COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Electronic Application Of Kentucky Power Company For An Order Approving The Company's Amended Tariff E.D.R. To Increase The Capacity Available To Be Served Under The Tariff And For Required Deviations From The Commission's September 24, 1990 Order In Administrative Case No. 327	))))))	Case No. 2022-00181

Application

Kentucky Power Company applies to the Public Service Commission of Kentucky (the "Commission") for an Order:

(a) authorizing Kentucky Power to enter into Tariff E.D.R. contracts for a total capacity of up to 550 MW;

(b) approving Kentucky Power's amended Tariff E.D.R. (Economic Development Rider); and

(c) granting, to the extent required, any deviations from the Commission's September 24, 1990 Order in Administrative Case No. 327.

The Company requests **an expedited decision** at the Commission's earliest convenience and no later than **July 11, 2022**.

Kentucky Power states in support of its application:

Applicant

1. Kentucky Power is a corporation organized on July 21, 1919 under the laws of the Commonwealth of Kentucky. The Company currently is in good standing in Kentucky.[1]

[1] A certified copy of the Company's Articles of Incorporation and all amendments thereto was attached to the Joint Application in *In the Matter Of: The Joint Application Of Kentucky Power Company, American Electric Power Company, Inc. And Central And South West Corporation Regarding A Proposed Merger*, P.S.C. Case No. 99-149. The Company's May 25, 2022 Certificate of Existence is filed as **EXHIBIT 1** of this Application.

2. The post office address of Kentucky Power is 1645 Winchester Avenue, Ashland, Kentucky 41101. The Company's electronic mail address is kentucky_regulatory_services@aep.com.

3. Kentucky Power is engaged in the generation, purchase, transmission, distribution and sale of electric power. Kentucky Power serves approximately 165,000 customers in the following 20 counties of eastern Kentucky: Boyd, Breathitt, Carter, Clay, Elliott, Floyd, Greenup, Johnson, Knott, Lawrence, Leslie, Letcher, Lewis, Magoffin, Martin, Morgan, Owsley, Perry, Pike, and Rowan. Kentucky Power also supplies electric power at wholesale to other utilities and municipalities in Kentucky for resale. Kentucky Power is a utility as that term is defined in KRS 278.010.

Background

A. Administrative Case No. 327 And Kentucky Power's Tariff E.D.R.

4. The Commission established Administrative Case No. 327 by Order dated February 10, 1989 to examine guidelines for economic development ("E.D.R.") rates and E.D.R. agreements offered by electric and gas utilities in the Commonwealth.

5. The Commission on September 24, 1990 entered its Order in Administrative Case No. 327 establishing guidelines governing E.D.R tariffs, including E.D.R rates, and E.D.R agreements.[2] Among the guidelines was the limitation that "EDRs should only be offered during periods of excess capacity."[3] The Administrative Case No. 327 Order also required that participating utilities demonstrate with "the submission of each EDR contract[] that the load

[2] Order, *In the Matter of: An Investigation Into The Implementation Of Economic Development Rates By Electric And Gas Utilities*, Administrative Case No. 327 (Ky. P.S.C. September 24, 1990) ("Administrative Case No. 327 Order").

[3] *Id*. at 5.

expected to be served during each year of the contract period will not cause the utility to fall below a reserve margin that is considered for system reliability."[4]

6. Kentucky Power on September 18, 2014 filed its application in Case No. 2014-00336[5] seeking approval of its proposed Tariff E.D.R. The application also sought leave to deviate in certain respects from the Commission's September 24, 1990 Order in Administrative Case No. 327. The Company's application proposed capping at 250 MW the total capacity available through its proposed Tariff E.D.R.

7. At the time of its application, Kentucky Power possessed sufficient capacity to serve an additional 250 MW of load without the need to purchase or construct additional capacity. Because the 393 MW Rockport Unit Power Agreement was scheduled to terminate on December 7, 2022, and Kentucky Power's proposed tariff provided for contract terms of up to ten years, Kentucky Power proposed that in the event that sufficient capacity was not available to serve an E.D.R customer, Kentucky Power will procure the capacity with the cost reducing the customer's otherwise eligible billing demand discounts under the proposed Tariff E.D.R.

8. The Commission by Order dated March 4, 2015 in Case No. 2014-00336 approved the Company's proposed Tariff E.D.R.[6]

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[4] *Id*.

[5] *In the Matter of: The Application Of Kentucky Power Company For (1) Approval Of An Economic Development Rider; (2) For Any Required Deviation From The Commission's Order in Administrative Case No. 327; And (3) All Other Required Approvals And Relief*, Case No. 2014-00336 (Ky. P.S.C. Filed September 18, 2014).

[6] Order, *In the Matter of: The Application Of Kentucky Power Company For (1) Approval Of An Economic Development Rider; (2) For Any Required Deviation From The Commission's Order in Administrative Case No. 327; And (3) All Other Required Approvals And Relief*, Case No. 2014-00336 at 7 (Ky. P.S.C. March 14, 2015).

B. Kentucky Power's 2019 Integrated Resource Plan.

9. Kentucky Power filed its 2019 Integrated Resource Plan on December 20, 2019 in Case No. 2019-00443.[7] The Company's preferred plan, which assumed the Rockport UPA would not be renewed in 2022, but further assumed that the Mitchell generating station would continue to operate, included the purchase or construction of 655 MW of additional capacity over the 15-year planning period.

10. The Staff expressed in its February 2021 Report on Kentucky Power's Integrated Resources Plan its concern "that Kentucky Power's reliance on the PCA ["Power Coordination Agreement"], while advantageous for short-term purchases to satisfy winter demand and energy requirements, has allowed it to potentially circumvent state requirements for having sufficient capacity to serve its native load customers, in spirit, if not in fact."[8]

C. Other Events Subsequent To The Approval Of Kentucky Power's Tariff E.D.R.

11. Kentucky Power elected in 2020 not to renew the Rockport Unit Power Agreement, thereby reducing capacity available to the Company by 393 MW. Kentucky Power will have, absent any capacity additions in the interim, total owned capacity of 1,075 MW following the expiration of the Rockport UPA on December 7, 2022.

12. Kentucky Power filed an application in Case No. 2021-00004 seeking a certificate of public convenience and necessity authorizing it to perform Coal Combustion Residuals Rule ("CCR") and Steam Electric Effluent Limitation Guidelines ("ELG")-related work at the Mitchell Generating Station. The Commission denied that portion of Kentucky Power's

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[7] Integrated Resource Plan, *In the Matter of: Electronic 2019 Integrated Resource Planning Report of Kentucky Power Company*, 2019-00443 (Ky. P.S.C. Filed December 20, 2019) ("IRP").

