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 RIDERS; (3) APPROVAL OF CERTAIN REGULATORY AND ACCOUNTING TREATMENTS; AND (4) ALL OTHER REQUIRED APPROVALS AND RELIEF	))))))))	CASE NO. 2025-00257

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

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Introduction

Joint Intervenors—Appalachian Citizens' Law Center, Kentuckians for the Commonwealth, Kentucky Solar Energy Society, and Mountain Association (collectively, "Joint Intervenors")—respectfully submit this brief pursuant to the Commission's Order directing that briefs on rehearing be filed on or before July 17, 2026.[1] Joint Intervenors do not take a position on the ultimate resolution of every issue reopened by the Commission's April 9, 2026 Order.[2] Instead, Joint Intervenors write to identify two issues—Trees Outside the Right-of-Way ("TOR") vegetation management expense and reliability-tied incentive compensation—on which the Commission's own findings counsel heightened scrutiny, and to recommend a monitoring mechanism that preserves ratepayer protections while the Commission's newly ordered management audit of Kentucky Power Company ("Kentucky Power") is pending.

1. TOR Vegetation Management Expense Warrants Heightened Scrutiny Pending the Management Audit

The Commission's February 28, 2026 Order found that Kentucky Power's Trees Outside the Right-of-Way program had been improperly capitalized, reclassified those expenditures as an operating expense under FERC Account 571, and limited recoverable annual TOR expense to the seven-year historical average of $7,209,924, rather than the $18 million and $25 million Kentucky Power requested for 2026 and thereafter.[3] The Order observed that Kentucky Power "declined to provide the information necessary for the Commission to evaluate the increased program on a cost-benefit analysis basis" and that the benefits of continued TOR clearing would

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[1] Order, Case No. 2025-00257 (Ky. P.S.C. June 24, 2026).
[2] Order, Case No. 2025-00257 (Ky. P.S.C. Apr. 9, 2026) (granting rehearing, in part, as to reclassification of vegetation management expenditures, the adjustment to "Other" compensation, incentive compensation tied to reliability, the transmission expense adjustment, and rate case expenses).
[3] Order at 41–48, Case No. 2025-00257 (Ky. P.S.C. Feb. 28, 2026).

necessarily diminish as priority circuits are exhausted.[4] Kentucky Power's Motion for Rehearing seeks reconsideration of this treatment.[5]

Joint Intervenors do not dispute that continued vegetation management bears on system reliability, an area of legitimate and ongoing concern in Kentucky Power's service territory. Joint Intervenors likewise do not ask the Commission to freeze TOR spending permanently at the historical average. Joint Intervenors are concerned, however, that the same Order granting rehearing on this issue also recounted troubling practices and behaviors bearing on Kentucky Power's management and planning sufficient to warrant an independent management audit.[6] The same record deficiency identified in the underlying Order—the absence of any cost-per-outage-minute analysis supporting the requested increase—is precisely the type of planning and analytical shortfall the audit is intended to examine.

Joint Intervenors respectfully recommend that, to the extent the Commission revisits the TOR expense amount on rehearing, any increase above the currently approved level be recovered through a deferred regulatory asset or reconciling tracking mechanism, without carrying costs, rather than restored to rate base or otherwise capitalized. The Commission has already applied this approach to other disputed amounts in this proceeding.[7] Extending comparable treatment to any rehearing-related increase would allow the Commission to revisit the reasonableness of the amount,

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[4] *Id.* at 45–47.
[5] Kentucky Power's Mot. for Rehearing at 2 (filed Mar. 20, 2026); Order at 1–2, Case No. 2025-00257 (Ky. P.S.C. Apr. 9, 2026).
[6] Order at 93, Case No. 2025-00257 (Ky. P.S.C. Feb. 28, 2026); see also Ky. Rev. Stat. Ann. § 278.255 (West 2026) (authorizing Commission-ordered management and operations audits).
[7] *See* Order at 29–31, Case No. 2025-00257 (Ky. P.S.C. Feb. 28, 2026) (permitting deferral of NOLC DTA revenue-requirement effects without carrying costs pending further IRS guidance); *id.* at 42–43 (permitting recovery of the pre-2026 TOR balance as a regulatory asset amortized over thirty years without carrying costs).

informed by the audit's findings, before ratepayers bear the full, permanent cost of an increase whose underlying justification the Commission has already found wanting.

2. Reliability-Tied Incentive Compensation Should Remain Subject to Continued Monitoring

The Commission's February 28, 2026 Order disallowed recovery of incentive compensation tied to AEP's financial performance metrics but did not address, as a separate matter, incentive compensation tied to reliability metrics, an issue now reopened on rehearing.[8]

Joint Intervenors recognize that compensation tied to reliability outcomes is, in principle, more closely aligned with customer interests than compensation tied to shareholder financial metrics. Joint Intervenors do not urge outright disallowance of this component. Joint Intervenors note, however, that the Commission's own reliability findings in this proceeding—including its observation that Kentucky Power's SAIDI and SAIFI metrics compare unfavorably to other Kentucky investor-owned utilities and most electric cooperatives[9] raise a fair question as to whether the metrics underlying this compensation are calibrated to reflect genuine operational improvement or whether they may be satisfied notwithstanding the planning and execution concerns identified elsewhere in the same Order. Joint Intervenors recommend that any restored recovery of reliability-tied incentive compensation be conditioned on independently verifiable reliability metrics and revisited, if necessary, in light of the pending management audit's findings, rather than restored unconditionally on rehearing.

[8] Order at 59–61, Case No. 2025-00257 (Ky. P.S.C. Feb. 28, 2026); Order at 2, Case No. 2025-00257 (Ky. P.S.C. Apr. 9, 2026).
[9] Order at 61, Case No. 2025-00257 (Ky. P.S.C. Feb. 28, 2026)

3. Recommendation

Joint Intervenors do not ask the Commission to prejudge the outcome of either issue. Joint Intervenors recommend only that, given the Commission's own concurrent findings regarding Kentucky Power's management and planning practices, the Commission (1) apply deferred or reconciling, non-carrying-cost treatment to any increase in TOR expense above the currently approved level; (2) condition any restoration of reliability-tied incentive compensation on verifiable, independently benchmarked reliability metrics; and (3) revisit both issues, as appropriate, once the findings of the Commission-ordered management audit are available. This approach permits legitimate cost recovery to proceed while preserving the Commission's ability to correct course based on information not yet before it.

[SIGNATURES ON FOLLOWING PAGE]

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 July 17, 2026; that the documents in this electronic filing are a true representation of the materials prepared for the filing; and that the Commission has not excused any party from electronic filing procedures for this case at this time.

Byron L. Gary