

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

In the Matter of:

Electronic Application Of Kentucky Power Company )	
For (1) A General Adjustment Of Its Rates For )	
Electric Service; (2) Approval Of Tariffs And Riders; )	Case No. 2025-00257
(3) Approval Of Certain Regulatory And Accounting )	
Treatments; and (4) All Other Required Approvals )	
And Relief )	

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**KENTUCKY POWER COMPANY’S MOTION FOR REHEARING  
OF FEBRUARY 28, 2026 ORDER**

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## **I. EXECUTIVE SUMMARY**

Kentucky Power Company (“Kentucky Power” or “Company”) appreciates the work of the Public Service Commission of Kentucky (“Commission”) and recognizes its efforts to approve a revenue requirement that balances customer bill impacts and the Company’s financial health. However, rehearing is necessary in certain areas to address what Kentucky Power believes may have been unintended consequences of the Commission’s February 28, 2026 order (“Order”) in this case.

The Company is seeking reconsideration on the topic of vegetation management work outside right-of-way (TOR), which if granted, will allow the Company to make additional investments to improve service reliability at a lower annual cost. The Company also seeks clarification or rehearing on certain vegetation work inside right-of-way (TIR), standard labor-related expenses, transmission cost recovery tied to federally-regulated PJM expenses, timing of rate case expense recovery, and confirmation of generation investment recovery.

Most importantly, if all rehearing requests are accepted by the Commission, there would be a minimal (if any) customer rate impact, as the increase in the revenue requirement could be offset by an increase in the use of the deferred tax liabilities already being utilized by the Commission in its Order.

## II. INTRODUCTION

Kentucky Power respectfully requests rehearing on several issues resulting from the Commission's Order in this case. The Company recognizes and appreciates the Commission's effort to approximate the financial impacts to both Kentucky Power and its customers that would have resulted from the Settlement Agreement submitted in this case. Indeed, the Order expressly states: "The potential implications of a credit downgrade for Kentucky Power could be detrimental and, as discussed above, the Commission calculated Kentucky Power's revenue requirement such that, while adjustments were made, Kentucky Power's cash flow metrics may remain consistent with that negotiated in the Settlement Agreement."<sup>1</sup>

After significant modifications, adjustments, and denials of Settlement Agreement terms, the Order produces an annual revenue requirement increase of \$55.13 million,<sup>2</sup> compared to the \$77.4 million increase proposed in the Settlement Agreement.<sup>3</sup> After applying \$25 million of deferred tax liability ("DTL") credits, the Settlement Agreement produced a net year-one increase of \$52.4 million.<sup>4</sup> The Commission's Order applies only \$2.74 million in DTL credits, yet it results in the same \$52.4 million net year-one increase.<sup>5</sup> Although the total net annual increase ordered matches the amount produced by the Settlement Agreement, the Commission arrived at that result largely by disallowing or preventing recovery of prudently incurred costs and by implementing other significant changes that negatively affect Kentucky Power's financial

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<sup>1</sup> Order at 136.

<sup>2</sup> *Id.* at Appendix A, Table 1.

<sup>3</sup> *Id.* at Appendix A, Table 4.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

condition, rather than through the use of additional DTL credits as contemplated in the Settlement Agreement.

Although achieving the same net customer impact, the Commission's denials and adjustments impose significant negative effects on and undermine Kentucky Power's ability to earn the return approved as reasonable in the Order. As a result, despite the Commission's stated intention to place the Company in substantially the same financial position it would have occupied under the Settlement Agreement, the Order instead poses material risks to Kentucky Power's financial health and ability to operate at current levels. This is particularly concerning as Kentucky Power provided significant evidence to demonstrate that the Settlement Agreement reflected a package that was the bare minimum financially for the Company. Rehearing is therefore necessary to mitigate the Order's negative effects. Kentucky Power discusses each issue requiring rehearing herein.

As Kentucky Power emphasized in briefing, the Company is acutely aware of the unique challenges its customers face. It was for these reasons that Kentucky Power negotiated a settlement that reduced bill impacts through the use of DTL credits. In line with its commitment to customers, Kentucky Power remains willing to apply up to \$25 million in DTL credits in the first year, and \$15 million in the second year, to offset rate increases. Thus, if rehearing is granted, **the Company's proposals herein can be adopted with no material impact to customer bills.**

The Commission can preserve the customer impacts it ordered and mitigate financial harm to Kentucky Power by correcting several of its reductions to the revenue requirement and applying additional DTL credits to offset the annual revenue requirement increase that results from correction of the Order. Coupled with other customer-focused solutions that the Commission approved (*e.g.*, tiered rate design and FlexPay), the Commission now has an opportunity to ensure

the Company’s financial stability while equipping customers with meaningful tools to manage affordability and avoiding the immediate need for another rate case.

