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 AND ELECTRIC COMPANY FOR AN ADJUSTMENT OF ITS ELECTRIC AND GAS RATES, AND APPROVAL OF CERTAIN REGULATORY AND ACCOUNTING TREATMENTS	))))))	**CASE NO. 2025-00114**

POST-HEARING BRIEF OF
KENTUCKY UTILITIES COMPANY AND
LOUISVILLE GAS AND ELECTRIC COMPANY

Filed: December 2, 2025

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INTRODUCTION

Kentucky Utilities Company ("KU") and Louisville Gas and Electric Company ("LG&E") (collectively, the "Companies") submit this brief and request the Kentucky Public Service Commission ("Commission") issue an order by December 31, 2025 approving the proposed rates, terms, and conditions set forth in the tariffs submitted with the Stipulation and Recommendation ("Stipulation")[1] and in response to Commission Staff's post-hearing discovery,[2] and all other relief the Companies have requested in these proceedings.

On May 30, 2025, the Companies filed base rate Applications supported by fully forecasted test periods ending December 31, 2026 and base periods ending August 31, 2025.[3] In their Applications, KU sought a $226.1 million increase in electric revenue requirements; LG&E sought a $104.9 million increase in electric revenue requirements and a $59.5 million increase in gas revenue requirements.[4] Through the course of the cases, the Companies revised their requested increases to $219.9 million for KU's electric operations; $106.8 million for LG&E's electric operations; and $60.3 million for LG&E's gas operations.[5] On June 18, 2025, the Commission issued orders in both cases suspending the proposed changes in base rates for six months or up to and including December 31, 2025.

The Commission granted intervention to multiple parties in one or both proceedings: the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention ("AG"); United States Department of Defense and All Other Federal Executive Agencies ("DoD"); Kentucky Broadband and Cable Association ("KBCA"); Kentucky Industrial

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[1] *Stipulation and Recommendation* ("Stipulation") (filed on October 20, 2025).
[2] *See* Companies' Responses to Commission Staff's Post-Hearing Request for Information, No. 13.
[3] KRS 278.190(1), (2); 807 KAR 5:001 Section 16(1)(a)2.
[4] KU Application, ⁋6; LG&E Application, ⁋6, 8.
[5] Companies' Updated Responses to Commission Staff's First Request for Information, No. 54 (Aug. 25, 2025).

Utility Customers, Inc. ("KIUC"); Kentucky Solar Industries Association, Inc. ("KYSEIA"); The Kroger Company ("Kroger"); Lexington-Fayette Urban County Government ("LFUCG"); Louisville/Jefferson County Metro Government ("Louisville Metro"); Sierra Club; Walmart Inc. ("Walmart"); and Kentuckians for the Commonwealth, Kentucky Solar Energy Society, Metropolitan Housing Coalition, and Mountain Association (collectively, the "Joint Intervenors"). Each participated in one or both of the proceedings. On August 29, 2025, after three rounds of discovery, the intervenors filed their testimony. On September 30, 2025, following a round of discovery, the Companies filed their rebuttal testimony.

The Commission Staff, and all parties, participated in an informal conference on October 8 and 9, 2025. On October 20, 2025, the Companies, along with a majority of the intervening parties, namely, AG, KIUC, DoD, Kroger, LFUCG, Louisville Metro, Sierra Club, and Walmart (the "Stipulating Parties"), entered into and filed the Stipulation. The Stipulation is a comprehensive settlement between the Companies and eight of the intervenors who represent every customer rate class and have a wide range of diverse interests. Among these executing parties, the Stipulation is a unanimous written agreement that recommends fair, just, and reasonable resolutions of all issues in these cases except for LG&E's requested Adjustment Clause MC2, which arose after the parties executed the Stipulation. With that exception, the Stipulation also includes the provision that, except as modified in the Stipulation itself (or its exhibits), "all other relief" the Companies have requested in these proceedings should be approved as filed.[6] On October 31, 2025, the Companies provided supplemental testimony regarding the mechanisms proposed in the Stipulation in these rate proceedings (Adjustment Clause GCR and Adjustment Clause SM), as well as the Mill Creek 2 Adjustment Clause in Case No. 2025-00045 ("CPCN

[6] See the Companies' November 5, 2025 Notice of Filing of Amendment to Stipulation and Recommendation.

Case") due to the time sensitivity associated with the current costs LG&E is incurring to extend the life of Mill Creek 2.[7]

On November 3 through 6, 2025, the Commission held a hearing and received testimonial evidence from all the parties regarding these cases and the Stipulation. On November 10, 2025, the Commission issued an order permitting one round of post-hearing data requests, establishing a briefing schedule, and directing the case to stand submitted for a decision on December 3, 2025.

ARGUMENT

I. Stipulation and Recommendation

The Stipulation reflects a reasonable disposition of the issues in these proceedings, including a 40 percent reduction in the total revenue requirements and consensus on revenue allocations, rate design, and terms and conditions of service. In addition, the Stipulation provides important and valuable consideration that cannot be achieved through litigation of these cases, including a more than two-and-a-half-year rate case stay-out commitment.[8] The Companies have committed not to seek to have new base rates put into effect prior to August 1, 2028 (though they may file base rate applications in calendar year 2028 if the rates will not go into effect prior to August 1, 2028).[9]

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[7] The Commission's October 28, 2025 Order in Case No. 2025-00045 stated that: "In the event that LG&E/KU and/or other Parties anticipate introducing the Mill Creek 6 Mechanism and Mill Creek 2 Mechanism in LG&E/KU's pending rate cases in Case Nos. 2025-00113 and 2025-00114 as indicated in this proceeding, the Commission encourages LG&E/KU and any party to provide further evidence in support of the proposed mechanisms in those proceedings."

Resolution of the Mill Creek 6 Adjustment Clause proposed in the CPCN Case is not as time sensitive as the Mill Creek 2 Adjustment Clause because costs are not proposed to be recovered through it until Mill Creek 6 goes into service in 2031. Accordingly, the Companies will accept the Commission's invitation to provide more information about that mechanism "in a separate proceeding."

[8] Stipulation ⁋ 1.1.

[9] *Id.*

Although the Commission must exercise its own judgment to determine whether the Stipulation is reasonable,[10] in doing so it can and should consider the broad interests represented by the Stipulating Parties. The Commission has a statutory duty to act as a neutral decision-maker tasked with ensuring fair, just, and reasonable rates for all customers,[11] not to advocate for just one or a few customer groups, while also ensuring a reasonable return on investment for utilities.[12] It is therefore appropriate and necessary for the Commission to consider the breadth of customer interests represented by the Stipulating Parties: all customers, particularly residential customers, by the AG; commercial customers by Kroger and Walmart; industrial customers by KIUC; municipal customers by LFUCG and Louisville Metro; and federal interests by DOD-FEA. The Stipulation also has Sierra Club's support. In short, the Stipulation has the support of representatives of all customer classes and the Sierra Club; it deserves the Commission's approval as a complete resolution of all issues in these cases other than Adjustment Clause MC2, which the Stipulation does not address.

The Commission should also consider the reasonableness of the Stipulation *in its totality*. The Commission has long acknowledged there is no one exact rate or set of rates that is objectively

[10] *See, e.g., Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2014-00371, Order at 7 (Ky. PSC June 30, 2015) ("The Commission's statutory obligation when reviewing a rate application is to determine whether the proposed rates are 'fair, just and reasonable.' While numerous intervenors with significant experience in rate proceedings and collectively representing a diverse range of customer interests have participated in this case, the Commission cannot defer to the parties as to what constitutes 'fair, just and reasonable' rates. The Commission must review the record, including the Settlement, and apply its expertise to make an independent decision as to the level of rates (including terms and conditions of service) that should be approved.").

[11] *See* KRS 278.030(1); KRS 278.040(1) & (2); KRS 278.170(1).

[12] *See, e.g., South Central Bell v. Utility Regulatory Comm'n*, 637 S.W.2d 649, 653 (Ky. 1982) ("The rate making process is to provide for the utility a reasonable profit on its operations so that its owners may achieve a return on their investment."). *See also Gainesville Util. Dept. v. Florida Power Corp.*, 402 U.S. 515, 528 (1971) ("But focus on the willingness or ability of the purchaser to pay for a service is the concern of the monopolist, not of a governmental agency charged both with assuring the industry a fair return and with assuring the public reliable and efficient service, at a reasonable price.").

correct; rather, there is a range of reasonableness,[13] and it has approved settlements and stipulations that, *in toto*, fall within the bounds of reasonableness.[14] The Commission should do the same when considering and approving the Stipulation in these cases.

A. Overview

The record illustrates the parties' varying positions on a wide range of issues. As Messrs. Conroy and Garrett discussed in their stipulation testimony, during the course of the settlement conference, each Stipulating Party represented its own client's interests and considered the interests of all the Companies' customers as well, which led to the revenue requirements, revenue allocation, and rate design proposed in the Stipulation. The parties worked to mitigate the financial impact on customers to the extent possible, while still providing the Companies an opportunity to recover their costs of providing safe and reliable service to those customers. The Stipulation represents a remarkable achievement in complicated cases.

The Stipulation provides a balanced, detailed, and comprehensive recommendation for the resolution of the issues, and in doing so, presents a transparent calculation of the revenue requirements recommended by the Stipulating Parties. While the Companies, any other party, or

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[13] *See, e.g.*, *Electronic Application of Atmos Energy Corporation for an Adjustment of Rates*, Case No. 2021-00214, Order at 53 (Ky. PSC May 19, 2022) ("The Commission further finds that the proposed customer charges for the remaining rate classes are within the range of reasonableness and are approved."); *Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2012-00221, Order at 6 (Ky. PSC Dec. 20, 2012) ("Likewise, the parties' agreed-upon $51,000,000 increase in KU's electric revenues is within the range of reasonableness produced by the Commission's ratemaking analysis …."); *Adjustment of Rates of Kentucky-American Water Company*, Case No. 2008-00427, Order at 4-5 (Ky. PSC June 1, 2009) ("The signatories recommend rates that will produce additional annual operating revenues of $10,300,000 and that are within the zone of reasonableness. We further find that the recommended tap fees are reasonable. … Kentucky-American's Motion to Approve Settlement Agreement is granted."); *Proposed Adjustment of the Wholesale Water Service Rates of the Frankfort Electric and Water Plant Board*, Case No. 96-595, Order at 2 (Ky. PSC Aug. 11, 1997) ("Having considered the Settlement Agreement and being otherwise sufficiently advised, the Commission finds that the agreed rate falls within the zone of reasonableness and should be approved.").

[14] *See, e.g.*, Case No. 2012-00221, Order at 7 (Ky. PSC Dec. 20, 2012) ("Based on its review of the provisions of the Settlement and the exhibits attached thereto; the voluminous record, including intervenor testimony and data responses; and the public comments, the Commission finds that the provisions of the Settlement are in the public interest and should be approved. The Settlement is the product of arms'- length negotiations involving many hours over several days among knowledgeable, capable parties. Approval of the Settlement is based solely on its reasonableness in total and does not constitute precedent on any issue except as specifically provided for therein.").

the Commission could selectively argue for or against a specific term in the Stipulation, the fact that the Stipulating Parties with their varying interests ultimately agree upon the resulting revenue requirements evidences that the Stipulation results in a fair, just, and reasonable outcome. When such an agreement results in rates that fall within the "zone of reasonableness," the Commission approves it.[15]

B. The Recommended Revenue Requirements in the Stipulation are Reasonable

The Stipulation reduces KU's proposed revenue requirement increase by $87.9 million relative to KU's adjusted filed position,[16] for a stipulated increase of $132.0 million;[17] it reduces the proposed revenue requirement increase for LG&E's electric operations by $49.0 million relative to LG&E's adjusted filed position,[18] for a stipulated increase of $57.8 million;[19] and it reduces the proposed revenue requirement increase for LG&E's gas operations by $15.5 million relative to LG&E's adjusted filed position,[20] for a stipulated increase of $44.8 million.[21] In accordance with the Commission's policy, the Stipulation clearly sets forth the calculations used to arrive at each stipulated revenue requirement as adjusted from the revenue requirements requested in the Applications.

