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

POST-HEARING BRIEF OF KENTUCKY POWER COMPANY

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I. INTRODUCTION

Kentucky Power Company ("Kentucky Power" or "Company") recognizes that it is different than other electric utilities, especially other investor-owned electric utilities, in the Commonwealth of Kentucky. Kentucky Power's service territory is unique in its terrain and customer socio-economic status. Customer count is declining, load is declining, and the 20 counties in its service territory are some of the poorest in the country. But, Kentucky Power knows it is different, and that is why it is doing things differently. Kentucky Power is one of the largest employers in eastern Kentucky, and it is a leader in economic development and charitable giving in the region. Kentucky Power focuses strategically on vegetation management programs to improve reliability in the heavily forested and mountainous terrain in its service territory. Kentucky Power is also intently customer-focused and puts its customers and affordability at the forefront of every decision it makes. For example, it is the only utility in the Commonwealth to take advantage of securitization legislation passed in 2023, which directly reduces rate impacts for customers by shrinking the Company's rate base. Further, when Kentucky Power decides to file a rate case like this one, it calculates its actual cost to do business and then identifies costs it can either forego or delay recovery of in order to minimize the rate increase request as much as possible, before even filing the case.

And, this is not a new practice. In 2020 (Case No. 2020-00174), the Company mitigated its rate increase request by: utilizing a portion of its unprotected excess ADFIT balance to offset the first year rate increase; proposing to discontinue collection of its Capacity Charge tariff conditioned upon acceptance of the Company's as-filed case; and reducing its requested return on equity ("ROE") 30 basis points below the rate recommended by its expert witness.[1] In 2023 (Case

[1] Order at 1, *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*

No. 2023-00159), the Company again mitigated its rate increase request by: reducing its requested ROE 70 basis points below the rate recommended by its expert witness; postponing an update to depreciation rates for the Mitchell Plant; foregoing its transmission cost tracking mechanism; and conditionally suspending the collection of two regulatory assets until securitized bonds for those assets could be issued.[2]

Here, Kentucky Power proposed a capital structure that reduces the Company's equity layer, which in turn, reduces the weighted average cost of capital ("WACC") and ultimately the revenue requirement.[3] The Company further proposed an ROE at the lowest end of the range determined to be reasonable by the Company's expert witness and 50 basis points below that recommended by the Company's expert witness.[4] The Company also is waiting to update depreciation rates for the Mitchell Plant, which immediately reduces bill impacts for customers and also better positions the Company to pursue additional securitization of these assets, to the benefit of customers.[5] Finally, the Company proposed a novel and creative residential rate design aimed to reduce usage and provide rate relief to higher-usage customers with poor housing stock.[6]

After Kentucky Power did this front-end work to actively reduce its rate increase request, the Company filed its Application in this case on August 29, 2025, seeking an increase in base

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Establish Regulatory Assets And Liabilities; (4) Approval Of A Certificate Of Public Convenience And Necessity; And (5) All Other Required Approvals And Relief, Case No. 2020-00174 (Ky. P.S.C. Jan. 13, 2021); Post-Hearing Brief of Kentucky Power Company at 64, *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 Convenience And Necessity; And (5) All Other Required Approvals And Relief*, Case No. 2020-00174 (Ky. P.S.C. Dec. 8, 2020).

[2] Post-Hearing Brief of Kentucky Power Company at 1–2, *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. Dec. 21, 2023).

[3] Wiseman Direct Test. at 13.

[4] *Id.* at 13.

[5] *Id.*

[6] *See* Spaeth Direct Test. at 16.

rates to allow it to continue to operate in a financially healthy manner. The rates proposed in the Company's Application were designed to produce a total revenue requirement increase of $95,558,248, including a base revenue increase and the addition of the Company's proposed Generation Rider.[7] The proposed increase was based on the historical test year ending May 31, 2025, with known and measurable adjustments to test year revenues and operating expenses, which equated to a total overall increase of 14.62%.[8]

The Company's self-mitigated request and its proposed adjustments were based on the principles of cost-based ratemaking and represented the Company's cost to provide service, plus a reasonable return. Although Kentucky Power strives to reduce the frequency and size of rate increase requests, maintaining the Company's financial health is essential to attracting low-cost capital that allows the Company provide safe, reasonable, and reliable service to customers at the lowest cost possible. The request made in this case yielded fair, just, and reasonable rates that would allow the Company to do so.

Notwithstanding, as described below, the Company entered into a Settlement Agreement that resolves all of the issues, satisfies the interests of the parties to the agreement (and other parties that are not signatories), further substantially reduces the revenue requirement through the use of creative and innovative accounting and ratemaking mechanisms, and ultimately benefits all classes of customers, particularly the residential class. Considering the settlement package as a whole, the Settlement Agreement results in fair, just, and reasonable rates. The Company describes that package in more detail herein and urges the Commission to approve the Settlement Agreement without modification so that customers can take advantage of benefits otherwise not available outside the settlement process.

[7] Newcomb Direct Test. at 5.
[8] *Id.*

II. BRIEF PROCEDURAL BACKGROUND

Several parties were granted intervention in this proceeding, including the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention ("Attorney General" or "AG");[9] Kentucky Industrial Utility Customers, Inc. ("KIUC");[10] Appalachian Citizens' Law Center, Kentuckians for the Commonwealth, Kentucky Solar Energy Society, and Mountain Association (collectively, "Joint Intervenors");[11] Kentucky Solar Energy Industries Association ("KYSEIA");[12] and SWVA Kentucky, LLC ("SWVA").[13] The Attorney General and KIUC initially elected to proceed jointly in this proceeding (collectively, "AG-KIUC"),[14] until the Attorney General's interests diverged from KIUC's during the settlement process. The Attorney General declined to participate in settlement discussions and is not a signatory to the agreement.[15]

The Commission served four sets of discovery upon the Company prior to the evidentiary hearing, issuing 193 total requests. Each of the intervenors had the opportunity to serve two sets of data requests upon the Company prior to the hearing, issuing 351 total requests. AG-KIUC, KYSEIA, and the Joint Intervenors each filed their respective direct testimonies. Importantly, the only witnesses to provide testimony regarding the Company's proposed revenue requirement were witnesses jointly sponsored by the Attorney General and KIUC.

The Company served one set of discovery each upon AG-KIUC, KYSEIA, and the Joint Intervenors. The Company also filed its rebuttal testimonies in response to the intervenors' testimony. The Commission scheduled three local public meetings to be held in Pikeville, Hazard,

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[9] Order (Aug. 13, 2025).
[10] Order (Sept. 30, 2025).
[11] Order (Oct. 10, 2025).
[12] Order (Oct. 10, 2025).
[13] Order (Oct. 10, 2025).
[14] Notice of Witness Sharing Agreement (Sept. 4, 2025).
[15] *See* Joint Motion to Approve Settlement Agreement (Jan. 9, 2025).

and Ashland on November 20, 2025, December 18, 2025, and January 8, 2026, respectively.[16] Several Kentucky Power representatives, including Company President and Chief Operating Officer Cynthia Wiseman and Director of Regulatory Services, Tanner Wolffram, attended these meetings and listened to public comments. The Commission scheduled an evidentiary hearing to begin on January 13, 2026.[17]

Following negotiations to which all parties were invited, Kentucky Power, KIUC, and KYSEIA (collectively, the "Signatory Parties") entered into a comprehensive Settlement Agreement on January 9, 2026.[18] Kentucky Power submitted an executed copy of the Settlement Agreement, along with supporting testimony and exhibits from Company Witnesses Cynthia G. Wiseman, Tanner S. Wolffram, Katharine I. Walsh, and David A. Hodgson.[19] The Commission held an evidentiary hearing over the course of three days, on January 13, 14, and 15, 2026.

The Signatory Parties worked diligently and purposefully to produce a comprehensive Settlement Agreement that, as a whole, provides benefits to all parties, including all of the diverse customer interests represented by the intervening parties. While the Settlement Agreement satisfies the varied interests of each Signatory Party, it also results in fair, just, and reasonable rates,[20] as discussed further below. The Settlement Agreement as a whole improves on the Company's as-filed Application while providing additional benefits not available in the absence of the agreement, and it should be approved without modification.

[16] Order (Oct. 17, 2025).
[17] Order (Nov. 17, 2025).
[18] *See* Wolffram Settlement Test., Exhibit TSW-S1 ("Settlement Agreement").
[19] Settlement Agreement.
[20] Wolffram Settlement Test. at S17.

III. STANDARD OF REVIEW

The Commission's jurisdiction extends to the "rates" and "service" of public utilities.[21] As the Kentucky Supreme Court has observed, "[t]he manifest purpose of the Public Service Commission is to require and insure fair and uniform rates, prevent unjust discrimination, and prevent ruinous competition."[22] In fact, the Commission itself states that its mission "is to foster the provision of safe and reliable service at a reasonable price to the customers of jurisdictional utilities while providing for the financial stability of those utilities by setting fair and just rates, and supporting their operational competence by overseeing regulated activities."[23] Furthermore, the regulation of public utilities "has a substantial relation to the public welfare, safety and health and, in a real degree, promotes these objects."[24]

Generally, utilities are entitled by law to recover from customers the utility's cost of providing service, plus the opportunity to earn a reasonable return.[25] When a utility files an application for an increase in rates, the utility necessarily asks the Commission to allow it to recover from customers, through a combination of base rates and riders, the utility's cost to provide that service plus a reasonable return. Utilities are empowered to use a historical 12-month "test year" to calculate the cost to provide service.[26] Kentucky law also allows utilities to propose adjustments to the costs incurred to provide service during the test year for "known and measurable" changes to test year costs (increases and decreases) that will more accurately reflect

