COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY POWER COMPANY FOR APPROVAL OF AFFILIATE AGREEMENTS RELATED TO THE MITCHELL GENERATING STATION	))))	CASE NO. 2021-00421

COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION TO KENTUCKY POWER COMPANY

Kentucky Power Company (Kentucky Power), pursuant to 807 KAR 5:001, is to file with the Commission an electronic version of the following information. The information requested is due on December 22, 2021. The Commission directs Kentucky Power to the Commission's July 22, 2021 Order in Case No. 2020-00085[1] regarding filings with the Commission. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked.

Each response shall include the question to which the response is made, and shall include the name of the witness responsible for responding to the questions related to the information provided. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or the person supervising the preparation of the response on behalf of the entity that the

[1] Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

Kentucky Power shall make timely amendment to any prior response if Kentucky Power obtains information that indicates the response was incorrect when made or, though correct when made, is now incorrect in any material respect. For any request to which Kentucky Power fails or refuses to furnish all or part of the requested information, Kentucky Power shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

Careful attention shall be given to copied material to ensure that it is legible. When the requested information has been previously provided in this proceeding in the requested format, reference may be made to the specific location of that information in responding to this request. When applicable, the requested information shall be separately provided for total company operations and jurisdictional operations. When filing a paper containing personal information, Kentucky Power shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the paper so that personal information cannot be read.

1. Regarding the operation of the Mitchell facilities after Kentucky Power is sold to Liberty Utilities Corp. (Liberty Utilities) but prior to the transfer of the Mitchell facilities to Wheeling Power Company (Wheeling Power), and Wheeling Power remains a member of PJM Interconnection LLC (PJM):

a. To the extent Kentucky Power has the information, explain whether any changes to the manner in which Liberty Utilities participates in PJM affects how the Mitchell units are dispatched and, if so explain how.

b. To the extent Kentucky Power has the information, explain whether any changes to the manner in which Liberty Utilities participates in PJM affects the capacity, energy, and ancillary services expenses and revenues that are currently attributed to the Mitchell facility and if so explain how.

2. Refer to the Direct Testimony of Timothy C. Kerns (Kerns Testimony), pages 6–7, lines 17–24 and 1–11 respectively, and to the Direct Testimony of D. Brett Mattison (Mattison Testimony), Exhibit DBM-2, Article 7.2.1. Explain whether Wheeling Power becoming the operator of the Mitchell Plant will lead to any increases or changes in operating costs due to Wheeling Power's cost of facility personnel, including: wages, salaries, overtime, employee bonus, customary or required severance payments, unemployment insurance, long-term disability insurance, short term disability payments, sick leave, payroll taxes imposed on wages and benefits, worker's compensation costs and holidays, vacations, group medical, dental and life insurance, defined contribution retirement plans, and other employee benefits.

3. Refer to the Mattison Testimony, pages 4–5, lines 15–21 and 1–11 respectively, to the Mattison Testimony, pages 15, lines 1–15, and to the Mattison Testimony, Exhibit DBM-2, Article 7.2.1. regarding Mitchell permits that need to be transferred from Kentucky Power to Wheeling Power.

a. Identify all environmental and other permits related to the operation of Mitchell held in the name of Kentucky Power that will need to be transferred to Wheeling Power.

b. Explain whether the transfer of permits to Wheeling Power will incur any costs or fees to be allocated in accordance with the Ownership Agreement.

c. Provide all known deadlines for obtaining permits in the name of Wheeling Power and explain the basis for each deadline.

4. Refer to the Mattison Testimony, Exhibit DBM-2, Article 5.3.1.1. Explain whether the forecast of operating and capital expenses will be forecasted for six years annually or only for the first year. If the forecast will include six years annually throughout the term, explain why the budgets would not end on December 31, 2028, given that Kentucky Power will not be affiliated with Mitchell after that date.

5. Refer to the Mattison Testimony, Exhibit DBM-2, Article 10.3. Explain whether Kentucky Power will be liable for any environmental liabilities associated with Effluent Limitations Guidelines (ELG) projects at Mitchell. If not, explain why this section does not specifically exclude any Environmental Liabilities associated with ELG compliance at Mitchell.

