

Kentucky Power Company  
KPSC Case No. 2023-00159  
AG-KIUC's First Set of Data Requests  
Dated August 14, 2023  
Page 1 of 4

**DATA REQUEST**

- AG-KIUC 1\_26** Identify each AEP utility and jurisdiction for which AEP and/or the utility has/have requested a private letter ruling from the IRS regarding whether the subtraction of the AEP reimbursement of the tax effects of net operating losses from rate base constitutes a normalization violation.
- a. Provide a copy of each request, supporting documents, and comments from the regulatory commission staff in that jurisdiction and/or other parties, if any.
  - b. Provide a status report on all activities with respect to each request, including any conversations with the IRS by the Company and/or tax counsel.
  - c. Indicate if AEP/Company expects the IRS to consolidate the requests and issue a single letter ruling or whether it will consider facts and circumstances unique to the utility and/or jurisdiction.
  - d. Indicate if AEP/Company expects the IRS to offer a conference of right prior to issuing the ruling and provide the date at which such conference has taken place or is expected to take place.

**RESPONSE**

The Company objects to this request to the extent it seeks legal analysis and a legal opinion, which are not the appropriate subject of discovery. The Company further objects to this request to the extent it seeks information not under the custody and control of the Company, and also to the extent it purports to require providing information about affiliates of the Company that are not subject to the jurisdiction of the Kentucky Public Service Commission and are subject to the jurisdiction of regulatory commission in other state jurisdictions and regulated by the Federal Energy Regulatory Commission (“FERC”). The Company further objects to the extent the request is not reasonably calculated to lead to the discovery of admissible evidence. The Company further objects to the extent the request seeks communications, documents, and information protected by the attorney-client privilege or the attorney work product doctrine. The Company further objects on the grounds that the request is ambiguous, overly broad, speculative, and argumentative. Without waiving these objections, the Company states as follows:

Kentucky Power Company  
KPSC Case No. 2023-00159  
AG-KIUC's First Set of Data Requests  
Dated August 14, 2023  
Page 2 of 4

- a. The United States Internal Revenue Service (“IRS”) has not published the requested private letter rulings.
- b. Please refer to the Company’s response to subpart a.
- c. The IRS has not made a determination about the consolidation of the referenced requests.
- d. The IRS has not made a determination about a conference related to the referenced requests.

**September 8, 2023 Supplemental Response**

The Company objects to this request to the extent it seek legal analysis and a legal opinion, which are not the appropriate subject of discovery. The Company further objects to this request to the extent it seeks information not under the custody and control of the Company, and also to the extent it purports to require providing information about affiliates of the Company that are not subject to the jurisdiction of the Kentucky Public Service Commission and are subject to the jurisdiction of regulatory commission in other state jurisdictions and regulated by the Federal Energy Regulatory Commission (“FERC”). The Company further objects to the extent the request is not reasonably calculated to lead to the discovery of admissible evidence. The Company further objects to the extent the request seeks communications, documents, and information protected by the attorney-client privilege or the attorney work product doctrine. The Company further objects on the grounds that the request is ambiguous, overly broad, speculative, and argumentative. Without waiving these objections, the Company states as follows:

- b. The private letter ruling requests were filed in March 2022. Shortly after the IRS requested additional information, which was provided in August 2022. Since then no further additional information requests have been received.
- c. The Company does know and cannot speculate whether the IRS will consolidate the requests. The IRS has not made a determination about the consolidation of the referenced requests.
- d. The Company does not know and cannot speculate whether the IRS will offer a conference of right prior to issuing the ruling. The IRS has not made a determination about a conference related to the referenced requests.

Kentucky Power Company  
KPSC Case No. 2023-00159  
AG-KIUC's First Set of Data Requests  
Dated August 14, 2023  
Page 3 of 4

