COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matters of:

ELECTRONIC APPLICATION OF KENTUCKY UTILITIES COMPANY FOR AN ADJUSTMENT OF ITS ELECTRIC RATES	)))	CASE No. 2018-00294

And

ELECTRONIC APPLICATION OF LOUISVILLE GAS AND ELECTRIC COMPANY FOR AN ADJUSTMENT OF ITS ELECTRIC AND GAS RATES	))))	CASE No. 2018-00295

ATTORNEY GENERAL'S POST-HEARING BRIEF

Comes now the intervenor, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention ("AG" or "Attorney General"), and submit as follows for his Post-Hearing Brief in these matters:

INTRODUCTION

Louisville Gas and Electric ("LG&E") and Kentucky Utilities ("KU") (collectively "LG&E/KU" or "the Companies'') filed Applications with the Kentucky Public Service Commission ("Commission") for authority to adjust their rates on September 28, 2018 (hereinafter collectively "Applications"). These Applications presented a significant revenue increase, resulting in rates that posed a threat to the ongoing affordability for many customers' heat, lights and power. Intervenors in these cases, whose names are evidenced in the records, conducted thorough discovery in an attempt to ascertain whether such large and burdensome rate increases were justified. These intervenors, through discovery, testimony and cross-examination have detailed the hardship that would be caused by the Companies' Applications. In light of the concerns raised and evidence provided, the intervenors, along with the Companies (collectively "the Parties[1]") have stipulated numerous adjustments and positions which they believe will help in determining fair, just and reasonable rates. The Parties' Stipulation and Recommendation ("Stipulation") was filed with the Commission on March 1, 2019, and the Addendum to Stipulation and Recommendation ("Stipulation Addendum") was filed March 6, 2019. Although the Parties worked diligently to come to a mutually satisfactory conclusion on all of the issues in these matters, they were unable to. Therefore, in addition to addressing the primary stipulated issues, the Attorney General provides arguments below regarding the issues not stipulated for the Commission's consideration.

In its review, the Commission is charged with determining the Companies' rates. The direction provided to the Commission is that the rates it sets must be fair, just and reasonable.[2] In this regard, the Commission's direction is not to accommodate the Companies' private interests without regard to the public interest, but rather to regulate the Companies' rates so to balance the Companies' private interest with that of the public interest. As the United States Supreme Court has long held, when determining just and reasonable rates, "it is the result reached not the method employed which is controlling."[3] The Attorney General recommends that the Commission adopt the items stipulated amongst the Parties and accept the arguments he sets forth below. Adopting the Attorney General's arguments and recommendations will result in rates that customers can generally afford and will allow the Companies an opportunity to recover their authorized rate of return.

ARGUMENT

[1] For purposes of the Attorney General's Post-Hearing Brief the Attorney General is not referring to the Sierra Club when discussing "Parties."
[2] KRS 278.030.
[3] *Federal Power Commission v. Hope Natural Gas Co*., 320 U.S. 591 (1944).

Items Not Stipulated

A. Customer Charge/Tariff Issues

The rates set in this matter should be established at a level that provides the Companies an opportunity to recover the rate of return authorized by the Commission.[4] In regards to fixed customer charges, this is the Commission's only requirement.

As it relates to residential rates, and the level at which it sets the Basic Service Charges, the Commission is provided a few relatively straightforward decisions to make.

1. Should the monthly customer charge be based upon, and include the recovery of, millions of dollars of indirect costs that do not vary with the number of customers, or should it include only those costs directly related to connecting and maintaining a customer's account?
2. Will the rates set by the Commission provide the Companies an opportunity to recover their authorized rate of return, and conversely would a lower Basic Service Charge affect this determination?
3. Which factor should be give more weight: the guarantee of utility revenue (from a high fixed customer charge) or the ability of customers to exercise control over the amount of their monthly bills?

In order to provide the Commission a consumer perspective, the Attorney General provides the following recommendations.

1. <u>Amount of Residential Electric and Gas Fixed Customer Charges</u>
    a. <u>Electric Customer Charge</u>
        i. <u>Companies' Proposal</u>

[4] *See* Case Nos. 2018-00295 & 2018-00294, Direct Testimony of Adrien McKenzie, CFA ("McKenzie Direct") (Ky. PSC Sept. 28, 2018) at 3-4, discussing the standards set by *Hope* and *Bluefield Water Works & Improvement Co. v. Public Serv. Comm'n*, 262 U.S. 670 (1923).

The Companies are proposing a significant increase in the residential fixed customer charge, which they refer to as the Basic Service Charge. The Companies' proposal is to increase the Basic Service Charge from $12.25 to the monthly equivalent of $16.13[5], or by approximately 32%.[6] The Companies attempt to justify this increase by inappropriately borrowing those costs classified as "customer-related" for purposes of their cost of service studies and using them as support.[7] These "customer-related" costs are calculated in the context of a costing methodology, using a costing manual — the NARUC Electric Utility Cost Allocation Manual.[8] However, that manual is a costing, not a pricing manual.[9]

As the NARUC Electric Utility Cost Allocation Manual notes, embedded cost of service studies, like the type performed by the Companies in these matters, allocate joint and common costs "either on the basis of the overall ratios of those costs that has been directly assigned, or by a series of allocators."[10] Those costs classified as "customer-related" in these matters include some direct customer costs (e.g., meters and service drops)[11] in addition to a percentage of poles, lines, transformers and overhead, which are joint costs.[12] For instance, the Companies have designated hundred-of-millions of dollars of poles, lines and transformers as "customer-related," even though they are indirect costs.[13] The Companies determined what percentage of indirect costs to classify as "customer-related" merely by use of a statistical

[5] For purpose of this subsection, the Attorney General will not differentiate between the current monthly Basic Service Charge and the Companies' proposed daily charge. Instead, the Attorney General will use the monthly equivalent of the Companies' proposal and will discuss the daily format later.
[6] Case Nos. 2018-00295 & 2018-00294, Direct Testimony of William Steven Seelye ("Seelye Direct") (Ky. PSC Sept. 28, 2018) at 23.
[7] *Id.*; March 6, 2019 Video Transcript of Evidence ("VTE") at 1:37:09.
[8] Seelye Direct at 21; National Association of Regulatory Utility Commissioners (NARUC), Electric Utility Cost Allocation Manual, January, 1992.
[9] March 6, 2019 VTE at 3:16:25.
[10] NARUC Electric Utility Cost Allocation Manual, at 15.
[11] March 6, 2019 VTE at 2:15:34.
[12] March 6, 2019 VTE at 2:16:22.
[13] Case Nos. 2018-00295 & 2018-00294, Direct Testimony of Glenn Watkins on Behalf of the Kentucky Office of the Attorney General ("Watkins Direct") (Ky. PSC Jan. 16, 2019) at 33-34.

analysis.[14] On a total-Company basis, LG&E/KU classified more than $1.5B of indirect capital costs as "customer-related," in addition to more than $120M of annual expenses.[15] While the classification of those costs as "customer-related" may be reasonable for purposes of an accounting or costing methodology, the Companies are using that classification for a purpose for which it is not intended.

The purpose of an embedded cost of service study is to determine a reasonable way to allocate costs, not to design rate components. Simply borrowing the costs classified as "customer-related" in a separate costing process for the purposes of setting a distinct monthly price is inappropriate. The Companies' feigned strict adherence to the cost of service studies is questionable in that their recommended Basic Service Charge amount is not at the levels calculated by LG&E/KU witness Seelye, nor did they offer separate charges for each Company, although their "customer-related" costs calculations were significantly different.[16] As will be discussed later, the Commission has an alternative to the Companies' results-oriented approach for its consideration.

