

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

**APPHARVEST MOREHEAD FARM, LLC
BRIEF IN SUPPORT OF SETTLEMENT**

Comes AppHarvest Morehead Farm, LLC (“AppHarvest”) and for its brief in support of the Joint Stipulation, Settlement Agreement and Recommendation effective and filed of record herein on July 29, 2021 (“Settlement”) and states as follows:

INTRODUCTION

AppHarvest supports the negotiated and unanimous settlement in its entirety. In addition to stating clearly AppHarvest’s support for the Settlement, AppHarvest would like to address those three provisions in paragraph 7 of the Settlement that specifically refer to AppHarvest.

a. Demand Response:

This Settlement provision does not approve a specific demand response program for PJM. Instead, it requires EKPC “to work in good faith with AppHarvest” to develop one and requires the submittal of any such agreed upon program to the Commission for approval before it may be implemented.

b. AppTech Tariff:

Like the provision in the Demand Response section, this Settlement provision also requires EKPC to work in good faith and to submit any developed tariff to the Commission for its review and

approval. During the hearing there were no questions asked related to the development of the tariff itself; however, there were questions by staff and the Commissioners about the consideration of a “reasonable and cost effective” commercial and industrial lighting program.

As was discussed during the questioning of EKPC CFO Ann Bridges by EKPC counsel, a future AgriTech tariff provision could be narrowly focused on grow lights for indoor agriculture and not the more general lighting which the Commission allowed EKPC to terminate in 2019. *See* VR: 8/3/21 at 10:49 a.m.). This will distinguish any new potential agriculturally based program from the previously terminated LED lighting program.

Additionally, it is important to point out that the prior LED lighting program passed the cost-effective Total Resource Cost test (“TRC”). The Commission thus stated it was discontinued because “LEDs are more the baseline light of choice.” *See* East Kentucky Power Coop., Case No. 2019-00059 at 1 (Ky. PSC Feb. 27, 2019). The Commission did not state that it failed to pass the TRC. *See* EKPC DSM Report filed to initiate the 2019-00059 Case at 155 of 232 (“Even though the refined TRC is cost-effective, due to LEDs already becoming the baseline light of choice, EKPC and the owner-members request to discontinue the C&I lighting program.”)

Thus, any program developed for an AgTech Tariff will be more narrowly focused even though the earlier discontinued program actually passed the TRC. Further, the Commission must approve this provision that would require EKPC to work in good faith.

c. Pass-Through Rate Mechanism:

This section permits AppHarvest to contest the pass-through rates in the Fleming-Mason case (No. 2021-00109), is self-explanatory and should stand.

CONCLUSION

For the above-stated reasons the Settlement in its entirety including, but not limited to, the AppHarvest provisions in paragraph 7 should be approved.

Respectfully submitted,

/s/ James W. Gardner

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