6. Refer to the Mattison Testimony, Exhibit DBM-3, Section 3.1. Explain how Kentucky Power and Wheeling Power determine how retirement units are established (i.e., how a "capitalizable facilities" are defined). Explain whether Kentucky Power and Wheeling Power use the same depreciation rates for Mitchell. If not, provide the depreciation rates each use.

7. Refer to the Mattison Testimony, Exhibit DBM-3, Article 6.4(c). Explain why the monthly amount of Administrative and General Expenses (FERC Accounts 920 – 935) is not similarly allocated based upon the proportion of each Owner's monthly dispatch.

8. Refer to the Mattison Testimony, Exhibit DBM-3, Article 6.4(d). Confirm that the ownership agreement defines ELG Upgrade capital expenditures but does not set out a procedure for determining whether any operations and maintenance expense is related

to the ELG equipment, despite setting out that Wheeling Power is solely responsible for these costs, regardless of FERC account designation. If this cannot be confirmed, explain. If confirmed, explain how ELG operations and maintenance expenses will be segregated.

9. Refer to the Mattison Testimony, Exhibit DBM-3, Article 6.7(b).

a. Explain whether a Technical Expert has been hired to make recommendations as to the allocation of Coal Combustion Residuals (CCR) and ELG costs.

b. Explain how the Technical Expert will be selected and whether the manner of solicitation will be the same as with Appraisers and Qualified Firms as described in Exhibit DBM-3, Article 9.6.

c. Explain who will actually employ the Technical Expert.

d. Because the Technical Expert makes recommendations only, explain whether the Operating Committee decides the final allocation of CCR and ELG costs.

e. Explain what happens in the event that Liberty Utilities or Kentucky Power do not agree with the Technical Expert's recommendations as to the allocation of CCR and ELG costs and how the dispute will be resolved.

10. Refer to the Mattison Testimony, Exhibit DBM-3, Article 6.7(d). Confirm that Kentucky Power's depreciation rates, including depreciable lives and net salvage values, are generally approved by the Commission prior to Kentucky Power utilizing these rates for ratemaking purposes. If this cannot be confirmed, explain. If confirmed, explain why Article 6.7(d) gives the Operating Committee unilateral discretion over the depreciable

lives of any capital projects with an in service date prior to December 31, 2028, and an estimated retirement date after December 31, 2028.

11. Refer to the Mattison Testimony, Exhibit DBM-3, Article 6.7(d), Article 9.6(a), Article 9.6(b), and Article 14, "Adjusted Fair Market Value" and "CapEx Adjustment."

a. Explain why the "CapEx Adjustment" includes a return on Wheeling Power's separate investments in the Mitchell station.

b. Explain whether any capital expenditure allocated to Kentucky Power in an amount less that 50 percent pursuant to Article 6.7(d) would reduce the CapEx Adjustment to less than the 50 percent of that particular capital project (i.e. if Kentucky Power funds 10 percent of a project, would the CapEx Adjustment be 50 percent or 40 percent of the total project costs).

c. Explain whether the CapEx Adjustment will be based on the total capital expenditure costs per books or fair market value. If fair market value, explain how the fair market value will be determined. If the per books balance, explain why it is appropriate given the differing basis of the values.

d. Explain why the proposed CapEx Adjustment is more reasonable than simply allocating the entire Fair Market Value based on the proportional ownership interests as of the date of the transfer.

12. Refer to the Mattison Testimony, Exhibit DBM-3, Article 6.8, Article 9.6(c), and Article 14, "Decommissioning Costs Amount." Explain whether the Decommissioning Costs included in the Buyout Price will include the costs to decommission ELG projects.

If so, explain why Kentucky Power should be allocated decommissioning costs associated with the ELG projects.

13. Refer to the Mattison Testimony, Exhibit DBM-3, Article 7.1 and Exhibit DBM-1, Article 7.1. Confirm that the Operating Committee under the proposed agreements will consist solely of representatives from Kentucky Power and Wheeling Power. If this cannot be confirmed, explain.