### III. LEGAL STANDARD FOR REHEARING

KRS 278.400 authorizes “any party to the proceedings” to apply for rehearing of a Commission order within 20 days of service of the order. The Commission interprets the statute as “limit[ing] rehearing to new evidence not readily discoverable at the time of the original hearings, to correct any material errors or omissions, or to correct findings that are unreasonable or unlawful.”<sup>6</sup> The statute requires and the Commission expects “the parties to Commission proceedings to use reasonable diligence in the preparation and presentation of their cases and ... to prevent piecemeal litigation of issues.”<sup>7</sup> The Commission nevertheless enjoys the discretion to grant rehearing to consider new arguments,<sup>8</sup> particularly where the argument could not reasonably have been raised before.

A Commission order is unreasonable if it is “not supported by substantial evidence;” it is unlawful if it violates a “state or federal statute or constitutional provision.”<sup>9</sup> As to whether the order is unlawful, “[a]n administrative agency is prohibited from acting in an arbitrary manner by § 2 of the Kentucky Constitution.”<sup>10</sup> Section 2’s prohibition against arbitrary action also

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<sup>6</sup> Order at 1-2, *In The Matter Of: Electronic Tariff Filing Of Kentucky Power Company For Approval Of A Special Contract Under Its Economic Development Rider And Demand Response Service Tariffs With Cyber Innovation Group, LLC*, Case No. 2022-00424 (Ky. P.S.C. October 25, 2023).

<sup>7</sup> Order at 4, *In the Matter of: Application Of Kentucky-American Water Company For A Certificate Of Public Convenience And Necessity Authorizing Construction Of The Northern Division Connection*, Case No. 2012-00096 (Ky. P.S.C. January 23, 2014).

<sup>8</sup> Order at 2, *In the Matter of: America’s Tele-Network Corp.’s Alleged Violation of KRS 278.535*, Case No. 2000-00421 (Ky. P.S.C. March 23, 2001) (limiting scope of rehearing to new arguments raised in petition).

<sup>9</sup> *National-Southwire Aluminum Corp. v. Big Rivers Elec. Corp.*, 785 S.W.2d 503, 510 (Ky. App. 1990).

<sup>10</sup> *Bunch v. Personnel Bd.*, 719 S.W.2d 8 at 10 (Ky. App. 1986); *see also Pritchett v. Marshall*, 375 S.W.2d 253 (Ky. 1963).

encompasses the Fourteenth Amendment’s guarantee of due process.<sup>11</sup> Section 2 of the Kentucky Constitution and the due process clause of the Fourteenth Amendment also guarantee all litigants before the Commission the right to know the issues and evidence being considered and the opportunity to put on evidence to support their position and to test, explain, and/or refute any evidence to the contrary.<sup>12</sup>

#### **IV. THE COMMISSION’S ORDER**

The Commission took action with respect to five items that require rehearing or clarification, including the Company’s vegetation management expenditures, compensation expense, transmission expense, rate case expense, and recovery of Big Sandy Plant capital expenditures through the new Generation Rider. The Company summarizes its requests and what the Commission ordered regarding each request below.

##### **A. Vegetation Management Expenditures.**

The Company proposed to continue its Trees Inside Right-of-Way (“TIR”) Program and its Trees Outside Right-of-Way (“TOR”) Program, consistent with the programs initially approved in the Company’s 2018 base rate case, and continued in its 2020 and 2023 base rate cases. The Company included in rate base the TOR Program and TIR Program capital investments made since the last base case. The Company also proposed an \$18 million prospective capital adjustment for the TOR Program.

The Commission’s Order significantly modifies or rejects the Company’s proposals. First, the Commission found that capitalizing TOR expenditures was unreasonable and inconsistent with Federal Energy Regulatory Commission (“FERC”) accounting standards, and that TOR

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<sup>11</sup> *Natural Resources & Environmental Protection Cabinet v. Kentec Coal Co.*, 177 S.W.3d 718, 724 (Ky. 2005).

