

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

ELECTRONIC APPLICATION OF LOUISVILLE)	
GAS AND ELECTRIC COMPANY FOR AN)	
ADJUSTMENT OF ITS ELECTRIC AND GAS)	CASE NO. 2025-00113
RATES AND APPROVAL OF CERTAIN)	
REGULATORY AND ACCOUNTING)	
TREATMENTS)	

In the Matter of:

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

**MOTION FOR REHEARING OF JOINT INTERVENORS KENTUCKIANS
FOR THE COMMONWEALTH, KENTUCKY SOLAR ENERGY SOCIETY,
METROPOLITAN HOUSING COALITION, AND MOUNTAIN
ASSOCIATION**

Come now Metropolitan Housing Coalition, Kentuckians for the Commonwealth, Kentucky Solar Energy Society, and Mountain Association (collectively “Joint Intervenors”), by counsel, pursuant to KRS 278.400 and other applicable law, and move the Kentucky Public Service Commission (“the Commission”) to grant rehearing on one issue in the Commission’s February 16, 2026 and March 04, 2026 Orders (“Orders”)¹, respectfully stating as follows:

¹ Unless otherwise noted, citations are made to the Orders in Case No. 2025-00113. Where materially different from the Orders in Case No. 2025-00114, such differences are specifically noted.

I. Introduction

Joint Intervenors seek rehearing on one issue. In its February 16, 2026 Final Order, “[t]he Commission found that, consistent with the Stipulation, the NMS-2 rates should remain at its current level,” however, “[t]he Order contained an error related to Net Metering rates in Appendix D, which did not reflect the current net-metering rates.”² The rates were therefore set to current levels, *nunc pro tunc*, in a following Order on March 04, 2026. The original Final Order also updated the capacity and energy rates available to qualifying facilities (“QFs”) on which the Commission has in the past ordered that those portions of the NMS-2 rate are to be based. Because the rates in the *nunc pro tunc* Order do not reflect rates consistent with the same components for QFs, Joint Intervenors respectfully move the Commission to update the NMS-2 rates to reflect a dollar-denominated bill credit including energy and generation capacity components consistent with those set for QFs.

II. Argument

A. *Applicable Legal Standard*

Any party to a proceeding before the Commission “may, within twenty (20) days after the service of the order, apply for a hearing with respect to any of the matters determined.”³ Rehearing is appropriate to hear “new evidence not readily discoverable at the time of the original hearings, to correct any material errors or omissions, or to correct findings that are unreasonable or unlawful.”⁴ Findings are unreasonable where

² Order at 1 (Mar. 04, 2026).

³ KRS 278.400.

⁴ *In re: Elec. Application of Big Rivers Elec. Corp. for Ann. Rev. of Its MRSM Charge for Calendar Year 2022*, Case No. 2023-00038, 2023 WL 7220130, at *1 (Ky. P.S.C. Oct. 26, 2023).

“the evidence presented leaves no room for difference of opinion among reasonable minds.”⁵

In regards to review of a settlement agreement, specifically:

the Commission owes no duty of deference to the parties' Settlement Agreement or that the settlement provisions are de facto fair, just and reasonable. This is especially so given that settlement agreements are typically the process of negotiation and compromise between the parties. The Commission has a statutory duty to investigate whether the provisions of a settlement agreement are fair, just and reasonable. That investigation is based upon the Commission's unique expertise and application of the facts developed in the case record to the applicable law.⁶

Like rates charged by the utilities, rates paid to customer-generators with their own on-site generation must be fair, just, and reasonable. However, in the case of distributed generation, the Commission has set an exact set of factors to be considered,⁷ as well as a set of principles,⁸ and proper methodology for compensation.⁹

⁵ *Id.* (quoting *Energy Regul. Comm'n v. Ky. Power Co.*, 605 S.W. 2d 46 (Ky. App. 1980)).

