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January 4, 2010

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Mr. Jeff Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602

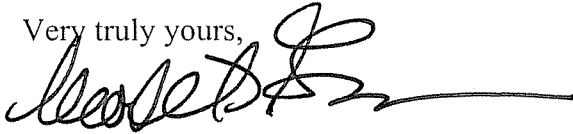
Re: Case No. 2009-00426, In the Matter of: Dr. John Patterson, et al., Plaintiffs, versus
East Kentucky Power Cooperative, Inc., Defendant.

Dear Mr. Derouen:

Please find enclosed for filing with the Commission an original and ten copies of East Kentucky Power Cooperative, Inc.'s Answer to Plaintiffs' Complaint in the above-referenced matter. This Answer is being filed pursuant to KRS 278.260, 807 KAR 5:001 Section 12, and ordering paragraph 2 of the Commission's Order entered December 22, 2009.

Should you have any questions regarding this filing, please contact me at your convenience. I include an extra copy of this Answer which I request be date stamped and returned to me for my file.

Very truly yours,



Mark David Goss
Counsel for East Kentucky Power Cooperative, Inc.

Cc: Hon. Robert Ukeiley, counsel for Plaintiffs Patterson, Rausch and Berry
Hon. Michael R. Campbell, co-counsel for Plaintiffs Patterson, Rausch and Berry

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In the Matter of:

DR. JOHN PATTERSON, FR. JOHN RAUSCH,)
WENDELL BERRY, SIERRA CLUB, KENTUCKY)
ENVIRONMENTAL FOUNDATION AND)
KENTUCKIANS FOR THE COMMONWEALTH)
PLAINTIFFS)
V.)
EAST KENTUCKY POWER COOPERATIVE, INC.)
DEFENDANT)

CASE NO.
2009-00426

**ANSWER OF EAST KENTUCKY POWER
COOPERATIVE, INC. TO PLAINTIFFS' COMPLAINT**

Comes now East Kentucky Power Cooperative, Inc. ("EKPC") by and through counsel, and for its Answer to the Plaintiffs' Complaint, states as follows:

**I. SUMMARY OF CASE STATUS AND
PROCEDURE TO BE FOLLOWED BY EKPC**

By its Order of December 22, 2009, the Kentucky Public Service Commission ("Commission") summarized and reduced the Plaintiffs' rambling 87-count Complaint into nine claims.¹ Of those nine claims, the Commission determined that claims 1 and 9 should be dismissed for Plaintiffs' failure to establish a *prima facie* case.² In addition, the Commission determined that the Sierra Club, the Kentucky Environmental Foundation, and Kentuckians for

¹ Order, December 22, 2009, at 2-3

² *Id.*, at 3-6. Claim 1 asserts that the original CPCN for Smith I is no longer valid because of a change in the method of financing the project. Claim 9 asserts that the CPCN for Smith I is void because EKPC has failed to commence construction within the one-year period as required by KRS 278.020(1).

the Commonwealth all lacked standing to file the Complaint.³ They were dismissed as party-Plaintiffs.⁴

After dispensing with Claims 1 and 9, the Commission determined that Claims 2 through 8 appeared to constitute a *prima facie* case.⁵ The Commission's Order required EKPC to either satisfy or answer these claims.

The Commission's regulation addressing Formal Complaints is found at 807 KAR 5:001 Section 12. Subsections (5) and (6) of that Section address Satisfaction and Answer, respectively. EKPC states affirmatively that the instant Complaint cannot be satisfied. Therefore, EKPC provides its answer to the Complaint pursuant to Subsection (6).

In its Order, the Commission directed EKPC to file a written answer to Claims 2-8 of the Complaint within 10 days of the date of service of the Order.⁶ EKPC will certainly comply with this directive from the Commission. However, because 807 KAR 5:001 Section 12(6) requires that an "... answer must contain a specific denial of such material allegations of the complaint as controverted by the defendant . . .," in answering Claims 2-8 in the Commission's Order, EKPC will also parenthetically provide the counts of the Complaint which correspond to those claims. This is done for ease of reference and in order to avoid a later claim by Plaintiffs that all allegations in the Complaint were not answered.⁷

³ *Id.*, at 5-6.

⁴ *Id.*, at 6, Ordering paragraph 3.

⁵ *Id.*, at 4. Claims 2 through 8 challenge whether Smith 1 is needed or is a wasteful duplication of facilities in light of certain alleged changes in circumstance.

