COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF: ELECTRONIC APPLICATION OF KENTUCKY UTILITIES COMPANY FOR AN ADJUSTMENT OF ITS ELECTRIC RATES, A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO DEPLOY ADVANCED METERING INFRASTRUCTURE, APPROVAL OF CERTAIN REGULATORY AND ACCOUNTING TREATMENTS, AND ESTABLISHMENT OF A ONE-YEAR SURCREDIT	:	CASE NO. 2020-00349
IN THE MATTER OF: ELECTRONIC APPLICATION OF LOUISVILLE GAS AND ELECTRIC COMPANY FOR AN ADJUSTMENT OF ITS ELECTRIC AND GAS RATES, A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO DEPLOY ADVANCED METERING INFRASTRUCTURE, APPROVAL OF CERTAIN REGULATORY AND ACCOUNTING TREATMENTS, AND ESTABLISHMENT OF A ONE-YEAR SURCREDIT	:	CASE NO. 2020-00350

DIRECT TESTIMONY OF HEATH A. LOVELL ON BEHALF OF ALLIANCE COAL, LLC AS A MEMBER OF KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.

I. INTRODUCTION AND QUALIFICATIONS

Q. Please state your name, occupation, and business address.

A. My name is Heath A. Lovell. I am Vice President of Public Affairs for Alliance Coal, LLC ("Alliance"). My business address is 1146 Monarch Street, Suite 350, Lexington, Kentucky, 40513.

Q. Please describe your educational and professional background.

A. I am a two-time graduate of the University of Kentucky, with a Bachelor of Science in Electrical Engineering earned in 1997 and a Masters in Business Administration earned in 1998. Subsequent to my graduation from college, I was hired by a coal company in Illinois as an electrician. In the years that followed, I gained experience working within the coal mining industry in fields such as engineering, operations, maintenance, coal preparation, and transportation. In 2001, I co-founded a small mining company in west Kentucky and within five (5) years the operation had grown to over two hundred (200) coal miners and was sold to Peabody Energy. In 2006, I began my work for Alliance or its various independent operating subsidiaries, including River View – which I helped develop in 2009. From 2014 to 2017, I served as Vice President of Operations for Alliance and, from 2017 to the present, I have served as Vice President of Public Affairs for Alliance.

Q. On whose behalf are you appearing in this proceeding?

A. I am appearing on behalf of Alliance. Alliance is a member of Kentucky Industrial Utility Customers, Inc. ("KIUC"). Alliance ultimately is a subsidiary of Alliance Resource Partners, L.P. ("ARLP"), a diversified natural resource company that generates income from coal production and oil & gas mineral interests located in strategic producing regions across the United States. ARLP is the nation's first publicly traded master limited partnership involved in the production and marketing of coal, trading on the NASDAQ Global Select Market under the ticker symbol ARLP. Alliance's respective subsidiaries independently operate seven different underground mining complexes, in Illinois, Indiana, Kentucky, Maryland, Pennsylvania, and West Virginia, and a coal-loading terminal in Indiana located on the Ohio River. One of Alliance's independent operating subsidiaries, River View Coal, LLC ("River View"), is located Union County, Kentucky. River View is the single largest coal producer in the Commonwealth of Kentucky, employs approximately eight hundred and fifteen (815) people, and produces approximately one-third (1/3) of the coal produced from Kentucky. River View is a Kentucky Utilities ("KU") customer, taking electric service pursuant to KU's RTS rate schedule.

Q. Would you please summarize your testimony?

A. Yes. My testimony addresses the Illinois Basin, high-sulfur coal market and, particularly, how the combination of an electric rate increase and Kentucky's current high coal severance taxes negatively impact River View's competitive position in relation to out-of-state coal mines. I also discuss that this negative impact not only harms River View's River View Mine, but also the resultant reduction in Kentucky coal severance tax revenues that are critical to funding state and local governments in Kentucky. I testify that the Commission can help this situation by approving KIUC witness, Mr. Baron's Coal Mine Economic Development Rate proposal.

Q. Have you testified in any other proceeding(s) before the Commission?

A. To my best recollection, I have never testified in any other proceedings before the Commission.

Q. How would KU's proposed rate increase impact the River View Mine?

A. For the purposes of my testimony, I am assuming a proposed average rate increase to River View's electric service accounts will be approximately 10-11%. This increase is, by its nature, a less competitive power rate for River View's River View Mine. In its operations, River View competes with entities outside of Kentucky, including other subsidiaries of ARLP and unaffiliated competitors. In either situation, substantial power rate increases weaken River View's ability to operate at full capacity, which in turn increases its overall cost per ton making the mine even less profitable and threatening its capability to attract future capital investment.

While electricity costs are not the only factor evaluated in determining a mine's lasting competitiveness, it is a very important factor that receives scrutiny. If the Commission approves the proposed rate increases, and drastically raises River View's electricity costs in the process, River View's cost structure would be significantly impacted. Unaffiliated competitors outside of Kentucky will benefit from the rise in utility rates in Kentucky. Moreover, other, out-of-state subsidiaries of ARLP – particularly in states with lower tax burdens – will become more attractive on a relative basis with respect to securing coal sales in the extremely competitive coal markets and even more competitive natural gas markets.

