COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF: Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates and Approval of Certain Regulatory and Accounting Treatments.	: : : : :	Case No. 2025-00113
IN THE MATTER OF: Electronic Application of Louisville Gas & Electric Company for an Adjustment of Its Electric and Gas Rates and Approval of Certain Regulatory and Accounting Treatments.	: : : : :	Case No. 2025-00114

INITIAL BRIEF OF ATTORNEY GENERAL AND KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.

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The Attorney General of the Commonwealth of Kentucky, through his Office of Rate Intervention ("AG"), and Kentucky Industrial Utility Customers, Inc. ("KIUC") (collectively, "AG-KIUC") submit this Initial Brief in support of the Stipulation and Recommendation filed by Louisville Gas and Electric Company ("LG&E") and Kentucky Utilities Company ("KU") (collectively "Companies") on October 20, 2025 ("Stipulation").

BACKGROUND

On May 30, 2025 KU/LG&E filed applications to increase their rates in the above-captioned dockets. On May 21, 2025 the AG filed a motion to intervene in both dockets, which the Kentucky Public Service Commission ("Commission") granted on May 27, 2025.[1] On May

[1] The following parties were also granted intervention in both dockets: Sierra Club, The Kroger Co., Kentucky Solar Industries Ass'n., Wal-Mart, U.S. Department of Defense, Kentucky Broadband & Cable Association, and the "Joint Intervenors" consisting of Mountain Association, Kentucky Solar Energy Society, and Metro Housing Coalition. Additionally, Lexington-Fayette Urban Government was granted intervention in Case No. 2025-00113, and Louisville Metro Government was granted intervention in Case No. 2025-00114.

30, 2025, KIUC moved to intervene, which the Commission granted on June 10, 2025. The Commission accepted the Companies' applications for filing on May 30, 2025.

Following the Commission's issuance of a procedural schedule on June 18, 2025, AG-KIUC, other intervenors, and Commission Staff issued several rounds of data requests, to which the Companies filed responses into the record. On August 29, 2025 and September 9, 2025, AG-KIUC filed the direct testimony and exhibits of their joint witnesses. On September 16, 2025, AG-KIUC filed their responses to data requests from the Companies and Commission Staff. The Companies filed their rebuttal testimony on September 30, 2025.

On October 8 and 9, the parties gathered for settlement negotiations at the Commission. Those negotiations resulted in the Stipulation, which was either joined or not opposed by a majority of parties to the case. An evidentiary hearing was held from November 3, 2025 through November 6, 2025. The record is now before the Commission for its ultimate determination.

ARGUMENT

The Commission Should Approve The Joint Stipulation Without Modification.

The Joint Stipulation sets forth a fair, just, and reasonable resolution of three complex base rate cases and should be approved without modification.

I. The Rates Resulting From The Stipulation Are Fair, Just, And Reasonable.

The rates agreed upon by the stipulating parties are significantly lower than those initially proposed by the Companies. The Stipulation reduces KU's proposed revenue increase from $219.9 million to $132 million (a 40% reduction), reduces LG&E's proposed electric revenue increase from $106.8 million to $57.8 million (a 45% reduction), and reduces LG&E's proposed gas revenue increase from $60.3 million to $44.8 million (a 26% reduction).[2]

The Stipulation also mitigates rate impacts to residential customers by limiting residential increases to the system average increase.[3] This provision, when combined with the Stipulation's reductions in the Companies' overall revenue requirements, lowers residential rate increases from the proposed 13.55% for KU, 10.12% for LG&E electric, and 14.87% for LG&E gas to 6.74%, 4.63%, and 10.86%, respectively.[4] Limiting the residential increase to the system average increase uses cost of service only as a guideline and locks in the current residential electric subsidies of around $88 million for LG&E and $137 million for KU.[5] The Stipulation thus approximately halves the proposed rate increases for KU/LG&E's residential electric customers.

