**COMMONWEALTH OF KENTUCKY**
**BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

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| Electronic Application Of Kentucky Power Company ) For (1) A General Adjustment Of Its Rates For ) Electric Service; (2) Approval Of Tariffs And Riders; ) (3) Approval Of Accounting Practices To Establish ) Regulatory Assets And Liabilities; (4) Approval Of A ) Certificate Of Public Convenience And Necessity, ) And (5) All Other Required Approvals And Relief ) | Case No. 2020-00174 |

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**RESPONSE OF JOINT INTERVENORS MOUNTAIN ASSOCIATION, KENTUCKY SOLAR ENERGY SOCIETY, AND KENTUCKIANS FOR THE COMMONWEALTH IN OPPOSITION TO MOTION OF KENTUCKY POWER COMPANY FOR REHEARING**

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Tom FitzGerald
Kentucky Resources Council, Inc.
P.O. Box 1070
Frankfort, KY 40602
(502) 875-2428
FitzKRC@aol.com

Counsel for Joint Intervenors Mountain Association, Kentuckians For The Commonwealth, and Kentucky Solar Energy Society


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Come Joint Intervenors Mountain Association, Kentucky Solar Energy Society, and Kentuckians For The Commonwealth ("Joint Intervenors"), and in accordance with the regulations of the Kentucky Public Service Commission ("Commission"), file this response in opposition to the motion of Kentucky Power Company ("KPC") for a rehearing of the May 14, 2021 Order ("NMS Order"). For the reasons stated below, Joint Intervenors respectfully request that the Commission deny the motion in its entirety.

## Summary Of Response

KPC has requested rehearing of the NMS Order, arguing that (1) the NMS Order violates KRS 278.465-278.468 by establishing rates that "are insufficient to enable Kentucky Power to recover from Tariff NMS II customers all costs necessary to serve those customers, (2) because the Commission eliminated the time-of-use netting periods proposed by the Company, and (3) because the NMS II export rates the Commission established are "unsupported by the record, mathematically incorrect, and overstated." Additionally, KPC complains that (4) the NMS Order violates KRS 278.466(6) by "grandfathering"[1] customers taking

[1] The racist connotations associated with "grandfathering" in the context of voting rights, Joint Intervenors recommend that a different adjective should be used to reflect the recognition both by the General Assembly in KRS 278.466(6) and the Commission in the May 14, 2021 Order, that the investment-backed expectations of customer-generators should be respected in rate design.

service under the NMS II, (5) that "[t]he Commission's creation of new avoided cost components in the Order, without notice or an opportunity for Kentucky Power to respond to those costs, was unreasonable and violated Kentucky Power's due process rights and (6) that the "new avoided cost components discriminate in favor of NMS II customers and enable those customers to be compensated twice for their renewable generation's non-power attributes." Finally, KPC complains that the Commission's determination that the addition of battery storage does not result in an increase in, and material change to, an NMS II customer-generator's system's capacity, is unsupported in the record.[2]

It is clear that KPC doesn't like much about the Commission's May 14, 2021 Order. It is equally clear to even the most undiscerning observer that KPC has had ample notice, and abundant opportunity, to address those factors that were identified by witnesses and accepted by the Commission as being necessary components for determining the costs of service and the appropriate compensatory credit for "fed-back" solar. Having intransigently refused to accept the principles proposed by witness Rábago (and others) regarding the methodology and considerations for proper evaluation of costs and benefits, and having failed to credibly dispute those principles and benefit-cost considerations

[2] KPC also suggests that the Order's references to material and incidental increases in capacity are "vague and should be quantified."

proposed by witnesses for Joint Intervenors and adopted by the Commission after supplemental hearing and multiple rounds of discovery, KPC's suggestion that they have not been accorded due process rings particularly hollow.

At the end of the day, KPC joined with the other Commission-regulated electric utilities in advocating for passage of Senate Bill 100, in order to vest the responsibility for setting appropriate rates for net-metered electricity to replace the kilowatt hour-based 1:1 compensatory ratio, in the Commission. Having received a thoughtful, deliberative, and comprehensive NMS Order that fully conforms to the requirements of KRS 278.466 and the principles for ratemaking and providing no new evidence to support rehearing on the issues determined in that Order, KPC's motion falls of its own weight.

