

Commonwealth of Kentucky

HOUSE OF REPRESENTATIVES



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January 20, 2015

RECEIVED

JAN 21 2015

PUBLIC SERVICE
COMMISSION

David L. Armstrong
Chairman
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, KY 40602-0616

RE: Case No. 2014-00225

Dear Chairman Armstrong:

I write to urge the Commission to deny the application of Kentucky Power for recovery under the fuel adjustment clause and reject the methodology it has employed to calculate its fuel adjustment clause. The Commission is well aware of my opposition to the decisions to close Big Sandy Unit 2 and transfer 50% of the Mitchell Plant to Kentucky Power. My reasons for opposition are in the record in the Mitchell Transfer Case NO. 2012-00578 and I respectfully request that that statement (a copy of which is attached) also be placed in the record of this proceeding.

In its application under the fuel adjustment clause Kentucky Power proposes to charge Kentucky Power rate payers exclusively a "no load" charge that would result in additional \$38 million charged to Kentucky Power's rate payers not identified in the Mitchell Transfer Case Stipulation. Once again, Kentucky Power has withheld information vitally important to decisions of this Commission.

During the period Kentucky Power proposes to collect from Kentucky rate payers the "no load" fees, Kentucky Power operated both Mitchell Units and Big Sandy Unit 2 and began charging Kentucky rate payers a 5.33% asset transfer rider while retaining 100% of off system sales, approximating \$50 million dollars, as profit for AEP. Off system sales customers were not charged "no load fees" in effect causing native load customers to subsidize off system sales to make them more competitive in the PJM Market. This highly questionable transaction by AEP affiliates arose when the Virginia State Corporation Commission denied the transfer of 50% of the Mitchell units to Appalachian Power leaving the Mitchell Plant in the untenable situation of being 50%

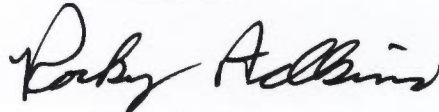
state regulated and 50% unregulated. Kentucky Power proposed an operating structure to the Federal Energy Regulatory Commission that promised that no discrimination would occur against Kentucky rate payers under a 50% regulated 50% unregulated operating arrangement. The fact that Kentucky Power now proposes to charge “no load fees” to native load customers and not to off system sales customers is evidence that that promise has not held true.

During the 2014 regular session I introduced HB 573 calling upon the Public Service Commission to reconsider any prior decision that is a multi-state transaction in which an out of state utility commission fails to approve the transaction to determine whether the transaction is still in the public interest of Kentucky rate payers. HB 573 passed the House 62-34.

The denial of the transfer of Mitchell by the Virginia Commission leaving Mitchell 50% regulated 50% unregulated and Kentucky Power’s decision to charge Kentucky rate payers “no load” fees to make off system sales more competitive is evidence that this affiliate transaction arrangement for operation of the Mitchell Units does not work to the benefit of Kentucky rate payers. I ask the Commission to deny Kentucky Power’s application in the fuel adjustment clause and call upon the Kentucky Commission to reexamine its decision in the Mitchell Transfer Case which should include a thorough examination of the option to scrubb Big Sandy Unit 2.

If you have any questions, please do not hesitate to call.

Sincerely,

A handwritten signature in black ink that reads "Rocky Adkins". The signature is written in a cursive, flowing style.

Rep. Rocky Adkins
Majority Floor Leader

I APPRECIATE ONCE AGAIN THE OPPORTUNITY TO COMMENT ON THE MATTER BEFORE THIS COMMISSION CONCERNING THE TRANSFER OF 50% OF THE MITCHELL GENERATION ASSETS TO KENTUCKY POWER.

OBSERVING THESE PROCEEDINGS AND LISTENING TO THE DISCUSSION OF THE ISSUES HAS GIVEN ME A GREAT RESPECT FOR THE PROCESS, THE COMMISSION AND ITS STAFF. THIS IS INDEED A CROSSROADS FOR KENTUCKY POWER. THESE ARE COMPLEX ISSUES AND THE DECISIONS TO BE MADE REGARDING THEM WILL FOREVER IMPACT KENTUCKY POWER'S RATE PAYERS, MY CONSTITUENTS, THE REGION I REPRESENT AND ALL OF EAST KENTUCKY.

