

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

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY	)	
POWER COMPANY FOR (1) A GENERAL	)	
ADJUSTMENT OF ITS RATES FOR ELECTRIC	)	
SERVICE; (2) APPROVAL OF TARIFFS AND	)	CASE NO. 2025-00257
RIDERS; (3) APPROVAL OF CERTAIN	)	
REGULATORY AND ACCOUNTING	)	
TREATMENTS; AND (4) ALL OTHER REQUIRED	)	
APPROVALS AND RELIEF	)	

**SUPPLEMENTAL BRIEF OF JOINT INTERVENORS APPALACHIAN  
CITIZENS' LAW CENTER, KENTUCKIANS FOR THE  
COMMONWEALTH, KENTUCKY SOLAR ENERGY SOCIETY, AND  
MOUNTAIN ASSOCIATION**

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Dated: February 16, 2026

## I. Introduction

The Joint Intervenors offer this Supplemental Brief in accordance with the Commission's Order of February 06, 2026, and related to the limited issues raised in Commission Staff's Supplemental Post Hearing Request for Information and the Company's response thereto. Joint Intervenors offer only two observations: (1) the Commission is well within its powers to continue to investigate any and all issues raised by the Company's application during the statutorily-authorized period for decision; and (2) the supplemental information provided by the Company continues to support the Joint Intervenors' initial assertion that the Company's efforts to "control" its costs are at best ineffective.

## II. **The Commission is vested with plenary authority to evaluate the application of the Company, and in any event to evaluate the rates charged by the Company**

As stated in the Joint Intervenors' initial brief, the Commission has broad discretion in the weighing of factors it may consider in doing this balancing to determine the lowest reasonable rate.<sup>1</sup> As stated by the Company itself in its initial brief, it is the end result of the rates authorized, rather than the particular components, that matter:

In undertaking its work, the focus of the Commission's efforts are upon the outcome. As stated by the Kentucky Supreme Court: '[T]he Commission has discretion in working out the balance of interests necessarily involved and that it is not the method, but the result, which must be reasonable.' The Kentucky Court of Appeals offered this similar perspective:

The teaching of these cases is straightforward. In reviewing a rate order courts must determine whether or not the end result of that order constitutes a reasonable balancing, based on factual findings, of the investor interest in

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<sup>1</sup> Posthearing Brief of Joint Intervenors Appalachian Citizens' Law Center, Kentuckians For The Commonwealth, Kentucky Solar Energy Society, and Mountain Association at 9 (Feb. 03, 2026) ("JI Initial Brief"), *citing Nat'l-Southwire Aluminum Co. v. Big Rivers Elec. Corp.*, 785 S.W.2d 503, 512 (Ky. App. 1990).

maintaining financial integrity and access to capital markets and the consumer interest in being charged non-exploitative rates. . . . those choices must still add up to a reasonable result.<sup>2</sup>

In short, the Commission has “plenary ratemaking authority.”<sup>3</sup>

Further, the burden to justify every aspect of its application to increase rates is on the Company.<sup>4</sup> Any assertion that the Company was deprived of “sufficient notice” to evaluate the reasonableness of its applied-for rates or due process by lack of “a hearing along with a list of topics to be discussed or evidence to be sought at that hearing so that Kentucky Power can sufficiently prepare and ensure proper witnesses are in attendance,”<sup>5</sup> is therefore without any merit. The Company was fully on notice *by its very application* that its application would be under scrutiny. Any failure to fully support any aspect of its application is therefore a failure *by the Company* to meet its burden.

Finally, the fact that the requests for information from Staff come after the hearing is of no significance. The Commission is entirely by statute to “ten (10) months after the filing” of rates to reach a decision on the reasonableness of those rates.<sup>6</sup> Even aside from the application of the Company, the Commission may change the rates of the Company upon notice to the Company, at any time.<sup>7</sup> The Company’s objections to the

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<sup>2</sup> Post-Hearing Brief of Kentucky Power Company at 8 (Feb. 03, 2026) (“KPCo Brief”), *citing Ky. Indus. Util. Customers, Inc. v. Ky. Utils. Co.*, 983 S.W.2d 493, 498 (Ky. 1998) (*citing Fed. Power Comm’n v. Hope Nat. Gas*, 320 U.S. 591 (1944)); *see also Nat’l-Southwire Aluminum Co. v. Big Rivers Elec. Corp.*, 785 S.W.2d 503, 515 (Ky. App. 1990) (“We are primarily concerned with the product and not with the motive or method which produced it.” (*citing Louisville & Jefferson Cnty. Met. Sewer Dist. v. Joseph E. Seagram & Sons*, 211 S.W.2d 122 (Ky. 1948))); and *Nat’l-Southwire*, 785 S.W.2d at 513 (*citing Jersey Cent. Power & Light Co. v. Fed. Energy Regul. Comm’n*, 810 F.2d 1168, 1177 (D.C. Cir. 1987))

<sup>3</sup> *Ky. PSC v. Commonwealth ex rel. Conway*, 324 S.W.3d 373, 380 (Ky. 2010).

<sup>4</sup> KRS 278.190(3).

<sup>5</sup> KPCO’s responses to Commission Staff’s February 6, 2025 post-hearing data requests at Response 2 (Feb. 13, 2026).

<sup>6</sup> KRS 278.190(3).

<sup>7</sup> KRS 278.180(1).

additional requests for information and opportunity for supplemental briefing, therefore, are without merit.

**III. The evidence of record continues to show the Company has been utterly ineffective at controlling spiraling costs.**

As stated in the Joint Intervenors' initial brief, "the cost-savings measures supposedly implemented since the last rate case, each has apparently been utterly ineffective in preventing the need for another rate increase."<sup>8</sup> Here, even a cursory evaluation of the additional evidence shows further increase in total costs, regardless of the loss of ratepaying base over which to spread fixed costs. In just a single example, operations and maintenance expenses appear to have increased by approximately 10% between 2024 and 2025 alone.<sup>9</sup>

**IV. Conclusion**

WHEREFORE, Joint Intervenors, by and through Counsel, continue to recommend that in order to find real lasting solutions to the financial situation of the Company, much more is needed. Joint Intervenors respectfully request the Commission adopt their recommendations from their initial brief.<sup>10</sup>

[SIGNATURES ON FOLLOWING PAGE]

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<sup>8</sup> JI Brief at 14.

<sup>9</sup> PCO\_R\_KPSC\_PHDR\_2\_1\_Attachment1, tab "O&M", Line 198 TOTAL Elec. Op and Maint Expns (Total 80, 112, 131, 156, 164, 171, 178, 197), increased from \$454,840,393.52 in 2024 to \$501,961,877.41 in 2025.

<sup>10</sup> JI Brief at 33-34.

Respectfully Submitted,



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### **CERTIFICATE OF SERVICE**

In accordance with the Commission's July 22, 2021 Order in Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19*, this is to certify that the electronic filing was submitted to the Commission on February 16, 2026; that the documents in this electronic filing are a true representation of the materials prepared for the filing; and that the Commission has not excused any party from electronic filing procedures for this case at this time.



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