COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:		
APPLICATION OF KENTUCKY UTILITIES COMPANY FOR AN ADJUSTMENT OF ITS ELECTRIC RATES	:	CASE NO. 2018-00294
AND	:	
APPLICATION OF LOUISVILLE GAS AND ELECTRIC COMPANY FOR AN ADJUSTMENT OF ITS ELECTRIC AND GAS RATES	:	CASE NO. 2018-00295

POST-HEARING BRIEF OF KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.

Michael L. Kurtz, Esq.
Kurt J. Boehm, Esq.
Jody Kyler Cohn, Esq.
BOEHM, KURTZ & LOWRY
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202
Ph: (513) 421-2255 Fax: (513) 421-2764
E-Mail: mkurtz@BKLlawfirm.com
kboehm@BKLlawfirm.com
jkylercohn@BKLlawfirm.com

COUNSEL FOR 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"). The members of KIUC who are participating in this proceeding are: AAK USA K2, LLC, Air Liquide Industrial U.S. LP, Alliance Coal, LLC, Carbide Industries LLC, Cemex, Corning, Inc., Dow Corning Corporation, Ford Motor Company, Ingevity, North American Stainless, The Chemours Company and Toyota Motor Manufacturing, Kentucky, Inc. These companies purchase electricity from Kentucky Utilities Company and Louisville Gas & Electric Company (collectively, "KU-LG&E" or "Companies"). The members of KIUC are all trade-exposed large manufacturers that compete nationally and internationally, not locally. Competitively-priced electricity is essential in attracting and growing Kentucky's manufacturing base and the associated family-supportive jobs and economic prosperity.

The importance of competitively-priced electricity in attracting energy-intensive industrial manufacturers was confirmed by Nucor's recent announcement that it will build a new $1.35 billion steel making facility in Brandenburg, Kentucky. Competitively-priced, not cost-based, electricity was necessary to attract an energy-intensive customer like Nucor. And competitively-priced electricity from East Kentucky Power Cooperative was necessary to incent Nucor to also invest in and grow its existing Kentucky plant.

For the reasons discussed below, the Commission should approve the March 1, 2019 unanimous Stipulation and Recommendation as well as the Addendum to the Stipulation submitted on March 6, 2019 (collectively, the

"Stipulation").[1] Parties expended considerable time and effort in reaching the reasonable compromises set forth in the Stipulation. Accordingly, while the Commission has the obligation to modify the Stipulation as needed to uphold its statutory duty to establish fair, just, and reasonable rates consistent with KRS 278.030, in the interests of judicial economy and efficiency, settlement provisions that fall within the *"zone of reasonableness"* should be accorded deference in the Commission's consideration.[2] As Supreme Court of Kentucky has explained,

> *It is well settled that rate making is a legislative function and the power vested in the legislature to make rates may be exercised by it either directly or through some appropriate agency. Commonwealth, ex rel. Stephens v. South Central Bell Telephone Co., Ky., 545 S.W.2d 927 (1976). Duquesne Light Co. v. Barasch, 488 U.S. 299, 109 S. Ct. 609, 102 L. Ed. 2d 646 (1989), leaves the decision on what rate setting procedures best meet individual needs to the individual states. See also National Southwire Aluminum Co. v. Big Rivers Electric Corp., Ky.App., 785 S.W.2d 503 (1990), which states in part that* ***there is no litmus test for establishing fair, just and reasonable rates, and there is no single prescribed method for accomplishing that goal.***[3]

Thus, if the Stipulation is unfair, unjust, or unreasonable in some manner, then the Commission must fix it. But if the Stipulation addresses an issue where there is no clear-cut answer, then some level of deference is appropriate.

I. The Revenue Requirement Set Forth in the Stipulation Will Result In Fair, Just and Reasonable Rates For All Customers.