[8] Staff Report, *In the Matter of: Electronic 2019 Integrated Resource Planning Report of Kentucky Power Company*, 2019-00443 App. A at 23 (Ky. P.S.C. February 15, 2021).

application seeking a certificate of public convenience and necessity authorizing the ELG-related work[9] ending Kentucky Power's operation of interest in the generating station after December 31, 2028. Kentucky Power will have, absent any capacity additions in the interim, 295 MW of total owned or contracted capacity after December 31, 2028.[10]

13. Kentucky Power's peak demand in 2020 was 925 MW.[11] Its peak demand in 2021 was 1,065 MW. Kentucky Power's 2019 IRP forecasts a 2029 winter-following peak demand of 1,278 MW and a summer peak demand of 1,017 MW.[12]

14. Kentucky Power will seek Commission approval to acquire short-term additional capacity through the Bridge Power Coordination Agreement ("Bridge PCA") sufficient to meet its PJM load obligation before the expiration of the Rockport Unit Power Agreement. The Company's 2022 Integrated Resource Plan ("IRP") will be filed on or before December 20, 2022. That IRP, and Kentucky Power's preferred plan, will address on a longer term basis Staff's recommendations in its February 15, 2021 Staff report, including Staff's concerns regarding "state requirements for having sufficient capacity to serve its native load customers…."[13]

15. Based on the 2019 IRP forecast, and absent the addition of any capacity additions, or large blocks of load in the interim, Kentucky Power will be required to obtain an additional 983 MW of capacity (excluding the capacity to be acquired through the Bridge PCA before the

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[9] *In the Matter of: Electronic Application Of Kentucky Power Company For Approval Of A Certificate Of Public Convenience And Necessity For Environmental Project Construction At The Mitchell Generating Station, An Amended Environmental Compliance Plan, And Revised Environmental Surcharge Tariff Sheets*, Case No, 2021-00004 at 6 (Ky. P.S.C. July 15, 2021) ("CCR/ELG Order").

[10] *Id*.

[11] *Id*.

[12] IRP at Exhibit C-13.

[13] Staff Report, *In the Matter of: Electronic 2019 Integrated Resource Planning Report of Kentucky Power Company*, 2019-00443 App. A at 23 (Ky. P.S.C. February 15, 2021).

expiration of the Rockport Unit Agreement), at a minimum, for service beginning no later than January 1, 2029 to meet its forecasted 2029 winter following peak demand of 1,278 MW.

Tariff E.D.R. Activity.

16. There were two customers taking service under Tariff E.D.R. as of December 31, 2021. Capacity subject to an E.D.R. contract on December 31, 2021 totaled 4.1 MW. The contracts were for terms ending 2029 (3.6 MW) and 2030 (0.5 MW).

17. The Commission to date in 2022 approved two additional Tariff E.D.R. contracts totaling 35 MW of capacity. Both contracts are for ten-year terms ending 2032. Total remaining authorized capacity under Tariff E.D.R is 210.9 MW.

18. The two E.D.R contracts have produced cumulative capital investment of $74.6 million and 101 jobs.[14]

Need For Expanded Tariff E.D.R. Capacity.

A. Need For Additional Economic Development.

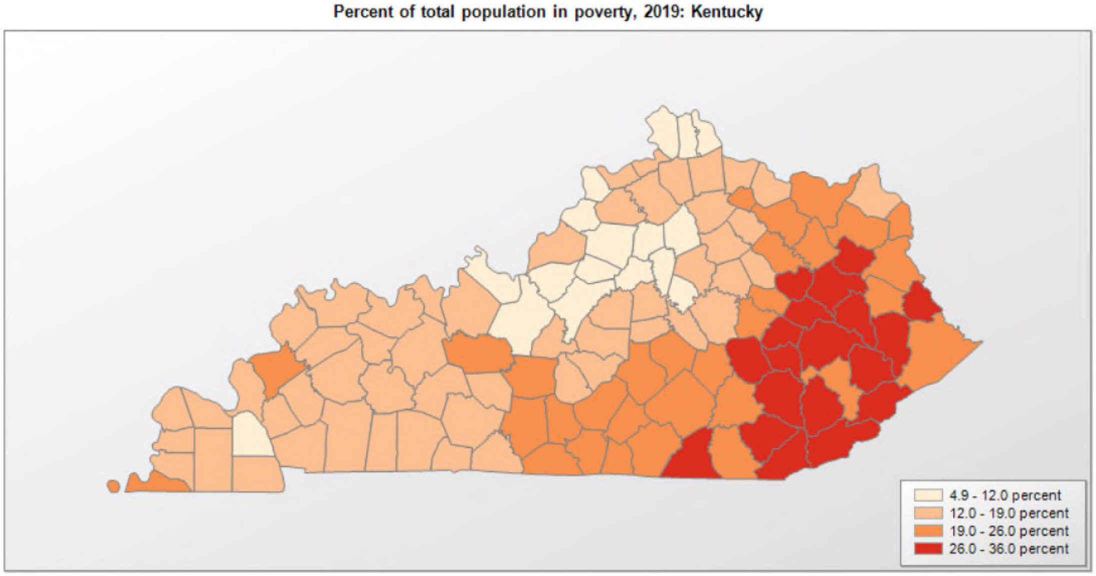
19. Kentucky Power has worked diligently since 2015, when Tariff E.D.R. first was approved, to support economic development in its service territory. In addition to promoting Tariff E.D.R., Kentucky Power fostered economic development through shareholder contributions to economic development projects in its service territory, and through ongoing partnerships with, and support for, economic development organizations and other community leaders. Kentucky Power's shareholder has contributed $2,378,092.62 from 2015 through May 2022 in support of economic development in the Company's service territory.

[14] 2021 Tariff E.D.R. Report, *In the Matter of: The Application Of Kentucky Power Company For (1) Approval Of An Economic Development Rider; (2) For Any Required Deviation From The Commission's Order in Administrative Case No. 327; And (3) All Other Required Approvals And Relief*, Case No. 2014-00336 (Ky. P.S.C. Filed March 25, 2022).