<sup>12</sup> *Kentucky American Water Co. v. Commonwealth ex rel. Cowan*, 847 S.W.2d 737, 741 (Ky. 1993); *Utility Regulatory Comm’n v. Kentucky Water Service Co., Inc.*, 642 S.W.2d 591, 593 (Ky. App. 1982).

expenditures should be removed from rate base and treated as an annual operating expense going forward, which resulted in a decrease to the annual revenue requirement of \$5,906,192.<sup>13</sup> Second, in connection with the removal of capitalized TOR expenditures from rate base, the Commission also removed associated depreciation expense in the amount of \$2,345,812, grossed up for a total revenue requirement reduction of \$2,356,220. Third, the Commission allowed the previous seven-year average spend on the TOR Program to instead be recovered as an operating expense in the amount \$7,209,925, with the grossed-up revenue requirement impact being an increase of \$7,241,915. Fourth, the Commission found that the Company's previous TOR investments through the end of the test-year should be removed from rate base and recovered instead through a regulatory asset to be amortized over a 30-year period, with no carrying costs, resulting in a grossed-up revenue requirement of \$1,559,070.<sup>14</sup> The Commission estimated that “[t]he net impact of the rate base reduction, depreciation expense reduction, increase to O&M expenses, and the amortization of the regulatory asset results in an increase of \$538,573 to Kentucky Power’s application ... but will result in ratepayer savings in the future.”<sup>15</sup>

Finally, the Commission denied the proposed provisions of the Settlement Agreement that would have allowed Kentucky Power to defer to a regulatory asset for later review and recovery any amount above or below the amount of operations and maintenance (“O&M”) expense and capital costs (including return on capital investment and depreciation expense) approved in base rates for the TIR Program and TOR Program.<sup>16</sup>

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<sup>13</sup> Order at 38-40.

<sup>14</sup> *Id.* at 42.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 96-98.

**B. Compensation Expense.**

The Commission’s Order denies recovery of \$7,286,925 in “Other” compensation paid to the Company’s employees during the test year.<sup>17</sup> The Commission based this rejection on an asserted failure of Kentucky Power to provide enough detail and a clear description of what “Other” compensation includes.<sup>18</sup>

The Commission’s Order further denies recovery of all incentive compensation expense, in the total amount of \$4,002,622, holding that the Company failed to demonstrate that the expense provides customer benefits.<sup>19</sup>

**C. Transmission Expense.**

The Commission’s Order discusses the Company’s transmission expense, including its PJM Interconnection, LLC (“PJM”) Load Serving Entity Open Access Transmission Tariff (“LSE OATT”) expense, at length.<sup>20</sup> Ultimately the Commission approved the Company’s test-year LSE OATT expense but denied the proposed annual \$9,981,873 pro forma adjustment (Adjustment W16) on the grounds that the proposed adjustment was not fixed, known, and measurable.<sup>21</sup> The Commission’s denial of the proposed adjustment resulted in a grossed-up decrease to the annual revenue requirement of \$10,026,163.<sup>22</sup> Specifically, the Commission held:

In light of those actual LSE OATT charges from January 2025 through December 2025, which come from Kentucky Power’s own income statement, the Commission is not able to find that Kentucky Power met its burden of establishing a known and measurable change to its LSE OATT expense that justifies its proposed pro forma

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<sup>17</sup> *Id.* at 63.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 74-87.

<sup>21</sup> *Id.* at 83-84, 85.

<sup>22</sup> *Id.* at 87.

adjustment, and therefore, finds that the proposed pro forma adjustment to LSE OATT expense should be denied.<sup>23</sup>

In short, the Commission held that the proposed pro forma adjustment to LSE OATT expense was neither fixed, known, nor measurable because Kentucky Power's actual 2025 LSE OATT expenses, through December 2025, turned out to be less than the proposed adjustment.<sup>24</sup>

**D. Rate Case Expense.**

The Commission's Order reduces the amount of rate case expense authorized for recovery by the difference between the amount of rate case expense that the Company estimated it would incur in this proceeding (\$1,393,500) and the amount it actually paid for rate case services through the end of December 2025 (\$894,386).<sup>25</sup> Amortizing this difference of \$499,114 over three years results in a reduction of \$167,106 to the Company's proposed revenue requirement.<sup>26</sup> The Commission found that this reduction was reasonable "because it represents the most recent actual spending for rate case expenses."<sup>27</sup>

**E. Recovery of Big Sandy Capital Expenses Through The Generation Rider.**

The Commission's Order appears to approve the Generation Rider, including the related provisions in the Settlement Agreement. The Order expressly recognizes that the Settlement Agreement "establishes a mechanism for Kentucky Power to recover capital investments made at the Big Sandy and Mitchell plants after May 31, 2025."<sup>28</sup> The Order then modifies the return on equity ("ROE") applicable to costs recovered through the Generation Rider.<sup>29</sup> The ordering

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<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 84.

