COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matters 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

AND

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

KENTUCKY SOLAR INDUSTRIES ASSOCIATION, INC.
COMBINED POST-HEARING BRIEF

Comes now the Kentucky Solar Industries Association, Inc. (“KYSEIA”), by and through counsel, and, in accordance with the Public Service Commission’s (“PSC” or “Commission”) Orders dated November 10, 2025 respectfully tenders its Combined Post-Hearing Brief into the records of each of the above-styled cases.

I. INTRODUCTION

On May 5, 2025, Kentucky Utilities Company ("KU") tendered an application seeking an adjustment of its electric rates and approval of certain regulatory and accounting treatments.[1] On the same day Louisville Gas and Electric Company ("LG&E" and, collectively with KU, "Companies") also tendered an application seeking an adjustment of its electric and gas rates and approval of certain regulatory accounting treatments.[2] Each application was deemed filed as of May 30, 2025 in its respective docket through PSC Orders entered on June 16, 2025.[3]

Through their applications, the Companies seek, among other things, relief through modifications to their respective Small Capacity Cogeneration Qualifying Facilities ("SQF"), Large Capacity Cogeneration Qualifying Facilities ("LQF"), Net Metering Service-1 ("NMS-1"), and Net Metering Service-2 ("NMS-2") Rates, Terms, and Conditions for Furnishing Electric Service ("Tariffs").[4]

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[1] Case No. 2025-00113, *Electronic Application of Kentucky Utilities Company for An Adjustment of Its Electric Rates, and Approval of Certain Regulatory and Accounting Treatments,* Application (tendered May 5, 2025) (hereinafter "Case No. 2025-00113" and "Application").

[2] Case No. 2025-00114, *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*, Application (tendered May 5, 2025) (hereinafter "Case No. 2025-00114" and "Application").

[3] Case No. 2025-00113, Order (Ky. P.S.C. Jun 16, 2025), page 10; Case No. 2025-00114, Order (Ky. P.S.C. Jun 16, 2025), page 10.

[4] Case No. 2025-00113, KU Application (tendered May 5, 2025), Filing Requirements, Vol. 1, Tab 5 (807 KAR 5:001, Section 16(1)(b)(4) (side-by-side comparison of current and proposed tariffs, hereinafter "KU Side-by-Side Comparison"); Case No. 2025-00114, LG&E Application (tendered May 5, 2025), Filing Requirements, Vol. 1, Tab 5 (807 KAR 5:001, Section 16(1)(b)(4) (side-by-side comparison of current and proposed tariffs, hereinafter "LG&E Side-by-Side Comparison").

KYSEIA sought and was granted intervention into each proceeding.[5] KYSEIA's participation in the instant cases includes propounding requests for information to the Companies and other parties, submission of written testimony, responses to requests for information, participation in the informal conference and the evidentiary hearing held at the Commission's Offices, and propounding post-hearing requests for information.

Pursuant to the authority granted by the Commission's Order concerning post-hearing procedures, KYSEIA now files its Combined Post-Hearing Brief in the case record in each proceeding. In lieu of dual citations to the records for every reference, the Combined Post-Hearing Brief will reference the docket in Case No. 2025-00113, the KU proceeding, as the primary record when the information in both proceedings is the same or essentially similar (such as, for example, the same testimony filed on behalf of the Companies in the separate proceedings). The Combined Post-Hearing Brief will, when appropriate, separately identify relevant portions in the records of each case when dual citations are necessary due to material differences in the information appearing in the case records (such as, for example, certain tariff revisions specific to either KU or LG&E).

Since the filing of the applications, and consequent to corrections of errors, updates, amendments, the filing of a Stipulation and Recommendation executed by the Companies and some of the parties to the proceedings, and supplemental testimony filed on October 31, 2025 regarding rate-making proposals for Mill Creek 2, numerous changes in the applications result in material differences between the relief sought through the applications as tendered and the requests for relief currently proposed.

[5] Case No. 2025-00113, Order (Ky. P.S.C. Jul 2, 2025); Case No. 2025-00114, Order (Ky. P.S.C. Jul 2, 2025).

KYSEIA is not a signatory to the Stipulation and Recommendation.[6] The statutory-assigned burden of proof for the applications is entirely upon the Companies.[7] Although KYSEIA will demonstrate why the Companies' proposed rates, terms, and conditions for furnishing electric service fail to meet the burden of proof, it is not necessary for KYSEIA, the Commission, or any other party to prove that a change is inappropriate, even in a scenario in which the utility's evidence is uncontroverted, or otherwise unrebutted, unexplained, or unimpeached.[8]

Furthermore, the burden to demonstrate that the Stipulation and Recommendation is reasonable is upon the Companies and the signatories to the agreement.[9] The fact of agreement between the Companies and other parties does not compel any finding in their favor. The Commission, in carrying out its statutory obligation, has the authority to modify the Stipulation and Recommendation where necessary to obtain fair, just, and reasonable

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[6] KYSEIA recognizes the difficult work of the Companies and the signatories to the agreement in finding common ground, and there are elements (results) of the Stipulation and Recommendation that KYSEIA supports and elements for which KYSEIA has no objection. KYSEIA, nevertheless, could not join in the Stipulation and Recommendation because it does not recommend fair, just, and reasonable rates and terms of conditions for the Companies' qualifying facilities.

[7] KRS 278.190(3); see, also, Case No. 8836, *Notice of Adjustment of Rates of Kentucky-American Water Company*, Order (Ky. P.S.C. Dec 20, 1983), page 8 (The burden of proof for the necessity of any change in the approved rates rests entirely with the utility.)

[8] See *Energy Regulatory Commission v. Kentucky Power Company*, 605 S.W.2d 46, 50 (Ky. App. 1980).

[9] See, for example, Case No. 2016-00371, *Electronic Application of Louisville Gas and Electric Company for An Adjustment of Its Electric and Gas Rates and for Certificates of Public Convenience and Necessity*, Order (Ky. P.S.C. Jun 22, 2017), page 15 ("[T]he Commission cannot defer to the parties as to what constitutes fair, just, and reasonable rates.") (hereinafter "Case No. 2016-00371).

rates.[10] Through the Stipulation and Recommendation, the non-company signatories simply align themselves with the Companies as to the burden of proof which does not shift away from the Companies and signatories to the remaining parties.

II. ARGUMENT

A. The Companies' Proposals for Rates and Service under their Standard Rate Riders for SQF and LQF are not fair, just, and reasonable.

