COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In The Matter Of:

Electronic Application Of Kentucky Power Company For (1) A General Adjustment Of Its Rates For Electric Service; (2) An Order Approving Its 2017 Environmental Compliance Plan; (3) An Order Approving Its Tariffs And Riders; (4) An Order Approving Accounting Practices To Establish Regulatory Assets Or Liabilities; And (5) An Order Granting All Other Required Approvals And Relief.	:	**Case No. 2017-00179**

BRIEF OF KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.

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Kentucky Industrial Utility Customers, Inc. ("KIUC") submits this Brief in support of its recommendations to the Kentucky Public Service Commission ("Commission" or "KPSC"). The members of KIUC who are participating in this proceeding are: Air Products and Chemicals, Inc., Airgas, Inc., AK Steel Corporation, and Catlettsburg Refining LLC, a subsidiary of Marathon Petroleum LP ("Marathon"). These companies purchase electricity from Kentucky Power Company ("Kentucky Power" or "Company").

INTRODUCTION

On June 28, 2017, Kentucky Power filed its application in this case, which was then updated on August 8, 2017 to reflect the Company's June refinancing activities. Months later, after the filing of direct and rebuttal testimony, the exchange of 793 separate intervenor data requests, and participation in a series of negotiations, the Company was able to reach a Settlement of the issues in this case with a large group of parties representing widely varying interests, including KIUC, Kentucky School Boards Association, Kentucky League of Cities, Wal-Mart Stores East, LP and Sam's East, Inc., and Kentucky

Cable Telecommunications Association. Two parties – the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention ("AG") and Kentucky Commercial Utility Customers, Inc. ("KCUC") – chose to oppose the Settlement.

The Commission should approve the Settlement as filed. As Company witnesses Satterwhite and Hall explained, Kentucky Power is working actively to rebuild Eastern Kentucky's economy and is making progress in its efforts.[1] The Settlement helps to facilitate this important goal. The Settlement nearly cuts in half the base rate increase requested by Kentucky Power, saving customers $28.6 million per year. The Settlement also protects residential and business customers in Eastern Kentucky from unreasonable electric rates by, *inter alia*, establishing a three-year rate case stay out that would not be possible in litigation, requiring Kentucky Power to absorb 20% of any change in its annual PJM transmission costs (projected to save customers $15.1 million through 2020), committing the Company to flow-back federal transmission returns greater than its Commission-approved return on equity (projected to save customers $3.4 million through 2020), and establishing a lower residential customer charge than proposed by the Company.

The Settlement also establishes a reasonable rate allocation for the various customer classes, which carefully balances the need to provide competitive electric rates for both existing and new large manufacturers in Eastern Kentucky with the need to protect residential customers. The Settlement rates include a $28.2 million annual subsidy for the residential class, which will soften the rate impact to those customers.[2] Yet all non-residential customers will receive some level of subsidy reduction under the Settlement.[3] Under the Settlement, the rates of the Industrial General Service ("IGS") class will

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[1] Testimony of Matthew J. Satterwhite on behalf of Kentucky Power Company in Support of the Settlement Agreement (November 30, 2017) ("Satterwhite Settlement Testimony") at 7:4-6; Direct Testimony of Brad N. Hall on behalf of Kentucky Power Company (June 28, 2017); Tr. Vol. III (December 8, 2017) at 822:24-823:14.
[2] Kentucky Power Response to KIUC Post-Hearing Data Request No. 2 (December 13, 2017).
[3] Tr. Vol. III (December 8, 2017) at 989:18-19.

continue to provide a $4.7 million annual subsidy to the residential customers.[4]

Despite these significant benefits to customers, two parties continue to oppose the Settlement. Yet neither has presented a clear and comprehensive reason for its rejection. To the contrary, the evidence in the record weighs heavily in favor of the Settlement. Should the Commission modify the Settlement in a manner that results in a lower revenue requirement, however, any *"new money"* should be used to reduce rates for residential customers in Eastern Kentucky. Finally, the ultimate rate impact of the Settlement on all customers will likely be substantially reduced as a result of the Tax Cuts and Jobs Act.[5]

