COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Electronic Application Of Kentucky Power Company For (1) A General Adjustment Of Its Rates For Electric Service; (2) 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

RESPONSE OF KENTUCKY POWER COMPANY TO POST-HEARING BRIEFS OF KYSEIA AND JOINT INTERVENORS REGARDING TARIFF NMS II

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I. TARIFF NMS II SHOULD BE APPROVED AS PROPOSED, AS THE AG AND KIUC AGREE. NO OTHER PARTY PRESENTS SUFFICIENT EVIDENCE OR ARGUMENT TO OVERCOME THE COMPANY'S WELL-SUPPORTED PROPOSAL.

Mountain Association, Kentucky Solar Energy Society, and Kentuckians for the Commonwealth (collectively "Joint Intervenors") and Kentucky Solar Industries Association, Inc. ("KYSEIA"), face a daunting task in their separate April 21, 2021 briefs: convincing the Commission to maintain one-to-one net metering in contravention of the clear requirements of SB 100. They do not argue that one-to-one metering is supported by the evidentiary record, or that "the ratemaking processes under this chapter," as required by KRS 278.466(3), would yield such a rate. Neither offers a class cost of service ("CCOS") study, an avoided cost study, nor any evidence to support an avoided cost rate that differs from the Kentucky Power Company's ("Kentucky Power" or the "Company") proposed rate. To the contrary, the Joint Intervenors go so far as to implore the Commission to abandon the ratemaking processes typically used to establish retail electric rates, which were used by the Commission as recently as January 13, 2021 to establish the other rates found by the Commission to be fair, just, and reasonable, – in favor of Mr. Rábago's preferred methodology that would be burdensome and costly to the Commission, the Company, and Kentucky Power's customers alike. They further refuse to acknowledge that under Tariff NMS II they would receive the economic equivalent of full retail energy rates – in an amount that far exceeds the market price of their energy in most hours – to the extent their solar generation displaces energy they otherwise would purchase from Kentucky Power.

The record evidence supports both the use of avoided cost in establishing the Tariff NMS II rates, and Kentucky Power's calculation of that avoided cost. The Commission in its January 13, 2021 Order explained that because this was the first proceeding to establish net metering rates that conformed to the requirements of SB 100, "the Commission finds that its decision regarding net metering rates should be deferred to allow Commission Staff to work with its consultant to ensure that there is sufficient evidence to support the conclusion that Kentucky Power's proposed Tariff NMS II rates are fair, just and reasonable."[1]

Kentucky Power subsequently provided both supplemental and supplemental reply testimony from Company Witnesses Stegall and Vaughan supporting Tariff NMS II. Addressing head on the Commission's statement regarding the need for a cost of service study, Kentucky Power on February 25, 2021 presented a CCOS developed using the same methodology employed by the Company in preparing the CCOS it filed with its application for a general adjustment of rates, and upon which the Commission established the rates it found fair, just, and reasonable using the ratemaking processes under Chapter 278. The February 25, 2021 CCOS filing presented a full CCOS analysis, including separate classes for residential and commercial net metering customers. Kentucky Power subsequently refined its CCOS study on March 25, 2021, in response to a data request from KYSEIA, to use revenues based on the tariff structure of Tariff NMS II in lieu of the test year revenues produced by NMS customers. The Company also filed responses to over 115 additional data requests (not counting subparts) and presented its witnesses for cross-examination at the two-day hearing.

The full and robust record supporting the Company's proposed Tariff NMS II rates sought by the Commission exists.

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[1] Order, 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 at 85 (Ky. P.S.C. Jan. 13, 2021). See also id., Order at 26 (Ky. P.S.C. Feb. 22, 2021) (noting that the Commission "deferred a decision in order to create a robust record upon which the Commission can make a decision.").

