

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF ATMOS)	
ENERGY CORPORATION FOR AN)	CASE NO.
ADJUSTMENT OF RATES; APPROVAL OF)	2024-00276
TARIFF REVISIONS; AND OTHER GENERAL)	
RELIEF		

NOTICE OF FILING

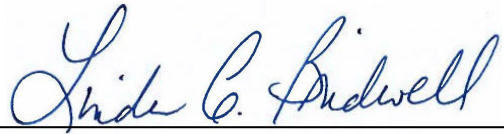
Notice is given to all parties that the following materials have been filed into the record of this proceeding:

- The digital video recording of the evidentiary hearing conducted on May 6, 2025 in this proceeding;
- Certification of the accuracy and correctness of the digital video recording;
- All exhibits introduced at the evidentiary hearing conducted on May 6, 2025 in this proceeding; and
- A written log listing, *inter alia*, the date and time of where each witness's testimony begins and ends on the digital video recording of the evidentiary hearing conducted on May 6, 2025.

A copy of this Notice, the certification of the digital video record, and the hearing log has been served upon all persons listed at the end of this Notice. Parties may view the digital video recording of the hearing at <https://youtu.be/-nm1jE35ZUc>.

Parties may request a copy of the annotated digital video recording of the hearing by submitting a written request by electronic mail to pscfilings@ky.gov. A minimal fee will be assessed for a copy of this recording.

Done in Frankfort, Kentucky, on August 18, 2025.

A handwritten signature in blue ink, reading "Linda C. Bridwell", written over a horizontal line.

Linda C. Bridwell, PE
Executive Director

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CORPORATION FOR AN ADJUSTMENT OF)
RATES; APPROVAL OF TARIFF REVISIONS;)
AND OTHER GENERAL RELIEF)

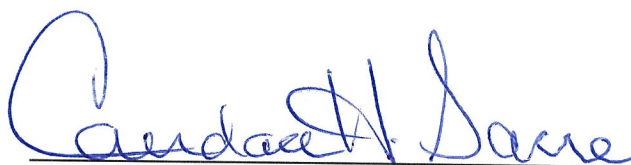
CASE NO.
2024-00276

CERTIFICATION

I, Candace H. Sacre, hereby certify that:

1. I am responsible for the preparation of the electronic files containing the recording of the Formal Hearing conducted in the above-styled proceeding on May 6, 2025. The Formal Hearing Log, Exhibits, and Exhibit List are included with the recording on May 6, 2025.
2. The recording accurately and correctly depicts the Formal Hearing of May 6, 2025; and
3. The Formal Hearing Log accurately and correctly states the events that occurred at the Formal Hearing on May 6, 2025, and the time at which each occurred.

Signed this 12 day of August, 2025.



Candace H. Sacre
Administrative Specialist Senior



Stephanie Schweighardt
Kentucky State at Large ID# KYNP64180
Commission Expires: January 14, 2027



Session Report - Detail

2024-00276 06May2025

Atmos Energy Corporation (Atmos)

Date:	Type:	Location:	Department:
5/6/2025	Public Hearing\Public Comments	Hearing Room 2	Hearing Room 2 (HR 2)

Witness: Ryan Austin; Richard Baudino; Joe Christian; Dylan D'Ascendis; Kevin Dobbs; Randy Futral; Lane Kollen; Joel Multer; Paul Raab; Brannon Taylor; Thomas Troup; Gregory Waller; Emily Wiebe
Judge: Angie Hatton; Mary Pat Regan
Clerk: Candace H Sacre

Event Time	Log Event
9:06:48 AM	Session Started
9:06:55 AM	Chair Hatton Note: Sacre, Candace Preliminary remarks.
9:07:08 AM	Chair Hatton Note: Sacre, Candace Introductions.
9:07:16 AM	Chair Hatton Note: Sacre, Candace Hearings recommendations.
9:08:08 AM	Chair Hatton Note: Sacre, Candace Purpose of hearing.
9:08:12 AM	Chair Hatton Note: Sacre, Candace Appearance of counsel.
9:08:14 AM	Chair Hatton Note: Sacre, Candace For the Applicant?
9:08:17 AM	Atty Honaker Atmos Note: Sacre, Candace Allyson Honaker.
9:08:20 AM	Atty Temple Atmos Note: Sacre, Candace Heather Temple.
9:08:21 AM	Atty Cave Atmos Note: Sacre, Candace Meredith Cave.
9:08:24 AM	Chair Hatton Note: Sacre, Candace For the Attorney General's Office?
9:08:28 AM	Asst Atty General Cook Note: Sacre, Candace Lawrence Cook and with me is Toland Lacy.
9:08:40 AM	Chair Hatton Note: Sacre, Candace And for Commission Staff?
9:08:42 AM	Staff Atty Colyer PSC Note: Sacre, Candace Jason Colyer, Ben Bellamy, and John West.
9:08:48 AM	Chair Hatton Note: Sacre, Candace Public notice.
9:08:57 AM	Chair Hatton Note: Sacre, Candace Pending motions.
9:09:20 AM	Chair Hatton Note: Sacre, Candace Public comment.
9:11:31 AM	Chair Hatton Note: Sacre, Candace Applicant witness order.
9:13:18 AM	Chair Hatton Note: Sacre, Candace Attorney General's Office, Baudino remotely.
9:14:10 AM	Chair Hatton Note: Sacre, Candace Call first witness.
9:14:13 AM	Atty Honaker Atmos Note: Sacre, Candace Kevin Dobbs.

9:14:20 AM	Chair Hatton	
	Note: Sacre, Candace	Witness is sworn.
9:14:20 AM	Camera Lock Witness Activated	
9:14:27 AM	Chair Hatton - witness Dobbs	
	Note: Sacre, Candace	Examination. Name and business address?
9:14:47 AM	Atty Honaker Atmos - witness Dobbs	
	Note: Sacre, Candace	Direct Examination. Title?
9:14:53 AM	Atty Honaker Atmos - witness Dobbs	
	Note: Sacre, Candace	Cause testimony and responses be filed?
9:14:58 AM	Atty Honaker Atmos - witness Dobbs	
	Note: Sacre, Candace	Additions or corrections?
9:15:03 AM	Atty Honaker Atmos - witness Dobbs	
	Note: Sacre, Candace	If ask same questions, responses be same?
9:15:07 AM	Atty Honaker Atmos - witness Dobbs	
	Note: Sacre, Candace	Intent incorporate those into record?
9:15:14 AM	Camera Lock Deactivated	
9:15:23 AM	Staff Attorney Colyer PSC - witness Dobs	
	Note: Sacre, Candace	Cross Examination. Tell me who today best qualified to testify about R&D rider?
9:15:35 AM	Staff Attorney Colyer PSC - witness Dobbs	
	Note: Sacre, Candace	How about annual review mechanism?
9:15:45 AM	Chair Hatton	
	Note: Sacre, Candace	Commissioner Regan?
9:16:08 AM	Chair Hatton - witness Dobbs	
	Note: Sacre, Candace	Examination. Noted in testimony residential bills steady since 2007, what mean by steady?
9:16:31 AM	Chair Hatton - witness Dobbs	
	Note: Sacre, Candace	Regardless of outcome?
9:16:43 AM	Chair Hatton - witness Dobbs	
	Note: Sacre, Candace	Doesn't vary with gas costs, or has it?
9:16:56 AM	Chair Hatton - witness Dobbs	
	Note: Sacre, Candace	Options for paying bills, credit cards now accepted nonresidential, commercial customers also use methods?
9:17:27 AM	Chair Hatton - witness Dobbs	
	Note: Sacre, Candace	Noticing that people use them?
9:17:33 AM	Chair Hatton - witness Dobbs	
	Note: Sacre, Candace	Any substantial cost to company?
9:17:39 AM	Camera Lock Witness Activated	
9:17:49 AM	Camera Lock Deactivated	
9:17:51 AM	Chair Hatton - witness Dobbs	
	Note: Sacre, Candace	Able set up options without hiring tech consultant?
9:18:06 AM	Chair Hatton - witness Dobbs	
	Note: Sacre, Candace	Options customers asking for, how much pain set up?
9:18:19 AM	Camera Lock Witness Activated	
9:18:26 AM	Camera Lock Deactivated	
9:18:40 AM	Chair Hatton - witness Dobbs	
	Note: Sacre, Candace	Text message for outage notifications?
9:18:56 AM	Camera Lock Witness Activated	
9:19:26 AM	Chair Hatton - witness Dobbs	
	Note: Sacre, Candace	Have Salesforce field service software?
9:20:27 AM	Chair Hatton - witness Dobbs	
	Note: Sacre, Candace	For work orders and services calls?
9:20:30 AM	Chair Hatton - witness Dobbs	
	Note: Sacre, Candace	Mobile based?

9:20:32 AM	Camera Lock Deactivated	
9:20:35 AM	Camera Lock Witness Activated	
9:20:39 AM	Commissoner Regan - witness Dobbs	
	Note: Sacre, Candace	Examination. And is Salesforce app?
9:20:40 AM	Camera Lock Deactivated	
9:20:44 AM	Chair Hatton - witness Dobbs	
	Note: Sacre, Candace	Examination. Testimony launching spring of 2025, launching or launched?
9:20:52 AM	Camera Lock Witness Activated	
9:20:55 AM	Camera Lock Deactivated	
9:20:56 AM	Chair Hatton - witness Dobbs	
	Note: Sacre, Candace	Started Atmos corporate, started in Kentucky?
9:21:04 AM	Camera Lock Witness Activated	
9:21:16 AM	Camera Lock Deactivated	
9:21:19 AM	Chair Hatton - witness Dobbs	
	Note: Sacre, Candace	Noticing effect late charges, pay in different ways helping?
9:21:32 AM	Camera Lock Witness Activated	
9:21:46 AM	Chair Hatton - witness Dobbs	
	Note: Sacre, Candace	Roll a truck means disconnect?
9:22:08 AM	Chair Hatton - witness Dobbs	
	Note: Sacre, Candace	Sharing the Warmth, gas specific assistance program?
9:22:10 AM	Camera Lock Deactivated	
9:22:15 AM	Camera Lock Witness Activated	
9:22:16 AM	Chair Hatton - witness Dobbs	
	Note: Sacre, Candace	Shareholder program?
9:22:19 AM	Camera Lock Deactivated	
9:22:20 AM	Chair Hatton - witness Dobbs	
	Note: Sacre, Candace	Noticed difference time responding issues using mobile app?
9:22:33 AM	Camera Lock Witness Activated	
9:23:04 AM	Camera Lock Commissioner Activated	
9:23:08 AM	Camera Lock Deactivated	
9:23:10 AM	Commissioner Regan - witness Dobbs	
	Note: Sacre, Candace	Examination. Discussion about LIHEAP, if not funded have precautions for that?
9:23:55 AM	Camera Lock Witness Activated	
9:24:07 AM	Camera Lock Deactivated	
9:24:08 AM	Commissioner Regan - witness Dobbs	
	Note: Sacre, Candace	Asked in post-hearing, what impact be if go away?
9:24:09 AM	POST-HEARING DATA REQUEST	
	Note: Sacre, Candace	COMMISSIONER REGAN - WITNESS DOBBS
	Note: Sacre, Candace	IMPACT IF LIHEAP NOT FUNDED
9:24:21 AM	Chair Hatton	
	Note: Sacre, Candace	Redirect?
9:24:25 AM	Atty Honaker Atmos - witness Dobbs	
	Note: Sacre, Candace	Redirect Examination. LIHEAP, Sharing the Warmth, separate?
9:24:32 AM	Atty Honaker Atmos - witness Dobbs	
	Note: Sacre, Candace	Atmos shareholder dollars contributed?
9:24:36 AM	Atty Honaker Atmos - witness Dobbs	
	Note: Sacre, Candace	Know amount contributed last year?
9:24:41 AM	Camera Lock Witness Activated	
9:24:44 AM	Atty Honaker Atmos - witness Dobbs	
	Note: Sacre, Candace	Would continue if LIHEAP went away?
9:24:44 AM	Camera Lock Deactivated	

9:24:50 AM	Chair Hatton	
	Note: Sacre, Candace	Anything further from anyone?
9:25:16 AM	Chair Hatton	
	Note: Sacre, Candace	Call next witness.
9:25:19 AM	Atty Honaker Atmos	
	Note: Sacre, Candace	Brannon Taylor.
9:25:26 AM	Camera Lock Witness Activated	
9:25:27 AM	Chair Hatton	
	Note: Sacre, Candace	Witness is sworn.
9:25:32 AM	Chair Hatton - witness Taylor	
	Note: Sacre, Candace	Examination. Name and business address?
9:25:48 AM	Atty Honaker Atmos - witness Taylor	
	Note: Sacre, Candace	Direct Examination. Title?
9:25:55 AM	Atty Honaker Atmos - witness Taylor	
	Note: Sacre, Candace	Cause testimony and responses be filed?
9:26:00 AM	Atty Honaker Atmos - witness Taylor	
	Note: Sacre, Candace	Additions or corrections?
9:26:04 AM	Atty Honaker Atmos - witness Taylor	
	Note: Sacre, Candace	If ask same questions, responses be same?
9:26:09 AM	Atty Honaker Atmos - witness Taylor	
	Note: Sacre, Candace	Intent incorporate those into record?
9:26:14 AM	Camera Lock Deactivated	
9:26:19 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	Cross Examination. R&D rider, topic know more about than anyone else here?
9:26:33 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	Understand been around since '90s, not involved with Atmos?
9:26:49 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	Tell me what know about history of rider, how came to have?
9:27:42 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	Explain how amount determined 2017 case?
9:28:18 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	Explain how money spent, who money go to?
9:29:30 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	2017 last time provided to Commission what money going to?
9:29:45 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	Those provided in 2017 case?
9:30:00 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	Give type of projects funded?
9:30:37 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	Projects involve improving safety for customers?
9:30:53 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	Pay through rider idea customers benefit more than Atmos, cost be on customers?
9:31:42 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	Was federal funding for this some point?
9:31:55 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	AG testimony believe cost of benefits by suppliers rider not renewed, response?
9:32:26 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	Indicated not think rider necessary costs by suppliers if rider not exist?

9:33:08 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	Assume rider not renewed, expect market forces result suppliers borne by contractors and passed on to customers?
9:34:15 AM	Commissioner Regan - witness Taylor	
	Note: Sacre, Candace	Examination. Testimony industrial customers driving force economic development, considered T-4?
9:34:47 AM	Commissioner Regan - witness Taylor	
	Note: Sacre, Candace	Be ones with largest increase if rates granted?
9:35:06 AM	Commissioner Regan - witness Taylor	
	Note: Sacre, Candace	Costs passed to residential customers?
9:35:30 AM	Chair Hatton - witness Taylor	
	Note: Sacre, Candace	Examination. NARUC resolution, support R&D rider or encourage research and development?
9:36:02 AM	Chair Hatton	
	Note: Sacre, Candace	Anything further?
9:36:04 AM	Chair Hatton	
	Note: Sacre, Candace	Redirect?
9:36:22 AM	Chair Hatton	
	Note: Sacre, Candace	Call next witness.
9:36:24 AM	Atty Honaker Atmos	
	Note: Sacre, Candace	Ryan Austin.
9:36:30 AM	Camera Lock Witness Activated	
9:36:39 AM	Chair Hatton	
	Note: Sacre, Candace	Witness is sworn.
9:36:47 AM	Chair Hatton - witness Austin	
	Note: Sacre, Candace	Examination. Name and business address?
9:37:01 AM	Atty Honaker Atmos - witness Austin	
	Note: Sacre, Candace	Direct Examination. Title?
9:37:13 AM	Atty Honaker Atmos - witness Austin	
	Note: Sacre, Candace	Cause testimony and responses be filed?
9:37:18 AM	Atty Honaker Atmos - witness Austin	
	Note: Sacre, Candace	Additions or corrections?
9:37:45 AM	Atty Honaker Atmos - witness Austin	
	Note: Sacre, Candace	Other than those, any other additions or corrections?
9:37:51 AM	Atty Honaker Atmos - witness Austin	
	Note: Sacre, Candace	If ask same questions, responses be same?
9:37:56 AM	Atty Honaker Atmos - witness Austin	
	Note: Sacre, Candace	Intent incorporate into record?
9:38:03 AM	Camera Lock Deactivated	
9:38:07 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	Cross Examination. Bare steel replacement through PRP, status update on replacement?
9:39:17 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	Done in three years, based on what rate of spending?
9:39:36 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	If cap not lifted, what be end date?
9:40:05 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	Aldyl A pipe Atmos wants right now, replaced on case-by-case basis?
9:41:40 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	Age of pipe another factor?
9:42:10 AM	Camera Lock Witness Activated	
9:42:19 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	Cost factors come into play in decision?
9:42:20 AM	Camera Lock Deactivated	

9:42:39 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	Aldyl A pipe mixed bare steel interspersed, digging up bare steel cheaper dig up Aldyl A, comes up?
9:44:03 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	Atmos change PRP spending, be permitted replace Aldyl A pipe?
9:45:20 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	Have ability replace Aldyl A pipe, why Atmos replace Aldyl A bare steel still has three years to go?
9:46:11 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	Under PRP allowance, already able do that?
9:47:09 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	Not asking Adelaide ahead bare steel, clear way do after bare steel or on case-by-case basis?
9:48:32 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	Nothing preventing replacing Adelaide nonPRP expenditure?
9:51:01 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	Mentioned flexibility, lead time already approved, longer lead time for that?
9:52:08 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	Mentioned Aldyl A was a, forgot term?
9:52:17 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	Aware of bulletins, nothing requires Aldyl A replaced certain time frame?
9:54:35 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	How much replaced so far?
9:55:02 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	Know how much spent replacing Aldyl A?
9:55:15 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	Estimate how much sot replace all Aldyl A?
9:55:49 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	Have time frame expect completed if no cap?
9:56:35 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	What expect time frame be if cap not raised?
9:57:15 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	How think replacement bare steel and Aldyl A compares industry standard?
9:58:22 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	Before Atmos replacing bare steel, what pipe priority?
10:00:19 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	Oldest pipeline 100 years old?
10:01:18 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	Pipeline modernization rider, why need separate rider separate from PRP plan?
10:04:31 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	Mega rule requirement, referring replacing pipes not piggable?
10:06:01 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	Discussions with Commissioners about pig, mind explaining how pig works?
10:08:38 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	Understanding mega rule, three options, shutting down line, pressure testing, liquid natural gas, one option?
10:09:22 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	Other mentioned replacing pipe new pipe can be pigged, third option involves retrofitting so be pigged, looked at?

10:09:50 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	That's the 20,000 feet?
10:11:14 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	Idea rider tariff explain what replace, eliminate need CPCN replace pipeline PHMSA requires by 2035?
10:12:05 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	What Atmos want rider include as things be paid for by rider?
10:13:25 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	Rider specifically cover replacement nonpiggable pipes?
10:13:45 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	What nonpiggable pipes not need be replaced?
10:14:25 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	How much pipe need be replaced under rider?
10:14:55 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	Estimated cost for replacement?
10:16:49 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	Atmos' position testing down with pig be included part of rider?
10:17:27 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	Any other PHMSA requirements expect be part of tariff?
10:17:48 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	Look at Exhibit TRA-5, proposed MAOP confirmation method, explain what column means?
10:19:48 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	Thought you said would anticipate providing information under PM rider?
10:20:27 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	Projects on list expect be filing CPCNs or be arguing were replacements?
10:21:04 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	Atmos determine cost pressure testing each one future projects?
10:22:08 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	Pressure testing or retrofitting pipe, cost estimates liquid natural gas or retrofitting?
10:23:17 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	Said record already includes estimated costs for replacement?
10:23:32 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	Beyond two years?
10:23:46 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	Think said 20 miles, how many miles chart include?
10:24:12 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	Best person ask about capital expenditures?
10:24:12 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	Foresee rider for purpose of replacing 20 miles under PHMSA and then go away unless new requirement?
10:24:44 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	Ask post-hearing data request total estimated cost replacement?
10:24:45 AM	POST-HEARING DATA REQUEST	
	Note: Sacre, Candace	STAFF ATTY COLYER PSC - WITNESS AUSTIN
	Note: Sacre, Candace	COST OF REPLACING 20 MILES UNDER PHMSA
10:25:10 AM	Camera Lock Staff Activated	
10:25:18 AM	Camera Lock Deactivated	
10:25:27 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	For any capital expenditures?
10:25:54 AM	Camera Lock Staff Activated	

10:25:56 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	Recall discussion rebuttal about economic development benefits PM and PRP riders, explain how benefit?
10:26:23 AM	Camera Lock Deactivated	
10:26:30 AM	Camera Lock Witness Activated	
10:26:43 AM	Camera Lock Deactivated	
10:27:04 AM	Chair Hatton - witness Austin Note: Sacre, Candace	Examination. Atmos asking remove the cap?
10:27:23 AM	Chair Hatton - witness Austin Note: Sacre, Candace	Current cap \$30 million?
10:28:04 AM	Chair Hatton - witness Austin Note: Sacre, Candace	Instituted in 2018?
10:28:10 AM	Chair Hatton - witness Austin Note: Sacre, Candace	With Atmos at that time?
10:28:14 AM	Chair Hatton - witness Austin Note: Sacre, Candace	What has changed?
10:28:41 AM	Camera Lock Witness Activated	
10:30:36 AM	Chair Hatton - witness Austin Note: Sacre, Candace	How ask the PSC, through collaboration?
10:33:01 AM	Chair Hatton - witness Austin Note: Sacre, Candace	Cap remained static since 2017 and 2018 levels except for \$2 million last year?
10:33:03 AM	Camera Lock Deactivated	
10:33:24 AM	Chair Hatton - witness Austin Note: Sacre, Candace	Costs have increased, saying amount not increased, increased for inflation?
10:33:27 AM	Camera Lock Witness Activated	
10:33:33 AM	Camera Lock Deactivated	
10:33:37 AM	Camera Lock Witness Activated	
10:33:47 AM	Chair Hatton - witness Austin Note: Sacre, Candace	Is a set cash cap, not vary much?
10:33:48 AM	Camera Lock Deactivated	
10:34:47 AM	Chair Hatton - witness Austin Note: Sacre, Candace	Secretary Noel letter, describe economic development in Atmos territory?
10:35:27 AM	Camera Lock Witness Activated	
10:37:20 AM	Chair Hatton - witness Austin Note: Sacre, Candace	When new economic development considered, infrastructure, roads, water consulted?
10:37:35 AM	Chair Hatton - witness Austin Note: Sacre, Candace	What doing comply flexibility field-ready sites, not turned anyone down?
10:37:41 AM	Camera Lock Deactivated	
10:37:49 AM	Camera Lock Witness Activated	
10:37:51 AM	Chair Hatton - witness Austin Note: Sacre, Candace	Required to serve, just matter when?
10:38:26 AM	Chair Hatton - witness Austin Note: Sacre, Candace	Talking about PHEMSA not have deadline for Aldyl A, recommending it?
10:38:29 AM	Camera Lock Deactivated	
10:38:42 AM	Chair Hatton - witness Austin Note: Sacre, Candace	Economic development projects separate from ones required do?
10:39:01 AM	Camera Lock Witness Activated	

10:39:47 AM	Chair Hatton - witness Austin Note: Sacre, Candace	Have cap for PRP spending pipeline replacement, also have nonPRP cap?
10:39:52 AM	Camera Lock Deactivated	
10:39:55 AM	Chair Hatton - witness Austin Note: Sacre, Candace	NonPRP spending where economic development comes in?
10:40:01 AM	Camera Lock Witness Activated	
10:40:34 AM	Camera Lock Deactivated	
10:40:35 AM	Chair Hatton - witness Austin Note: Sacre, Candace	Remove cap altogether, assuming not, what guardrails, reporting, still have oversight, suggestions?
10:41:03 AM	Camera Lock Witness Activated	
10:42:26 AM	Chair Hatton - witness Austin Note: Sacre, Candace	Case by case?
10:42:28 AM	Chair Hatton - witness Austin Note: Sacre, Candace	But also annual filing?
10:42:29 AM	Camera Lock Deactivated	
10:42:31 AM	Chair Hatton - witness Austin Note: Sacre, Candace	Intervenors participate, \$42 million random or suggested for raised cap?
10:43:02 AM	Chair Hatton - witness Austin Note: Sacre, Candace	Do DIMP and TIMP create plan distribution integrity management and transmission integrity management, someone approve?
10:44:34 AM	Chair Hatton - witness Austin Note: Sacre, Candace	Once approved becomes written procedure and required comply?
10:45:22 AM	Chair Hatton - witness Austin Note: Sacre, Candace	What left still needs replaced, 14 miles pre-1970 pipe, 5.9 miles older than 1955?
10:46:03 AM	Chair Hatton - witness Austin Note: Sacre, Candace	The Mega Rule, the maximum?
10:46:14 AM	Chair Hatton - witness Austin Note: Sacre, Candace	Think where really confusing, Mega Rule compliance, maximum operating pressure?
10:46:23 AM	Chair Hatton - witness Austin Note: Sacre, Candace	Separate from that 63 more miles?
10:47:00 AM	Chair Hatton - witness Austin Note: Sacre, Candace	Talked about how collaborate with PSC PIP Pipeline Safety Division, what look like?
10:47:44 AM	Camera Lock Witness Activated	
10:47:45 AM	Chair Hatton - witness Austin Note: Sacre, Candace	Supposed to prioritize replacing Aldyl A pipe high consequence areas?
10:47:47 AM	Camera Lock Deactivated	
10:48:02 AM	Camera Lock Witness Activated	
10:48:14 AM	Chair Hatton - witness Austin Note: Sacre, Candace	Talking about TIMP versus DIMP?
10:48:17 AM	Chair Hatton - witness Austin Note: Sacre, Candace	Aldyl A more DIMP?
10:48:22 AM	Camera Lock Deactivated	
10:48:36 AM	Chair Hatton - witness Austin Note: Sacre, Candace	Identified areas high consequence Kentucky service area?
10:48:49 AM	Camera Lock Witness Activated	
10:49:17 AM	Camera Lock Deactivated	

10:49:47 AM	Chair Hatton	
	Note: Sacre, Candace	All my questions, follow up by anyone?
10:49:54 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	Recross Examination. Replacement bare steel, Aldyl A, and other, old pipelines removed or abandoned?
10:50:57 AM	Staff Atty Colyer PSC - witness Austin	
	Note: Sacre, Candace	Ongoing O&M cost associated with abandonment?
10:51:26 AM	Chair Hatton	
	Note: Sacre, Candace	Redirect?
10:51:29 AM	Atty Honaker Atmos	
	Note: Sacre, Candace	Ask for small break.
10:51:43 AM	Chair Hatton	
	Note: Sacre, Candace	Recess for 10 minutes.
10:51:48 AM	Session Paused	
11:08:29 AM	Chair Hatton	
	Note: Sacre, Candace	Back on the record.
11:08:29 AM	Session Resumed	
11:08:40 AM	Chair Hatton	
	Note: Sacre, Candace	Believe about to do redirect.
11:08:44 AM	Atty Honaker Atmos - witness Austin	
	Note: Sacre, Candace	Redirect Examination. Lot of discussion about caps for Atmos?
11:08:47 AM	Camera Lock Deactivated	
11:08:53 AM	Atty Honaker Atmos - witness Austin	
	Note: Sacre, Candace	And is two separate caps, correct?
11:09:04 AM	Atty Honaker Atmos - witness Austin	
	Note: Sacre, Candace	Any other LDC in Kentucky has these caps in place?
11:09:10 AM	Atty Honaker Atmos - witness Austin	
	Note: Sacre, Candace	Is for both PRP and nonPRP?
11:09:16 AM	Atty Honaker Atmos - witness Austin	
	Note: Sacre, Candace	Discussing with Chair about economic development and caps issue?
11:09:27 AM	Atty Honaker Atmos - witness Austin	
	Note: Sacre, Candace	Stated be looking at Atmos, also looking other parts of Kentucky, territory of another LDC?
11:10:14 AM	Atty Honaker Atmos - witness Austin	
	Note: Sacre, Candace	How caps affect, can do PRP and then nonPRP, decisions annual basis?
11:12:16 AM	Atty Honaker Atmos - witness Austin	
	Note: Sacre, Candace	Talked earlier about Aldyl A on case-by-case basis?
11:12:28 AM	Atty Honaker Atmos - witness Austin	
	Note: Sacre, Candace	Is some uncertainty around that?
11:13:40 AM	Atty Honaker Atmos - witness Austin	
	Note: Sacre, Candace	Was a year apart in PRP when submitted those?
11:13:46 AM	Atty Honaker Atmos - witness Austin	
	Note: Sacre, Candace	Same town, same pipe, same stuff one street over, one approved, one denied?
11:14:24 AM	Atty Honaker Atmos - witness Austin	
	Note: Sacre, Candace	Way tariff set up file on or before Aug 1st, projects want do fiscal year?
11:14:50 AM	Atty Honaker Atmos - witness Austin	
	Note: Sacre, Candace	Way tariff set up have order approval by Oct 1st?
11:15:26 AM	Atty Honaker Atmos - witness Austin	
	Note: Sacre, Candace	Asked about PM rider and what process look like, Atmos' intention be done same way of PRP?

11:15:51 AM	Atty Honaker Atmos - witness Austin Note: Sacre, Candace	Be willing continue make annual filings PRP program with and without caps?
11:16:22 AM	Atty Honaker Atmos - witness Austin Note: Sacre, Candace	Atmos willing provide information Commission need make sure understand scope and costs of projects?
11:16:45 AM	Atty Honaker Atmos - witness Austin Note: Sacre, Candace	Atmos able maneuver with caps with economic development and projects and all going on?
11:17:50 AM	Atty Honaker Atmos - witness Austin Note: Sacre, Candace	Not say not been problem yet, but here being proactive before becomes issue?
11:18:26 AM	Atty Honaker Atmos - witness Austin Note: Sacre, Candace	Talked about Mega Rule know is deadline MAOP reconfirmation complete?
11:18:36 AM	Atty Honaker Atmos - witness Austin Note: Sacre, Candace	Is 50 percent by '28 and 100 percent by '35?
11:18:41 AM	Atty Honaker Atmos - witness Austin Note: Sacre, Candace	PHEMSA not given other mandates, not give time frame bare steel, cast iron, anything else be out of ground?
11:19:21 AM	Atty Honaker Atmos - witness Austin Note: Sacre, Candace	PRP caps, if caps not put in place on PRP, finished with bare steel removal?
11:19:35 AM	Atty Honaker Atmos - witness Austin Note: Sacre, Candace	Caps made spread out where not be complete until '28 increase in caps but longer than that not get increase?
11:19:50 AM	Atty Honaker Atmos - witness Austin Note: Sacre, Candace	2028 would be if caps removed?
11:20:22 AM	Atty Honaker Atmos - witness Austin Note: Sacre, Candace	PM rider similar to what approved for LDC in Kentucky, same type rider?
11:20:48 AM	Atty Honaker Atmos - witness Austin Note: Sacre, Candace	Again, narrowly tailoring that just be projects provided in TRA-5?
11:21:30 AM	Chair Hatton Note: Sacre, Candace	Recross?
11:21:41 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	Recross Examination. Replacement for PHEMSA is transmission lines, that's a TIMP and not a DIMP?
11:22:10 AM	Staff Atty Colyer PSC - witness Austin Note: Sacre, Candace	No ranking of replacement against Aldyl A or bare steel because one distribution and one transmission?
11:22:48 AM	Chair Hatton Note: Sacre, Candace	Call next witness.
11:22:51 AM	Atty Honaker Atmos Note: Sacre, Candace	Recall Brannon Taylor.
11:23:03 AM	Staff Atty Colyer PSC Note: Sacre, Candace	Discussed at break.
11:23:05 AM	Chair Hatton Note: Sacre, Candace	No objection, Mr. Cook?
11:23:07 AM	Asst Atty General Cook Note: Sacre, Candace	No objection.
11:23:11 AM	Camera Lock Witness Activated	
11:23:12 AM	Chair Hatton Note: Sacre, Candace	Remind still under oath.
11:23:20 AM	Camera Lock Deactivated	

11:23:23 AM	Wireless Presentation Activated	
11:23:26 AM	Chair Hatton	
	Note: Sacre, Candace	Cross of Staff?
11:23:38 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	Recross Examination. Able to see screen?
11:23:45 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	Copy of PM rider?
11:23:53 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	Know who drafted language?
11:24:19 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	Paragraph 2, Rate, first sentence says, reading?
11:24:52 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	What foresee as approval mechanism, Chair talked with Austin, providing information and when, what language add clarify?
11:25:59 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	When make filings current PRP plan, how differ CPCN filing?
11:27:07 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	Atmos asked reasonable alternatives and cost in PRP case?
11:28:45 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	If Commission decide more specific description of work, be done under PM rider?
11:30:12 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	Expectation be rider be removed Atmos in compliance Mega Rule?
11:30:53 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	Any discussion at Atmos involved in effect of Trump PHEMSA changes?
11:31:37 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	50 percent by 2028 and 100 percent by 2035, right?
11:31:50 AM	Staff Atty Colyer PSC - witness Taylor	
	Note: Sacre, Candace	What is justification accelerated recovery of that same as PRP?
11:33:18 AM	Chair Hatton - witness Taylor	
	Note: Sacre, Candace	That be on ongoing basis proposed and provide justifications?
11:33:39 AM	Wireless Presentation Deactivated	
11:33:47 AM	Chair Hatton	
	Note: Sacre, Candace	Anyone else have questions?
11:34:06 AM	Chair Hatton	
	Note: Sacre, Candace	Call next witness.
11:34:09 AM	Atty Honaker Atmos	
	Note: Sacre, Candace	Out of order, Dylan D'Ascendis.
11:34:24 AM	Chair Hatton	
	Note: Sacre, Candace	Witness is sworn.
11:34:25 AM	Camera Lock Witness Activated	
11:34:33 AM	Chair Hatton - witness D'Ascendis	
	Note: Sacre, Candace	Examination. Name and work address?
11:34:58 AM	Atty Cave Atmos - witness D'Ascendis	
	Note: Sacre, Candace	Direct Examination. Cause testimony and responses be filed?
11:35:03 AM	Atty Cave Atmos - witness D'Ascendis	
	Note: Sacre, Candace	Additions or corrections?
11:35:04 AM	Camera Lock Deactivated	
11:35:44 AM	Atty Cave Atmos - witness D'Ascendis	
	Note: Sacre, Candace	If ask same questions, answers be same?
11:35:44 AM	Camera Lock Applicant Activated	
11:35:52 AM	Camera Lock Deactivated	

11:35:53 AM	Atty Cave Atmos - witness D'Ascendis Note: Sacre, Candace	Intent incorporate into record?
11:36:03 AM	Staff Atty West PSC - witness D'Ascendis Note: Sacre, Candace	Cross Examination. Explain why added unregulated proxy?
11:37:37 AM	Staff Atty West PSC - witness D'Ascendis Note: Sacre, Candace	Agree unregulated industries deal different aspects regard price competition?
11:37:52 AM	Staff Atty West PSC - witness D'Ascendis Note: Sacre, Candace	What about demand fluctuations?
11:38:50 AM	Staff Atty West PSC - witness D'Ascendis Note: Sacre, Candace	With greater market risks, justify higher expected returns?
11:39:12 AM	Staff Atty West PSC - witness D'Ascendis Note: Sacre, Candace	Regard regulated industries, operate under monopoly?
11:39:22 AM	Staff Atty West PSC - witness D'Ascendis Note: Sacre, Candace	Stable cash flows?
11:39:33 AM	Staff Atty West PSC - witness D'Ascendis Note: Sacre, Candace	Lower risks should not work as far as lower return on equity?
11:39:43 AM	Staff Atty West PSC - witness D'Ascendis Note: Sacre, Candace	The return on equity not be reflected in return on equity?
11:41:20 AM	Staff Atty West PSC - witness D'Ascendis Note: Sacre, Candace	Agree using unregulated industry as proxy group?
11:41:32 AM	Staff Atty West PSC - witness D'Ascendis Note: Sacre, Candace	Agree are capital structure differences regulated and unregulated industry?
11:41:49 AM	Staff Atty West PSC - witness D'Ascendis Note: Sacre, Candace	What about differences in cost recovery?
11:41:57 AM	Staff Atty West PSC - witness D'Ascendis Note: Sacre, Candace	Regulated industry ask for increase, unregulated cannot do that?
11:43:11 AM	Staff Atty West PSC - witness D'Ascendis Note: Sacre, Candace	Another difference regulated industries serve essential services?
11:43:46 AM	Staff Atty West PSC - witness D'Ascendis Note: Sacre, Candace	Downward adjustment nonprice proxy group, regulated?
11:44:26 AM	Staff Atty West PSC - witness D'Ascendis Note: Sacre, Candace	Talk about Delta and Columbia, aware what adopted return on equity for Columbia?
11:45:46 AM	Chair Hatton Note: Sacre, Candace	Is this already in record?
11:46:00 AM	Asst Gen Counsel Bellamy PSC Note: Sacre, Candace	Don't believe is in record.
11:46:04 AM	Chair Hatton Note: Sacre, Candace	Call it Staff 1.
11:46:05 AM	STAFF HEARING EXHIBIT 1 Note: Sacre, Candace Note: Sacre, Candace	STAFF ATTY WEST PSC - WITNESS D'ASCENDIS ORDER OF THE PUBLIC SERVICE COMMISSION ENTERED DEC 30 2024 CASE NO. 2024-00092 APPLICATION OF COLUMBIA GAS OF KENTUCKY INC.
11:46:41 AM	Staff Atty West PSC - witness D'Ascendis Note: Sacre, Candace	Cross Examination (cont'd). Could turn to page 5?
11:46:48 AM	Asst Gen Counsel Bellamy PSC Note: Sacre, Candace	Would you want to admit as Staff Exhibit 1?
11:46:55 AM	Chair Hatton Note: Sacre, Candace	Any objection?
11:47:02 AM	Chair Hatton Note: Sacre, Candace	So entered.

11:47:03 AM	STAFF HEARING EXHIBIT 1 Note: Sacre, Candace Note: Sacre, Candace	STAFF ATTY WEST PSC - WITNESS D'ASCENDIS ORDER OF THE PUBLIC SERVICE COMMISSION ENTERED DEC 30 2024 CASE NO. 2024-00092 APPLICATION OF COLUMBIA GAS OF KENTUCKY INC.
11:47:07 AM	Staff Atty West PSC - witness D'Ascendis Note: Sacre, Candace	Cross Examination (cont'd). Page 5, what Columbia looking return on equity?
11:47:25 AM	Staff Atty West PSC - witness D'Ascendis Note: Sacre, Candace	Similar to what are looking for?
11:47:41 AM	Staff Atty West PSC - witness D'Ascendis Note: Sacre, Candace	What were looking for?
11:48:25 AM	Staff Atty West PSC - witness D'Ascendis Note: Sacre, Candace	Page 41, matter resulted in settlement, what recommendation return on equity?
11:49:14 AM	Staff Atty West PSC - witness D'Ascendis Note: Sacre, Candace	Flotation costs, typically costs not factor in ROE, correct?
11:49:33 AM	Staff Atty West PSC - witness D'Ascendis Note: Sacre, Candace	Meaning not measure effectiveness use of shareholders' equity?
11:50:52 AM	Chair Hatton - witness D'Ascendis Note: Sacre, Candace	Examination. Not accepted here, here being Kentucky?
11:51:11 AM	Commissioner Regan - witness D'Ascendis Note: Sacre, Candace	Examination. Talked market risk and business risk not interchangeable?
11:51:20 AM	Commissioner Regan - witness D'Ascendis Note: Sacre, Candace	Elaborate on that?
11:52:48 AM	Commissioner Regan - witness D'Ascendis Note: Sacre, Candace	That helps, filed in 2024, updated numbers Jan '25?
11:52:58 AM	Commissioner Regan - witness D'Ascendis Note: Sacre, Candace	Based on regulatory environment, think risk assessment same or greater?
11:54:34 AM	Commissioner Regan - witness D'Ascendis Note: Sacre, Candace	Supply chain issues be factor?
11:55:08 AM	Chair Hatton - witness D'Ascendis Note: Sacre, Candace	Examination. Some ups and downs in 100 days, gone up as much as gone down?
11:55:48 AM	Camera Lock Witness Activated	
11:57:15 AM	Chair Hatton - witness D'Ascendis Note: Sacre, Candace	Flotation costs, things looked at differently, Ohio deregulated, is that reason?
11:57:15 AM	Camera Lock Deactivated	
11:57:35 AM	Camera Lock Witness Activated	
11:58:59 AM	Chair Hatton - witness D'Ascendis Note: Sacre, Candace	Use of flotation costs accepted jurisdictions Atmos operates?
11:59:04 AM	Camera Lock Deactivated	
12:00:16 PM	Chair Hatton Note: Sacre, Candace	Follow-ups?
12:00:19 PM	Chair Hatton Note: Sacre, Candace	Redirect?
12:00:42 PM	Chair Hatton Note: Sacre, Candace	Do short witness, or could do lunch.
12:00:48 PM	Atty Honaker Atmos Note: Sacre, Candace	Thomas Troup.
12:00:51 PM	Camera Lock Applicant Activated	

12:00:54 PM	Chair Hatton	
	Note: Sacre, Candace	Let's try that.
12:01:02 PM	Camera Lock Witness Activated	
12:01:11 PM	Chair Hatton	
	Note: Sacre, Candace	Witness is sworn.
12:01:17 PM	Chair Hatton - witness Troup	
	Note: Sacre, Candace	Examination. Business address?
12:01:34 PM	Atty Honker Atmos - witness Troup	
	Note: Sacre, Candace	Direct Examination. State your name?
12:01:35 PM	Camera Lock Applicant Activated	
12:01:38 PM	Atty Honaker Atmos - witness Troup	
	Note: Sacre, Candace	Title?
12:01:41 PM	Camera Lock Witness Activated	
12:01:42 PM	Atty Honaker Atmos - witness Troup	
	Note: Sacre, Candace	Cause testimony and responses be filed?
12:01:49 PM	Atty Honaker Atmos - witness Troup	
	Note: Sacre, Candace	Additions or corrections?
12:01:53 PM	Atty Honaker Atmos - witness Troup	
	Note: Sacre, Candace	If ask same questions, responses be same?
12:01:57 PM	Atty Honaker Atmos - witness Troup	
	Note: Sacre, Candace	Intent incorporate into record?
12:02:06 PM	Camera Lock Deactivated	
12:02:10 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	Cross Examination. Page 12, direct, explain why expect continued commercial growth without residential growth?
12:03:37 PM	Chair Hatton	
	Note: Sacre, Candace	Redirect?
12:03:41 PM	Chair Hatton	
	Note: Sacre, Candace	Any follow-up?
12:03:50 PM	Chair Hatton	
	Note: Sacre, Candace	Lunch until 1:15.
12:04:16 PM	Session Paused	
1:13:22 PM	Session Resumed	
1:16:32 PM	Session Paused	
1:18:00 PM	Chair Hatton	
	Note: Sacre, Candace	Back on the record.
1:18:02 PM	Session Resumed	
1:18:07 PM	Chair Hatton	
	Note: Sacre, Candace	Call next witness.
1:18:10 PM	Atty Temple Atmos	
	Note: Sacre, Candace	Greg Waller.
1:18:25 PM	Camera Lock Witness Activated	
1:18:38 PM	Chair Hatton	
	Note: Sacre, Candace	Witness is sworn.
1:18:45 PM	Chair Hatton - witness Waller	
	Note: Sacre, Candace	Examination. Name and business address?
1:19:00 PM	Atty Temple Atmos - witness Waller	
	Note: Sacre, Candace	Title?
1:19:07 PM	Atty Temple Atmos - witness Waller	
	Note: Sacre, Candace	Provide testimony and responses?
1:19:09 PM	Camera Lock Deactivated	
1:19:11 PM	Atty Temple Atmos - witness Waller	
	Note: Sacre, Candace	Revisions, amendments, edits, or anything?

1:19:19 PM	Atty Temple Atmos - witness Waller	
	Note: Sacre, Candace	Intention adopt responses and testimony into record?
1:19:30 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Cross Examination. In rebuttal, accepted two of AG adjustments?
1:19:47 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Filing error, ring a bell?
1:19:56 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Believe is correct, reference rebuttal page 12?
1:20:05 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Remember adjustment for composite allocation update?
1:20:11 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Accepted that one, too?
1:20:13 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	In rebuttal, modified AG adjustment for ad valorem tax expense?
1:20:25 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Atmos rebuttal position ad valorem expense stands \$9.890 million?
1:21:04 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Resolved as result of legislation passed this session?
1:21:15 PM	Asst Atty General Cook	
	Note: Sacre, Candace	Pass out copy of HB 775, if could mark AG 1.
1:22:32 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Have in front of you copy of that?
1:22:42 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Section 4, page 3, see date restrictions 2024 and 2025 removed?
1:23:37 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Section 5, same change legislature made?
1:24:36 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	See (1)(b) crossed out date restriction?
1:24:50 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Backtrack, rebuttal, Exhibit GKWR-2, estimate, right?
1:26:50 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Is an estimate, right?
1:27:13 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	At top say estimate?
1:28:50 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Amount Atmos paying not necessarily what in notice?
1:29:24 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	In addition to exhibit, any other supporting documentation Revenue says is due?
1:31:17 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Any support for total sum \$752.2 million state taxes?
1:31:41 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Horizontal row, local taxes?
1:31:50 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Column entitled tax rate applicable to local taxes?
1:32:15 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Have support for values?
1:32:22 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	GKWR-2, Revenue estimate?
1:33:10 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Original determination bill owed Revenue?
1:33:19 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Make clear not have support for values in document?

1:34:02 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Rebuttal, page 13, see Table GKWR-3?
1:34:19 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Estimated 2024 Kentucky state and local taxes?
1:34:26 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Not true Table GKWR-3 estimates taxes end 2024 state and local?
1:36:01 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Reflects taxes be paid and expensed 2025?
1:36:30 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Atmos tries reduce original determination downwards?
1:37:06 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Prudent thing to do?
1:37:22 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	How successful Atmos been tax reduction efforts?
1:38:24 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	\$500,000 adjustment before HB 775 no longer appropriate?
1:39:36 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Valuation methodology change been obviated passage of bill?
1:39:56 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Copy of bill, last page, Section 40, became law Mar 27 2025?
1:40:43 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Section 39, same page, apply retroactively after Dec 31 2022?
1:41:21 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Retroactive means 2023 tax year taxes impacted by lower taxes?
1:42:19 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Quantified what savings mean Kentucky division?
1:42:39 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Mentioned in rebuttal change in methodology anticipating \$2 million per year?
1:42:54 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Would not company get refund \$2 million tax year 2023?
1:43:32 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Ask in post-hearing data request quantification of value?
1:43:33 PM	POST-HEARING DATA REQUEST	
	Note: Sacre, Candace	ASST ATTY GENERAL COOK - WITNESS WALLER
	Note: Sacre, Candace	QUANTIFICATION OF VALUE OF 2023 TAX REFUND
1:43:54 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Amortization of rate case expenses based on three-year period?
1:44:07 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	If customers entitled \$2 million, handled through amortization?
1:45:06 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Only way do it?
1:45:23 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Ad valorem costs based on Jan 1 valuation?
1:45:40 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Costs applicable entirety of year?
1:45:54 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Know plant added last three months test year not affect taxes until 2027?
1:46:40 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Test year runs through Mar 31 2026?
1:46:48 PM	Asst Atty General Cook - witness Waller	
	Note: Sacre, Candace	Revenue utilizes unit value method calculate assessed value?

