COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

ELECTRONIC APPLICATION	)	
OF KENTUCKY POWER COMPANY	)	
FOR APPROVAL OF AFFILIATE	)	**Case No. 2021-00421**
AGREEMENTS RELATED TO THE	)	
MITCHELL GENERATING STATION	)	

RESPONSE TO DATA REQUESTS OF PSC STAFF
BY THE ATTORNEY GENERAL AND KIUC

The Office of the Attorney General, Office of Rate Intervention, provides the following responses to the Data Requests filed by PSC Staff. Mr. Kollen sponsors the testimony in the response.

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Respectfully submitted,

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Certificate of Service and Filing

Pursuant to the Commission's Order dated March 17, 2020 in Case No. 2020-00085, and in accord with all other applicable law, Counsel certifies that, on February 4, 2022, an electronic copy of the forgoing was served by e-mail to the following.

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this 4th day of February, 2022

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Assistant Attorney General

ELECTRONIC APPLICATION OF KENTUCKY POWER COMPANY FOR APPROVAL OF AFFILIATE AGREEMENTS RELATED TO THE MITCHELL GENERATING STATION, Case No. 2021-00421

1. Refer to the Direct Testimony of Lane Kollen (Kollen Testimony), page 8, lines 15–18. Explain why the Mitchell Generating Station (Mitchell) would qualify as a product under KRS 278.2207.

RESPONSE:

The Mitchell Generating Station is a *"non-tariffed item"* under KRS 278.2207, not a tariffed *"product."* KRS 278.2207 provides that *"[s]ervices and products provided to an affiliate by the utility pursuant to a tariff shall be at the tariffed rate, with* ***nontariffed items*** *priced at the utility's fully distributed cost but in no event less than market, or in compliance with the utility's existing USDA, SEC, or FERC approved cost allocation methodology*." Consistent with this language, tariffed services or products, such as standard electric power sales to an affiliate, must be priced at the Commission-approved tariff rate. For example, if Kentucky Power sold power to an AEPSC office building located in its service territory, then that power must be priced at the Commission-approved tariff rate. *"Non-tariffed items,"* such as the sale of a power plant, substation, or transformer to an affiliate, must be priced at the higher of cost or market since there is no Commission-approved tariff rate governing such sales. Thus, the plain language of the statute itself reflects that the KRS 278.2207 higher of standard applies to all *"non-tariffed items"* provided by a regulated utility to an affiliate.

Further, under Commission precedent, KRS 278.2207 has been applied to *"non-tariffed items."* For example, in *In the Matter of Electric Application of Kentucky Power Company for 1) Authority Under KRS 278.2207(2) and KRS 278.2219 to the Extent Required to Enable the Company to Pay Fees and Costs Imposed by the Grid Assurance, LLC Subscription Agreement…,* Case No. 2018-00287, Order (November 15, 2018) the Commission applied KRS 278.2207 to the purchase of transmission equipment by Kentucky Power from its affiliate. Similarly, in *In the Matter of the Application of Duke Energy Kentucky, Inc. for Deviation from Affiliate Pricing Requirements and Approval of an Intercompany Asset Transfer Agreement*, Case No. 2008-00122, Order (July 18, 2008), the Commission applied KRS 278.2207 to a Duke Energy Kentucky agreement allowing for sales of equipment and inventory. And in *In the Matter of Electronic Application of Kentucky Frontier Gas, LLC for Alternative Rate Adjustment*, Case No. 2017-00263, Order (July 2, 2021), the Commission, after finding that entities at issue were affiliates, instructed that *"the affiliate transaction rules apply to* ***any business transaction"*** between those entities.

Finally, AG/KIUC would note that pages 9-12 of Kentucky Power's Application in this matter include an extended discussion in support of its claim that the new Mitchell Agreements conform to the KRS 278.2207 *"higher of"* standard, seemingly conceding that KRS 278.2207 is applicable to the matters at issue in this proceeding.

Response by: Lane Kollen and Counsel

2. Refer to the Kollen Testimony, page 9, line 11. Explain why fair market valuation is "inherently biased toward a low valuation."