There are two elements of the total electric rate increase at issue in these proceedings. First, the elimination of the Tax Cut and Jobs Act ("TCJA") Surcredits, which will become effective with the implementation of new base rates.[4] Second, the requested base rate increases. Combining those two elements, the Companies' initial litigation position would have resulted in annual electric rate increases of $170 million for KU ($58.4 million related to the TCJA Surcredit elimination and $112.46 million related to base rates) and $74.917 million for LG&E ($40.03 million related to the TCJA Surcredit elimination and $34.89 million related to base rates).[5] The Stipulation

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[1] For purposes of this Brief, KIUC will not address the Stipulation and Recommendation entered into by Charter Communications Operating, LLC and the Companies and submitted in the above-captioned dockets on February 27, 2019.
[2] *In the Matter of the Application of Water Service Corporation of Kentucky for a General Adjustment of Existing Rates,* Case No. 2015-00382, Order (May 31, 2016) at 4.
[3] *Kentucky Indus. Util. Customers, Inc. v. Kentucky Utils. Co.,* 983 S.W.2d 493, 497 (1998)(emphasis added).
[4] Direct Testimony of Stephen J. Baron ("Baron Testimony") at 5:13-15.
[5] Direct Testimony of Lane Kollen ("Kollen Testimony") at 5.

substantially reduces the second element - the Companies' requested base rate increase – but the significant increases associated with the loss of the TCJA Surcredits will nevertheless occur.

The development of the TCJA Surcredits dates back to December 21, 2017, when KIUC filed a Complaint against the Kentucky investor-owned utilities, including the Companies, alleging that their respective rates were no longer fair, just, and reasonable under KRS 278.030(1) due to the enactment of the TCJA, which reduced the federal corporate income tax rate from 35 percent to 21 percent.[6] The Commission opened new cases to consider the merits of KIUC's Complaint separately for each utility. However, it decided to address both KU and LG&E TCJA issues in one docket.[7] On January 29, 2018, a settlement was signed by the Companies, the Attorney General ("AG"), and KIUC under which the Companies would establish Surcredits in order to pass back TCJA-related tax savings to all customers.[8] After several orders considering the proper level of the TCJA Surcredits, the Commission found that over 16 months an estimated $79.7 million should flow through the TCJA Surcredit to KU customers while approximately $54.6 million should flow through the TCJA Surcredit to LG&E electric customers.[9] While residential customers received larger TCJA Surcredits than non-residential customers, all customers benefitted from the expeditious resolution of that matter and the TCJA Surcredits.[10] Because those Surcredits will soon end with the establishment of new base rates, however, any base rate increases approved for the Companies here will be incremental to the customer rate increases resulting from the loss of the TCJA Surcredits.[11]

Mindful of this fact, the Stipulation substantially reduces the Companies' proposed base rate increase, cutting KU's requested increase nearly in half (from $112.46 million to $58.35 million), eliminating most of LG&E's electric request (taking that figure from $34.89 million to $3.92 million), and lowering LG&E gas request by $5.6 million (resulting in a requested increase of $19.33 million).[12] When combined with the TCJA Surcredit loss, the total rate impacts to electric customers would be lowered from $170 million to $116.7 million for KU and from $74.917 million to $43.95 million for LG&E.

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[6] Case No. 2017-00477.
[7] Order, Case No. 2018-00034 (January 25, 2018).
[8] Offer and Acceptance of Satisfaction, Case No. 2018-00034 (January 29, 2018).
[9] Order, Case No. 2018-00034 (September 28, 2018) at 18.
[10] Id. at 19.
[11] Baron Testimony at 5:13-15.
[12] Stipulation Testimony of Kent W. Blake (March 1, 2019) ("Blake Stipulation Testimony") at 4:14-5:1 (citing Stipulation ¶ 1.1 and 2.1.