1. Rate Case Stay-Out Commitment and Associated Tariff Mechanisms

The Stipulation includes several significant items of consideration that support its reasonableness, beginning with the Companies' more than two-and-a-half-year stay-out commitment. The Companies have committed not to seek to have new base rates put into effect

[15] *Application of Northern Kentucky Water District for an Adjustment of Rates, Issuance of Bonds, and Financing*, Case No. 2012-00072, Order at 5 (Ky. PSC Dec. 20, 2012).
[16] Case No. 2025-00113, KU's Updated Response to PSC 1-54 (Aug. 25, 2025).
[17] Stipulation ⁋ 2.3.
[18] Case No. 2025-00114, LG&E's Updated Response to PSC 1-54 (Aug. 25, 2025).
[19] Stipulation ⁋ 2.3.
[20] Case No. 2025-00114, LG&E's Updated Response to PSC 1-54 (Aug. 25, 2025).
[21] Stipulation ⁋ 3.3.

prior to August 1, 2028 (though they may file base rate applications in calendar year 2028 if the rates will not go into effect prior to August 1, 2028).[22] As is customary for stay-out commitments, there are caveats to account for extraordinary or unforeseen circumstances, as well as the ordinary operation of other cost recovery mechanisms that can affect base rates.[23]

The Companies will continue making significant capital expenditures during the stay-out period to serve customers, including investments in generation, transmission, distribution, and information technology to enable the Companies to continue providing safe and reliable service at the lowest reasonable cost. In light of these substantial expenditures, the Stipulating Parties recognized that two new tariff mechanisms are necessary to prevent erosion of the Companies' financial position during the stay-out period or, in the event the Companies over-earn during the stay-out period, to provide sharing with customers: (1) a Generation Cost Recovery Adjustment Clause ("Adjustment Clause GCR") and (2) a Sharing Mechanism Adjustment Clause ("Adjustment Clause SM"). These mechanisms are wholly integral to the Stipulation, as without them the Companies cannot maintain their financial health without filing another base rate case during the stay-out period, particularly with Mill Creek 5 estimated to commence service in mid-2027.[24] The two mechanisms are designed to operate in tandem and provide the framework that allows the Companies to stay out of base rate cases for the extended stay-out period.

Adjustment Clause GCR is a permanent new tariff mechanism that will recover—for the life of included assets—all non-fuel costs of such assets and any incremental capital additions. The Stipulation requests the Commission approve Adjustment Clause GCR itself and approve

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[22] *Id.* at ⁋ 1.1.
[23] *Id.* at ⁋ 1.2.
[24] November 3, 2025 Hearing, 2:15:46 p.m. – 2:16:08 p.m. (Conroy) ("With the stay-out, both of these mechanisms are critical for the Companies to be able to stay-out. Absent these mechanisms, given the significant investment in generation and the in-service dates of particularly Mill Creek 5, which is middle of 2027, the Companies would have to be filing rate cases within the next year.").

including in the GCR all new generation and energy storage assets approved by the Commission but not yet in service as of the date of the final order in these proceedings.[25]

Recovering the capital costs of generating units through Adjustment Clause GCR rather than base rates provides customers with at least three important benefits. First, because Adjustment Clause GCR will recover the costs of Commission-reviewed and CPCN-approved assets as they go in service, it provides the benefit of gradualism. Second, Adjustment Clause GCR benefits customers over time as declining capital balances for each capital investment result in declining return on capital expenditures over time. The value of this difference in cost recovery is significant: customers may well save over <u>$400 million</u> over the lifetimes of the assets if the Commission approves the Adjustment Clause GCR as requested.[26] Third, tax benefits including production tax credits for solar and investment tax credits for battery energy storage will be returned to customers in entirety through the adjustment clause.[27] Finally, customers will also benefit from lower fuel adjustment costs (more than $60 million annually from 2028-2035) provided by low-cost energy from Mill Creek 5 and zero-cost energy from the solar assets.[28] This means that the Adjustment Clause GCR works in conjunction with the fuel adjustment clause to benefit customers.

In addition to these material customer benefits, there will also be ample opportunities for the Commission to review amounts billed to and collected from customers under Adjustment Clause GCR, providing more frequent and focused reviews than would occur if the same assets were recovered through base rates and reviewed only during wide-ranging base rate cases. Just as

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[25] Stipulation ⁋ 6.1
[26] Joint Supplemental Testimony of Robert M. Conroy and Christopher M. Garrett ("Joint Supplemental Testimony") at 7. As noted in footnote 6 of the Joint Supplemental Testimony, these savings assume base rate cases every three years with the first test year being calendar year 2027. The present value of these savings in 2025 dollars is over $100 million.
[27] *See* Stipulation Exhibits 7 (for KU GCR tariff) and 8 (for LG&E GCR tariff) for the definition of Operating Expenses ("OE") as being "net of any applicable investment tax credit amortization and production tax credits grossed up for income taxes."
[28] Joint Supplemental Testimony at 8.

with the Companies' ECR mechanisms, the Companies will file their proposed GCR cost recovery factors with the Commission in the month before they bill the factor, with expenses based on the previous month (e.g., January expenses will appear in the February report and be billed in March).[29] The Stipulation also recommends annual review proceedings for the Commission to review costs recovered under Adjustment Clause GCR.[30] These focused, annual review proceedings, as well as monthly GCR filings, will provide the Commission with frequent review opportunities and ensure all costs the Companies recover are prudent and reasonable. Although the Stipulation suggests annual reviews for Adjustment Clause GCR, the Companies welcome more or less frequent review proceedings at the Commission's discretion.[31]

The Stipulating Parties have agreed to a time-limited Sharing Mechanism ("Adjustment Clause SM") they propose to be in effect from and including July 1, 2027, for thirteen months (i.e., through and including July 31, 2028) (called the "Reporting Period"), to account for any base rate revenue deficiency or surplus during that portion of the base rate stay-out relative to an ROE deadband of 9.40% to 10.15%.[32] Critically, the ROE deadband is asymmetrical relative to the stipulated 9.90% ROE; the top end of the deadband is just 25 basis points above the stipulated ROE, but the bottom end of the deadband is 50 basis points below the stipulated ROE. This means customers will see no impact at all if earned ROE is between 9.40% and 10.15%, but they will see a bill credit if the Companies earn just 25 basis points above the stipulated ROE. It also means

[29] Stipulation ⁋ 6.1.
[30] *Id.* at ⁋ 6.2.
[31] Joint Supplemental Testimony at 6; November 3, 2025 Hearing, 2:12:20 p.m. – 2:12:48 p.m. (Conroy) ("The mechanism is very much like the ECR, it will provide transparency to the Commission in the monthly filings, there will be annual reviews for the Commission to review the costs that go through those to ensure that everything is prudent.").
[32] Stipulation ⁋ 7.2 & 7.3; November 3, 2025 Hearing, 2:13:04 p.m. – 2:13:24 p.m. (Conroy) ("Outside of generation there is still significant investments in transmission, distribution and IT; and the ability for the Companies to maintain its financial integrity and to provide safe and reliable service, the Sharing Mechanism is important to the stay-out as well.").

that they will not see a charge unless the Companies under-earn by 50 basis points. Finally, if there is any charge or credit, it will not appear on customer bills until late 2028 and throughout 2029.[33] In summary, the Companies have significantly less opportunity to over-earn relative to the stipulated ROE than they have to under-earn; it is a deadband that is intentionally favorable to customers relative to the stipulated ROE.[34]

In calculating actual adjusted earnings and the adjusted earnings for the top and bottom ends of the ROE deadband, Adjustment Clause SM will exclude all revenue, expenses, and capital addressed by other non-base rate mechanisms, and it will account for any approved expense deferrals to ensure there is no over- or under-recovery of such expenses.[35] To ensure comparability of calculations under Adjustment Clause SM compared to the stipulated revenue requirement calculations in these cases, the calculations will also include ratemaking adjustments consistent with the Companies' Applications in these cases as modified by the Stipulation.

After the 13-month reporting period, the Companies propose to make a filing with the Commission by October 1, 2028, showing the Companies' calculations of their actual adjusted earned returns, the adjusted returns for the top and bottom ends of the ROE deadband, and the resulting revenue deficiency or surplus for each utility (if any).[36] This filing would allow the Commission to review any collection or distribution to be made through Adjustment Clause SM and open any appropriate review proceeding. Any collection or distribution would begin appearing on customers' bills during the November 2028 billing cycle and continue through and including the November 2029 billing cycle (called the "Adjustment Period").[37] LG&E and KU would also

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[33] Stipulation ⁋ 7.5.
[34] Joint Supplemental Testimony at 10.
[35] Stipulation ⁋ 7.2.
[36] *Id.* at ⁋ 7.5.
[37] *Id.*

make a true-up filing on February 1, 2030 to account only for any over- or under-collection or -distribution from or to customers of the revenue deficiency or surplus that Adjustment Clause SM was supposed to have achieved during the Adjustment Period.[38] The Companies would make only one true-up filing, and Adjustment Clause SM would then self-terminate.[39]

2. Return on Equity ("ROE")

The Stipulating Parties agree, for the purpose of reaching a settlement in these proceedings, that a return on equity of 9.90% is reasonable for the Companies' electric and gas operations.[40] The Stipulation also provides that the agreed-upon 9.90% ROE will apply to recovery under all mechanisms except the Companies' demand-side management cost recovery mechanism.[41] Use of a 9.90% ROE reduces the Companies' adjusted proposed electric revenue requirement increases by $45.9 million for KU and $27.8 million for LG&E.[42] The stipulated ROE also reduces LG&E's proposed gas revenue requirement increase by $10.5 million.[43]

The stipulated ROE is consistent with and supported by all the record evidence in these cases. The Companies presented evidence supporting a recommended ROE of 10.95%.[44] AG-KIUC witness Baudino provided ROE testimony recommending a 9.60% ROE.[45] The DoD provided ROE testimony supporting a 9.50% ROE.[46] Also, Walmart submitted ROE testimony recommending that the Commission approve an ROE no higher than the Companies' currently authorized ROE of 9.425% unless the Commission determines that a higher ROE is warranted due

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38 *Id.*
39 *Id.*
40 *Id.* at ⁋ 2.2(A).
41 *Id.*
42 Joint Stipulation Testimony at 13.
43 *Id.* at 19.
44 Direct Testimony of Dylan W. D'Ascendis ("D'Ascendis Direct") at Exhibit DWD-1.
45 Direct Testimony of Richard A. Baudino at 8.
46 Direct Testimony of Michael P. Gorman at 3.

to changes in circumstances since the last base rate proceedings.[47] The stipulated ROE fits squarely within this range of recommendations.

In addition, the 9.90% ROE is consistent with recent decisions by the Commission. For example, in October 2025, the Commission found that a ROE of 9.80% was fair, just, and reasonable for Duke Energy Kentucky, Inc.'s base electric rates.[48] The Duke rate case was fully litigated and therefore contained no rate case stay-out commitment.[49] In contrast, LG&E's and KU's customers will benefit from the substantial, multi-year stay-out that the Companies agreed to as part of the Stipulation. Plainly, the stay-out increases the financial risk to both LG&E and KU as compared to utilities like Duke that may file a base rate proceeding at any time. As such, the Stipulation's 9.90% ROE—a mere 0.1% greater than the ROE ordered by the Commission in the Duke proceeding—demonstrates that 9.90% is indeed conservative given the increased risk facing the Companies.