The Companies' proposal will help ensure profitability and guarantee revenue collection.[17] The Commission has readily acknowledged the effect of higher monthly customer charges given their non-variability based on usage. For example, a recent Commission order noted that a higher customer charge serves as a "means to guard against revenue erosion that often occurs due to the decrease in sales volumes."[18] Whether the Companies proffered their proposal for the singular purpose of bolstering profitability and

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[14] March 6, 2019 VTE at 2:18:40.
[15] Watkins Direct at 34.
[16] Seelye Direct, Exhibit WSS-2; March 6, 2019 VTE at 2:20:12.
[17] Watkins Direct at 22.
[18] In Re. *Application of Inter-County Energy Cooperative Corporation for a General Adjustment of Existing Rates*, Case No. 2018-00129 ("*Inter-County*") (Ky. PSC Jan. 25, 2019) at 21.

revenue collection is immaterial, as they are well aware of the effect of increasing the Basic Service Charge and have routinely proposed increases over the past decade-and-a-half. In 2004, KU's residential customer charge was $2.82 while LG&E's was $3.40.[19] KU's proposed increase to $16.13 represents a more than 450% increase in the Basic Service Charge since 2004, and assuming the same number of customers, an increase in guaranteed revenue from residential customers of more than 470% for KU alone.[20] The results for LG&E electric are similar. This massive increase in revenues based on the number of customers, rather than usage, is occurring over a time-period when residential customers are using less energy but the number of customers is growing.[21] These trends, coupled with an outsized increase in the Basic Service Charge, only serve to benefit the Companies.

The Companies' increases in their Basic Service Charges have far outpaced their increases in overall revenues, particularly since their 2003 rate cases. Since the 2003 rate cases, LG&E and KU have had base rate cases in 2008, 2009, 2012, 2014, 2016, and now in 2018.[22] In that time the KU residential Basic Service Charge has *actually* increased more than 300%

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[19] AG Hearing Exhibit 7, June 30, 2004 Order in Case No. 2003-00434, KU Exhibit 1 Page 3 of 33, LG&E Electric Exhibit 1 page 3 of 27.
[20] Id.; March 5, 2019 VTE at 9:16:43.
[21] March 6, 2019 VTE at 9:16:58; KU Response to CAC 1-12.
[22] In Re. *Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Base Rates*, Case No. 2008-00252; In Re. *Application of Kentucky Utilities Company for an Adjustment of Electric Base Rates*, Case No. 2008-00251; In Re. *Application of Louisville Gas and Electric Company for an Adjustment of Electric and Gas Base Rates*, Case No. 2009-00549; In Re. *Application of Kentucky Utilities Company for an Adjustment of Base Rates*, Case No. 2009-00548; In Re. *Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates, a Certificate of Public Convenience and Necessity, Approval of Ownership of Gas Service Lines and Risers, and a Gas Line Surcharge*, Case No. 2012-00222; In Re. *Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Case No. 2012-00221; In Re. *Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates*, Case No. 2014-00372; In Re. *Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Case No. 2014-00371; In Re. *Electronic Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates and for Certificates of Public Convenience and Necessity*, Case No. 2016-00371; In Re. *Electronic Application of Kentucky Utilities Company for an Adjustment of its Electric Rates and for Certificates of Public Convenience and Necessity*, Case No. 2016-00370.

($2.82[23] to $12.25), KU jurisdictional revenue has increased 133% ($679,718,963[24] to $1,585,908,961[25]) and KU residential revenue has increased 145% ($252,910,745[26] to $620,464,318[27]). Comparatively, the increase in the Basic Service Charge is outpacing any relevant metric or other rate component the Companies have. Importantly, increases in items like the class and overall revenues noted above are due in large part to compounding elements like an ever-increasing jurisdictional allocation factor,[28] increases in the number of customers[29] and additional utility plant in service reflected in capitalization.

For years, the Commission has provided rural electric cooperatives ("RECCs") significant increases in their residential customer charges, particularly in light of their unique business model. As a general matter, Kentucky's RECCs tend to wait as long as possible between rate cases, ordinarily limited only by their debt obligations.[30] Based on this long period of time between base rate cases, there is an increased risk to revenue "due to the decrease in sales volumes that accompanies poor regional economics and changes in weather patterns."[31] In marked contrast, however, LG&E/KU, an investor-owned and vertically-integrated utility has consistent rate cases, filing seven (7) each between 2003 and 2018. Therefore, by averaging barely more than two years between base rate cases over the past fifteen years, the Companies clearly do not have the same risk to changing variables between

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23 AG Hearing Exhibit 7, KU Exhibit 1 Page 3 of 33.
24 AG Hearing Exhibit 7, KU Exhibit 1 Page 2 of 33.
25 Application, Tab 66 Schedule M-1.1.
26 AG Hearing Exhibit 7, KU Exhibit 1 Page 2 of 33.
27 Application, Tab 66 Schedule M-1.1.
28 See Application, Tab 63 Schedule J-1.
29 AG Hearing Exhibit 7, KU Exhibit 1 Page 3 of 33; Stipulation Exhibit 3 Schedule M-2.3.
30 See *Inter-County* at 3, wherein the Commission noted the utility's most recent rate case was nearly eleven years prior, in 2007; In Re. *Application of Farmers Rural Electric Cooperative Corporation for an Increase in Retail Rates*, Case No. 2016-00365, Order (Ky. PSC May 12, 2017) at 2, where the Commission noted the utility's last rate adjustment was approved June 2009, approximately eight years earlier.
31 *Inter-County* at 21.

base rate cases of RECCs. Furthermore, in noting that revenue erosion may be a factor to consider in raising customer charges for RECCs, the Commission has often pointed to the fact that those utilities are strictly distribution, whereas the Companies are vertically integrated.[32]

ii. Attorney General's Position

The Attorney General proposes to maintain the current level of the Residential electric Basic Service Charges. The Attorney General makes this recommendation even though there is evidence to lower the current charges in the records. As Attorney General witness Watkins noted in his Direct Testimony, "the primary objective of the Companies' residential rate design is to guarantee revenue collection and profitability associated with fixed monthly customer charges."[33] The increase in fixed revenues associated with the Basic Service Charge comes with harsh tradeoffs, such as reducing economic incentive for customers to conserve energy.[34] Rather than borrowing an amount from a costing study that includes millions in indirect expenses to calculate a customer charge like the Companies did, Mr. Watkins "conducted direct customer cost analyses."[35]

As opposed to the Companies' calculations, Mr. Watkins' direct customer cost analyses "considers only those costs that vary as a result of connecting a new customer and which are required in order to maintain a customer's account."[36] Mr. Watkins' direct customer cost calculation, which has been accepted over many years in multiple jurisdictions,[37] makes "no provision for corporate overhead expenses or any other indirect

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[32] *Id.*
[33] Watkins Direct at 22.
[34] Watkins Direct at 22-29.
[35] Watkins Direct at 32.
[36] *Id.*
[37] Attorney General Response to LG&E/KU DR 1-10.

costs as these costs are more appropriately recovered through energy (KWH) charges."[38] As the Companies' proposed fixed Basic Service Charge includes numerous indirect costs, including a large percentage of distribution poles and lines-related costs, under the Companies' proposal, customers who may be located in a more densely populated urban area, or are closer to a substation, subsidize those customers in rural areas or those located further away from a substation. Under Mr. Watkins' approach, however, all poles, lines, and other indirect costs are recovered via the KWH charge.[39]

The reality is that a higher monthly Basic Service Charge — an amount customers *must* pay — reduces customers' ability to make meaningful reductions to their monthly bill as result of using resources more efficiently. The Companies argue that higher customer charges "have the effect of stabilizing customers' monthly bills,"[40] ignoring of course that the Companies offer payment programs that allow customers to pay equal amounts each month.[41] Customers wish to have control over their usage and their bills. Setting prices in a way that guarantees profit to the detriment of offering customers control over their usage and incentivizing conservation is not in the public interest. Maintaining the current Basic Service Charge provides the Companies an opportunity to more than cover their direct monthly customer costs while still promoting efficient use of energy.[42]