## I. The KPC Motion Fails To Meet The Standard for Rehearing.

KRS 278.400 authorizes "any party to the proceedings" to apply for rehearing of a Commission order within twenty (20) days of service of the order. The Commission properly interprets the statute as "provid[ing] closure to Commission proceedings by limiting rehearing to new evidence not readily discoverable at the time of the original hearings."[3] The statute requires and the

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[3] Order, *In the Matter of: Application Of Kentucky-American Water Company For A Certificate Of Public Convenience And Necessity Authorizing Construction Of The Northern Division Connection*, Case No. 2012-00096 at 4 (Ky. P.S.C.

Commission expects "the parties to Commission proceedings to use reasonable diligence in the preparation and presentation of their cases and serves to prevent piecemeal litigation of issues."[4]

KPC's motion fails to present new evidence that was not readily discoverable at the time of the original and the supplemental hearing and seeks nothing more than to rehash already presented and uniformly discredited arguments regarding the appropriate compensatory credit. None of the standards for a grant of rehearing are present here.

## II. The Commission's May 14, 2021 Order In No Fashion Violates KRS 278.466(5) By Rejecting The Proposed Netting Periods

The NMS Order properly rejected the Company's proposal to use two time-of-use netting periods, and instead orders the Company to "continue to net the total energy consumed and the total energy exported by eligible customer-generators over the billing period in NMS II consistent with the billing period netting period established in NMS I."

KRS 278.466(5) provides:

> Using the ratemaking process provided by this chapter, each retail electric supplier shall be entitled to implement rates to recover from its eligible customer-generators all costs necessary to serve its eligible customer-generators, including but not limited to fixed and demand-

January 23, 2014).

[4] *Id.*

> based costs, without regard for the rate structure for customers who are not eligible customer-generators.

The Commission's rejection of the netting periods proposed by Kentucky Power in favor of monthly netting by bill period has nothing to do with the setting of rates that enable Kentucky Power a reasonable opportunity to recover those costs necessary to serve NMS II customers. What is an appropriate rate, as this Commission has noted, requires a determination of the true cost of service after proper analysis of benefits. Rather, the proposed "netting periods" has the effect (if not the intent) of artificially constraining the times of day during which the net-metering customer could redeem the compensatory credits (however valued), and encouraging usage of electricity in a counterintuitive manner that is inconsistent with the goals of DSM regarding peak time usage.

The suggestion that elimination of the "netting periods" results in customer-generators not contributing to the Company's costs to serve them is both unsupported by any data showing the usage patterns of net-metering customers. It also ignores that the net-metering ratepayer is being fully charged at the retail tariffed rate for all consumption over the course of each day. At bottom, KPC is complaining that the customer-generator may earn credits that can offset some of those charges. That is the result of accounting and math; the underlying rates and charges are based on costs and ROE. Allegedly lost

revenues are not a cost and conflating the two is inappropriate.

KRS 278.466 provides no mandate or directive that "netting periods" should be used to constrain the redemption of compensatory credits, but instead provides only that the eligible customer-generator shall be compensated for all electricity produced and that the determination of crediting and billed usage is to occur over the billing period. While sufficient data reflecting actual usage patterns and load profiles of net metering customers could allow the design of "time-of-use netting periods [that] can more granularly match customer load to customer generation," the Commission properly rejected the proposed two time-of-use netting periods in favor of netting by billing period on the grounds that "the periods that Kentucky Power selected are not based on cost causation." KPC erroneously conflates the Commission's consideration of the time of use in the avoided energy cost calculation with the Commission's rejection of the netting periods, suggesting an inconsistency. KPC continues to conflate the cost of service for generators who generate for use with those that generate for sale. The Commission correctly refused to join in that category error.

