

**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; )      Case No. 2025-00257  
(3) Approval Of Certain Regulatory And Accounting )  
Treatments; and (4) All Other Required Approvals )  
And Relief )

**Kentucky Power Company’s Motion Concerning Ability to Implement Interim Rates  
Subject to Refund Pursuant to KRS 278.190(2)**

Kentucky Power Company (“Kentucky Power” or the “Company”) moves the Public Service Commission of Kentucky (“Commission”) pursuant to KRS 278.190(2) and 807 KAR 5:001, Section 5 to allow Kentucky Power the ability to implement, subject to refund, the interim rates proposed under the Settlement Agreement filed January 9, 2026, beginning March 1, 2026, or in the alternative, the ability to implement, subject to refund, the rates proposed in Kentucky Power’s Application, beginning March 1, 2026. Implementation of the lower settlement rates would result in an annual increase of \$52.4 million (after application of the DTL Credit) as opposed to the \$95.6 million proposed in Kentucky Power’s Application, which would significantly reduce the burden on customers.

Kentucky Power initially made a similar motion in September 2025, after the Commission issued the procedural schedule in this case. The Commission denied that motion, stating several times that the Commission intended to complete its review and issue its final order by March 1, 2026, which would resolve the issues raised by Kentucky Power. Kentucky Power now files this written motion to memorialize its verbal motion at the evidentiary hearing in this matter, which was made in response to the Commission indicating that while it was still the Commission’s goal to issue its final order in this case by March 1, 2026, it was not sure it would be able to do so by

that date. For clarity, this Motion does not represent Kentucky Power's notice to implement interim rates. Rather, the Company is seeking an order holding that it has the ability to do so pursuant to KRS 279.190(2) if the Commission does not issue a final order on the merits by March 1, 2026.

Kentucky Power states in support of this motion:

#### **I. Brief Procedural History**

KRS 278.180(1) mandates that "no change shall be made by any utility in any rate except upon thirty (30) days' notice to the [C]ommission, stating plainly the changes proposed to be made and the time when the changed rates will go into effect." KRS 278.190(2) then provides, in full:

Pending the hearing and the decision thereon, and after notice to the utility, the commission may, at any time before the schedule becomes effective, suspend the operation of the schedule and defer the use of the rate, charge, classification, or service, but not for a longer period than five (5) months beyond the time when it would otherwise go into effect if an historical test period is used, or longer than six (6) months if a forward-looking test period is used, pursuant to KRS 278.192; and after such hearing, either completed before or after the rate, charge, classification, or service goes into effect, the commission may make those orders with reference thereto as it deems proper in the matter. If the proceeding has not been concluded and an order made at the expiration of five (5) months, or six (6) months, as appropriate, the utility may place the proposed change of rate, charge, classification, or service in effect at the end of that period after notifying the commission, in writing, of its intention so to do. Where increased rates or charges are thus made effective, the commission may, by order, require the interested utility or utilities to maintain their records in a manner as will enable them, or the commission, or any of its customers, to determine the amounts to be refunded and to whom due in the event a refund is ordered, and upon completion of the hearing and decision may, by further order, require such utility or utilities to refund to the persons in whose behalf the amounts were paid that portion of the increased rates or charges as by its decision shall be found unreasonable. Provided, however, if the commission, at any time, during the suspension period, finds that the company's credit or operations will be materially impaired or damaged by the failure to permit the rates to become effective during the period, the commission may, after any hearing or hearings, permit all or a portion of the rates to become effective under terms and conditions as the commission may, by order, prescribe.

The Commission historically and consistently has suspended proposed rates in base rate cases for the maximum time allowed by KRS 278.190(2), and conducts its investigation during

the suspension period.<sup>1</sup> For utilities using a historical test year, the Commission consistently suspends the rates for five months after the thirty-day notice period provided for by KRS 278.180(1), such that the rates may be implemented subject to refund beginning six months after the application was accepted.

