COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY POWER COMPANY FOR (1) A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING THE DEPLOYMENT OF ADVANCED METERING INFRASTRUCTURE; (2) REQUEST FOR ACCOUNTING TREATMENT; AND (3) ALL OTHER NECESSARY WAIVERS, APPROVALS, AND RELIEF	)))))))))	Case No. 2024-00344

KENTUCKY POWER COMPANY'S MOTION FOR REHEARING OR, IN THE ALTERNATIVE, FOR RECONSIDERATION AND CLARIFICATION

Pursuant to KRS 278.390 and 278.400 and all other applicable law, Kentucky Power Company ("Kentucky Power" or the "Company") respectfully submits this motion for rehearing, or in the alternative, for reconsideration and clarification of the Public Service Commission of Kentucky's (the "Commission") October 26, 2026 Order in this proceeding (the "October Order"). As detailed below, the October Order requires rehearing and reconsideration because the Commission's denial of Kentucky Power's request to deviate from the testing requirements in 807 KAR 5:041, Section 15(3) was unreasonable. If not corrected, the October Order will impose additional unnecessary financial burdens on Kentucky Power customers that were not imposed on customers of other utilities in Kentucky.

The Commission should grant rehearing or, in the alternative, reconsider its October Order to correct its denial of Kentucky Power's requests to deviate.

I. STANDARD FOR REHEARING

KRS 278.400 authorizes "any party to the proceedings" to apply for rehearing of a Commission order within 20 days of service of the order. The Commission interprets the statute

as "limiting rehearing to correct material errors or omissions, and findings that are unreasonable or unlawful, or to weigh new evidence not readily discoverable at the time of the original hearings," and has explained that "KRS 278.400 is intended to provide closure to Commission proceedings."[1] A Commission order is deemed unreasonable if "the evidence presented leaves no room for difference of opinion among reasonable minds."[2] An order is unlawful if it "violates a state or federal statute or constitutional provision."[3] The statute requires parties "to use reasonable diligence in the preparation and presentation of their case" and "serves to prevent piecemeal litigation of issues."[4] The Commission nevertheless has the discretion to grant rehearing to consider new arguments. And because "[i]n order to sustain or reverse an order of the Commission it is necessary that there be a finding of specific evidentiary facts," an order that rests on legal conclusions without findings of specific evidentiary facts is subject to correction.[5]

II. BACKGROUND

Kentucky Power filed its Application in this case on November 8, 2024, requesting, among other items, a certificate of public convenience and necessity ("CPCN") granting it authority to replace approximately 162,000 AMR meters[6] with AMI meters throughout its service territory. On July 22, 2025, the Commission approved Kentucky Power's request for a CPCN and authority to establish a regulatory asset, but denied Kentucky Power's request for temporary and permanent

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[1] Order at 2, *In the Matter of: Electronic Application of Bluegrass Water Utility Operating Company, LLC For A Certificate Of Public Convenience And Necessity For The Installation Of Monitoring Equipment And For A Corresponding Limited Waiver Of Daily Inspection Requirements*, Case No. 2022-00216 (Ky. P.S.C. Sept. 8, 2023).
[2] *Energy Regul. Comm'n v. Ky. Power Co.*, 605 S.W.2d 46, 50 (Ky. App. 1980) (citation omitted).
[3] *Pub. Serv. Comm'n v. Jackson Cnty. Rural Elec. Coop., Inc.*, 50 S.W.3d 764, 766 (Ky. App. 2000); *accord Nat'l-Southwire Aluminum Co. v. Big Rivers Elec. Corp.*, 785 S.W.2d 503, 510 (Ky. App. 1990).
[4] Order at 4, *In the Matter of: Application of Kentucky-American Water Company for a Certificate of Public Convenience and Necessity Authorizing Construction of the Northern Division Connection*, Case No. 2012-00096 (Ky. P.S.C. Jan. 23, 2014).
[5] *Energy Regul. Comm'n*, 605 S.W.2d at 49.
[6] The Application identified approximately 166,709 AMR meters in the Company's service territory. Application ¶ 5. The Company will remove approximately 162,000 meters during deployment. Motion for Deviation at 2 (filed Aug. 14, 2026) ("August Motion").

