

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

NOTICE OF FILING

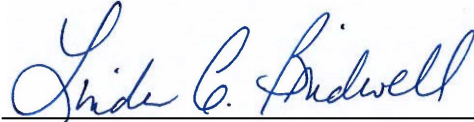
Notice is given to all parties that the following materials have been filed into the record of this proceeding:

- The digital video recording of the evidentiary hearing conducted on March 30, 2022 in this proceeding;
- Certification of the accuracy and correctness of the digital video recording;
- All exhibits introduced at the evidentiary hearing conducted on March 30, 2022 in this proceeding;
- A written log listing, inter alia, the date and time of where each witness' testimony begins and ends on the digital video recording of the evidentiary hearing conducted on March 30, 2022.

A copy of this Notice, the certification of the digital video record, and hearing log have been served upon all persons listed at the end of this Notice. Parties desiring to view the digital video recording of the hearing may do so at <https://youtu.be/l8E4AQiDxWg>.

Parties wishing an annotated digital video recording may submit a written request by electronic mail to [pscfilings@ky.gov](mailto:pscfilings@ky.gov). A minimal fee will be assessed for a copy of this recording.

Done at Frankfort, Kentucky, this 5<sup>th</sup> day of May 2022.



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Linda C. Bridwell  
Executive Director  
Public Service Commission of Kentucky

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CERTIFICATION

I, Candace H. Sacre, hereby certify that:

1. The attached flash drive contains a digital recording of the Formal Hearing conducted in the above-styled proceeding on March 30, 2022. The Formal Hearing Log, Exhibit List, and Exhibits are included with the recording on March 30, 2022;
2. I am responsible for the preparation of the digital recording;
3. The digital recording accurately and correctly depicts the Formal Hearing of March 30, 2022; and
4. The Formal Hearing Log attached to this Certificate accurately and correctly states the events that occurred at the Formal Hearing of March 30, 2022, and the time at which each occurred.

Signed this 5<sup>th</sup> day of May, 2022.



Candace H. Sacre  
Administrative Specialist III



Stephanie Schweighardt  
Notary Public State at Large ID#: 614400  
Commission Expires: January 14, 2023



Date:	Type:	Location:	Department:
3/30/2022	Public Hearing\Public Comments	Hearing Room 1	Hearing Room 1 (HR 1)

Witness: Stephan Haynes; Timothy Kerns; Lane Kollen  
 Judge: Kent Chandler; Amy Cubbage  
 Clerk: Candace Sacre

Event Time	Log Event	
10:12:09 AM	Session Started	
10:12:23 AM	Chairman Chandler Note: Sacre, Candace	On the record in Case No. 2021-00421.
10:12:27 AM	Chairman Chandler Note: Sacre, Candace	My name is Kent Chandler. I am Chairman of the Kentucky Public Service Commission. I am joined today by Vice Chair Amy Cubbage.
10:12:36 AM	Chairman Chandler Note: Sacre, Candace	Hearing and COVID recommendations. (Click on link for further comments.)
10:12:54 AM	Chairman Chandler Note: Sacre, Candace	The hearing today is for the purpose of taking evidence on the proposed Mitchell ownership agreement.
10:13:00 AM	Chairman Chandler Note: Sacre, Candace	Entry of appearance of counsel. (Click on link for further comments.)
10:13:04 AM	Atty Glass Kentucky Power Note: Sacre, Candace	Katie Glass, also appearing Mark Overstreet, appearing pro hac vice is John Crespo, Christen Blend, and Hector Garcia Santana.
10:13:19 AM	Camera Lock Deactivated	
10:13:42 AM	Asst Atty General West Note: Sacre, Candace	Mike West and John Horne, witness Lane Kollen.
10:13:49 AM	Atty Kurtz KIUC Note: Sacre, Candace	Mike Kurtz and Jody Kyler Cohn.
10:13:54 AM	Gen Counsel Vinsel PSC Note: Sacre, Candace	Nancy Vinsel and Moriah Tussey.
10:13:57 AM	Chairman Chandler Note: Sacre, Candace	Public notice. (Click on link for further comments.)
10:14:38 AM	Chairman Chandler Note: Sacre, Candace	Public comments. (Click on link for further comments.)
10:15:48 AM	Atty Glass Kentucky Power Note: Sacre, Candace	Non-Disclosure Agreement (NDA) discussion. (Click on link for further comments.)
10:17:34 AM	Chairman Chandler Note: Sacre, Candace	Procedural discussion. (Click on link for further comments.)
10:18:11 AM	Chairman Chandler Note: Sacre, Candace	Recess until 10:30.
10:18:27 AM	Session Paused	
10:40:54 AM	Session Resumed	
10:41:00 AM	Camera Lock Deactivated	
10:41:01 AM	Chairman Chandler Note: Sacre, Candace	On the record in 2021-00421, correct mistake, public comment should reference Case No. 2021-00421.

