

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE ELECTRONIC APPLICATION OF)	
FLEMING MASON ENERGY COOPERATIVE,)	
INC. FOR PASS-THROUGH OF EAST)	CASE NO.
KENTUCKY POWER COOPERATIVE, INC.)	2021-00109
WHOLESALE RATE ADJUSTMENT)	
)	
)	
)	

DIRECT TESTIMONY OF

SUEDEEN G. KELLY

ON BEHALF OF

APPHARVEST MOREHEAD FARM LLC

JULY 1, 2021

1 **I. SUMMARY OF CONCLUSIONS**

2 **Q. What is the purpose of your testimony?**

3 A. My testimony reviews two issues surrounding Fleming-Mason’s allocation of the costs
4 arising from the general adjustment of rates submitted by East Kentucky Power Cooperative, Inc.
5 (“EKPC”) to the Kentucky Public Service Commission on or about April 1, 2021. First, I evaluate
6 whether it is fair, just, and reasonable for Fleming-Mason to allocate a share of the increased
7 revenue requirement sought by EKPC to AppHarvest. Second, I assess whether Fleming-Mason’s
8 existing customer classification of AppHarvest is suitable and reasonable.

9 **Q. What are your conclusions?**

10 A. I conclude that the Commission should reject Fleming-Mason’s proposal to increase
11 AppHarvest’s rates by allocating a share of the increased revenue requirement sought by EKPC,
12 and I conclude that the Commission should order Fleming-Mason to develop a new Agricultural
13 Technology customer class for AppHarvest and other similarly-situated agricultural customers.

14 **II. QUALIFICATIONS**

15 **Q. Please state your name, affiliation, and business address.**

16 A. My name is Suedeen G. Kelly. I am a lawyer practicing with the firm of Jenner & Block
17 LLP, where I serve as Chair of its Energy Practice. My business address is 1099 New York
18 Avenue, N.W., Suite 900, Washington, DC 20001.

19 **Q. On whose behalf are you testifying in this proceeding?**

20 A. I am testifying on behalf of AppHarvest Morehead Farm, LLC.

21 **Q. Please describe your background and professional experience in the energy and
22 utilities industries.**

23 A. I hold a bachelor’s degree in Chemistry from the University of Rochester. I also have a
24 J.D. degree from Cornell Law School. I served on the New Mexico Public Service Commission,

25 first as a Commissioner (1983-1984) and then as Chairwoman (1984-1986). I was nominated by
26 Presidents Bush and Obama to three terms as a Commissioner on the Federal Energy Regulatory
27 Commission (“FERC”) and served as a Commissioner from 2003 through 2009. During that time,
28 FERC resolved approximately 7,000 disputes with published decisions, and I personally authored
29 100 separate statements.

30 In addition to my experience as a regulator, I have served as regulatory counsel for the
31 California Independent System Operator Corporation, have engaged in the private practice of
32 energy law, and have taught courses on federal and state energy law, utility regulation,
33 administrative law, and legislative process at the University of New Mexico School of Law, where
34 I was a Professor of Law from 1986 until 2003. I continue to present, speak, and publish multiple
35 times a year on topics involving energy law, most commonly enforcement and regulation.
36 Attached hereto as Attachment SGK-1 is a true and correct copy of my current Curriculum Vitae.

37 **III. RATEMAKING PRINCIPLES**

38 **Q. How does the Kentucky Public Service Commission evaluate utilities’ proposals to**
39 **allocate costs among their customers?**

40 A. The Kentucky Public Service Commission (“KPSC”) evaluates cost allocation proposals
41 according to a “fair, just, and reasonable” standard. That is, under Kentucky law, Kentucky
42 utilities may only charge “fair, just, and reasonable rates.”¹

43 **Q. Does the fair, just, and reasonable standard require that all customers’ shares of**
44 **total utility costs and revenues remain static over time?**

¹ Ky. Rev. Stat. Ann. § 278.030(1) (“Every utility may demand, collect and receive fair, just and reasonable rates for the services rendered or to be rendered by it to any person.”).