deviations from 807 KAR 5:041, Sections 15(3) and 16 and 807 KAR 5:006, Section 14(3).[7] Relevant to this Motion for Rehearing and Reconsideration, the Commission's Final Order found that Kentucky Power's deployment plan was "related to population density"[8] and not testing cycles. Notably, the Commission did not deny Kentucky Power's deviation requests outright, ruling that "once Kentucky Power has an actual plan of implementation, it may apply for a deviation from certain meter testing requirements based on both the current testing plan and need, but a blanket deviation is not appropriate."[9] Following the Commission's instructions in its Final Order, Kentucky Power filed a renewed motion (the "August Motion") seeking deviation from 807 KAR 5:041, Sections 15(3) and 16 and 807 KAR 5:006, Section 14(3) on August 14, 2026. The August Motion did not seek a blanket deviation.

The August Motion provided the Company's plan for replacing its AMR meters and installing new AMI meters, which the Company planned to begin on October 12, 2026. The August Motion requested limited relief: (1) temporary relief from the testing requirement in 807 KAR 5:041, Section 15(3); (2) temporary relief from the periodic testing requirements in 807 KAR 5:041, Section 16 for AMR meters only and time limited to the transition period; and (3) permanent relief from the inspection requirements in 807 KAR 5:006, Section 14(3) for new AMI meters because those meters are capable of sensing meter tampering and other defects and timely transmitting that information to Kentucky Power. Notably, these requests for deviation were entirely consistent with the Commission's Orders in Case Nos. 2020-00349 and 2020-00350, in which the Commission approved substantially similar deviation requests as part of a stipulation.

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[7] October Order at 21. Pursuant to the Final Order in this Case, Kentucky Power has continued to file its quarterly AMI reports. The Company filed its Fourth AMI Quarterly Report on November 2, 2026.
[8] *Id.* at 18.
[9] *Id.* at 20.

III. MOTION FOR REHEARING

A. Kentucky Power Seeks Reconsideration and Clarification Regarding the Company's Requests

Kentucky Power respectfully seeks clarification of its meter-testing requests. The October Order describes the Company as seeking "to temporarily suspend meter testing pursuant to 807 KAR 5:041 Sections 15(3) and 16 due to the cost of testing the approximately 162,000 AMI meters to be installed."[10] Kentucky Power would like to clarify that it made two related but distinct requests. First, it sought a temporary waiver of the requirement to test the approximately 162,000 AMR meters that the Company will remove and that will never serve another Kentucky Power customer again, which required approval of a deviation from 807 KAR 5:041, Section 15(3). Second, the Company sought a waiver from the 807 KAR 5:041 Section 16 periodic testing requirements for AMR meters in service territories in which it had already begun the transition to AMI meters. Both requests were limited to the duration of the transition from AMR to AMI meters.

The delineation between those testing requirements is important because the Commission has historically understood these testing provisions as serving different purposes. For example, when discussing the testing of meters removed from service, the Commission reasoned that removal testing would "provide an explanation in complaint cases where a customer bill has increased when a new meter was installed because the Utility will have a test record to indicate that the old meter was slow."[11] The Company's recorded final reading of each removed meter,

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[10] Order at 1-2.

[11] Order at 3–4, *In the Matter of: The Joint Application of Inter County Energy Corporation, Kentucky Power Company d/b/a American Electric Power Company, Kentucky Utilities Company, Louisville Gas & Electric, Owen Electric Cooperative, Inc., Shelby Energy Cooperative, The Union Light, Heat and Power Company (Collectively Called Utilities) for Approval of a Pilot Meter Testing Plan Pursuant 807 KAR 5:041, Sections 13, 15, 16, 17 and 22*, Case No. 1999-00441 (Ky. P.S.C. Aug. 4, 2000); *see also* Order at 2, *In the Matter of: Electronic Application of Inter-County Energy Cooperative Corporation for a Certificate of Public Convenience and Necessity Authorizing the*

together with retention of the meter and testing on customer request, provides that same record. Kentucky Power's requested deviation from 807 KAR 5:041, Section 15(3) provided that the Company will record the final reading of every removed meter, retain every removed meter, and test any removed meter at the customer's request during the retention period, clearly satisfying the Commission's own concerns.[12]