10:41:20 AM	Chairman Chandler Note: Sacre, Candace	First witness?
10:41:23 AM	Atty Glass Kentucky Power Note: Sacre, Candace	Timothy C. Kerns.
10:41:32 AM	Chairman Chandler Note: Sacre, Candace	Witness is sworn.
10:41:42 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Examination. Name and address?
10:41:56 AM	Atty Glass Kentucky Power - witness Kerns Note: Sacre, Candace	Direct Examination. Employer and position?
10:42:08 AM	Atty Glass Kentucky Power - witness Kerns Note: Sacre, Candace	Cause to be filed supplemental testimony?
10:42:13 AM	Atty Glass Kentucky Power - witness Kerns Note: Sacre, Candace	Corrections?
10:42:18 AM	Atty Glass Kentucky Power - witness Kerns Note: Sacre, Candace	Ask same questions, answers be same?
10:42:26 AM	Chairman Chandler Note: Sacre, Candace	Mr. West?
10:42:28 AM	Asst Atty General West - witness Kerns Note: Sacre, Candace	Cross Examination. Mentioned in supplemental AEP-owned plants have units owned by separate companies?
10:42:45 AM	Asst Atty General West - witness Kerns Note: Sacre, Candace	Any those situations, companies on inconsistent trajectories like Kentucky Power?
10:43:31 AM	Chairman Chandler Note: Sacre, Candace	Mr. Kurtz?
10:43:33 AM	Atty Kurtz KIUC - witness Kerns Note: Sacre, Candace	Cross Examination. Wheeling owns 50 percent of Mitchell?
10:43:42 AM	Atty Kurtz KIUC - witness Kerns Note: Sacre, Candace	Wheeling own other power plants?
10:43:48 AM	Atty Kurtz KIUC - witness Kerns Note: Sacre, Candace	Know how much Wheeling retail load is per year?
10:43:56 AM	Atty Kurtz KIUC - witness Kerns Note: Sacre, Candace	Operations of Mitchell, energy prices higher?
10:44:10 AM	Atty Kurtz KIUC - witness Kerns Note: Sacre, Candace	Plant running more, capacity factor first three months of 2022?
10:44:29 AM	Atty Kurtz KIUC - witness Kerns Note: Sacre, Candace	Down for planned or forced outages?
10:44:42 AM	Atty Kurtz KIUC - witness Kerns Note: Sacre, Candace	Not being dispatched by PJM?
10:44:48 AM	Atty Kurtz KIUC - witness Kerns Note: Sacre, Candace	How fuel prices been in last year, long-term contracted?
10:45:01 AM	Atty Kurtz KIUC - witness Kerns Note: Sacre, Candace	Tell me about fuel situation, what paying now, what two years ago?
10:45:17 AM	Atty Kurtz KIUC - witness Kerns Note: Sacre, Candace	Fuel cost is reported on various forms?
10:45:28 AM	Atty Kurtz KIUC - witness Kerns Note: Sacre, Candace	Any idea what been historic?
10:45:45 AM	Atty Kurtz KIUC - witness Kerns Note: Sacre, Candace	How valuable is it, not being dispatched?
10:45:55 AM	Chairman Chandler Note: Sacre, Candace	Interject, Kerns not hesitant to respond, not tell by response. (Click on link for further comments.)

10:46:51 AM	Chairman Chandler Note: Sacre, Candace	Direct witness if does know answer paid for coal for Kentucky jurisdictional plant/plant owned by Kentucky utility can divulge? (Click on link for further comments.)
10:47:28 AM	Atty Kurtz KIUC - witness Kerns Note: Sacre, Candace	How much advance notice, daily dispatch decision?
10:47:56 AM	Atty Kurtz KIUC - witness Kerns Note: Sacre, Candace	Plant on idling ready to go for tomorrow if called?
10:48:17 AM	Atty Kurtz KIUC - witness Kerns Note: Sacre, Candace	When not picked up, workers do what?
10:48:47 AM	Atty Kurtz KIUC - witness Kerns Note: Sacre, Candace	Expectation what might happen this summer in terms of running or not running?
10:49:20 AM	Atty Kurtz KIUC - witness Kerns Note: Sacre, Candace	Have capacity factor, sort of build it, first quarter 2022, capacity factor Unit 1 and 2?
10:49:50 AM	Chairman Chandler Note: Sacre, Candace	Ms. Vinsel?
10:49:54 AM	Atty Tussey PSC - witness Kerns Note: Sacre, Candace	Cross Examination. Co-ownership, operational problems arise when co-owners of a facility?
10:51:26 AM	Atty Tussey PSC - witness Kerns Note: Sacre, Candace	Based on experience, most problems resolved through operating agreement, terms and dispute resolution?
10:52:03 AM	Chairman Chandler Note: Sacre, Candace	Vice Chair?
10:52:05 AM	Vice Chairman Cabbage - witness Kerns Note: Sacre, Candace	Examination. Figure out how work, Wheeling become operator and permit holder for air permits, water, that good stuff?
10:52:28 AM	Vice Chairman Cabbage - witness Kerns Note: Sacre, Candace	If get to 2028, there is unit swap, Wheeling still hold operating permits and other unit owner contract, how work?
10:53:23 AM	Vice Chairman Cabbage - witness Kerns Note: Sacre, Candace	Wheeling could stay operator even if Kentucky Power owned one of units?
10:53:34 AM	Vice Chairman Cabbage - witness Kerns Note: Sacre, Candace	Get to 2028, not change in EPA regs, still ELG requirements, unit either shut down, upgraded, or sold?
10:54:20 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Examination. Here for March 1st hearing?
10:54:24 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Document Kentucky Power filed regarding Mitchell performance data, asked about that?
10:54:44 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Asked about difference between Unit 1 and Unit 2 and operations?
10:54:54 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Exhibit went back five years?
10:54:59 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	2021 all the way back 2017?
10:55:09 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Forced outage rate of Unit 2 never been over 10 percent, varies 1.96 to 9.89; Unit 1 forced outage rate gone from low of 12.14 to high of 43.9 in 2021, remember being asked which unit prefer, response probably Unit 1, amount of investment?

10:57:36 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Not how understood response to be in March 1 hearing, even if exception of one failure, reasonable to take out, 20 percent not good forced outage rate?
10:58:23 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	12.14 not particularly good?
10:58:43 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	What wrong with Mitchell 1 operating at such disadvantage over past five years?
11:00:18 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	13 still not good?
11:00:20 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Say nothing wrong, but something not right?
11:00:30 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Data going back half time Kentucky Power owned Mitchell, not know performance five years prior, this is half time Kentucky Power owned Mitchell?
11:00:58 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	As general matter know what megawatt hour costs at Mitchell?
11:01:11 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	As coal plant opposed to gas plant, significant control over cost inputs?
11:01:18 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Know what fuel cost, already purchased?
11:01:22 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Know what can produce and know what customers be charged through retail rates as fuel adjustment clause?
11:01:34 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	In event customers need power, generators not operating, subject to market rates, buy replacement power, agree?
11:01:49 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Any time Mitchell not operating and customers having to purchase market power, that is risk?
11:01:58 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Not risk only downside, mean risk as deviation from status quo or expectation?
11:02:05 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Going forward, not necessarily reflective, high forced outage past few years presented customers with higher degree of risk opposed lower forced outage rate?
11:02:30 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Hearing answer, what plan put in place address concerns regarding significant unavailability of Mitchell plant?
11:03:26 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Be changing type of coal, already changed type of coal burn given impact?
11:03:52 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	But equipment failure talking about is equipment original in 1971?
11:04:45 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Is that FGD talking about?
11:04:55 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Be surprised put into service in 2005?
11:05:02 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Not SCR talking about either?

