**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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**REPLY POST-HEARING BRIEF OF KENTUCKY POWER COMPANY**

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## I. INTRODUCTION

Kentucky Power Company ("Kentucky Power" or the "Company"), pursuant to the Public Service Commission of Kentucky's ("Commission") November 24, 2020 Order, respectfully submits its Reply Post-Hearing Brief in support of its Application and proposals in this case. The Company anticipated and fully addressed in its initial Post-Hearing Brief the majority of the legal and factual arguments that intervenors raise in their briefs.[1] In the interest of administrative economy, and in recognition of the briefing schedule and statutory deadline for the Commission's decision in this proceeding,[2] the Company relies upon the evidence and arguments presented in its Post-Hearing Brief and will not reiterate previously-articulated arguments here. This Reply is limited to the few issues raised in intervenors' briefs that the Company's December 8, 2020 Post-Hearing Brief did not anticipate and address.

As set forth in the Company's Post-Hearing Brief and below, the record demonstrates that the Company's proposals in this case are reasonable, appropriate, and necessary for the Company to continue to provide safe and reliable service to its customers while also maintaining financial stability. Intervenors' arguments to the contrary would produce confiscatory rates, and would harm Kentucky Power's financial integrity, ultimately to customers' detriment. The Commission thus should disregard intervenors' misplaced arguments in opposition to the Company's proposals, and it should approve Kentucky Power's Application, as modified and updated by the Company in data responses and rebuttal testimony, as requested.

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[1] Post-Hearing Brief of Kentucky Power Company (Dec. 8, 2020) ("Kentucky Power Br.").
[2] Order (Nov. 24, 2020); Order (July 14, 2020); KRS 278.190(2).

## II. KENTUCKY POWER COMPANY'S PROPOSED INCREASE IN BASE RATES YIELDS FAIR, JUST, AND REASONABLE RATES. THE COMPANY'S OTHER PROPOSALS IN THIS CASE ARE ALSO REASONABLE, APPROPRIATE, AND SHOULD BE APPROVED.

### A. Public Convenience and Necessity Require the Company to Replace Obsolete AMR Meters with AMI Meters.

Kentucky Power has demonstrated that the public convenience and necessity require the grant of a certificate of public convenience and necessity ("CPCN") authorizing the Company to deploy advanced metering infrastructure ("AMI") meters to replace its obsolete and rapidly failing automated meter reading ("AMR") metering system.[3] The Company anticipated and addressed the majority of intervenors' arguments regarding the Company's AMI proposal in its Post-Hearing Brief.[4]

Despite the substantial and compelling evidence the Company has presented, AG/KIUC[5] and Walmart[6] nevertheless advance positions on brief that the record belies.[7] Although it does not oppose the Company's CPCN application, Sierra Club advocates that the Commission should place unnecessary conditions on the Company's AMI deployment.[8] Intervenors' arguments are misplaced, as further discussed below.

#### 1. The Record Refutes AG/KIUC's and Walmart's Positions Regarding the Company's AMI Proposal.

AG/KIUC's assertions that the Company's AMI proposal "is discretionary"[9] and that there is "no reason to conclude that the existing AMR system is about to fall apart"[10] are

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[3] *See* Kentucky Power Br. at 31-48.
[4] *Id.*
[5] Jointly, the Attorney General of the Commonwealth of Kentucky and Kentucky Industrial Utility Customers, Inc.
[6] Walmart Inc.
[7] AG/KIUC Br. at 42-44; Walmart Br. at 3-6.
[8] Sierra Club Br. at 3.
[9] AG/KIUC Br. at 42-43 (emphasis sic).
[10] *Id.* at 44.

demonstrably untrue. As the record in this case demonstrates, at the time the Company filed its Application, 74.6% of Kentucky Power's AMR meters were between 10-15 years old and were at or approaching the end of their useful life.[11] In the past three years, the annual failure rate of meters was approximately 10%,[12] and the Company currently is experiencing higher than normal failure rates and expects those rates to grow exponentially as the meters grow even older.[13] Even under AG/KIUC's unsupported standard, the record shows that the Company's current AMR meters are, quite literally, "falling apart" at a rate of 10% per year, which rate the Company expects only to increase.

Moreover, AG/KIUC's assertion that "at least one vendor continues to manufacture the type of meter [the Company] currently uses" is false. [14] The record is replete with uncontroverted evidence that the Company cannot replace its current inventory of AMR meters with new meters.[15] Kentucky Power's current meters, which operate on the SCM platform, are no longer manufactured by any vendor and are no longer supported by Itron, their manufacturer.[16]

The Company's AMI proposal, therefore, is far from discretionary. It is not within the Company's discretion to do nothing to address its obsolete and failing AMR meters, as the Company has demonstrated.[17] As described at length in its Post-Hearing Brief, the Company's failing meters must be replaced, and the Company's AMI proposal is the least cost, most

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[11] Blankenship Direct Test. at 3.
[12] *Id.* at 3-4.
[13] Hearing Transcript ("Tr.") (filed Dec. 4, 2020) Vol. IV at 979.
[14] AG/KIUC Br. at 44.
[15] Blankenship Direct Test. at 2-3; Kentucky Power Br. at 33-34.
[16] Kentucky Power Br. at 33-34.
[17] *Id.* at 33-38.

beneficial option for doing so.[18] AG/KIUC's distortion of the record does not change that fact, and the Commission should disregard the AG/KIUC's unsupported assertions to the contrary.

Although Walmart does not oppose the Company's request for a CPCN for AMI,[19] Walmart incorrectly avers that the Company's positions regarding the need for AMI are "seemingly inconsistent" and "conflicting" because the Company both is in "'dire straits' with its meter program" and views AMI as a "'…reliability project' that 'improves the grid.'"[20] There is no inconsistency between these two needs; nor are they mutually exclusive. The record supports that AMI is both critically important to replace the Company's obsolete AMR meters and that it provides reliability and a host of other customer benefits.[21] That AMI is a win-win proposition should be credited in favor of approving the Company's request for a CPCN; it certainly does not demonstrate, as Walmart incorrectly claims, that the Company has failed to prove that AMI is necessary.[22]

### 2. The Company's AMI Proposals Already Address Sierra Club's Customer Outreach, Education, and Other Recommendations.

Sierra Club notably does not oppose the Company's request for a CPCN to deploy AMI, agreeing that it is an "apparent fact that AMR meters … are approaching the end of their useful lives and will need to be replaced by a technology that is in production and not outmoded."[23] Kentucky Power appreciates Sierra Club's recognition of the need to deploy AMI.

