

**COMMONWEALTH OF KENTUCKY**

**BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

Electronic Investigation of the	)	
Service, Rates and Facilities of	)	Case No. 2021-00370
Kentucky Power Company	)	

**REBUTTAL TESTIMONY OF**

**TONY CLARK**

**ON BEHALF OF KENTUCKY POWER COMPANY**

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**I. INTRODUCTION**

1 **Q. PLEASE STATE YOUR NAME AND JOB TITLE FOR THE RECORD.**

2 A. I am Tony Clark, Senior Advisor at the firm of Wilkinson Barker Knauer, LLP.

3 **Q. DID YOU PREVIOUSLY SUBMIT DIRECT TESTIMONY IN THIS**  
4 **PROCEEDING?**

5 A. I did.

**II. PURPOSE OF TESTIMONY**

6 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

7 A. I will provide my observations regarding the testimony of Mr. Lane Kollen, a witness  
8 appearing on behalf of the Office of the Attorney General of the Commonwealth of  
9 Kentucky and the Kentucky Industrial Utility Customers, Inc.

**III. RECOMMENDATIONS FOR PROCESS RELATED TO MR. KOLLEN'S**  
**ALLEGATIONS**

10 **Q. DID YOU REVIEW MR. KOLLEN'S DIRECT TESTIMONY SUBMITTED IN**  
11 **DECEMBER 2023?**

12 A. I did.

1 **Q. HOW WOULD YOU SUMMARIZE MR. KOLLEN’S TESTIMONY IN RELATION**  
2 **TO THE DIRECT TESTIMONY YOU PROVIDED IN THIS PROCEEDING?**

3 A. Mr. Kollen’s Direct Testimony lays out four general areas of critique of AEP/Kentucky  
4 Power’s operations. They are:

- 5 1. The operation of the Mitchell generation units and the impacts on the FAC;
- 6 2. Matters regarding future ownership interests in Mitchell generation units 1 & 2;
- 7 3. PJM OATT expenses and revenue; and
- 8 4. Distribution investments and maintenance spending, in which Mr. Kollen  
9 concludes that “future requests for storm damage deferrals should be closely  
10 reviewed.”

11 My testimony provides a recommended process for the Commission to consider  
12 matters of the type that Mr. Kollen has raised. Specifically, several of the issues Mr.  
13 Kollen raises (#1 and #4) are ordinary prudence and cost-recovery issues that are  
14 appropriately dealt with in a rate case (and, to my understanding, were dealt with in the  
15 Company’s 2023 rate case). The other issues (#2 and #3) are best addressed in forward-  
16 looking proceedings regarding planning – for #2, in an integrated resource plan  
17 proceeding, and for #3, in a docket that can consider, going forward, whether customers  
18 are best served by PJM membership. None of these issues are most appropriately  
19 addressed in an Order to Show Cause proceeding alleging inadequate service, which, as  
20 my prior testimony indicated, is an extraordinary proceeding that carries with it the threat  
21 of a severe remedy.

1 **Q. PLEASE ELABORATE.**

2 A. Mr. Kollen's first topic regarding the operations of the Mitchell units and their impact on  
3 the FAC is one that would typically be heard in a standard prudency review in which a  
4 commission is seeking to determine whether the utility should be allowed to recover costs  
5 incurred to facilitate the reliable delivery of energy during an unusual event. In this case,  
6 there is not a question of whether the utility provided reliable service – it did. Rather the  
7 question is whether the utility should be allowed to recover the costs of providing that  
8 service and in what manner. As I noted in my prior testimony, that is a question is best  
9 addressed as part of a standard prudency review.

10 Likewise, the fourth topic, raising issues surrounding distribution investments and  
11 deferred maintenance, are routine points of contention often found in standard regulatory  
12 proceedings such as rate cases. Mr. Kollen's recommendation appears to be that the  
13 Commission should closely scrutinize future utility company requests, but here again,  
14 there is no suggestion that an extraordinary proceeding like an Order to Show Cause  
15 regarding the provision of adequate of service is the most appropriate venue to adjudicate  
16 those kinds of matters.

17 Regarding the second topic, the disposition of matters related to future ownership  
18 interests in the Mitchell units, this is a matter that relates to Kentucky Power's generation  
19 portfolio, and the cost of maintaining that portfolio, in the future. This forward-looking,  
20 portfolio planning question is best addressed as part of a comprehensive review of the  
21 utility's integrated utility planning processes or review of a generation specific  
22 application, not in the context of a backward-looking Order to Show Cause proceeding  
23 regarding adequacy of service.

1           Finally, regarding the third topic, the expenses and revenues associated with the  
2 PJM OATT, this should be dealt with in a forward-looking proceeding aimed at gathering  
3 the information needed to decide whether customers are best served by Kentucky  
4 Power's RTO membership. There is no question that Kentucky Power did in fact incur  
5 PJM OATT-related costs and receive PJM OATT-related revenue, and federal law does  
6 not allow these costs to be trapped in state proceedings. And questions of cost and  
7 revenue go to economic considerations, not adequacy of service. The question of  
8 whether Kentucky Power should modify its relationship to PJM is a forward-looking  
9 economic question, and should be dealt with accordingly – not in an Order to Show  
10 Cause proceeding regarding alleged past failure to provide adequate service.

11 **Q. IS YOUR RECOMMENDATION TO THE COMMISSION REGARDING HOW IT**  
12 **ADDRESSES THESE QUESTIONS JUST SEMANTICS? DOES IT REALLY**  
13 **MATTER WHAT FORMAT THE COMMISSION CHOOSES TO HANDLE THE**  
14 **CONCERNS IT HAS HIGHLIGHTED?**

15 A. I believe it is more than a matter of semantics, for the reasons I laid out in my Direct  
16 Testimony. How commissions go about their business makes a difference to stakeholders  
17 who observe these proceedings closely. There are well understood processes to  
18 adjudicate the questions that have been raised by both the Commission and intervenors in  
19 this case, and I described some of these in my recommendations presented in my Direct  
20 Testimony. Adopting my recommendations will also have the positive benefit of offering  
21 Kentucky stakeholders, including consumers and other utilities operating in the state, the  
22 opportunity for greater clarity regarding the Commission's forward-looking expectations  
23 for all utilities. By contrast, an allegation that a company has provided inadequate

1 service is an extraordinary regulatory process that is conventionally used to address a  
2 utility's inability to perform the basic functions of utility service; hence the remedies  
3 associated with an adequacy of service proceeding are appropriately draconian. In my  
4 opinion, the Commission is better served by using tried-and-true regulatory mechanisms  
5 to address issues commonly addressed in such proceedings, rather than incurring the risks  
6 associated with what investors and others may perceive as – at the very least – an  
7 uncommon regulatory response.

8 **Q. DOES THIS COMPLETE YOUR REBUTTAL TESTIMONY?**

9 A. Yes.

**VERIFICATION**

The undersigned, Tony Clark, being duly sworn, deposes and says he is the Senior Advisor for Wilkinson Barker Knauer, LLP, that he has personal knowledge of the matters set forth in the foregoing testimony and the information contained therein is true and correct to the best of his information, knowledge, and belief after reasonable inquiry.

  
\_\_\_\_\_  
Tony Clark

District of Columbia )  
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\_\_\_\_\_ )

Case No. 2021-00370

Subscribed and sworn to before me, a Notary Public in and before said County City District and State, by Tony Clark, on February 20, 2024

  
\_\_\_\_\_  
Notary Public

**My Commission Expires March 31, 2028**

My Commission Expires \_\_\_\_\_

Notary ID Number \_\_\_\_\_