1:47:15 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	Agree Revenue relied net operating income overall unit value?
1:47:33 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	Payroll expenses, rebuttal, budgeted capitalization rate FY '25 56.9 percent compared 59.7 percent FY '24?
1:48:02 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	State \$538,225 increase payroll expenses relates 59.7 percent compared to 56.9 percent
1:48:39 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	Schedule G-2 filed with application, summarizes payroll activity?
1:50:02 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	Lines 16 through 17, ratio O&M labor dollars to total labor dollars?
1:50:22 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	Percentage provided 2019-2023, base period and forecast period?
1:50:38 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	See 2019 percentage 41.306?
1:50:45 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	For 2020 39.520 percent?
1:51:02 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	And 2022 42.405 percent?
1:51:07 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	And '23 41.716 percent?
1:51:12 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	And base period 40.107 percent?
1:51:17 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	And forecasted period also 40.107 percent?
1:51:23 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	Given O&M ratio range 40 to 42 percent, capitalization ratio between 58 to 60 percent?
1:53:55 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	Requires some adjustment, mean need do updated Schedule G?
1:54:54 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	No impact on amount of revenue request?
1:55:23 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	Page 10, rebuttal, hired nine new employees as of FY '25?
1:55:35 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	Tell us headcount for Kentucky division end FY '24?
1:55:53 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	Ask post-hearing data request for that and for each month after end of FY '24?
1:55:55 PM	POST-HEARING DATA REQUEST Note: Sacre, Candace Note: Sacre, Candace	ASST ATTY GENERAL COOK - WITNESS WALLER KENTUCKY DIVISION TOTAL HEADCOUNT END FISCAL YEAR 2024 AND EACH MONTH THEREAFTER
1:56:04 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	Know when positions added?
1:56:20 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	Employees still with company?
1:56:34 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	In post-hearing data request, will ask that, too.
1:56:35 PM	POST-HEARING DATA REQUEST Note: Sacre, Candace Note: Sacre, Candace	ASST ATTY GENERAL COOK - WITNESS WALLER NINE NEW EMPLOYEES HIRED AS OF FY '25 WITH COMPANY

1:56:41 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	Response, AG Request 2-2, subpart (b), state Sept 30 2024 nine Kentucky positions vacant?
1:57:34 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	Response, AG Request 1-75, Attachment 1, third page, Division 009 is Kentucky division?
1:58:44 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	Employee counts Kentucky flat end of 2022 through end of FY '24?
1:59:06 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	Employee counts flat since end 2022 through end FY '24?
1:59:23 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	Then increased by few 2024?
1:59:41 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	Should say calendar year 2024?
1:59:46 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	When added to Sept 2024 headcount, yields new total 187 employees?
1:59:57 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	Higher than past three or four years?
2:00:42 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	Tell me how figures developed?
2:00:54 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	In record anywhere?
2:01:07 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	Asking how figures developed, the \$600,000?
2:01:43 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	Any separate support, Excel sheet, workpapers, calculations?
2:02:18 PM	Asst Atty General Cook - witness Waller Note: Sacre, Candace	Ask post-hearing request identify where in record?
2:02:19 PM	POST-HEARING DATA REQUEST Note: Sacre, Candace Note: Sacre, Candace	ASST ATTY GENERAL COOK - WITNESS WALLER WHERE IN RECORD NEW EMPLOYEE FIGURES DEVELOPED
2:02:34 PM	Chair Hatton Note: Sacre, Candace	Staff?
2:02:36 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Cross Examination. Exhibit GKWR-1, updated revenue model?
2:03:06 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Clarify what explaining forecasted percentage total ratio O&M total labor dollars, 40 percent for forecasted period, expand what talking about?
2:05:20 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	For budgeted labor expense, all ended up on G2 or other places?
2:06:46 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Rebuttal testimony, page 11, as-filed labor expense \$14,070,026?
2:06:49 PM	Session Note Entry	
2:07:00 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Tab G2 Excel sheet, assuming \$14 million in here, where be?
2:08:14 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Rebuttal actual capitalization rate 2024 59.7 whereas budget 56.1?
2:08:42 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Recommended use 2024 budget amount, capitalization rate different?

2:10:34 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Tab G2, revenue model, historical years actual numbers through 2023?
2:11:06 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Looked back variance budgeted amounts compared to actual amounts in those years?
2:12:03 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Post-hearing data request 2019-2023 capitalization rates compared to budget amount, variance?
2:12:04 PM	POST-HEARING DATA REQUEST Note: Sacre, Candace Note: Sacre, Candace	ASST GEN COUNSEL BELLAMY PSC - WITNESS WALLER FROM 2019 THROUGH 2023 COMPARE CAPITALIZATION RATES TO BUDGET AMOUNTS LOOKING AT VARIANCE
2:12:25 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Increases capital spending affect capitalization rate Kentucky direct employees?
2:13:18 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	By significant, referring to items in pipeline replacement rider or in pipeline modernization?
2:13:35 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Removing caps capital projects, reflected expected increase in capital budget or consistent past years?
2:14:33 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Indicated budget reduction contract employees, \$600,000?
2:14:55 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	2025 budget included reduction?
2:15:07 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Intending on retaining employees, all nine or seven of nine?
2:15:41 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	\$14 million budgeted labor expense, 2025 budget included nine employees?
2:16:16 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Employees included in budget amount be at full employment?
2:17:00 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Other than \$204,000 no other accounting attrition forecasted budget?
2:17:13 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Referring to AG-2, reading, how budgeted attrition calculated?
2:18:19 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Was that Division 91 only, attrition rate for Division 91 only?
2:18:57 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Employees Division 91 level actual employees and salaries allocated to Kentucky
2:19:48 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Idea what percentage that reflect total labor expense Division 91?
2:20:45 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	If 200,000 of roughly 414?
2:21:00 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Idea relation that is to ongoing attrition rate Division 9?
2:23:21 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Ad valorem taxes, remove amount in PRP, get a rate, divide by ending base period gross plant, and get a rate?
2:23:46 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	When base period end?

2:24:02 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	2025 taxes based on value of plant end of year?
2:26:07 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Accrual accounting, bill in Jan 2025 cover taxes in 2025?
2:28:00 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Whether appropriate use gross balance forecasted period, question for Multer?
2:28:18 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Ending or average or matter how tax applied, more for Multer?
2:29:16 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Line 13, \$940,000, removing amounts, associated with pipeline replacement rider?
2:29:42 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Why use PRP amount from 2023 opposed more recent amount?
2:30:48 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	2023 PRP cover plant additions expected occur through Sept 2024?
2:31:07 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	American Gas Association, how determine what portion each bucket?
2:34:05 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Ten percent expense lobbying, take 10 percent of dues and subtract for ratemaking or send bill?
2:35:14 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Chamber of Commerce, similar process, how working?
2:36:03 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	What Chamber do other than lobbying?
2:37:12 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Economic development can be good thing, attract customers beyond policy development?
2:38:00 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Have both bills for AGA and Chamber of Commerce submit post-hearing?
2:38:01 PM	POST-HEARING DATA REQUEST Note: Sacre, Candace Note: Sacre, Candace	ASST GEN COUNSEL BELLAMY PSC - WITNESS WALLER INVOICES SUBMITTED BY AMERICAN GAS ASSOCIATION AND CHAMBER OF COMMERCE
2:38:21 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	ROE flotation costs, fees associated with securities, costs appear O&M expense one of divisions?
2:40:03 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Not know for sure are in O&M?
2:40:21 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Tax rider, things good for rider, ad valorem taxes or any tax, how do that, expand on that?
2:42:42 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Ad valorem tax, that be part of it?
2:43:25 PM	Asst Gen Counsel Bellamy PSC - witness Waller Note: Sacre, Candace	Have a rider, things taken along with rider?
2:44:36 PM	Chair Hatton Note: Sacre, Candace	Commissioner Regan?
2:44:40 PM	Commissioner Regan Note: Sacre, Candace	Lobbying, answered that, trying to get head around how convert O&M to FERC, not ask more questions about that, maybe tutorial.
2:45:02 PM	Chair Hatton Note: Sacre, Candace	Have no questions. Redirect?

2:45:06 PM	Chair Hatton	
	Note: Sacre, Candace	Follow-up anyone else? Recross?
2:45:12 PM	Chair Hatton	
	Note: Sacre, Candace	Excuse Waller and take break, back at 3.
2:45:32 PM	Session Paused	
3:01:37 PM	Chair Hatton	
	Note: Sacre, Candace	Back on the record.
3:01:39 PM	Session Resumed	
3:01:44 PM	Chair Hatton	
	Note: Sacre, Candace	Call next witness.
3:01:47 PM	Atty Temple Atmos	
	Note: Sacre, Candace	Joel Multer.
3:01:52 PM	Chair Hatton	
	Note: Sacre, Candace	Witness is sworn.
3:01:57 PM	Camera Lock Witness Activated	
3:02:00 PM	Chair Hatton - witness Multer	
	Note: Sacre, Candace	Examination. Name and business address?
3:02:15 PM	Atty Temple Atmos - witness Multer	
	Note: Sacre, Candace	Position?
3:02:17 PM	Camera Lock Deactivated	
3:02:20 PM	Atty Temple Atmos - witness Multer	
	Note: Sacre, Candace	Provide testimony or responses?
3:02:25 PM	Atty Temple Atmos - witness Multer	
	Note: Sacre, Candace	Revisions, amendments, edits, or anything?
3:02:33 PM	Atty Temple Atmos - witness Multer	
	Note: Sacre, Candace	Intention have responses and testimony incorporated into record?
3:02:46 PM	Chair Hatton	
	Note: Sacre, Candace	Mr. Cook?
3:02:48 PM	Asst Atty General Cook - witness Multer	
	Note: Sacre, Candace	Cross Examination. In room when asking questions of Waller referred questions to you?
3:03:04 PM	Asst Atty General Cook	
	Note: Sacre, Candace	Move admit AG Hearing Exhibit 1.
3:03:15 PM	Chair Hatton	
	Note: Sacre, Candace	Any objection?
3:03:22 PM	Chair Hatton	
	Note: Sacre, Candace	Let be admitted.
3:03:23 PM	ATTY GENERAL HEARING EXHIBIT 1	
	Note: Sacre, Candace	ASST ATTY GENERAL COOK - WITNESS MULTER
	Note: Sacre, Candace	2025 KENTUCKY LAWS CH. 98 (HB 775)
3:03:24 PM	Asst Atty General Cook - witness Multer	
	Note: Sacre, Candace	Cross Examination (cont'd). HB 775, became law, retroactive back to 2023?
3:03:47 PM	Asst Atty General Cook - witness Multer	
	Note: Sacre, Candace	Said 2024?
3:03:52 PM	Asst Atty General Cook - witness Multer	
	Note: Sacre, Candace	That's one year but two-year lookback?
3:04:09 PM	Asst Atty General Cook - witness Multer	
	Note: Sacre, Candace	Assessed on or after Dec 31 2022, see on last page, Section 39?
3:04:29 PM	Asst Atty General Cook - witness Multer	
	Note: Sacre, Candace	How successful Atmos been with tax cost reduction efforts?
3:05:08 PM	Asst Atty General Cook - witness Multer	
	Note: Sacre, Candace	30,000-foot level result of bill, ad valorem taxes not apply to pipeline?

3:06:28 PM	Asst Atty General Cook - witness Multer	
	Note: Sacre, Candace	Sorry, not pick up what said in last sentence?
3:06:33 PM	Asst Atty General Cook - witness Multer	
	Note: Sacre, Candace	Ratepayers entitled have ad valorem expense reduced \$2 million?
3:07:02 PM	Asst Atty General Cook	
	Note: Sacre, Candace	Have one moment, please?
3:07:15 PM	Asst Atty General Cook - witness Multer	
	Note: Sacre, Candace	Was not effect bill reduce taxes from tangible to real property?
3:07:41 PM	Asst Atty General Cook - witness Multer	
	Note: Sacre, Candace	With lookback, Waller mentioned \$2 million figure, reduction in total tax liability?
3:09:10 PM	Asst Atty General Cook - witness Multer	
	Note: Sacre, Candace	Ask for quantification of amount, agree appropriate refund three-year amortization?
3:10:29 PM	Asst Atty General Cook - witness Multer	
	Note: Sacre, Candace	Appropriate reduce revenue requirement that \$2 million?
3:10:54 PM	Asst Atty General Cook - witness Multer	
	Note: Sacre, Candace	How and when ratepayers see benefit?
3:11:56 PM	Asst Atty General Cook - witness Multer	
	Note: Sacre, Candace	Ad valorem costs based Jan 1 valuation date, applicable entirety tax year?
3:12:12 PM	Asst Atty General Cook - witness Multer	
	Note: Sacre, Candace	Plant added last three months test year 2026 not affect taxes until 2027?
3:12:31 PM	Asst Atty General Cook - witness Multer	
	Note: Sacre, Candace	Correct Revenue utilizes unit value method assessed value property?
3:12:52 PM	Asst Atty General Cook - witness Multer	
	Note: Sacre, Candace	Familiar any method Revenue utilizes?
3:13:06 PM	Asst Atty General Cook - witness Multer	
	Note: Sacre, Candace	Agree Revenue relied net operating income unit value analysis?
3:13:24 PM	Asst Atty General Cook - witness Multer	
	Note: Sacre, Candace	Not know that?
3:13:30 PM	Chair Hatton	
	Note: Sacre, Candace	Staff?
3:13:36 PM	Asst Gen Counsel Bellamy PSC - witness Multer	
	Note: Sacre, Candace	Cross Examination. Bill attached testimony, property taxes, not know how Revenue calculates value apply rate?
3:14:03 PM	Asst Gen Counsel Bellamy PSC - witness Multer	
	Note: Sacre, Candace	Refer Atmos Response, Staff Third, Question 4, Attachment 2, responsible?
3:14:20 PM	Asst Gen Counsel Bellamy PSC - witness Multer	
	Note: Sacre, Candace	Produced both as Excel sheet and PDF attachment, explain what reflecting?
3:16:00 PM	Asst Gen Counsel Bellamy PSC - witness Multer	
	Note: Sacre, Candace	Is for FY 2024, 2023, and 2022?
3:16:11 PM	Asst Gen Counsel Bellamy PSC - witness Multer	
	Note: Sacre, Candace	Think one partial number provided before for 2024?
3:16:21 PM	Asst Gen Counsel Bellamy PSC - witness Multer	
	Note: Sacre, Candace	Where get information for numbers include income statement each year?
3:16:42 PM	Asst Gen Counsel Bellamy PSC - witness Multer	
	Note: Sacre, Candace	Was for just Division 9?
3:16:53 PM	Chair Hatton - witness Multer	
	Note: Sacre, Candace	Examination. Atmos Kentucky division?

3:17:00 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Cross Examination (cont'd). Include expenses allocated down from other divisions?
3:17:08 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Revenue allocated down from other divisions to Division 9?
3:17:24 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Able generate income statements any historical year?
3:17:49 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Know how far can go back?
3:17:55 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Know if go back 15 years, 20 years?
3:18:13 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Have lot human input generate this, or output of accounting system?
3:18:40 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Who provided this?
3:18:47 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Go to them and request information, and they provided to you?
3:19:08 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Know if any workpapers reflect how amounts calculated?
3:19:21 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Post-hearing data request ask how developed and how far back go?
3:19:22 PM	POST-HEARING DATA REQUEST Note: Sacre, Candace Note: Sacre, Candace	ASST GEN COUNSEL BELLAMY PSC - WITNESS MULTER DOCUMENTS/WORKPAPERS REFLECT HOW INCOME STATEMENTS DEVELOPED AND HOW FAR BACK
3:19:39 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Staff Third, Question 4, Attachment 1, recognize spreadsheet?
3:20:05 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Play role preparing spreadsheet?
3:20:10 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	At top, first tab, Excel line 5, pretax income numbers from previous attachment?
3:20:59 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Reflects Atmos calculation increases/decreases NOLC ADIT asset 2022-2024?
3:21:16 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	September 30 2024?
3:21:24 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Atmos test year this case begins April 1 2025?
3:21:39 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Atmos revenue model account increases/decreases NOL ANG asset Sept 2024 and Mar 2025?
3:22:06 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Revenue requirement model account increases/decreases NOL ADIT asset Sept 24 through end of Mar 2025?
3:23:09 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	First produced, produced partial year 2024, Column G, post-hearing data request information for Oct 1 2024 ending Mar 31 2025?
3:23:10 PM	POST-HEARING DATA REQUEST Note: Sacre, Candace Note: Sacre, Candace	ASST GEN COUNSEL BELLAMY PSC - WITNESS MULTER PROVIDE REVENUE REQUIREMENT ACCOUNT INCREASES/DECREASES PERIOD BEGINNING OCTOBER 1 2024 AND ENDING MARCH 31 2025

3:23:56 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Would calculating change for six-month period affect reasonableness of calculation?
3:24:29 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Not timing with revenue versus expenses affect it in your mind, not think would be?
3:24:57 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	If increase/decrease in NOL ADIT asset, reflected in revenue model as change in rate case?
3:25:30 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Attachment 1 included numbers through Sept 2024, file something reflecting change, reflect that in revenue requirement at beginning in rate base?
3:26:40 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Can do that post-hearing, add to it?
3:26:44 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Attachment 1, FY 2022, Excel line 19, beginning balance \$28 million, NOL ADIT as of Sept 20 2021?
3:27:11 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Know if number includes deferred asset associated loss arising from Winterstorm Uri?
3:27:29 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Number calculated on 21 percent federal tax or composite?
3:27:38 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Just purely 21 percent?
3:27:43 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Know workpaper in record showing calculation?
3:27:51 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Might ask post-hearing request point out, and, if not there, can provide it?
3:28:04 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Attachment 1, calculated federal taxable income or loss, reading, correct?
3:28:28 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	What period maintain records book tax timing differences and ADIT balances, how far back go?
3:28:54 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Change tax code Dec 2017, excess amount, how flow back to customers, what method Atmos used?
3:29:57 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	AG witness indicated allocated amount based on percentage, know most recent period Atmos no net operating loss?
3:31:02 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Larger losses for Atmos begin with 100 percent bonus depreciation?
3:31:46 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	But were in net operating loss position before, carry forward back to 2008?
3:32:11 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Impediment calculating losses and income compared to change in ADIT back to no loss carry forward?
3:33:56 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Have to check if had income statement information and how far back ADIT information goes?
3:34:04 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Validity of records come into question?

3:36:47 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Atmos Response, Staff Third, Question 6, Part B, reading, explain what is and how affects book tax timing differences?
3:40:20 PM	Asst Gen Counsel Bellamy PSC - witness Multer Note: Sacre, Candace	Is increase or decrease in value of those reflected in rates some other than deferred tax liability?
3:40:49 PM	Chair Hatton Note: Sacre, Candace	Commissioner Regan?
3:40:54 PM	Chair Hatton Note: Sacre, Candace	Redirect?
3:40:55 PM	Atty Temple Atmos - witness Multer Note: Sacre, Candace	Redirect Examination. Discussion about ad valorem taxes and how changed, rebuttal of Waller, already lower number?
3:41:31 PM	Atty Temple Atmos - witness Multer Note: Sacre, Candace	Accounted for, not be recalculation needed?
3:41:42 PM	Atty Temple Atmos - witness Multer Note: Sacre, Candace	Refund, not know if refund, not determined by Atmos or Treasury?
3:41:58 PM	Atty Temple Atmos - witness Multer Note: Sacre, Candace	Even if was refund, amortization of rate case expenses, cannot book those against each other?
3:42:55 PM	Atty Cave Atmos Note: Sacre, Candace	Emily Wiebe.
3:43:04 PM	Camera Lock Witness Activated	
3:43:12 PM	Chair Hatton Note: Sacre, Candace	Witness is sworn.
3:43:18 PM	Chair Hatton - witness Wiebe Note: Sacre, Candace	Examination. Name and business address?
3:43:31 PM	Camera Lock Deactivated	
3:43:32 PM	Atty Cave Atmos - witness Wiebe Note: Sacre, Candace	Direct Examination. Title?
3:43:39 PM	Atty Cave Atmos - witness Wiebe Note: Sacre, Candace	Cause testimony and responses be filed?
3:43:45 PM	Atty Cave Atmos - witness Wiebe Note: Sacre, Candace	Additions or corrections?
3:43:49 PM	Camera Lock Witness Activated	
3:43:50 PM	Atty Cave Atmos - witness Wiebe Note: Sacre, Candace	If ask same questions, answers be same?
3:43:55 PM	Atty Cave Atmos - witness Wiebe Note: Sacre, Candace	Intent incorporate into record?
3:44:03 PM	Camera Lock Deactivated	
3:44:05 PM	Chair Hatton Note: Sacre, Candace	Staff?
3:44:06 PM	Staff Atty Colyer PSC - witness Wiebe Note: Sacre, Candace	Cross Examination. Other commissions rejected Atmos cost allocation methodology?
3:44:25 PM	Staff Atty Colyer PSC - witness Wiebe Note: Sacre, Candace	Allocation results from methodology, any of those rejected?
3:44:38 PM	Commissioner Regan - witness Wiebe Note: Sacre, Candace	Examination. Shared services, divided by percentage across all organizations, or differ by usage how calculate those?
3:46:20 PM	Commissioner Regan - witness Wiebe Note: Sacre, Candace	Talk about railroad commission in Texas and order?
3:47:12 PM	Commissioner Regan - witness Wiebe Note: Sacre, Candace	Accounting treatment approved?

3:47:36 PM	Chair Hatton	
	Note: Sacre, Candace	Questions?
3:47:39 PM	Chair Hatton	
	Note: Sacre, Candace	Redirect?
3:47:54 PM	Atty Temple Atmos	
	Note: Sacre, Candace	Paul Raab.
3:48:13 PM	Camera Lock Witness Activated	
3:48:20 PM	Chair Hatton	
	Note: Sacre, Candace	Witness is sworn.
3:48:25 PM	Chair Hatton - witness Raab	
	Note: Sacre, Candace	Examination. Name and business address?
3:48:39 PM	Atty Temple Atmos - witness Raab	
	Note: Sacre, Candace	Direct Examination. By whom employed and title?
3:48:40 PM	Camera Lock Deactivated	
3:48:43 PM	Camera Lock Witness Activated	
3:48:48 PM	Atty Temple Atmos - witness Raab	
	Note: Sacre, Candace	What role play in proceeding?
3:48:55 PM	Atty Temple Atmos - witness Raab	
	Note: Sacre, Candace	Cause testimony and responses be filed?
3:49:05 PM	Atty Temple Atmos - witness Raab	
	Note: Sacre, Candace	Corrections, additions, or anything else?
3:49:39 PM	Atty Temple Atmos - witness Raab	
	Note: Sacre, Candace	Intent have testimony and responses adopted into proceeding?
3:49:53 PM	Camera Lock Deactivated	
3:50:05 PM	Wireless Presentation Activated	
3:50:13 PM	Staff Atty Colyer PSC - witness Raab	
	Note: Sacre, Candace	Cross Examination. On screen Exhibit PHR-2, page 6, customer demand study, correct?
3:50:43 PM	Staff Atty Colyer PSC - witness Raab	
	Note: Sacre, Candace	Followed with Exhibits PHR-3 and PHR-4, demand only studies and demand energy studies?
3:51:04 PM	Staff Atty Colyer PSC - witness Raab	
	Note: Sacre, Candace	Atmos utilize one of studies for rate design?
3:52:15 PM	Staff Atty Colyer PSC - witness Raab	
	Note: Sacre, Candace	Who decided what allocation be for rate design?
3:52:38 PM	Staff Atty Colyer PSC - witness Raab	
	Note: Sacre, Candace	PHR-2, customer demand study breakdown customer costs, demand costs, commodity costs, how decide percentage allocated?
3:57:20 PM	Staff Atty Colyer PSC - witness Raab	
	Note: Sacre, Candace	Simple classifications, come from somewhere?
3:57:54 PM	Staff Atty Colyer PSC - witness Raab	
	Note: Sacre, Candace	What use as starting point?
3:59:02 PM	Staff Atty Colyer PSC - witness Raab	
	Note: Sacre, Candace	Page 6, storage plant split to demand and commodity and none to customer, storage is commodity in demand?
4:00:28 PM	Staff Atty Colyer PSC - witness Raab	
	Note: Sacre, Candace	Minimum system point of view, not required?
4:01:12 PM	Staff Atty Colyer PSC - witness Raab	
	Note: Sacre, Candace	Next category down distribution, why intangible plant divided?
4:02:01 PM	Staff Atty Colyer PSC - witness Raab	
	Note: Sacre, Candace	Why not divide evenly three ways?
4:03:04 PM	Staff Atty Colyer PSC - witness Raab	
	Note: Sacre, Candace	Page 7, general, office structures?

4:03:23 PM	Staff Atty Colyer PSC - witness Raab Note: Sacre, Candace	What account 39000 is?
4:04:07 PM	Staff Atty Colyer PSC - witness Raab Note: Sacre, Candace	Land and land rights, how division across three columns?
4:04:46 PM	Staff Atty Colyer PSC - witness Raab Note: Sacre, Candace	Composite multiple percentages, not understand come from?
4:05:05 PM	Staff Atty Colyer PSC - witness Raab Note: Sacre, Candace	Simple ones simple, other composites?
4:05:14 PM	Staff Atty Colyer PSC - witness Raab Note: Sacre, Candace	Not sure understand composites of or starting point?
4:08:05 PM	Staff Atty Colyer PSC - witness Raab Note: Sacre, Candace	Complicated way saying averages totals get percentages?
4:08:50 PM	Staff Atty Colyer PSC - witness Raab Note: Sacre, Candace	Had backwards, using percentages final table but other way around?
4:11:03 PM	Staff Atty Colyer PSC - witness Raab Note: Sacre, Candace	Any line item, how come up with percentage, where deviation from?
4:12:02 PM	Staff Atty Colyer PSC - witness Raab Note: Sacre, Candace	How get from COSSs to rates in tariff, Taylor determined percentages used?
4:12:41 PM	Staff Atty Colyer PSC - witness Raab Note: Sacre, Candace	Studies only inform customer versus volumetric or also division of rates among classes?
4:13:03 PM	Staff Atty Colyer PSC - witness Raab Note: Sacre, Candace	Explain now informs customer class rate design?
4:17:00 PM	Staff Atty Colyer PSC - witness Raab Note: Sacre, Candace	Last fourth data requests Staff, reading, explain zero intercept method?
4:17:44 PM	Staff Atty Colyer PSC - witness Raab Note: Sacre, Candace	Staff Fourth, Item five, explain zero intercept study?
4:19:03 PM	Staff Atty Colyer PSC - witness Raab Note: Sacre, Candace	Response says, reading, explain what means?
4:21:07 PM	Staff Atty Colyer PSC - witness Raab Note: Sacre, Candace	Three ways zero intercept fail, why in this case?
4:21:54 PM	Wireless Presentation Deactivated	
4:22:02 PM	Chair Hatton Note: Sacre, Candace	Other questions this witness?
4:22:11 PM	Chair Hatton - witness Raab Note: Sacre, Candace	Examination. Did COSSs, rate of \$24.40 month residential?
4:22:43 PM	Chair Hatton - witness Raab Note: Sacre, Candace	And \$65.50 all nonresidential?
4:23:09 PM	Chair Hatton - witness Raab Note: Sacre, Candace	\$25 for all nonresidential?
4:23:12 PM	Chair Hatton - witness Raab Note: Sacre, Candace	Include riders?
4:23:18 PM	Chair Hatton - witness Raab Note: Sacre, Candace	Just base rate?
4:23:20 PM	Chair Hatton - witness Raab Note: Sacre, Candace	To extent make sure costs allocated to people cause costs, done or considered in COSS?
4:23:56 PM	Chair Hatton Note: Sacre, Candace	Redirect?
4:24:18 PM	Atty Honaker Atmos Note: Sacre, Candace	Can recall Troup before Christian.

4:24:41 PM	Chair Hatton	
	Note: Sacre, Candace	Have preference?
4:24:42 PM	Staff Atty Colyer PSC	
	Note: Sacre, Candace	Helpful have Troup now.
4:24:45 PM	Atty Honaker Atmos	
	Note: Sacre, Candace	Thomas Troup.
4:24:51 PM	Camera Lock Witness Activated	
4:25:04 PM	Chair Hatton	
	Note: Sacre, Candace	Remind still under oath.
4:25:22 PM	Camera Lock Deactivated	
4:25:44 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	Recross Examination. Hear Raab testimony?
4:26:05 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	In record shows percentages used divide rates customer and volumetric?
4:26:42 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	Explain got from COSS to rate design?
4:28:02 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	Somewhere spreadsheet or program use?
4:28:34 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	Not something in record?
4:28:46 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	Spreadsheets Schedules A through?
4:29:00 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	Has been provided?
4:29:02 PM	Atty Honaker Atmos	
	Note: Sacre, Candace	Relied-upon files in ZIP file.
4:29:24 PM	Chair Hatton	
	Note: Sacre, Candace	Need to lay eyes on it, take break, back at 4:40.
4:29:41 PM	Session Paused	
4:36:50 PM	Session Resumed	
4:37:20 PM	Session Paused	
4:43:01 PM	Chair Hatton	
	Note: Sacre, Candace	Back on the record.
4:43:01 PM	Session Resumed	
4:43:12 PM	Chair Hatton	
	Note: Sacre, Candace	Have Troup called to stand, in cross by Staff.
4:43:20 PM	Wireless Presentation Activated	
4:45:08 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	Recross Examination. First thing, tell me where found spreadsheet?
4:45:46 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	Part of the relied-upon ZIP file, and which tab on?
4:45:55 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	Which is far down in list of tabs?
4:46:05 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	Talking about Raab COSS and how get from fifth exhibit, what spreadsheet does in process?
4:47:24 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	Why is that?
4:47:49 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	Said was kind of art, starting to understand better?
4:48:00 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	More accurate COSS helps determine customer charge be or determine and then adjust get to ROE?

4:48:59 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	That why indication customer charges not be sufficient cover fixed costs?
4:49:31 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	Know that be correct, incorrect, or don't know?
4:49:37 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	Generally start with fixed costs as way formulate customer costs?
4:50:15 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	Tell me what fairly consistent means to you?
4:50:33 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	What percentage be unreasonable deviation?
4:50:38 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	Would ten percent greater customer charge be?
4:50:51 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	Would 100 percent more?
4:50:54 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	Would 50 percent more?
4:50:58 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	20 percent more?
4:51:02 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	Maybe between 20 and 50 percent more too much?
4:51:15 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	Not understand enough ask question more specific than what on screen used portion rates classes or costs?
4:52:36 PM	Staff Atty Colyer PSC - witness Troup	
	Note: Sacre, Candace	Atmos have manual or guidance gives direction how engage in rate design described?
4:53:24 PM	Chair Hatton	
	Note: Sacre, Candace	Redirect?
4:53:27 PM	Atty Honaker Atmos - witness Troup	
	Note: Sacre, Candace	Redirect Examination. Perform same function Atmos other divisions?
4:53:41 PM	Atty Honaker Atmos - witness Troup	
	Note: Sacre, Candace	Do it same way in all states?
4:53:46 PM	Atty Honaker Atmos - witness Troup	
	Note: Sacre, Candace	Atmos lowest residential rates in state?
4:53:55 PM	Atty Honaker Atmos - witness Troup	
	Note: Sacre, Candace	Is that your belief as well?
4:54:00 PM	Chair Hatton	
	Note: Sacre, Candace	Anything further this witness?
4:54:11 PM	Chair Hatton	
	Note: Sacre, Candace	Next witness?
4:54:14 PM	Atty Temple Atmos	
	Note: Sacre, Candace	Joe Christian.
4:54:24 PM	Camera Lock Witness Activated	
4:54:26 PM	Chair Hatton	
	Note: Sacre, Candace	Witness is sworn.
4:54:32 PM	Wireless Presentation Deactivated	
4:54:34 PM	Chair Hatton - witness Christian	
	Note: Sacre, Candace	Examination. Name and business address?
4:54:52 PM	Atty Temple Atmos - witness Christian	
	Note: Sacre, Candace	Title?
4:54:54 PM	Camera Lock Deactivated	

4:54:58 PM	Atty Temple Atmos - witness Christian	
	Note: Sacre, Candace	Provide testimony or responses?
4:55:03 PM	Atty Temple Atmos - witness Christian	
	Note: Sacre, Candace	Revisions, corrections, or amendments?
4:55:12 PM	Atty Temple Atmos - witness Christian	
	Note: Sacre, Candace	Intent have responses and testimony incorporated into record?
4:55:31 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Cross Examination. Page 6-7, rebuttal, state, reading, correct?
4:57:00 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	The \$21 million Atmos total?
4:57:06 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Based on change in interest rate?
4:58:40 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	That really more if were BBB company?
4:58:46 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Calculation, what shown in Exhibit 2, rebuttal?
4:59:29 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Column F if A-rated company?
4:59:34 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Column G if were B-rated company?
5:00:03 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	\$21 million savings, one year what be saved, cumulative effect?
5:00:32 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Not really looking capital structure overall and applying to rate base?
5:01:23 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Keep capital structure based on proposed equity and debt share?
5:01:36 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Not change debt share reflect AG witness' proposal?
5:01:45 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	If did change debt share, be higher, approximately 48 percent?
5:02:05 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Agree \$1.5 million debt cost increase if had that capital structure?
5:02:24 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Assuming \$1.5 million debt savings A-rated versus B-rated, AG's witness capital structure 52.5 percent equity \$5.4 million savings?
5:03:24 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Not predict change in debt rate, do that reflect change in debt rate?
5:03:47 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Cross Examination (cont'd). Assuming correct, still not overall beneficial customers have lower equity share?
5:07:15 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Agree balance having lower equity rate, net effect savings, weigh in favor decreasing equity share capital structure?
5:09:37 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Access to capital, shelf registration debt and equity go out advantageous or decision made before that point?
5:12:41 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Said pressing harder metrics, closer downgraded or moving towards top?
5:13:24 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	What downgrade from and then to?
5:13:29 PM	Chair Hatton - witness Christian	
	Note: Sacre, Candace	Examination. Attributed that to regulatory environment?

5:13:52 PM	Chair Hatton - witness Christian	
	Note: Sacre, Candace	And the cap on spending?
5:14:13 PM	Chair Hatton - witness Christian	
	Note: Sacre, Candace	That was for Atmos overall, not Atmos Kentucky?
5:14:21 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Cross Examination (cont'd). Ever time Atmos gone out issue debt and offer not fully subscribed?
5:14:30 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	That never happened?
5:14:41 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Mean every time gone out to sell debt been able sell all of it?
5:15:01 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Exhibit 1, rebuttal, what referring to with credit metrics?
5:15:17 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Think said used capital structure effect on metrics, if company-wide decision, Atmos downgraded from A to B?
5:17:06 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Have support for this used to do calculation?
5:17:25 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Might do data request, this is end result, maybe was there, but you prepared this, added tables, a summary you added there?
5:18:31 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Above where showing intermediate/significant, are these criteria?
5:18:42 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Which rating agency?
5:19:10 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	When refers to funds from operations, what referring to?
5:19:32 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	If physically did calculation, reflected in whatever workpaper used?
5:19:55 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	In between two tables says hypothetical capital structure 52.5D 37.5E?
5:20:08 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	What was wondering, AG proposal 52.7 percent equity?
5:20:20 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Know if when ran numbers did it in that way or other way around?
5:20:28 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Might do post-hearing and confirm mislabeling, if not, provide same chart with it flipped?
5:20:45 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Lot of things go into credit ratings, debt and equity share one thing might consider?
5:21:47 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Little confused, pushing it in fear of downgrade?
5:22:12 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Said as compared past years, Atmos share of equity increased?
5:23:03 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	Understood equity share increasing, saying about same, but if same?
5:23:34 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	What was it in 2018?
5:23:40 PM	Asst Gen Counsel Bellamy PSC - witness Christian	
	Note: Sacre, Candace	And what is it now?

5:24:01 PM	Asst Gen Counsel Bellamy PSC - witness Christian Note: Sacre, Candace	Marginal increase or stayed the same?
5:24:07 PM	Asst Gen Counsel Bellamy PSC - witness Christian Note: Sacre, Candace	Losses with Winter Storm Uri, Atmos securitize amount?
5:24:48 PM	Asst Gen Counsel Bellamy PSC - witness Christian Note: Sacre, Candace	Did that amount affect the downgrade received?
5:24:54 PM	Asst Gen Counsel Bellamy PSC - witness Christian Note: Sacre, Candace	Page 17, refer to chart, capital structure, explain what did with calculation?
5:27:57 PM	Asst Gen Counsel Bellamy PSC - witness Christian Note: Sacre, Candace	Holding company long-term debt compared to equity Duke Kentucky level?
5:28:13 PM	Asst Gen Counsel Bellamy PSC - witness Christian Note: Sacre, Candace	If raising capital at holding company level, raising debt but issuing it?
5:28:32 PM	Asst Gen Counsel Bellamy PSC - witness Christian Note: Sacre, Candace	Will look for workpaper for that?
5:28:56 PM	Asst Gen Counsel Bellamy PSC - witness Christian Note: Sacre, Candace	Columbia and then NiSource, Columbia is Kentucky and NiSource parent?
5:29:04 PM	Asst Gen Counsel Bellamy PSC - witness Christian Note: Sacre, Candace	And doing same thing?
5:29:16 PM	Asst Gen Counsel Bellamy PSC - witness Christian Note: Sacre, Candace	Two ways increase equity share, issuing securities and proceeds, other retaining earnings?
5:29:57 PM	Asst Gen Counsel Bellamy PSC - witness Christian Note: Sacre, Candace	Page 17, AG witness, zero cost capital, delay between billing and payment to vendors, recall?
5:30:32 PM	Asst Gen Counsel Bellamy PSC - witness Christian Note: Sacre, Candace	Mention not include construction in progress in rate base, no reason have zero cost capital, accurate summary?
5:31:07 PM	Asst Gen Counsel Bellamy PSC - witness Christian Note: Sacre, Candace	Atmos include AFUDC in its plant in service projects not have work in progress?
5:31:27 PM	Asst Gen Counsel Bellamy PSC - witness Christian Note: Sacre, Candace	Not have work in progress, increase plant in service account for AFUDC?
5:31:47 PM	Asst Gen Counsel Bellamy PSC - witness Christian Note: Sacre, Candace	When calculate AFUDC, what rate use?
5:32:00 PM	Asst Gen Counsel Bellamy PSC - witness Christian Note: Sacre, Candace	Know if calculate AFUDC from point billed or point make payment?
5:32:44 PM	Asst Gen Counsel Bellamy PSC - witness Christian Note: Sacre, Candace	With construction work in progress, know lag between time billed capital project and goes into service?
5:33:13 PM	Asst Gen Counsel Bellamy PSC - witness Christian Note: Sacre, Candace	Be information from time start spending accrue bill and period of time?
5:34:20 PM	Asst Gen Counsel Bellamy PSC - witness Christian Note: Sacre, Candace	Assume be average time, actually determine it?
5:34:27 PM	Chair Hatton - witness Christian Note: Sacre, Candace	Examination. Took issue proxy group Baudino, companies used structured with hold code, why matter?
5:35:39 PM	Chair Hatton - witness Christian Note: Sacre, Candace	Have to do with amount of risk assume?

5:37:00 PM	Chair Hatton - witness Christian Note: Sacre, Candace	Had 60 percent equity holding company structure, indicate done for shareholder benefit?
5:37:35 PM	Chair Hatton - witness Christian Note: Sacre, Candace	What been more appropriate proxy group?
5:37:41 PM	Chair Hatton - witness Christian Note: Sacre, Candace	I mean, for a Kentucky utility, utilities located in Kentucky?
5:38:25 PM	Camera Lock Witness Activated	
5:39:02 PM	Camera Lock Commissioner Activated	
5:39:05 PM	Camera Lock Witness Activated	
5:39:10 PM	Chair Hatton - witness Christian Note: Sacre, Candace	But Moody's still downgraded you and not because of us?
5:39:12 PM	Camera Lock Commissioner Activated	
5:39:17 PM	Camera Lock Witness Activated	
5:39:34 PM	Chair Hatton - witness Christian Note: Sacre, Candace	Argued Kentucky Atmos small part of larger picture not reason to not allow Atmos Kentucky contribute ratably?
5:39:35 PM	Camera Lock Commissioner Activated	
5:39:53 PM	Camera Lock Witness Activated	
5:39:54 PM	Chair Hatton - witness Christian Note: Sacre, Candace	How matter when such small part?
5:40:45 PM	Camera Lock Deactivated	
5:40:47 PM	Chair Hatton - witness Christian Note: Sacre, Candace	Said if compared current plan with plan recommended Baudino, difference in chart intermediate and significant aggressive?
5:41:02 PM	Camera Lock Witness Activated	
5:41:28 PM	Chair Hatton - witness Christian Note: Sacre, Candace	What think looked at instead, overall impact?
5:41:48 PM	Camera Lock Deactivated	
5:41:49 PM	Chair Hatton Note: Sacre, Candace	Questions?
5:42:09 PM	Chair Hatton Note: Sacre, Candace	Redirect?
5:42:13 PM	Atty Temple Atmos - witness Christian Note: Sacre, Candace	Redirect Examination. Cap structure application actual cap structure, not hypothetically based?
5:42:26 PM	Atty Temple Atmos - witness Christian Note: Sacre, Candace	Using actual capital structure, Atmos Kentucky lowest residential rates in state?
5:42:37 PM	Atty Temple Atmos - witness Christian Note: Sacre, Candace	Even approved as is, residential rates would still be lowest of any LDCs?
5:42:47 PM	Atty Temple Atmos - witness Christian Note: Sacre, Candace	Along with that, Atmos only A-rated LDC operates in Kentucky?
5:43:00 PM	Atty Temple Atmos - witness Christian Note: Sacre, Candace	Think confirmed with Chair, other jurisdictions, get close to actual capital structure?
5:44:12 PM	Atty Temple Atmos - witness Christian Note: Sacre, Candace	Since jurisdictions right at actual cap, if Kentucky much lower than actual ones, other jurisdictions subsidize Kentucky?
5:44:36 PM	Atty Temple Atmos - witness Christian Note: Sacre, Candace	How using actual capital structure benefit customers in Kentucky?
5:44:52 PM	Atty Temple Atmos - witness Christian Note: Sacre, Candace	If is emergency, having strong balance sheet, how help customers?

5:47:01 PM	Atty Temple Atmos - witness Christian	
	Note: Sacre, Candace	Proposed capital structure proposed capital structure, requesting in application actual capital structure?
5:47:41 PM	Atty Temple Atmos - witness Christian	
	Note: Sacre, Candace	Recross?
5:47:52 PM	Atty Temple Atmos - witness Christian	
	Note: Sacre, Candace	Call it day.
5:47:55 PM	Atty Temple Atmos - witness Christian	
	Note: Sacre, Candace	Three witnesses tomorrow, will get started at 9.
5:48:07 PM	Session Ended	

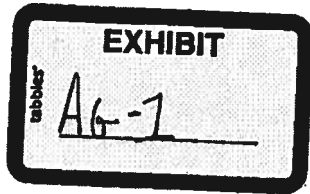


Exhibit List Report

2024-00276 06May2025

Atmos Energy Corporation (Atmos)

Name:	Description:
ATTY GENERAL HEARING EXHIBIT 1	2025 KENTUCKY LAWS CH. 98 (HB 775)
STAFF HEARING EXHIBIT 1	ORDER OF THE PUBLIC SERVICE COMMISSION ENTERED DEC 30 2024 CASE NO. 2024-00092 APPLICATION OF COLUMBIA GAS OF KENTUCKY INC.



2025 Kentucky Laws Ch. 98 (HB 775)

KENTUCKY 2025 SESSION LAWS

2025 REGULAR SESSION

Additions are indicated by **Text**; deletions by
~~Text~~.

Vetoes are indicated by ~~Text~~;
stricken material by ~~Text~~.

CHAPTER 98
HB 775

AN ACT relating to fiscal matters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.490 is amended to read as follows:

<< KY ST 65.490 >>

As used in KRS 65.490 to 65.499, unless the context otherwise requires:

- (1) "Agency" means an urban renewal and community development agency of a taxing district located within a county containing a consolidated local government or a city of the first class, established under KRS Chapter 99; a development authority located within a county containing a consolidated local government or a city of the first class established under KRS Chapter 99; a nonprofit corporation located within a county containing a consolidated local government or a city of the first class; or a designated department, division, or office of a county containing a consolidated local government or of a city of the first class;
- (2) "Development area" means an area ~~no less than one (1) square mile, nor~~ more than six (6) square miles, designated in need of public improvements by a local or state government in a county containing a consolidated local government or a city of the first class, a project area as defined in KRS 99.615, or a public project as defined in KRS 58.010 in a county containing a consolidated local government or a city of the first class. "Development area" includes an existing economic development asset;
- (3) "Increment" means that amount of money received by any taxing district or the state that is determined by subtracting the amount of old revenues from the amount of new revenues in any year for which a taxing district or the state and an agency have agreed upon under the terms of a contract of release or a grant contract;
- (4) "Local government" means a county containing a consolidated local government or a city of the first class;
- (5) "New revenues" means the revenues received by any taxing district or the state from a development area in any year after the establishment of the development area;
- (6) "Old revenues" means the amount of revenues received by any taxing district or the state from a development area in the last year prior to the establishment of the development area;

(7) "Project" means any urban renewal, redevelopment, or public project undertaken in accordance with the provisions of KRS 65.490 to 65.497, any project undertaken in accordance with KRS 99.610 to 99.680, any project undertaken in accordance with the provisions of KRS Chapter 58, or any "public project" as that term is defined in KRS 58.010 undertaken by a nonprofit corporation located within a county containing a consolidated local government or a city of the first class;

(8) "Release" or "contract of release" or "grant contract" means that agreement by which a taxing district or the state permits the payment to an agency of a portion of increments or an amount equal to a portion of increments received by it in return for the benefits accrued to the taxing district or the state by reason of a project undertaken by an agency in a development area;

(9) "Taxing district" means a consolidated local government, a county containing a city of the first class, a city of the first class that encompasses all or part of a development area, or the state, but does not mean a school district; and

(10) "Pilot program" means a tax increment financing program or a grant program created by an agency within a consolidated local government or a county containing a city of the first class which shall exist for a period of twenty (20) years, and may be extended for a period not to exceed an additional twenty-five (25) years as provided in KRS 65.4931.

Section 2. KRS 65.494 is amended to read as follows:

<< KY ST 65.494 >>

(1) As used in this section:

(a) "Existing development area" means a development area established by a county containing a city of the first class or by a city of the first class prior to March 23, 2007, that is subject to the provisions of a grant contract, Interlocal Cooperation Agreement, or Master Agreement executed prior to March 23, 2007; and

(b) "New development area" means a development area that is created within an existing development area.

~~(2) Effective on March 23, 2007, The provisions of KRS 65.490 to 65.499 shall apply only to:~~

~~(a) Existing development areas; and which were established by a county containing a city of the first class or a city of the first class prior to March 23, 2007, and that are subject to the provisions of a grant contract, Interlocal Cooperation Agreement or Master Agreement executed prior to March 23, 2007~~

(b) New development areas, provided that:

1. The project for the existing development area is amended to remove the new development area from the existing development area;

2. All contracts regarding the application of increment derived from the new development area require not less than ten percent (10%) of the increment be paid to the agency for which the existing development area was established;

3. Notwithstanding KRS 65.495 to the contrary, the payment to the agency under subparagraph 2. of this paragraph shall not be taken into account in determining whether thresholds within the contract have been met; and

4. The amendment of the project for an existing development area is approved by:

a. i. The county containing a city of the first class; or

ii. The city of the first class;

in which the existing development area is located;

b. The state;

c. The agency for which the existing development area was established; and

d. If applicable, the insurer of any bonds issued for the benefit of the agency for which the existing development area was established.

