

# Frost Brown Todd<sup>LLC</sup>

ATTORNEYS

KENTUCKY · OHIO · INDIANA · TENNESSEE · WEST VIRGINIA

Mark David Goss  
(859) 244-3232  
MGOSS@FBTLAW.COM

October 2, 2009

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

RECEIVED  
OCT 5 2009  
PUBLIC SERVICE  
COMMISSION

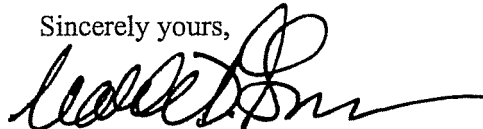
Re: East Kentucky Power Cooperative, Inc.  
2009 Integrated Resource Plan  
PSC Case No. 2009-00106

Dear Mr. Derouen:

Enclosed please find herewith an original and ten (10) copies each of East Kentucky Power Cooperative, Inc.'s Response to Comments on 2009 IRP from Sierra Club, Kentucky Environmental Foundation and Kentuckians for the Commonwealth; and, Motion to Strike Environmental Groups' Supplemental Comments on 2009 IRP. By copy of this letter, all parties listed on the Certificate of Service have been served. Please return file stamped copies of these two to me in the enclosed self-addressed, stamped envelope.

Please file these documents of record.

Sincerely yours,



Mark David Goss

Enclosures

cc: Hon. Dennis G. Howard, II  
Hon. Lawrence W. Cook  
Hon. Robert Ukeiley  
Hon. Michael L. Kurtz  
Hon. Richard Raff  
Ann Wood

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED  
OCT 5 2009  
PUBLIC SERVICE  
COMMISSION

In the Matter of:

A REVIEW PURSUANT TO 807 KAR 5:098 OF )  
THE 2009 INTEGRATED RESOURCE PLAN FOR ) CASE NO.  
EAST KENTUCKY POWER COOPERATIVE, INC. ) 2009-00106

**MOTION OF EAST KENTUCKY POWER COOPERATIVE, INC.  
TO STRIKE ENVIRONMENTAL GROUPS' SUPPLEMENTAL  
COMMENTS ON 2009 INTEGRATED RESOURCE PLAN**

Comes now East Kentucky Power Cooperative, Inc. ("EKPC"), by counsel, and moves the Kentucky Public Service Commission to strike the Supplemental Comments on EKPC's 2009 Integrated Resource Plan filed by Sierra Club, Kentucky Environmental Foundation and Kentuckians for the Commonwealth (collectively "Environmental Groups").

In support of this motion, EKPC states the following:

**I. THE ISSUE ADDRESSED IN THE SUPPLEMENTAL  
COMMENTS IS IRRELEVANT TO EKPC'S INTEGRATED  
RESOURCE PLAN**

The information which the Environmental Groups ask the Commission to consider deals with a United States Environmental Protection Agency ("EPA") Order finding that EKPC's Spurlock 4 air pollution permit violates the Clean Air Act. While EKPC certainly takes issue with this finding, it is wholly irrelevant to EKPC's 2009 IRP. This Order concerns an EKPC generating unit for which this Commission has previously granted a Certificate of Public Convenience and Necessity. It has already been built, and is currently producing electricity every day. What could a U.S. EPA Order involving this generating plant possibly have to do with EKPC's 2009 IRP? The answer, quite simply, is "nothing".

Previously, the Commission entered an Order on EKPC's Motion for Rehearing in this case, admonishing the Environmental Groups that issues involving Smith 1 were not relevant to this inquiry since a CPCN had already been granted for its construction. The filing of supplemental comments involving the Spurlock 4 unit falls into the same category. It has no place in this proceeding.

**II. THE ENVIRONMENTAL GROUPS' SUPPLEMENTAL COMMENTS ARE UNTIMELY**

By Order dated July 2, 2009, the Commission set forth a procedural schedule governing discovery, comment period and informal conference. According to this procedural schedule the deadline for any party desiring to file written comments on EKPC's IRP was September 18, 2009. There was absolutely no provision in the Procedural Order for the filing of supplemental comments. Moreover, the Environmental Groups' supplemental comments were filed with the Commission on September 29, 2009, 11 days past the deadline for filing any written comments.

The Commission's Procedural Order provides the timeline for completion of all activities in this case. It is unfairly prejudicial to EKPC and the Intervenors for the Environmental Groups to file a pleading which is neither authorized by the procedural schedule nor filed by the appropriate deadline. The Environmental Groups' Supplemental Comments were accompanied by neither a motion to extend the procedural schedule nor a request for deviation from it. For this reason alone, the Commission should strike the filing of the Environmental Groups' Supplemental Comments.

WHEREFORE, EKPC respectfully requests that the Commission enter an Order striking the Supplemental Comments of the Environmental Groups, finding that they are both irrelevant and untimely to the consideration of EKPC's 2009 Integrated Resource Plan.

This 2nd day of October, 2009.



Mark David Goss  
Frost Brown Todd LLC  
250 West Main Street  
Suite 2800  
Lexington, KY 40507-1749  
Counsel for East Kentucky Power Cooperative, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing was served by U.S. Mail, postage prepaid, on October 2, 2009 to the following:

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

Hon. Richard Raff  
Senior Staff Attorney  
Kentucky Public Service Commission  
211 Sower Boulevard  
P. O. Box 615  
Frankfort, Kentucky 40602-0615

Hon. Dennis G. Howard, II  
Hon. Lawrence W. Cook  
Assistant Attorneys General  
Utility and Rate Intervention Division  
1024 Capital Center Drive, Suite 200  
Frankfort, Kentucky 40601-8204

Hon. Robert Ukeiley  
Law Office of Robert Ukeiley  
435R Chestnut Street, Suite 1  
Berea, Kentucky 40403  
Counsel for Environmental Groups

Hon. Michael L. Kurtz  
Boehm, Kurtz & Lowry  
36 East 7<sup>th</sup> Street  
Suite 1510  
Cincinnati, Ohio 45202  
Counsel for Gallatin Steel



---

Counsel for East Kentucky Power Cooperative, Inc.