The Companies' mistaken belief that their customer charge proposal is supported by the Commission's order in the Duke Energy matter, Case No. 2017-00321, is unfounded and simply incorrect. In Duke's case, the Commission stated that Duke's then $4.50 electric

[38] Watkins Direct at 32.
[39] *Id.*
[40] Testimony of Robert M. Conroy ("Conroy Direct") (Ky. PSC Sept. 28, 2018) at 15-16.
[41] Watkins Direct at 23.
[42] Watkins Direct at 32.

customer charge was set in 2006, and that an increase to $11 was warranted due in part to "the amount of time that has passed since the charge was established."[43] On the other hand, and as noted *supra*, the Companies average a new base rate case approximately every two years. Further, when Duke Energy's customer charge was set at $4.50, the Companies' Basic Service Charges had been at $5.00 for more than two years.[44] Finally, and most importantly, the fact that Duke Energy was able to postpone filing a base rate cases for approximately twelve (12) years with a $4.50 customer charge indicates that lower a customer charge does not in and of itself have a bearing on a utility's opportunity to recover its authorized rate of return. Remarkably, in the thousands of pages of Applications, testimonies and discovery, the Companies have provided no evidence that the current residential Basic Service Charge of $12.25 will prevent them from earning any Commission-authorized rate of return. If the Commission believes that $11 is sufficient to guard against revenue erosion for Duke Energy, then $12.25 should be more than sufficient for LG&E/KU. Ultimately, this must be a determining factor in the Commission's decision regarding the Basic Service Charge, as the Companies maintain that the Commission must provide them only a reasonable *opportunity* to recover their allowed ROE.[45]

b. Gas Customer Charge

For the same reasons noted above regarding the electric Basic Service Charge, the Attorney General recommends that the Commission maintain LG&E's current residential gas Basic Service Charge amount. The Company's calculation, based on its embedded cost of

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[43] AG Hearing Exhibit 12, In Re. *Electronic Application of Duke Energy Kentucky, Inc. For: 1) And Adjustment of the Electric Rates; 2) Approval of an Environmental Compliance Plan and Surcharge Mechanism; 3) Approval of New Tariffs; 4) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and 5) All Other Required Approvals and Relief*, Case No. 2017-00321, Order (Ky. PSC Apr. 13, 2018) at 45.
[44] AG Hearing Exhibit 7, KU Exhibit 1 Page 3 of 33.
[45] McKenzie Direct at 4.

service study is inappropriate, and as mentioned in Mr. Watkins' testimony, a direct customer cost analysis supports a lower charge.

2. Daily vs. Monthly Format

The Commission must reject the Companies' proposal to charge customers a daily, instead of monthly, Basic Service Charge.[46] The Companies' proposal is meritless, unnecessary, and will only serve to confuse customers.[47] The Companies typically send 12 bills a year to customers, each including a monthly Basic Service Charge. Currently, the Basic Service Charge is the same every month, regardless of a customer's usage and regardless of the number of days between receiving each bill. The Companies' billing periods are not the same in any given month,[48] with a typical billing period varying between 26 and 34 days.[49] Customers have no control over the length of any particular billing period.[50] Residential customers currently know what their Basic Service Charge will be on each bill; however, under the Companies' proposal it will vary depending on the number of days in the current billing period. Calculating the Basic Service Charge on the number of days in a billing period, rather than monthly, essentially turns the otherwise "fixed" charge into a volumetric one, dependent on the number of days the utility requires to read the meters and send bills.[51] No longer a "fixed" charge, the amount of the Basic Service Charge reflected in any given bill will be a complete surprise to customers, thus depriving them of any certainty.

When Company witness Conroy was asked on the stand what the residential Basic Service Charge would be in any given month, regardless of the number of days in the billing

[46] Seelye Direct at 13.
[47] Watkins Direct at 38-39.
[48] March 6, 2019 VTE at 9:30:22.
[49] Id. at 9:30:06.
[50] *Id*. at 9:30:34
[51] *Id*. at 9:30:06.

cycle, he noted it would be the fixed amount — currently $12.25.[52] Mr. Conroy was, however, unable to calculate for the Commission the residential Basic Service Charge amount for billing periods of 26 or 31 days under the Companies' proposal.[53] If Mr. Conroy, the Vice President of State Regulation and Rates for the two largest utilities in the Commonwealth of Kentucky, is unable to calculate the Basic Service Charge *knowing* the number of days in a billing cycle, how will customers know what it will be in any given month?[54] Although a daily customer charge may provide "future optionality" for different rate options, the Companies should instead propose those types of charges for specific uses, such as electric vehicle rates and pre-paid metering.[55] The Companies' proposal is unnecessary and confusing to customers. As such, the Attorney General recommends the Commission deny the Companies' proposal to institute a daily Basic Service Charge.

3. Tariff Breakout Between "Infrastructure" and "Variable" Components

The Companies also propose "breaking down" the kWh charge for certain rate classes into a "Variable Energy Charge and an Infrastructure Energy Charge."[56] Adding this to a long-list of unnecessary proposals for which NO ONE other than the Companies asked, the Commission should deny this solely due to the confusion it will cause. The Companies' proposal to "breakdown" the energy charge for certain classes will only be placed on the tariffs, not customer bills.[57] As noted in discovery, very few customers ever review the tariffs, a fact that conflicts with the Companies' purported purpose for the change.[58] The Companies agree that the basis of the proposal is for informational and transparency purposes, even

[52] *Id*. at 9:31:53
[53] *Id*. at 9:31:13-9:31:54.
[54] Conroy Direct at 1.
[55] Seelye Direct at 14.
[56] Seelye Direct at 26.
[57] Conroy Direct at 15.
[58] LG&E/KU Response to AG 1-168.

though less than 1% of their customers have even looked at the Companies' tariffs over a nearly two-year period.[59]

It is obvious from the Companies' testimony that the breakout designations they chose (Infrastructure vs. Variable) will only serve to benefit them.[60] When asked whether they would agree to breakout cost components important to customers, such as how much each customer is paying per kWh that represents the Companies' profit, or the amount of executive compensation reflected in the energy charge, LG&E/KU refused.[61] Interestingly, the whole exercise in trying to inform customers of the amount of "fixed" costs recovered through the energy charge is contrary to the Companies' argument in their 2018 advanced metering matter that new meters would lead to reductions in consumption and results in on-going savings.[62] The Companies have failed to provide any justifiable reason to "breakdown" the kWh charge on customers' tariffs. The presentation of the information into groups, which the Companies inexplicably determined, provides no benefit to customers and will only add unnecessary confusion. Thus, the Companies' proposal must be denied.

B. 401 (k) Matching Contribution

In Case Nos. 2016-00371 and 2016-00370 (hereinafter "the 2016 Cases") the Commission approved the proposed stipulations with "modifications."[63] One of the primary modifications the Commission made in the orders approving the proposed stipulations in the 2016 cases ("2016 Final Orders") was to "den[y] for recovery 401 (k) Plan matching

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[59] March 6, 2019 VTE at 9:34:31; *Id.*
[60] *Id*. at 9:38:43
[61] *Id*. at 9:34:32-9:39:30.
[62] In Re. *Electronic Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Public Convenience and Necessity for Full Deployment of Advanced Metering Systems*, Case No. 2018-00005, Order (Ky. PSC Aug. 30, 2018) at 11.
[63] AG Hearing Exhibit 1 at 13; AG Hearing Exhibit 2 at 15.

contributions" for those employees also participating in a defined benefit plan.[64] The Commission found that it was "not reasonable" and "excessive" to charge customers for contributions to employees' defined benefit plans (which the Commission noted provides "generous retirement plan benefits") while also charging customers for 401 (k) matching contributions *for those same employees with defined benefit plans*.[65] In the 2016 Final Orders, the Commission chose not to make an adjustment for similar matching contributions for employees designated as "hourly" or "bargaining unit."[66] Instead, the Commission noted that it will provide each utility "an opportunity . . . to address these excessive costs for both [represented and non-represented] classes prior to its next base rate case as rate recovery of these contributions will be evaluated for appropriateness as part of its next base rate case."[67] Now is the time for the Commission to evaluate these costs.