Section 3. KRS 131.250 is amended to read as follows:

<< KY ST 131.250 >>

(1) For the purpose of facilitating the administration of the taxes it administers, the department may require any tax return, report, or statement to be electronically filed.

(2) (a) A person required to electronically file a return, report, or statement may apply for a waiver from the requirement by submitting the request on a form prescribed by the department.

(b) The request shall indicate the lack of one (1) or more of the following:

1. Compatible computer hardware;
2. Internet access; or
3. Other technological capabilities determined relevant by the department.

(3) Beginning July 1, 2026, a licensee:

(a) Holding a microbrewery license and authorized to sell malt beverages under KRS 243.157; and

(b) Required to pay the:

- 1. Wholesale sales tax under Section 24 of this Act; and*
- 2. Excise tax on malt beverages under subsection (3) of Section 20 of this Act;*

shall electronically submit any payment and tax return, report, or statement to the department.

Section 4. KRS 132.010 is amended to read as follows:

<< KY ST 132.010 >>

As used in this chapter, unless the context otherwise requires:

(1) “Department” means the Department of Revenue;

(2) “Taxpayer” means any person made liable by law to file a return or pay a tax;

(3) “Real property”:

(a) Means all lands within this state and improvements thereon; and

(b) ~~For property assessed on January 1, 2024, and on January 1, 2025;~~ Includes but is not limited to mains, pipes, pipelines, and conduits that are:

1. Authorized to be installed in, upon, or under any public or private street or place; and
2. Used or to be used for or in connection with the collection, transmission, distribution, conducting, sale, or furnishing of heat, steam, water, sewage, natural or manufactured gas, or electricity to or for the public;

(4) "Personal property" means every species and character of property, tangible and intangible, other than real property;

(5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his or her actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state;

(6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent (\$0.001) per one hundred dollars (\$100) of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land;

(7) "Net assessment growth" means the difference between:

(a) The total valuation of property subject to taxation by the county, city, school district, or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year; and

(b) The total valuation of property subject to taxation by the county, city, school district, or special district for the current year;

(8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:

(a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction; however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one (1) school district to another;

(b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;

(c) The value of improvements to existing nonresidential property;

(d) The value of new residential improvements to property;

(e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;

(f) Property created by the subdivision of unimproved property, provided, that when the property is reclassified from farm to subdivision by the property valuation administrator, the value of the property as a farm shall be a deletion from that category;

(g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;

(h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that the property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and

(i) The value of improvements to real property previously under assessment moratorium.

"Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year;

(9) "Agricultural land" means:

(a) Any tract of land, including all income-producing improvements, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber;

(b) Any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for aquaculture; or

(c) Any tract of land devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government;

(10) "Horticultural land" means any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers, or ornamental plants;

(11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:

(a) Relative percentages of tillable land, pasture land, and woodland;

(b) Degree of productivity of the soil;

(c) Risk of flooding;

(d) Improvements to and on the land that relate to the production of income;

(e) Row crop capability including allotted crops other than tobacco;

(f) Accessibility to all-weather roads and markets; and

(g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income;

(12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value;

(13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including but not limited to lawns, drives, flower or vegetable gardens, outbuildings, and all other land connected thereto;

- (14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner;
- (15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property;
- (16) "Manufactured home" means a structure manufactured after June 15, 1976, in accordance with the National Manufactured Housing Construction and Safety Standards Act, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assignees and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure;
- (17) "Mobile home" means a structure manufactured on or before June 15, 1976, that was not required to be constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure;
- (18) "Modular home" means a structure which is certified by its manufacturer as being constructed in accordance with all applicable provisions of the Kentucky Building Code and standards adopted by the local authority which has jurisdiction, transportable in one (1) or more sections, and designed to be used as a dwelling on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein;
- (19) "Prefabricated home" means a manufactured home, a mobile home, or a modular home;
- (20) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home. As used in this subsection:
- (a) "Travel trailer" means a vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of a size or weight that does not require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms;
- (b) "Camping trailer" means a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use;
- (c) "Truck camper" means a portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck; and
- (d) "Motor home" means a vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle;
- (21) "Hazardous substances" shall have the meaning provided in KRS 224.1-400;
- (22) "Pollutant or contaminant" shall have the meaning provided in KRS 224.1-400;

(23) "Release" shall have the meaning as provided in either or both KRS 224.1–400 and KRS 224.60–115;

(24) "Qualifying voluntary environmental remediation property" means real property subject to the provisions of KRS 224.1–400 and 224.1–405, or 224.60–135 where the Energy and Environment Cabinet has made a determination that:

- (a) All releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products at the property occurred prior to the property owner's acquisition of the property;
- (b) The property owner has made all appropriate inquiry into previous ownership and uses of the property in accordance with generally accepted practices prior to the acquisition of the property;
- (c) The property owner or a responsible party has provided all legally required notices with respect to hazardous substances, pollutants, contaminants, petroleum, or petroleum products found at the property;
- (d) The property owner is in compliance with all land use restrictions and does not impede the effectiveness or integrity of any institutional control;
- (e) The property owner complied with any information request or administrative subpoena under KRS Chapter 224; and
- (f) The property owner is not affiliated with any person who is potentially liable for the release of hazardous substances, pollutants, contaminants, petroleum, or petroleum products on the property pursuant to KRS 224.1–400, 224.1–405, or 224.60–135, through:

1. Direct or indirect familial relationship;

2. Any contractual, corporate, or financial relationship, excluding relationships created by instruments conveying or financing title or by contracts for sale of goods or services; or

3. Reorganization of a business entity that was potentially liable;

(25) "Intangible personal property" means stocks, mutual funds, money market funds, bonds, loans, notes, mortgages, accounts receivable, land contracts, cash, credits, patents, trademarks, copyrights, tobacco base, allotments, annuities, deferred compensation, retirement plans, and any other type of personal property that is not tangible personal property;

(26) (a) "County" means any county, consolidated local government, urban-county government, unified local government, or charter county government;

(b) "Fiscal court" means the legislative body of any county, consolidated local government, urban-county government, unified local government, or charter county government; and

(c) "County judge/executive" means the chief executive officer of any county, consolidated local government, urban-county government, unified local government, or charter county government;

(27) "Taxing district" means any entity with the authority to levy a local ad valorem tax, including special purpose governmental entities;

(28) "Special purpose governmental entity" shall have the same meaning as in KRS 65A.010, and as used in this chapter shall include only those special purpose governmental entities with the authority to levy ad valorem taxes, and that are not specifically exempt from the provisions of this chapter by another provision of the Kentucky Revised Statutes;

(29) (a) "Broadcast" means the transmission of audio, video, or other signals, through any electronic, radio, light, or similar medium or method now in existence or later devised over the airwaves to the public in general.

(b) "Broadcast" shall not apply to operations performed by multichannel video programming service providers as defined in KRS 136.602 or any other operations that transmit audio, video, or other signals, exclusively to persons for a fee;

(30) "Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species;

(31) "Heavy equipment rental agreement" means the short-term rental contract under which qualified heavy equipment is rented without an operator for a period:

(a) Not to exceed three hundred sixty-five (365) days; or

(b) That is open-ended under the terms of the contract with no specified end date;

(32) "Heavy equipment rental company" means an entity that is primarily engaged in a line of business described in Code 532412 or 532310 of the North American Industry Classification System Manual in effect on January 1, 2019;

(33) "Qualified heavy equipment" means machinery and equipment, including ancillary equipment and any attachments used in conjunction with the machinery and equipment, that is:

(a) Primarily used and designed for construction, mining, forestry, or industrial purposes, including but not limited to cranes, earthmoving equipment, well-drilling machinery and equipment, lifts, material handling equipment, pumps, generators, and pollution-reducing equipment; and

(b) Held in a heavy equipment rental company's inventory for:

1. Rental under a heavy equipment rental agreement; or

2. Sale in the regular course of business;

(34) "Veteran service organization" means an organization wholly dedicated to advocating on behalf of military veterans and providing charitable programs in honor and on behalf of military veterans;

(35) "Government restriction on use" means a limitation on the use of at least fifty percent (50%) of the individual dwelling units of a multi-unit rental housing in order to receive a federal or state government incentive based on low-income renter restrictions, including the following government incentives:

(a) A tax credit under Section 42 of the Internal Revenue Code;

(b) Financing derived from exempt facility bonds for qualified residential rental projects under Section 142 of the Internal Revenue Code;

(c) A low-interest loan under Section 235 or 236 of the National Housing Act or Section 515 of the Housing Act of 1949;

(d) A rent subsidy;

(e) A guaranteed loan;

(f) A grant; or

(g) A guarantee;

(36) "Low income" means earning at or below eighty percent (80%) of the area median income as defined by the United States Department of Housing and Urban Development for the location of the multi-unit rental housing; and

(37) "Multi-unit rental housing" means residential property or project consisting of four (4) or more individual dwelling units and does not include:

(a) Assisted living facilities; or

(b) Duplexes or single-family units unless they are included as part of a larger property that is subject to government

restriction on use.

Section 5. KRS 136.010 is amended to read as follows:

<< KY ST 136.010 >>

As used in this chapter, except for KRS 136.500 to 136.575, unless the context requires otherwise:

- (1) "Out-of-state business property" means all real and personal property having a taxable situs outside this state owned by a corporation for use in the active conduct of a trade or business;
- (2) "Personal property" means every species and character of property, tangible and intangible, other than real property;
- (3) "Real property":
 - (a) Means all lands within this state and improvements thereon; and
 - (b) ~~For property assessed on January 1, 2024, and on January 1, 2025,~~ Includes but is not limited to mains, pipes, pipelines, and conduits that are:
 1. Authorized to be installed in, upon, or under any public or private street or place; and
 2. Used or to be used for or in connection with the collection, transmission, distribution, conducting, sale, or furnishing of heat, steam, water, sewage, natural or manufactured gas, or electricity to or for the public; and
- (4) "Tax exempt United States obligations" means all obligations of the United States exempt from taxation under 31 U.S.C. sec. 3124(a) or exempt under the United States Constitution or any federal statute including the obligations of any instrumentality or agency of the United States which are exempt from state or local taxation under the United States Constitution or any statute of the United States.

Section 6. KRS 132.140 is amended to read as follows:

<< KY ST 132.140 >>

- (1) The department shall fix the value of the distilled spirits for the purpose of taxation, assess the same at its fair cash value, estimated at the price it would bring at a fair voluntary sale, calculate the exempt portion of the property taxes, and keep a record of the valuations and assessments. The department shall immediately notify the owner or proprietor of the bonded warehouse or premises of the amount fixed, including the portion of the property tax exemption as calculated in subsection (3) of this section.
- (2) (a) For purposes of this subsection only, "**revenue bond-financed warehouse**":
 1. "~~Premises~~" means a bonded warehouse **or premises** containing distilled spirits:
 1. **Owned by a tax-exempt governmental unit or tax-exempt statutory authority under KRS Chapter 103;**
 2. ~~a.~~ The costs of which are financed by one (1) or more series of industrial **revenue** bonds under KRS Chapter 103 issued prior to January 1, 2024; and

~~3.b.~~ Any portion of the costs of which remains financed by those *industrial revenue* bonds during any portion of the calendar year; ~~and~~

~~2. "Taxpayer" means the owner, proprietor, or custodian of one (1) or more premises.~~

(b) Notwithstanding subsection (3) of this section, *for the taxation of distilled spirits stored or aging in barrels in a revenue bond-financed warehouse:*

1. One hundred percent (100%) of the assessed value of the distilled spirits shall be subject to the applicable state and local ad valorem taxes; and

2. The state and local tax rate that may be levied on the distilled spirits for a taxpayer of a premises shall be the state and local tax rate for tax assessments made on January 1, 2023.

(c) Distilled spirits stored or aging in barrels *in a revenue bond-financed* ~~located in a bonded warehouse or premises~~ shall be exempt from state and local ad valorem taxes for tax assessments made on or after January 1, 2043.

~~(3) For~~ The maximum state and local tax rate that may be levied on distilled spirits stored or aging in barrels located in a bonded warehouse or premises, *the portion of the assessed value that is subject to state and local ad valorem taxes* shall be as follows:

(a) Ninety-six percent (96%) of the *assessed value* ~~otherwise applicable tax rate~~ for tax assessments made on January 1, 2026;

(b) Ninety-two percent (92%) of the *assessed value* ~~otherwise applicable tax rate~~ for tax assessments made on January 1, 2027;

(c) Eighty-eight percent (88%) of the *assessed value* ~~otherwise applicable tax rate~~ for tax assessments made on January 1, 2028;

(d) Eighty-four percent (84%) of the *assessed value* ~~otherwise applicable tax rate~~ for tax assessments made on January 1, 2029;

(e) Eighty percent (80%) of the *assessed value* ~~otherwise applicable tax rate~~ for tax assessments made on January 1, 2030;

(f) Seventy-six percent (76%) of the *assessed value* ~~otherwise applicable tax rate~~ for tax assessments made on January 1, 2031;

(g) Seventy-two percent (72%) of the *assessed value* ~~otherwise applicable tax rate~~ for tax assessments made on January 1, 2032;

(h) Sixty-eight percent (68%) of the *assessed value* ~~otherwise applicable tax rate~~ for tax assessments made on January 1, 2033;

(i) Sixty-one percent (61%) of the *assessed value* ~~otherwise applicable tax rate~~ for tax assessments made on January 1, 2034;

(j) Fifty-four percent (54%) of the *assessed value* ~~otherwise applicable tax rate~~ for tax assessments made on January 1, 2035;

(k) Forty-four percent (44%) of the *assessed value* ~~otherwise applicable tax rate~~ for tax assessments made on January 1, 2036;

(l) Thirty-eight percent (38%) of the *assessed value* ~~otherwise applicable tax rate~~ for tax assessments made on January 1, 2037;

(m) Thirty-two percent (32%) of the *assessed value* ~~otherwise applicable tax rate~~ for tax assessments made on January 1, 2038;

- (n) Twenty-four percent (24%) of the ~~assessed value~~~~otherwise applicable tax rate~~ for tax assessments made on January 1, 2039;
 - (o) Twenty percent (20%) of the ~~assessed value~~~~otherwise applicable tax rate~~ for tax assessments made on January 1, 2040;
 - (p) Fifteen percent (15%) of the ~~assessed value~~~~otherwise applicable tax rate~~ for tax assessments made on January 1, 2041; and
 - (q) Eight percent (8%) of the ~~assessed value~~~~otherwise applicable tax rate~~ for tax assessments made on January 1, 2042.
- (4) Distilled spirits stored or aging in barrels located in a bonded warehouse or premises shall be exempt from state and local ad valorem taxes for tax assessments made on or after January 1, 2043.
- (5) If any owner, proprietor, or custodian of a bonded warehouse or premises fails to make the report required by KRS 132.130, the department shall ascertain the necessary facts required to be reported. For that purpose the department shall have access to the records of the owner, proprietor, or custodian; and the assessment shall be made and taxes collected thereon, with interest and penalties, as though regularly reported.
- (6) The assessment made under (1) of this section shall be reviewed according to KRS 131.110.

Section 7. KRS 138.208 is amended to read as follows:

<< KY ST 138.208 >>

- (1) As used in this section:
- (a) ***"Bonded warehouse or premises" does not include a revenue bond-financed warehouse as defined in Section 6 of this Act for periods prior to the 2043 calendar year;***
 - (b) ***"Local jurisdiction" means:***
 - 1. A school district;
 - 2. A fire protection district or subdistrict authorized to levy the ad valorem tax permitted by KRS 75.015 and 75.040 and that provides fire or other emergency services; and
 - 3. An area served by an emergency services board that levies the ad valorem tax permitted by KRS 75A.050 and provides fire or other emergency services;
 - (b) ~~*"Premises" means a bonded warehouse containing distilled spirits; and*~~
 - (c) ***"Taxpayer" means the owner, proprietor, or custodian of one (1) or***~~of~~***more bonded warehouses or premises.***
- (2) Beginning with the 2026 calendar year and for each subsequent calendar year thereafter, in addition to any ad valorem taxes collected under KRS 132.150, there is imposed a replacement tax on every taxpayer with a ***bonded warehouse or premises*** located in a local jurisdiction that collected ad valorem tax during calendar year 2025.
- (3) The total replacement tax for each school district shall be:
- (a) An amount that is not less than zero; and
 - (b) The result from the following calculation:

1. The ad valorem tax under KRS 132.150 on distilled spirits stored or aging in a *bonded warehouse or* premises collected by or on behalf of the school district during calendar year 2023;
 2. Minus the amount of the ad valorem tax under KRS 132.150 *on distilled spirits stored or aging in a bonded warehouse or premises* collected by or on behalf of the school district for the applicable calendar year; and
 3. Minus the amount by which the Support Education Excellence in Kentucky program under KRS 157.310 to 157.440 final calculation for the school year ending during the applicable calendar year exceeds the Support Education Excellence in Kentucky program final calculation for the 2022–2023 school year, as determined by the Department of Education under KRS 157.410(3). For purposes of the Support Education Excellence in Kentucky final calculation under this subparagraph, the average daily attendance and equalization ratio for the school year ending during the applicable calendar year shall not be less than those for the 2022–2023 school year final calculation.
- (4) The total replacement tax for each fire district or emergency services board shall be:
- (a) An amount that is not less than zero; and
 - (b) The result from the following calculation:
 1. The ad valorem tax under KRS 132.150 on distilled spirits stored or aging in a *bonded warehouse or* premises collected by or on behalf of the fire district or emergency services board during calendar year 2025;
 2. Minus the amount of the ad valorem tax under KRS 132.150 *on distilled spirits stored or aging in a bonded warehouse or premises* collected by or on behalf of the district or board for the applicable calendar year.
- (5) (a) Each year the department shall assess taxpayers the replacement tax for the preceding calendar year in proportion to the number of barrels of distilled spirits stored and aging at their *bonded warehouse or* premises in the local jurisdiction on January 1 of that preceding calendar year.
- (b) If a business-wide reduction or extraordinary event occurs, any taxpayer may apply to the secretary of the Finance and Administration Cabinet for a reduction in the taxpayer's replacement tax assessment.
- (c) For purposes of this subsection:
1. "Business-wide reduction" means that the volume of distilled spirits ~~distilled and barreled~~*produced* by all taxpayers at all business locations in this state during the applicable calendar year is less than the volume of distilled spirits *distilled and barreled* at all business locations in this state in calendar year 2025; and
 2. "Extraordinary event" means a pandemic, epidemic, restrictive governmental laws or regulations enacted after March 31, 2023, riots, insurrection, war, acts of a government authority imposed after March 31, 2023, court orders issued after March 31, 2023, a natural disaster, a decrease in sales in excess of ten percent (10%), or other reason of a like nature determined by the secretary not to be the fault of the taxpayer and any other items determined by the secretary to be beyond the taxpayer's reasonable control, which prevents the taxpayer from *distilling or barreling*~~producing~~ distilled spirits.
- (6) All revenues received by the department from the tax imposed by this section shall be distributed to the local jurisdiction for which the tax was levied within sixty (60) days from the date received.
- (7) The department shall administer the replacement tax levied by this section and, in conjunction or consultation with any agency representing a local jurisdiction, may promulgate administrative regulations to implement this section.

Section 8. KRS 157.362 is amended to read as follows:

<< KY ST 157.362 >>

The portion of the assessed value of distilled spirits *exempted from ad valorem taxes under Section 6 of this Act* ~~which equates to the percentage of the otherwise applicable tax rate that does not apply under KRS 132.140(3)~~ shall not be included in the calculation of the local effort required for Support Education Excellence in Kentucky or the tax rate-setting process in KRS Chapter 160.

Section 9. KRS 141.020 is amended to read as follows:

<< KY ST 141.020 >>

(1) An annual tax shall be paid for each taxable year by every resident individual of this state upon his or her entire net income as defined in this chapter. The tax shall be determined by applying the rates in subsection (2) of this section to net income and subtracting allowable tax credits provided in subsection (3) of this section.

(2) (a) As used in this subsection:

1. "Balance in the BRTF at the end of a fiscal year" means the budget reserve trust fund account established in KRS 48.705 and includes the following amounts and actions resulting from the final close of the fiscal year:

- a. The amount of moneys in the fund at the end of a fiscal year;
- b. All close-out actions related to a budget reduction plan under KRS 48.130 or as modified in a branch budget bill; and
- c. All close-out actions related to the surplus expenditure plan under KRS 48.140 or as modified in a branch budget bill;

2. "GF appropriations" means the authorization by the General Assembly to expend GF moneys, excluding:

- a. Continuing appropriations;
- b. Any appropriation to the budget reserve trust fund;
- c. Any lump-sum appropriation to a state-administered retirement system, as defined in KRS 7A.210, that is in excess of the appropriations specifically budgeted to meet the recurring statutorily required contributions or recurring actuarially determined contributions for a state-administered retirement system under KRS 21.525, 61.565, 61.702, 78.635, 78.5536, or 161.550, as applicable; and
- d. Any appropriation from the budget reserve trust fund account established in KRS 48.705 that is:
 - i. Solely supported by moneys from the budget reserve trust fund account; and
 - ii. Specifically identified in the appropriation language as not being a GF appropriation for the purposes of this section;

3. "GF moneys" means receipts deposited in the general fund defined in KRS 48.010, excluding tobacco moneys deposited in the fund established in KRS 248.654;

4. "IIT equivalent" means the amount of reduction in GF moneys resulting from a one (1) percentage point reduction to the individual income tax rate and shall be calculated by dividing the actual individual income tax receipts for the fiscal year under consideration by:

- a. The sum of:
 - i. The individual income tax rate, expressed as a percentage, for the first six (6) months of the fiscal year; and

- ii. The individual income tax rate, expressed as a percentage, for the second six (6) months of the fiscal year; and
 - b. Dividing the sum determined in subdivision a. of this subparagraph by two (2); *and*
5. *For analysis through fiscal year 2024–2025 and for reporting through September 5, 2025:*
- a. “Reduction conditions” means:
 - i.a. The balance in the BRTF at the end of a fiscal year shall be equal to or greater than ten percent (10%) of the GF moneys for that fiscal year; and
 - ii.b. GF moneys at the end of a fiscal year shall be equal to or greater than GF appropriations for that fiscal year plus the IIT equivalent for that fiscal year; and
 - b.6. “Tax rate reduction” means the current tax rate minus five-tenths of one percent (0.5%).
- (b) 1. *For the analysis for fiscal year 2025–2026 and fiscal year 2026–2027, and for reporting on or before September 5, 2026, and September 5, 2027, “tax rate reduction conditions” means the greatest reduction achieved under subparagraphs 2. and 3. of this paragraph.*
2. *If:*
- a. *The balance in the BRTF at the end of a fiscal year is equal to or greater than ten percent (10%) of the GF moneys for that fiscal year; and*
 - b. *GF moneys at the end of a fiscal year are equal to or greater than GF appropriations for that fiscal year plus an amount that falls within a range of greater than fifty percent (50%) but less than one hundred percent (100%) of the IIT equivalent for that fiscal year;*
- then the tax rate reduction may be the current tax rate minus twenty-five one-hundredths of one percent (0.25%).*
3. *If:*
- a. *The balance in the BRTF at the end of a fiscal year is equal to or greater than ten percent (10%) of the GF moneys for that fiscal year; and*
 - b. *GF moneys at the end of a fiscal year are equal to or greater than GF appropriations for that fiscal year plus the IIT equivalent for that fiscal year;*
- then the tax rate reduction may be the current tax rate minus five-tenths of one percent (0.5%).*
- (c) 1. *For the analysis for fiscal year 2027–2028 and each fiscal year thereafter and for reporting on or before September 5, 2028, and each September 5 thereafter, “tax rate reduction conditions” means the greatest reduction achieved under subparagraphs 2. to 6. of this paragraph.*
2. *If:*
- a. *The balance in the BRTF at the end of a fiscal year is equal to or greater than ten percent (10%) of the GF moneys for that fiscal year; and*
 - b. *GF moneys at the end of a fiscal year are equal to or greater than GF appropriations for that fiscal year plus an amount that falls within a range of equal to or greater than twenty percent (20%) but not greater than thirty-nine percent (39%) of the IIT equivalent for that fiscal year;*

then the tax rate reduction may be the current tax rate minus one-tenth of one percent (0.1%).

3. If:

a. The balance in the BRTF at the end of a fiscal year is equal to or greater than ten percent (10%) of the GF moneys for that fiscal year; and

b. GF moneys at the end of a fiscal year are equal to or greater than GF appropriations for that fiscal year plus an amount that falls within a range of equal to or greater than forty percent (40%) but not greater than fifty-nine percent (59%) of the IIT equivalent for that fiscal year;

then the tax rate reduction may be the current tax rate minus two-tenths of one percent (0.2%).

4. If:

a. The balance in the BRTF at the end of a fiscal year is equal to or greater than ten percent (10%) of the GF moneys for that fiscal year; and

b. GF moneys at the end of a fiscal year are equal to or greater than GF appropriations for that fiscal year plus an amount that falls within a range of equal to or greater than sixty percent (60%) but not greater than seventy-nine percent (79%) of the IIT equivalent for that fiscal year;

then the tax rate reduction may be the current tax rate minus three-tenths of one percent (0.3%).

5. If:

a. The balance in the BRTF at the end of a fiscal year is equal to or greater than ten percent (10%) of the GF moneys for that fiscal year; and

b. GF moneys at the end of a fiscal year are equal to or greater than GF appropriations for that fiscal year plus an amount that falls within a range of equal to or greater than eighty percent (80%) but not greater than ninety-nine percent (99%) of the IIT equivalent for that fiscal year;

then the tax rate reduction may be the current tax rate minus four-tenths of one percent (0.4%).

6. If:

a. The balance in the BRTF at the end of a fiscal year is equal to or greater than ten percent (10%) of the GF moneys for that fiscal year; and

b. GF moneys at the end of a fiscal year are equal to or greater than GF appropriations for that fiscal year plus the IIT equivalent for that fiscal year;

then the tax rate reduction may be the current tax rate minus five-tenths of one percent (0.5%).

(d)(b) For taxable years beginning on or after January 1, 2023, but prior to January 1, 2024, the tax shall be four and one-half percent (4.5%) of net income.

(e)(e) For taxable years beginning on or after January 1, 2024, but before January 1, 2026, the tax shall be four percent (4%) of net income.

(f) For taxable years beginning on or after January 1, 2026, the tax shall be three and one-half percent (3.5%) of net income.

(g)(d) 1. For taxable years beginning on or after January 1, 2027~~2025~~, the income tax rate may be reduced according to the annual process established in:

a. Subparagraphs ~~2. or 3. of this paragraph; and~~

b. Subparagraph ~~4. to 5. of this paragraph.~~

2. *a.* The Office of State Budget Director shall review the reduction conditions for the fiscal year ~~2024–2025~~~~2022–2023~~ no later than September 1, ~~2025~~~~2023~~.

~~*b. 3.*~~ After reviewing the reduction conditions under *subdivision a. of this* subparagraph ~~2. of this paragraph~~, the Office of State Budget Director shall, no later than September 5, ~~2025~~~~2023~~, report to the Interim Joint Committee on Appropriations and Revenue:

~~*i. a.*~~ Whether the reduction conditions for the fiscal year ~~2024–2025~~~~2022–2023~~ have been met; and

~~*ii. b.*~~ The amounts associated with each item within the reduction conditions used for making that determination.

~~*c. i. 4. a.*~~ If the reduction conditions have been met for fiscal year ~~2024–2025~~~~2022–2023~~, the General Assembly may take action to reduce the rate in paragraph ~~(f)~~~~(e)~~ of this subsection for the taxable year beginning January 1, ~~2027~~~~2025~~.

~~*ii. b.*~~ If the reduction conditions have not been met for fiscal year ~~2024–2025~~~~2022–2023~~ or the General Assembly does not take action to reduce the rate in paragraph ~~(f)~~~~(e)~~ of this subsection, the department shall maintain the rate in paragraph ~~(f)~~~~(e)~~ of this subsection for the taxable year beginning January 1, ~~2027~~~~2025~~.

3. *a.* The Office of State Budget Director shall review the tax rate reduction conditions for the fiscal year 2025–2026 no later than September 1, 2026.

b. After reviewing the tax rate reduction conditions under subdivision *a. of this subparagraph*, the Office of State Budget Director shall, no later than September 5, 2026, report to the Interim Joint Committee on Appropriations and Revenue:

i. Whether the tax rate reduction conditions for the fiscal year 2025–2026 have been met; and

ii. The amounts associated with each item within the tax rate reduction conditions used for making that determination.

c. i. If the tax rate reduction conditions have been met for fiscal year 2025–2026, the General Assembly may take action to reduce the rate in paragraph ~~(f)~~ of this subsection for the taxable year beginning January 1, 2028.

ii. If the tax rate reduction conditions have not been met for fiscal year 2025–2026 or the General Assembly does not take action to reduce the rate in paragraph ~~(f)~~ of this subsection, the department shall maintain the rate in paragraph ~~(f)~~ of this subsection for the taxable year beginning January 1, 2028.

~~4. 5.~~ *a.* The Office of State Budget Director shall implement an annual process to review and report future reduction conditions *or tax rate reduction conditions* at the same time and in the same manner for each fiscal year subsequent to the fiscal year ~~2024–2025~~~~2022–2023~~ and each taxable year subsequent to the taxable year beginning January 1, ~~2027~~~~2025~~.

b. The department shall not implement an income tax rate reduction without an action by the General Assembly.

c. The annual process shall continue until the income tax rate is zero.

~~(h)~~~~(e)~~ For taxable years beginning on or after January 1, 2018, but before January 1, 2023, the tax shall be five percent (5%) of net income.

~~(i)~~~~(f)~~ For taxable years beginning after December 31, 2004, and before January 1, 2018, the tax shall be determined by applying the following rates to net income:

1. Two percent (2%) of the amount of net income up to three thousand dollars (\$3,000);
2. Three percent (3%) of the amount of net income over three thousand dollars (\$3,000) and up to four thousand dollars (\$4,000);
3. Four percent (4%) of the amount of net income over four thousand dollars (\$4,000) and up to five thousand dollars (\$5,000);
4. Five percent (5%) of the amount of net income over five thousand dollars (\$5,000) and up to eight thousand dollars (\$8,000);
5. Five and eight-tenths percent (5.8%) of the amount of net income over eight thousand dollars (\$8,000) and up to seventy-five thousand dollars (\$75,000); and
6. Six percent (6%) of the amount of net income over seventy-five thousand dollars (\$75,000).

(3) (a) The following tax credits, when applicable, shall be deducted from the result obtained under subsection (2) of this section to arrive at the annual tax:

1. a. For taxable years beginning before January 1, 2014, twenty dollars (\$20) for an unmarried individual; and
b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018, ten dollars (\$10) for an unmarried individual;
2. a. For taxable years beginning before January 1, 2014, twenty dollars (\$20) for a married individual filing a separate return and an additional twenty dollars (\$20) for the spouse of taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or forty dollars (\$40) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code; and
b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018, ten dollars (\$10) for a married individual filing a separate return and an additional ten dollars (\$10) for the spouse of a taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or twenty dollars (\$20) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code;
3. a. For taxable years beginning before January 1, 2014, twenty dollars (\$20) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his or her spouse; and
b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018, ten dollars (\$10) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his or her spouse;
4. An additional forty dollars (\$40) credit if the taxpayer has attained the age of sixty-five (65) before the close of the taxable year;
5. An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse has attained the age of sixty-five (65) before the close of the taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;
6. An additional forty dollars (\$40) credit if the taxpayer is blind at the close of the taxable year;
7. An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse is blind, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer; and

8. An additional twenty dollars (\$20) credit shall be allowed if the taxpayer is a member of the Kentucky National Guard at the close of the taxable year.

(b) In the case of nonresidents, the tax credits allowable under this subsection shall be the portion of the credits that are represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code. However, in the case of a married nonresident taxpayer with income from Kentucky sources, whose spouse has no income from Kentucky sources, the taxpayer shall determine allowable tax credit(s) by either:

1. The method contained above applied to the taxpayer's tax credit(s), excluding credits for a spouse and dependents; or
2. Prorating the taxpayer's tax credit(s) plus the tax credits for the taxpayer's spouse and dependents by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to the total joint federal adjusted gross income of the taxpayer and the taxpayer's spouse.

(c) In the case of a part-year resident, the tax credits allowable under this subsection shall be the portion of the credits represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code.

(4) An annual tax shall be paid for each taxable year as specified in this section upon the entire net income except as herein provided, from all tangible property located in this state, from all intangible property that has acquired a business situs in this state, and from business, trade, profession, occupation, or other activities carried on in this state, by natural persons not residents of this state. A nonresident individual shall be taxable only upon the amount of income received by the individual from labor performed, business done, or from other activities in this state, from tangible property located in this state, and from intangible property which has acquired a business situs in this state; provided, however, that the situs of intangible personal property shall be at the residence of the real or beneficial owner and not at the residence of a trustee having custody or possession thereof. For taxable years beginning on or after January 1, 2021, but before January 1, 2027, the tax imposed by this section shall not apply to a disaster response employee or to a disaster response business. The remainder of the income received by ~~thesuch~~ nonresident shall be deemed nontaxable by this state.

(5) Subject to the provisions of KRS 141.081, any individual may elect to pay the annual tax imposed by KRS 141.023 in lieu of the tax levied under this section.

(6) A part-year resident is subject to taxation, as prescribed in subsection (1) of this section, during that portion of the taxable year that the individual is a resident and, as prescribed in subsection (4) of this section, during that portion of the taxable year when the individual is a nonresident.

Section 10. KRS 141.381 is amended to read as follows:

<< KY ST 141.381 >>

(1) As used in this section:

- (a) "Corporation" means the Bluegrass State Skills Corporation established by KRS 154.12-205;
- (b) "Educational institution" means a regionally accredited college, university, or technical school;
- (c) "Metropolitan College" means a nonprofit consortium that includes educational institutions located within the Commonwealth and the qualified taxpayer as members. The purpose of Metropolitan College shall be to provide postsecondary educational opportunities to employees of the qualified taxpayer as part of a combined work and postsecondary education program;

(d) "Other educational expenses" means the same kinds of educational expenses that were permitted under the Metropolitan College Consortium Agreement approved November 5, 2005; and

(e) "Qualified taxpayer" means any taxpayer who, on June 26, 2009, is a party to the Metropolitan College Consortium Agreement approved November 5, 2005.

(2) To be eligible for the tax credit provided by this section, a qualified taxpayer shall be a partner in Metropolitan College.

(3) A qualified taxpayer shall be allowed a nonrefundable credit against the tax imposed by KRS 141.020 or 141.040, and KRS 141.0401, for each taxable year beginning on or after July 1, 2010, in the amount of fifty percent (50%) of the actual costs incurred by the qualified taxpayer for:

(a) Tuition paid to an educational institution for a student participating in the Metropolitan College; and

(b) Other educational expenses paid on behalf of a student participating in the Metropolitan College;
on behalf of employees of the qualified corporation, for up to two thousand eight hundred (2,800) employees each year.

(4) To claim the credit each year, the qualified taxpayer shall, on an annual basis, submit to the corporation information listing each employee of the qualified taxpayer for whom tuition or other educational expenses were paid, the amount paid on behalf of each employee, and the amount of credit the qualified company is eligible to claim. The corporation shall review the information provided by the qualified company, and shall notify the department and the qualified company of the amount of credit the qualified company is eligible to claim.

(5) The credit allowed by this section for any taxable year shall not exceed the tax liability of the taxpayer for the taxable year. Any credit not used may be carried forward to subsequent years.

(6) The qualified company shall provide to the corporation and the department any information and documentation requested for the purpose of monitoring the credit established by this section.

(7) The approved company shall maintain records and submit information as required by the corporation and the department. The corporation may share information provided by the approved company with the department for the purpose of monitoring the credit established by this section.

(8) The corporation may, through the promulgation of administrative regulations in accordance with KRS Chapter 13A, establish additional standards or requirements for the administration of this section.

(9) The credit established by this section shall expire on April 15, ~~2037~~2027, unless extended by the General Assembly.

Section 11. KRS 148.851 is amended to read as follows:

<< KY ST 148.851 >>

As used in 148.851 to 148.860, unless the context clearly indicates otherwise:

(1) "Agreement" means the tourism development agreement entered into between the authority and an approved company;

(2) "Approved company" means any eligible company that has received final approval to receive incentives provided under KRS 148.853;

(3) "Approved costs" means the amount of eligible costs approved by the authority upon completion of the project;

(4) "Authority" means the Kentucky Tourism Development Finance Authority as set forth in KRS 148.850;

(5) "Cabinet" means the Tourism, Arts and Heritage Cabinet;

(6) "Crafts and products center" means a facility primarily devoted to the display, promotion, and sale of Kentucky products, and at which a minimum of eighty percent (80%) of the sales occurring at the facility are of Kentucky arts, crafts, or agricultural products;

(7) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other entity operating or intending to operate a tourism development project;

(8) "Eligible costs" means:

(a) Obligations incurred for labor and amounts paid to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, and installation of a tourism development project;

(b) The costs of acquiring real property or rights include the acquisition of real property by a leasehold interest with a minimum term of ten (10) years, and any costs incidental thereto;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of the acquisition, construction, equipping, and installation of a tourism development project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;

(d) All costs of architectural and engineering services, including but not limited to estimates, plans and specifications, preliminary investigations, and supervision of construction and installation, as well as for the performance of all the duties required by or consequent to the acquisition, construction, equipping, and installation of a tourism development project;

(e) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, and installation of a tourism development project;

(f) All costs required for the installation of utilities, including but not limited to water, sewer, sewer treatment, gas, electricity and communications, and including off-site construction of the facilities paid for by the approved company; and

(g) All other costs comparable with those described in this subsection, excluding costs subject to refund under KRS 154.20–202, 154.20–204, 154.20–206, 154.20–208, and 154.20–210 or Subchapter 31 of KRS Chapter 154;

(9) "Enhanced incentive county" has the same meaning as in KRS 154.32–010;

(10) "Entertainment destination center project" means a facility that meets the requirements of KRS 148.853(2)(b);

(11) "Final approval" means the action taken by the authority authorizing the eligible company to receive incentives under KRS 139.536 and 148.851 to 148.860;

(12) "Full-service lodging facility" means a facility that provides overnight sleeping accommodations, including private bathrooms and all of the following:

(a) On-site dining facilities;

(b) Room service;

(c) Catering; and

(d) Meeting space;

(13) "Incentives" means the Kentucky sales tax refund as prescribed in KRS 139.536;

(14) “Kentucky sales tax” means the sales tax imposed by KRS 139.200;

(15) “Lodging facility project” means a full-service lodging facility that:

(a) *1.* Is located on recreational property owned or leased by the Commonwealth or the federal government;

~~2.(b)~~ Involves the restoration or rehabilitation of a structure that:

~~a.1-~~ Is listed individually on the National Register of Historic Places; or

~~b.2-~~ Is located in the National Register Historic District; and

is certified by the Kentucky Heritage Council as contributing to the historic significance of the district, and the rehabilitation or restoration of the structure has been approved in advance by the Kentucky Heritage Council;

~~3.(e)~~ Is an integral part of a major convention or sports facility;

~~4.(d)~~ Is located:

~~a.1-~~ Within a fifty (50) mile radius of a property listed on the National Register of Historic Places with a current function of recreation and culture; and

~~b.2-~~ In any of the one hundred (100) least-populated counties in the Commonwealth, in terms of population density, according to the most recent census;

~~5.(e)~~ Is located on property:

~~a.1-~~ Owned by the Commonwealth, or leased by the Commonwealth from the federal government;

~~b.2-~~ Acquired for use in the state park system pursuant to KRS 148.028; and

~~c.3-~~ Operated by the Kentucky Department of Parks pursuant to KRS 148.021 or the Kentucky Horse Park Commission pursuant to KRS 148.258 to 148.320;

~~6.(f)~~ Is located on property:

~~a.1-~~ Owned or leased by the federal government and under the control of the Department of the Interior; or

~~b.2-~~ Owned by the Commonwealth and in the custody of the State Fair Board as provided in KRS 247.140;

~~7.(g)~~ Is part of a tourism attraction project, entertainment destination center project, or theme restaurant destination attraction project and the full-service lodging facility represents less than fifty percent (50%) of the total eligible costs; or

~~8.(h)~~ Has not less than five hundred (500) guest rooms; *or*:

(b) 1. Is located:

a. In any of the one hundred (100) least-populated counties in the Commonwealth, in terms of population density, according to the most recent decennial census;

b. In a county, the boundaries of which:

i. Include, in part, the boundaries of a designated national forest; or

ii. Are adjacent to or include a portion of parallel reservoirs of water surrounding a national recreation area;

c. Within an enhanced incentive county and will create at least fifty (50) new full-time jobs within that county; and

d. Within one-half (1/2) mile of a state resort park;

2. Has a capital investment of at least one hundred million dollars (\$100,000,000); and

3. Contains accommodations for:

a. Lodging, with a minimum of one hundred (100) guest rooms, cabins, or rental units;

b. Relaxation, including a spa;

c. More than one (1) on-site dining facility; and

d. More than one (1) meeting or event space;

(16) "Net positive fiscal impact" means the amount by which increased state tax revenues will exceed the incentives given;

(17) "Preliminary approval" means the action taken by the authority conditionally approving an eligible company for the incentives under KRS 139.536 and 148.851 to 148.860;

(18) "Recreational facility" means a structure or outdoor area that:

(a) Provides visitors recreational opportunities, including but not limited to amusement parks, boating, hiking, horseback riding, hunting, fishing, camping, wildlife viewing, live theater, rock climbing, and all-terrain vehicle trails; and

(b) Serves as a likely destination where individuals who are not residents of the Commonwealth would remain overnight in commercial lodging at or near the recreational facility;

(19) "Theme restaurant destination attraction project" means a restaurant facility that meets the requirements for incentives under KRS 148.853(2)(c);

(20) (a) "Tourism attraction project" means:

1. A cultural or historical site;

2. A recreational facility;

3. An entertainment facility;

4. An area of natural phenomenon or scenic beauty; or

5. A Kentucky crafts and products center;

(b) "Tourism attraction project" does not include facilities that are primarily devoted to the retail sale of goods, other than a Kentucky crafts and products center, or a tourism attraction where the sale of goods is a secondary and subordinate component of the attraction; and

(21) "Tourism development project" means:

(a) A tourism attraction project;

(b) A theme restaurant destination attraction project;

(c) An entertainment destination center project; or

(d) A lodging facility project.

Section 12. KRS 148.853 is amended to read as follows:

<< KY ST 148.853 >>

(1) The General Assembly finds and declares that:

(a) The general welfare and material well-being of the citizens of the Commonwealth depend in large measure upon the development of tourism in the Commonwealth;

(b) It is in the best interest of the Commonwealth to provide incentives for the creation of new tourism attractions and the expansion of existing tourism attractions within the Commonwealth in order to advance the public purposes of relieving unemployment by preserving and creating jobs that would not exist if not for the incentives offered by the authority to approved companies, and by preserving and creating sources of tax revenues for the support of public services provided by the Commonwealth;

(c) The authorities granted by KRS 148.851 to 148.860 are proper governmental and public purposes for which public moneys may be expended; and

(d) That the creation or expansion of tourism development projects is of paramount importance mandating that the provisions of KRS 139.536 and KRS 148.851 to 148.860 be liberally construed and applied in order to advance public purposes.

(2) To qualify for incentives provided in KRS 139.536 and 148.851 to 148.860, the following requirements shall be met:

(a) For a tourism attraction project:

1. The total eligible costs shall exceed one million dollars (\$1,000,000), except for a tourism attraction project located in a county designated as an enhanced incentive county at the time the eligible company becomes an approved company as provided in KRS 148.857(6), the total eligible costs shall exceed five hundred thousand dollars (\$500,000);

2. In any year, including the first year of operation, the tourism attraction project shall be open to the public at least one hundred (100) days; and

3. In any year following the third year of operation, the tourism attraction project shall attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth;

(b) For an entertainment destination center project:

1. The total eligible costs shall exceed five million dollars (\$5,000,000);

2. The facility shall contain a minimum of two hundred thousand (200,000) square feet of building space adjacent or complementary to an existing tourism attraction project or a major convention facility;

3. The incentives shall be dedicated to a public infrastructure purpose that shall relate to the entertainment destination center project;

4. In any year, including the first year of operation, the entertainment destination center project shall:

a. Be open to the public at least one hundred (100) days per year;

b. Maintain at least one (1) major theme restaurant and at least three (3) additional entertainment venues, including but not limited to live entertainment, multiplex theaters, large-format theater, motion simulators, family entertainment centers, concert halls, virtual reality or other interactive games, museums, exhibitions, or other cultural and leisure-time activities; and

c. Maintain a minimum occupancy of sixty percent (60%) of the total gross area available for lease with entertainment and food and drink options not including the retail sale of tangible personal property; and

5. In any year following the third year of operation, the entertainment destination center project shall attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth;

(c) For a theme restaurant destination attraction project:

1. The total eligible costs shall exceed five million dollars (\$5,000,000);

2. In any year, including the first year of operation, the attraction shall:

a. Be open to the public at least three hundred (300) days per year and for at least eight (8) hours per day; and

b. Generate no more than fifty percent (50%) of its revenue through the sale of alcoholic beverages;

3. In any year following the third year of operation, the theme restaurant destination attraction project shall attract a minimum of fifty percent (50%) of its visitors from among persons who are not residents of the Commonwealth; and

4. The theme restaurant destination attraction project shall:

a. At the time of final approval, offer a unique dining experience that is not available in the Commonwealth within a one hundred (100) mile radius of the attraction;

b. In any year, including the first year of operation, maintain seating capacity of four hundred fifty (450) guests and offer live music or live musical and theatrical entertainment during the peak business hours that the facility is in operation and open to the public; or

c. Within three (3) years of the completion date, the attraction shall obtain a top two (2) tier rating by a nationally accredited service and shall maintain a top two (2) tier rating through the term of the agreement;

(d) For a lodging facility project *defined in subsection (15)(a) of Section 11 of this Act*:

1. a. The eligible costs shall exceed five million dollars (\$5,000,000) unless the provisions of subdivision b. of this subparagraph apply.

b. i. If the lodging facility is an integral part of a major convention or sports facility, the eligible costs shall exceed six million dollars (\$6,000,000); and

ii. If the lodging facility includes five hundred (500) or more guest rooms, the eligible costs shall exceed ten million dollars (\$10,000,000); and

2. In any year, including the first year of operation, the lodging facility shall:

a. Be open to the public at least one hundred (100) days; and

b. Attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth;

(e) *For a lodging facility project defined in subsection (15)(b) of Section 11 of this Act*:

1. The eligible costs shall exceed one hundred million dollars (\$100,000,000); and

2. The lodging facility shall:

a. Be open to the public at least one hundred (100) days each year, including the first year of operation; and

b. In any year following the third year of operation, attract a minimum of twenty-five percent (25%) of its overnight visitors from among persons who are not residents of the Commonwealth.

(f) Any tourism development project shall not be eligible for incentives if it includes material determined to be lewd, offensive, or deemed to have a negative impact on the tourism industry in the Commonwealth; and

(g)(f) An expansion of any tourism development project shall in all cases be treated as a new stand-alone project.