20. Two high profile industrial development projects in Kentucky Power's service territory were announced in 2017. The EnerBlu project subsequently was cancelled. The Braidy Industries Inc. (now Unity Aluminum, Inc.) project has been delayed.

21. Although conditions have improved since the approval of Tariff E.D.R. and the beginning of the economic development contributions by Kentucky Power's shareholder in 2015, the need for economic development continues in the Company's service territory. As reported by the United States Department of Agriculture, Economic Research Service, in 2019 (the most recent year for which data is available) all counties in the Company's service territory other than Greenup County have poverty rates in excess of the statewide poverty rate of 16.0 percent.[15]

Percent of total population in poverty, 2019: Kentucky

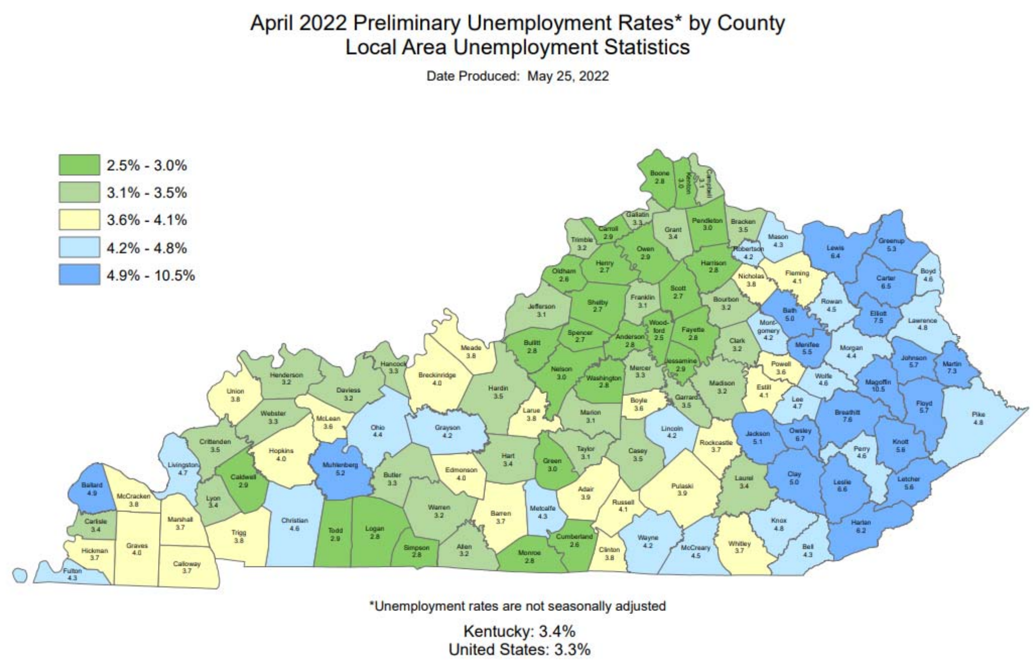


22. The 2019 poverty rates in four counties, Clay (32.6 percent), Leslie (32.3 percent), Martin (34.4 percent), and Owsley (35.5) percent), were more than double the statewide rate. Ten other counties, Breathitt (29.2 percent), Elliot (27.7 percent), Floyd (27.4 percent), Johnson (25.8 percent), Knott (30.5%), Letcher (28.9 percent), Magoffin (29.4 percent), Morgan

[15] https://data.ers.usda.gov/reports.aspx?ID=17826

(26.5 percent), Perry (24.2 percent), and Pike (24.0 percent) have rates that are at least 50% higher than the statewide rate.[16]

23. The Company's service territory also suffers high unemployment. Each of the 20 counties served by Kentucky Power has unemployment rates in excess of the April 2022 state (3.4 percent) and nationwide (3.3 percent) averages.[17]



24. Four counties, Elliott, Martin, Magoffin, and Breathitt, have April 2022 unemployment rates more than double the state average. An additional nine counties, Carter, Floyd, Greenup, Johnson, Knott, Leslie, Letcher, Lewis, and Owsley have April 2022 unemployment rates equal to or in excess of 150 percent (5.1 percent) of the state average.

[16] http://www.ers.usda.gov/data-products/county-level-data-sets/poverty.aspx

[17] https://kylmi.ky.gov/vosnet/analyzer/results.aspx?session=labforce&area=2101000000&timeperiod=20140307&SEASONADJ=false

25. Despite a recent increase in coal mining activity in the Commonwealth, coal mining employment remains severely depressed in comparison to historic levels. Coal mine employment in Eastern Kentucky in the fourth quarter of 2021 (2,702) was 12 percent below fourth quarter 2019 levels, and 64 percent below the level in the quarter immediately preceding the quarter (September 2014) in which the Company filed its application for approval of its Tariff E.D.R.[18] Many of these lost positions were high wage jobs that had a multiplier effect on the area's economic activity.

26. Large industrial activity in the Company's service territory also has declined. Since 2015 large industrial customers in Kentucky Power's service territory, such as AK Steel and Our Lady of Bellefonte Hospital, have shuttered operations. Others, such as Air Products, and some coal mining companies such as Blue Diamond, Cambrian Coal and Massey Coal/Alpha Natural Resources, have reduced operations.

27. The decreased economic activity, scarcity of good paying jobs, and elevated incidence of poverty described above led to a marked loss of population in Kentucky Power's service territory. Although Kentucky's population increased 3.6 percent between the 2010 and 2020 censuses, the population in only one county in Kentucky Power's service territory (Rowan County) increased in the same period.[19] The remaining 19 counties each lost population between 2010 and 2020. The smallest loss was Elliott County (-3.47 percent); the largest loss was suffered by Leslie County, which lost nearly one resident in five (-19.71 percent). The average

[18] Kentucky Energy and Environment Cabinet, Department for Energy Development and Independence, *Kentucky Quarterly Coal Report* (4th Quarter 2021) https://eec.ky.gov/Energy/News-Publications/Quarterly%20Coal%20Reports/2021-Q4.pdf.

[19] https://worldpopulationreview.com/us-counties/states/ky Rowan County's population increased 4.09 percent. *Id*.

percentage population loss between 2010 and 2020 among the 19 counties in the Company's service territory was -10.15 percent.[20]

28. Kentucky Power's total number of customers declined four percent from 2012 (172,859) to 2020 (165,762). The total number of industrial customers declined 18 percent (from 1,368 to 1,120) in the like period.

