COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN EXAMINATION OF THE APPLICATION OF THE FUEL ADJUSTMENT CLAUSE OF EAST KENTUCKY POWER COOPERATIVE, INC. FROM NOVEMBER 1, 2011 THROUGH APRIL 30, 2012	))))))	CASE NO. 2012-00319

ORDER

Pursuant to 807 KAR 5:056, the Commission established this case on August 22, 2012 to review and evaluate the operation of the Fuel Adjustment Clause ("FAC") of East Kentucky Power Cooperative, Inc. ("East Kentucky") for the six-month period that ended on April 30, 2012. As part of this review, East Kentucky submitted certain information, pursuant to Commission Order, concerning its compliance with 807 KAR 5:056. The Commission held a public hearing in this matter on October 11, 2012. On October 25, 2012, East Kentucky filed its response to requests made at the hearing, including a Position Paper relating to the recovery of the cost of tire derived fuel through the FAC.

During the period under review, East Kentucky recovered through its FAC a total of $19,684.80 for 437.44 tons of tire-derived fuel, which calculates to a cost of $45 per ton. The fuel was burned in East Kentucky's Gilbert unit, which is a circulating fluidized bed ("CFB") unit[1]. East Kentucky's two CFB units have air permits that allow them to

[1] East Kentucky's Spurlock 4 unit is also a CFB unit.

burn up to a 10 percent blend of tire-derived fuel by weight.[2] In its Position Paper, East Kentucky requests authority to recover through its FAC the cost of "any fuels that are economic when compared to traditional fossil fuels," specifically biomass resources and tire-derived fuel. East Kentucky argues that biomass resources and tire-derived fuel are economic supplements which compare favorably to the exclusive use of traditional fossil fuel and that adhering to a strict meaning of fossil fuel "would lead to a result that falls short of the Commission's statutory mandate to prescribe 'fair, just and reasonable' rates."[3]

East Kentucky also argues that since the promulgation of the FAC regulation, the General Assembly has "expressly adopted a public policy which favors and encourages the use of both biomass and tire-derived fuel in power generation." East Kentucky cites KRS 154.27-020(3)(c)-(d) and KRS 224.50-850 which it states promote the use of alternative fuels and tire-derived fuel. According to East Kentucky, a narrow interpretation of the FAC regulation would contradict these more recent policy directives of the General Assembly.[4]

The issue presented here by East Kentucky is one of first impression for the Commission. While we understand and appreciate the disposal problems created by waste tires, the FAC regulation, 807 KAR 5:056, is very specific in enumerating the category of costs and transactions that are recoverable. 807 KAR 5:056, Section1(3)(a), authorizes an electric utility to recover the actual cost of "fossil fuel"

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[2] Response to Item 26.e. of the Commission's August 22, 2012 Information Request.

[3] Position Paper filed in response to Item 5 of the Post-Hearing Data Request, page 2.

[4] *Id.* at pages 2-3.

consumed in the utility's own plants and makes no provision for the recovery of any other type of fuel consumed in its own plants.[5] Therefore, the expressed language of the FAC does not allow an electric utility to recover through the FAC the cost of non-fossil fuels consumed in its own plants; however, as stated by East Kentucky, tire-derived fuel is petroleum based.[6] Accordingly, the Commission finds that the cost of tire-derived fuel is recoverable through the FAC. As with purchases of coal, natural gas, and other fossil fuel for generation, recovery of tire-derived fuel is subject to the limitations prescribed under 807 KAR 5:056, Section 1(11). The Commission further finds that while there may be "non-fossil" fuels such as switch grass and biomass that may be economic when consumed in the utility's own plants, the expressed language of the FAC does not authorize the recovery of non-fossil fuels through the FAC. Rather, the cost of non-fossil fuels that are economic can be recovered by a utility, along with all its other reasonable expenses, in a base rate proceeding, as fully satisfying the statutory mandate that rates be "fair, just and reasonable."

The Commission has previously established East Kentucky's base fuel cost as 30.14 mills per kWh.[7] A review of East Kentucky's monthly FAC filings shows that the

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[5] For fuel consumed in jointly owned or leased plants, the FAC regulation does authorize the recovery of the actual cost of fossil and nuclear fuel.

[6] Hearing Video at 10:36:12.

[7] Case No. 2010-00491, An Examination of the Application of the Fuel Adjustment Clause of East Kentucky Power Cooperative, Inc. from November 1, 2008 Through October 31, 2010 (Ky. PSC May 31, 2011).

actual fuel cost incurred for the six-month period under review ranged from a low of 26.07 mills in March 2012 to a high of 30.88 mills in November 2011, with a six-month average of 28.78 mills.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds no evidence of improper calculation or application of East Kentucky's FAC charges or improper fuel procurement practices.

IT IS THEREFORE ORDERED that the charges and credits billed by East Kentucky through its FAC for the period November 1, 2011 through April 30, 2012 are approved.

By the Commission

ENTERED

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KENTUCKY PUBLIC SERVICE COMMISSION

ATTEST:

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