COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC JOINT APPLICATION OF KENTUCKY UTILITIES COMPANY, LOUISVILLE GAS AND ELECTRIC COMPANY, DUKE ENERGY KENTUCKY, INC., EAST KENTUCKY POWER COOPERATIVE, INC., DELTA NATURAL GAS COMPANY, INC., ATMOS ENERGY CORPORATION, AND KENTUCKY POWER COMPANY FOR AN ORDER APPROVING THE ESTABLISHMENT OF REGULATORY ASSETS	)	CASE NO. 2026-00143

O R D E R

On May 29, 2026, Kentucky Utilities Company (KU), Louisville Gas and Electric Company (LG&E), Duke Energy Kentucky, Inc. (Duke Kentucky), East Kentucky Power Cooperative, Inc. (EKPC), Delta Natural Gas Company, Inc. (Delta), Atmos Energy Corporation (Atmos), and Kentucky Power Company (Kentucky Power) (collectively, the Applicants) filed a Joint Application pursuant to KRS 278.220. In the Joint Application, the Applicants requested authorization to establish regulatory assets to account for each utility’s expenses incurred to comply with the new statutory obligations in KRS 278.130 raising the assessment amount on public utilities for the maintenance of the Commission (PSC Assessment) from no more than two mills on intrastate receipts to a fixed amount of 0.23 percent of intrastate receipts.[1] No party requested intervention in this proceeding.

This matter now stands submitted for decision by the Commission.

[1] As more fully discussed below, HB 757 amended, in part, KRS 278.130 and became law on April 14, 2026. The effective date of the changes is July 15, 2026.

LEGAL STANDARD

KRS 278.220 sets out that the Commission may establish a uniform system of accounts (USoA) for utilities, and in the Applicants' case, that the system of accounts shall conform as nearly as practicable to the system adopted or approved by the Federal Energy Regulatory Commission (FERC). The FERC USoA provides for regulatory assets, or the capitalization of costs that would otherwise be expensed but for the actions of a rate regulator. The Financial Accounting Standards Board's Statement of Financial Accounting Standards No. 71, Accounting for the Effects of Certain Types of Regulation, which was codified as Accounting Standards Codification (ASC) 980, Regulated Operations, provides the criteria for recognition of a regulatory asset.[2] Pursuant to ASC 980, it must be probable that the utility will recover approximately equal revenue through the inclusion of these costs for ratemaking purposes, with the intent to recover the previously incurred cost, not a similar future cost. The Commission has established (1) parameters for expenses which qualify for regulatory asset treatment, (2) a requirement

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[2] ASC 980-340-25-1 provides, in full, as follows:

> **25-1** Rate actions of a regulator can provide reasonable assurance of the existence of an asset. An entity shall capitalize all or part of an incurred cost that would otherwise be charged to expense if both of the following criteria are met:
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> a. It is probable (as defined in Topic 450) that future revenue in an amount at least equal to the capitalized cost will result from inclusion of that cost in allowable costs for rate-making purposes.
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> b. Based on available evidence; the future revenue will be provided to permit recovery of the previously incurred cost rather than to provide for expected levels of similar future costs. If the revenue will be provided through an automatic rate-adjustment clause, this criterion requires that the regulator's intent clearly be to permit recovery of the previously incurred cost. A cost that does not meet these asset recognition criteria at the date the cost is incurred shall be recognized as a regulatory asset when it does meet those criteria at a later date.

that utilities seek Commission approval before recording regulatory assets, and (3) requirements regarding the timing for applications seeking such approval. The Commission has approved regulatory assets when a utility has incurred: (1) an extraordinary, nonrecurring expense which could not have reasonably been anticipated or included in the utility's planning; (2) an expense resulting from a statutory or administrative directive; (3) an expense in relation to an industry sponsored initiative; or (4) an extraordinary or nonrecurring expense that over time will result in a saving that fully offsets the cost.[3]