<sup>25</sup> *Id.* at 89.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 164 (emphasis added).

<sup>29</sup> *Id.* at 167-168.

paragraphs of the Order then state that “Kentucky Power’s Settlement Agreement shall be approved with modifications as set out herein.”<sup>30</sup> The Order does not modify that portion of the Settlement Agreement that allows for recovery of capital investments made at the Big Sandy Plant after May 31, 2025, but it does not definitively state whether those costs may be recovered through the Generation Rider.

**V. THE COMMISSION SHOULD GRANT REHEARING ON EACH OF THE IDENTIFIED ISSUES, WHICH AFFECT BOTH CUSTOMERS AND THE COMPANY’S FINANCIAL HEALTH.**

The Commission’s Order reflects a denial of approximately \$15 million in annual O&M expenses related to the five issues discussed in this Motion.<sup>31</sup> However, as explained in more detail below, the actual net effect of the Commission’s Order as calculated by Kentucky Power appears to be to deprive Kentucky Power of the ability to recover an additional approximately \$3 million in annual O&M expense,<sup>32</sup> the cost of financing the Company’s historical vegetation management investments, and nearly \$17 million in prudent vegetation management expenditures actually incurred and capitalized from the end of the test-year through the date of the Order.

Moreover, the Commission’s Order is estimated to produce, and thus give Kentucky Power the opportunity to earn, a return of only approximately 7.8%, which is nearly 200 basis points below the return of 9.75% deemed reasonable and ordered by the Commission itself in the Order. This is before the potential write-off the Company may have to take if it is unable to recover roughly \$17 million in vegetation management investments incurred and capitalized since the end of the test-year. Given the record evidence showing that, at a 9.75% authorized ROE, Kentucky Power has been unable since its last rate case order in January 2024 to earn more than 5%, and that

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<sup>30</sup> *Id.* at 207-208, ordering paragraph 3.

<sup>31</sup> *See id.* at 91.

<sup>32</sup> *See* **EXHIBIT 1**, attached hereto.

the Company's earned ROE for the 12 months ended May 31, 2025, was 3.93%,<sup>33</sup> reducing the Company's authorized earnings opportunity by more than 2% renders the Commission's Order unlawful and unreasonable and produces confiscatory rates.<sup>34</sup> Rehearing must be granted to address the issues identified herein and sufficiently cure the unreasonable and unlawful Order.

**A. Vegetation Management Programs, Including TOR And TIR.**

The Commission took several unreasonable and unlawful actions with respect to the Company's vegetation management programs, both prospectively and retroactively, that will negatively impact Kentucky Power and its customers. The Commission's decisions with respect to the TOR Program have far greater effect than the Commission's estimated net increase to the annual revenue requirement of approximately \$500,000. The Company summarizes the actual effects of the Commission's holdings with respect to vegetation management below:

- The reclassification of TOR expenditures from capital to expense means that customers would pay more annually for the Company to do less vegetation management.
- The reclassification of TOR expenditures from capital to expense means that the Company must drastically reduce TOR Program spending, which includes the elimination of 110 skilled contractor jobs in eastern Kentucky, and will lead to worse reliability outcomes.
- The removal of TOR capitalized expenses from rate base to a 30-year regulatory asset, without carrying costs, harms the Company economically by depriving the Company of the return it was, until now, entitled to recover on significant investments made to improve customer reliability.
- The Commission's Order did not address capitalized TIR expenditures, which leaves the Company without guidance as to whether to continue capitalizing eligible TIR expenditures going forward. If the Commission intended to require the Company to expense those previously-capitalized expenditures, then the Order also unreasonably failed to authorize a level of such expense in base rates.

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<sup>33</sup> See Newcomb Direct Testimony at 8 and Figure JDN-1.

<sup>34</sup> See *Kentucky Power Co. v. Energy Regulatory Commission of Kentucky*, 623 S.W.2d 904 (Ky. 1981); *South Central Bell Telephone Co. v. Utility Regulatory Com'n*, 637 S.W.2d 649 (Ky. 1982).

