

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF BIG SANDY)
RURAL ELECTRIC COOPERATIVE CORPORATION) CASE NO. 2024-00287
FOR A GENERAL ADJUSTMENT OF RATES)

ATTORNEY GENERAL’S POST-HEARING BRIEF

The Intervenor, the Attorney General of the Commonwealth of Kentucky, through his Office of Rate Intervention (“Attorney General”) submits the following Post-Hearing Brief to the Kentucky Public Service Commission (“Commission”) in the above-styled matter.

STATEMENT OF THE CASE

Big Sandy Rural Electric Cooperative Corporation (“Big Sandy RECC” or the “Company”) is a not-for-profit, member-owned, rural electric distribution cooperative organized under KRS Chapter 279.¹ The Company distributes retail electric power to approximately 12,733 member customers in the Kentucky counties of Breathitt, Floyd, Johnson, Knott, Lawrence, Magoffin, Martin, and Morgan.² Big Sandy RECC purchases its power requirements from East Kentucky Power Cooperative, Inc. (“EKPC”).³ The Company is a utility subject to the rates and service jurisdiction of the Commission.⁴

On August 30, 2024, Big Sandy RECC filed its notice of intent to file an application for a general adjustment of rates. The Company subsequently filed its application on October 1, 2024,

¹ Application, paragraph 1.

² *Id.*

³ *Id.*, Exhibit 31.

⁴ *Id.* at paragraph 1.

utilizing a historic test year ending December 31, 2023, which included adjustments for alleged known and measurable changes.⁵ The Commission issued an Order on October 18, 2024, which set out a procedural schedule for the parties to follow in the pending case. The Commission granted intervention to the Attorney General by Order dated October 25, 2024.

In the application, Big Sandy RECC originally requested an increase in revenues totaling \$3,457,517 per year, or 13.34% over current revenues, to achieve a Times Interest Earned Ratio (“TIER”) of 2.0.⁶ The Company is also requesting to increase the residential monthly customer charge from \$21.95 to \$29.00,⁷ or a 32.12% increase. The Attorney General and Commission Staff each propounded several rounds of discovery to Big Sandy RECC, to which the Company filed responses into the record. On January 3, 2025, the Attorney General filed direct testimony into the record of his expert witness Mr. Greg R. Meyer (“Mr. Meyer”), as well as filed responses to discovery requests on January 31, 2025. The Company filed rebuttal testimony on February 10, 2025. An evidentiary hearing was conducted on February 18, 2025. Big Sandy RECC then filed responses to post-hearing discovery requests on February 28, 2025. The pending case will stand submitted for a decision on the record on March 13, 2025.

ARGUMENT

Pursuant to KRS 278.190(3), Big Sandy RECC bears the burden of proof to demonstrate “that an increase of rate or charge is just and reasonable.”⁸ The Company has failed to meet its burden of proof to demonstrate that the requested revenue increase will result in fair, just, and

⁵ *Id.*, paragraph 8.

⁶ *Id.*, paragraph 4. While the application itself requested an increase to rates of \$3,457,517, the accompanying workpapers included in John Wolfram’s Exhibit JW-2, specifically page 1, shows a requested increase of \$3,458,483. Thus, the Attorney General’s expert witness, Mr. Greg Meyer, used the \$3,458,483 in his proposed calculations.

⁷ *Id.*, paragraph 5.

⁸ *Kentucky-American Water Company v. Commonwealth ex rel. Cowan*, 847 S.W.2d 737,741 (Ky. 1993).

reasonable rates.⁹ The Attorney General recommends a downward adjustment to the requested revenue increase because approving the Company's application as is will result in unfair, unjust, and unreasonable rates due to the following issues.

I. Big Sandy RECC's revised rate increase and revenue requirement request due to agreeing, or partially agreeing, to specific recommendations proposed by the Attorney General.

In Big Sandy RECC's rebuttal testimony the Company agreed, or partially agreed, to specific recommendations and adjustments proposed by the Attorney General, as discussed below.¹⁰ According to the Company, the acceptance of these adjustments reduces the Company's requested rate increase and proposed revenue requirement by approximately \$597,077,¹¹ for a revised requested rate increase of \$2,861,406.¹² However, through the post-hearing discovery responses, the Company admitted that after Mr. Meyer's explanation at the evidentiary hearing on why rounding in the year end customer adjustment calculation is inappropriate, Big Sandy RECC reverses its position and accepts the Attorney General's adjustment on this issue.¹³ This results in an additional reduction of \$6,841, from \$2,861,406 to a revised rate increase of \$2,854,565.¹⁴

Big Sandy RECC agrees, or partially agrees, to the following adjustments proposed by the Attorney General:

1. Agreed with the Attorney General's recommendation to revise errors to the Directors'

⁹ See KRS 278.190. "At any hearing involving the rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the utility...."; See KRS 278.030(1). "Every utility may demand, collect and receive fair, just and reasonable rates for the services rendered or to be rendered by it to any person."

¹⁰ Rebuttal Testimony of John Wolfram ("Wolfram Rebuttal Testimony") at 2 – 13.

¹¹ *Id.* at 11.

