

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

In the Matter of:

Electronic Application And Request For Decision By )  
April 5, 2021 Of Kentucky Power Company For An )  
Order Approving Accounting Practices )  
To Establish A Regulatory Asset Related To ) Case No. 2021-00129  
The Extraordinary Expenses Incurred By )  
Kentucky Power Company In Connection With Three )  
February 2021 Major Storm Events )

AND

In the Matter of:

Electronic Application Of Kentucky Power Company )  
For An Order Approving Accounting Practices )  
To Establish A Regulatory Asset Related To )  
The Extraordinary Expenses Incurred By ) Case No. 2021-135  
Kentucky Power Company In Connection With The )  
December 24-25, 2020 Snow Storm )

**Stipulation and Settlement Agreement**

This Stipulation and Settlement Agreement is entered into and effective as of this 31<sup>st</sup> day of March, 2021 (the “Stipulation and Settlement Agreement”), by and between DANIEL CAMERON, Attorney General of the Commonwealth of Kentucky, through his duly authorized representatives in the Office of the Attorney General’s Office of Rate Intervention (the “Attorney General”), and KENTUCKY POWER COMPANY (“Kentucky Power”), and KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, (“KIUC”). The Attorney General, Kentucky Power, and KIUC are each a “Party” and are collectively referred to as the “Parties.”

**WITNESSETH:**

WHEREAS, Kentucky Power filed its Application in *Electronic Application and Request for Decision by April 5, 2021 of Kentucky Power Company for and Order Approving Accounting Practices to Establish a Regulatory Asset related to the Extraordinary Expenses Incurred by Kentucky Power in Connection with Three February 2021 Major Storm Events*, with the Kentucky Public Service Commission (“Commission”) on March 18, 2021, and that case was docketed as Case No. 2021-00129; and

WHEREAS, Kentucky Power filed its Application in *Electronic Application of Kentucky Power Company for an Order Approving Accounting Practices to Establish a Regulatory Asset related to the Extraordinary Expenses Incurred by Kentucky Power Company in Connection with the December 24-25, 2020 Snow Storm*, with Commission on March 24, 2021, and that case was docketed as Case No. 2021-00135; and

WHEREAS, on February 10, 2021, February 15, 2021, and February 17, 2021, Kentucky Power’s service territory experienced three severe and destructive ice and snow storms that ultimately resulted in about one inch of ice and four to six inches of snow in the worst-hit areas of the Company’s service territory; and

WHEREAS, the resulting damage to the Company’s transmission and distribution systems was significant. Preliminary information indicates that the storms caused 759 broken poles, 1,176 damaged cross arms, 412 damaged transformers, and 851 damaged cutouts. Additionally, the Company repaired or replaced thousands of spans of conductor, totaling more than 116 miles (nearly equal to the distance between Lexington, Kentucky and Ashland, Kentucky); and

WHEREAS, in total, the Company restored approximately 141,625 customer outages resulting from the three February 2021 storms. Many of these outages included multiple outages

suffered by the same customers who had their service restored only to lose service again when the successive storms swept through Kentucky Power's service territory. The restoration efforts took nearly three weeks, and early restoration efforts frequently were impaired or were required to be repeated after new outages occurred from additional ice and/or snow. Restoration crews and thousands of employees and contractors from ten states assisted in restoring service to the Company's customers over the course of the three weeks; and

WHEREAS, the customer minutes of interruption (CMI) exceeded the "Major Event Day" standard set forth in Institute of Electrical and Electronic Engineers (IEEE) Standard 1366. IEEE develops the National Electric Safety Code (NESC), which Kentucky has adopted by statute; and

WHEREAS, the Company's best estimates at the time of this filing indicate that the total costs associated with the three February storms could total approximately \$70-80 million. Historically, the amount of storm costs incurred has been a fraction of the costs of the three storms detailed herein. For comparison purposes, Kentucky Power's 2020 operating income was \$69.9 million, and its net income was \$41 million; and

WHEREAS, the magnitude of the storm costs, the timing of the storms, and the significant effect of the storm costs on Kentucky Power's first quarter 2021 financial statements, prepared in accordance with generally accepted accounting principles (GAAP), drive the Company's request for a ruling on its Application in Case No. 2021-00129 on or before April 5, 2021. The Company will close its first quarter books on April 6, 2021 and issue its first quarter 2021 financial statements on April 22, 2021; and

