

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

**In the Matter of:**

|                                       |   |                            |
|---------------------------------------|---|----------------------------|
| <b>ELECTRONIC APPLICATION OF</b>      | ) |                            |
| <b>KENTUCKY UTILITIES COMPANY FOR</b> | ) |                            |
| <b>AN ADJUSTMENT OF ITS ELECTRIC</b>  | ) | <b>CASE NO. 2025-00113</b> |
| <b>RATES AND APPROVAL OF CERTAIN</b>  | ) |                            |
| <b>REGULATORY AND ACCOUNTING</b>      | ) |                            |
| <b>TREATMENTS</b>                     | ) |                            |

**In the Matter of:**

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

**REHEARING BRIEF OF**  
**KENTUCKY UTILITIES COMPANY AND**  
**LOUISVILLE GAS AND ELECTRIC COMPANY**

**Filed: June 19, 2026**

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## INTRODUCTION

Kentucky Utilities Company (“KU”) and Louisville Gas and Electric Company (“LG&E”) (collectively, the “Companies”) appreciate the opportunity to submit this brief on rehearing to the Kentucky Public Service Commission (“Commission”) concerning the Commission’s February 16, 2026 Final Orders (“February 16 Orders”).<sup>1</sup>

The Companies respectfully ask the Commission to issue Orders on rehearing by August 14, 2026, approving the Stipulation and Recommendation (“Stipulation”) filed in these proceedings.<sup>2</sup> The Stipulation represents a reasonable, integrated resolution of these proceedings that would yield substantial customer benefits, including rate certainty provided by a negotiated rate case stay-out, support fair, just, and reasonable rates, and promote efficient resolution of complex proceedings through a negotiated outcome.

In the alternative, if the Commission declines to approve the Stipulation, the Companies respectfully ask the Commission to issue Orders on rehearing addressing the discrete issues identified in the Companies’ March 11, 2026 Petition for Reconsideration to better align the resulting rates and ratemaking treatment with the record, the public interest, and the Commission’s precedents. Reconsideration is warranted here because the February 16 Orders do not fully account for the Stipulation as a cohesive resolution and, in several respects, reach conclusions that the Companies respectfully submit are inconsistent with the record or would benefit from further clarification.

The Companies do not seek to relitigate these proceedings. Rather, they ask the Commission either to approve the Stipulation as reasonable in its entirety or alternatively to revise

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<sup>1</sup> The Commission’s February 16 Order concerning KU in Case No. 2025-00113 is the “KU Order.” The Commission’s February 16 Order concerning LG&E electric in Case No. 2025-00114 is the “LGEE Order.” The Commission’s February 16 Order concerning LG&E gas in Case No. 2025-00114 is the “LGEG Order.”

<sup>2</sup> Stipulation and Recommendation (“Stipulation”) (Oct. 20, 2025).

specific aspects of the February 16 Orders so the resulting treatment remains fair, just, and reasonable for customers and the Companies alike.

## ARGUMENT

### **I. The Commission Should Approve the Stipulation, including the Sharing Mechanism, Because It Is Reasonable in Its Totality and Supports the Companies' Ongoing Investments to Serve Customers.**

The Companies ask the Commission to approve the Stipulation because it would produce reasonable rates, provide base rate stability through August 2028, and enable continued investment in safe and reliable service. Approving the Stipulation would also preserve ongoing Commission oversight, including review of deferred and mechanism-recovered costs, and encourage future negotiated outcomes that benefit customers. As the Commission itself observed in the February 16 Orders, the Stipulation is “compelling” in its totality.<sup>3</sup> That observation remains well-supported on rehearing, particularly when viewing the Stipulation as a cohesive, integrated resolution rather than a collection of isolated provisions, as well as considering:

- It is the product of multiple days of arm’s length negotiations among the Companies and representatives of all customer classes whose testimony and discovery requests demonstrated a wide array of interests and positions;<sup>4</sup>
- Its signatories include the Attorney General, who has a statutory duty to represent *all* customers, including all residential customers;<sup>5</sup> representatives of industrial and commercial customers, including some of the largest energy users and economic interests in Kentucky; the two largest municipalities in Kentucky; the federal government; and the Sierra Club;<sup>6</sup> and
- The revenue increases that the February 16 Orders approved are almost identical to those recommended by the Stipulation. The difference in the revenue requirements calculated

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<sup>3</sup> KU Order at 18; LGEE Order at 18; LGEG Order at 16.

<sup>4</sup> See Joint Stipulation Testimony of Robert M. Conroy and Christopher M. Garrett at 4-5 (Oct. 20, 2025) (“KU-LG&E Stipulation Testimony”).

<sup>5</sup> KRS 367.150(8).

<sup>6</sup> In addition to the Companies, the Stipulation signatories are the Attorney General of the Commonwealth of Kentucky (“AG”); Kentucky Industrial Utility Customers, Inc. (“KIUC”); Lexington-Fayette Urban County Government (“LFUCG”); Louisville/Jefferson County Metro Government (“Louisville Metro”); Walmart Inc. (“Walmart”); United States Department of Defense and All Other Federal Executive Agencies (“DoD/FEA”); Sierra Club (“Sierra Club”); and The Kroger Co. (“Kroger”).

by the Commission varies less than 1% across the Companies from those in the Stipulation, so there is very little impact to customers, but the impact on the Companies is significant.<sup>7</sup>

Approval of the Stipulation also comports with the Commission's recognition that ratemaking generally involves a range of reasonable outcomes rather than a single objectively correct result.<sup>8</sup>

Consistent with that principle, the Commission has previously approved settlements and stipulations that, viewed holistically, fall within the bounds of reasonableness.<sup>9</sup> The Stipulation here likewise falls comfortably within that range.

Among the Stipulation's most significant benefits are those only the proposed Sharing Mechanism can provide. The Sharing Mechanism is a time-limited regulatory construct designed to address current investment and cost-recovery realities while maintaining meaningful customer protections and Commission oversight. Specifically, the Sharing Mechanism would:

- Moderate rate impacts by spreading the effect of non-generation investments over time;
- Maintain base rate stability during the two-and-a-half-year stay-out period (i.e., through August 2028) while still allowing the Companies to continue to make significant investments in assets that support and provide reliable service;<sup>10</sup>

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<sup>7</sup> See Joint Petition for Reconsideration of Kentucky Utilities Company and Louisville Gas and Electric Company for Reconsideration of the February 16, 2026 Orders at 4-5 (Mar. 11, 2026).

<sup>8</sup> 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.").

<sup>9</sup> 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.").

<sup>10</sup> The Companies are more than willing to accept and abide by all the terms of the Stipulation, including the stay-out, if the Commission will reconsider its prior orders and approve the Stipulation as filed.

- Preserve the Commission’s ability to regulate the Companies during a dynamic period for the industry while providing a defined opportunity to return to a more traditional regulatory construct; and
- Provide meaningful customer value through a return on equity (“ROE”) deadband with a 9.40% lower bound, which is below the ROEs likely to be in effect during the stay-out period and is expected to produce substantial customer savings.<sup>11</sup>

The Sharing Mechanism is *integral* to the Stipulation and the negotiated stay-out framework it contemplates. The February 16 Orders acknowledge that base rate case stay-outs have value;<sup>12</sup> but without the Sharing Mechanism, the Companies could not stay out as the Stipulation contemplates. Their continuing significant investments in non-generation assets would necessitate filing at least one new base rate case during the stay-out period, likely before the end of this calendar year.<sup>13</sup> In that event, an important customer benefit of the negotiated resolution—rate stability over the agreed stay-out period—would be lost. Approval of the Stipulation as filed, *including the Sharing Mechanism*, is therefore necessary to achieve its intended benefits.