The KU and LG&E proposals for SQF and LQF rates and service are set forth in their respective Applications.[11] With the exception of capacity rates for a 7-year PPA for Distribution Connected Projects and Transmission Connected Projects for Other Technologies, the Companies propose to eliminate all capacity payments for 7-year PPAs for solar and wind technologies.[12] The Companies do not propose to provide capacity compensation for any technology for a 2-year PPA.[13] The proposals concerning capacity rates are not fair, just, and reasonable and should be denied.

1. The Companies have a current capacity need, and QFs who supply the Companies with capacity are required to be compensated when they supply it.

[10] See, for example, Case No. 2016-00371, Order (Ky. P.S.C. Jun 22, 2017), page 20 ("Therefore, irrespective of the agreement by the parties that a 9.75 percent ROE is appropriate for LG&E, the Commission finds that a slightly lower ROE is a better reflection of current economic conditions and investor expectations.").

[11] Case No. 2025-00113, KU Side-by-Side Comparison for Standard Rate Rider LQF (pages 110 to 113 of 216) and Case No. 2025-00114, LG&E Side-by-Side Comparison for Standard Rate Rider LQF (pages 108 to 111 of 215). Additionally, the Standard Rate Rider SQF proposals, KU Side-by-Side Comparison for Standard Rate Rider SQF (pages 106 to 109 of 216) and LG&E Side-by-Side Comparison for Standard Rate Rider SQF (pages 104 to 107 of 215).

[12] *Id.*

[13] *Id.*

Despite assigning zero capacity value in the Companies' SQF and LQF tariffs for solar and wind technologies, the Companies, through their testimony, acknowledge that they currently have a 137 MW winter peak demand capacity need for 2026, and they will continue to experience winter peak demand capacity shortfalls through 2040.[14] The Companies currently have a 96 MW summer peak demand capacity need for 2026.[15] The shortfalls are so immediate that the Companies took the extraordinary action to request the extension of the retirement date for Mill Creek 2, a retirement date that was previously requested because the continuing operation of Mill Creek 2 was deemed to be uneconomical.[16]

While the Companies' summer peak demand capacity numbers may improve in 2027, it is necessary to point out that the Companies note that consequent to economic development activity, the total potential load requirement from extremely high load factor customers is between 9.3 and 9.7 GW as of the week of the evidentiary hearing and that the "activity level continues to be extremely high."[17] Mr. Conroy, in testimony at the evidentiary hearing concerning why the Companies' Economic Developer Rider is

[14] Case No. 2025-00113, KU Application, Direct Testimony of Charles R. Schram ("Schram Direct"), Exhibit CRS-6, page 13, Table 20; also see Hearing Video Testimony (HVT) for the November 5, 2025 (Schram at 4:39:10 through 4:43: 59 pm).

[15] Case No. 2025-00113, KU Application, Schram Direct, Exhibit CRS-6, page 14, Table 21.

[16] Case No. 2022-00402, Order (Ky. P.S.C. Nov 6, 2023) at 174-175. *See also* Case No. 2025-00045, Order (Ky. P.S.C. Oct 28, 2025) at 155 ("The Commission reasoned that replacing the older units with Mill Creek 5 was cheaper than the cost of maintaining and upgrading the aging units while also making LG&E/KU's system more reliable.")

[17] HVT (Nov 5, 2025) (Bevington at 2:55:00 to 2:56:10 pm).

currently closed, stated, “Currently we don’t have excess capacity.”[18] Based upon the Companies’ representations concerning unprecedented load growth through economic development, the likelihood of the emergence of another summer capacity demand shortfall in the near term is properly characterized as pending. There is an established current capacity need.

An important facet of the Companies’ SQF and LQF capacity compensation framework is that compensation for capacity supplied by QFs is through an energy-based tariff pricing structure such that a QF that does not send any energy to its interconnected electric utility would receive zero dollars ($0.00) in capacity payments.[19] Hence, under this framework QFs are only compensated for capacity when they actually provide energy and capacity. The energy-based tariff pricing structure approved for the Companies is fair, just, and reasonable because it protects the remaining ratepayers against paying for capacity that is not delivered. The defect in the Companies’ proposals is that they do not offer ***capacity rates*** for 2-year or 7-year PPAs for solar or wind distribution connected projects or transmission connected projects.

2. The Commission Should Adopt KYSEIA’s Proposed Fair, Just, and Reasonable Avoided Energy and Capacity Rates.

[18] HVT (Nov 3, 2025) (Conroy at 05:17:30 pm).

[19] HVT (Nov 6, 2026) (Hornung at 12:53:35 to 12:54:45 pm). It is a single levelized value in units of $/MWh. KYSEIA Testimony of Jason W. Hoyle, Public Version, (filed Aug 29, 2025) (hereinafter “KYSEIA Testimony”) at pages 6 and 7.

The Companies proposed avoided energy and capacity costs for the following QF technologies: single-axis tracking solar ("Solar SAT"), fixed-tilt solar ("Solar FT"), wind, and other fully dispatchable technologies ("Other Technologies" or "Other").[20]

Avoided energy costs in the Companies' proposal include the cost of fuel, emission control reagents (e.g., limestone, ammonia), emission allowance costs, and an opportunity cost for lost CCR revenues.[21] However the Companies' proposal incorrectly excludes variable maintenance costs, although the Companies acknowledge that some maintenance costs are incurred based on the operating time of their generation facilities.[22]

Although the Companies have not provided a value for variable maintenance costs, an approximation of this component of avoided energy costs is available from PJM, as described by KYSEIA Witness Hoyle.[23] The average $/MWh variable maintenance cost, weighted by the share of generation attributable to different types of generators, is $2.08/MWh. Using the Companies' methodology described in Exhibit CRS-6, plus this variable maintenance cost added to the annual avoided energy cost for each fuel price scenario, results in the levelized avoided energy costs shown in Table 1.

Table 7. Avoided Energy Costs ($/MWh) - LGE

Avoided Energy Costs ($/MWh) - LGE				
Term	Solar SAT	Solar FT	Wind	Other
2-year	33.61	33.63	32.70	32.62
7-year (2026)	38.23	38.31	36.46	36.88

[20] Case No. 2025-00113, Schram Direct, Exhibit CRS-6, page 3.

[21] *Id.*

[22] Case No. 2025-00113, KU Response to KYSEIA 2nd Supplemental Request for Information, (Response filed Sep 23, 2025), No. 5.