¹² *Id.*

¹³ Big Sandy RECC's response to the Attorney General's Post-Hearing Request for Information ("Attorney General's Post-Hearing Request"), Item 2.

¹⁴ *Id.*

fees and wages and salaries, which is a reduction to the proposed revenue requirement of \$162,966.¹⁵

2. Partially agreed to the Attorney General's recommendation to normalize depreciation expense, particularly regarding fully depreciated equipment, which is a reduction to the proposed revenue requirement of \$434,110.¹⁶
3. Agreed with the Attorney General's recommendation on year end customers, which is a reduction to the proposed revenue requirement of \$6,840.¹⁷

II. Big Sandy RECC's proposal to increase the residential monthly customer charge by 32.12% and increase the residential energy charge are unreasonable.

As aforementioned, Big Sandy RECC is proposing to increase the residential monthly customer charge from \$21.95 to \$29.00,¹⁸ or a 32.12% increase. The Company already has the third highest Commission-approved residential monthly customer charge in the state at \$21.95 per month, but if the Commission were to grant the Company's proposed \$29.00 residential monthly customer charge, then Big Sandy RECC will have the highest residential monthly customer charge in the entire state of Kentucky.¹⁹ Based upon the reduced, revised rate increase request, Big Sandy RECC is also proposing to increase the residential energy charge from \$0.10064 per kWh to \$0.11132 per kWh.²⁰ Thus, if the Commission approves the revised rate increase request of \$2,854,565, the average residential customer using 1,027 kWh will still be facing an increase of \$18.02, or 12.9% per month, from a total monthly bill of \$139.78 to \$157.79.²¹ It is important to

¹⁵ Wolfram Rebuttal Testimony at 3; Meyer Testimony at 5 – 7.

¹⁶ Wolfram Rebuttal Testimony at 5 - 6; *See* Meyer Testimony at 13 – 18.

¹⁷ Big Sandy RECC's response to the Attorney General's Post-Hearing Request, Item 2.

¹⁸ Application, paragraph 5; Application, Exhibit 4, Schedule A-1 Farm & Home; Wolfram Rebuttal Testimony at 12.

¹⁹ Big Sandy RECC's response to the Attorney General's First Request for Information ("Attorney General's First Request"), Item 16(d).

²⁰ Big Sandy RECC's response to the Attorney General's Post-Hearing Request, Item 2, Attachment AG PH DR-2, Exhibit JW-9.

²¹ Big Sandy RECC's response to the Attorney General's Post-Hearing Request, Item 3.

remember that for customers who use more than the average kWh per month they will be faced with even higher increased electric bills. For example, if a residential customer uses roughly 50% more than the average electricity per month, or 1541 kWh, then their electric bill could increase by approximately \$23.51 per month. An increase of this magnitude to the residential monthly customer charge, energy charge, as well as the total electric bill, will hinder residential customers' ability to control their monthly electric bills, and pose a financial hardship on those customers already struggling to make ends meet.

It is important to note that based upon the most updated data from the United States Census Bureau the average poverty rate in Big Sandy RECC's service territory is 29%,²² with the highest poverty rate of 48.1% in Martin County²³ and the lowest of 20.6% in Lawrence County.²⁴ The Company acknowledges that it is aware of the high poverty rates in its service territory.²⁵ Big Sandy RECC also admits that inflationary pressures, persistently high poverty, and high unemployment and underemployment are issues that the Company's customers have been combatting.²⁶

Due to the existing high poverty rates and the difficult economic conditions, the Attorney General appeals to the Commission to employ gradualism when awarding any increase in Big Sandy RECC's residential monthly customer charge as well as the energy charge. The Commission has always relied upon the principle of gradualism in ratemaking, which mitigates the financial impact of rate increases on customers.²⁷ Big Sandy RECC's proposed 32.12%

²²<https://www.census.gov/quickfacts/fact/table/magoffincountykentucky,lawrencecountykentucky,knottcountykentucky,johnsoncountykentucky,floydcountykentucky,breathittcountykentucky/PST045223>;
<https://www.census.gov/quickfacts/fact/table/morgancountykentucky,martincountykentucky/PST045223>.

²³ See <https://www.census.gov/quickfacts/fact/table/martincountykentucky/PST045223>.

²⁴ See <https://www.census.gov/quickfacts/fact/table/lawrencecountykentucky/PST045223>.

²⁵ Big Sandy RECC's response to the Attorney General's First Request, Item 2(i).

²⁶ *Id.* at Item 2(a).

²⁷ Case No. 2014-00396, *In the Matter of Application of Kentucky Power Company for: (1) A General Adjustment of its Rates for Electric Service; (2) An Order Approving its 2014 Environmental Compliance Plan; (2) An Order*

increase to the residential monthly customer charge, increase to the energy charge, and increase of \$18.02, or 12.9% for the average residential customer's monthly bill, violates this important ratemaking principle.

In the alternative, if the Commission were to grant the Company's requested \$29.00 residential monthly customer charge, the Attorney General recommends that the increase be implemented in a two-phased approach. For example, during the first phase the residential monthly customer charge could increase to \$25.48 in the first year, and then under the second phase increase to \$29.00 in the second year. This approach would at least provide Big Sandy RECC's residential customers to absorb the higher monthly customer charge over a longer period of time, rather than immediately force customers to pay a 32.12% increase.