Both the Attorney General ("AG") and Kentucky Industrial Utility Customers, Inc. ("KIUC") agree that Tariff NMS II should be approved as proposed for at least four reasons (all of which also have been previously argued by the Company): 1) net metering customers should not be overcompensated at the expense of other retail customers; 2) the Company's NMS II proposal is favorable to net metering customers; 3) no other party has prepared a cost of service study supporting an alternative compensation rate in this matter; and 4) NMS II is consistent with the plain language of KRS 278.466.[2] Walmart Inc. also does not oppose proposed Tariff NMS II.[3]

At bottom, and as further detailed below, KYSEIA and the Joint Intervenors seek to delay implementation of SB 100. The Commission should see through and disregard KYSEIA and Joint Intervenors' generalized and unsupported assertions that the Company has failed to provide sufficient evidence to support proposed Tariff NMS II. Substantial evidence exists to support Tariff NMS II, and the Commission should use "the ratemaking process provided by [KRS Chapter 278]"[4] to approve Tariff NMS II as proposed.

II. KYSEIA AND JOINT INTERVENORS CONTINUE TO MISAPPREHEND THE COMPANY'S NMS II PROPOSAL.

A. KYSEIA's And Joint Intervenors' Attacks On The Company's CCOS Studies As Unreliable Are Unsupported And Insupportable.

KYSEIA and Joint Intervenors argue that the net metering CCOS studies developed for this supplemental proceeding are flawed or unreliable.[5] First, KYSEIA chides the Company,

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[2] Supplemental Brief of Attorney General and Kentucky Industrial Utility Customers, Inc. ("AG-KIUC's Supplemental Brief") at 1-2 (Apr. 21, 2021).

[3] Walmart Inc.'s Letter in Lieu of Post-Hearing Brief (Apr. 21, 2021).

[4] KRS 278.466(5).

[5] *See* Kentucky Solar Industries Association, Inc. Post-Hearing Memorandum Brief ("KYSEIA Post-Hearing Brief") at 4-9 (Apr. 21, 2021); Post-Hearing Brief of Joint Intervenors Relating to the Proposed Net Metering II Tariff of Kentucky Power Company ("Joint Intervenors Post-Hearing Brief") at 5-14 (Apr. 21, 2021).

arguing it "did not conduct a load research study on its net metering customers to develop representative load profiles of its net metering customers."[6] As explained by Kentucky Power at the April 6, 2021 hearing and in its post-hearing brief (filed April 21, 2021), it is impossible for the Company to conduct a load research study on its net metering customers because the Company's current metering technology lacks the capability to do so.[7] Nothing in KRS 278.466, or the ratemaking process under Chapter 278 requires that the Company overhaul its metering technology for the sole purpose of establishing rates for a single group of customers. Instead, Kentucky Power employed well-established CCOS methods by utilizing the actual customer class load profile of the comparable tariff classes, making a single assumption to account for the solar generation resource, and scaling the load profile to account for actual net metering customer usage, in order to develop the CCOS for net metering customers.[8] As Company Witness Stegall explained: "The only real assumption that I made is I took a valid class load profile such as [ ] residential or – or GS or LGS and then reduced it for the value of an anticipated solar generation resource [so] that the resulting net value would give me a valid solar load profile to use for cost allocation purposes."[9]

KYSEIA makes much ado about the scaling process used to spread the total test year usage by net metering customers proportionally across the net metering customer load profile. Company Witness Stegall relied on test year customer usage data for net metering customers in

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[6] *Id.* at 5; *see also* Joint Intervenors Post-Hearing Brief at .

[7] Memorandum Brief of Kentucky Power Company Regarding Tariff NMS II ("Company Post-Hearing Brief") at 5; April 6, 2021 Hearing Video Record ("VR 1") at 4:23:46 PM ("[T]o my knowledge that data currently isn't available, so we didn't choose not to come up with separate profiles. The data just wasn't there to do it. To develop that sort of data we would need to place load research meters on you know a set sample of customers that represent the class and then perform the statistical analysis that load research typically performs to come up with the profile. So it's certainly possible, but it wasn't possible in this case.").

[8] VR 1 at 4:24:47 PM.