A large part of the overall revenue requirement reductions outlined in the Stipulation stems from the parties' agreement to lower the Companies' allowed return on equity ("ROE") from the proposed 10.95% to 9.90%.[6] This adjustment reduces KU's revenue requirement by $45.9 million, LG&E's electric revenue requirement by $27.8 million, and LG&E's gas revenue requirement by $10.5 million.[7] And it aligns KU/LG&E's ROE with ROEs approved for other utilities in recent years, including utilities in neighboring states. For example, the Michigan Public Service Commission recently approved ROEs of 9.90% for Consumers Energy and DTE Electric Co., the Public Utilities Commission of Ohio approved an ROE of 9.99% for AES Ohio,

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[2] Companies' Updated Responses to PSC 1-54 (August 25, 2025); Joint Stipulation Testimony of Robert M. Conroy, Vice President, State Regulation and Rates, and Christopher M. Garrett, Vice President, Financial Strategy and Chief Risk Officer on behalf of KU and LG&E ("Joint Stipulation Testimony") at 11:10-20, 12:8-13:1.

[3] Stipulation at 4-10 and 12; Joint Stipulation Testimony at 12:8-20:17.

[4] KU/LG&E Abbreciated Customer Notices of Rate Adjustment (May 30, 2025). The Companies later revised their noticed revenue requirement request to slightly lower level. Companies Updated Responses to PSC 1-54 (August 25, 2025); Stipulation Exhibit 1.

[5] Direct Testimony of Stephen J. Baron (adopted by AG-KIUC witness Leah Wellborn) ("Baron/Wellborn Testimony") at 10:2-11:1.

[6] Direct Testimony of Dylan W. D'Ascendis at 4; Stipulation at 5,7-8, and 10.

[7] Stipulation at 7 and 10; Joint Stipulation Testimony at 12 and 19.

and the Indiana Utility Regulatory Commission approved an ROE of 9.9% for AES Indiana.[8] And as recently as November 20, 2025, the Public Service Commission of South Carolina approved an ROE of 9.99% for Duke Energy Progress LLC.[9]

The other revenue requirement adjustments set forth in the Stipulation (updating long-term debt interest rates, removing terminal net salvage from depreciation expense, reducing vegetation management expense and de-pancaking expense, updating inline inspection and well logging expense, removing EEI/AGA and related dues as well as 401(k) matching for employees who also participate in defined benefit plans, reducing pension and Other Post-Employment Benefits ("OPEB") expense, and correcting depreciation errors) are likewise reasonable, supported by the record, and necessary to produce fair, just, and reasonable rates for customers.[10]

II. The Stipulation's Stay-Out Provision Benefits Customers.

In the Stipulation, KU/LG&E commit to a base rate *"stay-out"* that would bar the Companies from increasing base rates prior to August 1, 2028.[11] This two-and-a-half-year stay-out commitment promotes rate stability for customers.[12] While rates will still fluctuate during the stay-out period due to the Companies' various adjustment mechanisms, approval of the stay-out would protect customers against base rate increase applications that would otherwise have been filed during that period to recover the in-service costs of the 645 MW Mill Creek 5, 125 MW E.W. Brown Battery Energy Storage System ("BESS"), 120 MW Mercer County Solar, 120 MW Marion County Solar, and Brown 12.

[8] MPSC Case Nos. U-21585 and U-21534; PUCO Case No. 20-1651-EL-AIR, and IURC Cause No. 45911.
[9] South Carolina PSC Case No. 2025-154-E.
[10] Stipulation at 7 and 10; Joint Stipulation Testimony at 12:8-20:17.
[11] Stipulation at 3. The Stipulation limited exceptions to this prohibition on pages 3-4.
[12] Joint Stipulation Testimony at 5:4-13.

KU/LG&E's previous base rates stay-out, approved by the Commission in Case Nos. 2020-00349 and 2020-00350[13] provided significant value to customers. According to information from the Edison Electric Institute, from 2021 through 2024, KU and LG&E's electric rates increased by only 7.43% and 8.31%, respectively as compared to national average rate increases of 21.66%.[14] According to information from EIA, the contrast for residential customers is starker. During the period January 2021 to August 2025, the average residential electric bill in the U.S. rose by 28.9%, compared to about 8% for the Companies. Stay-out commitments can therefore serve as an important tool in guarding against frequent rate increases for customers. A rate case stay-out is a form of incentive ratemaking — utilities are incentivized to control costs to maintain earnings.