ARGUMENT

I. The Commission Should Approve the Settlement.

A. The Settlement Benefits All of Kentucky Power's Customers.

The Commission should approve the Settlement because it provides a variety of benefits to Kentucky Power's customers. One significant benefit is the almost 50% reduction in the Company's requested base rate increase – from approximately $60.4 million per year (12.1%) to $31.8 million (6.50%).[6] This substantial reduction results from a series of adjustments, including the five-year deferral of $50 million of fixed Rockport expenses,[7] the Company's acceptance of a 9.75% return on equity ("ROE") rather than the requested 10.31%,[8] adjustments to depreciation rates for Big Sandy Unit 1 and the Mitchell Plant,[9] capital structure changes,[10] increasing revenues to reflect weather

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[4] Kentucky Power Response to KIUC Post-Hearing Data Request No. 1 (December 13, 2017).

[5] The bill's long title is *"An Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018."*

[6] Settlement at 3; Satterwhite Settlement Testimony at 8:9-12. This does not include the impacts of the Company's proposed $3.9 million environmental compliance plan increase and the $327 thousand increase to the Home Energy Assistance Program ("HEAP") and Kentucky Economic Development Surcharge ("KEDS") funding, which raise the total increase to $36 million. Testimony of Alex E. Vaughan on behalf of Kentucky Power Company in Support of the Settlement Agreement at 2:9-19 and Ex. AEV-1S and AEV-1S/Settlement Agreement Exhibit-1.

[7] Settlement at 3 and 4-8; Satterwhite Settlement Testimony at 10:4-14.

[8] Settlement at 4 and 10-11; Satterwhite Settlement Testimony at 9:12-14; Direct Testimony and Exhibits of Lane Kollen (October 3, 2017)("Kollen Testimony") at 15:19-17:16.

[9] Settlement at 4 and 10; Satterwhite Settlement Testimony at 17:18-18:3; Kollen Testimony at 28:18-35:6.

normalization of commercial sales,[11] five-year amortization of the remaining balance of Kentucky Power's existing deferred storm expense regulatory asset,[12] and decreases to the Company's incentive compensation level.[13]

The Rockport fixed cost deferral is particularly notable. Under a FERC-approved Unit Power Agreement ("UPA"), Kentucky Power purchases from its affiliates 195 MW from Rockport Units 1 and 2 (390 MW total).[14] The Rockport units are located in Indiana and burn Powder River basin coal. The Rockport UPA expires on December 7, 2022 and Kentucky Power has already given notice that it will not seek Commission approval to extend the Rockport Unit 2 UPA.[15] Under its current load projections, Kentucky Power will have a 48.06% reserve margin in 2021/2022 and the need for either Rockport Unit is doubtful.[16] If the UPA for both Rockport Units expires at the end of 2022, then Kentucky Power will have fixed cost savings of $54 million per year.[17] At the end of 2022, the $6.4 million below-the-line "*equity kicker*" for Rockport approved in Case No. 2004-00420 and recovered through the Capacity Charge tariff will also expire.[18] Therefore, upon the expiration of the Rockport UPA at the end of 2022, Kentucky Power will have up to $60.4 million in annual cost savings.

The Settlement provides for a five-year deferral of $50 million of Rockport costs starting with the effective date of new rates. The $50 million deferral plus $9 million of carrying costs will be repaid over five years beginning in December 2022 when at least one, but probably both, Rockport UPAs expire. In the Settlement, the Parties have used projected Rockport savings to reduce rates today. As KIUC witness Kollen explained, the deferral *"balances the Company's recovery of costs with the need*

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[10] Settlement at 4; Satterwhite Settlement Testimony at 18:9-12; Kollen Testimony at 44:7-46:6.
[11] Settlement at 3.
[12] Settlement at 3 and 11-12; Satterwhite Settlement Testimony at 18:17-19; Kollen Testimony at 26:1-28:16.
[13] Settlement at 3; Satterwhite Settlement Testimony at 19:12-16; Kollen Testimony at 19:9-23:1.
[14] Kollen Testimony at 7:23-8:5.
[15] Kollen Testimony at 8:6-16.
[16] Kollen Testimony at 10:6-7.
[17] Tr. Vol. I (December 6, 2017) at 330:19-24.
[18] Kollen Testimony at 9:8-12.