45 A. No. Pursuant to Kentucky law, utilities may classify services, customers, and rates in a
46 manner that is “suitable and reasonable.”² This means that customers can be assigned to classes
47 with different cost responsibilities and different rate designs, depending upon what is a suitable
48 and reasonable reflection of the costs they cause or revenues they yield. This takes into account
49 the fact that different services and customers account for different shares of costs and revenues.
50 As the KPSC has stated, “[i]n practice, customer classification is utilized as the basis for
51 determining each class’s cost of service. When rates are adjusted in the absence of a cost-of-
52 service study, the Commission has historically allocated revenue increases or decreases on a
53 proportionate share to maintain each customer class’s (i.e., residential, commercial, and
54 industrial) relative contribution.”³ The characteristics of customer classes and services can
55 change over time.

56 **Q. What are the implications of changes in the characteristics of customer classes and**
57 **services over time?**

58 A. As the characteristics of customer classes and services change, the cost allocation and
59 rate design that is fair, just, and reasonable may change. An allocation of costs that was fair,
60 just, and reasonable based on prior customer characteristics may no longer be so if customer
61 characteristics—such as the addition of a new large customer—change in a subsequent year. For
62 example, the addition of AppHarvest as a new large customer for Fleming Mason necessitates
63 changes to Fleming Mason’s cost allocation to ensure that cost allocation is fair, just, and
64 reasonable for all customers, including AppHarvest.

² Ky. Rev. Stat. Ann. § 278.030(3) (“Every utility may employ in the conduct of its business suitable and reasonable classifications of its service, patrons and rates. The classifications may, in any proper case, take into account the nature of the use, the quality used, the quantity used, the time when used, the purpose for which used, and any other reasonable consideration.”).

³ *In Re Louisville Gas & Elec. Co.*, No. 2002-00419, 2003 WL 21000979 (Mar. 19, 2003).

65 **Q. How does Fleming-Mason propose to allocate East Kentucky Power Cooperative's**
66 **pass-through increase in revenue requirement to Fleming Mason customers?**

67 A. As I understand it, Fleming Mason is employing the proportional allocation approach
68 permitted by KRS 278.455(2). Using the 2019 test year employed by EKPC in the ongoing
69 proceeding in Case No. 2021-00103, Fleming Mason proposes to allocate to each customer class
70 a share of the pass-through revenue requirement increase based on that class's 2019 revenue
71 allocation share.

72 **Q. Using the proportional allocation approach, how does Fleming Mason propose to**
73 **allocate a share of EKPC's pass-through revenue requirement increase to AppHarvest?**

74 A. The increase to AppHarvest rates proposed by Fleming Mason is based on a combination
75 of rate components from other classes: the customer charge, energy charge, and contract demand
76 charge are based on class LIS-7, simply "because those three rates were identical," and the
77 excess demand charge "was set equivalent to that of rate LIS-4B."⁴ This is because AppHarvest
78 was not a Fleming Mason customer in 2019, and AppHarvest is the only customer in its
79 customer class. As Fleming Mason witness Mr. John Wolfram states, "the proposed rates for
80 vacant rate classes are not justified by that class' costs. These classes provide no test year
81 revenue and include no costs"; rather, the goal of the proportional allocation is to "result in no
82 change to the retail rate design currently in effect."⁵ So, Fleming Mason proposes to increase
83 AppHarvest's rates by the approximately 4.4% increase applied to existing customers in other
84 customer classes.

⁴ Responses to AppHarvest Morehead Farm LLC's Supplemental Request for Information, Request 2, Page 3 (June 16, 2021).

⁵ *Id.* at 3-4.