III. The Adjustment Mechanisms Proposed In The Stipulation Benefit Customers.

a. The Generation Cost Recovery Adjustment Clause Produces Both Short-Term and Long-Term Savings For Customers.

The Generation Cost Recovery Adjustment Clause ("Adjustment Clause GCR") proposed in the Stipulation would recover all non-fuel costs and incremental capital additions for the Mill Creek 5, E.W. Brown BESS, Mercer County Solar, Marion County Solar, and Brown 12 assets for the life of those assets.[15] Adjustment Clause GCR will not include the new Mill Creek 6 generating asset.[16] Because Adjustment Clause GCR will recover costs that would otherwise be collected through base rates in the absence of the two-and-a-half-year stay-out commitment, the Stipulation allows KU/LG&E to recover through Adjustment Clause GCR the same ROE (9.9%)

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[13] Order, Case No. 2020-00349 and 2020-00350 (June 30, 2021).

[14] Companies Response to AG-KIUC Post-Hearing DR 6, Attachment 1.

[15] Stipulation at 12-13; Joint Stipulation Testimony at 7:1-7.

[16] Stipulation at 12; Joint Supplemental Testimony of Robert M. Conroy, Vice President, State Regulation and Rates, and Christopher M. Garrett, Vice President, Financial Strategy and Chief Risk Officer on behalf of KU and LG&E ("Supplemental Stipulation Testimony") at 6:12.

applicable to costs that otherwise would be included in base rates.[17] Adjustment Clause GCR is subject to ongoing supervision by the Commission via monthly filings and annual reviews.[18]

Adjustment Clause GCR is designed to provide both short-term and long-term benefits to customers. The establishment of Adjustment Clause GCR helps customers in the short-term by enabling the Companies' two-and-a-half-year stay-out commitment. Absent such a mechanism, the Companies would need to file new base rate cases next year to start recovering costs associated with GCR assets.[19] Adjustment Clause GCR also provides long-term benefits to customers through a more gradual approach to cost recovery for the GCR assets and by reflecting the monthly rate base reduction due to depreciation of those assets sooner than if the assets were included in base rates.[20] Just like the Environmental Cost Recovery ("ECR") Surcharge, customers receive the immediate benefit of a declining rate base. As witness Conroy testified, the GCR will track and reduce rates on a real-time basis to reflect declining capital costs resulting from accumulated book and tax depreciation, and will result in over $400 million in nominal dollar savings compared to recovering such costs through base rates.[21]

Additionally, customers will benefit from lower fuel costs associated with the GCR assets, including low-cost energy from Mill Creek 5.[22] These fuel savings are estimated at $60 million per year on average from 2028 through 2035.[23] The GCR assets will also provide significant economic benefits to the Commonwealth, including over 50 new jobs and opportunities for additional economic development.[24] And when not needed to serve native load, the GCR assets

[17] Joint Stipulation Testimony at 14:10-15:21.
[18] Stipulation at 13; Joint Stipulation Testimony at 8:5-18; Supplemental Stipulation Testimony at 7:7-13.
[19] Joint Stipulation Testimony at 6:18-21.
[20] Joint Stipulation Testimony at 7:16-8:1.
[21] Supplemental Stipulation Testimony at 3:4-7 and 6:18-7:6.
[22] Supplemental Stipulation Testimony at 8:7-14.
[23] Supplemental Stipulation Testimony at 8:13-14.
[24] Companies Response to AG-KIUC Post-Hearing Data Request 5.

will be used to generate revenue for customers via off-system sales. 75% of margins from off-system sales are passed through to customers in the monthly FAC filings.