to restrain growth in customer rates now because of the depressed Eastern Kentucky economy."[19] It likewise fulfills the requests of public commenters for *"a way to delay the impact of the [Company's rate increase] request for just a few years while the region fights back against economic downturn."*[20] The rate impact of the deferral would not be felt by customers until December 2022, when the UPA expires and up to $60.4 million of expenses associated with Rockport will likely no longer appear on customers' bills.[21]

The Settlement also provides that if the Rockport UPA expires on December 2022, then the Company will begin crediting customers all Rockport fixed cost savings.[22] Absent this agreement, Kentucky Power would retain the Rockport fixed cost savings until the conclusion of the next rate case (except for the $6.4 million Capacity Charge tariff which will automatically expire). However, in the first year, Kentucky Power will be authorized to retain Rockport fixed cost savings only up to a level sufficient to meet its Commission-authorized ROE.[23] Hence, while the deferral would result in customers paying Rockport-related expenses for a longer period of time, it would also significantly ease the immediate financial burden that customers would be required to pay in the absence of such a deferral.

KIUC witness Kollen pointed out that the deferral could also lessen the impact of the Rockport-related expenses on customers by postponing recovery of those expenses until a time when Kentucky Power's current economic development efforts could reach fruition. Mr. Kollen testified that the deferral "*provides the Company additional time to acquire new customers and incremental load through its economic development activities, including its Coal Plus, Appalachian Sky Initiative activities, as well as the new aluminum mill recently announced by Braidy Industries. To the extent that the Company successfully adds load, the deferral and subsequent authorization of the Rockport 2 lease expense will*

[19] Kollen Testimony at 12:5-8.
[20] Satterwhite Settlement Testimony at 12:7-10.
[21] Settlement at 4.
[22] Settlement at 6.
[23] Settlement at 6-8; Satterwhite Settlement Testimony at 13:13-19.

further reduce the cost of the deferrals to all customers on a billing unit basis."[24] In other words, the deferral will be repaid when more load is expected to be on the system to help in the repayment.

The Commission is already familiar with the deferral concept incorporated into the Settlement, having previously directed Big Rivers Electric Corporation ("Big Rivers") to defer $26 million per year in depreciation expense related to the Coleman and Wilson power plants, which were excess capacity after the loss of two large aluminum smelter loads in that territory.[25] And a deferral is even more appropriate in this case since, unlike the Big Rivers' scenario, the repayment of the $50 million of deferred costs (plus $9 million in interest) over five years (about $12 million per year) would be timed to begin when up to $60.4 million of annual Rockport fixed costs are expected to drop off of customer bills.[26] As KIUC witness Kollen explained, "*[a] deferral of the Rockport 2 lease expense is essentially borrowing against future known rate savings.*"[27]

In addition to the overall reduced rate increase for customers, the Settlement benefits customers by requiring Kentucky Power to absorb 20% of any annual under-collection of PJM transmission charges and to credit customers the difference between the Company's FERC-approved ROE and the 9.75% ROE set forth in the Settlement.[28] Kentucky Power projects that the crediting of its transmission ROE differential will save customers $607,326 in 2018, $1 million in 2019, and $1.8 million in 2020.[29] These three-year savings total $3.4 million. Another significant benefit is the three-year rate case stay out set forth in the Settlement (which would not be available through litigation) that will reduce the frequency of rate cases in the Company's territory and help stabilize the rates of customers in Eastern Kentucky.[30] Importantly, however, that stay out will not bar customers from receiving any cost savings

[24] Kollen Testimony at 13:6-12.
[25] Kollen Testimony at 13:16-21.
[26] Kollen Testimony at 14:3-21.
[27] Kollen Testimony at 14:21-22.
[28] Settlement at 8-9; Satterwhite Settlement Testimony at 14:10-17 and 15:8-11.
[29] Kentucky Power Company Response to KIUC Post-Hearing Data Response No. 3 (December 13, 2017).
[30] Settlement at 9; Satterwhite Settlement Testimony at 16:4-9.

that will occur as a result of federal corporate income tax reductions.[31] The combination of the three-year stay out and the requirement that Kentucky Power absorb 20% of its additional PJM transmission expenses is projected to save customers $2.8 million in 2018, $4.5 million in 2019, and $7.8 million in 2020.[32] These three-year savings total $15.1 million.