Kentucky Power filed its Application in this case on August 29, 2025 (“Application”). The Company filed as Exhibit 1 to Section I of its Application the statutory notice required by KRS 278.180(1) and 807 KAR 5:011, Section 9 (“Statutory Notice”). To avoid confusion for customers regarding when new rates would be effective in light of the Commission’s past practice of suspending rates for the full five months, the Company stated in each of those documents that it was proposing rates to be effective for service rendered on March 1, 2026 – six months after the Application was filed. The Company made clear that:

Kentucky Power files this Application and provides this notice with the expectation the Commission subsequently will suspend pursuant to KRS 278.190 the proposed rates for investigation. Kentucky Power requests that the Commission conduct its investigation during this suspension period and enter its Order granting the relief requested in conformity with the statutory requirements of KRS 278.190, and enter an order for rates effective March 1, 2026.<sup>2</sup>

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<sup>1</sup> See, e.g., Order at 2, *In the Matter of: Electronic Application Of Louisville Gas And Electric Company For An Adjustment Of Its Electric And Gas Rates And Approval Of Certain Regulatory And Accounting Treatments*, Case No. 2025-00114 (Ky. P.S.C. June 18, 2025); Order at 2, *In the Matter of: Electronic Application of 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. 2025-00125 (Ky. P.S.C. June 13, 2025); see also Order at 2, *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 (Ky. P.S.C. Aug. 14, 2025) (suspending rates for five months).

<sup>2</sup> Application at 1 n.1.

In its previous two rate cases, Case No. 2020-00174 (“2020 Rate Case”)<sup>3</sup> and Case No. 2023-00159 (“2023 Rate Case”),<sup>4</sup> Kentucky Power likewise proposed rates to become effective six months from the date the application in each case was filed, accounting for the 30 days’ statutory notice required by KRS 278.180(1) and the additional five months’ suspension allowed by KRS 278.190(2). Kentucky Power also likewise stated that it set the respective proposed effective dates with the expectation that the Commission would subsequently suspend the rates pursuant to KRS 278.190 until the proposed effective date and conduct its investigation during that suspension period.<sup>5</sup>

In the 2020 Rate Case and the 2023 Rate Case, the Commission did, in fact, suspend the proposed rates until six months after the date of acceptance of the respective applications, and it conducted its investigation during that suspension period, consistent with Kentucky Power’s stated expectation.<sup>6</sup>

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<sup>3</sup> *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 Accounting Practices To Establish Regulatory Assets And Liabilities; (4) Approval Of A Certificate Of Public Necessity; And (5) All Other Required Approvals And Relief*, Case No. 2020-00174 (Ky. P.S.C. June 29, 2020).

<sup>4</sup> *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 Accounting Practices To Establish Regulatory Assets And Liabilities; (4) A Securitization Financing Order; And (5) All Other Required Approvals And Relief*, Case No. 2023-00159 (Ky. P.S.C. June 29, 2023).

<sup>5</sup> Application at 8–9 n.5, *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 Accounting Practices To Establish Regulatory Assets And Liabilities; (4) Approval Of A Certificate Of Public Necessity; And (5) All Other Required Approvals And Relief*, Case No. 2020-00174 (Ky. P.S.C. June 29, 2020); Application at 9 n.6, *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 Accounting Practices To Establish Regulatory Assets And Liabilities; (4) A Securitization Financing Order; And (5) All Other Required Approvals And Relief*, Case No. 2023-00159 (Ky. P.S.C. June 29, 2023).

<sup>6</sup> Order at 2, *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 Accounting Practices To Establish Regulatory Assets And Liabilities; (4) Approval Of A Certificate Of Public Necessity; And (5) All Other Required Approvals And Relief*, Case No. 2020-00174 (Ky. P.S.C. July 14, 2020); Order at 2, *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 Accounting Practices To Establish Regulatory Assets And Liabilities; (4) A Securitization Financing Order; And (5) All Other Required Approvals And Relief*, Case No. 2023-00159 (Ky. P.S.C. July 20, 2023).

