

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Electronic Application Of Kentucky Power Company)	
For: (1) Approval Of The Rockport Offset True-Up)	
Amount; (2) Approval To Collect The Rockport)	
Offset True-Up Through Tariff Purchase Power)	Case No. 2024-00016
Adjustment; And (3) All Other Required Approvals)	
And Relief)	

APPLICATION

Kentucky Power Company (“Kentucky Power” or the “Company”) applies to the Public Service Commission of Kentucky (“Commission”) pursuant to KRS 278.180 and 807 KAR 5:001, Section 14 for an Order: (1) approving the calculation of the Actual Rockport Offset and Rockport Offset True-Up; (2) approving the collection of the Rockport Offset True-Up through Tariff Purchase Power Adjustment (“Tariff P.P.A.”); and (3) granting all other required approvals and relief.

Kentucky Power states:

APPLICANT

1. **Name and Address:** The Applicant’s full name and post office address is: Kentucky Power Company, 1645 Winchester Avenue, Ashland, Kentucky 41101. The Company’s electronic mail address is kentucky_regulatory_services@aep.com.
2. **Incorporation:** Kentucky Power is a corporation organized on July 21, 1919 under the laws of the Commonwealth of Kentucky. The Company currently is in good standing in Kentucky.¹

¹ A certified copy of the Company’s Articles of Incorporation and all amendments thereto was attached to the Joint Application in *In the Matter Of: The Joint Application Of Kentucky Power Company, American Electric Power*

3. **Business:** Kentucky Power is a public utility principally engaged in the provision of electricity to Kentucky consumers. The Company generates and purchases electricity that it distributes and sells at retail to approximately 163,000 customers located in all, or portions of, the Counties of Boyd, Breathitt, Carter, Clay, Elliott, Floyd, Greenup, Johnson, Knott, Lawrence, Leslie, Letcher, Lewis, Magoffin, Martin, Morgan, Owsley, Perry, Pike, and Rowan. The Company also furnishes electric service at wholesale to the City of Olive Hill and the City of Vanceburg.

THE 2017 SETTLEMENT AGREEMENT AND THE ROCKPORT DEFERRAL

4. Kentucky Power was a party to a FERC-approved unit power agreement under which it was entitled to 15 percent of the capacity and energy associated with Rockport Unit 1 and Rockport Unit 2 (“Rockport UPA”).

5. The Rockport UPA expired on December 8, 2022. Prior to the expiration, the total annual Rockport UPA non-fuel, non-environmental expense in customer rates was approximately \$50.8 million. Approximately \$40.8 million of that amount was collected through base rates and the remaining approximately \$10 million was deferred for collection through Tariff P.P.A.

6. In its 2017 base rate proceeding, Kentucky Power entered into a settlement agreement that was approved by the Commission in the Commission’s January 18, 2018 Order in Case No. 2017-00179 (“2017 Settlement Agreement”).²

7. The \$50.8 million expected annual reduction in expenses following the expiration of the Rockport UPA allowed the parties to the 2017 Settlement Agreement to: (a) defer through

Company, Inc. And Central And South West Corporation Regarding A Proposed Merger, P.S.C. Case No. 99-149. The Company’s January 29, 2024 Certificate of Existence is as **Exhibit 1** to this Application.

² A copy of the Commission-approved 2017 Settlement Agreement is attached as Exhibit BKW-1 to the Direct Testimony of Brian K. West.

the creation of a regulatory asset \$50 million in Rockport UPA expenses the Company otherwise would have been entitled to collect during the period January 18, 2018 through December 8, 2022 (“Rockport Deferral Regulatory Asset”); and (b) immediately flow back to customers beginning December 9, 2022 through Tariff P.P.A., the \$40.8 million of Rockport UPA non-fuel, non-environmental expense being recovered through base rates without the necessity of a base rate case (“Rockport Fixed Cost Savings”).³