29. Electric sales have also declined. Kentucky Power's sales declined 13 percent (from 2.312 GWh to 2.051 GWh) between 2014 and 2019 (the last year prior to the COVID-19 pandemic). Sales to industrial customers declined 30 percent from 2.810 GWH to 1.964 GWh during the same period.

30. The decline in population, coupled with the loss of coal mining and other industrial activity, has required that the Company's fixed costs be spread over a diminishing customer and sales base. The result has been an upward pressure on rates.

31. Kentucky Power's Tariff E.D.R. is intended to counter, at least in part, the adverse economic effects of the decline in eastern Kentucky's economy. A growing industrial presence, and consequent increase in the area's economy, can protect and even expand the Company's customer base, thereby avoiding the higher rates that would result from spreading fixed costs over a declining customer base.

B. Current Tariff E.D.R. Activity.

32. Governor Beshear signed HB 230 on March 25, 2021. HB 230, which related to the taxation of the commercial mining of cryptocurrency, was intended "to encourage the

[20] *See id.*

location and expansion of … [the commercial mining of cryptocurrency] in the Commonwealth in furtherance of the General Assembly's findings that:

> access to cost-effective energy is critical to the development and growth of blockchain technology, particularly in the commercial mining of cryptocurrency which requires a substantial and constant supply of electricity; and
>
> the General Assembly has actively encouraged the use and growth of blockchain technology in the Commonwealth…; and
>
> the Commonwealth has an opportunity to become a national leader in the emerging industry of commercial mining of cryptocurrency given its abundant supply of electricity that can be provided at lower rates than most states, and its established infrastructure to provide such energy….[21]

33. Eastern Kentucky, including Kentucky Power's service territory, has extensive electric infrastructure built to serve coal mines that is available to serve cryptocurrency mining facilities following the downturn in the coal industry in eastern Kentucky.

34. Almost 19 percent of the collective computing power in the United States devoted to cryptocurrency mining was located in the Commonwealth as of October 2021.[22] Kentucky Power received in the past 12 months over 100 inquiries from developers searching for cryptocurrency mining facility locations.

35. Kentucky Power currently is in discussions with 11 entities for Tariff E.D.R. contracts for 12 sites.[23] The Company anticipates that if the contracts are approved the demand would go online over the next several years. The total additional capacity subject to the contracts under discussion is 482.5 MW. The three largest contracts under discussion are for 250 MW, 75 MW, and 45 MW of additional capacity.

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[21] 2021 KY. ACTS, Ch. 120.

[22] https://www.kentucky.com/article259880855.html

[23] *See* **EXHIBIT 2**.

36. Each of the 11 entities indicating interest in taking service under Tariff E.D.R. has indicated to Kentucky Power that it will not locate or expand, as the case may be, their planned facilities in Kentucky Power's service territory without the availability of the discounts provided by Tariff E.D.R.

37. The proposed increase in capacity available under Tariff E.D.R. from 250 MW to 550 MW would allow Kentucky Power to meet the requests of the 11 entities seeking service under Tariff E.D.R. and provide a small margin of additional capacity (28.4 MW) to address any additional requests in the future.

Bases Supporting The Requested Relief

38. The potential 482.5 MW (45 percent) increase in Kentucky Power's load represents a sea change for the Company. The potential increased load presents Kentucky Power and its existing customers the opportunity to reverse the long-standing decline in industrial activity in the Company's service territory. Doing so will permit the Company to mitigate, and perhaps reverse, the upward pressure on rates caused by the need to spread fixed costs over a declining number of customers and usage.

39. The proposed increase in load also has the potential to provide other benefits to the Company's service territory. As the Supreme Court of Kentucky noted:

> These reduced gas and electric rates, as the name implies, are intended to promote economic development by encouraging both existing and potential commercial and industrial customers to invest capital in the Commonwealth, thereby creating jobs and stimulating Kentucky's economy.[24]

[24] *Public Service Commission of Kentucky v. Commonwealth*, 320 S.W.3d 660, 662 (Ky. 2010).

A. The Commission's Order In Administrative Case No. 327 And The Provisions Of The Company's Existing Tariff E.D.R. Limiting Economic Development Agreements Under Tariff E.D.R. To Periods Of Excess Capacity.

40. The Commission in Administrative Case No. 327 limited the use of economic development rate contracts to those periods in which the utility has excess capacity:

> The Commission finds that EDRs should only be offered during periods of excess capacity and that each utility should demonstrate, upon submission of each EDR contract, that the load expected to be served during each year of the contract period will not cause the utility to fall below a reserve margin that is considered essential for system reliability…. The Commission concludes that, while the load of EDR customers should not create a need for additional capacity, and EDR should not be withdrawn from a customer already under contract.[25]

41. Kentucky Power's existing Tariff E.D.R. similarly limits the offer of E.D.R. agreements to periods of excess capacity:

> (1) The Company will offer the EDR to customers with new or increased load when the Company has sufficient generating capacity available….
>
> (2) The new or increased load cannot accelerate the Company's plans for additional generating capacity for which the customer receives a demand discount.[26]

42. Kentucky Power will be capacity short, with the expiration of the Rockport Unit Power Agreement, as early as December 2022 even in the absence of the additional capacity to be added in connection with the proposed Tariff E.D.R. agreements. Further, Commission Staff, in commenting on the Company's most recent Integrated Resource Plan, pointed to the need for Kentucky Power to acquire additional capacity to support its existing load and to end reliance on the Power Coordination Agreement.[27] Thus, while increasing the amount of capacity needed to

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[25] Adm. Case No. 327 Order at 5-6.

[26] Kentucky Power Company Tariff Sheet 37-1.

[27] Staff Report, *In the Matter of: Electronic 2019 Integrated Resource Planning Report of Kentucky Power*

be acquired, the proposed Tariff E.D.R. agreements will not, standing alone, "cause the utility to fall below the reserve margin that is considered essential for reliability."[28]

43. Because Kentucky Power will be capacity short even in the absence of the Tariff E.D.R. agreements being negotiated, the Company will be unable to address its urgent need for additional load and customers to allow it to spread fixed costs over a larger base absent a waiver of the Commission's Administrative Case No. 327 Order (and related tariff provisions) limiting the offer of economic development rates to "periods of excess capacity."[29]

44. A copy of the Company's proposed amended Tariff E.D.R (annotated and redline) deleting the Tariff E.D.R. provisions limiting the offer of E.D.R. rates to periods of excess capacity is attached as **EXHIBIT 3**.