With respect to the recovery methodology proposed for Adjustment Clause GCR, use of the Group 1/Group 2 methodology is appropriate and is the same approach used in the Companies' monthly ECR Surcharges. Residential customers in particular benefit from the % of total revenue allocation used to allocate the costs of new generation as opposed to using a 6 CP or 12 CP allocation. For KU, the Stipulation's recommended methodology leads to 40.38% costs allocated to the residential Group 1, as compared to 47.48% under the 6 CP methodology and 42.11% under the 12 CP methodology.[25] For LG&E, the Stipulation methodology leads to 43.88% of costs allocated to the residential Group 1, as compared to 47.38% under the 6 CP methodology and 44.16% under the 12 CP methodology.[26] In other words, the Group 1/Group 2 methodology uses cost-of-service only as a guideline for allocating costs to the benefit of residential customers. This is reflected in the following chart:

Residential	Group 1	6 CP	12 CP
KU	40.38%	47.5%	42.1%
LG&E	43.88%	47.4%	44.2%

After costs are allocated to the Residential Class, they are recovered through a percentage charge on each customer's total bill. Large residential users are charged more, and small residential users are charged less. An average KU residential customer will pay $4.32 per month under Adjustment Clause GCR in 2027, increasing to $7.09 per month by 2030.[27] An average LG&E residential customer will pay $4.61 per month under Adjustment Clause GCR in 2027,

[25] Supplemental Testimony Ex. 1 at 1; PSC 1-54 – KU Demand Data; Joint Responses of AG-KIUC to Staff's Post-Hearing Data Request 1.

[26] Supplemental Testimony Ex. 1 at 1; PSC 1-54 – LG&E Demand Data; Joint Responses of AG-KIUC to Staff's Post-Hearing Data Request 1.

[27] Supplemental Stipulation Ex. 1

increasing to $15.75 per month by 2030.[28] These estimated rate increases do not include fuel cost savings or increased margins from off-system sales.

Costs not allocated to Group 1 are recovered from Group 2. For Group 2 non-residential customers, costs will be recovered as a percentage charge on each customer's non-fuel revenue. This is also the same process used in the Companies' monthly ECR Surcharges. A percent charge on non-fuel revenue benefits high-load factor (around-the-clock) commercial and industrial customers because fuel is a larger portion of their bills than it is for low-load factor customers. This encourages the efficient use of the Companies' fixed cost assets, and follows cost-causation because Adjustment Clause GCR will not recover fuel costs.

b. The Sharing Mechanism Adjustment Clause Is Reasonable In Light Of The Companies' Stay-Out Commitment.

The Sharing Mechanism Adjustment Clause ("Adjustment Clause SM") proposed in the Stipulation is a temporary mechanism needed in light of the Companies' base rate stay-out commitment. That mechanism would be effective only from July 1, 2027 through July 31, 2028 and would maintain the Companies' base rate earnings within a deadband of 9.4% to 10.15%, flowing through credits or charges necessary for the Companies to stay within that deadband.[29] Adjustment Clause SM would exclude all revenue, expenses, and capital addressed by non-base rate mechanisms.[30] The Stipulation also clarifies how any revenue deficiencies or surpluses will be calculated and provides for Commission review of those calculations.[31]

The asymmetry of Adjustment Clause SM benefits customers. While the top end of the deadband is 25 basis points above the 9.9% stipulated ROE, the low end is 50 basis points

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[28] Supplemental Stipulation Ex. 1.

[29] Stipulation at 13-18; Joint Stipulation Testimony at 8:19-9:4.

[30] Stipulation at 14; Joint Stipulation Testimony at 9:10-14.

[31] Stipulation at 17; Joint Stipulation Testimony at 10:1-7.

below.[32] As the Companies testified, *"[t]hat means the Companies have less opportunity to over-earn relative to the stipulated ROE than they have to under-earn."*[33] This is another form of incentive ratemaking — the Companies have an incentive to control costs in order to earn above the 9.4% ROE floor.