However, unlike in the 2020 Rate Case and the 2023 Rate Case, the Commission instead stated in its September 11, 2025 Order (“September 11 Order”) in this case, without prior notice to Kentucky Power, that:

Kentucky Power’s application established a date of March 1, 2026, that the requested rate proposal would go into effect. Given that the effective date of the proposed rates is March 1, 2026, the Commission finds that a rate suspension is not currently necessary. The Commission anticipates completing this matter prior to the proposed effective date but will suspend the proposed rates prior to the effective date and likely allow them to go into effect subject to refund if such a suspension becomes necessary.

Kentucky Power interpreted the Commission’s September 11 Order to mean that the Commission was not suspending the proposed rates while it conducts its investigation into those rates, as it consistently and historically has done in the past. Kentucky Power filed its Motion for Clarification or Partial Rehearing on September 29, 2025, requesting that the Commission clarify and amend its September 11 Order to reflect that, consistent with its past practice, it was suspending Kentucky Power’s proposed rates for five months, up to March 1, 2026, and that if the Commission issues its final order on or after March 1, 2026, that Kentucky Power may implement the proposed rates subject to refund in conformity with KRS 278.190(2).

The Commission subsequently denied that motion by Order dated October 17, 2025 (“October 17 Order”) stating, “No suspension is required prior to the effective date of the proposed rate schedule”<sup>7</sup> and leaving open the possibility that the Commission could suspend the proposed rates beginning on or after March 1, 2026. However, the Commission also reaffirmed, three times, throughout the October 17 Order that, “the Commission plans to resolve the case by March 1, 2026,”<sup>8</sup> and “The Commission’s intent is to resolve this case by March 1, 2026,”<sup>9</sup> and “the

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<sup>7</sup> October 17 Order at 5.

<sup>8</sup> October 17 Order at 7.

<sup>9</sup> October 17, Order at 8.

Commission fully intends to work deliberately and purposefully on resolving the case by March 1, 2026.”<sup>10</sup>

Then, on January 15, 2026, at the evidentiary hearing, Chair Hatton indicated that while it is still the Commission’s goal to issue a final order in this proceeding by March 1, 2026, she was unsure if an order actually could be issued by such date.<sup>11</sup> At that time, Kentucky Power made a verbal motion for the Commission to revisit this issue, and the Commission indicated it would do so.<sup>12</sup>

## **II. Motion**

In light of the Commission’s indications at the evidentiary hearing, Kentucky Power incorporates the arguments stated in its September 29, 2025 Motion for Clarification or Partial Rehearing, and renews its motion for the ability to implement interim rates, subject to refund, beginning March 1, 2026.

Kentucky Power further moves the Commission to issue an order stating that if the Commission does not issue its final order in this case prior to March 1, 2026, then Kentucky Power is granted the ability to implement the rates, subject to refund, proposed in the Settlement Agreement filed January 9, 2026, beginning March 1, 2026, in conformity with KRS 278.190(2). In the alternative, if the Commission does not or cannot grant Kentucky Power the ability to implement the Settlement Agreement rates, then the Company requests that the Commission grant Kentucky Power the ability to implement the rates, subject to refund, proposed in Kentucky Power’s Application, beginning March 1, 2026, in conformity with KRS 278.190(2).

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<sup>10</sup> October 17 Order at 9.

<sup>11</sup> See Hearing Video Record, Jan. 15, 2026, at 4:58:55, 5:00:35.

<sup>12</sup> *Id.* at 4:59:36.

