

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

In The Matter Of: Electronic Application Of Kentucky Power :  
Company For (1) A General Adjustment Of Its Rates For Electric :  
Service; (2) Approval Of Tariffs And Riders; (3) Approval Of : **Case No 2023-00159**  
Accounting Practices To Establish Regulatory Assets And :  
Liabilities; (4) A Securitization Financing Order; And (5) All :  
Other Required Approvals and Relief. :

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**BRIEF OF  
KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.**

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Kentucky Industrial Utility Customers, Inc. (“KIUC”) submits this Brief in support of its recommendations to the Kentucky Public Service Commission (“Commission”) in the above-captioned proceeding.

**INTRODUCTION**

On June 29, 2023, Kentucky Power Company (“Kentucky Power” or “Company”) filed an application requesting an annual increase in retail electric rates totaling \$93,935,727, or 13.54%. Kentucky Power also requested, *inter alia*, authority to create a new Securitization Financing Rider (“SFR”) to recover the costs associated with issuing approximately \$446.7 million in securitized bonds to finance regulatory assets totaling approximately \$471.2 million, to establish a new Distribution Reliability Rider (“DRR”) to recover capital and incremental operations and maintenance expenses associated with projects to improve the reliability and resiliency of the Company’s distribution system, to create a voluntary seasonal residential tariff option, to use a financial hedging plan to mitigate the volatility of PJM market purchases, to create a new distributed solar garden program, to increase the Residential Energy Assistance surcharge and Company match, to amend its Federal Tax Cut and Environmental Surcharge tariffs, and to discontinue PJM OATT cost tracking through Tariff P.P.A.

After multiple rounds of discovery, the filing of intervenor testimony, and a series of meetings held in November 2023, a settlement was reached among most of the parties in this case, including Kentucky Power, KIUC, Walmart, Inc., Mountain Association, Appalachian Citizens’ Law Center, Kentuckians for the Commonwealth, and Kentucky Solar Energy Society (collectively, the “Signatory Parties”). That Settlement was filed November 17, 2023 (the “Settlement”). The other parties to this case - the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention (“AG”) and SWVA Kentucky, LLC – represent that they do not oppose the Settlement. A hearing on the Settlement took place November 28 through November 30. KIUC now recommends that the Commission approve the Settlement as filed.

## **ARGUMENT**

### **I. THE SETTLEMENT PROVIDES SIGNIFICANT BENEFITS TO CUSTOMERS.**

The Settlement package represents a significant improvement as compared to Kentucky Power’s filed position. One major benefit of the Settlement is that it reduces the total base rate increase from the proposed \$93.9 million to approximately \$74.67 million, or 10.76% (incorporating a return-on-equity of 9.75% on base rates and 9.65% on riders).<sup>1</sup> Kentucky Power accepts the majority of rate base adjustments and several operating expense adjustments proposed by AG/KIUC witness Kollen, reducing costs for customers.<sup>2</sup> The Company also agrees not to recover approximately \$15.54 million in peaking unit equivalent costs that were not recoverable in the Fuel Adjustment Clause – a concession that prevents extended litigation on the matter.<sup>3</sup> When combined with the proposed changes to the Decommissioning Rider and

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<sup>1</sup> Settlement at 4-5; Testimony of Brian K. West in Support of the Settlement Agreement (“West Settlement Testimony”) at 7:5-9; 8:14-18; Testimony of Katherine I. Walsh in Support of the Settlement Agreement at 2:8-3:7.

<sup>2</sup> Settlement at 6-9; West Settlement Testimony at 11:5-13.

<sup>3</sup> Settlement at 9; West Settlement Testimony at 14:8-14.