IV. The Deferrals Proposed In the Stipulation Are Reasonable.

The Stipulation recommends deferral accounting treatment for any actual expense amounts above or below the expense levels in base rates for: 1) pension and OPEB Expense; 2) storm restoration expense; 3) vegetation management expense; 4) de-pancaking expense; and 5) in-line inspection and well-logging expense.[34] The Companies will establish a regulatory asset or regulatory liability for any amounts not reflected in base rates and will then address recovery of those regulatory assets or liabilities in their next base rate cases. The Stipulation also outlines reporting requirements associated with the proposed deferrals.[35]

As AG-KIUC witness Kollen testified at the evidentiary hearing, establishment of the proposed deferrals is reasonable as part of the broader Stipulation package.[36] Mr. Kollen explained that the deferral mechanisms allow for a tracking and true-up of actual expenses, which is *"fair and equitable,"*[37] and protect against utility overestimation of such expenses in base rates.[38] Additionally, Mr. Kollen confirmed that the Companies will not earn a return on expenses such as vegetation management.[39]

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[32] Joint Stipulation Testimony at 9:5-9.
[33] Joint Stipulation Testimony at 9:7-9.
[34] Stipulation at 10-11; Joint Stipulation Testimony at 20:18-21:10.
[35] Stipulation at 11; Joint Stipulation Testimony at 21:5-10.
[36] Hearing Tr. (November 6, 2025) at 4:23 pm.
[37] Hearing Tr. (November 6, 2025) at 4:23 pm.
[38] Hearing Tr. (November 6, 2025) at 4:24 pm.
[39] Hearing Tr. (November 6, 2025) at 4:24 pm.

V. The Changes to The Extra High Load Factor Tariff Increase Protections for Existing Customers While Facilitating Economic Development.

The Stipulation recommends several modifications to the Companies' Extra High Load Factor ("EHLF") tariff, including: 1) lowering the proposed minimum contract capacity threshold to 50 MVA rather than the proposed 100 MVA;[40] 2) clarifying that Rate EHLF applies only to new customers; 3) addressing attempts to circumvent the tariff's minimum capacity threshold;[41] and 4) requiring the Companies to work with Rate EHLF customers to reasonably accommodate their renewable energy goals.[42]

These modifications are aimed at increasing rate protections for existing customers while still facilitating potential economic development benefits associated with EHLF load that seek to locate in the Companies' service territory. Although EHLF load can bring additional tax revenues through Kentucky's 6% sales tax on non-residential electricity sales, up to 3% local school tax on non-residential electricity sales, and property tax (the Camp Ground data center project is projected to result in approximately $500 million in property taxes over ten years), increasing rate protections for existing customers, as the Stipulation does, is both reasonable and prudent.[43]

VI. The Base Rate Revenue Allocation Is Fair, Just, and Reasonable.

The Stipulation reduces 45% of the subsidies being paid by several of the Companies' rate classes, including the Fluctuating Load Service ("FLS"), Retail Transmission Service ("RTS"), Time-of-Day Primary Service ("TODP"), and Time-of-Day Secondary Service ("TODS") classes.[44] And it accomplishes these subsidy reductions while also limiting any increase for the residential

[40] Stipulation at 18; Joint Stipulation Testimony at 23:3-5.
[41] Stipulation at 18; Joint Stipulation Testimony at 23:5-9.
[42] Stipulation at 18-19; Joint Stipulation Testimony at 23:9-14.
[43] Hearing Tr. (November 5, 2025) at 11:56 am.
[44] Stipulation at 12; Joint Stipulation Testimony at 22:3-5.

class to the system average increase.[45] This means that the existing residential subsidies are maintained, and the 45% industrial subsidy reduction primarily comes from commercial customers. Commercial customers compete locally, and as long as they all pay the same electric rates, the Stipulation is competitively neutral.