The sum total of the Companies' efforts to address the excessive costs are two-fold:

1. They initiated two studies to support their prepossessed position,[68] and
2. They negotiated edits to bargaining agreements to provide "flexibility," so that if they ever actually removed the match from non-bargaining employees, the changes would be applied to bargaining employees alike.[69]

As it relates to retirement plan expense, the Companies commissioned two studies in these cases, discussed in the testimony of Company witness Meiman. The first study, conducted by Willis Towers Watson ("WTW"), was provided to benchmark the Companies' total compensation.[70] The Companies' second study, the "Mercer Benefits Study," was initiated for the purpose of bolstering the Companies' preconceived opinion that their retirement

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[64] AG Hearing Exhibit 1 at 14-15; AG Hearing Exhibit 2 at 17.
[65] *Id*.
[66] AG Hearing Exhibit 1 at 14; AG Hearing Exhibit 2 at 16-17
[67] AG Hearing Exhibit 1 at 14; AG Hearing Exhibit 2 at 16-17
[68] March 5, 2019 VTE at 1:59:01.
[69] March 5, 2019 VTE at 1:55:53.
[70] Testimony of Gregory J. Meiman ("Meiman Direct") (Ky. PSC Sept. 28, 2018) at 9.

benefits *were already reasonable*.[71] With these rate-payer funded[72] studies in hand, the Companies recommended "the Commission allow full rate recovery" of the previously denied matching contributions.[73] Attorney General witness Mullinax characterized the Companies' disagreement with the Commission's conclusion in the 2016 Cases as the following:

> The Companies' disagreements, as discussed throughout its testimony on this subject, may be categorized into four areas of argument: (1) the benefit package must be considered as a whole; (2) market comparison shows the benefit package in the range of competitiveness; (3) the market comparison proves the Companies have controlled costs; and (4) elimination of savings plan matching contributions would deprive employees of promised benefits.[74]

Ms. Mullinax then summarily and sufficiently discussed the shortcomings and failures of each of the Companies' four primary disagreements, noting such deficiencies as the Companies' self-fulfilling "promises" of contributions and the flawed market comparisons the Companies used to justify the blatant disregard the Commission's 2016 Final Orders and their continuation of "not reasonable" and "excessive" charges to customers.[75] Ms. Mullinax concluded that, "[o]n the authority of the Commission's prior ruling and lack of any reasonable support for the Companies' disagreement, I recommend excluding the matching contribution costs to the 401 (k) Plan for exempt, manager, non-exempt, and officer and director personnel."[76]

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[71] Meiman Direct at 19; March 5, 2019 VTE at 1:59:01, 1:57:12.
[72] March 5, 2019 VTE at 4:19:07; LG&E Response to PSC 1-59 (Ky. PSC Oct. 12, 2018); LG&E Supplemental Response to PSC 1-59 (Ky. PSC Oct. 29, 2018).
[73] Meiman Direct at 28.
[74] Direct Testimony of Donna H. Mullinax on Behalf of the Office of the Attorney General, Louisville/Jefferson County Metro Government & Lexington-Fayette Urban County Government ("Mullinax Direct") (Ky. PSC Jan. 16, 2019) at 27.
[75] Mullinax Direct at 27-31.
[76] *Id*. at 31.

The first question the Commission must answer on this issue is simple: Are the matching contributions it previously found "not reasonable" and "excessive," still unreasonable and excessive?[77] The Attorney General agrees with its witness — the evidence provided by the Companies fails to provide support for a reversal of the Commission's previous decision.[78] If the Commission agrees with the Attorney General that the Companies have failed to provide evidence sufficient to reverse the Commission's previous decision on this matter, the second question the Commission must answer is more complicated: Should the Commission deny recovery for matching 401 (k) contributions for all employee classes, including hourly and bargaining unit employees? If the Commission chooses to make the adjustments for only the classes it made in the 2016 Cases, the reductions to the revenue requirement can be sourced from either the Companies' responses to the Attorney General's Post-Hearing Data Requests or their responses to KIUC's initial data requests.[79] The amounts provided through these two sources are inexplicably inconsistent, and although the Attorney General understands that the amounts provided in post-hearing discovery are 2018 actuals, given the inconsistency the Attorney General recommends the Commission's adjustment be the larger of the two amounts. If the Commission determines it should make an adjustment for all employee classes, it should use the amounts provided in response to the Attorney General's post-hearing discovery.[80] In any event, if the Commission uses the Companies' responses to the Attorney General's post-hearing discovery as the basis of its adjustments, as

[77] AG Hearing Exhibit 1 at 14; AG Hearing Exhibit 2 at 16-17.
[78] Mullinax Direct at 31.
[79] Attachment to LG&E Response to AG Post-Hearing Question No. 1; Attorney General Hearing Exhibit 6, containing KU Response to KIUC 1-60 and LG&E Response to KIUC 1-52.
[80] Attachment to LG&E Response to AG Post-Hearing Question No. 1.

noted by LG&E/KU witness Garrett at the hearing in these matters, the amounts must be grossed up, but only for bad debt expense and the PSC assessment only.[81]

C. Sierra Club's Specific Concerns Should be Deferred to the Companies' IRP

The Sierra Club's testimony in this case, provided by witness Dr. Jeremy Fisher, focused exclusively on "the Companies' proposal to continue their power purchases from the Ohio Valley Electric Corporation ("OVEC").[82] Nevertheless, Dr. Fisher's thorough testimony did not discuss or recommend any specific adjustment to the revenue requirement, even as it relates to purchased power expense.[83] As a general matter, the Attorney General is a proponent of the Commission considering issues beyond those specifically discussed in a utility's rate case applications. In base rate cases, where the entirety of costs, rates and tariff provisions are at issue, allowing a utility's application to be the measure by which all other provisions are limited is unreasonable and serves to only further skew the asymmetry of information inherent in utility regulation. Nevertheless, the underlying concern discussed in Dr. Fisher's testimony would be better addressed in the Companies' pending Integrated Resource Plan docket, Case No. 2018-00348.[84] As the Attorney General obviously has questions and concerns about the Companies' continued involvement in OVEC,[85] he looks forward to addressing the issue in the more proper forum — Case No. 2018-00348.

Items Provided For in the Stipulation

A. Electric Revenue Requirement

1. Return on Equity

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[81] March 5, 2019 VTE at 4:17:35.
[82] Direct Testimony of Jeremy I. Fisher, PhD ("Fisher Direct") (Ky. PSC Jan. 16, 2019) at 3.
[83] March 5, 2019 VTE 4:51:55.
[84] In Re. *Electronic 2018 Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company*, Case No. 2018-00348.
[85] *See generally* AG Data Requests to KU 1-4 through 1-8, and AG Data Requests to LG&E 1-4 through 1-8.

