

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)	2024-00109
SURCHARGE, AND FOR THE ISSUANCE OF A)	
CERTIFICATE OF PUBLIC CONVENIENCE AND)	
NECESSITY AND OTHER GENERAL RELIEF)	

ORDER

On May 17, 2024, East Kentucky Power Cooperative, Inc. (EKPC), pursuant to KRS 278.020, KRS 278.183, and 807 KAR 5:001 submitted an application to amend its Environmental Compliance Plan (Compliance Plan), to grant EKPC authority to recover the costs associated with its Compliance Plan amendment through its existing environmental surcharge, and for issuing a Certificate of Public Convenience and Necessity (CPCN) for the construction of Peg’s Hill (Area D) Phase 3 of the landfill at its Hugh L. Spurlock Station in Mason County, Kentucky (Spurlock Station). EKPC’s Compliance Plan was last reviewed and approved in Case No. 2023-00177,¹ and the record from that case shall be incorporated into this case.

KRS 278.183 authorizes the Commission to engage independent consultants to assist it in the review of an environmental compliance plan. The Commission finds that

¹ Case No. 2023-00177, *Electronic Application of East Kentucky Power Cooperative, Inc. For Approval to Amend Its Environmental Compliance Plan and Recover Costs Pursuant to Its Environmental Surcharge, and For Issuance of Certificates of Public Convenience and Necessity and Other Relief*, (Ky. PSC Jan. 11, 2024).

such an engagement is appropriate in this matter. The Commission sets forth the following process for receipt and payment of invoices for financial and legal consultants engaged by the Commission pursuant to KRS 278.183(4).

Pursuant to KRS 278.183(4), the costs associated with retaining counsel or financial advisors to assist in the review of the applicant's environmental compliance plan shall be paid by the applicant and be included as financial costs in the environmental surcharge and not be an obligation of the Commonwealth.

The consultant engaged by the Commission will send its invoices to the Commission for review and payment; the Commission will forward the invoices to EKPC for reimbursement for payment. EKPC will reimburse the Commission for the amount of the invoice within 30 days of receipt of the of invoice by cashier's check or money order payable to the Kentucky State Treasurer and mailed or delivered to the Office of the General Counsel, Kentucky Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky, 40602.

The Commission finds that copies of the invoices should be entered into the record of this case. Inclusion in the record is appropriate because the costs of the consultants will be included in the environmental surcharge amount pursuant to KRS 278.183.

The Commission further finds that a procedural schedule should be established for the orderly processing of this case. The procedural schedule is attached as an Appendix to this Order.

Additionally, any hearing scheduled in this matter shall be held on the designated day or days and continued until called from the bench by the presiding officer. Pursuant to 807 KAR 5:001, Section 2, if the hearing is not concluded on the designated day, the

hearing may be continued upon verbal announcement by the presiding officer. A verbal announcement made by the presiding officer shall be proper notice of the continued hearing. Hearings are held in the Richard Raff Hearing Room at the offices of the Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky. Witnesses who sponsor schedules, testimony, or responses to requests for information are expected to participate in person at a hearing.

IT IS THEREFORE ORDERED that:

1. The record from Case No. 2023-00177 shall be incorporated into this case.
2. The reimbursement process for consultants engaged by the Commission as outlined in this Order, and pursuant to KRS 278.183 shall be followed.
3. The procedural schedule set forth in the Appendix to this Order shall be followed.
4. EKPC shall respond to all requests for information propounded by Commission Staff, whether identified on the procedural schedule or otherwise, as provided in those requests.
5. Any party filing a paper with the Commission shall file an electronic copy in accordance with the electronic filing procedures set forth in 807 KAR 5:001, Section 8. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked. The Commission directs the parties to the Commission's July 22, 2021 Order in Case No. 2020-00085² regarding filings with the Commission.

² 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).

6. As set forth in 807 KAR 5:001, Section 4(11)(a), a person requesting permissive intervention in a Commission proceeding is required to demonstrate either (1) a special interest in the proceeding that is not adequately represented in the case, or (2) that the person requesting permissive intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Therefore, any person requesting to intervene in a Commission proceeding must state with specificity the person's special interest that is not otherwise adequately represented, or the issues and facts that the person will present that will assist the Commission in fully considering the matter. A mere recitation of the quantity of utility service consumed by the movant or a general statement regarding a potential impact of possible modification of rates will not be deemed sufficient to establish a special interest.

7. Any motion to intervene filed after the date established in the procedural schedule shall also show good cause for being untimely. If the untimely motion is granted, the movant shall accept and abide by the existing procedural schedule.

8. EKPC shall give notice of any scheduled hearing in accordance with the provisions set forth in 807 KAR 5:001, Section 9(2). In addition, the notice of hearing shall include the following statements: "This hearing will be streamed live and may be viewed on the PSC website, psc.ky.gov" and "Public comments may be made at the beginning of the hearing. Those wishing to make oral public comments may do so by following the instructions listing on the PSC website, psc.ky.gov." At the time publication is requested, EKPC shall forward a duplicate of the notice and request to the Commission.

9. At any public hearing in this matter, neither opening statements nor summarization of direct testimonies shall be permitted.

10. Any hearing scheduled in this matter shall be held on the designated day or days and continued until called from the bench by the presiding officer. Pursuant to 807 KAR 5:001, Section 2, if the hearing is not concluded on the designated day, the hearing shall be continued upon verbal announcement by the presiding officer. A verbal announcement made by the presiding officer shall be proper notice of the continued hearing.

11. Witnesses who sponsor schedules, testimony, or responses to requests for information shall participate in person at any hearing scheduled in this matter.

12. EKPC shall file a witness list at least seven days prior to the hearing date.


13. Pursuant to KRS 278.360 and 807 KAR 5:001, Section 9(9), a digital video recording shall be made of the hearing.


14. The Commission does not look favorably upon motions for continuance. Accordingly, motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

15. The Commission does not look favorably upon motions to excuse witnesses from testifying at Commission hearings. Accordingly, motions to excuse a witness from testifying at a Commission hearing or from testifying in person at a Commission hearing shall be made in writing and will be granted only upon a showing of good cause.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2024-00109 DATED JUN 11 2024

Last day for intervention requests to be accepted.....	06/26/2024
All initial requests for information to EKPC shall be filed no later than	07/02/2024
EKPC shall file responses to initial requests for information no later than.....	07/16/2024
All supplemental requests for information to EKPC shall be filed no later than	07/30/2024
EKPC shall file responses to supplemental requests for information no later than	08/13/2024
Intervenor testimony, if any, in verified prepared form shall be filed no later than.....	08/23/2024
All requests for information to Intervenors shall be filed no later than	09/06/2024
Intervenors shall file responses to requests for information no later than.....	09/20/2024
EKPC shall file, in verified form, its rebuttal testimony no later than	09/26/2024
Last day for Parties to request a Public Hearing or submit a request for the matter be decided based upon the written record	10/02/2024

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