

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY	)	
POWER COMPANY FOR APPROVAL OF AN	)	CASE NO.
AMENDED ENVIRONMENTAL COMPLIANCE	)	2019-00389
PLAN AND A REVISED ENVIRONMENTAL	)	
SURCHARGE	)	

ORDER

On November 25, 2019, Kentucky Power Company (Kentucky Power) filed an application, pursuant to KRS 278.183, requesting approval of an amended Environmental Compliance Plan (2019 Plan) and amendments to its Environmental Surcharge tariff (Tariff ES) and environmental cost recovery surcharge to reflect its 2019 Plan. Kentucky Power's current Environmental Compliance Plan is the 2017 Plan.<sup>1</sup> Kentucky Power's proposed 2019 Environmental Compliance Plan includes the projects from its 2017 Plan and a new Selective Catalytic Reduction (SCR) system project at the Rockport Generating Station Unit 2 (Rockport Unit 2).<sup>2</sup>

Pursuant to an Order issued on December 11, 2019, a procedural schedule was established for the orderly processing of this matter. The procedural schedule provided

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<sup>1</sup> Case No 2017-00179, *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 its Tariffs and Riders; (4) An Order Approving Accounting Practices to Establish Regulatory Assets and Liabilities; and (5) An Order Granting All Other Required Approvals and Relief* (Ky. PSC Jan. 18, 2018).

<sup>2</sup> Kentucky Power's American Electric Power Company, Inc. (AEP) affiliate, Indiana Michigan Power Company (I&M), received a Certificate of Public Convenience and Necessity for the Rockport Unit 2 SCR from the Indiana Utility Regulatory Commission in 2018. Although currently not in service, the Rockport Unit 2 SCR is anticipated to be placed in service no later than May 31, 2020, the proposed effective date of Kentucky Power's amended Tariff ES.

for a deadline for requesting intervention and two rounds of discovery upon Kentucky Power's application. There are no intervenors in this matter and Kentucky Power filed responses to one round of discovery issued by Commission Staff.

On March 20, 2020, Kentucky Power filed a motion requesting that the matter be decided on the established record without the need for a formal hearing. Having reviewed the motion, the Commission finds that Kentucky Power's motion is reasonable and should be approved. Therefore, the Commission will decide this matter based on the existing record without the need for a formal hearing.

#### BACKGROUND

KRS 278.183 provides that a utility shall be entitled to the current recovery of its costs of complying with the Federal Clean Air Act (CAA) as amended and those federal, state, or local environmental requirements that apply to coal combustion wastes and by-products from facilities utilized for the production of energy from coal. Pursuant to KRS 278.183(2), a utility seeking to recover its environmental compliance costs through an environmental surcharge must first submit to the Commission a plan that addresses compliance with the applicable environmental requirements. The plan must also include the utility's testimony concerning a reasonable return on compliance-related capital expenditures and a tariff addition containing the terms and conditions of the proposed surcharge applied to individual rate classes. Regardless of whether a hearing is requested, within six months of submission the Commission must:

- (a) Consider and approve the compliance plan and rate surcharge if the plan and rate surcharge are found reasonable and cost-effective for compliance with the applicable environmental requirements;

(b) Establish a reasonable return on compliance-related capital expenditures; and

(c) Approve the application of the surcharge.

Kentucky Power's original environmental compliance plan (1997 Plan) and environmental surcharge were approved by the Commission in 1997 in Case No. 1996-00489.<sup>3</sup> The 1997 Plan was comprised of five projects at the Big Sandy generating station and three projects at generating stations owned by members of the AEP East – System Pool (AEP Pool).<sup>4</sup> Kentucky Power's first amendment to its compliance plan (2003 Plan) and environmental surcharge was approved by the Commission in 2003 in Case No. 2002-00169.<sup>5</sup> The 2003 Plan was comprised of four projects at Big Sandy Units 1 and 2. Kentucky Power's second amendment to its compliance plan (2005 Plan) and environmental surcharge was approved by the Commission in 2005 in Case No. 2005-00068.<sup>6</sup> The 2005 Plan sought to include Kentucky Power's member load ratio share of environmental compliance costs associated with 53 projects located at AEP Pool members Ohio Power and I&M generating stations. Kentucky Power's third amendment

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<sup>3</sup> Case No. 1996-00489, *Application of Kentucky Power Company d/b/a American Electric Power to Assess a Surcharge Under KRS 278.183 to Recover Costs of Compliance with the Clean Air Act and Those Environmental Requirements Which Apply to Coal Combustion Waste and By-Products* (Ky. PSC May 27, 1997).