45. The Company's request is consistent with, and analogous to, the approach recently sanctioned by the Commission in Case No. 2019-00365.[30] There, Big Rivers and Meade County sought approval of a contract for electric service to Nucor Corporation that provided for discounted demand charges.[31] Because of economic development efforts of the two utilities Big Rivers would be capacity deficient for several years of the proposed Nucor agreement.[32]

Company, 2019-00443 App. A at 23 (Ky. P.S.C. February 15, 2021) ("Staff is concerned that Kentucky Power's reliance on the PCA, while advantageous for short-run purchases to satisfy winter demand and energy requirements, has allowed it to potentially circumvent state requirements for having sufficient capacity to serve its native load customers, in spirit, if not in fact.")

[28] *Id*. at 5.

[29] *Id*.

[30] *In the Matter of: Electronic Application Of Big Rivers Electric Corporation And Meade County Rural Electric Cooperative Corporation For (1) Approval Of Contracts for Electronic Service With Nucor Corporation; And (2) Approval Of Tariff*, Case No. 2019-00365 (Ky. P.S.C. August 17, 2020) ("Big Rivers Order").

[31] *Id*. at 11.

[32] *Id*. at 10.

46. Big Rivers and Meade County asserted that the Nucor agreements would "cover the incremental costs associated with the Nucor facility and … [would] result in Nucor contributing to fixed costs throughout the contract term."[33]

47. The Commission, analyzing the agreements in the fashion used to review economic development rate contracts, approved the agreements subject to the requirement that the two utilities demonstrate as part of any cost-of-service study filed during the term of the agreements that the customers of the two utilities are not adversely affected by the rates paid by Nucor under the agreements.[34] The Commission also required that the utilities file annual reports regarding the financial impact of the Nucor agreements.[35]

48. As is the Company's practice under its existing Tariff E.D.R., and consistent with the requirements imposed by the Commission in Case No. 2019-00365 with respect to the Nucor agreements, the Company will continue to demonstrate through a current marginal cost analysis submitted with each proposed Tariff E.D.R. agreement "that the discounted [Tariff E.D.R.] rate exceeds the total short-run (marginal) costs associated with serving that customer for each year of the discount period."[36] The Company also will include as part of its ongoing annual Tariff E.D.R. reports the incremental costs and revenues associated with each Tariff E.D.R. customer.

49. These provisions, as was the case with the Nucor agreements, will help ensure that any Tariff E.D.R. agreement "exceed variable costs [associated with the agreement]" and

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[33] *Id*. at 5

[34] *Id*. at 11.

[35] *Id*.

[36] Adm. Case No. 327 Order at 8.

contribute to a portion of the utility's fixed costs that otherwise would have been paid by nonparticipating ratepayers."[37]

50. Kentucky Power thus proposes to delete the following provisions of its Tariff E.D.R.:

> (1) The Company will offer the EDR to customers with new or increased load when the Company has sufficient generating capacity available….
>
> (2) The new or increased load cannot accelerate the Company's plans for additional generating capacity for which the customer receives a demand discount.[38]

The Company also seeks a waiver, to the extent required, from the concomitant provisions of the Commission's Order in Administrative Case No. 327. Doing so will allow Kentucky Power and its customers to obtain the benefits of EDRs while protecting customers from bearing the costs associated with any such agreements.

B. <u>Amendment of Tariff E.D.R. To Eliminate The Discount Offset</u>.

51. Kentucky Power's existing terms and conditions of service under Tariff E.D.R. provide for a dollar-for-dollar offset of any discount when the company is required to obtain capacity to provide service to the Tariff E.D.R. customer:

> When sufficient generating capacity is not available, the Company will procure the additional capacity on the customer's behalf. The cost of capacity procured on behalf of the customer shall reduce on a dollar-for-dollar basis the customer's IBDD and SBDD. Such reduction shall be capped so that the customer's maximum demand charge shall be the non-discounted tariff demand charge. The reduction will be applied in reverse chronological order beginning with the most recent customer to receive discounted service under this tariff. The last customer to sign up for the EDR tariff would be the first customer responsible for paying the cost of incremental capacity purchases. In any year during the discount period in

[37] *Id*. at 6-7.

[38] Kentucky Power Company Tariff Sheet 37-1. The Company also proposes to amend Tariff Sheet 37-1 to increase the total program capacity to 550 MW.

> which the customer pays the full tariff demand charge for all twelve months, the Company will reduce the term of the contract by one year.[39]

52. Application of this discount offset tariff requirement when the Company is capacity short would eliminate all or most of any discount available under Tariff E.D.R. to a prospective customer, thereby denying the Company and its other customers the benefits accruing under Tariff E.D.R.

53. Kentucky Power thus proposes to delete the discount offset provision of its Tariff E.D.R. Doing so will allow Kentucky Power and its customers to obtain the benefits of EDRs while protecting them from bearing the costs associated with any such agreements

54. A copy of the Company's proposed amended Tariff E.D.R (annotated and redline) eliminating the discount offset provision is attached as **<u>EXHIBIT 3</u>**.

<u>Exhibits</u>

55. The exhibits listed in the Appendix to this Application are attached to and made a part of this Application.

<u>Request For Expedited Decision</u>

56. Kentucky Power requests a decision at the Commission's earliest convenience and no later than on or before July 11, 2022. The Company is at the end of negotiations with the 250 MW customer and anticipates entering into a Tariff E.D.R. contract with the customer (assuming the requested authority is granted) no later than July 29, 2022.

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[39] Kentucky Power Company Tariff Sheet 37-1.

Communications

57. The Applicant respectfully requests that communications in this matter be addressed to the e-mail addresses identified on Kentucky Power's June 7, 2022 Notice of Election of Use of Electronic Filing Procedures.

WHEREFORE, Kentucky Power Company requests that the Commission issue an Order:

(1) authorizing Kentucky Power to enter into Tariff E.D.R. contracts for up to a total capacity of 550 MW;

(2) approving Kentucky Power's amended Tariff E.D.R. (Economic Development Rider) (**EXHIBIT 3**); and

(3) granting to the extent required any deviations from the Commission's September 24, 1990 Order in Administrative Case No. 327.

(4) Granting Kentucky Power such other relief as may be appropriate.