The Stipulation provides another important benefit that should not be overlooked: ongoing Commission review of all deferred and mechanism-recovered costs provided by the Stipulation, including deferred costs associated with the Sharing Mechanism. That review would include the Commission’s authority to disallow any costs it found to be imprudent. Thus, approving the Stipulation would not diminish regulatory oversight; rather, it would preserve and enhance that

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<sup>11</sup> See Companies’ Response to PSC RH 1-15; KIUC Response to Companies’ Reconsideration Petition at 6 (“Using Mr. Kollen’s quantifications, the annual benefit to consumers of the lower ROE in the Sharing Mechanism is: KU \$15.1 million; LG&E electric \$9.3 million; and LG&E gas \$3.4 million (total \$27.8 million).”). See also Companies’ Response to JI 6.1(b) (“The Companies’ analysis indicates that it will have to file another rate case absent the Sharing Mechanism because they will have nearly a \$170 million revenue requirement deficit during the 13 month stay-out period even with a lower assumed ROE of 9.40% absent significant load growth.”).

<sup>12</sup> Among the benefits the Commission identified in approving the PGR were “the value in capturing the decline in rate base between rate cases due to depreciation ... [and] mak[ing] it easier for KU [and LG&E] to stay out longer before filing another rate case.” KU Order at 148; LG&E Order at 157.

<sup>13</sup> Indeed, as the Companies explain below, the likelihood of that outcome is quite high due also to the modifications the February 16 Orders made to the proposed Adjustment Clause GCR (now PGR per the February 16 Orders).

oversight while allowing the Companies and their customers to realize the Stipulation's negotiated benefits.

Approval of the Stipulation would also reaffirm the longstanding regulatory value of negotiated resolutions. Such agreements promote administrative efficiency and can include benefits and commitments—such as a negotiated stay-out—the Commission could not independently impose. By contrast, materially altering central, interdependent provisions of a negotiated settlement can reduce the incentive for parties to invest in similarly comprehensive resolutions in future cases, to the detriment of administrative efficiency and potentially without offsetting customer benefits. Restoring confidence in the value of parties investing time and resources to seek to achieve negotiated outcomes is another important reason for the Commission to approve the Stipulation in its entirety on rehearing.

In sum, there are compelling reasons for the Commission to reconsider the February 16 Orders and approve the Stipulation as filed. Stated plainly, the February 16 Orders' rewriting of the Stipulation did not help customers, and it harmed the Companies. It did not materially change the stipulated revenue requirement increases, but the means by which the February 16 Orders arrived at essentially the same revenue requirement increases did adversely affect the Companies. Denying the proposed Sharing Mechanism did not help customers; rather, it made the Stipulation's beneficial base rate case stay out untenable, foregoing two and a half years of base rate stability and denying customers millions of dollars of potential savings. The February 16 Orders did all this while also severely eroding the incentive to work toward negotiated outcomes in future rate cases. But the Commission now has an opportunity to change course and approve the Stipulation, restoring its benefits to customers while also reaffirming the importance and value of negotiated outcomes to the regulatory process. Doing so would also fulfill the Commission's obligation to

act as a neutral decision-maker, ensuring fair, just, and reasonable rates for all customers while also ensuring a reasonable return on investment for utilities.<sup>14</sup>

If the Commission decides not to approve the Stipulation without modification, the Companies ask the Commission to address the following issues and accordingly modify the February 16 Orders.

**II. Consistent with More than 40 Years of Commission Precedent and Fundamental Principles of Due Process and Fairness, the Companies Respectfully Ask the Commission Either to Retain Capitalization in these Cases or to Revise Its Rate Base Calculations to Avoid Effectively Disallowing \$244 million of Prudently Invested Capital.**

The Companies reasonably relied on decades of Commission precedent in using capitalization. Changing methodologies in these proceedings without prior notice raises due process and fairness concerns. The Commission should therefore retain capitalization in these cases or, at a minimum, revise its rate base calculations to avoid excluding \$244 million of prudently invested capital.

**A. More than 40 years of Commission precedent and fundamental principles of due process and fairness require using capitalization in these cases.**

For more than 40 years and across at least 20 total rate cases, the Commission has required, approved, or accepted calculating the return component of the Companies' revenue requirements using the capitalization methodology.<sup>15</sup> The Commission did so even though it used rate base for

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<sup>14</sup> See KRS 278.030(1); KRS 278.040(1) & (2); KRS 278.170(1). 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.").

<sup>15</sup> Fackler Testimony at 5; *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 (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 Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year*

other utilities and even though certain intervenors in the Companies' prior rate cases argued for the Commission to use rate base.<sup>16</sup> The Commission's decades-long course of decision created a utility-specific regulatory baseline on which the Companies reasonably relied in preparing and litigating these base rate cases, including formulating their revenue requirements using capitalization rather than rate base.

This history does not preclude the Commission from ever changing its view concerning the methodology for calculating the Companies' return component in base rate cases. But it is

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*Surcredit*, Case No. 2020-00350, Order (June 30, 2021); *Electronic Application of Kentucky Utilities Company For an Adjustment of Its Electric Rates*, Case No. 2018-00294, Order (Ky. PSC Apr. 30, 2019); *Electronic Application of Louisville Gas and Electric Company For An Adjustment of Its Electric and Gas Rates*, Case No. 2018-00295, Order (Ky. PSC Apr. 30, 2019); *Application of Kentucky Utilities Company For an Adjustment of Its Electric Rates and For Certificates of Public Convenience and Necessity*, Case No. 2016-00370, Order (Ky. PSC June 22, 2017); *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); *Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2014-00371 (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 (Ky. PSC June 30, 2015); *Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2012-00221 (Ky. PSC Dec. 20, 2012); *Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates, a Certificate of Public Convenience and Necessity, Approval of Ownership of Gas Service Lines and Risers, and a Gas Line Surcharge*, Case No. 2012-00222, Order (Ky. PSC Dec. 20, 2012); *Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2009-00548 (Ky. PSC July 30, 2010); *Application of Louisville Gas and Electric Company for an Adjustment of Electric and Gas Base Rates*, Case No. 2009-00548, Order (Ky. PSC July 30, 2010); *Kentucky Utilities Company for an Adjustment of Base Rates*, Case No. 2008-00251, Order (Ky. PSC Feb. 5, 2009); *Application of Louisville Gas and Electric Company for an Adjustment of Its Electric Rates*, Case No. 2008-00252, Order (Ky. PSC Feb. 5, 2009); *An Adjustment of the Gas and Electric Rates, Terms, and Conditions of Louisville Gas and Electric Company*, Case No. 2003-00433, Order (Ky. PSC June 30, 2004); *An Adjustment of the Electric Rates, Terms, and Conditions of Kentucky Utilities Company*, Case No. 2003-00434, Order (Ky. PSC June 30, 2004); *The Application of Louisville Gas & Electric Company to Adjust Its Gas Rates and to Increase Its Charges for Disconnecting Service, Reconnecting Service and Returned Checks*, Case No. 2000-00080, Order at 11 (Ky. PSC Sept. 27, 2000) (recognizing capitalization is "a better measure of the real cost of providing service since it is the cost of debt and equity that is reflected in the financial statements of the utility."); *The Application of Kentucky Utilities Company for Approval of an Alternative Method of Regulation of Its Rates and Service*, Case No. 98-474, Order at 62 and 99 (Ky. PSC Jan. 7, 2000) (using capitalization to calculate reasonable net operating income); *The Application of Kentucky Utilities Company for Approval of an Alternative Method of Regulation of Its Rates and Service*, Case No. 98-426, Order at 65 and 100 (Ky. PSC Jan. 7, 2000) (using capitalization to calculate reasonable net operating income); *Adjustment of Gas and Electric Rates of Louisville Gas and Electric Company*, Case No. 10064, Order at 74-75 (Ky. PSC July 1, 1988).<sup>16</sup> See, e.g., *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, Order (Ky. PSC Jan. 13, 2021); *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 28 (Ky. PSC June 30, 2021) ("Attorney General and KIUC's witness Lane Kollen ... used an adjusted rate base instead of capitalization.").

well established that when an agency reverses a longstanding position, it must acknowledge the change, provide a reasoned explanation, and account for reliance interests, including providing notice *before* implementing a change to a long-held position.<sup>17</sup>

The February 16 Orders do not satisfy that standard. KRS 278.190 placed the burden on the Companies to prove that their proposed rates were just and reasonable. But the Commission changed the governing revenue-requirement methodology *after* the Companies filed and supported their cases using the capitalization method, which the Commission had accepted in the Companies' base rate cases for more than 40 years. The February 16 Orders thereby deprived the Companies of fair notice and a meaningful opportunity to satisfy their evidentiary burden, making the Orders unreasonable and unlawful regarding this issue.

