

**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)	

SUPPLEMENTAL POST-HEARING BRIEF OF KENTUCKY POWER COMPANY

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I. BRIEF PROCEDURAL BACKGROUND

Kentucky Power provided notice of its intent to file its Application in this case on July 29, 2025. The Commission issued its first set of data requests to Kentucky Power on August 14, 2025. Kentucky Power filed its Application in this case on August 29, 2025. The Commission accepted the Application as filed as of that date and issued its initial procedural schedule by order dated September 11, 2025 (“September 11 Procedural Schedule”). The September 11 Procedural Schedule provided for initial and supplemental data requests to be issued to Kentucky Power on September 29, 2025, and October 23, 2025, respectively. Commission Staff issued a total of four sets of data requests, comprised of 193 individual data requests, not including subparts, to Kentucky Power prior to the hearing in this matter. The Commission and Commission Staff then took evidence from the Company’s 19 witnesses at the three-day hearing that began January 13, 2026. Thereafter, the Commission issued its post-hearing procedural schedule (“January 20 Procedural Schedule”), which was slightly amended on February 2, 2026, in order to provide Kentucky Power an additional three days to respond to two discreet Commission Staff post-hearing data requests. The January 20 Procedural Schedule provided post-hearing data requests to be issued by January 20, 2026. Commission Staff then issued 41 post-hearing data requests, not including subparts, to Kentucky Power.

The parties then briefed the case in accordance with the Commission’s January 20 Procedural Schedule by submitting post-hearing briefs by February 3, 2026, and post-hearing reply briefs by February 10, 2026. The Commission issued an order dated February 6, 2026 (“February 6 Order”), however, amending the January 20 Procedural Schedule stating that “[t]he Commission, in reviewing the record, has determined that additional information is needed to fully consider this

matter, including Kentucky Power’s proposed adjustments herein,” and propounding its second set of post-hearing data requests (“Second PHDRs”).¹

The Second PHDRs propounded on February 6, 2026, were required to be responded to by February 13, 2026, and generally concerned:

- Requests for information related to transmission expenses and related adjustments that were included with the Company’s Application filed August 29, 2026, and the Company’s responses to Commission Staff’s first set of data requests provided on September 12, 2025 (PHDR 2-2(a-e), PHDR 2-3(a-d), PHDR 2-4(a-d), and PHDR 2-5); and
- Requests to further update supplemental responses and attachments provided by Kentucky Power to Commission Staff’s first set of data requests with information through December 31, 2025 (PHDR 2-1).

The Commission also provided the parties the opportunity to “file supplemental briefs related solely to the information raised in the supplemental post-hearing requests or the responses thereto” by February 16, 2026, and Kentucky Power the opportunity to “file a reply to any supplemental briefs filed by intervenors” by February 18, 2026.² Kentucky Power now files this Supplemental Post-Hearing Brief addressing the Commission’s Second PHDRs in accordance with the February 6 Order.

II. THE COMPANY’S TRANSMISSION EXPENSE AND RELATED ITEMS WERE PROPERLY CALCULATED USING FERC-APPROVED RATES AND COSTS, AND THE COMMISSION SHOULD APPROVE THEM WITHOUT MODIFICATION.

A. Explanation of Transmission-Related Items Used to Calculate the Company’s Cost-of-Service and Rate Base.

Commission Staff’s Second PHDRs largely concern the Company’s transmission expenses, particularly its PJM Interconnection, LLC Load-Serving Entity Open Access

¹ February 6 Order at 1.

² *Id.* at 2.

Transmission Tariff (“PJM LSE OATT”) charges and the related proforma adjustment (W16), its PJM Transmission Owner (“TO”) revenue, and its Kentucky retail transmission cost of service embedded in retail rates. The Company’s transmission expenses are regulated by the Federal Energy Regulatory Commission (“FERC”) and therefore cannot be modified or their reasonableness otherwise ruled upon by the Commission under the Supremacy Clause of the United States Constitution.³

Each of these three items, (1) the Kentucky retail transmission cost of service, (2) TO revenues, and (3) PJM LSE OATT charges are used in the calculation of the Company’s revenue requirement and are further described below. The Company has a long history of adjusting test year historical PJM LSE OATT charges to the current rates accepted and authorized by FERC. The Company has calculated its revenue requirement with respect to transmission costs in the same manner, including the pro forma adjustment for PJM LSE OATT charges, in each base rate case since 2017.⁴ However, the Company has typically not made pro forma adjustments, nor has the Commission ordered adjustments, to the Company’s retail transmission cost of service (Item 1) or TO revenues (Item 2) in past historical test-year base rate cases.