The Settlement does allow for Kentucky Power to recover through its Purchase Power Rider 80% of its incremental transmission costs, which is contrary to KIUC's litigation position in this proceeding. But this was part of an overall fair bargain. Absent this provision, Kentucky Power's stated intent was to file another base rate case in 2018.[33]

The Settlement further benefits customers by reducing the KEDS charge for residential customers,[34] providing an opening to discuss the backup and maintenance service option requested by Marathon,[35] including a commitment to seek funding for the School Energy Manager Program,[36] continuing the K-12 school tariff,[37] adopting lower customer charge and pole attachment rate increases than those proposed by Kentucky Power,[38] and extending the Coal Plus program to aid economic development in Eastern Kentucky.[39]

In light of the many benefits of the Settlement for customers, the Commission should approve the agreement as filed. The two opposing parties may argue otherwise, but neither has presented a clear and/or comprehensive alternative resolution of this proceeding. KCUC's criticism of the Settlement is limited to one issue – the proposed revenue allocation of any "*new money*" for the LGS rate class – which KIUC addresses below.[40] And the AG's litigation position remains unclear in light of the

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[31] Settlement at 9.
[32] Kentucky Power Company Response to KIUC Post-Hearing Data Response No. 4 (December 13, 2017).
[33] Satterwhite Settlement Testimony at 14:20-15:4.
[34] Settlement at 12; Satterwhite Settlement Testimony at 19:19-20:8.
[35] Settlement at 13; Satterwhite Settlement Testimony at 20:12-16.
[36] Settlement at 13; Satterwhite Settlement Testimony at 20:19-21:6.
[37] Settlement at 13-14; Satterwhite Settlement Testimony at 21:8-17.
[38] Settlement at 15; Satterwhite Settlement Testimony at 22:20-23:4 and 23:22-24:10.
[39] Settlement at 15; Satterwhite Settlement Testimony at 23:8-19.
[40] Direct Settlement Testimony of Kevin C. Higgins on Behalf of Kentucky Commercial Utility Customers (December 4,

Settlement. The AG's initial litigation position called for a $39.9 million rate increase incorporating an 8.06% ROE.[41] This is higher than the rate increase recommended in the Settlement. Indeed, if the Settlement ROE of 9.75% is incorporated into the AG's revenue requirement calculation, the AG's recommended rate increase jumps to $49.2 million.[42] The outcome of the AG's litigation position therefore would be worse for customers than the outcome recommended in the Settlement. Accordingly, neither of the opposing parties has presented a legitimate reason for the Commission to reject the Settlement.

B. The Revenue Allocation Set Forth In the Settlement Is Reasonable.

The Commission should approve the revenue allocation established in the Settlement, which was carefully crafted to result in fair, just, and reasonable rates for all customer classes.

The Settlement provides for a reduction in the subsidy paid by all rate classes.[43] However, in recognition of the need to protect and promote economic development in Kentucky Power's service territory, the Settlement eliminates the inter-class subsidy *currently* paid by the IGS rate class.[44] Importantly, however, under the Settlement, IGS customers will still continue to pay a subsidy to the residential customers of $4.7 million per year under the *proposed* rates.[45]

Rate IGS serves customers with loads 1 MW and above and is currently composed of 52 industrial and 21 commercial customers.[46] KIUC has 4 members on Rate IGS.[47] Other customers on Rate IGS include coal mines, hospitals, large commercial customers, and others. While Rate IGS is not

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2017) ("Higgins Settlement Testimony").

[41] Direct Testimony of Ralph C. Smith (October 3, 2017) at 12:3-8; Tr. Vol. III (December 8, 2017) at 988:11-13.

[42] Tr. Vol. I (December 6, 2017) at 252:25-253:24.

[43] Tr. Vol. III (December 8, 2017) at 989:18-19.

[44] AEV-1S/Settlement Agreement Exhibit-1 (KIUC Ex. 1); Direct Testimony and Exhibits of Stephen J. Baron on behalf of Kentucky Industrial Utility Customers (October 3, 2017)("Baron Testimony") at 12:2-6 and 18:8-10.

[45] Kentucky Power Response to KIUC Post-Hearing Data Request No. 1 (December 13, 2017).

[46] Baron Testimony at 12:2-3 and 18:8-9.