The Companies' initially proposed revenue requirements in these matters were calculated using a 10.42% cost rate for common equity.[86] The 10.42% rate was supported by the direct testimony of Adrien McKenzie, and represents a marked increase from the 9.7% approved by the Commission less than two years ago in 2017.[87] Mr. KcKenzie's testimony provided for two Return on Equity ("ROE") ranges: a 9.8% to 10.8% range with no flotation costs adjustment and a 9.92% to 10.92% range adding a flotation cost adjustment.[88] The Attorney General is unaware of this Commission ever providing an adjustment to ROE to reflect flotation costs, having rejected such a proposal no less than three (3) times in the last 18 months.[89] None of the intervenors in these matters supported or adopted the Companies' 10.42% ROE in providing revenue requirements testimony, and the United States Department of Defense and all other Federal Executive Agencies ("DOD/FEA") witness, Christopher Walters, "estimate[d] the current fair market ROE for the Companies to fall within the range of 9.00% to 9.7%, with a midpoint of 9.35%" and recommended a 9.35% ROE.[90] Furthermore, Walmart Inc. witness Gregory Tillman provided evidence regarding ROEs authorized by other state regulatory commissions, noting that for the past three (3)

[86] Case Nos. 2018-00295 & 2018-00294, Application, Schedule J-1 (Ky. PSC Sept. 28, 2018)
[87] McKenzie Direct at 6; Attorney General Hearing Exhibits 1 & 2, June 22, 2017 Orders in Case Nos. 2016-00370 & 2016-00371, where the Commission modified the Return on Equity proposed in the Stipulation and Recommendation in that matter from 9.75% to 9.7%.
[88] McKenzie Direct at 7.
[89] See In Re. *Electronic Application of Duke Energy Kentucky, Inc. for: 1) an Adjustment of the Electric Rates; 2) Approval of an Environmental Compliance Plan and Surcharge Mechanism; 3) Approval of New Tariffs; 4) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and 5) All Other Required Approvals and Relief*, Case No. 2017-00321 (Ky. PSC Apr. 13, 2018) at 39, stating, "The Commission agrees with the Attorney General that flotation costs should be excluded from the analysis as they are already accounted for in the current stock prices." See also In Re. *Electronic Application of Atmos Energy Corporation for an Adjustment of Rates and Tariff Modifications*, Case No. 2017-00349 (Ky. PSC May 3, 2018) at 28; In. Re. *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 and Liabilities; and (5) An Order Granting all Other Required Approvals and Relief*, Case No. 2017-00179 (Ky. PSC Jan. 18, 2018) at 28.
[90] Case Nos. 2018-00295 & 2018-00294, Direct Testimony and Exhibits of Christopher C. Walters ("Walters Direct") (Ky. PSC Jan. 16, 2019) at 3, 45.

calendar years the average authorized ROE is 9.61%, while the median authorized ROE is 9.60%.[91]

The proposed Stipulation provides for a ROE of 9.725% for both gas and electric operations.[92] This stipulated ROE lies between the upper end of Mr. Walters' range (9.7%) and the lower end of Mr. McKenzie's non-flotation-cost-adjusted rage (9.8%).[93] Further, a ROE of 9.725% is in line with the Commission's most-recently approved electric ROE of 9.725%.[94] Given the ever-changing sentiment of the Federal Reserve, the long-term interest rate trends and market outlook, a ROE in-line with the Commission's most recently approved rate is certainly reasonable.[95] The revenue requirement effect of the proposed ROE on electric operations provided for in the Stipulation is $20.14 million for KU and $12.71 million for LG&E's electric operations.[96]

2. Reflect Correct Depreciation Rate for Brown 1 and 2 Ash Ponds (KU only)

In Response to KIUC DR 1-35, KU indicated that it presented "[a]n incorrect amount" in its workpaper calculating the blended depreciation rate for its Brown 1 and 2 ash pond, which reflected a 24.68% depreciation rate, while the "correct accrual rate should be 2.32%.[97] In a January 11, 2019 supplemental response to PSC 1-53, the Company indicated this correction will result in a revenue requirement reduction, while KIUC witness Kollen calculated the revenue requirement reduction to be $2.779 million.[98] Mr. Kollen's amount is

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[91] Case No. 2018-00295, Direct Testimony of Gregory W. Tillman (Ky. PSC Jan. 16, 2019) at 14 & Case No. 2018-00294 Direct Testimony of Gregory W. Tillman (Ky. PSC Jan. 16, 2019) at 16.
[92] Stipulation at 4.
[93] Walters Direct at 3; McKenzie Direct at 7.
[94] See Attorney General's Hearing Exhibit 12 at 40.
[95] Walters Direct at 8-10.
[96] Stipulation at 4.
[97] Case No. 2018-00294, KU Response to KIUC 1-35 (Ky. PSC Jan. 2, 2019).
[98] Case Nos. 2018-00295 & 2018-00294, Direct Testimony and Exhibits of Lane Kollen ("Kollen Direct") (Ky. PSC Jan. 16, 2019) at 47.

the reduction provided for in the proposed Stipulation.[99] This revenue requirement reduction merely corrects KU's calculation error and the must be made to align with the actual deprecation rate intended by the utility.

3. <u>Adjust Ash Pond Depreciation to Match Electric Generating Units' ("EGU") Service Lives</u>

As part of their Applications in these matters, the Companies sponsored the testimony of John Spanos, who in turn provided a new depreciation study that changes LG&E/KU's current depreciation rates.[100] One of Mr. Spanos' proposals is to significantly increase the depreciation rate on the Companies' ash ponds, thus increasing depreciation expense.[101] The Companies currently depreciate ash ponds over the life of the EGUs they serve, but plan to terminate their use prematurely.[102] The ash ponds were built as part of and to serve the EGU to which they are related, and as such should be depreciated over the life of the plant. Customers should not be forced to pay for the remediation costs associated with the premature retirement of the ash ponds while simultaneously being penalized by the shortening of the assets' depreciable lives. Keeping the depreciable lives aligned with that of the associated EGUs provides a reasonable outcome for customers and reduces the Companies' initially proposed revenue requirement. The effect of continuing to depreciate ash ponds over the life of the associated EGUs reduces the KU revenue requirement by $7.79 million and LG&E's electric revenue requirement by $.56 million.[103]

4. <u>Other Depreciation Expense Changes</u>

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[99] Stipulation at 4.
[100] *See* Direct Testimony of John J. Spanos on Behalf of Louisville Gas and Electric Company and Kentucky Utilities Company ("Spanos Direct") (Ky. PSC Sept. 28, 2018) at 3.
[101] Kollen Direct, Exhibit LK-28.
[102] Rebuttal Testimony of John J. Spanos on Behalf of Kentucky Utilities Company and Louisville Gas and Electric Company ("Spanos Rebuttal") (Ky. PSC Feb. 22, 2019) at 15-16.
[103] Stipulation at 4.

In addition to changing the depreciable lives of certain ash ponds, described *supra*, Mr. Spanos' depreciation study also proposed several other changes to depreciation rates for certain assets.[104] In an attempt to ascertain rates that are fair, just and reasonable for the Commission's consideration and in recognition of the impact any increase has, the Parties also agreed to include the impact of specific distribution depreciation rate changes from those originally proposed by Mr. Spanos. These changes are for "non-steam plant, as well as the associated impact of all depreciation adjustments on the Companies' capitalization and the amortization of excess accumulated deferred income taxes."[105] The proposed electric depreciation rates are provided in Stipulation Exhibit 2, and the calculation of the other depreciation-related revenue requirement adjustments are provided in Stipulation Exhibit 1. The effect of these other depreciation-related adjustments is a reduction to the KU revenue requirement of $8.75 million and $4.28 million for LG&E.[106]

5. Revenues from Refined Coal Projects at Mill Creek and Trimble County

In rebuttal testimony, the Companies indicated that they "recently executed refined coal agreements at [their] Trimble County and Mill Creek generating stations."[107] The refined coal agreements reflect additional revenue expected during the test year and thus act as a reduction to the initially proposed revenue requirement increases. The stipulation in KU's most recent rate case, Case No. 2016-00370, reflected a $9.1M reduction to the originally-proposed revenue requirement for a similar refined coal agreement.[108] If the revenues anticipated from the "recently executed refined coal agreements" are not reflected in the rate