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[21] *See* KRS 278.040; *see also Pub. Serv. Comm'n v. Blue Grass Nat. Gas. Co.*, 197 S.W.2d 765, 768 (Ky. 1946) (citing *Smith v. S. Bell. Telephone & Telegraph Co.*, 104 S.W.2d 961 (Ky. 1937); *Benzinger v. Union Light, Heat & Power Co.*, 170 S.W.2d 38 (Ky. 1943); *Peoples Gas Co. of Ky. v. City of Barbourville*, 165 S.W.2d 567 (Ky. 1942)).
[22] *Simpson Cnty. Water Dist. v. City of Franklin*, 872 S.W.2d 460, 464 (Ky. 1994) (citing *City of Olive Hill v. Pub. Serv. Comm'n*, 203 S.W.2d 68 (Ky. 1947)).
[23] *About the Public Service Commission*, KY. PUB. SERV. COMM'N, https://psc.ky.gov/Home/About#AbtComm.
[24] *City of Florence v. Owen Elec. Co-op, Inc.*, 832 S.W.2d 876, 882 (Ky. 1992).
[25] *See Commonwealth ex rel. Stephens v. S. Cent. Bell Tel. Co*., 545 S.W.2d 927, 930–31 (Ky. 1976).
[26] 807 KAR 5:001, Section 16(1)(a)(1).

the cost of providing service going forward.[27] If the adjustments are known, measurable, and reasonable, the Commission historically has approved the adjustments.[28] If the proposed rates, including adjustments, are fair, just, and reasonable, the Commission approves the rates.[29]

In setting utility rates, however, the Commission also is "dealing with property rights of . . . corporations."[30] The Commission may not act in a manner that is unlawful or unreasonable.[31] "Unreasonable has been construed in the rate-making sense to be the equivalent of confiscatory."[32] The Kentucky Supreme Court "has equated an unjust and unreasonable rate to the confiscation of utility property" and has "declared that rates established by a regulatory agency *must* enable the utility to operate successfully and maintain its financial integrity in order to meet the just and reasonable nonconfiscatory tests."[33]

In light of the foregoing constitutional and statutory limits on the Commission's authority, it is well-established that the Commission "has no authority to impose a new duty on utilities when

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[27] 807 KAR 5:001, Section 16(5); *see Public Service Comm'n of Ky. v. Cont'l Tel. Co. of Ky.*, 692 S.W.2d 794, 799 (Ky. 1985).

[28] *See* Order at 3–4, *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 Convenience And Necessity; And (5) All Other Required Approvals And Relief*, Case No. 2020-00174 (Ky. P.S.C. Jan. 13, 2021); *see also* Order at 7, *In The Matter Of: Electronic Application Of Kentucky Power Company For (1) A General Adjustment Of Its Rates For Electric Service; (2) An Order Approving Its 2017 Environmental Compliance Plan; (3) An Order Approving Its Tariffs And Riders; (4) An Order Approving Accounting Practices To Establish Regulatory Assets And Liabilities; And (5) An Order Granting All Other Required Approvals And Relief*, Case No. 2017-00179 (Ky. P.S.C. Jan. 18, 2018).

[29] KRS 278.030(1); *see also Ky. Pub. Serv. Comm'n v. Commonwealth ex rel. Conway,* 324 S.W.3d 373, 380–81 (Ky. 2010); Order at 111, ordering ¶ 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 Convenience And Necessity; And (5) All Other Required Approvals And Relief*, Case No. 2020-00174 (Ky. P.S.C. Jan. 13, 2021).

[30] *Bobinchuck v. Levitch*, 380 S.W.2d 233, 236 (Ky. 1964).

[31] *See* KRS 278.340.

[32] *Pub. Serv. Comm'n v. Dewitt Water Dist.*, 720 S.W.2d 725, 730 (Ky. 1986) (citing *Commonwealth ex rel. Stephens v. S. Cent. Bell Tel. Co.*, 545 S.W.2d 927 (Ky. 1976)).

[33] *Id.*

that duty has no foundation in law. To do so is an unconstitutional legislative act."[34] 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."[35] 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 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.[36]

In setting rates, "the future as well as the present must be considered."[37] Indeed, "rates are merely the means designed for achieving a predetermined objective, which in this instance is how much additional revenue should the Company be allowed to earn."[38] As the applicant, Kentucky Power bears the burden of proof to demonstrate that it is entitled to the relief which it seeks.[39] Kentucky Power has met that burden in this case.

IV. THE COMPANY HAS DEMONSTRATED THAT A RATE INCREASE IS NEEDED TO MAINTAIN FINANCIAL STABILITY AND TO ATTRACT CAPITAL IN ORDER TO CONTINUE TO PROVIDE REASONABLE, SAFE, AND RELIABLE SERVICE.

Although the Company filed the Application to support its financial health, the decision to file and what to include in the filing was made with customers in mind. It is vital that the Company

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[34] *Pub. Serv. Comm'n v. Jackson Cnty. Rural Elec. Co-op, Inc.*, 50 S.W.3d 764, 766 (Ky. App. 2000), *as modified* (July 21, 2000) (citing *Henry v. Parrish*, 211 S.W.2d 418 (Ky. 1948)).
[35] *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))).
[36] *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)).
[37] *Dewitt Water Dist.*, 720 S.W.2d at 730 (citing *McCardle v. Indianapolis Water Co.*, 272 U.S. 400 (1926)).
[38] *Ky. Power Co. v. Energy Regul. Comm'n*, 623 S.W.2d 904, 908 (Ky. 1981).
[39] *See Energy Regul. Comm'n v. Ky. Power Co.*, 605 S.W.2d 46, 49 (Ky. App. 1980).

be allowed a reasonable rate increase that also includes the opportunity to earn a reasonable rate of return so that the Company can continue to attract affordable capital and continue to provide the safe and reliable service that customers deserve. After numerous mitigating efforts, Kentucky Power calculated its revenue deficiency to be approximately $95.6 million, which is a 14.6% deficiency.[40] As described further below, this revenue requirement was carefully determined to minimize the rate impacts to customers while providing recovery of the Company's costs of providing service so it can continue to improve the quality and reliability of its service to customers. Accordingly, the need for this case is fundamentally driven by the Company's financing and capital investment needs to ensure long-term reliability of electric service, but was still very much developed with customers' interests in mind.[41]

No party to this matter contests that it is important for Kentucky Power to provide adequate and reliable service, nor do they dispute that the Company's vegetation management, generation, and other investments since its last base case were prudently made and are providing benefits to customers. Kentucky Power is uniquely challenged in this regard among its peer utilities in Kentucky. The Company's rural customer base and frequency of poor housing stock, along with the region's declining population and decreasing weather normalized sales,[42] means that fewer customers pay a greater portion of the Company's actual fixed costs to provide service. This issue is further compounded by the Company's decreasing large commercial and industrial customer count.[43]

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[40] Newcomb Direct Test. at 6.
[41] *Id.*
[42] *Id.* at 11–12 (explaining that the Company's "customer count has decreased by 1,598 customers since its last base rate case from 163,363 as of March 31, 2023 to 161,765 as of May 31, 2025" and that "weather normalized sales have declined 130 GWh from 5,493 GWh for the 12 months ended March 31, 2023, to 5,362 GWh for the 12 months ended May 31, 2025").
[43] *Id.* at 11 (explaining that the Company's large commercial and industrial customer count has decreased "from 664 as of March 31, 2023, to 620 as of May 31, 2025, in addition to the loss of two wholesale customers in 2025").

In an effort to respond to declining sales and customer count, and the resulting burden on customers who remain, the Company has continued to make internal changes to control costs, including significant structural changes over the past year and a half. Since August 2024, AEP has implemented organizational restructuring to provide more support and authority for operating companies like Kentucky Power.[44] This simplified organizational structure, along with the expansion of Cynthia Wiseman's responsibilities as President and Chief Operating Officer of Kentucky Power, have streamlined the Company's operations.[45] These efforts have made the Company run more efficiently.[46] Specifically, the Company has undertaken a number of cost-saving efforts, including engaging in strategic hiring as Company personnel retire, implementing advanced metering infrastructure ("AMI") that will reduce operating costs and allow the development of data to support more tailored ratemaking, and proactively managing operations and maintenance ("O&M") expenses at the Big Sandy and Mitchell Plants to ensure that O&M expenses do not exceed budget, so long as doing so does not jeopardize the safe, reliable, and efficient operation of the plants.[47]

Kentucky Power is also at a significant point of time for capital investment.[48] Specifically, the Company needs to reflect the capital that it has invested and will invest in responding to the Commission's directives to build or secure additional in-state generation and execute on the Commission's approvals to make capital investments related to AMI and the Company's 50% interest in the Mitchell Plant.[49] Finally, the placement of approximately $477.7 million of

[44] Wiseman Direct Test. at 4–5.
[45] *Id.* at 5.
[46] *Id.*
[47] *Id.* at 6.
[48] Newcomb Direct Test. at 6.
[49] *Id.* at 6–7.

securitization bonds in June 2025 also drives the need to reflect an updated capital structure and cost of capital, which ultimately is a driver of rates.[50]

In order for Kentucky Power to provide safe and reliable service by attracting low-cost capital and to invest for customers' long-term benefit, it must be afforded the opportunity to earn a reasonable return on its investment. Continued or sustained poor financial performance will adversely affect the capital available to the Company and that capital's cost, as well as Kentucky Power's ability to continue to provide the reliable service that customers deserve while remaining an important part of eastern Kentucky.[51]

As a public utility, the Company abides by federal, state, and local laws and regulations, including those of the Commonwealth and the Commission. Under the regulatory compact,[52] Kentucky Power provides safe and reliable service in return for a statutorily-[53] and constitutionally-required[54] opportunity to earn a just and reasonable return on its investments for the long-term reliability of electric service for the Company's customers.[55] Earning an ROE less than that authorized over a sustained period creates a vicious cycle of adversely impacting the financial health of the public utility and increasing the reliance on debt to finance the needs of the business.[56] Increased reliance on debt both results in additional interest expense, which is costly to customers, and also impacts the Company's ability to attract low-cost capital to invest in

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[50] *Id.* at 7.
[51] *Id.* at 13.
[52] *United States Gypsum, Inc. v. Ind. Gas Co.*, 735 N.E.2d 790, 797 (Ind. 2000).
[53] KRS 278.030(1); *S. Cent. Bell Tel. Co. v. Util. Regul. Comm'n*, 637 S.W.2d 649, 652 (Ky. 1982) ("The General Assembly has unequivocally allowed utilities to be fairly paid for their service.").
[54] *Commonwealth ex rel. Stephens v. S. Cent. Bell Tel. Co.*, 545 S.W.2d 927, 930 (Ky. 1976) (stating that a just and reasonable, and hence constitutional, rate is one that "enable[s] the utility to operate successfully, to maintain its financial integrity, to attract capital and to compensate its investors for the risks assumed").
[55] KRS 278.030(2).
[56] Newcomb Direct Test. at 13.