RESPONSE:

In Case No. 2021-00004, the Commission found that the continued operation of the Mitchell Plant beyond 2028 on an incremental basis was not economic. In the economic analyses relied on by the Commission in that proceeding, the net book value was considered a sunk cost, except for the tax savings from the abandonment loss if it were retired in 2028. Assuming that an appraiser or a potential purchaser would rely on the same analyses to develop the FMV, the result would be negative and then set to $0 pursuant to the proposed Ownership Agreement. Mr. Kollen identifies other factors that would affect the FMV to a potential purchaser, such as an unregulated merchant generator, hedge fund, or some other private equity investor. Fair market value does not reflect the full value of Mitchell to Wheeling and the State of West Virginia. For example, the full value to West Virginia would include the hundreds of direct employees who work at the plant, the coal mining jobs and related economic benefits, the jobs at the Certain Teed wall board plant, the additional support jobs created by these direct jobs, or state and local tax revenues. Refer to Mr. Kollen's Direct Testimony at 9:20-10:15.

Response by: Lane Kollen

3. Refer to the Kollen Testimony, page 19 , line 23 , through page 20, line 1. Confirm that Kentucky Power its Mitchel Company (Kentucky Power) could contribute and transfer l assets and liabilities into a separate entity and sell that entity to Wheeling Power Company (Wheeling Power) if they are no longer affiliates at the time of the transaction.

RESPONSE:

Confirmed. The Company can sell/transfer/contribute the Mitchell assets and liabilities to a newly created separate entity structure regardless of whether AEP, Liberty, or another entity owns the Company, although the consequences of such a transaction structure may differ depending on the entity that owns the Company.

Response by: Lane Kollen

4. Refer to the Kollen Testimony, page 29, lines 1621. Explain how the allocation of costs between Kentucky Power and Wheeling Power would be determined.

RESPONSE:

The allocation of the decommissioning costs should be a based on a weighted average of ownership over the service life of the Mitchell Plant, inclusive of the years that it was owned by Ohio Power Company, and the years after 2028 in which the Wheeling Power Company owned 100% through the year in which it is retired. The Mitchell Plant commenced commercial operation in 1971. The allocation to the Company using this approach would be 41.3% and the allocation to Wheeling Power Company would be 58.70%. The calculations are shown on the following table.

MITCHELL PLANT DECOMMISSIONING COST ALLOCATION			
In Service	1971		
Sale	2028		
Retirement	2040		
		Years In Service	Weighted Years
Kentucky Power Company			
1971-2028	50%	57	41.30%
2029-2040	0%	12	0.00%
Company Allocation			41.30%
Wheeling Power Company			
1971-2028	50%	57	41.30%
2029-2040	100%	12	17.39%
Company Allocation			58.70%
Total		69	100.00%

Response by: Lane Kollen

5. Refer to the Kollen Testimony, page 31, lines 19. Confirm that all assets, including inventories, other than coal inventory would be included in the net book value or fair market value of Mitchell. If this cannot be confirmed, explain why these non-coal inventories would not be included.

RESPONSE:

Denied. Unless defined otherwise, net book value is gross plant in service less accumulated depreciation. The term net book value is not used and there is no definition of that term in the proposed Ownership Agreement. In the prior Mitchell Plant sales and purchases among the AEP affiliate companies, the term net book value was defined as "equal to total Transferred Assets net of accumulated depreciation or amortization as appropriate." Refer to Mr. Kollen's Direct Testimony at 13. The FMV term in the Buyout Price formula is in lieu of net book value defined as gross plant in service less accumulated depreciation, not the value of all assets transferred. Otherwise, there would be no need for a separate Coal Adjustment term in the Buyout Price formula. In any event, the important point is that the Company must be compensated for all assets regardless of whether the asset costs are included in the term net book value or some other term of the Buyout Price formula.

Response by: Lane Kollen

AFFIDAVIT

STATE OF GEORGIA)

COUNTY OF FULTON)

LANE KOLLEN, being duly sworn, deposes and states: that the attached is his sworn testimony and that the statements contained are true and correct to the best of his knowledge, information and belief.

Lane Kollen

Sworn to and subscribed before me on this
4th day of February 2022.

Notary Public

RANDY A FUTRAL
MY COMMISSION EXPIRES
NOTARY
PUBLIC
AUGUST 26, 2024
COBB COUNTY, GEORGIA