Item (1): The Company’s embedded Kentucky retail transmission cost-of-service includes the return on and of the Company’s owned transmission assets and the associated operating expenses (operation and maintenance (“O&M”) expense, property taxes, administrative and general expenses, etc.). This item is included in the Company’s base rates.

³ *Nantahala Power and Light Co. v. Thornburg*, 476 U.S. 953 (1986), and *Miss. P. & L. Co. v. Miss. ex rel. Moore*, 487 U.S. 354 (1988). This concept recently has been confirmed by the Franklin Circuit Court. *See*, Order at 4, Ky. Power Co. v. Pub. Serv. Comm’n, No. 24-CI-00160 (Franklin Cir. Ct. Ja. 22, 2025); Order at 4, Ky. Power Co. v. Pub. Serv. Comm’n, No. 25-CI-00310 (Franklin Cir. Ct. Sept. 15, 2025).

⁴ *See* Case No. 2017-00179, Case No. 2020-00174, and Case No. 2023-00159.

Item (2): The Company's TO revenues are the wholesale revenues paid to the Company by PJM based on its annual wholesale revenue requirement. The level of revenue is based on a formula rate cost-of-service that is approved by FERC. Transmission Owner revenues are reflected in the Company's base rates as a credit to the cost-of-service. The Company's TO revenues are based on the same transmission assets and expenses described in Item (1). Or said another way, Item (2) reflects the FERC-approved rates compensating the Company for Item (1). Thus, Item (1) and Item (2) are necessarily related to each other.

Item (3): The Company's PJM LSE OATT charges are the charges assessed by PJM to the Company's retail load for wholesale transmission service in the PJM regional transmission organization ("RTO"). In other words, they represent charges for the Company's customers' use of the larger transmission system. The rates underlying these charges are set by FERC, and the Company recovers those PJM LSE OATT charges in base rates. Thus, Item (3) is not related to, and is separately recovered from, Items (1) and (2). PJM LSE OATT charges are based on the zonal cost of PJM transmission service and include charges from many transmission owners in PJM per the PJM OATT. These charges are not based solely on the Company's owned transmission assets.

B. Explanation of Calculation of PJM LSE OATT Charges and Pro-Forma Adjustment.

When the Company calculates PJM LSE OATT charges, it uses actual charges incurred during the test year, which in this case included charges calculated under 2024 FERC rates and 2025 FERC rates. The Company then makes a pro forma adjustment using 2025 FERC rates to account for fixed, known, and measurable changes because it already knows what the 2025 FERC rates are. The adjustment (W16) is calculated by estimating PJM LSE OATT charges for the

remainder of 2025 after the test year and then applying the 2025 FERC rates to those estimated charges.

The Company does not make post-test-year transmission investment adjustments to rate base (Item 1) and therefore has not made corresponding adjustments to TO revenue (Item 2) related to increased transmission investment. This is because this type of adjustment would impact the Company's overall cost-of-service. Specifically, any cost-of-service increase to TO revenue would also require a corresponding increase to transmission rate base, depreciation expense, transmission O&M expense, property tax, and other administrative and general expenses. The Company has never previously proposed to adjust either Item 1 or Item 2. Moreover, as described throughout this proceeding, the Company was very conscious with respect to proforma adjustments in this case in order to limit the overall rate impacts to customers. Transmission rate base and associated expenses and revenue were some of those items for which the Company did not propose any adjustment for this reason and to remain consistent with its past practice, as described above.

C. The Commission Should Accept the PJM LSE OATT Charges and Adjustment as Calculated, Without Further Adjustment.

The Second PHDRs appear to call into question why the Company did not adjust its PJM LSE OATT charges adjustment (W16) to 2025 actual charges. The Company followed the Commission's regulations in calculating the revenue requirement. The Company appropriately used a historical test year based on the 12 months' ended May 31, 2025, to calculate its revenue requirement, consistent with 807 KAR 5:001, Section 16(1)(a)(1), and made pro forma adjustments for known and measurable changes consistent with 807 KAR 5:001, Section 16(5).