⁶ *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, and *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 (together, “2020 LG&E-KU Rate Cases”), Order at 11-12 (Aug. 12, 2021). It is also worth noting that FERC has recently decided a very similar issue in the context of modifying a portion of a settlement, stating that “the fact that the settlement was negotiated as a total dollar resolution of the issues and that modification of dollar settlements will undermine the important policy of encouraging settlements” was not a sufficient reason for a settlement provision that violated Commission policy. 33 Ferc 61,430, *Kn Energy, Inc.*, Docket Nos. Rp85-11-014 and Rp85-11-015, Fed. Energy Reg. Comm'n Rep. P 61,430.

⁷ The factors were first laid out in detail in the Commission's May 14, 2021 Final Order in Case no. 2020-00174, regarding Kentucky Power Company's application for “NMS II” rates., *Electronic Application of Kentucky Power Company for (1) a General Adjustment of Its Rates for Electric Service; (2) Approval of Tariffs and Riders; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; (4) Approval of a Certificate of Public Convenience and Necessity; And (5) All Other Required Approvals and Relief*, Case no. 2020-00174 (“2020 KPCo Rate Case”), Order at 25-40 (May 14, 2021). The Commission later affirmed these same “avoided cost components” in its September 24, 2021 Order on the application of LG&E and KU for NMS-2 rates. 2020 LG&E-KU Rate Cases, Order at 48-58 (Sep. 24, 2021).

⁸ 2020 KPCo Rate Case, Order at 21-24 (May 14, 2021); 2020 LG&E-KU Rate Cases, Order at 41-42 (Sep. 24, 2021).

⁹ 2020 KPCo Rate Case, Order at 24-25 (May 14, 2021); 2020 LG&E-KU Rate Cases, Order at 47-48 (Sep. 24, 2021).

For QFs, pursuant to the Public Utility Regulatory Policies Act of 1978 (PURPA), compensation is required to be based on avoided capacity costs, and avoided energy costs.¹⁰ For customer-generators providing generation through net metering, as allowed by KRS 278.465-468, the Commission has set forth a more comprehensive list of avoided cost components in recognition of the benefits for the Companies' system, as well as the value to the system as a whole of distributed generation ("DG") and distributed energy resources ("DERs"), such as rooftop solar, if comprehensively integrated into planning and operational processes.¹¹ Specifically, as reiterated in the Commission's Order in the Companies' last rate cases, those avoided cost components include¹²:

1. Avoided energy cost
2. Avoided generation capacity cost
3. Avoided transmission capacity cost
4. Avoided distribution capacity cost
5. Avoided ancillary services cost
6. Avoided carbon cost
7. Avoided environmental compliance cost
8. Jobs benefits

In the preceding case adjusting QF and NMS-2 rates in 2023 and in the Companies' last rate case, the Commission based the NMS-2 avoided generation capacity cost component on the Companies' QF seven-year contract rates for the fixed tilt solar technology.¹³ In the 2023 case the Commission based the NMS-2 avoided

¹⁰ 16 U.S.C. §§ 2601-2645; *see also* 18 C.F.R. Part 292.

¹¹ 2020 LG&E-KU Rate Cases, Order at 42-43 (Sep. 24, 2021).

¹² *Id.* at 48-58.

¹³ 2020 LG&E KU Rate Cases, Order at 50-51; *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*

energy cost component on the Companies' QF seven-year contract rates for fixed tilt solar as well.¹⁴

B. The Commission should revise NMS-2 rates consistent with the updated qualifying facilities rates

The Final Order in the present Cases maintained NMS-2 credits for excess generation at the existing rates, which were established in Case No. 2023-00404.¹⁵

Joint Intervenors respectfully request the Commission to re-consider this decision, in consideration of the QF rates set for fixed tilt solar generators in the current case, and consistent with the Commission's finding in its Order here that "using the average of the starting years of 2026 and 2027 seven-year PPA is a reasonable methodology...."¹⁶

In the preceding case adjusting QF and NMS-2 rates in 2023 and in "its Sept. 24, 2021 Order in Case Nos. 2020-00349 and 2020-00350, the Commission based the Companies' NMS-2 avoided generation capacity cost components on the Companies' QF seven-year contract rates for the fixed tilt solar technology. Based on this approach, a change to QF rates would impact net metering rates," as acknowledged by the Companies.¹⁷ In addition, the avoided energy rates for NMS-2 in the Companies' last DER Case No. 2023-00404 appear to have been based on the QF 7-year PPA for fixed tilt solar, as well. A review of the Companies' response to a staff data request used in

Rates ("2023 LG&E-KU DER Case"), Case no. 2023-00404 (Aug. 30, 2024), Order at 23-24; see also 2023 LG&E-KU DER Case, Companies' response to Staff DR1, Q5.b.