Sierra Club also made several additional recommendations regarding the maximization of efficiency and cost-saving benefits associated with AMI; investment in AMI-related customer

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[18] *Id.*
[19] Walmart Br. at 3.
[20] *Id.* at 5-6.
[21] Kentucky Power Br. at 42-45.
[22] *See* Walmart Br. at 6.
[23] Sierra Club Br. at 3.

outreach and education; and program and rate design issues implicated by AMI deployment, including net metering tariffs, energy efficiency programs, and the elimination of connection and reconnection fees.[24] The Company's Post-Hearing Brief fully addressed each of these recommendations.[25]

In fact, the Company's AMI proposals in this case already incorporate many of Sierra Club's recommendations.[26] The Company is committed to leveraging AMI to provide meaningful benefits to customers, and the Commission will have the opportunity to review how the Company implements that commitment in its prudency review of the Company's AMI deployment, either annually through the Grid Modernization Rider ("GMR"), or in the Company's next base rate case.[27]

More problematic, and unworkable, is Sierra Club's recommendation that the Commission condition the grant of the CPCN for AMI deployment on the implementation of Sierra Club's proposals.[28] Such a requirement would be an exercise of putting the cart before the horse because some of the proposals require the implementation of AMI. The Company practically cannot implement new energy efficiency or demand-side management offerings that rely upon AMI, for example, until AMI is deployed. Even where that is not the case, such a condition would unreasonably constrain the Company's ability to efficiently replace its obsolete and failing AMR infrastructure. For example, as the Company deploys its AMI, the "lessons learned" may require that the Company modify rate design or program proposals or the order in

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[24] *Id.*

[25] Kentucky Power Br. at 27 (detailing the Company's comprehensive planned AMI customer engagement campaign); *id.* at 92-101 (discussing the Company's net metering tariff proposals); *id.* at 44 (describing the Company's plan to eliminate non-recurring charges, including reconnection fees, for services that can be provided remotely with an AMI meter). *See also* West Rebuttal Test. at R7-R8.

[26] Sierra Club Br. at 3.

[27] *See* Kentucky Power Br. at 46-49, 52.

[28] Sierra Club Br. at 3.

which they are implemented. In addition, new or as-yet-unidentified policies and programs may need to take precedence.

For these reasons, the Commission should disregard Sierra Club's recommendation to condition the Company's AMI CPCN in the manner Sierra Club suggests and authorize the Company to deploy AMI in the manner it has proposed in this case.

### B. The Proposed Grid Modernization Rider is Reasonable, Appropriate, and Will Provide Kentucky Power With Necessary Flexibility to Efficiently Make Important Grid Modernization Investments.

The Company has demonstrated that its proposed GMR is necessary and reasonable, and that it would provide important advantages to Kentucky Power, its customers, and the Commission.[29] The Company largely anticipated and addressed intervenors' arguments in opposition to its GMR proposal in its Post-Hearing Brief.[30] As set forth below, the Company's proposal also is consistent with Commission precedent approving riders in similar contexts, and it provides as many, or more, customer protections than those afforded in a base rate proceeding. Thus, the Company's GMR should be approved as proposed.

#### 1. The GMR is Consistent With Commission Precedent Authorizing Riders To Facilitate Needed Infrastructure Investment in Similar Contexts.

No intervenor has credibly disputed the Company's need to modernize and improve its grid, including the need to replace its obsolete and failing AMR metering infrastructure, or the benefits of the resulting reliability improvements. The Company has demonstrated its need for a recovery mechanism like the GMR to perform these system upgrades.[31] Simply put, the Company faces unique challenges that other Kentucky utilities do not – it has a "limited amount

[29] Kentucky Power Br. at 48-53.
[30] *Id.*
[31] Kentucky Power Br. at 48-53.

of capital," and its "service territory is experiencing little to no load growth."[32] Thus, the Company does not have the "opportunity to do many capacity-driven [distribution] projects that help[] upgrade the facilities."[33]

AG/KIUC, Walmart, and Joint Intervenors argue that the GMR should be rejected because riders purportedly are not typically used to recover costs for new distribution investments.[34] Contrary to intervenors' arguments, however, Kentucky Power's proposed GMR is consistent with Commission precedent regarding riders. In particular, it achieves many of the same objectives of Union Light Heat and Power's ("ULH&P") Accelerated Main Replacement Program ("AMRP") approved by the Commission in Case No. 2001-00092.[35] In that case, ULH&P sought to replace all of its cast iron and bare steel mains within 10 years.[36] Similar to the record developed in this case, "ULH&P cite[d] safety and reliability as the major reasons for its decision to accelerate its mains replacement," and "projected that the capital expenditures required for this program w[ould] double its current investment in plant and that such an investment w[ould] have a substantial impact on its earnings."[37] In order to alleviate that impact, "ULH&P propose[d] a tracking mechanism, the AMRP Rider, that would permit it to recover its investment costs on a more current basis than that which traditional rate-making permits."[38] Also similar to the record before the Commission here, "ULH&P contend[ed] that if the rider

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[32] Tr. Vol. IV at 966.
[33] *Id*. These reasons, and the Company's 5.3% earned ROE as of September 30, 2020, distinguish Kentucky Power's need for a mechanism like the GMR from LG&E's and KU's proposal to recover AMI costs through base rates.
[34] AG/KIUC Br. at 41; Walmart Br. at 3-4; Joint Intervenors' Br. at 20.
[35] *See* Order, *In The Matter Of: Adjustment Of Gas Rates Of The Union Light, Heat And Power Company*, Case No. 2001-00092 (Ky. P.S.C. January 31, 2002).
[36] *Id.* at 71-72.
[37] *Id.* at 72.
[38] *Id.*

[was] not approved, it [would] be forced to file several rate cases over the next 10 years in order to recover the costs of this program."[39]

In approving the AMRP Rider, the Commission found that "the replacement of ULH&P's cast iron and bare steel mains within 10 years to be necessary and in the public interest" and recognized "the significant impact the accelerated main replacement program will have on ULH&P over the next 10 years."[40] The Commission held that it had "the statutory authority to establish, and [it] should establish, a method of recovery that will help eliminate any impediment to the success of the program."[41] The Commission thus established the AMRP Rider for an initial three-year period.[42]

Like the AMRP Rider, the GMR provides a mechanism that permits Kentucky Power to "recover its investment costs on a more current basis than that which traditional rate-making permits," for a large capital project to replace obsolete and failing infrastructure, where doing so will permit the utility to address reliability issues (and not just safety as AG/KIUC erroneously contends), while achieving lower operating and maintenance expenses. It also will permit Kentucky Power, just like ULH&P, to avoid more frequent rate cases than might be required in the absence of the rider. Thus, contrary to the arguments advanced by the intervenors, it is appropriate, consistent with Commission precedent, and well within the Commission's statutory authority to approve the Company's proposed GMR.

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[39] *Id.*
[40] *Id.* at 78.
[41] *Id.*
[42] *Id.*

### 2. Contrary to Intervenors' Arguments, the GMR Mechanism Provides As Much or More Protection to Customers than that Afforded to Them in a Base Rate Proceeding.

