COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF: ELECTRONIC APPLICATION OF EAST KENTUCKY POWER COOPERATIVE, INC. FOR A GENERAL ADJUSTMENT OF RATES, APPROVAL OF DEPRECIATION STUDY, AMORTIZATION OF CERTAIN REGULATORY ASSETS, AND OTHER GENERAL RELIEF.	: : : : : : :	CASE NO. 2025-00208

JOINT POST-HEARING BRIEF OF ATTORNEY GENERAL AND NUCOR STEEL GALLATIN

The Attorney General of the Commonwealth of Kentucky, through his Office of Rate Intervention ("AG"), and Nucor Steel Gallatin ("Nucor") (collectively, "AG-Nucor") submit this Brief in support of the Joint Stipulation, Settlement Agreement and Recommendation of East Kentucky Power Cooperative, Inc. ("EKPC" or "Company") filed on November 26, 2025 ("Settlement"). For the reasons discussed here, the Kentucky Public Service Commission ("Commission") should approve the Settlement without modification.

BACKGROUND

On August 1, 2025, EKPC filed an Application for Commission approval to increase its base rates by $79.7 million. The AG and Nucor were granted intervention in this matter on July 10, 2025 and August 19, 2025, respectively. AG-Nucor served data requests on EKPC on September 8, 2025 and October 1, 2025, and submitted its Direct Testimony on October 24, 2025. EKPC and Commission Staff served data requests on AG-Nucor, to which AG-Nucor responded on November 21, 2025.

On November 19, 2025, the parties attended an Informal Conference with Commission Staff to discuss a potential settlement of this case and to address any questions Commission Staff may have regarding the contemplated settlement. The final version of the Settlement was then filed on November 26, 2025. On December 8, 2025, a hearing was held in this matter.

ARGUMENT

I. The Commission Should Approve The Joint Stipulation Without Modification.

The Settlement results in fair, just, and reasonable rates and should be approved without modification.

A. The Rates Resulting From the Settlement Are Fair, Just, and Reasonable.

The rates recommended in the Settlement represent a significant reduction from the Company's as-filed case, particularly for residential customers and the other customers taking service under Rate E. In total, the stipulated revenue requirement is approximately 80% of the requested amount, which is lower than the 85%-90% increases historically awarded to EKPC in previous base rate cases.[1] This significant reduction is accomplished via agreed-upon adjustments to EKPC's generator maintenance costs, reducing the Company's depreciation expense to remove terminal net salvage from production, removing amortization expense associated with prior rate case deferred costs, reducing amortization expense for Smith 1 cancellation costs becoming fully amortized, amortization of a PJM transmission regulatory asset, and reducing Commission assessments.[2]

The Settlement's recommended revenue allocation is favorable to residential customers. Under the Settlement, those customers would pay approximately half of the base rate increase to be recovered from the other rate schedules.[3]

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[1] Supplemental Testimony of Cliff Scott on behalf of East Kentucky Power Cooperative, Inc. ("Scott Supplemental Testimony") at 4:21-5:2.
[2] Supplemental Testimony of Jacob R. Watson on behalf of East Kentucky Power Cooperative, Inc. ("Watson Supplemental Testimony") at 4:3-7:12.
[3] Watson Supplemental Testimony at 7:13-8:2.

Rate Class	Increase in Dollars	Percentage Increase
Rate E	$39,726,834	4.95%
Rate B	$7,389,438	9.64%
Rate C	$2,917,291	9.64%
Rate G	$4,405,247	9.64%
Contract Steam	$1,344,423	9.64%
Large Special Contract	$7,942,786	9.64%
Pumping Stations	$0	0.00%
Total	**$63,726,019**	**5.99%**

Further, the proposed 4.95% increase for residential customers is nearly 2% lower than EKPC's as-filed proposal for Rate E (6.94%), and lower than the total system decrease recommended in the Settlement (-1.50%).[4]

TABLE 3

Comparison of Revenue Increase Allocation by Rate Class

Customer Class	EKPC's Filed Position	Stipulation	Difference
Rate E	6.94%	4.95%	-1.99%
Rate B	9.00%	9.64%	0.64%
Rate C	9.00%	9.64%	0.64%
Rate G	11.00%	9.64%	-1.36%
Large Special Contract	11.00%	9.64%	-1.36%
Special Contract – Pumping Stations	0.00%	0.00%	0.00%
Steam Service	2.50%	9.64%	7.14%
Total System	7.49%	5.99%	-1.50%

