

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

Electronic Application Of Kentucky Power Company)	
For An Order Approving Accounting Practices To)	
Establish A Regulatory Asset Related To The)	
Extraordinary Fuel Charges Incurred By Kentucky)	Case No. 2023-00145
Power Company In Connection With Winter Storm)	
Elliott in December 2022)	

**Kentucky Power Company’s Memorandum in Opposition to the Joint Protest
of Attorney General and Kentucky Industrial Utility Customers, Inc.**

Kentucky Power Company (“Kentucky Power” or the “Company”) files its response to the Joint Protest of Attorney General and Kentucky Industrial Utility Customers, Inc. (collectively, “AG-KIUC”) (“Protest”), and states as follows. AG-KIUC have stated no valid grounds for denying Kentucky Power’s request to establish a regulatory asset herein, and instead only lob unsupported arguments that generally concern the recoverability of the amounts requested to be deferred. Such arguments are both unsupported and inapposite in this proceeding. As more fully explained below, the Commission should disregard AG-KIUC’s protest and grant the relief requested in the Company’s May 3, 2023 Application.

AG-KIUC’s Protest appears to be predicated on AG-KIUC’s misunderstanding about the Company’s request in this case. Contrary to the Protest’s characterization otherwise, the Company does not request to amortize and collect the non-FAC eligible amounts at issue from customers in this proceeding, or for the Commission to make a prudency determination regarding those costs “on an expedited basis;”¹ rather, it asks the Commission for authority to establish a regulatory asset to defer them. Authorizing a regulatory asset does not deprive the Commission of the full

¹ Protest at 4.

opportunity to review the deferred amounts for reasonableness. The Commission still will have the opportunity to review the amounts deferred as part of the Company's securitization application, as made clear in the securitization statute (S.B. 192). Denying the regulatory asset, however, would deprive the Commission of the opportunity to evaluate the customer benefits that would result from securitizing these deferred amounts.

AG-KIUC misrepresent Commission precedent regarding the recoverability of non-FAC eligible purchased power costs and assert without basis that deferring the costs at issue would result in their "retroactive recovery."² The Commission has been clear in prior orders that reasonably incurred costs associated with energy purchases not recoverable through the FAC may be recovered through base rates, as AG-KIUC acknowledge.³ Using the newly-available mechanism of securitization in a future proceeding would not somehow change the nature of cost recovery from prospective to retroactive, as AG-KIUC implausibly aver. AG-KIUC's citation to Case No. 2014-00226 is incomplete and misleading.⁴ AG-KIUC tellingly omit from discussion of that case the fact that the Commission's cited order denied recovery of non-FAC eligible energy costs through EKPC's FAC mechanism.⁵ The Commission was clear in that order, as it has been in Kentucky Power's FAC proceedings, that such costs, "are otherwise eligible for recovery"

² Protest at 3.

³ See Order at 5, *In The Matter Of: An Examination By The Public Service Commission Of The Application Of The Fuel Adjustment Clause Of American Electric Power Company From May 1, 2001 To October 31, 2001*, Case No. 2000-00495B (Ky. P.S.C. May 2, 2002); see also Order at 2-3, *In The Matter Of: An Examination Of The Application Of The Fuel Adjustment Clause Of Kentucky Power Company From November 1, 2013 Through April 30, 2014*, Case No. 2014-00225 (Ky. P.S.C. January 22, 2015); see also Protest at 3 (acknowledging that purchased power costs not recovered in the FAC may be recovered in base rates).

⁴ Protest at 3.

⁵ See Case No. 2014-00266, Order at 8 (Jan. 30, 2015).

outside of the FAC.⁶ “The Commission did not, and does not, declare that [such] purchases are not recoverable.”⁷

Additionally, contrary to AG-KIUC’s bare-bones assertions, the purchased power costs Kentucky Power seeks to include in the requested regulatory asset meet the criteria to establish a regulatory asset, as stated in detail in the Company’s May 3, 2023 Verified Application. Indeed, even AG-KIUC concede that the costs at issue were extraordinary and non-recurring.⁸

Finally, AG-KIUC’s claims that granting the Company’s request to establish a regulatory asset would impact the two FAC review cases currently still open (Case Nos. 2022-00036 and 2022-00263), or the open FAC regulation investigation case (Case No. 2022-00190), are complete red herrings. This matter has zero effect on those FAC-related cases. Again, the Company does not seek recovery of any amounts in this matter—it merely requests the authority to allow the Company to establish a regulatory asset. Moreover, the arguments mentioned by AG-KIUC in their protest with respect to the PUE methodology⁹ also have no bearing on the recoverability of the amounts through base rates—the PUE only caps the amount of purchased power costs recoverable through the FAC. The PUE does not dictate whether otherwise reasonably incurred purchased power expenses not eligible for FAC recovery are recoverable in base rates or otherwise.

AG-KIUC have offered no valid or supported reasons that the Company’s request for authority to establish a regulatory asset as requested in the May 3, 2023 Verified Application should be denied. The Commission should wholly disregard AG-KIUC’s Protest.

⁶ *Id.*

⁷ *Id.* at 7.

⁸ Protest at 1-2.

⁹ Protest at 2-3.

WHEREFORE, Kentucky Power Company respectfully requests the Commission enter an Order on or before June 5, 2023:

1. Authorizing Kentucky Power Company in accordance with FASB ASC 980-340-25-1 and Commission precedent to accumulate and defer for review and recovery in the Company's upcoming securitization proceeding the amount of extraordinary purchased power costs incurred by the Company as a result of Winter Storm Elliott. The extraordinary purchased power expenses for which the Company seeks authority to defer and establish as a regulatory asset in Account 182.3 are approximately \$11.5 million;
2. Authorizing Kentucky Power to record the deferred amount as a regulatory asset to be recorded in FERC Account No. 182.3; and
3. Granting Kentucky Power all additional relief to which it may be entitled.

Respectfully submitted,



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