[23] Case No. 2025-00113, KYSEIA Testimony at pages 7 through 10.

7-year (2027)	39.43	39.53	37.56	38.04

The Companies' proposed avoided capacity cost is based on costs for the Cane Run BESS, including a 50% investment tax credit.[24] In their calculation of the avoided annual capacity cost, represented in $/MW-year, the Companies applied an assumed 83% capacity contribution to reflect the costs of a unit with a 100% capacity contribution. Then, in each year from 2026 through 2033, the annual $/MW-year capacity cost was divided by 8,760 hours to convert the capacity cost into an energy-based $/MWh value.

As KYSEIA Witness Hoyle described, the use of 8,760 hours to convert the annual capacity cost into an energy-based value is inappropriate because a battery energy storage system such as the Cane Run BESS must charge before it is able to discharge and provide capacity.[25] The Companies' avoided cost compensation is not differentiated by season or hour, and the use of 8,760 hours means that a QF would be required to operate and deliver at full output in every hour of the year in order to recover the full capacity value. [26]

The Companies' battery system is not capable of delivering its full output in every hour of the year because it must be recharged after being discharged.[27] The Companies' battery system is technically and physically capable of providing its full rated output for about 4,380 hours in a year after accounting for the time required to recharge the battery. The Companies would not recover their full capacity costs if they operated the battery system in the manner they propose to compensate QFs.

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[24] Case No. 2025-00113, Schram Direct, Exhibit CRS-6 at page 7.

[25] Case No. 2025-00113, KYSEIA Testimony at pages 13 through 16.

[27] See, for comparison, HVT (Nov 5, 2025) (Schram at 4:28:20 et seq.) (regarding the need of batteries to recharge after discharge).

To account for recharging time and ensure there is no discrimination against QFs, the annual $/MW-year capacity value should be converted into a $/MWh energy value based on 4,380 hours per year. The resulting energy-based capacity value is shown in Table 2.

Table 8. Avoided Capacity Costs ($/MWh)

Avoided Capacity Costs ($/MWh)			
Year	ECC	100%	$/MWh
2026	127,684	153,836	35.12
2027	128,236	154,501	35.27
2028	128,437	154,743	35.33
2029	129,345	155,837	35.58
2030	129,904	156,511	35.73
2031	130,465	157,187	35.89
2032	130,670	157,434	35.94
2033	131,594	158,547	36.20

Table 3 shows the levelized avoided capacity price that would allow the Companies to recover the full capacity costs of the Cane Run BESS if the facility were operated in the manner required of QFs, i.e. at full output for the maximum number of hours in a year.

Table 9. Levelized Avoided Capacity Price ($/MWh)

Levelized Avoided Capacity Price ($/MWh)	
Term	Levelized $/MWh
2-year	35.20
7-year (2026)	35.52
7-year (2027)	35.67

The levelized capacity price in Table 3 represents a battery system operating for half of the hours in all months, but the Companies' actual capacity needs are concentrated during summer (i.e., June – August) and winter (i.e., December – February) months. Avoided capacity rates that compensate QFs for their capacity contribution should be

aligned with the seasons during which the Companies experience peak demand, as shown in Figure 1.[28]

Figure.7_.Peak.Demand.by.Month

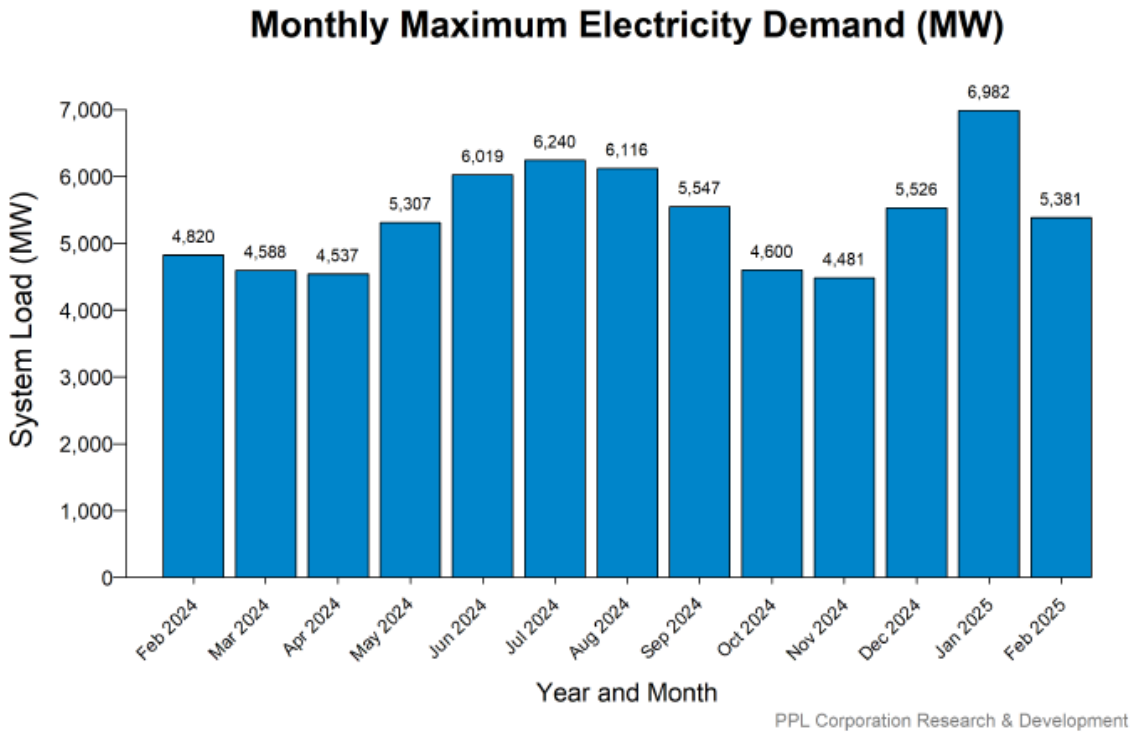

Fig. 30: The maximum LG&E and KU electricity demand during each month over the analysis period.

The levelized values in Table 3 reflect the full capacity cost being paid in all 12 months of the year. To adjust the full-year capacity price in Table 3 to reflect the full capacity cost being paid only during peak months, the annual $/MW-year capacity value is converted into a $/MWh energy value based on 2,172 hours[29] during summer and

[28] Case No. 2025-00113, KU Response to KYSEIA Post-Hearing Requests for Information (filed by KU on Nov 25, 2025), Item 1, D. Beyerle, et al., *The Rhythm of Renewables: Minute-by-Minute Insights from Kentucky*, (PPL Corporation Research and Development, Lexington, Kentucky), at page 27.