As mentioned, the Stipulation recommends the same ROE for base rates and the Companies' mechanisms except for the demand-side management mechanism. This is appropriate for at least five reasons. First, the Companies have agreed to a more than two-and-a-half-year base rate stay-out. The stay-out ensures other mechanism ROEs also cannot change during the stay-out period, increasing the risk associated with those mechanisms relative to possible upward movement in market ROEs. Second, the Companies are likely to under-earn the stipulated 9.90% ROE[50] and having the same ROE for the mechanisms will help the Companies remain financially

[47] Direct Testimony of Lisa V. Perry at 4.
[48] *In the Matter of: Electronic Application of Duke Energy Kentucky, Inc. for 1) An Adjustment of the Electric Rates; 2) Approval of New Tariffs; 3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and 4) All Other Required Approvals and Relief*, Case No. 2024-00354, Order at 51 (Ky. PSC Oct. 2, 2025).
[49] *Id.* Notably, on November 20, 2025, the Public Service Commission of South Carolina approved rate case settlement involving Duke Energy Progress that included a 9.99% ROE: https://dms.psc.sc.gov/Attachments/Matter/ff1a50b7-5c7e-4714-8b5e-9ecaf76b95c9
[50] Companies' Responses to Joint Intervenors' Post-Hearing Request for Information, No. 2.

strong throughout the stay-out period, which is necessary to attract capital to fund investments required to serve customers safely and reliably.[51]

Third, as Dylan D'Ascendis explained in his testimony, analyzing the cost of capital is a comparative exercise.[52] Thus, if mechanisms are common throughout the utilities on which the ROE analyses are based, the comparative risk is zero, because any effect of the perceived reduced risk of the mechanisms by investors would be reflected in the market data of the proxy group.[53] Indeed, Exhibit DWD-12 to Mr. D'Ascendis' testimony provides a summary of the mechanisms currently in effect at each natural gas subsidiary within the companies in Mr. D'Ascendis' Natural Gas Utility Proxy Group and at each electric utility subsidiary within the companies in his Electric Utility Proxy Group.[54] As Exhibit DWD-12 demonstrates, mechanisms are overwhelmingly common among both the Natural Gas and Electric Utility Proxy Groups.[55] Fourth, Mr. D'Ascendis testified at the evidentiary hearing that he is not aware of any other state commission that systematically reduces the ROE for mechanisms as compared to the ROE for base rates.[56] In short, the Commission's position is an outlier on this issue, and there is strong empirical evidence supporting a consistent ROE for base rates and mechanisms.

Fifth, it is particularly appropriate for the proposed Adjustment Clause GCR mechanism to use the stipulated base rate ROE because it is designed to recover costs over the full life of each generation asset, not temporarily or until the next base rate case. This long-term recovery structure benefits customers through a declining rate base as assets depreciate. This means that even without

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[51] Joint Stipulation Testimony at 15.
[52] D'Ascendis Direct at 66-67.
[53] *Id.*
[54] *Id.* at Exhibit DWD-12.
[55] *Id.*
[56] November 4, 2025 Hearing, 1:41:30 p.m. (D'Ascendis).

a new rate case, the revenue requirement associated with each capital investment included in Adjustment Clause GCR will decline over time, directly benefiting customers.

3. Long-Term Debt Rate

When LG&E and KU filed their Applications in these cases, the long-term debt in their proposed capital structures included debt issuances with an assumed coupon rate of 6.50%.[57] When the Companies issued new long-term debt in August 2025, LG&E and KU were able to issue long-term debt with a coupon rate of 5.85%.[58] The Stipulation adjusts the long-term debt rate to reflect the 5.85% rate, which reduces the Companies' adjusted proposed electric revenue requirement increases by $4.4 million for KU and $3.4 million for LG&E.[59] For LG&E's gas operations, this adjustment reduces the revenue requirement by $1.3 million.[60]

4. Depreciation

The Stipulating Parties have agreed to reduce the Companies' revenue requirements to remove terminal net salvage for thermal units, including Mill Creek 2 and Brown 3.[61] This adjustment, inclusive of the associated impact on the Companies' capitalization, reduces the Companies' proposed electric revenue requirement increases by $16.0 million for KU and $6.8 million for LG&E.[62] The Stipulation provides that the proposed depreciation rates as filed in the Companies' Applications shall be approved for ratemaking purposes, except for the adjustment to remove terminal net salvage for thermal units[63] and including a 45-year service life for Mill Creek 5, Mill Creek 6, and Brown 12.[64]

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[57] Direct Testimony of Julissa Burgos at 9.
[58] Stipulation ⁋ 2.2(B).
[59] Joint Stipulation Testimony at 12.
[60] *Id.* at 19.
[61] Stipulation ⁋ 2.2(C).
[62] Joint Stipulation Testimony at 16; Stipulation ⁋ 2.3.
[63] Stipulation ⁋ 2.2(C).
[64] *Id.* at ⁋ 9.1.

In preparing the Stipulation exhibits, the Companies discovered depreciation calculation errors in the revenue requirements for KU and LG&E.[65] Correcting these errors reduces the Companies' proposed electric revenue requirement increases by $3.8 million for KU and $0.2 million for LG&E and increases the proposed gas revenue requirement by $1.9 million for LG&E.

5. Vegetation Management, De-Pancaking, Pension and OPEB Expense, Inline Inspection and Well Logging Expense

The Stipulating Parties have agreed to adjustments to vegetation management, de-pancaking, pension and OPEB expense, and inline inspection and well logging expense for the purpose of reaching a settlement in these proceedings. As described later in this Brief, the Stipulating Parties have further agreed the Companies should use regulatory deferral accounting to record the amounts of such expenses above or below the amounts proposed to be included in base rates for later annual review and distribution to and recovery from customers. This ensures that customers pay only for prudently incurred costs and no more.

As a result of the Stipulating Parties' agreement to utilize deferral accounting for these categories of expense, the Stipulation contains the following adjustments to these expenses:

- Adjusting the vegetation management expense to reduce the proposed electric revenue requirement increases by $8.8 million for KU and $4.8 million for LG&E.[66]
- Adjusting the de-pancaking expense to reduce the proposed electric revenue requirement increases by $6.3 million for KU and $3.5 million for LG&E.[67]
- Adjusting the pension and OPEB expense to reduce the Companies' proposed electric revenue requirement increases by $1.3 million for KU and $1.4 million for

[65] *Id.* at ⁋ 2.2(I), 3.2(G).
[66] *Id.* at ⁋ 2.2(D).
[67] *Id.* at ⁋ 2.2(E).

LG&E.[68] For LG&E's gas operations, this adjustment reduces the proposed revenue requirement by $0.5 million.

- Adjusting the inline inspection and well logging expense reduces LG&E's gas proposed revenue requirement by $4.5 million.

6. EEI, American Gas Association, and Related Dues

The Stipulating Parties have agreed to remove from the revenue requirement the dues attributable to Edison Electric Institute ("EEI"), American Gas Association, Utility Solid Waste Activities Group, Utilities Technology Council, and Waterways Council.[69] This adjustment reduces the Companies' proposed electric revenue requirement increases by $0.5 million for KU and $0.4 million for LG&E.[70] For LG&E's gas operations, this reduces the proposed revenue requirement by $0.3 million.[71]

7. 401k Matching and Defined Benefit Plan

The Stipulation removes from the Companies' revenue requirement the amount incurred in 401(k) matching expense for employees that also participate in a defined benefit plan.[72] This adjustment reduces the proposed electric revenue requirement increases by $0.9 million for KU and $0.7 million for LG&E.[73] For LG&E's gas operations, this adjustment reduces the proposed revenue requirement by $0.3 million.[74]

C. The Deferral Accounting Proposal in the Stipulation Is Reasonable

As mentioned, the Stipulation recommends that the Commission approve deferral accounting treatment for KU and LG&E for any actual expense amounts above or below the

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[68] *Id.* at ⁋ 2.2(H).
[69] *Id.* at ⁋ 2.2(F).
[70] *Id.* at ⁋ 2.3.
[71] *Id.* at ⁋ 3.3.
[72] *Id.* at ⁋ 2.2(G).
[73] *Id.* at ⁋ 2.3.
[74] *Id.* at ⁋ 3.3.

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) Inline Inspection and Well Logging Expense.[75] For these five expenses, LG&E and KU will establish a regulatory asset for amounts exceeding the base rate level and a regulatory liability for amounts below the base rate level, and will address recovery of any regulatory assets or liabilities in their next base rate cases.[76] Additionally, the Companies will make an annual filing with the Commission within 90 days of the end of each calendar year to report on and have Commission review of the expenses.[77] This proposal provides an important direct benefit to customers; it ensures that customers pay for prudently incurred costs and no more.

The Commission has historically recognized four general categories of costs that may qualify for regulatory asset treatment: (1) extraordinary, nonrecurring expenses; (2) costs incurred from a statutory or administrative directive; (3) costs associated with an industry sponsored initiative; and (4) extraordinary, nonrecurring expenses that will result in savings that offset the cost.[78] Importantly, just last year, the Commission emphasized that these categories are "not determinative," but "illustrative."[79]

The Stipulation's proposal is consistent with sound regulatory principles and the public interest. Each of the identified expenses is either extraordinary in nature, necessary to comply with regulatory requirements, or provides long-term benefits to customers. Deferral accounting treatment ensures that these costs are matched with the periods over which they are recovered,

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[75] *Id.* at ⁋4.1. For Inline Inspection and Well Logging, all costs were removed from base rates so there will only be a regulatory asset for that item.
[76] *Id.* at ⁋4.2.
[77] *Id.* at ⁋4.4.
[78] *See, e.g., Application of East Kentucky Power Cooperative, Inc. for an Order Approving Accounting Practices to Establish a Regulatory Asset Related to Certain Power Costs Resulting from Generation Forced Outages*, Case No. 2008-00436, Order at 3-4 (Ky. PSC Dec. 23, 2008).
[79] *Electronic Application of Kentucky Utilities Company and Louisville Gas and Electric Company for an Order Approving the Establishment of Regulatory Assets*, Case No. 2024-00181, Order at 3 (Ky. PSC Nov. 21, 2024).

rather than creating volatility in rates or unfairly burdening customers in the short term. This approach is equitable and transparent: customers will pay for actual, prudently incurred costs—no more and no less.

Further, recovery of any regulatory assets or liabilities will not occur until the Companies' next base rate cases, preserving the Commission's full authority to review and approve recovery at that time. In addition, the annual filings required under the Stipulation provide an extra layer of oversight, allowing the Commission to monitor these expenses regularly and ensure they remain reasonable and prudent. This structure balances flexibility for the Companies with strong protections for customers, while maintaining the Commission's oversight.

D. Residential Basic Service Charge

The Stipulation provides that the Companies' overall residential rate increase percentage and the residential Basic Service Charge increase percentage will be the system average increase percentage.[80] This is a reasonable outcome, as both the Companies[81] and certain intervenors[82] provided testimony regarding the appropriate Basic Service Charge amount, and the Stipulated agreement is within the range of proposals submitted by the parties.

E. Proposed Rate EHLF (Extremely High Load Factor) Modifications

LG&E and KU recognize that customers with large demands and very high load factors have sufficiently different service characteristics and potential financial impacts to the Companies, thus warranting a standalone rate schedule for them, along with appropriate accompanying terms and conditions of service. Rate EHLF addresses these concerns by providing reasonable

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[80] Stipulation ⁋5.3.
[81] *See, e.g.*, Direct Testimony of Timothy S. Lyons.
[82] *See, e.g.*, Direct Testimony of Stephen J. Baron.

protections for the Companies and their customers while also providing average embedded cost rate service to all customers.