Moreover, if the Commission approves the requested increase to the residential monthly customer charge and energy charge, then the residential customers will be paying only \$1.98 less than the monthly customer charge of the Commercial and Small Power customers (\$30.98 monthly customer charge). This is because Big Sandy RECC is not proposing to increase the rates of the Commercial and Small Power customers.²⁸ However, the residential customers will be paying a much higher energy charge than the Commercial and Small Power customers, \$0.11132 per kWh versus \$0.08160 per kWh, respectively.²⁹ In the Final Order of Case No. 2019-00053, the Commission stated that it does not support a rate design in which the small single-phase

Approving its Tariffs and Riders; and (4) An Order Granting All Other Required Approvals and Relief, (Ky. PSC June 22, 2014) ("the Commission has long employed the principle of gradualism"); *See also* Case No. 2000-00080, *In the Matter of: The Application of Louisville Gas & Electric Company to Adjust its Gas Rates and to Increase its Charges for Disconnecting Service, Reconnecting Service and Returned Checks* (Ky. PSC Sept. 27, 2000) ("the Commission is adhering to the rate-making concepts of continuity and gradualism in order to lessen the impact of these increases on the customers that incur these charges.")

²⁸ Video Transcript of Evidence ("VTE") at 12:14:15 – 12:14:35; Wolfram Rebuttal Testimony, Exhibit JW-9, page 2 of 5; Big Sandy RECC's response to the Attorney General's First Request, Item 20.

²⁹ Big Sandy RECC's response to the Attorney General's First Request, Item 20; Big Sandy RECC's response to the Attorney General's Post-Hearing Request, Item 2, Attachment AG PH DR-2, Exhibit JW-9.

commercial class pays a monthly customer charge that is lower than that charged to the residential class.³⁰ The Attorney General is concerned that the Company's proposed monthly customer charge for the residential class being only \$1.98 less than that of the Commercial and Small Power class, coupled with the higher proposed energy charge for the residential class than the Commercial and Small Power class, leads to an inequitable result.

Thus, the Attorney General respectfully requests the Commission to continue to rely upon the principle of gradualism when awarding Big Sandy RECC any increase to the residential monthly customer charge as well as the energy charge. The Attorney General also requests the Commission utilize its expertise to determine whether any portion of the rate increase should also be allocated to the Commercial and Small Power customer classification to achieve a more equitable result.

III. The Commission should deny Big Sandy RECC's request to increase its right-of-way expense by \$698,996.

Big Sandy RECC is requesting approximately \$2.06 million in right-of-way expense, which represents an increase of \$698,996 over the test year expense.³¹ The Company premises its request on the 2024 estimated costs for circuit maintenance and removals at a cost per mile of \$11,045.³² Big Sandy RECC then extrapolates this to cover 138 miles, which according to the Company is the amount of miles required to be covered if it is to achieve compliance with a seven-year maintenance cycle policy.³³ In addition to these costs, Big Sandy RECC estimates that it will spend \$300,000 on spot maintenance, \$100,000 for 40 hours of helicopter trimming, \$121,000 on

³⁰ Case No. 2019-00053, *Electronic Application of Jackson Purchase Energy Corporation for a General Adjustment in Existing Rates* (Ky. PSC June 20, 2019), Order at 16.

³¹ Meyer Testimony at 25; Wolfram Testimony, Exhibit JW-2, Reference Schedule 1.12.

³² Meyer Testimony at 26.

³³ *Id.*

herbicide, and \$10,000 for tree growth regulators for 2024.³⁴

However, when reviewing the Company's right-of-way data since 2019,³⁵ there is no reasonable basis to believe that Big Sandy RECC is capable of meeting its target of providing right-of-way coverage for 138 miles per year.³⁶ The Company only cleared 77 miles in 2019, 63 miles in 2020, 54.5 miles in 2021, 59.8 miles in 2022, 84.67 miles in 2023, and 96.3 miles through November 30, 2024.³⁷ Additionally, even in the years when Big Sandy RECC's TIER was well over 2.0, sometimes close to 3.0, the Company did not meet anywhere near the proposed 138 miles of right-of-way clearance.³⁸

As such, the Attorney General's expert witness Mr. Meyer recommended basing the right-of-way expense using 96.3 miles, which was the maximum number of miles of right-of-way that the Company had cleared when Mr. Meyer's testimony was filed, and then increasing the maximum mileage by 10%, for a total of 105.93 miles of right-of-way trimming.³⁹ According to Mr. Meyer, with the current costs of trimming of \$11,045 per mile, plus the most recent cost of herbicide treatment of \$118,026, spot maintenance of \$214,770, and helicopter trimming of \$90,245, this would bring the total cost of right-of-way expense to \$1,593,038, which is a reduction of \$462,172 to the Company's proposed right-of-way expense of \$2,055,210.⁴⁰ It is important to note, that after Mr. Meyer's testimony was filed into the pending record, according to the updated

³⁴ *Id.*

³⁵ In the Attorney General's First Request, Item 44, the Attorney General requested right-of-way information for 2017 and 2018 as well, but the Company stated that no data was available.