infrastructure.[57] Reduced ability to invest in infrastructure impacts the ability to ensure service quality and reliability.[58]

Finally, Kentucky Power's credit rating and funds from operations ("FFO") as a percentage of debt ("FFO/Debt") impact the Company's ability to attract low-cost capital. Kentucky Power's current credit rating at Moody's is Baa3 (the lowest investment-grade rating) and at Standard & Poor's ("S&P") is BBB (the second lowest investment-grade rating).[59] The Company's FFO/Debt for the 12 months ended May 31, 2025, was 8.08%, which is below Kentucky Power's downgrade threshold from Moody's of 11%.[60] The June 2025 placement of securitization bonds will help the Company's FFO/Debt, but new fair, just, and reasonable base rates must also be established to reflect Kentucky Power's updated capital structure and cost of capital, as well as to ensure an appropriate FFO/Debt is maintained going forward to prevent further downgrade of the Company's credit ratings.[61]

Simply put, because Kentucky Power filed this case using a historic test year, it is straightforward for the Commission to see what it actually costs Kentucky Power to operate. The proposed rates are based on the actual costs in the historic test year, including adjustments for known and measurable changes, plus the reasonable return necessitated by the regulatory compact. Like nearly every other business today, it is increasingly expensive for Kentucky Power to operate.

Kentucky Power is keenly aware that the macroeconomic conditions impacting Kentucky Power are the same challenges confronting its customers. Kentucky Power's commitment to customers, as detailed in the Introduction of this brief, and in the testimony of numerous Company

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[57] *Id.* at 13–14.
[58] *Id.* at 14.
[59] *Id.*
[60] *Id.*
[61] *Id.* at 14–15.

representatives at hearing, remains the driving force behind the Company's daily operations. The tension between the Company's financial needs to continue to operate and customers' ability to continue paying for those services, is uniquely and creatively eased by the Settlement Agreement in this case. The Settlement Agreement provides the Commission with a middle ground, agreed to by parties in the case who had all customers', including residential customers', interests squarely in mind. As described in detail in the next Section, the Commission should approve the Settlement Agreement, in its entirety, and without modification.

V. THE SETTLEMENT AGREEMENT BALANCES CUSTOMER RATE IMPACT MITIGATION WITH THE COMPANY'S FINANCIAL CONDITION AND RESULTS IN RATES THAT ARE FAIR, JUST, AND REASONABLE.

The Settlement Agreement reached in this case among the Signatory Parties reflects a thoughtful and creative solution that allows the Company to provide additional and significant rate impact mitigation to customers while still improving the Company's financial condition. Under the Settlement Agreement, the Signatory Parties agreed that all proposals in the Company's Application should be approved as filed, except for the modifications contained in the Settlement Agreement, which are described in detail in this Section. While not all customer classes are represented by the Signatory Parties to the Settlement Agreement, the agreement nonetheless provides benefits for all of Kentucky Power's customers beyond what would have been available without the Settlement Agreement.

A. The Revenue Requirement Resulting from the Settlement Agreement Provides Additional Significant Benefits to All Customers.

As noted above, the only parties to this proceeding that provided any testimony on the revenue requirement proposed by the Company were the Attorney General and KIUC through their joint witnesses. During the hearing, AG Witness Lane Kollen[62] confirmed that the recommended reductions to the revenue requirement offered on behalf of the Attorney General and KIUC were the result of a thorough review of the Company's Application and responses to discovery.[63] Through their witnesses, the Attorney General and KIUC proposed, based on that thorough review of the Company's proposal, that the Commission reduce the Company's proposed increase to its revenue requirement by $24.44 million to a value of $71.118 million.[64]

As shown below, the Settlement Agreement largely accepts all of the Attorney General's and KIUC's proposed reductions to the Company's revenue requirement.[65]

Line		KPCo As-Filed	AG-KIUC	Settlement
1	**Company's Filed Position**	**95.558**		
2	Rate Base			
3	Fuel Inventory		(0.914)	(0.914)
4	Materials & Supplies Inventory		(0.207)	(0.207)
5	Deferred Tax Asset Federal NOL ADIT		(4.110)	(4.110)
6	Deficient Federal NOL ADIT		(0.885)	(0.885)
7	Capital Increase to TOR		(1.646)	(1.646)
8	Operating Income	-		
9	Incentive Compensation Expense Tied to Financial Performance		(1.842)	(1.842)
10	SERP Expense		(0.144)	(0.144)
11	401(k) Matching Expense for Employees Who Also Participate in Pension Plan		(1.943)	(1.943)
12	Correct Property Tax Expense		(0.320)	(0.320)
13	Defer Pension Settlement Accounting Expenses for AEPSC Employees and Amortize Over 12 Years		(0.985)	(0.985)
14	Remove Depreciation Expense - Capital Increase for TOR Vegetation Management		(0.588)	(0.588)
15	Reduce Depreciation Expense to Remove Terminal Net Salvage - Big Sandy		(1.011)	(1.011)
16	Reduce Depreciation Expense to Remove Interim Retirements and Interim Net Salvage - Big Sandy		(0.779)	
17	Reduce Depreciation Expense to Remove Interim Retirements and Interim Net Salvage - Mitchell		(2.793)	(2.793)
18	Reduce Depreciation Expense Removal to Recover in Generation Rider - Mitchell		1.190	1.190
19	Remove EEI and Kentucky Chamber of Commerce Dues		(0.113)	(0.113)

[62] It is Kentucky Power's understanding that once KIUC joined the Settlement Agreement as a Signatory Party and the AG did not, AG-KIUC Witnesses Kollen, Baudino, Futral, and Wellborn became the witnesses of only the AG pursuant to the Witness Sharing Agreement between AG and KIUC filed into the record on September 4, 2025.
[63] Kollen Hearing Test. at 928.
[64] Kollen Direct Test. at 5.
[65] *See* Settlement Agreement, Exhibit 1, at 21.

Line		KPCo As-Filed	AG-KIUC	Settlement
20	Increase Non-Major Storm Expense			2.000
21	Cost of Capital			
22	Correct Small Error of 0.0004% in the Short-Term Debt Rate		(0.075)	(0.075)
23	Reduce Return on Equity from 10%		(5.502)	(2.15)
24	**Total Adjustments to KPCo Base Rate Request**		**(22.667)**	**(16.539)**
25	Generation Rider			
26	Correction to property tax expense - to be recovered through base rates		(0.195)	(0.195)
27	Reduce Depreciation Expense to Remove Interim Retirements and Interim Net Salvage - Mitchell		(1.185)	(1.185)
28	Reduce Return on Equity from 10%[2]		(0.393)	(0.24)
29	**Total Adjustments to Generation Rider Rate Request**		**(1.773)**	**(1.619)**
30	**Total Rate Increase**	**95.558**	**71.118**	**77.400**
31	**DTL amortization of $20M annually**			**(20.000)**
32	**Rate Increase after DTL Credit Rider**			**57.400**
33	**Additional Residential DTL Amortization**			**(5.000)**
34	**Total Rate Increase after Year 1 DTL Amortization/Credit Rider**			**52.400**

In fact, there are only four instances where the Settlement Agreement differs from the revenue requirement that the Attorney General and KIUC proposed:

- The Settlement Agreement does not include the Attorney General and KIUC's proposal to remove depreciation expense associated with interim retirements and interim net salvage at the Big Sandy Plant. As stated by Company Witness Wolffram, the Company believes that depreciation expense associated with interim retirements and interim net salvage are appropriate for recovery.[66] The Company did, however, agree to remove such depreciation expenses for the Mitchell Plant with the goal of maximizing the amount of Mitchell related costs that could be securitized to maximize savings for customers.[67]

- The Settlement Agreement includes an increase in the revenue requirement for Non-Major Storm expense in the amount of $2 million to address the Commission's concerns about the level of storm expense in base rates.[68]

- The Settlement Agreement includes an authorized ROE of 9.8 percent, which is between the 10.0 percent included in the Company's proposal and the 9.5 percent proposed the Attorney General and KIUC.[69]

[66] Wolffram Hearing Test. at 262:8-14.
[67] *Id.* at 262:16-20; Settlement Agreement § 2.D.vi.
[68] Wolffram Hearing Test. at 264:22-265:12; Settlement Agreement § 2.D.viii.
[69] Wolffram Hearing Test. at 266:14-15; Settlement Agreement § 2.B.i.

- The Settlement Agreement includes a separate, even lower, authorized ROE of 9.7 percent for the Company's proposed Generation Rider.[70]

The Settlement Agreement produces a revenue requirement increase totaling $77.4 million, a decrease of $18.158 million from the Company's as-filed case.[71]

B. The Settlement Agreement Includes Additional Rate Relief.

In addition to a reduction to revenue requirement of $18.158 million from the Company's as-filed proposal, an amount that reflects approximately 75 percent of the reductions proposed by the Attorney General and KIUC, the Settlement Agreement includes additional rate relief for customers. The Settlement Agreement creates a Deferred Tax Liability ("DTL") Rider through which the Company will provide revenue credits directly to customers for the first two years following a Commission Order in this case.[72] The Company is able to issue these credits under the Settlement Agreement by accelerating the timing over which income tax expense associated with unprotected income tax timing differences is incorporated into ratemaking.[73] Under the terms of the Settlement Agreement, the Company will in the first year provide $20 million in revenue credits allocated on a levelized basis across all classes and an additional $5 million revenue credit for the residential class for a total of $25 million in customer revenue credits.[74] In the second year, the Company will provide $12.5 million in revenue credits allocated on a levelized basis across all classes and an additional $2.5 million revenue credit for the residential class for a total of $15 million in customer revenue credits.[75] If incremental short-term debt is needed to fund the DTL

[70] Settlement Agreement § 5.A.
[71] *Id.* § 2.A.
[72] *Id.* § 4.A.
[73] Wolffram Settlement Test. at S12–S13.
[74] *Id.* at S13; Settlement Agreement § 4.A.i.
[75] Settlement Agreement § 4.A.ii.