The following chart summarizes the electric revenue requirement adjustments agreed to in the Stipulation and identifies the party or parties that advocated the adjustment.[13]

Stipulation Adjustment	Recommending Party	KU Reduction	LG&E Electric Reduction
9.75% return on equity	KIUC, AG, Dept of Defense, Walmart	$20.14 million	$12.71 million
Reflect correct depreciation for Brown 1 and 2 ash ponds	KIUC	$2.78 million	
Adjust ash pond depreciation to match generating units' service lives	KIUC	$7.79 million	$0.56 million
Other depreciation expense changes	KIUC	$8.75 million	$4.28 million
Refined coal credits for Trimble County and Mill Creek		$1.66 million	$7.77 million
Generator outage expense adjustment	KIUC	$6.73 million	$1.78 million
Update interest rate from 4.90% to 4.25%for forecasted May 2019 First Mortgage Bond (FMB) Issuance	KIUC	$1.33 million	$1.71 million
Assume increased revenues from Rate RTS customers in test period	KIUC	$1.48 million	$0.60 million
Reflect reductions in short-term debt balances resulting from forecasted FMB issuance in May 2019	KIUC	$0.96 million	$0.91 million
Adjust KU test year revenues for assumed additional customer load	KIUC	$0.9 million	
Extend amortization of July 2018 storm damage regulatory assets to ten years	AG	$0.47 million	$0.23 million
Reduce revenue requirement by assumed amount of Late Payment Charge waiver	AG	$0.34 million	$0.23 million
ECR beneficial reuse revenues in base rebates	AG	$0.44 million	
Adjusting revenues to reflect credit card rebates	KIUC, AG	$0.21 million	$0.18 million
Defer and amortize expense to repair Brown 1 stack	KIUC	$0.1 million	
Adjust plant held for future use related to Lonesome Pine substation	AG	$0.02 million	

[13] Blake Stipulation Testimony at 5:17-6:1; Kollen Testimony at 5.

As shown above, KIUC brought significant value to this case by presenting evidence that resulted in over $50 million of revenue requirement adjustments for KU and over $20 million of revenue requirement adjustments for LG&E electric. While all of the Companies customers will benefit from these adjustments, it was KIUC who incurred the significant litigation costs associated with identifying, preparing testimony, and advocating for them in settlement discussions. This is in addition to the significant costs incurred by KIUC member companies in pursuing the TCJA Complaint case, which likewise benefited all customers.

On March 21, 2019, the Federal Energy Regulatory Commission ("FERC") issued an Order on the Companies' request to eliminate the Merger Mitigation Depancaking ("MMD") provision from its transmission tariff.[14] While the FERC approved the Companies' request, it conditioned the elimination of the MMD provision on the establishment of a transition mechanism for 11 municipal customers who acted in reliance on that provision.[15] Pursuant to that transition mechanism, the MMD mitigation will continue for those 11 customers for a period equal to the initial term of the power purchase agreement entered into by each of those customers in reliance on the MMD provision.[16]

Consequently, unless changed on rehearing or appeal, the Companies' retail customers will likely continue to fund MMD mitigation for those 11 municipal customers for some time. Therefore, the potential benefits of the regulatory liability established under the Stipulation's Addendum Article I are uncertain. $15.1 million in MMD costs were included in KU's future test year, and $9 million in MMD costs were included in LG&E's electric future test year.[17] The amount of MMD savings booked as a regulatory liability that will ultimately be used to reduce customer rates will therefore depend upon the extent to which the Companies' actual MMD costs are less than those included in the test year.

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[14] *Order Conditionally Granting Request to Remove Mitigation and Rejecting Section 205 Filing Without Prejudice*, 166 FERC ¶ 61,206 (2019).
[15] Id. at ¶ 74 and 80 (instructing that the transition mechanism should apply to the Cities of Barbourville, Bardwell, Benham, Corbin, Falmouth, Frankfort, Madisonville, Paris, Providence, Berea, and Owensboro.
[16] Id. at ¶ 82.
[17] Kollen Testimony, Ex. LK-14.