Again, the Companies do not contend that the Commission may never consider using a rate base methodology for the Companies, but the Commission should not retroactively impose that methodological change in these cases. If the Commission wishes to reconsider the capitalization methodology for the Companies, it should do so prospectively *after* providing clear notice that rate base will be at issue, thereby allowing the Companies to develop a complete evidentiary record. In summary, the Companies ask the Commission to adopt the Stipulation's approach of using the

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<sup>17</sup> See, e.g., *FCC v. Fox Television Stations*, 556 U.S. 502 (2009); *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211 (2016); *Christopher v. SmithKline Beecham Corp.*, 567 U.S. 142, 155-57 (2012) (“In this case, there are strong reasons for withholding the deference that *Auer* generally requires. Petitioners invoke the DOL's interpretation of ambiguous regulations to impose potentially massive liability on respondent for conduct that occurred well before that interpretation was announced. To defer to the agency's interpretation in this circumstance would seriously undermine the principle that agencies should provide regulated parties ‘fair warning of the conduct [a regulation] prohibits or requires.’ *Gates & Fox Co. v. Occupational Safety and Health Review Comm'n*, 790 F.2d 154, 156 (C.A.D.C.1986) (SCALIA, J.). Indeed, it would result in precisely the kind of ‘unfair surprise’ against which our cases have long warned. See *Long Island Care at Home, Ltd. v. Coke*, 551 U.S. 158, 170-171, 127 S.Ct. 2339, 168 L.Ed.2d 54 (2007) (deferring to new interpretation that ‘create[d] no unfair surprise’ because agency had proceeded through notice-and-comment rulemaking); *Martin v. Occupational Safety and Health Review Comm'n*, 499 U.S. 144, 158, 111 S.Ct. 1171, 113 L.Ed.2d 117 (1991) (identifying ‘adequacy of notice to regulated parties’ as one factor relevant to the reasonableness of the agency's interpretation); *NLRB v. Bell Aerospace Co.*, 416 U.S. 267, 295, 94 S.Ct. 1757, 40 L.Ed.2d 134 (1974) (suggesting that an agency should not change an interpretation in an adjudicative proceeding where doing so would impose ‘new liability ... on individuals for past actions which were taken in good-faith reliance on [agency] pronouncements’ or in a case involving ‘fines or damages’).”).

Companies’ capitalizations to calculate the return component of revenue requirements in *these* cases, allowing the Companies to present complete rate base calculations with regulatory assets and liabilities included in their *next* base rate cases.<sup>18</sup>

**B. In the alternative, if the Commission calculates revenue requirements using rate base instead of capitalization, it should adjust rate base to correct the \$244 million effective disallowance of invested capital reflected in the February 16 Orders.**

In the alternative, if the Commission determines the Companies’ revenue requirements in these proceedings should be calculated using rate base instead of capitalization, the Companies ask the Commission to adjust the rate base it uses to correct the \$244 million effective disallowance of invested capital reflected in the February 16 Orders.<sup>19</sup> There is no evidence in the record that supports the conclusion that the Companies are financing \$244 million of imprudent or non-utility investments; indeed, the Commission did not state any portion of the \$244 million was imprudent, and there is no record evidence supporting such a result. This demonstrates material inconsistencies in the rate base implementation ordered by the Commission. By excluding fuel inventory costs and other “non-cash” items from cash working capital, as well as regulatory assets, from rate base, the resulting difference between rate base and capitalization is unreasonable and produces results that are not consistent with reasonable implementation of a rate base framework. In short, the Commission’s approach to implementing rate base is a material adverse change that denies prudent cost recovery.

In addition to abruptly changing the method of calculating the Companies’ return component of the revenue requirement from capitalization to rate base, the Commission also

<sup>18</sup> KU-LG&E Stipulation Testimony at 24.

<sup>19</sup>

|  |   | KU          | LGEE        | LGEG       | Total       |
|--|---|-------------|-------------|------------|-------------|
| Rate Base vs Capitalization Difference       | Garrett Rebuttal: Exhibit CMG-1             | 90,070,548  | (5,403,469) | 46,043,151 | 130,710,230 |
| CWC Adjustments                              | Final Order at 95, 99, and 73, respectively | 63,242,014  | 41,315,986  | 8,653,228  | 113,211,228 |
| Total Rate Base vs Capitalization Difference |   | 153,312,562 | 35,912,517  | 54,696,379 | 243,921,458 |

excluded the Companies’ regulatory assets and liabilities from its rate base, stating that “excluding regulatory assets and liabilities from rate base shares the benefit of these deferrals between shareholders and ratepayers.”<sup>20</sup>

Excluding Commission-approved regulatory assets and liabilities from rate base while also including the associated accumulated deferred income taxes (“ADIT”) creates a mismatch in which corresponding assets are excluded while associated ADIT is retained, resulting in an inequitable outcome.<sup>21</sup> This is fundamentally unfair and unreasonable, and the mismatch must be remedied. Furthermore, the Companies would not have agreed to lengthy and asymmetrical amortization periods for regulatory assets and liabilities had they anticipated the Commission would abruptly reverse course on this issue, causing financial harm.<sup>22</sup> If the Commission does not include regulatory assets and liabilities in rate base, it risks increasing costs for customers in the future because the Companies will no longer be able to offer extended recovery periods for these types of costs.<sup>23</sup>

<sup>20</sup> KU Order at 94; LGEE Order at 98; LGEG Order at 72.

<sup>21</sup> Unless the Commission reconsiders its orders, the Companies will be denied an annual return of \$11.0 million while customers will receive a return of \$2.7 million. If regulatory assets and liabilities are permitted inclusion in rate base, an increase of \$11.0 million is needed to the revenue requirement. If regulatory assets and liabilities are not permitted inclusion in rate base, an increase of \$2.7 million is needed to the revenue requirement.

|  |  | KU         | LGEE       | LGEG       | Total       |
|--|--|------------|------------|------------|-------------|
| Regulatory Assets/Liabilities included in Rate Base                | Garrett Rebuttal: Exhibit CMG-2 (Tab CMG-2 Detail) | 83,142,266 | 34,841,833 | 17,670,349 | 135,654,448 |
| Less: Other Reg Assets CPCN Generation                             | Garrett Rebuttal: Exhibit CMG-2 (Tab CMG-2 Detail) | 5,354,702  | 4,937,862  | -          | 10,292,564  |
| Adjusted Regulatory Assets/Liabilities                             |  | 77,787,564 | 29,903,971 | 17,670,349 | 125,361,884 |
| Jurisdictional Factor  |  | 93%        | 100%       | 100%       |             |
| Jurisdictional Regulatory Assets/Liabilities included in Rate Base |  | 72,544,682 | 29,903,972 | 17,670,350 | 120,119,004 |
| Weighted Average Cost of Capital - per Final Order                 |  | 9.15%      | 9.16%      | 9.16%      |             |
| Regulatory Assets/Liabilities Revenue Requirement Impact           |  | 6,640,104  | 2,739,687  | 1,618,890  | 10,998,680  |
| Regulatory Assets/Liabilities Revenue Requirement Impact           |  | 6,640,104  | 2,739,687  | 1,618,890  | 10,998,680  |
| Tax Rate   |  | 24.95%     | 24.95%     | 24.95%     | 24.95%      |
| ADIT Revenue Requirement Impact                                    |  | 1,656,706  | 683,552    | 403,913    | 2,744,171   |

<sup>22</sup> The amortization period is 5 years or greater for the vast majority of regulatory assets and liabilities (15 years for AMI regulatory assets and certain IT software implementation costs).

<sup>23</sup> See KU Order at 104; LGEE Order at 108; LGEG Order at 75 (“To be clear, the Commission recognizes this accounting treatment benefits rate payers...”).