Reducing the subsidies paid by the large industrial customer classes is particularly important for facilitating economic development within the Commonwealth. Manufacturing industries provide a pivotal role in driving economic growth, job creation, productivity, and regional development.[46] Manufacturing acts as an *"engine of growth"* by generating externalities, fostering innovation, and creating multiplier effects that bring new dollars into local economies through exports and supply chain linkages.[47] For example, Toyota has approximately 200 Kentucky-based suppliers to its 8,000 employee Georgetown plant.[48] According to the National Association of Manufacturers, manufacturing in Kentucky directly employs 260,600 workers.[49] This is 12.7% of the total Kentucky workforce, which is the sixth highest percentage nationally.[50] Average annual earnings for manufacturing employees in Kentucky are 44.2% higher than the non-farm average.[51]

Both Governor Beshear and Senate President Stivers have emphasized the role of industry and manufacturing in driving Kentucky's economic growth, job creation, and overall prosperity.[52] Additionally, the Kentucky General Assembly, through KRS 164.2807, has declared

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[45] Stipulation Exs. 1-3.

[46] Baron/Wellborn Testimony at 20:4-5.

[47] Baron/Wellborn Testimony at 20:5-8.

[48] Baron/Wellborn Testimony at 20:10-11.

[49] Baron/Wellborn Testimony at 21:1-2.

[50] Baron/Wellborn Testimony at 21:2-3.

[51] Baron/Wellborn Testimony at 21:3-5.

[52] Baron/Wellborn Testimony at 21:9-23:2 (citing https://x.com/GovAndyBeshear/status/1608243396988096512, https://x.com/GovAndyBeshear/status/1835086121451372776, https://x.com/GovAndyBeshear/status/1750694697511580022, and https://newkentuckyhome.ky.gov/Newsroom/NewsPage/20241115_ShelbyvilleBatteryManufacturing).

that the policy of the Commonwealth is to support economic development within Kentucky, finding that it is *“essential to the health, happiness, safety, and general welfare of the citizens of the Commonwealth.”*

Further, many large manufacturers – including several KIUC members – are making substantial investments in Kentucky. As recognized by the Commission, this year, Governor Beshear celebrated more than $6.3 billion in new investment and over 1,000 full-time jobs announced in less than two weeks, including announced investments by Corning, Ford, GE Appliances, General Matter, and Apple.[53] KIUC member Toyota recently committed to invest $922 million in a new paint line to be constructed in Georgetown.[54] Additionally, the Trump Administration announced that the Paducah Gaseous Diffusion Plant, located in the KU service territory, is one of four finalist sites to host AI Data Center and Energy Infrastructure projects.[55]

Many industrial manufacturers chose to locate in Kentucky precisely because of its historically low electric rates.[56] Such customers are highly sensitive to competitive pressures, both nationally and internationally.[57] Because such customers use a relatively large amount of power in order to convert raw materials into a finished product, they rely on electric power as a major input in the manufacturing process.[58]

The 2025 Kentucky Annual Economic Report, prepared by the U.K. Gatton College of Business and Economics, notes that Kentucky’s economy is much more energy-intensive than the U.S. economy in general and the economies in competitor states. The report states that“*[t]o generate $1 in state gross domestic product, Kentucky consumes about 6,400 Btu (2022). By*

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53 Order, Case No. 2025-00045 (October 28, 2025) (“CPCN Order”) at 59.

54 CPCN Order at 60.

55 CPCN Order at 59.

56 Baron/Wellborn Testimony at 18:8-9.

57 Baron/Wellborn Testimony at 15:4-5.

58 Baron/Wellborn Testimony at 18:4-6.

comparison, the U.S. average is around 3,600 Btu and the competitor state average is 4,300 Btu. This difference is driven, in part, by Kentucky's larger than average manufacturing sector, which, of course, depends greatly upon energy as a production input. One implication of this higher dependence on energy as an economic input is that, compared to most of the competitor states, Kentucky's economy is more sensitive to energy prices."[59]

However, the 2025 Kentucky Annual Economic Report also warned that since 1997, industrial electric rates in Kentucky have risen by 134% compared to about 80% for competitor states and the U.S. in general. This threatens Kentucky's competitive advantage.[60] Reducing the subsidies paid by large industrial customers through electric power rates, as the Stipulation does, encourages continued operation and expansion of production facilities and helps to maintain and grow jobs in Kentucky.[61]