85 **Q. Should AppHarvest pay a “proportional” share of East Kentucky Power**
86 **Cooperative’s pass-through increase in its revenue requirement?**

87 A. No. AppHarvest should not pay any share of EKPC’s desired increase in annual revenue
88 requirement over its 2019 test year revenues because, as a new 2020–2021 customer and the only
89 customer in its customer class, AppHarvest is already contributing to that revenue increase.
90 Additionally, the proportional sharing methodology proposed by Fleming Mason, which results
91 in increasing all rates by approximately 4.4%,⁶ if applied to AppHarvest’s new 2020–2021 rates,
92 which were not part of the 2019 test year, will result in an over-collection of the \$43 million
93 annual revenue increase sought by EKPC. Thus, the Commission should reject Fleming
94 Mason’s proposal to increase AppHarvest’s rates in this case.

95 **Q. Please explain how AppHarvest is already contributing to the desired revenue**
96 **requirement increase and why raising AppHarvest’s rates will result in an over-collection**
97 **of the desired annual revenue.**

98 A. The proportional allocation to customer classes of the passed-through EKPC
99 wholesale cost increase is based on each customer class’s contribution to total revenue in the test
100 year 2019. AppHarvest was not a customer in 2019 and therefore did not contribute to revenue
101 at all. By virtue of becoming a new customer in 2020, AppHarvest is now contributing to the
102 \$43 million annual revenue increase sought by EKPC in this proceeding. The proportional
103 allocation method proposed by Fleming Mason, *i.e.*, the increase in rates of 2019 customers, is
104 designed to recover the \$43 million. If the Commission were to increase AppHarvest’s 2020 –
105 2021 rates as requested by Fleming Mason, AppHarvest’s increased payments to Fleming Mason

⁶ Responses to AppHarvest Morehead Farm LLC’s Supplemental Request for Information, Request 2, Page 3 (June 16, 2021).

106 will result in collection of more than \$43 million. And, in short, AppHarvest would be
107 contributing more than its fair share of the desired revenue increase.

108 **Q. Are you proposing a departure from Commission precedent?**

109 A. No. The Commission’s proportional allocation of increases and decreases in generation
110 and transmission cooperative rates may be appropriate for allocating costs amongst existing
111 customer classes. However, when a customer class was empty in the years prior to a proposed
112 rate increase, the proportional method for allocating cost increases to the new customer class will
113 lead to results that are not fair, just, or reasonable, as is the case here.

114 In defining “proportional” in the *Kenergy* case, the Commission stated that “the task at
115 hand is to define proportional and define it in such a manner that when a G&T increases its rates,
116 the result avoids undoing any past rate design and avoids distorting the current rate design while
117 maintaining the spirit of the regulation.”⁷ Here, assigning a proportional share of the EKPC
118 revenue requirement increase to a new customer that did not contribute to revenue during the test
119 year would lead to a distortion of the current rate design. Indeed, referring to differences
120 between current rate class composition and rate class composition during either the last rate order
121 or present test year, Fleming Mason witness Mr. Wolfram admits, “[t]he *Kenergy* Order does not
122 specify how to address this kind of variance.”⁸

123 Next year, the proportional allocation method could yield fair, just, and reasonable
124 results, with a 2020 test year and 2020 load data from AppHarvest’s Morehead Farm. But, as
125 proposed by Fleming Mason in this proceeding, assigning a proportionate rate increase to a new

⁷ *In the Matter of: Elec. Application of Kenergy Corp. for a Declaratory Order*, No. 2020-00095, 2021 WL 995795, at *1 (Mar. 11, 2021).

⁸ Electronic Application of Fleming-Mason Energy Cooperative, Inc., For Pass-Through of East Kentucky Power Cooperative, Inc.’s Wholesale Rate Adjustment, Case No. 2021-00109, Direct Testimony of John Wolfram at 5-6 (Apr. 1, 2021).