II. The Rate Allocation Set Forth In The Stipulation Will Result In Fair, Just and Reasonable Rates For All Customers.

In their case as originally filed on September 28, 2018, the Companies proposed a Tier-based methodology to allocate the overall revenue increase to the various rate classes. The Companies grouped similarly-sized and/or characteristic rate schedules into "*Tiers*." Tier I includes the residential class, Tier II includes general service rate schedules, Tier III includes large commercial and large power industrial customers, and Tier IV includes specialized streetlighting rate schedules. The Companies proposed that Tier I (Residentials) receive a base rate increase set at 1% higher than the retail average and that Tier III customers, which includes the Companies' largest industrial manufacturing customers, receive a base rate increase set at 1% below the retail average. No increase was proposed for the specialized streetlighting schedules in Tier IV, and the residual dollars that remained after these direct allocations were assigned to Tier II.[18]

According to KU and LG&E witnesses Conroy and Seelye, the rate increase proposed for each Tier was based on a variety of factors, including Mr. Seelye's Loss of Load Probability ("LOLP") cost-of-service study and economic development considerations. However, the LOLP cost-of-service study was contested by several parties, including KIUC,[19] the Attorney General,[20] and the Department of Defense,[21] each of which advocated for the use of different cost-of-service methods. And KIUC witness Baron conducted his own 12 CP cost-of-service study which produced different results than the Companies' LOLP method. As is the case in many base rate proceedings, it was difficult for parties to agree on using any one method to define cost responsibility, because there are so many different methods that can be employed when conducting a cost-of-service study, each of which with its own strengths and weaknesses.[22] This demonstrates the risk of attaching too much significance on cost of service study results.

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[18] Direct Testimony of Steven Seelye ("Seelye Testimony") at 8.

[19] Direct Testimony of Stephen Baron ("Baron Testimony") at 8-30.

[20] Direct Testimony of Glen Watkins at 3-21. Mr. Watkins disagreed with the Companies' proposed LOLP cost-of-service method and argued that in the absence of a reliable cost-of-service study the Commission should allocate an equal percentage increase to all classes.

[21] Direct Testimony of Jim Selecky at 13-14. Mr. Selecky objected to the use of the LOLP study and argued that the Companies' proposed allocation did not go far enough in reducing subsidies. He proposed that KU's Residential customers receive an increase 2% over system average and LG&E Residential customers receive 3% over system average, with the residual balance used proportionately to reduce Tier II and III rates.

[22] AG witness Mr. Watkins's Schedule GAW-2 describes 9 different cost-of-service methods in addition to the LOLP used by Mr. Seelye. (1-CP, 4-CP, Summer and Winter Coincident Peak, 12-CP, Peak and Average, Average and Excess, Base/Intermediate/Peak, Probability of Dispatch and Equivalent Peaker.)

The LOLP cost-of-service study that was sponsored by Mr. Seelye also did not account for the avoided costs provided by the Fluctuating Load Service ("FLS") rate schedule. KU's FLS tariff permits the Company to interrupt 95% of a customer's FLS load upon 5 minutes notice for a period of not more than 10 minutes. During the past 3 years, KU has interrupted its sole FLS customer, North American Stainless ("NAS"), 114 times under this provision.[23] On many of the interruption events, the FLS load exceeded 100 MW, prior to interruption. This means that the Company obtained in excess of 100 MW of capacity upon 5-minute notice in order to meet unplanned system outages. Given the number of times that KU has invoked this interruptible provision and obtained 5-minute notice capacity, there is a system benefit provided by Rate FLS that was not recognized in the cost-of-service analysis. This system benefit is paid for by NAS in the form of lost production and/or lost heat energy that had been utilized in a partial arc furnace melt.[24] Mr. Baron calculated that the FLS curtailment benefit amounts to $632,614 of annual avoided costs for KU.[25] Therefore, the rate of return calculation for Rate FLS was significantly understated. So even if the LOLP method was accepted in principle, adjustments would have been needed in order to account for this, and perhaps other factors, that relate to cost causation.

