

## MEMORANDUM OF UNDERSTANDING

The Office of Rate Intervention for the Office of the Kentucky Attorney General ("OAG") and Kentucky Industrial Utility Customers ("KIUC") agree to and enter into this Memorandum of Understanding ("MOU") effective the 7<sup>th</sup> day of December, 2021;

**WHEREAS**, the parties intend to hire expert witnesses to assist them in Public Service Commission Case Nos. 2021-00370 and 2021-00421 in addition to a case to be filed in which Liberty Utilities will seek Commission approval to acquire Kentucky Power;

**WHEREAS**, the parties believe that their interests are sufficiently aligned for the purposes of these matters such that utilizing the same witnesses will not present a conflict and will result in cost savings for both parties;

Therefore, the OAG and KIUC agree as follows:

1. Experts utilized by the parties shall submit an itemized invoice to OAG on at least a monthly basis consistent with a contract to be executed between OAG and the expert(s) ("expert contract"). The expert contract shall be for 50% of the total cost. KIUC shall also contract with the expert witnesses and shall be responsible for the other 50% of the total cost. The parties expect to retain Lane Kollen of Kennedy and Associates as an expert, and may also retain as an expert Steve Baron of Kennedy and Associates.
2. OAG shall provide payment to the experts in fulfillment of its obligations under the expert contract.
3. If either OAG or KIUC elects to settle its claims or part of its claims in the aforementioned case(s), such settlement shall not preclude the other party from utilizing any and all testimony and work product developed by the experts retained by OAG and KIUC for use in the cases.
4. If expert services for the aforementioned cases remain necessary after June 30, 2022, the parties may negotiate a new MOU governing the costs associated with services performed after that date. However, this Memorandum's provisions shall continue and remain in force unless and until replaced by a Memorandum resulting from those negotiations.
5. If the expert(s) contracted by the OAG and KIUC exhaust the funds allowed by the expert contract, the parties shall make reasonable efforts to agree on an amendment to the contract to the extent necessary for the prosecution of the case.
6. Disputes related to this agreement shall be governed by Kentucky law.
7. Any disputes related to this agreement that cannot be resolved by agreement shall be resolved by the Franklin Circuit Court.
8. Either OAG or KIUC may terminate its participation in this Memorandum upon thirty days written notice to the other party. In the event that either OAG or KIUC


Memorandum of Understanding between OAG and KIUC regarding Expert Witnesses in Case  
Nos. 2021-00370, *et al*


elects to terminate the agreement, it shall remain responsible for expert witness fees accrued up to and including those accrued during the thirty-day notice period. Upon termination of the Memorandum, either party may retain any expert witness previously covered by this Memorandum.

9. This Memorandum represents the entire understanding of the parties with respect to the matters discussed herein and supersedes all of understanding, written or oral.
10. No amendment, modification, or waiver of any provision of this Memorandum shall be valid unless contained in a writing signed by both parties.
11. Pursuant to KRE 503 (d)(5), the parties herein recognize that communications between them pertaining to the aforementioned case(s) are privileged from disclosure to other parties or to the Commission. Upon any discovery request from any other party or Commission Staff seeking such privileged communications, the parties shall assert this privilege and refuse to disclose such communications.

The signatories below represent that they have the approval and authority of the entities they represent to bind those entities to the above terms.

**AGREED AND ENTERED:**

  
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Hon. John G. Horne, II      Date  
Office of the Attorney General

  
\_\_\_\_\_  
Hon. Michael L. Kurtz      Date  
Kentucky Industrial Utility Customers