The basic principle of regulatory law regarding utilities is that they are provided a reasonable opportunity to recover costs and a reasonable return on investment. (Hope and Bluefield). KPC complains that by not artificially constraining redemption of compensatory credits and by allowing an export rate

that fairly compensates the customer-generator for the fed-back solar, KPC is being denied the right to recover for costs of serving the net-metering customer. Yet KPC fails entirely, in the calculations provided, to reflect the value that is derived not only from the costs "avoided" to the system, but also from the sales to other retail customers of the fed-back solar energy.

The Commission committed no error in rejecting the netting periods proposed by KPC, and rather than defending those proposed periods as being based on cost causation (and supporting that assertion with credible data), KPC focuses on the alleged inability to recover costs of service from net-metered customers that it asserts flow from rejection of those periods. KPC had the opportunity to propose rates that were fair, just, and reasonable to all parties. That the punitive rates and constraints it proposed for eligible customer-generators were rejected in favor of a more inclusive methodology and fair valuation of benefits and costs, is no basis for rehearing on the rejection of the proposed netting periods.

## III. The Commission Order Providing Legacy Protections Regarding Rates And Rate Design For Customers Who Begin Taking Service Under NMS II Is Reasonable, Consistent With KRS 278.466, And Within The Commission's Constitutional And Statutory Authority

KPC complains that KRS 278.466(6) does not authorize the Commission to order that "eligible customer-generators who take service under NMS II should

be allowed to take service under the current two-part rate structure and netting period for 25 years."[34] KPC argues that the "legacy" provisions of KRS 278.466(6) apply only to customers taking service prior to May 14, 2021 (the date of the initial NMS Order) and that the Commission has acted outside of its authority in providing legacy rights to customers taking service under the new NMS II tariff. KPC also raises the specter that granting legacy rights to NMS II customers not only exceeds the Commission's statutory powers but violates the separation of powers as established in the Kentucky Constitution.

KPC is simply wrong. KPC had every opportunity (which it chose not to credibly address) to provide evidence to rebut the sworn expert testimony of the KYSEIA witness that granting such legacy rights for those taking service under the new tariff was fair and appropriate.

The Commission's grant of legacy status to NMS II customers is fully consistent with the motivation behind the crafting of such legacy status for net metering customers whose systems were in service prior to the "initial net metering order" referred to in KRS 278.466(6). The Commission was absolutely correct that the intention of the crafting of the legacy provision was to assure that the customer-generator who had made a capital investment in a system with an anticipated 25-year lifespan, would have that "customer expectation of and reliance on existing rate structures when the eligible

generating facility was placed in service" respected. Further, the Commission decision to provide legacy rights similar to those in KRS 278.466(6) for NMS II customers is fully consonant with the regulatory principles of gradualism and stability in rates and terms of service.

The KPC suggestion that the statute intentionally *limited* the legacy rights to customers taking service prior to the initial net metering order in order to simplify the bookkeeping of the utilities, is wholly without statutory basis. The suggestion that tracking post-NMS II legacy customers would be administratively difficult is entirely overblown. The utility will already be tracking NMS I customers differently than NMS II, a decision for which the company is entirely responsible since it (and not the Commission) proposed to end the administratively simple 1:1 KWh-based netting in favor of their NMS II proposal. The addition of a new field to the existing computer program to track the date on which a customer begins taking service under NMS II is hardly challenging or complex.

**a. The provision of "legacy rights" to customers taking service under NMS II does not violate KRS 278.466(6)**

KPC is mistaken in arguing that the provision of legacy rights to customers taking service under NMS II violates KRS 278.466(6). The statute provides backward-looking protection for customers taking service prior to the

initial net metering order under KRS 278.466(6), and is silent concerning the granting of such forward-looking rights for customers taking service *after* the date of the initial net metering order. Rather, the Commission is granted broad authority to determine the terms and conditions under which net metering will occur after that date.