(3) (a) The incentives offered *to an approved company* under the Kentucky Tourism Development Act *may include* ~~shall be as follows:~~

~~(a) An approved company may be granted a sales tax incentive based on the Kentucky sales tax imposed on sales generated by or arising at the tourism development project; and~~

(b) 1. For a tourism development project other than a lodging facility project described in *subparagraph 4. or 5. of this paragraph* ~~KRS 148.851(14)(e) or (f), or a tourism attraction project described in subparagraph 2. of this paragraph:~~

a. A sales tax incentive shall be allowed to an approved company over a period of ten (10) years, except as provided in subparagraphs 7.5. and 8.6. of this paragraph; and

b. The sales tax incentive shall not exceed the lesser of the total amount of the sales tax liability of the approved company and its lessees or a percentage of the approved costs as specified by the agreement, not to exceed twenty-five percent (25%);

2. For *projects approved according to the application period established under KRS 148.8531*, a tourism attraction project located in an enhanced incentive county at the time the eligible company becomes an approved company as provided in KRS 148.857(6):

a. A sales tax incentive shall be allowed to the approved company over a period of ten (10) years; and

b. The sales tax incentive shall not exceed the lesser of the total amount of the sales tax liability of the approved company and its lessees or a percentage of the approved costs as specified by the agreement, not to exceed thirty percent (30%);

3. *For applications considered after the effective date of this Act, including projects related to property to which the title passed from a seller to a buyer on or after March 1, 2025, a tourism attraction project located in an enhanced incentive county with a population equal to or less than twenty thousand (20,000) based on the most recent decennial census at the time the eligible company becomes an approved company as provided in KRS 148.857(6):*

a. A sales tax incentive shall be allowed to the approved company over a period of twenty (20) years; and

b. The sales tax incentive shall not exceed the lesser of the total amount of the sales tax liability of the approved company and its lessees or a percentage of the approved costs as specified by the agreement, not to exceed fifty percent (50%);

4. For a lodging facility project described in *subsection (15)(a)5. or 6. of Section 11 of this Act* ~~KRS 148.851(14)(e) or (f)~~:

a. A sales tax incentive shall be allowed to the approved company over a period of twenty (20) years; and

b. The sales tax incentive shall not exceed the lesser of total amount of the sales tax liability of the approved company and its lessees or a percentage of the approved costs as specified by the agreement, not to exceed fifty percent (50%);

5. *For a lodging facility project described in subsection (15)(b) of Section 11 of this Act, a sales tax incentive that shall:*

a. Be allowed to the approved company over a period of twenty (20) years; and

b. Not exceed the lesser of the total amount of sales tax liability of the approved company and its lessees or a percentage of the approved costs as specified by the agreement, not to exceed fifty percent (50%);

6.4- Any unused incentives from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire specified percentage of the approved costs has been received through sales tax incentives;

7.5- If the approved company is an entertainment destination center that has dedicated at least thirty million dollars (\$30,000,000) of the incentives provided under the agreement to a public infrastructure purpose, the agreement may be amended to extend the term of the agreement up to two (2) additional years if the approved company agrees to:

a. Reinvest in the original entertainment destination project one hundred percent (100%) of any incentives received during the extension that were outstanding at the end of the original term of the agreement; and

b. Report to the authority at the end of each fiscal year the amount of incentives received during the extension and how the incentives were reinvested in the original entertainment destination project; and

8.6- The term of a tourism development agreement entered into with a tourism attraction project that was in effect on January 1, 2020, shall be extended for one (1) year if the tourism attraction project:

a. Has historically been open to the public on a seasonal basis consisting of less than six (6) months;

b. Has previously met the requirement of being open to the public at least one hundred (100) days during the entire term of the tourism development agreement as required under subsection (2)(a)2. of this section;

c. Failed to be open to the public at least one hundred (100) days during the calendar year 2020 solely as a result of complying with one (1) or more executive orders issued by the Governor under the authority of KRS 39A.090 that prevented the tourism attraction project from being open to the public for at least one hundred (100) days during its normal operating season; and

d. Applied for a sales tax incentive related to the calendar year 2020 operating season and was denied the sales tax incentive solely on the basis that the tourism attraction project was not open to the public for at least one hundred (100) days in calendar year 2020.

Section 13. KRS 148.855 is amended to read as follows:

<< KY ST 148.855 >>

(1) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish standards for the making of applications for incentives and the recommendation of eligible companies and their tourism development projects to the authority.

(2) The cabinet shall consult with the authority when establishing standards to ensure that standards established pursuant to subsection (1) of this section and KRS 148.857(1) do not conflict.

(3) (a) The application for incentives shall be filed with the cabinet and shall include:

1. The name of the applicant;

2. Marketing plans for the tourism development project that target individuals who are not residents of the Commonwealth;

3. A description and location of the tourism development project;

4. Capital and other anticipated expenditures for the tourism development project that indicate that the total cost of the project shall exceed the minimum required costs as provided in KRS 148.853, and the anticipated sources of funding therefor;

5. The anticipated employment and wages to be paid at the tourism development project;

6. Business plans which indicate the average number of days in a year in which the tourism development project will be in operation and open to the public;

7. The anticipated revenues and expenses generated by the tourism development project;

8. If the tourism development project is an entertainment destination center project, the application shall include the public infrastructure purpose; and

9. Any other information as required by the cabinet.

(b) Based upon a review of these materials, if the cabinet determines that the eligible company and the proposed tourism development project appears to meet the requirements established by KRS 148.853, and that the proposed tourism development project may reasonably satisfy the criteria for final approval in subsection (4) of this section, the secretary of the cabinet may submit a written request to the authority for a preliminary approval of the eligible company and the tourism development project.

(4) The authority may review the request submitted by the secretary, including all relevant materials, and may, based upon that review, grant preliminary approval to an eligible company. Upon a preliminary approval by the authority, the cabinet shall engage the services of a competent consulting firm to analyze the data made available by the eligible company and to collect and analyze additional information necessary to determine that, in the independent judgment of the consultant, the proposed tourism development project:

(a) Will attract, in all years following the third year of operation, at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth, except for a theme restaurant destination attraction project, which shall attract, in all years following the third year of operation, a minimum of fifty percent (50%) of its visitors from among persons who are not residents of the Commonwealth;

(b) Will have costs in excess of the minimum amount required by KRS 148.853;

(c) 1. Will have a net positive fiscal impact on the Commonwealth considering, among other factors, the extent to which the proposed tourism development project will compete directly with existing tourism attractions or previously approved tourism development projects in the Commonwealth and the amount by which increased tax revenues from the tourism development project will exceed the incentives given to the approved company at the maximum level of recovery of approved costs as provided in KRS 148.853; or

2. If the independent consultant determines that the proposed tourism development project cannot produce a net positive fiscal impact to the Commonwealth at the maximum level of recovery of approved costs as provided in KRS 148.853, the independent consultant shall determine the level of recovery, if any, at which the proposed tourism development project can meet those standards;

(d) Will produce sufficient revenues and public demand to be operating and open to the public for a minimum of one hundred (100) days per year, except for a theme restaurant destination attraction, which shall be operating and open to the public for a minimum of three hundred (300) days per year;

(e) Will not adversely affect existing employment in the Commonwealth; ~~and~~

(f) Meets all other requirements of KRS 148.851 and 148.853; *and*

(g) For a lodging facility project defined in subsection (15)(b) of Section 11 of this Act:

1. Will have an occupancy study conducted by an independent consultant to determine the percentage of rooms occupied by other lodging facilities:

- a. With comparable accommodations as described in subsection (15)(b)3. of Section 11 of this Act; and*
- b. Within a fifty (50) mile radius of the proposed lodging facility project;*

for the most recent calendar year for data collected; and

2. Will have a net positive impact statement that will exclude from consideration any impact related to state-funded infrastructure that was approved prior to the application of the eligible company.

(5) The independent consultant, in determining the amount of net positive fiscal impact to the Commonwealth for a new proposed tourism development project that is an expansion of an existing tourism development project shall not consider positive fiscal impacts from the following sources:

- (a) Increased operations at the previously approved tourism development project that is being expanded by the proposed tourism development project;
- (b) Increased operations at any other tourism development project approved for incentives provided under KRS 148.853; or
- (c) Increased operations at any project approved for tax increment financing that includes state revenues approved pursuant to Subchapter 30 of KRS Chapter 154.

(6) (a) The independent consultant shall consult with the authority, the Office of the State Budget Director and the Finance and Administration Cabinet in the development of a report on the proposed tourism development project.

(b) The Office of the State Budget Director and the Finance and Administration Cabinet shall agree as to the methodology to be used and assumptions to be made by the independent consultant in preparing its report.

(c) On the basis of the independent consultant's report and prior to any final approval of a project by the authority, the Office of the State Budget Director and the Finance and Administration Cabinet shall certify to the authority whether there is a projected net positive fiscal impact to the Commonwealth and the expected amount of incremental state revenues from the tourism development project. A final approval shall not be granted if it is determined that there is no projected net positive fiscal impact to the Commonwealth.

(7) The eligible company shall pay for the cost of the consultant's report and shall cooperate with the consultant and provide all of the data that the consultant deems necessary to make its determination under subsection (4) of this section.

(8) In lieu of the independent consultant analysis required in subsection (4) of this section, if the eligible company is exempt from income tax under Section 501(c)(3) of the Internal Revenue Code and the estimated approved costs are less than ten million dollars (\$10,000,000), the cabinet shall have the option of performing an interagency review to analyze the data made available by the eligible company and to collect and analyze additional information necessary to determine that the proposed tourism development project meets the requirements set forth in subsection (4)(a) of this section. The cabinet shall comply with the same consulting and reporting requirements as an independent consultant.

(9) After a review of relevant materials, the consultant's report, and completion of other inquiries, the secretary shall, by written notification to the authority, provide a recommendation to the authority regarding final approval of the tourism development project.

Section 14. KRS 148.859 is amended to read as follows:

<< KY ST 148.859 >>

- (1) The authority, upon adoption of its final approval, may enter into a tourism development agreement with any approved company. The terms of the agreement shall be negotiated between the authority and the approved company and shall include but not be limited to:
- (a) The amount of approved costs;
 - (b) That any increase in approved costs incurred by the approved company and agreed to by the authority shall apply retroactively for purposes of calculating the carry forward for unused incentives;
 - (c) A date certain by which the approved company shall have completed the tourism development project;
 - (d) That the authority may grant an extension or change, which in no event shall exceed three (3) years from the date of final approval, to the completion date as specified in the agreement of an approved company;
 - (e) That within three (3) months of the completion date, the approved company shall document the actual cost of the tourism development project through a certification of the costs to be provided by an independent certified public accountant acceptable to the authority;
 - (f) The term of the tourism development agreement and the maximum amount of recovery;
 - (g) That within forty-five (45) days after the end of each fiscal year of the approved company, during the term of the agreement, the approved company shall supply the authority with reports and certifications as the authority may request demonstrating to the satisfaction of the authority that the approved company is in compliance with the provisions of KRS 139.536 and KRS 148.851 to 148.860;
 - (h) That the approved company shall notify the authority if any change in ownership of the tourism attraction is contemplated. The authority shall reserve the option to renegotiate the terms of the agreement or, if the change in ownership is detrimental to the Commonwealth, the authority may terminate the agreement;
 - (i) That the approved company shall not receive a sales tax incentive as prescribed by KRS 139.536 with respect to any fiscal year if the requirements of KRS 148.853(2) have not been met;
 - (j) That the authority may grant an extension of up to three (3) years to the completion date in addition to the extension provided for in paragraph (d) of this subsection, to an approved company that has completed at least fifty percent (50%) of an entertainment destination center project;
 - (k) That in no event shall the completion date be more than six (6) years from the date of final approval; and
 - (l) That the extension provided for in paragraph (j) of this subsection shall be subject to the following conditions:
 - 1. The approved company shall have spent or have contractually obligated to spend an amount equal to or greater than the amount of approved costs set forth in the initial agreement;
 - 2. The term of the agreement shall not be extended, except as provided in KRS 148.853(3)(b)7. and 8.4.; and
 - 3. The scope of the entertainment destination center project, as set forth in the initial agreement, shall not be altered to include new or additional entertainment and leisure options.
- (2) The agreement, including the incentives provided under KRS 148.853, shall not be transferable or assignable by the approved company without the written consent of the authority and a passage of a resolution approving the proposed assignee of the incentives as an approved company.

Section 15. KRS 154.30–050 is amended to read as follows:

<< KY ST 154.30–050 >>

(1) The Signature Project Program is hereby established. The purpose of this program is to encourage private investment in the development of major projects that will have a significant impact on the Commonwealth of Kentucky and are judged to be of such a magnitude that the effect upon the location of ~~thesuch~~ project warrants extraordinary public support.

(2) ~~(a)~~ There shall be two (2) separate initiatives under this program. The first initiative, the criteria and details of which are set forth in ~~subsection (3)(a) of this section~~~~paragraph (a) of this subsection~~, shall apply to;

1. Qualifying projects that are not the subject of a contract under KRS 65.495 in effect on or before the March 23, 2007, but that have a project grant agreement executed pursuant to KRS 154.30–070 prior to January 1, 2008; *or*

2. *Revised projects if the original project was not the subject of a contract under KRS 65.495 on or before March 23, 2007, and had a project grant agreement executed pursuant to KRS 154.30–070 prior to January 1, 2008, but the agreement was withdrawn voluntarily before the project was completed.*

~~(b)~~ The second initiative, the criteria and details of which are set forth in ~~subsection (3)(b) of this section~~~~paragraph (b) of this subsection~~, shall apply to projects that meet the specified requirements on or after January 1, 2008.

~~(3) (a) For projects that are not the subject of a contract under KRS 65.495 in effect on or before March 23, 2007, but that have a project grant agreement executed pursuant to the provisions of KRS 154.30–070 prior to January 1, 2008:~~

1. The criteria for qualification shall be as follows:

a. The project shall represent new economic activity in the Commonwealth; and

b. The project shall result in a minimum capital investment of two hundred million dollars (\$200,000,000).

2. The following provisions shall apply to projects that meet the criteria established in subparagraph 1. of this paragraph:

a. KRS 65.7051 shall not apply to the establishment of a development area;

b. The city or county in which the project is located shall adopt an ordinance establishing the development area. The ordinance shall be adopted in accordance with KRS 65.7053(1)(a), (b), (c), (d), (e), (h), (i), (j), (k), (l), and (m);

c. KRS 65.7049, 65.7053(2) and (3), 65.7057, 65.7059, 65.7061, 65.7063, 65.7065, and 65.7067, relating to local development areas, shall apply;

d. An application for state participation shall have been submitted as provided in KRS 154.30–030. The application shall include the information required by KRS 154.30–030(2)(a) 1.a. and b.;

e. The report provided for in KRS 154.30–030(2)(a) 3.b. shall not be required, and the certification required by KRS 154.30–030(6)(b) shall not be required;

f. A project grant agreement shall be executed in accordance with KRS 154.30–070; and

g. KRS 154.30–080 and 154.30–090 shall apply.

3. Projects that meet the criteria established in subparagraph 1. of this paragraph shall be eligible for the following:

a. Up to one hundred percent (100%) of approved public infrastructure costs, excluding any sales and use tax paid, may be recovered;

b. Up to one hundred percent (100%) of the financing costs associated with approved public infrastructure costs may be recovered;

c. In a county containing a city of the first class, the local participation agreement may provide for the release of up to eighty percent (80%) of the increment from the tax levied under KRS 91A.390 derived by the governing body within the project development area. The amount released shall not exceed a base amount of four hundred thousand dollars (\$400,000) in the first year of the local participation agreement, which base amount shall be increased in each subsequent year of the grant agreement by four percent (4%); and

d. Up to one hundred percent (100%) of approved signature project costs, excluding any sales and use taxes paid, subject to the following:

i. The authority shall review proposed expenditures for inclusion in the tax incentive agreement. The authority may approve the type of expenditures it determines are necessary for completion of the private development; and

ii. Approved signature project costs shall be detailed in the tax incentive agreement.

(b) Beginning January 1, 2008:

1. A project shall meet all of the following criteria to be considered for state participation under this program:

a. The project shall represent new economic activity in the Commonwealth;

b. The project shall result in a minimum capital investment of two hundred million dollars (\$200,000,000);

c. The project shall result in a net positive economic impact to the Commonwealth, taking into consideration any substantial adverse impact on existing Commonwealth businesses. The net positive impact shall be certified to the commission as required by KRS 154.30-030(6)(b); and

d. Not more than twenty percent (20%) of the capital investment or twenty percent (20%) of the finished square footage shall be devoted to the support or development of assets that will be utilized for the retail sale of tangible personal property.

2. Projects that meet the criteria established by subparagraph 1. of this paragraph shall comply with all relevant provisions of this subchapter.

3. Projects that meet the criteria established by subparagraphs 1. and 2. of this paragraph shall be eligible to recover:

a. Up to one hundred percent (100%) of approved public infrastructure costs, excluding any sales and use taxes paid;

b. Up to one hundred percent (100%) of the financing costs associated with approved public infrastructure costs; and

c. Up to one hundred percent (100%) of approved signature project costs, excluding sales and use taxes paid subject to the following:

i. The authority shall review proposed expenditures for inclusion in the tax incentive agreement. The authority may approve the type of expenditures it determines are necessary for completion of the private development; and

ii. Approved signature project costs shall be detailed in the tax incentive agreement.

~~(4)(3)~~ The authority shall review the application, the certification required by KRS 154.30-030, if applicable, and supporting information as provided in KRS 154.30-030.

~~(5)(4)~~ The authority shall specifically identify the state taxes from which incremental revenues will be pledged. The authority may pledge up to eighty percent (80%) of the incremental revenues from the identified state tax revenues from the footprint, provided that the maximum amount of incremental revenues that may be pledged for a project during the

term of the tax incentive agreement from all approved state taxes shall not exceed one hundred percent (100%) of approved public infrastructure costs, approved signature project costs, and financing costs.

~~(6)(5)~~ As part of the approval process, the authority shall determine the following:

- (a) The footprint of the project;
- (b) The maximum amount of approved public infrastructure costs, approved signature project costs, and financing costs;
- (c) That the local revenues pledged to support the public infrastructure of the project, and local revenues pledged to support the overall project are of a sufficient amount to warrant participation of the Commonwealth in the project;
- (d) The termination date of the tax incentive agreement, not to exceed thirty (30) years from the activation date;
- (e) Any adjustments to be made to old revenues, in determining incremental revenues during each year of the term of the project grant agreement; and
- (f) Any approved signature project costs;

~~(7)(6)~~ For the purpose of making the determination required by KRS 139.515(2), the authority shall review the projected expenditures for tangible personal property used in the construction of a signature project, as defined in KRS 139.515(1), and shall establish an approximate percentage of the total anticipated expenditures that are not included in the tax incentive agreement as approved public infrastructure costs or approved signature project costs. This percentage shall be communicated by the authority to the Department of Revenue, which shall use the information in administering the sales tax refund permitted by KRS 139.515.

~~(8)(7)~~ If state income taxes or local occupational license taxes are included for a project that includes office space, the authority shall consider the impact of pledging these taxes on the ability to utilize other economic development projects at a later date.

~~(9)(8)~~ The pledge of state incremental tax revenues of the Commonwealth by the authority shall be implemented through the execution of a tax incentive agreement between the Commonwealth and the agency, city, or county in accordance with KRS 154.30-070.

~~(10)(9)~~ Notwithstanding the minimum capital investment of two hundred million dollars (\$200,000,000) required by subsection ~~(3)(2)(b)~~ 1.b. of this section, the authority may, upon application of an agency that:

- (a) Was approved to proceed with a project after January 1, 2008, but before January 1, 2013, that, at the time of approval pledged to make the two hundred million dollars (\$200,000,000) investment requirement; and
- (b) Had a consultant report prepared pursuant to KRS 154.30-030(6);
approve a reduction in the required minimum capital investment to an amount not less than one hundred fifty million dollars (\$150,000,000), subject to a corresponding adjustment of the maximum incremental revenue available for recovery as appropriate, based upon the recommendation of the consultant who prepared the report pursuant to KRS 154.30-030(6).

(11) Notwithstanding any statute to the contrary, if a project had a project grant agreement executed pursuant to KRS 154.30-070 prior to January 1, 2008, but the agreement was withdrawn voluntarily before the project was completed, the project may be revised and resubmitted under subsection (3)(a) of this section.

Section 16. KRS 91A.390 is amended to read as follows:

<< KY ST 91A.390 >>

- (1) (a) The commission shall annually submit to the local governing body or bodies which established it a request for funds for the operation of the commission.
- (b) The local governing body or bodies shall include the commission in the annual budget and shall provide funds for the operation of the commission by imposing a transient room tax on the rent for every occupancy of a suite, room, rooms, cabins, lodgings, campsites, or other accommodations charged by any hotel, motel, inn, tourist camp, tourist cabin, campgrounds, recreational vehicle parks, or any other place in which accommodations are regularly furnished to transients for consideration or by any person that facilitates the rental of the accommodations by brokering, coordinating, or in any other way arranging for the rental of the accommodations as follows:
1. For a local governing body or bodies, other than an urban-county government, the tax rate shall not exceed three percent (3%); and
 2. For an urban-county government, the tax rate shall not exceed four percent (4%).
- (c) In addition to the three percent (3%) levy authorized by paragraph (b)1. of this subsection, the local governing body other than an urban-county government may impose a special transient room tax not to exceed one percent (1%) for the purposes of:
1. Meeting the operating expenses of a convention center; and
 2. In the case of a consolidated local government, financing the renovation or expansion of a convention center that is government-owned and located in the central business district of the consolidated local government, except that if a consolidated local government imposes the special transient room tax authorized under this paragraph on or after August 1, 2014, revenue derived from the levy shall not be used to meet the operating expenses of a convention center until any debt issued for financing the renovation or expansion of a government-owned convention center located in the central business district of the consolidated local government is retired.
- (d) Transient room taxes shall not apply to rooms, lodgings, campsites, or accommodations supplied for a continuous period of thirty (30) days or more to a person.
- (e) The local governing body or bodies that have established a commission by joint or separate action shall enact an ordinance for the enforcement of the tax measure enacted pursuant to this section and the collection of the proceeds of this tax measure on a monthly basis.
- (2) All moneys collected pursuant to this section and KRS 91A.400 shall be maintained in an account separate and unique from all other funds and revenues collected, and shall be considered tax revenue for the purposes of KRS 68.100 and KRS 92.330.
- (3) A portion of the money collected from the imposition of this tax, as determined by the tax levying body, upon the advice and consent of the tourist and convention commission, may be used to finance the cost of acquisition, construction, operation, and maintenance of facilities useful in the attraction and promotion of tourist and convention business, including projects described in KRS 154.30-050(3)(2)(a). The balance of the money collected from the imposition of this tax shall be used for the purposes set forth in KRS 91A.350. Proceeds of the tax shall not be used as a subsidy in any form to any hotel, motel, inn, motor court, tourist camp, tourist cabin, campgrounds, recreational vehicle parks, or any other person furnishing accommodations, or restaurant, except as provided in KRS 154.30-050(3)(2)(a)3.c. Money not expended by the commission during any fiscal year shall be used to make up a part of the commission's budget for its next fiscal year.
- (4) A county with a city of the first class may impose an additional tax, not to exceed one and one-half percent (1.5%) of the rent. This additional tax, if approved by the local governing body, shall be collected and administered in the same manner as the tax authorized by subsection (1)(b) of this section and shall be used for the purpose of funding additional promotion of tourist and convention business.

(5) An urban-county government may impose an additional tax, not to exceed one percent (1%) of the rents included in this subsection. This additional tax shall be collected and administered in the same manner as the tax authorized by subsection (1)(b) of this section with the exception that this additional tax shall be used for the purpose of funding the purchase of development rights program provided for under KRS 67A.845.

(6) Local governing bodies which have formed multicounty tourist and convention commissions as provided by KRS 91A.350(3) may impose an additional tax, not to exceed one percent (1%) of the rents. This additional tax, if approved by each governing body, shall be collected and administered in the same manner as the tax authorized by subsection (1)(b) of this section, with the exception that this additional tax shall be used for the purpose of funding regional efforts relating to the promotion of tourist and convention business and convention centers. In no event shall any revenues collected as provided for under KRS 91A.350(3) be utilized for the construction, renovation, maintenance, or additions to any convention center that is located outside the boundaries of the Commonwealth of Kentucky.

(7) The commission, with the approval of the tax levying body, may borrow money to pay its obligations that cannot be paid at maturity out of current revenue from the transient room tax, but shall not borrow a sum greater than can be repaid out of the revenue anticipated from the transient room tax during the year the money is borrowed. The commission may pledge its securities for the repayment of any sum borrowed.

(8) The fiscal court or legislative body of a consolidated local government or city establishing a commission pursuant to KRS 91A.350(1) or (2) and, in its own name, a commission established pursuant to of KRS 91A.350(1) is authorized and empowered to issue revenue bonds pursuant to KRS Chapter 58 for public projects. Bonds issued for the purposes of KRS 91A.345 to 91A.394, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county, consolidated local government, or city. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS Chapter 58.

(9) A commission established pursuant to KRS 91A.350(3) is authorized and empowered to issue revenue bonds in its own name, payable solely from its income and revenue, pursuant to KRS Chapter 58 for revenue bonds for public projects. Bonds issued for the purposes of KRS 91A.345 to 91A.394, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county. All bonds sold pursuant to this section shall be subject to competitive bidding as provided by law, and shall not bear interest at rates exceeding those for bonds issued for public projects under KRS Chapter 58.

Section 17. KRS 154.30–010 is amended to read as follows:

<< KY ST 154.30–010 >>

As used in this subchapter:

(1) “Activation date” means:

(a) For all projects except those described in paragraph (b) of this subsection, the date established any time within a two (2) year period after the commencement date. The Commonwealth may extend the two (2) year period to no more than four (4) years upon written application by the agency requesting the extension; and

(b) For signature projects approved under KRS 154.30–050(3)(~~2~~)(a), the date established any time within a ten (10) year period after the commencement date.

For all projects established after July 14, 2018, the activation date is the date on which the time period for the pledge of incremental revenues shall commence. To implement the activation date, the minimum capital investment must be met and the agency that is a party to the tax incentive agreement shall notify the office;

(2) “Agency” means:

- (a) An urban renewal and community development agency established under KRS Chapter 99;
- (b) A development authority established under KRS Chapter 99;
- (c) A nonprofit corporation;
- (d) A housing authority established under KRS Chapter 80;
- (e) An air board established under KRS 183.132 to 183.160;
- (f) A local industrial development authority established under KRS 154.50–301 to 154.50–346;
- (g) A riverport authority established under KRS 65.510 to 65.650; or
- (h) A designated department, division, or office of a city or county;

(3) (a) “Approved public infrastructure costs” means costs associated with the acquisition, installation, construction, or reconstruction of public works, public improvements, and public buildings, including planning and design costs associated with the development of ~~these~~ public amenities.

(b) “Approved public infrastructure costs” includes but is not limited to costs incurred for the following:

- 1.(a) Land preparation, including demolition and clearance work;
- 2.(b) Buildings;
- 3.(c) Sewers and storm drainage;
- 4.(d) Curbs, sidewalks, promenades, and pedways;
- 5.(e) Roads;
- 6.(f) Street lighting;
- 7.(g) The provision of utilities;
- 8.(h) Environmental remediation;
- 9.(i) Floodwalls and floodgates;
- 10.(j) Public spaces or parks;
- 11.(k) Parking;
- 12.(l) Easements and rights-of-way;
- 13.(m) Transportation facilities;
- 14.(n) Public landings;

15.(e) Amenities, ~~including such as~~ fountains, benches, and sculptures; and

16.(p) Riverbank modifications and improvements;

(4) “Approved signature project costs” means:

(a) The acquisition of land for portions of the project that are for infrastructure; and

(b) Costs associated with the acquisition, installation, development, construction, improvement, or reconstruction of infrastructure, including planning and design costs associated with the development of infrastructure, including but not limited to parking structures, including portions of parking structures that serve as platforms to support development above; that have been determined by the commission to represent a unique challenge in the financing of a project such that the project could not be developed without incentives intended by this chapter to foster economic development;

(5) “Authority” means the Kentucky Economic Development Finance Authority established by KRS 154.20–010;

(6) “Capital investment” means:

(a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of a project;

(b) The cost of acquiring land or rights in land within the development area on the footprint of the project, and any cost incident thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of a project which is not paid by the contractor or contractors or otherwise provided;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans, specifications, preliminary investigations, supervision of construction, and the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of a project;

(e) All costs that are required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of a project; and

(f) All other costs of a nature comparable to those described in this subsection that occur after preliminary approval;

(7) “City” means any city, consolidated local government, or urban-county government;

(8) “Commencement date” means the final approval date or the date on which a tax incentive agreement is executed;

(9) “Commonwealth” means the Commonwealth of Kentucky;

(10) “County” means any county, consolidated local government, charter county, unified local government, or urban-county government;

(11) “CPI” means the nonseasonally adjusted Consumer Price Index for all urban consumers, all items, base year computed for 1982 to 1984 equals one hundred (100), published by the United States Department of Labor, Bureau of Labor Statistics;

(12) “Department” means the Department of Revenue;

(13) “Development area” means an area established under KRS 65.7049, 65.7051, and 65.7053;

(14) "Economic development projects" means projects which are approved for tax credits under Subchapter 20, 22, 23, 24, 25, 26, 27, 28, 34, or 48 of KRS Chapter 154;

(15) "Financing costs" means principal, interest, costs of issuance, debt service reserve requirements, underwriting discount, costs of credit enhancement or liquidity instruments, and other costs directly related to the issuance of bonds or debt for approved public infrastructure costs or approved signature project costs for projects approved pursuant to KRS 154.30-050;

(16) "Footprint" means the actual perimeter of a discrete, identified project within a development area. The footprint shall not include any portion of a development area outside the area for which actual capital investments are made and must be contiguous;

(17) "Governing body" means the body possessing legislative authority in a city or county;

(18) "Increment bonds" means bonds and notes issued for the purpose of paying the costs of one (1) or more projects;

(19) "Incremental revenues" means:

(a) The amount of revenues received by a taxing district, as determined by subtracting old revenues from new revenues in a calendar year with respect to a development area, or a project within a development area; or

(b) The amount of revenues received by the Commonwealth as determined by subtracting old revenues from new revenues in a calendar year with respect to the footprint;

(20) "Local participation agreement" means the agreement entered into under KRS 65.7063;

(21) "Local tax revenues" has the same meaning as in KRS 65.7045;

(22) "Modified new revenues for income tax" means the amount of individual income tax included in state tax revenues that is:

(a) The result of multiplying the portion of state tax revenues from individual income taxes by the modifier;

(b) Used for calculating state tax revenues in calendar years 2023 to 2026; and

(c) For projects approved prior to January 1, 2023;

(23) "Modifier" means the result of dividing the individual income tax rate of five percent (5%), in effect as of December 31, 2022, by the individual income tax rate under KRS 141.020 for the calendar year in which the new revenues for income tax are being computed;

(24) "New revenues" means:

(a) The amount of local tax revenues received by a taxing district with respect to a development area in any calendar year beginning with the year in which the activation date occurred; and

(b) The amount of state tax revenues received by the Commonwealth with respect to the footprint in any calendar year beginning with the year in which the activation date occurred.

For projects approved prior to January 1, 2023, any state tax revenues received by the Commonwealth from individual income tax shall be computed using modified new revenues for income tax;

(25) "Old revenues" means:

(a) The amount of local tax revenues received by a taxing district with respect to a development area as of December 31 of the year of preliminary approval; or

(b) 1. The amount of state tax revenues received by the Commonwealth within the footprint as of December 31 of the year of preliminary approval. If the authority determines that the amount of state tax revenues received as of December 31 of the last calendar year prior to the commencement of preliminary approval does not represent a true and accurate depiction of revenues, the authority may consider revenues for a period of no longer than three (3) calendar years prior to the year of preliminary approval, so as to determine a fair representation of state tax revenues. The amount determined by the authority shall be specified in the tax incentive agreement. If state tax revenues were derived from the footprint prior to the year of preliminary approval, old revenues shall increase each calendar year by:

- a. The percentage increase, if any, of the CPI or a comparable index; or
- b. An alternative percentage increase that is determined to be appropriate by the authority.

The method for increasing old revenues shall be set forth in the tax incentive agreement;

2. If state revenues were derived from the footprint prior to the year of preliminary approval, the calculation of incremental revenues shall be based on the value of old revenues as increased using the method prescribed in subparagraph 1. of this paragraph to reflect the same calendar year as is used in the determination of new revenues;

(26) "Outstanding" means increment bonds that have been issued, delivered, and paid for by the purchaser, except any of the following:

- (a) Increment bonds canceled upon surrender, exchange, or transfer, or upon payment or redemption;
- (b) Increment bonds in replacement of which or in exchange for which other increment bonds have been issued; or
- (c) Increment bonds for the payment, redemption, or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the ordinance or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, or otherwise, have been deposited, and credited in a sinking fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of increment bonds to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected bond holders has been filed with the issuer or its agent;

(27) "Preliminary approval" means the action taken by the authority preliminarily approving an eligible project for incentives under this subchapter;

(28) "Project" means any property, asset, or improvement located in a development area and certified by the governing body as:

- (a) Being for a public purpose; and
- (b) Being for the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, including the development, rehabilitation, renovation, installation, improvement, enlargement, or extension of real estate and buildings; and
- (c) Contributing to economic development or tourism; and
- (d) Meeting the additional requirements established by KRS 154.30-040, 154.30-050, or 154.30-060;

(29) "Signature project" means a project approved under KRS 154.30-050;

(30) "State real property ad valorem tax" means real property ad valorem taxes levied under KRS 132.020(1)(a);

(31) "State tax revenues" means revenues received by the Commonwealth from one (1) or more of the following sources:

- (a) State real property ad valorem taxes;

(b) Individual income taxes levied under KRS 141.020, other than individual income taxes that have already been pledged to support an economic development project within the development area;

(c) Corporation income taxes levied under KRS 141.040, other than corporation income taxes that have already been pledged to support an economic development project within the development area;

(d) Limited liability entity taxes levied under KRS 141.0401, other than limited liability entity taxes that have already been pledged to support an economic development project within the development area; and

(e) Sales taxes levied under KRS 139.200, excluding sales taxes already pledged for:

1. Approved tourism attraction projects, as defined in KRS 148.851, within the development area; and

2. Projects which are approved for sales tax refunds under Subchapter 20 of KRS Chapter 154 within the development area;

(32) "Tax incentive agreement" means an agreement entered into in accordance with KRS 154.30-070; and

(33) "Termination date" means:

(a) For a tax incentive agreement satisfying the requirements of KRS 154.30-040 or 154.30-060, a date established by the tax incentive agreement that is no more than twenty (20) years from the activation date. However, the termination date for a tax incentive agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the tax incentive agreement relates; and

(b) For a project grant agreement satisfying the requirements of KRS 154.30-050, a date established by the tax incentive agreement that is no more than thirty (30) years from the activation date. However, the termination date for a tax incentive agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the tax incentive agreement relates.

Section 18. KRS 154.30-030 is amended to read as follows:

<< KY ST 154.30-030 >>

(1) The Commonwealth shall offer three (3) tax increment financing participation programs. The first program, the criteria and details of which are set forth in KRS 154.30-040, relates to a pledge of state real property ad valorem taxes only. The second program, the criteria and details of which are set forth in KRS 154.30-050, is the Signature Projects Program. The third program, the criteria and details of which are set forth in KRS 154.30-060, relates to the pledge of state tax revenues to support mixed-use development in blighted urban areas.

(2) (a) A city or county that has established a development area pursuant to KRS 65.7049, 65.7051, and 65.7053, or an agency designated as the entity managing a development area established pursuant to KRS 65.7049, 65.7051, and 65.7053, may submit an application to the authority requesting that the Commonwealth participate in a project.

1. The application shall identify the specific program under which state participation is being requested and shall include the following attachments, in addition to any requirements developed by the authority pursuant to paragraph (b) of this subsection:

a. A copy of the ordinance adopted by the city or county establishing the development area;

b. A copy of the local participation agreement; and

c. Data and information supporting the determinations and findings required by KRS 65.7049.

2. The staff of the authority shall review the application to determine if the applicant has met all of the statutory and regulatory requirements established by this subchapter and shall notify the applicant in writing of its determination. This review shall be preliminary in nature and shall not constitute approval of the request. All applications for participation by the Commonwealth shall be reviewed by the authority for approval.

3. a. Applications meeting all statutory and regulatory requirements requesting participation by the Commonwealth pursuant to KRS 154.30-040, along with any supporting materials, shall be referred by the staff of the authority to the authority for consideration.

b. i. Applicants meeting all statutory and regulatory requirements requesting participation by the Commonwealth pursuant to KRS 154.30-050(3)(2)(b) or 154.30-060 shall be required to submit a report prepared by an independent consultant or financial adviser as described in subsection (6) of this section for the application to be complete. The staff of the authority shall notify ~~these~~ applicants of the report requirements and shall provide information regarding the contents and requirements for the report at the same time it notifies the applicant of the results of its preliminary review.

ii. Upon receipt and review of the report, the staff of the authority shall refer the application and supporting information to the authority for consideration.

(b) Additional standards and requirements for the application process shall be established by the authority through the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(3) (a) The authority may request any materials and make any inquiries concerning an application that the authority deems necessary.

(b) The authority shall, through the promulgation of administrative regulations in accordance with KRS Chapter 13A, establish commercially reasonable limitations on the financing costs that may be recovered under the provisions of KRS 154.30-050.

(4) Upon review of an application and other information available, the authority may pledge all or a portion of the state real property ad valorem tax incremental revenue of the Commonwealth or state tax revenues attributable to the footprint of the project, as limited by KRS 154.30-040, 154.30-050, or 154.30-060, whichever is applicable.

(a) If incremental revenues are pledged from less than one hundred percent (100%) of the footprint of the project, a description of the included portion of the development area shall be provided.

(b) State tax revenues from the development area that have not been pledged to projects within the development area may be used to support other economic development projects or tourism projects approved under KRS 139.536 and 148.851 to 148.860, provided that state tax revenues shall not be pledged more than once during the existence of the development area. Thus, state tax revenues pledged to support increment bonds issued for the development area, or a project in the development area shall not be pledged to support any other development area, project, program, development, or undertaking during the life of the development area. If less than one hundred percent (100%) of incremental revenues are pledged pursuant to the provisions of this subchapter, the remaining incremental revenues shall not be used to support other economic development projects or tourism projects approved under KRS 139.536 and 148.851 to 148.860.

(5) The pledge of incremental state real property ad valorem tax revenues or state tax revenues of the Commonwealth by the authority shall be implemented through the execution of a tax incentive agreement between the Commonwealth and the agency, city, or county, as the case may be, in accordance with KRS 154.30-070.

(6) (a) The authority shall engage the services of a qualified independent outside consultant or financial adviser to analyze the data related to the project and the development area and prepare the report required by subsection (2) of this section. The report shall include the following:

1. The estimated approved public infrastructure costs for the project and, if relevant, approved signature project costs,

financing costs, and costs associated with land preparation, demolition, and clearance;

2. The feasibility of the project, taking into account the scope and location of the project;

3. The estimated amount of local tax revenues and state tax revenues, as applicable, that would be generated by the project over the period, which may be up to twenty (20) years or thirty (30) years, as applicable, from the activation date;

4. The estimated amount of local tax revenues and state tax revenues, as applicable, that would be displaced within the Commonwealth, for the purpose of quantifying economic activity which is being shifted over the same period as that set forth in subparagraph 3. of this paragraph. The projections for displaced activity shall include economic activity that is lost to the Commonwealth as a result of the project, as well as economic activity that is diverted to the project that formerly took place at existing establishments within the Commonwealth prior to the commencement date of the project;

5. The estimated amount of local and state old revenues that would have been generated in the footprint of the project in the absence of the project, computed over the same time period as set forth in subparagraph 3. of this paragraph;

6. In the process of estimating the revenues and impacts prescribed in subparagraphs 3. and 4. of this paragraph, the independent outside consultant shall not consider any of the following:

a. Revenues or economic impacts associated with any projects within the development area where the new project will be located; and

b. Revenues or economic impacts associated with economic development projects and approved Kentucky Tourism Development Act projects under KRS Chapter 148;

7. The relationship of the estimated incremental revenues to the financing needs, including any increment bonds, of the project;

8. When estimating the fiscal impact of the project, the consultant shall evaluate the amount of revenue estimated in subparagraph 3. of this paragraph and shall deduct the amounts estimated in subparagraphs 4. and 5. of this paragraph. The resulting difference shall be compared to the estimated incremental revenues to determine the presence or absence of a positive fiscal impact; and

9. A determination that the project will not occur if not for the designation of the development area, the granting of incremental revenues by the taxing district or districts, other than the Commonwealth, and the granting of the state tax incremental revenues.

(b) 1. The independent consultant or financial advisor shall consult with the Office of State Budget Director, and the Finance and Administration Cabinet in the development of the report.

2. The Office of State Budget Director and the staff of the authority, in collaboration with the independent consultant or financial advisor, shall agree on a methodology to be used and assumptions to be made by the independent consultant or financial consultant in preparing its report.

3. On the basis of the independent consultant's report and the other materials provided, prior to any approval of a project by the authority, the Office of State Budget Director and the Finance and Administration Cabinet shall certify to the authority whether there is a projected net positive economic impact to the Commonwealth and the expected amount of state tax incremental revenues from the project.

4. The city, county, or agency making the application shall pay all costs associated with the independent consultant's or financial advisor's report.

Section 19. KRS 241.010 is amended to read as follows:

<< KY ST 241.010 >>

As used in KRS Chapters 241 to 244, unless the context requires otherwise:

(1) “Alcohol” means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced;

(2) “Alcoholic beverage” means every liquid, solid, powder, or crystal, whether patented or not, containing alcohol in an amount in excess of more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products:

(a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;

(b) Patented, patent, and proprietary medicines;

(c) Toilet, medicinal, and antiseptic preparations and solutions;

(d) Flavoring extracts and syrups;

(e) Denatured alcohol or denatured rum;

(f) Vinegar and preserved sweet cider;

(g) Wine for sacramental purposes; and

(h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use;

(3) (a) “Alcohol vaporizing device” or “AWOL device” means any device, machine, or process that mixes liquor, spirits, or any other alcohol product with pure oxygen or by any other means produces a vaporized alcoholic product used for human consumption;

(b) “Alcohol vaporizing device” or “AWOL device” does not include an inhaler, nebulizer, atomizer, or other device that is designed and intended by the manufacturer to dispense a prescribed or over-the-counter medication or a device installed and used by a licensee under this chapter to demonstrate the aroma of an alcoholic beverage;

(4) “Automobile race track” means a facility primarily used for vehicle racing that has a seating capacity of at least thirty thousand (30,000) people;

(5) “Barrel-aged and batched cocktail” means an alcoholic beverage that is:

(a) Composed of:

1. Distilled spirits that have been dispensed from their original sealed container; and

2. Other ingredients or alcoholic beverages;

(b) Placed into a barrel or container on the premises of a retail licensee; and

(c) Dispensed from the barrel or container as a retail sale by the drink;

(6) “Bed and breakfast” means a one (1) family dwelling unit that:

(a) Has guest rooms or suites used, rented, or hired out for occupancy or that are occupied for sleeping purposes by persons not members of the single-family unit;

(b) Holds a permit under KRS Chapter 219; and

(c) Has an innkeeper who resides on the premises or property adjacent to the premises during periods of occupancy;

(7) “Board” means the State Alcoholic Beverage Control Board created by KRS 241.030;

(8) “Bottle” means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail;

(9) “Brewer” means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either alone or through an agent;

(10) “Brewery” means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept;

(11) “Building containing licensed premises” means the licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership;

(12) “Cannabinoid” means a compound found in the hemp plant Cannabis sativa L. from a United States Department of Agriculture sanctioned domestic hemp production program and does not include cannabinoids derived from any other substance;

(13) “Cannabis-infused beverage”:

(a) Means a properly permitted adult-use cannabinoid liquid product intended for human consumption that has intoxicating properties that change the function of the nervous system and results in alterations of perception, cognition, or behavior and shall not contain more than five (5) milligrams of intoxicating adult-use cannabinoids per twelve (12) ounce serving; and

(b) Shall not include:

1. Medicinal cannabis regulated under KRS Chapter 218B;

2. Any type of hemp tincture; and

3. Any product containing solely nonintoxicating cannabinoids;

~~(14)~~(12) “Caterer” means a person operating a food service business that prepares food in a licensed and inspected commissary, transports the food and alcoholic beverages to the caterer’s designated and inspected banquet hall or to an agreed location, and serves the food and alcoholic beverages pursuant to an agreement with another person;

~~(15)~~(13) “Charitable organization” means a nonprofit entity recognized as exempt from federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec. 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes;

~~(16)~~(14) “Cider” means any fermented fruit-based beverage containing seven percent (7%) or more alcohol by volume and includes hard cider and perry cider;

~~(17)~~(15) “City administrator” means city alcoholic beverage control administrator;

~~(18)~~(16) "Commercial airport" means an airport through which more than five hundred thousand (500,000) passengers arrive or depart annually;

~~(19)~~(17) (a) "Commercial quadricycle" means a vehicle equipped with a minimum of ten (10) pairs of fully operative pedals for propulsion by means of human muscular power and which:

1. Has four (4) wheels;
2. Is operated in a manner similar to that of a bicycle;
3. Is equipped with a minimum of thirteen (13) seats for passengers;
4. Has a unibody design;
5. Is equipped with a minimum of four (4) hydraulically operated brakes;
6. Is used for commercial tour purposes;
7. Is operated by the vehicle owner or an employee of the owner; and
8. Has an electrical assist system that shall only be used when traveling to or from its storage location while not carrying passengers.