Respectfully submitted,

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Appendix

Description

EXHIBIT 1 Kentucky Power Company's May 25, 2022 Certificate of Existence

EXHIBIT 2 Approved, Pending, and Proposed E.D.R. Contracts

EXHIBIT 3 Proposed Amended Tariff E.D.R. (annotated and redline)

EXHIBIT 1

Commonwealth of Kentucky
Michael G. Adams, Secretary of State

Michael G. Adams
Secretary of State
P. O. Box 718
Frankfort, KY 40602-0718
(502) 564-3490
http://www.sos.ky.gov

Certificate of Existence

Authentication number: 271173
Visit https://web.sos.ky.gov/ftshow/certvalidate.aspx to authenticate this certificate.

I, Michael G. Adams, Secretary of State of the Commonwealth of Kentucky, do hereby certify that according to the records in the Office of the Secretary of State,

KENTUCKY POWER COMPANY

is a corporation duly incorporated and existing under KRS Chapter 14A and KRS Chapter 271B, whose date of incorporation is July 21, 1919 and whose period of duration is perpetual.

I further certify that all fees and penalties owed to the Secretary of State have been paid; that Articles of Dissolution have not been filed; and that the most recent annual report required by KRS 14A.6-010 has been delivered to the Secretary of State.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal at Frankfort, Kentucky, this 25th day of May, 2022, in the 230th year of the Commonwealth.

Michael G. Adams

Michael G. Adams
Secretary of State
Commonwealth of Kentucky
271173/0028317

<u>EXHIBIT 2</u>

Proposed Tariff EDR Contracts in 2022				
No.	**Status**	**County**	**Type of Business**	**Capacity (MW)**
1	N	Letcher	Cryptocurrency Mining/Data Center	10
2	N	Boyd	Cryptocurrency Mining/Data Center	45
3	N	Letcher	Cryptocurrency Mining/Data Center	30
4	N	Pike	Cryptocurrency Mining/Data Center	7
5	N	Martin	Cryptocurrency Mining/Data Center	30
6	N	Greenup	Metal manufacturing	75
7	N	Boyd	Material handling manufacturing	7
8	N	Perry	Manufacture extruded and fabricated aluminum products	0.5
9	N	Boyd	Distribution facility	5
10	N	Lawrence	Cryptocurrency Mining/Data Center	250
11	N	Martin	Cryptocurrency Mining/Data Center	16
12	N	Martin	Cogeneration facility hosting Cryptocurrency/Data Center	7
			Total	**482.5**

Approved & Pending Tariff EDR Contracts						
No.	**Status**	**Customer**	**Location**	**County**	**Type of Business**	**Capacity (MW)**
1	A	Big Run Power Producers	Near Ashland	Boyd	Landfill Gas Processor	3.6
2	A	Dajcor	Near Chavies, KY	Perry	Manufacture extruded and fabricated aluminum products	0.5
3	A	Cyber Innovations	Belfry Facility	Pike	Cryptocurrency Mining/Data Center	20
4	P	Discover AI	Kimper	Pike	Cryptocurrency Mining/Data Center	15
			Total			**39.1**

Legend for Status:
A = Approved
N = New
P = Pending

Line No.	Reconciliation	
a	Current Tariff EDR MW Cap	250
b	Approved & Pending Tariff EDR Contracts	39.1
c	MW Remaining under Current Cap [a - b]	210.9
d	Proposed Tariff EDR Contracts in 2022	482.5
e	Incremental MW [d - c]	271.6
f	Amount to Increase Tariff EDR Cap	300
	New Tariff EDR Cap	**550**

<u>EXHIBIT 3</u>

TARIFF E.D.R.
(Economic Development Rider)

AVAILABILITY OF SERVICE.

To encourage economic development in the Company's service territory, limited-term reductions in billing demand charges described herein are offered to qualifying new and existing retail customers who make application for service under this Rider.

Service under this Economic Development Rider (EDR) is intended for specific types of commercial and industrial customers whose operations, by their nature, will promote sustained economic development based on plant and facilities investment and job creation. Availability is limited to customers on a first-come, first-served basis until such time as a total of 5~~2~~50 MW of new load has been added to Kentucky Power's system under the EDR. The EDR is available to commercial and industrial customers served under Tariffs L.G.S. and I.G.S. who meet the following requirements:

(1) A new customer must have at least a monthly maximum billing demand of 500 kW. An existing customer must increase its monthly maximum billing demand by at least 500 kW over the current Base Maximum Billing Demand in order to receive the Incremental Billing Demand Discount (IBDD).

(2) A new customer, or the business expansion by an existing customer, will receive a Supplemental Billing Demand Discount (SBDD) for creating and sustaining at least 25 new permanent full time jobs over the contract term at the service location. The Company reserves the right to verify job counts. Failure to demonstrate the creation of new employment positions or to maintain the employment during the contract term will result in the termination of the supplemental discount.

(3) The customer must demonstrate to the Company's satisfaction that, absent the availability of this EDR, the qualifying new or increased electrical demand would be located outside of the Company's service territory or would not be placed in service.

TERMS AND CONDITIONS.

(1) ~~The Company will offer the EDR to qualifying customers with new or increased load when the Company has sufficient generating capacity available. When sufficient generating capacity is not available, the Company will procure the additional capacity on the customer's behalf. The cost of capacity procured on behalf of the customer shall reduce on a dollar-for-dollar basis the customer's IBDD and SBDD. Such reduction shall be capped so that the customer's maximum demand charge shall be the non-discounted tariff demand charge. The reduction will be applied in reverse chronological order beginning with the most recent customer to receive discounted service under this tariff. The last customer to sign up for the EDR tariff would be the first customer responsible for paying the cost of incremental capacity purchases. In any year during the discount period in which the customer pays the full tariff demand charge for all twelve months, the Company will reduce the term of the contract by one year.~~

~~(2) The new or increased load cannot accelerate the Company's plans for additional generating capacity during the period for which the customer receives a demand discount. Customers receiving Temporary Service are not eligible for this EDR.~~

~~(3)~~ To receive service under this EDR, the customer shall make written application to the Company with sufficient information contained therein to determine the customer's eligibility for service. At a minimum, such information must include:

(Cont'd on Sheet 37-2)

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By Authority Of an Order of the Public Service Commission
In Case No. XXXX~~2020-00174~~XXXXX Dated ~~January 13~~XXXX XX, ~~2021~~ XXXX

TARIFF E.D.R. (Cont'd)
(Economic Development Rider)

TERMS AND CONDITIONS-(Cont'd).

a. A description and good faith estimate of the new or increased load to be served during each year of the contract,
b. The number of new employees or jobs that will be added as a result of the new load,
c. A description of the anticipated capital investment,
d. A description of all other federal, state or local economic development tax incentives, grants, or any other incentives or assistance associated with the new or expanded project, and
e. A statement that without the EDR discount, the customer would locate elsewhere or would choose not to expand within Kentucky Power's service territory.