The historical test-year is used as the basis to set prospective rates. By the time a final order is issued in this proceeding, there are any number of changes to the Company's historical

cost-of-service, almost all of which are not subject to true-up during this proceeding. For example, because rates would be effective in 2026, the Company necessarily will incur expenses based on the update for 2026 FERC transmission rates. It would be improper to adjust a single expense item to reflect updated 2025 actuals (which are also already out of date as the 2026 FERC transmission rates are now in effect) at the exclusion of other expense or revenue items that also may have changed during the course of this proceeding.

Moreover, the Company has consistently used the same methodology to adjust the PJM LSE OATT test-year expense to a fixed, known, and measurable level of expense at the time of filing since its 2017 base rate case. No party has challenged or provided evidence disputing the methodology used in this proceeding. The Company's PJM LSE OATT adjustment (W16), which has been approved in past instances by the Commission⁵ and recently upheld by the Franklin Circuit Court,⁶ is a reasonable basis for setting prospective rates based on the Commission's regulations and the information available to the Company at the time it filed its Application in August 2025, and it should not be modified in this instance.

Additionally, the Settlement Agreement submitted for approval in this proceeding included the Company's PJM LSE OATT Adjustment (W16). The Company reiterates that each aspect of the Settlement Agreement was carefully constructed to balance customer rate impacts and the Company's financial condition. To the extent the Settlement Agreement is modified to further reduce the revenue requirement therein, or is otherwise materially modified, then the Company will likely need to withdraw from the Settlement Agreement. Moreover, any such modification

⁵ See Case No. 2017-00179, Case No. 2020-00174, and Case No. 2023-00159 (on remand after appeal).

⁶ See, Order at 4, *Ky. Power Co. v. Pub. Serv. Comm'n*, No. 24-CI-00160 (Franklin Cir. Ct. Ja. 22, 2025); Order at 4, *Ky. Power Co. v. Pub. Serv. Comm'n*, No. 25-CI-00310 (Franklin Cir. Ct. Sept. 15, 2025).

could inhibit the Company's ability to provide safe and reliable service, as discussed by Company Witnesses Wiseman and Ross at hearing and in the Company's Reply Brief.

Therefore, the Commission should accept and approve Kentucky Power's transmission expenses, with adjustments, as filed and as incorporated into the Settlement Agreement because those expenses are reasonable for use in setting the prospective rates necessary for the Company to continue to provide safe and reliable service to its customers.

D. If the Commission Intends to Rely on the Evidence Provided in Response to the Second PHDRs Then Kentucky Power Would Be Entitled to Additional Due Process.

Kentucky Power respectfully reiterates its objections included in responses to KPSC PHDR 2-2, 2-3, 2-4, and 2-5 because those requests require the introduction of new evidence into this proceeding after multiple rounds of discovery, a full evidentiary hearing, post-hearing data requests related to issues raised at the hearing, and multiple rounds of briefing. If the Commission intends to rely upon the evidence provided therein to modify or otherwise prevent the recovery of these FERC-approved expenses or any other aspects of the Application or Settlement Agreement, then Kentucky Power requests sufficient notice of the Commission's intention to do so and all other protections afforded to Kentucky Power under the Due Process Clause of the United States Constitution and Section 2 of the Kentucky Constitution.⁷ This includes but is not limited to the right to 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.⁸

⁷ Section 2 of the Kentucky Constitution and the due process clause of the Fourteenth Amendment guarantee all litigants before the Commission the right to know the issues and evidence being considered and the opportunity to put on evidence to support their position and to test, explain, and/or refute any evidence to the contrary. *Kentucky American Water Co. v. Commonwealth ex rel. Cowan*, 847 S.W.2d 737, 741 (Ky. 1993); *Utility Regulatory Comm'n v. Kentucky Water Service Co., Inc.*, 642 S.W.2d 591, 593 (Ky. App. 1982).

⁸ *See id.*

III. CONCLUSION

Kentucky Power properly calculated its transmission expenses and related adjustments using FERC-approved rates and costs. Especially given the Commission's lack of jurisdiction over these costs, the transmission expenses and related adjustments should not be modified or otherwise made unrecoverable in any manner. Any such action would be unconstitutional and therefore unlawful. For the reasons stated herein, the Commission should approve the Company's transmission expenses as calculated and as incorporated into the Settlement Agreement by approving the Settlement Agreement in its entirety and without modification.

Respectfully submitted,



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