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**PUBLIC SERVICE  
COMMISSION**

**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

**BRIAN JOHNSON V. NATURAL ENERGY UTILITY CORPORATION**

**CASE NO. 2026-00095**

**COMPLAINANT'S MOTION TO MAKE SPECIFIED DOCUMENTS ON FILE  
WITH THE COMMISSION PART OF THE RECORD BY REFERENCE AND  
CLARIFICATION OF GCR INFERENCE**

Account No. [REDACTED]

2571 W Rockhouse Road, Ashland, Kentucky 41102

Complainant, Brian Mitchell Johnson, proceeding pro se, respectfully moves the Kentucky Public Service Commission (Commission), pursuant to 807 KAR 5:001, Section 11(5), to make five specified documents already on file with the Commission in three related proceedings part of the record in this case by reference only and clarifies one Gas Cost Recovery (GCR) inference. The five documents are limited to the Commission's governing directive for Contract Customer treatment, Natural Energy Utility Corporation's (NEUC) contemporaneous January 2026 GCR filing, Commission Staff's later verification request, NEUC's verified response, and the Excel calculation NEUC identified in support of that response. Complainant does not request incorporation of any related docket as a whole.

This Motion does not amend or supersede the Complaint, add a new claim, new act or omission as an independent basis for liability, or add a new category of merits relief. It does not ask the Commission to decide the merits of the GCR issue, authorize discovery, or defer, restart, or re-decide the threshold review required by 807 KAR 5:001, Section 20(4). It also does not duplicate or renew the relief requested in Complainant's July 22, 2026 Motion for Procedural Ruling, Entry of Order to Satisfy or Answer, and Limited Evidence-Preservation Relief.

Complainant separately submitted public comments on August 13, 2026 in Case Nos. 2025-00379 and 2026-00042 requesting objective source-to-summary verification of the same narrow Contract Customer treatment issue. Those comments expressly stated that they were not intended to amend, withdraw, modify, waive, settle, or resolve any account-specific claim, requested relief, evidentiary position, or procedural right in Case No. 2026-00095. Those public comments are not among the five records requested by reference in this Motion and are mentioned only to make clear that the narrowed position stated here is consistent with the position Complainant has already presented in the related GCR proceedings.

### **1. LIMITED DOCUMENTARY SEQUENCE**

1. Complainant filed the formal Complaint in this case on April 14, 2026, and the Commission acknowledged receipt on April 15, 2026. The records identified below are already on file with the Commission and bear directly on the existing GCR verification issue without requiring wholesale incorporation of the related proceedings.
2. On September 4, 2025, the Commission entered its Final Order in Case No. 2024-00369. The Commission directed that, beginning with NEUC's GCR rate report for rates effective January 1, 2026, the Contract Customer's gas purchase costs and sales be included in the GCR calculation, with the Expected Gas Cost (EGC), Actual Adjustment (AA), and Refund

Adjustment, if any, reflecting that treatment. The Commission further directed that under- or over-recoveries that otherwise would have been reconciled in Case Nos. 2024-00369, 2025-00049, and 2025-00149 be reconciled in the GCR rate report for rates effective January 1, 2026.

3. The Complaint already contains, as Exhibit 8, NEUC's verified Appendix responses later filed on November 21, 2025 in Case No. 2025-00379. In response to Item 4, NEUC stated that the Contract Customer's July-September 2025 sales were "included in the GCR rate filing." In response to Item 6, NEUC stated that it combines all gas purchases and calculates a weighted-average cost per unit assigned to both special-contract customers and tariff customers, while also stating that special-contract sales volumes and revenue are not accounted for when calculating the GCR rate and "have never been included in the GCR rate reports." H. Jay Freeman, President of NEUC, executed the verification on November 20, 2025. Complainant does not assume that the Item 4 and Item 6 statements are necessarily inconsistent; the wording may distinguish between material being included in a filing and sales being included in the numerical calculation. Because this verified response is already part of the Complaint record as Exhibit 8, Complainant does not separately request its incorporation under Section 11(5). It is identified here as the bridge between the September 4 directive and Commission Staff's later source-level verification request.
4. On November 21, 2025, NEUC filed its Quarterly Gas Cost Recovery Filing in Case No. 2025-00379, styled for rates effective January 1, 2026. The filed schedules report, among other figures, an EGC of \$3.1246 per Mcf, Total Expected Gas Cost of \$631,179, 210,393 Mcf of purchases, and 202,005 Mcf of twelve-month sales used in the EGC calculation. On December 23, 2025, the Commission suspended the proposed GCR rates for one day, until

January 2, 2026, and permitted implementation on or after January 2, 2026, pending a final Order and subject to refund. NEUC then gave notice that it would place the proposed rates into effect on or after January 2, 2026. Accordingly, references in this Motion to the "January 1, 2026" calculation or filing refer to the Commission directive and the filing/workbook label; they do not assert that the customer rate was actually implemented on January 1, 2026.