AG/KIUC and Walmart also argue that unlike a base rate proceeding, recovering costs through a rider mechanism, "removes the protection to ratepayers afforded by a base rate proceeding in which reductions in other expenses of the Company or increases in revenues to the Company could offset AMI costs calculated in a vacuum."[43] Specifically, AG/KIUC argues that rider recovery will not reflect savings the Company may realize through its AMI deployment.[44] The Company, however, addressed this argument in connection with its proposal to recover AMI costs through the GMR.[45] The Company identified a number of cost reductions, including: "reductions in Meter Revenue Operations' spending; reductions in credit and collections and bad debt expenses on past due accounts; and remote connect and disconnect of meters as well as open and close account orders."[46] Kentucky Power has been clear that quantifiable savings <u>will be credited</u> "in the annual true-up of the GMR."[47] If approved, the Commission can expect that all savings will be credited in the annual true-up, and the Company's customers will "pay no more or no less than required to implement the [GMR] projects"[48] once they are known and quantifiable. Thus, intervenors' arguments regarding the purported protections afforded to ratepayers in base rate proceedings is a red herring, because the GMR annual true-up process will provide the same, or more, "protection" to customers.

Further, the Company already rebutted AG/KIUC's incorrect assertions that the Company will achieve depreciation expense savings when it retires its AMR meters and related

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[43] Walmart Br. at 4; *see also* AG/KIUC Br. at 41-42.
[44] AG/KIUC Br. at 42.
[45] *See* Kentucky Power Br. at 46-50.
[46] West Rebuttal Test. at R8.
[47] *Id*. at R8.
[48] Kentucky Power Br. at 48.

infrastructure and that it will no longer incur ad valorem tax expense on the same.[49] The Commission should therefore disregard those arguments advanced by the AG/KIUC.

In sum, the GMR will provide Kentucky Power the financial ability to implement necessary grid safety and reliability projects, consistent with previous Commission precedent, and it should be approved.

### C. Intervenors' Return on Equity Arguments Are Unreasonable, Misstate the Record Before the Commission, and Would Continue to Produce Revenues Insufficient to Maintain the Company's Financial Integrity.

The Company's Post-Hearing Brief fully addressed each of AG/KIUC's arguments regarding return on equity ("ROE").[50] The ultimate point remains that a decrease from the Company's currently authorized 9.7% is bad for the Company and bad for customers.[51] Such a reduction would result in an authorized ROE that is insufficient to maintain Kentucky Power's financial integrity, is illogical when compared to other investments of lesser risk, and in the end is simply legally unjust and unreasonable.[52]

Walmart's brief attempts a new take on intervenors' attack on the Company's authorized ROE level, but one that is divorced from reality and from the record. For example, Walmart's attack on Company Witness McKenzie's presentation of the current allowed ROEs reported on Exhibit AMM-13 is without merit.[53] Contrary to Walmart's protestations, the figures on Exhibit AMM-13 are exactly what Company Witness McKenzie represented them to be, namely, the allowed ROEs currently in effect for each proxy company, as reported to investors by Value Line.[54]

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[49] West Rebuttal Test. at R9-R10.
[50] Kentucky Power Br. at 64-70.
[51] *Id.* at 70.
[52] *Id.*
[53] Walmart Br. at 9-10.
[54] McKenzie Rebuttal Test. at R5; Tr. Vol. III at 906-909.

Referencing the 10.1% ROE for a single company in this group—Duke Energy Corp.—Walmart wrongly insinuates that Mr. McKenzie's figures "are not valid" because "that number does not appear anywhere on the associated Value Line sheet."[55] But as Walmart readily granted, the 10.1% ROE that Mr. McKenzie reported for Duke Energy accurately reflects the arithmetic average of each of the ROEs that Value Line reports for the individual state jurisdictions in which Duke Energy operates.[56] Walmart's argument is illustrative of intervenors' disregard for real-life investor requirements. It would be irrational to ignore the basic economic principle that investors will seek to maximize their return for a given level of risk. The *Hope* and *Bluefield* standards <u>require</u> that Kentucky Power's ROE should be commensurate with what investors can earn from an investment in other opportunities of comparable risk.

As AG/KIUC Witness Baudino also acknowledged, an "investor's opportunity cost is measured by what she or he could have invested in as the next best alternative."[57] Contrary to Walmart's allegations, the 9.79% average allowed ROE in effect for the proxy group conclusively indicates that the "next best alternative" is significantly higher than the 9.0-9.2% value Walmart advances for the first time on brief.[58]

As explained in Kentucky Power's Post-Hearing Brief, the references by Walmart to Appalachian Power Company's ("Appalachian") recently authorized ROE further illustrate the fallacy of Walmart's logic: Appalachian is a less risky investment than Kentucky Power, as is easily observable from the fact that Appalachian has a significantly better Moody's credit rating

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[55] Walmart Br. at 10.
[56] *Id.*
[57] Baudino Direct Test. at 5.
[58] Walmart Br. at 9.

than Kentucky Power (Baa1, two notches higher than Kentucky Power's Baa3).[59] Crucial in the present case, Walmart's suggestion is materially unfounded, given that Appalachian has a 100% cost recovery mechanism for its transmission cost.[60] Contrast that to the significant risk that transmission cost increases pose to Kentucky Power, which would be a matter made worse by intervenors' confiscatory proposal to eliminate the existing tracking mechanism.[61] It would be arbitrary and capricious to give Kentucky Power and Appalachian Power the same authorized ROE, when Kentucky Power is a much riskier investment.

Walmart's contention that a 9.0% ROE is acceptable for Kentucky Power is unfounded and based upon an apparent misapprehension of the record.[62] Contrary to Walmart's surmise, the Total-AEP 2021 Forecasted Regulated ROE of 9.0% in AG/KIUC Hearing Ex. 1 at 28 does not represent either American Electric Power Company, Inc.'s ("AEP") expectation or any other investor's expectation about the required actual ROE for Kentucky Power.

It is weak enough that Walmart failed to develop a record at hearing or otherwise regarding what the figure in AG/KIUC Hearing Ex. 1 means, on what it is based, or how it was calculated. That fact alone is enough to reject Walmart's speculation about what the figure represents. Walmart's argument that this number is specifically applicable to Kentucky Power, or would be acceptable to AEP, is further undermined when Kentucky Power's risk is compared to the relative risk of its AEP affiliates. As illustrated in the same document cited by Walmart, Kentucky Power has a much lower credit rating than its affiliates.[63] Moreover, Kentucky

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[59] *See, e.g.*, AG/KIUC Hearing Ex. 1 at p. 39.
[60] *See, e.g.*, *id.* at 55.
[61] Vaughan Rebuttal Test. at R14 (testifying that without transmission cost tracking, the Company will have no ability to earn any ROE the Commission authorizes in this case).
[62] Walmart Br. at 7-10.
[63] *See, e.g.*, AG/KIUC Hearing Ex. 1 at p. 39; *see also* Tr. Vol. I at 51-52 (Company President Mattison regarding the Company's return compared to its affiliates).

Power's actual 5.3% ROE reported on the very same page only underscores the challenges facing the Company in earning its awarded ROE.[64] Walmart's argument is without merit.