[47] Baron Testimony at 18:10.

comprised of only large manufacturers, all large manufacturers are on Rate IGS.[48]

Reducing the subsidy currently paid by Rate IGS customers promotes economic development in Kentucky Power's service territory. As KIUC witness Baron explained, *"[m]aintaining the competitiveness of large manufacturers is critical to Kentucky's economic health."*[49] Manufacturers provide substantial direct and indirect economic benefits to the Commonwealth. Manufacturing jobs have high job multiplier effects. KIUC witness Korstein found that each petroleum refinery job in Boyd County supports 5.5 jobs elsewhere in the region (a job multiplier effect of 6.5) just from its supplier linkages.[50] That is almost two jobs more than any other industry's business-to-business spending impact.[51] Conversely, retail jobs are generally low paid with low multiplier effects. In fact, Mr. Kornstein found that each retail job in Boyd County supports only 0.1 jobs elsewhere in the region (a job multiplier effect of 1.1).[52] At the hearing, witness Hall noted this difference in explaining why Kentucky Power typically seeks to attract large manufacturers to their service territory:

> *Q: What type of companies do you recruit?*
>
> *A: We primarily focus on larger industrial and large commercial operations.*
>
> *Q: Manufacturers?*
>
> *A: Absolutely.*
>
> *Q: Okay. Why? Why do you focus on those companies?*
>
> *A: Our focus in economic development is to focus on what we refer to as primary jobs, which are higher wage jobs that would then stimulate the economy for the secondary jobs, which includes retail and many other jobs...I mean the real focus of economic development is to try to bring in jobs that are going to create a product that then would be exported that brings new money to the region and to the economy.*
>
> *Q: And that's why states compete fiercely for new auto manufacturers and those types of things?*
>
> *A: Correct.*[53]

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[48] Baron Testimony at 18:10-13.
[49] Baron Testimony at 9:10-11.
[50] Direct Testimony of Barry Kornstein on behalf of Kentucky Industrial Utility Customers (October 3, 2017)("Kornstein Testimony") at 5:4-6.
[51] Kornstein Testimony at 5:6-7.
[52] Kornstein Testimony at 5:10-12.
[53] Tr. Vol. III (December 8, 2017) at 821:4-822:17.

Toyota in Georgetown is the classic example of the transformational benefits of large manufacturing. One important method to help protect the competitiveness of the manufacturing industry in Kentucky, which the Settlement adopts, is to reduce the electric rate subsidies they must pay. Company witness Vaughan noted that this is *"the big topic of discussion"* in the West Virginia legislature, which is *"looking around at their job-creation opportunities, and they want to eliminate all [industrial] subsidies."*[54] A 2012 study by the Kentucky Energy and Environment Cabinet found that Kentucky manufacturers are highly sensitive to electric rate changes. This is the primary reason why large manufacturers such as Marathon have to actively consider the possibility of whether to invest in co-generation if electric rates get too high.[55] High electric costs can also drive relocation decisions for large manufacturers. As witness Hall explained, '*[t]he cost of energy is a big driver for industries like the steel industry. And workforce. So energy prices, workforce, they have to go where that is. They can't just go where the customer is. They're worried about raw materials and many other things."*[56]

The 2012 Cabinet study emphasized the energy price sensitivity of manufacturers and its impact on jobs in Kentucky, concluding:

> *Kentucky's electricity-intensive manufacturing economy is threatened by increasing electricity prices. While the price of electricity is only one of several factors influencing industrial location decisions, Kentucky's historically low and stable electricity prices have fostered the most electricity-intensive economy in the United States. In the twenty-first century, the bulwark of the Kentucky economy is clearly manufactured goods – the Commonwealth's single largest source of economic activity.*
>
> ***
>
> *Given a 25% forecasted increase in the real price of electricity in Kentucky between 2011 and 2025, this study estimates the Commonwealth will likely lose, or fail to create, approximately 30,000 full-time jobs in the long-term. Manufacturing establishments were found to be most responsive to changes in electricity prices and can be expected to permanently shed 17,500 full-time jobs.*[57]

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[54] Tr. Vol. III (December 8, 2017) at 989:1-6.
[55] Direct Testimony of Brad Levi on behalf of Kentucky Industrial Utility Customers (October 3, 2017) at 4:16-22.
[56] Tr. Vol. III (December 8, 2017) at 884:8-13.
[57] Baron Testimony, Ex. SJB-2 (*"The Vulnerability of Kentucky's Manufacturing Economy to Increasing Electricity Prices"*).