[9] VR 1 at 4:26:24 PM.

the scaling process. To demonstrate, the Company compared the average energy consumption per bill for the three classes that had NMS customers; the table below shows that all NMS customers, in fact, consume more energy than the class average:

Energy Consumption per Bill[10]		
	Class Average	NMS Average
Residential	1,245	1,273
GS Secondary	1,626	4,894
LGS Secondary	57,647	77,371

"All [the Company is] doing is spreading that usage over hours where the solar generation didn't completely offset it based on the load [profile]."[11] Stated otherwise, the Company's scaling process simply reflects the fact – not challenged by KYSEIA – that solar net metering customers consume energy when the sun is not shining, and consume no, or less energy than they otherwise would absent the solar generator, when the sun is shining:

> The whole point of the scaling process is if I have a valid load profile I'm – I'm assuming that the entire class will – will use energy and – and incur demand based on that profile, and all I'm doing is spreading the total test year usage across that profile proportionately. So, for example, in – in this case it might appear that we are overstating certain hours, but if I have the same amount of energy even after offset with solar, a solar generation resource, I'm basically just shifting that usage to periods where my solar was not generating.

There is nothing "dubious" about the Company employing the same process it uses for every other customer tariff for which the Company does not have separate load research data.[12]

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[10] Class averages are found in Section II, Exhibits I, J and K of the Company's Application and represent the total adjusted billed energy per bill for the test year. NMS averages can be found in the Company's response to Staff 4-82 and include the 12 months of the test year. The NMS averages use delivered energy, not billed, because the delivered energy value represents the actual consumption of energy. The delivered energy value was used to derive the load profiles.

[11] VR 1 at 4:27:39 PM.

[12] *Id.* at 4:24:47 PM.

Moreover, Kentucky Power validated the net metering customer load profile it developed against a statistically significant load research sample of 50 actual load research meters for net metering residential customers "just across the state line in [its] Virginia APCO service territory."[13]

Second, KYSEIA misunderstands the process when it accuses the Company of taking conflicting positions regarding net metering customers' load shapes. KYSEIA asserts that the Company claims that net metering customers' load shapes are no different than other customers in their standard tariff class, "[y]et the net metering load shapes that the Company created to perform its so-called cost-of-service analysis in the additional proceedings are in fact materially different from the load shape used for non-net metering customers." What KYSEIA misapprehends is that while net metering customers' *load shapes* are no different than other customers in their standard tariff class, net metering customers' *usage* is higher on average than their non-net metering counterparts. This is evidenced by the above table, which demonstrates that there is no discrepancy in the Company's position.

Joint Intervenors attack the net metering customer load profile and the two CCOS studies by arguing that the CCOS studies were "performed *post hoc* [and] conveniently found the proposed rate to be justified using assumed rather than actual data."[14] But a rhetorical joust, like Mr. Rábago's hyperbole, is not a substitute for data. The net metering load profile and CCOS were developed based on actual customer data, and the Company employed the same methodology in developing the CCOS for net metering customers as it has for all other tariff classes. The Company relied on the same methodology accepted by the Commission in its January 13, 2021 Order approving other tariff rates. Moreover, the net metering CCOS studies

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[13] *Id.* at 7:24:57 PM; *see also* Company Hearing Exhibit 1.

[14] *See* Post-Hearing Brief of Joint Intervenors Relating to the Proposed Net Metering II Tariff of Kentucky Power Company ("Joint Intervenors Post-Hearing Brief") at 3 (Apr. 21, 2021).

confirmed the conclusions reached by other valid means, and the fact that they were developed specifically for this later proceeding does not mean they are not sound or have no evidentiary value. To the contrary, as discussed above, the net metering CCOS studies responded to the Commission's January 13, 2021 indication that a cost of service study was necessary to enable the Commission to fully consider the Company's net metering proposals.

The Commission should not be swayed by the multiple unsupported and distracting attacks KYSEIA and Joint Intervenors make on the Company's net metering CCOS studies.