[29] This calculation includes the adjustment for recharging time.

winter months[30]. The avoided capacity costs for summer and winter peak seasons are shown in Table 4.

Table 4: Seasonal Avoided Capacity Costs ($/MWh)

Seasonal Avoided Capacity Costs ($/MWh)

Year	ECC	100%	$/MWh-Peak Months
2026	127,684	153,836	70.83
2027	128,236	154,501	71.13
2028	128,437	154,743	71.24
2029	129,345	155,837	71.75
2030	129,904	156,511	72.06
2031	130,465	157,187	72.37
2032	130,670	157,434	72.48
2033	131,594	158,547	73.00

The Companies' assumed capacity contribution to peak demand by season and technology is shown in Table 5.[31]

Table 5: Capacity Contribution by QF Technology

Capacity Contribution by QF Technology

Season	Solar SAT	Solar FT	Wind	Other
Summer	84%	84%	11%	100%
Winter	0%	0%	35%	100%
Average	42%	42%	23%	100%

The average capacity contribution by technology type is multiplied by the seasonal avoided capacity costs and levelized to calculate the values in Table 6.

Table 6: Seasonal Levelized Avoided Capacity Price ($/MWh)

Seasonal Levelized Avoided Capacity Price ($/MWh)

Term	Solar SAT	Solar FT	Wind	Other
2-year	29.81	29.81	16.33	70.98
7-year (2026)	30.08	30.08	16.47	71.62
7-year (2027)	30.21	30.21	16.54	71.93

[30] 1,092 Summer hours and 1,080 Winter hours, after accounting for recharging time.

[31] Case No. 2025-00113, Schram Direct, Exhibit CRS-6 at pages 5 and 6.

With line losses[32] for distribution connected projects, the resulting avoided cost rates for both peak months and off-peak months are shown in Table 7 and Table 8.

Table 3 All In Avoided Cost Rates KU

All-In Avoided Cost Rates for peak months, including line losses ($/MWh) - KU

Technology	Distribution-Connected Projects		Transmission-Connected Projects	
	2-Year PPA	7-Year PPA	2-Year PPA	7-Year PPA
Solar: Single-Axis Tracking	66.93	72.76	63.42	68.97
Solar: Fixed Tilt	66.96	72.85	63.44	69.06
Wind	51.63	56.34	49.02	53.52
Other Technologies	109.72	115.64	103.60	109.23

All-In Avoided Cost Rates for off-peak months, including line losses ($/MWh) - KU

Technology	Distribution-Connected Projects		Transmission-Connected Projects	
	2-Year PPA	7-Year PPA	2-Year PPA	7-Year PPA
Solar: Single-Axis Tracking	35.20	40.67	33.61	38.83
Solar: Fixed Tilt	35.23	40.77	33.63	38.92
Wind	34.25	38.77	32.70	37.01
Other Technologies	34.17	39.24	32.62	37.46

Table 4 All In Avoided Cost Rates LGE

All-In Avoided Cost Rates for peak months, including line losses ($/MWh) - LGE

Technology	Distribution-Connected Projects		Transmission-Connected Projects	
	2-Year PPA	7-Year PPA	2-Year PPA	7-Year PPA
Solar: Single-Axis Tracking	65.58	71.30	63.42	68.97
Solar: Fixed Tilt	65.61	71.39	63.44	69.06
Wind	50.61	55.23	49.02	53.52
Other Technologies	107.44	113.24	103.60	109.23

All-In Avoided Cost Rates for off-peak months, including line losses ($/MWh) - LGE

Technology	Distribution-Connected Projects		Transmission-Connected Projects	
	2-Year PPA	7-Year PPA	2-Year PPA	7-Year PPA
Solar: Single-Axis Tracking	34.54	39.91	33.61	38.83
Solar: Fixed Tilt	34.56	40.00	33.63	38.92
Wind	33.60	38.04	32.70	37.01
Other Technologies	33.52	38.50	32.62	37.46

[32] See Case No. 2025-00113, Schram Direct, Table 15 in Exhibit CRS-6 at page 10.

The Commission should require the Companies to adopt the avoided cost rates in Table 7 and Table 8, as they are fair, just, and reasonable.

3. PPL and the Companies' Research and Reporting Demonstrates the Avoided Capacity Contributions of Solar, Wind, and Battery Technologies.

The Companies assembled applications are dismissive of the capacity value of solar and wind technologies. Missing from the applications is evidence (in a PPL Corporation Research and Development research paper and posted on the PPL website) documenting and describing "seven renewable energy sources and battery systems in Kentucky operated by the PPL Corporation."[33] All seven (7) of the resources are owned by KU and/or LG&E.

While there are some lines of demarcation between KU and LG&E, for example, each has its own tariffs and separate certified service territories, in terms of the operations of the Companies, they are, for all intents and purposes, managed and operated by the same people and otherwise indistinguishable in terms of resources (via joint dispatch of units to meet system demands). By reference to the witnesses supporting the applications and testifying at the hearing (who have job titles with PPL and who provide services across the PPL enterprise), it is likewise clear the PPL as an enterprise is no longer distinguishable from its members KU and LG&E in terms of management and operation. PPL's presence in Kentucky is clearly and purposely intertwined with KU and LG&E.

[33] See, D. Beyerle, et al., *The Rhythm of Renewables: Minute-by-Minute Insights from Kentucky*, (PPL Corporation Research and Development, Lexington, Kentucky), at pages 2 through 5.

Witnesses at the evidentiary hearing stated the advantages of KU and LG&E being part of the PPL enterprise including sharing services and best practices across the various members of the PPL family.[34] The Companies cannot credibly maintain that PPL offers scale and scope and advantages over KU and LG&E as stand-alone companies and simultaneously maintain that the PPL enterprise research upon their own facilities is not appropriate or relevant for ratemaking.

