COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY UTILITIES COMPANY AND LOUISVILLE GAS AND ELECTRIC COMPANY FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND SITE COMPATIBILITY CERTIFICATES	**)** **)** **)** **)** **)**	**CASE NO. 2025-00045**

REBUTTAL TESTIMONY OF ROBERT M. CONROY VICE PRESIDENT, STATE REGULATION AND RATES ON BEHALF OF KENTUCKY UTILITIES COMPANY AND LOUISVILLE GAS AND ELECTRIC COMPANY

Filed: July 18, 2025

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INTRODUCTION

Q. Please state your name, position, and business address.

A. My name is Robert M. Conroy. I am the Vice President of State Regulation and Rates for Kentucky Utilities Company ("KU") and Louisville Gas and Electric Company ("LG&E") (collectively, "Companies") and an employee of LG&E and KU Services Company, which provides services to KU and LG&E. My business address is 2701 Eastpoint Parkway, Louisville, Kentucky 40223.

Q. Please summarize your rebuttal testimony.

A. First, I demonstrate that the Commission's existing prudence review authority obviates the need for the Attorney General and Kentucky Industrial Utility Customers, Inc.'s ("AG-KIUC") recommended conditional approval of a certificate of public convenience and necessity ("CPCN") for Mill Creek 6 and its proposed Generation Cost Recovery Rider ("GCRR"), though I explain how a properly formulated generation cost recovery mechanism could be beneficial. Second, I explain how the Companies' proposed Rate EHLF (Extremely High Load Factor) provides strong protections for new and existing customers, making the Rate EHLF revisions proposed by the AG-KIUC unnecessary. Third, I discuss why the AG-KIUC's proposed GCRR is unnecessary. Fourth, I explain why Sierra Club witness Stacy L. Sherwood is incorrect in asserting a rate impact study is necessary to grant a CPCN. Fifth, I explain why Sierra Club witness Chelsea Hotaling's testimony concerning possible costs to interconnect data center customers is irrelevant to this proceeding. Sixth and finally, I discuss why the Commission's final order concerning the Companies' request for a CPCN for Trimble County Unit 2 can provide a useful guide as the Commission

considers the issues in this case and why it supports granting the CPCNs the Companies have requested in this proceeding.

CONDITIONING THE MILL CREEK 6 CPCN ON PRE-SELLING 85% OF ITS CAPACITY UNDER RATE EHLF IS UNNECESSARY BECAUSE THE COMPANIES WILL PRUDENTLY USE SUCH AUTHORITY AND COMMISSION WILL CONDUCT PRUDENCE REVIEW BEFORE ALLOWING COST RECOVERY

Q. Please summarize AG-KIUC's recommendation to condition a CPCN for Mill Creek 6 on pre-selling 85% of the unit's capacity.[1]

A. The AG-KIUC proposal would condition a CPCN for Mill Creek 6 on the execution of 548 MW of retail electric service contracts under the Companies' proposed Rate EHLF (subject to AG-KIUC's proposed Rate EHLF modifications, which I discuss below), all with a service start date no later than the in-service date of Mill Creek 6.[2] After such contract execution, the Companies would have to make a filing with the Commission and obtain further approval before any work could begin on Mill Creek 6.

Q. Do you have concerns about AG-KIUC's proposal?

A. Yes. I am unaware of any text in KRS 278.020, the Commission's regulations, or past Commission orders that would authorize the two-step CPCN approval approach AG-KIUC proposes. The Commission has previously granted conditional CPCN authority, including its approval in Case No. 2000-00112 of the Companies' application to construct up to seven selective catalytic reduction ("SCR") systems *as needed*.[3] But I

[1] Kollen at 3-5; Wellborn at 27-37.
[2] *Id.*
[3] *Application of Kentucky Utilities Company and Louisville Gas and Electric Company for a Certificate of Convenience and Necessity to Construct Selective Catalytic Reduction NOx Control Technologies*, Case No. 2000-00112, Order (Ky. PSC June 22, 2000) ("[T]he Utilities are granted a Certificate of Public Convenience and Necessity to construct SCRs at Trimble County 1, Mill Creek 3, Mill Creek 4, Ghent 3, Ghent 4, Ghent 1, and Brown 3, as needed to comply with EPA requirements."). KU later determined Brown 3 SCR was unnecessary to comply with then-applicable environmental regulations.

am unaware of any case in which the Commission conditionally granted a CPCN in a way that required the applicant to make an additional evidentiary filing and obtain a subsequent approval to perfect its authority under the CPCN.