11:05:14 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Be surprised to know electrostatic precipitator upgraded at least two times last eight years nearly \$2.4 million?
11:05:55 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	What about precipitator modifications 2002 and 2006, a number between 2006 and 2020 of \$12.6 million?
11:06:29 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	As result of what saying earlier, invested good amount coal blending facilities, agree, address different contents of fuel?
11:06:51 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Be surprised early 2000 and again 2019, \$16.5 million capital put in coal blending facilities?
11:07:05 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Problems not just make unit unavailable, every time unavailable problems have capital fix and O&M fix, agree?
11:07:32 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Not normally break and result in forced outage that not cost anything to fix?
11:07:43 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	How much has cost, looked at cost impacts forced outages last five years, what replacement power was above or below production been for Mitchell for cost fix?
11:08:12 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Know who would have at AEP?
11:08:20 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Know if anybody does?
11:08:37 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Who does going forward analysis figure out stay open cost of generation above/below replacement cost of generation, involved at all in process?
11:09:10 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	In position, requested provide information how expensive keep fixed facilities in operation?
11:09:28 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Ten-year forecast, take into account anticipated failure rate/forced outage rate?
11:09:42 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Informed by past failure rates or some general ratio or measure?
11:10:00 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Clearly delineated what costs relate to when provide as forecast or giving a dollar per kW or fixed dollar per year number?
11:10:20 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Broken out somewhere?
11:10:24 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Have in there line that says probability of significant failure of precipitator happen one of years, going to pick year four, and here's what cost?
11:10:43 AM	Chairman Chandler - witness Kerns Note: Sacre, Candace	Provide that if requested ten-year as post-hearing data request?
11:10:44 AM	POST-HEARING DATA REQUEST Note: Sacre, Candace Note: Sacre, Candace	CHAIRMAN CHANDLER - WITNESS KERNS TEN-YEAR FORECAST BROKEN OUT BY LINE ITEM OF COSTS TO KEEP FIXED FACILITIES IN OPERATION INCLUDING ANTICIPATED FORCED OUTAGE RATES



11:11:00 AM Chairman Chandler  
Note: Sacre, Candace Ms. Glass?

11:11:06 AM Atty Glass Kentucky Power - witness Kerns  
Note: Sacre, Candace Redirect Examination. Cardinal plant owned by more than one owner?

11:11:21 AM Atty Glass Kentucky Power - witness Kerns  
Note: Sacre, Candace AEP wants retire Cardinal by 2020, Buckeye Power wants plant continue operate after that date?

11:11:48 AM Atty Glass Kentucky Power - witness Kerns  
Note: Sacre, Candace As far as unit swap go and choosing between two units in future, predict what unit more desirable in 2028?

11:12:10 AM Atty Glass Kentucky Power - witness Kerns  
Note: Sacre, Candace Many of projects/components discussing Mitchell plant filed with Commission in environmental compliance plan filings?

11:12:21 AM Atty Glass Kentucky Power - witness Kerns  
Note: Sacre, Candace Commission reviewed and approved those investments and recovery through surcharge?

11:13:02 AM Chairman Chandler  
Note: Sacre, Candace Ms. Glass, Mr. Crespo?

11:13:06 AM Atty Crespo Kentucky Power  
Note: Sacre, Candace Steve Haynes.

11:13:16 AM Chairman Chandler  
Note: Sacre, Candace Witness is sworn.

11:13:22 AM Chairman Chandler - witness Haynes  
Note: Sacre, Candace Examination. Name and address?

11:13:35 AM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Direct Examination. By whom employed?

11:13:40 AM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Title?

11:13:46 AM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Cause supplemental testimony be filed?

11:13:52 AM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Changes?

11:14:00 AM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Please go through change?

11:14:29 AM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Read entire sentence into record?

11:15:00 AM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Any other changes?

11:15:03 AM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Asked same questions, have same answers?

11:15:15 AM Chairman Chandler  
Note: Sacre, Candace File errata. (Click on link for further comments.)

11:15:23 AM Chairman Chandler  
Note: Sacre, Candace Mr. West?

11:15:30 AM Asst Atty General West - witness Haynes  
Note: Sacre, Candace Cross Examination. Revised ownership agreement, prior controversies avoided parties agree on price or units divided?

11:16:08 AM Asst Atty General West - witness Haynes  
Note: Sacre, Candace If no agreement on price, units will be divided?

11:16:18 AM Asst Atty General West - witness Haynes  
Note: Sacre, Candace Walk through Kentucky Power thinking how unit swap carried out in practice?

11:18:56 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Next few questions, read statement from testimony, page 6, say, reading (click on link for further comments), correct?
11:19:44 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Addition of unit swap requires parties to make decision sooner than previous version where buyout decision be made later?
11:21:28 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Page 7, options Kentucky Power have under revised agreement unit swap proposal, third option split units and operate unit with newly-executed agreement utilize Wheeling ELG assets?
11:21:46 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Revised ownership agreement dictate how newly-executed agreement created?
11:21:53 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Created by operating committee?
11:22:38 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Any statements in revised ownership agreement provide Kentucky Power right to rent ELG equipment year-by-year basis?
11:23:50 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Page 10, Kentucky Power and Wheeling pay decommissioning up front/over time as costs incurred when whole plant retired, revised ownership agreement provide limitation or standard for how or when decommissioning costs paid by Kentucky Power?
11:24:50 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Left to operating committee?
11:24:55 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	On page 10, also say, reading (click on link for further comments), referring to cost for investments not been made but for Wheeling intention continue operating past 2028?
11:26:12 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Say operating committee determine amount and timing payments, lump sum, or installments, agreement offer guidance on what costs divided, how divided, or how and when costs paid?
11:27:05 AM	Chairman Chandler Note: Sacre, Candace	Recess until 11:45.
11:27:16 AM	Session Paused	
11:46:22 AM	Session Resumed	
11:46:27 AM	Chairman Chandler Note: Sacre, Candace	Mr. West?
11:46:31 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Cross Examination (cont'd). Due diligence, unit swap triggered, revised ownership agreement due diligence related to units conducted in common with costs shared?
11:47:37 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Operating committee work out whether costs shared or incurred by respective companies?
11:48:29 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Revised ownership agreement contain provisions compensate either company in event receive lesser unit in unit swap, referred to as make-whole?
11:49:48 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Does revised ownership agreement dictate form of transaction utilized to effect the swap?
11:50:57 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Have testimony available?