Credits, the Settlement Agreement allows the Company to defer short-term debt interest costs in excess of the $0 in rates up to $2 million annually.[76]

As a result of the application of the DTL Rider, available only through the Settlement Agreement, the Company's increase in revenue requirement under the Settlement Agreement compared to the increase in revenue requirement proposed by the Attorney General and KIUC is summarized as follows:

	Year 1 ($M)	**Year 2 ($M)**	**Year 3 ($M)**	**Three Year Total ($M)**
AG-KIUC	71.118	71.118	71.118	213.354
Settlement	52.400	62.400	77.400	192.200
Comparison	**(18.718)**	**(8.718)**	**6.282**	**(21.154)**

The Settlement Agreement produces a revenue requirement that is $21.154 million *less* over three years than the revenue requirement proposed by the Attorney General and KIUC.[77] The Settlement Agreement results in reduced, gradual increases in estimated total bills as shown in Exhibit 3 to the Settlement Agreement:[78]

[76] Settlement Agreement § 4.C.ii.
[77] Kollen Hearing Test. at 939:11-16.
[78] Settlement Agreement, Exhibit 3.

	KPCo As-Filed	Settlement	Year 1	Year 2
Current Class	**Estimated Bill Increase**	**Estimated Bill Increase**	**Estimated Total Bill Increase Including DTL Rider**	**Estimated Total Bill Increase Including DTL Rider**
RS	15.0%	11.9%	7.0%	9.1%
GS	13.8%	11.9%	8.8%	9.9%
LGS	13.9%	11.9%	8.8%	9.9%
IGS	14.9%	11.9%	8.8%	9.9%
MW	13.5%	11.9%	8.8%	9.9%
OL	12.0%	11.9%	8.8%	9.9%
SL	11.8%	11.9%	8.8%	9.9%
Total	**14.6%**	**11.9%**	**8.0%**	**9.6%**

Under the Settlement Agreement, non-residential customers will see an estimated 8.8 percent increase in total bill amounts over current levels in Year 1, an additional 1.1 percent increase in Year 2, and an additional 2.0 percent increase in Year 3 when the DTL Rider revenue credits end.[79] Residential customers will see an estimated 7.0 percent increase in total bill amounts over current levels in Year 1, an additional 2.1 percent increase in Year 2, and an additional 2.8 percent increase in Year 3 when the DTL Rider revenue credits end.[80] In order to realize those benefits, however, the Settlement Agreement must be approved without modification. The Company cannot issue the DTL revenue credits without the agreed-upon revenue requirement.[81]

C. The Settlement Agreement Approves the Creation of the Generation Rider, with Some Modifications.

The Company has evaluated ways to best address the recovery of the Company's remaining net book value of the Mitchell Plant, which totals approximately $537 million as of May 31, 2025. Of the $537 million, $388 million is recoverable through the Company's environmental surcharge,

[79] *Id.*
[80] *Id.*
[81] *See* Wiseman Hearing Test. at 168:18-169:4, 204:4-10.

and approximately $22 million related to asset retirement costs recovered through depreciation expense in the Company's base rate cost-of-service. The remaining approximately $127 million related to non-environmental investments have also historically been recovered through the Company's base rate revenue requirement.[82]

The proposed Generation Rider is designed to recover the revenue requirement related to the $127 million of non-environmental Mitchell Plant capital plant balances that have historically been recovered through base rates, plus $60.4 million of non-ELG capital costs that the Company will be responsible for paying based on the Commission's approval of the CPCN sought in Case No. 2025-00175.[83] Because that CPCN case was pending at the time of this Application, the Company did not include the $60.4 million in the initial Generation Rider revenue requirement requested to be approved in this case.[84] Instead, the Company requests authority to defer the non-environmental annual revenue requirement related to that $60.4 million of non-ELG to a regulatory asset until it can be reflected in rates.[85] This regulatory asset is necessary because there will likely be a delay between investment of that capital and when recovery will begin.

Inclusion of both the non-environmental Mitchell Plant capital and non-ELG capital in the Generation Rider is appropriate because doing so allows the Company time to pursue securitization legislation that would allow it to securitize the remaining net book value of the Mitchell Plant.[86] Removing non-ELG capital from base rates helps to more efficiently effectuate securitization by segregating those costs.[87] If securitization occurs, collection of those costs through the rider can end without requiring a new base rate case.[88]

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[82] Wolffram Direct Test. at 18–19.
[83] *Id.* at 19.
[84] *Id.*
[85] *Id.*
[86] *See id.* at 21.
[87] *Id.* at 21–22.
[88] *Id.*

AG Witness Lane Kollen also recommended approval of the Generation Rider subject to two modifications. First, he recommended that the Company include an AFUDC offset for the CWIP projects that are eligible for AFUDC included in the Generation Rider rate base.[89] Second, he recommended removing associated property tax from the Generation Rider and maintaining those amounts in base rates.[90] The Company agreed with both of Witness Kollen's proposals, noting that CWIP and the associated AFUDC offset for non-ELG Mitchell Plant projects allocated to Kentucky Power as of May 31, 2025, were already included in base rates, so no adjustment would be needed to reflect the AFUDC offset in the proposed Generation Rider revenue requirement.[91]

The Settlement Agreement slightly modifies the as-filed Generation Rider proposal. First, it reduces the ROE applicable to this rider from the proposed 10% to 9.7%,[92] which is even lower than the ROE of 9.8% for base rates and other existing riders otherwise agreed to in the Settlement Agreement. The Settlement Agreement further makes clear that capital investments made after May 31, 2025, at both the Mitchell and Big Sandy Plants are recoverable through the Generation Rider, including a return on and of those investments at the Company's approved WACC and associated depreciation expense.[93] It further makes clear that costs associated with any new generating units, including related O&M will be eligible for recovery through the rider.[94] The Signatory Parties, however, included important protections to ensure continued review and scrutiny of the costs to be included in the Generation Rider, including that costs incurred between annual true-ups shall not be automatically recovered through the Generation Rider, and that the

[89] Kollen Direct Test. at 43–44.
[90] *Id.* at 45.
[91] Wolffram Rebuttal Test. at R8–R9.
[92] Settlement Agreement § 5.A.
[93] *Id.* § 5.C.
[94] *Id.* § 5.D.

Company is not relieved of the obligations under KRS 278.020 or KRS 278.183 with respect to any costs to be recovered through the Generation Rider.[95] In between true-ups, however, the Company will defer all such costs eligible to be included in the Generation Rider until the next annual true-up filing occurs.[96] The Company will be permitted to make a one-time filing outside the regular annual true-up filing to include the $60.4 million of non-ELG capital Mitchell Plant expenses approved for recovery and deferral in Case No. 2025-00175.[97] The Settlement Agreement limits the approval of the Generation Rider through the Company's next base rate case and subjects the rider to renewed application and review by the Commission to continue beyond that time.[98] Finally, the Settlement Agreement allows Kentucky Power to include for recovery through Tariff P.P.A. any purchase power costs that may be incurred from the purchase of excess generation owned by other Kentucky utilities.[99]

The Generation Rider as-filed, along with the modifications included in the Settlement Agreement, is reasonable and appropriate and should therefore be approved by the Commission.

D. The Settlement Agreement Removes the Proposed Capital Adjustment for the TOR Program and Associated Depreciation Expense.

In 2018, Kentucky Power established a pilot program to address the Company's existing outside of the right-of-way trees (TOR Program), including the removal of danger trees on a limited number of certain circuits.[100] Following the successful pilot program, the Company expanded the TOR Program to additional circuits across all service districts based on circuit performance.[101] TOR remains the principal cause of outages in Kentucky Power's service

[95] *Id.* § 5.C.
[96] *Id.*
[97] *Id.*
[98] *Id.* § 5.E.
[99] *Id.* § 5.D.
[100] Ross Direct Test. at 19.
[101] *Id.*

territory,[102] and the Company's proposals in this case to make an $18 million capital pro forma adjustment specifically for the TOR Program will allow the Company to make the necessary investment to target this specific outage cause.[103]

The Company has direct evidence of the success of making substantial investments in these kinds of programs, both from the success of the TOR pilot program and after several years of implementing its five-year clearing cycle with the trees inside right-of-way program ("TIR Program"). As Company Witness Ross explained, there was an approximate 20% decrease in CMI for circuits widened as part of the TOR pilot program compared to the three-year average from 2017–2019.[104] Additional investment and continued targeting through expansion of the TOR Program is expected to improve these metrics, similar to the success the Company has seen in the TIR Program, which has resulted in a 90% reduction in TIR-related CMI since 2011.[105]

Company Witness Ross also testified in detail at the hearing about the importance of increasing investment in the TOR Program now, given the measurable improvements in reliability that the Company has already seen from the smaller, less targeted investment in the TOR Program.[106] Scaling up that investment allows the Company to be more proactive about its number one cause of outages, and therefore improve reliability metrics.[107] Making these targeted TOR investments will ensure that customers receive the reliable power they deserve by targeting the Company's number one cause of outages on the system. Not making this increased investment, or even delaying it, may cause the Company to have to become more reactive to outage-causing events like storms.[108] Such events are unpredictable, and being reactive to these events, rather

[102] *Id.*
[103] *Id.* at 20–21.
[104] *Id.* at 20.
[105] *Id.* at 18.
[106] Ross Hearing Test. at 611:3-6, 615:5-12.
[107] *See id.* at 625:11-21.
[108] *See id.* at 625:16-626:7.

than proactive by increasing and targeting TOR investment, may result in more frequent and longer outages, and may ultimately cost more.[109]

Customers also directly benefit from the Company treating TOR-related expense as a capital expense because, unlike operations and maintenance expense, capital expenses are depreciated over several years. Thus, the annual revenue requirement, or the incremental amount customers would have actually paid each year, resulting from the Company's annual $18 million capital investment, would have been only approximately $2.1 million.[110]

However, the Company removed recovery of the proposed capital TOR Program adjustment as part of the Settlement Agreement.[111] The Company also agreed in the Settlement Agreement to reduce depreciation expense to account for the corresponding reduction to rate base from removal of the TOR Program capital adjustment.[112] In exchange, the Company will be able to defer vegetation management amounts for the next two years up to caps set in the Settlement Agreement until its next base rate proceeding. Although the Company believes its original TOR request was well-supported by the evidence, it is important to remember that the Settlement Agreement represents a give and take by all Signatory Parties, and is reasonable as a whole. Here, the Settlement Agreement strikes a balance by providing the Company with financial protections through deferral authority without immediate rate impacts associated with additional TOR investment the Company included in its initial case, and while ensuring the Commission retains authority to review the investments before they are recovered in future rates. Notwithstanding, the Company maintains that making the TOR Program investments is reasonable and necessary and will result in direct benefits to customers for the reasons further described above.