The Settlement's stay-out provision, which bars EKPC from filing rate cases for new rates to be effective for at least three years, also benefits all customers, preventing rate spikes that would otherwise accompany the pancaked rate cases necessary to effectuate the Company's $2

[4] Watson Supplemental Testimony at 9:2-3.

billion capital spending plan. That plan includes construction of new reciprocating internal combustion engine generators (approximately $500 million), converting Cooper Unit 2 and Spurlock Units 1-4 to co-fire with natural gas (approximately $260 million), and construction of a new Combined Cycle Gas Turbine at the Cooper Station (over $1.3 billion).[5] Without the Settlement stay-out provision, customers could expect a new base rate case approximately every 18 months in the coming years to recover the costs of the plan.[6] Instead, the combination of the proposed Symmetrical Earnings Mechanism ("SEM") and the Settlement stay-out promotes rate stability for customers while maintaining EKPC's earnings within a specific pre-established deadband during that period.

B. The Symmetrical Earnings Mechanism Benefits Customers.

The Symmetrical Earnings Mechanism recommended in the Settlement is intended to avoid pancaked base rate cases, to smooth rate increases for customers, and to protect EKPC's credit ratings during a period of major capital investment by the Company in order to help lower its borrowing costs.[7]

Under the SEM, if EKPC's per-book margins fell below a 1.4 TIER[8] in a given calendar year, then the SEM would collect the amount necessary to bring the Company up to a 1.4 TIER for that year. TIER is the cooperative equivalent of return on equity ("ROE") for investor-owned utilities. If EKPC's per-book margins rose above a 1.6 TIER in a given calendar year, then the SEM would be used to refund to customers any margins above the 1.6 TIER. The SEM would therefore effectively maintain EKPC's TIER in a 1.4-1.6 range while it is in effect.[9]

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[5] Settlement at 7-8; Order, Case No. 2024-00310 (May 20, 2025); Order Case No. 2024-00370 (July 3, 2025); Hearing Tr. (December 8, 2025) at 9:27 am 10:15 am, and 4:12 pm.
[6] Hearing Tr. (December 8, 2025) at 9:28 am.
[7] Scott Supplemental Testimony at 7:1-14.
[8] Times Interest Earned Ratio calculated as interest on long-term debt plus margins divided by interest on long-term debt.
[9] Settlement at 3.

EKPC would file the amount of over/under collection outside the 1.4-1.6 TIER earnings band as of December 31 each year at the Commission no later than the following February 1. Provided that the amount of over/under collection is larger than $10 million (the *de minimis* threshold), EKPC would begin collecting/refunding that amount in May (for April usage).[10] EKPC provided several examples of the SEM's theoretical operation in testimony and at the evidentiary hearing.[11]

Although Owner-Members would be required to flow-through any SEM charges within a twelve-month period, they would largely have discretion with respect to the treatment of SEM refunds and could determine whether to flow those refunds through to customers or to use the refund to satisfy debt covenants or defer a rate case.[12] However, Owen Electric Cooperative ("Owen") would be required to flow-through to its Special Contract – Large Load class customer that customer's proportionate share of a SEM refund.[13] This exception was necessary because the terms of the Owen Special Contract already set forth that large load customer's distribution rate and directly assign Environmental Surcharge costs to that customer.[14] The Owen refund provision only involves the large load customer's proportionate share of a SEM refund; it does not result in the large load customer taking another Owen customer's share.[15]

The SEM would remain in place until EKPC's base rates are next adjusted and could be renewed at that time.[16] Similar to the Fuel Adjustment Clause ("FAC") and Environmental Surcharge, the SEM would be subject to a two-year review by the Commission.[17]

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[10] Settlement at 4; Scott Supplemental Testimony at 7:15-8:3.
[11] Scott Supplemental Testimony, Attachment CS-1; Hearing Tr. (December 8, 2025) at 2:16 pm.
[12] Settlement at 4.
[13] Settlement at 4-5.
[14] Hearing Tr. (December 8, 2025) at 4:47 pm.
[15] Hearing Tr. (December 8, 2025) at 2:51 pm.
[16] Settlement at 3.
[17] Settlement at 5.