11:51:01 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	STH-S2, red-lined version of revised operating agreement, start page 4, Section 3.2, page 4 of document, page 6 of 40, decommissioning modified by word relevant, see that?
11:52:24 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Describe intent behind change?
11:53:27 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Page 9, Section 6.8, revision to effect each owner responsible 50 percent decommissioning, earlier version only applied in event of early retirement, require Kentucky Power pay 50 percent decommissioning ELG not use?
11:54:48 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Page 11, Section 7.2, operating committee authority expanded, lines added, reading (click on link for further comments), why change necessary?
11:55:59 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Page 14, Section 8.2, read?
11:56:38 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	If Kentucky Power changes hands and new owner unhappy, force a renegotiation of this agreement?
11:57:15 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	In order change agreement formally, mutual agreement both parties?
11:57:26 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Page 16, Section 9.6, green language added, reading (click on link for further comments), mean if owners not agree on price and agree to buyout, not acting in good faith?
11:58:21 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Walk-through revised marked-up agreement relate to arbitration, Section 12.4, page 21, disputes, reading (click on link for further comments), binding arbitration?
11:58:51 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	In Section (a), binding arbitration in accordance with American Arbitration Association commercial arbitration rules, rules incorporated into this docket?
11:59:23 AM	Asst Atty General West - witness Haynes Note: Sacre, Candace	My point, Commission approving document, be familiar with what rules are, post-hearing data request current version of rules included?
11:59:56 AM	Atty Crespo Kentucky Power Note: Sacre, Candace	Not rules have in possession, pretty standard commercial arbitration provision, change over time, can provide to you.
11:59:57 AM	POST-HEARING DATA REQUEST Note: Sacre, Candace Note: Sacre, Candace	ASST ATTY GENERAL WEST - WITNESS HAYNES AMERICAN ARBITRATION ASSOCIATION COMMERCIAL ARBITRATION RULES MOST CURRENT EDITION
12:00:25 PM	Chairman Chandler Note: Sacre, Candace	Expected to rule on this and tie this Commission and WV Commission hands way can approve/disapprove course of action, important provide that in response. (Click on link for further comments.)
12:01:08 PM	Vice Chairman Cabbage Note: Sacre, Candace	Available on AAA web site. (Click on link for further comments.)

12:01:25 PM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Page 22, reading (click on link for further comments), provision mean if arbitrator required division of units Commission not agree with, Commission have no authority to impact decision?
12:02:37 PM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Bottom, paragraph (b), reading (click on link for further comments), what intended effect after giving due consideration regulatory requirements applicable each owner?
12:04:14 PM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Arbitration set up Wheeling and Kentucky Power come in with decision, arbitrator have to pick one or the other?
12:04:37 PM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Referenced West Virginia Commission, parallel process going on in West Virginia?
12:04:54 PM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Upcoming hearing?
12:04:58 PM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Revised ownership agreement alternate unit swap language presented to West Virginia Commission for approval?
12:05:12 PM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Talk about risk of inconsistent decisions two commissions and what would happen?
12:06:23 PM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Time line process played out presentation agreements to this Commission, heard approval of agreements condition precedent closing of transfer?
12:06:48 PM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Liberty or AEP insisted making that condition precedent?
12:07:37 PM	Asst Atty General West - witness Haynes Note: Sacre, Candace	Ended up condition precedent in which agreement?
12:07:46 PM	Asst Atty General West - witness Haynes Note: Sacre, Candace	When stock purchase agreement entered into by parties?
12:07:54 PM	Asst Atty General West - witness Haynes Note: Sacre, Candace	When transfer application filed?
12:08:03 PM	Asst Atty General West - witness Haynes Note: Sacre, Candace	January 4th sound right?
12:08:10 PM	Asst Atty General West - witness Haynes Note: Sacre, Candace	If Mitchell agreements so important be made condition precedent, why not parties wait until parties approved before filing transfer application?
12:09:08 PM	Asst Atty General West - witness Haynes Note: Sacre, Candace	AEP aware once transfer application filed Commission have deadline by which required issue ruling?
12:09:35 PM	Chairman Chandler - witness Haynes Note: Sacre, Candace	Examination. All true, other agreements, approval of these agreements condition precedent transfer of control, although approve case 278.0207, things not have statutory date condition precedent to closing, is that unfair to say?
12:11:05 PM	Chairman Chandler Note: Sacre, Candace	Mr. Kurtz?
12:11:10 PM	Atty Kurtz KIUC - witness Haynes Note: Sacre, Candace	Cross Examination. AEP in middle with split decision of ELG, broker deal with West Virginia and Kentucky and Liberty, what West Virginia want out of transaction?