¹⁴ 2023 LG&E-KU DER Case, Order at 24.

¹⁵ Order at 214 and 215 (specifically regarding avoided energy cost), 217 (specifically regarding avoided capacity cost).

¹⁶ Order at 215. The quoted provision refers specifically to avoided energy costs, which the Companies did originally propose updating in the same manner as for QFs. The finding is equally applicable to avoided generation capacity costs, as the Commission acknowledges in stating "[t]he Commission also finds that LG&E/KU has not met its burden of proof that the avoided capacity cost should be a zero value, as LG&E/KU has demonstrated an immediate capacity need. In future NMS-2 cases in which KU has a demonstrated capacity need, KU should follow methodologies similar to those approved in Case No. 2020-00349 and 2023-00404, and as calculated in Staff's Fourth Request."

¹⁷ 2023 LG&E-KU DER Case, Companies' response to Staff DR1, Q5.b.

the order to set avoided energy rates shows that the NMS-2 avoided energy rates are the average of the 2024 and 2025 7-year PPA rates.¹⁸

The present case made adjustments to the avoided costs of energy and generation capacity for Qualifying Facilities, based on updated information about the Companies' resource requirements and cost of service.¹⁹ The Commission found that the Companies have an immediate capacity need, and are investing in a natural gas combined cycle unit whose anticipated cost is readily ascertainable.²⁰ As stated above, the Commission also found in its Order in this case that "using the average of the starting years of 2026 and 2027 seven-year PPA is a reasonable methodology and consistent with what the Commission approved" previously.²¹ However, the Commission has unreasonably deviated from this practice by leaving NMS-2 rates at their previous level, while adjusting QF avoided energy and generation capacity costs based on new evidence and updated information. Table 1 compares the energy and generation capacity avoided cost components for NMS-2 and QF 7-year PPA for fixed tilt solar (with line losses), as approved in the Final Order for KU in this case.

¹⁸ Id.; see also 2023 LG&E-KU DER Case, Order at 24.

¹⁹ Final Order at 201-203

²⁰ Order at 201-02.

²¹ Order at 215. The quoted provision refers specifically to avoided energy costs, which the Companies did originally propose updating in the same manner as for QFs. The finding is equally applicable to avoided capacity, costs. See *supra*, n. 16.

Table 1 – Approved energy and generation capacity avoided cost components for NMS-2 and QF 7-year PPA for fixed tilt solar (with line losses), for KU²²

	QF – 7 year PPA fixed-tilt solar, with line losses	NMS-2	Difference (QF – NMS-2)
Avoided Energy \$/kWh	\$0.03859	\$0.03256	\$0.00603
Avoided Generation Capacity \$/kWh	\$0.03633	\$0.01542	\$0.02091
Combined Energy & Capacity \$/kWh	\$0.07492	\$0.04798	\$0.02694

Table 1 demonstrates that the Commission-approved rates for QF fixed-tilt solar with 7-year PPA are \$0.02694/kWh greater than those same components applied to the NMS-2 rates. In fact, the combined energy & capacity for QF 7-year PPA for fixed-tilt solar alone are now greater than the *sum of all avoided costs for NMS-2 for LG&E*, and nearly equal to the *sum of all avoided costs for NMS-2 for KU*, shown below. As the Companies noted in the previous DER case, “a change to QF rates would impact net metering rates.”²³

In the Final Order in the Companies’ 2023 DER case, the Commission stated:

Additionally, the Commission agrees with the Joint Intervenors in that there is more available data that should be utilized to update the other components of the bill credit. However, the Commission also agrees with LG&E/KU that [] updating that information could require significantly more data, evaluation, and resources, which would be better addressed in a future rate case. The Commission finds that LG&E/KU should incorporate the arguments raised by the Joint Intervenors herein, in regard to updating the other components of the bill credits, and file additional evidence and testimony in its next base rate case. The Commission emphasizes that LG&E/KU has had ample notice and time to analyze these additional data points in order to achieve the most accurate calculation for the bill credits and avoided capacity costs. Additionally, the Commission finds that the NM-2 rates calculated in response to Staff’s First Request, Item 5,