[109] *See id.* at 630:7-13, 632:22-634:2.
[110] Company's response to Commission Staff PHDR 13(a) (Jan. 27, 2026).
[111] Settlement Agreement § 2.C.iii.
[112] *Id.* § 2.D.v.

E. The Settlement Agreement Continues the Exclusion from Rate Base of the Proposed NOLC Adjustment and the Associated Deferral of That Foregone Revenue Requirement.

The Settlement Agreement largely continues the treatment of the net operating loss carryforward ("NOLC") that resulted from the Company's last base rate case, Case No. 2023-00159. Under the Settlement Agreement, Kentucky Power will exclude its proposed adjustment to include an NOLC in rate base until it is reflected in rates (referred to as the "Current NOLC Revenue Requirement").[113] Kentucky Power will continue to accrue the associated foregone revenue requirement to a regulatory asset ("NOLC Regulatory Asset"), which was established in accordance with the Commission's January 19, 2024 Order in Case No. 2023-00159.[114] Upon receipt of a private letter ruling or other guidance from the Internal Revenue Service ("IRS") verifying the Company's position regarding the NOLC, Kentucky Power will notify the Signatory Parties, and the NOLC Regulatory Asset will then be recovered through the Federal Tax Change Tariff ("Tariff F.T.C."), along with the Current NOLC Revenue Requirement, after making a filing for approval to do so with the Commission.[115] The Settlement Agreement also expressly reserves the rights of the Signatory Parties to make recommendations regarding the calculation of the NOLC Regulatory Asset and the amortization period of the accrued NOLC Regulatory Asset at that time.[116] Thus, while there was detailed discussion at hearing reading the proper calculation of the NOLC Regulatory Asset, the Settlement Agreement preserves the ability for parties to further analyze, discuss, and litigate this issue after the Company receives guidance from the IRS. The Current NOLC Revenue Requirement will be collected through Tariff F.T.C. only until such

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[113] *Id.* § 2.C.i.
[114] *Id.*
[115] *Id.*
[116] *Id.*

time that the NOLC is reflected in base rates.[117] Additionally, upon verification of the Company's position, the Company will adjust the excess deferred income tax regulatory liability to reflect the deficient deferred income taxes related to the stand-alone NOLC.[118]

The Settlement Agreement's treatment of the NOLC is reasonable because it largely continues the same treatment approved by the Commission in the Company's last base rate case,[119] plus additional limited refinement of the issue, and allows for additional Commission review of the issue in the future.

F. The Settlement Agreement Reduces the ROE from 10% to 9.8% for Base Rates and All Existing Riders, Except the Generation Rider.

The requirement that Kentucky Power's base rates be set to provide the real-world opportunity to earn a just and reasonable ROE for the service it provides to customers is a cornerstone of the regulatory compact.[120] The rate of return for a utility must be comparable to the return on investments in other enterprises having corresponding risks, sufficient to assure confidence in the financial integrity of the utility, maintain support of the utility's credit, and attract capital.[121]

The proposed 10% ROE that Company President Wiseman selected as mitigation in this case satisfied each of those requirements. It was well within the reasonable ROE range described by Company Witness McKenzie, and in fact, was 50 basis points lower than the ROE level supported by his analysis, taking into consideration the realities of the financial market

[117] *Id.*
[118] *Id.*
[119] *See* Order at 14–16, *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 Requires Approvals And Relief*, Case No. 2023-00159 (Ky. P.S.C. Jan. 19, 2024).
[120] *See Fed. Power Comm'n v. Hope Nat. Gas Co.*, 320 U.S. 591 (1944) ("*Hope*"); *Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm'n*, 262 U.S. 679 (1923) ("*Bluefield*").
[121] *Id.*

environment in which Kentucky Power competes for capital.[122] Company Witness McKenzie testified that the Company's requested ROE "represents a reasonable compromise between balancing the impact on customers and the need to provide the Company with a return that is adequate to compensate investors."[123]

The testimony in this case also showed that the Company's requested 10.0% understated the current cost of equity to the Company.[124] Kentucky Power faces a higher level of risk than other utilities, supporting a higher ROE, because a lower risk would indicate that it is less expensive to raise capital.[125.] Recently, the Commission approved a 9.8% ROE for Duke Energy Kentucky,[126] a utility whose risk profile is lower than Kentucky Power's.[127] This determination by the Commission, in light of the lower risk associated with Duke, would support the conclusion that the Company's proposed 10.0% ROE would result in rates that are fair, just, and reasonable.

The even lower ROEs agreed to in the Settlement Agreement, 9.7% for the Generation Rider and 9.8% for all other rates, provide an additional customer benefit by reducing the annual revenue requirement by over $2 million.[128] Furthermore, these two respective ROEs (for base rates and the Generation Rider) are squarely within the band of ROE values proposed by AG Witness Baudino, whose range spanned from 8.90%–10.0%.[129] Notably, however, AG Witness Baudino admits that the lower end of his range was driven by the Capital Asset Pricing Model

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[122] McKenzie Direct Test. at 4.
[123] *Id.*
[124] *Id.* at 10.
[125] *Id.* at 29; Baudino Hearing Test. at 998:1-10 (agreeing that that Kentucky Power has lower credit ratings than the other Kentucky investor-owned utilities, which makes Kentucky Power a higher credit risk); *id.* at 989:18-990:7.
[126] Order, *In The Matter Of: Electronic Application of Duke Energy Kentucky, Inc. For: 1) An Adjustment of the Electric Rates; 2) Approval of New Tariffs; 3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and 4) All Other Required Approvals and Relief*, Case No. 2024-00354 (Ky. P.S.C. Oct. 2, 2025).
[127] Baudino Hearing Test. at 987:9-18, 987:1-17, 998:1-10. Duke Kentucky's Baa1 credit rating from Moody's is two notches above Kentucky Power's Baa3 rating and Duke Kentucky's BBB+ rating from S&P is one notch above Kentucky Power's BBB- rating. *Id.* at 989:2-5, 990:22-25; 992:24-993:9, 993:25-994:9.
[128] Settlement Agreement §§ 2.B.i, 5.A.
[129] Baudino Direct Test. at 33.

"(CAPM") results,[130] which by his own admission, come with some "concern" because "[t]here is some controversy surrounding the use of the CAPM and its accuracy regarding expected returns,"[131] compared to the discounted cash flow ("DCF") model under which he calculated an average of 9.84% and 9.96% ROE based on the two different DCF calculations.[132] Thus, the Settlement Agreement ROEs result in rates that are also fair, just, and reasonable, considering the settlement package as a whole, and should be approved.

G. The Settlement Increases the Amount of Storm Expense Included in Base Rates from $0 to $2 million in Consideration of Commission Orders Issued After this Case was Filed.

In an effort to minimize rate impacts for customers, the Company proposed with its Application to adjust its test year distribution storm damage expense from $23 million to $0.[133] The Company made this proposal in its Application because it reduced the Company's revenue requirement in this case by over $13 million compared to using the traditional three-year average storm cost approach, or by nearly $9 using a five-year average.[134] The Company further requested that, going forward, it be approved for accounting purposes only, to establish regulatory assets for all storm costs incurred without the requirement to seek prior authority from the Commission to record the regulatory asset.[135] The Company would also make quarterly updates to the Commission on detailing any such "automatic" storm deferral activity, and support the reasonableness and prudency of the costs at the time it seeks recovery.[136] The associated automatic deferral mechanism allows the Company to balance the impact of the requested rate increase in this case with the Company's present financial needs on a short-term basis while the Company

[130] *Id.*
[131] *Id.* at 23.
[132] *Id.* at 21.
[133] Wolffram Direct Test. at 33–34.
[134] *Id.*
[135] *Id.* at 34.
[136] *Id.*

works to create, evaluate, and implement more long-term solutions. It also aligns with how the Commission is currently treating the Kentucky Power's Major Storm deferrals where the Company is permitted to:

> record expenses for storms occurring in any quarter of the fiscal year as a deferred asset for accounting purposes only, subject to Kentucky Power providing the Commission with notice of such within five days of the establishment of the regulatory asset and subject to Kentucky Power filing an application within 90 days of the occurrence of the storm seeking Commission approval for such authority.[137]

The proposal was also was made in consideration of the Company's efforts to pursue legislation allowing securitization of additional utility regulatory assets.[138] If additional legislation is passed that permits securitization of existing regulatory assets, then the Company would be permitted to securitize all existing storm regulatory assets that exist at the time, including those created consistent with the automatic deferral mechanism, which would bring immediate financial relief to customers.[139] If securitization does not occur, the Company would propose to amortize and recover the storm costs comprising those regulatory assets as part of its next base rate case or as part of another appropriate proceeding before this Commission.[140] This allows flexibility over which to amortize the asset.