- The Commission did not account for, or otherwise allow recovery of, the TOR and TIR expenditures actually incurred and capitalized from the end of the test year through the date of the Order, which, if unaddressed, will significantly impact the Company's financial health.
- The Commission ordered capital TOR expenditures to be reclassified as an expense only to FERC Account 571,<sup>35</sup> which is a transmission account.

Kentucky Power estimates that the net effect of the Commission's holdings with respect to the TIR and TOR Programs is that Kentucky Power is left without the ability to recover approximately \$17 million in prudent TOR and TIR expenditures actually incurred and capitalized since the end of the test-year, as well as an approximate \$6.3 million shortfall in the annual revenue requirement actually needed to accomplish the Commission's vegetation management holdings and properly account for TIR capital expenditures as shown in **EXHIBIT 1**.

It is imperative to Kentucky Power's financial health, reliability outcomes, and customer rate impacts and satisfaction, that the Commission grant rehearing to reconsider its decision to reclassify TOR Program expenditures from capital to expense. The Company explains the imperatives for doing so herein below.

Alternatively, if the Commission is disinclined to reconsider its reclassification of TOR expenditures to expense, then Kentucky Power respectfully requests the Commission instead take important steps to mitigate the significant negative impacts resulting from those holdings, as explained in more detail below.

If rehearing is not granted and/or the impacts of the Commission's holdings are not adequately addressed and mitigated, then Kentucky Power will likely be forced to immediately file another rate case or risk substantial harm to its financial health, and by extension, its ability to provide adequate, safe, and reliable service to customers.

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<sup>35</sup> Kentucky Power believes the Commission intended to order reclassification to FERC Account 593.

**1. *The Commission Should Reconsider its Decision to Reclassify TOR Expenditures as Operating Expense Because Capitalization of those Costs Unequivocally Benefits Customers.***

As an initial matter, the Company respectfully requests that the Commission reconsider its decision ordering Kentucky Power to reclassify TOR Program expenditures from capital to O&M going forward, and the Commission's associated removal of the existing capitalized amounts from rate base retroactively. The Commission can do so for ratemaking purposes under its plenary ratemaking authority. Capitalizing TOR costs for ratemaking purposes rather than treating them as O&M unequivocally benefits customers, while allowing Kentucky Power greater ability to make significant TOR investments that improves reliability and customer satisfaction.

From an operational perspective, the Order effectively sets the Company's ongoing budget for the TOR Program at \$7.2 million per year. By now treating these costs as expenses, Kentucky Power cannot make incremental investments beyond the amount reflected in base rates without inflicting financial harm on itself. This means the Company will be forced to reduce its planned TOR Program spending by roughly \$11 million in 2026, and \$18 million in 2027 and 2028, respectively. This would limit the Company's ability to make improvements to reduce outages from trees outside the Company's right-of-way, which continues to be the number one cause of customer outages. Treating these items as expense also subjects them to potential reallocation if the Company experiences an unexpected increase in storm activity for which it is not granted deferral authority (non-major storms), or if there is an increase in necessary reactionary customer work. Conversely, if the TOR investment continued to be capitalized for ratemaking purposes, the Company would move forward with the investment plan detailed in this case, which would result in the significant reliability benefits detailed in Company Witness Ross's Direct Testimony and at hearing.

This change also negatively affects customers from a rates perspective. Classifying these expenditures as expense results in a dollar-for-dollar correlation between the amount actually collected in rates and the amount of work that can be performed. Accordingly, if Kentucky Power spends \$7.2 million per year on TOR that is classified as O&M, then ratepayers pay \$7.2 million annually in rates to recover that \$7.2 million spent. Conversely, if TOR expenditures are classified as capital, then customers pay only a fraction of the amount spent on TOR through the annual revenue requirement. This is because the amounts are capitalized and amortized over the life of the plant. Specifically, TOR capital generally has a 30-year depreciable life, such that customers only pay 1/30 of the investment plus a return at the Company's weighted average cost of capital each year.<sup>36</sup> Applying these principles, the approximately \$7.2 million of TOR O&M the Commission approved in the Order produces a much smaller annual revenue requirement of approximately \$933,000 if capitalized for ratemaking purposes.