⁶ *Id.* at 6, Ordering Paragraph 2. CR 6.05 provides that three days shall be added to any deadline contained in an order served by mail. Therefore, by EKPC's calculation its Answer is due to be filed by January 4, 2010.

⁷ Because the Commission's Order dismissed Claims 1 and 9, EKPC will not provide an answer in this pleading to the allegations contained in Counts 19 through 22, 73 through 76, and 81 through 86 of the original Complaint.

**II. EKPC'S ANSWER TO CLAIMS 2-8 OF COMMISSION ORDER
AND TO SPECIFIC ALLEGATIONS OF ORIGINAL COMPLAINT**

AFFIRMATIVE DEFENSES

LACK OF STANDING OF THE INDIVIDUAL PLAINTIFFS. EKPC denies that the individual plaintiffs, Dr. John Patterson, Fr. John Rausch and Wendell Berry have adequate standing to bring this Complaint. KRS 278.260(1) requires that any complainant must be "directly interested" in the rate, practice or act of the utility which is the subject of the Complaint. None of the three individual plaintiffs are customers of EKPC. Rather, they are customers of local distribution cooperatives. At most their interests in the rates, practices or acts of EKPC are indirect. The filing of a rate or service complaint under KRS 278.260, especially one that essentially seeks to set aside a previously granted Certificate of Public Convenience and Necessity ("CPCN"), is a serious matter and one which the Commission should construe very strictly when it comes to whether a plaintiff has legal standing to initiate the Complaint⁸, and hereby requests that the Complaint be dismissed in its entirety.

COLLATERAL ESTOPPEL AND RES JUDICATA. The Commission has previously granted EKPC a CPCN to construct Smith 1 after a long and arduous review process.⁹ The Plaintiffs' Complaint seeks to have the Commission's Orders in the CPCN and Certificated Generation Investigation cases completely set aside.¹⁰ The Plaintiffs have embarked upon a full-fledged collateral attack on the Smith I CPCN by filing this action under KRS 278.260 which is

⁸ As opposed to a request for full intervention in an already existing case pursuant to 807 KAR 5:001 Section 3(8)(b) which is usually more liberally applied.

⁹ Case No. 2005-00053, Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity, and a Site Compatibility Certificate, for the Construction of a 278 MW (nominal) Circulating Fluidized Bed Coal Fired Unit and Five 90 MW (nominal) Combustion Turbines in Clark County, Kentucky; Case No. 2006-000564, An Investigation into East Kentucky Power Cooperative, Inc.'s Continued Need for Certificated Generation.

¹⁰ Plaintiffs' Complaint, Count 1, page 1: ". . . [plaintiffs] . . . request that the Public Service Commission revoke the Certificate of Public Convenience and Necessity the Commission granted to (EKPC) for the J. K. Smith Unit 1."

reserved for complaints regarding a “rate” or “service”. By employing this strategy, the Plaintiffs are attempting to attack and ultimately vitiate prior Orders granted only after months of litigation, discovery and deliberations on the part of the Commission. They are doing this because they know they have no standing to request that the Commission’s prior CPCN Orders be reconsidered. The Commission should not allow KRS 278.260 to be improperly used by previously disinterested parties to collaterally attack one or more of its well-reasoned Orders. The legal doctrines of res judicata and collateral estoppel prevent the Plaintiffs’ Complaint from proceeding and EKPC relies upon them as affirmative defenses in this case.

GENERAL ANSWER

EKPC specifically denies the allegations contained in Counts 1, 2, 9, 10, 11, 12, 13, 18, 77, 78, 79, 80, and 87 of the Complaint.

EKPC admits the allegations contained in Counts 14, 15, 16 and 17 of the Complaint.

EKPC denies so much of the allegations contained in Counts 3, 4 and 5 of the Complaint which state that the individual Plaintiffs are customers of EKPC. EKPC is without sufficient knowledge as to the truth or falsity of the rest of the allegations contained in Counts 3, 4 and 5 of the Complaint, and therefore, it denies same.

EKPC is without sufficient knowledge as to the truth or falsity of the allegations contained in Counts 6, 7 and 8 of the Complaint, and therefore, it denies same.

As stated previously, because the Commission’s Order of December 22, 2009 dismissed Claims 1 and 9, EKPC will not provide an answer in this pleading to the allegations contained in Counts 19, 20, 21, 22, 73, 74, 75, 76, 81, 82, 83, 84, 85 and 86 of the Complaint.