In addition to having no support in the relevant statutes, regulations, and orders, the AG-KIUC proposal is unnecessary due to the Commission's existing prudence review authority for cost recovery. Simply put, receiving a CPCN does not guarantee cost recovery in the face of changed circumstances; indeed, the Commission has demonstrated it will disallow imprudent expenditures even when a utility has received a CPCN.[4] Thus, protecting customers does not require the Commission to condition the Mill Creek 6 CPCN on a later demonstration of adequate signed Rate EHLF contracts in a separate or reopened proceeding; rather, it can grant the Mill Creek 6 CPCN now and confirm the prudence of the Companies' actions under that authority in subsequent cost recovery proceedings.

Another means of reviewing the Companies' prudence that would not require conditioning the Mill Creek 6 CPCN as proposed by the AG-KIUC would be to create the kind of reporting requirement the Commission implemented concerning the Companies' requested Trimble County 2 CPCN in Case No. 2004-00507.[5] In that case, the Companies proposed to construct the 750 MW Trimble County 2 at a cost of $1.1 billion (almost $1.9 billion in inflation-adjusted 2025 dollars) and retain a 75% ownership interest in the unit.[6] In asking the Commission to deny the requested CPCN,

[4] *See, e.g., An Investigation of Electric Rates of Louisville Gas and Electric Company to Implement a 25 Percent Disallowance of Trimble County Unit No. 1*, Case No. 10320, Order (Ky. PSC Oct. 2, 1989).
[5] *Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Public Convenience and Necessity and a Site Compatibility Certificate for the Expansion of the Trimble County Generating Station*, Case No. 2004-00507, Order (Ky. PSC Nov. 1, 2005).
[6] *Id.* at 1-2.

the AG expressed concerns and a recommendation similar to those AG-KIUC and others are expressing now:

> (1) Currently, the Companies have over 1,000 MW of capacity that is surplus to what is needed to meet reserve margin requirements;
>
> (2) The Companies have been in a no growth trend for the last 5 years;
>
> (3) If growth began today at the Companies' projected rate, new generating capacity would not be needed until 2012 [i.e., for more than seven years];
>
> (4) Ratepayers would pay a substantial extra cost if base load capacity is added before it is needed; and
>
> (5) The Companies should demonstrate growth in their load over the next 2 years to show that the substantial surplus capacity available today will be used and that new capacity will be needed.[7]

Rather than denying the CPCN or conditioning it on a demonstration of load growth, the Commission granted the CPCN and created a monitoring and reporting requirement:

> The Commission, therefore, will require the Companies to monitor the accuracy of their forecasts and advise us immediately if they notice any material divergence between their energy and peak forecasts and actual usage that could call into question the advisability of further pursuit of construction of TC2. Upon such a report, any party to this case, or the Commission on its own motion, may reopen this case to determine if further action is warranted.[8]

The Commission's approach in that case was both reasonable and pragmatic, allowing the Companies to move forward with their requested CPCN authority while maintaining a responsibility to report to the Commission if circumstances changed that

[7] *Id.* at 4.
[8] *Id.* at 6.

would render any further advancement of the project imprudent. If the Commission desired to create a prudence review in addition and prior to its cost-recovery prudence review in a base rate case, a reporting requirement like this one would be reasonable.[9]

But in deciding whether such a reporting requirement is truly necessary, the Commission should consider the Companies' demonstrated prudence concerning CPCNs. For at least two decades, the Companies have proven their prudence by *not* building CPCN-approved facilities when it was not least-cost to do so. For example, concerning the CPCN authority the Commission granted the Companies in Case No. 2000-00112 to build up to seven SCRs as needed, the Companies ultimately determined only six SCRs were needed at that time and did not build the approved SCR for Brown 3 for about a decade (after obtaining a new CPCN), creating savings for customers in the interim.[10] Similarly, the Companies did not construct the Ghent 2 SCR for which they received a CPCN in Case No. 2006-00206 after they determined they could comply with the relevant regulations by over-controlling for NOx at other units.[11] Based on this proven record of prudence, the Commission can confidently grant the Companies' requested CPCNs, including the Mill Creek 6 CPCN, without conditioning