8. Under the 2017 Settlement Agreement, in return for the very significant customer benefits resulting from the Rockport Deferral, Kentucky Power was entitled to credit that portion of the Rockport Fixed Cost Savings required to permit the Company to earn, on a per-books basis, its Commission-authorized return on equity (“ROE”) for 2023 only (“Rockport Offset”), and to begin to amortize the Rockport Deferral Regulatory Asset beginning December 9, 2022.⁴ The Rockport Offset could not exceed the amount of the Rockport Fixed Cost Savings included in base rates (approximately \$40.8 million).⁵

9. The 2017 Settlement Agreement provided:

If Kentucky Power elects not to extend the Rockport UPA, it will, beginning December 9, 2022, credit the Rockport Fixed Cost Savings through the demand component of Tariff P.P.A. until new base rates are set. However, for 2023 only, the Rockport Fixed Cost Savings credit will be offset by the amount, if any, necessary for the Company to earn its Kentucky Commission-authorized return on equity (ROE) for 2023 (“Rockport Offset”).⁶

10. The 2017 Settlement Agreement defined Estimated Rockport Offset, Actual Rockport Offset, and Rockport Offset True-Up as follows:

³ See Exhibit BKW-1 (2017 Settlement Agreement) at 4-8.

⁴ *Id.* at 6.

⁵ *Id.* at 7.

⁶ *Id.* at 6.

“Estimated Rockport Offset” shall mean the amount of additional annual revenue the Company estimates would be necessary for it to earn the Commission-authorized return on equity for 2023 considering the termination of the Rockport UPA and the Rockport Fixed Cost Savings.⁷

“Actual Rockport Offset” shall mean the amount of additional annual revenue that would have been necessary for the Company to earn the Commission-authorized return on equity for 2023 considering the termination of the Rockport UPA and the Rockport Fixed Cost Savings. The Company shall calculate the Actual Rockport Offset using a comparison of the per books return on equity for 2023 to the Commission-approved return on equity. The Actual Rockport Offset cannot exceed the Rockport Fixed Costs Savings.⁸

“Rockport Offset True-Up” shall mean the difference between the Estimated Rockport Offset and the Actual Rockport Offset.⁹

11. The 2017 Settlement Agreement required the Company to file by November 15, 2022, updated rates for Tariff P.P.A. to reflect the Rockport Fixed Cost Savings (credit), the Estimated Rockport Offset (debit) and the Rockport Deferral Regulatory Asset (debit).¹⁰ Because the approximate amounts of the Rockport Fixed Cost Savings and Rockport Deferral Regulatory Asset were known, and Kentucky Power’s actual 2023 ROE could not be known until 2024, an estimated amount of the Rockport Offset was collected through Tariff P.P.A. over the course of 2023.¹¹

12. The 2017 Settlement Agreement further required the Company to file by February 1, 2024, updated rates for Tariff P.P.A. to be effective March 1, 2024, reflecting the collection of the Rockport Offset True-Up.¹² Under the 2017 Settlement Agreement, Tariff P.P.A. rates were

⁷ *Id.* at 6-7.

⁸ *Id.* at 7.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 8.

to be designed to recover or credit the Rockport Offset True-Up over the course of three months.¹³

CASE NO. 2022-00283

13. Case No. 2022-00283,¹⁴ opened by the Commission on September 2, 2022, concerned the implementation of all provisions of the 2017 Settlement Agreement related to the Rockport Deferral, with the exception of the Actual Rockport Offset and the Rockport Offset True-Up.

14. In its December 8, 2022 Order in that case, the Commission approved the amortization of the total Rockport Deferral Regulatory Asset over five years using a weighted average cost of capital (“WACC”), updated for base rate cases, which was consistent with prior precedent.¹⁵

15. The Commission found that the amount of the Rockport Fixed Cost Savings included in base rates equaled \$40,831,141, and that amount was to be returned to customers through Tariff P.P.A. beginning December 9, 2022.¹⁶

16. The Commission also accepted the Company’s estimate and found that the Estimated Rockport Offset equaled \$22,785,645, which was based on the Company’s per books net income for the 12 months ending June 30, 2022, and per books average common equity for

¹³ *Id.*

¹⁴ *In The Matter Of: Electronic Investigation Of Kentucky Power Company Rockport Deferral Mechanism*, Case No. 2022-00283.

