

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF EAST	)	
KENTUCKY POWER COOPERATIVE, INC. FOR	)	
APPROVAL TO AMEND ITS ENVIRONMENTAL	)	
COMPLIANCE PLAN AND RECOVER COSTS	)	CASE NO.
PURSUANT TO ITS ENVIRONMENTAL	)	2023-00177
SURCHARGE, AND FOR ISSUANCE OF	)	
CERTIFICATES OF PUBLIC CONVENIENCE AND	)	
NECESSITY AND OTHER RELIEF	)	

ORDER

On July 10, 2023, the Commission inadvertently issued a deficiency cured letter stating that filing deficiencies were cured. However, this letter was issued in error and the application continues to be deficient due to filing deficiencies.

On June 30, 2023, East Kentucky Power Cooperative, Inc. (EKPC) tendered an application requesting Commission approval to amend EKPC's environmental compliance plan and recover costs through its environmental surcharge under KRS 278.183. On July 10, 2023, the Commission issued a letter rejecting the application for filing for failure to satisfy the filing requirement established in 807 KAR 5:001, Section 8(4)(b), which requires PDF documents filed electronically to include bookmarks to distinguish sections of the application for optimal searchability.

EKPC's application included two volumes, one a 378-page application with multiple exhibits and the second consisting of 108 pages of exhibits, along with five Excel spreadsheet exhibits. In volume one of the application, the 44 bookmarks include 22 live

links and 22 dead links. In volume two, 8 of the 44 bookmarks are live links and the remaining 36 bookmarks are dead links.

The July 10, 2023 letter notifying EKPC of the filing deficiencies directed EKPC to submit the necessary information to cure the deficiencies. Counsel for EKPC had telephone conversations with Commission Staff discussing the bookmark issue. EKPC never filed anything into the case record to cure the deficiencies. Due to Commission Staff miscommunication, a deficiency cured letter was issued based upon the telephone call.

In addition to the fact that nothing was filed into the case record that addressed the filing deficiencies, the application remains deficient because 50 percent of the bookmarks in volume one and 82 percent of the bookmarks in volume two are inoperable. Commission regulations require electronically filed documents to be bookmarked to allow Commission Staff and others using the documents to quickly navigate to different sections of the document. Bookmarks allow users to locate content quickly and efficiently, especially in lengthy documents such as the two volumes of the application filed by EKPC. Because bookmarks are required by Commission regulation and allow users, especially Commission Staff, to be more productive, the Commission finds that EKPC's application fails to satisfy the filing requirement pursuant to 807 KAR 5:001, Section 8(4)(b) because between 50 and 82 percent of the bookmarks are dead links, rendering the bookmarks inoperable. For this reason, the Commission further finds that EKPC's application is rejected for filing.

To cure the filing deficiency, EKPC must refile the application with live links for all bookmarks. Further, all bookmarks must be accessed in the usual manner by clicking on the representative text in the bookmark panel in the navigation pane.

Finally, the Commission reminds EKPC that a response to a deficiency letter must be filed into the case record rather than in an informal telephonic conversation. This is because Commission decisions must be based on evidence in the administrative record; telephonic discussions outside the case record cannot serve as the basis for a Commission decision because the party's response has not been filed into the case record.

IT IS THEREFORE ORDERED that:

1. EKPC's application tendered on June 30, 2023, is rejected for filing due to filing deficiencies pursuant to 807 KAR 5:001, Section 8(4)(b).
2. The July 10, 2023 deficiency cured letter is stricken from the case record.

PUBLIC SERVICE COMMISSION

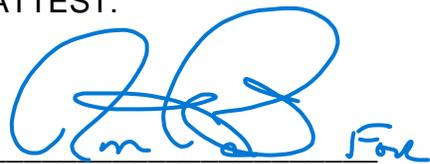
  
Chairman

  
Vice Chairman

  
Commissioner

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rcs  
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SERVICE COMMISSION

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