³⁶ *Id.*

³⁷ Meyer Testimony at 27; Big Sandy RECC's response to the Attorney General's First Request, Item 44; Big Sandy RECC's response to the Attorney General's Second Request for Information ("Attorney General's Second Request"), Item 25.

³⁸ Meyer Testimony at 27; Big Sandy RECC's response to the Attorney General's First Request, Item 15(a). In 2018 the Company had a 2.75 TIER, in 2019 had a 2.42 TIER, in 2020 had a 2.86 TIER, and in 2021 had a 2.01 TIER.

³⁹ Meyer Testimony at 25 – 29.

⁴⁰ *Id.* at 28.

information the Company had only cleared 108 miles of right-of-way for 2024,⁴¹ which is only 2.07 miles more than Mr. Meyer's recommendation of costs associated with 105.93 miles of right-of-way trimming.

Beyond a large increase to customer electric rates, a further concern of awarding Big Sandy RECC the requested \$2.06 million in right-of-way expense is the Company's admission that in the past it has actually spent less than the budgeted right-of-way expense amounts, and those funds are used for other expenses, even if those expenses are specifically disallowed by the Commission.⁴² For the years 2017, 2018, 2019, 2020, 2021, 2022, and 2023, Big Sandy RECC only spent the actual budgeted amount for right-of-way expense in 2023. In the years 2017 – 2022, the Company actually spent almost half a million dollars less than the budgeted right-of-way amounts.⁴³ Importantly, even though Big Sandy RECC admits to paring back right-of-way maintenance, it does not appear that the Company equally pared back employee compensation/benefits, donations, employee parties/events, etc. during this same timeframe.⁴⁴

It is important to note that if the Commission approves Big Sandy RECC's requested right-of-way expense then the Company will continue to receive the full \$2.06 million every year until rates are reset, regardless of whether or not the funds are used for right-of-way clearing.⁴⁵ Thus, the Attorney General recommends a right-of-way expense of \$1,593,038. If the Commission accepts this recommendation then it represents a reduction of \$462,172 from the Company's proposed revenue requirement.

⁴¹ Rebuttal Testimony of Jeff Prater ("Prater Rebuttal Testimony") at 3.

⁴² Big Sandy RECC's response to the Attorney General's First Request, Items 44(a) and (b); VTE 11:15:29 - 11:17:49.

⁴³ Big Sandy RECC's response to the Attorney General's First Request, Items 44(a) and (b). (Big Sandy RECC budgeted a total of \$5,185,459 in right-of-way expense for the years 2017 – 2022, but only spent \$4,693,456 on right-of-way expense for those same years.)

⁴⁴ *Id.* at Items 3, 4, 5, and 34(a).

⁴⁵ Meyer Testimony at 28.

In the face of continuously rising right-of-way costs, Big Sandy RECC asserts that it created a wholly owned subsidiary called Big Sandy Forestry to handle some of the right-of-way maintenance.⁴⁶ However, the record is uncertain as to whether Big Sandy Forestry is actually assisting Big Sandy RECC in keeping right-of-way costs down. For example, Big Sandy RECC asserts in discovery and at the evidentiary hearing that Big Sandy RECC requests bids from vegetation management contractors, and then Big Sandy Forestry takes the lowest bid and sets the Big Sandy Forestry contract price, “at a rate near the lowest” bid from external contractors.⁴⁷ If Big Sandy Forestry cannot either beat the lowest price from an external contractor or at least match the price of the external contractor then this is not keeping right-of-way costs down for Big Sandy RECC. The record is also unclear as to whether Big Sandy RECC or Big Sandy Forestry would retain profits made by the right-of-way maintenance contracts.⁴⁸ The Attorney General also has a multitude of concerns as to Big Sandy Forestry since it is a nonregulated entity, such as whether there are any cost subsidizations that Big Sandy RECC is providing to Big Sandy Forestry;⁴⁹ Big Sandy RECC admittedly does not have a formal written policy concerning the allocation of costs to Big Sandy Forestry;⁵⁰ whether the affiliate transaction laws and regulations are being fully complied with;⁵¹ whether it is problematic for Big Sandy RECC to issue requests for proposal

⁴⁶ Big Sandy’s response to the Attorney General’s Second Request, Item 20(f).

⁴⁷ *Id.* at 20(b).

⁴⁸ Big Sandy RECC’s response to the Attorney General’s Second Request, Item 20(c). The Company asserts that Big Sandy Forestry made a small profit in 2023, which was retained by the subsidiary. Yet, in Big Sandy RECC’s response to the Attorney General’s Second Request, Item 20(f), the Company states that, “any profits not retained by Big Sandy Forestry will be provided back to Big Sandy. This will result in vegetation management being performed for the cooperative at cost.” Then in Big Sandy RECC’s response to the Attorney General’s Post-Hearing Request, Item 4, the Company asserted that all profits made by Big Sandy Forestry were given to Big Sandy RECC for 2023 and 2024.

⁴⁹ Big Sandy RECC’s response to the Commission Staff’s Post-Hearing Request (“Staff’s Post-Hearing Request”), Item 10. The Company states that Big Sandy RECC “strives” to allocate labor at Big Sandy’s actual cost, including overhead and the actual cost of supplies.