[104] *See generally* Spanos Direct.
[105] Stipulation Testimony of Kent W. Blake ("Blake Stipulation") (Ky. PSC Mar. 1, 2019) at 9.
[106] Stipulation at 5.
[107] Rebuttal Testimony of Christopher M. Garrett ("Garrett Rebuttal") (Ky. PSC Feb. 22, 2019) at 20.
[108] Attorney General's Hearing Exhibit 1 at 11-12.

in these cases, they will inure to the benefit of shareholders.[109] Reflecting these anticipated revenues in these cases reduces the KU revenue requirement by $1.66 million and LG&E's by $7.77 million.[110]

6. Five-Year Historical Average for Generator Outage Expenses and Related Use of Regulatory Accounting.

The Companies' Applications propose to continue the use of an eight-year average for the baseline amount of generator outage expense to include in base rates.[111] The Companies' basis for their proposal was a continuation of the average stipulated amongst the parties to the 2016 rate proceedings.[112] Their proposal in these cases further mirrored the stipulated provision in the 2016 Cases in their request for deferral accounting of any expense over or under the baseline amount.[113] In the instant Stipulation in these cases, the Parties agreed to the Companies' proposed deferral accounting.[114] As the Companies will defer the actual "generator outage expenses that are greater or less than the . . . amount to be included in base rates," the Parties then were required to determine a reasonable baseline amount to include in base rates.[115] The Parties stipulated that the five-year average first proposed by KIUC witness Kollen is a reasonable baseline for the purposes of the Stipulation, understanding of course that the agreement is not binding or precedential.[116] Using a five-year historical average of known costs rather than some inclusion of forecasts for the baseline results in a reduction to the Companies' revenue requirements "by $6.73 million for KU and $1.78 million for

[109] Garrett Rebuttal at 20.
[110] Stipulation at 5.
[111] Testimony of Christopher M. Garrett ("Garrett Direct") (Ky. PSC Sept. 28, 2018) at 36-37.
[112] *Id*. at 37, footnote 42.
[113] Garrett Direct at 36-37; Garrett Rebuttal at 11-12.
[114] Stipulation at 5-6.
[115] *Id*.
[116] Kollen Direct at 44; Stipulation at 16.

LG&E."[117] As deferral accounting is for accounting purposes only, the Attorney General looks forward to reviewing the level and prudency of the actual costs incurred in the Companies' next rate cases.

7. Update Interest Rate From 4.9% to 4.25% for Forecasted May 2019 First Mortgage Bonds ("FMB")

When they filed their Applications, the Companies anticipated a forecasted issuance of FMBs in May of 2019.[118] The Companies assumed a credit spread on the long-term debt issuance of 1.25% at a forecasted 30-year Treasury rate of 3.65%.[119] KIUC witness Kollen proposed a revenue requirement reduction to reflect a lower anticipated long-term debt rate at the time of the May 2019 issuance, assuming that based on the trend of the 30-year Treasury yield and adding the 1.25% credit spread, that the May 2019 issuance would be 4.25% instead of 4.90%.[120] Mr. Kollen's adjustment showed the inherent problem of using forecasted interest rates to determine revenue requirements as the 30-year Treasury yield had fallen since the Companies prepared their cases, rather than risen as anticipated.[121] As part of the proposed Stipulation in these cases the Parties stipulated this reduction of the assumed long-term debt rate of the anticipated issuance, resulting in a revenue requirement reduction of $1.33 million for KU and $1.71 million for LG&E.[122]

8. Assume Increased Revenue from Rate RTS Customers in Test Period

In his Direct Testimony, KIUC witness Stephen Baron noted that "[t]he Companies' projected test year level of Rate RTS billing demand is significantly lower than the most

[117] Stipulation at 5.
[118] Garrett Rebuttal at 13; Rebuttal Testimony of Daniel K. Arbough ("Arbough Rebuttal") (Ky. PSC Feb. 22, 2019) at 2.
[119] *Id*.
[120] Kollen Direct at 52-53.
[121] *Id*. at 52.
[122] Stipulation at 6.

recently available actual data for these rate classes."[123] Mr. Baron subsequently noted that the "additional revenue should be included in the calculation of the overall revenue deficiency in these cases."[124] Mr. Baron provided evidence that indicated the billing demand assumed by the Companies for rate RTS in the test-year was understated and recommended additional implied revenue from rate RTS of $1,475,122 for KU and $1,788,503 for LG&E.[125] The Parties stipulated assumed additional revenue, which offsets the initially-requested increase, for the amount identified by Mr. Baron for KU ($1.48 million) and a reduced amount for LG&E ($.60 million).[126] The reduced amount for LG&E is in-line with the explanation provided by LG&E/KU witness Sinclair regarding the impact of "a seasonal weather event that caused a large increase in actual demand in February 2018."[127]

9. <u>Reflect Reduction in Short-Term Debt Balances Resulting From the May 2019 FMB Issuance</u>

In calculating their capitalization, the Companies inadvertently failed to remove or offset their short-term debt balances in light of the planned May 2019 long-term debt issuance detailed *supra*.[128] This oversight caused an overstatement of capitalization and thus an overstatement of the Companies' purported revenue requirements. The Parties stipulated an adjustment reflecting a correction to the oversight, resulting in a downward revenue requirement adjustment of $0.96 million for KU and $0.91 million for LG&E.[129]

10. <u>Adjust KU Test-Year Revenues for Assumed Additional Customer Load</u>

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[123] Direct Testimony of Stephen J. Baron ("Baron Direct") (Ky. PSC Jan. 16, 2019) at 8.
[124] *Id*.
[125] *Id*. at 33-34.
[126] Stipulation at 6.
[127] Rebuttal Testimony of David S. Sinclair ("Sinclair Rebuttal") (Ky. PSC Feb. 22, 2019) at 42.
[128] Kollen Direct, Exhibit LK- 11; KU Response to KIUC 2-24 & LG&E Response to KIUC 2-23.
[129] Stipulation at 6.

In anticipation of the former Verso paper mill in Ballard County (in KU's territory) coming back online and being converted "to produce kraft linerboard," KIUC witness Mr. Kollen proposed to impute test-year revenues associated with a forecasted load.[130] Based on the mill's previous usage and its service under rate RTS, Mr. Kollen quantified an anticipated level of demand revenues of $7.620 million.[131] The Parties considered and stipulated, based on information possessed by KU, a lower level of imputed revenues from the expected load, resulting in a reduction to KU's proposed revenue requirement of $0.90 million.[132]

11. Extend Amortization of July 2018 Storm Regulatory Assets

Over the Attorney General's objection the Commission granted, for accounting purposes only, LG&E and KU regulatory accounting for the actual expenses incurred as a result of July 2018 Storms.[133] The Companies are seeking amortization of these regulatory assets in these matters because the Commission's decision explicitly did "not touch upon the issue of rate recovery of such costs."[134] The Companies proposed an amortization period of five years, arguing that length of times is consistent with the amortization period of other storm-related regulatory assets.[135] Notably, the Companies admit that the five-year period has only been approved as part of a settlement agreement, through an order in which the Commission explicitly noted its approval "does not constitute precedent on any issues except as specifically provided for therein.[136] Rather than using an amortization period of five (5)

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[130] Kollen Direct at 26.
[131] Kollen Direct at 27.
[132] Stipulation at 7.
[133] In Re. *Electronic Joint Application of Kentucky Utilities Company and Louisville Gas and Electric Company for an Order Approving the Establishment of Regulatory Liabilities and Regulatory Assets*, Case No. 2018-00304 (Ky. PSC Dec. 20, 2018) at 15.
[134] *Id*. at 15; Garrett Rebuttal at 16-17.
[135] Garrett Rebuttal at 16.
[136] In Re. *Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Case No. 2012-00221 (Ky. PSC Dec. 2012) at 7. The Commission in that order did not separately discuss the amortization periods of regulatory assets.