B. The October Order denied the requests without specific findings of fact.

The October Order dismissed the August Motion as not raising "any new issues or present[ing] any new facts providing good cause to grant the requested deviations."[13] The October Order's denial, which the Commission made without any specific findings of fact, was unreasonable on its own merits and, if not corrected, will cause Kentucky Power customers to incur significant unnecessary costs[14] to replace aging infrastructure with modern technology that the Commission approved because it has the ability to lower costs and provide customers with more opportunities to control their own electric usage.[15]

Installation of a New Advanced Metering Infrastructure (AMI) System, Case No. 2022-00350 (Ky. P.S.C. Mar. 8, 2024) ("Inter-County Order") (citation omitted) (removal testing required "so that customers are assured that their prior usage has been accurate").

[12] August Motion at 2.

[13] October Order at 3.

[14] The Company estimates that testing all removed AMR meters would exceed $1,700,000 in costs with an expected residential meter failure rate under 0.26%. Moreover, the Company notes that between 2020–2025, the lab tested 42,911 meters; stated differently approximately 20% of the in-service AMR meters have had a lab test completed within the last five years.

[15] On August 26, 2026, the Commission opened an investigation into the affordability of electric and natural gas utility service, observing that its "statutory responsibilities require it to ensure that the rates charged by jurisdictional electric and natural gas utilities are fair, just and reasonable" and that it "routinely considers the effect of utility costs on customers in individual proceedings." Order at 4, *In the Matter of: Electronic Investigation into the Affordability of Electric and Natural Gas Utility Service and Related Matters*, Case No. 2026-00185 (Ky. P.S.C. Aug. 26, 2026) (citations omitted). It made every jurisdictional electric utility, including the Company, a party, and identified among the matters it would examine "utility investment and operating costs" and "[t]he relationship between affordability and utility investments . . . including infrastructure replacement and long-term system planning." *Id.* at 8–9, 12. The Company's comments in that docket state that "[a]ffordability has been and will continue to be a central consideration in Kentucky Power's operations" and describe the AMI deployment as a measure that "may also produce cost savings." Comments of Kentucky Power Company at 2, 7, *In the Matter of: Electronic Investigation into the Affordability of Electric and Natural Gas Utility Service and Related Matters*, Case No. 2026-00185 (Ky. P.S.C. Sept. 30, 2026). Two months after opening that investigation, the Commission described the meter-testing requirements as

In denying Kentucky Power's requested deviations in the Final Order, the Commission reasoned that Kentucky Power's plan for deployment was "related to population density."[16] When discussing the Company's requests for deviation from 807 KAR 5:041, Section 15(3) and Section 16, the Commission found that the Company had not provided sufficient evidence that the meter replacement plan "would comply with, or take into consideration, Kentucky Power's current meter testing plan."[17] Kentucky Power's August Motion was directly responsive to the Commission's admonishments.

Kentucky Power's August Motion requested limited relief. With regard to 807 KAR 5:041, Section 15(3), the Company's requested deviation would last only until the transition from AMR to AMI meters is complete. Moreover, the requested deviation is not a blanket deviation. Instead, as Kentucky Power detailed in its August Motion, the Company will record the final readings of all removed AMR meters and retain those meters for at least three months, during which any customer can request that the Company test the customer's removed meter.

C. The Section 16 request is consistent with relief the Commission routinely grants.

Likewise, Kentucky Power's request for deviation from 807 KAR 5:041, Section 16 was similarly limited in time and scope. As the Company stated in its August Motion, the requested deviation regarding periodic testing would apply only in service areas in which the Company had begun to transition from AMR to AMI meters, and the deviation authority would end when the transition was complete. Service areas that had not yet begun the transition will continue to have their meters tested in accordance with 807 KAR 5:041, Section 16.

"intended to ensure fair, just and reasonable rates." October Order at 3. The Company, however, is concerned about the cost of testing 162,000 meters that are being retired.