Excluding regulatory assets and liabilities from rate base is also inconsistent with the Commission’s prior treatment of this issue. For example, in a recent case involving Duke Energy Kentucky, Inc., the Commission approved a stipulation that amortized software implementation and a “regulatory asset [was] created and *included in rate base* to defer and amortize the developmental Customer Connect and retired CMS O&M expense.”<sup>24</sup> In another recent Duke rate proceeding, it appears the only regulatory asset or liability the Commission removed from rate base was rate case expense.<sup>25</sup>

Regarding the Commission’s cash working capital calculation, the Commission’s exclusion of non-cash items from the lead-lag study converts the Companies’ positive cash working capital of approximately \$59 million into *negative* cash working capital of approximately \$54 million—a difference of about \$113 million.<sup>26</sup> This extreme result illustrates the *per se* unreasonableness of excluding all non-cash items from rate base calculations. Rather than simply relying on the exclusion of non-cash expenses, a more in-depth analysis of the cash working capital calculation needs to be performed. Absent a more refined analysis, the Commission should not exclude non-cash items in determining the associated revenue lag in cash working capital calculations.

Therefore, if the Commission does not use the capitalization methodology in these cases, the Companies respectfully ask the Commission to revise its rate base calculations to include the

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<sup>24</sup> *In the Matter of: Electronic Application Duke Energy Kentucky, Inc. for 1) an Adjustment of the Natural Gas Rates; 2) Approval of New Tariffs, and 3) All Other Required Approvals, Waivers, and Relief*, Case No. 2021-00190, Order at 4 (Ky. PSC Dec. 28, 2021) (emphasis added).

<sup>25</sup> *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 Appx. A (Ky. PSC Oct. 2, 2025).

<sup>26</sup> KU Order at 95 (showing a cash working capital reduction of \$63,242,014); LGEE Order at 99 (showing a cash working capital reduction of \$41,315,986); LGEG Order at 73 (showing a cash working capital reduction of \$8,653,228).

approximately \$244 million of rate base effectively disallowed by the Commission's rate base calculations.

**III. The Companies Respectfully Ask the Commission to Authorize Deferral Accounting for Mill Creek 2 Stay-Open Costs LG&E Incurred Prior to the February 16 Orders Because Keeping Mill Creek 2 Open Benefits Customers and Because Such Authorization Would Be Consistent with the Commission's Deferral Accounting Standards and Would Not Constitute Retroactive Ratemaking.**

The Companies respectfully ask the Commission to authorize deferral accounting for the \$7.5 million of Mill Creek 2 stay-open costs LG&E incurred prior to the February 16 Orders. Indeed, the Companies submit that authorizing deferral accounting for these costs should be uncontroversial for three reasons.

First, it is not retroactive ratemaking to establish a regulatory asset for costs already incurred; rather, *capitalizing incurred expenses for later recovery is the very definition of a regulatory asset*, as the Commission itself has acknowledged.<sup>27</sup> In contrast, retroactive ratemaking is changing a filed rate and applying it retroactively,<sup>28</sup> which the filed rate doctrine established by

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<sup>27</sup> Case No. 2024-00181, Order at 2-3 (Ky. PSC Nov. 21, 2024) (“The Financial Accounting Standards Board’s Statement of Financial Accounting Standards No. 71, Accounting for the Effects of Certain Types of Regulation, which was codified as Accounting Standards Codification (ASC) 980, Regulated Operations, provides the criteria for recognition of a regulatory asset. Pursuant to ASC 980, it must be probable that the utility will recover approximately equal revenue through the inclusion of these costs for ratemaking purposes, with the intent to recover *the previously incurred cost* not a similar future cost.”) (emphasis added).

<sup>28</sup> See, e.g., *Cincinnati Bell Telephone Co. v. Kentucky Public Service Commission*, 223 S.W.3d 829, 838-39 (Ky. App. 2007) (“The PSC’s statutory rate-making authority is derived from an integrated, comprehensive system aimed at providing stability and notice to all entities involved in the rate process. . . . In light of the General Assembly’s comprehensive rate-making scheme, including only a narrowly defined circumstance under which refunds can be ordered, the filed rate can only be lawfully altered prospectively.”) (emphasis added); *Electronic Application for Revised Quarterly Gas Cost Recovery Schedules for Kentucky Frontier Gas, LLC*, Case No. 2023-00067, Order at 89 (Ky. PSC May 6, 2023). Note that LG&E’s request concerning Mill Creek 2 stay-open costs is distinguishable from the fact pattern the Commission determined constituted retroactive ratemaking in *Application of Delta Natural Gas Co. for an Adjustment of Rates*, Case No. 2010-00116, Order at 9-10 (Ky. PSC Oct. 21, 2010). In that case, Delta first recorded an expense in its historical test year that it had actually incurred the prior calendar year, then it sought to remove the expense from its test year, classify it as a regulatory asset, and recover it over three years. *Id.* The Commission denied Delta’s request as retroactive ratemaking. *Id.* at 10. The Commission explicitly noted, “The time to have sought to defer the expense as a regulatory asset would have been when Delta could still remove the expense from its books of account, not 18 months after its books were closed for calendar year 2008.” *Id.* Here, LG&E immediately sought deferral accounting authority for Mill Creek 2 stay-open costs, which the Commission declined to rule upon in the case in which LG&E made its request (Case No. 2025-00045). See n.34 *supra*. Note also that the costs at issue and LG&E’s request and the Commission’s Order in Case No. 2025-00045 all occurred during the pendency of these cases, unlike the situation concerning Delta in Case No. 2010-00116.

KRS 278.160(2) plainly prohibits.<sup>29</sup> Here, LG&E has requested to capitalize previously incurred expenses for *future* Commission review and recovery through *future* rates, not to back-bill customers under different rates for service already rendered. Thus, allowing LG&E to defer previously incurred Mill Creek 2 stay-open costs would be an ordinary, permissible exercise in deferral accounting, not retroactive ratemaking.

Second, there is no principled basis to treat Mill Creek 2 stay-open costs prudently incurred on and after February 16, 2026, as PGR-recoverable while also treating previously incurred costs *necessary to obtain the exact same benefit* as wholly unrecoverable regardless of their prudence.<sup>30</sup> The Commission has twice stated that continued operation of Mill Creek 2 will likely benefit customers,<sup>31</sup> and the Companies provided support for the \$7.5 million of stay-open costs LG&E seeks to defer during the rehearing process in these cases.<sup>32</sup> Moreover, LG&E acted quickly and decisively to ensure Mill Creek 2 would maintain reliability comparable to the rest of its fleet for the benefit of customers, and it did not delay in seeking recovery of those costs, including deferral accounting authority as needed.<sup>33</sup> Indeed, the Companies proposed Adjustment Clause MC2 and deferral accounting authority as part of the Stipulation in the 2025 CPCN Case, but the Commission declined to adjudicate those issues there, which necessitated the Companies raising

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<sup>29</sup> KRS 278.160(2) (“No utility shall charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules.”).

<sup>30</sup> See, e.g., LGEE Order at 309.

<sup>31</sup> *Electronic Joint 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 129 (Ky. PSC Oct. 28, 2025); LGEE Order at 151-52.

<sup>32</sup> See Companies’ Response to PSC RH 1-6.

<sup>33</sup> See, e.g., Case No. 2025-00045, Order at 137, 155 (Ky. PSC Oct. 28, 2025) (noting the planned retirement of Mill Creek 2 in 2027); *id.* at 159 (noting extending Mill Creek 2’s life “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 resulting from the Commonwealth’s successful economic development efforts”); *Electronic Joint Application of Kentucky Utilities Company and Louisville Gas and Electric Company for Certificates of Public Convenience and Necessity and Site Compatibility Certificates and Approval of a Demand Side Management Plan and Approval of Fossil Fuel-Fired Generation Unit Retirements*, Case No. 2022-00402, Order at 114, 175-76, 178 (Ky. PSC Nov. 6, 2023) (approving Mill Creek 2 retirement upon construction of Mill Creek 5).

them here.<sup>34</sup> The Companies respectfully submit that they should not be penalized for taking swift action for their customers' benefit regarding Mill Creek 2, which would be the unavoidable effect of denying the requested deferral accounting authority.