While the SEM is not expected to result in refunds to customers during its effective period due to EKPC's two billion dollar capital spending plan,[18] maintaining a 1.4 TIER for EKPC during that period benefits customers as compared to the alternative - a series of pancaked rate cases (as many as fifty-one (51) between EKPC and its Owner-Members) wherein the Company will seek a 1.5 TIER on its capital investments.[19] All else equal, the savings to customers of maintaining at 1.4 TIER through the five-year capital spending period versus paying a 1.5 TIER via multiple pancaked rate cases are estimated at over $73 million, as shown in the following table.

EKPC TIER Comparisons

Capital Spend Over a Five-Year Period		$ 2,000,000,000				
Annual Capital Spend		$ 400,000,000				
Projected Avg Interest Rate on New Debt		5.0%				
Additional Annual LTD Interest Expense		20,000,000				
		Additional LTD Interest Expense	Annual LTD Interest Expense	SEM 1.40 TIER	Traditional 1.50 TIER	Annual TIER Savings Due to SEM
Projected LTD Debt Interest Expense (Base Rates in 2025 Rate Case)			$ 86,976,217			
Additional Long Term Debt 2026		$ 20,000,000	$ 106,976,217	$ 149,766,704	$ 160,464,326	$ 10,697,622
Additional Long Term Debt 2027		$ 20,000,000	$ 126,976,217	$ 177,766,704	$ 190,464,326	$ 12,697,622
Additional Long Term Debt 2028		$ 20,000,000	$ 146,976,217	$ 205,766,704	$ 220,464,326	$ 14,697,622
Additional Long Term Debt 2029		$ 20,000,000	$ 166,976,217	$ 233,766,704	$ 250,464,326	$ 16,697,622
Additional Long Term Debt 2030		$ 20,000,000	$ 186,976,217	$ 261,766,704	$ 280,464,326	$ 18,697,622
			Total Five-Year Savings			**$ 73,488,109**

Accordingly, the SEM should be approved as proposed.

C. The Recommended Increase to EKPC's Interruptible Credits Is Reasonable.

The Settlement recommends a $2/kW increase in the credits offered to the EKPC's 28 interruptible customers under Rate D and to the Large Special Contract rate class (a total

[18] Hearing Tr. (December 8, 2025) at 3:16 pm.
[19] Hearing Tr. (December 8, 2025) at 4:01 pm.

increase of approximately $8 million). The recommended increase is both reasonable and warranted given the value of the interruptible load as an energy and capacity resource on EKPC's system.

Interruptible load is an important system resource for EKPC that provides real value to EKPC's other customers. The willingness of EKPC's 28 interruptible customers to disrupt their business operations and incur productivity losses on short notice when called to curtail helps protect the grid and other customers during emergencies or periods of high market pricing. And interruptible customers are subject to hundreds of hours of curtailments each year. In the past twelve months, EKPC called nearly 300 hours of interruptions occurring over 50 days.[20] Two of those interruptions (in June and July of 2025) were PJM grid reliability emergencies, necessitating customer work stoppages averaging 7 hours per event.[21]

In addition to reliability benefits, interruptible load provides financial benefits to EKPC's other customers. EKPC's interruptible capacity helps avoid or delay construction of expensive generation resources that would otherwise be needed in the absence of that capacity. As the Commission is well-aware from the array of Certificate of Public Convenience and Necessity ("CPCN") cases filed recently, new generation capacity comes with a significant price tag (e.g., approximately $1.3 billion for EKPC's new Combined Cycle), which is only growing as the supply-demand imbalance in PJM worsens.[22]

The Brattle Group recently produced a study of the cost of Combustion Turbines ("CT") for PJM, which reflected an overnight (without capitalized construction period interest) CT cost of $1,361 per kW and a total installed cost of $1,674 per kW for a June 2028 installation.[23] This estimate is very close to the $1,329/kW estimated CT cost used by EKPC in its recent CPCN

[20] EKPC Response to AG-Nucor Post-Hearing DR 3
[21] EKPC Response to AG-Nucor Post-Hearing DR 3
[22] *See e.g.* Case Nos. 2024-00310, 2024-00370, 2025-00045, 2025-00175.
[23] Direct Testimony and Exhibits of Stephen J. Baron ("Baron Testimony") at 37:11-14 (citing Baron Ex. SJB-8).

case.[24] Using EKPC's estimated CT cost (plus a reserve margin adjustment of 7%), the avoided capacity cost value of EKPC's interruptible load is $11.54/kW-month.[25] Examining another data point, PJM's recent 2027/2028 Base Residual Auction ("BRA") resulted in a clearing price of $333.44/MW-day, equivalent to $10.14/kW-month for capacity.[26] In comparison, the current EKPC interruptible credits range from only $4.20/kW-month to $6.22/kW-month, an amount that has not changed in over a decade.[27] And even increasing EKPC's interruptible credits to $6.20/kW-month to $8.22/kW-month interruptible credits, as recommended by the Settlement, those credits would still remain well below the cost of new capacity and the current market price of capacity.