In sum, the record in this case shows that while cost-of-service studies are useful as a reference, strict adherence to of any one study when allocating costs can be problematic. As the United States Supreme Court stated in a case involving the Colorado Interstate Gas Company and the Federal Power Commission (Predecessor to the FERC), *"where ... several classes of services have a common use of the same property, difficulties of separation are obvious. Allocation of costs is not a matter for the slide-rule. It involves judgement on a myriad of facts. It has no claim to an exact science."*[26]

Therefore, in addition to the *"inexact science"* of cost-of-service studies, the Companies and KIUC argued that economic development should also be considered when setting rates that will allow large industrial manufacturers to remain competitive. This concept was discussed in the Direct Testimonies of LG&E and KU witnesses Conroy and Seelye and KIUC witness Baron. Mr. Conroy testified that:

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[23] Mr. Baron's Direct Testimony contains an exhibit (SJB-7) detailing these frequent interruptions.
[24] Baron Testimony at 17.
[25] *See* KIUC Response to Commission Staff's Initial Data Requests, Question 7-b.
[26] 324 U.S. 581, 65 S. Ct. 829 (1945).

> *The Companies took [economic development] considerations into account when formulating their proposed revenue allocations in these proceedings, recognizing that utility rates are important to both economic development and the ongoing vitality of manufacturers already located in the Companies' service territories.*[27]

Mr. Seelye testified that:

> *Large businesses, such as manufacturers (e.g., North American Stainless, Ford Motor Company, and Toyota), shipping companies (e.g., United Parcel Service) and internet-based suppliers (e.g., Amazon), will often have options for where they locate their operations and will decide on a location based on an array of factors, including the prices of electric energy and natural gas. In many cases, the price of electricity is one of the more important considerations in determining the location of a large new business facility or where a business will choose to expand its existing operations.*[28]

The Companies' and KIUC's belief that economic development is an important factor when allocating costs is consistent with Kentucky state policy. For example, the Kentucky Cabinet for Economic Development uses low electric rates as a major recruitment tool for new and expanding industry, stating: "*Kentucky has long enjoyed a competitive advantage in the provision of energy, natural gas and water....Utility providers, with oversight by the Kentucky Public service Commission (PSC), ensure competitive rates.*" Likewise, an October 2012 study entitled "*The Vulnerability of Kentucky's Manufacturing Economy to Increasing Electricity Prices*" prepared by the Kentucky Energy and Environment Cabinet supported the proposition that low industrial electric rates are critical to the economic well-being of the Commonwealth, and warned that increasing industrial electric rates would represent a major threat to the economy. The first sentence of the Executive Summary states "*Kentucky's low electric prices have fostered the single-most electricity-intensive manufacturing economy in the United States, a manufacturing economy that is now threatened by future electricity price increases.*"[29]

The 2018 Kentucky Annual Economic Report required by KRS 164.738 and prepared by the Center for Business and Economic Research at the University of Kentucky, states:

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[27] Direct Testimony of Robert Conroy at 13.

[28] Seelye Testimony at 10-11.

[29] Bollinger, Christopher R.; Hoyt, William H.; Blackwell, David; and Childress, Michael T., "Kentucky Annual Economic Report 2018" (2018). Kentucky Annual Economic Report at 144, *available at* https://uknowledge.uky.edu/cber_kentuckyannualreports/23/.

> *Kentucky has an energy intensive economy. To generate $1 in state gross domestic product, Kentucky consumes about 8,990 Btu (2015). By comparison, the U.S. average is around 5,430 Btu and the competitor state average is 6,320 Btu. This difference is driven, in part, by Kentucky's larger than average manufacturing sector, which, of course, depends greatly upon energy as a production input. One implication of this higher dependence on energy as an economic input is that, compared to most competitor states, Kentucky's economy is more sensitive to energy prices.*

Finally, in his February 8, 2017 State of the Commonwealth speech, Governor Bevin stated that the policy of his Administration is to develop and attract manufacturing jobs in Kentucky. Specifically, Governor Bevin affirmed that it is his vision *"that Kentucky becomes the hub of excellence for engineering and manufacturing in America*."[30] This same phrase, solidifying Kentucky's "*reputation as America's engineering and manufacturing center of excellence,"* was included in Nucor's press release announcing its $1.35 billion new investment in Meade County. Without a competitive electric rate, not necessarily one that is cost-based, this plant may not have located in Kentucky.