Third, although the Commission may authorize deferral accounting for additional reasons,<sup>35</sup> it has traditionally authorized four categories of regulatory assets, two of which apply to LG&E's previously incurred stay-open costs, namely, "an extraordinary, nonrecurring expense which could not have reasonably been anticipated or included in the utility's planning; ... and an extraordinary or nonrecurring expense that over time will result in a saving that fully offsets the cost."<sup>36</sup> Prior to the Stipulation in the 2025 CPCN Case, the Companies did not anticipate continuing to operate Mill Creek 2 beyond the in-service date of Mill Creek 5,<sup>37</sup> consistent with the Commission's Order authorizing retiring Mill Creek 2 at that time.<sup>38</sup> It is also consistent with the Commission's acknowledgement that "[b]ecause the test-year did not anticipate the continued use of Mill Creek 2, there are no incremental costs to extend the life of Mill Creek 2 in base rates."<sup>39</sup> (This also means approving the requested deferral would not result in double recovery.)

As noted above, the Commission has twice stated its belief that extending Mill Creek 2's life will

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<sup>34</sup> Case No. 2025-00045, Order at 145-54 (Ky. PSC Oct. 28, 2025); *id.* Appx. A at 8 ("4.4. Adjustment Clause MC2. The Parties agree the Commission should approve Adjustment Clause MC2 (attached hereto as Stipulation Exhibit 2), which is similar to LG&E's Adjustment Clause ECR (Environmental Cost Recovery Surcharge) and will provide recovery of the incremental Mill Creek 2 stay-open costs LG&E incurs that are not recovered through base rates, *including incremental capital expenditures and other costs incurred specifically for this purpose after the date of this Stipulation.* The Parties agree the Commission should approve all necessary regulatory deferral accounting required for the operation of Adjustment Clause MC2, including all regulatory asset and liability accounting required to address the delay between each expense month and billing month.") (emphasis added).

<sup>35</sup> *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) ("While not determinative, it is illustrative to recognize that previously the Commission has approved regulatory assets when a utility has incurred: (1) an extraordinary, nonrecurring expense which could not have reasonably been anticipated or included in the utility's planning; (2) an expense resulting from a statutory or administrative directive; (3) an expense in relation to an industry sponsored initiative; or (4) an extraordinary or nonrecurring expense that over time will result in a saving that fully offsets the cost.") (emphasis added).

<sup>36</sup> *Id.*

<sup>37</sup> See n.33 *supra*.

<sup>38</sup> *Id.*

<sup>39</sup> LGEE Order at 151-52.

likely provide net benefits to customers.<sup>40</sup> Thus, the previously incurred Mill Creek 2 life extension costs meet one or both of the two quoted regulatory asset categories quoted above, and it would be reasonable to authorize deferral accounting for these expenses even if they did not fit into one of the four “illustrative” categories the Commission has previously established. Therefore, there is ample justification under the Commission’s deferral accounting precedents to authorize LG&E to use deferral accounting for these expenses.

Finally, the Companies ask the Commission to bear in mind that authorizing the requested deferral accounting is not equivalent to deeming the previously incurred stay-open costs to be prudent. The Commission will have the opportunity to review those costs for prudence through the PGR review process. Therefore, the Commission may confidently approve the requested deferral accounting with the assurance it will have another opportunity to review the prudence of such costs, including the opportunity to disallow any such costs it finds to be imprudent.

#### **IV. Limiting Regulatory Asset Treatment for IT Costs to 2026 Costs Is Unreasonable.**

The Companies are implementing software throughout their enterprise because many of the legacy systems are reaching or have reached obsolescence. In their applications, the Companies proposed to defer the software implementation expenses and amortize the resulting regulatory asset over the lives of the underlying software.<sup>41</sup> The Companies explained that the software implementation costs would continue through 2029.<sup>42</sup> No intervenor objected to this request, and it was included in the Stipulation as part of the catch-all provision.<sup>43</sup>

The Commission concluded that “deferral accounting should be approved because otherwise the implementation costs would be expensed in a single year” and “the Commission

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<sup>40</sup> See n.31 *supra*.

<sup>41</sup> Garrett Direct Testimony at 10–12.

<sup>42</sup> *Id.* at 11.

<sup>43</sup> Amended Stipulation at 2.

recognizes this accounting treatment benefits rate payers.”<sup>44</sup> Although the Commission recognized the benefits of deferral accounting, it limited approval to 2026 without explanation.<sup>45</sup> The Companies explained that these costs will be incurred through 2029, and the customer benefits of amortizing these expenses applies equally to costs incurred in 2026 as those incurred in 2027 and beyond. The Companies ask the Commission to reconsider this finding and allow customers to benefit from deferral accounting for all the relevant costs set forth in the Companies’ applications.

**V. The Companies Respectfully Ask the Commission to Adjust the Companies’ Revenue Requirements to Account for Its Position on Paperless Billing.**

The February 16 Orders denied the Companies’ proposal to move all existing customers for whom they have an email address on file to paperless billing,<sup>46</sup> resulting in the Companies’ billing costs being approximately \$761,526 greater than projected in the test year.<sup>47</sup> It appears the Commission did not adjust the Companies’ revenue requirements to account for these foregone savings. Thus, if the Commission declines to adopt the Companies’ paperless billing proposal, the Companies request that the associated incremental costs (\$761,526) be reflected in the revenue requirements.

**VI. The Companies Respectfully Ask the Commission to Uncap the PGR Because the Commission Retains Full Authority to Review Costs Recovered through the PGR, Including the Authority to Disallow Recovery of Costs It Deems Imprudent, and Because Capping Costs the Companies Can Recover through the PGR Could Result in the Effective Disallowance of Prudently Incurred Costs.**

The Companies ask the Commission to remove the cap the February 16 Orders placed on costs that can be included in the PGR to the estimations provided in Case No. 2022-00402 and

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<sup>44</sup> KU Order at 104; LGEE Order at 107-08; LGEG Order at 75.

<sup>45</sup> *Id.*

<sup>46</sup> KU Order at 256-57; LGEE Order at 264-65; LGEG Order at 139-40.

<sup>47</sup> *Id.*; Companies’ Response to PSC 5-3, Attachment; Companies’ Response to PSC RH 1-9. *See also* Companies’ Response to PSC RH 1-19; Companies’ Response to PSC RH 2-8.

2025-00045.<sup>48</sup> The cost of a generating unit being above a years-old cost estimate does not necessarily make the additional investment imprudent, yet capping PGR recovery at such older cost estimates would result in unrecovered depreciation expense and unrecovered carrying costs for above-estimate capital costs (because depreciation expense would be based on the capped level of plant in service and because AFUDC ceases when assets are placed in service), effectively disallowing such costs. Moreover, the cap is unnecessary because the Commission can review costs to be recovered through the PGR through monthly filings from the Companies and annual PGR review cases, in addition to the monitoring requirements imposed in the CPCN cases.<sup>49</sup> Such focused adjustment clause mechanism review proceedings can result in more thorough examinations of the evidence relevant to the particular mechanism than complex, multifaceted rate proceedings. Also, the Companies' monthly PGR filings provide the Commission nearly real-time cost information the Commission could use to initiate investigative proceedings beyond and in addition to PGR annual review proceedings if the Commission deemed it necessary to do so. Therefore, because there is no practical need to limit the costs recoverable through the PGR to estimates from prior cases that are now years old and because the PGR cap could effectively deny recovery of prudently incurred costs, the Commission's Orders on rehearing should remove the cap on costs recoverable through the PGR.

**VII. The Companies Respectfully Ask the Commission to Approve the Stipulated Return on Equity ("ROE") for Base Rates and Mechanisms as Reasonable in the Context of the Stipulation, Importantly Including the Stay-Out Commitment, the Companies' Ongoing Significant Capital Investments, and the Commission's Past Precedents Concerning ROE in the Companies' Cases.**

There are numerous reasons the Commission's orders on rehearing should adopt the stipulated 9.90% ROE for base rates and the mechanisms specified in the Stipulation.