SWVA[65] does not oppose any of the Company's proposals in this case other than the requested ROE.[66] SWVA's brief on that issue relies entirely on AG/KIUC's expert testimony and offers nothing unique other than SWVA's suggestion that the Commission consider the ROE it authorizes for Kentucky Power in light of the COVID-19 pandemic.[67] Company Witness McKenzie addressed that very issue in his Rebuttal Testimony.[68]

The relevance of the COVID-19 pandemic to setting the just and reasonable ROE required by Kentucky Power to maintain its financial integrity is plainly described in Mr. McKenzie's testimony. It "is how investors incorporate information into their valuation decisions and ultimately, stock prices that determines risk in the context of modern capital market theory."[69] The COVID-19 pandemic has triggered unprecedented measures by the U.S. Federal Reserve and caused an increase in volatility, and along with this volatility it has increased investment risk that puts additional <u>upward pressure</u> on the ROE required by investors. This is illustrated by the 63% increase in average beta values for Mr. Baudino's proxy group,[70] which in turn negates intervenors' wrongheaded focus on yield trends for risk-free Treasury bonds or their incorrect generalization that seeks to cast Kentucky Power as a low-risk investment.[71]

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64 *Id.*
65 SWVA Kentucky, LLC.
66 SWVA Br. at 2.
67 SWVA Br. at 3.
68 McKenzie Rebuttal Test. at R11-R15.
69 *Id.* at R15.
70 *Id.* at R13.
71 *Id.* at R13, R15.

SWVA's and other intervenors' suggestion that Kentucky Power's ROE be reduced *because* of the increase in risk associated with COVID-19 cannot be reconciled with the principles that all the experts have acknowledged to be fundamental. The Company has amply demonstrated why, contrary to SWVA's and other intervenors' arguments, a 9.0% ROE would not allow Kentucky Power to earn a reasonable return.[72] In short, at a time when turmoil in financial markets indicates increased risk, there is no rational explanation for reducing Kentucky Power's ROE. Taking the COVID-19 pandemic into consideration, as SWVA recommends, actually further supports the need to increase the Company's authorized ROE. As AG/KIUC Witness Baudino testified, "I certainly agree with Mr. McKenzie that uncertainty and associated risk is greater now than it was prior to March 2020."[73]

Respectfully, SWVA's characterization of the Commission's supposed "historical preference for adopting 'a lower ROE'" for the Company than for other, less risky, utilities in the Commonwealth[74] forms neither a relevant nor a legally permissible basis upon which the Commission should set the Company's ROE in this case. Rather, as the United States Supreme Court has repeatedly made clear, the ROE the Commission sets in this case must provide Kentucky Power with the real world opportunity to earn a just and reasonable return on equity that is comparable to the return on investments in other enterprises having corresponding risks and sufficient to assure confidence in the financial integrity of the utility, maintain support of the utility's credit, and attract capital.[75] The record demonstrates that the appropriate ROE to satisfy

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72 Kentucky Power Br. at 65-70; McKenzie Rebuttal Test. at R3-R9.
73 Baudino Direct Test. at 38.
74 SWVA Br. at 4.
75 Kentucky Power Br. at 64, citing *Fed. Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944) ("*Hope*"); *Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm'n,* 262 U.S. 679 (1923) ("*Bluefield*").

those requirements for Kentucky Power is at least the 10% ROE that the Company proposes in this case.[76]

### D. Proposed Tariff NMS II Appropriately Implements the Requirements of KRS 278.466, is Reasonable, and Should Be Approved.

Kentucky Power demonstrated through compelling evidence that its proposed Tariff NMS II, including the avoided cost pricing under that tariff, is reasonable, appropriate, and fully consistent with the clear requirements of the Net Metering Act the Kentucky General Assembly enacted last year.[77] The Company's Post-Hearing Brief anticipated and addressed the majority of intervenors' arguments in opposition to its net metering proposals.[78] Both KYSEIA[79] and Joint Intervenors[80] nonetheless mistakenly contend that the Company failed to present analyses demonstrating the cost of serving net metering customers.[81] These arguments disregard the cost of service and other analyses that Company Witness Vaughan performed, as well as his responses to cross-examination on these very issues during his extensive testimony, which are part of the robust record supporting the Company's net metering proposals in this case.[82] The Company amply demonstrated its cost of serving net metering customers and the degree to which non-net metering customers are subsidizing customer-generators.

KYSEIA and Joint Intervenors also continue to try to rewrite not only SB 100 but KRS Chapter 278 itself. Their attempts should be disregarded, and the Commission should implement the plain and clear language of the Net Metering Act and approve the Company's NMS II tariff.

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[76] Kentucky Power Br. at 64-70; *see also, generally* McKenzie Direct Test., McKenzie Rebuttal Test.
[77] *See* Kentucky Power Br. at 92-101.
[78] *Id.*
[79] Kentucky Solar Industries Association, Inc.
[80] Collectively, the Mountain Association for Community Economic Development, Kentuckians for the Commonwealth, and the Kentucky Solar Energy Society.
[81] Joint Intervenors Br. at 12; KYSEIA Br. at 12-15.
[82] Kentucky Power Br. at 97-100; Vaughan Rebuttal Test. at R35-R37, Ex. AEV-R7.

### 1. Contrary to KYSEIA's Claims, KRS Chapter 278 Does Not Impose a "Materiality" Standard to Changes in Rate Design.

KYSEIA devotes five pages of its brief to the argument that the Commission cannot, under KRS Chapter 278, follow the Net Metering Act and approve Tariff NMS II because the impact of the change in rate design would not be "material."[83] As an initial matter, the vigorousness of KYSEIA's and Joint Intervenors' opposition to the Company's Tariff NMS II proposal belies KYSEIA's contention that the Company's net metering proposals are *de minimis* or immaterial.[84] KYSEIA's and Joint Intervenors' robust participation in this case[85] demonstrates that the implementation of the Net Metering Act, as Kentucky Power has proposed through Tariff NMS II, will have, as required by SB 100, a significant impact on net metering rates by eliminating the very material subsidy that non-net metering customers are paying to net metering customers under the prior version of the law.[86]

Moreover, although claiming repeatedly that KRS Chapter 278's "normal ratemaking process" requires the Commission only to consider "material" rate design proposals, <u>KYSEIA tellingly does not cite a single provision of KRS Chapter 278 that actually contains that alleged standard</u>.[87] KYSEIA's lack of citation is unsurprising, as a review of the text of Chapter 278 demonstrates that no such standard actually exists. What Chapter 278's "normal ratemaking process" <u>actually</u> requires is that a utility "collect and receive fair, just and reasonable rates for

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[83] KYSEIA Br. at 4-9.
[84] *Id.*; Joint Intervenors Br. at 2-13.
[85] Indeed, between them, KYSEIA and Joint Intervenors collectively presented six witnesses, propounded 135 data requests (excluding subparts), actively participated in the cross-examination of witnesses at the six-day hearing, and have filed more than 60 pages of briefs largely focused on this topic.
[86] *See* Kentucky Power Br. at 93, 100 (as Company Witness Vaughan demonstrated, net metering customers are currently receiving a 6.5 cents/kilowatt-hour subsidy, or roughly three times (*i.e.*, 300%) more than their generation is worth).
[87] KYSEIA Br. at 4-9.