VII. An Increase To the Curtailable Service Rider Is Necessary Given The Program's Value As A Reliability Resource.

Under the Companies' long-standing Curtailable Service Rider ("CSR") program, eligible customers can receive a demand credit for agreeing to reduce their usage to pre-determined firm service levels during system emergencies. Physical curtailments can be invoked by the Companies for up to 100 hours per year. For another 275 hours per year, the Companies can require CSR customers to either curtail physically, or to *"buy-through"* the curtailment and pay higher energy rates than standard customers for specified hours.[62]

The CSR program benefits the entire KU/LG&E system. Load reductions available due to the CSR program are modeled as generation resources in system planning, reducing the amount

[59] Baron/Wellborn Testimony at 23:16-24:12.
[60] Baron/Wellborn Testimony at 24:1-25:13.
[61] Baron/Wellborn Testimony at 15:5-8.
[62] Baron/Wellborn Testimony at 40:17-21.

of new generation (plus the associated reserve margin) that the Companies would otherwise need to build. For example, in Case No. 2024-00045, the Companies counted CSR load as a 110 MW resource in the summer and a 115 MW resource in the winter. And CSR customers proved that they can physically curtail when needed. On June 24, 2025, CSR customers physically shed load for approximately six hours to maintain system reliability.[63]

CSR customers also reduce system energy costs.[64] When a physical CSR curtailment occurs during an emergency, the system does not have to generate or purchase energy for the CSR load. Energy costs during emergencies can spike to thousands of dollars per MWh. Buy-through hours also occur during high energy cost periods. For the years 2022 and 2024, the KU/LG&E systems saved $1.7 million and $216,000, respectively, in energy costs that would otherwise be incurred if the CSR customers were not physically curtailed or required to buy-through the curtailment.[65]

The Commission has previously recognized the value of the CSR Program. In Case No. 2023-00422, the Commission investigated the limited blackouts caused by Winter Storm Elliott in December 2022. The CSR program, through the physical interruption of load for a full 27-hour period, prevented the emergency from being worse. The Commission recommended that an expansion of the CSR program be evaluated and that the effectiveness of the penalty be studied, concluding:

> *Having reviewed the record and being otherwise sufficiently advised, the Commission finds that LG&E/KU's CSR tariffs largely acted as intended, allowing for a reduction of 130 MW during Winter Storm Elliott. LG&E/KU appropriately penalized the out-of-compliance customers and reminded the customers of their obligations pursuant to the tariff for service. Ultimately, the out of compliance customers were only short approximately 1.2 mVA on December 23, 2022. The Commission recommends that LG&E/KU continue to evaluate the expansion of their CSR programs and whether the current penalty for non-compliance is an effective deterrent. The Commission will*

[63] Baron/Wellborn Testimony at 42:19-43:2.

[64] Baron/Wellborn Testimony at 41:10-17.

[65] Baron/Wellborn Testimony at 49:2-10.

further explore evaluation of the CSR tariff and other tariffs in LG&E/KU's 2024 IRP and future rate case filings.[66]

The Stipulation recommends a 40% increase to the CSR credits and penalties, which is reasonable since CSR customers are currently undercompensated for the value they provide to the system.[67] KU/LG&E CSR credits have increased by only $1/kW-month since 2009.[68] The CSR credits in the Stipulation range from $4.48/kW-month to $8.40/kW-month. In contrast, since 2009, the value of generating capacity has risen dramatically.[69] AG-KIUC's expert witnesses developed an estimate of the current cost of a combustion turbine that would be an appropriate basis to use in the development of a CSR credit using information provided in the recent CPCN Case (2025-00045). AG-KIUC experts' analysis reflects that the current CSR credit should be in the range of $15/kW-month, or about twice the credit recommended in the Stipulation.[70]

While still far below the level supported by AG-KIUC's analysis, the increase to the CSR credits is reasonable. The proportional increase in the CSR penalties is also beneficial to other customers since it provides additional financial incentives for CSR customers to curtail when needed to protect system reliability.

