COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In The Matter Of: Electronic Application Of Kentucky Power Company For An Order Establishing the Form of Notice To Be Employed In Its Upcoming Application for A General Adjustment Of Rates And Other Relief.	: : : :	**Case No 2020-00174**

SUPPLEMENTAL BRIEF OF ATTORNEY GENERAL AND KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.

The Attorney General, through his Office of Rate Invention, ("AG") and Kentucky Industrial Utility Customers, Inc. ("KIUC") submit this Supplemental Brief in support of their recommendations to the Kentucky Public Service Commission ("Commission") in this proceeding. As discussed further below, AG-KIUC continue to recommend that the Commission approve Kentucky Power Company's ("Kentucky Power" or "Company") proposed Net Metering Service tariff ("NMS II").

Under KRS 278.466(3), as amended by the Net Metering Act,*"[a] retail electric supplier serving an eligible customer-generator shall compensate that customer for all electricity produced by the customer's eligible electric generating facility that flows to the retail electric supplier…The rate to be used for such compensation shall be set by the commission using the ratemaking processes under [Chapter 278]…."* KRS 278.466(5) goes on to state *"…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-based costs, without regard for the rate structure for customers who are not eligible customer-generators*."

The Commission should approve the proposed NMS II tariff because: 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.

I. Net Metering Customers Should Not Be Overcompensated At The Expense Of Other Retail Customers.

Providing net metering customers with a credit equal to an electric supplier's full retail rate, which includes the costs of capacity, transmission, and distribution services they do not provide, results in non-net metering customers unduly subsidizing net metering customers. Kentucky Power's cost-of-service analysis reflects that non-net metering customers paid approximately $40,000 in annual base rates subsidies (excluding riders) to net metering customers in the test year under the current net metering tariff.[1] As Mr. Vaughan explained, *"[d]uring the test year, net metering customers' rates were too low to cover the Company's cost to serve them, and they are being subsidized by all other customers, including non-net metering residential customers. Net metering customers' rates would have to be increased significantly to bring their class returns to parity with their standard tariff counterparts*."[2] Moreover, given that this significant annual subsidy was paid in part by residential customers who already lack the financial resources needed to fund the installation of distributed generation on their own homes, the result of overcompensating net metering customers was highly regressive.

In contrast, Kentucky Power's proposed NMS II rate, which uses an avoided cost-based rate to compensate net metering customers for excess energy, provides a reasonable estimate of the value of netted excess rooftop solar energy, reducing the amount of subsidies paid by non-net metering customers.[3] While more detailed and comprehensive methodologies could be used to develop an excess energy avoided cost rate, the Company's proposed methodology represents a more cost-based approach to payment for excess

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[1] Supplemental Testimony of Alex E. Vaughan ("Vaughan Supplemental Testimony") at 3:9-4:2 and 5:21-23; Supplemental Rebuttal Testimony of Alex E. Vaughan (Vaughan Supplemental Rebuttal Testimony") at 3:8-19; Supplemental Rebuttal Testimony of Jason M. Stegall (Stegall Supplemental Rebuttal Testimony") at 3:3-5.
[2] Vaughan Supplemental Testimony at 4:5-9.
[3] Vaughan Exhibit AEV-R5.

energy than compensating net metering customers at the Company's full retail rate.[4]

II. The Company's NMS II Proposal Is Favorable To Participating Customers.

Kentucky Power's NMS II proposal provides benefits to net metering customers when compared to a purely cost-based approach. To truly remove all interclass subsidies from the rooftop solar rate, a 100% buy/sell rate would be required. Specifically, the net metering customer would pay the full residential tariff rate for 100% of the customer's energy usage and receive Kentucky Power's avoided cost for 100% of the customer's solar generation. However, because Kentucky Power's proposed NMS II tariff only lowers the payment rate for the excess portion of the customer's solar generation, net metering customers will implicitly continue to receive the residential tariff rate as payment for solar generation that is available to offset the customer's own household usage each month (i.e., the portion of a customer's total solar generation that is netted against a customer's usage).[5] Hence, some level of subsidy to net metering customers will remain even under the Company's proposed NMS II tariff, as witness Vaughan explained:

> *The net metering customer classes' rates of return remain significantly lower than their standard tariff class counterparts, and are well below the average rate of return for all customers. A subsidy in rates exists, is being paid to NMS customers by all other customers,* ***and would continue to some degree to NMS II customers****. This justifies on a cost of service basis the Company's NMS II proposal to bill all net billing units at the otherwise applicable standard tariff rates.* ***It also continues to support the Company's assertion that proposed tariff NMS II is a conservative step away from traditional one-to-one net metering and is a just and reasonable way to implement SB 100.***[6]

III. No Other Party Has Provided A Cost Of Service Study Supporting An Alternative Compensation Rate.

No other party in this proceeding has provided a cost-of-service study supporting a different excess energy compensation rate for net metering customers. Kentucky Power's NMS II proposal is the only excess energy compensation methodology supported by the record in this proceeding. Consquently,

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[4] Direct Testimony of Stephn J. Baron ("Baron Testimony") at 24:4-12.
[5] Baron Testimony at 23:1-8.
[6] Vaughan Supplemental Rebuttal Testimony at 3:3-19 (emphasis added); *See also* Stegall Supplemental Rebuttal Testimony at 4:8-11.

because the parties who urge the Commission to reject the Company's proposal have failed to provide their own calculations of an appropriate excess energy compensation rate for net metering customers, the record does not support adoption of an alternative compensation rate.

IV. The Commission Should Adhere To The Plain Language Of KRS 278.466.

In Kentucky, "shaping public policy is the exclusive domain of the General Assembly."[7] The General Assembly has not set a policy in favor of subsidizing or preferring solar generation. KRS 278.466 requires the Commission to set an excess energy compensation rate for net metering customers that allows utilities to recover *"all costs necessary to serve its eligible customer-generators, including but not limited to fixed and demand-based costs…."* The General Assembly therefore provided clear direction regarding what should and should not be considered in setting an excess energy compensation rate. Critically, the statute does not direct the Commission to consider "positive externalities" in setting the net metering compensation rate, as recommended by some intervenors to this proceeding. Rather, KRS 278.466 indicates that the Commission should adopt a cost of service-based approach to setting net metering compensation rates for utilities in Kentucky.

Rooftop solar is a valuable technology. But the fact remains that the Kentucky General Assembly has determined that the expansion of rooftop solar should no longer be subsidized at a 1:1 rate and that utilities must be compensated for fixed costs associated with serving net metering customers. Thus, careful application of the law requires the Commission to approve an excess energy compensation methodology that satisfies the General Assembly's directive.

WHEREFORE, the Commission should approve the Company's proposed NMS II tariff.

[7] *Caneyville Volunteer Fire Dept. v. Green's Motorcycle Salvage, Inc.*, 286 S.W.3d 790, 807 (Ky. 2009).

Respectfully submitted,

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