By preventing unwarranted electric rate increases for large manufacturers, the Settlement seeks to prevent the dire outcomes predicted in that study. It also helps maintain Kentucky's competitive advantage with respect to electricity costs, which the Commonwealth has used in its business recruitment efforts.[58] As Mr. Korstein testified, *"Kentucky has the lowest cost of electricity in the industrial sector among states east of the Mississippi River, with average rates nearly 20 percent lower than the national average. This plays out in the mix of manufacturing firms that choose to operate in the state, with Kentucky doing especially well in attracting manufacturing activities that require high levels of electricity usage."*[59] Mr. Baron asserted that *"[i]t is critically important to recognize the impact of ever-increasing electric rates on the ability of large manufacturing customers to continue to operate and to attract new, higher paying manufacturing businesses."*[60] The reduction of the Rate IGS subsidy set forth in the Settlement reasonably takes into account these concerns.

The subsidy reduction in the Settlement is not limited to Rate IGS. Indeed, the Settlement reduces subsidies for all non-residential customer classes.[61] And for most non-residential customer classes, the Settlement revenue allocation results in a near-average or below-average increase.[62] Rate IGS's non-fuel rate increase will still be higher than other non-residential rate classes.[63] Because this case has nothing to do with fuel costs, the non-fuel base rate increase for each rate schedule under the Settlement is the more accurate measure of reasonableness. And even with the reduced subsidy set forth in the Settlement, Rate IGS customers will still pay a $4.7 million annual subsidy to the residential rate class.[64] Under the Settlement, the residential class will retain 95% of its current annual subsidy, or

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[58] Kornstein Testimony at 6:21-7:2.
[59] Kornstein Testimony at 6:3-8.
[60] Baron Testimony at 9:3-6.
[61] Tr. Vol. III (December 8, 2017) at 989:18-19.
[62] AEV-1S/Settlement Agreement Exhibit-1.
[63] AEV-1S/Settlement Agreement Exhibit-1; Tr. Vol. III (December 8, 2017) at 992:23-993:2.
[64] Kentucky Power Response to KIUC Post-Hearing Data Request No. 1 (December 13, 2017); Tr. Vol. III (December 8, 2017) at 994:8-16.

$28.2 million.[65]

Additionally, Rate IGS and other business rate schedules could be the solution to the Chairman's concern regarding KEDS/HEAP funding. Rather taking money from the KEDS fund and moving it to HEAP (which Kentucky Power opposes), the Commission could simply increase the non-residential customer KEDS charge by $0.43/month to provide the same amount of additional revenue to the HEAP program.[66]

C. If The Commission Reduces The Company's Revenue Requirement From The Level Proposed In The Settlement, Then Any *"New Money"* Should Be Flowed Through To The Residential Class.

KIUC strongly recommends that the Commission approve the Settlement as filed. The Settlement should be given the benefit of the doubt and each provision should be approved unless clearly unreasonable or unlawful. Nevertheless, it is possible that the Commission may ultimately decide to modify the Parties' agreement. Should the Commission choose to do so in a way that reduces the overall revenue requirement, then any *"new money"* should flow through to residential customers. Given the depressed economic situation in Eastern Kentucky, which the Chairman recognized when expressing his concern for low-income Kentucky Power customers,[67] it would be good policy to use any additional funds to reduce residential customer rates. At the hearing, Company witness Satterwhite stated that such an approach would be *"reasonable"* and that Kentucky Power *"wouldn't object to anything being applied to the residential class."*[68]

The Commission should not adopt the recommendation of KCUC to use the first $500,000 of any additional revenue requirement reductions to reduce the rates of only the LGS class.[69] KCUC is

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[65] Kentucky Power Response to KIUC Post-Hearing Data Request No. 2 (December 13, 2017); Tr. Vol. III (December 8, 2017) at 994:23-995:18.
[66] Tr. Vol. III (December 8, 2017) at 878:10- 880:17.
[67] Tr. Vol. II (December 7, 2017) at 472:6-479:17.
[68] Tr. Vol. I (December 6, 2017) at 58:23-59:1 and 59:5-8.
[69] Higgins Settlement Testimony at 4:9-16.

posturing as an aggrieved party that got taken advantage of in the settlement process. The opposite is true. KCUC is practicing a form of regulatory *"bait and switch."* The Settling Parties agreed to a very good rate allocation to LGS with the full understanding that the public school subsidy of $500,000 was embedded in the LGS rate. KCUC now wants to keep that good deal, and is holding out for more.