KRS 278.466 creates the baseline parameters under which net-metering occurs in the Commonwealth. The retail electric supplier is required to make the service available up to a limit, KRS 278.466(1); is required to provide a standard meter capable of reading flow in two directions; KRS 278.466(2); is required to compensate the customer-generator for all electricity fed back into the grid; KRS 278.466(3); and is required to account for the bill credits and usage; KRS 278.466(4). The legacy rights of customer-generators in service prior to the initial net metering order are statutorily protected from intrusion by the utility. KRS 278.466(6).

Beyond these parameters, the utility is enabled "using the ratemaking process provided by this chapter," to propose rates and rate structures for customer-generators "without regard for the rate structure of customers who are not eligible customer-generators." KRS 278.466(5). Additionally, the compensatory rate for customers taking service after the initial net metering order is to be "set by the commission using the ratemaking processes under this

chapter during a proceeding initiated by a retail electric supplier or generation and transmission cooperative on behalf of one (1) or more retail electric suppliers." KRS 278.466(3).

The intent of the General Assembly in conferring the responsibility to set the rates for compensation and determining whether the rates and rate structures proposed by the utility are fair, just, and reasonable, was that the Commission utilize its plenary authority under KRS Chapter 278 in reviewing and determining the relationship between the customer-generator, the utility, and non-participating customers. The General Assembly charged the Commission with using the Chapter 278 rate making processes, and determining the term for tariff application is squarely within the authority and obligation of the commission in ensuring that rates are just and reasonable. Since solar facilities are long-lived facilities requiring major investments, adjusting the term length of tariffs in order to accord proper respect to the investment-backed expectations of customers, as with utilities, is entirely proper.

**b. The Commission was not legislating in ordering that NMS II customers receive legacy rights, so that no separation of power principles were implicated in establishing NMS II protections**

The Commission is not legislating, but instead is utilizing legislatively-delegated powers in a manner contemplated by the General Assembly in determining whether the rates and rate structure approved in the initial net

metering order would be locked in for a period of time commensurate with the investment-backed expectations of those customers. The constitutional argument is a red herring and should be rejected out of hand.

The Commission's Order is well within its statutory authority. KPC cites to *Union Light, Heat & Power Co. v. Public Service Commission*, Ky., 271 S.W.2d 361 (1954), for the proposition that "[w]hen a statute prescribes a precise procedure, an administrative agency may not add to such provision." Yet this case is not governed by that principle. The statute is <u>silent</u> regarding whether legacy rights can be conferred on customers taking service after the initial net metering order and does not "prescribe[ ] a precise procedure." The Commission was empowered to determine the reasonableness of rates and rate structures after that time. Joint Intervenors concur with KYSEIA that the Commission cannot be charged with error in implementing the provisions of Chapter 278 through authorizing additional legacy rights in the absence of language of limitation or exclusivity that expressly limits the provision of legacy protections, and no such language of limitation or exclusivity has been identified by the Company. *Public Service Commission of Kentucky v. Commonwealth,* 320 S.W.3d 660, 668 (Ky. 2010).

Rather, this case is governed by the principles established in *Chevron U.*

*S.A., Inc. v. Natural Res. Def. Council, Inc.*, 467 U.S. 837, 104 S. Ct. 2778, 81 L. Ed. 2d 694 (1984). The Supreme Court of Kentucky has endorsed the *Chevron* doctrine, which outlines a two-step analysis of judicial deference to agency determinations of law. First, if the statutory language is clear, then the courts offer no deference to agency action outside the statute's clear language. *Chevron*, 467 U.S. at 842-43. However, if the statutory language is ambiguous, then the court will defer to an agency's reasonable interpretation of the agency's enabling statute. *Id.* at 843. Where the General Assembly does not use language that addresses the specific question at issue, the standard of review for an agency's interpretation of unclear, ambiguous language in a statute is whether the agency used "a permissible construction of the statute" to reach its adjudicative decision. *Metzinger*, 299 S.W.3d at 546 (quoting *Chevron*, 467 U.S. at 843).