PPL research concerning KU and LG&E facilities performed by PPL employees in the PPL Corporation Research and Development group in Lexington, Kentucky, is information known or which should have been known by the members of the PPL family who put together these applications. The Companies cannot credibly state that they have met their burdens of proof when they have failed to include and consider relevant information that the PPL enterprise has developed ("to encourage the further analysis of these [renewable] sources") and which bears directly upon the issues in the instant cases, specifically "the most detailed, data-driven portrait of renewable energy ever recorded in Kentucky."[35]

An appropriate framework for calculating avoided energy cost rates and capacity rates is set forth in KYSEIA's Testimony and through this Brief. KYSEIA urges the Commission to establish fair, just, and reasonable rates to compensate QF customers

[34] HVT (Nov 4, 2025) (Garrett at 2:12:25 through 2:19:44 pm) and (Bellar at 4:22:05 et seq. and 44:34:11 to 4:35:59 pm).

[35] See, D. Beyerle, et al., *The Rhythm of Renewables: Minute-by-Minute Insights from Kentucky*, (PPL Corporation Research and Development, Lexington, Kentucky), at pages 2 and 3.

who provide energy and capacity or energy to the Companies consistent with the evidence, statutes, administrative regulations, and precedent set forth in this Brief.

B. The Companies' proposals for their SQF and LQF tariffs violate the Public Utility Polices Act of 1978 ("PURPA"), 807 KAR 5:054, the Commission's administrative regulation for small power production and cogeneration, and would result in rates, terms, and conditions for furnishing electric service that are not fair, just, and reasonable.

1. PURPA and 807 KAR 5:054

Placing the Companies' proposals into proper context requires a summary of PURPA and 807 KAR 5:054. As set forth in 807 KAR 5:054, pursuant to PURPA, the Federal Energy Regulatory Commission ("FERC") "was required to adopt rules to encourage cogeneration and small power production by requiring utilities to sell electricity to qualifying cogeneration and small power production facilities and purchase electricity from such facilities." The Commission, as the state regulatory authority, implements the FERC rules through 807 KAR 5:054.

Pursuant to 807 KAR 5:054, Section 6 (Electric Utility Obligations):

> (1) Each electric utility shall purchase any energy and capacity which is made available from a qualifying facility except as provided in subsections (2) and (3) of this section.
>
> (2) The qualifying facility's right to sell power to the utility shall be curtailed in periods when purchases from qualifying facilities will result in costs greater than those which the utility would incur if it generated an equivalent amount of energy instead of purchasing that energy.
>
> (3) During any system emergency, an electric utility may discontinue:
>
> (a) Purchases from a qualifying facility if such purchases would contribute to such emergency; or
> (b) Sales to a qualifying facility if discontinuance is nondiscriminatory.

Through the plain language of 807 KAR 5:054, the electric utility's obligation is to purchase ***any*** energy and capacity made available from a qualifying facility ("QF"). It is the QF, not the electric utility, that determines the amount of energy and capacity that it will make available to the electric utility.

Pursuant to 807 KAR 5:054, Section 7 (Purchase of Output from Qualifying Facilities):

> (1) Qualifying facilities shall be permitted the option of either:
>
> (a) Using output of the qualifying facilities to supply their power requirements and selling the surplus; or
> (b) Simultaneously selling their entire output to the interconnecting utility while purchasing their own requirements from that utility.

Pursuant to 807 KAR 5:054, Section 7(7):

> Additional services to be provided to qualifying facilities. Upon request by a qualifying facility each electric utility shall provide supplementary power, back-up power, maintenance power, and interruptible power. The commission may waive this requirement if the electric utility demonstrates that compliance with it would impair its ability to render adequate service to its other customers or would be unduly burdensome.

Pursuant to 807 KAR 5:054, Section 1(Definitions):

> "Back-up power" means electric energy or capacity supplied by an electric utility to replace energy ordinarily generated by a facility's own generation equipment during an unscheduled outage of the facility.[36]
>
> "Maintenance power" means electric energy or capacity supplied by an electric utility during scheduled outages of the qualifying facility.[37]

[36] 807 KAR 5:054, Section 1(2).

[37] 807 KAR 5:054, Section 1(6).

> "Supplementary power" means electric energy or capacity supplied by an electric utility, regularly used by a qualifying facility in addition to that which the facility generates itself.[38]

QFs are clearly given the option to use their output to supply their power requirements and sell their surplus. When a QF exercises this option, the electric utility shall provide, among other things, supplemental power, maintenance power, and back-up power (in the absence of a waiver upon demonstration by the electric utility that compliance would impair its ability to render adequate service to its other customers or would be unduly burdensome). Thus, the plain language of 807 KAR 5:054 clearly places the decision regarding use of the output of the QF with the QF and the mandatory obligation to purchase the output made available by the QF with the electric utility.[39] The Companies' current Commission-approved SQF and LQF comply with this framework.

2. The Companies' proposals for their SQF and LQF tariffs violate PURPA and 807 KAR 5:054.

a. The Companies' Proposal Unlawfully Limits a QF's Option to Supply Behind-the-Meter Load.

The foremost flaw rendering the Companies' proposals unlawful and unreasonable is the effort to extinguish a QF's existing right concerning the use of its own output for supplying its power requirements (behind-the-meter or "BTM" use).[40] The Companies do not consider a QF supplying its own power requirements (behind-the-meter use) and selling the surplus a true QF.[41] A QF, however, has a right to use its own output and sell

[38] 807 KAR 5:054, Section 1(11).

[39] KYSEIA Testimony at pages 25 through 27.

[40] KYSEIA Testimony, beginning at page 15.

[41] HVT (Nov 6, 2025) (Hornung at 12:48:39 through 12:49:47).

any surplus, and the right is established through PURPA and 807 KAR 5:054. The statutes and regulations do not establish or authorize the distinction that the Companies are pursuing and hoping to establish.

Additionally, the electric utility, upon request (and as discussed), shall provide supplementary power, maintenance power, and back-up power to a QF that elects to use its own output for supplying its power requirements while selling the surplus to the electric utility. It is not necessary for a QF to sell all its output to the utility and buy all its power requirements from the utility. The statutes and regulations do not permit the limitations upon QFs that the Companies are pursuing. QFs serving BTM load is a clear expectation of PURPA and, more importantly, expressly authorized as an option.