[16] Final Order at 18.

[17] *Id.* at 19–20.

The Commission has generally treated requests for deviation from 807 KAR 5:041, Section 16 by evaluating whether the replacement of AMR meters rendered periodic testing unnecessary and duplicative. In fact, the Commission has routinely granted utilities' requests to suspend periodic or sample testing during meter replacement. Those utilities include LG&E/KU,[18] Cumberland Valley Electric Inc.,[19] Meade County Rural Electric Cooperative Corporation,[20] and Inter-County Energy Cooperative Corporation.[21] The Company's request is narrower still, because testing continues in every service area not yet in transition.

D. The Commission has approved removal of non-AMI meters without testing for other utilities.

Kentucky Power's requested deviations are not novel. The Commission has already approved substantially similar requests for the Commonwealth's two largest electric utilities. In November 2020, KU and LG&E each applied for a certificate to deploy AMI across its service territory and each asked, among other relief, for the same three deviations the Company has requested in this proceeding. First, each sought a permanent deviation from 807 KAR 5:006, Section 14(3) for AMI meters with remote data communication, because the meters are "capable of sensing meter tampering and other defects and transmitting such information" to the utility, a

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[18] *In the Matter of: Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit*, Case No. 2020-00349 (filed Nov. 25, 2020); *In the Matter of: Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit*, Case No. 2020-00350 (filed Nov. 25, 2020).

[19] Order at 12–13, *In the Matter of: Application of Cumberland Valley Electric, Inc. for Commission Approval for a Certificate of Public Convenience and Necessity to Install an Advanced Metering Infrastructure (AMI) System Pursuant to KRS 807 KAR 5:001 and KRS 278.020*, Case No. 2018-00056 (Ky. P.S.C. July 9, 2018) (granting relief from periodic testing under 807 KAR 5:041, Section 15(3)).

[20] Order at 7, *In the Matter of: Electronic Application of Meade County Rural Electric Cooperative Corporation for a Certificate of Public Convenience and Necessity to Continue with the Full Deployment Installation of Its Automated Metering and Infrastructure System*, Case No. 2020-00336 (Ky. P.S.C. Apr. 19, 2021).

[21] Inter-County Order at 1–2.

capability that "renders physical inspections of meter and service connections unnecessary." Second, each sought to suspend testing under 807 KAR 5:041, Sections 15(3) and 16 for the duration of the deployment, because it would "replace all of its existing non-AMI single-phase meters within a five-year period," so that "continued testing during this period appears unnecessary," with testing to resume under its Commission-approved sample plan "after completion of AMI deployment." Third, each sought a deviation from Section 15(3) for the meters it would remove, stating that it "intends during its AMI deployment to remove all existing non-AMI meters and immediately to dispose of the vast majority of the removed meters without testing them," and requesting "a deviation from Section 15(3) to permit [its] proposed meter-testing approach concerning the removed non-AMI meters, with the resumption of full compliance with Section 15(3) after the proposed AMI deployment has been completed."[22]

The Commission approved all three. It approved the parties' Stipulation, which provided that "the Utilities' requested AMI-related certificates of public convenience and necessity and other AMI-related relief requested in the Utilities' Applications should be granted" and that "all other relief requested in the Utilities' filings . . . including without limitation . . . regulatory waivers . . . should be approved as filed"; it found, "[h]aving reviewed the record," that "the AMI-related provisions of the Stipulation are reasonable"; and it adopted a reporting requirement that counts "the number of non-AMI meters removed and retired," not meters removed and tested. [23]Although

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[22] Application at 15–17, 21, *In the Matter of: Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit*, Case No. 2020-00349 (Ky. P.S.C. Nov. 25, 2020); Application at 16–18, *In the Matter of: Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit*, Case No. 2020-00350 (Ky. P.S.C. Nov. 25, 2020).

[23] Order at 13, 15, 62–63, *In the Matter of: Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit*, Case No.

the Commission stated that its approval did not constitute precedent on any individual issue, it found that relief reasonable for those utilities.[24]

The Company made the same three requests, with one relevant difference: unlike KU and LG&E, the Company will not dispose of the removed meters at once, but will record each meter's final reading, retain it for at least three months, and test it at the customer's request.