ANSWER TO CLAIMS 2-8

Claim 2 (Complaint Counts 23-27):

EKPC's forecast for its energy requirements in 2020 decreased between its 2004 prediction and its 2008 prediction by 2,273,489 MWH per year, or almost 12 percent. This is approximately how much energy Smith Unit 1 will product annually.

EKPC Answer: EKPC denies the allegations contained in Counts 23-27 of the Complaint.

Regardless of EKPC's previous planning assumptions, its current load forecast, approved by RUS, shows the need for the Smith 1 CFB. EKPC's projections of its energy needs have not turned out to be much higher than actual energy needs. Over the period 1994 – 2008, actual energy requirements are higher than projected energy needs.

It is also inaccurate to say that *"a change in the economic situation is only one minor reason for this change."* Please consider the following Kentucky employment information.

- Total nonfarm employment for Kentucky peaked in the fourth quarter of 2007 at 1,595,692 jobs. As of the third quarter of 2009 total nonfarm employment was at 1,510,189 jobs – a loss of more than 85,000 jobs.
- During the fourth quarter of 2007 there were 204,421 manufacturing jobs in the state. As of the third quarter of 2009 there were 170,482 – a loss of nearly 34,000 manufacturing jobs, more than a 16% decline.
- Kentucky's unemployment rate for December 2007 was 5.5%. Since that time it has nearly doubled to a rate of 10.9% as of September 2009. Preliminary data for October 2009 puts Kentucky's unemployment rate at 11.3%.

EKPC energy sales growth has slowed, as has sales growth for most utilities across the country, due to the poor economy. As conditions improve, EKPC energy sales will see a rebound.

EKPC's long-term projection of energy sales is around 2% per year. Historical sales have been twice that amount.

The 2009 forecast for total requirements is based on a normal weather scenario (as are all forecast values). It is important to consider the role that the weather plays on total energy requirements when doing any comparison with historical data. The table below illustrates the differences in heating and cooling degrees between 2008 and 2009.

January – November	2008	2009	% Diff (over 2008)
Heating Degree Days	3888	3733	-4%
Cooling Degree Days	1201	1028	-14%

The 2009 summer temperatures were much milder than those of the 2008 summer. This is one reason for lower total requirements. The economic recession is another. EKPC monitors the economy closely and gathers data from outside data sources such as *Global Insight* in order to account for economic cycles. Improvement in the economy is expected in the future. Considering the long term nature of the load forecast and integrated resource plan, these tools remain appropriate for long term resource planning.

Efficiency standards for large customers have only been incorporated if improvements are being implemented by the individual customer. In these instances, the effect of the efficiency improvement is reported as a general reduction in usage. EKPC does not specifically ask for details of the improvements individual companies are making; therefore, allocating the reductions specifically to one of the standards is not available. However, while the type of efficiency improvement made is not known, the reduction in energy use due to the efficiency improvement is accounted for.

The small commercial class is a very diverse class that represents only 15% of EKPC sales to members. The reason for the diversity is that commercial customers are not categorized

by type—rather they are categorized by transformer size. Efficiency standards are not accounted for in the forecast until evident in the history or in feedback from the member systems with respect to expected lower load. Broad generalizations about commercial energy efficiency cannot be made because (a) commercial accounts are not homogenous, and (b) there are relatively few commercial establishments over the entire EKPC service area.

EKPC is fully aware that Community Action agencies are using stimulus funding to perform weatherization programs in the state. The stimulus funds are being distributed to Community Action through the state's Clean Energy Corps program. Many of EKPC's member coops are working with Community Action to perform audits and weatherization. The Touchstone Energy Button Up program is being used in many instances to bolster the Community Action program.

Please note that EKPC's 2009 Integrated Resource Plan ("IRP"), which was completed and filed in April 2009 (Case No. 2009-00106), has incorporated more DSM programs than its IRP filed in 2006. In other words, EKPC is aware of the developments stated in this part of the Complaint, and has modified its expansion plan accordingly.

Claim 3 (Complaint Counts 28-31):

The capital cost of Smith Unit 1 has increased 44 percent from an initial estimate of \$553 million to a current estimate of \$767 million.

EKPC Answer: EKPC denies the allegations contained in Counts 28-31 of the Complaint.

EKPC's current estimate with regard to the Smith 1 CFB is \$819 million. EKPC's construction of the Smith 1 CFB was delayed as a result of needed permit approvals at the state and federal levels. During this time, certain contracts have increased in cost and certain contracts have decreased in cost. The Smith 1 CFB continues to be EKPC's least cost option for

base load generating capacity, and is not a fundamentally different project than the one for which the Commission issued its CPCN.