AG Witness Lane Kollen agreed that the storm cost proposal was a benefit to customers that should be approved, explaining that "[a]ll components of the Company's proposal maximize the savings to customers from securitization financing without harming the Company," and "[t]he more costs that are removed from rate base and sold to the SPE and securitized, the greater the

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[137] Order, *In The Matter Of: Electronic Application Of Kentucky Power Company For An Order Approving Accounting Practices To Establish A Regulatory Asset Related To The Extraordinary Expenses Incurred By Kentucky Power Company In Connection With The January 5, 2025 And February 15, 2025 Major Event Storms*, Case No. 2025-00031, at 8 (Ky. P.S.C. Mar. 31, 2025)
[138] Wolffram Direct Test. at 34.
[139] *Id.*
[140] *Id.* at 35.

savings to customers from the lower cost securitization financing compared to the traditional or conventional debt and equity investor financing."[141]

However, since the Company filed its Application in this case, the Commission issued its orders in Case No. 2025-00031[142] and Case No. 2025-00291,[143] wherein the Commission granted a deferral only for Major Storm costs above the amount included in current base rates, and then denied Kentucky Power's request to create regulatory assets and to defer incremental costs resulting from several Non-Major storms throughout 2025. Such orders impacted Kentucky Power's ability to maintain its financial health, as it was left without an avenue to recover essentially any costs associated with Non-Major Storms occurring in 2025. After issuance of those orders, the Signatory Parties agreed, as part of the whole settlement package, that it was reasonable to increase storm expense in base rates from the proposed $0 to $2 million.[144] The amount of $2 million was selected because it represented the approximate amount of Non-Major Storm expense the Company actually incurred in 2025.[145] The Settlement Agreement retains the Company's proposal to create an "automatic" deferral mechanism for all storm costs incurred that are incremental to the storm expense included in base rates for the same reasons that supported the Company's proposal to do so in its Application.

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[141] Kollen Direct Test. at 48–49.
[142] Order at 8, *In The Matter Of: Electronic Application Of Kentucky Power Company For An Order Approving Accounting Practices To Establish A Regulatory Asset Related To The Extraordinary Expenses Incurred By Kentucky Power Company In Connection With The January 5, 2025 And February 15, 2025 Major Event Storms*, Case No. 2025-00031 (Ky. P.S.C. Mar. 31, 2025).
[143] Order at 8, *In The Matter Of: Electronic Application Of Kentucky Power Company For An Order Approving Accounting Practices To Establish A Regulatory Asset Related To The Extraordinary Expenses Incurred By Kentucky Power Company In Connection With Several Severe Storms From February Through May 2025*, Case No. 2025-00291 (Ky. P.S.C. Oct. 30, 2025).
[144] Settlement Agreement § 2.D.viii.
[145] Wolffram Hearing Test. at 263:19-265:12.

H. The Settlement Agreement Provides that Kentucky Power Will Forego Recovery of Several Other Operating Expenses.

As part of the overall package of settlement terms and protections, Kentucky Power further agreed to forego recovery of several operating expenses as part of the Settlement Agreement, which resulted in a reduction to the annual revenue requirement of a combined approximately $9.7 million between base rates and the Generation Rider. Specifically:[146]

- Kentucky Power will remove operating expense related to incentive compensation, supplemental employee retirement plan ("SERP") expense, and 401(k) matching expense for employees who also participate in the pension plan. This change would result in a decrease of $3.929 million in annual base rate revenue requirement.

- Kentucky Power will correct the amount of property tax expense in base rates consistent with its response to AG-KIUC 2-12. This change would result in a decrease of $0.320 million in annual base rate revenue requirement.

- Kentucky Power will defer the pension settlement accounting expenses in account 9230064 to a regulatory asset and amortize that regulatory asset over 12 years. This change would result in a decrease of $0.985 million in annual base rate revenue requirement.

- Kentucky Power will reduce depreciation expense by removing terminal net salvage for the Big Sandy Plant only. This change would result in a decrease of $1.011 million in annual base rate revenue requirement.

- Kentucky Power will reduce depreciation expense to account for the corresponding reduction to rate base associated with the changes in the TOR vegetation management described above. This change would result in a decrease of $0.588 million in annual base rate revenue requirement.

- Kentucky Power will reduce depreciation expense associated with interim retirements and interim net salvage associated with the Mitchell Plant. This reduction requires a $1.190 million increase in the base revenue requirement and corresponding $1.190 million reduction to the Generation Rider revenue requirement. This change would result in a decrease of $1.604 million in annual base rate revenue requirement and a decrease of $1.185 million in annual Generation Rider revenue requirement.

[146] Settlement Agreement §§ 2.D.i–vii.

- Kentucky Power will reduce miscellaneous expense by removing Edison Electric Institute dues and Kentucky Chamber of Commerce dues. This change would result in a decrease of $0.113 million in annual base rate revenue requirement.

Importantly, these are all costs that Kentucky Power is currently incurring and will continue to incur. However, in the interest of settlement, the Company has agreed to forego recovery of these costs as part of the overall package of agreed-upon terms. These concessions benefit customers by substantially reducing the revenue requirement.

I. The Settlement Agreement Includes Additional Provisions that Benefit Customers.

In addition to the revenue requirement reduction and revenue credits from the DTL Rider, the Settlement Agreement provides additional benefits to customers. First, the Settlement Agreement makes revenue-neutral modifications to Tariff Industrial General Service ("I.G.S.") rates that set I.G.S. energy rates to recover only variable costs and recover the remaining costs through demand charges.[147]

The Settlement Agreement also includes a number of provisions to provide increased clarity and certainty to customers with distributed generation resources seeking to take service under the Company's Tariff COGEN/SPP. These include:[148]

- The Company will update the language in Tariff COGEN/SPP to remove the 45kW minimum size threshold.
- For customers taking service under Tariff COGEN/SPP that require a meter replacement earlier than their scheduled AMI meter change, such replacement will be made with an AMI meter to the extent the customer is within a district that AMI deployment has begun and the AMI network and equipment is available to serve that customer.
- Kentucky Power will implement procedures for customers with behind-the-meter generation facilities of 45 kW or less to enroll and take service under the Company's Tariff COGEN/SPP in a manner similar to how customers enroll and take service under Tariff N.M.S. II; provided, however, that there may be different

[147] Wolffram Settlement Test. at S14.
[148] *Id.* at S14–S15; Settlement Agreement § 6.

requirements, including the interconnection agreement and more detailed operation profile information, that are specific to each class of service that are necessary for the Company to operate consistently with applicable state or federal regulations.

- Kentucky Power will develop a form for customers seeking to take service under Tariff COGEN/SPP with Qualifying Facilities with capacities less than 1 MW that may be submitted instead of a FERC Form 556. This form will be substantially similar to the form attached to the testimony of KYSEIA Witness Barnes. To the extent a customer with a Qualifying Facility with capacities less than 1 MW completes a FERC Form 556, they may submit that in place of the aforementioned form.

- Kentucky Power will implement an application fee for customers seeking to connect distributed energy resources to its system that is calculated as follows: $100 + $1/kW of the proposed resource.

- Kentucky Power will not conduct a System Impact Study for distributed energy resources with capacities less than 100 kW, but will conduct technical reviews and screening for all resources that are proposed to be connected to its system. There will be no additional costs for such technical screening beyond the application fee.

- Kentucky Power will conduct interconnection studies within 140 days of receipt of a complete application for interconnection.

- Kentucky Power will not implement internal prohibitions on the ability of leased systems to participate in net metering and COGEN/SPP. Such systems, however, must comply with the requirements of state and federal law including, but not limited, to KRS 278.465(1).

J. The Settlement Agreement Should be Approved Without Modification.

The Settlement Agreement provides a balanced approach to address the Company's financial situation while utilizing creative mechanisms to minimize rate impacts to customers, and in particular to residential customers. The collaborative and creative approach embodied in the Settlement Agreement produces a three-year total revenue requirement that is $21.154 million *less* than the revenue requirement proposed by the Attorney General. The Settlement Agreement provides benefits to customers that would not be available absent the Settlement Agreement. The Commission should take advantage of this opportunity and approve the Settlement Agreement without modification.

VI. THE PROPOSALS INCLUDED IN THE COMPANY'S AS-FILED APPLICATION AND INCORPORATED BY THE SETTLEMENT AGREEMENT RESULT IN A FAIR, JUST, AND REASONABLE INCREASE TO RATES.

The Settlement Agreement contemplates approval of the Company's as-filed Application, as modified only by those specific provisions that the Company discusses and supports in the previous Section V. The remaining aspects of the Company's as-filed Application that are incorporated but not modified by the Settlement Agreement also are reasonable and should be approved as part of that agreement. Because the Company's requests are reasonable and appropriate, they should be approved.

The Company discusses below the main aspects and requests in its as-filed case, which are incorporated into the Settlement Agreement, and why they should be approved.

A. The Proposed Rate Design, Including the Creative New Residential Rate Design is Fair, Just, and Reasonable and Should be Approved.

With the exception of the small, revenue-neutral change to the Tariff I.G.S. rate design discussed in Section V.I. above, the Settlement Agreement accepts the Company's proposed rate design, including the new and creative residential rate design.

In developing the rate design for this Application, the Company has both: (1) adjusted its cost allocation to provide residential customers with a greater subsidy; and (2) proposed a two-tiered rate design that is benefits higher-usage customers.

1. The Allocation of More Costs Away from Residential Customers to Other Classes is Fair, Just, and Reasonable at This Time.

As part of the rate design process, the Company reviewed the class cost-of-service analysis prepared by Company Witness Coon and determined that eliminating the interclass subsidy that the residential class had historically received from other classes would result in a significant increase for the average residential customer.[149] Moreover, even maintaining the existing subsidy would result in an approximate 18.5% increase for the average residential customer, which the Company did not feel was reasonable to impose upon residential customers at this time.[150] The average increase to residential customers was therefore limited to no more than 15%, and Company Witness Coon then allocated the remaining revenue increase to ensure no customer class received more than a 15% total rate increase.[151] This policy decision is fair, just, and reasonable because, although the Company continues to make progress in reducing interclass subsidies, it is keenly aware of the economic challenges throughout the service territory, specifically for residential customers. For that reason, the Company declined to reduce or eliminate interclass subsidies that would have had the effect of increasing residential customers' rate increase in this case.[152]

2. The Creative New Residential Rate Design is Fair, Just, and Reasonable.

Mindful of the unique challenges facing residential customers in its service territory, Kentucky Power conducted a detailed review of how its rates and fixed charges were designed to seek alignment with principles of cost causation, while also providing relief to high-usage customers. To accomplish these goals, the Company designed a two-tiered rate design that appropriately assigns fixed costs to the cost-causers, while also providing relief to high-usage customers by implementing a two-block variable energy rate.