Under the *Chevron* test, acknowledged by the Supreme Court of Kentucky to be the appropriate in reviewing agency action that implements a statute that does not speak to the precise implementation question at hand, the Commission’s construction of the statute that is silent concerning legacy rights for those taking service under tariffs proposed after January 1, 2020, is entitled to deference, since it is a “permissible” construction of a statute intended to

protect reasonable investment-backed expectations.

## IV. KPC Was Accorded Full Due Process In The Net-Metering Aspects Of This Case, And Was Given Ample Notice And Multiple Opportunities To Address The Avoided Cost Components That Had Been Proposed By Witnesses And Were Accepted By The Commission In the NMS Order

Kentucky Power argues that it did not have an opportunity to address many of the issues and avoided cost components that the Commission determined to be necessary for proper determination of the compensatory credit and the cost-of-service for customers under a NMS II tariff. KPC further misconstrues the May 14, 2021 Commission Order as "expressly conced[ing] that there was no record in this case to support numerous (sic) of the avoided cost elements it created."

Starting with the second, and absolutely baseless suggestion, we review the May 14, 2021 Order language cited by KPC:

> While the record in this case does not offer quantitative evaluations of benefits and costs, *the parties' qualitative arguments* demonstrate the need to evaluate a broad range of known or reasonably expected measurable benefits of eligible customer- generators, leading the Commission to incorporate additional avoided cost components beyond those proposed by Kentucky Power.

The Commission did not, as baselessly asserted by KPC, rely on "extra-record information' about which the parties had no notice and which the parties had no ability to test or refute [.]" Instead, the Commission accepted the sworn

testimony of witnesses Owen and Rábago (among others) recommending the avoided cost components of any appropriate benefit-cost analysis needed to support a fair export rate and the net (or true) cost of service. The plain language cited by KPC to imply that extra-record evidence was relied on indicates that it was "the parties' qualitative arguments" on which the incorporation of avoided cost components beyond those proposed by KPC rested. Frankly, KPC owes the Commission an apology for the frivolous accusation.

As to the suggestion that KPC has not had the opportunity to "test or refute the testimony" of those witnesses whose testimony the Commission drew upon in developing the principles outlined in the May 14, 2021 Order, a check of the record in Case No. 2020-00174 reflects that KPC, through their counsel, received electronic notification of the filing of all testimony in this case, including the first-round testimony of Joint Intervenor witnesses Andy McDonald, Joshua Bills, James Owen and Karl Rábago, and the supplemental testimony of Joshua Bills and Karl Rábago, in which witness Rábago outlined each and all of the avoided cost principles that were incorporated into the Commission's May 14, 2021 Order (as well as one or two that were not). The specious argument advanced by KPC that it lacked notice or the ability to test or refute the testimony, is as offensive as it is inaccurate. KPC chose to conduct only limited

discovery of these witnesses, and very cursory cross-examination of those expert witnesses, and chose not to provide avoided cost figures for those various costs outlined in the witness testimony (despite being in the best position to do so in terms of access to company numbers). That they did so, is not the fault of the Commission.

KPC has been on notice since <u>before</u> the enactment of Senate Bill 100 that the Commission intended to consider both costs and benefits of fed-back energy from rooftop solar in discharging the obligations imposed by that bill. The PSC February 18, 2019 Letter to Senator Smith, quoted in full in Joint Intervenors' Post-Hearing Brief pp. 5-6, made clear during the debate over floor amendments to SB 100 that sought to enumerate benefits that were required to be considered, that to do so would hinder the Commission in determining the full range of such benefits:

> Second, the Commission has concerns regarding the language describing what the Commission *shall* consider in reviewing a net metering tariff. **The Commission has broad authority to consider all relevant factors presented during a rate proceeding, which would include evidence of the quantifiable benefits and costs of a net-metered system.** S*ee Kentucky Public Service Com'n v. Commonwealth ex rel. Conway*, 324 S.W.3d 373, 383 (Ky. 2010) (The Commission has "plenary authority to regulate and investigate utilities and to ensure that rates charged are fair, just, and reasonable under KRS 278.030 and KRS 278.040."). Benefits of generation from net-metered systems vary for a number of reasons, including locational benefits, specific utility load factors, etc. Statutory

language explicitly dictating *only* what the Commission is to consider in a rate proceeding (as HFA 1 does in Section 2, paragraph 5) is antithetical to standard principles of utility ratemaking.