Consistent with this Kentucky state policy, the Companies and KIUC not only argued that rates be set according to whatever cost-of-service study each party preferred, but also that economic development be considered.

Another factor that was considered by the signatory parties in reaching an agreement on rates was the real-world rate impacts to each customer group. The parties looked at the actual net rate increase that will be on customers' bills rather than focusing exclusively on base rates. The net customer rate impact includes both the base rate increase and the simultaneous elimination of the TCJA Surcredits. This is significant because TCJA Surcredits are allocated differently than base rates. The elimination of the TCJA credits will have a greater negative impact on Tier I (Residentials) and Tier III (large industrial) customers than on other customer classes. This contrast is demonstrated in the Table below which compares base rate impacts to the actual impacts (including the impact of eliminating the TCJA Surcredits) that customers would have experienced if the Companies' filed case was approved in its entirety:

[30] State of the Commonwealth Address of Governor Matt Bevin (February 8, 2017), *available at* https://www.ket.org/episode/KSOTC%20002901/.

LG&E and KU
As Filed Proposed Increases With and Without TCJA Impacts[31]

Tier	LG&E Proposed Base Rate Increase	LG&E Proposed Increase Including TCJA Impacts	KU Proposed Base Rate Increase	KU Proposed Increase Including TCJA Impacts
Tier I	4.09%	7.94%	8.10%	12.22%
Tier II	2.66%	5.57%	6.61%	9.38%
Tier III	2.10%	6.66%	6.12%	11.20%
Tier IV	0.00%	3.71%	-0.14%	2.94%
TOTAL	3.08%	6.81%	7.03%	11.06%

As shown above, the elimination of the TCJA Surcredits has a lesser detrimental impact on Tier II than Tier I and Tier III. For example, for Tier III the actual rate impact, including the elimination of the TCJA Surcredit, as originally proposed by the Companies, was over 5% higher than the proposed base rate impact while the KU Tier II impact would only be 2.77% higher than the proposed base rate increase.

As a result of all of these considerations (cost-of-service, economic development, and net rate impacts), the parties unanimously agreed to an allocation that would allocate less of the base rate increase to Tier I and Tier III customers relative to Tier II. Generally, this allocation assigns an approximately system average rate increase to Tier I; Tier III was allocated a 1.5% below system average in KU and 1% below system average in LG&E. Tier II customers were allocated the residual rate increase, which was a little above system average for both utilities. The very small Tier IV (specialized streetlighting) was allocated a 0% rate increase. A summary of the net impact of this allocation is shown in the Table below which is derived from Mr. Seelye's rate impact analysis (KU Direct Ex-1).[32]

[31] This Table was derived from Tables 3 and 4 of the Baron Testimony at 26-27.
[32] *See* Video Transcript (March 6, 2019) at 12:57:00-1:06:20 PM in which Mr. Seelye presented an "*illustrative*" rate impact analysis including the TCJA surcredit (KU Direct Ex-1). Mr. Seelye stated that the Companies' Schedule M-2.1 filings show specific rate details and this illustrative rate impact analysis is a high-level analysis intended to generally summarize the Stipulation rate impacts. The Stipulation also includes a complete description of the agreed upon rate allocation in KU Stipulation Exhibit 3 and LG&E Stipulation Exhibit 4.