the services rendered or to be rendered by it to any person."[88] This includes the services Kentucky Power renders to net metering customer-generators. Moreover, the "'normal' ratemaking process" language of KRS 278.466(5) must be read in conjunction with the language of the remainder of that same subsection requiring that Tariff NMS II's rates be set so as to "recover from … [the Company's] eligible customer-generators all costs necessary to serve its eligible customer-generators…." KYSEIA's argument not only ignores the remainder of subsection (5), but if adopted by the Commission would render the remainder of the statute a nullity in contravention of established ratemaking and statutory construction principles.[89] As the Company has fully demonstrated, proposed Tariff NMS II's avoided cost rates are fair, just, and reasonable rates for net metering service and fully meet <u>all</u> of the requirements of the statute.[90]

KYSEIA's reliance upon the Commission's orders in Case No. 2020-00016 in an attempt to shore up the crumbling edifice of its materiality argument is also woefully misplaced.[91] The Commission's reference in that case was not, as KYSEIA claims, to tariff provisions that "ultimately result in significant cost shifts," but to <u>special contracts</u> that may do so.[92] Although the avoided cost energy solar compensation issue addressed by the Commission in that case is germane to the Company's net metering tariff proposals, the Commission's discussion regarding

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[88] KRS 278.030(1).
[89] *See Harilson v. Shepherd*, 585 S.W.3d 748, 753 (Ky. 2019).
[90] *See* Kentucky Power Br. at 97-100.
[91] KYSEIA Br. at 4-6, 8, 21, citing *In the Matter of: Electronic Application of Electronic Application of Louisville Gas and Electric Company and Kentucky Utilities Company for Approval of a Solar Power Contract and Two Renewable Power Agreements to Satisfy Customer Requests for Renewable Energy Source Under Green Tariff Option # 3*, Case No. 2020-00016 ("*LG&E/KU Green Tariff Case*"), Order (Ky. P.S.C. May 8, 2020) and *LG&E/KU Green Tariff Case*, Order (Ky. P.S.C. June 18, 2020).
[92] *LG&E/KU Green Tariff Case*, Order at 21 (May 8, 2020). It goes without saying that cost shifts are inherent in special contracts, in which the question is whether the special terms of the contract as a whole are in the public interest.

cost shifting in special contracts clearly is not germane to the Commission's review of the Company's net metering tariff offerings in this case.[93]

In sum, neither KRS Chapter 278 nor Commission precedent imposes the purported materiality standard that KYSEIA seeks to impose on the Company's Tariff NMS II proposal. It is not only legally permissible, but statutorily required to address the inequity that SB 100 was enacted to eliminate before it becomes large.[94] It is also appropriate as a matter of policy and rate design.[95]

### 2. Joint Intervenors' Reliance Upon the "Smith Letter" to Inform the Construction of the Net Metering Act Is Contrary to Kentucky Law and Should Be Disregarded.

Joint Intervenors' argument regarding the so-called "Smith Letter"[96] stands fundamental principles of statutory interpretation on their head. Chief among these principles is that where the statutory language is unambiguous, "and if applying the plain meaning of the words of the statute would not lead to an absurd result, then … [the General Assembly's intent must be determined] from the words used and further interpretation is not warranted."[97] Indeed, "[w]here a statute is unambiguous, we need not consider extrinsic evidence of legislative intent and public policy."[98] Here, Joint Intervenors do not contend that KRS 278.466(5) is ambiguous, nor that application of the plain meaning of the language employed by the General Assembly leads to an absurd result. Nor could they. KRS 278.466(5) unambiguously limits net metering rates to "rates to recover from its eligible customer generators <u>all costs necessary to serve its eligible</u>

[93] *LG&E/KU Green Tariff Case*, Order at 8 (June 18, 2020).
[94] KRS 278.466(3).
[95] *See* Kentucky Power Br. at 100.
[96] Joint Intervenors Br. at 5-8.
[97] *Department of Revenue v. Lexington-Fayette Urban Cnty. Gov't*, 349 S.W.3d 926, 928 (Ky. App. 2010).
[98] *Richardson v. Louisville/Jefferson County Metro Gov't*, 260 S.W.3d 777, 779 (Ky. 2008).

customer generators, including but not limited to fixed and demand based costs, without regard to the rate structure for customers who are not eligible customer-generators."[99] The term "benefit," quantifiable or otherwise, is nowhere to be found in KRS 278.465 to KRS 278.468, and neither the courts, much less Joint Intervenors, enjoy the ability to read the term into the statute.[100]

Moreover, the "Smith Letter" does not constitute legislative history even if consideration of legislative history were appropriate. Legislative history, as its name suggests, involves the actions, statements, and other indicia of intent by members of the Legislative Branch of the Commonwealth.[101] Moreover, the most telling indicia of the legislative history of SB 100 is the General Assembly's rejection of House Floor Amendment 1, which was referenced in the Smith Letter, and which would have amended SB 100 to include the very language Joint Intervenors now seek to read into the plain language of the statute.[102]

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[99] KRS 278.466(5) (emphasis added).

[100] *Kentucky Emp. Ret, Sys. v. Seven Ctys. Serv., Inc.*, 580 S.W.3d 530, 539 (Ky. 2019) ("In construing statutes, we are 'not at liberty to add or subtract from the legislative enactment or interpret it at variance from the language used.'")

[101] *Jefferson Cnty. Bd. of Educ. v. Fell*¸ 391 S.W.3d 713, 723 (Ky. 2012) ("'Legislative history' is a broad term that encompasses several different categories of information … [such as] legislative committee reports, prior drafts, of the statute, bills presented but not passed and legislators' comments in debates…."). Respectfully, it does not include comments by a part of a coordinate branch of government regarding a failed amendment. Nor could it, under the strict separation of powers provisions of the Kentucky Constitution and its "double-barreled, positive-negative approach." *Legislative Research Comm'n v. Brown*, 664 S.W.2d 907, 912 (Ky. 1984). "Adding language to a statute is a power reserved to the legislative branch and the power is preserved and protected by the separation of powers doctrine … '[t]he power cannot be delegated by the legislative branch to the executive branch.'" *Hardin v. Jefferson Cnty. Bd. of Educ.*, 558 S.W.3d 1, 7 (Ky. 2018).

[102] H.R. Floor Amendment 1 § 2 (2019) ("In addition to the costs to the retail electric supplier, the commission shall consider quantifiable benefits provided to the retail electric supplier and other customers within the same rate class provided by the generation customer-suppliers, which shall only include energy generation capacity, avoided transmission and distribution losses, transmission and distribution capacity benefits, fuel price uncertainty and hedging, market price mitigation, and utility interconnections [*sic*] cost.").

