
From: Condo, Joe
To: Bellar, Lonnie; Lovekamp, Rick; Siemens, George; Sturgeon, Allyson
CC: Leaman, Mark; Thompson, Dan
Sent: 12/4/2009 10:10:54 AM
Subject: Legislation

Lonnie et al: Over the course of introducing people in Frankfort to Invenergy, a couple of things have come up. First, there really does seem to be a desire to get some renewable energy going at a macro-policy level. And second, to the extent people are watching and aware of the status of the case at the PSC, there is evidently a recognition that we were getting bogged down in procedure, especially in light of the latest filing from AG/KIUC basically saying that absent either the Supreme Court explicitly saying you have the authority for the surcharge or passage of new legislation, they will sue. It was suggested that the legislature perhaps could get involved to clear up the ambiguity about what statutory authority you have for the surcharge. In reviewing the Stumbo case, I think that a likely outcome is that the specific question you pose in your filings won't be answered – i.e. it won't clarify if wind fits into a fuel adjustment clause.

As such, I took the liberty of drafting something based on the existing gas pipe cost recovery law (KRS 278.509). I have not sent this to anyone else. Basically it would allow PPA pass-through to be approved during the 278.300 approval process and not require approval in a rate proceeding. Would like to know what you think. Thanks,

DRAFT

278.182 Surcharge to recover costs of contracts for purchased power and/or renewable energy credits.

Notwithstanding any other provision of law to the contrary, upon application by a regulated utility, the commission may allow recovery of costs associated with the purchase of power and/or renewable energy credits pursuant to a contract for purchased power and/or renewable energy credits entered into by a regulated utility, which costs are not recovered in the existing rates of a regulated utility. No recovery shall be allowed unless the costs shall have been deemed by the commission to be fair, just and reasonable.

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