126 customer on the basis of a test year prior to the customer’s service start-date yields an unfair,
127 unjust, and unreasonable result. If Fleming Mason wishes to accurately allocate any portion of
128 the desired cost increase to AppHarvest this year, Fleming Mason must undertake a Cost of
129 Service Study.⁹

130 **IV. THE COMMISSION SHOULD ADOPT A NEW AGRICULTURAL**
131 **TECHNOLOGY CUSTOMER CLASS FOR APPHARVEST AND OTHER**
132 **AGRICULTURAL TECHNOLOGY CUSTOMERS**

133 **Q. What would be a more accurate, and fair, just, and reasonable approach to allocate**
134 **costs to AppHarvest?**

135 A. The Commission should direct Fleming Mason to develop a new customer class for
136 AppHarvest. Utilities have significant discretion to develop customer classes that are “suitable
137 and reasonable.”¹⁰ AppHarvest’s load characteristics justify the development of an Agricultural
138 Technology (“AgTech”) customer class that accurately reflects AppHarvest’s cost of service and
139 the benefits it delivers to Fleming Mason, to other Fleming-Mason customers, and to the region.

140 **Q. What features should the design of an Agricultural Technology customer class take**
141 **into account?**

142 A. The AgTech customer class should take into account the usage characteristics of these
143 customers. For example, AppHarvest’s daily and seasonal load variations are such that a
144 significant portion of AppHarvest’s load may be off-peak. The AppHarvest Morehead Farm
145 growing season runs from mid- to late-September through July, with six to eight weeks of near-
146 zero load from the end of July through the middle of September. AppHarvest’s daily load can be
147 off-peak, such as on weekends, and sizeable variations in demand can occur each year, based on
148 the particular crops grown in a given growing season. A fair, just, and reasonable tariff should

⁹ Cf. *In Re Louisville Gas & Elec. Co.*, No. 2002-00419, 2003 WL 21000979 (Mar. 19, 2003).

¹⁰ *Id.*

149 consider these potentially-unique features of AppHarvest’s load in setting the rates applicable to
150 AppHarvest. The AgTech customer class should also take into account the fact that the demand
151 of customers in this class is generally high and thus provides the opportunity to spread EKPC’s
152 and Fleming Mason’s fixed costs over greater consumption, resulting in a shift of fixed costs from
153 Fleming Mason’s other customers to these customers.

154 **Q. Are there any other features an AgTech tariff should include?**

155 A. AppHarvest also delivers economic development benefits to the region, including job
156 growth and opportunities to pilot and demonstrate cutting-edge agricultural technologies. For
157 example, AppHarvest greenhouses use advanced LEDs to increase crop yield and extend the
158 growing season, and AppHarvest facilities rely on a rainwater recycling irrigation system, robotic
159 harvesting, and artificial intelligence to monitor crop health and yield.¹¹

160 In light of the economic development benefits AppHarvest delivers to the region,
161 AppHarvest should receive an appropriate Economic Development Rider (“EDR”). While the
162 AppHarvest Morehead Farm’s current Industrial Power Agreement with Fleming Mason and
163 EKPC includes an EDR, that EDR is not appropriate for AppHarvest, or other agricultural
164 technology customers. The existing EDR was designed for one particular type of economic
165 development customer: a large industrial customer with constant load throughout the day. This is
166 apparent from the fact that in order to be eligible for this EDR, a customer must maintain a 60%
167 load factor. The AppHarvest Morehead Farm and other agricultural technology customers are not
168 industrial loads and do not maintain a 60% load factor twenty-four hours a day, seven days a week.
169 Nevertheless, AppHarvest delivers the very benefits the Commission seeks to encourage via

¹¹ AppHarvest, *Controlled Environment Agriculture*, <https://www.appharvest.com/agtech/> (last visited June 29, 2021).

170 EDRs. An EDR appropriate to AppHarvest and other agricultural technology customers would
171 unlock these benefits and encourage more economic development in the region.