Claim 4 (Complaint Counts 32-37):

Renewable portfolio standards in states such as Ohio, Missouri, Illinois, and Virginia, as well as an impending national renewable portfolio standard, will make off-system sales much more difficult. Thus, there is an increased risk of EKPC having excess generation capacity.

EKPC Answer: EKPC denies the allegations contained in Counts 32-37 of the Complaint.

EKPC believes that, should EKPC ever need to market the Smith 1 CFB off-system, it will have no difficulty in doing so. The marketability of the Smith 1 CFB generation has not changed since the Commission's Order in Case No. 2006-00564. EKPC's existing CFB fleet represents its least cost units relating to dispatch costs. Wholesale markets, which operate consistently with EKPC's internal dispatch methodology, load the least cost units first. Smith 1 CFB's dispatch cost characteristics are favorable in a deregulated wholesale market.

Renewable portfolio standards in other states, and the presence of E.on's Trimble 2 coal-fired generating station, would have no effect on either the cost competitiveness or the off-system sales marketability of the Smith 1 CFB.

Claim 5 (Complaint Counts 38-51):

Environmental regulations have become more stringent causing Smith Unit 1 to be more expensive to operate.

EKPC Answer: EKPC denies the allegations contained in Counts 38-51 of the Complaint.

More stringent environmental regulations make all coal-fired generation more expensive, not just the Smith 1 CFB. However, the Smith 1 CFB technology offers EKPC the opportunity to burn, in addition to normal CFB fuel, waste coal refuse, dry waste wood materials, and

switchgrass—renewable resources which are more environmentally friendly approaches to electric generation than a typical pulverized coal-fired unit.

Coal combustion waste rules have not been finalized by the Environmental Protection Agency (“EPA”). From the latest sources, EPA may re-classify wet-sluiced ash as hazardous waste. The CFB technology produces dry ash, not wet-sluiced ash. Dry ash under the proposed Coal Combustion By-products, “coal ash”, or (“CCBs”), rule will remain classified as special waste, not hazardous waste.

Under the current Kentucky special waste regulations and the beneficial re-use program, EKPC will be able to utilize CCB as structural fill. EKPC abides by, and will continue to abide by, the current state and federal regulations in regard to CCBs.

EKPC monitors changing EPA regulations. When GHG regulations are promulgated for stationary sources, EKPC shall implement the appropriate technology to mitigate CO₂. EKPC is investing in research with the University of Kentucky Center for Applied Research (CAER), which is investigating technologies for CO₂ capture and sequestration. EKPC is a leader in the Commonwealth for utilizing renewable resources. EKPC has performed test burns with wood waste and switchgrass in its coal-fired units, and has constructed over 15 MW of capacity of electric generation from methane produced by landfills. EKPC’s resource portfolio includes substantial renewable resources.

The KY Division of Air Quality (“KDAQ”) has evaluated the Smith 1 CFB project in accordance with EPA requirements and Kentucky Administrative Regulations (“KAR”), and issued a draft air permit under the combined Title V and Prevention of Significant Deterioration (“PSD”) program. The CFBs meet or exceed National Ambient Air Quality Standards for NO_x and ozone. Should the EPA lower the threshold for ozone, KDAQ will communicate the

changes to industry. EKPC will continue to work with the EPA and state regulators to meet the appropriate standards for the regulated criteria pollutants to maintain attainment.

The KDAQ regulations provide that PM10 may be used as a surrogate for PM2.5. EKPC has met this regulation under the KAR. The EPA will provide its comments on this issue during the PSD determination of the draft permit.

EKPC maintains an excellent record for compliance with the Kentucky Division of Wastewater and EPA water and waste water regulations. EKPC will continue to meet water quality regulations and performance.

Claim 6 (Complaint Counts 52-59):

The capital cost of base load natural gas-fired power plants is much less than the capital cost of a coal-fired CFB power plant particularly given the recent decrease in the price of natural gas.

EKPC Answer: EKPC denies the allegations contained in Counts 52-59 of the Complaint.

The subject of this portion of the Complaint is natural gas generation. Count 52 of the complaint indicates that, over the past decade, the U.S. is developing more natural gas-fired power plants than coal-fired plants. The supporting documentation in Count 52, Table 1, provides no breakout relative to type of generation – that is, the amount of generation that is baseload, intermediate, and peaking. Without such a breakout, Table 1 has much less relevance. New coal-fired generating plants tend to be baseload units. Peaking and intermediate generation are almost exclusively natural gas-fired.