5. On March 31, 2026, the Commission entered an Order in Case No. 2026-00042 that itself used reference incorporation within this same sequence of NEUC GCR proceedings. Ordering paragraph 3 states: "The record of Case No. 2025-00379 is incorporated by reference into the record of this case." That Commission action provides a direct procedural example of cross-docket incorporation by reference within the related NEUC GCR proceedings. The March 31 Order is cited here as procedural context only and is not added to the five records requested below.
6. On May 29, 2026, Commission Staff issued its Second Request for Information to NEUC in Case No. 2026-00042. Staff requested updated Contract Customer monthly usage, monthly bills, information concerning gas purchases and costs associated with the Contract Customer, identification of the GCR quarters and amounts in which those items were included, and an accessible Excel calculation showing whether NEUC included the Contract Customer's gas purchase costs and sales in the EGC, AA, and Refund Adjustment for rates effective January 1, 2026.
7. On June 15, 2026, NEUC filed verified Responses to Commission Staff's Second Request for Information. Jay Freeman was identified as the witness for all responses, and H. Jay Freeman, President of NEUC, executed the verification. NEUC stated: "Usage of 12,384,

quarter effective 1/26-3/26 (Case No. 2025-00379)." NEUC represented that, as directed by the Commission, the Contract Customer's gas costs and sales were included in the GCR calculation for rates effective January 1, 2026. NEUC identified the accompanying Excel spreadsheet as the calculation of the EGC, AA, and RA components with the Contract Customer included.

8. The Excel spreadsheet filed with that response, "Response\_to\_2\_-\_GCR\_calculation\_-\_rates\_effective\_1-1-26.xlsx," reproduces the material aggregate January 2026 figures, including 210,393 Mcf of purchases, \$631,179 of Total Expected Gas Cost, and 202,005 Mcf of sales. Within that workbook, the 202,005 Mcf figure appears as an aggregate calculation input rather than as a calculation derived in the workbook from customer-level or category-level sales records. Complainant does not through this Motion challenge the arithmetic of the aggregate figures. The remaining question is whether the underlying source records provide the customer-level or category-level bridge necessary to verify the Contract Customer treatment represented by NEUC.

## **2. NARROWED GCR INFERENCE**

9. Complainant clarifies the scope of one inference in the Complaint. Complainant does not contend that the absence of a separately labeled "12,384" or "Contract Customer" entry in the produced workbook proves that the Contract Customer was omitted from the calculation. The Contract Customer volume may be embedded within aggregate monthly or customer-class totals. The absence of a discrete label establishes, at most, that the produced workbook alone does not provide the customer-level or category-level source bridge necessary for independent verification.

10. Accordingly, the narrowed question is not whether the produced workbook reproduces the 202,005 Mcf aggregate. The question is whether NEUC can, from contemporaneous ordinary-course source records, identify the customer-level or category-level components underlying that aggregate and show, on a common and period-matched measurement basis, the Contract Customer amount that NEUC states was included in the January 2026 GCR calculation, including the correct period-matched quantity underlying the 202,005 Mcf sales population. Separately, the source records can establish whether corresponding purchase volumes and costs were treated consistently with that sales population. These are source-record verification questions, not inferences of inclusion or omission from an aggregate workbook alone.
11. Reference to the September 4 directive, the contemporaneous November 21 GCR filing, Staff's May 29 verification request, NEUC's June 15 verified response, and the accompanying workbook would permit the Commission to evaluate the governing requirement, the original reported figures, NEUC's verified representation, and the remaining source-record question together without deciding the merits through this Motion. The November 21 verified Appendix responses already contained in Complaint Exhibit 8 provide additional record context for why that source-level reconciliation became material, without increasing the number of records requested under Section 11(5).

### **3. RECORDS TO BE MADE PART OF THE RECORD BY REFERENCE**

12. 807 KAR 5:001, Section 11(5), provides that, upon motion of a party to a proceeding or upon the Commission's own motion, the record of a case in the Commission's files or any document on file with the Commission may be made part of the record by "reference only." Complainant requests that the following five specified records be made part of Case No.

