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KENTUCKY · OHIO · INDIANA · TENNESSEE · WEST VIRGINIA

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March 16, 2009

RECEIVED

MAR 18 2009

PUBLIC SERVICE  
COMMISSION

Mr. Jeffrey Derouen  
Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
P. O. Box 615  
Frankfort, Kentucky 40602-0615

Re: General Adjustment of Electric Rates of East  
Kentucky Power Cooperative Inc.  
Case No. 2008-00409

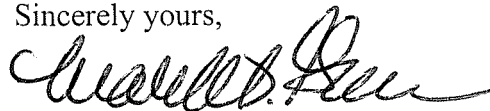
Dear Mr. Derouen:

Enclosed for filing you will please find the original signatures of Dennis G. Howard, II, counsel for the Attorney General, and Michael L. Kurtz, counsel for Kentucky Industrial Utility Customers, Inc.

Previously, Mr. Howard's and Mr. Kurtz's scanned signatures were filed with the Settlement Agreement. I now request that you file counsels' original signatures into the record of this case.

Should you have any further questions regarding this matter, please advise.

Sincerely yours,



Mark David Goss

Enclosures

cc: Michael L. Kurtz, Esq.  
Dennis G. Howard, II, Esq.

RECEIVED

MAR 18 2009

PUBLIC SERVICE  
COMMISSION

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

**GENERAL ADJUSTMENT OF ELECTRIC RATES ) CASE NO.  
OF EAST KENTUCKY POWER ) 2008-00409  
COOPERATIVE, INC. )**

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**SETTLEMENT AGREEMENT**

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This Settlement Agreement (“Settlement Agreement”) is entered into this 5th day of March 2009, by and between East Kentucky Power Cooperative, Inc. (“EKPC”); Commonwealth of Kentucky, ex. rel. Jack Conway, Attorney General, by and through the Office of Rate Intervention (“AG”); and Kentucky Industrial Utility Customers, Inc. (“KIUC”). Its terms are set forth below:

**WITNESSETH:**

**WHEREAS**, on October 31, 2008, EKPC filed with the Kentucky Public Service Commission (“Commission”) its Application for a General Adjustment of its Wholesale Electric Rates in a case styled, *In the Matter of: General Adjustment of Electric Rates of East Kentucky Power Cooperative, Inc.*, Case No. 2008-00409; and,

**WHEREAS**, the AG and KIUC were granted intervention by the Commission in this proceeding; and,

**WHEREAS**, a prehearing informal conference for the purpose of discussing settlement, and related procedural and substantive issues, took place at the Commission’s offices on March

5, 2009, which was attended in person by representatives of the AG, KIUC, and EKPC (the “Parties”) and the Commission Staff ; and,

**WHEREAS**, all of the Parties hereto unanimously desire to settle all the issues pending before the Commission in the above-referenced proceeding; and,

**WHEREAS**, the adoption of this Settlement Agreement will eliminate the need for the Commission and the parties to expend additional resources litigating these proceedings; and, further, will eliminate the possibility of, and any need for, rehearing or appeals of the Commission’s final order herein; and,

**WHEREAS**, it is understood by all Parties hereto that this Settlement Agreement is subject to the approval of the Commission, insofar as it constitutes an agreement by all parties to the rate proceeding for settlement, and, absent express agreement stated herein, does not represent agreement on any specific claim, computation, formula, allegation, assertion, contention, methodology, theory or ratemaking principle supporting the appropriateness of any proposed or recommended adjustments to EKPC’s rates, terms, and conditions; and,

**WHEREAS**, the Parties agree that this Settlement Agreement, viewed in its entirety, is a fair, just, and reasonable resolution of all the issues in the above-referenced proceeding; and,

**WHEREAS**, it is the position of the Parties hereto that this Settlement Agreement is supported by sufficient and adequate data and information, and should be approved in its entirety by the Commission.