⁵⁰ *Id.* Big Sandy RECC states that it, “does not have a formal written policy related to the allocation of costs between Big Sandy Forestry” and itself.

⁵¹ *See* KRS 278.2201 – 278.2213.

("RFPs") to vegetation management companies and then appear to allow Big Sandy Forestry to review those confidential proposals to try to get to a rate near the lowest bid,⁵² etc. Based on these concerns, the Attorney General recommends a thorough review of Big Sandy RECC's wholly owned subsidiary Big Sandy Forestry to ensure that it is actually reducing right-of-way maintenance costs for the member customers and to determine whether it is in complete compliance with all applicable laws and regulations.⁵³

In recent Orders, the Commission has encouraged rural electric cooperatives to take significant steps to address right-of-way management expenses, such as working with other regional electric utilities to develop regional bids for right-of-way management contracts, which could create significant cost savings.⁵⁴ Big Sandy RECC asserted in the pending case that it, "has not worked with other utilities to develop regional bids for right of way work," because it would be difficult to bid right of way work regionally due to the diverse nature and topography of each system.⁵⁵ However, there is no evidence that Big Sandy RECC even attempted to discuss regional bids with a right-of-way contractor, including right-of-way contractors who could take on larger projects. The Company further admits that it does not attempt to coordinate its right-of-way program with the Kentucky Transportation Cabinet/Kentucky Department of Highways' right-of-way program, which could also provide savings for its customers.⁵⁶

Hence, the Attorney General requests for the Commission to continue to require or encourage Big Sandy RECC to pursue all opportunities to decrease right-of-way management

⁵² Big Sandy's response to the Attorney General's Second Request, Item 20(b).

⁵³ *Id.*

⁵⁴ Case No. 2021-00358, *Electronic Application of Jackson Purchase Energy Corporation for a General Adjustment of Rates and Other General Relief* (Ky. PSC Apr. 8, 2022), Order at 12; *See* Case No. 2021-00407, *Electronic Application of South Kentucky Rural Electric Cooperative Corporation for a General Adjustment of Rates, Approval of Depreciation Study, and Other General Relief* (Ky. PSC June 30, 2022), Order at 30.

⁵⁵ Big Sandy RECC's response to the Attorney General's First Request, Item 24(f).

⁵⁶ *Id.* at Item 24(e).

expense, including but not limited to working with regional electric utilities, as well as the Kentucky Transportation Cabinet/Kentucky Department of Highways, in an effort to reduce the ever increasing right-of-way expense that the Company's customers pay for through electric rates.⁵⁷ The Commission should also require Big Sandy RECC to provide specific detail as to what actions, if any, have been taken to address right-of-way management expense in future rate cases.⁵⁸

Furthermore, in light of Big Sandy RECC's past practices of intentionally spending less than the budgeted right-of-way allocation, the Attorney General recommends that the Commission place a condition upon Big Sandy RECC to not use the approved right-of-way funds on expenditures that are specifically disallowed by the Commission. At the very least, the Company should be required to provide an account of where the right-of-way funds are diverted to in future rate case proceedings. Furthermore, Big Sandy RECC should be required to explain why TIER funds in excess of debt covenant requirements could not be used to meet right-of-way maintenance goals.

The Attorney General further recommends for the Commission to encourage Big Sandy RECC to review its budgeting process for right-of-way expenses and establish defined trimming goals every years.⁵⁹ Having specificity as to the budgeting process will make it easier to hold managers accountable to the member customers and should result in more transparent budgets.⁶⁰ Finally, Big Sandy RECC should be required to file an annual reconciliation report with the Commission, which would detail the amount of miles trimmed and demonstrate why additional miles could not be trimmed.⁶¹ The reconciliation report should also identify the amount of funds

⁵⁷ Meyer Testimony at 10.

⁵⁸ *Id.*

⁵⁹ *Id.* at 29.

⁶⁰ *Id.*

⁶¹ *Id.*

that exist from the extra cushion above the required minimum TIER coverages, and whether Big Sandy RECC spent any of these funds or the right-of-way funds on items not included in the cost of service or approved by the Commission for ratemaking purposes (*i.e.* promotional advertising, dues, excess healthcare premium contributions, etc.)⁶² This reconciliation report will provide valuable information to the Commission, the member customers, as well as to the Attorney General as to why the right-of-way maintenance targets are not being achieved.⁶³

IV. The level of base revenues for the residential class is significantly understated in the pending case.

The Attorney General's witness Mr. Meyer explains in detail in his direct testimony that the residential class is impacted by weather in both the winter and the summer, and that the weather in the Big Sandy service territory in 2023 was mild.⁶⁴ As was shown in Mr. Meyer's Table GRM-3 from his direct testimony and reprinted below, the winter weather in 2023 was warmer and the summer weather was cooler than typical of the last ten years.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.* at 8 – 13.

Table GRM-3

Degree Days

Year	HDD Base 65	CDD Base 65
	(1)	(2)
2014	5,112	829
2015	4,447	1,037
2016	4,335	1,261
2017	4,018	929
2018	4,682	1,370
2019	4,251	1,222
2020	4,168	1,037
2021	4,358	1,049
2022	4,659	1,005
2023	3,944	841

Source:

Calculated from daily summaries from the National Oceanic and Atmospheric Administration at Station USC00156136 in Paintsville, KY.