In the Companies' proposal, Rate EHLF would apply to all customers with very large demands and very high load factors, requiring: (1) an increased minimum demand charge ratchet; (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 posted at the time of service contract signing.

The Stipulation contains several modifications to the Companies' proposal: (1) the proposed minimum contract capacity threshold will be reduced from 100 to 50 MVA;[83] (2) the EHLF tariff will contain language stating that it only applies to new customers; (3) the EHLF tariff will also include language clarifying that if a customer attempts to circumvent the minimum capacity threshold of Rate EHLF by siting multiple smaller facilities, the customer will nonetheless be served under Rate EHLF;[84] and (4) the Companies commit to work with Rate EHLF customers to reach any necessary agreements to reasonably accommodate their renewable energy goals.[85] The inclusion of these modification helps ensure that Rate EHLF will provide sufficient protections to customers and the Companies alike.

II. Other Issues

A. Adjustment Clause MC2

In the Stipulation in the CPCN Case, the Stipulating Parties agreed to a life extension for Mill Creek 2.[86] To facilitate the life extension, the Stipulation included Adjustment Clause MC2,

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[83] Stipulation ⁋8.1.
[84] Stipulation ⁋8.2.
[85] Stipulation ⁋8.3.
[86] Joint Supplemental Testimony at 12.

which is a tariff provision that enables LG&E to recover the incremental costs associated with extending the operational life of Mill Creek 2 beyond its previously planned retirement date.[87] Neither LG&E's current rates nor the rates proposed in this proceeding includes the stay-open costs associated with extending Mill Creek 2's life.[88] As proposed, Adjustment Clause MC2 would recover only those incremental non-fuel costs that are not otherwise recovered through base rates or other cost recovery mechanisms.[89]

On October 28, 2025, the Commission issued an Order in the CPCN Case, which held that "extending Mill Creek 2 for a short period has the potential for real upside for ratepayers and will allow LG&E/KU greater flexibility in meeting the growing needs of new customers."[90] It further stated that "the short-term life extension of Mill Creek 2 appears to be a least-cost alternative when compared to the Cane Run BESS."[91] But with regard to Adjustment Clause MC2, which is necessary to recover the stay-open costs, the Commission found that the Companies had not met their burden of proof. Likewise the Commission found the Companies had not met their burden of proof with regard to Adjustment Clause MC6. The Commission stated that it "did not have an opportunity to thoroughly investigate the proposals, and that LG&E/KU failed to provide substantial evidence that the proposed Mechanisms should be approved."[92] The Commission then held:

> The Commission encourages LG&E/KU to provide more evidence in support of the Mill Creek 6 Mechanism and Mill Creek 2 Mechanism in a separate proceeding, allowing the Commission an

[87] *Id.*
[88] *Id.*
[89] *Id.*
[90] *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, Order at 159 (Ky. PSC Oct. 28, 2025).
[91] *Id.* at 129.
[92] *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, Order at 153-54 (Ky. PSC Oct. 28, 2025).

> opportunity to thoroughly investigate the proposals. In the event that LG&E/KU and/or other Parties anticipate introducing the Mill Creek 6 Mechanism and Mill Creek 2 Mechanism in LG&E/KU's pending rate cases in Case Nos. 2025-00113 and 2025-00114 as indicated in this proceeding, the Commission encourages LG&E/KU and any party to provide further evidence in support of the proposed mechanisms in those proceedings.[93]

Given the Commission's holding and its encouragement for LG&E and KU to submit additional evidence in support of the MC6 and MC2 Mechanisms, LG&E and KU submitted Joint Supplemental Testimony in these rate proceedings regarding the reasonableness of Adjustment Clause MC2, including a Monthly Reporting Form Template, Preliminary Bill Analysis, and Proposed Tariff Sheets.[94] LG&E is not seeking recovery of any amounts under Adjustment Clause MC2 in these proceedings; instead, the request is *only for approval of the mechanism itself.*[95] However, LG&E cannot keep Mill Creek 2 operational without some way to recover the costs of doing so—and those costs are being incurred now.[96] For that reason, in the Joint Supplemental Testimony, the Companies reiterated their request for authority to defer stay-open costs from the date of the Stipulation in the CPCN case (July 29, 2025).[97] That request was a part of the Stipulation in the CPCN case,[98] but the Commission did not rule on it when it encouraged the

[93] *Id.* at 154.
[94] Joint Supplemental Testimony at Exhibits 4-6.
[95] November 3, 2025 Hearing, 4:19:25 p.m. – 4:19:46 p.m. (Conroy) ("We are asking for approval of the mechanism itself."); *see also* LG&E's response to Sierra Club's Third Request for Information, No. 1 ("The Company is not asking the Commission to find any Mill Creek 2 stay-open or life extension cost to be prudent in this proceeding. The Commission will have the opportunity to review all actual costs recovered through Adjustment Clause MC2 and determine their prudence in the proposed annual review proceedings.").
[96] Joint Supplemental Testimony at 15; November 3, 2025 Hearing, 2:27:07 p.m. – 2:27:47 p.m. (Conroy) ("At the time we filed this rate case, the assumption was that Mill Creek 2 would retire in mid-2027 so there were no life extension costs included in the rate case and there are no extension costs in the test year 2026, but we have already started incurring costs associated with extending the life of Mill Creek 2 and there will be significantly more costs uncured late in 2026, so without this mechanism the Companies would not be able to recover any of the costs associated with extending the life of Mill Creek 2."). Approval of Adjustment Clause SM is not helpful on the issue of recovery of MC2 stay open costs because it does not cover 2025, 2026, and the first half of 2027 in which significant costs will be incurred.
[97] Joint Supplemental Testimony at 15.
[98] Case No. 2025-00045, Stipulation ¶4.4.

Companies to bring Adjustment Clause MC2 into these rate proceedings. Thus, the request still stands ripe for decision. For the Mill Creek 6 Adjustment Clause proposed in the CPCN Case, because costs are not proposed to be recovered through it until Mill Creek 6 enters service in 2031, it is not as time sensitive as Adjustment Clause MC2, and the Companies will accept the Commission's invitation to provide more information about that mechanism "in a separate proceeding."

At the outset of the November 3, 2025 hearing, the Commission incorporated the portions of Case No. 2025-00045 pertaining to Adjustment Clause MC2 into the record of these proceedings. The Commission also suspended the hearing for four hours to afford the Joint Intervenors, each of which are also parties to the CPCN Case, additional time to review the supplemental information provided on October 31, 2025. The Joint Intervenors then proceeded to cross-examine the Companies' witnesses regarding Adjustment Clause MC2 and also had the opportunity to submit additional written discovery questions regarding the mechanism following the evidentiary hearing, which they did.

Given the history of Adjustment Clause MC2 described above, approval of it is now properly before the Commission and ripe for decision in these rate proceedings; the Commission therefore has authority to, and should, approve it. The Kentucky Supreme Court's seminal opinion in *Ky. Pub. Serv. Comm'n v. Com. ex rel. Conway*, 324 S.W.3d 373 (Ky. 2010), articulates several relevant principles the Commission has since followed in approving mechanisms similar to the proposed Adjustment Clauses MC2 that first arose in the context of settlement discussions: (1) neither KRS 278.180 nor 278.190 requires any particular process when a utility proposes a change in rates or a new rate, including a new cost recovery mechanism;[99] (2) the Commission has plenary

[99] *Ky. Pub. Serv. Comm'n v. Com. ex rel. Conway*, 324 S.W.3d 373, 377-78 (Ky. 2010):

ratemaking authority under KRS 278.030 and 278.040 to approve or adjust a new rate mechanism outside a general rate case, and no hearing is required to do so;[100] (3) nothing in KRS Chapter 278 prohibits establishing cost-recovery mechanisms for particular categories of costs;[101] and (4) "because the statutes generally recognize a duty to establish 'fair, just, and reasonable' rates without necessarily requiring a particular procedure to deal with isolated ratemaking issues, the *Hope* doctrine that '[it is] the result reached rather than the method employed which is controlling' is applicable."[102] Since the Kentucky Supreme Court issued its seminal opinion in that case, the Commission has approved a number of cost-recovery mechanisms that were not part of a published notice[103] and first arose in settlement discussions. For example, in the Companies' 2020 base rate cases, the Commission approved the Companies' Retired Asset Recovery Riders, which were first

> KRS 278.180 does not require any particular process to allow a utility to change its rates other than complying with notice requirements.
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> …
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> [T]he plain language of KRS 278.190 does not actually require that the PSC proceed with a general rate case or other particular process every time some new rate or change in rates is requested. To the contrary, the statute simply provides that upon filing of a schedule of new rates, the PSC "may" conduct a "hearing concerning the reasonableness of the new rates" on its own motion ….

[100] *Id.* at 380-81:

> [W]e, nonetheless, conclude that the PSC has the power to allow such a rider [in that case, Duke Kentucky's Accelerated Main Replacement Rider] based upon (1) its plenary ratemaking authority derived from KRS 278.030 and KRS 278.040, which essentially require that the PSC act to ensure that rates are "fair, just and reasonable" and (2) the absence of any statutes specifically requiring a particular procedure when determining if rates are fair, just, and reasonable.
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> …
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> [W]e find nothing in the statutes that mandates that this rider or the calculation of the actual monetary surcharge could only be approved through a general rate case. … KRS 278.190(1) states simply that the PSC "may" hold a hearing "concerning the reasonableness of the new rates" when a utility files a schedule setting new rates. So the statute does not command such a hearing upon the filing of new rates.

[101] *Id.* at 382 ("[W]e simply find nothing in other statutes in KRS Chapter 278 that would forbid the PSC from allowing a rider or surcharge for the costs at issue here …. In fact, we find nothing in the statutes that would prohibit 'single-issue ratemaking' ….").

[102] *Id.* at 383 (quoting *National-Southwire Aluminum Co. v. Big Rivers Elec. Corp.*, 785 S.W.2d 503, 510 (Ky. App. 1990).

[103] The Companies note that the statutory counsel for all customers, the Attorney General of Kentucky, has not only been provided "notice" of Adjustment Clause MC2, he has specifically agreed that the Commissions should approve it.

introduced in those cases as part of the stipulation.[104] Likewise, in the Companies' 2014 base rate cases, the Commission approved and placed into effect on July 1, 2015, i.e., at the same time as all other rates approved in those cases, the Companies' Off-System Sales adjustment clauses, which were first introduced in those cases as part of the stipulation.[105] Even before the seminal *Conway* opinion, the Commission itself created and allowed the Companies to choose to adopt solely by filing new tariff sheets an Earnings Sharing Mechanism the Companies had not proposed in their 1998 alternative rate methodology applications.[106] In sum, the Commission has previously treated as properly before it and approved—including items having an effect on customers' bills without customer notice—rate mechanisms introduced for the first time as parts of stipulations and

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[104] *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, Order at 18-19 (Ky. PSC June 30, 2021); *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 Meter Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit*, Case No. 2020-00350, Order at 21 (Ky. PSC June 30, 2021).

[105] *Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2014-00371, Order at 11-12 and Appx. A at 7 (Ky. PSC June 30, 2015); *Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates*, Case No. 2014-00372, Order at 12 and Appx. A at 7 (Ky. PSC June 30, 2015). The related tariff filings showing stamped tariff pages placing Adjustment Clause OSS in effect as of July 1, 2015, are available for KU under tariff filing ID TFS2015-00427 (https://psc.ky.gov/trf4/uploadedFiles/400_Kentucky_Utilities_Company/07302015100201/KU_Tariff_version2.pdf), and for LG&E under tariff filing ID number TFS2015-00428 (https://psc.ky.gov/trf4/uploadedFiles/500_Louisville_Gas_and_Electric_Company/07302015100646/LGE_Tariff_version2.pdf).

