

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Electronic Application Of Kentucky Power)	
Company For Approval Of Affiliate Agreements)	Case No. 2021-00421
Related To The Mitchell Generating Station)	

REBUTTAL TESTIMONY OF
ALLYSON M. KEATON
ON BEHALF OF KENTUCKY POWER COMPANY

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TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE</u>
I. INTRODUCTION	1
II. BACKGROUND	1
III. PURPOSE OF REBUTTAL TESTIMONY	2
IV. TAX CONSEQUENCES OF THE PROPOSED SALE	2
V. TAX BENEFITS TO KENTUCKY POWER	3
VI. CONCLUSION.....	5

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I. INTRODUCTION

1 **Q. PLEASE STATE YOUR NAME, POSITION, AND BUSINESS ADDRESS.**

2 A. My name is Allyson M. Keaton. I am a Tax Analyst Principal – Tax Accounting and
3 Regulatory Support for American Electric Power Service Corporation, a wholly owned
4 subsidiary of American Electric Power Company, Inc. (“AEP”), the parent company of
5 Kentucky Power Company (“Kentucky Power” or the “Company”). My business address
6 is 1 Riverside Plaza, Columbus, Ohio 43215.

7 **Q. DID YOU OFFER DIRECT TESTIMONY IN THIS PROCEEDING?**

8 A. No.

II. BACKGROUND

9 **Q. PLEASE BRIEFLY DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**
10 **BUSINESS EXPERIENCE.**

11 A. I earned a Bachelor of Science Degree in Accounting from Mount Vernon Nazarene
12 University in 1998. I earned a Masters of Taxation Degree from Capital University Law
13 School in 2006. I began my career in FirstEnergy Corporation’s tax department in June
14 1998. In August 2002, I joined AEP as a Tax Analyst III. I was promoted to Tax
15 Analyst II in 2006, and in 2014, I was promoted to Tax Analyst I. In 2016, my title
16 became Tax Analyst Sr. I was promoted to Tax Analyst Principal in 2019, which is my
17 current position.

1 **Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN ANY REGULATORY**
2 **PROCEEDINGS?**

3 A. Yes. I have filed testimony before the Virginia, Arkansas, and Kentucky public service
4 commissions, including in KPSC Case No 2020-00174.

III. PURPOSE OF REBUTTAL TESTIMONY

5 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

6 A. The purpose of my rebuttal testimony is to rebut the Direct Testimony of Lane Kollen filed
7 on behalf of the Office of the Attorney General of the Commonwealth of Kentucky and
8 Kentucky Industrial Utility Customers, Inc. (jointly, “AG/KIUC”). Specifically, I
9 demonstrate why Witness Kollen’s analysis of the tax consequences of the proposed sale
10 and his recommendations of tax benefits to Kentucky Power are flawed and should not be
11 relied upon by the Commission in deciding this case.

IV. TAX CONSEQUENCES OF THE PROPOSED SALE

12 **Q. DO YOU AGREE WITH AG/KIUC WITNESS KOLLEN’S TESTIMONY (ON**
13 **PAGES 21-22) REGARDING THE TAX CONSEQUENCES OF DIFFERENT**
14 **POTENTIAL STRUCTURES OF A FUTURE SALE OF KENTUCKY POWER’S**
15 **INTEREST IN MITCHELL PLANT?**

16 A. No, I do not. AG/KIUC Witness Kollen’s testimony regarding two broad potential sale
17 structures is premature and speculative. It is not possible to generalize what the tax impacts
18 of a future sale would be. Those impacts cannot be known until the actual structure of a
19 future sale of Kentucky Power’s interest in the Mitchell Plant, if any, occurs in the future.
20 Mr. Kollen tacitly acknowledges this fact through his repeated use of the word
21 “presumably” when discussing the future tax impacts of the potential sale. It is

1 inappropriate to speculate regarding the tax consequences of the future sale because the
2 transaction could have many different effects on the taxes at the time of the sale.

V. TAX BENEFITS TO KENTUCKY POWER

3 **Q. IS AG/KIUC WITNESS KOLLEN CORRECT (PAGE 23) THAT THERE ARE**
4 **TWO TAX BENEFITS IF KENTUCKY POWER WERE TO RETIRE ITS**
5 **MITCHELL PLANT INTEREST IN 2028 INSTEAD OF SELLING THAT**
6 **INTEREST TO WHEELING POWER COMPANY?**

7 A. No, he is not. Contrary to AG/KIUC Witness Kollen's assertions, the Company cannot
8 deduct the remaining tax basis as an abandonment loss or receive tax savings from
9 deducting decommissioning costs by just retiring its Mitchell Plant interest in 2028.

10 **Q. IS AG/KIUC WITNESS KOLLEN'S ESTIMATED SAVINGS FROM TAKING AN**
11 **"ABANDONMENT LOSS" BY RETIRING THE MITCHELL PLANT IN 2028**
12 **(PAGE 23) CORRECT?**

13 A. No. AG/KIUC Witness Kollen calculated the abandonment loss to be \$28.8 million on a
14 net present value basis assuming straight line tax depreciation, which is incorrect. In
15 response to AG/KIUC data request 2-8 in this proceeding, the Company calculated the
16 estimated 2028 net tax value of the Mitchell Plant at \$38.6 million which, in the unlikely
17 situation that an abandonment loss is an option, would result in a tax loss of \$8.1 million.
18 Thus, even if an abandonment loss were an option, the loss would be significantly less than
19 that represented by Mr. Kollen.