This overall mild weather caused consumption from the residential customer class to be below normal levels.⁶⁵ Therefore, if base revenues are not increased due to the milder winter and summer weather in 2023, then Big Sandy RECC's rates will be increased subject to a level of revenues that do not represent normal weather.⁶⁶ Milder winter and summer weather results in less electricity being sold to Big Sandy's customers.⁶⁷ If in the next year, Big Sandy RECC has normal winter and summer weather then Big Sandy RECC will sell more electricity due to higher usage

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

during the summer and winter periods.⁶⁸ It is not fair to Big Sandy RECC's customers to set rates based on abnormally mild weather, but rates should instead be set on normalized weather.⁶⁹ Thus, Mr. Meyer proposes to adjust the residential class base revenues by utilizing a five-year kWh average usage per customer, multiplied by the year-end customer level of customers, to derive a kWh adjustment of 14,134,677.⁷⁰ Mr. Meyer's proposed adjustment would increase the residential class revenues, less fuel, by \$349,801, and decrease the revenue requirement by the same amount.⁷¹

V. The Commission should only allow what is reasonable when evaluating Big Sandy RECC's employee compensation and benefit plan expense.

The Commission should closely review this magnitude of increase in labor and benefits, especially for a rural electric cooperative with only 12,733 member customers.⁷² First, the level of overtime that Big Sandy RECC included in the test year is not representative of the Company's past experience.⁷³ The \$356,725 in pro forma overtime cost⁷⁴ far exceeds every year in the past five calendar years, except for one year.⁷⁵ Since overtime in a given period is a complex mix of factors such as number of employees who are available, wage rates of employees asked to work overtime, and the total amount of work to be done, among other things, in order to calculate overtime expense it is reasonable to use an average of a multi-year period.⁷⁶ Reviewing Big Sandy RECC's overtime costs for the past five years demonstrates a fluctuation of costs rather than a clearly discernable trend, which further supports an averaging approach.⁷⁷ Thus, the Company's

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² Application, paragraph 1.

⁷³ Meyer Testimony at 19.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.* at 20.

⁷⁷ *Id.*

overtime costs using a five-year average would be \$294,923, before applying the labor capitalization rate.⁷⁸ This would result in a \$41,605 reduction to the rate increase after applying the capitalization rate.⁷⁹

Second, Big Sandy RECC pays for 89.88% of the healthcare premiums for both single and family coverage for union and non-union employees.⁸⁰ In prior cases, the Commission has limited the recoverable portion of the company-paid health insurance premiums to the most current U.S. Bureau of Labor Statistics' ("BLS") averages for single and family coverage in order to rein in benefit expenses.⁸¹ Additionally, the Commission found in Case No. 2023-00158 that, "the Commission has since maintained the position that employee contribution rates of less than 12 percent will be adjusted to the Bureau of Labor Statistics (BLS) average."⁸² The BLS 2024 averages for single and family coverages are 80% and 68%, respectively.⁸³ When compared to the BLS 2024 averages, Big Sandy RECC is contributing 9.88% more to health insurance premiums for single coverage, and 21.88% more for family coverage. Thus, the Attorney General respectfully requests for the health insurance premium contribution amounts above the BLS 2024 averages to be removed for ratemaking purposes.

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ Big Sandy RECC's response to the Attorney General's First Request, Items 3(h), 4(h), 5(h), 27(e), and (g).

⁸¹ See Case No. 2021-00407, *Electronic Application of South Kentucky Rural Electric Cooperative Corporation for a General Adjustment of Rates, Approval of Depreciation Study, and Other General Relief* (Ky. PSC June 30, 2022), Order at 9.

⁸² Case No. 2023-00158, *Electronic Application of Farmers Rural Electric Cooperative Corporation for a General Adjustment of Rates Pursuant to Streamlined Procedure Pilot Program Established in Case No. 2018-00407*, (Ky. PSC Oct. 3, 2023), Order at 10.

⁸³ Bureau of Labor Statistics, Employee Benefits, March 2024, Table 3, private industry workers, <https://www.bls.gov/news.release/ebs2.t03.htm>; Bureau of Labor Statistics, Employee Benefits, March 2024, Table 4, private industry workers, <https://www.bls.gov/news.release/ebs2.t04.htm>.

Third, in addition to health insurance, Big Sandy RECC pays for 100% of the cost to provide dental and vision insurance to its employees,⁸⁴ basic life and accidental insurance,⁸⁵ long-term disability insurance,⁸⁶ and short-term disability insurance.⁸⁷ In addition to annual raises, Big Sandy RECC provides bonuses, awards, and “no-sick” awards to its employees.⁸⁸ The Company also provides vehicle compensation to the President, Vice President, Line Superintendent, and the Information Technology Manager.⁸⁹ Of concern is the fact that Big Sandy RECC admits that it does not have any written or official policies as to the granting of raises, bonuses, service awards, “no-sick” awards,⁹⁰ or vehicle compensation.⁹¹

Fourth, the Company contributes 100% of the costs associated with employee pension plans and 401(k) plans.⁹² Big Sandy RECC admits that it does not require the employees to contribute to their own retirement plans.⁹³ Big Sandy RECC also admits it did not conduct a formal or informal study to determine whether the contribution rates to the employee pensions and 401(k) accounts were even reasonable.⁹⁴ At the evidentiary hearing, Big Sandy RECC admitted it was not aware of any other employer, whether public or private, outside of rural electric cooperatives that do not require their employees to contribute to their own retirement.⁹⁵

⁸⁴ Big Sandy RECC’s response to the Attorney General’s First Request, Items 3(h), 4(h), and 5(h).