[106] *Application of Louisville Gas and Electric Company for Approval of an Alternative Method of Regulation of Its Rates and Service*, Case No. 98-426, Order at 48 (Ky. PSC Jan. 7, 2000) ("[T]he Commission will now offer LG&E an alternative to traditional regulation in the form of an optional ESM plan. The Commission encourages LG&E to take advantage of this optional ESM …. [W]e now propose an optional ESM for LG&E, recognizing that LG&E's full support and commitment is essential to make this incentive plan work."); *id.* at 48-50; *id.* at 112 ("1. LG&E's proposed PBR plan … should be denied. … 3. The Commission's optional ESM plan constitutes a reasonable form of alternative regulation for LG&E and will result in fair, just, and reasonable rates. 4. Within 30 days of the date of this Order, LG&E should file with the Commission either a tariff adopting the Commission's optional ESM plan or a written notice rejecting such plan."); *Application of Kentucky Utilities Company for Approval of an Alternative Method of Regulation of Its Rates and Service*, Case No. 98-474, Order at 45 (Ky. PSC Jan. 7, 2000) ("[T]he Commission will now offer KU an alternative to traditional regulation in the form of an optional ESM plan. The Commission encourages KU to take advantage of this optional ESM …. [W]e now propose an optional ESM for KU, recognizing that KU's full support and commitment is essential to make this incentive plan work."); *id.* at 45-48; *id.* at 112 ("KU's proposed PBR plan and tariff flexibility provision are denied. 2. Within 30 days of the date of this Order, KU shall file either a tariff adopting the Commission's optional ESM or a written notice that the optional ESM is rejected. 3. If KU adopts the Commission's optional ESM plan, KU shall file within 60 days thereafter draft schedules for annual filings, pursuant to the findings herein[.]").

settlements, or introduced for the first time by the Commission itself, all of which was and is entirely proper and permissible pursuant to the Commission's plenary ratemaking authority as interpreted by the Kentucky Supreme Court.

Similarly, the Commission has approved other kinds of proposals that have arisen for the first time in settlements or stipulations or at other points during the pendency of the proceedings, not in the applications giving rise to the proceedings or related customer notices. For example, in LG&E's 2016 base rate case, the Commission granted a CPCN for a gas pipeline for which LG&E had not requested a CPCN in its application;[107] the Kentucky Court of Appeals later upheld a challenge to that CPCN, rejecting arguments from non-parties to the rate case that the lack of notice had deprived them of their ability to seek intervention and oppose the CPCN.[108] Also, in the Companies' 2011 Environmental Cost Recovery ("ECR") application proceedings, the Companies entered into a settlement, which the Commission approved, increasing the Companies' Home Energy Assistance ("HEA") charges—including for LG&E's gas customers—which had not been part of the Companies' ECR applications or customer notices and arose for the first time during settlement.[109]

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[107] *Application of Louisville Gas and Electric Company For An Adjustment of Its Electric and Gas Rates and For Certificates of Public Convenience and Necessity*, Case No. 2016-00371, Order at 31-34 (Ky. PSC June 22, 2017).
[108] *Iola Capital v. Ky. Pub. Serv. Comm'n*, 659 S.W.3d 563 (Ky. App. 2022).
[109] *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 18, 28, and Appx. A at 10-11 (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 13, 22, and Appx. A at 10-11 (Ky. PSC Dec. 15, 2011). The related tariff filings showing stamped tariff pages placing the increased HEA charges in effect as of Jan. 1, 2012, are available for KU under tariff filing ID TFS2011-00847 (https://psc.ky.gov/trf4/uploadedFiles/400_Kentucky_Utilities_Company/12222011b/KU_Tariff.pdf), and for LG&E under tariff filing ID numbers TFS2011-00848 (electric) (https://psc.ky.gov/trf4/uploadedFiles/500_Louisville_Gas_and_Electric_Company/12222011b/LGE_Electric_Tariff.pdf) and TFS2011-00849 (gas) (https://psc.ky.gov/trf4/uploadedFiles/22200500_Louisville_Gas_and_Electric_Company/12222011b/LGE_Gas_Tariff.pdf).

Therefore, Adjustment Clause MC2 is properly before the Commission and ripe for decision. The information provided in the CPCN case and in these rate proceedings provides more than enough evidence for the Commission to approve it. Regarding the amounts that will be billed to customers via Adjustment Clause MC2, there will be frequent opportunities for the Commission to review amounts billed to and collected from customers under the mechanism, including more frequent and focused review than would occur if the same costs were recovered through base rates.[110] Just as with the Companies' ECR and proposed GCR mechanisms, LG&E proposes to file its proposed MC2 cost recovery factors with the Commission in the month before it bills the factor, with expenses based on the previous month (*e.g.*, January expenses will appear in the February report and be billed in March).[111]

B. Because All Customers—Not the Companies—Bear the Cost of Compensation Rates Paid to Qualifying Facility and Rider NMS-2 Customers, Avoided Costs Must Be the Standard for Setting Such Rates.

When setting Qualifying Facility ("QF") and Rider NMS-2 compensation rates, the Commission must answer the fundamental question of what costs the Companies will actually avoid by paying such customers for their output. If the Companies do not actually avoid costs commensurate with the rates paid to QF and Rider NMS-2 customers, then all customers—who pay the costs associated with purchases under these rates in nearly real-time through the FAC as purchased power—will bear the burden of the overpayment.

Having this frame of reference helps clarify why, for example, it would be illogical to require capacity payments for behind-the-meter QFs, which KYSEIA advocates.[112] As the Companies' witness Charles R. Schram testified, in no other utility context would the Companies

[110] Joint Supplemental Testimony at 13.
[111] *Id.* at 13.
[112] *See, e.g.,* Intervenor Testimony of Jason W. Hoyle ("Hoyle Direct") at 5.

make capacity payments for generation for which another party has the first right to all its output;[113] there is no capacity value—no planning benefit—associated with such an arrangement. Therefore, it would be counterintuitive to require all the Companies' customers to pay behind-the-meter QF customers for their capacity; only as-available energy payments are appropriate for such customers.

Likewise, it defies reason to require all customers to compensate renewable-plus-battery QFs the same as fully dispatchable "Other" QFs under the Companies' QF tariffs.[114] Adding a battery to a renewable resource does not change the nature of the renewable resource; solar generation does not stop being solar generation because a QF collocates a battery with it.[115] Indeed, without any monitoring and control of the battery by the Companies, it is not at all clear what adding a battery—and what kind and capacity of battery—would do to or for the output characteristics of the total renewable-plus-battery facility. All that is certain is (1) the total power output of the facility will decrease relative to simply exporting all energy as the renewable resource produces it (due to battery roundtrip and storage losses), and (2) the battery, if it can be charged only by the renewable resource, will be less reliable than if it could be charged from the grid.[116] As the Companies' witnesses have testified, the Companies are evaluating arrangements by which they could compensate customers who allow the Companies to monitor and control the customers' storage resources.[117] But merely adding a battery—even a large one, and particularly one the Companies cannot monitor or control—to a renewable resource does not make that resource equivalent to an around-the-clock fully dispatchable resource of the kind used to model and price

[113] Rebuttal Testimony of Charles R. Schram ("Schram Rebuttal") at 7.
[114] *See* Hoyle Direct at 4.
[115] Schram Rebuttal at 8-9.
[116] *Id.*
[117] *Id.* at 9.

the Other QF resource type. Therefore, it is not in customers' interest to require the Companies to compensate renewable-plus-battery QFs as Other QFs.

Ultimately, the Commission should use as a guide in considering solar QF and NMS-2 compensation rates a simple reality that no party to these cases has challenged: the sum of the energy, generation capacity, carbon, ancillary services, and environmental compliance costs distributed solar energy purports to avoid cannot exceed the cost of utility-scale solar energy adjusted for line losses.[118] In these cases, no party has contested the Companies' Mercer County Solar pricing ($0.06736/kWh), which serves as the *maximum* customers should have to pay, adjusted for line losses, for the sum of the five potential avoided cost components listed above.[119] (The Companies continue to support the stipulated Rider NMS-2 rates in these cases in the context of the total Stipulation, and they do not view the guide articulated above as precluding approving the Stipulated Rider NMS-2 rates.)

Finally, while certain intervenors have suggested the Companies disregarded prior Commission orders in formulating their proposed QF and NMS-2 rates in these cases, that is not accurate.[120] First, the Commission's prior orders on these matters neither prescribed the methodologies the Companies had to use in proposing updated avoided cost components, nor did they purport to prohibit the Companies from using other methodologies to propose such updates.[121]

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[118] *Id.* at 9-10.
[119] *Id.*
[120] *See, e.g.,* Hoyle Direct at 53; Direct Testimony of James Fine at 8.
[121] *See generally 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, Order (Ky. PSC Sept. 24, 2021); *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, Order (Ky. PSC Sept. 24, 2021); *Electronic Tariff Filings of Louisville Gas and Electric Company and Kentucky Utilities Company to Revise Purchase Rates for Small Capacity and Large Capacity Cogeneration and Power Production Qualifying Facilities and Net Metering Service-2 Credit Rates,* Case No. 2023-00404, Order (Ky. PSC Aug. 30, 2024).

Second, as the Companies noted in their rehearing and reconsideration petition in their 2020 rate cases and stated again in these proceedings, they could not recreate certain avoided cost calculations the Commission performed in those cases.[122] Thus, if the Commission desires to prescribe certain calculation methodologies in these cases, the Companies respectfully ask the Commission to provide native-format workpapers with all formulas intact so the Companies may use them in future cases. In sum, it is and has always been the Companies' intention to comply with all lawful Commission orders, and any assertion to the contrary concerning the Companies' approach to QF and NMS-2 rates in these cases is simply false.

C. The Commission Should Reject the Rate PSA Wireline Pole Attachment Rates Proposed by KBCA, which Rely on Ratemaking Approaches the Commission Rejected More than 40 Years Ago and Ignore Kentucky Ratemaking Statutes and Regulations.

KBCA asks the Commission to ignore Kentucky law and adopt Rate PSA wireline pole attachment rates ("wireline rates") based exclusively on historical costs rather than the forecast costs used to set rates for all other customer classes, an outdated rate of return ("ROR"), and an exemption from shared costs all other customers bear.[123] These recommendations rely on a reading of the Commission's seminal September 17, 1982 Order in Administrative Case No. 251 ("Admin. Order 251") that omits relevant context—including the General Assembly's enactment of KRS 278.192 in 1992 and the Commission's 807 KAR 5:001 Sec. 16(1)(a) in 1993—and understates the Commission's authority. The Commission should reject KBCA's constrained view of the Commission's authority and explicitly state in these proceedings that *Kentucky*—not the Federal Communications Commission ("FCC") or other states—regulates pole attachment rates according

[122] *See* Case Nos. 2020-00349 and 2020-00350, Order (Ky. PSC Nov. 4, 2021); Rebuttal Testimony of Peter W. Waldrab at 12; Rebuttal Testimony of Elizabeth J. McFarland at 9.
[123] Direct Testimony of Dr. Patricia D. Kravtin ("Kravtin Direct") at 14-17.

to its own ratemaking law, and pole attachment ratemaking is therefore subject to KRS 278.192 and 807 KAR 5:001 Sec. 16(1)(a)—just like ratemaking for all other customers.

1. Kentucky Law—Not Federal Law or Other States' Law—Governs Ratemaking in Kentucky, including Pole Attachment Ratemaking.

