

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

ELECTRONIC APPLICATION OF)
KENTUCKY POWER COMPANY FOR (1) AN)
ORDER APPROVING THE TERMS AND)
CONDITIONS OF THE RENEWABLE)
ENERGY PURCHASE AGREEMENT FOR)
SOLAR ENERGY RESOURCES BETWEEN)
KENTUCKY POWER COMPANY AND)
BRIGHT MOUNTAIN SOLAR, LLC; (2)) Case No. 2024-00243
AUTHORIZATION TO ENTER INTO THE)
AGREEMENT; (3) RECOVERY OF COSTS)
THROUGH TARIFF P.P.A.; (4) APPROVAL)
OF ACCOUNTING PRACTICES TO ESTABLISH)
A REGULATORY ASSET; AND (5) ALL OTHER)
REQUIRED APPROVALS AND RELIEF)

POST-HEARING RESPONSE BRIEF
OF THE ATTORNEY GENERAL AND KIUC

The Attorney General of the Commonwealth of Kentucky, through his Office of Rate Intervention (“Attorney General”) and Kentucky Industrial Utility Customers, Inc. (“KIUC”) (collectively “AG/KIUC”) submit this Post-Hearing Response Brief.

The Commission should not approve Kentucky Power Company’s (“Kentucky Power” or “Company”) request to enter into an 80 MW Renewable Energy Purchase Agreement (“REPA”) with Bright Mountain Solar, LLC (“Bright Mountain”).

1. The REPA Is Not A Hedge; It Is A Risky Gamble For Ratepayers.

The Company's Brief uses the word "hedge" at least seven times, but this project is not a "hedge". A hedge is a way of protecting against loss and compensating for risk. Not only does this project guarantee a loss, because it locks ratepayers into purchases that are more expensive than the alternative, it is highly risky because the REC market is uncertain and volatile.

The forecasted monetized value of the RECs in the Company's economic analyses is highly speculative.¹ REC prices could decline as markets for other environmental allowances have over time. In fact, it is possible that the RECs could end up having no value at all.² The most likely result is that the RECs are able to be monetized at some value which is greater than zero, but less than the amount assumed by the Company. Thus, Kentucky Power's plan to only lose \$4.7 million is based on assumptions that are likely to prove untrue. The cost increases driven by the failure of these assumptions will likely drive customer losses much higher.

2. The REPA Will Not Aid Economic Development.

Kentucky Power states, "[t]here has been an increase in economic development projects where potential customers sought to have their electrical energy sourced from a renewable resource."³ There is no doubt that certain businesses demand energy with green attributes. For instance, Toyota recently procured 111 MW of nameplate solar

¹ Direct Testimony of Wellborn at 9.

² *Id.*

³ Kentucky Power Brief at 9.

resources in Martin County.⁴ But that is an individual customer choice, not a mandate imposed on ratepayers who cannot afford that luxury.

True economic development is created by keeping energy costs as low as possible, and this proposal does the opposite, increasing costs without justification. Under even the most-optimistic analysis, every residential ratepayer's bill will increase by at least \$0.29 per month in the first year to receive nothing, because the \$0.29 is in addition to what it would cost to otherwise procure the energy and capacity produced by this project. This unnecessary cost reduces the buying power of consumers and will hurt the local economy. This is a bad deal and hurts economic development because it unnecessarily increases rates.

As a result of the Franklin Circuit Remand Order, residential customers will experience a \$14.2 million annual rate increase. That is about \$9 per month for the average residential consumer.⁵ In addition, all customers will soon receive a rate increase when the securitization surcharge becomes effective. We realize that securitization will save consumers money by eliminating the Big Sandy decommissioning rider and reducing other rates, but it will be a rate increase nevertheless. The Bright Mountain PPA will only make matters worse.

3. The Prospect Of Price Renegotiation Favors Rejection Of The Contract.

⁴ *Larger, Varied Solar Projects Lower Toyota's Carbon Footprint in Woolly Ways*, <https://pressroom.toyota.com/larger-varied-solar-projects-lower-toyotas-carbon-footprint-in-wooly-ways/>

⁵ \$14.2 million / 1,755,606,000 annual residential KWh x 1,116 KWh average monthly residential usage = \$9.02.

Kentucky Power represents that the costs for the contract are fixed, but that may not be true.⁶ Kentucky Power acknowledges that because, “there is always the possibility that Bright Mountain could request renegotiations, the Company negotiated for several protections in the Bright Mountain REPA.”⁷ AG/KIUC would submit that it is not only possible, but likely that the price of the project will escalate. The Commission has witnessed this repeatedly in other territories, including Big Rivers and LG&E/KU. Solar developers have routinely opted out of deals when the economics were no longer in their favor.

The developer of Bright Mountain is Avangrid Renewables, LLC, a single purpose entity whose parent company has \$10 billion of operating assets. If the project is economically viable, then Avangrid should develop it on a merchant basis without ratepayers as the guarantor.

Conclusion

Put simply, the REPA is not economical. That is a fact acknowledged by the Company. It is simply a “green herring”, nothing more than a high-cost energy purchase that will impose unnecessary and unreasonable costs and risks on customers. The Commission should eliminate this risk by denying approval of the REPA.

⁶ Kentucky Power Brief at 7.

⁷ Kentucky Power Brief at 7.

Respectfully submitted,

RUSSELL COLEMAN
ATTORNEY GENERAL



J. MICHAEL WEST
LAWRENCE W. COOK
ANGELA M. GOAD
JOHN G. HORNE II
ASSISTANT ATTORNEYS GENERAL
1024 CAPITAL CENTER DRIVE
SUITE 200
FRANKFORT, KY40601
PHONE: (502) 696-5433
FAX: (502) 564-2698
Michael.West@ky.gov
Larry.Cook@ky.gov
Angela.Goad@ky.gov
John.Horne@ky.gov

/s/ Michael L. Kurtz
Michael L. Kurtz, Esq.
Jody Kyler Cohn, Esq.
BOEHM, KURTZ & LOWRY
425 Walnut Street, Suite 2400
Cincinnati, Ohio 45202
Ph: 513.421.2255 fax: 513.421.2764
mkurtz@bkllawfirm.com
jkylercohn@BKLawfirm.com

February 28, 2025

Certificate of Service and Filing

Pursuant to the Commission's Orders and in accord with all other applicable law, Counsel certifies that, on February 28, 2025, a copy of the foregoing was served via the Commission's e-filing system.

This 28th day of February, 2025.



Assistant Attorney General