(b) A "commercial quadricycle" is not a motor vehicle as defined in KRS 186.010 or 189.010;

~~(20)~~(18) "Commissioner" means the commissioner of the Department of Alcoholic Beverage Control;

~~(21)~~(19) "Consumer" means a person, persons, or business organization who purchases alcoholic beverages and who:

- (a) Does not hold a license or permit issued by the department;
- (b) Purchases the alcoholic beverages for personal consumption only and not for resale;
- (c) Is of lawful drinking age; and
- (d) Receives the alcoholic beverages in territory where the alcoholic beverages may be lawfully sold or received;

~~(22)~~(20) "Convention center" means any facility which, in its usual and customary business, provides seating for a minimum of one thousand (1,000) people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions;

~~(23)~~(21) "Convicted" and "conviction" means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment;

~~(24)~~(22) "County administrator" means county alcoholic beverage control administrator;

~~(25)~~(23) "Department" means the Department of Alcoholic Beverage Control;

~~(26)~~(24) "Dining car" means a railroad passenger car that serves meals to consumers on any railroad or Pullman car company;

~~(27)~~(25) "Discount in the usual course of business" means price reductions, rebates, refunds, and discounts given by wholesalers to distilled spirits and wine retailers pursuant to an agreement made at the time of the sale of the merchandise involved and are considered a part of the sales transaction, constituting reductions in price pursuant to the terms of the sale, irrespective of whether the quantity discount was:

- (a) Prorated and allowed on each delivery;
- (b) Given in a lump sum after the entire quantity of merchandise purchased had been delivered; or
- (c) Based on dollar volume or on the quantity of merchandise purchased;

~~(28)~~(26) “Distilled spirits” or “spirits” means any product capable of being consumed by a human being which contains alcohol obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages;

~~(29)~~(27) “Distiller” means any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky;

~~(30)~~(28) “Distillery” means any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded warehouse;

~~(31)~~(29) “Distributor” means any person who distributes malt beverages for the purpose of being sold at retail;

~~(32)~~(30) “Dry” means a territory in which a majority of the electorate voted to prohibit all forms of retail *alcoholic beverage* sales through a local option election held under KRS Chapter 242;

~~(33)~~(31) “Election” means:

- (a) An election held for the purpose of taking the sense of the people as to the application or discontinuance of alcoholic beverage sales under KRS Chapter 242; or
- (b) Any other election not pertaining to *alcoholic beverage* sales;

~~(34)~~(32) “Horse racetrack” means a facility licensed to conduct a horse race meeting under KRS Chapter 230;

~~(35)~~(33) “Hotel” means a hotel, motel, or inn for accommodation of the traveling public, designed primarily to serve transient patrons;

~~(36)~~(34) “Investigator” means any employee or agent of the department who is regularly employed and whose primary function is to travel from place to place for the purpose of visiting licensees, and any employee or agent of the department who is assigned, temporarily or permanently, by the commissioner to duty outside the main office of the department at Frankfort, in connection with the administration of alcoholic beverage statutes;

~~(37)~~(35) “License” means any license issued pursuant to KRS Chapters 241 to 244;

~~(38)~~(36) “Licensee” means any person to whom a license has been issued, pursuant to KRS Chapters 241 to 244;

~~(39)~~(37) “Limited restaurant” means:

- (a) A facility where the usual and customary business is the preparation and serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its food and alcoholic beverage receipts from the sale of food, which maintains a minimum seating capacity of fifty (50) persons for dining, which has no open bar, which requires that alcoholic beverages be sold in conjunction with the sale of a meal, and which is located in a wet or moist territory under KRS 242.1244; or
- (b) A facility where the usual and customary business is the preparation and serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its food and alcoholic beverage receipts from the sale of food, which maintains a minimum seating capacity of one hundred (100) persons of dining, and which is located in a wet or moist territory under KRS 242.1244;

~~(40)(38)~~ “Local administrator” means a city alcoholic beverage *control* administrator, county alcoholic beverage *control* administrator, or urban-county alcoholic beverage control administrator;

~~(41)(39)~~ “Malt beverage” means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and includes weak cider;

~~(42)(40)~~ “Manufacture” means distill, rectify, brew, bottle, and operate a winery;

~~(43)(41)~~ “Manufacturer” means a winery, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages;

~~(44)(42)~~ “Marina” means a dock or basin providing moorings for boats and offering supply, repair, or other services for remuneration;

~~(45)(43)~~ “Minor” means any person who is not twenty-one (21) years of age or older;

~~(46)(44)~~ “Moist” means a territory in which a majority of the electorate voted to permit limited *alcoholic beverage* sales by any one (1) or a combination of special limited local option elections authorized by KRS Chapter 242;

~~(47)(45)~~ “Population” means the population figures established by the federal decennial census for a census year or the current yearly population estimates prepared by the Kentucky State Data Center, Urban Studies Center of the University of Louisville, Louisville, Kentucky, for all other years;

~~(48)(46)~~ “Premises” means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. “Premises” shall not include as a single unit two (2) or more separate businesses of one (1) owner on the same lot or tract of land, in the same or in different buildings if physical and permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998, shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license;

~~(49)(47)~~ “Primary source of supply” or “supplier” means the distiller, winery, brewer, producer, owner of the commodity at the time it becomes a marketable product, bottler, or authorized agent of the brand owner. In the case of imported products, the primary source of supply means either the foreign producer, owner, bottler, or agent of the prime importer from, or the exclusive agent in, the United States of the foreign distiller, producer, bottler, or owner;

~~(50)(48)~~ “Private club” means a nonprofit social, fraternal, military, or political organization, club, or nonprofit or for-profit entity maintaining or operating a club room, club rooms, or premises from which the general public is excluded;

~~(51)(49)~~ “Private selection event” means a private event with a licensed distiller during which participating consumers, retail licensees, wholesalers, distributors, or a distillery’s own representatives select a single barrel or a blend of barrels of the distiller’s products to be specially packaged for the participants;

~~(52)(50)~~ “Private selection package” means a bottle of distilled spirits sourced from the barrel or barrels selected by participating consumers, retail licensees, wholesalers, distributors, microbreweries that hold a quota retail drink or quota retail package license, or a distillery’s own representatives during a private selection event;

~~(53)(51)~~ “Public nuisance” means a condition that endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by a community or neighborhood or by any considerable number of persons;

~~(54)(52)~~ “Qualified historic site” means:

(a) A contributing property with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served within a commercial district listed in the National Register of Historic Places;

(b) A site that is listed as a National Historic Landmark or in the National Register of Historic Places with dining facilities for

at least fifty (50) persons at tables, booths, or bars where food may be served;

(c) A distillery which is listed as a National Historic Landmark and which conducts souvenir retail package sales under KRS 243.0305; or

(d) A not-for-profit or nonprofit facility listed on the National Register of Historic Places;

~~(55)(53)~~ “Rectifier” means any person who rectifies, purifies, or refines distilled spirits, malt, or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name;

~~(56)(54)~~ “Repackaging” means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made;

~~(57)(55)~~ “Restaurant” means a facility where the usual and customary business is the preparation and serving of meals to consumers, that has a bona fide kitchen facility, and that receives at least fifty percent (50%) of its food and alcoholic beverage receipts from the sale of food at the premises;

~~(58)(56)~~ “Retail container” means any bottle, can, barrel, or other container which, without a separable intermediate container, holds alcoholic beverages and is suitable and destined for sale to a retail outlet, whether it is suitable for delivery or shipment to the consumer or not;

~~(59)(57)~~ “Retail sale” means any sale of alcoholic beverages to a consumer, including those transactions taking place in person, electronically, online, by mail, or by telephone;

~~(60)(58)~~ “Retailer” means any licensee who sells and delivers any alcoholic beverage to consumers, except for manufacturers with limited retail sale privileges and direct shipper licensees;

~~(61)(59)~~ “Riverboat” means any boat or vessel with a regular place of mooring in this state that is licensed by the United States Coast Guard to carry forty (40) or more passengers for hire on navigable waters in or adjacent to this state;

~~(62)(60)~~ “Sale” means any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant, or employee, of any alcoholic beverage;

~~(63)(61)~~ “Service bar” means a bar, counter, shelving, or similar structure used for storing or stocking supplies of alcoholic beverages that is a workstation where employees prepare alcoholic beverage drinks to be delivered to customers away from the service bar;

~~(64)(62)~~ “Sell” includes solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage;

~~(65)(63)~~ “Small farm winery” means a winery whose wine production is not less than two hundred fifty (250) gallons and not greater than five hundred thousand (500,000) gallons in a calendar year;

~~(66)(64)~~ “Souvenir package” means a special package of distilled spirits available from a licensed retailer that is:

(a) Available for retail sale at a licensed Kentucky distillery where the distilled spirits were produced or bottled; or

(b) Available for retail sale at a licensed Kentucky distillery but produced or bottled at another of that distiller’s licensed distilleries in Kentucky;

~~(67)(65)~~ “State administrator” or “administrator” means the distilled spirits administrator or the malt beverages administrator, or both, as the context requires;

~~(68)~~(66) "State park" means a state park that has a:

- (a) Nine (9) or eighteen (18) hole golf course; or
- (b) Full-service lodge and dining room;

~~(69)~~(67) "Supplemental bar" means a bar, counter, shelving, or similar structure used for serving and selling distilled spirits or wine by the drink for consumption on the licensed premises to guests and patrons from additional locations other than the main bar;

~~(70)~~(68) "Territory" means a county, city, district, or precinct;

~~(71)~~(69) "Urban-county administrator" means an urban-county alcoholic beverage control administrator;

~~(72)~~(70) "Valid identification document" means an unexpired, government-issued form of identification that contains the photograph and date of birth of the individual to whom it is issued;

~~(73)~~(71) "Vehicle" means any device or animal used to carry, convey, transport, or otherwise move alcoholic beverages or any products, equipment, or appurtenances used to manufacture, bottle, or sell these beverages;

~~(74)~~(72) "Vintage distilled spirit" means:

- (a) A private selection package; or
- (b) A package or packages of distilled spirits that:
 - 1. Are in their original manufacturer's unopened container;
 - 2. Are not owned by a distillery; and
 - 3. Are not otherwise available for purchase from a licensed wholesaler within the Commonwealth;

~~(75)~~(73) (a) "Vintage distilled spirits seller" means a nonlicensed person at least twenty-one (21) years of age who is:

- 1. An administrator, executor, receiver, or other fiduciary who receives and sells vintage distilled spirits in execution of the person's fiduciary capacity;
- 2. A creditor who receives or takes possession of vintage distilled spirits as security for, or in payment of, debt, in whole or in part;
- 3. A public officer or court official who levies on vintage distilled spirits under order or process of any court or magistrate to sell the vintage distilled spirits in satisfaction of the order or process; or
- 4. Any other person not engaged in the business of selling alcoholic beverages.

(b) "Vintage distilled spirits seller" does not mean:

- 1. A person selling alcoholic beverages as part of an approved KRS 243.630 transfer; or
- 2. A person selling alcoholic beverages as authorized by KRS 243.540;

~~(76)~~(74) "Warehouse" means any place in which alcoholic beverages are housed or stored;

~~(77)~~(75) "Weak cider" means any fermented fruit-based beverage containing more than one percent (1%) but less than seven percent (7%) alcohol by volume;

~~(78)(76)~~ “Wet” means a territory in which a majority of the electorate voted to permit all forms of retail *alcoholic beverage*~~alcohol~~ sales by a local option election under KRS 242.050 or 242.125 on the following question: “Are you in favor of the sale of alcoholic beverages in (name of territory)?”;

~~(79)(77)~~ “Wholesale sale” means a sale to any person for the purpose of resale;

~~(80)(78)~~ “Wholesaler” means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of a retail outlet;

~~(81)(79)~~ “Wine” means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes sake, cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It does not include weak cider; and

~~(82)(80)~~ “Winery” means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded, except a place or premises that manufactures wine for sacramental purposes exclusively.

Section 20. KRS 243.720 is amended to read as follows:

<< KY ST 243.720 >>

(1) (a) There is levied upon the use, sale, or distribution by sale or gift of distilled spirits a tax of one dollar and ninety-two cents (\$1.92) on each wine gallon of distilled spirits, and a proportional rate per gallon on all distilled spirits used, sold, or distributed in any container of more or less than one (1) gallon, but the rate of the excise tax on spirits in retail containers of one-half (1/2) pint shall be twelve cents (\$0.12); and

(b) Notwithstanding the provisions of paragraph (a) of this subsection, distilled spirits placed in containers for sale at retail, where the distilled spirits represent six percent (6%) or less of the total volume of the contents of ~~thesuch~~ containers, shall be taxed at the rate of twenty-five cents (\$0.25) per gallon.

(2) There is levied upon the use, sale, or distribution by sale or gift of wine, a tax of fifty cents (\$0.50) on each gallon of wine, and a proportional rate per gallon on the wine used, sold, or distributed in any container of more or less than one (1) gallon, but the tax shall not be less than four cents (\$0.04) on the sale or distribution of any retail container of wine.

(3) (a) There is levied upon the sale or distribution by sale or gift of malt beverages an excise tax of two dollars and fifty cents (\$2.50) on each barrel of thirty-one (31) gallons and a proportional rate per gallon on malt beverages sold or distributed in any container of more or less than thirty-one (31) gallons;

(b) Each brewer producing malt beverages in this state shall be entitled to a credit of fifty percent (50%) of the tax levied on each barrel of malt beverages sold in this state, up to three hundred thousand (300,000) barrels per annum.

(4) There is levied upon the use, sale, or distribution by sale or gift of cannabis-infused beverages a tax of one dollar and ninety-two cents (\$1.92) on each gallon of a cannabis-infused beverage, and a proportional rate per gallon on all cannabis-infused beverages used, sold, or distributed in any container of more or less than one (1) gallon.

(5) This section shall not apply to:

(a) Wine manufactured, sold, given away, or distributed and used solely for sacramental purposes; or

(b) Distilled spirits and wine purchased by holders of special licenses provided for in KRS 243.320 and purchased and used in the manner authorized by those licenses.

Section 21. KRS 243.730 is amended to read as follows:

<< KY ST 243.730 >>

(1) (a) Wholesalers of distilled spirits and wine shall pay and report the tax levied by KRS 243.720(1) and (2) on or before the twentieth day of the calendar month next succeeding the month in which possession or title of the distilled spirits and wine is transferred from the wholesaler to retailers or consumers in this state, in accordance with ~~administrative rules and regulations promulgated under KRS Chapter 13A of the Department of Revenue~~ designed reasonably to protect the revenues of the Commonwealth.

(b) *1.* Distributors or retailers of malt beverages, who purchase malt beverages directly from a brewer, shall pay and report the tax levied by KRS 243.720(3) on or before the twentieth day of the calendar month next succeeding the month in which the brewer sells, transfers, or passes title of the malt beverage to the distributor or retailer, in accordance with ~~administrative rules and regulations promulgated under KRS Chapter 13A of the Department of Revenue~~ designed reasonably to protect the revenues of the Commonwealth.

2. The credit allowed brewers in this state, under the provisions of KRS 243.720(3)(b), shall flow through to the distributor or retailer who purchases malt beverages directly from the brewer.

3. If a brewer sells, transfers, or passes title to malt beverages to any of its employees for home consumption or to any charitable or fraternal organization pursuant to the provisions of KRS 243.150, the brewer shall be responsible for paying and reporting the tax levied by KRS 243.720(3) in accordance with the provisions of *paragraph (d) of this subsection (e) of this section.*

(c) *Cannabis-infused beverage distributors shall pay and report the tax levied by subsection (4) of Section 20 of this Act on or before the twentieth day of the calendar month next succeeding the month in which possession or title of the cannabis-infused beverages are transferred from the cannabis-infused beverage distributor to retailers or consumers in this state, in accordance with administrative regulations promulgated under KRS Chapter 13A designed reasonably to protect the revenues of the Commonwealth.*

(d) *1.* Every brewer selling, transferring, or passing title to malt beverages to any person in this state other than a distributor or retailer;

2. Every manufacturer of cannabis-infused beverages permitted by the Department for Public Health selling, transferring, or passing title to cannabis-infused beverages to any person in this state other than a distributor or retailer; and

3. Every other person selling, transferring, or passing title of distilled spirits, wine, or malt beverages, or cannabis-infused beverages to distributors, retailers, cannabis-infused beverage licensees, or consumers; shall report and pay the tax levied by KRS 243.720(1), (2), or (3) on or before the twentieth day of the calendar month next succeeding the month in which possession or title of distilled spirits, wine, or malt beverages, or cannabis-infused beverages is transferred to a distributor, retailer, cannabis-infused beverage licensee, or consumer in this state, in accordance with administrative rules and regulations promulgated under KRS Chapter 13A of the Department of Revenue designed reasonably to protect the revenues of the Commonwealth.

(e) ~~(d)~~ Every distributor, retailer, or consumer possessing, using, selling, or distributing distilled spirits, wine, or malt beverages, *or cannabis-infused beverages* in this state upon which the tax levied by KRS 243.720(1), (2), or (3) and KRS 243.884 has not been paid shall be jointly and severally liable for reporting and paying the tax due, in accordance with ~~administrative rules and regulations promulgated under KRS Chapter 13A of the Department of Revenue~~ designed

reasonably to protect the revenues of the Commonwealth. ~~The~~^{Such} liability shall not be extinguished until the tax has been paid to the Department of Revenue.

~~(f)(e)~~ Notwithstanding the provisions of paragraph (a) of this subsection, every owner of a small farm winery shall pay and report the tax levied by KRS 243.720 (1) and (2) on a quarterly basis, in accordance with administrative regulations of the Department of Revenue designed reasonably to protect the revenues of the Commonwealth.

(2) Every wholesaler of distilled spirits or wine before using, selling, or distributing by sale or gift distilled spirits and wine shall ~~register~~^{qualify} with the Department of Revenue.

(3) Every brewer before selling or distributing by sale or gift malt beverages, or before importing malt beverages into the state, shall ~~register~~^{qualify} with the Department of Revenue in ~~a~~^{such} manner as the Department of Revenue may require.

(4) Every manufacturer of cannabis-infused beverages before selling or distributing by sale or gift cannabis-infused beverages, or before importing cannabis-infused beverages into the state, shall:

(a) Obtain a permit as a food manufacturer through the Department for Public Health; and

(b) Register with the Department of Revenue in a manner as the Department of Revenue may require.

Section 22. KRS 243.790 is amended to read as follows:

<< KY ST 243.790 >>

The sale or distribution of alcoholic beverages *or cannabis-infused beverages* manufactured in or imported into this state for shipment permanently out of the state to be sold without the state and consumed without the state shall not be subject to the tax imposed by KRS 243.720. Provided, however, the Department of Revenue may, when necessary for the purpose of control enforcement or protection of revenue, prescribe the conditions under which containers of ~~the~~^{such} alcoholic beverages *or cannabis-infused beverages* for shipment permanently out of the state to be sold without the state and consumed without the state may be kept and trafficked in without payment of the tax.

Section 23. KRS 243.850 is amended to read as follows:

<< KY ST 243.850 >>

(1) For the purpose of assisting in the enforcement of Sections 20, 21, 22, and 24 of this Act~~KRS 243.720 to 243.850 and 243.884 or any amendments thereof~~, every licensee, except retailers, whether subject to the payment of taxes imposed by *Sections 20, 21, 22, and 24 of this Act*~~said sections or any amendments thereof~~, shall, on or before the twentieth day of each month, render to the Department of Revenue a statement, in writing, of all his trafficking in alcoholic beverages *or cannabis-infused beverages* during the preceding month.

(2) The~~Such~~ statement shall:

(a) Be taken directly from the records of the reporting licensee or manufacturer of cannabis-infused beverages permitted by the Department for Public Health, and shall set forth on forms furnished by the Department of Revenue the required~~such~~ information; ~~and as shall be required by it. such statement shall~~

(b) Include alcoholic beverages or cannabis-infused beverages~~alcohol~~ destined for sale outside the state, as well as alcoholic beverages *or cannabis-infused beverages* subject to the tax imposed by *Sections 20, 21, 22, and 24 of this Act*~~KRS 243.720 to 243.850 and 243.884 or any amendments thereof. Provided, that~~

(3) The Department of Revenue shall have authority to require from retail licensees, ~~and other licensees, and manufacturers of cannabis-infused beverages,~~ other reports and statements at ~~the necessary~~ such times as are necessary for the enforcement of *Sections 20, 21, 22, and 24 of this Act* ~~KRS 243.720 to 243.850 and 243.884 or any amendments thereof.~~

Section 24. KRS 243.884 is amended to read as follows:

<< KY ST 243.884 >>

- (1) (a) For the privilege of making “wholesale sales” or “sales at wholesale” of ~~malt beverages~~ beer, wine, or distilled spirits, ~~or cannabis-infused beverages,~~ a tax is hereby imposed upon all wholesalers of wine and distilled spirits, all distributors of ~~malt beverages or beer,~~ *cannabis-infused beverages*, all direct shipper licensees shipping *alcoholic beverages* ~~or beer,~~ *or cannabis-infused beverages* to a consumer at a Kentucky address, all distillers making sales pursuant to KRS 243.0305(3), (4)(a)1. and 2. and (c), (7), (9), (10), (12), and (13), all microbreweries selling malt beverages under KRS 243.157, and all small farm wineries selling wine under KRS 243.155, *and all manufacturers of cannabis-infused beverages permitted by the Department for Public Health.*
- (b) Prior to July 1, 2015, the tax shall be imposed at the rate of eleven percent (11%) of the gross receipts of any ~~such~~ wholesaler or distributor derived from “sales at wholesale” or “wholesale sales” made within the Commonwealth, except as provided in subsection (3) of this section. For the purposes of this section, the gross receipts of a microbrewery making “wholesale sales” shall be calculated by determining the dollar value amount that the microbrewer would have collected had it conveyed to a distributor the same volume sold to a consumer as allowed under KRS 243.157 (3)(b) and (c).
- (c) ~~On and after July 1, 2015,~~ The following rates shall apply *to wholesale sales or sales at wholesale*:
1. For distilled spirits *and cannabis-infused beverages*, eleven percent (11%) ~~of wholesale sales or sales at wholesale; and~~
 2. For wine *and malt beverages*, ~~and beer:~~
 - a. ~~Ten and three quarters of one percent (10.75%) for wholesale sales or sales at wholesale made on or after July 1, 2015, and before June 1, 2016;~~
 - b. ~~Ten and one half of one percent (10.5%) for wholesale sales or sales at wholesale made on or after June 1, 2016, and before June 1, 2017;~~
 - c. ~~Ten and one quarter of one percent (10.25%) for wholesale sales or sales at wholesale made on or after June 1, 2017, and before June 1, 2018; and~~
 - d. ~~ten percent (10%) for wholesale sales or sales at wholesale made on or after June 1, 2018.~~
- (d) ~~On and after March 12, 2021,~~ The following rates shall apply for direct shipper sales:
1. For distilled spirits *and cannabis-infused beverages* shipments, eleven percent (11%) for wholesale sales or sales at wholesale; and
 2. For wine *and malt beverage* ~~and beer~~ shipments, ten percent (10%) for wholesale sales or sales at wholesale.
- (e) For direct shipper sales or sales made pursuant to KRS 243.0305, if a wholesale price is not readily available, the direct shipper licensee or distillery shall calculate the wholesale price to be seventy percent (70%) of the retail price of the alcoholic beverages.

(2) Wholesalers of distilled spirits and wine, distributors of malt beverages, *or cannabis-infused beverages*, microbreweries, distillers, *manufacturers of cannabis-infused beverages permitted by the Department for Public Health*, and direct shipper licensees shall pay and report the tax levied by this section on or before the twentieth day of the calendar month next succeeding the month in which possession or title of the distilled spirits, wine, ~~or~~ malt beverages, *or cannabis-infused beverages* is transferred from the wholesaler or distributor to retailers, or by microbreweries, distillers, *manufacturers of cannabis-infused beverages permitted by the Department for Public Health*, or direct shipper licensees to consumers in this state, in accordance with ~~administrative rules and regulations promulgated under KRS Chapter 13A of the Department of Revenue~~ designed reasonably to protect the revenues of the Commonwealth.

(3) Gross receipts from sales at wholesale or wholesale sales shall not include the following sales:

- (a) Sales made between wholesalers, ~~or between distributors~~, *or between manufacturers of cannabis-infused beverages permitted by the Department for Public Health*;
- (b) Sales from the first fifty thousand (50,000) gallons of wine produced by a small farm winery in a calendar year made by:
 - 1. The small farm winery; or
 - 2. A wholesaler of that wine produced by the small farm winery; and
- (c) Sales made between a direct shipper licensee and a consumer located outside of Kentucky.

SECTION 25. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

The General Assembly declares:

(1) Alternative fuels are vitally important to the Commonwealth because the alternative fuel may:

- (a) Reduce pollution;*
- (b) Improve energy security; and*
- (c) Support the Commonwealth's economy;*

(2) Alternative fuels derived from resources within the Commonwealth, including:

- (a) Ethanol derived from corn;*
 - (b) Biodiesel derived from soybean oil;*
 - (c) Waste streams;*
 - (d) Renewable or zero emissions energy sources;*
 - (e) Gaseous carbon-18 oxides; and*
 - (f) Alternative jet fuels generated by agricultural production facilities in the Commonwealth; reduce undesirable impacts to the environment and provide additional demand for those resources;*
- (3) Environmental benefits resulting from alternative fuels include:*
- (a) Reduced harmful emissions, including carbon dioxide, carbon monoxide, and sulfur; and*
 - (b) Improved air quality by reducing ozone-forming emissions;*

- (4) Alternative fuels may:*
- (a) Stimulate the economy;*
 - (b) Create jobs across the Commonwealth;*
 - (c) Diversify the Commonwealth's energy supply; and*
 - (d) Reduce dependence on imported fuels;*
through the development of a production network in the Commonwealth for consumers in the Commonwealth;
- (5) There are various other benefits which may be achieved, including improved:*
- (a) Performance of vehicles that results in a reduction of operation costs for the citizens of the Commonwealth; and*
 - (b) Transportation systems, including the creation of a sustainable supply; and*
- (6) Its commitment to:*
- (a) A full evaluation of the Commonwealth's jet fuel tax policy positions; and*
 - (b) Furthering research and development to build an alternative fuels policy that may be declared the best in the nation.*

SECTION 26. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

- (1) As used in this section:*
- (a) "Entertainment event":*
 - 1. Means a live performance or exhibition of musical, theatrical, cultural, culinary, or other artistic presentation; and*
 - 2. Does not include sporting events or tournaments;*
 - (b) "Facility operator" means a person who owns or operates a venue;*
 - (c) "Qualifying attraction" means a series of entertainment events which is:*
 - 1. Held at a venue over a duration of at least two (2) consecutive days;*
 - 2. Hosted by a sponsoring entity pursuant to an agreement with a facility operator that authorizes the sponsoring entity to conduct one (1) or more series of entertainment events annually during at least five (5) consecutive years; and*
 - 3. Open to the public upon purchase of tickets, with attendance totaling at least sixty thousand (60,000) admissions over the duration of each series of entertainment events;*
 - (d) "Sponsoring entity" means the person hosting a qualifying attraction; and*
 - (e) "Venue" means:*
 - 1. Public property located in a consolidated local government or an urban-county government which is owned, operated, or controlled by the consolidated local government or urban-county government;*

2. A park located in a consolidated local government that is:

a. Open to the general public; and

b. Owned, operated, or controlled by any nonprofit corporation established under KRS 273.161 to 273.390;

3. Property located in a consolidated local government or an urban-county government that is owned, operated, or controlled by a public university; or

4. Privately owned property located in a consolidated local government or an urban-county government that is suitable for hosting entertainment events and qualifying attractions.

(2) Notwithstanding KRS 134.580 and 139.770:

(a) A sponsoring entity and facility operator shall be granted a sales tax incentive totaling fifty percent (50%) of the Kentucky sales tax generated by the sale of admissions to a qualifying attraction held at a venue, and the sales of tangible personal property and services at the qualifying attraction, including but not limited to the sale of food and beverage concessions, souvenirs, camping, and parking;

(b) The amount of the sales tax incentive authorized in paragraph (a) of this subsection shall be allocated as follows:

1. Fifty percent (50%) shall be paid to the facility operator and utilized to support operations and maintenance at the venue; and

2. Fifty percent (50%) shall be paid to the sponsoring entity of the qualifying attraction from which the sales taxes were generated;

(c) Only one (1) incentive request shall be made for each qualifying attraction each year;

(d) The sponsoring entity and facility operator shall have no obligation to refund or otherwise return any amount of the sales tax incentive to the persons from whom the sales tax was collected;

(e) The sales tax incentive shall be reduced by the vendor compensation allowed under KRS 139.570; and

(f) Interest shall not be allowed or paid on any sales tax incentive payment made under this section.

(3) The department shall accept initial applications for sales tax incentives under this section for qualifying attractions held on or after July 1, 2025.

(4) To be eligible for a sales tax incentive under this section, the sponsoring entity shall file an initial application with the department, which:

(a) Includes sufficient information regarding the qualifying attraction to demonstrate whether it qualifies for the sales tax incentive; and

(b) Is filed at least sixty (60) days prior to the date of the first entertainment event constituting the qualifying attraction.

(5) Within thirty (30) days of receipt of the initial application, the department shall notify the sponsoring entity of its preliminary approval or denial of the qualifying attraction.

(6) If the initial application is denied, the department shall provide the reason for the denial.

(7) After approval of its initial application and the completion of the qualifying attraction, a sponsoring entity shall apply for a sales tax incentive no earlier than thirty (30) days following the end of the month during which sales taxes that were generated from the qualifying attraction are collected. The application may aggregate eligible sales taxes

from previous months if the events comprising the qualifying attraction were held in more than one (1) month.

(8) The department shall review each application for a sales tax incentive and determine if it meets the requirements of this section, pending the verification of required attendance.

(9) In determining eligibility for a sales tax incentive authorized under this section, the department shall waive the duration and attendance requirements listed in subsection (1)(c)1. and 3. of this section if the person requesting an incentive demonstrates that any delays, cancellations, or postponements were due to inclement weather or other extraordinary events beyond the control of the parties involved and that the weather or other extraordinary events rendered the satisfaction of the requirement impossible.

(10) Both the initial application and the sales tax incentive application shall be in the form prescribed by the department through the promulgation of an administrative regulation in accordance with KRS Chapter 13A.

(11) The department shall verify the amount of sales tax incentive and pay the allocations determined to be due in accordance with subsection (2)(b) of this section within forty-five (45) days of receipt of the later of:

(a) The application submitted under subsection (7) of this section; or

(b) All necessary supporting information required by the department to determine that the sponsoring entity is eligible for the incentive.

(12) (a) Prior to November 1, 2026, and continuing each November 1 thereafter to November 1, 2035, the department shall provide an annual report detailing information related to each qualifying attraction receiving incentives during the fiscal year concluding on June 30 of the reporting period.

(b) The department shall include the following information in the report:

1. The name of the qualifying attraction;

2. The venue where the qualifying attraction was held;

3. The name of the facility operator;

4. The name of the sponsoring entity;

5. The duration of the qualifying attraction and the number of admissions over that duration; and

6. The amount of incentive paid to the facility operator; and

7. The amount of incentive paid to the sponsoring entity.

(c) The information required to be reported under this subsection shall not be considered confidential taxpayer information and shall not be subject to KRS Chapter 131 or any other provisions of the Kentucky Revised Statutes prohibiting disclosure or reporting of information.

(13) The provisions of this section shall expire on June 30, 2035, and a qualifying attraction held after June 30, 2035, shall not be eligible for the incentives authorized in this section.

(14) The General Assembly is committed to the research and development of tourism policies, including the aspiration to hold other entertainment events across the Commonwealth and especially in rural Kentucky.

Section 27. KRS 131.190 is amended to read as follows:

<< KY ST 131.190 >>

(1) No present or former commissioner or employee of the department, present or former member of a county board of assessment appeals, present or former property valuation administrator or employee, present or former secretary or employee of the Finance and Administration Cabinet, former secretary or employee of the Revenue Cabinet, or any other person, shall intentionally and without authorization inspect or divulge any information acquired by him or her of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the department or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business.

(2) The prohibition established by subsection (1) of this section shall not extend to:

- (a) Information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws;
- (b) Any matter properly entered upon any assessment record, or in any way made a matter of public record;
- (c) Furnishing any taxpayer or his or her properly authorized agent with information respecting his or her own return;
- (d) Testimony provided by the commissioner or any employee of the department in any court, or the introduction as evidence of returns or reports filed with the department, in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws;
- (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820, or owners of surface land under which the unmined minerals lie, factual information about the owner's property derived from third-party returns filed for that owner's property, under the provisions of KRS 132.820, that is used to determine the owner's assessment. This information shall be provided to the owner on a confidential basis, and the owner shall be subject to the penalties provided in KRS 131.990(2). The third-party filer shall be given prior notice of any disclosure of information to the owner that was provided by the third-party filer;
- (f) Providing to a third-party purchaser pursuant to an order entered in a foreclosure action filed in a court of competent jurisdiction, factual information related to the owner or lessee of coal, oil, gas reserves, or any other mineral resources assessed under KRS 132.820. The department may promulgate an administrative regulation establishing a fee schedule for the provision of the information described in this paragraph. Any fee imposed shall not exceed the greater of the actual cost of providing the information or ten dollars (\$10);
- (g) Providing information to a licensing agency, the Transportation Cabinet, or the Kentucky Supreme Court under KRS 131.1817;
- (h) Statistics of gasoline and special fuels gallonage reported to the department under KRS 138.210 to 138.448;
- (i) Providing any utility gross receipts license tax return information that is necessary to administer the provisions of KRS 160.613 to 160.617 to applicable school districts on a confidential basis;
- (j) Providing documents, data, or other information to a third party pursuant to an order issued by a court of competent jurisdiction;
- (k) Publishing administrative writings on its official website in accordance with KRS 131.020(1)(b); or
- (l) Providing information to the Legislative Research Commission under:
 - 1. KRS 139.519 for purposes of the sales and use tax refund on building materials used for disaster recovery;
 - 2. KRS 141.436 for purposes of the energy efficiency products credits;

3. KRS 141.437 for purposes of the ENERGY STAR home and the ENERGY STAR manufactured home credits;
4. KRS 141.383 for purposes of the film industry incentives;
5. KRS 154.26–095 for purposes of the Kentucky industrial revitalization ~~credit~~~~tax credits~~ and the job assessment fees;
6. KRS 141.068 for purposes of the Kentucky investment fund;
7. KRS 141.396 for purposes of the angel investor~~tax~~ credit;
8. KRS 141.389 for purposes of the distilled spirits credit;
9. KRS 141.408 for purposes of the inventory credit;
10. KRS 141.390 for purposes of the recycling and composting ~~credit~~~~tax credit~~;
11. KRS 141.3841 for purposes of the selling farmer~~tax~~ credit;
12. KRS 141.4231 for purposes of the renewable chemical production~~tax~~ credit;
13. KRS 141.524 for purposes of the Education Opportunity Account Program~~tax~~ credit;
14. KRS 141.398 for purposes of the development area~~tax~~ credit;
15. KRS 139.516 for the purposes of the sales and use tax ~~exemptions~~ ~~forexemption~~ on the commercial mining of cryptocurrency;
16. KRS 141.419 for purposes of the decontamination~~tax~~ credit;
17. KRS 141.391 for purposes of the qualified broadband investment~~tax~~ credit; and
18. KRS 139.499 for purposes of the sales *and use* tax ~~exemption~~~~exemption~~ for a qualified data center project; and
19. *Section 26 of this Act for purposes of the sales and use tax incentive for a qualifying attraction.*

(3) The commissioner shall make available any information for official use only and on a confidential basis to the proper officer, agency, board or commission of this state, any Kentucky county, any Kentucky city, any other state, or the federal government, under reciprocal agreements whereby the department shall receive similar or useful information in return.

(4) Access to and inspection of information received from the Internal Revenue Service is for department use only, and is restricted to tax administration purposes. Information received from the Internal Revenue Service shall not be made available to any other agency of state government, or any county, city, or other state, and shall not be inspected intentionally and without authorization by any present secretary or employee of the Finance and Administration Cabinet, commissioner or employee of the department, or any other person.

(5) Statistics of crude oil as reported to the department under the crude oil excise tax requirements of KRS Chapter 137 and statistics of natural gas production as reported to the department under the natural resources severance tax requirements of KRS Chapter 143A may be made public by the department by release to the Energy and Environment Cabinet, Department for Natural Resources.

(6) Notwithstanding any provision of law to the contrary, beginning with mine-map submissions for the 1989 tax year, the department may make public or divulge only those portions of mine maps submitted by taxpayers to the department pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-out parcel areas. These electronic maps shall not be relied upon to determine actual boundaries of mined-out parcel areas. Property boundaries contained in mine maps required under KRS Chapters 350 and 352 shall not be construed to constitute land surveying or boundary surveys as defined by KRS 322.010 and any administrative regulations promulgated thereto.

Section 28. KRS 154.60–040 is amended to read as follows:

<< KY ST 154.60–040 >>

(1) As used in this section:

(a) *“Actively engaged farmer” means a person who makes a significant contribution of:*

- 1. Land, capital, and equipment to a farming operation; and*
- 2. Active personal labor or management to a farming operation;*

(b) 1. “Agricultural assets” means:

- a. Agricultural land which has been appraised by an individual certified by the Real Estate Appraisers Board created under KRS 324A.015; and
- b. Buildings, facilities, machinery, equipment, agricultural products, or horticultural products, if:
 - i. Owned by the same ~~sellerselling farmer~~ owning the agricultural land sold to *an actively engaged farmer or a beginning farmer*;
 - ii. Purchased at the same time and in the same transaction with the agricultural land; and
 - iii. Purchased with the intent to be used on the purchased agricultural land.

2. “Agricultural assets” does not mean:

- a. A personal residence or any other residential structures; ~~and~~
- b. Any agricultural assets that have been previously included in an approved application for the Kentucky selling farmer tax credit; *and*
- c. Any land which has, is, or will be used in the production of solar power for personal or commercial purposes;*

(c)(b) “Agricultural land” means:

1. Any land located entirely in Kentucky that is zoned or permitted for farming, if the jurisdiction where the land is located has enacted an ordinance for zoning or permitting; and
2. a. Is a tract of land of at least ten (10) contiguous acres in area for a farming operation for agricultural products; or
b. Is a tract of land of at least five (5) contiguous acres in area for a farming operation for aquaculture or horticultural products;

owned by the ~~sellerselling farmer~~ prior to the sale;

(d)(e) “Agricultural products” means:

1. Livestock or livestock products;
2. Poultry or poultry products;
3. Milk or milk products; or

4. Field crops and other crops, including timber if approved by the authority;

~~(e)(d)~~ “Aquaculture” means the farming of fish, crustaceans, mollusks, aquatic plants, algae, or other similar organisms;

~~(f)~~ “*Beginning farmer*” means an actively engaged farmer who has not previously held an ownership interest in agricultural land used for a farming operation for a period exceeding twenty (20) years prior to entering into an agreement to purchase agricultural assets from a seller;

~~(g)~~ “*Buyer*” means an actively engaged farmer or beginning farmer who purchases agricultural assets from a seller;

~~(h)~~ “*Department*” means the Department of Revenue organized under KRS 131.020;

~~(i)(e)~~ “Farm product” means aquaculture, agricultural products, or horticultural products;

~~(j)(f)~~ 1. “Farming operation” means the management and operation of agricultural assets for the purpose of pursuing a profitable commercial business venture to produce agricultural products, horticultural products, or both for sale.

2. “Farming operation” does not mean any:

a. ~~Hobby farm, as determined by the Internal Revenue Service;~~

b. ~~Nonprofit venture;~~

b.e. ~~Farm used primarily for storing agricultural products or horticultural products; or~~

c.d. ~~Farm used to grow or raise agricultural products or horticultural products primarily for use by the immediate family members or owners of the agricultural assets;~~

~~(k)(g)~~ “Horticultural products” means orchards, fruits, vegetables, nuts, flowers, or ornamental plants; ~~and~~

~~(l)(h)~~ “Immediate family member” means any of the following in relation to any owner or spouse of the owner of the agricultural assets:

1. Parent or grandparent;

2. Children or their spouses; or

3. Siblings or their spouses;

~~(m)~~ “*Seller*” means any individual or entity subject to the tax imposed by KRS 141.020 or 141.040 and 141.0401; and

~~(n)~~ “*Significant contribution*” has the same meaning as in 7 C.F.R. sec. 1400.3.

(2) Any incentive offered to an eligible company under the Selling Farmer Tax Credit Program shall be negotiated by Cabinet for Economic Development officials and shall be subject to approval by the authority.

(3) The purpose of the Selling Farmer Tax Credit Program is to promote the continued use of agricultural land in Kentucky for farming purposes by granting a tax credit to a ~~seller~~~~selling farmer~~ who agrees to sell agricultural assets to ~~an actively engaged farmer or~~ a beginning farmer.

(4) A ~~seller~~~~Selling farmers~~ wanting to sell agricultural assets may be eligible for a tax credit up to five percent (5%) of the selling price of qualifying agricultural assets, subject to:

(a) A twenty-five thousand dollar (\$25,000) cap for each taxable year of the ~~seller~~ *when agricultural assets are sold to an actively engaged farmer who does not meet the definition of a beginning*~~selling~~ farmer;

(b) *A fifty thousand dollar (\$50,000) cap for each taxable year of the seller when agricultural assets are sold to a beginning farmer;*

(c) *A one hundred thousand dollar (\$100,000) lifetime cap for each seller selling to an actively engaged farmer; and*

(d) *A two hundred thousand dollar (\$200,000) lifetime cap for each seller selling to a beginning farmer; and*

(e) *A proration by the authority based on the overall cap shared between the Small Business Tax Credit Program and the Selling Farmer Tax Credit Program cap of three million dollars (\$3,000,000) under KRS 154.60-020.*

(5) The tax credit allowed in subsection (4) of this section may be claimed under KRS 141.3841.

(6) In order to be eligible to receive approval for a tax credit, ~~the seller~~*an actively engaged farmer* shall, at a minimum:

- (a) 1. a. Be registered with the Kentucky Secretary of State; and
- b. Be in good standing with the Kentucky Secretary of State; or

2. If not required to be registered with the Kentucky Secretary of State, be a ~~taxpayer~~*resident* of Kentucky;

(b) Prior to a sale of agricultural assets, be a small business with fifty (50) or fewer full-time employees and be the sole legal owner of agricultural assets sold to *an actively engaged farmer or* a beginning farmer;

(c) Not be a farm equipment dealer, livestock dealer, or similar entity primarily engaged in the business of selling agricultural assets for profit and not engaged in farming as a primary business activity;

(d) Not be a bank or any other similar lending or financial institution;

(e) Not be:

1. An owner, partner, member, shareholder, or trustee;
2. A spouse of an owner, partner, member, shareholder, or trustee; *or*
3. An immediate family member of any of the owners, partners, members, shareholders, or trustees;
of the *actively engaged farmer or* beginning farmer to whom the ~~seller~~*an actively engaged farmer* is seeking to sell agricultural assets;

(f) 1. Demonstrate management and operation of real and personal property for the production of a farm product;

2. Execute and effectuate a purchase contract to sell agricultural land with *an actively engaged farmer or* a beginning farmer for an amount evidenced by an appraisal; and

(g) Sell, convey, and transfer ownership of related agricultural assets to *an actively engaged farmer or* a beginning farmer.

(7) In order for the ~~seller~~*an actively engaged farmer* to qualify for the tax credit, *an actively engaged farmer or* a beginning farmer shall, at a minimum:

- (a) 1. a. Be registered with the Kentucky Secretary of State; and
- b. Be in good standing with the Kentucky Secretary of State; or

2. If not required to be registered with the Kentucky Secretary of State, be a resident of Kentucky;

(b) Possess all licenses, registrations, and experience needed to legally operate a farming operation within the jurisdiction for the agricultural land purchased from a ~~the sellerselling farmer~~;

~~(c) Not previously have held an ownership interest in agricultural land used for a farming operation for a period exceeding ten (10) years prior to entering into an agreement to purchase agricultural assets from a selling farmer;~~

~~(d) Not have an ownership interest in any of the agricultural assets included in the transaction with the sellerselling farmer; and~~

~~(d)(e) Provide a majority of the management, and materially participate in the operation of a for-profit farming operation located in Kentucky and purchased from a sellerselling farmer, with the intent to continue a for-profit farming operation on the purchased agricultural land for a minimum of ten (10)five (5) years after the sale date.~~

(8) The ~~sellerselling farmer~~ shall submit an application ~~after consummation of the sale, transfer of title, and conveyance of agricultural assets together~~ with all information necessary for the authority to determine eligibility for the tax credit.

(9) The authority may consider applications prior to the consummation of the sale, transfer of title, and conveyance of agricultural assets.

(10) An application for the selling farmer tax credit shall contain, at a minimum, information about the:

(a) ~~Seller and buyer~~ ~~Selling farmer and purchasing beginning farmer~~ eligibility;

(b) Purchase contract and closing statement;

(c) Documentation, such as a deed, title conveyance for the transfer of assets, including verification of Kentucky residency ~~of the buyer~~; and

(d) Any other information the authority may require to determine eligibility for the credit.

~~(11)(10) For each approved application, the authority shall transmit to the department of Revenue sufficient information about the sellerselling farmer to ensure compliance with this section and KRS 141.3841, including the amount of approved tax credit allowed to the sellerselling farmer.~~

(12) If the buyer fails to meet the requirements of this section, the department shall assess a penalty against the buyer in an amount equal to the tax credit awarded to the seller. The department may assess an additional penalty in excess of the tax credit awarded.

(13) (a) The selling farmer tax credit shall sunset on December 31, 2031, and new applications shall not be accepted or considered on or after December 31, 2031.

(b) All outstanding applications with preliminary or final approval under this subchapter as of December 31, 2031, shall continue to be governed by the provisions of this subchapter.

~~(11) Beginning January 1, 2020, the authority may approve selling farmer tax credits.~~

Section 29. KRS 141.3841 is amended to read as follows:

<< KY ST 141.3841 >>

- (1) The selling ~~farmer~~^{farmers} tax credit permitted by KRS 154.60-040:
- (a) Shall be nonrefundable and nontransferable; and
- (b) May be claimed against the taxes imposed in KRS 141.020 or 141.040 and 141.0401, with the ordering of the credit as provided in KRS 141.0205.
- (2) (a) The maximum amount of credit that may be claimed by a ~~sellerselling~~^{seller} farmer in each taxable year is limited to:
1. No more than the total amount of credit approved by the Kentucky Economic Development Finance Authority;
 2. Twenty-five thousand dollars (\$25,000) *cap for each taxable year of the seller when agricultural assets are sold to an actively engaged farmer who does not meet the definition of a beginning farmer;*
 3. *Fifty thousand dollars (\$50,000) cap for each taxable year of the seller when agricultural assets are sold to a beginning farmer;*
 4. *One hundred thousand dollars (\$100,000) lifetime cap for each seller selling to an actively engaged farmer; and*
 5. *Two hundred thousand dollars (\$200,000) lifetime cap for each seller selling to a beginning farmer in any taxable year; and*
- ~~3. No more than one hundred thousand dollars (\$100,000) total tax credit over the lifetime of the selling farmer.~~
- (b) The credit shall be first claimed on the tax return for the taxable year during which the credit was approved.
- (c) Any unused credit in a taxable year may be carried forward for up to five (5) taxable years and, if not utilized within the five (5) year period, shall be lost.
- (3) In order for the General Assembly to evaluate the fulfillment of the purpose stated in KRS 154.60-040, the department shall provide the following information, on a cumulative basis, for each ~~sellerselling~~^{seller} farmer, for each taxable year:
- (a) The location, by county, of the agricultural assets sold to *an actively engaged farmer or* a beginning farmer and approved for a tax credit under KRS 154.60-040;
- (b) The total amount of tax credit approved by the Kentucky Economic Development Finance Authority for each ~~sellerselling~~^{seller} farmer;
- (c) The amount of tax credit claimed for each ~~sellerselling~~^{seller} farmer in each taxable year; and
- (d) 1. In the case of all taxpayers other than corporations, based on ranges of adjusted gross income of no larger than five thousand dollars (\$5,000) for the taxable year, the total amount of tax credits claimed and the number of returns claiming a tax credit for each adjusted gross income range; and
2. In the case of all corporations, based on ranges of net income no larger than fifty thousand dollars (\$50,000) for the taxable year, the total amount of tax credit claimed and the number of returns claiming a tax credit for each net income range.
- (4) The report required by subsection (3) of this section shall be submitted to the Interim Joint Committee on Appropriations and Revenue beginning no later than November 1, 2021, and no later than each November 1 thereafter, as long as the credit is claimed on any return processed by the department.

Section 30. KRS 141.010 is amended to read as follows:

<< KY ST 141.010 >>

As used in this chapter, for taxable years beginning on or after January 1, 2018:

(1) "Adjusted gross income," in the case of taxpayers other than corporations, means the amount calculated in KRS 141.019;

(2) "Captive real estate investment trust" means a real estate investment trust as defined in Section 856 of the Internal Revenue Code that meets the following requirements:

(a) 1. The shares or other ownership interests of the real estate investment trust are not regularly traded on an established securities market; or

2. The real estate investment trust does not have enough shareholders or owners to be required to register with the Securities and Exchange Commission;

(b) 1. The maximum amount of stock or other ownership interest that is owned or constructively owned by a corporation equals or exceeds:

a. Twenty-five percent (25%), if the corporation does not occupy property owned, constructively owned, or controlled by the real estate investment trust; or

b. Ten percent (10%), if the corporation occupies property owned, constructively owned, or controlled by the real estate investment trust.