<sup>4</sup> The AEP East – System Pool agreement was terminated effective January 1, 2014. AEP member companies that participated in the AEP Pool were Appalachian Power Company, Columbus Southern Power Company, I&M, Kentucky Power, and Ohio Power Company (Ohio Power).

<sup>5</sup> Case No. 2002-00169, *The Application of Kentucky Power Company d/b/a American Electric Power for Approval of an Amended Compliance Plan for Purposes of Recovering the Costs of New and Additional Pollution Control Facilities and to Amend Its Environmental Cost Recovery Surcharge Tariff*, (Ky. PSC Mar. 31, 2003).

<sup>6</sup> Case No. 2005-00068, *Application of Kentucky Power Company for Approval of an Amended Compliance Plan for Purposes of Recovering Additional Costs of Pollution Control Facilities and to Amend Its Environmental Cost Recovery Surcharge Tariff*, (Ky. PSC Sep. 7, 2005, rehearing Oct. 17, 2005).

to its environmental compliance plan (2007 Plan) and environmental surcharge was approved in Case No. 2006-00307.<sup>7</sup> The third amendment sought to include its member load ratio share of environmental compliance costs associated with 44 projects located at Ohio Power and I&M generating stations. Kentucky Power's fourth amendment to its environmental compliance plan (2015 Plan) and environmental surcharge was approved in Case No. 2014-00396.<sup>8</sup> The 2015 Plan reflected changes in Kentucky Power's generation portfolio and individual projects as a result of acquiring a 50 percent interest in Ohio Power's Mitchell generating unit, conversion of Big Sandy 1 to natural gas, the planned retirement of Big Sandy Unit 2, termination of the AEP Pool, and new projects planned at Mitchell and Rockport. Kentucky Power's 2017 Plan included an SCR project at Rockport Unit 1, clarified the recovery of consumables expense through the surcharge, and added consumable inventories to the environmental rate base.

#### 2019 PLAN

Kentucky Power's 2019 Plan incorporates the addition of the Rockport Unit 2 SCR project (Project 21) to the current 2017 Plan.<sup>9</sup> Kentucky Power states that Project 21 will reduce the plant's nitrogen oxide emissions<sup>10</sup> and is required under terms of the 2007 New Source Review among several AEP entities including Kentucky Power and I&M, the

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<sup>7</sup> Case No. 2006-00307, *The Application of Kentucky Power Company for Approval of an Amended Compliance Plan for Purposes of Recovering Additional Costs of Pollution Control Facilities and to Amend its Environmental Cost Recovery Surcharge Tariff* (Ky. PSC Jan. 25, 2007).

<sup>8</sup> Case No. 2014-00396, *Application Of Kentucky Power Company For: (1) A General Adjustment Of Its Rates For Electric Service; (2) An Order Approving Its 2014 Environmental Compliance Plan; (3) An Order Approving Its Tariffs And Riders; And (4) An Order Granting All Other Required Approvals And Relief* (Ky. PSC June 26, 2015).

<sup>9</sup> The 21 projects included in the 2019 Plan are listed in the Appendix to this Order.

<sup>10</sup> Direct Testimony of Debra L. Osbourne (Osbourne Testimony) at 4.

United States Department of Justice, eight states in the northeastern United States, and other involved parties (Consent Decree).<sup>11</sup> Kentucky Power states that it is a party to a Federal Energy Regulatory Commission-approved unit power agreement involving the Rockport Generating Station (Rockport UPA) and responsible for its contractual share of the costs associated with Rockport Units 1 and 2, including environmental control equipment.<sup>12</sup> Kentucky Power asserts that I&M is required under the Consent Decree<sup>13</sup> to retrofit Rockport Unit 2 with SCR technology by June 1, 2020, to continue operation of the unit and that such costs are properly recoverable under KRS 278.183.<sup>14</sup>

Kentucky Power states that the pollution control project included in the 2019 Plan amendment is necessary for Kentucky Power to comply with the CAA and other federal, state, and local regulations that apply to coal combustion wastes and by-products from facilities utilized for the production of energy from coal.<sup>15</sup> Kentucky Power contends that the costs associated with its 2019 Plan are reasonable and that Project 21 is a reasonable and cost-effective means to comply with environmental requirements.<sup>16</sup>

The current estimated total cost for the Rockport Unit 2 SCR project is \$233.5 million, including the installation of the SCR, associated upgrades to existing plant

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<sup>11</sup> Direct Testimony of Gary O. Spitznogle (Spitznogle Testimony) at 3.