(2~~3~~) For new and existing customers, billing demands for which reductions will be applicable under this EDR shall be for service at a new service location or expanded production at an existing facility and not merely the result of a change of ownership. Relocation of the delivery point of the Company's service, moving existing equipment from another Company-served location or load transfers from another Company-served location do not qualify as a new service location. Relocating existing facilities from within the Company's service territory shall not disqualify the customer from the IBDD as long as the new relocated facility exceeds the Base Maximum Billing Demand of the previous facility by the minimum required amount.

(3~~4~~) For existing customers, billing demands for which deductions will be applicable under this EDR shall be the result of an increase in business activity and not merely the result of resumption of normal operations following a force majeure, strike, equipment failure, renovation or refurbishment, or other such abnormal operating condition. In the event that such an occurrence has taken place prior to the date of the application by the customer for service under this EDR, the monthly Base Maximum Billing Demand shall be adjusted as appropriate for this analysis to eliminate the effects of such occurrence.

(4~~5~~) Service under the EDR will be offered under the applicable Tariff L.G.S. or I.G.S. schedule. An EDR will be filed as a Special Contract and must be approved by the Kentucky Public Service Commission before it can be implemented. The total contract period is equal to twice the number of years for which the customer receives a demand discount. The special contract term will be for two (2), four (4) six (6), eight (8), or ten (10) years only.

(5~~6~~) The IBDD and the SBDD, if applicable, begin when the customer's new or expanded operations are billed for service under this Rider. Temporary jobs created during the construction of new facilities or the expansion phase of existing operations are not eligible to be counted as permanent jobs for the purposes of this EDR.

(~~7~~6) If construction of new or expanded local distribution and/or transmission related facilities by the Company is required in order to provide the additional service, the customer may be required to make a contribution-in-aid of construction (CIAC) for the installed cost of such facilities pursuant to the provisions of the Company's Terms and Conditions of Service. The total cost of the CIAC, including gross-up by the effect of applicable taxes, will be recovered over the life of the EDR contract period, with no less than 80% recovered during the period for which the customer receives a demand discount. If the customer breaches the terms of the contract or ends the contract prematurely, any unpaid contribution-in-aid of construction must be paid to the Company, and any EDR discounts provided to the customer must be repaid to the Company. CIAC payment provided under this Rider supersedes other payment provisions only in the Company's Terms and Conditions Sheet 2-5 Section 9.

(Cont'd on Sheet 37-3)

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TARIFF E.D.R. (Cont'd)
(Economic Development Rider)

TERMS AND CONDITIONS (Cont'd).

(7~~8~~) The L.G.S., and I.G.S. tariffs each contain a monthly minimum billing demand charge provision. The minimum demand charge provision is waived for EDR customers for up to 36 months depending upon the length of the contract. The provision is waived for the first 36 months of a 10 year contract, the first 24 months of an 8 year contract and the first 12 months of a 6 year contract. If during the special contract discount period, the customer's monthly demand falls below the minimum billing demand level for four (4) consecutive months or six (6) months total in a contract year, then the EDR discount will not be applied and the appropriate tariff minimum billing demand charge provision will be in force until the customer achieves the minimum billing demand level. Applicable EDR discounts will be applied to the qualifying incremental maximum billing demand only and will appear as a separate line item on the customer's bill.

DETERMINATION OF MONTHLY QUALIFYING INCREMENTAL BILLING DEMAND.

For the purposes of this Rider, the monthly qualifying incremental billing demand will be calculated in the following manner:

Where the new qualifying incremental demand resides in new facilities (or separate facilities for existing customers), those facilities may be metered on a separate meter according to Tariffs L.G.S., I.G.S., for the current billing period and the incremental billing demand will be calculated based upon that facility's meter readings.

Where the new qualifying incremental demand resides in a customer's existing facility with sufficient service and metering capability to accommodate the business expansion, the qualifying incremental billing demand is equal to demand in excess of the Base Maximum Billing Demand. The Base Maximum Billing Demand for each billing month will be calculated by the Company as the average of the previous three years, corresponding month maximum billing demands, subject to Terms and Conditions Items (3) and (4), and will be agreed to by the customer in advance.

DETERMINATION OF INCREMENTAL BILLING DEMAND DISCOUNT.

Customers meeting all Availability of Service and Terms and Conditions above may contract for service for a period of up to ten (10) years, with a commensurate discount period of up to five (5) years. The qualifying incremental billing demand charge shall be reduced by 50%, 40%, 30%, 20%, 10% in the order of the Customer's choosing at the time of the contract filing. A sample illustration of an (IBDD) for a ten (10) year contract follows:

(a) For the twelve consecutive monthly billings of the first contract year, the qualifying incremental billing demand charge shall be reduced by 50% from the applicable tariff L.G.S. or I.G.S., demand charge;

(b) For the twelve consecutive monthly billings of the second contract year, the qualifying incremental billing demand charge shall be reduced by 40% from the applicable tariff L.G.S. or I.G.S., demand charge;

(c) For the twelve consecutive monthly billings of the third contract year, the qualifying incremental billing demand charge shall be reduced by 30% from the applicable tariff L.G.S. or I.G.S., demand charge;

(Cont'd on Sheet 37-4)

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TARIFF E.D.R.
(Economic Development Rider)

AVAILABILITY OF SERVICE.

To encourage economic development in the Company's service territory, limited-term reductions in billing demand charges described herein are offered to qualifying new and existing retail customers who make application for service under this Rider.

Service under this Economic Development Rider (EDR) is intended for specific types of commercial and industrial customers whose operations, by their nature, will promote sustained economic development based on plant and facilities investment and job creation. Availability is limited to customers on a first-come, first-served basis until such time as a total of 550 MW of new load has been added to Kentucky Power's system under the EDR. The EDR is available to commercial and industrial customers served under Tariffs L.G.S. and I.G.S. who meet the following requirements: T

(1) A new customer must have at least a monthly maximum billing demand of 500 kW. An existing customer must increase its monthly maximum billing demand by at least 500 kW over the current Base Maximum Billing Demand in order to receive the Incremental Billing Demand Discount (IBDD).