years, the Parties stipulated to the use of ten (10) years.[137] Attorney General witness Mullinax recommended a ten-year amortization in her direct testimony based on Commission precedent in Case No. 2009-00548.[138] The use of a ten-year amortization is in accordance with Commission precedent, helps reduce the rate burden on customers and is reasonable. The effect of using a ten-year vs. five-year amortization for these regulatory assets is a reduction to the KU revenue requirement of $0.47 million and LG&E's by $0.23 million.[139]

12. <u>Reduce Revenue Requirements to Reflect Assumed Amount of Late Payment Charge Waiver</u>

As part of their Applications the Companies proposed tariff language to provide residential customers who are late on their payment, but who have not been late with payment within the past 12-months, a credit for their late fee.[140] Consequently, under the assumption that every such situated residential customer would take advantage of the late fee waiver, the Companies removed $337,386 from the KU forecasted revenues and $231,059 for LG&E electric operations.[141] The Companies assumed that every customer to whom the credit is available will take advantage of it, while admitting that customers have to contact customer service to request the credit and that the Companies have no plan to advertise the availability of the credit.[142] Attorney General witness Mullinax proposed to add the revenues back into the forecast test-year and provide the Companies deferral accounting if any customers actually take advantage of the waiver option.[143] The Parties' stipulated adjustment on this matter mirrors Ms. Mullinax's recommendation, whereby the waiver credit is added back into

[137] Stipulation at 7.
[138] Mullinax Direct at 48.
[139] Stipulation at 7.
[140] Conroy Direct at 20.
[141] Seelye Direct at 66; KU Response to LFUCG 1-58.
[142] KU Response to LFUCG 1-58; KU Response to PSC 3-27; LG&E Response to PSC 3-26.
[143] Mullinax Direct at 25-26.

revenues and the Parties request approval for the "use of regulatory asset accounting for the amounts of late payment charge waivers actually granted."[144] The effect of the stipulated adjustment reduces the Companies' proposed electric revenue requirements as set forth in their Applications by $0.34 million for KU and $0.23 million for LG&E.[145]

13. <u>ECR Beneficial Reuse Revenues in Base Rates (KU Only)</u>

KU currently has imbedded in base rates a baseline amount for assumed annual ECR beneficial reuse operating expense credit.[146] Currently, ECR beneficial reuse expenses above or below the $440,000 baseline amount in base rates are recoverable or refundable through KU's ECR mechanism via its Commission approved ECR forms.[147] KU proposed to eliminate the baseline amount, whereby they would only recover or refund the actual ECR beneficial reuse expenses through the ECR mechanism, rather than the increment or decrement adjusted by the baseline credit.[148] Attorney General witness Mullinax proposed that the Commission reject the Company's proposal as the forms and mechanism were explicitly approved by the Commission in the past and there is no negative impact to the utility in keeping the credit.[149] The proposed Stipulation in these matters continues the reuse credit in KU's base rates, thus reflecting a $440,000 reduction to KU's initially-proposed revenue requirement.[150] Importantly, this stipulated adjustment merely continues the utility's current Commission-approved practice.

14. <u>Adjusting Revenues to Reflect Credit Card Rebates</u>

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[144] Stipulation at 7.
[145] Stipulation at 7.
[146] Garrett Direct at 25.
[147] *Id.*
[148] *Id.*
[149] Mullinax Direct at 45.
[150] Stipulation at 7.

Through discovery, the Companies provided evidence that they receive rebates from their credit cards, but they did not reflect the rebates in their cost of service for the forecasted test-year.[151] Based on this discovery, Attorney General witness Mullinax recommended an adjustment to the revenue requirement reflecting the 2017 level of rebates since the 2018 amounts were not yet known.[152] The Stipulation provides for adjustments reflecting the 2017 actual rebates, resulting in a revenue requirement reduction of $0.21 million for KU and $0.18 million for LG&E electric.[153]

15. Defer and Amortize Expense to Repair Brown 1 Stack (KU Only)

As part of its Application, "KU included a one-time expense of $0.297 million to repair the Brown 1 stack."[154] Arguing that the expense associated with repairing the structural integrity of the Brown 1 stack was a one-time, rather than recurring expense, KIUC witness Kollen proposed a deferral of the expense.[155] Rather, the Parties stipulated a "deferral and three-year amortization of the cost to repair the Brown 1 stack after the unit is retired, which reduced KU's proposed electric revenue requirement increase as set forth in its Application by $0.10 million."[156]

16. Adjust Plant Held for Future Use Related to Lonesome Pine Substation

KU inappropriately, but apparently inadvertently, "included $140,863 for Virginia-located land and site preparation at the Lonesome Pine Substation in the plant held for future use."[157] Attorney General witness Mullinax proposed an adjustment removing the property from KU's plant held for future use, and the Company explicitly acknowledged its error in a

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[151] KU Response to AG 1-84; LG&E Response to AG 1-84.
[152] Mullinax Direct at 39.
[153] Stipulation at 8.
[154] Kollen Direct at 34.
[155] *Id*. at 35.
[156] Stipulation at 8.
[157] Mullinax Direct at 19, citing KU response to PSC 1-21.

supplemental data request response.[158] The Parties stipulate an adjustment for this removal of plant held for future use, resulting in a revenue requirement reduction to KU of $.002 million.[159]

B. Gas Revenue Requirement

1. Reduction in the ROE

As discussed in the electric revenue requirement subsection of this Brief, the Parties stipulate the use of 9.725% ROE for purposes of determining the revenue requirements in these matters. The Parties' stipulated ROE also applies to LG&E's gas operations.[160] As noted in the Stipulation, "[u]se of a 9.725% return on equity reduces LG&E's proposed gas revenue requirement increase as set form in its Application by $3.87 million."[161]

2. Removal of the Uniform Diameter Transmission Line Projects

The Attorney General has significant concern regarding LG&E's plan to replace approximately 13.2 miles of transmission line segments "to achieve uniform diameter and better facilitate enhanced inline inspection capabilities."[162] LG&E witness Bellar notes that the inline inspections are performed or expected to be performed based on compliance with proposed PHMSA regulations.[163] Aside from the $91.2 million cost, Attorney General witness Mullinax noted her concern about the project in the context of a certificate of public convenience and necessity ("CPCN"), particularly in light of the Commission's decision in Case No. 2016-00371 regarding the Bullitt County Pipeline.[164] The Parties stipulated that LG&E should remove the capital related to the project from capitalization, thus reducing

[158] Mullinax Direct at 19; KU Response to PSC 1-53, January 11, 2019 Supplemental Response.
[159] Stipulation at 8.
[160] *Id.* at 10.
[161] *Id.*
[162] Testimony of Lonnie E. Bellar ("Bellar Direct") (Ky. PSC Sept. 28, 2018) at 59.
[163] *Id.*
[164] Mullinax Direct at 17.