<sup>12</sup> Application at 2.

<sup>13</sup> The Consent Decree was entered in the matter styled *United States v. American Electric Power Service Corp.*, Civil Action C2-99-1250, by the United States District Court for the Southern District of Ohio in an action arising under the Federal Clean Air Act.

<sup>14</sup> Application at 5.

<sup>15</sup> Spitznogle Testimony at 7.

<sup>16</sup> Osbourne Testimony at 7.

equipment, and allocated costs for support of the project.<sup>17</sup> Kentucky Power's 15 percent share of that cost under the Rockport UPA is \$35.0 million.<sup>18</sup> Kentucky Power's estimated annual revenue requirement associated with Project 21 is \$11.9 million.<sup>19</sup> Kentucky Power states that Project 21 is \$18.8 million less expensive than terminating the Rockport Unit 2 lease as of June 1, 2020.<sup>20</sup>

### ENVIRONMENTAL REQUIREMENTS

Kentucky Power states it is in compliance with all current applicable environmental regulations.<sup>21</sup> These regulations include the Mercury and Air Toxics Standards Rule and the Cross State Air Pollution Rule, as well as the permits issued for the plants under the CAA and Clean Water Act.<sup>22</sup> The 2019 Plan is comprised of projects required to comply with the CAA and those federal, state, or local environmental requirements that apply to wastes and by-products from facilities utilized for the production of energy from coal.<sup>23</sup>

#### Consent Decree

Kentucky Power's generating units are subject to requirements imposed by the Consent Decree, and all modifications thereto.<sup>24</sup> The Consent Decree outlines the Clean

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<sup>17</sup> Osbourne Testimony at 5. Costs exclude Allowance for Funds Used During Construction.

<sup>18</sup> Direct Testimony of Lerah M. Scott (Scott Testimony) at 7.

<sup>19</sup> Application at 6.

<sup>20</sup> Kentucky Power's response to Staff's First Request, Item 5. (Supplemental response filed Mar. 3, 2020).

<sup>21</sup> Spitznogle Testimony at 3.

<sup>22</sup> Spitznogle Testimony at 4.

<sup>23</sup> *Id.*

<sup>24</sup> Application at 5.

Air Act emission control and monitoring standards, compliance schedules, and standards for emissions of nitrogen oxide and stipulated penalties for noncompliance.<sup>25</sup> The Consent Decree mandates that SCR technology be installed at Rockport Unit 2 no later than June 1, 2020.<sup>26</sup> Kentucky Power states that the SCR will be placed in service no later than May 31, 2020.<sup>27</sup>

### TARIFF ES MODIFICATIONS

Kentucky Power proposes to amend its Tariff ES to update the list of projects in the tariff to reflect the proposed 2019 Plan.<sup>28</sup> The Commission finds that Kentucky Power's proposed amendments to its Tariff ES are reasonable and should be approved.

### SURCHARGE MECHANISM AND CALCULATION

#### Costs Associated with the 2019 Plan

The Commission finds that the costs identified for the 2019 Plan projects have been shown to be reasonable, necessary, and cost-effective for environmental compliance. Thus, they are reasonable and should be approved for recovery through Kentucky Power's environmental surcharge.

#### Qualifying Costs

The qualifying costs included in the current revenue requirement period will reflect the Commission-approved environmental projects from Kentucky Power's 1997, 2005, 2007, 2015, 2017, and 2019 Plans. Should Kentucky Power desire to include other

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<sup>25</sup> Spitznogle Testimony at 6.

<sup>26</sup> *Id.* at 7.

<sup>27</sup> Scott Testimony at 6.

<sup>28</sup> Application, Exhibit 6.

environmental projects in the future, it will have to apply for an amendment to its approved compliance plans.

### Rate of Return

Kentucky Power's return on equity for environmental projects at the Rockport Plant is 12.16 percent as established by the Rockport UPA.<sup>29</sup>

### Surcharge Formulas

The inclusion of the 2019 Plan into Kentucky Power's existing surcharge mechanism will not result in changes to the surcharge formulas.<sup>30</sup>

### Monthly Reporting Forms

The inclusion of the 2019 Plan into the existing surcharge mechanism will require modifications to the description of the items included as part of certain components of the formulas in Kentucky Power's monthly environmental surcharge reporting forms.<sup>31</sup> Kentucky Power provided its proposed revised forms to be used in the monthly environmental reports.<sup>32</sup> The Commission finds that Kentucky Power's proposed monthly environmental surcharge reporting forms as revised should be approved.