Moreover, EKPC's interruptible load comprises a significant portion of the Company's total capacity resources. EKPC estimates its total interruptible capacity at 274 MW, larger than the new RICE units planned for the system.[28] And in its 2025 Integrated Resource Plan ("IRP"), EKPC indicated that the winter load drop capability of EKPC's interruptible load *"is close to 10% of EKPC's generation fleet."*[29] Loss or erosion of this interruptible capacity would therefore have a material impact on EKPC.

In addition to helping defer or delay costly new generation, EKPC sells its interruptible capacity into PJM, providing additional revenue for the system. In the 2023 test year, EKPC received about $3.4 million in capacity revenues from PJM associated with its sales of interruptible

[24] Baron Testimony at 36:1-9 (citing Baron Ex. SJB-6) (referring to Case No. 2024-00310).
[25] Baron Testimony at 40; Baron Ex. SJB-9.
[26] https://www.pjm.com/-/media/DotCom/markets-ops/rpm/rpm-auction-info/2027-2028/2027-2028-bra-report.pdf.
[27] Baron Testimony at 41:1-2; Hearing Tr. (December 8, 2025) at 10:38 am.
[28] EKPC Response to AG-Nucor Post-Hearing DR 2.
[29] 2025 Integrated Resource Plan, Case No. 2025-00087 at 36.

load into the PJM Capacity Market.[30] EKPC included these revenues as a credit against its overall test-year revenue requirements.[31]

The PJM capacity rates that will be in effect in February 2026, when new EKPC rates take effect, will be much higher. The PJM delivery year 2025/26 capacity rate will be $269.92/MW-day during the period February 1, 2026 through May 31, 2026, and increase to $329.17/MW-day starting in June 2026. This will result in significantly more PJM capacity revenues available to EKPC.[32] As Table 16 below reflects, EKPC is expected to receive an additional $12.44 million in revenue, compared to the test year level in 2025/2026.

Table 16
Revenue Impact From 2025/26 and 2026/27 Delivery Year Rates on EKPC Interruptilbe Load Revenues
(UCAP MW w/ELCC Adjustment)

	Lg Sp Contract	B	C	E	G	Total
2025/26 - 2026/27 Delivery Year						
UCAP MW*	166	14.1	10.5	4.8	12.7	208.1
UCAP MW w/ELCC Adjustment	114.54	9.729	7.245	3.312	8.763	143.6
DY 25/26 BRA $/MW-Day	$269.92	$269.92	$269.92	$269.92	$269.92	
DY 26/27 BRA $/MW-Day	$329.17	$329.17	$329.17	$329.17	$329.17	
Annual Revenue	$12,935,953	$1,098,777	$818,238	$374,052	$989,678	$16,216,698
2023 Test Year						
UCAP MW Jan-Jun*	236.9	20.4	0	1	7.1	265.4
2023 Calendar Year BRA $/MW-Day Jan-Jun	50	50	50	50	50	
UCAP MW Jul-Dec*	175.2	19.9	15.4	1.3	4.3	216.1
2023 Calendar Year BRA $/MW-Day Jul-Dec	34.13	34.13	34.13	34.13	34.13	
2023 Revenue	$3,252,985	$310,102	$95,922	$17,222	$91,571	$3,767,802
Difference						**$12,448,895**

*Response to 2nd Supplemental Request, AG/Nucor 118.