THIS COMMISSION KNOWS WELL BY NOW MY POSITION IN THIS MATTER. I HOLD HOPE THAT IN DECIDING WHAT IS BEST FOR THE FUTURE OF KENTUCKY POWER AND ITS RATE PAYERS THIS COMMISSION WILL ALSO CONSIDER THE OPTION TO SCRUB BIG SANDY UNIT 2. I UNDERSTAND THE MATTER BEFORE YOU NOW IS APPROVAL OF THE SETTLEMENT AGREEMENT, BUT I BELIEVE THIS COMMISSION'S DELIBERATION DESERVES CAREFUL CONSIDERATION OF ALL OF THE OPTIONS. THE COMMISSION SHOULD NOT BE DISTRACTED BY A SHELL GAME PLACING THE OPTION TO SCRUB BIG SANDY 2 UNDER SHELL NUMBER ONE, TRANSFERRING 50% OF THE MITCHELL PLANT UNDER SHELL NUMBER TWO AND THE SETTLEMENT AGREEMENT UNDER SHELL NUMBER THREE.

AS MORE QUESTIONS HAVE BEEN ASKED IN THIS PROCEEDING MORE COSTS ASSOCIATED WITH THE TRANSFER OF THE MITCHELL PLANT HAVE BEEN IDENTIFIED AND THE CLOSER THE COSTS OF SCRUBBING BIG SANDY 2 AND ACQUIRING MITCHELL HAVE BECOME. WHAT EARLY ON WAS IDENTIFIED BY THE COMPANY AS A 31% RATE INCREASE VERSUS AN 8% RATE INCREASE BECAME A LOWER 25.59% RATE INCREASE TO SCRUB BIG SANDY 2 VERSUS 13.98% TO TRANSFER MITCHELL AS A RESULT OF STAFF DATA REQUESTS. IF YOU ACCEPT KENTUCKY POWER'S RECENT RATE FILING IT HAS BECOME A 25.59% VERSUS 23.9% RATE INCREASE.

THESE PROCEEDINGS HAVE BROUGHT TO LIGHT MORE ABOUT THE ACTUAL COST TO KENTUCKY POWER AND ITS RATE PAYERS OF TRANSFERRING 50% OF THE MITCHELL PLANT. THE PROJECTED BOOK VALUE OF MITCHELL IS SAID TO BE \$536

MILLION DOLLARS BUT THAT COMES WITH ASSUMING 50% OF ITS DEBT AND LIABILITIES ESTIMATED AT \$162 MILLION DOLLARS. KENTUCKY POWER RATE PAYERS WILL BE ASKED TO PAY \$184 MILLION THROUGH THE ENVIRONMENTAL SURCHARGE, THE REMAINING COSTS OF SCRUBBING MITCHELL TO COMPLY WITH THE 2007 CONSENT DECREE. NOT ONLY WILL KENTUCKY RATE PAYERS BE ASKED TO ASSUME MITCHELL'S LIABILITIES AND DEBTS, UNDER THE SETTLEMENT AGREEMENT WE ARE BEING ASKED TO PAY THE COST OF SHUTTING DOWN BIG SANDY 2, RETIRE THE COAL RELATED ASSETS OF BIG SANDY 1 AND PAY KENTUCKY POWER FOR THE UNDEPRECIATED INVESTMENT IN BIG SANDY 2 ESTIMATED TO BE \$238.78 MILLION. AND WE'RE BEING ASKED TO PLACE THOSE COSTS IN RATES TO BE PAID OVER THE NEXT 25 YEARS THROUGH AN ASSET TRANSFER RIDER. I THOUGHT RATE PAYERS ONLY PAID FOR ASSETS THAT ARE "USED AND USEFUL". WILL KENTUCKY RATE PAYERS HAVE TO PAY FOR 25 YEARS FOR THE NO_x SCRUBBERS PLACED ON BIG SANDY 2 AFTER THEY'RE NO LONGER IN SERVICE? AND LET'S GET BACK TO COMPARING APPLES WITH APPLES. PAY BACK OF THE COST OF TRANSFERRING THE MITCHELL PLANT HAS BEEN PRICED OVER 20 YEARS. THE COST OF SCRUBBING BIG SANDY 2 WAS PRICED OVER 10 YEARS.

WHAT KIND OF DEAL IS THIS FOR KENTUCKY AND KENTUCKY POWER'S RATE PAYERS?