Under the Settlement, the LGS class is getting a below-average increase and LGS customers are receiving a better deal than the public schools.[70] The total bill average increase for LGS is 5.17%, or 16% below the system average total bill increase of 6.16%.[71] By contrast, the total bill average increase for the public schools is 6.45%, which is almost 5.0% above the system average, even with the $500,000 school subsidy built in.[72]

KCUC's recommendation is particularly inappropriate given the current economic climate in Eastern Kentucky and the need of residential customers for rate relief. KCUC appears indifferent to these concerns. KCUC initially proposed a 22.35% increase for the residential class rather than the 15.99% proposed by Kentucky Power.[73] Moreover, the rate impact of the change requested by KCUC for the 668 impacted LGS customers would be a mere $62.38 per month reduction in their rates.[74] The two LGS customers represented by KCUC would each therefore save about $748.56 per year. This *de minimis* rate impact is insufficient to justify diverting any *"new money"* away from the residential customers of Eastern Kentucky.

KCUC failed to file any revenue requirement testimony that might have helped all customers. Yet it now seeks to secure a last-minute handout by springboarding off of the hard work and substantial litigation expense incurred by other parties to this proceeding who did aggressively and creatively address revenue requirements. The Commission should not indulge this request.

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[70] Ex. AEV-1S/Settlement Agreement Exhibit-1; Tr. Vol. III (December 8, 2017) at 991:11-22.
[71] Kentucky Power Ex. 13.
[72] Id; Tr. Vol. III (December 8, 2017) at 984:12-17.
[73] Direct Testimony of Kevin C. Higgins on behalf of Kentucky Commercial Utility Customers (October 3, 2017) at 15:12-17:11.
[74] Application (June 28, 2017), Section II, Vol. 3, Ex. I and Ex. J at 2 ($500,000 ÷ 668 LGS customers = $62.38 per month).

Here, in light of the depressed economic situation, KIUC submits that sound policy supports flowing through any *"new money"* to assist residential and low-income customers in Kentucky Power's service territory. Alternatively, the Commission should flow through any *"new money"* to all rate classes proportionally based upon the revenue allocation set forth in the Settlement.

D. The Rate Increase Recommended In The Settlement Will Be Offset In Light Of Kentucky Power's Federal Corporate Income Tax Savings Beginning in January 1, 2018.

President Trump signed the Tax Cuts and Jobs Act into law on December 22, 2017.[75] Because of the tax expense savings that Kentucky Power will receive from the Act, the full rate impacts of this proceeding will likely be significantly offset.

On December 21, 2017, KIUC filed a detailed Complaint at the Commission on this issue, explaining how Kentucky Power's current rates do not reflect the decrease in federal corporate income tax rates from 35% to 21%. That decrease should result in both lower income tax expense and a refund of the Company's excess accumulated deferred income taxes ("ADIT").[76] KIUC estimated that this should reduce Kentucky Power's annual revenue requirement by approximately $25.3 million. On December 27, 2017, the Commission issued an Order finding that KIUC's Complaint established a *prima facie* case that Kentucky Power's rates will no longer be fair, just, and reasonable as of January 1, 2018. The Commission also required Kentucky Power to commence recording deferred liabilities on its books *"to reflect the reduction in the federal corporate tax rate to 21 percent and the associated savings in excess deferred taxes on an interim basis until utility rates are adjusted to reflect the federal tax savings."*[77]

Accordingly, the $31.8 million base rate increase resulting from the Settlement will likely be

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[75] The bill's long title is *"An Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018."*

[76] Kollen Testimony at 48:20-49:2; Tr. Vol. I (December 6, 2017) at 280:5-23.

[77] Order, Case No. 2017-00477 (December 27, 2017) at 3.

offset by tax savings. But first things first. The Commission should approve the Settlement as filed. After that, tax savings will be addressed in a separate proceeding.

CONCLUSION

WHEREFORE, for the reasons discussed above, the Commission should approve the Settlement as filed.

Respectfully submitted,

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