Stipulated Rate Allocation, Including TCJA Impacts

Class	LG&E Stipulation Percentage Increase	KU Stipulation Percentage Increase
Tier I[33]	3.98%	7.54%
Tier II	4.81%	9.18%
Tier III	2.98%	6.04%
Tier IV	0.00%	0.00%
TOTAL	3.98%	7.54%

In sum, the allocation of costs to the various rate classes presented in the Stipulation considered a variety of factors including economic development and the importance of minimizing the net rate increase to Residential and Industrial customers that would be hit harder by the loss of the TCJA Surcredits than other customer classes. The rate allocation generally reflects cost-of-service, but recognizes that cost-of-service studies are more of an art than a science and are just one of several factors to be considered when setting rates.

III. If the Commission Modifies The Revenue Requirement In The Stipulation, Then Any Changes Should Be Used To Decrease Rates In The Same Proportion Set Forth In The Stipulation.

While KIUC believes that the full settlement package is reasonable and should be approved without modification, it is possible that the Commission may alter the revenue requirement set forth in the Stipulation. If the Commission does so in a manner that necessitates decreasing the rates otherwise proposed for the various Tiers, then the Commission should reduce each Tier in proportion to each Tier's allocated share set forth in the Stipulation.

This approach is consistent with the Commission's findings in the Companies' last rate case (Case No. 2016-00370). In that case, the Commission approved a rate increase for KU that was $3.3 million less than the increase recommended in the stipulation filed in that case. The Commission's Order allocated this $3.3 million of *"new money"* to customers using the same allocation method agreed to in the stipulation.[34] In its August 3, 2017 Order denying rehearing the Commission explained that reducing the revenue requirement proportionately using the same ratios contained in the stipulation "*preserves the spirit of the bargained-for exchanges associated with the*

[33] According to Mr. Seelye, the Tier I rate increase is slightly higher than 3.98% for LG&E and 7.54% in KU that appear in this Table, although that rate impact is not specifically quantified in Mr. Seelye's "*illustrative*" rate impact analysis. This is due to the fact that the increase originally assigned to outdoor lighting was moved into Tier I "*resulting in a slightly higher increase*" to Tier I according to Mr. Seelye. *See* Video Transcript 3/6/19 at 1:02:00-1:02:30 PM.

[34] See Case No. 2016-00370, Order (June 22, 2017) a 24 *("The reduction to each class's proposed revenue increase was approximately in proportion to the increase set forth in the First Stipulation.").*

stipulation."[35] If the Commission reduces the revenue requirement in this proceeding below the amount agreed to in the Stipulation the Commission should apply the same method as applied in the Companies' last rate case so that the relationship between the various Tiers is maintained.

IV. Issues Not Covered By the Stipulation.

Certain issues were not addressed in the Stipulation. KIUC's position on each is set forth below.

KIUC' s position on whether certain employee retirement benefits should be disallowed was addressed in our testimony.[36] Based strictly on Commission precedent, not an independent analysis on the merits, certain retirement plan expenses for employees who participated in a defined benefit plan and who also received 401(K) matching contributions should be disallowed. The KU disallowance is $2.019 million, and the LG&E disallowance is $1.370 million.

KIUC takes no position on the correct level of the residential customer charge, or whether that charge should be stated on a daily or monthly basis.

The OVEC issues raised by the Sierra Club should be rejected. First, these are not rate case issues. The OVEC issues are more suited to an Integrated Resource Plan (IRP) case. Second, the OVEC agreement among the numerous utility owners is a FERC-approved rate. Therefore, this Commission has no authority to modify it.

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[35]Case No. 2016-00370, Order (August 3, 2017) at 5.
[36] Kollen Testimony at 45-46.

CONCLUSION

WHEREFORE, the Commission should approve the proposed Stipulation without modification.

Respectfully submitted,

Michael L. Kurtz, Esq.
Kurt J. Boehm, Esq.
Jody Kyler Cohn, Esq.
BOEHM, KURTZ & LOWRY
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202
Ph: (513) 421-2255 Fax: (513) 421-2764
E-Mail: mkurtz@BKLlawfirm.com
kboehm@BKLlawfirm.com
jkylercohn@BKLlawfirm.com

COUNSEL FOR KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.

April 1, 2019