WE'RE BEING ASKED TO TAKE OVER A GENERATION FACILITY IN WEST VIRGINIA ALONG WITH ITS DEBT AND LIABILITIES AND PAY FOR MUCH OF THE COST FOR IT TO MEET ENVIRONMENTAL COMPLIANCE WHILE GIVING UP 150 OR MORE GOOD PAYING JOBS, \$900 THOUSAND A YEAR IN PROPERTY TAXES, 2 MILLION TONS A YEAR IN COAL SALES AND PAY THE COST OF SHUTTING DOWN OUR OWN POWER PLANT IN KENTUCKY, MOST OF WHICH WE HAVE ALREADY PAID FOR.

THE BIG SANDY AND MITCHELL PLANTS ARE COMPARABLE FACILITIES IN AGE AND DESIGN WITH ALMOST THE SAME OPERATIONAL COST. MITCHELL WAS SCRUBBED FIRST BECAUSE AT THE TIME OF THE 2007 CONSENT DECREE IT WAS AMONG THE DIRTIEST PLANTS IN AEP'S EASTERN GENERATION FLEET. YET NOW WE'RE BEING TOLD IT IS A "CROWN JEWEL".

THIS COMMISSION HAS ALL THE MORE REASON TO BE CAUTIOUS IN DEALING WITH THESE ISSUES BECAUSE OF THE MANNER IN WHICH KENTUCKY POWER AND ITS PARENT HAVE CONDUCTED THEMSELVES. IT WASN'T UNTIL KENTUCKY POWER FILED TO SCRUB BIG SANDY 2 THAT THE KENTUCKY COMMISSION BECAME AWARE OF THE NEGOTIATED 2007 CONSENT DECREE AND ITS RESULTING COSTS TO KENTUCKY POWER RATE PAYERS. IN DECEMBER 2011 KENTUCKY POWER FILED ITS APPLICATION WITH THE KENTUCKY COMMISSION TO SCRUB BIG SANDY 2 AND CONTINUED TO PURSUE THE APPLICATION UNTIL IT WAS ABRUPTLY WITHDRAWN ON MAY 30, 2012. YET IT WAS REPORTED AT AN INVESTORS MEETING IN NEW YORK CITY ON FEBRUARY 10, 2012, AEP ANNOUNCED ITS PLAN TO TRANSFER MITCHELL TO APPALACHIAN POWER AND KENTUCKY POWER TO INCREASE ITS PERCENTAGE OF REGULATED ASSETS.

THIS COMMISSION SHOULD NOT BE RUSHED TO JUDGEMENT IN THESE IMPORTANT ISSUES. IT IS THE COMPANY THAT SET THE TIME TABLE BY THE AGREEMENTS IT HAS ENTERED INTO REGARDING ENVIRONMENTAL COMPLIANCE AND THEIR TIMING IN BRINGING THESE ISSUES TO THE KENTUCKY COMMISSION FOR DECISION. I HOPE THE COMMISSION WOULD NOT ALLOW APPROVAL OF THE SETTLEMENT AGREEMENT TO OBLIGATE KENTUCKY POWER'S RATE PAYERS TO ALL THE ADD ONS IN THE AGREEMENT OR APPROVE THE TRANSFER OF MITCHELL AND THEN FIGURE OUT IN A SUBSEQUENT RATE CASE WHAT IT REALLY COSTS. THIS COMMISSION DESERVES TO KNOW UP FRONT WHAT THOSE COSTS ARE. LET'S IDENTIFY THE REAL COST OF TRANSFERRING MITCHELL AND THE REAL COST OF SCRUBBING BIG SANDY 2 AND THEN DETERMINE WHAT IS IN THE BEST INTEREST OF KENTUCKY RATE PAYERS.

IF THE COSTS ARE CLOSE, AND UPON FURTHER EXAMINATION I THINK THEY WILL BE EVEN CLOSER, I BELIEVE KENTUCKY POWER'S RATE PAYERS WOULD BE WILLING TO PAY KENTUCKY POWER A REASONABLE RATE OF RETURN FOR CONTINUED OPERATION OF THE BIG SANDY 2 RATHER THAN A SIMILAR RATE FOR GENERATION LOCATED IN WEST VIRGINIA OVER WHICH THEY HAVE LITTLE CONTROL AND DERIVE LITTLE ECONOMIC BENEFIT.