Tariff P.P.A., the Settlement would result in a 3.2% total bill increase for a residential customer using 1,500 kWh per month.<sup>4</sup>

The Settlement also recommends that the Commission adopt the Company's proposal to issue a financing order and establish the SFR to recover the costs associated with issuing approximately \$446.7 million in securitized bonds to finance regulatory assets totaling approximately \$471.2 million pursuant to KRS 278.670 *et seq.*<sup>5</sup> This approach benefits customers by recovering the prudently incurred costs over a longer period of time and at a lower interest rate than would otherwise apply. The Company projects that the net present value benefit to customers of securitizing the deferred costs is approximately \$74 million.<sup>6</sup> In response to Commission Staff's Post-Hearing Data Requests, assuming a 5% interest rate and approval of the Settlement, Kentucky Power estimated that a residential customer using 1313 kWh per month would see a 8.68% bill increase once the SFR becomes effective.<sup>7</sup> The settled outcome reasonably balances rate impacts to customers while ensuring the Company's financial health and paying off outstanding assets.

Additionally, the Settlement protects customers by establishing reasonable constraints for the new DRR, including limiting its term to five years, requiring Kentucky Power to file an annual work plan, capping DRR increases at 1% of the Company's prior five-year average total retail revenues (adjusted for inflation), and establishing an annual baseline threshold amount.<sup>8</sup> And the Settlement contains benefits for residential customers specifically, including additional financial assistance for vulnerable residential customers, revised disconnection standards, and a favorable cost allocation.<sup>9</sup> The cost allocation in particular continues subsidization of the

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<sup>4</sup> Settlement at 4. This calculation excludes the additional increase resulting from the proposed SFR.

<sup>5</sup> Settlement at 9.

<sup>6</sup> Messner Direct Testimony at 7-11 and Ex. FDM-1.

<sup>7</sup> Response to Commission Staff's Post-Hearing Data Requests, Item No. 7, Attachment 1.

<sup>8</sup> Settlement at 10-11; West Settlement Testimony at 16:1-17:19.

<sup>9</sup> Settlement at 5, 11-13; West Settlement Testimony at 18:14-20:3; Hearing Tr. (November 28, 2023) at 9:52:38.

residential rate class, with all other rate classes remaining above cost of service.<sup>10</sup> Finally, the Settlement furthers environmental interests by updating the Company's solar garden proposal and committing the Company to work with Signatory Parties on its demand-side management/energy efficiency programs.<sup>11</sup>

## **II. THE COMMISSION CAN AND SHOULD ADDRESS OTHER OUTSTANDING KENTUCKY POWER ISSUES IN PENDING PROCEEDINGS.**

The Settlement provides for a comprehensive and reasonable resolution of the matters at issue in this proceeding. While several major issues surrounding Kentucky Power will continue to exist even if the Settlement is approved, the Commission has pending proceedings in which to address those issues. For instance, at the hearing, Chairman Chandler raised issues surrounding Kentucky Power's transmission rates, its generation resource adequacy, and the Mitchell generating station.<sup>12</sup> Vice Chair Hatton likewise raised generation adequacy issues.<sup>13</sup> These issues can and likely will be raised again in Case No. 2021-00370 – the Commission's investigation of Kentucky Power's service, rates, and facilities. Such issues may also be central to the pending Integrated Resource Plan proceeding, Case No. 2023-00092. Moreover, while Kentucky Power's transmission rates are certainly of concern to the Company's customers, the Settlement's resolution with respect to transmission is reasonable and consistent with the scope of this base rate proceeding. Transitioning transmission cost recovery out of a rider and back into base rates protects customers by providing for more comprehensive review of transmission costs within the context of Kentucky Power's larger rate structure and by providing the Company an incentive to manage transmission spending between rate cases.

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<sup>10</sup> Settlement Ex. 3.

<sup>11</sup> Settlement at 11 and 14; West Settlement Testimony at 18:1-13 and 22:3-23:4.

<sup>12</sup> Hearing Tr. (November 28, 2023) at 10:24:30, 11:54:22, 13:55:42, 13:57:53.

<sup>13</sup> Hearing Tr. (November 28, 2023) at 10:05:57.

**CONCLUSION**

**WHEREFORE**, for the reasons discussed above, the Commission should approve the Settlement as filed.

Respectfully submitted,

*/s/ Michael L. Kurtz* \_\_\_\_\_

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