LG&E's initially proposed revenue requirement by $.93 million.[165] The Parties further stipulate that LG&E may seek recovery for the project under its Gas Line Tracker or a future base rate case, but make no other representation beyond agreement that other parties will not oppose the forum of recovery as long as LG&E limits its request to either a base rate case or Gas Line Tracker matter.[166] Said differently, the Parties stipulate that LG&E should remove the project with the option to later seek recovery through either of the aforementioned forums, but, as the stipulation notes, "[n]othing . . . precludes any Party from opposing or supporting the substance of LG&E's proposal for cost recovery . . . in any future proceeding on any basis except that enumerated above regarding the forum of the recovery."[167]

3. <u>Update Interest Rate of FMB to 4.25%</u>

As previously noted, in recognition of lower Treasury yields than initially anticipated, the Parties stipulated a lower imputed interest rate for the significant long-term debt issuance LG&E is expected to make by May 2019.[168] Amending the presumed long-term debt rate of the issuance from 4.9% to 4.25% reduced the LG&E gas revenue requirement by $.52 million.[169]

4. <u>Reflect Reduction in Short-term Debt Balance Due to May '19 FMB Issuance</u>

Similar to the effect it had on electric rates, LG&E's inadvertent failure to remove short-term debt components from capitalization given its plan to issue new long-term debt resulted in an overstatement of the revenue requirement for its gas operations. The Parties'

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[165] Stipulation at 10.
[166] *Id*. at 10-11.
[167] *Id*.
[168] *Id.* at 6.
[169] *Id*. at 11.

stipulated adjustment remedies the error and reduces the revenue requirement by $0.17 million for LG&E's gas operations.[170]

5. Reduce Revenue Requirement by Assumed Amount of Late-Payment Waiver

LG&E proposed as part of its Application a late-payment waiver for residential gas customers identical to the one for electric customers. As discussed in the electric revenue requirement subsection of this brief, Attorney General witness Mullinax disagreed with the Companies assumption (and revenue adjustment) that every customer with option of the waiver will take it.[171] As such, the Parties stipulated for gas operations a provision identical to that of the electric operations, crediting back the waiver amount assumed for the test-year and providing LG&E regulatory accounting for those customers that do take advantage of the waiver.[172] The revenue requirement impact of crediting back the revenue results in a decrease to the initially-proposed amount of $0.10 million.[173]

6. Credit Card rebates

The LG&E gas operations allocation of credit card rebates stipulated to by the Parties results in a revenue requirement reduction from that initially proposed of $0.003 million.[174]

C. Revenue Allocation

1. Electric Operations

The revenue allocation in the proposed Stipulation marries the proposals and concerns advanced by the numerous and diverse Parties. For instance, based on his conclusions, including the rejection of LG&E/KU witness Seelye's only class cost of service study ("CCOSS"), and in recognition of the shortcomings of those CCOSS proffered by KIUC and

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[170] *Id.*

[171] Mullinax Direct at 25-27.

[172] Stipulation at 11.

[173] *Id.*

[174] *Id.* at 12.

DOD/FEA, Attorney General witness Watkins recommended class increases (or decreases) of the same percentage basis as the overall increase.[175] As it relates to residential customers (and lighting customers), the Stipulation provides for a reasonable outcome, with a percentage increase near the system average for both utilities, but with above-average increases.[176] Directionally, the increase to the residential class stipulated to is the same as advocated for by Kroger/Walmart, KIUC, and DOD/FEA.[177]

Another example of how reasonable and supportable the stipulated allocation is, are the increases to "Tier III" classes. Tier III, described by LG&E/KU witness Seelye as "the large commercial and industrial rates,"[178] receive a less-than-system-average increase in both LG&E and KU electric rates, with those classes receiving "for KU, one and a half percent below the overall percentage and for LG&E it was one percent [below]."[179] This allocation is similar to that proposed by KIUC witness Baron, who, based on CCOSS and in recognition of the impact higher prices have on economic development, recommended a 1% below system average increase for Tier III customers.[180] The positions advocated for by DOD/FEA witness Selecky and Walmart witness Tillman were seemingly more harmful for residential customers than even that of KIUC, resulting in a relative windfall to customers in Tier III.[181] The stipulated increases for Tier III customers is higher than if the Commission applied the

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[175] Watkins Direct at 20-21; Case No. 2018-00295, Attorney General Response to PSC 1-18 & 1-19, where Mr. Watkins provides his opinion on the 6-CP and 12-CP methods and directs Commission staff to his direct testimony and associated schedules for further reading on the shortcomings of these methodologies.
[176] Stipulation Exhibit 3, Schedule M-2.1; Stipulation Exhibit 4, Schedule M-2.1.
[177] March 6, 2019 VTE at 1:05:00.
[178] *Id*. at 12:59:02.
[179] *Id*. at 1:01:20-1:01:35.
[180] Baron Direct at 20-28. It should be noted that Mr. Baron's proposal advocated using the decrement created by the TCJA surcredit as the starting point for his proposed allocation, a methodology implicitly agreed to though the allocations stipulated in these matters.
[181] *See* Case No. 2018-00295, Tillman Direct at 18-22; Direct Testimony and Exhibits of James T. Selecky ("Selecky Direct") (Ky. PSC Jan. 16, 2019) at 9-13.

proposals of DOD/FEA and/or Kroger/Walmart. In summary, the stipulated electric revenue allocation is reasonable, supported by substantial evidence, and is a fair marriage of the numerous and diverse positions submitted by the Parties.

2. Gas Operations

The allocation of the increase to LG&E's gas operations is the same as initially proposed by LG&E in its Application.[182] The Company initially proposed that only three customer groups — Residential, Commercial and Substitute Commercial — receive increases, and those percentage increases be identical.[183] The Parties stipulated that the revenue requirement determined by the Commission be allocated in the same manner.[184]

D. *Merger Mitigation De-pancaking Deferral*

On August 3, 2018, prior to their filing of these matters, the Companies filed with the Federal Energy Regulatory Commission ("the FERC") "a request to remove a market power mitigation measure imposed to resolve horizontal market power concerns originating from LG&E and KU's merger in 1998 . . . and from LG&E/KU's subsequent withdrawal from the Midcontinent Independent System Operator, Inc. (MISO) in 2006."[185] Removal of the measures (commonly referred to as "MMD") in the manner proposed by LG&E/KU would result in additional test-year transmission revenues, the effect of which offset the jurisdictional revenue requirements where the transmission assets are rate-based. Although the Companies indicated they were prepared to address the effect of the FERC's approval if it occurs "during

[182] *See* Case No. 2018-00295, Application Tab 66, Schedule M-2.1-G.
[183] *Id.*
[184] *See* Stipulation Exhibit 5, Page 1 of 11.
[185] *Joint Application of Louisville Gas and Electric Co. and Kentucky Utilities Co.*, 166 FERC ¶ 61,206, Order (March 21, 2019) at 1.

the pendency of this proceeding," they provided no assurance as to relief if the FERC's ruling occurs after rates become effective.[186]

KIUC witness Kollen recommended that if the FERC grants the relief, the Commission should "direct the Companies to defer all refunds and ongoing savings as a regulatory liability," while Attorney General witness Mullinax recommended a reversal of the Companies' test-year adjustments, and "deferral accounting of the actual costs or savings until the FERC decision is known and measurable."[187] As part of the Stipulation in these matters, the Parties recommend that the "Commission approve the [Companies'] use of deferral accounting treatment so that if FERC reduces or eliminates the . . . MMD obligations, the [Companies] will establish a regulatory liability for the reduction in costs."[188] This Stipulation provision is in line with KIUC witness Kollen's recommendation and ensures any reduction in the costs compared to the amount assumed in these cases inures to the benefit of customers in subsequent cases rather than to the Companies between now and their next rate cases.

CONCLUSION

In order to ensure rates are fair, just and reasonable the Attorney General recommends the Commission approve the Parties' stipulated adjustments in addition to those positions put forward by the Attorney General in this Post-Hearing Brief. The adjustments contained in the Stipulation and the Attorney General's Post-Hearing Brief will result in reasonable revenue levels that may result in affordable rates. In order to determine fair, just and reasonable rates for residential customers, the Commission must maintain the current Basic Service Charge

[186] KU Response to AG 1-9e, LG&E Response to AG 1-9e.
[187] Kollen Direct at 34; Mullinax Direct at 47.
[188] Stipulation Addendum at 2.

amounts, and deny the Companies' proposals to bifurcate the kWh charge and calculate the Basic Service Charge on a daily instead of monthly basis.

Respectfully submitted,

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