⁸⁵ *Id.*; Big Sandy RECC’s response to the Attorney General’s Second Request, Item 3(n).

⁸⁶ Big Sandy RECC’s response to the Attorney General’s First Request, Items 3(h), 4(h), and 5(h); Big Sandy RECC’s response to the Attorney General’s Second Request, Item 3(n).

⁸⁷ Big Sandy RECC’s response to the Attorney General’s First Request, Items 3(h), 4(h), and 5(h); Big Sandy RECC’s response to the Attorney General’s Second Request, Item 3(n).

⁸⁸ Big Sandy RECC’s response to the Attorney General’s Second Request, Items 3, 4, and 5.

⁸⁹ Big Sandy RECC’s response to the Attorney General’s Second Request, Item 3(d).

⁹⁰ *Id.*

⁹¹ *Id.* at Item 3(e).

⁹² Big Sandy RECC’s response to the Attorney General’s First Request, Items 28(a) – (b).

⁹³ *Id.*

⁹⁴ *Id.* at 28(e).

⁹⁵ VTE 10:06:10 – 10:06:30.

Finally, Big Sandy RECC admits it has not conducted a formal study comparing the Company's wage/salary and benefit information to the local wage/salary and benefit information for the geographic area in which the Company provides service.⁹⁶ The Commission has asserted in prior cooperative cases that it, "has begun placing more emphasis on evaluating salary and benefits provided by electric cooperatives as they relate to competitiveness in a broad marketplace, as opposed to wage and salary studies limited exclusively to electric cooperatives, electric utilities, or other regulated utility companies."⁹⁷ The Commission then ordered cooperatives to include a formal study that provides local wage and benefit information for the cooperative's operating area, and to provide state data where available, in the next rate application.⁹⁸ The Attorney General requests Big Sandy RECC to be required to perform a formal study comparing the Company's total compensation package to the total compensation information for the geographic area in which the Company provides service, and to file the same with the next rate case.

Due to the aforementioned issues, the Attorney General requests the Commission to closely review and evaluate Big Sandy RECC's compensation and benefit plans and only allow what is reasonable, which will lead to fair, just, and reasonable rates.

VI. A 2.0 TIER unnecessarily inflates the rate increase on the customers and is not necessary for Big Sandy RECC to provide safe and reliable electric service.

Big Sandy RECC has failed to meet its burden of proof to establish that a 2.0 TIER will lead to fair, just, and reasonable rates. First, Big Sandy RECC provides no analytical support for

⁹⁶ Big Sandy RECC's response to the Attorney General's First Request, Item 7.

⁹⁷ Case No. 2016-00174, *Electronic Application of Licking Valley Rural Electric Cooperative Corporation for a General Rate Increase* (Ky. PSC Mar. 1, 2017), Order at 7; Case No. 2016-00367, *Application of Nolin Rural Electric Cooperative Corporation for a General Rate Increase* (Ky. PSC Jun. 21, 2017), Order at 5 – 6.

⁹⁸Case No. 2016-00174, *Electronic Application of Licking Valley Rural Electric Cooperative Corporation for a General Rate Increase* (Ky. PSC Mar. 1, 2017),at 7 – 8; Case No. 2016-00367, *Application of Nolin Rural Electric Cooperative Corporation for a General Rate Increase* (Ky. PSC Jun. 21, 2017), Order at 5 – 6.

its proposed 2.0 TIER.⁹⁹ Instead, the Company states that it, “considers it prudent to establish rates that permit the achievement of financial metrics above these [loan requirement] minimums, and the Commission has supported this view in every distribution cooperative rate case of which Big Sandy is aware.”¹⁰⁰ However, the Company failed to discuss the Order in which the Commission stated that, “the authorized TIER for an electric distribution cooperative will be addressed on a case by case basis, and the current interest rates for the cooperative and market conditions must be part of the consideration.”¹⁰¹

Second, a 2.0 TIER is excessive when compared to the financial and credit metrics required by the Company’s lenders. Big Sandy RECC admits that its loan covenants normally require it to meet a 1.25 TIER in the two best years of the three most recent calendar years.¹⁰² A 2.0 TIER is also excessive due to Big Sandy RECC having riders that collect significant portions of its costs, which guarantee that the Company will be made whole for its fuel costs and environmental surcharges.¹⁰³

Third, the authorization of an excessive TIER is a disincentive to controlling discretionary expenses such as employees’ excess wages, salaries, raises, benefits, donations, and the like. For example, even if the Commission disallows a certain percentage of funding to be included in rates such as employee health insurance contributions that are found to be excessive, etc., the Company can, and most likely will, continue these practices, at least in part because of the excess monies¹⁰⁴ awarded to it through a higher than necessary TIER.