12:11:53 PM	Atty Kurtz KIUC - witness Haynes Note: Sacre, Candace	Commissioners decide what Kentucky wants, trying to broker deal what understanding what Kentucky wants?
12:12:47 PM	Atty Kurtz KIUC - witness Haynes Note: Sacre, Candace	Why Liberty want certainty Mitchell before closing acquisition of Kentucky Power?
12:12:59 PM	Atty Kurtz KIUC - witness Haynes Note: Sacre, Candace	Why want certainty around Mitchell before closing on purchase of Kentucky Power?
12:13:10 PM	Atty Kurtz KIUC - witness Haynes Note: Sacre, Candace	What your understanding?
12:13:44 PM	Atty Kurtz KIUC - witness Haynes Note: Sacre, Candace	Understandable, if going to own utility, need plan and have certainty, easier to plan system if knew on 12/31/28 replace versus ongoing question?
12:14:12 PM	Atty Kurtz KIUC - witness Haynes Note: Sacre, Candace	Alternate proposal, supported submitting, seem perpetuate litigation are in, recipe for endless controversy rather than resolution, do you see that perspective?
12:15:25 PM	Atty Kurtz KIUC - witness Haynes Note: Sacre, Candace	Oppose Liberty transaction, if Commission say in public interest with or without conditions, seem bad policy decision voided by fact Mitchell not resolved?
12:16:37 PM	Atty Kurtz KIUC - witness Haynes Note: Sacre, Candace	IRP be more certain if knew not Mitchell after 2028?
12:16:53 PM	Atty Kurtz KIUC - witness Haynes Note: Sacre, Candace	West Virginia okay with new decommissioning, upfront or Kentucky pays when incurred?
12:17:07 PM	Atty Kurtz KIUC - witness Haynes Note: Sacre, Candace	Both opposed FERC jurisdiction over ownership agreement under premise no jurisdiction over generating facilities under Federal Power Act, understanding?
12:17:38 PM	Atty Kurtz KIUC - witness Haynes Note: Sacre, Candace	Any detailed knowledge size of load of Wheeling?
12:17:48 PM	Atty Kurtz KIUC - witness Haynes Note: Sacre, Candace	Four and a half megawatt hours, understanding of Mw hours Mitchell generate at various capacity factors?
12:18:08 PM	Atty Kurtz KIUC - witness Haynes Note: Sacre, Candace	Considered simpler self-policing approach, what if transaction was after 2028 Kentucky Power share off-system sales profits made by Mitchell plant, certainty retire from Kentucky point of view if West Virginia continue to operate it Kentucky share in profits from all system sales?
12:19:10 PM	Atty Kurtz KIUC - witness Haynes Note: Sacre, Candace	Self-policing because both utilities be in same boat?
12:19:49 PM	Chairman Chandler Note: Sacre, Candace	Ms. Vinsel?
12:19:53 PM	Gen Counsel Vinsel PSC - witness Haynes Note: Sacre, Candace	Cross Examination. Post-hearing data request Kentucky Power provide cross-reference current Mitchell agreements and providing cross references each article where are in ownership agreement and operation and maintenance agreement?
12:21:21 PM	Gen Counsel Vinsel PSC - witness Haynes Note: Sacre, Candace	Saying proposed agreements arm's length agreements?

12:21:41 PM	Chairman Chandler - witness Haynes Note: Sacre, Candace	Examination. Not saying negotiated at arm's length, saying written in way apply now to people who can be or cannot be affiliates?
12:22:15 PM	Gen Counsel Vinsel PSC - witness Haynes Note: Sacre, Candace	Cross Examination (con'td). Clarify, arbitration provisions in Article 12, intent is any decision by arbitrator come to public service commissions but that not included in language of agreement?
12:22:51 PM	Gen Counsel Vinsel PSC - witness Haynes Note: Sacre, Candace	Point out generally accepted contract term of four corners rule, if parties have agreed and put in writing, cannot imply or infer a meaning that contradicts the terms, if was intent, why that not in dispute resolution?
12:23:46 PM	Gen Counsel Vinsel PSC - witness Haynes Note: Sacre, Candace	Walk-through, Article 12.6, page 23, in 12.6, nothing in agreement construed preclude either owner petition or complaint with FERC, FERC jurisdiction, section thinking of?
12:24:55 PM	Vice Chairman Cabbage Note: Sacre, Candace	Thinking about 13.2 on next page?
12:25:41 PM	Gen Counsel Vinsel PSC - witness Haynes Note: Sacre, Candace	Proposed time line, regards unit swap, decisions before Commission, approval of unit swap?
12:26:10 PM	Gen Counsel Vinsel PSC - witness Haynes Note: Sacre, Candace	CPCN for Kentucky Power to operate Mitchell, decision in 2021-00004 ELG project not economic and Kentucky ratepayers not pay for it, if decision and any thought of moving forward unit swap and Mitchell unit not retired, express approval from Commission to operate unit, only question of approval unit swap, has to be decision in place by May 1st, negotiations not start until Jan 1st, limited amount of time for review?
12:28:16 PM	Gen Counsel Vinsel PSC - witness Haynes Note: Sacre, Candace	Larger point, agreement as written not allow for regulatory approval timeline necessary move forward with unit swap?
12:28:43 PM	Gen Counsel Vinsel PSC - witness Haynes Note: Sacre, Candace	Aware is ownership agreement executed for Sporn plant?
12:29:08 PM	Gen Counsel Vinsel PSC - witness Haynes Note: Sacre, Candace	Post-hearing data request agreement between two entities but also for Sporn and Cardinal plant?
12:29:09 PM	POST-HEARING DATA REQUEST Note: Sacre, Candace	AGREEMENT BETWEEN TWO ENTITIES AND SPORN AND CARDINAL PLANTS
12:29:47 PM	Gen Counsel Vinsel PSC - witness Haynes Note: Sacre, Candace	GEN COUNSEL VINSEL PSC - WITNESS HAYNES Section 9.6(a), page 16, good example where states unit swap subject to applicable regulatory approvals but not list, again, need for certainty, reason why jurisdictions Kentucky and West Virginia not named expressly?
12:31:10 PM	Gen Counsel Vinsel PSC - witness Haynes Note: Sacre, Candace	Not want a limiting term, excluding name of known regulatory approvals now creates open questions for contract interpretation down the line, wondering what intent was to degree can speak?
12:32:15 PM	Gen Counsel Vinsel PSC - witness Haynes Note: Sacre, Candace	Article 6.9, page 9, says obligation pay under agreement not conditioned upon or affected by regulatory order disallowing, limiting, modifying any payments, leaves question how Kentucky Power treat expense Commission disallowed?