[9] The Commission implemented a different, more engaged form of post-CPCN monitoring approach in the Companies' 2011 ECR cases, which required the Companies to "file quarterly reports detailing, among other items, the results of bidding procedures, the status of construction, adherence to budgets, adherence to timelines, advance notice of any construction impacts on system reliability, and significant change orders." *Application of Kentucky Utilities Company for Certificates of Public Convenience and Necessity and Approval of Its 2011 Compliance Plan for Recovery by Environmental Surcharge*, Case No. 2011-00161, Order at 23-24 (Ky. PSC Dec. 15, 2011); *Application of Louisville Gas and Electric Company for Certificates of Public Convenience and Necessity and Approval of Its 2011 Compliance Plan for Recovery by Environmental Surcharge*, Case No. 2011-00162, Order at 18 (Ky. PSC Dec. 15, 2011).

[10] Nine years later, KU sought and obtained Commission approval to construct the Brown 3 SCR to comply with an EPA consent decree. *See Application of Kentucky Utilities Company for Certificates of Public Convenience and Necessity and Approval of Its 2009 Compliance Plan for Recovery by Environmental Surcharge*, Case No. 2009-00197, Order (Ky. PSC Dec. 23, 2009).

[11] *See Application of Kentucky Utilities Company for a Certificate of Public Convenience and Necessity to Construct a Selective Catalytic Reduction System and Approval of Its 2006 Compliance Plan for Recovery by Environmental Surcharge*, Case No. 2006-00206, Order (Ky. PSC Feb. 28, 2008).

it in any way. But if the Commission determines any sort of condition is appropriate, I recommend the Commission follow its Trimble County 2 CPCN reporting requirement precedent rather than the unprecedented, unnecessary, and unreasonable approach proposed by the AG-KIUC.

Finally, AG-KIUC's proposal to condition the Mill Creek 6 CPCN on an 85% (548 MW) Rate EHLF pre-sale requirement that would then require additional Commission proceedings *before* the Companies could act under the CPCN authority is problematic from a project execution perspective; indeed, it could make it impossible to proceed with the unit. As the Companies have previously noted and Mr. Schram states in his rebuttal testimony, a key advantage to commissioning Mill Creek 6 in 2031 is that it will enable the Companies to bid for gas transportation through Texas Gas Transmission's ("TGT") proposed Borealis project, which will be TGT's last opportunity for significant capacity additions on its existing rights-of-way within a five- to eight-year horizon.[12] The narrow window of time to obtain firm gas transportation service for Mill Creek 6 via the Borealis project will likely be the fourth quarter of this year,[13] making it vitally important for the Companies to have clear CPCN authority no later than the end of this October. Moreover, a 548 MW pre-sale requirement with a follow-up evidentiary proceeding would likely make it impossible for the Companies to timely make the EPC-related commitments required for Mill Creek 6, which the Companies will likely have to make by June 2026 to ensure a 2031

[12] *See* Companies' Supplemental Response to KCA 1-4, Supplemental Attachment 1 at 8 (May 30, 2025) ("A key advantage to commissioning Mill Creek 6 in 2031 is that it will enable the Companies to bid for gas transportation through Texas Gas Transmission's ("TGT") proposed Borealis project, which will be TGT's last opportunity for significant capacity additions on its existing rights-of-way within a five- to eight-year horizon. … TGT expects Borealis to be fully subscribed, with subscriber commitments to the project likely taking place during the fourth quarter of 2025.").
[13] *Id.*

in-service date.[14] Thus, conditioning the Mill Creek 6 CPCN in a way that precludes the Companies from having clear CPCN authority until they execute 548 MW of Rate EHLF contracts and then have another proceeding to obtain true CPCN authority may make it impossible to construct the unit at all. For all of these reasons, the Commission should reject AG-KIUC's proposal.

THE COMPANIES' PROPOSED RATE EHLF PROVIDES STRONG CUSTOMER PROTECTIONS, MAKING AG-KIUC'S PROPOSED MODIFICATIONS UNNECESSARY

Q. Please summarize the Companies' proposed Rate EHLF and the protections it will provide for all customers if approved by the Commission in the base rate case proceedings.