14. Refer to the Mattison Testimony, Exhibit DBM-3, Article 9.6.

a. At Article 9.6(b), explain the methodologies and criteria used by appraisers to assess Fair Market Value.

b. Explain the valuation methodology used by Kentucky Power to assign value all assets in the sale negotiations with Liberty Utilities generally and specifically for the Mitchell facilities and any associated contractual business relationships including the CertainTeed contract.

c. Explain the value placed upon the Mitchell facility and any associated contractual business relationships including the CertainTeed contract.by Kentucky Power in the sale negotiations with Liberty Utilities.

d. Explain why the value of the Mitchell facility should not be valued at the same level and in the exact same manner as in the Kentucky Power sale negotiations with Liberty Utilities minus depreciation. If this is incorrect, list the other reasons as to why the valuation should be more or less than that amount.

e. Even though as of December 31, 2028, only the CCR environmental upgrade will have been completed, the future value of Kentucky Power's interest through the life of the station has value on an “as is” basis. Explain whether the present value of this future value will be included in the estimation of Fair Market Value.

f. Explain whether the current and future value of the CertainTeed Contract is included in the Fair Market Value appraisals. if not, explain why not.

g. As a part of the determination of Fair Market Value, the relevant “market” must be identified. Explain what and or how the relevant market will be determined.

h. At Article 9.6(b), “If the Fair Market Value determined by one of the Appraisers deviates from the Fair Market value determination of the middle Appraiser by more than twice the amount by which the Fair Market Value determination of the other Appraiser deviates from the Fair Market Value determination of the middle Appraiser, then the Fair Market value determination of such Appraiser shall be excluded, the remaining two Fair Market Value determinations shall be averaged, and such average shall be the Fair Market Value. . .”

(1) Explain the reasons for and how a Fair Market Valuation spread as contemplated and described could occur and whether this contingency is common for this type of transaction.

(2) Explain the rationale behind excluding a high valuation from an independent Appraiser.

i. Also refer to the Mattison Testimony, Exhibit DBM-3, Article 3.2(b). Given that Decommissioning Cost Amounts as defined in Article 9.6(c) are subtracted from the Fair Market Value as defined in Article 9.6(b) to arrive at an Adjusted Fair Market Value as defined in Article 9.6(a) Buyout Price, explain why Wheeling Power should not be required to post a present value cash equivalent sum into a separate third party account that could only be drawn on at the time Mitchell facility operations cease and decommissioning commences. The cash equivalent sum would be equal to the Decommissioning Cost Amount subtracted from the Fair Market Value to yield the Buyout Price as a condition of approval of the proposed Mitchell Plant Ownership Agreement.

j. Define and explain whether any salvage value is included in the Fair Market Value estimation methodology and, if not, why not.

k. Explain what direction, limitation, or instructions will be given to the Appraisers that could influence or set boundaries on the appraisal methodology.

l. Explain whether Liberty Utilities has or has had any role in drafting and or approving the proposed Mitchell Plant Ownership Agreement.

m. Explain whether Liberty Utilities has or has had any role in the Appraiser contracting process or in setting any valuation parameters or limitations on the prospective Appraisers.

n. Provide a copy of the Request for Quote or Proposal that will be or has been sent out to prospective Appraisers.

15. Refer to the Mattison Testimony, Exhibit DBM-3, Article 9.6(b). Provide more clarity into the qualifications of the appointed appraisal firms by Kentucky Power and Wheeling Power, including (1) any applicable accreditations, and (2) minimum level of experience.

16. Refer to the Mattison Testimony, Exhibit DBM-3, Article 14, "CapEx Adjustment." Part (a) of the definition states, "50% of any capital expenditures (or portion

thereof), including ELG Capital Expenditures, to the extent funded by WPCO in an amount in excess of 50% of the total amount thereof on or prior to December 31, 2028."

a. The Commission's Order in Case No. 2021-00004[2] authorized CCR environmental compliance only for the Mitchell units. Explain why Kentucky Power ratepayers should bear any ELG related costs, regardless of when those costs were incurred.

b. Provide a list of all current work order numbers and any future work order numbers associated with CCR and with ELG compliance for the Mitchell station that reflect all costs or expenditures assigned to those projects to date. The CCR and ELG costs should be provided separately by work order, separated into those that are capitalized and those that are expensed, and updated quarterly up to December 31, 2028, or the date of the ownership transfer to Wheeling Power.

c. Explain why and for what reasons Wheeling Power would be undertaking capital expenditures prior to the transfer of Mitchell ownership from Kentucky Power when Kentucky Power is the current operator of the Mitchell station.

d. Explain whether Wheeling Power has undertaken any capital expenditures independently of Kentucky Power to date and, if so, the amount of and nature of those capital expenditures.