A mainstay of KBCA's arguments against the Companies' proposed Rate PSA wireline rates and those included in the Stipulation is that ratemaking for pole attachments is fundamentally different from all other ratemaking,[124] which is why, for example, KBCA witness Patricia Kravtin has asserted that "embedded costs" must be historical.[125] She also argued in her direct testimony that the Companies' proposed Rate PSA wireline rates were problematic in part because they differed from pole attachment ratemaking as practiced "nationwide," in support of which she cited FCC ratemaking principles in 47 U.S.C. § 224.[126]

But this Commission, the Franklin Circuit Court, and the Kentucky Court of Appeals squarely rejected Ms. Kravtin's position more than 40 years ago.[127] After the 1978 enactment of the federal Pole Attachment Act ("PAA"), Kentucky—through this Commission in Case Nos. 8040 and 8090—exercised its authority under the PAA to regulate pole attachment rates, terms, and conditions under *Kentucky* law.[128] The Commission did so over the opposition of the "intervening CATV operators,"[129] which had argued that "the pole attachment arrangement is not within the statutory scheme of regulating utility rates and services," observing that "nowhere in

[124] *See, e.g.*, November 6, 2025 Hearing, 4:55:10 p.m. – 4:55:45 p.m.; Kravtin Direct at 12.
[125] Kravtin Direct at 15 ("Embedded costs by definition are actual historic[al] costs ….").
[126] Kravtin Testimony at 6, fn. 2 (citing to 47 U.S.C. § 224(d)'s definition of "just and reasonable").
[127] *The Regulation of Rates, Terms and Conditions for the Provision of Pole Attachment Space to Cable Television Systems by Telephone Companies*, Case No. 8040, Order (Ky. PSC Aug. 26, 1981); *The Regulation of Rates, Terms and Conditions for the Provision of Pole Attachment Space to Cable Television Systems by Electric Utilities*, Case No. 8090, Order (Ky. PSC Aug. 26, 1981) (collectively, "Case Nos. 8040 & 8090"); *Kentucky CATV Ass'n v. Volz*, 675 S.W.2d 393, 396 (Ky. App. 1983) ("We must agree with the finding by the Commission that the rates charged for pole attachments are 'rates' within the meaning of KRS 278.040, and that the pole attachment itself is a 'service' within the meaning of the statute.").
[128] Case Nos. 8040 & 8090, Order at 11-12 (Ky. PSC Aug. 26, 1981).
[129] *Id.* at 5.

the statute [KRS 278.040] is there any mention of CATV or pole rentals," and asking the Commission to delay making any decision "until the General Assembly meets next year."[130] The Commission entirely rejected the CATV operators' position, noting that the PAA's legislative history "indicates that it is Congress' preference that regulation be done by the states,"[131] and finding that "the statutory scheme set forth in KRS Chapter 278… confers plenary jurisdiction over all 'utilities' and their 'facilities,'"[132] including utility poles and their attachments.[133] Thus, the Commission held that its existing jurisdiction and ratemaking authority—which did not explicitly address or require the Commission to treat pole attachers differently—sufficed to encompass pole attachment rates, terms, and conditions. Indeed, far from treating such rates and customers fundamentally differently, the Commission stated that pole attachment rates should be "fair, just and reasonable"—just like all other customers' rates.[134]

The CATV advocates appealed the Commission's Order first to the Franklin Circuit Court, which affirmed the Commission's Order,[135] and then to the Kentucky Court of Appeals.[136] The appellate court rejected assertions that the Commission lacked jurisdiction over pole attachment agreements and that "the Commission cannot satisfy the conditions imposed by the Federal Pole Attachment Act and that such regulation must be accomplished by the Federal Communications Commission,"[137] holding:

> The Public Service Commission has exclusive jurisdiction over the rates and services of the regulated utilities in this State. KRS 278.040. We must agree with the finding by the Commission that the rates charged for pole attachments are "rates" within the

[130] *Id.*
[131] *Id.* at 4.
[132] *Id.* at 9.
[133] *Id.* at 12.
[134] *Id.* at 8.
[135] *Volz*, 675 S.W.2d at 394.
[136] *Id.*
[137] *Id.* at 394, 396-97.

> meaning of KRS 278.040, and that the pole attachment itself is a "service" within the meaning of the statute.[138]

The court further held that the Commission's regulation of pole attachment rates, terms, and conditions under KRS Chapter 278 satisfied federal requirements for Kentucky to exercise full and exclusive jurisdiction over pole attachment rates.[139] Therefore, it is *Kentucky* law—not federal law or other states' law—that governs pole attachment ratemaking in Kentucky, including the Rate PSA rates that will result from these proceedings.

2. Because Pole Attachment Ratemaking Is Not Fundamentally Different from All Other Ratemaking in Kentucky, It Is Permissible and Appropriate to Use Forecast Test Year Costs, the Rate of Return Approved in these Proceedings, and Cash Working Capital and Common Plant Components in Setting Rate PSA Rates.

Precisely because Kentucky law governs pole attachment ratemaking in Kentucky, there is no merit to Ms. Kravtin's assertion that pole attachment ratemaking differs fundamentally from other ratemaking. As demonstrated above, the Commission and Kentucky's courts established more than 40 years ago that Kentucky's KRS Chapter 278 ratemaking framework fully applies to pole attachment rates. Moreover, Admin. Order 251 repeatedly states that pole attachment customers are just that: utility customers, not a separate, special group subject to fundamentally different ratemaking standards. This simple but powerful fact undermines entirely three key arguments KBCA has made against the Companies' proposed Rate PSA rates.

First, it shows why Ms. Kravtin's assertion that the Commission must use only historical costs to set Rate PSA rates consistent with Admin. Order 251 is entirely incorrect.[140] The Commission issued Admin. Order 251 in 1982; since 1992, KRS 278.192 has required the

[138] *Id.* at 396.
[139] *Id.* at 397.
[140] *See, e.g.,* Kravtin Direct at 15 ("Embedded costs by definition are actual historic[al] costs ….").

Commission to allow utilities to use a forecast test year;[141] since 1993, 807 KAR 5:001 Sec. 16(1)(a) has required the same.[142] Importantly, KRS Chapter 278 provides no exception to these requirements for pole attachment rates. Thus, even if it were true that Admin. Order 251 intended to confine "embedded" costs only to historical costs in 1982—though it says no such thing; the word "historical" does not appear in it—such a constraint could not overcome later-enacted statutory and regulatory requirements. Therefore, it is both appropriate and necessary to include forecast costs in setting Rate PSA rates in these forecast test year rate cases.

Second, as Ms. Kravtin conceded at hearing—but contrary to the approach she took in her direct testimony—it is permissible and appropriate to use the ROR approved in these cases to set Rate PSA rates.[143] It is true Admin. Order 251 states that the ROR for pole attachment rates "should be equal to the return on investment (or margin) allowed in the utility's last rate case," but the Order also required utilities to file pole attachment tariff provisions and rates within 45 days of the Order;[144] as the Order also explicitly states, the requirement to use the ROR from each utility's *prior* rate case was "for convenience and certainty of computation," not for any fundamental, ongoing ratemaking reason.[145] Indeed, in a number of rate cases—*including forecast test year cases*—the Commission has adjusted pole attachment rates to match the applicant's approved ROR in those proceedings, not the utilities' prior rate cases.[146] Adjusting Rate PSA to

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[141] 1992 Ky. Acts Ch. 308.

[142] 19 Ky. R. No. 5 at 1145-1152 (Nov. 1, 1992); 19 Ky. R. No. 9 at 2044-2051 (Mar. 1, 1993); and 19 Ky. R. No. 10 at J-11 (Apr. 1, 1993).

[143] November 6, 2025 Hearing, 5:10:30 p.m. – 5:10:57 p.m..

[144] Rebuttal Testimony of Michael E. Hornung ("Hornung Rebuttal") at 22 (citing Admin. Case No. 251, Order at 19 (Ky. PSC Sep. 17, 1982)).

[145] Admin. 251 Order at 12.

[146] *See e.g. Adjustment of Gas and Electric Rates of Louisville Gas and Electric Company*, Case No. 90-158, Order at 54, 70 (Ky. PSC Dec. 21, 1990) (modifying LG&E's pole attachment rates to "reflect the overall rate of return" approved in the case); *Application of Cumberland Valley Electric, Inc. for an Adjustment of Rates*, Case No. 2014-00159, Order at 16 (Ky. PSC Jan. 16, 2015) ("[T]he Commission believes that the CATV rate calculations should reflect the most current rate of return. Therefore, the Commission finds that Cumberland Valley's CATV rates should be calculated based on the rate of return approved in this Order ...."); *Electronic Application of Duke Energy Kentucky,*

match the Companies' approved ROR in these cases is therefore fair, just, and reasonable, as Ms. Kravtin ultimately conceded.

Third, it entirely undermines KBCA's position that cash working capital and common plant costs are "unsanctioned add-ons" that cannot figure into Rate PSA rates.[147] Beginning with Case Nos. 8040 and 8090 more than 40 years ago, the Commission did away with any notion that pole attachment rates should be set at a bare minimum, marginal cost level:

> [Pole attachers] argued at the hearing that revenue from pole attachment charges are like "money from the wife's folks," i.e., that since the utility already has the pole in place and there is unused space on the pole, <u>any</u> charge therefor[e] is 'reasonable.' However, this Commission is of the opinion that all utility facilities should be operated to produce the optimal results; that if a utility facility can produce revenue from other uses without interference with essential utility operations, it must do so and for a fair, just and reasonable rate. In turn, the revenue from such 'other uses' reduces, <u>pro</u> <u>tanto</u>, the revenue that must be earned from conventional utility services rendered by the utility, thereby lowering the utility consumers' overall rate.[148]

Shortly thereafter in Admin. Order 251, the Commission rejected pole attachment customers' attempt to "pick and choose the categories of expense to which [they] will be subject,"[149] and authorized utilities to recover "an equitable share of all [their] costs in providing service," including operating and maintenance expenses, a cost of money return component, and "the common costs of the utility which cannot be directly allocated to any particular classification of

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Inc., for: 1) An Adjustment of the Electric Rates,· 2) Approval of an Environmental Compliance Plan and Surcharge Mechanism; 3) Approval of New Tariffs; 4) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and 5) All Other Required Approvals and Relief, Case No. 2017-00321, Order at 39 and 53-54 (Ky. PSC Apr. 13, 2018) ("[T]he Commission finds a ROE of 9.725 percent to be reasonable, and for the purpose of base rate revenues and certain tariffs, an ROE of 9.725 percent should be applied. … The Commission will approve Duke Kentucky's proposed changes to this tariff; however, the rates proposed by Duke Kentucky will not be approved as they were calculated using a rate of return based on a 10.30 percent ROE. Therefore, the Commission has recalculated the proposed pole attachment rates using the Commission approved ROE of 9.725 percent ….").

[147] Kravtin Direct at 16-17.

[148] Case Nos. 8040 & 8090, Order at 8 (Ky. PSC Aug. 26, 1981) (emphases original). On appeal, both the Franklin Circuit Court and the Kentucky Court of Appeals affirmed the Commission's order. *See Kentucky CATV Assoc. v. Volz*, 675 S.W.2d 393, 394 (Ky. App. 1983).

[149] Admin. Case No. 251, Order at 11 (Ky. PSC Sep. 17, 1982).

customer."[150] Therefore, it is entirely consistent with the law of ratemaking in Kentucky, including Admin. Order 251, for Rate PSA customers to contribute to an equitable share of cash working capital and common plant costs—just like all other customers.

D. The Commission Should Approve the Stipulated Rate PSA Rates, which Are Fair, Just, and Reasonable, and They Are Consistent with Kentucky Law and the Companies' Previous Rate Case Filings.