A. As the Companies have stated in their pending base rate cases, they recognize that customers with large demands (more than 100 MVA) and very high load factors (expected average load factor above 85%) would have potentially significant financial impacts to the Companies and their other customers. This includes requiring the Companies to acquire additional generation resources to supply their needs and the needs of existing customers. Therefore, the Companies have proposed Rate EHLF in their pending base rate cases to provide: (1) an increased minimum demand charge ratchet (80% of contract capacity); (2) an extended contract term requirement and capacity change and termination provisions that ensure recovery of at least fifteen years of non-fuel revenues based on the original contract capacity requirement; and (3) a collateral posting obligation for at least a full year of non-fuel revenue, which must be

[14] *See, e.g.,* Companies' Responses to Sierra Club 3-13(e) and AG-KIUC 1-28(a).

posted at the time of service contract signing. All of these elements provide enhanced financial protections for the Companies and their customers.

Q. Can you provide a concrete example of how these measures would protect other customers?

A. Yes. A 402 MW LG&E Rate EHLF customer meeting the Companies' proposed enhanced creditworthiness requirements would need to post collateral of more than $100 million at the time of contract signing. That same customer would have a 15-year minimum demand charge obligation of about $1.1 billion. If that customer instead had a contract demand of 525 MW, the collateral requirement would rise to over $130 million, and the 15-year minimum demand charge obligation would increase to about $1.4 billion, which is roughly equivalent to the overnight capital cost of Brown 12 or Mill Creek 6.

Q. Do these customer protections obviate the need for AG-KIUC's proposed revisions to Rate EHLF?

A. Yes, the Companies' proposed Rate EHLF customer protections are sufficient, obviating the need for the revisions AG-KIUC's witnesses have proposed.

First, it would be incongruous with Rate EHLF's minimum average monthly load factor of 85% to impose a minimum bill of 90% of maximum contract demand as recommended by AG-KIUC.[15] The Companies' monthly minimum demand charge of 80% of contract demand applicable during each billing period is appropriate for a rate schedule with an 85% *average* monthly load factor eligibility requirement; one would expect a degree of month-to-month variation around the 85% average monthly load

[15] Kollen at 11; Wellborn at 33-37.

factor, and the 80% minimum contract demand charge provides a reasonable floor for that variation. Moreover, it is important to bear in mind that the minimum billing demand in any given billing period for a Rate EHLF customer is (1) the maximum measured demand in that billing period, (2) the highest measured demand in the previous eleven billing periods, or (3) 80% of the contract capacity then applicable, *whichever is highest*. Thus, a Rate EHLF customer should nearly always have a monthly billing demand higher than 80% of the then-applicable contract capacity.

Second, contrary to AG-KIUC's proposal, Rate EHLF customers should not have to pay demand charges based on 90% of their 15-year maximum contract capacity beginning on day one of their service.[16] This would effectively eliminate any recognition of a customer's load ramping from a billing perspective, subjecting Rate EHLF customers to uniquely harsh treatment among customers who pay demand charges, which is counterintuitive given the anticipated rapid load ramping of data center customers. Moreover, during data centers' ramping periods, when a degree of generating capacity above what is needed for reliability purposes may be available, the Companies could use the available capacity to make off-system sales that would redound to all customers' benefit. Thus, there is no need for the borderline punitive approach proposed by AG-KIUC on this issue.

Q. How do the Companies respond to the AG-KIUC proposal to exempt existing customers from Rate EHLF?[17]

A. This proposal might be plausible if there were existing customers that (1) met the Rate EHLF applicability criteria (i.e., had contract capacities near or above 100 MVA and

[16] *Id.*
[17] Kollen at 11.

had average monthly load factors at or near 85%) and (2) did not already have existing long-term contracts with the Companies.[18] But no such customers exist; there is no current customer just on the cusp of meeting Rate EHLF criteria that would arguably be unreasonably burdened by having to satisfy the requirements of Rate EHLF for slightly growing its load or increasing its load factor. Rather, very large loads with extremely high load factors of the kind that would take service under Rate EHLF are unlike any other loads on the Companies' system today; any existing customer that might meet the requirements of Rate EHLF in the future would have to fundamentally alter the nature of its business to do so (e.g., a former mining site that converted to a large-scale cryptocurrency mining operation). Moreover, any such new load, *regardless of whether it is added by a new or existing customer*, would create all the same new generation needs and have the same cost-of-service impacts. Thus, there is no reasonable, cost-of-service-based justification for the exemption AG-KIUC advocates.

Q. Sierra Club witness Stacy L. Sherwood raises a concern about entering into special contracts for customers that would qualify for Rate EHLF before Rate EHLF is approved.[19] How do the Companies propose to address that concern?