BACKGROUND

House Bill 757 was introduced in the Kentucky legislature on February 25, 2026, and after going through the legislative process, including amendments, became law on April 14, 2026.[4] The new law amended KRS 278.130 to increase the assessments on public utilities for the maintenance of the Commission from no more than two mills on intrastate receipts to a fixed amount of 0.23 percent of intrastate receipts.[5] The revisions to KRS 278.130 are set to take effect on or about July 15, 2026.[6]

REQUEST FOR REGULATORY ASSET TREATMENT

The Applicants requested authorization from the Commission to accumulate and defer for review and recovery in their respective next base rate proceedings the amounts above what is currently embedded in each utility's base rates associated with the

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[3] Case No. 2008-00436, *Application of East Kentucky Power Cooperative, Inc. for an Order Approving Accounting Practices to Establish a Regulatory Asset Related to Certain Replacement Power Costs Resulting from Generation Forced Outages* (Ky. PSC Dec. 23, 2008) at 4.

[4] Application at 7.

[5] Application at 7.

[6] Application at 7.

expenses incurred related to the Applicants' payment of the increased PSC Assessment.[7] The Applicants argued that the costs associated with their increased PSC Assessment payments mandated by revised KRS 278.130 fall within the category of "an expense resulting from a statutory or administrative directive," and that the expenses warrant regulatory asset treatment.[8] The Applicants explained that the costs associated with their increased PSC Assessment payments were still being calculated at the time the Application was filed and would necessarily continue to be estimates until the Commission's invoice is received.[9] The Applicants stated that they would update the estimates to actual amounts when actual costs are known and would file the actual amounts with the Commission when including such costs in their respective base rate cases when such cases are filed.[10] If approved, the Applicants' deferred costs would accumulate and be held in separate regulatory asset accounts until such time as the Commission considers them in future rate proceedings.[11] The Applicants stated that, each year until an Applicant files a base rate case, the Applicants would defer the difference between the actual expenses incurred related to payments to the Commission and the amounts included in base rates.[12]

[7] Application at 7.

[8] Application at 8.

[9] Application at 8.

[10] Application at 8.

[11] Application at 8-9.

[12] Application at 8.

DISCUSSION AND FINDINGS

Having considered the record and being otherwise sufficiently advised, the Commission finds that the Applicants' request to establish a regulatory asset for expenses incurred related to the increase in the PSC Assessment rate should be granted. The Commission agrees that the costs associated with the increased PSC Assessment rate satisfy the Commission's criteria of an expense resulting from a statutory or administrative directive and therefore, warrant regulatory accounting treatment. The Commission finds that the regulatory assets authorized herein should be for the costs in excess of those embedded in each utility's base rates each year until each utility's next base rate case. The Commission also finds that each Applicant should file the year-end actual amounts, as they become available, on an annual basis until the Applicant's next base rate adjustment for ease of reference. For the applicable utilities, the Commission finds that, if an Applicant does not request amortization of the regulatory asset herein in its next base rate proceeding and proposes to include the regulatory asset in rate base, the Applicant should provide substantial justification in that proceeding. The Commission notes that it views the costs associated with the increased PSC Assessment rate as normal operating expenses that otherwise would not be capitalized.

IT IS THEREFORE ORDERED that:

1. The Applicants' request for authorization to establish regulatory assets for the expenses associated with the increased PSC Assessment rate through each Applicant's next base rate case is granted.

2. The regulatory asset accounts established in this case are for accounting purposes only.

3. The Applicants shall, within 14 days of service of this Order, file with the Commission the accounting entries made on its books to effectuate the creation of the regulatory assets.

4. The Applicants shall file the year-end actual amounts of the regulatory assets, as they become available, an annual basis until the Applicant's next base rate adjustment.

5. Any documents filed in the future pursuant to ordering paragraphs 3-4 herein shall reference this case number and shall be retained in the post-case correspondence file.

6. The amounts, if any, of the regulatory assets authorized herein that are to be amortized and included in rates shall be determined in each Applicant's next base rate case.

7. This case is closed and removed from the Commission's docket.

Entered on this 29th day of July, 2026.

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