Subject to much questioning during the hearing, the Company's novel rate design consisting of a two-tiered customer charge and a two-block variable energy charge shifts a greater amount of fixed costs from the variable energy charge to the fixed customer charge for customers

149 Wolffram Direct Test. at 5.
150 *Id.*
151 *Id.* at 5–6, Figure TSW-1.
152 *Id.* at 6.

using more than 2,000 kWh in a month.[153] This has the effect of reducing the variable energy rate and reflecting a variable energy rate that is more in line with the Company's actual variable costs.[154] This will also reduce the intraclass subsidy currently provided by residential higher-energy users, as under the current residential rate design, higher energy users contribute more to the Company's fixed costs given the amount of fixed costs currently recovered through the existing energy rate.[155]

The proposed two-tier customer charge, coupled with the declining-block energy rate, is appropriate because it provides incentives to customers to lower their usage to under 2,000 kWh per month in order to receive the lower customer charge, while also providing rate relief to higher-usage customers who cannot reduce their usage under 2,000 kWh by charging a lower energy rate.[156] This rate design is intended to address the Commission's concerns and directives to Kentucky Power to "address the issue of low-income and residential customers [sic] energy usage during the winter months and find cost-effective measures to reduce demand."[157] It also does so without giving unfair preference to specific members of the residential class.

Throughout the hearing on this matter, Company Witnesses Wolffram and Spaeth offered testimony as to the prudency of the proposed residential rate design. Many of the questions that arose from this testimony had to do with the complexity of the rate design and the potential for customers to understand it in a manner that allows them to take advantage of its benefits.[158] Indeed, this rate design does have more components than the straightforward design that is currently in

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[153] *Id.* at 7–8.
[154] *Id.* at 8.
[155] *Id.*
[156] *Id.* at 9.
[157] Order at 70, *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. Jan. 19, 2024).
[158] *See* Spaeth Hearing Test. at 793:21-794:4, 796:16-20.

place. The Company and the Commission, however, through written public comments, statements made at public comment meetings, and other communications from customers, have been made aware numerous times that the current, simpler, residential rate design is *not working* for customers.[159] The Company regularly receives feedback from customers on fixed incomes who report high usage and high bills. The Company's two-tiered rate design proposal, albeit consisting of more moving parts, is designed specifically to help those customers by employing the variable energy block, which will directly benefit high-usage customers by reducing their cost of energy above the first block. For example, as the Settlement Agreement shows, residential customers using 4,000 kWh per month or more will actually experience a *rate decrease*, if the proposed rate design and Settlement Agreement are approved.[160]

Moreover, in response to customer feedback and discussion between Chair Hatton and Company Witness Wiseman at the hearing, the Company committed to investigate and study the cause of apparent higher usage by customers in the Company's service territory.[161] The Company reaffirms that it is committed to finding answers to this question and any potential solutions.

The Company acknowledges that the rate-making process is complicated, but the Commission has been charged with the exclusive duty to evaluate whether the Company's proposals are fair, just, and reasonable for customers. The Company has set forth significant evidence to show that it intends to do everything it can to help customers take advantage of this rate design and communicate with them in a manner that informs them of their usage and its impact

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[159] *See* Wolffram Hearing Test. at 450:3-11.
[160] *See* Settlement Agreement, Exhibit 2.
[161] *See* Wolffram Hearing Test. at 907:10-909:12.

on their bills.[162] Accordingly, the evidence in the record fully supports the implementation of this residential rate design and should likewise be approved by the Commission.

B. The FlexPay Program Benefits Customers and Should be Approved.

In an effort to provide more flexibility to residential customers and to provide an option that would make paying bills more manageable, the Company has proposed to implement the FlexPay program. FlexPay is a voluntary prepayment program associated with advanced metering infrastructure ("AMI") deployment that allows customers to pay their bills as they go, providing them with greater control over the frequency and timing of their payments.[163] This program offers a number of benefits to customers, including the ability to pay their bills in advance to track the cashflow in their household, eliminates deposits for service, and greater control over the frequency and timing of their payments.[164] The Company endeavored to propose a prepayment program based on the Commission's directive in its Order granting the Company's AMI CPCN application:

> [w]ith AMI meters, programs such as Time of Use rates and *prepay programs* can be easily added as a rate option. Such rate options may contribute to lower peak demand and help avoid costly capital investments or free up power to be sold on the market for additional revenue. The Commission encourages Kentucky Power to learn from the new detailed, usage information and possibly creating time of use rate classes as well as DSM programs to maximize AMI benefits.[165]

The FlexPay program aligns with the Commission's directive to maximize the benefits of AMI for customers, is consistent with other Kentucky utilities' tariffs, and should be granted.

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[162] *See* Spaeth Hearing Test. at 796:12-15, 796:21-25 ("I do agree that customer education is huge in this case. But in conversations with Kentucky Power . . . they stand at the ready to, you know, try to empower their customers.").
[163] Cobern Direct Test. at 3.
[164] *Id.*; *see also id.* at 7, Figure SNC-1.
[165] Order at 15, *In The Matter Of: Electronic Application Of Kentucky Power Company For (1) A Certificate Of Public Convenience And Necessity Authorizing The Deployment Of Advanced Metering Infrastructure; (2) Request For Accounting Treatment; And (3) All Other Necessary Waivers, Approvals, And Relief*, Case No. 2024-00344 (Ky. P.S.C. July 22, 2025) (emphasis added).

1. Deferral of FlexPay Costs

Additionally, the Company also seeks to defer the roughly $75,000 costs associated with developing the FlexPay offering proposed in this case.[166] This amount includes expenses for software and programming modifications required to enable the Company's billing system to support FlexPay.[167] The Company would seek recover those costs in a subsequent base rate case after AMI has been deployed in the latter half of 2026.[168] Deferral authority of these costs is appropriate as it is in response to the Commission's order to pursue all reasonable and cost-effective programs, including prepay programs, made possible by AMI.[169]

2. Deviations Necessary to Implement FlexPay

Finally, to implement FlexPay, the Company seeks a deviation from two regulatory requirements. First, the Company seeks a deviation from the requirements set forth in 807 KAR 5:006, Section 15(1)(f), which requires a utility to mail or otherwise deliver an advance termination notice in the event a customer will be disconnected for nonpayment. The purpose of the regulation is to ensure that customers are on notice of the possible termination of service. Customers using FlexPay will receive frequent and timely electronic notifications regarding their balances and disconnection warnings. This approach offers more notifications about potential service termination compared to traditional forms of notice outlined in the regulation. Accordingly, deviation from these requirements is reasonable and appropriate.

The Company also seeks a deviation from the requirements set forth in 807 KAR 5:006, Section 7, which specifies the information that must be included on a customer's monthly bill.

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166 Wolffram Direct Test. at 31.
167 Cobern Direct Test. at 15.
168 *Id.*
169 *See* Order at 15, *In The Matter Of: Electronic Application Of Kentucky Power Company For (1) A Certificate Of Public Convenience And Necessity Authorizing The Deployment Of Advanced Metering Infrastructure; (2) Request For Accounting Treatment; And (3) All Other Necessary Waivers, Approvals, And Relief*, Case No. 2024-00344 (Ky. P.S.C. July 22, 2025).

The existing bill format does not accommodate a transactional overview of a FlexPay participant's monthly activities, which may involve multiple transactions. Kentucky Power proposes to offer FlexPay customers a revised statement that reflects daily transactions. Because the customer will deposit a prepaid amount prior to the transaction occurring for each day's usage, this bill format will more accurately reflect the transactions as they occur. Accordingly, deviation from these requirements is reasonable and appropriate. Moreover, the Company agreed in response to Commission Staff Post-Hearing Data Request No. 22 that it can add a bill message to FlexPay bills that advises customers to contact the Company to discuss detailed bill charges, assuming there is sufficient room on the bill for any specific month.

The Commission has approved prepay proposals, along with deviations to 807 KAR 5:006, Sections 15(1)(f) and 7, for numerous electric utilities within the Commonwealth.[170] Kentucky Power's proposals are in-line with those previously approved by the Commission, and they likewise should be approved.

C. The Proposed Capital Structure Accomplishes the Commission's Directives and Benefits Customers.

The Company's currently-approved capital structure was established by the Commission's January 19, 2024 Order in Case No. 2023-00159, as demonstrated in Figure JDN-4.[171] The placement of approximately \$477.7 million of securitization bonds in June 2025, net of approximately \$9.4 million of up-front financing costs, resulted in proceeds of approximately \$468.3 million. Kentucky Power has utilized \$300 million of the net proceeds for the repayment

[170] *See, e.g.*, Order at 4–5, *In The Matter Of: Application Of Big Sandy Rural Electric Cooperative Corporation For Approval Of A Prepay Metering Program Tariff*, Case No. 2015-00337 (Ky. P.S.C. Apr. 7, 2016); Order at 5–6, *In the Matter of: Electronic Application Of Taylor County Rural Electric Cooperative Corporation For Approval To Implement A Prepay Metering Program*, Case No. 2020-00278 (Ky. P.S.C. Dec. 22, 2020).
[171] Newcomb Direct Test. at 15.

of two $150 million term loans, and $85.2 million for the repayment of its short-term debt balance as May 31, 2025.[172]

Generally, the Company proposes to reflect in its capital structure the repayment of the $300 million in term loans as a reduction to long-term debt, the repayment of the approximately $85.2 million of short-term debt, and an equity reduction of approximately $83.1 million by making a dividend.[173] Absent the proposed equity reduction, the revenue requirement and WACC in this case would increase as a result of a higher ratio of common equity in the Company's capital structure, which generally carries a higher cost than long-term and short-term debt.[174]

The Company's adjusted capital structure goes from one containing a May 31, 2025 per-books equity ratio of 40.70% to an adjusted proforma equity ratio of 46.13%.[175] The proposed WACC is based on the summation of the weighted average cost for each source of capital in the Company's adjusted capital structure, including long-term debt, short-term debt, and common stock.[176] This proposed capital structure is appropriate, reasonable, and prudent because the 53.87% debt and 46.13% equity ratio strikes a reasonable balance and is consistent with the Moody's target range for a Baa3 rated company.[177] It is within the Moody's target debt to capitalization range for a vertically integrated utility of 45–55%.[178] It is also lower than the currently authorized equity ratios of other utilities within the Commonwealth that range from 52.145–53.23%.[179]

[172] *Id.*
[173] *Id.* at 16.
[174] *Id.*
[175] *See* Messner Direct Test. at 7, Figure FDM-4.
[176] *Id.* at 8; *see also id.* at 8, Figure FDM-5.
[177] *Id.* at 10.
[178] *Id.*
[179] *Id.*

The use of the securitization proceeds and the proposed capital structure also are consistent with the Commission's prior directives. For example, in the Company's last base rate case, in approving the Company's current capital structure, the Commission stated:

> The Commission expects Kentucky Power to find cost-effective measures to improve its current credit rating of Baa3 and corporate credit rating of BBB while keeping its capital structure reasonably balanced so that it does not over burden its ratepayers to the benefit of shareholders, but that Kentucky Power would nevertheless have the ability to reasonably attract capital.[180]

Each of the proposed modifications to the capital structure effectuate the Commission's directives in that order. Additionally, there is no evidence in the record to support the conclusion that the Company's proposed capital structure is unreasonable or otherwise imprudent.[181] Accordingly, the Commission should approve the Company's proposed capital structure.

