

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF EAST	)	
KENTUCKY POWER COOPERATIVE, INC. FOR	)	
APPROVAL TO AMEND ITS ENVIRONMENTAL	)	CASE NO.
COMPLIANCE PLAN, AND RECOVER COSTS	)	2025-00053
PURSUANT TO ITS ENVIRONMENTAL	)	
SURCHARGE, AND OTHER GENERAL RELIEF	)	

RESPONSES TO STAFF’S THIRD INFORMATION REQUEST
TO EAST KENTUCKY POWER COOPERATIVE, INC.
DATED OCTOBER 3, 2025

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF EAST	)	
KENTUCKY POWER COOPERATIVE, INC. FOR	)	
APPROVAL TO AMEND ITS ENVIRONMENTAL	)	CASE NO.
COMPLIANCE PLAN, AND RECOVER COSTS	)	2025-00053
PURSUANT TO ITS ENVIRONMENTAL	)	
SURCHARGE, AND OTHER GENERAL RELIEF	)	

CERTIFICATE

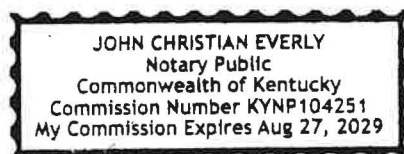
STATE OF KENTUCKY)
)
COUNTY OF CLARK)

Jerry Purvis, being duly sworn, states that he has supervised the preparation of the responses of East Kentucky Power Cooperative, Inc. to the Commission Staff's Third Request for Information in the above-referenced case dated October 3, 2025, and that the matters and things set forth therein are true and accurate to the best of his knowledge, information and belief, formed after reasonable inquiry.



Jerry Purvis

Subscribed and sworn before me on this 14th day of October, 2025.





Notary Public

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

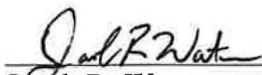
**ELECTRONIC APPLICATION OF EAST)
KENTUCKY POWER COOPERATIVE, INC. FOR)
APPROVAL TO AMEND ITS ENVIRONMENTAL)
COMPLIANCE PLAN, AND RECOVER COSTS)
PURSUANT TO ITS ENVIRONMENTAL)
SURCHARGE, AND OTHER GENERAL RELIEF)**

**CASE NO.
2025-00053**

CERTIFICATE

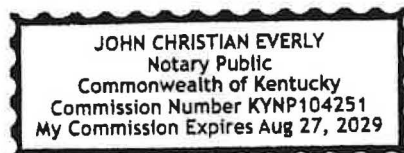
**STATE OF KENTUCKY)
)
COUNTY OF CLARK)**

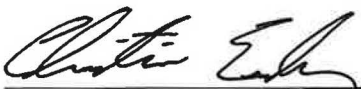
Jacob R. Watson, being duly sworn, states that he has supervised the preparation of the responses of East Kentucky Power Cooperative, Inc. to the Commission Staff's Third Request for Information in the above-referenced case dated October 3, 2025, and that the matters and things set forth therein are true and accurate to the best of his knowledge, information and belief, formed after reasonable inquiry.



Jacob R. Watson

Subscribed and sworn before me on this 14th day of October, 2025.





Notary Public

EAST KENTUCKY POWER COOPERATIVE, INC.
CASE NO. 2025-00053
THIRD REQUEST FOR INFORMATION RESPONSE

STAFF'S REQUEST DATED OCTOBER 3, 2025

REQUEST 1

RESPONSIBLE PARTY: Jerry Purvis

Request 1. Refer to the Application, the Direct Testimony of Jerry Purvis, Exhibit 3, page 2, line 12.

- a. Provide a detailed description of the proposed Projects 58 and 59.
- b. State whether costs for these projects are considered capital or operating and maintenance (O&M) costs.

Response 1.

a. Project 58 is to comply with the Environmental Protection Agency ("EPA") Legacy CCR ("Coal Combustion Residuals") rule and its applicable ground water monitoring ("GWM") requirements. Project 59 is for the existing GWM under the 2015 CCR rule. To clarify, the EPA published the original CCR rule, codified at 40 CFR Part 257, Subpart D, in 2015, and then published a major revision and expansion of the CCR rule, known as the Legacy CCR rule, in 2024. The 2015 CCR rule established a federal regulatory program for the management of CCR, which had previously been subject only to state regulation. That rule changed how EKPC managed CCR waste, imposing siting, design, operating, monitoring, and closure requirements on existing

CCR landfills and surface impoundments (ash ponds). However, a federal court subsequently found that the 2015 CCR rule improperly failed to require the regulation and closure of unlined CCR surface impoundments. In response to that decision, EPA proposed and adopted a substantial amendment to the CCR rule that required, among other things, the closure of unlined CCR surface impoundments, including surface impoundments located at inactive electric generating facilities. That rule, known as the Legacy CCR rule, was finalized in May 2024 and became effective in November 2024. EKPC now must comply with both the requirements of the original 2015 CCR rule, as well as the requirements of the 2024 Legacy CCR rule and provide estimates of compliance costs for the Kentucky Public Service Commission's ("Commission") consideration.

b. Projects 58 & 59 costs are O&M costs. Please refer to EKPC's response to Request 5 for a breakdown of the costs.