2026-00095 by reference only. This limited request is also consistent with the Commission's March 31, 2026 use of reference incorporation in Case No. 2026-00042. Complainant does not request incorporation of unrelated material from the associated dockets:

- (1) Case No. 2024-00369, Final Order entered September 4, 2025: relevant because it is the Commission directive requiring the January 2026 GCR filing to include the Contract Customer's gas purchase costs and sales in the GCR calculation and directing the identified under- or over-recoveries to be reconciled in the GCR rate report for rates effective January 1, 2026;
- (2) Case No. 2025-00379, NEUC\_GCR\_Filing.pdf, filed November 21, 2025 (Schedules I-IV): relevant because it is the contemporaneous January 2026 GCR filing reflecting the 202,005 Mcf sales figure, 210,393 Mcf of purchases, \$631,179 Total Expected Gas Cost, and \$3.1246 per Mcf EGC;
- (3) Case No. 2026-00042, Commission Staff's Second Request for Information to Natural Energy Utility Corporation, filed May 29, 2026: relevant because Staff requested Contract Customer usage and bills, purchase-cost treatment, affected GCR quarters and amounts, and the January 2026 EGC, AA, and RA calculation with the Contract Customer included;
- (4) Case No. 2026-00042, NEUC's verified Responses to Commission Staff's Second Request for Information, filed June 15, 2026: relevant because NEUC stated "Usage of 12,384, quarter effective 1/26-3/26 (Case No. 2025-00379)" and represented that the Contract Customer's gas costs and sales were included in the January 2026 GCR calculation; and
- (5) Case No. 2026-00042, Excel spreadsheet "Response\_to\_2\_-\_GCR\_calculation\_-\_rates\_effective\_1-1-26.xlsx," filed June 15, 2026: relevant because NEUC identified it as

the January 2026 calculation supporting its verified representation and it contains the 202,005 Mcf aggregate sales figure.

13. These five records form a limited sequence: Commission directive, contemporaneous implementation filing, Staff verification request, verified utility representation, and identified supporting calculation. Complaint Exhibit 8 already supplies the November 21 verified-response bridge and therefore need not be requested again by reference. Complainant does not request incorporation of unrelated material from the associated dockets.
14. Complainant does not by this Motion request public disclosure of any material filed under a request for confidential protection or otherwise subject to confidential treatment by the Commission, and does not request that the Commission modify, lift, terminate, or waive any existing confidential treatment. If confidential source records already filed in a related case later become necessary to resolve a disputed factual issue in this case, Complainant requests that their use, access, or protection be addressed through an appropriate later order or protective procedure.

#### **4. ALTERNATIVE REQUEST THAT THE MOTION BE HELD IN ABEYANCE**

15. Because this case remains at the threshold stage under Section 20(4), if the Commission concludes that action on this Section 11(5) request should await the threshold determination, Complainant respectfully requests that this Motion be held in abeyance and addressed together with, or promptly after, the threshold order rather than denied as premature. The limited purpose of this Motion is to associate the five identified Commission-filed records with this docket by reference only.



## **5. RESPONSE AND REQUESTED RELIEF**

16. Under 807 KAR 5:001, Section 1(10)(c), NEUC is a party because it is named as the defendant in this formal complaint. Section 5(2) establishes the ordinary response period for motions unless the Commission orders otherwise. Complainant respectfully leaves to the Commission the response procedure it considers appropriate at the present threshold stage. Nothing in this Motion requests the answer contemplated by Section 20(4)(b), unauthorized discovery, merits admissions, or waiver of any defense.

### **WHEREFORE, Complainant respectfully requests that the Commission:**

- a. Pursuant to 807 KAR 5:001, Section 11(5), make the five records identified in Section 3 part of the record in Case No. 2026-00095 by reference only;
- b. Alternatively, if the Commission considers immediate action premature, hold this Motion in abeyance and address it together with, or promptly after, the threshold determination under Section 20(4), rather than deny it as premature;
- c. Recognize that this Motion neither amends nor supersedes the Complaint, does not add a new claim or category of merits relief, and does not request a merits determination or discovery authorization;
- d. Recognize that this Motion does not duplicate or renew the relief requested in Complainant's July 22, 2026 Motion for Procedural Ruling, Entry of Order to Satisfy or Answer, and Limited Evidence-Preservation Relief;
- e. Apply any response procedure the Commission determines appropriate under 807 KAR 5:001, Section 5; and
- f. Grant such other procedural relief as the Commission deems appropriate.

Respectfully submitted,

/s/ Brian Mitchell Johnson

Brian Mitchell Johnson

2571 W Rockhouse Road

Ashland, Kentucky 41102

Telephone: [REDACTED]

Email: [REDACTED]

Complainant, pro se

Date: August 21, 2026

### **CERTIFICATE OF SERVICE**

I certify that on August 21, 2026, I transmitted a true and correct electronic copy of the foregoing Motion to Natural Energy Utility Corporation through the following electronic-mail address shown on the Commission's service list for Case No. 2026-00095:

Mark T. Baldock

Mark.Baldock@kyneuc.com

I also transmitted a courtesy electronic copy on the same date to:

Monica H. Braun

monica.braun@skofirm.com

/s/ Brian Mitchell Johnson

Brian Mitchell Johnson