The most recent emergency CSR curtailment occurred on June 25, 2025. Physical curtailments for CSR customers are likely to be more common in the future due to data center load growth and the lack of new dispatchable generation being built in many neighboring areas.[71]

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[66] Order, Case No. 2023-00422 (January 7, 2025) at 43-44.
[67] Stipulation at 21; Joint Stipulation Testimony at 25:11-13.
[68] Baron/Wellborn Testimony at 43:10.
[69] Baron/Wellborn Testimony at 44:5-6.
[70] Baron/Wellborn Testimony at 50:3-8.
[71] Baron/Wellborn Testimony at 43:4-7.

Accordingly, the CSR program has become an increasingly important reliability resource on KU/LG&E's system.[72]

VIII. The Adjustment Clause for Mill Creek Unit 2 Helps Retain An Important Kentucky Generation Resource.

While not addressed in the Stipulation, the Commission should approve the Adjustment Clause for the 300 MW Mill Creek 2 as proposed in the Companies' Supplemental Stipulation Testimony.[73] Adjustment Clause MC2 – which the Commission encouraged the Companies to provide support for in this case – would recover the incremental non-fuel costs associated with extending the operational life of Mill Creek Unit 2 beyond 2028 that are not recovered through base rates or other cost recovery mechanisms.[74]

The Companies currently estimate that the incremental costs of Mill Creek 2 would increase LG&E customer rates by approximately $8.5 million annually (around 75 cents per month for an average residential customer).[75] However, this figure does not account for the approximately $3 million in annual fuel savings that will be provided by low-cost energy from Mill Creek 2.[76] Taking those fuel savings into account, the impact on the LG&E average residential customer is reduced to around 50 cents per month.

Mill Creek 2 is a valuable generation resource. Based upon 2026/27 PJM capacity pricing, Mill Creek 2 has an annual capacity market value of nearly $30 million.[77] From January 1, 2020 to October 31, 2025, LG&E purchased 14.9 million tons of Kentucky-mined coal for the Mill Station at a cost of $703.5 million. The amount allocated to Mill Creek Unit 2, based on burn,

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[72] Baron/Wellborn Testimony at 45:1.

[73] KRS 278.020(1)(c) requires the Commission to consider the policy of coal usage in constructing baseload generation. This logically would also apply to extending the life of base load generation.

[74] Supplemental Stipulation Testimony at 12:15-13:1; CPCN Order at 153-154.

[75] Supplemental Stipulation Testimony Ex. 5.

[76] Supplemental Stipulation Testimony at 14:15-20.

[77] 300 MW of GCR asset x 365 days x PJM BRA clearing price ($329.17/MW-day) x 2026 coal ELCC (83%) = $29.92 million.

was 3 million tons at a cost of $145.4 million.[78] Mill Creek 2 also provides direct coal mining and coal transportation jobs. Mill Creek 2 produces approximately $350,000 in local property tax, $100,000 in use tax, and $1.4 million in coal severance taxes (based upon 2024 information).[79] Coal mining is energy-intensive. The electric costs of mining coal in Kentucky are subject to a 6% state sales tax and a 3% local school tax.

Extending the life of Mill Creek 2 is consistent with developments in other states where coal unit lives are being extended in light of system reliability concerns.[80] And by doing so, the Commission preserves the option to convert Mill Creek 2 to gas and continue its operation in the future. The Commission should therefore approve KU/LG&E's proposal with respect to Adjustment Clause Mill Creek 2.[81]

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[78] LG&E Response to AG-KIUC Post-Hearing Data Request 2.

[79] LG&E Response to AG-KIUC Post-Hearing Data Request 4.

[80] Hearing Tr. (November 4, 2025) at 3:53 pm.

[81] The Kentucky Coal Association filed comments indicating support for this proposal on November 13, 2025.

CONCLUSION

AG-KIUC recommend that the Joint Stipulation be approved without modification.

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