Kentucky Power has produced substantial and unrefuted evidence demonstrating the reasonableness and appropriateness of proposed Tariff NMS II. The Company has also demonstrated that the tariff is fully consistent with the Kentucky Net Metering Act. Intervenors opposing the Company's net metering proposals, on the other hand, have offered inaccurate or unsupported statements of purported fact, editorial commentary and policy arguments lacking any cost of service or rate design basis applicable to Kentucky Power or its customers, and legally untenable statutory interpretations. The Commission should disregard opposing intervenors' arguments as it considers proposed Tariff NMS II, and the Commission should approve the proposed tariff and its rates for the reasons set forth in the Company's Post-Hearing Brief and above.

### E. The Company's COGEN/SPP Tariffs Are Reasonable and Appropriate; KYSEIA's Proposed Modifications to Those Tariffs Are Not.

The record in this case fully supports the Company's proposed updates to its COGEN/SPP tariffs, including the Company's updated on-peak and off-peak energy rates for customers taking service under those tariffs.[103] As proposed, those tariffs comply with 807 KAR 5:054's requirements, as KYSEIA concedes.[104]

KYSEIA's recommended modifications to the Company's COGEN/SPP tariffs' terms and pricing, on the other hand, are not supported by either the Commission's regulations or

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[103] *See* Application, Section II, Exhibit E, p. 103-108; Vaughan Direct Test. at 26 and Ex. AEV-1; Vaughan Rebuttal Test. at R43-R45; KPCO_R_KPSC_4_101; KPCO_R_KPSC_4_102; KPCO_R_KPSC_4_110; KPCO_R_KPSC_4_111; KPCO_R_KPSC_5_25; KPCO_R_JI_1_58; KPCO_R_KYSEIA_1_12.

[104] KYSEIA Br. at 28. KYSEIA's recitation of the Commission's orders in Case No. 2020-00134, however, is misleading. *See* KYSEIA Br. at 24-25. Notably absent from KYSEIA's summary of that case is that the Commission's decision, to revoke the deviation it previously granted in Case No. 2000-00279, was based upon Kentucky Power's affirmative indication that the Company did not object to the deviation's revocation. *In the Matter of: Electronic Investigation of Kentucky Power Company's Deviation from 807 KAR 5:054, Section 5(1)(a) and (2)*, Case No. 2020-00134, Order at 1 (June 1, 2020).

Federal Energy Regulatory Commission ("FERC") Order 872.[105] Contrary to KYSEIA's position, neither 807 KAR 5:054 nor FERC precedent requires COGEN/SPP tariffs to "lock in" long-term pricing, either based on rates at the time of the establishment of a legally enforceable obligation or otherwise.[106] The Commission has repeatedly approved the structure and content of the Company's COGEN/SPP tariffs, which have been in effect for years and have repeatedly been found to comply with the Commission's administrative regulations; there is no reason or need to change the tariffs' terms and conditions now.

KYSEIA's criticisms of the COGEN/SPP tariffs' capacity rates also are unfounded. KYSEIA misstates Company Witness Vaughan's Rebuttal Testimony regarding the depreciable life of the Company's affiliates' combustion turbines ("CT") to support KYSEIA Witness Barnes' unsupported argument that a 20-year economic life for CTs should be used.[107] Mr. Vaughan's Rebuttal Testimony was that the Company's affiliates', <u>in reality</u>, use at least a 40-year depreciable life for their CTs.[108] The factual support for the Company's 40-year depreciable life used to calculate the COGEN/SPP capacity rate is based on those <u>actual CTs' actual depreciable lives</u>, not – as KYSEIA incorrectly contends – on something the Company merely "believe[s] to be true."[109] Ultimately, as Mr. Vaughan testified, although the Company continues to support the reasonableness of its CT proxy calculation to determine the avoided capacity rate under its COGEN/SPP tariffs, the Company supports whatever method of calculation the Commission determines is prudent, so long as that method is consistent and does not "cherry pick[ ] values from various different calculations," as KYSEIA Witness Barnes has

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[105] KYSEIA Br. at 28-29.
[106] *See* 807 KAR 5:054, Section 2(b), 4(b); Vaughan Rebuttal Test. at R43-R44.
[107] KYSEIA Br. at 30-31.
[108] Vaughan Rebuttal Test. at R44.
[109] *Id.*; KYSEIA Br. at 31.

advocated.[110] Company Witness Vaughan's Rebuttal Testimony calculates the capacity credits that would result under the Company's current methodology, using PJM's net cost of new entry, using PJM's Reliability Pricing Model base residual auction clearing price, or using a methodology that recognizes that Kentucky Power currently has no need for additional capacity length from QF projects.[111]

For these reasons, the Commission should approve the updated COGEN/SPP tariffs as proposed in the Company's Application and Company Witness Vaughan's Rebuttal Testimony.[112]

### F. AG/KIUC's Adjustment to Test Year Long-Term Debt Is Inappropriate and Should Be Rejected.

AG/KIUC propose an adjustment to the test year's Long-Term Debt ("LTD").[113] Absent from their argument, however, is any explanation of how their proposed adjustment is known and measurable.[114] Instead, arbitrarily and capriciously, they propose a hypothetical level of 4.0%, a number assumed to be their expectation for long-term interest rates on or about June 18, 2021.[115] It is beyond dispute that Mr. Kollen's predicted level is not known and measurable,[116] which is sufficient to reject AG/KIUC's argument outright.

The contention that this recommendation will not harm Kentucky Power[117] disregards the already dismal credit metrics of Kentucky Power.[118] To believe that a reduction of the

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[110] Vaughan Rebuttal Test. at R44.
[111] *Id.* at R44-R45.
[112] *Id.* at R43 (recommending that the Commission update the Company's COGEN/SPP tariffs to reflect FERC Order 872's changes to the Company's purchase obligations for PURPA qualifying facilities). The Company filed an updated page R43 of Company Witness Vaughan's Rebuttal Testimony on November 23, 2020.
[113] AG/KIUC Br. at 29-30.
[114] *Cf. id.*
[115] *Id.*
[116] West Rebuttal Test. at R12-13.
[117] *Id.* at 30.
[118] Messner Rebuttal Test. at R6-R7.

Company's revenue requirement associated with this arbitrary assumption is indifferent to the Company reveals a bias openly hostile to the financial integrity of the utility and the continued ability of Kentucky Power to provide adequate, efficient, and reasonable service to its customers.[119] The proposal is premised on an assumption about the future that lacks certainty and any reliable factual basis. The proposal is contrary to the basic principles of how adjustments to the test year are appropriately made under the Commission's regulatory framework. In sum, the proposal merely offers a punitive reduction of the Company's necessary revenue requirement no matter what the consequences may be.[120]

The truth of the matter is that the Company currently lacks formula rates and did not file a forecasted test year. Obviously if Kentucky Power did so, this case would look much different. The Company also does not have a debt tracker with a true-up mechanism, as would be implicit in a formula rate construct, in which <u>all</u> aspects of the Company's cost of service would be sufficiently and appropriately forecasted, and appropriately trued-up. There is nothing fair, just, nor reasonable about rates based upon cherry-picking a single component of the Company's March 31, 2020 capital structure and adjusting it based upon Mr. Kollen's speculation concerning events that may take place 15 months after the end of the test year, while simultaneously using test year values for other components.