The violation of PURPA and 807 KAR 5:054 that results from the Companies' proposals is brought into much sharper focus through comparing the existing Commission-approved SQF and LQF tariff provisions with those proposed. For Rider LQF, the Companies propose to modify the Availability Section of Standard Rate Rider LQF.[42] The pertinent part of KU's existing Commission-approved tariff regarding Availability for KU's Standard Rate Rider LQF:

> Seller may choose to (a) enter into a power purchase agreement ("PPA") with Company for sales of energy or

[42] Case No. 2025-00113, KU Side-by-Side Comparison for Standard Rate Rider LQF (page 110 of 216) and Case No. 2025-00114, LG&E Side-by-Side Comparison for Standard Rate Rider LQF (page 108 of 215). The proposed change for each utility is similar; therefore, further references in this Brief will be through the proposal in Case No. 2025-00113. Additionally, the Standard Rate Rider SQF proposals contain similar language concerning availability, KU Side-by-Side Comparison for Standard Rate Rider SQF (page 106 of 216) and LG&E Side-by-Side Comparison for Standard Rate Rider SQF (page 108 of 215).

> energy and capacity from Seller or (b) sell energy to Company on an as-available basis.[43]

The language of the existing tariff provision (above) meets the requirement of 807 KAR 5:054, Section 1(7) ("purchase" meaning the purchase of electric energy or capacity or both from a qualifying facility); 807 KAR 5:054, Section 6(1) (the electric utility shall purchase any energy and capacity which is made available from a qualifying facility);[44] and 807 KAR 5:054, Section 7(2)(a) and (b) (rates for power offered on an "as available" basis and rates for power offered on all legally enforceable obligations).

The Companies' proposal, by reference to KU's application for LQFs:

> Seller may choose either (a) to enter into a power purchase agreement ("PPA") with Company for sales of energy and capacity from Seller or (b) to sell only energy to Company on an as-available basis. **Seller may enter into a PPA with Company only if Seller simultaneously sells the entire output of Seller's qualifying facility to Company while purchasing all of Seller's own requirements from Company. (Emphasis on proposed new language.)[45]**

Hence, the Companies propose to restrict a QF's seller's ability to enter into a power purchase agreement ("PPA") to one (1) instance, when the QF seller agrees to enter a buy-all/sell-all arrangement with the Company. Such authority (compelling a QF to enter a buy-all/sell-all arrangement) is not granted to electric utilities through 807 KAR 5:054. That limitation is contrary to PURPA and 807 KAR 5:054. The plain language of 807 KAR 5:054 requires a different result - the result currently set forth through the

[43] Case No. 2025-00113, KU Side-by-Side Comparison (page 110 of 216).

[44] The two (2) exceptions to this obligation previously identified in Footnote 11.

[45] Case No. 2025-00113, KU Side-by-Side Comparison (page 110 of 216).

Companies' existing Commission-approved SQF and LQF tariff provision concerning availability.

PURPA and 807 KAR 5:054 expressly authorize a QF to sell either its energy and capacity ***or*** energy. As to the energy and capacity or energy that it does not seek to sell, the QF customer may, at its election, use the output to supply its own power requirements. It merits repeating: Pursuant to 807 KAR 5:054, Section 7 (Purchase of Output from Qualifying Facilities):

> (1) Qualifying facilities shall be permitted the option of either:
>
> (a) Using output of the qualifying facilities to supply their power requirements and selling the surplus; or
> (b) Simultaneously selling their entire output to the interconnecting utility while purchasing their own requirements from that utility.

What the Companies are, therefore, seeking to accomplish is preventing a QF from supplying its own power requirements through requiring a buy-all/sell-all arrangement for ***any*** QF seeking to enter into a PPA. 807 KAR 5:054 does not authorize such a requirement. Instead, 807 KAR 5:054, Section 7(1) unmistakably places the option of entering a buy-all/sell-all arrangement with the QF and not the utility.

Rates for power offered on "all legal enforceable obligations" (PPAs) are not dependent upon or limited to buy-all/sell-all arrangements.[46] There is no better proof of this point than the Companies' current Commission-approved availability language in their respective QF tariffs. A QF, at its option, ***may*** enter a buy-all/sell-all arrangement, but it is not required to do so. The Companies' proposal violates PURPA and 807 KAR 5:054 on

[46] 807 KAR 5:054, Section 7(2)(b).

this point. The entirety of the proposed text changes concerning availability being conditioned upon a buy-all/sell-all is unlawful as contrary to statute and regulation and is also unreasonable and should be denied in total.

b. The Companies' Proposal Unlawfully and Unreasonably Prohibits a QF from receiving a fixed long-term price and prevents the receipt of capacity payments.

The Companies clearly do not like that QFs have authority and the option to use their output for supplying their own power requirements. Nonetheless, the option is vested with the QFs, and the Companies may not do indirectly what they may not do directly, namely, adopt policies designed to prevent or limit QF behind-the-meter use.

The Companies' proposals for a buy-all/sell-all requirement as a condition to enter a PPA unlawfully and unreasonably prevents a QF with a behind-the-meter load from receiving the fixed long-term price offered only under a 7-year PPA and prevents the QF's receipt of capacity payments.[47] 807 KAR 5:054 requires the utility to purchase any energy and capacity made available from a QF. Behind-the-meter load does not disqualify a QF or otherwise exempt a utility from this requirement. The Companies' proposal for such an exemption is not only unlawful as contrary to statute, the proposal is likewise unreasonable as unduly discriminatory as to QF's with behind-the-meter load because PURPA and 807 KAR 5:054 expressly contemplate and authorize behind-the-meter load without penalty or limits to purchase rate options.[48] "The policy objectives are straightforward."[49]

[47] KYSEIA Testimony at page 25.

[48] KYSEIA Testimony at page 26 and 27.

[49] *Id*.

In that PURPA requires the utility to purchase any energy and capacity made available, it is important to identify how these components are distinguished by 807 KAR 5:054 as between "as available" and LEO scenarios.[50]

> The rates for the utility purchase of QF output must be "subdivided into an energy component and a capacity component and utilities are required to offer rates to purchase QF power "offered on an 'as available' basis based on avoided cost estimated at the time of delivery" and also to offer rates to purchase QF power "offered on all legally enforceable obligations" which are required to include a capacity component and which must "be based at the option of the qualifying facility on either rates avoided costs [sic] at the time of delivery or avoided costs at the time the legally enforceable obligation is incurred." [Footnotes omitted.][51]

Under the Companies' proposals, if a QF exercises its option to supply behind-the-meter load, the QF may not enter a PPA and would (as a consequence) be forced to accept the "as-available" utility purchase rates.[52] The QF's choice of purchase rate options (on an "as-available" basis or pursuant to an LEO) for the QF established pursuant to 807 KAR 5:054, Section 7(2) for SQFs and Section 7(4) for LQFs would therefore be unlawfully and unreasonably denied.