Kentucky has added two baseload coal plants in the past decade, and there is a baseload coal-fired generator presently under construction in the state. EKPC does not believe that any baseload natural gas-fired generation has been constructed in Kentucky during the past decade,

nor does EKPC believe that any utilities in Kentucky are presently developing baseload natural-gas fired generation.

Count 53 of the Complaint indicates that since the 2007 Order, *“the price of natural gas has dropped considerable.”* While it is true that the spot price of natural gas this past summer was low relative to the past 10 years or so, of more importance is the price of natural gas in the future. Count 53 includes this statement regarding the future price of natural gas – *“Most experts believe that this is a structural change in the price, meaning it is going to be with us a long time.”* Gas has doubled in price since its summer lows; such summer lows were due to weather and the economy.

New York Mercantile Exchange (“NYMEX”) natural gas forward curves do not support the above Count. EKPC Exhibit 1 contains the NYMEX natural gas forward curve as of May 11, 2007, which is the date of Order in Case No. 2006-00564. EKPC Exhibit 1 also contains the NYMEX natural gas forward curve as of December 28, 2009. Note that as the curves move out into the long-term, market expectations of natural gas prices are nearly the same for both curves. In other words, the market’s current expectation of long-term natural gas prices has not materially changed, relative to the issuance of the Order in Case No. 2006-00564.

Counts 54 and 55 of the Complaint make two additional points favoring natural gas generation over coal generation. The first point is that natural gas generation is cheaper to build, and will require the purchase of fewer air pollution emission credits. EKPC’s response to this point is that EKPC plans for new capacity additions based on total cost, not just capital cost. Total cost is made up of both fixed and variable components. Variable costs for power plants are dominated by the cost of fuel, but also include variable operating and maintenance (“O&M”) costs. The Smith 1 CFB continues to be EKPC’s least cost option for base load generating

capacity. The second point is that natural gas generation will generate less waste and will use less water than coal-fired generation. EKPC complies with all environmental standards, including the obtaining of all operating permits that address waste and the use of water, for all of its generating facilities.

Count 59 includes the following statement – *“If EKPC needed base load generating capacity, a base load natural gas power plant would result in lower bills for EKPC customers. It would also provide more diversity in EKPC generation fleet which is a hedge against future uncertainties.”* EKPC has approximately 1,000 MW of natural gas-fired generation at its Smith site. That amount represents over one-third of its total generating capacity. EKPC dispatches its 1,000 MW of natural gas-fired generation the same way it dispatches coal-fired generation, applying the same rules to all of its generation fleet. The fact that EKPC’s 1,000 MW of natural gas-fired generation tends to be dispatched behind its coal fleet is indicative of the price of coal versus the price of natural gas – when the economics favor EKPC’s natural gas-fired generation, then the gas generation is dispatched ahead of coal generation. Note that the economics have never favored the dispatching of gas-fired generation over coal-fired generation.

To summarize, EKPC plans new power supply by looking at total cost, not just installed (capital) cost. EKPC operates its power plants in such a manner that least cost generation is dispatched ahead of higher cost generation. In both the planning and operating of its generating facilities, EKPC utilizes least cost principles and methods. These points were previously explained in Case No. 2006-00564. Furthermore, the Sierra Club, Kentucky Environmental Foundation, and Kentuckians for the Commonwealth (collectively “Environmental Groups”), organizations that were originally part of the filing of this Complaint, were intervenors in EKPC’s recently filed IRP. As intervenors, the Environmental Groups had full and complete

access to EKPC's planning data, planning assumptions, and planning rules. EKPC's IRP addressed each point brought forth in this Complaint.

Claim 7 (Complaint Counts 60-66):

EKPC can meet its future energy needs through demand side management programs and renewable energy sources. The cost, availability, and regional experience with renewable energy have changed dramatically since 2007.

EKPC Answer: EKPC denies the allegations contained in Counts 60-66 of the Complaint.

As indicated in EKPC's 2009 IRP, EKPC plans to meet a portion of its future power supply needs through conservation, demand response, efficiency, and load management programs. In addition, EKPC plans to meet a portion of its future power supply needs through the use of renewable generation. EKPC's 2009 IRP, in which the Environmental Groups were intervenors and received access to all of EKPC's data and assumptions, describes these plans in great detail.

For example, Kentucky Power, in its IRP case No. 2009-339, projects energy savings from DSM of 119 GWh by 2018. That represents 1% of its total energy requirements of 8,710 GWh. EKPC's 2009 IRP projects energy savings from DSM of 455 GWh. That represents 3% of its total energy requirements of 14,985 GWh.