172 **Q. Are tariffs unique to agricultural customers used in other jurisdictions?**

173 A. Yes. There are many examples across the country of rates designed to accommodate the
174 agricultural industry. For instance, multiple utilities in Western states define customer classes
175 and rates specifically for agricultural operations, including Pacific Gas and Electric¹²; Southern
176 California Edison¹³; and San Diego Gas and Electric.¹⁴ Public Service Company of New
177 Mexico's¹⁵ tariff includes schedules featuring time-of-use rates for agricultural customers that
178 irrigate. Georgia Power offers tariffs to agricultural customers that reflect the seasonal variation
179 in customers' farming activities.¹⁶ Such agricultural customer classes and rates are designed to
180 charge customers rates that better reflect their demand across seasons and times-of-day. In doing
181 so, they more accurately allocate costs caused by unique customer characteristics and recognize
182 (and therefore incentivize) benefits delivered by those customers.

183 **Q. Does that conclude your testimony?**

184 A. Yes.

¹² Pacific Gas and Electric, https://www.pge.com/en_US/small-medium-business/your-account/rates-and-rate-options/time-of-use-rates.page?WT.mc_id=Vanity_tou (last visited June 29, 2021).

¹³ Southern California Edison, <https://www.sce.com/business/rates/agriculture-pumping-rates> (last visited June 29, 2021).

¹⁴ San Diego Gas and Electric, https://www.sdge.com/sites/default/files/elec_elec-scheds_eecc-tou-pa-p.pdf (last visited June 29, 2021).

¹⁵ Public Service Company of New Mexico, https://www.pnm.com/documents/396023/396197/schedule_10_b.pdf/58d14338-0c06-48ec-bbdd-8a6934678bd4?t=1546450121634 (last visited June 29, 2021).

¹⁶ Georgia Power, <https://www.georgiapower.com/content/dam/georgia-power/pdfs/electric-service-tariff-pdfs/APS-11.pdf> (last visited June 29, 2021).

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE ELECTRONIC APPLICATION OF)	
FLEMING MASON ENERGY COOPERATIVE,)	
INC. FOR PASS-THROUGH OF EAST)	CASE NO.
KENTUCKY POWER COOPERATIVE, INC.)	2021-00109
WHOLESALE RATE ADJUSTMENT)	
)	
)	

Direct Testimony of Suedeem G. Kelly

Exhibit SGK-1

SUEDEEN G. KELLY

1099 New York Ave., NW, #900
Washington, DC 20001
Work: 202-639-6055
Cell: 202-641-6591
Email: skelly@jenner.com

EMPLOYMENT

Jenner & Block, LLP, Washington, DC
Partner and Co-Chair of Energy Practice (2017-Present)

Chosen by *Law360* - List of Ten Influential Women in Energy Law (2018); Jenner & Block Energy Practice chosen by *Law360* Five Top Energy Practices (2019)

Akin Gump Strauss Hauer & Feld LLP, Washington, DC Partner, and Chair of Energy Practice (2012-2017)

Chosen by *Metropolitan Corporate Counsel* as its cover story for January 2016; Chambers Global Ranked (2012-2016), energy electricity, regulatory and litigation; Recognized by *The National Law Journal* as 2015 Top 50 Regulatory & Compliance Trailblazers in environment, energy and law; Top Author, JD Supra Readers' Choice Award (2015).

Member, Board of Directors, **UIL Holdings**, New Haven, CT (2011 -2015)

Member, Board of Directors, **Access Midstream Partners**, Oklahoma City, OK (2010 -2015)

Member, Board of Directors, **Tendril**, Boulder, CO (2010-2012)

Patton Boggs LLP, Washington, DC Partner, 2010 -2012
Co-Chair of Energy Industry Practice

Federal Energy Regulatory Commission, Washington, DC Commissioner (2003 -2009)
Responsibilities included (1) making decisions in approximately 1300 cases each year involving electric and natural gas wholesale markets and interstate transmission, hydroelectric licensees and gas pipeline certificates, oil pipeline rates, electricity reliability, and enforcement; (2) maintaining relations with the U.S. Senate Energy and Natural Resources Committee and the U.S. House Commerce and Energy Committee, including testifying before the committees as required and following legislative developments; (3) maintaining relations with industry and market participants; (4) speaking publicly on energy industry developments and maintaining relations with the press; (5) co-chairing the Smart Grid Collaborative between FERC and the National Association of Regulatory Utility Commissioners; (6) managing the budget and staff of the Office of the Commissioner.