This $12.44 million in additional revenue from the sale of interruptible capacity to PJM will more than pay for the $8 million increased payment to EKPC's 28 interruptible customers under the Settlement. Taking into account the recently announced 2027/2028 PJM BRA clearing price

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30 Baron Testimony at 43:1-4 (citing Ex. SJB-11 - EKPC Response to AG/Nucor Request 1-118 2nd Supplemental Response).
31 Baron Testimony at 43:4-5.
32 Baron Testimony at 43:12-16.

of $333.44/MW-day, it is evident that the value of EKPC's interruptible capacity in PJM is only increasing over time, leading to additional capacity revenue for the EKPC system.[33]

EKPC's interruptible load also provides energy savings to the system. When an emergency curtailment occurs, EKPC does not have to generate or purchase energy for the interruptible load. Similarly, when an economic *"buy-through"* event occurs, EKPC saves money that it otherwise would have to spend on energy to serve the interruptible customer who chose to *"buy-through"* the event at high energy market prices instead. If *"buy-through"* events occur when EKPC is short, then it avoids expensive market purchases. If *"buy-through"* events occur when EKPC is long, then it has more surplus energy to sell into the high-priced market. In Post-Hearing DRs, EKPC indicated that during the 12-months ending November 30, 2025, interruptible customer "*buy-throughs*" resulted in $4,349,743 in energy savings.[34] EKPC's interruptible load therefore provides both short-term and long-term financial benefits to the system while also bolstering overall reliability.

The interruptible credits recommended in the Settlement are consistent with, not counter to, cost-of-service principles. Based on the corrected cost-of-service study filed as a supplemental response to AG-Nucor Second Request for Information, Item 28, plus additional changes to correct the transmission demand-related cost allocation 12CP factor and update the 10-minute interruptible credit to $6.22/kW as recommended in the Direct Testimony of Stephen Baron, EKPC calculated the cost-of-service results are as follows:[35]

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33 https://www.pjm.com/-/media/DotCom/markets-ops/rpm/rpm-auction-info/2027-2028/2027-2028-bra-report.pdf.
34 EKPC Response to AG-Nucor Post-Hearing DR 4.
35 EKPC Response to Staff Post-Hearing DR 12 and 13.

TABLE 1 Class Rates of Return before Interruptible Credit Increase	
Customer Class	**Adjusted Rate of Return at Proposed Rates ($63.7M)**
Rate E	3.89%
Rate B	5.54%
Rate C	6.97%
Rate G	2.83%
Large Special Contract	1.33%
Special Contract – Pumping Stations	1.09%
Steam Service	37.60%
Total System	4.00%

TABLE 2 Class Rates of Return after Interruptible Credit Increase	
Customer Class	**Adjusted Rate of Return at Proposed Rates ($55.6M)**
Rate E	3.56%
Rate B	5.30%
Rate C	6.81%
Rate G	2.62%
Large Special Contract	0.96%
Special Contract – Pumping Stations	1.09%
Steam Service	37.60%
Total System	3.67%

As shown above, the recommended interruptible credits have little impact on the cost to serve each class. Notably, these cost of service results for the Large Special Contract are understated since they do not reflect the system energy savings associated with the interruptible load discussed above.[36] In Post-Hearing DRs, EKPC affirmed that under this corrected cost of service approach, and in light of the reduced revenue requirement agreed upon in the Settlement, the combination of a 9.64% increase in base rate revenues to interruptible load customers plus the recommended $2/kW increase in the Interruptible credit makes substantial movement towards cost-of-service.[37]

36 EKPC Response to Staff Post-Hearing DR 13.
37 EKPC Response to Staff Post-Hearing DR 13.

Finally, focusing on the *net* 2.25% rate increase to the largest interruptible customer on the EKPC system rather than the 9.64% base rate increase to that customer is a misleading approach.[38] The recommended base rate increase to that large customer and the increase to the credit it receives for taking interruptible rather than firm service are two separate transactions. Under the Settlement, that customer is *first* allocated 9.64% of the base rate increase, nearly twice the residential percentage increase. The customer is therefore allocated its full share of the total base rate increase. That customer *then* receives an interruptible credit under a different rate mechanism as compensation for its agreement to curtail its business operations in order to promote system reliability and allow for the capacity/energy savings discussed above. The amount of that interruptible credit should be calculated based on an avoided cost analysis, since interruptible load represents a purchased capacity resource, which differs from the analysis used to calculate base rate increases. Accordingly, when viewed as two separate transactions, both the recommended base rate increase to that large customer and the level of interruptible credits it will receive are reasonable.

[38] EKPC Response to Staff Post-Hearing DR 13.

CONCLUSION

AG-Nucor recommends that the Settlement be approved without modification.

Respectfully submitted,

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December 22, 2025

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