

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN ELECTRONIC EXAMINATION BY THE PUBLIC)	
SERVICE COMMISSION OF THE ENVIRONMENTAL)	
SURCHARGE MECHANISM OF EAST KENTUCKY)	
POWER COOPERATIVE, INC. FOR THE SIXTH-MONTH)	
EXPENSE PERIODS ENDING NOVEMBER 30, 2019,)	CASE NO.
MAY 31, 2020, NOVEMBER 30, 2020, AND)	2022-00141
NOVEMBER 30, 2021, THE TWO-YEAR EXPENSE)	
PERIOD ENDING MAY 31, 2021, AND THE)	
PASS-THROUGH MECHANISM OF ITS SIXTEEN)	
MEMBER DISTRIBUTION COOPERATIVES)	

MOTION FOR A DECISION

Comes now East Kentucky Power Cooperative, Inc. (“EKPC”), by counsel, and, for itself and on behalf of its sixteen Owner-Members, hereby moves the Kentucky Public Service Commission (“Commission”) to issue a decision in the above-styled case, respectfully stating as follows:

On June 3, 2022, the Commission issued an Order opening an investigation for four six-month reviews and a two-year review of EKPC’s environmental surcharge and pass-through mechanisms. The June 3, 2022 Order contained a procedural schedule that allowed for the filing of direct testimony, data requests, and a deadline for motions to intervene in the case. EKPC and its Owner-Members provided all of the requested information and there were no intervenors in this case. EKPC and its Owner-Members filed a motion to submit the case on the existing administrative record for a decision on August 16, 2022.

It has been nearly a year since the motion to submit the case was filed with the Commission without a decision being issued. In addition, the remaining six-month review cases that should have been opened during that time, three additional six-month reviews, have not been initiated by the Commission. This proceeding was opened by the Commission to review four separate six-month review periods plus a two-year review proceeding. The last environmental surcharge investigation that was opened prior to this case was 2019-00380. Due to the nearly year delay in the issuance of a decision in this case, EKPC's sixteen Owner-Members are having to carry more than \$6,000,000 in cumulative under-recovered environmental surcharge amounts which cannot be collected by the Owner-Members until the Commission issues its decision. In addition, the three six-month review cases the Commission has failed to open will have over- or under-recovery amounts the Owner-Members need to address, but cannot absent timely Commission decisions.

In addition to the under-recovery issue, EKPC had corrected Operations and Maintenance expenses and recognized the impact of retirements/replacements (the Base Environmental Surcharge Factor ("BESF")), during the review period and determined that EKPC had over-recovered \$631,811, during the review periods. EKPC had proposed to return this amount in the first monthly surcharge filing after a Commission decision in this proceeding, however due to the delay in rendering a decision, EKPC has not been able to return this amount to its Owner-Members. EKPC had also proposed to lower the rate of return on the surcharge rate base from 5.093% to 4.894% and to start recognizing a BESF of 0.16% in all monthly surcharge filings beginning in the month after a Commission decision in this proceeding. These lower percentages have also not been able to be included in the monthly surcharge factors going forward.

KRS 278.183 provides that utilities "shall be entitled to the current recovery of its costs of complying with the Federal Clean Air Act as amended and those federal, state, or local

environmental requirements which apply to coal combustion wastes and by-products from facilities utilized for production of energy from coal in accordance with the utility's compliance plan as designated in subsection (2) of this section.” The delay in recovery of these costs, in some cases by more than four years, has put EKPC’s Owner-Members in the position of being under-recovered by more than \$6,000,000.

As stated above, EKPC and its Owner-Members filed a Motion for a decision to be rendered in this proceeding based on the existing administrative record nearly a year ago. EKPC and its Owner-Members request that a decision be rendered in this proceeding no later than August 30, 2023 to ensure that EKPC and its Owner-Members may sufficiently recover the environmental surcharge amounts.

WHEREFORE, EKPC and its Owner-Members move the Commission to submit the case on the existing administrative record.

This 31st day of July, 2023

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that foregoing electronic filing was transmitted to the Commission on July 31, 2023; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085, no paper copies of the filing will be made.



Counsel for East Kentucky Power Cooperative, Inc.