¹⁵ Order at 15, *In The Matter Of: Electronic Investigation Of Kentucky Power Company Rockport Deferral Mechanism*, Case No. 2022-00283 (Ky. P.S.C. December 8, 2022).

¹⁶ *Id.* at 13.

the 13-month period ending June 30, 2022.¹⁷ The Commission approved the recovery of the Estimated Rockport Offset through Tariff P.P.A. over the course of calendar year 2023.¹⁸

17. Finally, the Commission stated that:

the true-up will be determined in 2024, when Kentucky Power's 2023 net income and adjustments are known. As part of the true-up, the Commission may choose to exclude from Kentucky Power's 2023 net income any expenses that are unreasonable, unjust, unfair, disallowed for rate recovery by statute, regulation or Commission precedent, or which are related to the sale to Liberty [Utilities]. It is also likely that during the 2024 true-up the Commission will have the benefit of the record from an expected rate case ending on or near the beginning of 2024. Additionally, the Commission finds that the recovery period for the Rockport Offset true-up will be determined based on the magnitude of the over- or under-recovery. There exists a possibility that the amount of the Rockport Offset under-recovered is greater than the amount recovered over the 12 months of 2023. It would seem patently unjust to require a greater amount to be recovered over three months in 2024 as a true-up to a lesser amount recovered over a time period four times longer during 2023.¹⁹

18. Because the Actual Rockport Offset cannot exceed the amount of the Rockport Fixed Cost Savings in base rates, the total remaining amount of the Rockport Fixed Cost Savings possible to be collected as part of the Rockport Offset True-Up is \$18,045,496.²⁰

19. Kentucky Power therefore files this application to approve the Rockport Offset True-Up and the recovery of the Rockport Offset True-Up through Tariff P.P.A. in accordance with the 2017 Settlement Agreement and the Commission's December 8, 2022 Order in Case No. 2022-00283.

¹⁷ *Id.* at 13-15.

¹⁸ *Id.* at 15.

¹⁹ *Id.* at 15.

²⁰ (\$40,831,141 - \$22,785,645 = \$18,045,496)

THE ACTUAL ROCKPORT OFFSET AND THE ROCKPORT OFFSET TRUE-UP

20. The Company calculated the Actual Rockport Offset and the Rockport Offset True-Up in conformity with the 2017 Settlement Agreement, and it has provided those calculations in Exhibit HMW-1 to the Direct Testimony of Heather M. Whitney.

21. Based on Kentucky Power's preliminary, unaudited 2023 GAAP financial statements, the Rockport Offset True-Up is expected to be \$18,045,496, which is the total remaining amount possible to be collected as part of the Rockport Offset True-Up.

22. Kentucky Power expects that its year-end 2023 GAAP financial statements will be finalized and issued, accompanied by the report of its independent auditors, on February 27, 2024. On the next business day, Kentucky Power will file in this docket the year-end 2023 GAAP financial statements and a corresponding non-confidential Rockport Offset True-Up calculation for final review by parties and the Commission.

23. Kentucky Power does not anticipate the expected Rockport Offset True-Up to change after the year-end financial statements are finalized. Nonetheless, to the extent any update to the Rockport Offset True-Up and Tariff P.P.A. rate is required, the Company also will provide the updated rate with that filing.

COLLECTION OF THE ROCKPORT OFFSET TRUE-UP THROUGH TARIFF P.P.A.

24. Kentucky Power proposes, in conformity with the 2017 Settlement Agreement, to collect the Rockport Offset True-Up through Tariff P.P.A.

25. Based on the estimated amount of the Rockport Offset True-Up, and considering the Commission's comments in its December 8, 2022 Order in Case No. 2022-00283 at page 15, the Company proposes to collect the Rockport Offset True-Up of \$18,045,496 over 12 months, beginning March 1, 2024, per the 2017 Settlement Agreement.

26. No modifications need be made to Tariff P.P.A. in order to collect the Rockport Offset True-Up, as all necessary modifications to enable that recovery were made as part of the Company's compliance tariff filings after Case No. 2017-00179. The Rockport Offset and Rockport Offset True-Up are reflected in the P.P.A. rate mechanism in Section "Rate" on line 1.d.4. of the current Commission-approved Tariff P.P.A.