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[2] Case No. 2021-00004, *Electronic Application of Kentucky Power Company for Approval of a Certificate of Public Convenience and Necessity for Environmental Project Construction at the Mitchell Generating Station, an Amended Environmental Compliance Plan, and Revised Environmental Surcharge Tariff Sheets* (Ky. PSC July 15, 2021).

e. To the extent that Wheeling Power does undertake any capital expenditures prior to the transfer of ownership of the Mitchell station, explain why Kentucky Power should bear any share of those expenditures.

f. Under the current Mitchell operating agreement, capital expenditures are essentially shared on a 50 percent basis between Wheeling Power and Kentucky Power and go on the respective books on a monthly basis. Once in rate base, these expenditures earn a return and represent an asset to the company, which presumably would be included in the Fair Market Value along with any other assets. Explain why any capital expenditure (and associated WACC) undertaken by Wheeling Power on or prior to December 31, 2028 should be subtracted from the Fair Market Value estimation.

17. Refer to the Mattison Testimony, Exhibit DBM-3, Article 9.6(c).

a. Explain whether the estimated Decommissioning Cost Amounts will include estimated project contingencies and, if so, explain why it should be included.

b. Article 9.6(c)(B) states, "The Mitchell Plant facilities would be dismantled and removed from the Mitchell Plant site." Explain the rationale for estimating the decommissioning costs as dismantling and removing the facilities from the Mitchell plant site as of December 31, 2028.

c. Under current law, explain whether there is a required time limit under which a coal fired electric generation facility must be dismantled and removed from the facility site and, if so, provide the text of and citation(s) to the applicable law(s) or regulations.

d. Provide a list of all AEP coal fired generation units and or facilities that have ceased operation and the date each unit and or facility operation ceased.

e. Explain whether or not each facility identified in part c. above has been dismantled and removed from the facility site and, if so, provide a description and photograph of each decommissioned site.

f. Explain whether the previous Big Sandy generation facilities not in use for current electric generation have been dismantled and removed from the facility site in the same manner as described in 9.6(c)(B).

18. Refer to Mattison Testimony, Exhibit DBM-3, Article 9.6(c).

a. Article 9.6(c)(C) states, "the Mitchell Plant site would be remediated to a legally permissible industrial use standard." Explain the rationale for estimating the remediation to a legally permissible industrial use standard cost as of December 31, 2028.

b. Under current law, explain whether there is a required time limit under which a coal fired electric generation facility must be remediated to a legally permissible industrial use standard and, if so, provide the text of and citation(s) to the applicable law(s) or regulations.

c. Provide a list of all AEP coal fired generation facilities that have ceased operation, the date each facility operation ceased.

d. In the term "remediated to a legally permissible industrial use standard," define what permissible industrial use standard means and what would be entailed precisely in the remediation process for the Mitchell facility.

e. Explain whether or not each facility identified in part c. above has been "remediated to a legally permissible industrial use standard," and, if so, provide a description and photograph of each remediated site.

f. At Article 9.6(c), "If the Decommissioning Costs Amount determined by one of the three Qualified Firms deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm by more than twice the amount by which the Decommissioning Costs Amount determination of the other Qualified Firm deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm, then the determination of such Qualified Firm shall be excluded, the remaining two Decommissioning Costs Amount determinations shall be averaged, and such average shall be the Decommissioning Costs Amount …"

(1) Explain the reasons for and or how a Decommissioning Costs Amount spread as contemplated and described could occur and whether this contingency is common for this type of transaction.

(2) Explain the rationale behind excluding a high or low valuation from an independent Qualified Firm.

19. Refer to the Mattison Testimony, Exhibit DBM-3, Article 9.6(c). Provide more clarity into the qualifications of the appointed engineering or consulting firms by Kentucky Power and Wheeling Power, including (1) any applicable accreditations, and (2) minimum level of experience.

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