EAST KENTUCKY POWER COOPERATIVE, INC.
CASE NO. 2025-00053
THIRD REQUEST FOR INFORMATION RESPONSE

STAFF'S REQUEST DATED OCTOBER 3, 2025

REQUEST 2

RESPONSIBLE PARTY: Jerry Purvis

Request 2. Provide a description of the projected or expected potential impact of the EPA's on-going proposals to withdraw regulations related to many of the power industry's air and water regulations on EKPC's current Environmental Compliance Plan.

Response 2. EKPC cannot speculate on or predict the outcome of projected or expected EPA rulemaking or its potential impacts. For example, no revisions to the substantive requirements of the CCR rule, including the Legacy CCR rule requirements applicable to unlined CCR surface impoundments, have been proposed by EPA at this time. EKPC must stay the course with its existing compliance plans consistent with current regulations until the EPA completes any new rulemaking process. At that time, EKPC will review the final rules with its consultants and legal advisors and assess any compliance impacts. EKPC will keep the Kentucky Energy and Environment Cabinet ("Kentucky EEC") and the Commission informed of any changes to its compliance plans under the CAA, CWA and RCRA and any applicable state regulations.

EAST KENTUCKY POWER COOPERATIVE, INC.
CASE NO. 2025-00053
THIRD REQUEST FOR INFORMATION RESPONSE

STAFF'S REQUEST DATED OCTOBER 3, 2025

REQUEST 3

RESPONSIBLE PARTY: Jerry Purvis

Request 3. Refer to the Application, Direct Testimony of Joseph VonDerHaar (VonDerHaar Direct Testimony), Exhibit 4, compliance plan fact sheet, Attachment JV-1 and Attachment JRW-2, Project 42, Spurlock Landfill, South Side C. Provide documentation that supports that the proposed caps on the Spurlock Area B and C landfills are in excess of costs associated with the originally approved landfill project.

Response 3. EKPC received a permit in 1981 for an inert landfill at Spurlock Station. Inert waste, special waste, and now, CCR waste regulations and definitions have dramatically changed since 1981. In 1992, Kentucky developed special waste regulations under 401 KAR Chapter 45. Coal fuel-fired operators such as EKPC began to apply to the Division of Waste Management ("DWM") for special waste permits (either permits by rule or individual permits) to place coal ash in special waste landfills pursuant to 401 KAR Chapter 45. In 2015, EPA issued the federal CCR Rule, establishing federal minimum standards for CCR management units, including requirements for siting, location restrictions, liner systems, groundwater monitoring designs and

plans, and closure and post-closure plans. However, the federal CCR rule did not establish a permitting process for CCR units.

While Kentucky had an excellent special waste regulation under 401 KAR Chapter 45, one of only a handful in the United States, EKPC was required to comply with two separate CCR regulatory programs, one to meet the state requirements under 401 KAR Chapter 45 and the other to meet the federal rule, 40 CFR Part 257, Subpart D. So, EKPC had to develop and install two groundwater monitoring networks at Spurlock Station to meet both the state and federal rules. EKPC submitted its application for a horizontal expansion at Spurlock under 401 KAR Chapter 45 to meet all the requirements of both regulatory regimes, including estimates for closure, post-closure care, and bonding. Kentucky DWM issued a permit for Area C, and later issued a permit for Area D, also known as the “Pegs Hill” landfill.

To my knowledge, EKPC provides capital estimates as represented in the permit application to the Commission for their determination pursuant to the regulations under environmental surcharge for cost recovery pursuant to the regulations applicable at that time. Each year, Kentucky DWM requires EKPC to update its bonding. EKPC does so under 401 KAR Chapters 45 and 46 and 40 CFR Part 257, Subpart D. At the time of those project estimates and proposals, it is difficult to estimate those costs with precision, considering the long lead time before the cap is constructed (now nearly 8 plus years later). Additionally, EPA rules and regulations change, and so do the associated costs. Therefore, EKPC is providing the Commission updated cost estimates for the expenses associated with the landfill cap closer to the time of construction to more accurately reflect today’s costs. EKPC will ensure that the bonding costs for the landfill cap and the cost of recovery reflect the new estimate and remain consistent.