Mr. Kollen's hypothetical number, coupled with the deferral mechanism that deprives the Company of credit-supportive revenues, also is inconsistent with reality. The proposal is inconsistent with the actual test-year results – which are not in dispute. The AG/KIUC's request to deviate from test-year results is inconsistent with the requirements for adjustments to the test-

[119] *See* KRS 278.030(2).
[120] *Cf.* Messner Rebuttal Test at R5-R7.

year, which must be known and measurable.[121] The 4.0% LTD level proposed by AG/KIUC is not a known and measurable adjustment, and therefore the proposal must be rejected.

### G. The Company's Proposal to Use Capitalization to Calculate the "Return On" Component is Reasonable and Should Be Followed. AG/KIUC's Proposed Adjustments Are Inaccurate and Should Be Rejected.

Kentucky Power demonstrated in its Post-Hearing Brief that the Company's use of the capitalization method to calculate its "return on" component of rate base is reasonable and consistent with both Commission precedent and the manner in which the Company has filed its rate cases for years.[122] The Company further demonstrated that AG/KIUC Witness Kollen's recommended adjustments to the Company's calculation of rate base if the Commission nevertheless elects to use rate base instead of capitalization are inappropriate and should be rejected.[123]

AG/KIUC cite a recent Atmos Energy Corporation ("Atmos") case to support their argument that using a lead/lag study to calculate cash working capital for rate base purposes is preferable to the one-eighth O&M expense formula approach the Company utilized.[124] The Atmos case is inapposite.[125] Atmos prepared a lead/lag study in that case pursuant to a <u>settlement commitment</u> in a prior proceeding to do so.[126] Kentucky Power, however, has not performed a lead/lag study because it is unnecessary to do so under the capitalization methodology; because the Company is not required to do so; and because lead/lag studies are

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[121] 807 KAR 5:001, Section 16(5).
[122] Kentucky Power Br. at 85-86.
[123] *Id.* at 86-91.
[124] AG/KIUC Br. at 10-11, citing *In the Matter of: Application of Atmos Energy Corporation for an Adjustment of Rates and Tariff Modifications*, Case No. 2017-00349, Order ("*Atmos* Order") at 16-17 (May 3, 2018).
[125] *See* Kentucky Power Br. at 85.
[126] *Atmos* Order at 16.

time consuming, costly, and cannot be performed using internal resources.[127] The Commission expressly recognized, in the Atmos case upon which AG/KIUC rely, that "the one-eighth O&M methodology is a reasonable estimate of cash working capital absent a lead/lag study."[128] Consistent with that precedent, the Company's use of the one-eighth O&M methodology in this case is reasonable.

AG/KIUC's proposed adjustments to the Company's capitalization also are inappropriate.[129] As Company Witness Vaughan explained:

> [B]ecause the Company has proposed to use capitalization as the basis for the return on component of its base rate revenue requirement, any non-financed items have already been excluded from the Company's request. Any non-utility items or regulatory asset balances earning a return elsewhere in the Company's rates were removed in Section V, Schedule 3 [of the Company's Application]. The same is true for [AG/KIUC's] proposals regarding accounts payables balances in CWIP and prepayments.[130]

Thus, as the Company has demonstrated, no further adjustments to the Company's capitalization are required or appropriate.

### H. Kentucky Power's and Its Customers' Needs – Not AEP's Corporate Goals - Are Driving This Case.

Throughout their brief, AG/KIUC make barbed remarks and cast aspersions regarding the motives behind Kentucky Power's proposals in this case, impugning the Company by characterizing its efforts as being driven by, and in tension with, the goals of its corporate parent, AEP.[131] The Company could not have been clearer in its prefiled and hearing testimony that its

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[127] Kentucky Power Br. at 87; Vaughan Rebuttal Test. at R6. AG/KIUC's aspersion that the Company "refused" to perform a lead/lad study is misleading and incorrect. AG/KIUC Br. at 11. Kentucky Power had no obligation or need to hire a consultant to perform one, nor could one be performed during the time period provided for discovery in this case.

[128] *Atmos* Order at 16.

[129] AG/KIUC Br. at 16-17.

[130] Vaughan Rebuttal Test. at R7.

[131] *See, e.g.,* AG/KIUC Br. at 4-6; 18-19.

proposals in this case are driven by Kentucky Power's financial condition, system and infrastructure needs, and customers. Indeed, as Company President Mattison explained:

> [T]he company – I'm talking specifically about Kentucky Power, not AEP – has an obligation to serve and take care of our customers and do so in a manner where they have reliable, affordable electricity. But the company has to be healthy …[132]

Each and every one of the Company's requests in this case – for Kentucky Power to have a fair opportunity to recover its cost of service and earn a fair and reasonable return thereon; to be able to continue to provide safe, adequate, and reliable service to its customers, including by replacing obsolete and failing AMR meters and having the opportunity to make future necessary grid modernization and reliability improvements; and to make other customer-beneficial and intra-class subsidy-reducing tariff and program changes – is driven by Kentucky Power's and its customers' needs, not by AEP's corporate financial goals, as AG/KIUC aver.

The Company has demonstrated through the well-developed record and substantial evidence presented in this case that it can achieve those goals, for itself and its customers, while still continuing to provide affordable and reasonably priced service. Although intervenors criticize abstractly the size of the Company's requested rate increase and question the affordability of the Company's proposals, it is important to look at the actual numbers and bill impacts in the record in this case. As Company Witness Vaughan explained, an average residential customer's monthly bill in the test year for the Company's 2017 rate case was $162.[133] In the test year in this case, the same average customer's monthly bill is $142 - $20 or roughly 12% lower than it was 3 years earlier.[134] If Kentucky Power were to receive the entire rate increase it has requested in this case (including 100% transmission cost tracking and AMI),

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[132] Tr. Vol. I at 51.
[133] Tr. Vol. IV at 1167.
[134] *Id.*

that average customer's monthly bill would be $166, and that increased bill would not begin until January 2022.[135] The fact that the Company's bill to an average customer would not increase for five years if the Company's Application were approved as proposed, and that customers' bills have decreased by over 10% over the time since the Company's last rate case, make the affordability of the Company's proposals abundantly clear. It should also lay to rest intervenors' spurious claims that AEP's earnings growth targets are driving the Company to propose rates that are unreasonable.

Finally, AG/KIUC's claim that the fact that 10% of the Company's long-term incentive funding relates to a non-emitting generating capacity goal is "tone deaf" to the Company's customers' interests is unfair and untrue.[136] First, AG/KIUC's characterization of that goal omits that it is a measure of <u>total-AEP</u> capacity from any non-emitting sources, including energy efficiency and demand-side management programs.[137] Its financial and other impacts on Kentucky Power thus are small.[138] It is <u>not</u>, as AG/KIUC claim, a measure designed to shut down coal-fired power plants, nor could it possibly have that effect.[139] Public and customer interest in renewable generation has been increasing, and parties to this case – including the Company, Sierra Club, Joint Intervenors, and KYSEIA – expect it to continue to increase within the Company's service territory. Thus, with regard to this issue as well, the purported tension that AG/KIUC identify between AEP's and Kentucky Power's or its customers' interests does not exist.