WHEREAS, failure to reflect the potential for future recovery of these costs in the quarterly financial statements could negatively impact Kentucky Power's financing costs. For example, the Company presently is in communication with Moody's Credit Services, which likely will be

updating its credit opinion of Kentucky Power in the second quarter of 2021. Moody's likely will review the Company's first quarter financial statements when it does so; and

WHEREAS, Kentucky Power seeks authorization from the Commission to accumulate and defer for review and recovery in Kentucky Power's next base rate proceeding the net actual costs (total storm-related O&M expenses less the amount of storm-related O&M expenses currently in its base rates) of the extraordinary O&M expenses it incurred to repair damaged facilities and restore service to customers following the February 10-11, 2021 ice storm, the February 15-16, 2021 ice storm, and the February 17, 2021 snow storm, and

WHEREAS, estimated total jurisdictional incremental storm-related O&M expenses will be deferred at interim reporting periods and will be trued-up to net actual costs (total storm-related O&M expenses less the amount of storm-related O&M expenses currently in its base rates) prior to year-end 2021. As soon as is practicable after quarterly 2021 financial statements are issued, Kentucky Power will file an update in Case No. 2021-00129 to provide the Commission with the estimated expenses deferred to the requested regulatory asset. The estimated high-level incremental Major Event storm-related expenses for which the Company seeks authority in Case No. 2021-00129 to defer and establish as a regulatory asset in Account 182.3 could exceed \$45 million; and

WHEREAS, the applications filed in Case Nos. 2021-00129 and 2021-00135 (collectively "the Applications") and the cases generally ("the Cases") were the topic of an Informal Conference held by the Commission and attended by the Parties on March 26, 2021; and

WHEREAS, the Attorney General was granted leave by the Commission to intervene in the Cases; and

WHEREAS, KIUC was granted leave by the Commission to intervene in Case No. 2021-00129; and

WHEREAS, the Parties have diligently negotiated and reached an agreement regarding the reasonable terms and regulatory conditions which the Parties believe should apply to and support the Commission's approval of the requests set forth in the Applications; and

WHEREAS, the Parties agree that this Stipulation and Settlement Agreement, viewed in its entirety, constitutes a fair, just and reasonable resolution of all the issues in the Cases; and

WHEREAS, the Parties recognize that this Stipulation and Settlement Agreement is nonbinding upon the Commission, but simply constitutes an agreement by and between themselves, and that the Commission may inquire about and consider any issues arising from or relating to the Cases as part of a formal proceeding should the Commission determine one to be necessary; and

WHEREAS, the Parties desire to document and record said terms and conditions of their agreement herein;

NOW, THEREFORE, in consideration of the premises and conditions set forth herein, the Parties do hereby agree and stipulate as follows:

#### **ARTICLE I – REGULATORY ASSET TREATMENT**

1.01 Regulatory Asset Treatment. The Parties agree that the requests for regulatory asset treatment in the Cases should be granted and request that the Commission do so in Case No. 2021-00129 by April 5, 2021, consistent with Kentucky Power's request for expedited relief in that proceeding; and

1.02 The Parties agree that the Commission's establishment of regulatory assets in the Cases will be for accounting purposes only. The amount of the regulatory assets authorized in the

Cases that is to be amortized and included in rates shall be determined in a future case. The Parties reserve their rights to challenge recovery of the expenses at issue or the amount of recovery in any subsequent case where a request for recovery of the expenses at issue is made; and

## **ARTICLE II – AGREEMENT TO REQUEST GOVERNMENT FUNDS**

2.01 Pursuit of Funds to Offset Major Storm Expenses. Kentucky Power agrees that it shall use reasonable efforts to seek any available funds from government sources to mitigate the rate impact of the expenses at issue in the Cases to ratepayers, including but not limited to funds related to the American Rescue Plan Act of 2021 and funds allocated to Kentucky thereby, as well as funds related to emergency declarations of state or federal authorities, to the extent such funding exists and is available to offset utility major storm expense. The Attorney General and KIUC agree to use reasonable efforts to support Kentucky Power's efforts; and

2.02 The Parties acknowledge that their agreement shall not constitute a guarantee that such funds will be secured; and

## **ARTICLE III – OTHER PROVISIONS**

3.01 No Admissions. Except as specifically stated otherwise in this Stipulation and Settlement Agreement, the Parties agree that making this Stipulation and Settlement Agreement shall not be deemed in any respect to constitute an admission by any Party hereto that any computation, formula, allegation, assertion, or contention made by any other Party is true or valid; and

3.02 Filing of Stipulation and Settlement Agreement. The Parties Agree that a fully executed copy of this Stipulation and Settlement Agreement shall be filed of record in the Cases as an exhibit to a Joint Motion requesting the Commission approve the Stipulation and Settlement Agreement, with the Motion to be filed on or before April 5, 2021; and

3.03 Participation in Hearing. Should the Commission hold a hearing in one or both of the Cases, the Attorney General and KIUC waive all cross-examination of Kentucky Power's witnesses unless the Commission disapproves this Stipulation and Settlement Agreement.