IT IS THEREFORE ORDERED that:

1. Kentucky Power's 2019 Compliance Plan is approved.
2. Kentucky Power's environmental surcharge tariff is approved for service rendered on and after May 31, 2020.

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<sup>29</sup> Application at 7.

<sup>30</sup> Scott Testimony at 10.

<sup>31</sup> *Id.* at 10–11.

<sup>32</sup> Scott Testimony, Exhibit LMS-3.



3. The reporting formats described in this Order shall be used for the monthly environmental surcharge filings. Previous reporting formats shall no longer be submitted.

4. Within 20 days of the date of this Order, Kentucky Power shall file with the Commission, using the Commission's electronic Tariff Filing System, new tariff sheets setting forth the modifications approved herein and reflecting their effective date and that they were authorized by this Order.

5. This case is closed and removed from the Commission's docket.

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By the Commission

ENTERED  
MAY 18 2020 rCS  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
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Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2019-00389 DATED MAY 18 2020

**Kentucky Power Company's Approved Environmental Compliance Projects**

<u>Project</u>	<u>Plant</u>	<u>Pollutant</u>	<u>Description</u>	<u>In-Service Year</u>
1	Mitchell	NOx, SO2, and SO3	Mitchell Units 1 & 2, Water Injection, Low NOx Burners, Low NOx Burner Modification, SCR, FGD, Landfill, Coal Blending Facilities & SO3 Mitigation	1993-1994-2002-2007
2	Mitchell	SO2, NOx, and Gypsum	Mitchell Plant Common CEMS, Replace Burner Barrier Valves & Gypsum Material Handling Facilities	1993-1994-2007
3	Rockport	SO2 / NOx	Continuous Emission Monitors (CEMS)	1994
4	Rockport	NOx, Fly Ash, & Bottom Ash	Rockport Units 1 & 2 Low NOx Burners, Over Fire Air & Landfill	2003-2008
5	Mitchell & Rockport	SO2, NOx, Particulates & VOC and etc.	Title V Air Emissions Fees at Mitchell and Rockport Plants	Annual
6	Big Sandy, Mitchell and Rockport	NOx	Costs Associated with NOx Allowances	As Needed
7	Big Sandy, Mitchell and Rockport	SO2	Costs Associated with SO2 Allowances	As Needed
8	Big Sandy, Mitchell and Rockport	SO2 / NOx	Costs Associated with the CSAPR Allowances	As Needed
9	Mitchell	Particulates	Mitchell Units 1 & 2 - Precipitator Modifications	2007-2013
10	Mitchell	Particulates	Mitchell Units 1 & 2 - Bottom Ash & Fly Ash Handling	2008-2010
11	Mitchell	Mercury	Mitchell Units 1 & 2 - Mercury Monitoring (MATS)	2014

12	Mitchell	Selenium	Mitchell Units 1 & 2 - Dry Fly Ash Handling Conversion	2014
13	Mitchell	Fly Ash, Bottom Ash, Gypsum & WWTP Solids	Mitchell Units 1 & 2 - Coal Combustion Waste Landfill	2014
14	Mitchell	Particulates	Mitchell Unit 2 - Electrostatic Precipitator Upgrade	2015
15	Rockport	Particulates	Rockport Units 1 & 2 - Precipitator Modifications	2004-2009
16	Rockport	Mercury	Rockport Units 1 & 2 - Activated Carbon Injection (ACI) & Mercury Monitoring	2009-2010
17	Rockport	Hazardous Air Pollutants (HAPS)	Rockport Units 1 & 2 - Dry Sorbent Injection	2015
18	Rockport	Fly Ash & Bottom Ash	Rockport Plant Common - Coal Combustion Waste Landfill Upgrade to Accept Type 1 Ash	2013 & 2015
19	Rockport	NOx	Rockport Unit 1 - Selective Catalytic Reduction equipment	2017
20	Mitchell and Rockport	Consumables	Cost of consumables used in conjunction with approved ECP projects including the cost of the consumables used and a return on consumable inventories. Consumables include, but are not limited to sodium bicarbonate, activated carbon, anhydrous ammonia, trona, lime hydrate, limestone, polymer, and urea.	As Needed
21	Rockport	NOx	Unit 2 SCR	2020

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