The total ownership interest of a corporation shall be determined by aggregating all interests owned or constructively owned by a corporation; and

2. For the purposes of this paragraph:

a. "Corporation" means a corporation taxable under KRS 141.040, and includes an affiliated group as defined in KRS 141.200, that is required to file a consolidated return pursuant to KRS 141.200; and

b. "Owned or constructively owned" means owning shares or having an ownership interest in the real estate investment trust, or owning an interest in an entity that owns shares or has an ownership interest in the real estate investment trust. Constructive ownership shall be determined by looking across multiple layers of a multilayer pass-through structure; and

(c) The real estate investment trust is not owned by another real estate investment trust;

(3) "Commissioner" means the commissioner of the department;

(4) "Corporation" has the same meaning as in Section 7701(a)(3) of the Internal Revenue Code;

(5) "Critical infrastructure" means property and equipment owned or used by communications networks, electric generation, transmission or distribution systems, gas distribution systems, or water or wastewater pipelines that service multiple customers or citizens, including but not limited to real and personal property such as buildings, offices, lines, poles, pipes, structures, or equipment;

(6) "Declared state disaster or emergency" means a disaster or emergency event for which:

(a) The Governor has declared a state of emergency pursuant to KRS 39A.100; or

(b) A presidential declaration of a federal major disaster or emergency has been issued;

(7) "Department" means the Department of Revenue;

(8) “Dependent” means those persons defined as dependents in the Internal Revenue Code;

(9) “Disaster or emergency-related work” means repairing, renovating, installing, building, or rendering services that are essential to the restoration of critical infrastructure that has been damaged, impaired, or destroyed by a declared state disaster or emergency;

(10) “Disaster response business” means any entity:

(a) That has no presence in the state and conducts no business in the state, except for disaster or emergency-related work during a disaster response period;

(b) Whose services are requested by a registered business or by a state or local government for purposes of performing disaster or emergency-related work in the state during a disaster response period; and

(c) That has no registrations, tax filings, or nexus in this state other than disaster or emergency-related work during the calendar year immediately preceding the declared state disaster or emergency;

(11) “Disaster response employee” means an employee who does not work or reside in the state, except for disaster or emergency-related work during the disaster response period;

(12) “Disaster response period” means a period that begins ten (10) days prior to the first day of the Governor’s declaration under KRS 39A.100, or the President’s declaration of a federal major disaster or emergency, whichever occurs first, and that extends thirty (30) calendar days after the declared state disaster or emergency;

(13) “Doing business in this state” includes but is not limited to:

(a) Being organized under the laws of this state;

(b) Having a commercial domicile in this state;

(c) Owning or leasing property in this state;

(d) Having one (1) or more individuals performing services in this state;

(e) Maintaining an interest in a pass-through entity doing business in this state;

(f) Deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state, or deriving income directly or indirectly from a single-member limited liability company that is doing business in this state and is disregarded as an entity separate from its single member for federal income tax purposes; or

(g) Directing activities at Kentucky customers for the purpose of selling them goods or services.

Nothing in this subsection shall be interpreted in a manner that goes beyond the limitations imposed and protections provided by the United States Constitution or Pub. L. No. 86–272;

(14) “Employee” has the same meaning as in Section 3401(c) of the Internal Revenue Code;

(15) “Employer” has the same meaning as in Section 3401(d) of the Internal Revenue Code;

(16) “Fiduciary” has the same meaning as in Section 7701(a)(6) of the Internal Revenue Code;

(17) “Financial institution” means:

(a) A national bank organized as a body corporate and existing or in the process of organizing as a national bank association pursuant to the provisions of the National Bank Act, 12 U.S.C. secs. 21 et seq., in effect on December 31, 1997, exclusive of any amendments made subsequent to that date;

(b) Any bank or trust company incorporated or organized under the laws of any state, except a banker's bank organized under KRS 286.3-135;

(c) Any corporation organized under the provisions of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any corporation organized after December 31, 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997; or

(d) Any agency or branch of a foreign depository as defined in 12 U.S.C. sec. 3101, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any agency or branch of a foreign depository established after December 31, 1997, that meets the requirements of 12 U.S.C. sec. 3101 in effect on December 31, 1997;

(18) "Fiscal year" has the same meaning as in Section 7701(a)(24) of the Internal Revenue Code;

(19) "Gross income":

(a) In the case of taxpayers other than corporations, has the same meaning as in Section 61 of the Internal Revenue Code; and

(b) In the case of corporations, means the amount calculated in KRS 141.039;

(20) "Individual" means a natural person;

(21) "Internal Revenue Code" means for taxable years beginning on or after January 1, ~~2025~~2024, the Internal Revenue Code in effect on December 31, ~~2024~~2023, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, ~~2024~~2023, that would otherwise terminate;

(22) "Limited liability pass-through entity" means any pass-through entity that affords any of its partners, members, shareholders, or owners, through function of the laws of this state or laws recognized by this state, protection from general liability for actions of the entity;

(23) "Modified gross income" means the greater of:

(a) Adjusted gross income as defined in 26 U.S.C. sec. 62, including any amendments in effect on December 31 of the taxable year, and adjusted as follows:

1. Include interest income derived from obligations of sister states and political subdivisions thereof; and

2. Include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);
or

(b) Adjusted gross income as defined in subsection (1) of this section and adjusted to include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);

(24) "Net income":

(a) In the case of taxpayers other than corporations, means the amount calculated in KRS 141.019; and

(b) In the case of corporations, means the amount calculated in KRS 141.039;

(25) "Nonresident" means any individual not a resident of this state;

(26) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(27) "Part-year resident" means any individual that has established or abandoned Kentucky residency during the calendar year;

(28) "Pass-through entity" means any partnership, S corporation, limited liability company, limited liability partnership, limited partnership, or similar entity recognized by the laws of this state that is not taxed for federal purposes at the entity level, but instead passes to each partner, member, shareholder, or owner their proportionate share of income, deductions, gains, losses, credits, and any other similar attributes;

(29) "Payroll period" has the same meaning as in Section 3401(b) of the Internal Revenue Code;

(30) "Person" has the same meaning as in Section 7701(a)(1) of the Internal Revenue Code;

(31) "Registered business" means a business entity that owns or otherwise possesses critical infrastructure and that is registered to do business in the state prior to the declared state disaster or emergency;

(32) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(33) "S corporation" has the same meaning as in Section 1361(a) of the Internal Revenue Code;

(34) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;

(35) "Taxable net income":

(a) In the case of corporations that are taxable in this state, means "net income" as defined in subsection (24) of this section;

(b) In the case of corporations that are taxable in this state and taxable in another state, means "net income" as defined in subsection (24) of this section and as allocated and apportioned under KRS 141.120;

(c) For homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (21) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and

(d) For a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code, except that a captive real estate investment trust shall not be allowed any deduction for dividends paid;

(36) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under administrative regulations prescribed by the commissioner, "taxable year" means the period for which the return is made; and

(37) "Wages" has the same meaning as in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code.

Section 31. KRS 243.027 is amended to read as follows:

<< KY ST 243.027 >>

(1) KRS 243.027 to 243.029 shall supersede any conflicting statute in KRS Chapters 241 to 244.

(2) A direct shipper *Type A* license shall authorize the holder to ship alcoholic beverages to consumers. *A direct shipper Type B license shall authorize the holder to ship cannabis-infused beverages to consumers.* The department shall issue a direct shipper license to a successful applicant that:

(a) Pays ~~the applicable~~ annual license fee of one hundred dollars (\$100);

(b) Is a manufacturer located in this state or any other state, *a cannabis-infused beverage manufacturer licensed by the Department for Public Health*, or an alcoholic beverage supplier licensed under KRS 243.212 or 243.215; and

(c) Holds a current license, permit, or other authorization to manufacture or supply alcoholic beverages *or cannabis-infused beverages* in the state where the applicant is located. If an applicant is located outside of Kentucky, proof of its current license, permit, or other authorization as issued by its home state shall be sufficient proof of its eligibility to hold a direct shipper license in Kentucky.

(3) (a) A manufacturer applicant shall only be authorized to ship ~~alcoholic~~ beverages that are sold under a brand name owned or exclusively licensed to the manufacturer, provided the ~~alcoholic~~ beverages were:

1. Produced by the manufacturer;

2. Produced for the manufacturer under a written contract with another manufacturer; or

3. Bottled *or canned* for or by the manufacturer.

(b) An applicant licensed under KRS 243.212 or 243.215 shall only be authorized to ship alcoholic beverages *or cannabis-infused beverages* for which it is the primary source of supply.

(4) The department shall establish the form for a direct shipper license application through the promulgation of an administrative regulation. These requirements shall include only the following:

(a) The address of the manufacturer or supplier; and

(b) If the applicant is located outside this state, a copy of the applicant's current license, permit, or other authorization to manufacture, store, or supply alcoholic beverages *or cannabis-infused beverages* in the state where the applicant is located.

(5) For purposes of this section, the holder of a direct shipper license may utilize the services of a third party to fulfill shipments, subject to the following:

(a) The third party shall not be required to hold any alcoholic beverage license *or cannabis-infused beverage license*, but no licensed entity shall serve as a third party to fulfill shipments other than the holder of a storage license or transporter's license;

(b) The third party may operate from the premises of the direct shipper licensee or from another business location; and

(c) The direct shipper licensee shall be liable for any violation of KRS 242.250, 242.260, 242.270, or 244.080 that may occur by the third party.

(6) A direct shipper licensee shall:

(a) Agree that the Secretary of State shall serve as its registered agent for service of process. The licensee shall agree that legal service on the agent constitutes legal service on the direct shipper licensee;

(b) Maintain the records required under KRS 243.027 to 243.029 and provide the department and the Department of Revenue access to or copies of these records;

(c) Allow the department or the Department of Revenue to perform an audit of the direct shipper licensee's records or an

inspection of the direct shipper licensee's licensed premises upon request. If an audit or inspection reveals a violation, the department or the Department of Revenue may recover reasonable expenses from the licensee for the cost of the audit or inspection;

(d) Register with the Department of Revenue, and file all reports and pay all taxes required under KRS 243.027 to 243.029; and

(e) Submit to the jurisdiction of the Commonwealth of Kentucky for any violation of KRS 242.250, 242.260, 242.270, or 244.080 or for nonpayment of any taxes owed.

(7) (a) Each direct shipper licensee shall submit to the department and the Department of Revenue a quarterly report for that direct shipper license showing:

1. The total amount of ~~alcoholic~~ beverages shipped into the state per consumer;
2. The name and address of each consumer;
3. The purchase price of the ~~alcoholic~~ beverages shipped and the amount of taxes charged to the consumer for the ~~alcoholic~~ beverages shipped; and
4. The name and address of each common carrier.

(b) The Department of Revenue shall create a form through the promulgation of an administrative regulation for reporting under paragraph (a) of this subsection.

(c) The department shall provide a list of all active direct shipper licensees to licensed common carriers on a quarterly basis to reduce the number of unlicensed shipments in the Commonwealth.

(8) A direct shipper licensee shall submit a current copy of its alcoholic beverage license *or cannabis-infused beverage license* from its home state along with the *applicable* ~~one hundred dollar (\$100)~~ license fee every year upon renewal of its direct shipper license.

(9) Notwithstanding any provision of this section to the contrary, a manufacturer located and licensed in Kentucky may ship by a common carrier holding a Kentucky transporter's license samples of alcoholic beverages produced by the manufacturer in quantities not to exceed one (1) liter, per any recipient, of any individual product in one (1) calendar year of distilled spirits or wine, or ninety-six (96) ounces, per any recipient, of any individual product in one (1) calendar year of malt beverages, to any of the following:

- (a) Marketing or media representatives twenty-one (21) years of age or older;
- (b) Distilled spirits, wine, or malt beverage competitions or contests;
- (c) Wholesalers or distributors located outside of Kentucky;
- (d) Federal, state, or other regulatory testing labs;
- (e) Third-party product formulation and development partners; and
- (f) Persons or entities engaged in a private selection event pursuant to KRS 243.0305.
Such samples shall be marked by affixing across the product label, a not readily removed disclaimer with the words "Sample-Not for Sale" and the name of the manufacturer.

Section 32. KRS 243.030 is amended to read as follows:

<< KY ST 243.030 >>

The following licenses that authorize traffic in distilled spirits and wine *and in cannabis-infused beverages* may be issued by the distilled spirits administrator. Licenses that authorize traffic in all alcoholic beverages may be issued by both the distilled spirits administrator and malt beverages administrator. The licenses and their accompanying fees are as follows:

- (1) Distiller's license:
 - (a) Class A, per annum..... \$3,090.00
 - (b) Class B (craft distillery), per annum..... \$1,000.00
 - (c) Off-premises retail sales outlet, per annum..... \$300.00
- (2) Rectifier's license:
 - (a) Class A, per annum..... \$2,580.00
 - (b) Class B (craft rectifier), per annum..... \$825.00
- (3) Winery license, per annum..... \$1,030.00
- (4) Small farm winery license, per annum..... \$110.00
 - (a) Small farm winery off-premises retail license, per annum \$30.00
- (5) Wholesaler's license, per annum \$2,060.00
- (6) Quota retail package license, per annum..... \$570.00
- (7) Quota retail drink license, per annum \$620.00
- (8) Transporter's license, per annum..... \$210.00

- (9) Special nonbeverage alcohol license, per annum\$60.00
- (10) Special agent's or solicitor's license, per annum\$30.00
- (11) Bottling house or bottling house storage license, per annum..... \$1,030.00
- (12) Special temporary license, per event\$100.00
- (13) Special Sunday retail drink license, per annum\$520.00
- (14) Caterer's license, per annum\$830.00
- (15) Special temporary alcoholic beverage auction license, per event\$100.00
- (16) Extended hours supplemental license, per annum \$2,060.00
- (17) Hotel in-room license, per annum\$210.00
- (18) Air transporter license, per annum\$520.00
- (19) Sampling license, per annum\$110.00
- (20) Replacement or duplicate license\$25.00
- (21) Entertainment destination center license:
 - (a) When the licensee is a city, county, urban-county government, consolidated local government, charter county government, or unified local government, per annum \$2,577.00
 - (b) All other licensees, per annum \$7,730.00
- (22) Limited restaurant license, per annum\$780.00
- (23) Limited golf course license, per annum.....\$720.00

(24)	Small farm winery wholesaler's license, per annum.....	\$110.00
(25)	Qualified historic site license, per annum.....	\$1,030.00
(26)	Nonquota type 1 license, per annum.....	\$4,120.00
(27)	Nonquota type 2 license, per annum.....	\$830.00
(28)	Nonquota type 3 license, per annum.....	\$310.00
(29)	Distilled spirits and wine storage license, per annum.....	\$620.00
(30)	Out-of-state distilled spirits and wine supplier's license, per annum.....	\$1, 550.00
(31)	Limited out-of-state distilled spirits and wine supplier's license, per annum	\$260.00
(32)	Authorized public consumption license, per annum	\$250.00
(33)	Direct shipper <i>Type A</i> license, per annum	\$100.00
(34)	Limited nonquota package license, per annum	\$300.00
(35)	Vintage distilled spirits license, per annum.....	\$300.00
(36)	<i>Cannabis-infused beverage retail package license, per annum.....</i>	<i>\$2,000.00</i>
(37)	<i>Cannabis-infused beverage distributor's license, per annum</i>	<i>\$1,000.00</i>
(38)	<i>Cannabis-infused beverage distributor's license, supplemental, per annum</i>	<i>\$1,000.00</i>
(39)	<i>Direct shipper Type B license, per annum</i>	<i>\$1,000.00</i>

(40) A nonrefundable fee of sixty dollars (\$60) shall be charged to process each new transitional license pursuant to KRS 243.045.

~~(41)~~(37) Other special licenses the board finds necessary for the proper regulation and control of the traffic in distilled spirits and wine and provides for by administrative regulation. In establishing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

~~(42)~~(38) The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary retail drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.

A nonrefundable application fee of fifty dollars (\$50) shall be charged to process each new application under this section, except for subsections (4), (8), (9), (10), (12), (15), (19), and (20) of this section. The application fee shall be applied to the licensing fee if the license is issued; otherwise it shall be retained by the department.

Section 33. KRS 243.040 is amended to read as follows:

<< KY ST 243.040 >>

The following kinds of malt beverage licenses may be issued by the malt beverages administrator, the fees for which shall be:

- (1) Brewer's license, per annum \$2,580.00
- (2) Microbrewery license, per annum \$520.00
- (3) Distributor's license, per annum \$520.00
- (4) Nonquota retail malt beverage package license, per annum \$210.00
- (5) Out-of-state malt beverage supplier's license, per annum \$1,550.00
- (6) Malt beverage storage license, per annum..... \$260.00
- (7) Replacement or duplicate license, per annum \$25.00
- (8) Limited out-of-state malt beverage supplier's license, per annum \$260.00
- (9) Nonquota type 4 malt beverage drink license, per annum \$210.00
- (10) Direct shipper *Type A* license, per annum \$100.00

(11) The holder of a nonquota retail malt beverage package license may obtain a Nonquota type 4 malt beverage drink license for a fee of fifty dollars (\$50). The holder of a Nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage package license for a fee of fifty dollars (\$50).

(12) A nonrefundable fee of sixty dollars (\$60) shall be charged to process each new transitional license pursuant to KRS

243.045.

(13) Other special licenses as the state board finds to be necessary for the administration of KRS Chapters 241 to 244 and for the proper regulation and control of the trafficking in malt beverages, as provided for by administrative regulations promulgated by the state board.

A nonrefundable application fee of fifty dollars (\$50) shall be charged to process each new application for a license under this section. The application fee shall be applied to the licensing fee if the license is issued, or otherwise the fee shall be retained by the department.

Section 34. KRS 154.20–220 is amended to read as follows:

<< KY ST 154.20–220 >>

As used in KRS 154.20–220 to 154.20–229:

(1) “Affiliate” means the following:

- (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;
- (b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;
- (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;
- (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:
 - 1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:
 - a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and
 - b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or
 - 2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;
- (e) A grantor and a fiduciary of any trust;
- (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
- (g) A fiduciary of a trust and a beneficiary of that trust;
- (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;
- (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation, a partnership, or a limited partnership if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership or limited partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership or limited partnership and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership or limited partnership; and
2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company; and

(n) Two (2) or more limited liability companies, if the same persons own more than fifty percent (50%) of the capital interest or are entitled to more than fifty percent (50%) of the capital profits in the limited liability companies;

(2) "Approved company" means an eligible company that has received final approval from the authority;

(3) "Authority" means the Kentucky Economic Development Finance Authority established by KRS 154.20-010;

(4) "Colocation tenant" means an entity that contracts with the owner or operator for space within a qualified data center project;

(5) "Commonwealth" means the Commonwealth of Kentucky;

(6) "Data center equipment":

(a) Means computer equipment and software for the processing, storage, retrieval, or communication of data, used directly and exclusively in a qualified data center project, including but not limited to:

1. a. Servers;
- b. Routers;
- c. Connections;
- d. Monitoring and security systems for the data center equipment;
- e. Fiber optic cabling and network equipment leading to and from the data center project; and
- f. Other enabling machinery, equipment, and hardware;

regardless of whether the property is affixed to or incorporated into real property;

2. Equipment used in the operation of computer equipment or software or for the benefit of the data center project, including component parts, installations, refreshments, replacements, and upgrades, regardless of whether the property is affixed to or incorporated into real property;

3. All equipment necessary for the transformation, generation, distribution, or management of electricity that is required to operate computer server equipment, including substations, generators, uninterruptible energy equipment, supplies, conduit, fuel piping and storage, cabling, duct banks, switches, switchboards, batteries, testing equipment, and backup generators;
4. All equipment necessary to cool and maintain a controlled environment for the operation of the computer servers and other components of the data center project, including chillers, mechanical equipment, refrigerant piping, fuel piping and storage, adiabatic and free cooling systems, cooling towers, water softeners, air handling units, indoor direct exchange units, fans, ducting, and filters;
5. All water conservation systems for the equipment, including facilities or mechanisms that are designed to collect, conserve, and reuse water;
6. All computer server equipment, chassis, networking equipment, switches, racks, fiber optic and copper cabling, trays, and conduit;
7. All monitoring equipment and security systems for the data center project, including security system monitoring services;
8. All software and prewritten computer software access services;
9. Extended warranty services with respect to data center equipment; and
10. Any other tangible personal property that is essential to the operations of the qualified data center project, excluding:
 - a. Electricity used by a qualified data center project; and
 - b. Property used for administrative purposes at the data center project, including office equipment; and

(b) Does not include:

1. Construction equipment; or
2. Building and construction materials permanently incorporated as an improvement to real property;

(7) "Department" means the Department of Revenue;

(8) "Eligible company":

(a) Means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other entity with a qualified data center project; and

(b) Includes an operator, an owner, a project organizer, and a colocation tenant;

(9) "Eligible costs" means expenditures made by the preliminarily approved company or approved company after preliminary approval for the purchase, installation, repair, and replacement of data center equipment for the qualified data center project;

(10) "Final approval" means the action taken by the authority to verify that, on or before the fifth anniversary of the preliminary approval, the minimum capital investment has been made, with respect to the data center project;

(11) "Memorandum of agreement" means the agreement between the eligible company and the authority executed under KRS 154.20–229;

(12) "Operator":

(a) Means any entity, other than an owner, a project organizer, or a colocation tenant:

1. Operating a qualified data center project pursuant to a lease or other contract with the owner; and

2. Responsible for the control, oversight, or maintenance of a data center project; and

(b) Includes:

1. An affiliate of an operator;

2. A licensed property management company;

3. A property lessor; or

4. Any other individual or entity responsible for the control, oversight, or maintenance of a data center project;

(13) "Owner" means an entity, other than a project organizer, holding fee title to a data center project and includes an affiliate of an owner;

(14) "Preliminary approval" means the action taken by the authority to enter into a memorandum of agreement with an eligible company;

(15) "Project organizer" means an entity that:

(a) Solely provides qualified data center infrastructure for a qualified data center project; and

(b) Will enter into or has entered into a separate agreement with another entity for the purchase, use, or operation of the qualified data center infrastructure;

(16) "Qualified data center infrastructure" means providing site development and organization for a qualified data center project, including but not limited to:

(a) An uninterruptible power supply, including electrical substations and backup generators for safety against power disruptions;

(b) Availability of water and natural gas service, including any necessary infrastructure; and

(c) Multiple layers of security, including:

1. Physical security at the data center project, including fencing, entry control and monitoring, or security guards;

2. Infrastructure monitoring, including monitoring for water, power, telecommunications, and internet connectivity; and

3. Environmental control measures, including sensors or responsive equipment for detecting fire, flood, or other natural disasters;

(17) "Qualified data center project":

(a) Means:

1. Providing qualified data center infrastructure;

2. Acquiring, leasing, rehabilitating, expanding, or constructing one (1) or more buildings that:

a. House a group of networked server computers in order to centralize the storage, management, and dissemination of data and information for a single project; and

b. Contain:

- i. Dedicated cooling equipment for the computing machines and related infrastructure;
 - ii. Extra capacity for data redundancy, including the ability to maintain or replace equipment without a system shutdown; and
 - iii. Physically isolated systems to avoid disruption from both planned and unplanned events; or
3. Any combination of the activities described in subparagraphs 1. and 2. of this paragraph;

(b) Has the following minimum capital investment on or before the fifth anniversary of the preliminary approval:

1. For an owner, operator, or colocation tenant, at least:

- a. Four hundred fifty million dollars (\$450,000,000) *if located in a county having a population equal to or greater than one hundred thousand (100,000);*
- b. *One hundred million dollars (\$100,000,000) if located in a county having a population greater than fifty thousand (50,000) but less than one hundred thousand (100,000); or*
- c. *Twenty-five million dollar (\$25,000,000) if located in a county having a population of not more than fifty thousand (50,000);*

determined using the county's population estimate from the most recently available five (5) year American Community Survey as published by the United States Census Bureau at the time of application by the eligible company; or

2. For a project organizer, at least one hundred fifty million dollars (\$150,000,000);

~~(c) Is located within a consolidated local government having a population equal to or greater than five hundred thousand (500,000); determined using the county's population estimate from the most recently available five (5) year American Community Survey as published by the United States Census Bureau at the time of application by the eligible company;~~

~~(d) Does not include any data center project that:~~

1. Will result in the replacement of data centers existing in the Commonwealth;
2. Applies for or accepts any other economic development incentives under KRS Chapter 154; or
3. Benefits from the sales and use tax exemption for the sale or purchase of electricity used in commercial mining of cryptocurrency; and

(18) "Term" means the period of time for which a memorandum of agreement may be in effect, which shall not exceed:

(a) Fifteen (15) years for a qualified data center project of a project organizer; and

(b) For any other qualified data center project:

1. Fifty (50) years for a data center project having a capital investment equal to or greater than four hundred fifty million dollars (\$450,000,000); or
2. Twenty-five (25) years for a data center project having a capital investment less than four hundred fifty million dollars (\$450,000,000).

Section 35. 2025 RS HB 566/EN, Section 3, is amended to read as follows:

(1) There is hereby created and established the Kentucky Horse Racing and Gaming Corporation to regulate all forms of live horse racing, pari-mutuel wagering, sports wagering, breed integrity and development, and on and after July 1, 2025, charitable gaming, in the Commonwealth, exclusive of the state lottery established under KRS Chapter 154A. It shall be an independent, de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a public body corporate and politic. The corporation shall be deemed a public agency within the meaning of KRS 61.805 and 61.870. The corporation shall be managed in such a manner that enables the people of the Commonwealth to benefit from its actions and to enjoy the best possible racing and gaming experiences. The General Assembly hereby recognizes that the operations of racing and gaming are unique activities for state government and that a corporate structure will best enable racing and gaming to be managed in a businesslike manner. It is the intent of the General Assembly that the Kentucky Horse Racing and Gaming Corporation shall be accountable to the Governor, the General Assembly, and the people of the Commonwealth.

(2) (a) 1. The Auditor of Public Accounts shall perform an audit of the corporation once every four (4) years, a copy of which shall be sent to the Governor and the Legislative Research Commission.

2. A different auditing entity that is qualified to evaluate municipal corporations shall conduct an annual audit of the corporation once each year in every year when the Auditor of Public Accounts does not perform an audit. A copy of this audit shall be sent to the Governor and Legislative Research Commission.

3. This first audit conducted under this subsection shall cover fiscal year ~~2024–2025~~~~2026–2027~~.

(b) The corporation shall submit a written annual report to the Governor and the Legislative Research Commission on or before July 1 of each year. The first report shall be due July 1, 2025. The corporation shall file any additional reports requested by the Governor or the Legislative Research Commission. The annual report shall include the following information:

1. The receipts and disbursements of the corporation; and

2. Actions taken by the corporation.

(c) The corporation may submit any additional information and recommendations that the corporation considers useful or that the Governor or the Legislative Research Commission requests.

(3) The Kentucky Horse Racing and Gaming Corporation shall be administered by a board of directors to regulate the conduct of:

(a) Live horse racing;

(b) Pari-mutuel wagering;

(c) Sports wagering;

(d) Charitable gaming on and after July 1, 2025;

(e) Breed integrity and development; and

(f) Related activities within the Commonwealth of Kentucky.

(4) (a) The corporation shall establish and maintain a general office for the transaction of its business and may, in its discretion, establish a branch office or offices.

(b) The corporation may hold meetings at any of its offices or at any other place at its convenience.

(c) A majority of the voting members of the corporation shall constitute a quorum for the transaction of its business or exercise of any of its powers.

(5) Except as otherwise provided, the corporation shall be responsible for the following:

(a) Developing and implementing programs designed to ensure the safety and well-being of horses, jockeys, and drivers;

(b) Developing programs and procedures that will fulfill its oversight and regulatory role on such matters as medical practices and integrity issues;

(c) Recommending tax incentives and implementing incentive programs to ensure the strength and growth of the equine industry;

(d) Designing and implementing programs that strengthen the ties between Kentucky's horse industry and the state's universities, with the goal of significantly increasing the economic impact of the horse industry on Kentucky's economy, improving research for the purpose of promoting the enhanced health and welfare of the horse, and other related industry issues;

(e) Developing and supporting programs which ensure that Kentucky remains in the forefront of equine research;

(f) Designing and implementing programs that support and ensure breed integrity and development;

(g) Developing monitoring programs to ensure the highest integrity of sporting events and sports wagering;

(h) Developing a program to share wagering information with sports governing bodies upon which sports wagering may be conducted. The program shall be designed to assist the corporation in determining potential problems or questionable activity and provide reports to sports governing bodies effectively;

(i) Developing programs and procedures that will fulfill its oversight and regulatory role to ensure the highest integrity in charitable gaming;

(j) Developing programs and procedures that will provide oversight and regulation for all current forms of gaming and wagering;

(k) Annually evaluating the allocation and use of funds among the purposes listed in Section 10 of this Act from unredeemed pari-mutuel vouchers; and

(l) Ensuring that the correct responsibilities are assigned to each of its offices as established in KRS 230.232.

(6) (a) The corporation shall conduct all procurements in accordance with procedures which are not inconsistent with the provisions of KRS Chapter 45A and this chapter; provided, however, that this chapter shall control if and to the extent that any provision in this chapter is expressly inconsistent with any provision of KRS Chapter 45A.

(b) The corporation may promulgate administrative regulations establishing its procurement procedures. If the corporation elects to promulgate administrative regulations establishing its procurement procedures rather than conduct procurements in accordance with KRS Chapter 45A, the corporation may include sections of KRS Chapter 45A as part of its administrative regulations.

(c) Major procurements for personal service contracts shall not be subject to the requirements of KRS 45A.695(2)(b) due to the unique operational activities conducted for state government by the corporation. The corporation's procurement procedures or administrative regulations shall be designed to provide for the purchase of supplies, equipment, services, and construction items that provide the greatest long-term benefit to the state and the greatest integrity for the corporation and the public.

(d) In its bidding and negotiation processes, the corporation may do its own bidding and procurement, or may utilize the

services of the Finance and Administration Cabinet, or a combination thereof. The president of the corporation may, in lieu of the secretary of the Finance and Administration Cabinet, declare an emergency for purchasing purposes.

(7) Corporation records shall be open and subject to public inspection in accordance with KRS 61.870 to 61.884 unless:

(a) A record is exempted from inspection under KRS 61.878;

(b) A record involves a trade secret or other legally protected intellectual property or confidential proprietary information of the corporation or of an applicant, licensee, individual, or entity having submitted information of such character to the corporation, in which case, the portion of the record relating to these subjects may be closed; or

(c) The disclosure of the record could impair or adversely affect the operational security of the corporation in the regulation of matters within its jurisdiction or could impair or adversely impact the operational security of applicants or licensees.

(8) Meetings of the corporation through its board of directors shall be open to the public in accordance with KRS 61.800 to 61.850 unless the exceptions set forth in KRS 61.810 apply or the meeting addresses trade secrets, confidential or proprietary information, or operational security issues as described in subsection (7)(c) of this section. If this is the case, the corporation may meet in closed session and shall follow the procedures set forth in KRS 61.815.

(9) The corporation may participate in all state agency price contracts to the same extent as agencies of the Commonwealth in accordance with KRS 45A.050(3).

(10) (a) The corporation is hereby authorized to accept and expend such moneys as may be appropriated by the General Assembly or such moneys as may be received from any source for effectuating its purposes, including without limitation the payment of the initial expenses of administration and operation of the corporation.

(b) After the transfer to the corporation of any funds appropriated in fiscal year 2024–2025 and fiscal year 2025–2026 for the administration of this chapter and KRS Chapter 238, the corporation shall be self-sustaining and self-funded and moneys in the state general fund shall not be used or obligated to pay the expenses of the corporation.

(11) On July 1, 2024:

(a) The Kentucky Horse Racing and Gaming Corporation shall assume all responsibilities of the Kentucky Horse Racing Commission;

(b) The Kentucky Horse Racing Commission shall be abolished and all employees of the Kentucky Horse Racing Commission are transferred to the corporation; and

(c) All personnel, equipment, and funding shall be transferred from the Kentucky Horse Racing Commission to the Kentucky Horse Racing and Gaming Corporation.

(12) On July 1, 2025:

(a) The office regulating charitable gaming in the Kentucky Horse Racing and Gaming Corporation shall assume all responsibilities of the Department of Charitable Gaming;

(b) The Department of Charitable Gaming shall be abolished and all employees of the Department of Charitable Gaming are transferred to the corporation; and

(c) All personnel, equipment, and funding shall be transferred from the Department of Charitable Gaming to the Kentucky Horse Racing and Gaming Corporation.

(13) Notwithstanding any other law to the contrary, nothing in this chapter or KRS Chapter 238 shall authorize the corporation to:

- (a) Regulate or control horse sales;
- (b) Require the licensure of horse breeders in their capacity as breeders;
- (c) Prohibit or restrict any approved, either by statute or administrative regulation, game or charitable gaming activity in use in the Commonwealth as of July 1, 2025, without action by the Kentucky General Assembly; or
- (d) Exercise jurisdiction over matters within the exclusive national authority of entities designated by the laws of the United States of America.

Section 36. (1) Beginning July 1, 2025, until April 15, 2026, the Kentucky Horse Racing and Gaming Corporation shall not authorize additional locations for the play of electronic charity game tickets beyond the office location of the charitable organization, the location where the charitable organization is licensed to conduct bingo, and the location where pre-approved charitable fundraising events are authorized.

(2) Subsection (1) of this section shall not:

- (a) Prevent electronic charity game ticket activities and electronic charity game ticket locations operating prior to July 1, 2025, from being resupplied or updated; or
- (b) Apply if the corporation promulgates administrative regulations that regulate electronic charity game tickets.

Section 37. The Kentucky Horse Racing and Gaming Corporation may promulgate administrative regulations in accordance with KRS 13A.200 to regulate all activities authorized by KRS Chapters 230 and 238 in contemplation of statutes granting additional authority to the corporation that shall go into effect July 1, 2025.

Section 38. A claim for refund or credit of a tax overpayment for any taxable period made by an amended return, tax refund application, or any other method on or after the effective date of this Act, and based on the amendments to subsection (3) of Section 4 of this Act or subsection (3) of Section 5 of this Act, shall not be recognized for any purpose.

Section 39. Sections 4 and 5 of this Act shall apply retroactively to property assessed on or after December 31, 2022.

Section 40. Sections 19 to 24, 26, and 35 to 37 of this Act take effect on July 1, 2025.

Became law without Governor's signature March 27, 2025.

End of Document

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION



In the Matter of:

ELECTRONIC APPLICATION OF COLUMBIA)	
GAS OF KENTUCKY, INC. FOR AN)	CASE NO.
ADJUSTMENT OF RATES; APPROVAL OF)	2024-00092
DEPRECIATION STUDY; APPROVAL OF TARIFF)	
REVISIONS; AND OTHER RELIEF)	

ORDER

On April 6, 2024, Columbia Gas of Kentucky, Inc (Columbia Kentucky) filed a notice of intent to file an application seeking an adjustment of rates using a forecasted test year. On May 23, 2024¹, Columbia Kentucky filed an application pursuant to KRS 278.180, KRS 278.190, KRS 278.192, and 807 KAR 5:001 requesting (1) approval for an adjustment of rates; (2) approval of a depreciation study and associated rates; and (3) approval of tariff revisions.

BACKGROUND

Columbia Kentucky is a subsidiary of NiSource Gas Distribution Group Inc. (NiSource Distribution), which is a subsidiary of NiSource, Inc (NiSource), a Delaware corporation.² Columbia Kentucky is headquartered in Lexington, Kentucky.³ Columbia Kentucky provides natural gas service to approximately 138,000 residential, commercial,

¹ On May 16, 2024, Columbia Kentucky tendered its application. On May 22, 2024, Columbia Kentucky was notified the application was deficient. On May 23, 2024, Columbia Kentucky resolved the deficiencies, and the application was deemed filed.

² Application at 2.

³ Application at 1.

and industrial customers, in 30 Kentucky counties.⁴ Columbia Kentucky owns and operates approximately 2,600 miles of natural gas pipeline. Columbia Kentucky's most recent general rate case was Case No. 2021-00183.⁵

The Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General); Kentucky Industrial Utility Customers, Inc. (KIUC); and two entities acting jointly, Interstate Gas Supply, Inc. (IGS) and Constellation New Energy-Gas Division (CNEG) (collectively, Joint Intervenors) were granted intervention in this proceeding.⁶ Pursuant to a procedural schedule established on June 5, 2024, Columbia Kentucky filed direct and rebuttal testimony, and responded to multiple rounds of discovery.⁷ By the same Order, the Commission suspended the effective date of the proposed rates for six months, up to and including January 1, 2025. On August 14, 2024, all intervenors filed direct testimony.

By Order dated June 25, 2024, a hearing was scheduled in this matter to begin on October 21, 2024.⁸ Prior to the hearing, on October 14, 2024, a Joint Stipulation, Settlement Agreement, and Recommendation (Joint Settlement) from all parties was filed by Columbia Kentucky into the record along with Joint Settlement testimony from Judy Cooper, Columbia Kentucky's Director of Regulatory Affairs. Additionally, on October 14,

⁴ Application at 1-2.

⁵ Case No. 2021-00183, *Electronic Application of Columbia Gas of Kentucky, Inc. for an Adjustment of Rates; Approval of Tariff Revisions; Issuance of a Certificate of Public Convenience and Necessity; and Other Relief* (Ky. PSC Dec. 28, 2021), Order.

⁶ Order (Ky. PSC June 5, 2024); Order (Ky. PSC June 14, 2024); Order (Ky. PSC June 28, 2024).

⁷ Columbia Kentucky filed responses to discovery on May 30, 2024, July 10, 2024, August 7, 2024, September 11, 2024, October 4, 2024, and November 15, 2024. Columbia Kentucky also filed supplemental responses updating its rate case expense throughout the proceeding.

⁸ Order (Ky. PSC June 25, 2024) at 1.

2024, Columbia Kentucky filed a joint motion to excuse witnesses. On October 17, 2024, Columbia Kentucky filed an Errata to the Joint Settlement Testimony of Judy Cooper. By Order dated October 17, 2024, the Commission excused twelve of the parties' witnesses. A formal hearing was held on October 21, 2024. Columbia Kentucky and the Attorney General responded to one round of post-hearing discovery. On November 20, 2024, Columbia Kentucky and KIUC filed post-hearing briefs. This matter now stands submitted for a decision.

LEGAL STANDARD

Pursuant to KRS 278.030(1), the Commission's statutory obligation when reviewing a rate application is to determine whether the proposed rates are "fair, just and reasonable."⁹ Columbia Kentucky bears the burden of proof to show that the proposed rates are just and reasonable under the requirements of KRS 278.190(3).

Pursuant to KRS 278.2207(1)(a), "services and products provided to the utility by an affiliate shall be priced at the affiliate's fully distributed cost but in no event greater than market or in compliance with the utility's existing USDA, SEC, or FERC approved cost allocation methodology." Further, "[i]n any formal commission proceeding in which cost allocation is at issue, a utility shall provide sufficient information to document that its cost allocation procedures and affiliate transaction pricing are consistent with the provisions of this chapter."¹⁰ If a utility has failed to provide sufficient evidence of its compliance, the

⁹ KRS 278.030; *Pub. Serv. Comm'n v. Com. Ex rel. Conway*, 324 S.W.3d 373, 377 (Ky. 2010).

¹⁰ KRS 278.2209.

Commission may “[o]rder that the costs attached to any transaction be disallowed from rates.”¹¹

Even though Columbia Kentucky, KIUC, Joint Intervenors, and the Attorney General have filed a Joint Settlement that purports to resolve all of the issues in the pending application, the Commission cannot forego its responsibility to determine what constitutes fair, just and reasonable rates. The Commission must review the record in its entirety, including the Joint Settlement, and apply its expertise to make an independent decision as to the level of rates, including terms and conditions of service, that should be approved. To satisfy its statutory obligation, in this case, the Commission has performed its traditional ratemaking analysis, which consists of reviewing the reasonableness of each revenue and expense adjustment proposed or justified by the record.

APPLICATION

Columbia Kentucky proposed the following in its application:

1. Columbia Kentucky proposed to adjust its tariffed rates by an increase of \$23,773,019 in order to continue to provide safe and reliable natural gas service at the lowest reasonable rates to its customers. The proposal would result in an approximate 15.81 percent increase in Columbia Kentucky’s revenue. For the average residential customer consuming 5.5 Mcf of natural gas per month, this will equate to an increase of \$7.28 per month in their average bill.¹²

¹¹ KRS 278.2211(1)(b).

¹² Application at 2.

2. Columbia Kentucky proposed a Return on Equity (ROE) in a range of 10.55 to 11.05 percent. Columbia Kentucky stated that a reasonable point estimate of Columbia Kentucky's cost of equity in the current market environment is 10.80 percent.¹³
3. Columbia Kentucky's proposed cost of capital was 8.01 percent.¹⁴
4. Columbia Kentucky estimated its 13-month average capital structure ratios for the fully forecasted test year as of December 31, 2025 at 45.53 percent long-term debt, 1.83 percent short-term debt, and 52.64 percent equity.¹⁵
5. Columbia Kentucky requested approval of the Depreciation Study prepared by John Spanos. Columbia Kentucky requested that the new depreciation rates become effective on and after the effective date of its new rates.¹⁶
6. Columbia Kentucky requested that the Commission approve the allocation among customer classes and certain changes in the design of its tariffed rates as well as adjust the customer charges to better reflect the underlying costs of providing safe and reliable service.¹⁷
7. Columbia Kentucky proposed to modify the customer charge provision of rate schedule Main Line Delivery Service (MLDS¹⁸) to segment the applicable rate into

¹³ Application, Volume 2, Tab 22, Direct Testimony of Vincent Rea (Rea Direct Testimony) at 3-4.

¹⁴ Rea Direct Testimony at 4.

¹⁵ Rea Direct Testimony, Attachment VVR-6.

¹⁶ Application at 3.

¹⁷ Application at 3.

¹⁸ The rate class for Main Line Delivery Service has been abbreviated as "MLDS" or "DS-ML" throughout the proceeding. For the sake of consistency, the Commission will refer to the Main Line Delivery Service class as "MLDS" in this Order.

two blocks by establishing two different customer charges based upon the customers' Annual Transportation Volume.¹⁹

8. Columbia Kentucky proposed to remove the Late Payment Penalty for residential service currently included in the General Terms, Conditions, Rules and Regulations Tariff, Sheet No. 74.²⁰

9. Columbia Kentucky proposed to continue recovery of Safety Modification and Replacement Program (SMRP) investments through the ongoing SMRP Rider. Columbia Kentucky did not propose to roll SMRP investments into base rates. Columbia Kentucky proposed to modify the provisions of rate schedule SMRP Rider to include uncollectible expense, not recovered through base rates, in the calculation of the revenue requirement of future SMRP filings.²¹

10. Columbia Kentucky proposed to recover its rate case expense over a period of one year.²²

11. Columbia Kentucky proposed to reinstate Tariff Sheet 7a as the State Tax Adjustment Factor (TAAF). This amended tariff would be utilized to implement the effects of future changes in state tax law resulting from the action or inaction of the Kentucky General Assembly. The TAAF could be a collection from, or credit to, customers based upon the state tax law. The TAAF would be set at zero until the effective date of any state tax changes.²³

¹⁹ Application at 3, 10.

²⁰ Application at 3, 9.

²¹ Application at 3, 9.

²² Application at 10.

²³ Application at 3.

JOINT SETTLEMENT

The Joint Settlement reflected the proposed agreement of Columbia Kentucky, Attorney General, KIUC, and Joint Intervenors.²⁴ In its post-hearing brief, Columbia Kentucky stated that the Joint Settlement is the result of constructive negotiations among the parties and provides a balanced resolution to this proceeding.²⁵ Columbia Kentucky argued that the Joint Settlement allows Columbia Kentucky to collect fair, just and reasonable rates that are non-exploitative.²⁶ Columbia Kentucky noted that the Joint Settlement provides a resolution to all matters presented in Columbia's application and does not create new precedent.²⁷ Columbia Kentucky explained that, while no individual party would have agreed to each of these adjustments in isolation, the compromises that were reached were of benefit to each party to the Joint Settlement, including the residential ratepayers whose interests were represented by the Attorney General.²⁸ The Joint Intervenors and the Attorney General did not file a brief.²⁹ KIUC filed a post-hearing brief and reiterated its position in support of the rate design, in particular, as well as the settlement as a whole.³⁰

A summary of the provisions contained in the Joint Settlement is as follows:

- Columbia Kentucky's adjusted base rate revenue requirement for the forecasted test year of January 1, 2025, through December 31, 2025, would be

²⁴ Joint Settlement (filed Oct. 14, 2024); an Errata was filed to the Joint Settlement labeled Supplemental Testimony of Judy Cooper (Cooper Errata Supplemental Testimony) (filed Oct. 17, 2024).

²⁵ Columbia Kentucky's Post-Hearing Brief (filed Nov. 20, 2024) at 8.

²⁶ Columbia Kentucky's Post-Hearing Brief at 8.

²⁷ Columbia Kentucky's Post-Hearing Brief at 8.

²⁸ Columbia Kentucky's Post-Hearing Brief at 22.

²⁹ Joint Intervenors did file a notice of non-filing for a brief (filed Nov. 20, 2024).

³⁰ KIUC's Post-Hearing Brief (filed Nov. 20, 2024).

\$164.671 million. This represents an increase of \$14.313 million over the test year revenue that would be collected at current rates, an overall increase in base rates of 9.52 percent.

- The thirteen-month average rate base for the forecasted test period is \$509.471 million.
- Columbia Kentucky's authorized ROE would be 9.75 percent for natural gas base rates.
- Columbia Kentucky's long-term debt rate included in the cost of capital would be 4.8 percent.
- Columbia Kentucky's short-term debt rate included in the cost of capital would be 5.25 percent.
- Columbia Kentucky's capital structure would be 52.64 percent equity, 45.53 percent long-term debt, and 1.83 percent short-term debt.
- Columbia Kentucky's weighted average cost of capital would be 7.41 percent.
- The adjusted revenue requirement reflects a reduction to rate base of Green Path Rider costs of \$58,277, which reduced the originally proposed revenue requirement by \$0.005 million (or approximately \$5,000); and inclusion of cash working capital in rate base which reduced the originally proposed revenue requirement by \$0.851 million (or approximately \$851,000).
- Columbia Kentucky's adjusted revenue requirement reflects a reduction of long-term incentive compensation, a portion of which is tied to the financial performance of the Company, which reduced the originally proposed revenue requirement by \$1.590 million.
- Columbia Kentucky's adjusted revenue requirement reflects a reduction of short-term incentive compensation and profit sharing costs tied to the financial performance of Columbia Kentucky, which reduced the originally proposed revenue requirement by \$1.609 million.
- Columbia Kentucky's adjusted revenue requirement reflects a reduction of 401(k) contributions for employees who are also covered under a defined benefit plan, which reduced the originally proposed revenue requirement by \$0.296 million (or approximately \$296,000).
- Columbia Kentucky's adjusted revenue requirement reflects a reduction of Pension Restoration Plan expenses, which reduced the originally proposed revenue requirement by \$0.006 million (or approximately \$6,000).