²² Compare, Order at 193-195 (QF avoided energy), and 201-203 (QF avoided capacity), to 210-11 (summarizing current KU NMS avoided costs). The same information can be found at 202-05 (QF avoided energy for a 7-year PPA for fixed tilt solar, including line losses, of \$39.23/MWh), 210-11 (QF avoided capacity for a 7-year PPA for fixed tilt solar, including line losses, of \$36.59/MWh), and 219 (summarizing current LG&E NMS avoided costs).

²³ Case No. 2023-00404, Company Response to Staff DR1, Q-5.b.

incorporated in Appendix A and B, result in fair, just and reasonable rates and, therefore, should be approved.²⁴

Despite the clear direction of the Commission, the Companies did the exact opposite in this case. They did not incorporate the arguments made by Joint Intervenors concerning the multiple avoided cost components for NMS-2 and they did not file additional evidence to produce a more accurate calculation of bill credits based on Commission methodology.²⁵ Instead, they systematically minimized or denied the value of all avoided cost components, with the exception of generation energy. The Commission acknowledged this several times in their Final Order in this case,²⁶ repeatedly admonishing the Companies to update costs next time,²⁷ and even stating that the use of an updated seven-year PPA is a reasonable methodology,²⁸ yet nevertheless left the NMS-2 rates equal to the level set in 2023.

²⁴ Case No. 2023-00404, Order at 23-24 (Aug. 30, 2024) (internal citations omitted).

²⁵ Direct Testimony of Charles R. Schram Vice President, Energy Supply and Analysis on Behalf of Kentucky Utilities Company and Louisville Gas and Electric Company at 30-38 (May 30, 2025) (“Schram Direct”) (arguing \$0 avoided generation capacity, avoided ancillary costs, avoided environmental costs, avoided carbon costs); Direct Testimony of Peter W. Waldrab Vice President, Electric Distribution on Behalf of Kentucky Utilities Company and Louisville Gas and Electric Company at 37-41 (May 30, 2025) (“Waldrab Direct”) (stating “The conceptual framework articulated in [the Companies’ testimony concerning Rider NMS-2] in the 2020 rate cases remains sound, and “the appropriate avoided distribution capacity cost component for Rider NMS-2 is zero...”); and Direct Testimony of Elizabeth J. “Beth” McFarland Vice President, Transmission on Behalf of Kentucky Utilities Company and Louisville Gas and Electric Company at 31 (May 30, 2025) (“McFarland Direct”) (“Consistent with the analytical framework stated in the testimony of Peter W. Waldrab, the Companies performed an analysis that shows the appropriate avoided transmission capacity cost component for Rider NMS-2 is zero.”).

²⁶ See, e.g., Order at 202 (“Therefore, KU has not met its burden of proof to demonstrate a zero avoided capacity cost.”), 211 (“The Commission found in that case that KU should incorporate the arguments raised by the Joint Intervenors in the record regarding updating the other components of the bill credits, and file additional evidence and testimony in its next base rate case.”); 217 (“The Commission also finds that LG&E/KU has not met its burden of proof that the avoided capacity cost should be a zero value, as LG&E/KU has demonstrated an immediate capacity need. In future NMS-2 cases in which KU has a demonstrated capacity need, KU should follow methodologies similar to those approved in Case No. 2020-00349 and 2023-00404, and as calculated in Staff’s Fourth Request.”), 231 (“As the Commission agrees with KYSEIA that there are numerous flaws in KU’s distribution study, the Commission does not believe that KU has met its burden of proof regarding a zero value for avoided transmission costs.”).

²⁷ Order at 215, 217, 220, 222, 224, 227, 231, 233-34.

²⁸ Order at 215 (“The Commission finds that KU’s methodology of using the average of the starting years of 2026 and 2027 seven-year PPA is a reasonable methodology and consistent with what the Commission approved in Case No. 2020-00349 and expects KU to use a similar methodology in future net-metering cases.”) (internal citation omitted).

