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FAX COVER SHEET

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY POWER COOPERATIVE, INC. FOR APPROVAL OF THE ISSUANCE OF $900,000,000 OF SECURED PRIVATE PLACEMENT DEBT AND UP TO $21,435,000 OF UNSECURED DEBT	) CASE NO. 2009-00476

JOHN A. PATTERSON, M.D., MSPH, FR. JOHN RAUSCH, WENDELL BERRY, MIKE HANNON, SIERRA CLUB, KENTUCKY ENVIRONMENTAL FOUNDATION, AND KENTUCKIANS FOR THE COMMONWEALTH REPLY IN SUPPORT OF THEIR MOTION FOR FULL INTERVENTION

On February 18, 2010, John A. Patterson, M.D., MSPH, Father John Rausch, Wendell Berry, Mike Hannon, Sierra Club, Kentucky Environmental Foundation, and Kentuckians for the Commonwealth (collectively "Concerned Citizens") respectfully requested that they be granted full intervention in this case. On February 26, 2010, East Kentucky Power Cooperative (EKPC) filed its Opposition to the Concerned Citizens' Motion. The Concerned Citizens now offer this reply which will touch on a few issues raised by EKPC.

In its Response, EKPC discusses the criteria by which the Commission should decide whether to grant EKPC approval for its proposed financing. Response of East Kentucky Power Cooperative, Inc. To Motion of Patterson, Rausch, Berry, Hannon, and [SIC] "Concerned Citizens" For Full Intervention ("Response") at 3. EKPC goes on to provide a bullet point list of the issues that Concerned Citizens expect to raise.

EKPC's bullet point list mischaracterizes at least one issue. For example, EKPC says that one of the issues is "EKPC may have to install additional "environmental controls" on Smith 1 CFB at some unknown date in the distant future which might affect

the cost[.]" Response at 4. Concerned Citizens' Motion does not discuss additional environmental controls that EKPC may have to install at some unknown date in the distant future. Rather, the Concerned Citizens are talking about environmental controls that EKPC will be required to install before they turn the Smith 1 CFB on for the very first time. The reason there is a debate about this issue is that EKPC does not have any of its final environmental permits, which will dictate the capital cost of the plant. Thus, EKPC is either asking the Commission to approve nearly a billion dollars of debt based on speculation as to what the final environmental permits will require, if they are even issued, or EKPC is asking the Commission to be prepared to approve additional debt for the Smith 1 CFB at a later date without actually saying it.

EKPC's bullet point list also leaves out two critical issues. One is that EKPC presented a very different picture of its financial health to the Commission, when applying for a rate increase, and to the U.S. Department of Agriculture's Rural Utility Service when applying for a lien accommodation at the same time. *See* Motion at 12 – 16. The Commission needs to know EKPC's true financial situation in order to determine if the requested debt will impair EKPC's ability to provide reliable and reasonable priced electricity to its members.

Concerned Citizens have not seen any evidence that all of the financing EKPC is requesting will actually be used to finance the Smith 1 CFB. EKPC admits that it has financed part of the Smith 1 CFB project from its unsecured revolving credit facility. Response at 3, ftnt. 4. However, EKPC also uses this unsecured revolving credit facility for capital costs of other projects and for operating costs. Therefore, it is critical to determine, through evidence, that none of the requested financing is used to repay debt on

the unsecured revolving credit facility that was used for EKPC's operating costs. Only then will the Commission have conducted an "investigation of the purposes and uses of the proposed issue and the proceeds thereof" of the requested debt. *See* KRS § 278.300(3).

EKPC then offers a conclusory argument that none of the issues raised by Concerned Citizens are relevant to KRS § 278.300(3). Response at 5-6. To begin with, EKPC is incorrect in stating that the criteria in KRS § 278.300(3) are narrow. Rather the use of the terms "appropriate for or consistent with the proper performance" and "reasonably necessary and appropriate" in KRS § 278.300(3) provide the Commission with the ability to consider a wide range of issues.

In any event, Concerned Citizens have already explained in the Motion how the issues they wish to raise are directly relevant to KRS § 278.300(3). Motion at 7-16. EKPC's attempt to classify these issues as almost exclusively having to do with air quality and other environmental issues is inaccurate as many of the issues, such as EKPC's financial situation, are financial issues. Furthermore, even the issues regarding environmental regulations are relevant to this matter because environmental regulations directly impact the capital cost of the Smith 1 CFB. The reasonableness of the financing for Smith 1 CFB, and the impacts that will have on EKPC's ability to continue to provide reliable and reasonably priced electricity, can only be judged against a realistic capital cost of the plant.

Finally, as to the schedule, Concerned Citizens need to be able to take discovery in order to adequately assist the Commission in fully considering the matter, as explained in their Motion. EKPC's attempt to bar the Concerned Citizens from taking discovery by

requesting that the schedule not be revised should be rejected. EKPC's claims the motion to intervene is tardy. The Concerned Citizens have already addressed the timeliness of their motion. Motion at 6. EKPC also offers a confusing explanation of its need for a quick response in footnote 4. It is confusing because EKPC claims that its unsecured revolving credit facility expires in September 2010 and it expects to replace it with a similar facility. Yet, EKPC makes no mention of applying for the Commission approval for this new "similar facility." To the extent that EKPC is referring to the $21,435,000 in unsecured debt it is requesting approval for in this case, that is hardly a similar facility as the current revolving credit facility because it is less than 5% of the amount of the current revolving credit facility and is for only one purpose.

EKPC does not explain why it waited until December 4, 2009, to file for approval of this financing. EKPC should not be allowed to force the Commission, by its late filing, into a less than fully considered decision with such a massive amount of debt incurred by a financially troubled utility.

EKPC also complains that the Concerned Citizens did not move for a change in the schedule. However, Concerned Citizens are not as of now a party to this proceeding and are not aware of the ability of non-parties to a case to file motions to change the case's schedule. If granted intervention, the Concerned Citizens intend at that point to request a modification of the schedule to allow them an opportunity for discovery.

Therefore, for the reasons stated above, as well as in the Motion, Concerned Citizens request full intervention.

Respectfully submitted,

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Dated: March 10, 2010

CERTIFICATE OF SERVICE

I certify that I had the above served on the following by e-mail on March 10, 2010.

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