Significantly higher electricity rates make it harder for River View to compete and

River View would lose market share. As River View loses market share, River View will produce fewer tons of coal in Kentucky. As River View produces fewer tons of coal in Kentucky, Kentucky's coal severance tax revenues will continue to decline. As coal severance tax revenues decline, state and local infrastructure and development projects will lose funding or be incapable of being funded in the first place. As a result, the indirect cost burdens on Kentucky will rise. Lost production at River View not only leads to job losses at River View and in ancillary businesses and industries that support coal mining, but job losses in other industries as state and local projects and development otherwise funded by severance tax revenue wane. Job losses result in increased costs for social services and more unemployment filings, as well as reduced consumer spending, income tax revenue, and sales tax revenue for Kentucky. This economic harm to Kentucky also means lower power sales for KU and/or LG&E. Lower power sales result in less revenue and, with less revenue to cover fixed costs, additional and significant rate increases will be proposed. From there, the cycle begins again. Respectfully, this is a downward spiral that can and should be avoided. In short, the proposed rate increases impact not only River View's long-term cost structure and competitiveness, but the overall economy of Kentucky.

Q. Does the River View Mine face other competitive disadvantages relative to mines operating in neighboring states?

A. Yes. Kentucky law indicates that "for the privilege of severing or processing coal" River View must pay a coal severance tax equal to 4.5% of gross value of all coal severed or processed, less transportation expenses.[1] In 2020, River View paid approximately $17.5

[1] KRS 143

million in Kentucky severance tax or $1.78 per ton sold. Kentucky's coal severance tax is an additional cost that is a competitive disadvantage for Kentucky mines relative to mines in neighboring states.

Q. How does Kentucky's coal severance tax compare to coal severance taxes paid for by River View's competitors within the Illinois Basin, high-sulfur coal market?

A. Kentucky's coal severance taxes are the highest within the Illinois Basin market. In fact, the states of Illinois and Indiana, in particular, impose **no** severance tax on coal mine operators.

Q. How are coal severance tax revenues used in Kentucky?

A. Half of all coal severance taxes are placed into the State General Fund, paying for all manner of State services and lowering the tax burden on all Kentuckians. From there, the remaining fifty percent (50%) of coal severance taxes are transferred from the State General Fund, on a quarterly basis, and placed in the Local Government Economic Development Fund, unless the amount is otherwise amended by the state's budget bill. Then, 15% of the coal severance taxes transferred to the Local Government Economic Development Fund are transferred into the Local Government Economic Assistance Fund. Funds within the Local Government Economic Development Fund are designed to be allocated to coal-producing counties, and that said counties may apply for grants to receive the funds. Such funds are to be used for projects designed to attract new industry to the coal-producing counties. Similarly, the Local Government Economic Assistance Fund is designed to allow counties to apply for grants to be used on "priority expenditures" to improve the environment for new industry and improve quality of life for local residents. Coal severance funds are critical to the local economy in rural, coal producing counties.

Q. Have Kentucky's severance tax revenues decreased in recent years?

A. Yes. As Kentucky coal production has declined, Kentucky severance tax revenue has declined in tandem. According to the Office of State Budget Director, total coal severance tax receipts dropped sharply in Fiscal Year 2020, declining by 36.7 percent from Fiscal Year 2019, to $58.8 million. Collections over the first half of Fiscal Year 2021 declined by 11.1 percent from the first half of Fiscal Year 2020, producing receipts equaling $28.8 million. The interim forecast for all of Fiscal Year 2021 calls for total annual receipts of $53.9 million, which would be another decline year-over-year of about $5 million in coal severance tax revenues for Kentucky. For counties with abundant coal resources, such as Union County where River View is located, this trend causes concern.

Q. Would Mr. Baron's Coal Mine Economic Development Rate proposal be a positive development that may help Kentucky mines compete with out of state mines?

A. Yes. Operating alone, a significant electricity rate increase or Kentucky's coal severance tax present significant challenges to the long-term operation of coal mines within our state. When these two factors operate together, however, the harm to Kentucky's mining industry and economy, as a whole, is likely to be even more pronounced. Given the importance of coal severance tax dollars to the General Fund and to local governments, the Kentucky state legislature may not find it practical to lower Kentucky's coal severance tax rate at the current time – even though the coal severance tax now creates a major competitive disadvantage to Kentucky's mining community.

Regardless, however, in evaluating the propriety of any proposed electric rate increase, the Kentucky Public Service Commission has the ability to consider the fact that the coal mining industry is subject to the severance tax and, in the process, can help otherwise avoid the financial harm could fall upon an industry, its individual employees, and the state's economy, in total. Mr. Baron's proposal could help keep Kentucky mining competitive with neighboring states <u>and</u>, for the present, keep coal severance tax dollars flowing to rural counties.

The Coal Mine Economic Development Rate recommended by Mr. Baron could make expansion of mining activities more economic and competitive. Mr. Baron's proposal would provide an incentive to coal mining customers who can increase their energy usage above a base-line level. Through a rate structure that makes it more economical for coal mine operators to maintain current employment <u>and</u> even increase employment through increased production, all interests involved in this rate case can potentially benefit. An expansion of mining production means sustained and/or increased coal mining jobs within local communities. Sustained or increased coal mining jobs means increased production, which produces more coal severance tax revenues, as well as increased energy load and more dollars toward the recovery of KU's fixed costs. These increases reduce local government costs, diversify and expand local economies, and put downward pressure on KU's electric rates.

Q. Does this conclude your testimony?

A. Yes.

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AFFIDAVIT

STATE OF INDIANA)
COUNTY OF Vanderburgh)

Heath A. Lovell being duly sworn, deposes and states: that the attached is his sworn testimony and that the statements contained are true and correct to the best of his knowledge, information and belief.

Heath A. Lovell
Heath A. Lovell

Subscribed and sworn to or affirmed before me this 5th day of March, 2021.

Lori L. Huebner
Notary Public

NOTARY PUBLIC SEAL INDIANA
LORI L HUEBNER
Notary Public, State of Indiana
Warrick County
Commission # 706131
My Commission Expires
October 05, 2025

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