- Columbia Kentucky's adjusted revenue requirement reflects a reduction of Supplemental Executive Retirement Plan (SERP) costs, which reduced the originally proposed revenue requirement by \$0.054 million (or approximately \$54,000).
- Columbia Kentucky's adjusted revenue requirement reflects a reduction of American Gas Association (AGA) Dues, which reduced the originally proposed revenue requirement by \$0.021 million (or approximately \$21,000).
- Columbia Kentucky's adjusted revenue requirement reflects a reduction of Green Path Rider amortization expense, which reduced the originally proposed revenue requirement by \$0.020 million (or approximately \$20,000).
- Columbia Kentucky should recover its actual rate case expense, to be determined in its final monthly adjustment to be filed on or before November 30, 2024, over a three-year period, without carrying charges, and may be deferred, amortized, and recovered beginning on the effective date of the revised tariffs.
- Columbia Kentucky agreed to withdraw its proposal for a State Tax Act Adjustment Factor Tariff.
- Columbia Kentucky agreed to withdraw its proposal for an ROE applied to capital recovered by the SMRP Rider to be equal to that of the ROE applied to base rates. Columbia Kentucky agreed to include this request as part of its annual SMRP filing in Case No. 2024-00328.³¹
- Subject to the exclusions set forth below, Columbia Kentucky agreed to not file an application to adjust the base rates where such adjustment would have an effective date at the conclusion of the Commission's suspension period under KRS 278.190, for service rendered prior to Unit 1 of Columbia Kentucky's January 2027 billing cycle. The parties agreed that Columbia Kentucky may file an application prior to January 1, 2027, provided the effective date of rates, once suspended by the Commission, in accordance with KRS 278.190, are not effective for service rendered prior to Unit 1 of Columbia Kentucky's January 2027 billing cycle. Notwithstanding the base rate stay-out commitment described above, Columbia Kentucky retained the right, at any time, to seek approval from the Commission of the following:
 - The deferral of costs, as permissible, under the Commission's standard for deferrals, including:

³¹ Case No. 2024-00328, *Electronic Application of Columbia Gas of Kentucky, Inc. for Its Annual Safety Modification and Replacement Program Filing* (filed Oct. 15, 2024).

- An extraordinary, nonrecurring expense which could not have reasonably been anticipated or included in the utility's planning;
 - An expense resulting from a statutory or administrative directive;
 - An expense in relation to an approved industry initiative; or
 - An extraordinary or nonrecurring expense that over time will result in a savings that fully offsets the costs.
- Emergency rate relief under KRS 278.190(2) to avoid a material impairment or damage to credit or operations;
 - Adjustments to the operation of any of Columbia Kentucky's now existing, or future, cost recovery surcharge mechanisms (e.g., Gas Cost Adjustment, Weather Normalization Adjustment, Energy Efficiency and Conservation Rider, Rider SMRP, Local Franchise Fees and Taxes, etc.); and
 - During the effective stay-out period, Columbia Kentucky reserves the right to seek necessary rate relief and/or accounting treatment for costs or programs required due to changes in law or regulations, including but not limited to, changes in tax rates, or changes to existing, or implementation of new, environmental (e.g., federal or state Environmental Protection Agency rules) or safety (e.g., United States Pipeline and Hazardous Materials Safety Administration rules or state administrative pipeline safety rules) compliance costs applicable to natural gas operations that may occur during the stay-out period.
- All other tariff changes proposed in the Columbia Kentucky's application, including the inclusion of uncollectible expense into the SMRP and the removal of the Late Payment Penalty for residential service, should be approved.
 - Columbia Kentucky prepared proof of revenue sheets to demonstrate that the rates set forth in the tariffs will generate the revenue needed to recover the test year revenue requirement to which the parties have agreed.
 - The revenue requirement would be allocated among Columbia Kentucky's rate classes as proposed in the application, with one exception. Any increase resulting from this proceeding in Rate DS would be allocated in equal portions to the first two block usage rates of Rate DS. The proposed allocation by class is as follows:

Allocation of Revenue Increase by Rate Class				
GSR/GTR	GSO/GTO/GDS	IS/DS	IUS	MLDS
64.660%	27.626%	7.478%	0.012%	0.224%

- The rate schedule for Rate MLDS will include two separate customer charges based on the customer's annual transportation volume. MLDS customers who use up to 400,000 Mcf of gas in a year would be assessed a \$300 per month charge while a MLDS customer who uses over 400,000 Mcf of gas in a year would be assessed \$600 per month.
- The monthly Residential customer charge will be \$21.25 per billing period, which is an increase of \$1.50 from the current customer charge of \$19.75 per billing period and a reduction of \$5.75 from the originally proposed customer charge of \$27.00.
- All other requests in Columbia Kentucky's application should be approved.
- In addition to the \$21,500 committed in calendar year 2024, Columbia Kentucky agreed to contribute an additional \$50,000 to low-income energy assistance in 2024. In calendar year 2025, Columbia Kentucky agreed to contribute \$50,000 to low-income energy assistance. In calendar 2026, Columbia Kentucky agreed to contribute \$50,000 to low-income energy assistance. Columbia explained that these contributions are to be derived from the shareholder profits.
- Columbia Kentucky's Depreciation Study and related accounting treatments should be approved with an effective date of the new depreciation rates to be the same day that Columbia Kentucky's new base rates become effective.
- The Suppliers' discount, as it relates to Columbia Kentucky's Choice Program, on accounts receivable in recognition of Columbia Kentucky's risk shall be reduced from 2.0 percent to 1.75 percent. The Parties agreed that the Commission schedule the next meeting of the working group ordered in Case No. 2021-00386³² during the week of April 13, 2025 or the week of April 20, 2025.

TEST PERIOD

Columbia Kentucky used, as its forecasted test period, the 12-month period ending December 31, 2025, and a base period that was the 12-months ending August 31, 2024, including actual data for the period September 1, 2023, through February 29, 2024, and

³² Case No. 2021-00386, *Electronic Tariff Filing of Columbia Gas of Kentucky, Inc. to Extend Its Small Volume Gas Transportation Service* (Ky. PSC Aug. 7, 2024).

forecasted data for the period March 1, 2024, through August 31, 2024.³³ Columbia Kentucky provided detailed monthly income statements for each forecasted month of the base period as the data became available.

None of the intervenors contested the use of this period as the test period or suggested an alternative test period. The Commission otherwise finds Columbia Kentucky's forecasted test period to be consistent with the provisions of KRS 278.192 and KAR 5:001, Sections 16(6), (7), and (8). Therefore, the Commission accepts the forecasted test period proposed by Columbia Kentucky for use in this proceeding.

VALUATION

Pursuant to KRS 278.290(1), the Commission is empowered to "ascertain and fix the value of the whole or any part of the property of any utility," and, in doing so, is given guidance by the legislature "in establishing value of utility property in connection with rates," and the Commission must "give due consideration" to a number of factors, including capital structure, original cost and "other elements of value recognized by law" in order to ascertain the value of any property under KRS 278.290 "for rate-making purposes." In its application, Columbia Kentucky proposed to use the rate base method to calculate its revenue requirement and required increase.³⁴ As explained below, the Commission has weighed the evidence filed in the case and in support of the Joint Settlement and finds that Columbia Kentucky's base rates should be based on a 13-month average test period rate base of \$509.471 million.³⁵

³³ Application at 4-5.

³⁴ Application, Volume 8, Tab 79, Schedule A.

³⁵ Joint Settlement at 3.

DISCUSSION AND FINDINGS

Having reviewed the evidence and being sufficiently advised, the Commission accepts the Joint Settlement as discussed below. The Joint Settlement, as a whole, results in fair, just and reasonable rates. However, the Commission's decision to accept the terms of the Joint Settlement does not constitute approval of any individual item and is not intended to create precedent for similar items in future rate cases, whether the applicant be Columbia Kentucky or a different utility.

REVENUE REQUIREMENT

Proposed Adjustments

In its application, Columbia Kentucky presented its adjustments in multiple steps.³⁶ First, the unadjusted base period included actual costs from September 2023 through February 2024 and forecasted costs from March 2024 through August 2024 based on Columbia Kentucky's unadjusted budget. The adjusted base period included adjustments to remove 2024 SMRP revenues and expenses and misclassified Operating and Maintenance (O&M) expenses. Then, Columbia Kentucky made adjustments to bring the adjusted base period to the unadjusted forecasted period of January 2025 to December 2025, based on the 2025 budget. Finally, Columbia Kentucky proposed ratemaking adjustments to the unadjusted forecasted period to find the adjusted forecasted period.

³⁶ Columbia Kentucky's Response to Deficiency Letter (filed May 23, 2024) at unnumbered pages 1-2.

Rate Base Adjustments

Cash Working Capital (CWC). For the forecasted test-year, Columbia Kentucky calculated a CWC reduction to rate base of \$9.746 million using a lead/lag study.³⁷ Columbia Kentucky also calculated a CWC increase to rate base of \$6.608 million using the 1/8th O&M expense formula.³⁸ Rather than applying either adjustment, Columbia Kentucky made none. Columbia Kentucky stated that it would not use the calculated CWC adjustment because the results of the two methods used to calculate the CWC, mentioned above, varied significantly.³⁹ Columbia Kentucky also stated that accumulated deferred income taxes (ADIT) of \$3.491 million were associated with cash working capital but removed to match Columbia Kentucky's request for zero CWC adjustment.⁴⁰

The Attorney General disagreed with Columbia Kentucky's rationale of not making a CWC adjustment.⁴¹ The Attorney General cited to Columbia Kentucky's previous rate case where the Commission ordered Columbia Kentucky to perform a lead/lag study excluding noncash items and balance sheet adjustments.⁴² The Attorney General then cited to previous Commission orders where the Commission stated that the most accurate way to determine the CWC component of rate base is a lead/lag study.⁴³ The Attorney

³⁷ Application, Volume 3, Tab 25, Direct Testimony of Kevin L. Johnson (Johnson Direct Testimony) at 16.

³⁸ Johnson Direct Testimony at 17.

³⁹ Johnson Direct Testimony at 17.

⁴⁰ Application, Volume 8, Tab 80, Schedule B-1.

⁴¹ Attorney General's Direct Testimony of John Defever (Defever Direct Testimony) (filed Aug. 14, 2024) at 7.

⁴² Defever Direct Testimony at 7 *citing* Case No. 2021-00183, Dec. 28, 2021 Order at 14.

⁴³ Defever Direct Testimony at 7 *citing* Case No. 2021-00190, *Electronic Application of Duke Energy Kentucky, Inc. for 1) An Adjustment of the Natural Gas Rates; 2) Approval of New Tariffs, and 3)*

General noted a Commission order where the Commission stated that, for a significant number of years, the Commission has routinely determined a utility's CWC needs, assuming the use of rate base to determine the revenue requirement, using the lead/lag methodology.⁴⁴ The Attorney General recommended using a \$9.402 million working capital reduction to rate base which would have reduced Columbia Kentucky's revenue requirement by \$0.926 million.⁴⁵ The Attorney General's adjustment included interest synchronization but did not include ADIT related to CWC.⁴⁶

In the Joint Settlement, the Parties agreed to apply a \$0.851 million reduction to the revenue requirement to reflect the inclusion of CWC in rate base based on the lead/lag study.⁴⁷ Columbia Kentucky confirmed that the adjustment excluded interest synchronization⁴⁸ and ADIT.⁴⁹

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that this provision of the Joint Settlement is reasonable and should be

All Other Required Approvals, Waivers, and Relief (Ky. PSC Dec. 28, 2021), Order at 15; Case No. 2021-00214, *Electronic Application of Atmos Energy Corporation for An Adjustment of Rates*, (Ky. PSC May 19, 2022), Order at 20; Case No. 2022-00147, *Electronic Application of Water Service Corporation of Kentucky for a General Adjustment in Existing Rates and a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure* (Ky. PSC April 12, 2023), Order at 18; Case No. 2023-00191, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, A Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure, Approval of Regulatory and Accounting Treatments, and Tariff Revisions* (Ky. PSC May 3, 2024), Order at 9.

⁴⁴ Defever Direct Testimony at 7.

⁴⁵ Defever Direct Testimony at 8. The Attorney General's proposed CWC amount included changes to O&M expenses to match proposed adjustments in those expenses.

⁴⁶ Cooper Errata Supplemental Testimony at 8 and Columbia Kentucky's Response to Commission Staff's Post-Hearing Request for Information (Staff's Post-Hearing Request) (filed November 15, 2024), Item 16a.

⁴⁷ Cooper Errata Supplemental Testimony at 7.

⁴⁸ Cooper Errata Supplemental Testimony at 8.

⁴⁹ Columbia Kentucky's Response to Staff's Post-Hearing Request, Item 16a.

approved. As noted by the Attorney General, the Commission has consistently held that the most accurate method of estimating CWC is a lead/lag study that excludes non-cash items. The Commission will only set CWC to zero in the absence of a correctly completed lead/lag study.⁵⁰ In this case, Columbia Kentucky filed an acceptably completed lead/lag study, and the results of that study should be used to set the CWC component of rate base. Additionally, because the ADIT related to CWC does not stem from accelerated depreciation,⁵¹ there are no normalization violations from excluding those amounts from the adjustment.

Customer Deposits. Columbia Kentucky proposed no adjustments to its customer deposits. The Attorney General asked Columbia Kentucky about its deposits and the monthly deposit amounts.⁵² Columbia Kentucky confirmed that it did not include the deposits in rate base.⁵³ However, the Attorney General asserted that Columbia Kentucky did include the accompanying interest in base rates. Therefore, the Attorney General recommended that the Commission should either include the deposits in rate base or exclude the accompanying interest expense.⁵⁴

⁵¹ Columbia Kentucky's Response to Staff's Post-Hearing Request, Item 16b.

⁵¹ Columbia Kentucky's Response to Staff's Post-Hearing Request, Item 16b.

⁵² Columbia Kentucky's Response to Attorney General's First Request for Information (Attorney General's First Request), Item 67.

⁵³ Columbia Kentucky's Response to Attorney General's First Request, Item 67(a).

⁵⁴ Defever Direct Testimony at 8-11.

Columbia Kentucky provided rebuttal testimony on the issue, clarifying that both customer deposits and the corresponding interest were excluded from base rates.⁵⁵ The Joint Settlement did not accept the adjustment as proposed by the Attorney General.⁵⁶

However, the Commission will accept the Joint Settlement on this issue considering the evidence supports that Columbia Kentucky did not include customer deposits in rate base or interest expense in the forecasted test year.

Green Path Rider. Columbia Kentucky proposed no adjustments to its Green Path Rider, which was denied in Case No. 2022-00049⁵⁷. Commission Staff asked about the miscellaneous software investment related to the Green Path Rider.⁵⁸ Columbia Kentucky stated that miscellaneous software investment was related to work needed to bill and provide reporting capabilities prior to the Commission's denial of Columbia Kentucky's request for approval of the Rider on October 30, 2023.⁵⁹

In the Joint Settlement, the Parties agreed to a \$0.005 million (or approximately \$5,000) reduction of Columbia Kentucky's originally proposed revenue requirement for the return component, and a \$0.020 million (or approximately \$20,000) revenue requirement reduction to remove the related amortization expense.⁶⁰

⁵⁵ Columbia Kentucky's Rebuttal Testimony of Jeffrey Gore (Gore Rebuttal Testimony) (filed Sept. 20, 2024) at 2-3.

⁵⁶ Joint Settlement, Attachment A.

⁵⁷ Case No. 2022-00049, *Electronic Application of Columbia Gas of Kentucky, Inc for Approval of the Green Path Rider Program* (Ky. PSC Oct. 30, 2023), Order.

⁵⁸ Columbia Kentucky's Response to Commission Staff's Fifth Request for Information (Staff's Fifth Request), Item 5.

⁵⁹ Columbia Kentucky's Response to Staff's Fifth Request, Item 5.

⁶⁰ Cooper Errata Supplemental Testimony at 7.

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that this provision of the Joint Settlement is reasonable and should be approved

O&M Adjustments

Rate Case Expense. Columbia Kentucky proposed to remove the annual amortization rate case expense from Case No. 2021-00183⁶¹ of \$0.197 million and included an estimated rate case expense of \$1.142 million.⁶² Columbia Kentucky proposed to amortize this expense over a one-year period.⁶³

The Attorney General disagreed with the use of a one-year amortization period, stating that, Columbia Kentucky will collect the rate case expense annually until rates are reset.⁶⁴ The Attorney General cited to the fact that Columbia Kentucky does not presently plan to file a rate case in 2025.⁶⁵ The Attorney General used the last six rate cases to determine that, on average, Columbia Kentucky has 3.4 years between filings.⁶⁶ Based on this, the Attorney General proposed amortizing Columbia Kentucky's proposed rate case expense of \$1.142 million over three years or approximately \$381,000 annually.⁶⁷ The Attorney General stated that this would reduce the revenue requirement by

⁶¹ Case No. 2021-00183, Dec. 28, 2021 Order.

⁶² Application, Volume 8, Tab 82, Schedule D at 28 (Schedule D-2.6F).

⁶³ Application, Volume 8, Tab 82, Schedule D-2.6F.

⁶⁴ Defever Direct Testimony at 13.

⁶⁵ Defever Direct Testimony at 13.

⁶⁶ Defever Direct Testimony at 14.

⁶⁷ Defever Direct Testimony at 14.

approximately \$766,000.⁶⁸ No other intervenors provided testimony on rate case expense.

In the Joint Settlement, the Parties agreed that Columbia Kentucky should recover its actual rate case expense as of its filing on or before November 30, 2024, and that the recovery of this amount should be spread over a three year period.⁶⁹ Columbia Kentucky filed its actual final rate case expense on December 2, 2024.⁷⁰ The amount to be recovered is \$688,246.

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that this provision of the Joint Settlement is reasonable and should be approved. The Commission finds that a three-year amortization period is appropriate given the stay out provision in the Joint Settlement and considering three years is the standard amortization period.⁷¹ Furthermore, the Commission agrees with the Attorney General that a one-year amortization period would not have been appropriate based on Columbia Kentucky's previous rate cases. The Commission finds that based on the update provided by Columbia Kentucky on December 2, 2024, and using the proposed three-year amortization period, the final rate case expense that should be included in base rates is \$0.688 million (or approximately \$688,000) or \$0.229 million (or approximately \$299,000) over three years. This reduces Columbia Kentucky's estimated

⁶⁸ Defever Direct Testimony at 14.

⁶⁹ Joint Settlement at 9.

⁷⁰ Columbia Kentucky's Update to Staff's First Request for Information, Item 14.

⁷¹ See i.e. Case No. 2023-00191, May 3, 2024, Order at 23 (Note that a Rehearing Order was entered in this case on Nov. 6, 2024 but was unrelated to amortization of rate case expense.).

rate case expense of \$1.142 million over one year by \$0.918 million (or approximately \$918,000).

Corporate Aircraft Expense. Columbia Kentucky stated that NiSource Corporate Services Company (NCSC) allocated approximately \$251,000 in corporate aircraft expenses to Columbia Kentucky for corporate aircraft use.⁷² Columbia Kentucky stated that the aircraft was used to transport NiSource employees for business purposes⁷³ and argued that corporate aircraft expenses were prudently incurred, reasonable costs of doing business citing reduced down time waiting for flights, a secure environment for sensitive business matters, and a reliable and secure source of internet access to perform job functions when using the corporate aircraft.⁷⁴ The corporate aircraft expenses are allocated to Columbia Kentucky as part of its NCSC corporate service bill and include no direct expenses for Columbia Kentucky.⁷⁵

The Attorney General argued that Columbia Kentucky did not demonstrate that these costs provide any benefits to ratepayers.⁷⁶ The Attorney General pointed to the fact that Columbia Kentucky did not compare costs of commercial flights to the costs of utilizing the corporate jet citing that Columbia Kentucky stated that it would be impractical to attempt to quantify an exact savings created by the use of corporate aircraft compared to flights using commercial airlines.⁷⁷ The Attorney General cited to other jurisdictions

⁷² Columbia Kentucky's Response to Attorney General's First Request, Item 64a.

⁷³ Columbia Kentucky's Response to Attorney General's First Request, Item 64e.

⁷⁴ Columbia Kentucky's Response to Attorney General's First Request, Item 64g.

⁷⁵ Columbia Kentucky's Response to Staff's Fourth Request, Items 10-11.

⁷⁶ Defever Direct Testimony at 16.

⁷⁷ Defever Direct Testimony at 15.

that exclude these costs.⁷⁸ The Attorney General proposed removing the total expense associated with the corporate jet from the forecasted test year, which would result in a reduction of approximately \$251,000 from the total revenue requirement.⁷⁹ No other intervenors provided testimony on corporate aircraft expense.

In its rebuttal testimony, Columbia Kentucky cited the same reasons as listed above as to why corporate aircraft expense should be recovered in its revenue requirement.⁸⁰ It also argued that citing laws from other jurisdictions ignored the fact that this Commission had previously permitted the recovery of these costs and that the other jurisdictions' laws would not necessarily prohibit Columbia Kentucky's corporate aviation costs as the aircraft's use is not limited to its Board of Directors nor corporate officers.⁸¹

In the proposed Joint Settlement, the full proposed amount of \$0.252 million (or approximately \$252,000) was included in the revenue requirement. Columbia Kentucky argued that the amount included in the settled revenue requirement represents costs that would have otherwise been spent on commercial flights for these purposes, but the funds were used in a more efficient way.⁸² Having reviewed the record and being otherwise sufficiently advised, the Commission finds that this provision of the Joint Settlement should be approved.

⁷⁸ Defever Direct Testimony at 15-16.

⁷⁹ Defever Direct Testimony at 4.

⁸⁰ Columbia Kentucky's Rebuttal Testimony of Nicholas Bly (Bly Rebuttal Testimony) (filed Sept. 20, 2024) at 2.

⁸¹ Bly Rebuttal Testimony at 3.

⁸² Columbia Kentucky's Post-Hearing Brief at 15.

The Commission notes that, while the settlement accepted in this case included corporate aircraft expense as part of Columbia Kentucky's revenue requirement, Columbia Kentucky should be able to provide records related to usage of the aircraft and its benefits to Columbia Kentucky employees and rate payers. In future base rate cases, Columbia Kentucky is on notice that this information will be expected.

Directors & Officers Liability Insurance. Columbia Kentucky did not propose to make adjustments to directors and officers liability insurance expense and proposed to include approximately \$141,000 in the forecasted test year.⁸³ Columbia Kentucky stated that, both its and NiSource's corporate bylaws, require indemnification of employees that are involved in litigation related to their duties with the companies.⁸⁴ Columbia Kentucky argued that this insurance reduces the costs that would be passed on to ratepayers if Columbia Kentucky executives were involved in litigation related to the operation of the business.⁸⁵

The Attorney General argued that the directors and officers liability insurance should not be entirely borne by ratepayers.⁸⁶ The Attorney General reasoned that the expense primarily benefits Columbia Kentucky and its directors, and therefore, the costs should primarily be borne by the shareholders.⁸⁷ The Attorney General cited to a case in Connecticut in which the Public Utilities Regulatory Authority determined these insurance

⁸³ Columbia Kentucky's Response to Attorney General's First Request, Item 72.

⁸⁴ Columbia Kentucky's Post Hearing Brief at 17.

⁸⁵ Columbia Kentucky's Post Hearing Brief at 17.

⁸⁶ Defever Direct Testimony at 16.

⁸⁷ Defever Direct Testimony at 16.

rates were limited to 25 percent rate recovery.⁸⁸ The Attorney General recommended a 75/25 percent sharing of this expense between shareholders and ratepayers, respectively.⁸⁹ The Attorney General stated this would reduce the forecasted test year expense by approximately \$106,000 and would reduce the revenue requirement by approximately \$107,000.⁹⁰

In Columbia Kentucky's rebuttal testimony, it compared the directors and officers liability insurance to workers' compensation insurance.⁹¹ Columbia Kentucky stated that its bylaws contain customary provisions for similarly situated companies that require the indemnity of directors and officers of the company when acting in their official capacity, and this benefits customers by properly insuring the risk associated with the costs to defend directors and officers.⁹² Finally, Columbia Kentucky stated that the absence of this insurance would increase the cost of debt, and therefore, increase borrowing costs passed to Columbia Kentucky's customers.⁹³

In the Joint Settlement, the Parties agreed that Columbia Kentucky should recover its directors and officers' liability Insurance expense.⁹⁴

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that this provision of the Joint Settlement is reasonable and should be

⁸⁸ Defever Direct Testimony at 17.

⁸⁹ Defever Direct Testimony at 17.

⁹⁰ Defever Direct Testimony at 17.

⁹¹ Bly Rebuttal Testimony at 4-5.

⁹² Bly Rebuttal Testimony at 4-5.

⁹³ Bly Rebuttal Testimony at 4-5.

⁹⁴ Joint Settlement, Attachment A.

approved. The Commission agrees with Columbia Kentucky that these expenses are legitimate business expenses that reduce the costs that would be passed on to ratepayers if Columbia Kentucky's executives were involved in litigation related to the operation of the utility. In addition, the Commission agrees with Columbia Kentucky's arguments that this insurance may reduce borrowing costs.

Investor Relations Expense. Columbia Kentucky requested to include approximately \$60,000⁹⁵ for the Investor Relations department.⁹⁶ Columbia Kentucky stated that the allocated charges billed/budgeted were provided to Columbia Kentucky from NCSC which included salaries, office supplies, employee expenses, outside service, employee pensions/benefits, non-service pension/other post-employment benefits (OPEB) and miscellaneous expenses related to investor relations.⁹⁷ Columbia Kentucky stated that the Investor Relations Department acts as a liaison between the company and its investors allowing NiSource and Columbia Kentucky to reduce the premium required by investors which would ultimately be passed along to customers.⁹⁸

The Attorney General argued that the ratepayers are not fully responsible for these costs as these costs primarily benefits shareholders and they should bear most of the costs.⁹⁹ Therefore, the Attorney General proposed a 75 percent disallowance of these expenses which results in a reduction in the forecasted test-year expenses by

⁹⁵ Columbia Kentucky's Response to Attorney General's First Request, Item 104, Attachment A.

⁹⁶ Columbia Kentucky's Response to Attorney General's First Request, Item 104.

⁹⁷ Columbia Kentucky's Response to the Attorney General's First Request, Item 104, Attachment A.

⁹⁸ Columbia Kentucky's Post Hearing Brief at 16.

⁹⁹ Defever Direct Testimony at 17-18.

approximately \$45,000.¹⁰⁰ The Attorney General cited other jurisdictions that prohibited the recovery of this expense.¹⁰¹ No other intervenors provided testimony on investor relations expense.

In Columbia Kentucky's rebuttal testimony, it disagreed with the Attorney General's statements and argued the Attorney General disregarded the benefits provided by the department to the customer, which were:

Investor Relations is one of several functions responsible for ensuring NiSource can access capital markets to issue debt or equity at the best and lowest cost. If NiSource did not have an Investor Relations department, investors would be less comfortable making an investment in NiSource; said differently, investors would have higher level of uncertainty about investments in NiSource and stated that in financial markets, uncertainty equates to risk which requires a higher level of return to compensate the investor for taking on that higher level of risk.¹⁰²

Columbia Kentucky argued that the Attorney General's removal of the entire forecasted test year budget for Columbia Kentucky's allocated Investor Relations Department's O&M expenses from NCSC was double counted by the Attorney General's removal of certain expenses in its Investor Relations Adjustment.¹⁰³ Columbia Kentucky stated that, in its review of calendar year 2023 Investor Relations Department expenses, it determined that approximately 43 percent was adjusted in the Attorney General's other

¹⁰⁰ Defever Direct Testimony at 18.

¹⁰¹ Defever Direct Testimony at 18-19.

¹⁰² Bly Rebuttal Testimony at 6.

¹⁰³ Rebuttal Testimony of Tamaleh Shaeffer (Shaeffer Rebuttal Testimony) (filed Sept. 20, 2024) at 20.

adjustments which resulted in a correction to the recommended revenue requirement reduction of approximately \$26,000.¹⁰⁴

For purposes of the Joint Settlement, the adjustments to the proposed revenue requirement do not reflect the Attorney General's proposed disallowance. Columbia Kentucky explained that the originally proposed investor relations expense was included in the stipulated revenue requirement, which benefits the customers.¹⁰⁵ Columbia Kentucky reiterated that the expense supports Columbia Kentucky's efforts to communicate with debt and equity investors, helping to reduce investor concerns and the risk associated with the investments.¹⁰⁶

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that this provision of the Joint Settlement is reasonable and should be approved. These expenses are legitimate business expenses that lower the cost of debt for Columbia Kentucky and the Commission agrees with Columbia Kentucky's reasoning for its inclusion in the revenue requirement. However, in future rate cases the Commission will continue to review this item to ensure that the amount being recovered from customers appropriately reflects their benefit of the expense.

401(K) Expense. Columbia Kentucky did not propose an adjustment to the forecasted test year expense for either a 401(K) plan or to the forecasted test year expense for pensions (defined benefits plan).¹⁰⁷ Columbia Kentucky stated that it

¹⁰⁴ Shaeffer Rebuttal Testimony at 21.

¹⁰⁵ Cooper Errata Supplemental Testimony at 12.

¹⁰⁶ Cooper Errata Supplemental Testimony at 12.

¹⁰⁷ Columbia's Response to the Attorney General's Second Request for Information (Attorney General's Second Request), Item 33.

provides health and welfare plans (health care coverage, dental coverage, vision care, term life insurance and disability insurance), retirement savings plans, and paid time off (vacation, holiday, and sick pay) to all the qualified employees and stated that NCSC provides the health care coverage for employees and retirees.¹⁰⁸ Columbia Kentucky also stated defined benefit plans are no longer offered to exempt new hires on or after January 1, 2010, and non-exempt hires on or after January 1, 2013.¹⁰⁹

The Attorney General recommended removing 401(k) expenses in the forecasted test year for employees that are also covered under a defined benefit plan.¹¹⁰ The Attorney General cited Commission precedent to support its position.¹¹¹ The Attorney General proposed an adjustment that reduces the forecasted test year expense by approximately \$295,000, which reduces the revenue requirement by approximately \$296,000.¹¹²

In Columbia Kentucky's rebuttal testimony, it disagreed with the Attorney General's proposal and argued these benefits are part of a competitive compensation and benefits program offered to its employees.¹¹³ Columbia Kentucky stated the pension program was discontinued on January 1, 2010, for exempt employees and on January 1, 2013, for

¹⁰⁸ Application, Volume 3, Tab 34, Direct Testimony of Beth Owens (Owens Direct Testimony) at 38.

¹⁰⁹ Columbia Kentucky's Response to the Attorney General's First Request, Item 81.

¹¹⁰ Defever Direct Testimony at 19.

¹¹¹ Defever Direct Testimony at 19 citing Case No. 2016-00169, *Application of Cumberland Valley Electric, Inc. for a General Adjustment to Rates* (Ky. PSC Feb. 6, 2017), Order at 10; Case No. 2017-00349, *Electronic Application of Atmos Energy Corporation for an Adjustment of Rates and Tariff Modifications* (Ky. PSC May 3, 2018), Order at 19–20.

¹¹² Defever Direct Testimony, Exhibit_JD-1.xlsx, tab 401k.

¹¹³ Columbia Kentucky's Rebuttal Testimony of Beth Owens (Owens Rebuttal Testimony) (filed Sept. 20, 2024) at 2.

nonexempt, non-union employees, and at that time, the remaining employees in the pension plan programs were also converted to a less costly account balance program.¹¹⁴ Columbia Kentucky also argued that the company has made no pension cash contributions to the voluntary Employees Beneficiary Association (VEBA) Trust since 2021.¹¹⁵ In addition, Columbia Kentucky stated that there are no pension cash contributions in the forecasted base period or forecasted test year budget.¹¹⁶

Pursuant to the Joint Settlement, the parties agreed to adopt the Attorney General's position related to the expense associated with those employees who receive a total retirement benefit that contains both the pension program and a 401(k) contribution and agreed to reduce the revenue requirement by \$0.296 million (or approximately \$296,000).¹¹⁷

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that this provision of the Joint Settlement is reasonable and should be approved. The Commission agrees with the Attorney General's position and finds that removal of 401(k) expense in the forecasted test year for employees that are also covered under a defined benefit plan is consistent with Commission precedent.¹¹⁸

¹¹⁴ Owens Rebuttal Testimony at 2.

¹¹⁵ Owens Rebuttal Testimony at 2.

¹¹⁶ Owens Rebuttal Testimony at 2.

¹¹⁷ Rebuttal Testimony of Judy Cooper (Cooper Rebuttal Testimony) (filed Sept. 20, 2024) at 10.

¹¹⁸ See i.e. Case No. 2017-00349, May 3, 2018 Order at 20 (Note that a rehearing Order in the case was issued on September 17, 2018, but was not related to this specific issue).

Payroll Expense. Columbia Kentucky proposed \$19.359 million for allocated and direct payroll expense,¹¹⁹ and approximately \$900,000 and \$3.063 million for related payroll tax expense and benefits expense, respectively.¹²⁰ Columbia Kentucky stated that its labor expense is based on projected headcount and wage increase assumptions, with the O&M labor budget based on projected work by activity.¹²¹ Columbia Kentucky projected 204 full-time employees and an overall wage increase guideline of 3 percent for exempt and non-exempt employees for 2025.¹²² Columbia Kentucky stated that labor expense values are compared to the prior year before the budgeting process is finalized.¹²³

The Attorney General argued that it cannot be assumed all of the projected new employees will be hired and retained by Columbia Kentucky, due to Columbia Kentucky consistently having had vacancy issues.¹²⁴ The Attorney General pointed to the fact that Columbia Kentucky underspent 10.8 percent for direct labor for the years 2021 through 2023 and 4.9 percent for allocated labor for the years 2022 and 2023.¹²⁵ Based on this, the Attorney General recommended reducing direct labor expense by 10.8 percent and reducing allocated labor expense by 4.9 percent, which resulted in a reduction of

¹¹⁹ Columbia Kentucky's Response to the Attorney General's First Request, Item 99.

¹²⁰ Application, Volume 9, Tab 85, Schedule G-1.

¹²¹ Application, Volume 3, Tab 29 Direct Testimony of Craig Inscho (Inscho Direct Testimony) (filed March 16, 2024) at 10-11.

¹²² Inscho Direct Testimony at 11.

¹²³ Bly Direct Testimony at 11.

¹²⁴ Defever Direct Testimony at 23.

¹²⁵ Defever Direct Testimony at 25.

\$1.628 million to the forecasted test year expense.¹²⁶ The Attorney General explained the adjustment reduced the revenue requirement by \$1.638 million.¹²⁷ The Attorney General stated that the adjustments for benefits expense and payroll tax expense flow through to reduce the forecasted test year benefits expense by approximately \$337,000 and the payroll tax expense by approximately \$306,000, which would reduce the revenue requirement by approximately \$379,000 and \$307,000, respectively.¹²⁸ No other intervenors provided testimony on payroll expense, payroll tax expense, or benefits.

In Columbia Kentucky's rebuttal testimony, it argued that these disallowances to allocated payroll expense and associated benefits and payroll tax expense by the Attorney General were not warranted.¹²⁹ Columbia Kentucky disagreed with the labor adjustments applied by the Attorney General, stating that its direct payroll expense is lower than what would have resulted from applying its actual employee merit increases to 2021 actual payroll expense.¹³⁰

For settlement purposes, the Parties agreed to include the payroll expense and associated benefits expense Columbia Kentucky proposed in its application.¹³¹

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that this provision of the Joint Settlement is reasonable and should be approved.

¹²⁶ Defever Direct Testimony at 25–26.

¹²⁷ Defever Direct Testimony at 26.

¹²⁸ Defever Direct Testimony at 34.

¹²⁹ Bly Rebuttal Testimony at 7–8.

¹³⁰ Bly Rebuttal Testimony at 9–10.

¹³¹ Joint Settlement, Attachment A.

Long-Term Incentive Compensation. Columbia Kentucky offers two incentive compensation programs: the Short-Term Incentive Plan (STI) and the Long-Term Incentive Plan (LTI). The STI is discussed in a separate section below. Columbia Kentucky stated it identifies the levels of jobs that are eligible for STI and/or LTI, to align employee rewards with the vision and strategies surrounding occupational health and safety, operational excellence, customer satisfaction, workforce, sustainability, and financial metrics.¹³² Participants are eligible to receive incentive awards based on a blend of their personal performance and the performance of NiSource.¹³³

Columbia Kentucky reported \$1.851 million expense in LTI Compensation.¹³⁴ Columbia Kentucky stated that LTI is a form of incentive compensation that is designed to attract and retain executive and director level talent within Columbia Kentucky and NCSC and that, without the compensation, it would be difficult to attract and retain its leaders.¹³⁵ LTI compensation is granted in the form of Performance Share Units (PSUs) and Restricted Stock Units (RSUs) to employees at the level of Director and above.¹³⁶ PSUs are awarded based upon Columbia Kentucky's LTI metrics, which include operational excellence, safety, employee engagement, environmental, and financial

¹³² Owens Direct Testimony at 14.

¹³³ Owens Direct Testimony at 15.

¹³⁴ Columbia Kentucky's Response to the Attorney General's First Request, Attachment 99A.

¹³⁵ Owens Direct Testimony at 24.

¹³⁶ Owens Direct Testimony at 24.

goals.¹³⁷ RSUs are made available after a multi-year time period to serve as a retention tool to Director-level and above leaders.¹³⁸

The Attorney General recommended a disallowance of the incentive compensation tied to financial goals, citing the Commission's previous decision to disallow recovery of employee compensation plans that are tied to financial measures because such plans benefit shareholders while ratepayers receive little benefit.¹³⁹ The Attorney General proposed to remove 80 percent of the LTI offerings based upon the 2024 metrics provided by Columbia Kentucky.¹⁴⁰ An 80 percent reduction in LTI would result in an adjustment of \$1.481 million to the revenue requirement.¹⁴¹ No other intervenors provided testimony on LTI Compensation.

In Columbia Kentucky's Rebuttal Testimony, it stated that 100 percent recovery of LTI should be allowed because a removal of any portion would send a message that being efficient and cost-effective in meeting the Company's budget is not important.¹⁴² Columbia Kentucky argued that LTI compensation allows it to attract and retain key management personnel which are critical in order for Columbia Kentucky to maintain high quality of service, efficiency and safety.¹⁴³ It also stated the Attorney General's proposed adjustment overstated the amount of LTI compensation related to financial goals.

¹³⁷ Owens Direct Testimony at 25.

¹³⁸ Owens Direct Testimony at 25.

¹³⁹ Defever Direct Testimony at 20.

¹⁴⁰ Defever Direct Testimony at 21.

¹⁴¹ Defever Direct Testimony at 21. $\$1,850,748 \times 80 \% = \$1,480,598$.

¹⁴² Owens Rebuttal Testimony at 4.

¹⁴³ Owens Rebuttal Testimony at 7.

Columbia Kentucky stated that 48 percent of its LTI compensation was related to financial goals, and if such an adjustment was made, it should be for no more than 48 percent.¹⁴⁴

For settlement purposes, the Parties agreed to a reduction of \$1.590 million to the revenue requirement for long-term incentive compensation. Columbia Kentucky argued that this is consistent with Commission precedent and are the Attorney General's recommendations.¹⁴⁵

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that this provision of the Joint Settlement is reasonable and should be approved. However, as noted by the Attorney General in its testimony, the Commission will continue to evaluate LTI compensation plans on a case-by-case basis for reasonableness related to financial incentive.

Short-Term Incentive Compensation and Profit Sharing. Columbia Kentucky included \$1.972 million in STI Compensation expense in the forecasted test year.¹⁴⁶ Columbia Kentucky also included approximately \$181,000 in profit sharing expenses in the forecasted test year.¹⁴⁷ Columbia Kentucky's STI metrics include operational excellence, safety, customer satisfaction, and financial goals.¹⁴⁸ The amount of incentive is determined by an employee's manager based on upon employee's performance.¹⁴⁹ Columbia Kentucky stated its employees must perform safely, must provide a positive

¹⁴⁴ Owens Rebuttal Testimony at 7.

¹⁴⁵ Columbia Kentucky's Post-Hearing Brief at 14.

¹⁴⁶ Columbia Kentucky's Response to Attorney General's First Request, Item 99A.

¹⁴⁷ Columbia Kentucky's Response to Attorney General's First Request, Item 99.

¹⁴⁸ Owens Direct Testimony at 17.

¹⁴⁹ Owens Direct Testimony at 17.

customer experience, and must operate with financial efficiency for these metrics to be achieved and paid.¹⁵⁰ Having STI as part of Columbia Kentucky and NCSC employees' compensation plan incentivizes them to demonstrate the behaviors that support the company's goals of providing safe and reliable service to its customers.¹⁵¹ The profit sharing is paid out based on the STI.¹⁵²

The Attorney General recommended a disallowance of the incentive compensation tied to financial goals, citing the Commission's previous decision to disallow recovery of employee compensation plans tied to financial measures because such plans benefit shareholders while ratepayers receive little benefit.¹⁵³ The Attorney General also expressed concern that the program rewarded over 98.5 percent of eligible employees and reduced the incentive created by the program because the employees expected a reward anyway, but the Attorney General did not make an adjustment for this concern. The Attorney General proposed to remove 70 percent of the STI offerings and profit sharing based upon the 2024 metrics provided by Columbia Kentucky.¹⁵⁴ A 70 percent reduction in STI would result in an expense reduction of \$1.380 million.¹⁵⁵ A 70 percent reduction in the profit sharing would result in an expense reduction of approximately \$127,000.¹⁵⁶ No other intervenors provided testimony on STI Compensation.

¹⁵⁰ Owens Direct Testimony at 18.

¹⁵¹ Owens Direct Testimony at 18.

¹⁵² Columbia Kentucky's Response to Attorney General's Second Request, Item 25.

¹⁵³ Defever Direct Testimony at 20.

¹⁵⁴ Defever Direct Testimony at 21 and 26.

¹⁵⁵ Defever Direct Testimony at 21.

¹⁵⁶ Defever Direct Testimony at 27.

In Columbia Kentucky's rebuttal testimony, it stated that 100 percent recovery of STI should be allowed because a removal of any portion would send a message that being efficient and cost-effective in meeting the company's budget is not important.¹⁵⁷ It also argued that the manager has the discretion to award incentives based on the employee's individual performance, to motivate employees to perform at the highest level, and that there are employees who do not receive any STI award because their performance did not warrant the incentive.¹⁵⁸ Columbia Kentucky further stated that a reduction in STI could lead to a departure of employees resulting in a loss of valuable skills and institutional knowledge, then increased turnover costs, including recruiting costs, relocation costs, and training costs, as well as having an impact on safety and customer service goals.¹⁵⁹

For settlement purposes, the Parties agreed to a reduction of \$1.609 million to the revenue requirement for short-term incentive compensation and profit sharing. Columbia Kentucky argued that this is consistent with Commission precedent and was consistent with the Attorney General's recommendations.¹⁶⁰

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that this provision of the Joint Settlement is reasonable and should be approved.

¹⁵⁷ Owens Rebuttal Testimony at 4.

¹⁵⁸ Owens Rebuttal Testimony at 5.

¹⁵⁹ Owens Rebuttal Testimony at 6.

¹⁶⁰ Columbia Kentucky's Post-Hearing Brief at 14.

Supplemental Executive Retirement Plan (SERP). Columbia Kentucky stated that NCSC allocated costs to Columbia Kentucky for SERP expense provides retirement savings for a small number of retired employees and argued that this allowed Columbia Kentucky to retain talented employees.¹⁶¹ Columbia Kentucky reported approximately \$61,000 in SERP expense allocated from NCSC.¹⁶²

The Attorney General stated that SERP is an extra benefit and is provided only to highly-compensated executive employees.¹⁶³ The Attorney General argued that the costs should be borne by the shareholders, as the SERP expense does not benefit ratepayers.¹⁶⁴ The Attorney General proposed removing the total SERP expense from the forecasted test year resulting in a reduction of approximately \$61,000.¹⁶⁵ The Attorney General stated that this adjustment would reduce the revenue requirement by approximately \$61,000.¹⁶⁶ No other intervenors provided testimony on SERP expense.

In Columbia Kentucky's rebuttal testimony, it disagreed with the Attorney General's proposed SERP adjustment, stating that SERP is part of the compensation and benefits program provided to employees.¹⁶⁷ Columbia Kentucky argued that its compensation and benefits, including SERP, provided the means to competitively compensate

¹⁶¹ Columbia Kentucky's Responses to the Attorney General's Second Request, Item 51.

¹⁶² Columbia Kentucky's Responses to the Attorney General's Second Request, Item 51.

¹⁶³ Defever Direct Testimony at 27.

¹⁶⁴ Defever Direct Testimony at 28.

¹⁶⁵ Defever Direct Testimony at 28.

¹⁶⁶ Defever Direct Testimony at 28.

¹⁶⁷ Owens Rebuttal Testimony at 9.

employees in order to attract and retain quality employees responsible for the safe and reliable service to Columbia Kentucky.¹⁶⁸

In the proposed Joint Settlement, the Parties agreed to remove the SERP and the included pension restoration plan expense proposed by Columbia Kentucky, from the revenue requirement calculation, resulting in a \$0.054 million¹⁶⁹ (or approximately \$54,000) and \$0.006 million¹⁷⁰ (or approximately \$6,000) reduction, respectively, to the revenue requirement.¹⁷¹ This results in a total reduction of \$.061 million¹⁷² (or approximately \$61,000) to the revenue requirement. Columbia Kentucky argued that this is consistent with Commission precedent and are consistent with the Attorney General's recommendations.¹⁷³

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that this provision of the Joint Settlement is reasonable and should be approved. As noted in the arguments, the complete removal of the SERP expense is consistent with Commission precedent.¹⁷⁴

¹⁶⁸ Owens Rebuttal Testimony at 9.

¹⁶⁹ The Commission notes that the final number utilized by the Commission for calculating the adjusted revenue requirement comes from Joint Settlement, Attachment A. The unrounded input in millions utilized was 0.054438883782.

¹⁷⁰ The unrounded input in millions utilized was 0.006446273322.

¹⁷¹ Joint Settlement at 5–6.

¹⁷² The Commission notes that this number is the result of adding the unrounded inputs from the Joint Settlement, Attachment A totaling 0.060885157104 and then rounding to the third decimal place.

¹⁷³ Columbia Kentucky's Post-Hearing Brief at 14.

¹⁷⁴ Case No. 2020-00174, *Electronic Application of Kentucky Power Company for (1) A General Adjustment of its Rates for Electric Service; (2) Approval of Tariffs and Riders; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; (4) Approval of a Certificate of Public Convenience and Necessity; and (5) All Other Required Approvals and Relief* (Ky. PSC Jan. 13, 2021), Order at 16. Case No. 2023-00159, *Electronic Application of Kentucky Power Company for (1) A General Adjustment of its Rates for Electric Service; (2) Approval of Tariffs and Riders; (3) Approval of Accounting Practices to*

American Gas Association (AGA) Dues. Columbia Kentucky proposed to remove \$1,577 in AGA dues from the forecasted test period.¹⁷⁵ The Attorney General requested removal of the total amount of AGA dues included in the forecasted test period, totaling \$22,138.¹⁷⁶ Columbia Kentucky stated that the AGA dues were included in the unadjusted base period but did not budget dues by organization in the forecasted test year.¹⁷⁷ The Attorney General highlighted that the AGA is a political advocacy, lobbying and public relations group, and these costs are typically excluded from utility rates.¹⁷⁸ The Attorney General cited other cases where the Commission has not allowed the recovery of such expenses, and noted Columbia Kentucky had not removed the full amount of AGA dues.¹⁷⁹ The Attorney General recommended removing AGA dues of \$20,561 to capture the total amount.¹⁸⁰

In rebuttal testimony, Columbia Kentucky stated that the amount of AGA dues related to costs other than those that are specifically disallowed by 807 KAR 5:016 would not be recommended for removal, and the appropriate percentage of costs were already removed from Columbia Kentucky's requested revenue requirement.¹⁸¹

Establish Regulatory Assets and Liabilities; (4) A Securitization Financing Order; and (5) All Other Required Approvals and Relief (Ky. PSC Jan. 19, 2024), Order at 26–28.