University of New Mexico School of Law, Albuquerque, NM
Professor of Law, 1986 - 2003

Taught Energy Law, Public Utility Regulation, Legislative Process and Administrative Law, and Administrative Practice. Served as Editor-in-Chief, Natural Resources Journal (1995-2000) (responsibilities included managing all aspects of the publication of four volumes of the Journal each year, its budget and administrative staff, and supervising the student editorial staff). Was the Lewis & Clark Law School Distinguished Visitor (1998) and was awarded the Susan and Ronald Friedman Faculty Excellence in Teaching Award (1995-96) and the Keleher & McLeod Professor of Law Award (1997-99).

Staff of **U.S. Senator Jeff Bingaman**, Washington, DC
Detail to the U.S. Senate Energy and Natural Resources Committee, 1999 (on leave from U. of NM)
Contributed to development of energy and hydroelectric licensing legislation.

California Independent System Operator, Folsom, CA Regulatory Counsel, 2000 (on leave from U. of NM)
CAISO operates much of California's transmission grid and dispatches interconnected generation, which was coordinated with the California Power Exchange until 2001. Responsible for learning and understanding the ISO's protocols and tariff provisions so as to be able to answer day-to-day legal questions. Worked on the regulatory proceeding involving the 70 unresolved issues remaining from the FERC's conditional certification of the ISO.

Modrall, Sperling, Roehl, Harris & Sisk, Albuquerque, NM
Attorney, 2001 - 2003 (on leave from U. of NM)
Responsibilities included creating and heading up the firm's public utility practice. Clients included independent power producers, water utilities, a local gas distribution company, and NM State University in its capacity as a large electricity customer.

Suede G. Kelly, Attorney-at-Law, Albuquerque, NM
Attorney, 1986 - 2001
Managed a part-time practice in federal and state energy and public utility law, representing private and publicly-owned clients in transactions, legislation, rulemakings and litigation concerning electric, gas and water utility certification, rates and service; electricity assets siting, financing, acquisitions and mergers; electric and gas industry restructuring; and doing business with electric and gas utilities.

New Mexico Public Service Commission, Santa Fe, NM
Chairwoman, 1984 - 1986.
Commissioner, 1983 - 1984.
Responsibilities included regulation of the state's electric, gas and water utilities; management of the agency, its budget and staff; and maintaining relations with the State Legislature, the Governor's Office, the industry, and the public.

New Mexico Office of the Attorney General, Santa Fe, NM
Attorney, Public Utilities Division, 1982 - 1983
Managed cases being litigated in New Mexico state courts and cases before the NM Public Service

Commission.

Luebben, Hughes & Kelly, Albuquerque, NM

Partner, 1978-1982

Managed a private law practice, representing clients in state and federal litigation and regulatory agency practice in utility, natural resources, energy and Indian law.

University of New Mexico Graduate School of Public Administration, Albuquerque, NM

Adjunct Faculty, 1979 - 1982

Taught Administrative Law.

Natural Resources Defense Council, Inc., Washington, DC

Attorney, 1977 - 1978

Law Clerk, 1975

Managed a case load involving environmental litigation in the federal courts, federal agency proceedings and federal legislative developments.

Ruckelshaus, Beveridge, Fairbanks & Diamond, Washington, DC

Associate Attorney, 1976 - 1977

Worked on cases in federal litigation, federal and state agency proceedings, and helped to advise clients regarding legislation. Matters involved environmental, commercial and constitutional law.