B. KYSEIA's And Joint Intervenors' Arguments Fail To Recognize The Multiple Subsidies Borne By Non-Participating Customers To The Benefit Of Net Metering Customers.

KYSEIA's and Joint Intervenors' arguments also fail to recognize or account for the multiple facets of the subsidy received by net metering customers.

First, the subsidy about which KYSEIA cavils[15] results from the fact that a portion of the fixed cost of serving residential customers in particular is recovered through the Company's volumetric energy rates. When net metering customers use their solar generation to reduce their energy consumption their contribution to the fixed cost of serving them also is eliminated. This subsidy is related to net metering customers' energy *consumption*, and is evidenced by and reflected in the CCOS studies. This subsidy costs non-participating customers about $40,000 annually, or approximately $870 for each net metering customer per year. Compounding this subsidy unfairly enjoyed by net metering customers in connection with the energy they consume is that their non-excess generation is "compensated" at full retail rates (roughly $0.10 kWh for residential customers) while the economic (market purchase) value of the generation to Kentucky Power typically is substantially less (the $0.3553/kWh for residential customers). KYSEIA and

[15] KYSEIA's Post-Hearing Memorandum Brief at 10.

Joint Intervenors leave both sides of this subsidy in connection with consumed energy unaddressed.

Second, there is the subsidy addressed by the avoided cost rates of Tariff NMS II. Tariff NMS II compensates net metering customers at an avoided cost rate rather than the current retail rate. The current retail rate (roughly $0.10/kWh retail rate[16]) far exceeds the price at which the Company could purchase the equivalent amount of energy on the PJM market. By paying net metering customers the economic value of their excess generation ($0.03553/kWh for residential customers and $0.03778/kWh for commercial customers) Tariff NMS II eliminates this subsidy[17] and is fully consistent with the letter and purpose of SB 100.

C. Despite KYSEIA's And Joint Intervenors' Suggestions Otherwise, Kentucky Power Considered All Alleged Benefits In Developing Proposed Tariff NMS II.

Throughout these proceedings and their respective post-hearing briefs, KYSEIA and Joint Intervenors continuously assert that Kentucky Power refused to consider the benefits of solar generation in calculating the proposed avoided cost rates.[18] KYSEIA and Joint Intervenors' assertions are squarely refuted by the record, and mere repetition cannot make their false statements true.

In his Rebuttal Testimony, Company Witness Vaughan addressed each of the solar "value" items raised by Joint Intervenors' Witness Owen on page 37 of his Direct Testimony.[19] Company Witness Vaughan addressed individually each alleged benefit of solar generation, including: reduced transmission and distribution losses, reduced distribution level congestion,

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[16] Vaughan Supp. Rebuttal Test. at SR5.

[17] *See* Proposed Tariff NMS II, attached as Exhibit 1 to the Company's Post-Hearing Brief; Vaughan Rebuttal Test. at R33-R34.

[18] *See* KYSEIA's Post-Hearing Brief at 8; Joint Intervenors' Post-Hearing Brief at 3, 8, 11, 15, 16, 19.

[19] Vaughan Rebuttal Test. at R28-31.

peak load reduction or shifts, reduced costs along the fuel supply line, reduced environmental liabilities and/or environmental compliance costs, avoided generation capacity investments, reduced grid support services, and improved grid resiliency. For each alleged benefit, Company Witness Vaughan explained that the benefit either 1) was already accounted for implicitly or explicitly in the proposed avoided cost rate, 2) inadvertently was not included in the proposed avoided cost rate, and stating that the rate would be adjusted to reflect the same, or 3) had no monetary value and therefore was not accounted for in the avoided cost rate.[20] Moreover, Company Witness Vaughan explained explicitly why the cost of carbon and RECs appropriately are not included in the proposed avoided cost rates.[21]

Despite Joint Intervenors' and KYSEIA's arguments to the contrary, the Company considered all alleged benefits of solar generation, whether identified by the Company or the intervenors, in developing the proposed avoided cost rates.