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<sup>48</sup> KU Order at 149-150; LGEE Order at 158.

<sup>49</sup> KU Order at 148 and Appx. A at 13; LGEE Order at 157 and Appx. A at 13.

First, each and every party that submitted ROE evidence in these cases signed the Stipulation that recommended the 9.90% ROE; *there were no dissenters*. Those parties represent all customer classes: the AG, KIUC, DoD-FEA, and Walmart. That is not surprising given the ROE evidence provided in these cases, which resulted in an overall recommended ROE range of 9.425% to 10.95%.<sup>50</sup> The stipulated ROE fits squarely within this range of recommendations; indeed, it is almost 30 basis points *below* the 10.1875% midpoint of that range. Thus, the stipulated ROE is reasonable both in the context of the ROE evidence presented in these cases and the total context of the Stipulation.

Second, the lower ROEs awarded in the February 16 Orders are inconsistent with the increased risk associated with the Companies' ongoing significant capital investments in assets to serve customers. These investments go well beyond generation investments addressed by the PGR mechanism; they include billions of dollars in transmission, distribution, and IT investments.<sup>51</sup> The Commission has previously recognized that such large investments contribute to business risk, which supports higher ROE awards.<sup>52</sup>

Third and relatedly, the uncontradicted evidence in the record of these cases is that even with the full GCR mechanism proposed in the Stipulation, much less the capped PGR approved in the February 16 Orders, the Companies would likely earn an ROE *below* 9.90% during the stipulated stay-out period. Indeed, the Companies' earned ROE would likely fall significantly

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<sup>50</sup> See Direct Testimony of Dylan W. D'Ascendis ("D'Ascendis Direct") at Exhibit DWD-1 (recommending 10.95% ROE); Direct Testimony of Richard A. Baudino at 8 (recommending 9.60% ROE); Direct Testimony of Michael P. Gorman at 3 (recommending 9.50% ROE); Direct Testimony of Lisa V. Perry at 4 (recommending 9.425% ROE).

<sup>51</sup> See Attachments to Companies' Response to AG-KIUC 2-9 (showing non-generation investments of over \$3.5 billion from 2026 through 2028).

<sup>52</sup> See, e.g., Case No. 2020-00349, Order at 22 (Ky. PSC June 30, 2021) ("[T]he Commission recognizes that there are other factors contributing to risk affecting KU than otherwise similar-situated electric utilities. First is increased financial risk. KU's capital spending on new facilities as well as maintenance and repair is significant and anticipated to total approximately \$2.3 billion or about 34 percent of its net book value of property, plant and equipment through the 2020-2024 period.").

below the bottom of the Sharing Mechanism’s 9.40% ROE deadband during the stay-out period *even with the full, proposed GCR mechanism and full Mill Creek 2 stay-open cost recovery*; as the Companies have shown, there is no plausible scenario in which they could continue to invest in assets to serve customers and maintain their financial health absent the stipulated Sharing Mechanism or at least one additional base rate case during what would otherwise be the stay-out period.<sup>53</sup> This also shows why the Companies are unlikely to actually earn the stipulated 9.90% ROE *at any point* during the stay-out period, even with a 9.90% ROE for all mechanisms, further supporting the reasonableness of the stipulated ROE applied to base rates and all mechanisms in the total context of the Stipulation.

Fourth, the Orders do not explain the divergence from recent Commission approvals. Indeed, the February 16 Orders did not refer to or explain the rationale for awarding the Companies a lower ROE than the 9.80% ROE the Commission awarded Duke Energy Kentucky for its electric operations in October 2025.<sup>54</sup> Likewise, the February 16 Orders did not refer to or explain the rationale for awarding the Companies a lower ROE than the stipulated 9.80% ROE the Commission approved for Duke’s gas operations in December 2025, which included a stay-out agreement similar to the term the Stipulating Parties agreed to in these cases.<sup>55</sup> The Commission approved Duke’s stipulated ROE even though “Joint Stipulation ROEs fall above what would have

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<sup>53</sup> See, e.g., Companies’ Response to JI 6.1(b) (“The Companies’ analysis indicates that it will have to file another rate case absent the Sharing Mechanism because they will have nearly a \$170 million revenue requirement deficit during the 13 month stay-out period even with a lower assumed ROE of 9.40% absent significant load growth.”); KIUC Response Companies’ Reconsideration Petition at 6 (“Using Mr. Kollen’s quantifications, the annual benefit to consumers of the lower ROE in the Sharing Mechanism is: KU \$15.1 million; LG&E electric \$9.3 million; and LG&E gas \$3.4 million (total \$27.8 million).”).

<sup>54</sup> *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).

<sup>55</sup> *In the Matter of: Electric Application of Duke Energy Kentucky, Inc. for 1) an Adjustment of the Natural Gas Rates; 2) Approval of the Natural Gas Rates; and 3) All Other Required Approvals, Waivers, and Relief*, Case No. 2025-00125, Order at 16 (Ky. PSC Dec. 23, 2025).

been authorized in the absence of a Joint Stipulation agreement.”<sup>56</sup> It is further unclear why the Commission rejected the stipulated ROE in these cases while accepting Duke’s stipulated ROE that was likewise above what the Commission would have otherwise ordered.<sup>57</sup>

Fifth, the reduced ROE for the Companies’ rate mechanisms lacks evidentiary support. Mr. D’Ascendis provided uncontested data demonstrating that mechanisms are overwhelmingly common for both his natural gas and electric utility proxy groups.<sup>58</sup> He further explained that “several studies show that rate stabilization mechanisms do not materially affect the investor-required return for those companies.”<sup>59</sup> Moreover, Mr. D’Ascendis testified at the evidentiary hearing that he is unaware of any other state commission that systematically reduces the ROE for mechanisms as compared to the ROE for base rates, rendering the Commission’s position an outlier that is inconsistent with the substantial empirical evidence supporting a consistent ROE for base rates and mechanisms.<sup>60</sup> Also, the Commission has previously approved—including in the Companies’ 2020 base rate cases—mechanisms that explicitly tied their ROE components to the base rate ROE most recently approved for the Companies.<sup>61</sup> Therefore, the Companies respectfully ask the Commission to award the stipulated ROE for base rates *and* rate mechanisms.

### **VIII. The Companies Respectfully Ask the Commission to Include the Value of Restricted Stock Units (“RSUs”) in the Companies’ Revenue Requirements Because RSUs Are**

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<sup>56</sup> *Id.*

<sup>57</sup> *Id.* (“After consideration of the evidence of record, the Commission notes that the Joint Stipulation ROEs fall above what would have been authorized in the absence of a Joint Stipulation agreement. However, based upon the entirety of the Joint Stipulation terms, the Commission finds that an ROE of 9.8 percent for Duke Kentucky’s base rates and an ROE of 9.7 percent for its natural gas capital riders is fair, just and reasonable.”).

<sup>58</sup> D’Ascendis Direct at 66-67 and Exhibit DWD-12.

<sup>59</sup> *Id.* at 68.

<sup>60</sup> November 4, 2025 Hearing, 1:41:30 p.m. (D’Ascendis).

<sup>61</sup> *See, e.g.*, Case No. 2020-00349, Order Appx. A at 13; Case No. 2020-00350, Order Appx. A at 13 (“The Retired Asset Recovery Rider will include a credit for the depreciation expense and rate of return component for each retired unit embedded in base rates at that time, but no credit for any other expense embedded in base rates.”); *Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates, A Certificate of Public Convenience and Necessity, Approval of Ownership of Gas Service Lines and Risers, and a Gas Line Surcharge*, Case No. 2012-00222, Order (Ky. PSC Dec. 20, 2012) (approving settlement, including approval for Gas Line Tracker, which explicitly incorporated most recently approved gas base rate ROE).