20 **Q. WHAT ARE THE GENERAL REQUIREMENTS TO DEDUCT AN**
21 **ABANDONMENT LOSS?**

1 A. Internal Revenue Code (“The Code”) Section 165 states, “there shall be allowed as a
2 deduction any loss sustained during the taxable year and not compensated for by insurance
3 or otherwise.” Abandonment generally requires both intent to abandon the property and
4 some overt act or statement required to give a third party notice of the abandonment.

5 Overt acts that indicate abandonment may include, but are not limited to, the following:

- 6 • Failed attempts to sell an asset
- 7 • Notification to a broker to discontinue offer the property for sale,
- 8 • Decision that litigation to recover possession of an asset would be futile,
- 9 • Where physical disposition is legally prohibited (i.e., nuclear plants), must show intent
10 to irrevocably retire property from use:
 - 11 ○ Agreements with government agencies to decommission the plant,
 - 12 ○ Shutting down reactors,
 - 13 ○ Moving spent fuel into interim storage.

14 Acts that do not indicate abandonment are the following:

- 15 • Decline in value,
- 16 • Continuing to claim depreciation,
- 17 • Holding an asset for sale.

18 **Q. UNDER SEC. 165 OF THE CODE, COULD KENTUCKY POWER TAKE AN**
19 **ABANDONMENT LOSS BY RETIRING ITS INTEREST IN MITCHELL IN 2028?**

20 A. No. Kentucky Power has neither manifested an intent to abandon its interest in the Mitchell
21 Plant nor made any overt act or statement to indicate abandonment. Among other things,
22 Kentucky Power cannot claim an abandonment loss deduction in that there has not been
23 any failed attempt to sell Kentucky Power’s interest in the Mitchell Plant. In fact, there is
24 a potential willing buyer of that interest, as evidenced by Wheeling Power Company’s
25 desire for an option to purchase Kentucky Power’s interest in Mitchell. According to the
26 Section 165 of the Code, holding the asset for sale is an act that does not indicate
27 abandonment. Therefore, an abandonment loss deduction would not be available to
28 Kentucky Power if the Company were to just retire their share in the Mitchell Plant. The

1 Company would need to show that the plant is worthless or notice of intent of abandonment
2 to a third party within the meaning of the Tax Code. Wheeling Power plans to continue to
3 run the Mitchell Plant through 2028 and possibly longer. As currently proposed, even if a
4 future sale to Wheeling Power were not to occur, Kentucky Power simply retiring its 50%
5 interest in the Mitchell Plant would not meet the requirements to take an abandonment loss
6 because the plant would continue to operate and would not be permanently removed from
7 service.

8 **Q. IS MR. KOLLEN CORRECT (AT PAGE 23) THAT KENTUCKY POWER WILL**
9 **REALIZE A TAX BENEFIT FROM “THE LOSS OF THE TAX SAVINGS FROM**
10 **THE DEDUCTION OF THE DECOMMISSIONING COSTS WHEN WHEELING**
11 **POWER COMPANY ACTUALLY PAYS THOSE COSTS?”**

12 A. No, he is not. Under Section 9.6 of the proposed Mitchell Plant Ownership Agreement,
13 Kentucky Power will sell its interest in the Mitchell Plant to Wheeling Power and receive fair
14 market value or an otherwise agreed upon price for the assets minus the decommissioning
15 costs that Wheeling Power will incur after the close of the plant. Deducting the
16 decommissioning costs will have the effect of reducing Kentucky Power’s potential gain for
17 the same and, therefore, will cause Kentucky Power to incur less tax liability than it would if
18 decommissioning costs were not subtracted from the buyout price. Therefore, Kentucky
19 Power does not have a “loss in tax savings,” as AG/KIUC Witness Kollen states; rather, the
20 decommissioning cost are subtracted from the sale price, resulting in a lower tax liability at
21 the time of the sale.

VI. CONCLUSION

22 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

1 A. Yes, it does.



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E-Signature Summary

E-Signature 1: Allyson Keaton (AK)

February 09, 2022 06:13:49 -8:00 [77ACC9C8B998] [167.239.221.106]
 alkeaton@aep.com (Principal) (Personally Known)

E-Signature Notary: S. Smithhisler (SRS)

February 09, 2022 06:13:49 -8:00 [B8025E7D6FFC] [167.239.221.102]
 srsmithhisler@aep.com

I, S. Smithhisler, did witness the participants named above electronically sign this document.



VERIFICATION

The undersigned, Allyson Keaton, being duly sworn, deposes and says she is a Tax Analyst Principle for American Electric Power Service Corporation, that she has personal knowledge of the matters set forth in the forgoing testimony, and the information contained therein is true and correct to the best of her information, knowledge and belief after reasonable inquiry.

Allyson Keaton

Allyson Keaton

STATE OF OHIO

)

) Case No. 2021-00421

COUNTY OF FRANKLIN

)

Subscribed and sworn to before me, a Notary Public in and before said County and State, by

Allyson Keaton, on 02/09/2022 _____.



S Smithhisler

Notary Public

Notary ID Number: 2019-RE-775042

Notarial act performed by audio-visual communication

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