D. The Company's "Material Modification" Requirement Fairly Implements The Limited Grandfather Provision of SB 100.

While protecting the reasonable investment expectations of net metering customers who installed their systems in response to the availability of one-to-one metering, Tariff NMS also protects non-participating customers by limiting the ability of grandfathered net metering customers to increase the subsidy they receive from non-participating customers by expanding or fundamentally changing their systems.[22] The tariff thus reasonably requires a new application where a net metering customers seeks to increase the capacity of an installed system.[23] With the

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[20] Id.

[21] *Id.* at R31-32.

[22] *See generally*, Memorandum Brief of Kentucky Power Regarding Tariff NMS II at 10-14.

[23] *See. e.g.* Tariff Sheet 27-12 (Tariff NMS); Tariff Sheet 28-7 (Tariff NMS II). The requirement for prior written consent from Kentucky Power for changes to a previously installed, along with a new application where the

new application the legacy net metering customer will be treated identically to every other customer seeking to install a new net metering system after the effective date of the Commission's Order in this proceeding. KYSEIA raises two objections.

First, it argues that the provision is contrary to KRS 278.466.[24] But nothing in the statute provides grandfathered net metering customers with the right to expand or fundamentally transform their systems and retain their grandfather status. To the contrary, KRS 278.466(6) limits the grandfather rights to the "***eligible electric generating facility in service prior to the effective date*** of the initial net metering order by the commission in accordance with subsection (3) …." (emphasis supplied). A system that doubles in size (and capacity) from ten panels installed prior to the effective date of the Commission's Order in this proceeding, to 20 panels by the installation of an additional ten panels subsequent to the Commission's Order, is not the ten panel "eligible electric generating facility in service" prior to the effective date of the Order.

KYSEIA's efforts to expand the grandfather rights under KRS 278.466(6) also would arbitrarily discriminate between similarly situated customers.[25] A customer seeking to become a net metering customer for the first time by installing ten solar panels after the effective date of the Commission's Order in this proceeding would not be eligible for one-to-one metering. An existing net metering customer who installs ten additional panels on the same day would, under KYSEIA's position, be eligible for one-to-one metering for the ten new panels. Yet there is no rational basis for treating the simultaneous installation of the two sets of ten panels differently.

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customer seeks to expand an approved system's capacity also provides important safety protections for the Company and its employees.

[24] KYSEIA's Post-Hearing Brief at 11-12.

[25] *See* KRS 278.170 ("No utility shall … maintain any unreasonable difference between localities or classes of service for doing a like or contemporaneous service under the same or substantially the same conditions.")

KYSEIA also argues that the provision also "disincentivize[s] repair, replacement, and modification."[26] KYSEIA again is mistaken. Both Tariff NMS and Tariff NMS II except from the requirement for prior written approval and a new application "the repair and replacement of existing generating facility components with like components"[27]

E. Tariff NMS Will Remain Available To New Net Metering Customers Until The Commission's Final Order In This Proceeding.

Joint Intervenors assert that additional clarification is necessary regarding the implementation of Tariff NMS II, specifically "*when* customers would begin taking service under an NMS II Tariff."[28] Kentucky Power again confirms that any customer taking net metering service prior to the date of the final order in this supplemental proceeding is eligible to continue to take service under Tariff NMS subject to the requirements of that tariff. Conversely, customers whose systems begin operation after the date of the final order in this proceeding must take service under Tariff NMS II (if approved) as required by SB 100.

III. CONCLUSION

Kentucky Power respectfully requests that the Commission approve Tariff NMS II, including the rates proposed by Company Witness Vaughan in his rebuttal testimony.

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[26] *Id*. at 12.

[27] *See e.g.* Tariff Sheet 27-12 (Tariff NMS); Tariff Sheet 28-7 (Tariff NMS II).

[28] Joint Intervenors' Post-Hearing Brief at 19-20.

Respectfully submitted,

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