12:33:57 PM	Chairman Chandler Note: Sacre, Candace	Vice Chair?
12:34:02 PM	Vice Chairman Cabbage - witness Note: Sacre, Candace	Haynes Examination. Need for these documents precipitated by conflicting West Virginia and Kentucky orders, specifically our order directing changes to agreements?
12:34:36 PM	Vice Chairman Cabbage - witness Note: Sacre, Candace	Haynes Could not all dealt with by changing existing operating agreement make Wheeling operator, been more simple or some driven by transaction?
12:35:18 PM	Vice Chairman Cabbage - witness Note: Sacre, Candace	Haynes Given that approval of agreements condition precedent to closing Liberty, not in situation have to approve and treat as affiliate transaction?
12:36:07 PM	Vice Chairman Cabbage - witness Note: Sacre, Candace	Haynes What being asked approve is new form of agreement that has unit swap, other off table and not alternative?
12:36:32 PM	Vice Chairman Cabbage - witness Note: Sacre, Candace	Haynes That's gone?
12:36:44 PM	Vice Chairman Cabbage - witness Note: Sacre, Candace	Haynes On timing, May 1st trigger, affected if Liberty closes and couple of years Liberty tries to leave PJM?
12:37:31 PM	Vice Chairman Cabbage - witness Note: Sacre, Candace	Haynes That date stay same regardless Liberty decision?
12:37:39 PM	Vice Chairman Cabbage - witness Note: Sacre, Candace	Haynes If PJM planning year not move?
12:38:00 PM	Vice Chairman Cabbage - witness Note: Sacre, Candace	Haynes AAA rules incorporated by reference, intended to be AAA rules in existence at time of execution of agreement or time of potential arbitration?
12:38:42 PM	Vice Chairman Cabbage - witness Note: Sacre, Candace	Haynes Clarify, page 22, bottom of subparagraph (b), arbitrator being asked to pick a proposal?
12:39:05 PM	Vice Chairman Cabbage - witness Note: Sacre, Candace	Haynes What reasoning there, limiting arbitrator discretion?
12:39:43 PM	Vice Chairman Cabbage - witness Note: Sacre, Candace	Haynes What if only sticking point is price, cost, pick either high or low?
12:40:07 PM	Vice Chairman Cabbage - witness Note: Sacre, Candace	Haynes End up in unit swap, anything in here put limitation on Kentucky Power selling unit to third party?
12:40:46 PM	Vice Chairman Cabbage - witness Note: Sacre, Candace	Haynes Kentucky Power not restricted, operate or close down, or sell?
12:41:17 PM	Chairman Chandler - witness Note: Sacre, Candace	Haynes Examination. Participating same/similar manner in West Virginia proceedings as in Kentucky?
12:41:32 PM	Chairman Chandler - witness Note: Sacre, Candace	Haynes Someone in AEP family has rebuttal due on 4th in West Virginia?
12:41:42 PM	Chairman Chandler - witness Note: Sacre, Candace	Haynes Intend on providing rebuttal testimony?
12:41:47 PM	Chairman Chandler - witness Note: Sacre, Candace	Haynes Read testimony of staff in West Virginia Commission?
12:41:54 PM	Chairman Chandler - witness Note: Sacre, Candace	Haynes Filed on Monday?
12:42:05 PM	Chairman Chandler - witness Note: Sacre, Candace	Haynes Position of testimony as general matter?

12:42:20 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace Anything discussed today during hearing?

12:42:25 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace Weird position, ten-day status updates in West Virginia, two parallel processes dealing with exact same thing, agree?

12:43:39 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace Kentucky Power requested two CPCNs, ELG and CCR?

12:43:51 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace Commission only granted one?

12:43:55 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace CCR related to ash pond and ELG related to effluent limits guidelines rule?

12:44:20 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace Dry ash handling instead of water, sluices into a pond?

12:44:31 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace 2028 date not a date in which perceived Mitchell no longer economic?

12:45:12 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace 2028 not function of any analysis anybody did, function of EPA rules?

12:45:19 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace Dec 31 2028 operate past that date endeavor become compliant with ELG by 2023?

12:45:41 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace Other than that, Dec 31 2028 date, aware any other significance for that date that drives this conversation or these documents?

12:46:08 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace West Virginia Commission approved Wheeling Power the CPCN necessary make Mitchell 1 and Mitchell 2 ELG compliant?

12:46:26 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace Read Order in Case No. 2021-00004 denying CPCN for ELG?

12:46:46 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace Take Order to say not economic don't do ELG or company failed to meet burden of proof should get CPCN for ELG?

12:47:14 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace Denial CPCN that drove significance of Dec 31 2028 date?

12:47:28 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace Reason ask, unit swap require to change ownership and purchase single unit instead interest in two units would drive a CPCN of itself?

12:48:19 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace If that requires CPCN, aware standards, approve need and absence of duplication, backstop in ownership agreement seem to require?

12:48:59 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace Appreciate interest, cleaner, unit swap cleaner in just split right in half, reality be even if unit swap implicated, Kentucky Power came back to Commission, in effect requesting CPCN for unit ELG compliant, built ELG, company not meet burden of proof unit should have built, seem odd to you?

12:50:16 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace If unit swap occurs and retired, Kentucky Power on hook for ELG costs for undepreciated value?

12:50:50 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace How make sense? Wheeling pay millions of dollars make both units compliant ELG, when backstop is in 2028 one unit retired, why build ELG on one of those units?



12:51:19 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace It will, but not necessary in order unit operate through Dec 31 2028?

12:51:41 PM Chairman Chandler  
Note: Sacre, Candace At this point, go into confidential session.

12:51:51 PM Private Mode Activated

12:51:51 PM Private Recording Activated

12:53:23 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace Did you give the presentation?

1:17:53 PM Chairman Chandler  
Note: Sacre, Candace Go back on public record.

1:17:57 PM Normal Mode Activated

1:17:57 PM Public Recording Activated

1:18:23 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace Examination. If arbitrator makes decision, not appealed, both parties go to commissions, and one disagrees, what then?

1:19:21 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace If backstop unit swap occurs, purpose exclusively Kentucky Power retire unit, think ELG costs/property be part of swap?

1:19:59 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace Asking you right now, if swap occurring, should ELG costs go with unit be immediately retired?

1:20:25 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace Agreement not say that?

1:20:36 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace What point of Mitchell ownership agreement, why need, response provide certainty, if purpose provide certainty, some expectation unit swap occur and Mitchell retired 2028, why not certainty around what costs looks like if happens?

