

December 6, 2017

RECEIVED

DEC 6 2017

PUBLIC SERVICE
COMMISSION

VIA EMAIL AND HAND DELIVERY

Gwen R. Pinson, Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40602
gwen.pinson@ky.gov

Re: **Public Comment of Riverside Generating Company, L.L.C.**

In the Matter of the Electronic Application of Kentucky Power Company for (1) a General Adjustment of its Rates for Electric Service; (2) an Order Approving its 2017 Environmental Compliance Plan; (3) an Order Approving Accounting Practices to Establish Regulatory Assets and Liabilities; and (5) an Order Granting All Other Required Approvals and Relief - Case No. 2017-00179

Ms. Pinson:

Please accept this correspondence as the Public Comment of Riverside Generating Company, L.L.C. ("Riverside"), for filing in the record of the above-referenced matter.

Riverside is a Delaware limited liability company with its principal office in East Brunswick, New Jersey. Riverside owns and operates a total of five (5) natural gas-fired generating units with a combined capacity of approximately 836 MW split across two (2) sites in Lawrence County, Kentucky. Riverside sells the output of its facilities at wholesale into the marketplace of PJM Interconnection, LLC ("PJM"), and both of Riverside's generating sites are interconnected with Kentucky Power Company ("Kentucky Power") at its nearby Baker Switchyard. Riverside is also a customer of Kentucky Power, historically and presently receiving Station Power service under the utility's retail Tariff N.U.G. (Non-Utility Generator).

As part of the above-styled proceeding, Kentucky Power seeks to change the terms of its Tariff N.U.G. in two (2) primary ways. First, Kentucky Power seeks "to remove an antiquated clause regarding potential future transmission congestion charges,"¹ a change that appears largely innocuous and more a matter of housekeeping than substance. Kentucky Power's second notable

¹ See Kentucky Power's Application, Section III, Volume 4, Testimony of Alex E. Vaughan ("Vaughan Testimony"), at p. 25, lines 13-14 (tendered June 28, 2017).

proposed change to Tariff N.U.G., however, is both substantive and significant. Specifically, Kentucky Power seeks to revise the “Special Terms and Conditions” of Tariff N.U.G., particularly as they concern the ability of generators in Kentucky Power’s service territory to self-supply Station Power under a federally-accepted Open Access Transmission Tariff (“OATT”). The relevant changes proposed by Kentucky Power are indicated below:

Customers desiring to provide Startup and Station Power from ~~commonly-owned~~ *other* generation facilities, *owned by the same individual business entity* that are not located on the site of the customer’s generator (remote self-supply), shall take service under the terms and conditions contained within the applicable Open Access Transmission Tariff as filed with and accepted by the Federal Energy Regulatory Commission.

It appears from the plain language of the proposed revisions detailed above that Kentucky Power is attempting to limit the scope of Tariff N.U.G. to make the tariff narrower in application. Indeed, under the current tariff, a generation facility in Kentucky Power’s service territory that seeks to remotely supply its own power may do so from any “commonly owned” resource not located on the site of the customer’s generator; essentially, a resource now must have the same owner – or *owners* – in order to serve as a source of remote self-supply power under Tariff N.U.G. and the applicable OATT. However, if Kentucky Power’s proposed changes are approved, remote self-supply may be obtained only when the exact same *individual business entity* owns all the relevant generating facilities, thus severely limiting the parties that may be involved. This proposed change could have significant consequences if, for instance, a generator such as Riverside sought to convey a generation facility to a joint venture or similar arrangement that involves more than one (1) particular business entity with ownership in multiple generation facilities. Clearly, Kentucky Power is attempting to diminish the opportunities that generators in its service territory have to obtain Startup and Station Power under an applicable OATT (rather than through retail tariffs), and yet Kentucky Power has proffered essentially no reasoning in support of it.

Kentucky Power’s proposed revised Tariff N.U.G. has essentially been ignored as part of this proceeding. As feared by Riverside when it unsuccessfully attempted to intervene in this case, its interest in the remote self-supply issue is unique and no other party has adequately represented that interest. Kentucky Power decided at the outset of this case to provide little explanation or justification for its proposed alterations,² and even went so far as to erroneously claim (at least


² See Kentucky Power’s Application, Section II, Exhibit F, at p. 4 (“The Company modified Tariff N.U.G. to ... clarify the requirement to take service under the Open Access Transmission Tariff for remote self-supply.”); Application, Section III, Volume 4, Testimony of Stephen L. Sharp, Jr., at p. 28, lines 18-20 (“In addition, the Company is proposing language under the tariff’s special terms and conditions to clarify the requirement to take service for remote self-supply.”); Application, Section III, Volume 4, Testimony of Alex E. Vaughan (“Vaughan Testimony”), at p. 25,

initially) that “there are no customers currently on the NUG tariff...”³ Unfortunately, the record of this case and the thousands of requests for information propounded therein are essentially devoid of any consideration of the proposed revised Tariff N.U.G. Even the proposed settlement of this case filed by Kentucky Power and certain other parties on or about November 22, 2017, makes no specific mention of Tariff N.U.G., a fact which strongly suggests it is of little interest to the signatories and hardly a material part of the bargain they are attempting to have the Commission rubber-stamp with approval.

Of course, as the Commission is aware, Riverside and Kentucky Power are engaged in an ongoing dispute regarding the reasonable interpretation and application of the self-supply provisions of Tariff N.U.G.; in fact, Riverside intends to soon submit to the Commission a formal complaint regarding that matter and believes the discreet issues it raises therein will be addressed as appropriate. Thus, to be clear, this Public Comment is not about Riverside’s complaint, but is rather about ensuring that all tariff terms are carefully reviewed and considered before being approved. The substantial changes Kentucky Power has proposed to its Tariff N.U.G. have not been adequately supported, discussed, or scrutinized and remain unjustified and unreasonable. For the reasons stated herein, Riverside respectfully requests that the Commission reject Kentucky Power’s proposed revision to the Special Terms and Conditions of its Tariff N.U.G.

Please return a file-stamped copy of this filing to my office. I appreciate your assistance with this matter, and please do not hesitate to contact me with any questions or concerns.

Respectfully submitted,



David S. Samford

cc: (via email only)

Mr. Richard Raff (richard.raff@ky.gov)
Mr. Quang D. Nguyen (quangd.nguyen@ky.gov)
Mr. Andrew O. Melnykovich (andrew.melnykovich@ky.gov)
Mr. Mark R. Overstreet (moverstreet@stites.com)
Mr. Kenneth J. Gish, Jr. (kgish@stites.com)

lines 18-19 (“The Company also made clarifying edits regarding the provision of station power to the special terms and conditions section.”).

³ Vaughan Testimony, at p. 25, line 16.