In contrast to KBCA's approach, which ignores Kentucky ratemaking law and treats pole attachment customers fundamentally different than all other customers, the Companies' Rate PSA methodology is consistent with Kentucky law, consistent with more than ten years of the Companies' rate case filings concerning Rate PSA, and treats pole attachment customers as much like other customers as possible. The Companies' reasonable methodology underlies the stipulated Rate PSA rates, which the Commission should approve.[151]

1. The Stipulated Rate PSA Wireline Rates Are Fair, Just, and Reasonable Increases to Rates that Have Not Changed in More than Ten Years, as Ms. Kravtin's Own Calculations Suggest on a Percentage Increase Basis.

The record reflects that Rate PSA wireline rate increases as set forth in the Stipulation are fair, just, and reasonable. The Companies' current wireline rate, which has remained unchanged since 2015, is $7.25 for all poles.[152] Consistent with the methodology in Admin. Order 251, the Companies proposed two wireline rates in these proceedings, depending on the height of the pole ($9.79 for a two-user pole and $10.12 for a three-user pole).[153] These requested rates reflect an

[150] *Id.* at 11-12. *See also id.* at Appx. A at 1 ("Bell requested clarification as to whether contribution toward common costs to the utility would be allowed as part of the rate computation. The Commission has allowed such contribution when adequate justification is provided.").
[151] The stipulated Rate PSA rates are set out in Stipulation Art. 9.6: two-user rate of $9.79; three-user rate of $10.12; per linear foot of duct rate of $1.16; and wireless facility on top of pole rate of $49.76. *See* Joint Stipulation Testimony of Robert M. Conroy and Christopher M. Garrett, Stipulation Testimony Exh. 1 at 20 (Oct. 20, 2025).
[152] *See* Case Nos. 2014-00371 and 2014-00372, Order Appx. A, Settlement Agreement at 7 (Ky. PSC June 30, 2015); Kentucky Utilities Company, P.S.C. No. 20, Second Revision of Original Sheet No. 40.3; Louisville Gas and Electric Company, P.S.C. Electric No. 13, Second Revision of Original Sheet No. 40.3.
[153] KU Application, Tab 4, Electric Tariff at 57; LG&E Application, Tab 4, Electric Tariff at 55.

approximately 35-40% increase, which is not surprising given the increase in the Companies' costs over the last decade.[154] Even Ms. Kravtin agreed the Companies' costs have increased substantially in the past ten years. For example, in the Companies' 2014 base rate cases, Ms. Kravtin testified on behalf of the Kentucky Cable Telecommunications Association (KBCA's predecessor) that the appropriate rate for LG&E for a two-user pole was $5.17.[155] In this case, Ms. Kravtin calculates the appropriate rate to be $9.04—an increase of more than 75% in her own calculations.[156] Thus, the 35-40% Rate PSA increases in the Stipulation are consistent with or less than the Companies' actual increase in costs since the 2014 base rate case, even as calculated by Ms. Kravtin.

2. The Stipulated Rate PSA Wireline Rates Are Also Reasonable Because They Are Consistent with Kentucky Law and the Companies' Previous Rate Case Filings.

There are a number of additional reasons the Commission should approve the stipulated Rate PSA rates as fair, just, and reasonable, including their consistency with Kentucky law and the Companies' previous rate case filings.

First, in accordance with Admin. Order 251, the Companies have provided ample evidence in the record of these proceedings to support their proposed Rate PSA rates, including the stipulated Rate PSA wireline rates.[157] This evidence fully satisfies Admin. Order 251's requirement that "each utility shall file with its proposed tariffs the source and justification for cost

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[154] Direct Testimony of Michael E. Hornung at 12 ("In the past decade, the Companies' pole costs have increased substantially.").
[155] November 6, 2025 Hearing, 4:58:10 p.m. – 4:59:20 p.m. (discussing Case No. 2014-00372, Direct Testimony of Patricia Kravtin at 6 (Mar. 6, 2015)).
[156] *Id.*; Kravtin Direct at 19.
[157] *See, e.g.,* Companies' Corrected and Supplemental Response to KBCA's Second Request for Information, No. 2 (providing cost support for PSA wireline rates higher than the filed rates of $10.13 for two-user poles and $10.46 for three-user poles). *See also* Companies' Response to Commission Staff's First Request for Information, No. 54; Companies' Corrected Response to KBCA's First Request for Information, No. 13(d); Companies' Response to KBCA's First Request for Information, No. 13.

factors used in applying the formula to compute its rate to the CATV operator."[158] Indeed, using cost data provided in rate cases to formulate pole attachment rates is arguably superior to using publicly available data posted for other purposes; information provided in rate cases receives intense scrutiny, which other public postings typically do not (though the Companies strive to provide accurate and reliable information in all contexts and filings). There is, therefore, ample and well-supported data in the record of these proceedings to support the stipulated Rate PSA wireline rates—or even higher rates.

Relatedly, the Commission should give no credence to any KBCA assertion that the Companies have not adequately supported the data in their wireline rate calculations, as KBCA counsel insinuated at the hearing concerning the Companies' response to KBCA 2-1.[159] If KBCA had found that response (or any other information provided by the Companies) to be inadequate, it had another round of data requests to follow up. But KBCA chose not to do so, issuing only one third-round data request that had nothing to do with KBCA 2-1 or otherwise seeking to understand or gain additional information about the sources of or support for the values in the Companies' Rate PSA wireline rate calculations. KBCA also chose not to issue post-hearing data requests on this topic, though Mr. Hornung explained that the inputs used to calculate the proposed wireline rates originated from various schedules already in the record and repeatedly offered to provide further clarification in response to any such requests.[160] KBCA should not now be able to use its

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[158] Admin. Order 251 at 8.

[159] *See, e.g.,* November 6, 2025 Hearing, 2:32:03 p.m. – 2:32:58 p.m.

[160] *See, e.g.,* November 6, 2025 Hearing, 2:31:25 p.m. – 2:31:38 p.m. ("Due to a post data hearing request, I'll be glad to get the appropriate witness to provide all justification and where it is within the record [in] which has already been filed all the numbers associated with the spreadsheet."), 2:34:22 p.m. – 2:34:38 p.m. ("All of those numbers are filed within the case and as such those witnesses who assisted in preparing this have provided that information would have the justification support associated [with] that which is already within this with it which is already filed within this case."), and 3:06:22 p.m. – 3:06:55 p.m., especially 3:06:47 p.m. – 3:06:55 p.m. ("In a post-hearing data request, we can clearly share with you specific numbers that were changed and a justification as to why ….").

own failure to pursue multiple discovery opportunities as an argument against the stipulated (or any other) PSA rates.

Second, as addressed in the section above, it is fully consistent with Admin. Order 251—and with KRS 278.192 and 807 KAR 5:001 Sec. 16(1)(a)—to base Rate PSA rates on forecast test year data to the greatest reasonable extent. This treats Rate PSA customers like all other customers, just as Admin. Order 251 explicitly intended and stated.[161] Indeed, the Commission stated that one of the chief reasons the Commission opened Admin. Case 251 was precisely to ensure that "CATV operators" would be treated like all other customers.[162] That is precisely what the Companies' Rate PSA methodology does by using reasonable forecast test year inputs wherever

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[161] Admin. Order 251 at 3 ("[A]s a tariff customer, each qualified CATV operator must have the right to receive service …."); *id.* ("[T]he CATV operator must be a1lowed to remain a customer by observing the usual customer obligations …."); *id.* at 4 ("[T]he CATV operator will be a utility customer …."); *id.*at 7 ("This issue is resolved by the decision of this Commission to treat CATV operators as customers of the utilities, with concomitant customer rights."); *id.* at 7-8 ("While the FCC methodology purports to recover for the utility its incremental cost of providing pole attachment service, it does not provide for the allocation of the utility's full cost of providing such service among all its classifications of customers. This Commission cannot accept a formula which allocates costs so unevenly."); *id.* at 11 ("Having determined that the CATV operator will be considered a customer of the utility, the Commission finds that such customers should be required to pay their equitable share of all the utility's costs in providing service."); *id.* ("CATV operators argue that certain costs of the utility have no relationship to the services provided to them such as directory advertising, insurance and administrative overhead. However, no classification of utility customers can or should be allowed to pick and choose the categories of expense to which it will be subject."); *id.* at 12 ("We find it reasonable to allow a contribution by CATV toward the common costs of the utility which cannot be directly allocated to any particular classification of customer."); *id.* at 18 ("(1) The CATV operator, as a user of utility poles for attachment of its cables, is a customer of the regulated utility pole owner[.]"); *id.* at 19 ("(2) As a customer of the regulated utility, the CATV operator should be obligated to pay its share of the fully allocated costs of providing service to it[.]").

[162] *Id.* at 3:

> In its Order of August 26, 1981, the Commission directed regulated utilities which provide CATV pole attachment services to file tariffs concerning the provision of such service. The tariffs which were filed proposed rates, terms and conditions which varied widely, and in some cases did not afford CATV operators rights equal to those afforded other utility customers. For these and reasons of convenience, the Commission determined that a uniform methodology should be established by which fair, just and reasonable pole attachment rates could be determined.
>
> At the hearings on methodology, it developed that some minimum equitable standards for terms and conditions would be required to assure CATV operators that to the extent possible they would have the same rights as other utility customers. First, as a tariff customer, each qualified CATV operator must have the right to receive service (make po1e attachments), just as a telephone or electric customer has the right to receive service. Similarly, the CATV operator must be a1lowed to remain a customer by observing the usual customer obligations, such as payment of bills and conformance to applicable safety standards.

feasible.[163] KBCA ignores Admin. Order 251 in this regard and insists on being treated differently from all other customers; the Commission should reject this position as inconsistent with Kentucky ratemaking law, including Admin. Order 251.

Third, the methodology the Companies used to calculate Rate PSA rates in these cases is the same methodology the Companies have used since their 2014 base rate cases, all of which have been forecast test year cases.[164] In none of those cases did the Commission comment upon or reject the Companies' Rate PSA calculation methodology. This further supports the reasonableness of the Companies' methodology.

Fourth, having a single set of Rate PSA rates for both Companies would be consistent with how the Companies' Rate PSA rates have been set since their 2014 base rates cases.[165] In the 2014 and 2016 cases, the Kentucky Cable Television Association agreed to the same Rate PSA rates that have remained in effect for more than ten years now across both Companies.[166] But now, when KBCA presumably anticipates more potential broadband expansion and a greater number of wireline pole attachments in KU's service territory than LG&E's, it seeks to press its advantage—to all other KU customers' detriment—by insisting upon breaking with this twice-agreed approach that has stood for more than a decade and demanding separate Rate PSA rates for each utility, which would be markedly lower for KU than LG&E.[167] KBCA does so while acknowledging it is

[163] As the Companies have explained, they do use historical net plant costs in their Rate PSA wireline rate calculations. *See* Hornung Rebuttal at 20.
[164] *Id.* at 20.
[165] *Id.* at 19.
[166] *Id.*; Case Nos. 2014-00371 and 2014-00372, Order Appx. A, Settlement Agreement at 1 and 7 (Ky. PSC June 30, 2015); *Application of Kentucky Utilities Company For an Adjustment of Its Electric Rates and For Certificates of Public Convenience and Necessity*, Case No. 2016-00370, and *Application of Louisville Gas and Electric Company For An Adjustment of Its Electric and Gas Rates and For Certificates of Public Convenience and Necessity*, Case No. 2016-00371, Order Appx. A, Second Stipulation and Recommendation at 1 and 2 (Ky. PSC June 22, 2017).
[167] *See, e.g.*, Kravtin Direct at 19.

possible the Companies could merge in the near future,[168] i.e., at the *least* appropriate time to separate rates that have been joint for more than ten years.