**September 19, 2023 Supplemental Response**

The Company objects to this request to the extent it seek legal analysis and a legal opinion, which are not the appropriate subject of discovery. The Company further objects to this request to the extent it seeks information not under the custody and control of the Company, and also to the extent it purports to require providing information about affiliates of the Company that are not subject to the jurisdiction of the Kentucky Public Service Commission and are subject to the jurisdiction of regulatory commission in other state jurisdictions and regulated by the Federal Energy Regulatory Commission (“FERC”). The Company further objects to the extent the request is not reasonably calculated to lead to the discovery of admissible evidence. The Company further objects to the extent the request seeks communications, documents, and information protected by the attorney-client privilege or the attorney work product doctrine. The Company further objects on the grounds that the request is ambiguous, overly broad, speculative, and argumentative. Without waiving these objections, the Company states as follows:

a. The requested confidential private letter ruling requests are confidential, highly sensitive, and non-public. Please see KPCO\_SR\_AG-KIUC\_1\_26\_ConfidentialAttachment1 through KPCO\_SR\_AG-KIUC\_1\_26\_ConfidentialAttachment3 for the requested information. The Company is filing the attachments confidentially with the Commission via email, and the Company will make the attachment available for viewing by appointment at the offices of counsel for the Company to intervenors and their representatives that have signed a non-disclosure agreement with the Company. If separately arranged with counsel for the Company and on terms agreeable to the Company, the Company will also make the attachments available electronically on a read-only (non-downloadable) basis to intervenors and their representatives that have signed a non-disclosure agreement with the Company. Counsel for Kentucky Power will work with counsel for those intervenors to arrange for viewing at counsel for Kentucky Power’s offices in Frankfort, KY or Lexington, KY, or electronically as described. The remaining documents requested in this subpart are equally and publicly available to AG-KIUC on the relevant state regulatory commission dockets. The Company, therefore, has no obligation to produce them.

c. It is the Company’s understanding that the respective taxpayers that have submitted private letter ruling requests have not requested that the requests be consolidated. The Company does know and cannot speculate whether the IRS will consolidate the requests. The IRS has not made a determination about the consolidation of the referenced requests.

Kentucky Power Company  
KPSC Case No. 2023-00159  
AG-KIUC's First Set of Data Requests  
Dated August 14, 2023  
Page 4 of 4

d. It is the Company's understanding that the respective taxpayers that have submitted private letter ruling requests have requested a conference of right, but the IRS has not indicated whether such a conference is needed or whether such a request would be granted. The Company does not know and cannot speculate whether the IRS will offer a conference of right prior to issuing the ruling. The IRS has not made a determination about a conference related to the referenced requests.

Witness: Linda M. Schlessman

KPCO\_SR\_AG-KIUC\_1\_26\_ConfidentialAttachment1 has been redacted in its entirety.

KPCO\_SR\_AG-KIUC\_1\_26\_ConfidentialAttachment2 has been redacted in its entirety.

KPCO\_SR\_AG-KIUC\_1\_26\_ConfidentialAttachment3 has been redacted in its entirety.



### Schlessman Verification Form.doc

DocVerify ID: 639C4B88-7FC1-4441-93C1-9E99E0D22DD5  
 Created: September 13, 2023 04:53:25 -8:00  
 Pages: 1  
 Remote Notary: Yes/ State: KY

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#### E-Signature Summary

**E-Signature 1: Linda Schlessman (LS)**

September 13, 2023 06:58:36 -8:00 [C92AD389CC70] [12.111.104.2]  
 lmschlessman@aep.com (Principal) (Personally Known)

**E-Signature Notary: Marilyn Michelle Caldwell (MMC)**

September 13, 2023 06:58:36 -8:00 [99ABD54C2DC2] [167.239.221.106]  
 mmcaldwell@aep.com  
 I, Marilyn Michelle Caldwell, did witness the participants named above electronically sign this document.





VERIFICATION

The undersigned, Linda M. Schlessman, being duly sworn, deposes and says she is the Tax Accounting and Regulatory Support Manager for American Electric Power Service Corporation, that she has personal knowledge of the matters set forth in the foregoing responses and the information contained therein is true and correct to the best of her information, knowledge, and belief.

Linda Schlessman

Linda M. Schlessman

Commonwealth of Kentucky )
County of Boyd )

Case No. 2023-00159

Subscribed and sworn to before me, a Notary Public in and before said County and State, by Linda M. Schlessman, on September 13, 2023

Marilyn Caldwell

Notary Public

MARILYN MICHELLE CALDWELL
ONLINE NOTARY PUBLIC
STATE AT LARGE KENTUCKY
Commission # KYNP71841
My Commission Expires May 05, 2027

Notarial act performed by audio-visual communication

My Commission Expires May 5, 2027

Notary ID Number KYNP71841

639C4B88-7FC1-4441-93C1-9E99E0D22DD5 ... 2023/09/13 04:53:25 -8:00 ... Remote Notary