U.S. Environmental Protection Agency, Washington, DC

Law Clerk, 1974

Provided research regarding the Federal Water Pollution Control Amendments of 1972 and federal clean water policy.

EDUCATION

Cornell Law School, J.D., *cum laude*, 1976.

Cornell Law Scholarship; Delaware School Foundation Scholarship; International Law Journal Staff; Director, Cornell Legal Aid (responsible for managing the case load of the Family Division and supervising its student attorneys).

University of Rochester, B.A. in Chemistry, *With Distinction*, 1973.

Bausch & Lomb Science Award and Scholarship; President, University Women's Residence Assistants (responsible for managing women's residential assistance program and supervising the residence assistants).

PUBLICATIONS WITHIN THE LAST FIVE YEARS

To Ensure That Its Policies Support the Continued Development of Reliable and Resilient Transmission Infrastructure, FERC Should Discontinue Its Practice of Allowing Pancaked Complaints (Edison Electric Institute) (2018).

Escalating Threats to Infrastructure Confirm Our Need to Harden the Electric Grid (The Hill) (Oct. 30, 2017).

Episode 7: Mysterious Frontiers: The New FERC, Grid Geeks Podcast (August 9, 2017) (with host Alison Clements), available at <http://www.goodgrid.net/blog/2017/8/9/grid-geeks-podcast-episode-7>.

Federal/State Jurisdictional Split: Implications for Emerging Electricity Technologies, Lawrence Berkeley National Laboratory - Energy Analysis and Environmental Impacts Division (December 2016) (co-authored with Jeffery S. Dennis, Robert R. Nordhaus, and Douglas W. Smith), available at <https://www.energy.gov/sites/prod/files/2017/01/f34/Federal%20State%20Jurisdictional%20Split--Implications%20for%20Emerging%20Electricity%20Technologies.pdf>.

A FERC challenge: Opening up electricity markets to advanced energy technologies, UtilityDive.com (June 30, 2016) (co-authored with Arvin Ganesan), available at <https://www.utilitydive.com/news/a-ferc-challenge-opening-up-electricity-markets-to-advanced-energy-technol/421891/>.

SWORN TESTIMONY

Bandera Master Fund LP, et al. v. Boardwalk Pipeline Partners LP, C.A. No. 2018-0372-JTL, Delaware Court of Chancery. On behalf of Boardwalk Pipeline Partners LP (2020-21).

In the Matter of Southwestern Public Service Company's Application For: (1) Revision of its Retail Rates Under Advice Notice No. 292; (2) Authorization and Approval to Abandon its Plant X Unit 3 Generating Station; and (3) Other Associated Relief, No. 20-00238-UT (New Mexico Public Regulation Commission). On behalf of Southwestern Public Service Company (2021).

In Re: Extraction Oil & Gas, Inc. v. Grand Mesa Pipeline LLC, Case No. 20-11548 (CSS), U.S. Bankruptcy Court for the District of Delaware, Oct. 1, 2020. On behalf of Grand Mesa Pipeline LLC.

In the Matter of Southwestern Public Service Company's Application For: (1) Revision of Its Retail Rates Under Advice Notice No. 282; (2) Authorization and Approval to Shorten the Service Life of and Abandon Its Tolk Generating Station Units; and (3) Other Related Relief, No. 19-00170-UT (New Mexico Public Regulation Commission). On behalf of Southwestern Public Service Company (2019)

In the Matter of the Application of Grain Belt Express Clean Line LLC for a Certificate of Convenience and Necessity, No.EA-2016-0358 (Public Service Commission of the State of Missouri) On behalf of Grain Belt Express Clean Line LLC (2016)

Rockies Express Pipeline LLC v. U.S. Dep't of the Interior, Civilian Board of Contract Appeals, CBCA 3704 (1921)-REM. [REM denotes that the case was on remand from the U.S. Court of Appeals for the Federal Circuit.] On behalf of Rockies Express Pipeline LLC (2015-16)

In the Matter of the Merger of Exelon Corporation and Pepco Holdings, Inc., No. 9361 (Public Service Commission of the State of Maryland). On behalf of Exelon Corporation (2015)

PROFESSIONAL ACTIVITIES

Member, Expert Advisory Board, Initiative on Climate Risk and Resilience Law, www.icrrl.org (2021-Present).