A. The Companies proposed Rate EHLF because they believe its terms are appropriate to apply to all customers meeting its applicability criteria. Therefore, if a Rate EHLF-

[18] The only customer currently taking service from the Companies that might plausibly meet the requirements of Rate EHLF in the near term is BlueOval SK, LLC ("BOSK"). BOSK has a Commission-approved 20-year special contract with KU that notes BOSK's then-expected 260 MW total load and 95% or greater load factor. *Application of Kentucky Utilities Company For Approval of Special Contract Between Kentucky Utilities Company and BlueOval SK, LLC*, Case No. 2023-00123, Order (Ky. PSC Dec. 18, 2023). The Companies are currently unaware of any reason why the terms of Rate EHLF, if approved and still in effect at the time, should not apply to BOSK when its special contract expires.

[19] Sherwood at 11-14.

eligible customer desired to enter into a retail electric service contract before Rate EHLF became effective, the Companies would include all the substantive terms of Rate EHLF in a special contract with the customer, which they would submit to the Commission for review as they do all special contracts. The contract would specify that service under the contract would become service under Rate EHLF upon the rate schedule's first effective date, which could be as early as the end of this year depending on final resolution of the Companies' pending base rate cases.

AG-KIUC'S PROPOSED GENERATION COST RECOVERY RIDER ("GCRR") IS UNREASONABLE AND UNNECESSARY TO PROTECT CUSTOMERS

Q. Please summarize AG-KIUC's GCRR proposal.

A. The AG-KIUC's proposed GCRR would recover the non-fuel cost of Mill Creek 6 primarily from Rate EHLF customers, with the non-fuel revenue of the AG-KIUC's recommended 85% Rate EHLF pre-sale contracts covering most of the cost and the balance being collected from all customers.[20] The proposed GCRR would apply a weighted average cost of capital to the mechanism's rate base, with the return on equity ("ROE") component being 50 basis points lower than the most recently approved base rate ROE.[21] Interestingly and without any stated justification, AG-KIUC proposes the Companies recover post-in-service capital additions through base rates, not the GCRR.[22] The GCRR would go into effect when Mill Creek 6 goes in service and remain in effect until it retires, at which point the Companies would recover any remaining unrecovered book value through their Retired Asset Recovery mechanism.[23]

[20] Kollen at 12-15.
[21] *Id.*
[22] *Id.*
[23] *Id.*

Notably, AG-KIUC proposes to use the same Group 1 – Group 2 methodology for allocating cost recovery under GCRR, which tends to be favorable to industrial customers.[24] There are a number of other complexities and uncertainties associated with the proposal (e.g., precisely what should be in GCRR rate base; depreciation inclusions, exclusions, and service life; how to determine which operating and maintenance expenses should flow through the GCRR; and property tax issues).[25]

Q. What is the Companies' response to the GCRR proposal?

A. The Companies appreciate creative thinking, but the GCRR appears to be a solution looking for a problem. The Commission should therefore reject it.

First, the GCRR is unnecessary. If its purpose is to delay or even avoid a future rate case, the Companies have already proposed how that can occur without implementing an unnecessarily complex cost recovery mechanism, namely by approving the Companies' requested regulatory deferral accounting for post-in-service costs; this makes the GCRR unnecessary. If its purpose is to provide customer protection of some kind beyond those provided in Rate EHLF, the Commission's prudence review will ensure the Companies recover only prudently incurred costs, again making the GCRR unnecessary. If its purpose is to ensure timely and precise cost recovery of the Companies' actual Mill Creek 6 costs, then it is unclear why the proposed mechanism would not extend to *all* new generation costs not yet included in base rates, including Mill Creek 5 and Brown BESS. In short, it is unclear what problem the GCRR is supposed to solve, and the Commission should reject it as unnecessary.

[24] *Id.*
[25] *Id.*

Second, the Commission should reject it as unclear and unnecessarily complex. As I noted above, there are a number of other complexities and uncertainties associated with the GCRR (e.g., precisely what should be in GCRR rate base; depreciation inclusions, exclusions, and service life; how to determine which operating and maintenance expenses should flow through the GCRR; and property tax issues).[26] It is further unclear why GCRR would not include post-in-service capital additions, which AG-KIUC proposes the Companies should recover through base rates;[27] if post-in-service capital additions are appropriate to recover through base rates, it is unclear why it would not be appropriate to recover all of Mill Creek 6's capital costs through base rates. This lack of clarity is another reason for the Commission to reject the GCRR proposal.

