Yes.

Exhibits

Rebuttal Exhibit ISS-1 – Revisions to Mr. Kollen's Revenue Requirements Determination

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF EAST KENTUCKY POWER COOPERATIVE, INC. FOR A GENERAL ADJUSTMENT OF RATES, APPROVAL OF DEPRECIATION STUDY, AMORTIZATION OF CERTAIN REGULATORY ASSETS, AND OTHER GENERAL RELIEF	))))))	CASE NO. 2021-00103

VERIFICATION OF ISAAC S. SCOTT

COMMONWEALTH OF KENTUCKY)
)
COUNTY OF CLARK)

Isaac S. Scott, being duly sworn, states that he has supervised the preparation of his Rebuttal Testimony in the above-referenced case and that the matters and things set forth therein are true and accurate to the best of his knowledge, information and belief, formed after reasonable inquiry.

Isaac S. Scott

Isaac S. Scott

The foregoing Verification was signed, acknowledged and sworn to before me this 27th day of July 2021, by Isaac S. Scott.

Gwyn M. Willoughby

Notary Commission No.: 590567
Commission expiration: 11/30/2021

GWYN M. WILLOUGHBY
Notary Public
Kentucky – State at Large
My Commission Expires Nov 30, 2021

East Kentucky Power Cooperative, Inc.
Case Number 2021-00103
Summary of AG-Nucor Adjustments and EKPC Rebuttal Position
($ Millions)

	AG-Nucor Adjustment After Gross-Up	EKPC Rebuttal Position Before Gross-Up	Gross-Up Factor	EKPC Rebuttal Position After Gross-Up
Calculated Net Margin Revenue Requirement as Filed by EKPC	48.984	48.984		48.984
Less: EKPC Cost Containment Measures To Reduce Travel and Training Costs	(1.000)	0.000		0.000
Less: EKPC Cost Containment Measures To Reduce Outside Consulting/Contracting Services Costs	(4.984)	0.000		0.000
Amount of Increase Requested by EKPC	43.000	48.984		48.984
AG-Nucor Adjustments and EKPC's Rebuttal Position:				
Increase Capacity Revenues	(4.544)	0.000	1.002	0.000
Decrease Leased Property Income Net	2.066	0.000	1.002	0.000
Adjust Annualization of Payroll Expense	(2.638)	0.000	1.002	0.000
Adjust Annualization of Payroll Tax Expense	(0.249)	0.000	1.002	0.000
Reduce OPEB Expense to 2020 Actual Level	(1.035)	0.000	1.002	0.000
Adjust Forced Outage and Highest Purchased Power Expense Annualization	(1.928)	0.000	1.002	0.000
Reflect Normalization of Generation Maintenance Expense	(6.592)	0.000	1.002	0.000
Reduce Depreciation Expense to Remove Change in Methodology - Production	(12.087)	0.000	1.002	0.000
Reduce Depreciation Expense to Reflect 45 Yr Lifespans for Smith CT Units	(2.122)	0.000	1.002	0.000
Reduce Depreciation Expense to Reflect 45 Yr Lifespans for Bluegrass Oldham CT Units	(0.721)	0.000	1.002	0.000
Reduce Amortization Period for General Plant Reserve Surplus to 5 Years	(1.914)	0.000	1.002	0.000
Extend Amortization Period of Smith 1 Regulatory Asset to 84 Months	(3.494)	0.000	1.002	0.000
Reduce Interest Expense Related to Additional ES Projects Not Removed	(8.551)	(2.313)	1.002	(2.318)
Reduce Interest Expense Related to Short-Term Investments	(6.252)	0.000	1.002	0.000
Reflect TIER of 1.30	(11.565)	0.000	1.002	0.000
Total AG-Nucor Adjustments and EKPC's Rebuttal Postion	(61.625)	(2.313)		(2.318)
AG-Nucor Recommended Decrease / EKPC Rebuttal Position	(18.625)	46.671		46.666

East Kentucky Power Cooperative, Inc.
AG-Nucor Adjustment to Environmental Surcharge Interest Expense Removal
Case Number 2021-00103
($)

ES Projects Not Factored Into ES Interest Expense Removal (12/31/2019 Balances)	
Project 16 CCR/ELG CWIP	$129,093,455
Project 12 Spurlock Landfill CWIP	$5,755,766
Project 26 Spurlock Coal Pile Retention Pond CWIP	$431,409
Total	$135,280,630
Average Interest Rate on Company's ES Projects Removal WP	1.14%
Additional Interest Exp Removal Needed for ES Projects	(1,542,199)
TIER Requested by EKPC	1.50
Revenue Requirement Effect Assuming 1.50 TIER Ask Before Gross Up	(2,313,299)
Gross Up for PSC Assessment	1.002
Revenue Requirement Effect Assuming 1.50 TIER Ask After Gross Up	(2,317,925)

Note: Normalization of Expense for ES Removal was based on 12/31/19 Balances and not 6/30/2020. See WP 1.02 Plant.

EKPC Rebuttal Position - use the interest rate for the credit facility, which would be the actual source of any such borrowings.
Interest rate is as of 6/30/2020, consistent with other debt adjustments; but doesn't reflect Commission directed updating of interest rates.