1:22:06 PM Chairman Chandler - witness Haynes  
Note: Sacre, Candace If Wheeling do ELG compliance, should pay for ELG costs?

1:22:38 PM Chairman Chandler  
Note: Sacre, Candace Intend call back Haynes, offended if requested Haynes back after Kollen? (Click on link for further comments.)

1:23:12 PM Chairman Chandler  
Note: Sacre, Candace Take lunch right now, opportunity narrow redirect? (Click on link for further comments.)

1:23:56 PM Chairman Chandler  
Note: Sacre, Candace One-hour break until 2:20.

1:24:09 PM Session Paused

2:31:15 PM Session Resumed

2:31:22 PM Chairman Chandler  
Note: Sacre, Candace Redirect?

2:31:25 PM Camera Lock Deactivated

2:31:33 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Redirect Examination. Discussing alternative proposal described in supplemental and rebuttal?

2:31:43 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Prior proposal to original involved fair market value buyout, remember?

2:31:52 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Purpose shift from initial proposal to alternative have now?

2:32:34 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Change between first option and alternative option for buyout whether Kentucky Power required pay ELG costs?

2:32:59 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Understanding of orders is what as far as ELG?

2:33:24 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Clear in your mind Kentucky Power not pay ELG costs under current orders

2:33:37 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace None of costs paid by Kentucky customers?

2:33:51 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Any way Wheeling unilaterally cause Kentucky Power pay ELG costs?

2:34:23 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Expressed in ownership agreement in provisions related to initial construction costs and operating costs for ELG?

2:34:41 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Kentucky Power not pay for ELG costs there?

2:34:49 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Also not have to pay for ELG costs under original buyout provision or alternative buyout provision?

2:35:07 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Wheeling Power not require under current buyout or alternative either?

2:35:16 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Circumstance under which Kentucky Power elect pay ELG costs?

2:35:43 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Even in that circumstance, Wheeling right to shift ELG costs to Kentucky Power?

2:35:55 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Only under scenario Kentucky Power continue to operate?

2:36:05 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Today, not know whether make that election?

2:36:14 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Even if did, if deviate from orders of this Commission, have to come back to Commission?

2:36:33 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Alternative, say intended more beneficial, how get here, what intending to do?

2:37:18 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Along those lines, recall questions from West in which asked about certain potential alternatives?

2:37:36 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Recall options, any one of those company desires do in future?

2:38:11 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Number of economic alternatives, pay as you go option, one example?

2:38:38 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Any options Kentucky Power not do unilaterally?

2:38:49 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Approved by both commissions?

2:38:58 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Remember questions from Vinsel related to timing of approvals for unit interest swap?

2:39:16 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Time lines in revised agreement?

2:39:26 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Comment on those, absolute windows or more flexibility?

2:39:59 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Parties also leave more time if thought more complicated, required more lead time?

2:40:10 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Remember questions arbitration provision?

2:40:19 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Questions how worked and required choosing one option or other option and arbitrator not choose third option?

2:40:31 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace In your experience, how impact parties and what do in arbitration?

2:41:12 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace In summary, force parties be more reasonable at outset?

2:41:22 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Parties could choose to deviate and allow arbitrator choose different option?

2:41:43 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace To that point, this arbitration agreement, 12.4 relates to only unit interest swap?

2:41:59 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Should parties be thinking about that contribution overall decision unit interest swap?

2:42:15 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Parties negotiate unit interest swap per terms of agreement?

2:42:18 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace If disagreements, what do?

2:42:26 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Input into decision?

2:42:34 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace When done, what required to do?

2:42:45 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Assuming reached agreement and done?

2:42:53 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace At end of day, comes before commissions?

2:43:03 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Also recall questions regulatory bodies required approve transaction?

2:43:15 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace From experience in transactions, many different government entities might need approve unit interest swap?

2:43:30 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Examples?

2:43:47 PM Atty Crespo Kentucky Power - witness Haynes  
Note: Sacre, Candace Expectation if Kentucky Power and Wheeling owners under unit swap, get authority from Kentucky and West Virginia commissions?

2:44:05 PM Chairman Chandler  
Note: Sacre, Candace Any objection to making KIUC Confidential 1 from 2021-00481 case hearing exhibit in this matter?

2:44:40 PM Atty Crespo Kentucky Power  
Note: Sacre, Candace No objection.

2:44:41 PM KIUC CONFIDENTIAL EXHIBIT 1  
Note: Sacre, Candace CHAIRMAN CHANDLER - WITNESS HAYNES  
Note: Sacre, Candace PROJECT NICKEL AEP BOARD PRESENTATION OCT 19 2021

2:45:16 PM Chairman Chandler  
Note: Sacre, Candace Witness can step down.