Member, Board of Directors, Advanced Energy Economy Institute (2020-Present)

Member, Advisory Board of Directors, American Wind Energy Association (2019-2020)

Member, Board of Advisors, Duke University Nicholas Institute (2018-Present)

Member, Dean's Advisory Council, Hajim School of Engineering, University of Rochester, Rochester, NY (2012 - 2020).

Rocky Mountain Mineral Law Foundation, Trustee (1988 - 1993, 2015 - 2017).

Member, Environmental Law Institute Leadership Council (2015 - 2017).

Member, Advisory Board, The Perfect Power Institute, Chicago, IL (2011 - 2015).

Board Member, Charitable Foundation of the Energy Bar Association (2010 - 2013).

Member, Advisory Board, Gridquant, Columbus, OH (2013).

Member, Smart Grid Advisory Committee, National Institute of Standards and Technology (2010 - 2013).

Council Member, American Bar Association, Section of Administrative Law and Regulatory Practice (2010 - 2012).

Advisory Council, Women's Council on Energy and Environment, Washington, DC (2008 – 2012; Chair 2010 - 2012).

Council Member, American Bar Association, Section of Environment, Energy and Resources (2000 - 2003).

New Mexico Women's Bar Association (1991 - 2003).

Barrister, H. Vearle Payne American Inn of Court (1995 - 2003).

Board Member, Santa Fe Diocese Foundation (1999 - 2003).

Founding Board Member, Albuquerque Open Space Alliance (1996 - 1999).

N.M. Legislative Task Force on Management of the Middle Rio Grande Bosque (1993 - 1994).

American Association of Law Schools, Chair of the Executive Committee of the Legislation Section (1994 - 1995).

Border Research Institute of New Mexico State University, Member of the Advisory Committee on its studies (1992 - 1993).

The National Regulatory Research Institute, Ohio State University, Member of the Research Advisory Committee to the Board (1988 - 1992).

Board Member, New Mexico Bar Association, Natural Resources Section (1987 - 1992)

U.S. Consumer Product Safety Commission, Chair of its Advisory Council (1980 - 1981); Member (1979-1981).

U.S. National Air Quality Commission-Four Corners Region Study, Member of Advisory Committee (1979 - 1981).

N.M. Legislative Task Force, Federal Lands Action Group, (1979 - 1981).

Washington D.C. Council of Lawyers, Executive Board Member (1977 - 1978).

Member of the Bars of New Mexico and the District of Columbia; of the U.S. Courts of Appeal for the District of Columbia, 9th and 10th Circuits; and of the U.S. District Courts for the District of Columbia and New Mexico

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION


In the Matter of:

THE ELECTRONIC APPLICATION OF)
FLEMING MASON ENERGY COOPERATIVE,)
INC. FOR PASS-THROUGH OF EAST) CASE NO.
KENTUCKY POWER COOPERATIVE, INC.) 2021-00109
WHOLESALE RATE ADJUSTMENT)
)
)
)

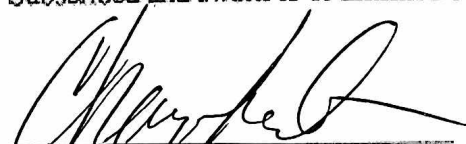
AFFIDAVIT

DISTRICT OF COLUMBIA

Suedeen Kelly, being duly sworn, deposes and states: that the attached is her sworn testimony and that the statements contained therein are true and correct to the best of her knowledge, information, and belief.


Suedeen G. Kelly

Subscribed and sworn to or affirmed before me this 1 day of July, 2021


Notary Public

CHERYLL OLSON
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires October 31, 2024