The QF selecting to supply its own needs behind-the-meter would be limited to accepting "as-available" utility purchase rates[53] (and through being prohibited from entering into a PPA) unlawfully denied access to rates enabling them to sell capacity to the utility because the QF exercised a lawful choice as between Section 7(2)(a) and (b)

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[50] *Id.*

[51] *Id.*

[52] *Id*.

[53] KYSEIA Testimony at pages 27 and 28.

options for SQFs and Section 7(4)(a) and (b) options for LQFs. PURPA and 807 KAR 5:054 do not authorize this type of denial of options or imposition of a penalty which are each in direct conflict with the purchase obligations.[54] Prohibiting a QF with behind-the-meter load from pursuing capacity payments through the proposed buy-all/sell-all PPA requirement is contrary to the plain language of PURPA and 807 KAR 5:054.[55]

c. The Companies' Proposal is Unlawfully contrary to the "standard contract" requirements of 807 KAR 5:054.

As discussed, the Companies propose to limit PPAs to QF's that agree to a buy-all/sell-all requirement (thus prohibiting a PPA for any QF supplying behind-the-meter load). Therefore, "the Companies propose eliminating PPAs completely for some QFs, which would increase some QF developers' exposure to price risk, undermine some QF developers' ability to obtain financing, and impose an unreasonable imbalance of risk that heavily favored the utilities while increasing the risks allocated to ratepayers and developers."[56] The proposal cuts against the findings by the Commission concerning the rationale for 7-year and 2-year PPA contract terms approved by the Commission in the Companies' most recent rate cases because it stands to frustrate the availability of 7-year and 2-year PPAs.[57]

Moreover, it is also important to distinguish between the length of time for the Companies' purchase of power from a QF under a PPA and the clauses in the PPA that

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[54] KYSEIA Testimony at page 28.

[55] *Id.*; see also discussion of other tariffs permitting QFs with behind-the-meter load to enter into PPAs.

[56] KYSEIA Testimony at page 30.

[57] *Id.*

establish "the prices for the sale of energy and capacity by the QF and other clauses which may define QF capacity obligations or capacity commitment, annual generation forecasts, etc."[58] These two (2) matters serve different purposes. In sum, "a QF's preference or choice of an avoided cost sale price that changed every two years should not be conflated with a QF's requirement to make such sales according to contractual terms that are fixed over a much longer number of years."[59] Denying a PPA option for a QF with behind-the-meter load removes from such a QF the ability to enter into a contract identifying terms and conditions with a defined term length of multiple years. The denial runs directly contrary to the standard contract requirement of 807 KAR 5:054, Section 7(3), and it reduces the Commission's contract review authority.[60]

C. Standard Rate Rider, Net Metering Service-2 ("NMS-2")

In their applications, KU proposed to decrease its dollar-denominated bill credit rate for its NMS-2 tariff from $0.07534 per kWh to $0.03859 per kWh;[61] meanwhile, LG&E proposed to decrease its dollar-denominated bill credit rate for its NMS-2 tariff from $0.0789 per kWh to $0.03786 per kWh.[62] Per the applications, the only element within the avoided cost determination providing compensation for the proposed rates is the energy cost.[63]

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[58] KYSEIA Testimony at page 31.

[59] *Id.*

[60] KYSEIA Testimony at pages 31 and 32.

[61] Case No. 2025-00113, KU Side-by-Side Comparison, page 115 of 216.

[62] Case No. 2025-00114, LG&E Side-by-Side Comparison, page 113 of 215.

[63] Case No. 2025-00113, KU Application, Hornung Direct, page 18.

In its testimony addressing the proposals in the applications, KYSEIA stated: "The Companies' justification is inadequate to support the proposed changes to NMS-2 and relies largely on arguments the Commission has previously rejected."[64] Through Section 9.13 of the proposed Stipulation and Recommendation filed into each record, the Companies agree to leave the NMS-2 rates at their current levels.[65] Consequently, the Stipulation and Recommendation urges the same result as KYSEIA, namely, no change in the NMS-2 compensation rates.

While there is no difference in results, as between KYSEIA and the Stipulation and Recommendation, there is an important distinction between the reasoning supporting the positions. KYSEIA points out that the Companies have the burden of proof to justify the change in rates and failed to carry that burden. The rates should remain the same because the Companies did not provide justification for the reasonableness of their proposals.

Per the Stipulation and Recommendation, "these [NMS-2] rates are the product of negotiation and are not calculated using any particular methodology."[66] The Stipulation and Recommendation, therefore, requests a deference to the bare conclusions of the signatories to the agreement. The Commission has rejected such deference as

[64] KYSEIA Testimony, pages 35 and 37.

[65] Case Numbers 2025-00113 and 2025-00114, Exhibit 1 to Rate Case Stipulation and Recommendation Testimony (filed Oct 20, 2025), page 21 (hereinafter "Stipulation and Recommendation").

[66] Case No. 2025-000113, Stipulation and Recommendation at page 21.

impermissible.[67] KYSEIA supports the result of the Stipulation and Recommendation regarding the NMS-2 dollar-denominated credit rates because the agreement reaches the correct result (though through an unsupported position, wrong reasoning). The retention of the existing NMS-2 rates should be ordered, and KYSEIA asserts that the Companies should address the flaws and shortcomings of their avoided cost analysis (identified by KYSEIA through its Testimony) when proposing new NMS-2 export rates.

There is an ambiguity present in Section 9.13 concerning the application of the stay-out provision to NMS-2 rates (which are set forth in a rate rider). Section 1.2(C) of the Stipulation and Recommendation exempts riders from the stay-out provision.[68] To resolve and thereby remove this ambiguity and render the Stipulation and Recommendation as reasonable on this point, the Commission should expressly order the duration of the stay-out period for base rates to also apply to NMS-2 rates so that the effective date of new NMS-2 rates will match the effective date of new rates resulting from the Companies next base rate cases.

The matching of the duration of the NMS-2 rates with the stay-out provision will more reasonably and logically align the rates with the potential closure of NMS-2 rates (further discussed below) expected to take place through the next base rate cases. As importantly, the matching of the duration of the rates to the next base rate cases is far more consistent with the plain language of KRS 278.466 concerning how net metering rates are to be established.

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[67] See Case No. 2016-00371, Order (Ky. P.S.C. Jun 22, 2017), page 15. ("[T]he Commission cannot defer to the parties as to what constitutes fair, just, and reasonable rates.") (hereinafter "Case No. 2016-00371).