(2) A new customer, or the business expansion by an existing customer, will receive a Supplemental Billing Demand Discount (SBDD) for creating and sustaining at least 25 new permanent full time jobs over the contract term at the service location. The Company reserves the right to verify job counts. Failure to demonstrate the creation of new employment positions or to maintain the employment during the contract term will result in the termination of the supplemental discount.

(3) The customer must demonstrate to the Company's satisfaction that, absent the availability of this EDR, the qualifying new or increased electrical demand would be located outside of the Company's service territory or would not be placed in service.

TERMS AND CONDITIONS.

(1) To receive service under this EDR, the customer shall make written application to the Company with sufficient information contained therein to determine the customer's eligibility for service. At a minimum, such information must include: TD

(Cont'd on Sheet 37-2)

TARIFF E.D.R. (Cont'd)
(Economic Development Rider)

TERMS AND CONDITIONS-(Cont'd).

a. A description and good faith estimate of the new or increased load to be served during each year of the contract,
b. The number of new employees or jobs that will be added as a result of the new load,
c. A description of the anticipated capital investment,
d. A description of all other federal, state or local economic development tax incentives, grants, or any other incentives or assistance associated with the new or expanded project, and
e. A statement that without the EDR discount, the customer would locate elsewhere or would choose not to expand within Kentucky Power's service territory.

(2) For new and existing customers, billing demands for which reductions will be applicable under this EDR shall be for service at a new service location or expanded production at an existing facility and not merely the result of a change of ownership. Relocation of the delivery point of the Company's service, moving existing equipment from another Company-served location or load transfers from another Company-served location do not qualify as a new service location. Relocating existing facilities from within the Company's service territory shall not disqualify the customer from the IBDD as long as the new relocated facility exceeds the Base Maximum Billing Demand of the previous facility by the minimum required amount. T

(3) For existing customers, billing demands for which deductions will be applicable under this EDR shall be the result of an increase in business activity and not merely the result of resumption of normal operations following a force majeure, strike, equipment failure, renovation or refurbishment, or other such abnormal operating condition. In the event that such an occurrence has taken place prior to the date of the application by the customer for service under this EDR, the monthly Base Maximum Billing Demand shall be adjusted as appropriate for this analysis to eliminate the effects of such occurrence. T

(4) Service under the EDR will be offered under the applicable Tariff L.G.S. or I.G.S. schedule. An EDR will be filed as a Special Contract and must be approved by the Kentucky Public Service Commission before it can be implemented. The total contract period is equal to twice the number of years for which the customer receives a demand discount. The special contract term will be for two (2), four (4) six (6), eight (8), or ten (10) years only. T

(5) The IBDD and the SBDD, if applicable, begin when the customer's new or expanded operations are billed for service under this Rider. Temporary jobs created during the construction of new facilities or the expansion phase of existing operations are not eligible to be counted as permanent jobs for the purposes of this EDR. T

(6) If construction of new or expanded local distribution and/or transmission related facilities by the Company is required in order to provide the additional service, the customer may be required to make a contribution-in-aid of construction (CIAC) for the installed cost of such facilities pursuant to the provisions of the Company's Terms and Conditions of Service. The total cost of the CIAC, including gross-up by the effect of applicable taxes, will be recovered over the life of the EDR contract period, with no less than 80% recovered during the period for which the customer receives a demand discount. If the customer breaches the terms of the contract or ends the contract prematurely, any unpaid contribution-in-aid of construction must be paid to the Company, and any EDR discounts provided to the customer must be repaid to the Company. CIAC payment provided under this Rider supersedes other payment provisions only in the Company's Terms and Conditions Sheet 2-5 Section 9. T

(Cont'd on Sheet 37-3)

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TARIFF E.D.R. (Cont'd)
(Economic Development Rider)

TERMS AND CONDITIONS (Cont'd).

(7) The L.G.S., and I.G.S. tariffs each contain a monthly minimum billing demand charge provision. The minimum demand charge provision is waived for EDR customers for up to 36 months depending upon the length of the contract. The provision is waived for the first 36 months of a 10 year contract, the first 24 months of an 8 year contract and the first 12 months of a 6 year contract. If during the special contract discount period, the customer's monthly demand falls below the minimum billing demand level for four (4) consecutive months or six (6) months total in a contract year, then the EDR discount will not be applied and the appropriate tariff minimum billing demand charge provision will be in force until the customer achieves the minimum billing demand level. Applicable EDR discounts will be applied to the qualifying incremental maximum billing demand only and will appear as a separate line item on the customer's bill. T

DETERMINATION OF MONTHLY QUALIFYING INCREMENTAL BILLING DEMAND.

For the purposes of this Rider, the monthly qualifying incremental billing demand will be calculated in the following manner:

Where the new qualifying incremental demand resides in new facilities (or separate facilities for existing customers), those facilities may be metered on a separate meter according to Tariffs L.G.S., I.G.S., for the current billing period and the incremental billing demand will be calculated based upon that facility's meter readings.

Where the new qualifying incremental demand resides in a customer's existing facility with sufficient service and metering capability to accommodate the business expansion, the qualifying incremental billing demand is equal to demand in excess of the Base Maximum Billing Demand. The Base Maximum Billing Demand for each billing month will be calculated by the Company as the average of the previous three years, corresponding month maximum billing demands, subject to Terms and Conditions Items (3) and (4), and will be agreed to by the customer in advance.

DETERMINATION OF INCREMENTAL BILLING DEMAND DISCOUNT.

Customers meeting all Availability of Service and Terms and Conditions above may contract for service for a period of up to ten (10) years, with a commensurate discount period of up to five (5) years. The qualifying incremental billing demand charge shall be reduced by 50%, 40%, 30%, 20%, 10% in the order of the Customer's choosing at the time of the contract filing. A sample illustration of an (IBDD) for a ten (10) year contract follows:

(a) For the twelve consecutive monthly billings of the first contract year, the qualifying incremental billing demand charge shall be reduced by 50% from the applicable tariff L.G.S. or I.G.S., demand charge;

(b) For the twelve consecutive monthly billings of the second contract year, the qualifying incremental billing demand charge shall be reduced by 40% from the applicable tariff L.G.S. or I.G.S., demand charge;

(c) For the twelve consecutive monthly billings of the third contract year, the qualifying incremental billing demand charge shall be reduced by 30% from the applicable tariff L.G.S. or I.G.S., demand charge;

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