Additionally, the Commission Order in Case No. 2019-00256 placed the company on direct and clear notice that the Commission would consider both the costs and benefits of fed-back solar energy in any rate case under Senate Bill 100:

> [A]s a result of the comments received, we have determined two actions that we will undertake immediately in conjunction with implementing the Net Metering Act. First, the Net Metering Act provides that the net metering ratemaking processes consider utility-specific costs, and not a uniform rate for all electric utilities. In the comments received in this matter, a variety of approaches were recommended, including consideration of avoided cost, the value of energy supplied to the grid, market-based rates, and quantification of externalities. Additionally, in surveying other states, there are three general approaches to establishing compensation rates. One approach bases compensation rates on the fixed costs for maintaining electric infrastructure and the electric grid. This approach is predicated on the contention that compensation rates that do not consider fixed costs for maintaining electric infrastructure and the electric grid inadvertently allow net metered customers to avoid those costs because net metered customers may incur very low or zero-balance electricity bills. For similar reasons, the second approach bases the compensation rate for net metered customers on avoided costs, which are the costs that a utility would otherwise incur to purchase or generate incremental electricity; or the market wholesale rate. The third approach quantifies economic and social benefits and costs. This approach is based on the position that net metered customers provide economic and social benefits that should be valued, including a reduction in the need for transmission upgrades or new generation, feeding electricity back to the electric grid at peak times when producing and acquiring electricity is costly, and a reduction in emissions and pollution, which improves public health and the environment. **The Commission must develop a process that identifies known or reasonably expected measurable costs and**

> **benefits that can be factored into the ratemaking process, along with next best alternatives, based on the principle of most reasonable least-cost alternative, and opportunity costs.** As noted by a number of commenters, the totality of this proceeding is novel to the Commission. Although the Commission Staff is well prepared to facilitate the disposition of ordinary rate cases, the initial proceedings under the amended Net Metering Act are not ordinary matters. Based solely on the record before the Commission in this proceeding, it is obvious that other states and stakeholders have dealt with issues similar to those the Commission expects to be adjudicated in ratemaking proceedings under the Net Metering Act. To that end, the Commission will award a contract for a consultant to assist us in reviewing, analyzing, and evaluating new net metering tariffs, alternative rate designs, and net metering rate applications, for the purpose of establishing utility-specific compensation rates for net metered customers. The Commission believes that the engagement of an outside, independent, consultant to help review and analyze the filings in proceedings under the Net Metering Act will bring to bear expertise and experience from other states and proceedings that Commission staff itself does not possess.

*Order*, Case No. 2019-00256, pp. 32-33 (Emphasis added). In that case, "Kentucky Power, an IOU, filed written comments, had a representative speak at the public comment hearing, and filed supplemental comments." *Order* p. 16. Presumably, Kentucky Power was served a copy of the Commission Order at the conclusion of that case.

Joint Intervenors proposed, through the pre-filed testimony of Owen and Rábago that <u>each</u> of the avoided cost principles adopted by the Commission were being recommended for use in setting both the compensatory export credit rate and the appropriate rates for service for NMS customers.  That KPC chose not to rebut the recommendations on those principles for benefit-cost analysis and on

the appropriate consideration of avoided costs components such as distribution capacity, carbon, and environmental compliance cost elements, is also not the fault of the Commission. KPC chose as a matter of litigation strategy to plant its flag on the hill of PURPA "avoided cost" and to discount consideration of any benefits (i.e. avoided costs to the utility and other ratepayers) and steadfastly refused to consider the values of solar or to utilize the best practices derived from the NSPM and recommended by Rábago in his testimony, and now should not be heard to complain.

Neither should the Commission grant rehearing to permit Kentucky Power to allow additional evidence to be presented regarding those avoided cost elements, since any KPC evidence concerning those cost components could have been generated and was "readily discoverable at the time of the original hearings." KPC simply chose not to develop such evidence.