[68] Case No. 2025-00113, Stipulation and Recommendation at pages 3 and 4.

Per the Stipulation and Recommendation, "[t]he Utilities agree they will not close their NMS-2 rates to new participants earlier than the effective date of new rates resulting from their next base rate cases."[69] This aspect of the agreement is wholly consistent with the plain language of KRS 278.466(1) and the Companies' existing tariffs; therefore, this provision is lawful. KYSEIA supports this aspect of the Stipulation and Recommendation and urges its acceptance by the Commission. Based upon the effect of the Stipulation and Recommendation (as modified) on these points, KYSEIA's remaining NMS-2 arguments are not ripe for decision in or, alternatively, unnecessary for this proceeding.

D. Proposed Expansion of Liability Protection for the Companies.

Per Section 9.12 of the Stipulation and Recommendation, "[t]he Parties agree the Utilities will withdraw their requested changes in these proceedings to the liability provisions in their tariffs."[70] KYSEIA's position is that the proposed expansion of liability protection for the Companies be rejected.[71] The withdraw achieves the result sought by KYSEIA; therefore, KYSEIA has no objection to Section 9.12 of the Stipulation and Recommendation and urges its acceptance.

E. Seasonal Residential Rates

Per Section 9.3: "The Utilities agree to study seasonal residential rates and present the results of such study in their next base rate cases."[72] KYSEIA supports additional study of residential seasonal rates because KYSEIA seeks a pricing structure for capacity

[69] Case No. 2025-00113, Stipulation and Recommendation at page 21.

[70] Case No. 2025-00113, Stipulation and Recommendation, page 21.

[71] Case No. 2025-00113, KYSEIA Testimony, page 57.

[72] Case No. 2025-00113, Stipulation and Recommendation, page 19.

compensation adjusted to reflect seasonality and timing of peak loads which provides a price signal sufficient to influence market participants' contribution to peak demand[73] as well as an updated and comprehensive marginal distribution capacity cost study that accounts for circuit- and infrastructure-level variations in non-coincident peaks and is based upon a robust and statistically valid sample of customers.[74] So, the more studies the better. Regarding residential rates, the Companies' Standard Rate Rider NMS-2 is a tariff provision bearing upon residential rates; therefore, any study must necessarily include how net metering impacts various rate designs.[75] KYSEIA urges that the study be through a methodology consistent with the methodologies used by the PPL Corporation Research and Development Group (better yet by this Group). The PPL enterprise has the talent to produce a comprehensive and robust study that will aid this Commission.

F. Batteries Co-located (or coupled) with Distributed Generation Resources should be Included in the Companies' QF and NMS-2 Tariffs.

For the reasons set forth in its filed Testimony, KYSEIA recommends that the Companies include battery-coupled distributed generation resources into their QF Tariffs and NMS-2 Rider, with appropriate price signals.[76] The Commission should also consider the resilience benefits offered by such systems to all ratepayers when evaluating a fair, just, and reasonable compensation rates for net metering exports.

III. SUMMARY

[73] Case No. 2025-00113, KYSEIA Testimony, page 57.

[74] Case No. 2025-00113, KYSEIA Testimony, page 58.

[75] HVT (Nov 6, 2025) (Hornung at 1:04:28 to 1:08:28 pm).

[76] KYSEIA Testimony pages 54 through 56.

KYSEIA is respectful of the Companies and aware of the complexities in assembling rate cases for three (3) separate operations within the PPL enterprise. KYSEIA is, regrettably, forced to point out the Companies' unfortunate posture towards their customers who seek (and are entitled to) fair, just, and reasonable rates and service through the QF and net metering tariffs. There is a lot of talent within the PPL family. Disappointingly, the Companies omit research concerning their own facilities by talented members of the PPL family. The omitted research is material to the issues that are clearly placed before this Commission for decisions.

In the applications and in the recent testimonies before the Commission, there was ample discussion of the extensive merits and resources of the PPL enterprise and the key leaders of this enterprise who are in Kentucky. Nonetheless, for the applications and during the evidentiary hearing, where were the employees of the PPL enterprise with the expertise and best information concerning solar, wind, and battery resources (by reference to the actual experience of Company assets within the Companies' Kentucky service territories) and the ability of each to provide capacity?

KU, LG&E, and the PPL enterprise have a sincere desire to empower sustainability in Kentucky and move to net-zero carbon emissions by 2050. From the LG&E and KU webpage:

> Net-zero carbon emissions goal – As part of our environmental efforts across our generation fleet and throughout our business, our parent company, PPL, has set a goal to achieve net-zero carbon emissions by 2050 and is targeting a 70% reduction from 2010 levels by 2035 and an 80% reduction by 2040.[77]

[77] See https://lge-ku.com/sustainability (accessed on Dec 2, 2025).

The QF and net metering customers seek to help them reach these goals. There is nothing unfair, unjust, or unreasonable to the Companies or its ratepayers through compensating QF and NMS-2 customers for energy at the avoided costs. There is nothing unfair, unjust, or unreasonable to the Companies or its ratepayers through compensating QFs for capacity when the QFs supply the Companies with the capacity that they clearly need. Pursuant to PURPA, KRS Chapter 278, and the Commission's administrative regulations, the rates for energy and capacity are required to be fair, just, and reasonable. Those are the results that KYSEIA seeks.

WHEREFORE, KYSEIA respectfully submits its Combined Post-Hearing Brief and requests the Commission enter Orders in each docket consistent with the requirements of PURPA, KRS Chapter 278, the Commission's administrative regulations, and Commission precedent.

Respectfully submitted,

/s/ David E. Spenard

Randal A. Strobo
David E. Spenard
STROBO BARKLEY PLLC
730 West Main Street, Suite 202
Louisville, Kentucky 40202
Phone: 502-290-9751
Facsimile: 502-378-5395
Email: rstrobo@strobobarkley.com
Email: dspenard@strobobarkley.com

Counsel for KYSEIA

NOTICE AND CERTIFICATION FOR FILING AND SERVICE

Undersigned counsel provides notices that the electronic version of the paper has been submitted to the Commission by uploading it using the Commission's E-Filing System on this 2nd day of December 2025. Pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085 (Electronic Emergency Docket Related to the Novel Coronavirus COVID-19), the paper, in paper medium, is not required to be filed. The Commission has not yet excused any party from electronic filing procedures for this case.

/s/ David E. Spenard