**NOW, THEREFORE**, for and in consideration of the good-faith negotiations entered into by the parties and the terms and conditions set forth herein, the Parties hereby stipulate and agree as follows:

**ARTICLE I- Revenue Requirements and Revenue Allocation**

1. The Parties hereto agree and stipulate that a Fifty-Nine Million Five-Hundred Thousand Dollar (\$59,500,000) increase in annual revenue for EKPC, is fair, just, and reasonable for the Parties and for all members of EKPC.
2. The Parties hereto agree that the annual revenue increase will be effective for service rendered on and after April 1, 2009, or the date of the Commission’s Order placing such rates into effect, whichever is later, and this rate implementation date is fair, just, and reasonable for the Parties and for all members of EKPC.
3. The Parties hereto agree that the allocations of the increase in annual revenue for EKPC, as set forth on the schedule designated “Exhibit 1” hereto, are fair, just, and reasonable for the Parties and for all members of EKPC.
4. The Parties hereto agree that, effective for service rendered on and after April 1, 2009, or the date of the Commission’s Order placing such rates into effect, whichever is later, EKPC shall implement the rates set forth on the tariff sheets in “Exhibit 2,” attached hereto, which rates the Parties unanimously stipulate are fair, just, and reasonable and should be approved by the Commission.
5. The Parties hereto agree that the interruptible service credits, as reflected in Section D of the tariff, will hereafter be implemented as follows:

(per kW)

10-Minute Interruptible		60-Minute Interruptible	
200 Hours	\$4.20	200 Hours	\$3.50
300 Hours	\$4.90	300 Hours	\$4.20
400 Hours	\$5.60	400 Hours	\$4.90

The Parties hereto agree that the Large Special Contract, which is limited to 360 hours of interruption annually, shall receive the interruptible credits on its non-firm load as reflected in the table below.

10-Minute Interruptible (120 MW)	\$5.60
90-Minute Interruptible (Remaining MW)	\$4.20

6. The Parties hereto agree that the Phase II rates, as outlined in EKPC's original Application, will not be implemented.

#### **ARTICLE II- Other Matters**

1. The Parties hereto agree that EKPC may amortize the regulatory asset granted by the Commission in Case No. 2008-00436 over a three-year period. The amortization shall begin coincident with the effective date of the rate increase, as outlined in Article I, Item 2 of this Settlement Agreement.
2. The Parties hereto agree that a 1.35 Times Interest Earned Ratio ("TIER") will continue to be used by EKPC in the monthly calculation of its Environmental Surcharge.
3. The Parties hereto agree that EKPC may receive a cash return on Construction Work In Progress (CWIP) versus the use of Allowance for Funds Used During Construction (AFUDC) accounting.
4. The parties hereto agree that EKPC's Motion for the Creation of a Regulatory Asset Relating to Unrecovered Revenues pertaining to the operation of Spurlock Unit 4 for the months of April and May, 2009, is no longer applicable to this proceeding.

### **ARTICLE III -Miscellaneous Provisions**

1. Except as specifically stated otherwise in this Settlement Agreement, the Parties agree that making this Settlement Agreement shall not be deemed in any respect to constitute an admission by any party hereto that any computation, formula, allegation, assertion, contention, methodology, or ratemaking principle otherwise made by any other party in these proceedings is true or valid.
2. The Parties hereto agree that the foregoing stipulations and agreements represent a fair, just, and reasonable resolution of the issues addressed herein and request the Commission to approve the Settlement Agreement.
3. The Parties hereto agree that, following the execution of this Settlement Agreement, the Parties shall cause the Settlement Agreement to be filed with the Commission by March 13, 2009, together with a request to the Commission for consideration and approval of this Settlement Agreement for rates to become effective on and after April 1, 2009.
4. Each party waives all cross-examination of the other parties' witnesses unless the Commission disapproves this Agreement. Each party further stipulates and recommends that the Notice of Intent, Notice, Application, testimony, pleadings, and responses to data requests filed in this proceeding be admitted into the record. The Parties stipulate that after the date of this Settlement Agreement they will not otherwise contest EKPC's proposals, as modified by this Settlement Agreement, in the hearing of the above-referenced proceeding regarding the subject matter of the Settlement Agreement, and that they will refrain from cross-examination of

EKPC's witnesses during the hearing, except insofar as such cross-examination is in support of the Settlement Agreement.

