

ELECTRONIC JOINT APPLICATION OF AMERICAN ELECTRIC POWER CO. INC., KENTUCKY POWER CO. AND
LIBERTY UTILITIES CO. FOR APPROVAL OF THE TRANSFER OF OWNERSHIP
AND CONTROL OF KENTUCKY POWER CO.

Case No. 2021-00481

Supplement to Joint Responses of the Attorney General and KIUC to Data Requests of the
Kentucky Public Service Commission Staff Directed to Witnesses Kollen and Baron

WITNESS / RESPONDENT RESPONSIBLE:
STEPHEN J. BARON

QUESTION No. 4
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Refer to Baron Testimony, page 10. Discuss the legal basis that underlies the Attorney General/KIUC's expert witness proposal to authorize crediting customers through a cost mitigation credit rider.

RESPONSE:

Mr. Baron cannot provide a legal opinion to support the CMC recommendation. However, he has been advised by counsel from the Office of the Attorney General and KIUC that the Commission can implement a rider like the proposed CMC to provide a mechanism to mitigate the costs to customers that are expected as a result of the acquisition by Liberty, to the extent that AEP and Liberty accept the conditions for approval of the sale. A CMC type rider is a reasonable basis to provide customers with an offsetting compensation to the expected costs that have been identified by Mr. Kollen and Mr. Baron.

SUPPLEMENTAL RESPONSE:

This Supplemental Response is provided by Counsel.

The Supreme Court of Kentucky has held that the Commission can establish a rider not specifically authorized by statute *“based upon (1) its plenary ratemaking authority derived from KRS 278.030 and KRS 278.040, which essentially require that the PSC act to ensure that rates are “fair, just and reasonable” and (2) the absence of any statutes specifically requiring a particular procedure when determining if rates are fair, just, and reasonable.”* Ky. PSC v. Commonwealth ex rel. Conway, 324 S.W.3d 373, 380-381 (Ky. 2010). The Commission has repeatedly approved utility rate riders to flow through credits to customers, including Case No. 99-149 (approving a net merger savings credit tariff for the customers of Kentucky Power), Case No. 97-300 (approving a merger savings credit mechanism for the customers of LG&E and KU), Case No. 2020-00064 (approving modifications to Big Rivers' Member Rate Stability credit rider), and Case No. 2020-00174 (approving Kentucky Power's Federal Tax Cut Tariff). Federal Tax Cut Riders were also approved for the customers of LG&E, KU and other investor owned utilities.

Response: Mr. Baron and Counsel