Aside from the Commission's own finding that "using the average of the starting years of 2026 and 2027 seven-year PPA is a reasonable methodology and consistent with what the Commission approved" previously,²⁹ and the Companies failure to follow precedent in updating costs, the Joint Intervenor's witness Dr. Fine presented clear evidence to justify updated avoided cost values for each of the avoided cost components established by the Commission. Meanwhile, the Commission's own order regarding QF avoided costs updated the avoided cost values for energy and generation capacity, but did not apply those values equally to NMS-2 customers.

The Companies and Commission both acknowledged in the preceding case that QF rates for fixed tilt solar should serve as the basis for the energy and capacity components for NMS-2 credits. To reverse course now, without justification, is unreasonable and inconsistent with the Commission's own findings, and would deprive NMS-2 customers of fair compensation for the value that they provide to the Companies and grid based on the updated costs the Companies are in fact paying for energy and an immediate capacity need.

Joint Intervenor's therefore request that the Commission revise the approved NMS-2 export credits by applying the avoided energy and generation capacity values for the QF 7-year PPA for fixed tilt solar (with line losses) into the NMS-2 framework, as shown in Table 2 for KU, and Table 3 for LG&E.

²⁹ Order at 215.

Table 2 – NMS-2 Avoided Cost Components - Comparison of Approved and Proposed Revised Values for KU

	Approved and Pre-Existing NMS-2 Bill Credit ³⁰	Proposed Revised NMS-2 Credit With Updated QF Values
Energy	\$0.03256	<i>\$0.03859</i>
Ancillary Services	\$0.00084	\$0.00084
Generation Capacity	\$0.01542	<i>\$0.03633</i>
Transmission Capacity	\$0.00732	\$0.00732
Distribution Capacity	\$0.00185	\$0.00185
Carbon Cost	\$0.01338	\$0.01338
Environmental Compliance Cost	\$0.00397	\$0.00397
Jobs Benefit	-	-
NMS-2 Bill Credit for Excess Generation (\$/kWh)	\$0.07534	\$0.10228

Table 3 – NMS-2 Avoided Cost Components - Comparison of Approved and Proposed Revised Values for LG&E

	Approved and Pre-Existing NMS-2 Bill Credit ³¹	Proposed Revised NMS-2 Credit With Updated QF Values
Energy	\$0.03194	<i>\$0.03859</i>
Ancillary Services	\$0.00082	\$0.00082
Generation Capacity	\$0.01509	<i>\$0.03633</i>
Transmission Capacity	\$0.00732	\$0.00732
Distribution Capacity	\$0.00129	\$0.00129
Carbon Cost	\$0.01338	\$0.01338
Environmental Compliance Cost	\$0.00105	\$0.00105
Jobs Benefit	-	-
NMS-2 Bill Credit for Excess Generation (\$/kWh)	\$0.07089	\$0.09878

³⁰ The NMS-2 avoided cost components used for the existing NMS-2 rates at the time this case was filed, and therefore as-approved in the present case, are found in Case No. 2023-00404, Company Response to Staff DR1, Q-5.b.

³¹ The NMS-2 avoided cost components used for the existing NMS-2 rates at the time this case was filed, and therefore as-approved in the present case, are found in Case No. 2023-00404, Company Response to Staff DR1, Q-5.b.

III. Conclusion

Wherefore, for the reasons set forth above, Joint Intervenors respectfully request that the Commission grant rehearing and find that the NMS-2 rates should be revised consistent with avoided energy and generation capacity costs for qualifying facilities, and set at a level of:

1. \$0.10228/kWh for KU and
2. \$0.09878/kWh for LG&E

[Signatures on next page]

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CERTIFICATE OF SERVICE

In accordance with the Commission's July 22, 2021 Order in Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19*, this is to certify that the electronic filing was submitted to the Commission on March 09, 2026; that the documents in this electronic filing are a true representation of the materials prepared for the filing; and that the Commission has not excused any party from electronic filing procedures for this case at this time.



Byron L. Gary