COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF THE FUEL ADJUSTMENT CLAUSE REGULATION 807 KAR 5:056, PURCHASED POWER COSTS, AND RELATED COST RECOVERY MECHANISMS	))))))	**Case No. 2022-00190**

JOINT RESPONSE OF BIG RIVERS ELECTRIC CORPORATION, JACKSON PURCHASE ENERGY CORPORATION, KENERGY CORP., AND MEADE COUNTY RURAL ELECTRIC COOPERATIVE CORPORATION

Big Rivers Electric Corporation ("*Big Rivers*"), by counsel, and on behalf of itself and its three member distribution cooperatives, Jackson Purchase Energy Corporation ("*Jackson Purchase*"), Kenergy Corp. ("*Kenergy*"), and Meade County Rural Electric Cooperative Corporation ("*Meade County RECC*") (collectively, the "*Members*"), respectfully submits this joint response to the Public Service Commission's (the "*Commission*") Order dated August 13, 2026 ("*August 13 Order*"), which directs each electric generator utility to file comments related to several topics related to 807 KAR 5:056, the FAC Regulation, including proposed amendments.

I. INTRODUCTION AND PROCEDURAL SUMMARY

This proceeding arises from the Commission's ongoing examination of the Fuel Adjustment Clause ("FAC") regulation, 807 KAR 5:056, and related cost recovery mechanisms. The Commission initiated this administrative investigation by

Order dated November 2, 2022, which directed Kentucky's jurisdictional electric generators to file comments addressing the operation, effectiveness, and potential reform of the FAC regulation. In response to that Order, Big Rivers and its Members, Louisville Gas and Electric Company and Kentucky Utilities Company, Kentucky Power Company, East Kentucky Power Cooperative, Inc., Duke Energy Kentucky, Inc., and numerous intervenors—including the Office of the Attorney General, Kentucky Industrial Utility Customers, Inc., and consumer and environmental advocacy organizations—filed initial comments and replies.

On December 5, 2022, Big Rivers, on behalf of itself and its Members, filed joint comments in response to the November 2, 2022, Order. In those comments, Big Rivers described its role as a generation and transmission cooperative, underscored the necessity of timely recovery of prudently incurred fuel and purchased power costs, and explained that the existing FAC mechanism has functioned as intended. Big Rivers explained that fuel cost volatility reflects underlying market conditions rather than any structural flaw in the FAC, which functions as a transparent, dollar-for-dollar recovery mechanism for actual fuel costs without providing a return to the utility.

Big Rivers further cautioned against mandatory changes that would defer recovery of actual fuel costs, such as rolling averages or other smoothing mechanisms, noting that fuel and purchased power costs comprise a substantial portion of total expenses and that delayed recovery could adversely affect liquidity and financial stability. At the same time, Big Rivers recognized the Commission's longstanding practice of allowing, on a case-specific basis, the temporary spreading of unusually high FAC charges to mitigate customer bill impacts. Big Rivers concluded that no changes to the FAC regulation were warranted at that time but encouraged the Commission to employ a collaborative process if it chose to consider proposals advanced by other parties.

Other responding parties provided comments grounded in their respective operational, market, and ratemaking experiences under the FAC. These comments discussed fuel-cost volatility, review processes, and potential adjustments to cost-recovery mechanisms, with some utilities expressing support for the current framework and others identifying areas where additional flexibility might be warranted. The record reflects a range of views on whether changes to the FAC regulation are necessary.

More recently the Commission issued its Order dated March 10, 2026, identifying specific proposed changes to 807 KAR 5:056 and directing the filing of responses addressing those proposals and other related topics.

On May 11, 2026, Big Rivers and its Members filed a Joint Response. The following responses solely address the specific proposed changes identified by the Commission in its March 10th Order, and do not revisit broader issues. These responses are offered to assist the Commission's review and simultaneously highlight that the proposed changes involve complex considerations across utilities with differing operational structures, ownership models, generation portfolios, and market participation. Those considerations warrant careful evaluation to ensure any resulting changes are fair, consistent, and administrable within the FAC framework.

Big Rivers further notes that the Commission's March 10th Order reflects an interest not only in modifying calculation mechanics, but also in identifying a potential alternative FAC formula that may be incorporated into regulation as an option. Big Rivers' comments therefore address not only whether the Commission's proposed formula changes when applied to historical data reduce volatility, but also whether they comport with foundational FAC principles, including timely recovery, matching of revenues and expenses, financial integrity, and administrative feasibility.

Following review of the parties' May 11, 2026 responses, the Commission entered its Order dated August 13, 2026, finding that additional comments should be filed regarding several issues associated with potential amendments to 807 KAR 5:056. Specifically, the Commission requested further comments concerning implementation of an annual FAC review process, procedural mechanisms for implementation of Senate Bill 172 and requests for extended recovery of FAC-eligible costs, a potential "stagnant rate" FAC option under which a constant FAC factor would be charged for a 12-month period with an annual true-up, procedures governing requests for regulatory asset treatment, and related implementation considerations. The Commission also scheduled an informal conference for October 12, 2026, to discuss the responses and proposed changes to the FAC regulation.