The Final Order distinguished the KU and LG&E orders in a single sentence of a footnote, on the ground that "[a] settlement is not at issue in this matter."[25] Neither order explained why the reasonableness the Commission found in those cases does not apply here. Nor did the Commission make any findings in this case that identify how the Company's system, its meters, its customers, or its replacement plan justify treating the Company disparately from another Kentucky utility. Thus, the Commission's October Order is unreasonable and lacks the specific findings necessary to sustain it.[26]

E. The Commission has granted the Section 14(3) deviation the Company seeks.

The only permanent deviation Kentucky Power sought in its August Motion was relief from the mandatory new-customer inspection requirements in 807 KAR 5:006, Section 14(3) because the new AMI meters are capable of sensing meter tampering and other defects, rendering physical inspections of meter and service connections for tampering unnecessary.

807 KAR 5:006, Section 14(3) states that a utility "shall inspect the condition of its meter and service connections before making service connections to a new customer so that prior or

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2020-00349 (Ky. P.S.C. June 30, 2021) ("LG&E/KU Order"); Stipulation §§ 5.2(I), 5.9, LG&E/KU Order, App. A at 12, 15–16 ("Stipulation").

[24] LG&E/KU Order at 11; *see also* Stipulation § 6.12.

[25] Final Order at 20 n.76.

[26] *See Energy Regulatory Comm'n*, 605 S.W.2d at 49 ("In order to sustain or reverse an order of the Commission it is necessary that there be a finding of specific evidentiary facts."); *id.* at 52 (remanding to the Commission for specific findings of evidentiary fact).

fraudulent use of the facilities shall not be attributed to the new customer."[27] The inspection is not an accuracy test; accuracy is the province of 807 KAR 5:041, Section 15(3). Section 14(3) exists so that a utility does not bill a new customer for a prior occupant's consumption or for theft at the premises before the account opened. The Commission approved the requested deviation from 807 KAR 5:006, Section 14(3) in Case No. 2016-00152, where Duke Energy Kentucky showed that "advanced theft detection and remote connection and disconnection provided by the new meters would allow Duke Kentucky to know if energy continues to flow through the meter after a customer has requested to be disconnected," so that the utility could "fully investigate the theft and address it prior to a new customer's taking service at that location."[28] The Commission found that Duke Energy Kentucky "established good cause to allow it a deviation from the inspection requirements of 807 KAR 5:006, Section 14(3)."[29] The Company's AMI meters likewise detect tampering and other defects and report them to the Company.[30] Because the October Order did not address this precedent or explain why the Company's showing differs from Duke Energy Kentucky's, it lacks the specific findings necessary to sustain it.

IV. CONCLUSION

The October Order's denial of Kentucky Power's requests failed to make specific findings and did not explain its departures from the Commission's treatment of comparable requests. Denying Kentucky Power's requests risks imposing additional financial burdens on Kentucky

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[27] *See also* Final Order at 17 n.67 (quoting 807 KAR 5:006, Section 14(3)).
[28] Order at 13, 17, *In the Matter of: Application of Duke Energy Kentucky, Inc. for (1) a Certificate of Public Convenience and Necessity Authorizing the Construction of an Advanced Metering Infrastructure; (2) Request for Accounting Treatment; and (3) All Other Necessary Waivers, Approvals, and Relief*, Case No. 2016-00152 (Ky. P.S.C. May 25, 2017).
[29] *Id.* at 14.
[30] August Motion at 4.

Power customers if not corrected. Thus, granting rehearing is appropriate to address each of the issues identified in this motion.

WHEREFORE, Kentucky Power Company respectfully requests that the Commission grant rehearing or otherwise reconsider and clarify the October Order to:

1. grant the Company a temporary deviation from 807 KAR 5:041, Sections 15(3) and 16 for the transition period from AMR to AMI on the terms set out in the August Motion;

2. grant a permanent deviation from 807 KAR 5:006, Section 14(3) for AMI meters installed with remote data communication; and

3. grant all other relief to which the Company may be entitled.

Respectfully submitted,



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