⁹⁹ Big Sandy RECC’s response to the Attorney General’s First Request, Items 63.

¹⁰⁰ *Id.*

¹⁰¹ Case No. 2021-00407, *Electronic Application of South Kentucky Rural Electric Cooperative Corporation for a General Adjustment of Rates, Approval of Depreciation Study, and Other General Relief* (Ky. PSC June 30, 2022), Order at 18.

¹⁰² Big Sandy RECC’s response to the Attorney General’s First Request, Item 26(a); VTE 11:10:40 – 11:10:48.

¹⁰³ Meyer Testimony at 24.

¹⁰⁴ VTE 11:15:29: - 11:17:00.

Fourth, in theory, if the Commission authorizes a higher TIER that provides excessive margins, it can be returned to customers through future capital credits. However, this is problematic because there is no tracking and no functional equivalence between excessive margins and future capital credits. Furthermore, any return of excess margins is likely to be diluted and delayed because customers stand at the end of the line for any residual revenues. In fact, any capital credit distributions to customers normally do not occur for decades, if at all.

Fifth, the authorization of a higher TIER than what is required by loan covenants, increases the revenue requirement, and in turn, the rate increase on customers.¹⁰⁵ In fact, according to the Company's initial requested rate increase, an additional \$898,037 would be added to the revenue requirement to achieve a 2.0 TIER; whereas if the Commission adopted Mr. Meyer's recommendation of a 1.85 TIER, which would still provide more than enough funds to meet the Company's debt obligations as well as have an adequate cushion, customers would save approximately \$134,706 in the revenue requirement.¹⁰⁶

Based upon the foregoing, the Attorney General requests the Commission only award Big Sandy RECC a TIER that will lead to fair, just, and reasonable rates. Additionally, if the Commission awards the Company a TIER higher than what is required to satisfy its loan covenants, then there should be a condition placed upon Big Sandy RECC to not use the additional TIER funds on expenditures that are specifically disallowed by the Commission. The Company should also be required to provide an account of how it spends the additional TIER funds in future rate case proceedings.

VII. Miscellaneous Issues

¹⁰⁵ See VTE 11:32:25 – 11:32:58; Big Sandy RECC's response to the Attorney General's Second Request, Item 22(b).

¹⁰⁶ Meyer Testimony at 26 – 27.

Big Sandy RECC asserts that it must seek a rate increase in the pending case because its energy sales have decreased due to a reduced number of customers and a loss of the coal mining industry, while the costs of conducting business have increased.¹⁰⁷ As aforementioned, the Company admits that its customers suffer from some of the highest poverty levels in the state, and are already struggling with high unemployment and underemployment. As such, the Company should consider having serious discussions regarding merger with other rural electric cooperatives contiguous with Big Sandy RECC in order to achieve economic efficiencies and streamline operations. The Company should request a study to be performed to determine the feasibility of a merger, and whether there would be short-term and long-term savings realized for the member customers.

Further, Big Sandy RECC should also limit its miscellaneous expenses including but not limited to donations, dues, employee events, etc.¹⁰⁸ The Company should also further evaluate its Board of Director expenses, which have increased by over 77% between 2017 and 2023.¹⁰⁹ Big Sandy RECC asserts that the expenses have increased because of the addition of a board member, making the Board of Directors have seven members instead of six members,¹¹⁰ and because the monthly per diem for each board member was increased from \$500 to \$900 per month.¹¹¹

Even though some of these expenses are being excluded from rates in the pending case, it does not change the fact that the expenses are still being paid with customer funds because normally the only revenue stream that an electric cooperative has is from the member customers.¹¹²

¹⁰⁷ Application, paragraph 3.

¹⁰⁸ Big Sandy RECC's response to the Attorney General's First Request, Item 11.

¹⁰⁹ Big Sandy RECC's response to the Attorney General's Second Request, Item 4.

¹¹⁰ Big Sandy RECC's response to the Attorney General's Post-Hearing Request, Item 1(b).

¹¹¹ *Id.* at 1(d) and 1(e).

¹¹² *See* Case No. 2016-00077, Licking Valley RECC's response to the Attorney General's Second Request for Information, Item 5.

Thus, Big Sandy RECC needs to attempt to rein in expenses moving forward in order to stave off further rate increases. Big Sandy RECC should work to utilize the customers' funds by reducing any expenditures that are not directly related to providing safe and reliable electric service. Due to the difficult economic situation and high poverty rates that exist in Big Sandy RECC's service area, the Company's customers have been required to cut expenditures. Likewise, Big Sandy RECC needs to do the same.

CONCLUSION

WHEREFORE, the Attorney General requests that the Commission deny Big Sandy RECC's requested rate increase. If the Commission is inclined to grant a rate increase, then it should be limited to what Big Sandy RECC has proven with known and measurable evidence that will result in fair, just, and reasonable rates for the Company's customers.

Respectfully submitted,

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Certificate of Service and Filing

Pursuant to the Commission's Orders and in accord with all other applicable law, Counsel certifies that the foregoing electronic filing was transmitted to the Commission on March 5, 2025, and there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

This 5th day of March, 2025,



Assistant Attorney General