Kentucky Power is aware that the Commission previously denied Kentucky Power the ability to implement lower, settlement rates subject to refund in its previous base rate case, Case No. 2023-00159.<sup>13</sup> Kentucky Power also is aware that the Commission recently denied Louisville Gas & Electric Company's and Kentucky Utilities Company's ("LG&E/KU") request to implement their lower, settlement rates, subject to refund in accordance with KRS 278.190(2).<sup>14</sup> LG&E/KU cited three reasons supporting its request to implement lower, settlement rates subject to refund, including 1) the fact that the Commission had, in the past, interpreted KRS 278.190(2) to allow Union Light, Heat, and Power Company's settlement rates to be placed into effect subject to refund, 2) that the Commission's plenary ratemaking authority allows the Commission to do so, and 3) that the lower, settlement rates would benefit customers by providing greater rate continuity and minimizing refunds, and would result in less burden on customers who would otherwise experience a greater rate increase during the peak winter heating season when bills can be at their highest.

Kentucky Power incorporates LG&E/KU's arguments and respectfully asks the Commission to again reconsider its position on this issue. As the Commission is aware, Kentucky Power's customers are particularly sensitive to, and affected by, any rate increase. That is why Kentucky Power works diligently to minimize rate impacts wherever possible, including by

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<sup>13</sup> Order, *In The Matter Of: Electronic Application Of Kentucky Utilities Company For An Adjustment Of Its Electric Rates And Approval Of Certain Regulatory And Accounting Treatments*, Case No. 2025-00113 (Ky. P.S.C. Dec. 22, 2025); Order, *In The Matter Of: Electronic Application Of Louisville Gas And Electric Company For An Adjustment Of Its Electric And Gas Rates And Approval Of Certain Regulatory And Accounting Treatments*, Case No. 2025-00114 (Ky. P.S.C. Dec. 22, 2025).

<sup>14</sup> Joint Notice of Kentucky Utilities Company and Louisville Gas and Electric Company of Their Intent to Place Rates into Effect Subject to Refund Under KRS 278.190(2) and Motion to Schedule a Remote Informal Conference at 3-5, *In The Matter Of: Electronic Application Of Kentucky Utilities Company For An Adjustment Of Its Electric Rates And Approval Of Certain Regulatory And Accounting Treatments*, Case No. 2025-00113 (Dec. 8, 2025); *In The Matter Of: Electronic Application Of Louisville Gas And Electric Company For An Adjustment Of Its Electric And Gas Rates And Approval Of Certain Regulatory And Accounting Treatments*, Case No. 2025-00114 (Dec. 8, 2025).

mitigating to the greatest extent possible its initial rate increase request and through further compromise and creative solutions during settlement. The Company understands that the Commission may not be able to issue its final order in this proceeding by March 1, 2026, as previously indicated. In that event, Kentucky Power respectfully requests, for the reasons stated in its September 29, 2025 Motion for Clarification or Partial Rehearing, and herein, that Kentucky Power be granted the ability to implement, subject to refund, the Settlement Agreement rates beginning March 1, 2026.

If the Commission is able to issue its final order shortly after March 1, 2026, then Kentucky Power may not have to implement interim rates, and it will try to wait as long as possible to do so.<sup>15</sup> However, for the reasons stated in Kentucky Power's Application and throughout this case, Kentucky Power's financial condition will eventually require Kentucky Power to implement interim rates while the Commission completes its review in this case. In that event, customers will undoubtedly benefit from Kentucky Power implementing the lower, settlement rates, which result in an annual increase of \$52.4 million (after application of the DTL Credit) as opposed to the \$95.6 million proposed in Kentucky Power's Application.

### **III. Conclusion.**

For the reasons stated herein, Kentucky Power Company respectfully requests that the Commission enter an order:

- (1) Holding that if the Commission issues its final order on or after March 1, 2026, that Kentucky Power may implement interim rates subject to refund in conformity with KRS 278.190(2) beginning March 1, 2026;

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<sup>15</sup> Due to limitations with the Company's billing software, delaying the implementation of interim rates is only possible for approximately one week.

(2) Holding that, in that event, Kentucky Power may implement the lower rates resulting from the Settlement Agreement filed on January 9, 2026, or in the alternative, that Kentucky Power may implement the rates proposed in its Application; and

(3) Granting the Company all other relief to which it may be entitled.

Respectfully submitted,



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