If the Company's proposed modifications to the capital structure are not approved, the capital structure would not reflect known and measurable changes and the resulting new base rates would not provide the Company an opportunity to earn the ROE authorized in this proceeding.[182] Likewise, any capital riders that would use the resulting approved WACC would also not provide the Company an opportunity to earn the ROE authorized in this proceeding on their respective rider-eligible rate bases.[183]

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[180] Order at 50, *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. Jan. 19, 2024).
[181] *See generally* Kollen Direct Test.
[182] Newcomb Direct Test. at 17.
[183] *Id.*

D. The Company's Proposals Related to Recovery of the Gains and Losses on Incidental Sales of Natural Gas Are Reasonable Because the Hedging Program Benefits Customers.

As demonstrated through Company Witness Stutler's Direct Testimony, the volatility of the natural gas market has significantly increased in recent years.[184] To protect customers from this volatility being reflected in their bills, Kentucky Power began purchasing for the Big Sandy Plant specific quantities of fixed-price natural gas supply, for specific forward months to mitigate spot market natural gas price volatility as reflected in its hedging strategy.[185] Such purchases provide price and supply surety and help immunize the Company and its customers from spontaneous movement that may occur in the spot market.[186] In situations where the Company's hedging strategy results in the Company having excess natural gas purchased that is not ultimately used at the Big Sandy Plaint, it must sell that natural gas into the spot market.[187] Once sold into the spot market, the price received for that gas may be higher or lower than the fixed-price Kentucky Power originally purchased it for, resulting in either a gain or loss on that sale.[188]

This hedging strategy can result in both higher and lower fuel costs depending on the spot market at the time fuel is purchased or sold.[189] The intent of this program, however, is to limit exposure to volatility, and to spread market risk over time, rather than guaranteeing cost savings.[190] The volatility experienced in the energy market has spiked and is expected to continue doing so in the future.[191] Accordingly, mitigating spot market price risk, by competitively pursuing fixed-price, forward-month baseload natural gas supply is the appropriate path for customers.[192]

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[184] Stutler Direct Test. at 10–11.
[185] *Id.* at 5, 11.
[186] *Id.* at 11.
[187] *Id.* at 9.
[188] *Id.*
[189] *Id.* at 7.
[190] *Id.*
[191] *Id.* at 9.
[192] *Id.*

In this case, Kentucky Power is making two distinct proposals with respect to incidental gas sales. First, it proposes to set a base amount for incidental sales of gas based on the amount of gains and losses experienced during the test year and then perform annual over-/under-recovery accounting on the base level of sales of gas approved in this case and collect or credit that difference through Tariff P.P.A.[193] This will allow the Company to recover or credit the difference between the base amount and the amounts actually realized from such sales so that customers pay no more and no less than that actually realized.[194] This treatment is appropriate because the other mechanism through which the Company can recover fuel costs, the fuel adjustment clause, is not available for these incidental sales.[195] Recovering the costs through Tariff P.P.A. ensures that customers are responsible only for the actual costs the Company incurs to secure natural gas for us at its generating facilities.[196]

Second, the Company requests authority to defer the roughly $1.9 million of losses on its incidental sales of gas during the test year and the amounts incurred post-test-year until the next Tariff P.P.A. annual update, at which point the costs will be amortized and collected in that amount through Tariff P.P.A.

E. The Proposed Special Charges are Reasonable Because they Have the Effect of Recovering Costs from Cost-Causers.

The Company proposes to update the certain Special Charges, including Reconnection and Disconnection or Field Trip, Meter Read Check, Returned Check Charge, and Meter Test Charge.[197] The Company completed an analysis of the costs to perform each of those activities and proposes certain changes to those special charges based on the results of that analysis.[198] The

[193] Wolffram Direct Test. at 27.
[194] *Id.*
[195] *Id.* at 28.
[196] *Id.*
[197] *Id.* at 12.
[198] *Id.*

proposed changes are aimed at ensuring that the customers actually causing those costs are the ones responsible for paying them. No intervenor in this case provides any evidence that the revised special charges are calculated incorrectly, although AG Witness Wellborn states that the Company should take a more gradual approach.[199]

Although gradualism is always considered when the Company proposes changes to fixed charges, if the Company does not reflect the actual costs to perform these services in its Special Charge rates, then some portion of the costs to perform that work is then socialized to its remaining customer base, including low-income and all other customers. This means that customers who do not require any of these services will nonetheless pay a portion of those costs. This issue is evidenced by proposed Adjustment W6, which increases the Company's Other Operating Revenue to account for the proposed Special Charge rates. The adjustment is a credit to the Company's cost-of-service, which means that if the Company were to take a more gradual approach to reflecting a cost-of-service amount of the Special Charges, the credit to the Company's overall cost-of-service would be reduced, thereby increasing the Company's revenue requirement (which is then allocated to and collected from all other customers) in this proceeding by a commensurate amount. Given this fact, it is more appropriate to reflect the full cost of service amount for these services in each Special Charge to reduce that subsidization and align the Company's Special Charges with the principles of cost causation.

F. The Company's Other Proposed Tariff Changes are Reasonable and Should be Approved.

In its Application, Kentucky Power proposed additional tariff changes not otherwise addressed in the Settlement Agreement or discussed above. These changes, described below, should be approved by the Commission

[199] Wolffram Rebuttal Test. at R9.

1. Update to Tariff E.S.

Kentucky Power recovers costs associated with the environmental projects authorized in its Commission-approved Environmental Compliance Plan ("ECP") through a combination of base rates and Tariff E.S.[200] Kentucky Power is not proposing to change its ECP in this filing; however, the Company is updating the Base Period Revenue Requirement in Tariff E.S. to reflect the adjusted test year amounts of costs associated with the Company's environmental projects (excluding costs associated with the Mitchell Plant flue-gas desulfurization system).[201] These updated costs are reasonable and result in an environmental surcharge that is fair, just, and reasonable and consistent with the requirements of KRS 278.183.

2. Consolidation of the COGEN/SPP Tariffs

In addition to the changes for COGEN/SPP customers included in the Settlement Agreement, the Company proposed two additional changes for those customers in its Application. First, the Company sought to consolidate the existing COGEN/SPP I and COGEN/SPP II tariffs into a single tariff.[202] This consolidation would improve clarity and consistency in the Company's tariff offerings.[203] Second, the Company proposed to add specific criteria in the tariff itself to define what constitutes a legally enforceable obligation ("LEO").[204] Including an obligation to establish a LEO ensures that a potential customer intending to take service under Tariff COGEN/SPP is, consistent with the Public Utility Regulatory Policies Act ("PURPA"), commercially viable, financially committed, and sufficiently advanced in development before the Company commits resources to it.[205] The consolidation of the existing COGEN/SPP I and

[200] Cullop Direct Test. at 3.
[201] *Id.* at 5.
[202] Cobern Direct Test. at 24.
[203] *Id.*
[204] *Id.*
[205] *Id.*

COGEN/SPP II tariffs into a single tariff and the inclusion of criterial for a potential customer to establish the required LEO are reasonable and should be approved by the Commission.

3. Modification to Tariff N.M.S. II.

The Company proposed enhancing the language of its Tariff N.M.S. II (Net Metering Service II) to confirm that the credits provided under KRS 278.466(4) are not transferrable and that unused credits expire when a customer ceases taking service under the tariff.[206] These changes are consistent with the statutory language in KRS 278.466(4), are reasonable, and should be approved by the Commission.

4. Elimination of Tariff V.C.S.

The Company also proposed to eliminate Tariff V.C.S. (Voluntary Curtailment Service) due to a lack of customer interest.[207] The Company has received a single request for service under Tariff V.C.S. since its inception.[208] Instead customers seeking a curtailment program have taken service under Tariff C.S.-I.R.P (Contract Service – Interruptible Power). Removing Tariff V.C.S. is reasonable and should be approved by the Commission.

VII. CONCLUSION

Kentucky Power respectfully requests that the Commission approve the Settlement Agreement without modification. The agreement reflects a balanced, customer-focused resolution of this proceeding that meaningfully reduces rate impacts, delivers substantial near-term bill credits, and provides targeted relief for higher-usage and fixed-income residential customers.

At the same time, the Settlement Agreement preserves the financial stability necessary for Kentucky Power to continue providing safe, reasonable, and reliable service across its uniquely

[206] *Id.* at 25.
[207] *Id.*
[208] *Id.*

challenged service territory. The Settlement Agreement represents a fair, just, and reasonable resolution supported by diverse interests and offers customer benefits that would not otherwise be available. The Commission now has the opportunity to adopt an agreement that materially advances affordability, improves customer outcomes, and supports the continued delivery of essential utility service in eastern Kentucky. For these reasons, Kentucky Power respectfully urges the Commission to approve the Settlement Agreement in its entirety without modification.

Respectfully submitted,

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