EKPC is not aware of the landfill cap requirements for inert landfills or its capping costs in 1981. However, EKPC must meet the requirements of 401 KAR Chapter 46 and 40 CFR Part 257, Subpart D, today and requests consideration for the up-to-date regulatorily required landfill capping system pursuant to the federal minimum standards in 40 CFR Part 257, Subpart D, and 401 KAR Chapter 46.

EAST KENTUCKY POWER COOPERATIVE, INC.
CASE NO. 2025-00053
THIRD REQUEST FOR INFORMATION RESPONSE

STAFF'S REQUEST DATED OCTOBER 3, 2025

REQUEST 4

RESPONSIBLE PARTY: Jerry Purvis

Request 4. Refer to the Application, VonDerHaar Direct Testimony, Exhibit 4, compliance plan fact sheet, Attachment JV-1. Also, reference Attachment JRW-2, Project 43, JK Smith Landfill, Final Cap. Provide documentation that supports that the proposed cap on the Smith Landfill is in excess of costs associated with the originally approved landfill project.

Response 4. EKPC develops landfill applications that are submitted to the Kentucky DWM. In the permit applications, EKPC addresses each applicable federal and state regulatory requirement. In general, each application addresses the regulations applicable at that time (such as the 1992 special waste regulations and the 2015 CCR rule requirements). EKPC describes in the permit application its plan to comply with: the requirements for siting, location, geology, liner systems, ground water monitoring plans, well locations, construction of the landfill, landfill cap, closure requirements, post-closure care and required bonding with financial assurance. Kentucky DWM takes this information under consideration and issued notices of deficiency (NODs), obtains clarity of the project, ensures that regulations are met, and if favorable and all requirements are met, issues a new permit to properly dispose of waste under the regulations applicable at that time.

As discussed above, to my knowledge, EKPC provides capital estimates, as represented in the permit application, to the Commission for its review and consideration pursuant to the regulations under environmental surcharge for cost recovery pursuant to the environmental regulations applicable at that time. Each year, Kentucky DWM requires EKPC to update its bonding. EKPC does so under 401 KAR Chapters 45 and 46 and 40 CFR Part 257, Subpart D. At the time of those project estimates and proposals, it would be difficult to estimate those costs considering the long lead time before the cap is constructed (now nearly 8-plus years later). Additionally, EPA rules and regulations change, and so do the associated costs. Therefore, EKPC is updating the Commission and proposing cost recovery of the expense associated with the landfill cap closer to the time of construction to more accurately estimate today's costs. EKPC will ensure that the bonding costs for landfill cap and the cost of recovery reflect the new estimate and remain consistent.

EAST KENTUCKY POWER COOPERATIVE, INC.
CASE NO. 2025-00053
THIRD REQUEST FOR INFORMATION RESPONSE

STAFF'S REQUEST DATED OCTOBER 3, 2025

REQUEST 5

RESPONSIBLE PARTY: Jacob R. Watson

Request 5. Refer to the Application, page 10. Provide details that support the \$1,750,000 annual O&M expense estimate.

Response 5. Please see attachment *PSC DR3 Response 5 – Project 58 & 59.xlsx*. Just to clarify, at the time of putting together this application, EKPC had estimated that Project 58 – Legacy CCR Monitoring had approximated annual O&M expenses of \$1,338,947 and Project 59 – CCR Ground Water Monitoring had approximated annual O&M expenses of \$403,348. However, after reevaluating cost estimates for both Projects, EKPC slightly overestimated Project 59 and reconciles the difference that Project 59 now has an approximated annual O&M expense of \$394,200 rather than \$403,348. Project 58 remains unchanged as detailed further in the attachment.

EAST KENTUCKY POWER COOPERATIVE, INC.
CASE NO. 2025-00053
THIRD REQUEST FOR INFORMATION RESPONSE

STAFF'S REQUEST DATED OCTOBER 3, 2025

REQUEST 6

RESPONSIBLE PARTY: Jacob R. Watson

Request 6. Refer to the Application, Direct Testimony of Jacob Watson, and Attachment JRW-1. For each of the 19 proposed projects, provide a summary of the specific activities, the associated capital costs, and annual O&M for each activity.

Response 6. Please refer to EKPC's response to Staff's Second Request for Information, Request 1, PSC_DR2_Response_1_-_JV1_Projects.xlsx which lists out a brief summary/description, associated capital costs, and annual O&M for 17 of the 19 projects. The other two projects that are not included in that attachment are Projects 58 & 59 because they are for annual ground watering monitoring and do not contain any capital costs associated with them but rather only O&M. Please refer to EKPC's response to Staff's Requests 1 for a description of Projects 58 & 59 and EKPC's response to Staff's Request 5 for the associated O&M costs of Projects 58 & 59.