Q. Would the Companies be open to a properly formulated generation cost recovery mechanism?

A. Yes. As I suggested above, a simpler and more broadly applicable generation cost recovery mechanism (i.e., one that would apply to all new generation, not only one unit) could be a reasonable way to ensure timely and precise cost recovery that could have the benefit of delaying or even avoiding one or more base rate cases. But that is not what the AG-KIUC has proposed in the GCRR, and the Commission should therefore reject it.

[26] *Id.*
[27] *Id.*

THE COMMISSION SHOULD DISREGARD MS. SHERWOOD'S "BACK OF THE ENVELOPE" RATE IMPACT CALCULATIONS AS BASELESS RHETORIC

Q. Do you have any comments on Ms. Sherwood's "back of the envelope" rate impact calculations?[28]

A. Yes; they show exactly why such calculations are misleading at best. In addition to overlooking all the complexities of actual ratemaking, they assume the Companies would construct Brown 12, Mill Creek 6, and the Cane Run BESS to serve *zero* new load and obtain *zero* new revenue.[29] It is unreasonable to assume the Commission would allow the Companies to recover the costs of these resources to serve zero new load in the absence of circumstances requiring replacement generation, whether driven by environmental regulation or otherwise, but that is exactly what Ms. Sherwood's "back of the envelope" calculations reflect. Moreover, the Companies have no interest in gratuitously constructing resources; as I discussed above, they have decades of history demonstrating their prudent exercise of CPCN authority, importantly including when they elected not to move forward with approved resources because they were not needed to serve customers. The Commission has also demonstrated it can and will disallow cost recovery when it considers expenditures—even with CPCN authority—to be imprudent.[30] Therefore, the Commission should disregard Ms. Sherwood's "back of the envelope" rate impact calculations as baseless rhetoric, not serious analysis.

[28] Sherwood at 8-10.
[29] *Id.*
[30] *See, e.g., An Investigation of Electric Rates of Louisville Gas and Electric Company to Implement a 25 Percent Disallowance of Trimble County Unit No. 1*, Case No. 10320, Order (Ky. PSC Oct. 2, 1989).

MS. HOTALING'S TESTIMONY CONCERNING POSSIBLE INTERCONNECTION COSTS FOR DATA CENTER CUSTOMERS ARE IRRELEVANT TO THIS CASE BECAUSE THEY ARE UNRELATED TO THE COSTS OF THE FACILITIES FOR WHICH THE COMPANIES ARE REQUESTING CPCNS

Q. Ms. Hotaling devotes several pages of her testimony to addressing possible transmission costs associated with interconnecting data center customers,[31] and she further asserts, "It will be helpful for the Companies to clarify in their rebuttal testimony how the transmission costs would be allocated."[32] Is her testimony on this issue relevant to this case?

A. No. Whatever the costs of interconnecting data center customers might be, they and their allocation have nothing to do with the costs of the generation facilities for which the Companies are seeking CPCNs in this case. Indeed, the Companies would incur and allocate costs to interconnect data center customers even if they already had ample generation and were seeking no CPCNs in this case. Therefore, there is no connection between data center interconnection costs or cost allocations and the Companies' CPCN requests in this case; certainly Ms. Hotaling's testimony fails to establish any such connection, and the Commission should disregard it.[33]

THE COMMISSION'S ORDER IN THE TRIMBLE COUNTY 2 CPCN CASE SHOULD SERVE AS A MODEL FOR THE COMMISSION'S DECISIONMAKING IN THIS PROCEEDING

Q. Is there a prior Commission order that can serve as a helpful guide for the Commission in this proceeding?

[31] Hotaling at 23-26.
[32] *Id.* at 25 ln. 16-17.
[33] Notwithstanding the irrelevance of Ms. Hotaling's testimony on this issue, the Companies have addressed the question of transmission cost allocation in several responses to data requests in the record of this case, none of which Ms. Hotaling's testimony cites or acknowledges. *See* Case No. 2024-00326, Companies' Responses to JI 1-61 and Sierra Club 2-22; Companies' Response to Sierra Club 2-23.