3.04 Good Faith. The Parties agree to act in good faith and to use reasonable efforts to recommend to the Commission that this Stipulation and Settlement Agreement be accepted and approved.

3.05 Further Review. If the Commission enters a final order approving the Application(s) and adopting and implementing the terms and conditions set forth herein, the Parties agree that they shall not file a petition for rehearing before the Commission or file an action for review in the Franklin Circuit Court with respect to such final order.

3.06 Effect of Final Order. The Parties agree that if the Commission issues a final order that fails to approve the Application(s), fails to adopt and implement all of the terms and conditions set forth herein, or adds or imposes additional conditions or burdens that are unacceptable to any or all of the Parties in their sole discretion, then:

a) this Stipulation and Settlement Agreement shall be void and withdrawn by the Parties from further consideration by the Commission and none of the Parties shall be bound by any of the provisions herein, although no Party shall be prohibited from advocating any position contained in this Stipulation and Settlement Agreement; and

b) neither the terms of this Stipulation and Settlement Agreement nor any matters raised during the negotiations of this Stipulation and Settlement Agreement shall be binding on any of the Parties to this Stipulation and Settlement Agreement or be construed against any of the Parties.

3.07 Commission Jurisdiction. The Parties agree that nothing in this Stipulation and Settlement Agreement shall be construed in a manner that diminishes or eliminates the Commission's jurisdiction under Chapter 278 of the Kentucky Revised Statutes.

3.08 Future Effect. The Parties agree that this Stipulation and Settlement Agreement shall inure to the benefit of, and be binding upon, the Parties, their successors and assigns.

3.09 Whole Agreement. The Parties agree that this Stipulation and Settlement Agreement constitutes the complete agreement and understanding among the Parties and that any and all oral statements, representations, or agreements made prior hereto or contemporaneously herewith, shall be null and void, and shall be deemed to have been merged into this Stipulation and Settlement Agreement.

3.10 Fair, Just and Reasonable Result. The Parties agree that, for the purpose of this Stipulation and Settlement Agreement, the terms are based upon the independent analysis of the Parties to reflect a fair, just and reasonable outcome and are the product of arms-length negotiation and compromise.

3.11 Admissibility. The Parties agree that the Stipulation and Settlement Agreement, either in whole or in part, shall not be admissible in any court or administrative agency except insofar as such court or administrative agency is addressing litigation arising out of the implementation of the terms and condition set forth herein. This Stipulation and Settlement Agreement shall not have any precedential value in this or any other jurisdiction.

3.12 Consultation and Authority. The signatories hereto warrant that they have informed, advised, and consulted with the Parties they represent with regard to the contents and significance of this Stipulation and Settlement Agreement and based upon the foregoing, are



authorized to execute this Stipulation and Settlement Agreement on behalf of the Parties they represent.

5.15 Construction. The Parties agree that this Stipulation and Settlement Agreement is a product of negotiation among all Parties, and that no provision of this Stipulation and Settlement Agreement shall be strictly construed in favor of, or against, any Party.

5.16 Counterparts. The Parties agree that this Stipulation and Settlement Agreement may be executed in multiple counterparts.

IN WITNESS WHEREOF, the Parties have affixed their signatures hereunto.

DANIEL CAMERON, KENTUCKY ATTORNEY GENERAL



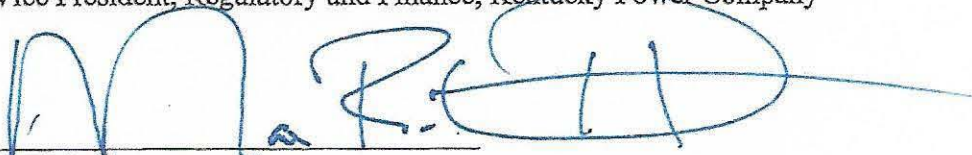
John G. Horne, II  
Executive Director, Office of Rate Intervention

KENTUCKY POWER COMPANY



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Brian K. West  
Vice President, Regulatory and Finance, Kentucky Power Company



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Counsel for Kentucky Power Company

KENTUCKY INDUSTRIAL UTILITY CUSTOMERS



Michael L. Kurtz  
Counsel for KIUC