**a Component of Reasonable Compensation Not Tied to Financial Performance and Because Retaining Experienced Employees Benefits Customers.**

The Companies ask the Commission to include the value of restricted stock units (“RSUs”) in the Companies’ revenue requirements because RSUs are part of reasonable compensation not tied to financial performance and because retaining experienced employees benefits customers.<sup>62</sup>

First, the Companies have provided a Total Remuneration Study that shows that total remuneration paid to employees, including compensation paid as RSUs, is reasonable and consistent with market medians.<sup>63</sup> No party disputed these findings. Notably, the February 16 Orders also did not contest these findings or find total compensation to be unreasonable. Thus, the cost of RSUs is not “part of normal business risk borne by shareholders”;<sup>64</sup> rather, if the Companies’ total compensation is reasonable, which the evidence of record shows it to be and the February 16 Orders did not deny, then the entire amount of that compensation should be included in rates.

Second, the statement in the February 16 Orders that “RSUs are *in part* awarded based on length of employment” is incorrect;<sup>65</sup> the Companies’ long-term incentive (“LTI”) payments awarded as RSUs are *solely* based on length of employment.<sup>66</sup> They do not depend on a financial metric or tie in any way to the financial performance of the Companies, which makes them unlike the precedents the February 16 Orders cited for disallowing incentive compensation, both of which concerned incentive compensation tied entirely or almost entirely to earnings per share.<sup>67</sup> Instead, the Companies’ LTI Plan RSUs fully vest only if an employee remains with the Companies three

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<sup>62</sup> See KU Order at 44; LGEE Order at 46.

<sup>63</sup> Rebuttal Testimony of Vincent Poplaski at 2.

<sup>64</sup> Companies’ Response to PSC RH 1-10(a) (“Explain the basis for including employee retention-related costs in the revenue requirement. Specifically, explain how LG&E/KU justifies recovery of these costs from ratepayers rather than absorbing them as part of normal business risk borne by shareholders.”).

<sup>65</sup> KU Order at 44 (emphasis added); LGEE Order at 46 (emphasis added).

<sup>66</sup> Rebuttal Testimony of Vincent Poplaski at 3.

<sup>67</sup> KU Order at 44 n.185; LGEE Order 46 n.205.

years after they are issued. Thus, the purpose of and reason for the LTI Plan is to *retain* employees.<sup>68</sup> Put simply, RSUs are a time-based retention measure, *not* a financial measure. After the vesting period is satisfied, the LTI awards are issued *regardless* of how the stock performs and *regardless* of the financial performance of the Companies.<sup>69</sup> It should be of no significance that the awards are paid in stock instead of some other form of compensation.

Third, the Companies respectfully disagree with, and note the lack of any record evidence for, the February 16 Orders' assertion that "the mere fact of an employee receiving PPL stock incentivizes that employee entirely to perform more work at the benefit of PPL shareholders, not ... customers."<sup>70</sup> Again, employees receive the RSUs at issue in these cases *solely based on retention*, regardless of the Companies' financial performance. Moreover, the only evidence in the record concerning the effects of increased employee retention, i.e., a low turnover rate, shows increased employee retention is a *benefit* for customers, not a detriment.<sup>71</sup> Notably, the Stipulating Parties, representing the gamut of customer classes discussed above, agreed to include the expense associated with RSUs as part of compensation expense in the context of the complete Stipulation.<sup>72</sup>

Finally, including the LTI Plan RSUs in the Companies' revenue requirements is consistent with Commission precedent and supports reasonable compensation necessary to retain experienced employees, which benefits customers. The Commission recently approved a settlement in a rate case for Delta Natural Gas Company, Inc. ("Delta") that included stock unit payments as a component of incentive compensation designed to support employee retention.<sup>73</sup>

Delta described RSUs as part of long-term incentive compensation expense included in the

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<sup>68</sup> Rebuttal Testimony of Vincent Poplaski at 2.

<sup>69</sup> *Id.* at 5.

<sup>70</sup> KU Order at 44; LGEE Order at 46.

<sup>71</sup> Companies' Response to PSC RH 1-10(b); Rebuttal Testimony of Vincent Poplaski at 4-5.

<sup>72</sup> Approximately \$1.9 million, \$1.3 million and \$0.5M for KU, LG&E Electric, and LG&E Gas, respectively, included in compensation expense.

<sup>73</sup> Companies' Response to PSC RH 1-10(c).

settlement in that case, noting, “The only prerequisite to the award of RSUs is tenure with the Company. 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. Put simply, RSUs are a time-based measure, not a financial measure.”<sup>74</sup> By Order dated July 1, 2025, the Commission approved the settlement without modification of the RSU issue in the Delta case.<sup>75</sup> Thus, including the Companies’ LTI Plan RSUs in the Companies’ revenue requirements would be consistent with both the Commission’s recent Delta order and the Commission’s previous orders denying recovery of incentive compensation tied to financial performance, which the Companies’ LTI Plan RSUs are not. The Companies therefore ask the Commission to include the Companies’ LTI Plan RSUs in the Companies’ revenue requirements.

#### **IX. The Companies Ask the Commission to Correct Terminal Net Salvage and Miscellaneous Revenues.**

The Companies seek reasonable and accurately calculated rates, which is why they ask the Commission to correct terminal net salvage for Brown 3 (to KU’s detriment).<sup>76</sup> In examining the Commission’s revenue requirement calculations, it appears the Commission may not have removed terminal net salvage amounts for KU’s Unit 3 at the Brown Generating Facility even though the Companies agreed to that removal as part of the Stipulation.<sup>77</sup> The Companies believe it is appropriate to remove those amounts in this instance and respectfully ask the Commission to do so.

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<sup>74</sup> *Id.*, quoting *Electronic Application of Delta Natural Gas Company, Inc. for an Adjustment of Rates*, Case No. 2024-00346, Delta’s Post-Hearing Brief at 7 (May 9, 2025) (citations to Delta Rebuttal Testimony omitted).

<sup>75</sup> Case No. 2024-00346, Order (Ky. PSC July 1, 2025).

<sup>76</sup> See Companies’ Response to PSC RH 1-14.

<sup>77</sup> Brown 3 terminal net salvage depreciation is approximately \$2.2 million per Joint Stipulation Testimony Exhibit 3 – KU Revised Depreciation Rates.xlsx: Tab: Summary; Adjustment 1B filed on 10/20/2025.

[https://psc.ky.gov/pscecf/2025-00113/rick.lovekamp%40ge-ku.com/10202025040246/21-2025\\_KU\\_LGE\\_Rate\\_Case\\_Stipulation\\_Testimony\\_Exhibit\\_3\\_-\\_KU\\_Revised\\_Depreciation\\_Rates.xlsx](https://psc.ky.gov/pscecf/2025-00113/rick.lovekamp%40ge-ku.com/10202025040246/21-2025_KU_LGE_Rate_Case_Stipulation_Testimony_Exhibit_3_-_KU_Revised_Depreciation_Rates.xlsx)

It also appears that the Commission may not have fully considered the changes in miscellaneous revenues, including those resulting from changes in special charges ordered by the Commission, shown in Schedule M in each case when it allocated the revenue increase for each utility.<sup>78</sup> The Companies respectfully ask the Commission to update miscellaneous revenues for Commission-approved special and miscellaneous charges and deduct them first from the approved revenue increase, and then to allocate the remaining revenue increase to the base rate classes.

**X. Because Customers, Not the Companies, Ultimately Pay the Cost of Purchases from Qualifying Facilities, the Companies Ask the Commission to Approve the Stipulated Avoided Capacity Cost Rates for Qualifying Facilities and Rescind Any Requirement that Future Net Metering Service 2 Rates Include a Jobs Benefit Component.**

The Companies respectfully ask the Commission to approve the Stipulated avoided capacity cost rates for qualifying facilities (“QFs”) and remove any jobs benefit component requirement for setting future Net Metering Service 2 (“NMS-2”) rates. Ultimately, customers, *not the Companies*, pay these rates. Thus, if the Commission sets rates higher than truly avoided costs, customers, not the Companies, will be harmed.