¹⁷⁵ Defever Direct Testimony at 30.

¹⁷⁶ Columbia Kentucky's Response to Attorney General's First Request, Item 25.

¹⁷⁷ Defever Direct Testimony at 29.

¹⁷⁸ Defever Direct Testimony at 29.

¹⁷⁹ Defever Direct Testimony at 29–31.

¹⁸⁰ Defever Direct Testimony at 32.

¹⁸¹ Cooper Rebuttal Testimony at 2–3.

In the proposed settlement, the Parties agreed to remove the AGA dues expense, resulting in a \$0.021 million (approximately 21,000) reduction to the revenue requirement.¹⁸²

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that this provision of the Joint Settlement is reasonable and should be approved. As noted in the Attorney General's testimony, the Commission has consistently removed these expenses.¹⁸³

Green Path Rider Amortization Expense. As discussed above, Columbia Kentucky included costs for the rejected Green Path Rider in the forecasted test year. The Joint Settlement included a \$0.020 million (approximately \$20,000) revenue requirement reduction to remove the Green Path Rider amortization expense.¹⁸⁴ Having reviewed the record and being otherwise sufficiently advised, the Commission finds that this provision of the Joint Settlement is reasonable and should be approved.

RATE OF RETURN

Return On Equity (ROE)

In its application, Columbia Kentucky used multiple models to develop its ROE recommendation, including: the Discounted Cash Flow (DCF) model, both the Capital Asset Pricing Model (CAPM) CAPM with a size adjustment, and the Empirical Capital

¹⁸² Joint Settlement at 6.

¹⁸³ Defever Direct Testimony at 31-32. Citing Case No. 2021-00214, *Electronic Application of Atmos Energy Corporation for an Adjustment of Rates* (Ky. PSC May 19, 2022), Order at 24–25. Case No. 2021-00183, *Electronic Application of Columbia Gas of Kentucky, Inc. for an Adjustment of Rates; Approval of Depreciation Study; Approval of Tariff Revisions; Issuance of a Certificate of Public Convenience and Necessity; and Other Relief* (Ky. PSC Dec. 28, 2021), Order at 10.

¹⁸⁴ Cooper Errata Supplemental Testimony at 7.

Asset Pricing Model (ECAPM), and a Risk Premium Model (RPM).¹⁸⁵ The models were applied to 26 companies divided into three proxy groups: six regulated natural gas utilities, nine regulated combination utilities, and 11 non-regulated companies.¹⁸⁶ Using both historical and forecast analyses, Columbia Kentucky recommended an ROE of 10.80 percent based upon a range of 10.55 percent to 11.05 percent.¹⁸⁷ Columbia Kentucky maintained that, as a part of an appropriate capital structure, this percentage would allow it to earn the prevailing opportunity cost of capital, preserve its financial integrity and attract capital at reasonable terms.¹⁸⁸

The Attorney General was the only intervenor to provide direct testimony on ROE. The Attorney General provided alternative ROE estimates using both the DCF and the CAPM models applied to seven natural gas utilities, Columbia Kentucky's natural gas utility group plus the addition of Chesapeake Utilities.¹⁸⁹ The Attorney General's application of the CAPM used both historical and forecasted risk premiums and publicly available market risk premium estimates.¹⁹⁰ The Attorney General specifically relied on the DCF analysis results to support his recommended ROE arguing that a considerable amount of judgement must be employed to determine the market return and expected risk premium elements.¹⁹¹ Further, the Attorney General noted a wide variety of data

¹⁸⁵ Rea Direct Testimony at 5.

¹⁸⁶ Rea Direct Testimony at 4.

¹⁸⁷ Rea Direct Testimony at 3-4.

¹⁸⁸ Rea Direct Testimony at 4.

¹⁸⁹ Attorney General's Direct Testimony of Richard A. Baudino (Baudino Direct Testimony) (filed Aug. 14, 2024) at 3 and 16.

¹⁹⁰ Baudino Direct Testimony at 3.

¹⁹¹ Baudino Direct Testimony at 24 and 32.

should be used in estimating investors' required returns.¹⁹² The Attorney General recommended an ROE of 9.60 percent based upon a range of 8.47 percent to 10.51 percent for the DCF model and 8.90 to 10.00 percent for the CAPM percent.¹⁹³

According to Section 3 of the Joint Settlement, the Parties agreed that Columbia Kentucky's authorized ROE will be 9.75 percent for its natural gas base rates.¹⁹⁴ Columbia Kentucky agreed to withdraw its proposal for an ROE applied to capital recovered by its SMRP Rider to be equal to that ROE applied to base rates.¹⁹⁵ Columbia Kentucky will instead include this request as a part of its annual SMRP filing in Case No. 2024-00328.¹⁹⁶ The agreed upon ROEs were premised on the totality of the Joint Settlement, including a 2-year stay out provision.¹⁹⁷

The following table presents the recommended ROEs from the Parties and the methods used to support each parties' recommendations:

<u>Party</u>	<u>Recommendation</u>	<u>Methods</u>
Columbia Kentucky	10.80%	DCF, CAPM, RPM
Attorney General	9.60%	DCF, CAPM
<u>Settlement</u>	9.75%	

¹⁹² Baudino Direct Testimony at 24.

¹⁹³ Baudino Direct Testimony at 32. Note that the recommended ROE is equivalent to the average of the DCF result.

¹⁹⁴ Cooper Errata Supplemental Testimony at 6 and Joint Settlement, Section 3 at 3.

¹⁹⁵ Cooper Errata Supplemental Testimony at 17 and Joint Settlement, Section 9 at 7.

¹⁹⁶ Cooper Errata Supplemental Testimony at 17 and Joint Settlement, Section 9 at 7. Case No 2024-00328, *Electronic Application of Columbia Gas of Kentucky, Inc. for its Annual Safety Modification and Replacement Program Filing* (filed Oct. 15, 2024).

¹⁹⁷ Joint Settlement, Section 10 at 7. See also Cooper Errata Settlement Testimony at 18.

As discussed in Case Nos. 2019-00271,¹⁹⁸ 2020-00174¹⁹⁹ and 2020-00350,²⁰⁰ the Commission continues to believe that it is appropriate for utilities to present, and for the Commission to evaluate, multiple methodologies to estimate ROEs. Each approach has its own merits. As demonstrated in the respective ROE testimonies in this proceeding, there is considerable variation in both data and application within each modeling approach, which can lead to very different results. The Commission's role is to conduct a balanced analysis and weigh how each of the various models, as presented, are employed.

The Commission again cautions all parties against unreasonably removing or ignoring "outlier" data due to a perception of being "too high" or "too low". As demonstrated in testimony, there are a number of actions that can be and were taken to account for "outlier" data.²⁰¹ Result oriented exclusions of data that are not beyond the realm of reasonableness are inappropriate. Results based upon excluded data without adequate support will be given less weight in Commission determinations.

¹⁹⁸ See generally Case No. 2019-00271, *Electronic Application of Duke Energy Kentucky, Inc. for 1) An Adjustment of the Electric Rates; 2) Approval of New Tariffs; 3) Approval of Accounting Assets and Liabilities; and 4) All Other Required Approvals and Relief*, (Ky PSC Apr 27, 2020).

¹⁹⁹ See generally Case No. 2020-00174, *Electronic Application of Kentucky Power Company for (1) A General Adjustment of its Rates for Electric Service; (2) Approval of Tariffs and Riders; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; (4) Approval of a Certificate of Public Convenience and Necessity; and (5) All Other Required Approvals and Relief*, (Ky PSC Jan 13, 2021).

²⁰⁰ See generally Case No. 2020-00350, *Electronic Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates, A Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit*, (Ky PSC Jun 30, 2021).

²⁰¹ See Case No. 2021-00183, *Electronic Application of Columbia Gas of Kentucky, Inc. for an Adjustment of Rates; Approval of Depreciation Study; Approval of Tariff Revisions; Issuance of a Certificate of Public Convenience and Necessity; and Other Relief*, (Ky PSC Dec 28, 2021); Case No. 2023-00159, *Electronic Application of Kentucky Power Company for (1) A General Adjustment of Its Rates for Electric Service; (2) Approval of Tariffs and Riders; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; (4) A Securitization Financing Order; and (5) All Other Required Approvals and Relief* (Ky PSC Jan 19, 2024)

The Commission reiterates further that it continues to reject the use of Predictive Risk Premium Model (PRPM) methodology, flotation cost adjustments, financial risk adjustments and size adjustments in the ROE analyses.²⁰² The Commission will accord the most weight to DCF and CAPM methodology analyses based upon regulated industry and company proxy groups. Both the DCF and CAPM methodologies are long-standing and well-accepted models that model risk and returns implicitly and explicitly.

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that the provision that an ROE of 9.75 percent in the Joint Settlement is reasonable and should be approved. In reaching its determination, the Commission takes note of its recent authorized ROE determinations, as well as the reasonableness of the methods relied upon to achieve this amount, and the Settlement Agreement “stay out” provision.

SMRP Rider

In this proceeding, Columbia Kentucky proposed changes to its SMRP Rider tariff such that the SMRP invested capital, through the future test year, was not being rolled in to base rates.²⁰³ Thus, the SMRP balance was not being reduced to zero as was the case in its previous rate proceedings. Columbia Kentucky argued that, because of this change, there will be historic capital investments that will not be rolled into base rates along with additional future capital investments in the SMRP balance, and the benefits of

²⁰² See Case No. 2021-00214, *Electronic Application of Atmos Energy Corporation for an Adjustment of Rates* (Ky PSC May 19, 2022); Case No. 2022-00372, *Electronic Application of Duke Energy Kentucky, Inc. for (1) An Adjustment of Electric Rates; (2) Approval of New Tariffs; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; And (4) All Other Required Approvals and Relief* (Ky PSC Oct 12, 2023).

²⁰³ Application at 9.

reduced regulatory lag no longer apply.²⁰⁴ Therefore, the ROE rate applied to the SMRP should equal the ROE rate applied to capital investments in rate base.²⁰⁵ Otherwise, the historic capital investments in the SMRP balance will not be treated the same as the capital investments in rate base.²⁰⁶

The Attorney General argued that the Commission should adhere to its past policy of applying a reduced ROE rate to tracking mechanisms regardless of its decision on proposed changes to the SMRP.²⁰⁷ The Attorney General recommended a 10-basis point reduction in the ROE to 9.50 percent.²⁰⁸

In rebuttal testimony, Columbia Kentucky reiterated its argument that there should be no reduction in the ROE rate applied to capital investments in the SMRP.²⁰⁹ In the Joint Settlement, Columbia Kentucky agreed to withdraw its proposal for an ROE rate applied equally to the SMRP and rate base. According to the Settlement, the request for equal treatment would be made in Case No. 2024-00328.²¹⁰

Having reviewed the record and being otherwise sufficiently advised, the Commission agrees that the SMRP invested capital, through the future test year, should not be rolled into to base rates, as proposed in the Application. The Commission will address any further requests related to the SMRP if made by Columbia Kentucky in other

²⁰⁴ Rea Direct Testimony at 52.

²⁰⁵ Rea Direct Testimony at 52.

²⁰⁶ Rea Direct Testimony at 51-52.

²⁰⁷ Baudino Direct Testimony at 35-36.

²⁰⁸ Baudino Direct Testimony at 35-36.

²⁰⁹ Rebuttal Testimony of Vincent V. Rea (Rea Rebuttal Testimony) (filed Sept. 20, 2024) at 86-87.

²¹⁰ Joint Settlement, Section 9 at 7.

cases. The Commission approves Columbia Kentucky's withdrawal of an ROE rate applied equally to the SMRP and rate base pursuant to the Joint Settlement. The Commission will defer a finding on this issue in Case No. 2024-00328, as proposed in that matter.

Capital Structure

Columbia Kentucky estimated its 13-month average capital structure ratios for the fully forecasted test year as of December 31, 2025 at 45.53 percent long-term debt, 1.83 percent short-term debt, and 52.64 percent equity. The long-term debt ratio includes anticipated debt issuances in 2024 and 2025 totaling \$41.0 million.²¹¹ Commensurate with the anticipated debt issuances, the estimated cost of long-term debt also includes forecasted interest rates of 6.25 percent for 2024 issuances and 6.00 percent for issuances in 2025. The resulting estimated 13-month average cost of long-term debt as of December 31, 2025 is 4.88 percent.²¹² The estimated cost of short-term debt is 5.25 percent, which represents the fully forecasted test year.²¹³

The Attorney General argued that, because Columbia Kentucky's most recent long-term debt issuance on June 30, 2024 with a rate of 5.9124 percent was known and less than its proposed forecasted long-term rates of 6.25 percent for 2024 and 6.00 percent for 2025, that rate should be applied to the remaining 2024 and 2025 debt issuances. The Attorney General recommended a long-term debt rate of 4.84 percent.²¹⁴

²¹¹ Rea Direct Testimony at 52-53 and Attachments VVR-5 and VVR-6.

²¹² Rea Direct Testimony at 56-57 and Attachments VVR-5 and VVR-6.

²¹³ Rea Direct Testimony at 56-57 and Attachments VVR-5.

²¹⁴ Baudino Direct Testimony at 34.

In rebuttal testimony, Columbia Kentucky revised its long-term debt cost rate. One of the future debt issuances was issued on June 30, 2024, with a rate of 5.9124 percent.²¹⁵ Also, as proposed by the Attorney General, the other expected 2024 and 2025 debt issuance rates were revised to reflect the actual June 30, 2024 rate.²¹⁶ Columbia Kentucky's proposed new long-term debt rate is 4.84 percent, four basis points lower than its originally proposed rate of 4.88 percent.²¹⁷ Based upon the revised long term debt rate, Columbia Kentucky's proposed overall rate of return equals 7.99 percent.²¹⁸

In the Joint Settlement Agreement, the Parties agreed that Columbia Kentucky's ROE would be 9.75 percent. The long-term and short-term debt rates included in the cost of capital would be 4.80 percent and 5.25 percent, respectively. Columbia Kentucky's capital structure would reflect 52.64 percent equity, 45.53 percent long-term debt and 1.83 percent short-term debt. The resulting weighted average cost of capital (WACC) would be 7.41 percent.²¹⁹

The Commission finds that capital structure, as proposed in the Joint Settlement Agreement and reflected in the table below, is fair, just and reasonable.

	Percent	Cost	Weighted Cost
Long-Term Debt	45.53%	4.80%	2.19%
Short-Term Debt	1.83%	5.25%	0.10%

²¹⁵ Rea Rebuttal Testimony at 84 and Attachment VVR-6R.

²¹⁶ Rea Rebuttal Testimony at 84 and Rea Rebuttal Testimony, Attachments VVR-2R and VVR-6R.

²¹⁷ Rea Rebuttal Testimony at 85.

²¹⁸ Rea Rebuttal Testimony at 85.

²¹⁹ Joint Settlement, Section 3 at 3-4.

Common Equity	52.64%	9.75%	5.13%
Total	100.00%		7.41%

DEPRECIATION STUDY

Applying Columbia Kentucky's proposed depreciation rates to utility plant in service balances as of December 31, 2023, resulted in a \$3.5 million increase in depreciation expense.²²⁰ Using the forecasted 13-month average utility plant in service balance, Columbia Kentucky calculated a depreciation expense of \$26.484 million.²²¹ Intervenor did not provide testimony on this matter.

In the Joint Settlement, the Parties agreed that the depreciation study and related accounting treatments should be approved with an effective date of the new depreciation rates to be the same day that Columbia Kentucky's new base rates become effective.

The Commission finds that, for settlement purposes, the application of the proposed depreciation study is appropriate.

DISCOUNT ON ACCOUNTS RECEIVABLE AND CHOICE WORKING GROUP

Columbia Kentucky currently pays CHOICE suppliers 98 percent of the revenue collected from CHOICE customers, representing a 2 percent discount on receivables.²²²

Joint Intervenor argued that the uncollectible expense of participating CHOICE customers is much lower than 2 percent.²²³ Joint Intervenor argued that the difference

²²⁰ Application, Volume 2, Tab 21, Direct Testimony of John Spanos (Spanos Direct Testimony) (filed May 23, 2024) at 4.

²²¹ Application, Volume 8, Tab 81, Schedule C-1.

²²² Joint Intervenor's Direct Testimony of Matthew White (White Direct Testimony) (filed August 14, 2024) at 3.

²²³ White Direct Testimony at 3.

between the 2 percent and the actual uncollectible rate is being credited to rate base subsidizing sales customers.²²⁴ Joint Intervenors argued that this creates an inequity, increasing the cost of suppliers doing business, because CHOICE suppliers need to recover the current 2 percent discount through CHOICE products and rates from CHOICE customers.²²⁵ Joint Intervenors noted that the proposed uncollectible rate system wide is 0.4170 percent.²²⁶

Joint Intervenors recommended to reduce the discount rate in the tariff for CHOICE customers to reflect the approximate actual uncollectible rates.²²⁷ Joint Intervenors argued that the CHOICE suppliers should not be subsidizing the sales customers.²²⁸

In rebuttal testimony, Columbia Kentucky argued that the uncollectible expense issue is outside of the scope of the proceeding and the more appropriate venue would be within the context of the working group created from Case No. 2021-00386.²²⁹ Columbia Kentucky argued that since the CHOICE program pilot's inception, Columbia Kentucky has "assumed the risk of collecting payment for gas commodity costs from Customer CHOICE customers" and the current 2 percent is an outgrowth of the program's original 2.5 percent, which was retained by Columbia Kentucky "as compensation for assuming

²²⁴ White Direct Testimony at 3.

²²⁵ White Direct Testimony at 3.

²²⁶ White Direct Testimony at 3.

²²⁷ White Direct Testimony at 3.

²²⁸ White Direct Testimony at 3.

²²⁹ Case No. 2021-00386 June 28, 2024 Order at 11-12. Cooper Rebuttal Testimony at 5.

this risk.”²³⁰ Columbia Kentucky argued that the retention is not, and has never been, a dollar-for-dollar recovery of the cost to collect the Joint Intervenors’ receivables for them.²³¹

As part of the Joint Settlement, the Parties agreed that the amount of the suppliers’ discount on accounts receivable in recognition of Columbia Kentucky’s risk would be reduced from 2 percent to 1.75 percent.²³²

Having considered the record and being otherwise sufficiently advised, the Commission finds that the reduction of CHOICE program suppliers’ discount on accounts receivable from 2 percent to 1.75 percent is reasonable and should be approved. The Commission notes that this issue will be further explored in Case No. 2021-00386.

The Commission also acknowledges that the Parties agreed the Commission schedule the next meeting of the working group ordered in Case No. 2021-00386 during the week of April 13, 2025, or the week of April 20, 2025. An Order will be issued in that matter accordingly.

Total Revenue Requirement

The effect of all adjustments to Columbia Kentucky’s requested increase is a total revenue requirement increase of \$14.293 million, as shown in Appendix A. This reflects a \$9.48 million decrease in Columbia Kentucky’s requested revenue increase of \$23.773 million.

²³⁰ Cooper Rebuttal Testimony at 5 citing Case No. 1999-00165, *In the Matter of the Tariff Filing of Columbia Gas of Kentucky, Inc. to Implement a Small Volume Gas Transportation Service, to Continue its Gas Cost Incentive Mechanisms, and to Continue its Customer Assistance Program* (Ky. PSC Jan. 27, 2000), Order at 5.

²³¹ Cooper Rebuttal Testimony at 5.

²³² Joint Settlement, at 10-11, paragraph 16.

ALLOCATED COSTS FROM NCSC TO COLUMBIA KENTUCKY

Columbia Kentucky stated that NCSC was established to provide centralized services to its affiliates.²³³ Columbia Kentucky explained that the rendering of services on a centralized basis enables the affiliates to realize the benefits of personnel with specialized areas of expertise, as well as the use of assets, without bearing the full cost of each asset, individually, as the costs are shared amongst the affiliates.²³⁴

Columbia Kentucky explained that the billing process that NCSC performs to Columbia Kentucky includes two types of billing to its affiliates.²³⁵ The first type, convenience billing, reflects payments routinely made on behalf of affiliates, including employee benefits, corporate insurance, leasing, and external audit fees.²³⁶ Each affiliate is billed its portion of the payments made in that respective month.²³⁷ The second type, contract billing, reflects payments routinely made on behalf of affiliates, including employee benefits, corporate insurance, leasing, and external audit fees.²³⁸ Each affiliate is billed its portion of the payments made in that respective month.²³⁹

NCSC utilizes a billing pool system to collect costs that are applicable and billable to affiliates, including Columbia Kentucky.²⁴⁰ NCSC currently updates the statistical data

²³³ Application, Volume 3, Tab 32, Direct Testimony of Krista King (King Direct Testimony) (filed May 23, 2024) at 4.

²³⁴ King Direct Testimony at 4.

²³⁵ King Direct Testimony at 4.

²³⁶ King Direct Testimony at 5.

²³⁷ King Direct Testimony at 5.

²³⁸ King Direct Testimony at 5.

²³⁹ King Direct Testimony at 5.

²⁴⁰ King Direct Testimony at 6.

used in the approved allocation bases, on a semi-annual basis; and furthermore, prior to publishing the new allocation percentages, NCSC provides Columbia Kentucky's leadership team the opportunity to review, discuss, and provide feedback.²⁴¹ Columbia Kentucky stated there are system controls in place that allow certain departments, or groups of departments, to only use billing pools that allocates to companies benefitting from the services being provided.²⁴² Columbia Kentucky's internal audit group conducts an annual review of cost allocation procedures and makes recommendations related to contract and convenience billing processing.²⁴³

Columbia Kentucky provided the service agreement between it and NCSC as part of its application.²⁴⁴ NCSC provides various services to Columbia Kentucky as part of this agreement. When possible, NCSC will directly bill charges for any services²⁴⁵ rendered to Columbia Kentucky, while any remaining costs are allocated.²⁴⁶

Columbia Kentucky stated that its leadership performs formal reviews of allocated expenses on a monthly basis.²⁴⁷ Columbia Kentucky described that during these reviews, it is afforded the opportunity to, and does, challenge costs and seek additional

²⁴¹ King Direct Testimony at 7.

²⁴² King Direct Testimony at 7.

²⁴³ King Direct Testimony at 7.

²⁴⁴ King Direct Testimony, Attachment KK-1.

²⁴⁵ The following services are ones that are expected to be provided by NSCS to Columbia Kentucky: Accounting and Statistical; Auditing; Budgeting; Business; Corporate; Customer Billing, Collection, and Contact; Depreciation; Economic; Electronic Communication; Employee; Engineering and Research; Facility; Gas Dispatch; Information; Information Technology; Insurance; Land/Surveying; Legal; Officers; Operations Support and Planning; Purchasing, Storage and Disposition; Regulatory; Tax; Transportation; and Treasury. See King Direct Testimony, Attachment KK-2 at 7-11.

²⁴⁶ King Direct Testimony, Attachment KK-1.

²⁴⁷ Columbia's Kentucky's Post Hearing Brief at 17.

information.²⁴⁸ According to Columbia Kentucky, these monthly reviews are part of an ongoing dialogue about the finances of Columbia Kentucky and the appropriateness of costs allocated to it.²⁴⁹ Columbia Kentucky stated that this represents a dramatic change in the process since Columbia Kentucky's last rate case.²⁵⁰

Columbia Kentucky provided information related to allocated expenses from NCSC. Columbia Kentucky forecasted expenses associated with the 240 and 290 W. Nationwide Blvd. (Arena) building and 801 E. 86th Avenue Merrillville, Indiana (Southlake) buildings including \$7,360 for the Arena Fitness Center²⁵¹ and \$1,684 for the Southlake Fitness Center.²⁵² However, Columbia Kentucky stated that it has zero employees with a work address outside of the Commonwealth of Kentucky.²⁵³ Likewise, while Columbia Kentucky stated that it does not forecast expenses by individual vendor, Columbia Kentucky had allocated expenses in the base period that included vending machine services at Arena and cleaning services for both fitness centers.²⁵⁴

Witness Tamaleh Shaeffer testified at the hearing that the fluctuations in rents and leases in relation to the Arena building are partially based on the allocation in costs for the building is based on personnel and employees and employees who are working in a

²⁴⁸ Columbia Kentucky's Post-Hearing Brief at 18.

²⁴⁹ Columbia Kentucky's Post-Hearing Brief at 18.

²⁵⁰ Columbia Kentucky's Post-Hearing Brief at 18.

²⁵¹ Columbia Kentucky's Response to Attorney General's First Request, Item 87.

²⁵² Columbia Kentucky's Response to the Attorney General's First Request, Item 87.

²⁵³ Columbia Kentucky's Response to Staff's Post-Hearing Request, Item 4.

²⁵⁴ Columbia Kentucky's Response to the Attorney General's First Request, Item 87.

particular facility.²⁵⁵ Witness Shaeffer explained that time allocation for employees is the basis upon which lease costs are allocated for that office location.²⁵⁶ Witness Shaeffer further discussed that the building allocation studies get updated annually.²⁵⁷ NCSC building rents and leases costs are allocated to the operating companies as a labor overhead in the following steps: (1) employee headcount is used to determine the amount of rent charged to NCSC for each building in which NCSC employees reside; (2) Once each NCSC department has been assigned its share of the monthly NCSC rents and leases expense, the department's rental obligation is then allocated to each of the operating companies, both direct and allocated, based upon how that department's employees have billed their time (labor) in the respective month.²⁵⁸ This is completed through a mechanized allocation process.²⁵⁹

NCSC also allocated nearly \$68,000 to Columbia Kentucky for services provided by LJ Aviation.²⁶⁰ LJ Aviation is an aircraft management company which manages the NCSC-owned aircraft.²⁶¹ Columbia Kentucky stated that the costs primarily includes operation and maintenance expenses for aircraft managed by L.J. Aviation, for example, fuel costs, in flight Wi-Fi internet access, gate fees, and other travel related expenses,

²⁵⁵ Hearing Video Transcript (HVT) of the October 21, 2024 Hearing at 11:14:58-11:16:28.

²⁵⁶ HVT of the October 21, 2024 Hearing at 11:14:58-11:16:28.

²⁵⁷ HVT of the October 21, 2024 Hearing at 11:14:58-11:16:28.

²⁵⁸ Columbia Kentucky's Response to Staff's Post-Hearing Request, Item 5.

²⁵⁹ Columbia Kentucky's Response to Staff's Post-Hearing Request, Item 5.

²⁶⁰ Columbia Kentucky's Response to Staff's First Request, Item 6, Attachment B.

²⁶¹ Columbia Kentucky's Response to the Staff's Post-hearing Request, Item 13e.

such as meals.²⁶² Columbia Kentucky stated that there have been no specific instances of use of the NCSC-owned airplane used by Columbia Kentucky.²⁶³

The Commission recognizes the efforts Columbia Kentucky has made in improving its review of allocated costs. However, the Commission continues to have concerns regarding the reasonableness of certain allocated costs from NSCS to Columbia Kentucky, and if Columbia Kentucky is fully evaluating the benefit that those costs, including the above discussed costs associated with the Arena building and L.J. Aviation, may have for its ratepayers. In addition, Columbia Kentucky has not demonstrated how allocation by labor is reasonable for vending machine service or cleaning service. The Commission reminds Columbia Kentucky that it has a statutory obligation to determine that costs allocated to it are reasonable.

In the next rate case filing, the Commission recommends that Columbia Kentucky conduct an independent review of the NCSC service agreement and whether the allocations from NCSC to Columbia Kentucky meet the standards laid out in KRS 278.2207 and KRS 278.030. The Commission also strongly encourages Columbia Kentucky to hire a third-party auditor to analyze the reasonableness of the allocations from NCSC to Columbia Kentucky, including but not limited to the allocated labor expense.

²⁶²Columbia Kentucky's Response to the Staff's Post-hearing Request, Item 13e.

²⁶³ Columbia Kentucky's Response to Staff's Fourth Request, Item 11.

RATE DESIGN

Normalized Revenues

Columbia Kentucky's normalized revenues for the test year were based on its approved rates and normalized weather conditions. Columbia Kentucky used historical monthly customer counts and usage data for residential and commercial customer classes and applied econometric models to develop forecasts of residential and commercial use per customer. Columbia Kentucky provided a weather normalization study utilizing heating degree days (HDD) for the 20-year period ended December 31, 2023, to develop the forecasted test year residential and commercial customer usage.²⁶⁴ Revenues for industrial customers were based on customer count and volume information provided by Columbia Kentucky's Large Customer Relations group. Columbia Kentucky reported a 22 percent decrease in industrial transportation volumes from 2023 actual to 2025 forecasted.²⁶⁵ Columbia Kentucky stated that a single large transportation customer accounts for over half of the annual load and that this customer has access to another pipeline for its gas transportation requirements. Columbia Kentucky proposed a volume reduction impacting the industrial transportation class to reflect the single customer's historical throughput of approximately 6 Bcf²⁶⁶ as opposed to the most recent volume of 10 Bcf.²⁶⁷ Columbia Kentucky justified this adjustment by citing the high threat of bypass, and that its proposed forecasted usage falls in line with its average annual total usage for

²⁶⁴ Application, Volume 3, Tab 26, Direct Testimony of Michael Girata (Girata Direct Testimony) (filed May 23, 2024) at 4–5.

²⁶⁵ Girata Direct Testimony at 10, Table 2.

²⁶⁶ Bcf is a Billion cubic feet. 1 Bcf of natural gas is equal to 1,000,000 Mcf.

²⁶⁷ Columbia Kentucky's Response to Commission Staff's Second Request for Information (Staff's Second Request) (filed July 10, 2024), Item 48.

the customer.²⁶⁸ No intervening party challenged Columbia Kentucky's methodology in developing customer counts and class usage or its weather normalization methodology.

The Commission finds the forecasted industrial transportation volumes, given the status of the large transportation customer and the justification provided for the threat of bypass, to be acceptable in this instance. The Commission furthermore accepts the 20-year weather normalization study as provided by Columbia Kentucky. However, due to changes in weather patterns over the past few decades, the Commission notes that a weather normalization study using a shorter timeframe may provide a more accurate predictor of natural gas usage. Therefore, the Commission recommends that Columbia Kentucky should perform a 15-year weather normalization study as well as a 20-year weather normalization study to present in its next base rate case. In addition, Columbia Kentucky should also consider providing accompanying testimony explaining the methodology used in the studies, comparing its outcomes of both studies, and providing justification for the length of time chosen for forecasting normal weather.

Cost of Service Study

Columbia Kentucky filed three cost of service studies (COSS), which are identified as the Customer/Demand study, Demand/Commodity study, and the Average study.²⁶⁹ The first, a customer/demand study, allocated distribution main costs using a composite weighting between a minimum system investment that is allocated using the number of customers versus the remainder of the mains costs being allocated based on design day

²⁶⁸ Columbia Kentucky's Response to Commission Staff's Post-Hearing Request, Item 9.

²⁶⁹ Application, Volume 3 , Tab 24, Direct Testimony of Ronald J. Amen (Amen Direct Testimony) (filed May 23, 2024) at 15.

demand requirements.²⁷⁰ For the second, a demand/commodity study, distribution main costs are allocated using a composite factor based on design day demand and annual usage, commonly referred to as the peak and average method.²⁷¹ The third study is an average study where equal weight is given to the other two for the allocation of mains costs.²⁷² The differences among the studies performed is the application of the distribution mains allocation factors and the impact on the calculation of related allocation factors.²⁷³ Pursuant to the Commission's directive in Case No. 2021-00183,²⁷⁴ Columbia Kentucky also used the zero-intercept approach for the allocation of distribution mains for the purpose of determining the customer component. The results of the various COSS's illustrate that there are high levels of subsidization occurring between the different rate classes; specifically, that several of the non-residential classes are subsidizing the residential class.²⁷⁵

Having reviewed Columbia Kentucky's multiple COSSs, the Commission finds the evaluation of the results to be acceptable for use as a guide for the allocation the revenue increase granted herein. The Commission finds that Columbia Kentucky should continue to file multiple COSSs in future base rate filings and should continue to include a COSS based upon the zero-intercept method for the allocation of distribution mains. If such

²⁷⁰ Application, Attachment RJA-2, page 8 of 59.

²⁷¹ Application, Attachment RJA-2, page 8 of 59.

²⁷² Application, Attachment RJA-2, page 8 of 59.

²⁷³ Application, Volume 3 , Tab 24, Amen Direct Testimony (filed May 23, 2024) at 20.

²⁷⁴ Case No. 2021-00183, Order (Ky. PSC Dec. 28, 2021), ordering paragraph 15.

²⁷⁵ Application, Attachment RJA-2, page 21 of 59.

study does not produce reasonable results, a COSS should be filed where distribution mains are allocated as 100 percent demand.

Revenue Allocation and Rate Design

Columbia Kentucky proposed to divide the Rate MLDS class based on the customers' annual transportation volume and to establish two separate customer charges.²⁷⁶ MLDS customers who use up to 400,000 Mcf of gas in a year were proposed to be assessed a \$300 per month charge, while a MLDS customer who uses over 400,000 Mcf of gas in a year were proposed to be assessed \$600 per month. Due to MLDS customers requiring a connection directly through a dual-purpose meter to facilities of an interstate pipeline supplier,²⁷⁷ Columbia Kentucky stated that it does not have facilities in place to serve these customers other than the meters.²⁷⁸ Columbia Kentucky performed a special study to directly assign a portion of the specific distribution plant installed to serve the MLDS customers.²⁷⁹ No intervening party provided testimony on Columbia Kentucky's proposed changes to the Rate MLDS class structure.²⁸⁰

In the Joint Settlement, the Parties agreed to the revenue allocation as proposed by Columbia Kentucky in the Application, with the exception to the allocation of the Rate DS declining block usage rates. Columbia Kentucky had proposed to increase each of the three volumetric Delivery Charge blocks by an equal percentage. KIUC provided testimony related to the allocation of Rate DS block usage rates, arguing that Columbia

²⁷⁶ Amen Direct Testimony at 42.

²⁷⁷ See Columbia Kentucky's tariff eighth revised sheet No. 41, subsection 3 under Availability.

²⁷⁸ Application, Volume 3, Tab 24, Amen Direct Testimony (filed May 23, 2024) at 15.

²⁷⁹ Amen Direct Testimony at 15.

²⁸⁰ Direct Testimony of Kevin Murray (Murray Direct Testimony) (filed Aug. 14, 2024).

Kentucky's proposal does not align with the filed COSS, which indicates that there are no commodity/volumetric costs associated with Columbia Kentucky's service to its Rate DS or Rate IS customers. KIUC's proposal was that the increase to the volumetric portion of Rate DS would be applied in equal percentages to the first two blocks, while the third block would remain unchanged. The Joint Settlement revenue allocation for Rate DS adopted KIUC's proposal. The Joint Settlement allocation of revenue by rate class is as follows:

Rate Class	Portion of Revenue Increase
GSR/GTR	64.660 %
GSO/GTO/GDS	27.626 %
IS/DS	7.478 %
IUS	0.012 %
MLDS	0.224 %
Total	100.000 %

Based on Columbia Kentucky's total revenue requirement increase of \$14.293 million due to the filing of the final rate case expense, as shown in Appendix A, the Commission finds that the revenue increase should follow the allocation method as agreed upon in the Joint Settlement. The revenue allocation for the rate classes will be applied to the volumetric rates, where applicable, while the agreed customer charges will remain unchanged from the Joint Settlement. The Commission's determination of the rates to be fair, just and reasonable based on the revenue requirement increase as agreed to by the Parties and the revenue allocation are shown in the rates and charges as set forth in Appendix C to this Order. The Parties agreed to a residential customer charge of \$21.25 per billing period, which is an increase of \$1.50 from the current customer charge of \$19.75 per billing period. In addition, the Parties tendered tariffs and

agreed to the remaining proposed customer charge increases.²⁸¹ Based on the Joint Settlement revenue allocation the Residential base usage rate would be \$6.0958 per Mcf. A Residential customer with average monthly usage of 5.5 Mcf will experience an average monthly bill of \$54.78 which is an increase of \$6.14 or an increase of 12.62 percent from average monthly bill of \$48.64 based on current rates.

Having reviewed the record and being otherwise sufficiently advised, the Commission approves the proposed revenue allocation, proposed customer charges for all classes, proposed split in the customer charge to the Rate MLDS class, and the proposed change to Rate DS as agreed to in the Joint Settlement.

On October 14, 2024, revised tariff sheets were filed reflecting the rates, charges, and terms of the Joint Settlement agreed upon by the Parties and proposed to the Commission.²⁸² The Gas Cost Adjustment (GCA), Demand and Commodity usage charges used in the Joint Settlement's tendered revised tariff sheets reflected rates approved for billing with the final meter readings beginning on and after February 29, 2024, by the Commission in Case No. 2024-00011,²⁸³ adjusted for the rate case uncollectible factor.²⁸⁴ Upon review of the Joint Settlement and the Joint Settlement's tendered revised tariff sheets, the Parties failed to correct for the current GCA Demand and Commodity usage charges as approved by the Commission for billing with the final

²⁸¹ Joint Settlement, Attachment B.

²⁸² Joint Settlement (filed Oct. 14, 2024), Appendix B.

²⁸³ Case No. 2024-00011, *Electronic Purchased Gas Adjustment Filing Of Columbia Gas Of Kentucky, Inc.* (Ky. PSC Feb. 26, 2024), Order.

²⁸⁴ Columbia Kentucky's prior rate case uncollectable factor of 0.00428 was approved by the Commission in Case No. 2021-00183 (Ky. PSC Dec. 28, 2021), Order, Appendix B, page 1 of 3, footnote 1. The Joint Settlement includes a proposed rate case uncollectable factor of 0.00417.

meter readings beginning on and after November 26, 2024, in Case No. 2024-00341²⁸⁵, adjusted for the rate case uncollectible factor of 0.00417²⁸⁶ as approved in this proceeding.

However, the Commission finds that the incorrect GCA charges used in the Joint Settlement's revised tariff sheets have no impact on the final rates and charges as proposed by the Joint Settlement and accepted by the Commission in this proceeding. A correction to the Joint Settlement's revised tariff sheets, as shown in Appendix C to this Order, to include the corrected GCA usage rates, adjusted for the rate case uncollectible factor.²⁸⁷ Therefore, the Joint Settlement's revised tariff sheets with the updated GCA usage rates, including the updated uncollectible factor, should be accepted by the Commission.

TARIFFS

Late Payment Penalty

Columbia Kentucky proposed to remove the Late Payment Penalty for residential service currently included in the General Terms, Conditions, Rules and Regulations Tariff, Sheet No. 74.²⁸⁸ Columbia Kentucky explained that the proposed shift in residential late payment penalties collection to base rates is based on Columbia Kentucky's understanding of the Commission's Order in its last base rate case, Case No. 2021-

²⁸⁵ Case No. 2024-00341, *Electronic Purchased Gas Adjustment Filing Of Columbia Gas Of Kentucky, Inc.* (Ky. PSC Nov. 25, 2024), Order.

²⁸⁶ Application, Direct Testimony of Tamaleh L. Shaeffer, Attachment TS-1, page 1 of 1.

²⁸⁷ Case No. 2024-00341 (filed. Oct. 25, 2024), "December_2024_GCA_worksheet_(final).xlsx", Tab: "1 EGC", Cell G47. The Uncollectable ratio input was changed from "0.00428" to "0.00417" to reflect the update to the GCA Demand and Commodity usage rates as accepted in this proceeding.

²⁸⁸ Application at 6, paragraph 22.

00183.²⁸⁹ In the previous case, the Commission stated that Columbia Kentucky could be “overstating the costs associated with late payers by including items that don’t necessarily apply to all late payers, such as the cost of the termination notice, outbound and inbound calls and collection premise visits.”²⁹⁰ Columbia Kentucky argued that the costs are not incurred to serve residential customers that pay on time and that the nature of these costs have not changed since Columbia Kentucky’s last base rate case.²⁹¹ Columbia Kentucky stated that based on the Commission’s stated concern regarding residential late payers, the alternative course is to recover the costs as part of base rates instead of a late payment penalty.²⁹²

At the hearing, witness Judy Cooper, on behalf of Columbia Kentucky, testified that the original purpose of the late payment fee was as an incentive for residential customers to pay on time and that she believes that the fee has acted as intended.²⁹³ Witness Cooper stated that the late payment fee goes towards offsetting the revenue requirement, and that there would be no cost savings for Columbia Kentucky or its customers, apart from customers who pay late.²⁹⁴ Columbia Kentucky argued that the removal of the late payment fee for residential customers is beneficial to those customers

²⁸⁹ Columbia Kentucky’ Response to Staff’s Second Request, Item 46a.

²⁹⁰ Columbia Kentucky’s Response to Staff’s Second Request, Item 46a *citing* Case No. 2021-00183, Order dated December 28, 2021, page 44.

²⁹¹ Columbia Kentucky’ Response to Staff’s Second Request, Item 46a.

²⁹² Columbia Kentucky’ response to Staff’s Second, Item 46a.

²⁹³ HVT of the October 21, 2024 Hearing at 9:57:33 to 9:58:24.

²⁹⁴ HVT of the October 21, 2024 Hearing at 10:00:09 to 10:01.

who face hardships paying bills, especially in the winter heating season.²⁹⁵ No intervenors provided testimony on this issue.

For Joint Settlement purposes, the Parties agreed with the removal of the late payment penalty for residential services.²⁹⁶

Having considered the record and being otherwise sufficiently advised, the Commission finds that the removal of the late payment penalty as laid out in the Joint Settlement is reasonable and should be approved.

State TAAF

Columbia Kentucky proposed to reinstate Tariff Sheet 7a as the State TAAF.²⁹⁷ Columbia Kentucky explained that Tariff Sheet No. 7a was originally the TAAF approved by the Commission in Case No. 2018-00041²⁹⁸ for a federal tax change and was cancelled in Case No. 2021-00183²⁹⁹ when the impacts of the federal tax change were incorporated into base rates.³⁰⁰ Columbia Kentucky stated that this amended tariff would be utilized to implement the effects of future changes in state tax law resulting from the action or inaction of the Kentucky General Assembly.³⁰¹ Columbia Kentucky stated that the State TAAF could be a collection from, or credit to, customers based upon the state

²⁹⁵ Columbia Kentucky's Post Hearing Brief at 21.

²⁹⁶ Joint Settlement at 9.

²⁹⁷ Application at 3, paragraph 6.

²⁹⁸ Case No. 2018-00041, *In the Matter of the Electronic Investigation of the Impact of the Tax Cuts and Jobs Act on the Rates of Columbia Gas of Kentucky, Inc.*, Order (Ky PSC April 30, 2018), Order.

²⁹⁹ Case No. 2021-00183 December 28, 2021 Order.

³⁰⁰ Application, Volume 2, Tab 19, Direct Testimony of Judy Cooper (Cooper Direct Testimony) (filed May 23, 2024) at 9.

³⁰¹ Application at 3, paragraph 6.

tax law.³⁰² Columbia Kentucky stated that the TAAF would be set at zero until the effective date of any state tax changes.³⁰³ No intervenors provided testimony on the State TAAF.

As part of the settlement, Columbia Kentucky's agreed to withdraw the proposed State TAAF mechanism.³⁰⁴

Having reviewed the record and being otherwise sufficiently advised, the Commission approves Columbia Kentucky's withdrawal of its proposal for a State TAAF Tariff.

Other Tariff Changes

Columbia Kentucky also proposed to provide for the inclusion of uncollectible expense in future SMRP filing. Additionally, Columbia Kentucky proposed to modify the customer charge provision of rate schedule MLDS to segment the applicable rate into two blocks based upon the customers Annual Transportation Volume. Both proposals are discussed in more detail above. All parties agreed to these provisions in the settlement agreement.³⁰⁵

Therefore, the Commission finds that the proposed tariff changes are reasonable and are approved.

³⁰² Application at 3, paragraph 6.

³⁰³ Application at 3, paragraph 6.

³⁰⁴ Joint Settlement at 7, paragraph 8.

³⁰⁵ Joint Settlement at 8-9, paragraph 11.

DISTRIBUTION INTEGRITY MANAGEMENT PROGRAM (DIMP)

On February 12, 2010, the Pipeline and Hazardous Materials Safety Administration (PHMSA) finalized 49 CFR Subtitle B Chapter 1 Subchapter D Part 192, Subpart P, establishing integrity management (IM) requirements for gas distribution pipeline systems. The regulations require operators such as Columbia Kentucky to develop, write and implement an integrity management program. The regulations go on to identify several elements required for a distribution integrity management program.³⁰⁶ As part of the review of the rate application, the Commission also reviewed several of the policies and procedures of Columbia Kentucky. In doing so, the Commission requested information to confirm that Columbia Kentucky was in compliance this particular federal regulation.

On more than one occasion, Columbia Kentucky was asked to provide its DIMP.³⁰⁷ Instead, Don Ayers, on behalf of Columbia Kentucky, stated NiSource, Inc., its parent company that actually has no employees, had a plan.³⁰⁸ However, § 192.1005 required that a gas distribution operator develop and implement an integrity management program that includes a written integrity management plan as specified in § 192.1007 before August 2, 2011. There are no exceptions for parent and affiliate companies. In addition, operators are required to maintain, for a period of at least 10 years, the following records:

- (1) A written IM plan in accordance with this section, including superseded IM plans;
- (2) Documents supporting threat identification; and

³⁰⁶ § 192.1007

³⁰⁷ Commission Staff's Third Request for Information, Item 1; Commission Staff's Fifth Request for Information, Item 6; Commission Staff's Fifth Request for Information, Item 7.

³⁰⁸ Columbia Kentucky's Response to Staff's Third Request, Item 1, CONFIDENTIAL Attachment A.

(3) Documents showing the location and material of all piping and appurtenances that are installed after the effective date of the operator's IM program and, to the extent known, the location and material of all pipe and appurtenances that were existing on the effective date of the operator's program.³⁰⁹


The Commission will recommend that the Division of Inspections follow-up on this apparent failure to comply with the federal regulations to determine the extent that Columbia Kentucky is out of compliance with the federal regulations. In addition, the Commission will expect Columbia Kentucky to provide a complete response when a DIMP is requested in future cases.

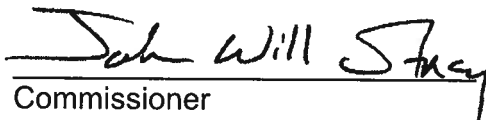
IT IS THEREFORE ORDERED that:

1. The rates and charges proposed by Columbia Kentucky in its application are denied.
2. The Joint Settlement, attached to this Order as Appendix B (without exhibits), is approved.
3. The rates and charges as set forth in Appendix C are approved as fair, just and reasonable rates for Columbia Kentucky, and these rates and charges are approved for service on and after January 1, 2025.
4. Within 20 days of the date of this Order, Columbia Kentucky shall file with the Commission, using the Commission's electronic Tariff Filing System, new tariff sheets setting forth the rates, charges, and modifications approved or as required herein and reflecting their effective date and that they were authorized by this Order.
5. This case is closed and removed from the Commission's docket.

³⁰⁹ §192.1011.

PUBLIC SERVICE COMMISSION

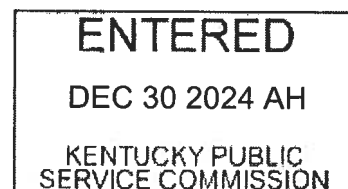

Chairman


Commissioner


Commissioner

ATTEST:


Executive Director



Case No. 2024-00092

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