2:45:23 PM	Chairman Chandler Note: Sacre, Candace	Other witnesses from applicant?
2:45:30 PM	Chairman Chandler Note: Sacre, Candace	Anything else to take up?
2:45:39 PM	Chairman Chandler Note: Sacre, Candace	Mr. West, Mr. Kurtz, call witness?
2:45:42 PM	Asst Atty General West Note: Sacre, Candace	Lane Kollen.
2:46:02 PM	Chairman Chandler Note: Sacre, Candace	Witness is sworn.
2:46:10 PM	Chairman Chandler - witness Kollen Note: Sacre, Candace	Examination. Name and address?
2:46:27 PM	Asst Atty General West - witness Kollen Note: Sacre, Candace	Direct Examination. Reviewed filing company made on Mar 15 2022?
2:46:33 PM	Asst Atty General West - witness Kollen Note: Sacre, Candace	Describe filing?
2:46:57 PM	Asst Atty General West - witness Kollen Note: Sacre, Candace	Concerns with revised ownership agreement?
2:48:05 PM	Asst Atty General West - witness Kollen Note: Sacre, Candace	Concerns regarding revised agreements as relates decommissioning costs?
2:48:54 PM	Asst Atty General West - witness Kollen Note: Sacre, Candace	Apportionment of tax savings, speak to that?
2:50:01 PM	Asst Atty General West - witness Kollen Note: Sacre, Candace	Potential consequences from structure of transaction?
2:50:47 PM	Asst Atty General West - witness Kollen Note: Sacre, Candace	What about referenced as make-whole, revised agreement address speak to make-whole payment?
2:51:24 PM	Asst Atty General West - witness Kollen Note: Sacre, Candace	Other concerns?
2:52:20 PM	Asst Atty General West - witness Kollen Note: Sacre, Candace	Recommendation regarding revised agreement?
2:52:37 PM	Chairman Chandler Note: Sacre, Candace	Ms. Vinsel?
2:52:43 PM	Atty Tussey PSC - witness Kollen Note: Sacre, Candace	Cross Examination. Concerns decommissioning/ELG costs, grant of power in ownership agreement, feel grants too much power to operating committee?
2:54:34 PM	Atty Tussey PSC - witness Kollen Note: Sacre, Candace	Based on that, what recommend revisions be to change balance?
2:55:22 PM	Atty Tussey PSC - witness Kollen Note: Sacre, Candace	Tax implication, explain difference between unit swap if sale and purchase versus a like-kind exchange?
2:57:16 PM	Atty Tussey PSC - witness Kollen Note: Sacre, Candace	According to direct, read ownership agreement require Kentucky Power sell interest, amended ownership agreement also requires Kentucky Power sell interest to Wheeling?
2:59:00 PM	Chairman Chandler Note: Sacre, Candace	Vice Chair?
2:59:03 PM	Vice Chairman Cabbage - witness Kollen Note: Sacre, Candace	Examination. Original testimony before amended application filed, recommended rejection of ownership agreement, lines 13-15, page 35, reading (click on link for further comments), still?

3:00:57 PM	Vice Chairman Cubbage - witness Kollen Note: Sacre, Candace	If were extended, operating committee able change operator to Wheeling?
3:01:16 PM	Vice Chairman Cubbage - witness Kollen Note: Sacre, Candace	Operating committee need reconstituted?
3:01:38 PM	Chairman Chandler Note: Sacre, Candace	Mr. Crespo, Mr. Overstreet?
3:01:52 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	Cross Examination. Listened direct with interest, what heard and ask confirm respect ownership agreement concerns limited to Section 9.6?
3:02:20 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	One filed with Haynes supplemental, amended ownership agreement?
3:02:39 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	When testified on March 1 and written before that, concerns ownership agreement limited to Section 9.6?
3:03:08 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	What are other concerns, point to other sections of amended ownership agreement with which have concerns?
3:03:22 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	Specific sections of amended ownership agreement?
3:04:29 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	Existing operating agreement not address questions about like-kind exchange or tax consequences of a sale, anything like that?
3:05:34 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	Existing operating agreement not address issues like like-kind exchange?
3:05:52 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	At some point, prior to 2028, owners of two undivided 50 percent interest have to resolve issues?
3:06:35 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	Nothing in proposed ownership agreement that prevents exact sequence from occurring?
3:07:20 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	Heard expression allowing perfect to be enemy of good?
3:07:31 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	Object to various options and manner laid out?
3:08:00 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	If this Commission were to approve proposed ownership agreement, still have to determine whether structure resulting disposition appropriate in terms of tax consequences?
3:08:46 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	Nothing in this agreement limits Commission jurisdiction?
3:10:07 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	Heard Haynes speak to issue, nothing in ownership agreement limited this Commission jurisdiction, decided felt like buyout price too low or decided not like notion of unit swap, could reject?
3:11:32 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	Not talking estoppel?
3:11:59 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	Agreement thought heard you say not locking Commission, retained full jurisdiction?

3:12:08 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	If heard correctly, all this involves two entities structuring very complicated event in way is transparent, Commission gets to look at it now and then decide whether parties did right whenever brought in front of it?
3:12:57 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	Mentioned ratemaking consequences?
3:13:05 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	Again, Commission decides when rate case presented to it those ratemaking consequences?
3:13:39 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	Same thing for decommissioning costs, right?
3:14:39 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	Your position, if Wheeling and Kentucky Power unable reach agreement resolve issues presented by conflicting decisions of commissions, client's position unit be retired?
3:16:20 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	At some point, if Wheeling and Kentucky Power not reach agreement how handle 2028 date, how happen in absence of ownership agreement when Kentucky Power has undivided 50 percent unit in entire plant?
3:17:22 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	Agree current operating agreement drafted address operation of unit when two undivided owners were affiliates?
3:17:44 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	If Commission approve transfer of Kentucky Power in 2021-00481, would no longer be case?
3:18:05 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	Would understand why an agreement might work for affiliates not work for unaffiliated companies?
3:18:45 PM	Atty Overstreet Kentucky Power - witness Haynes Note: Sacre, Candace	So compelling need, is that the standard?
3:19:33 PM	Chairman Chandler Note: Sacre, Candace	Procedural discussions. (Click on link for further comments.)
3:20:23 PM	Chairman Chandler Note: Sacre, Candace	Witness excused.
3:20:53 PM	Chairman Chandler Note: Sacre, Candace	Anything else?
3:21:09 PM	Chairman Chandler Note: Sacre, Candace	Discussion of process, briefs. (Click on link for further comments.)
3:30:22 PM	Chairman Chandler Note: Sacre, Candace	Final decision, post-hearing data requests April 1 responded to April 8; initial memorandum briefs simultaneous due April 14 with simultaneous responses due April 21; 12:01 April 22 case submitted.
3:31:00 PM	Chairman Chandler Note: Sacre, Candace	Closing comments. (Click on link for further comments.)
3:31:50 PM	Chairman Chandler Note: Sacre, Candace	Anything else before adjourn?
3:31:55 PM	Chairman Chandler Note: Sacre, Candace	Hearing adjourned.
3:32:03 PM	Session Ended	



## Exhibit List Report

2021-00421 30Mar2022

**Kentucky Power Company  
(Kentucky Power)**

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**Name:**

**Description:**

KIUC CONFIDENTIAL EXHIBIT PROJECT NICKEL AEP BOARD PRESENTATION OCT 19 2021

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KIUC CONFIDENTIAL  
EXHIBIT 1  
CONFIDENTIAL SESSION OF  
CASE NO. 2021-00421 FORMAL HEARING  
HELD ON  
MARCH 30, 2022



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