Another example is direct load control. In only one year, EKPC's member cooperatives have installed over 10,000 switches on water heaters and air conditioners.

EKPC generates more green energy credits than any other utility in the state. EKPC owns and operates over 15 MW of renewable energy. In addition, EKPC has the rights to 170 MW of hydroelectric power from the Southeastern Power Administration, as well as 60 MW from the Greenup hydroelectric facility.

As Louisville Gas and Electric and Kentucky Utilities have noted in their wind application, wind is not a least cost source of electricity. Considerations of additional transmission and associated costs have not been addressed in this Complaint.

As far as planning for the future, EKPC's IRP expansion plan contains the following (through 2023):

Renewable Power Supply	30 MW
Purchases	250 MW
Nuclear	200 MW
Natural Gas	294 MW
Coal	278 MW

As can be seen, EKPC intends to meet its future needs in a variety of ways. EKPC remains committed to least cost / risk adjusted power supply. The types and amounts of power supply noted above reflect a rigorous resource planning process.

In a previous section of this Complaint, the point is made that natural gas generation should be EKPC's answer to power supply. In this section, the claim is made that DSM and renewable energy are EKPC's answer to power supply. EKPC believes that each of these power supply options has a part to play within the overall spectrum of power supply. Each type of power supply has a unique set of cost characteristics, operating characteristics, and dispatch characteristics. EKPC has performed very detailed computer modeling, described in its IRP, in order to put together a diverse expansion plan for the future, all the while mindful of cost and risk to its customers. To say that any one type of power supply can meet 100% of EKPC's future needs is simply irresponsible.

Claim 8 (Complaint Counts 67-72):

More efficient and proven CFB technology is now commercially available.

EKPC Answer: EKPC denies the allegations contained in Counts 67-72 of the Complaint.

The Smith Unit will be EKPC's third circulating fluidized bed ("CFB") boiler. EKPC has gained considerable operating and maintenance experience for this technology through the operation of its Gilbert and Spurlock 4 Units. EKPC has designed the Smith 1 CFB based on experience gained through operating its other two CFB units. These design changes are tweaks in a mature technology. Additionally, EKPC will achieve savings for capital spares with long lead times, as such spares may be used for all CFB units.

To EKPC's knowledge, there are no supercritical CFB units operating in the United States. EKPC only knows of one supercritical CFB--this unit is located in Poland and has a 460 MW rating with a thermal efficiency of 43.3%. This unit has been in operation for less than one year.

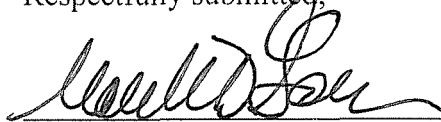
Changing from a subcritical to a supercritical steam cycle requires a major redesign of a mature CFB technology. Supercritical CFB technology is an immature technology, and changing Smith from subcritical design to supercritical would require a new plant design. The turbine, boiler, boiler steel, most of the steam cycle and related piping, feedwater heaters, and boiler feed pumps would need to be replaced. A new foundation design would also be required. A supercritical steam cycle does offer improved efficiency, but the break even in this more expensive capital investment for a supercritical unit to gain higher fuel efficiency is approximately 650 MWs for a pulverized coal supercritical plant. A 650 MW unit would be too large for EKPC's system assuming a similar breakeven for a CFB unit. To realize the improved heat rate of a supercritical unit, the unit must be operated near full load.

WHEREFORE, for all of the reasons set forth above, EKPC respectfully requests that the Commission grant the following relief:

- 1) that the Complaint herein be dismissed and held for naught; and,
- 2) that this matter be closed on the Commission docket.

This 4th day of January 2010.

Respectfully submitted,



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

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Answer was served the 4th day of January 4, 2010, by U.S. Mail, postage prepaid to the following:

Hon. Robert Ukeiley
Law Office of Robert Ukeiley
435 R Chestnut Street, Suite 1
Berea, KY 40403
Counsel for Plaintiffs Patterson, Rausch and Berry

Hon. Michael R. Campbell
Law Office of Campbell, Rogers
& Hill, PLLC
154 Flemingsburg Road
Morehead, KY 40351
Co-Counsel for Plaintiffs Patterson, Rausch and Berry



Mark David Goss
Counsel for East Kentucky Power Cooperative, Inc.

Figure 1
NYMEX Natural Gas Forward Prices Including Trend