A. Yes; it is one I have already discussed, namely the Commission's final order approving a CPCN for Trimble County 2. As I noted above, the same primary objection the intervenors have raised in this proceeding—the Companies' proposed construction would result in excess capacity for which existing customers would have to pay—was the primary objection the Attorney General raised in the Trimble County 2 CPCN proceeding more than 20 years ago.[34] The Commission clearly stated the risks and costs of granting—and not granting—the requested CPCN in that case:

> The risk of granting a CPCN when one will not be required is that customers will pay for the new plant in the utility's rate base before it is needed; the risk of denying a CPCN when one is needed is that a utility will have to run high-price peaking units or buy high-price peaking power to meet the baseload requirements of its customers.[35]

The Commission went on to note that *denying* the CPCN created too great a risk, whereas the risk associated with granting the CPCN could be mitigated with a simple monitoring requirement:

> The Commission believes the risk of the latter is of such significance that it should be avoided, if at all possible. We also believe the risk of the former can be managed by monitoring the accuracy of the Companies' energy forecasts in the coming years. By examining whether actual energy sales are consistent with the Companies' energy forecasts, the Commission, the intervenors, and especially the Companies can judge whether they may need to speed up, slow down, or cancel construction before too much has been invested in the project.[36]

[34] *Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Public Convenience and Necessity and a Site Compatibility Certificate for the Expansion of the Trimble County Generating Station*, Case No. 2004-00507, Order at 3-4 (Ky. PSC Nov. 1, 2005).
[35] *Id.*at 5.
[36] *Id.* at 5-6.

In that case, the Commission chose to take the risk it could relatively easily mitigate by granting the Trimble County 2 CPCN.[37] As a result, Trimble County 2 has been a low-cost energy workhorse of the Companies' fleet for almost fifteen years.

I believe the Commission's 2005 order in that case can serve as a template for the Commission to follow here. In that case, the question was whether energy needs would increase as the Companies' load forecast indicated; here, the question is whether data centers and other new economic development loads will eventuate as the Companies' forecast indicates. In that case, at least one intervenor, the AG, argued the Companies were already in and would exacerbate a 1,000 MW over-capacity situation by adding 570 MW of new capacity, which would harm customers; in this case, intervenors including the AG are making very similar arguments. In that case, the risk of denying the requested CPCN was that energy needs would indeed increase and would require the Companies to incur higher energy costs than necessary, all to customers' detriment; here, the risk of denying the CPCN is effectively closing the door to economic development in the Companies' service territories, particularly to the very data center customers the General Assembly has said it is of paramount importance to attract to the Commonwealth. Finally and most importantly, the Commission's choice in that case was to grant the CPCN and require the Companies to monitor their energy needs and report any significant deviations that might suggest Trimble County 2 would not be needed; here, the Commission can protect customers and open the door to economic development in Kentucky by doing the very same thing: approving the Companies' requested CPCNs and requiring the Companies to report if any significant

[37] *Id.* at 6-7.

event occurs or circumstance arises that would suggest one or more of the approved facilities should not proceed.

In sum, the Commission can confidently grant the Companies' requested CPCNs in this proceeding not only because the Companies have decades of proven prudence in exercising—and refraining from exercising—CPCN authority and because the Commission has clear authority to review the prudence of the Companies' investment decisions and disallow any imprudent expenditures, but also because granting the requested CPCNs in this case would be following the Commission's own longstanding precedent in granting the Trimble County 2 CPCN, which has redounded to customers' benefit for nearly 15 years.

Q. Does this conclude your testimony?

A. Yes, it does.

VERIFICATION

COMMONWEALTH OF KENTUCKY)
)
COUNTY OF JEFFERSON)

The undersigned, **Robert M. Conroy**, being duly sworn, deposes and says that he is Vice President, State Regulation and Rates for Kentucky Utilities Company and Louisville Gas and Electric Company and an employee of LG&E and KU Services Company, that he has personal knowledge of the matters set forth in the foregoing testimony, and that the answers contained therein are true and correct to the best of his information, knowledge, and belief.

Robert M. Conroy

Subscribed and sworn to before me, a Notary Public in and before said County and State, this 10th day of July 2025.

Notary Public

Notary Public ID No. KYNP61560

My Commission Expires:

November 9, 2026

TAMMY J. ELZY
COMM. EXPIRES 11/09/2026
NOTARY PUBLIC
ID # KYNP61560
STATE AT LARGE, KENTUCKY