5. The Parties hereto agree that this Settlement Agreement is subject to the acceptance of and approval by the Commission. The Parties hereto further agree to act in good faith and to use their best efforts to recommend to the Commission that this Settlement Agreement be accepted and approved.
6. If the Commission issues an order adopting this Settlement Agreement in its entirety, each of the Parties agrees that it shall file neither an application for rehearing with the Commission, nor an appeal to the Franklin Circuit Court with respect to such order.
7. The Parties hereto agree that, if the Commission does not accept and approve this Settlement Agreement in its entirety, then: (a) this Settlement Agreement shall be void and withdrawn by the parties hereto from further consideration by the Commission and none of the parties shall be bound by any of the provisions herein, provided that no party is precluded from advocating any position contained in this Settlement Agreement; and (b) neither the terms of this Settlement Agreement nor any matters raised during the settlement negotiations shall be binding on any of the Parties to this Settlement Agreement or be construed against any of the Parties in any fashion.
8. The Parties hereto agree that, should the Settlement Agreement be voided or vacated for any reason after the Commission has approved the Settlement Agreement, then the parties shall be returned to the *status quo* existing at the time immediately prior to the execution of this agreement.

9. The Parties hereto agree that this Settlement Agreement shall in no way be deemed to divest the Commission of jurisdiction under Chapter 278 of the Kentucky Revised Statutes.
10. The Parties hereto agree that this Settlement Agreement shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns.
11. The Parties hereto agree that this Settlement Agreement constitutes the complete agreement and understanding among the parties hereto, and any and all oral statements, representations or agreements made prior hereto or contained contemporaneously herewith shall be null and void and shall be deemed to have been merged into this Settlement Agreement.
12. The Parties hereto agree that, for the purpose of this Settlement Agreement only, the terms are based upon the independent analysis of the parties to reflect a fair, just, and reasonable resolution of the issues herein and are the product of compromise and negotiation.
13. The Parties hereto agree that neither the Settlement Agreement nor any of the terms shall be admissible in any court or commission except insofar as such court or commission is addressing litigation arising out of the implementation of the terms herein or the approval of this Settlement Agreement. This Settlement Agreement shall not have any precedential value in this jurisdiction.
14. The signatories hereto warrant that they have appropriately informed, advised, and consulted their respective Parties in regard to the contents and significance of this Settlement Agreement and based upon the foregoing are authorized to execute this Settlement Agreement on behalf of their respective Parties.



15. The Parties hereto agree that this Settlement Agreement is a product of negotiation among all parties hereto, and no provision of this Settlement Agreement shall be strictly construed in favor of or against any party. Notwithstanding anything contained in the Settlement Agreement, the Parties recognize and agree that the effects, if any, of any future events upon the operating income of EKPC is unknown and this Settlement Agreement shall be implemented as written.
16. The Parties hereto agree that this Settlement Agreement may be executed in multiple counterparts.

**IN WITNESS WHEREOF**, the parties have hereunto affixed their signatures:

East Kentucky Power Cooperative, Inc.

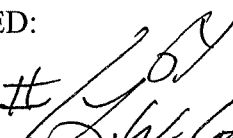
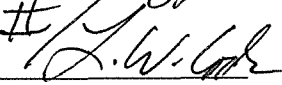
HAVE SEEN AND AGREED:

By: \_\_\_\_\_

Mark David Goss, Counsel

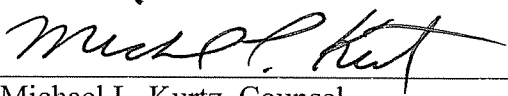
Commonwealth of Kentucky, ex. rel. Jack  
Conway, Attorney General, by and through the  
Office of Rate Intervention

HAVE SEEN AND AGREED:

*Dennis G. Howard, II*   
By: \_\_\_\_\_   
Dennis G. Howard II, Counsel

Kentucky Industrial Utility Customers, Inc.

HAVE SEEN AND AGREED:

By:   
Michael L. Kurtz, Counsel