Regarding QF capacity rates, the evidence in the record supports a finding of zero avoided capacity cost under current conditions. The Commission’s QF regulation repeatedly states that QF energy and capacity purchase rates *shall be* based on avoided costs,<sup>79</sup> which it defines to be “*incremental costs to an electric utility of electric energy or capacity or both which, if not for the purchase from the qualifying facility, the utility would generate itself or purchase from another source.*”<sup>80</sup> The only evidence in the record is that solar and wind QFs will have *zero* effect on the Companies’ least-cost capacity plans, i.e., such QFs will not displace or delay *any* planned capacity, and there are no incremental capacity costs such QFs will cause the Companies to

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<sup>78</sup> See Companies’ Response to PSC RH 1-13.

<sup>79</sup> 807 KAR 5:054 Sec. 7(2) and (4).

<sup>80</sup> 807 KAR 5:054 Sec. 1(1) (emphasis added).

avoid.<sup>81</sup> Thus, the terms of the Commission’s own QF regulation applied to the record evidence in these cases supports a zero avoided capacity cost rate for solar and wind QFs (at least until the next biennial update for such rates).

Note that the three factors affecting QF rates set out in 807 KAR 5:054 Sec. 7(5) do not change the conclusion that the only appropriate solar and wind QF capacity rate is zero. The Companies’ modeling fully addresses all of the factors in 807 KAR 5:054 Sec. 7(5)(a) and (b) by modeling 80 MW of QF resources of the relevant kinds with their own performance characteristics in the context of the Companies’ existing and planned generation and forecast load to determine what, if any, effects having QF resources would have on energy and capacity needs.<sup>82</sup> Again, those sophisticated modeling runs showed *zero* capacity effect from solar and wind QFs.<sup>83</sup> Moreover, the Companies do not have seasonal or peak avoided capacity costs, do not participate in RTOs’ seasonal capacity auctions, and costs associated with capacity are the same in all hours.<sup>84</sup> Regarding the line loss effects of QFs under 807 KAR 5:054 Sec. 7(5)(c), the Companies’ QF energy rates fully account for those effects.<sup>85</sup> Thus, nothing in 807 KAR 5:054 Sec. 7(5) applied to the record of these cases either compels or permits any conclusion other than the appropriate solar and wind QF capacity rates for the Companies are zero.

Finally, the Companies ask the Commission to rescind any requirement for the Companies to consider jobs benefits in formulating future Rider NMS-2 rates. As Kentucky’s highest court has stated, the Commission is a creature of statute and therefore has limited jurisdiction.<sup>86</sup> The

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<sup>81</sup> See Schram Testimony at 35-36 and Exh. CRS-6; Schram Rebuttal Testimony at 5-9.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> Schram Rebuttal Testimony at 6.

<sup>85</sup> See Schram Testimony at 35-36 and Exh. CRS-6; Schram Rebuttal Testimony at 5-9.

<sup>86</sup> See, e.g., *Boone County Water v. Public Service Com’n*, 949 S.W.2d 588, 591 (Ky. 1997) (“The PSC is a creature of statute and has only such powers as have been granted to it by the General Assembly.”); *South Central Bell v. Utility Reg. Com’n*, 637 S.W.2d 649, 653 (Ky. 1982) (“We have held that the Commission’s powers are purely statutory.”).

Commission itself has stated that its jurisdiction does not extend to “non-energy factors that do not affect rates or service,”<sup>87</sup> and it has further stated that where it lacks such jurisdiction over such matters, it has no authority to require utilities to account for them in rate-related calculations.<sup>88</sup> Thus, whatever jobs benefits distributed generation may provide, if any, they have no effect on the Companies’ rates or service and are therefore outside the Commission’s jurisdiction, including regarding Rider NMS-2 rates. Whether the Companies “had the opportunity to contest the Commission’s Order in the previous case[s] but chose not to do so” concerning this issue is irrelevant because the Commission’s authority is defined by statute and does not extend to non-rate factors such as jobs benefits.<sup>89</sup> Therefore, the Companies respectfully ask the Commission to rescind any obligation for the Companies to consider such matters in future NMS-2 related cases.

### CONCLUSION

For the foregoing reasons, the Companies respectfully ask the Commission to issue orders on rehearing approving the Stipulation as filed. In the alternative, the Companies ask the Commission to issue orders on rehearing amending the February 16 Orders as summarized below.

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<sup>87</sup> *Electronic Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for Review, Modification, and Continuation of Certain Existing Demand-Side Management and Energy Efficiency Programs*, Case No. 2017-00441, Order at 28 (Ky. PSC Oct. 5, 2018) (“The Commission has no jurisdiction over environmental impacts, health, or other non-energy factors that do not affect rates or service. Lacking jurisdiction over these non-energy factors, the Commission has no authority to require a utility to include such factors in benefit-cost analyses of DSM programs.”).

<sup>88</sup> *Id.* See also KRS 278.040(2); *EnviroPower, LLC v. Public Service Commission of Kentucky*, 2007 WL 289328 at \*4 (Ky. App. 2007) (not to be published) (“First, there is the statutory limitation under KRS 278.040(2) that the person seeking intervention must have an interest in the “rates” or “service” of a utility, since those are the only two subjects under the jurisdiction of the PSC.”); *The 2011 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company*, Case No. 2011-00140, Order at 4 (Ky. PSC July 8, 2011) (“[I]ssues of environmental externalities, such as air and water pollution from generating electricity and mining fuel to supply the generating plants, are all issues beyond the scope of the Commission’s jurisdiction.”); *The 2008 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company*, Case No. 2008-00148, Order at 5-6 (PSC Ky. July 18, 2008) (“Notably absent from the Commission’s jurisdiction are environmental concerns, which are the responsibility of other agencies within Kentucky state government.”).

<sup>89</sup> KU Final Order at 233-34; LG&E Electric Final Order at 242. Although the Companies did not seek rehearing or appeal of the jobs benefit issue in their 2020 rate cases, the Companies did argue in their 2020 rate cases that the Commission lacks jurisdiction over jobs-related benefits and therefore lacks any authority to require supposed jobs benefits of distributed solar to be included in net metering rates. See Case Nos. 2020-00349 and 2020-00350, Companies’ Post-Hearing Brief at 33-36 (Sept. 7, 2021).

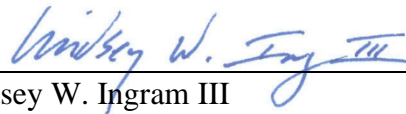
- Capitalization and rate base: The Companies ask the Commission to use capitalization in this proceeding, with the Companies presenting rate base calculations with regulatory assets and liabilities included in their next base rate cases. Alternatively, the Companies ask the Commission to increase the revenue requirement to reflect the inclusion of regulatory assets and liabilities and full cash working capital in rate base.
- Mill Creek 2 Stay Open Costs: The Companies request authorization of deferral accounting for LG&E's \$7.5 million in incremental stay open costs that the Companies incurred as of February 15, 2026.
- IT Costs: The Companies request authorization of deferral accounting for IT software implementation costs incurred after 2026.
- Paperless Billing: The Companies request inclusion of the \$761,526 in costs associated with the partial denial of moving to paperless billing in the revenue requirement.
- Adjustment Clause PGR: The Companies request removal of the limitations on Adjustment Clause PGR that narrow its benefits to customers.
- Return on Equity: The Companies request approval of the 9.90% return on equity for base rates and capital riders.
- Restricted Stock Units: The Companies request inclusion of restricted stock units in the revenue requirement.
- Terminal Net Salvage and Miscellaneous Revenues: The Companies request removal of approximately \$2.2 million associated with KU's Brown 3 terminal net salvage depreciation. Additionally, the Companies ask the Commission to consider

the changes in miscellaneous revenues when updating its revenue allocations to each rate class and calculating new rates.

- Qualifying Facilities: The Companies ask the Commission to accept the Companies' avoided capacity calculations for all QF rates.
- NMS-2: The Companies ask the Commission to rescind any obligation for the Companies to consider jobs benefits in future NMS-2 related cases.

Dated: June 19, 2026

Respectfully submitted,



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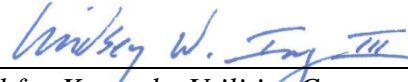
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## CERTIFICATE OF COMPLIANCE

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 June 19, 2026; and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.



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*Counsel for Kentucky Utilities Company  
and Louisville Gas and Electric Company*