Accordingly, Big Rivers and its Members submit the following response to the Commission's August 13, 2026 Order. These comments are limited to the additional topics identified by the Commission and are intended to assist the Commission in evaluating the practical, operational, financial, and regulatory implications of the proposals under consideration. Consistent with Big Rivers' prior filings, these comments are guided by the principles of timely recovery of prudently incurred costs, reasonable alignment of cost incurrence and recovery, transparency, administrative feasibility, and preservation of the financial integrity of Kentucky's jurisdictional electric utilities.

II. RESPONSES TO THE COMMISSION'S AUGUST 13 ORDER

A. IMPLEMENTATION OF AN ANNUAL REVIEW

The Commission seeks comments regarding implementation of an annual review process, including the optimal review period and the appropriate timing for transitioning from the current review structure to an annual review.

Big Rivers and its Members respond as follows:

Transitioning the FAC review from the current six-month and two-year cycles to an annual review will streamline the Commission's oversight process. This adjustment would be expected to reduce the volume of cases while enabling utilities to reset the base FAC factor in a timelier manner, thereby mitigating the need for large, volatile adjustments when resetting the FAC Base Rate. This adjustment would allow the utilities to continue to update the FAC factor monthly and continue to recover their incurred costs in a timely manner.

Big Rivers does not have a request to select a specific review period or an implementation date for the change except to recommend it align with one of the current six-month review cycles.

B. FURTHER COMMENTS ON SENATE BILL 172 REGULATION CHANGE AND PROPOSED REGULATION AMENDMENTS

The Commission seeks additional comments regarding implementation of Senate Bill 172, whether amendments to 807 KAR 5:056 are necessary, and the procedural requirements associated with requests to extend the recovery period of FAC-eligible costs. The Commission also requests comments regarding whether notice alone would be sufficient or whether Commission approval would be required.

Big Rivers and its Members respond as follows:

Big Rivers supports clarifications to 807 KAR 5:056 Section 2(4) that implement Senate Bill 172 in a manner that preserves timely recovery of prudently incurred fuel costs, ensures extended recovery is optional and utility-initiated, and applies a disciplined, fact-specified reasonableness review. The clarifications should include the details which would need to be included in the notice filing to the Commission.

When a utility elects to defer the recovery of fuel and energy costs to subsequent periods, Big Rivers proposes that such action should require only a written notice filed concurrently with the standard monthly filing. To ensure regulatory certainty and preserve the timely recovery of costs, any formal denial of this deferral must be issued to the utility at least five business days prior to the subsequent monthly filing deadline.

C. THE "STAGNANT RATE" OPTION

The Commission seeks comments regarding a hypothetical "stagnant rate" option, including how the FAC factor would be established for a twelve-month period, concerns associated with such an approach, and the timing of annual reviews if such a mechanism were adopted.

Big Rivers and its Members respond as follows:

Implementing a hypothetical "stagnant rate" mechanism could mitigate FAC volatility, though it introduces distinct challenges. Under this framework, the initial rate could be established using a rolling two-year historical average of prior FAC Factor. The utility should have supporting data that justifies the "stagnant rate."

A "stagnant rate" mechanism introduces material financial and regulatory risks, including cash-flow pressure, margin volatility, constrained capital access and potential adverse credit ratings actions. The annual "true-up" could result in substantial deferred balances particularly following severe weather-driven demand or price fluctuation.

The transition to an annual FAC review could align with one of the current six-month review cycles following the first full year of the hypothetical "stagnant rate" implementation.

D. REGULATORY ASSET TREATMENT

The Commission seeks further comments regarding the process for requesting regulatory asset treatment, the timing of such requests, and the anticipated timeframe for Commission action.

Big Rivers and its Members respond as follows:

The regulation should automatically authorize the establishment of a regulatory asset when a utility elects to extend the period of recovery of fuel and net energy costs and files notice of such election with the monthly FAC filing.

Big Rivers notes that implementation of any regulatory accounting mechanism should recognize that not all utilities are similarly situated. As a Rural Utilities Service (RUS) borrower, Big Rivers is required to obtain RUS approval prior to requesting that the Commission authorize the establishment of regulatory accounts pursuant to 7 CFR § 1767.13, which provides RUS with a review period of up to 90 days for such requests. As a result, RUS borrowers face additional timing considerations not faced by non-RUS borrowers. For example, if the necessary approvals cannot be obtained before financial reporting deadlines, particularly near year-end, the utility could be prevented from recording a regulatory asset and could experience a negative impact on reported net margins. Any change to the FAC regulation that reduces the approval timeline and provides greater certainty regarding the availability of regulatory accounting would be beneficial to RUS borrowers and would put RUS borrowers on a more even footing with non-RUS borrowers.

For that reason, Big Rivers requests that the proposed amendments to 807 KAR 5:056 include the automatic allowance of a regulatory asset upon a utility requesting the extension of the recovery of fuel and net energy costs, without the need to file a separate request to establish the regulatory asset.

Since the request would be event-driven and directly tied to the utility's election to extend recovery of fuel and net energy costs, timely Commission action would be important to provide accounting and regulatory certainty regarding the deferred balances. The request for Regulatory Asset should be approved within 30 days as these would be "event" driven requests and should therefore not happen often.

III. CONCLUSION

In summary, Big Rivers and its Members appreciate the recognition and careful examination by the Commission of the need to balance the volatility with respect to cost recovery. Big Rivers and its Members are prepared to work collaboratively with the Commission and other utilities to ensure that any FAC amendments remain administrable, equitable, and consistent with the fundamental ratemaking principles.

Filed this 11th day of September, 2026.

Respectfully submitted,

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