**V. The Commission's Order Does Not Allow NMS II Customers To Be Doubly Compensated For The Value Of Their Generation's Non-Power Attributes To KPC And Its Non-Participating Customers**

KPC argues that by establishing avoided carbon and environmental compliance cost components sand requiring that the value of those environmental, social, and other non-power attributes be considered in setting the export rate, that NMS II customers are being twice-compensated since they

"already have the ability to obtain compensation for those attributes of their generation by monetizing the renewable energy certificates ("RECs") associated with their renewable generations." According to KPC, those customers are "being paid twice for their RECs." KPC suggests that the Commission should eliminate the environmental compliance and avoided carbon cost components of the NMS II export rate. Alternatively, the Commission could retain those cost components, or require customers participating in Tariff NMS II to transfer the RECs generated by their net metered facilities to Kentucky Power so that it could then monetize the RECs to offset in part the "subsidy" it alleges non-net metering customers will continue to pay under the Commission's NMS II tariff construct.[5]

The Commission's May 14, 2021 Order requires KPC to credit fed-back

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[5] KPC states that "[r]egardless, given the Commission's recognition in this proceeding of the economic value associated with renewable generation, the Company trusts that the Commission will value the avoided carbon and environmental compliance benefits associated with other renewable generation proposals, including those the Company may pursue in the future, consistently with the value it is placing on renewable distributed generation in this case." The Commission is well aware that PSC-regulated utilities such as LGE/KU have already argued that the Commission should consider the value of renewables as a hedge against carbon and compliance costs. It is only where there is no ROE associated with the investment in renewable energy generation (such as net metering) that the utilities have argued such benefits are intangible or externalities.

electricity at a rate that includes the value the fed-back energy provides to KPC and its other customers. Whether a net-metering customer can find a market in which to gain some additional monetary value from another entity for the renewable energy created, is of no consequence in the Commission's rate-setting under Senate Bill 100. RECs reflect the monetization of benefits to all society from the displacement of fossil-fueled energy with renewable energy. Just as the utility receives both increased revenues from new load created through incentive rates and the society obtains benefits from economic development spurred by such incentive rates, RECs reflect that value to society. KPC asks the Commission to discriminate against net-metering customers by denying recognition of the benefits provided to the utility and customers from fed-back energy solely because it reduces their sales.

## VI. KPC's Complaints Concerning Battery Storage Are Better Addressed To The Pending Interconnection Guidelines Case

The Commission committed no error in recognizing that battery storage is outside of the definition of an "eligible electric generating facility" and thus that addition of behind-the-meter battery storage would not affect the status of an eligible customer generator under KRS Chapter 278. The unsupported allegations of potential safety and other issues associated with the addition of batteries should be referred for exploration in the pending interconnection

guidelines case.

**CONCLUSION**

KPC has failed to demonstrate any ground justifying rehearing. On the basis of the arguments presented above, and on the strength of the evidence adduced and provided in multiple rounds of discovery, and testimony provided in advance of and at two hearings in this matter, as well as the Post-Hearing Brief of Joint Intervenors in this matter, Joint Intervenors respectfully request that the Commission deny the petition for rehearing in its entirety, and grant Joint Intervenors any and all other relief to which they may appear entitled.

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Respectfully submitted,

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Tom FitzGerald
Kentucky Resources Council, Inc.
P.O. Box 1070
Frankfort, KY 40602
(502) 551-3675
FitzKRC@aol.com

Counsel for Joint Intervenors
Mountain Association, Kentuckians
For The Commonwealth, and
Kentucky Solar Energy Society

## Certificate of Service

This is to certify that the electronic version of the foregoing is a true and accurate copy of the same document that will be filed in paper medium; that the electronic filing has been transmitted to the Commission on June 10, 2021; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that in accordance with the March 16, 2020 Commission Order in Case No. 2020-00085 an original and ten copies in paper medium of this filing will not be mailed until after the lifting of the current state of emergency.

Tom FitzGerald