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135 *Id.*
136 AG/KIUC Br. at 18.
137 Tr. Vol. III at 692.
138 *Id.* at 697.
139 AG/KIUC Br. at 18.

## I. The Company's Initial Post-Hearing Brief Fully Addressed the Majority of Intervenor Arguments, as Well as the Company's Proposals That Intervenors Have Not Opposed.

Kentucky Power anticipated and addressed in its Post-Hearing Brief each of the remaining arguments asserted in the intervenors' briefs. The Company relies upon its previously-articulated arguments and will not repeat them here. To assist the Commission in its review of the issues raised on brief, the Company provides the following list cataloging the remaining issues raised by intervenors and those portions of the Company's Post-Hearing Brief in which each issue was addressed:

- AG/KIUC's proposed second year ADFIT offset of the rate increase authorized in this case[140] is addressed on pages 22-24 of the Company's Post-Hearing Brief;
- AG/KIUC's inappropriate proposal to discontinue collection of the Capacity Charge Tariff regardless of the rate increase authorized in this case, to Kentucky Power's detriment and in violation of AG/KIUC's legal obligations under the settlement agreement approved in Case No. 2004-00420,[141] is addressed on pages 25-28 of the Company's Post-Hearing Brief;
- AG/KIUC's arguments regarding the Rockport UPA Demand Expense adjustment[142] is addressed on pages 28-29 of the Company's Post-Hearing Brief;
- AG/KIUC's arguments regarding the time period over which to amortize Rockport Unit 2 SCR depreciation expense[143] are addressed on pages 29-30 of the Company's Post-Hearing Brief;

[140] *Id*. at 44-46.
[141] *Id*. at 38-41.
[142] *Id*. at 23.
[143] *Id*. at 34-35.

- AG/KIUC's arguments regarding the Company's request for a CPCN to replace obsolete and failing AMR meters with AMI metering technology not addressed above[144] and all of Joint Intervenors' AMI arguments[145] are addressed on pages 31-48 of the Company's Post-Hearing Brief;

- AG/KIUC's arguments regarding the proposed GMR not addressed above[146] and all of Joint Intervenors' GMR arguments[147] are addressed on pages 48-53 of the Company's Post-Hearing Brief;

- AG/KIUC's opposition to the Company's reasonable and necessary proposal to continue tracking, at 100%, PJM LSE OATT expense through Tariff PPA[148] and AG/KIUC's inappropriate and unnecessary request for an investigation regarding the Company's PJM transmission charges[149] are addressed on pages 53-64 of the Company's Post-Hearing Brief;[150]

- AG/KIUC's and Joint Intervenors' arguments regarding the Company's proposed ROE[151] are addressed on pages 64-70 of the Company's Post-Hearing Brief;

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[144] *Id.* at 42-44.
[145] Joint Intervenors Br. at 16-19.
[146] AG/KIUC Br. at 41-42.
[147] Joint Intervenors Br. at 19-21.
[148] AG/KIUC Br. at 36-38.
[149] *Id.* at 51-56.
[150] The Company further notes that AG/KIUC Witness Baron's data purportedly showing the increase in Kentucky Power's 2021 projected transmission revenue requirement is unreliable, as Mr. Baron admitted on cross-examination by the Company. Tr. Vol. VI at 1596-1598. As Mr. Baron's hearing testimony demonstrates, his projected transmission revenue calculations make assumptions regarding RTEP costs that may not be true in reality, and Kentucky Power's 2021 projected transmission revenue requirement could be significantly less than Figure 1 on page 53 of AG/KIUC's brief reflects. Accordingly, the Commission should disregard that figure and Mr. Baron's related calculations, as unreliable and unrealistic.
[151] AG/KIUC Br. at 31-34; Joint Intervenors Br. at 15-16.

- AG/KIUC's arguments regarding the Company's proposed capital structure and cost of capital not addressed above[152] are addressed on pages 71-72 of the Company's Post-Hearing Brief;

- AG/KIUC's arguments regarding employee compensation and post-retirement benefits not addressed above[153] are addressed on pages 74-85 of the Company's Post-Hearing Brief;

- AG/KIUC's arguments regarding rate base and capitalization issues not addressed above[154] are addressed on pages 85-91 of the Company's Post-Hearing Brief;

- AG/KIUC's criticism of the Company's adjustment, consistent with Commission precedent, allocating the Mitchell coal stock adjustment to short-term debt[155] is addressed on page 91 of the Company's Post-Hearing Brief;

- KYSEIA's and Joint Intervenors' arguments regarding the Company's net metering proposals not addressed above[156] are addressed on pages 92-101 of the Company's Post-Hearing Brief;

- Sierra Club's and Joint Intervenors' opposition to the Company's proposed increase in the residential basic service charge[157] is addressed on pages 102-104 of the Company's Post-Hearing Brief;

- AG/KIUC's arguments regarding the Company's blended state income tax rate[158] are addressed on pages 110-111 of the Company's Post-Hearing Brief; and

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[152] AG/KIUC Br. at 27-30.
[153] *Id*. at 18-23.
[154] *Id.* at 7-17.
[155] *Id*. at 27-28.
[156] KYSEIA Br. at 9-24; Joint Intervenors Br. at 2-13.
[157] Sierra Club Br. at 2-3; Joint Intervenors Br. at 13-15.
[158] AG/KIUC Br. at 24-25.

- AG/KIUC's arguments about the Edison Electric Institute dues included in the Company's cost of service[159] are addressed on pages 112-114 of the Company's Post-Hearing Brief.

Those portions of the Company's Post-Hearing Brief cited above are specifically incorporated herein by reference.

The Company's Post-Hearing Brief also summarized several proposed tariff additions and changes that were unopposed by any party in testimony or at hearing, and which continue to be unopposed.[160] In particular, intervenors' briefs do not address the Company's winter heating declining block rate design,[161] the Company's proposed five-year amortization of the Rockport deferral regulatory asset,[162] or the Company's proposal to amend Tariff FAC to include PJM Billing Line Item 1999 as a category of fuel costs recoverable through that tariff.[163] As the Company has demonstrated, each of those proposals is reasonable and appropriate, and the Commission should approve them.

## III. CONCLUSION

Kentucky Power's Application and proposals in this case produce fair, just, and reasonable rates that provide the Company with the opportunity to restore its financial integrity, and that will permit it to continue to provide safe, adequate, and reliable service to its customers. The record demonstrates that the Company's proposals and requested relief are reasonable, appropriate, and will provide significant customer benefits. Intervenors' arguments to the contrary are unavailing. Accordingly, Kentucky Power Company respectfully requests that the

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[159] *Id*. at 25-27.
[160] Kentucky Power Br. at 114-116.
[161] *Id.* at 104-105.
[162] *Id.* at 105-107.
[163] *Id.* at 107-110.

Commission approve its Application for the reasons set forth above and in the Company's Post-Hearing Brief.

Respectfully submitted,

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