Fifth, if the Commission approves Rate PSA wireline rates other than those in the Stipulation, the Companies respectfully ask the Commission to approve the Companies' filed Rate PSA wireline rates. Those rates are lower than the corrected and supplemental rates provided in the Companies' corrected and supplemental response to KBCA 2-2 filed on October 29, 2025, but they are the rates for which the Companies provided customer notice; they therefore act as a ceiling on such rates.

Finally, whatever Rate PSA rates the Commission approves, the Companies respectfully ask the Commission to account for any revenue increase or decrease relative to the stipulated rates by reallocating that revenue increase or decrease across all other customers classes. As the Commission has acknowledged for over 40 years, pole attachment revenues do not affect the amount of a utility's overall revenue requirement but rather appropriately offset revenue from other customers.[169] Thus, any change in revenue from Rate PSA customers must be reallocated to or from other customer classes.

E. Low Income Support

Contrary to the Joint Intervenors' assertions that that Companies are not doing enough for low-income customers, the Companies have implemented a comprehensive set of programs and

[168] *Id.* at 10 ("I understand that the Companies are considering a merger.").

[169] *See, e.g.,* Case Nos. 8040 & 8090, Order at 8 (Ky. PSC Aug. 26, 1981) (emphases original):

> [Pole attachers] argued at the hearing that revenue from pole attachment charges are like "money from the wife's folks," i.e., that since the utility already has the pole in place and there is unused space on the pole, <u>any</u> charge therefor[e] is 'reasonable.' However, this Commission is of the opinion that all utility facilities should be operated to produce the optimal results; that if a utility facility can produce revenue from other uses without interference with essential utility operations, it must do so and for a fair, just and reasonable rate. In turn, the revenue from such 'other uses' reduces, <u>pro</u> <u>tanto</u>, the revenue that must be earned from conventional utility services rendered by the utility, thereby lowering the utility consumers' overall rate.

initiatives to support low-income customers. First, they provide direct benefits through the Home Energy Assistance Fund, which delivers monthly bill credits funded by shareholders and customers, and shareholder contributions that fund utility grants and support community non-profits.[170] Additional shareholder-supported programs such as WinterCare/WinterHelp and Project Warm help customers with heating costs and weatherization needs.[171] Second, the Companies also actively connect customers to resources by partnering with organizations like Community Action Kentucky and the Association of Community Ministries, and by conducting outreach through bill inserts, social media, and community events.[172] Third, to offer flexibility, the Companies provide extended payment windows through the FLEX Program, waive late fees for customers receiving assistance pledges, and offer budget billing to spread costs across months for predictable payments.[173] The Companies have also proposed a prepay program to provide another option to help customers manage costs.[174] Finally, the Companies empower customers to save energy and reduce bills through DSM initiatives such as energy education through WeCare, Peak Time Rebates, and Bring Your Own Device, and online tools that allow customers to monitor and manage their usage.[175] These efforts demonstrate a strong, multi-faceted commitment to assisting low-income customers.

F. Long-Term Incentive Compensation

The Stipulation does not include any reduction to the revenue requirement for long-term incentive ("LTI") compensation paid to employees under the Companies' LTI Plan. Indeed, the

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[170] Case Nos. 2025-00013 and 2025-00114, Direct Testimony of Shannon L. Montgomery ("Montgomery Direct") at 7-8; Case Nos. 2025-00113 and 2025-00114, Rebuttal Testimony of Shannon L. Montgomery ("Montgomery Rebuttal") at 2.
[171] Montgomery Direct at 7.
[172] *Id.* at 5, 7, 10.
[173] *Id.* at 9-10; Montgomery Rebuttal at 1-2.
[174] Montgomery Direct at 9, 25-28.
[175] *Id.* at 5-6.

Stipulation specifically includes approval of "all other relief requested," which includes LTI compensation paid in the form of Restricted Stock Units ("RSUs") to employees. The Commission should likewise not make any reduction to the Stipulation's amount for LTI compensation paid as RSUs.

First, as Mr. Poplaski has explained, the Companies have provided a Total Remuneration Study that shows that total remuneration paid to employees, including LTI compensation paid as RSUs, is reasonable and consistent with market medians.[176] Second, LTI payments paid as RSUs are made solely to retain employees.[177] They are not dependent on a financial metric nor are they tied in any way to the financial performance of the Companies. Instead, they only fully vest if the employee remains with the Companies three years after they are issued. Thus, the purpose of and reason for the LTI Plan is to *retain* employees.[178] Put simply, RSUs are a time-based measure, *not* a financial measure. The fact that LTI awards are paid in the form of PPL stock does not equate to a financial metric. After the vesting period is satisfied, the LTI awards get issued *regardless* of how the stock performs and *regardless* of the financial performance of the Companies.[179] While it is true that the stock price itself is an indicator of PPL's financial performance, it is not true that LTI Plan awards themselves are tied to the price of the stock or to the financial performance of PPL or the Companies.[180] Again, the issuance of RSUs is made *solely* based on tenure of service without any regard to the price or performance of the stock itself with no "tie" to financial metrics at all.

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[176] Rebuttal Testimony of Vincent Poplaski at 2.
[177] *Id*. at 3.
[178] *Id.*
[179] *Id.* at 5.
[180] *Id.* at 4-5; Companies' Responses to Commission Staff's Post-Hearing Request for Information, No. 26.

RSUs thus directly promote retention and provide employees an investment interest in the business that promotes efforts to provide safe, adequate, and reliable utility service. Further, such retention benefits customers by avoiding the costs associated with replacing experienced employees, including recruitment, interviews, background checks, and training—costs that would be borne by customers. For these reasons, the Commission should not modify the Stipulation for LTI Plan expense.

The Companies also note that the projected level of employment expense in these proceedings is reasonable. As noted above, they have submitted the Total Remuneration Study, which proves their employee compensation and benefit expense is reasonable and consistent with market medians. They have also provided ample information regarding the breakdown of compensation and benefit expense for employees, including executive officer employees, most recently in response to Staff's post-hearing discovery.[181] And all employment expense is fairly allocated to KU and LG&E pursuant to the Cost Allocation Manual, which allows for full transparency of the transactions, facilitates the review of the transactions, and promotes the consistent direct assignment of costs when possible.

G. Revised GLT Adjustment Clause

The Stipulation recommends approval of LG&E's proposals regarding the Gas Line Tracker Adjustment Clause ("GLT"). Since its creation in 2012, the GLT allows for cost recovery outside of base rate cases for approved projects that address safety concerns.[182] The assets recoverable through the GLT have been revised several times since 2012 to respond to emerging gas safety issues and projects.[183] The Company annually files a forecast of its expected costs to

[181] Companies' Responses to Commission Staff's Post-Hearing Request for Information, Nos. 30, 31, and 52.
[182] Direct Testimony of Tom C. Rieth at 9-10.
[183] *Id.*

perform the required work for the next year which is then trued-up the following year once actual costs are known.[184]

LG&E has proposed to include its costs for leak survey, investigation, and repair activities in the GLT mechanism to facilitate the inspection, discovery, and grading of leaks and the associated repair activities.[185] This includes transitioning its current expenses for these activities, as well as the incremental expense associated with the new requirements, to the GLT.[186] LG&E is proposing these changes due to the impending Leak Detection and Repair ("LDAR") Rule being developed by the Pipeline and Hazardous Materials Safety Administration ("PHMSA"). The LDAR Rule is expected to be the comprehensive regulation regarding leak detection and repair, consisting of practices that LG&E presently performs while also introducing new requirements.[187]

KRS 278.509 affords the Commission authority to allow utilities to recover costs for replacement programs if they are deemed fair, just, and reasonable. The costs associated with complying with the proposed LDAR Rule are appropriate for recovery through the GLT mechanism because they are necessary to meet the public and environmental safety requirements set forth by the rules mandated through PHMSA.[188] The timing and content for the final LDAR rule and subsequent compliance starting date are not known, and recovering costs through the GLT will benefit customers because customers will only get charged for the actual costs required to comply with the Rule at the time compliance is required versus having the costs in base rates, which may not match the timing of the Rule.[189] Additionally, LG&E will need a period of time to determine the actual costs to comply with the new requirements, which are still uncertain, but

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[184] *Id.*
[185] *Id.* at 13.
[186] *Id.*
[187] *Id.* at 11.
[188] LG&E's Response to Commission Staff's Third Request for Information, No. 88.
[189] *Id.*; LG&E's Response to Commission Staff's Post-Hearing Request for Information, No. 54.

anticipate will have extensive changes impacting leak survey, investigation, and repair.[190] Through the GLT annual filing process, the Commission and interested parties have continuous oversight and scrutiny of recovered costs. Additionally, the GLT mechanism ensures the Company ultimately recovers actual costs to meet the regulations.[191]

As discussed, LG&E's proposal transitions both its current leak detection expenses and the incremental expenses associated with the LDAR Rule to the GLT. If the Commission rejects the Stipulation and requires LG&E to recover leak detection costs through its base rates rather than through the GLT, the total combined current and incremental leak detection and repair costs that would need to be recovered through the stipulated base rates are $2.353 million of O&M and $6.599 million of capital.[192] The stipulated revenue requirement increases from $44.8 million to $47.6 million.[193]

In addition to the proposed changes regarding leak mitigation and repair, LG&E has also proposed changes to the GLT tariff to align the mechanism with the Companies' other adjustment clause mechanisms. The first revision is to use an annually updated weighted average cost of capital for the GLT instead of the weighted average cost of capital from LG&E's most recent base rate case, although the weighted average cost of capital return on common equity component would be calculated using the base rate return on common equity most recently approved by the Commission.[194] Second, LG&E proposes to use annually updated load forecasts and corresponding revenue forecasts to account for changes in customer loads and customer counts.[195] The third revision removes unbilled revenues from the calculation of the GLT over- or under-recovery

[190] *Id.*
[191] *Id.*
[192] LG&E's Response to Commission Staff's Post-Hearing Request for Information, No. 54.
[193] *Id.*
[194] Direct Testimony of Andrea M. Fackler at 40-41.
[195] *Id.*

position.[196] The final tariff revision removes the designations of the rates as "Distribution Projects" for the per delivery point charges and as "Transmission Projects" for the per Ccf charges.[197] The Stipulation does not contain any changes to LG&E's proposed revisions to the GLT.

III. All Other Relief the Companies Have Requested Should be Approved

With the exception of Adjustment Clause MC2 and the pending request for authority to defer Mill Creek 2 stay-open costs from the date of the CPCN Stipulation (July 29, 2025) that was included in the CPCN Stipulation and discussed above, the Stipulation in these rate proceedings includes the provision that, except as modified in the Stipulation itself (or its exhibits), "all other relief" the Companies have requested in these proceedings should be approved as filed.[198] Thus, the Commission should approve "all other relief" as the Stipulating Parties have agreed. "All other relief" includes the enumerated items set forth in KU's May 30, 2025 Application (at pages 18-19) and in LG&E's Application (at pages 18-20).

CONCLUSION

For the reasons stated above and in the record, the Companies respectfully request the Commission issue an order by December 31, 2025 approving the Stipulation and granting all other relief the Companies have requested in these proceedings for service rendered on and after January 1, 2026.

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[196] *Id.*
[197] *Id.* at 41-42.
[198] See the Companies' November 5, 2025 Notice of Filing of Amendment to Stipulation and Recommendation.

Dated: December 2, 2025

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CERTIFICATE OF SERVICE

In accordance 807 KAR 5:001, Section 8 as modified by the Commission's Order of July 22, 2021 in Case No. 2020-00085 (Electronic Emergency Docket Related to the Novel Coronavirus COVID-19), this is to certify that the electronic filing has been transmitted to the Commission on December 2, 2025; and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.

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and Louisville Gas and Electric Company