27. Kentucky Power has provided the Tariff P.P.A. rate calculation forms as Exhibit LMK-1 to the Direct Testimony of Lerah M. Kahn, which incorporate a) the Commission approved Settlement Agreement in Case No. 2017-00179 and the proposals made in this case related to the Rockport Offset True-Up, and b) the modifications ordered in the Commission's January 19, 2024 Order in Case No. 2023-00159. The modifications to the Tariff P.P.A. rate in Exhibit LMK-1 are incremental to the Company's Tariff P.P.A. rate filing made on August 15, 2023 in TFS 2023-374.

28. Company Witness Kahn describes the modifications to the Tariff P.P.A. rate calculation forms in her Direct Testimony.

REQUEST TO PLACE PROPOSED RATES INTO EFFECT SUBJECT TO REFUND

29. In the event that the Commission's investigation in this case will extend beyond March 1, 2024, the Company respectfully requests that the Commission issue an order permitting Kentucky Power to begin collecting the Rockport Offset True-Up through Tariff P.P.A. as described herein for services rendered on and after March 1, 2024, subject to refund pursuant to KRS 278.190(2) until the Commission issues a final order in this case.

30. The Commission-approved 2017 Settlement Agreement provides for the collection of the Rockport Offset True-Up Amount beginning March 1, 2024. Company Witness West describes and supports the Company's request to implement rates subject to refund in his

Direct Testimony. The Company is filing a motion requesting this relief simultaneously with this Application.

TESTIMONY

31. The testimonies of Brian K. West, Heather M. Whitney, and Lerah M. Kahn are filed in support of this Application.

EXHIBITS

32. The exhibits listed in the Appendix to this Application are attached to and made a part of this Application.

COMMUNICATIONS

33. Kentucky Power respectfully requests that communications in this matter be addressed to the e-mail addresses identified on Kentucky Power's January 25, 2024 Notice of Election of Use of Electronic Filing Procedures.

WHEREFORE, Kentucky Power Company respectfully requests that the Commission issue an Order:

- (1) approving, consistent with the 2017 Settlement Agreement, the recovery of the Rockport Offset True-Up in the amount of \$18,045,496 over a 12-month period beginning March 1, 2024, through Tariff P.P.A. as demonstrated in Exhibit LMK-1;
- (2) permitting Kentucky Power to begin collecting the Rockport Offset True-Up through Tariff P.P.A. for services rendered on and after March 1, 2024, until the Commission issues a final order in this case, subject to refund pursuant to KRS 278.190(2); and
- (3) granting all other required relief or approvals.

Respectfully submitted,



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COUNSEL FOR KENTUCKY POWER
COMPANY

APPENDIX

Exhibit 1 January 29, 2024 Certificate of Existence

Exhibit 1

Commonwealth of Kentucky
Michael G. Adams, Secretary of State

Michael G. Adams
Secretary of State
P. O. Box 718
Frankfort, KY 40602-0718
(502) 564-3490
<http://www.sos.ky.gov>

Certificate of Existence

Authentication number: 303874

Visit <https://web.sos.ky.gov/ftsshow/certvalidate.aspx> to authenticate this certificate.

I, Michael G. Adams, Secretary of State of the Commonwealth of Kentucky, do hereby certify that according to the records in the Office of the Secretary of State,

KENTUCKY POWER COMPANY

KENTUCKY POWER COMPANY is a corporation duly incorporated and existing under KRS Chapter 14A and KRS Chapter 271B, whose date of incorporation is July 21, 1919 and whose period of duration is perpetual.

I further certify that all fees and penalties owed to the Secretary of State have been paid; that Articles of Dissolution have not been filed; and that the most recent annual report required by KRS 14A.6-010 has been delivered to the Secretary of State.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal at Frankfort, Kentucky, this 29th day of January, 2024, in the 232nd year of the Commonwealth.



Michael G. Adams

Michael G. Adams
Secretary of State
Commonwealth of Kentucky
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