Thus, by switching the ratemaking treatment from capitalization to expense, on a going-forward basis, the Company must perform at least \$11 million less in TOR work (\$7.24 million instead of \$18 million) while customers will pay greater than \$6 million more annually (\$7.24 million in O&M instead of \$933,000 in capital revenue requirement). Interestingly, the Commission appeared concerned about approving the \$18 million TOR budget for 2026 and \$25 million budget for 2027, because it would "run the risk of spending more than double the previous average annual expense,"<sup>37</sup> but the solution required by the Order results in a higher rate impact.

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<sup>36</sup> See Adjustment W50.

<sup>37</sup> Order at 47.

Although the Order purports that the reclassification of TOR expenditures to O&M is required by recent FERC guidance,<sup>38</sup> the Company submits that the Commission has plenary ratemaking authority<sup>39</sup> to continue to treat TOR expenditures as capital for ratemaking purposes. As such, the Company encourages the Commission to exercise this authority to continue capital ratemaking treatment of its TOR Program regardless of the FERC accounting treatment because customers get more “bang for their buck” by allowing the capital ratemaking treatment as demonstrated above. Otherwise, as mentioned above, customers would now be paying more annually for less vegetation management work.

For the reasons explained above, continuing to capitalize TOR expenditures would benefit customers and allow the Company to make significantly greater investment in the much-needed, and proven-to-be-effective, TOR Program at a far lesser annual cost to customers than that ordered by the Commission.

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<sup>38</sup> *Id.* at 39-40, citing *Pacific Gas and Electric Company*, 189 FERC P 31021, 2024 WL 4778014 (Oct. 8, 2024). Kentucky Power also is aware that on March 19, 2026, FERC issued guidance in its Audit Report in Docket No. FA24-2-000 to Kentucky Power affiliate, Southwestern Electric Power Company (“SWEPCO”), that was consistent with the Commission’s findings in the Order with respect to capitalization of vegetation management costs. *See* Letter Order to Southwestern Electric Power Company issuing Audit Report covering the period of 01/01/2021 through 12/31/2025 under FA24-2, Docket FA24-2-000 (FERC, March 19, 2026). In its filed response to the Audit Report, SWEPCO stated, “AEPSC accepts this finding and the related recommendations but maintains that its capitalization of the disputed vegetation costs was appropriate from both an accounting and ratemaking perspective. The capitalized vegetation management costs extend the lives and improve the efficiency of the transmission and distribution assets to which they relate. SWEPCO’s capitalization of these costs also has resulted in lower historical customer rates than otherwise would have been charged had these costs been expensed. AEPSC clarifies that the statement at pages 2 and 19 that SWEPCO ‘overbilled transmission customers’ is not accurate with respect to its capitalization practices generally; rather, that statement relates only to sub-issue (3), which identified the inadvertent double-counting of certain costs.”

<sup>39</sup> *See* KRS 278.030, KRS 278.040, *Kentucky Public Service Com'n v. Commonwealth ex rel. Conway*, 324 S.W.3d 373, 380 (Ky. 2010); *see also* KRS 278.220.

**2. *In the Alternative, the Commission Should Make at Least Three Important Corrections to the Order to Prevent Significant Financial Harm to Kentucky Power.***

The Commission ordered that previous TOR investments made only through the end of the test-year should be removed from rate base and recovered instead through a regulatory asset to be amortized over a 30-year period, without carrying costs. If the Commission is disinclined to continue to treat TOR expenditures as capital for ratemaking purposes for the reasons set forth above, then the Company respectfully urges that at least three corrections be made to the Commission's Order so as not to significantly financially harm the Company.

First, in order to avoid Kentucky Power potentially having to take a \$17 million write-off in 2026, the Commission should grant immediate rehearing to clarify that Kentucky Power has, at a minimum, the ability to defer the TOR capital investments made after the test-year through February 2026. The Commission failed to take into account that Kentucky Power actually spent \$18 million on the TOR Program since the end of the test year, and not knowing the Commission would order the reclassification of such expenditures to expense, the Company continued its historical practice of capitalizing those expenditures. In other words, those amounts were actually spent and then capitalized and included in Kentucky Power's plant-in-service. The Order, however, instructs Kentucky Power to recover through a regulatory asset only the amount of TOR investment incurred and included in rate base only through the end of the test-year. The Order did not address any of the TOR capital investment made after the end of the test year, specifically the \$18 million in TOR expenditures Kentucky Power testified that it would actually spend through the end of 2025, and the additional investments actually made through the end of February 2026, before the Order was issued.

In order to cure this issue, the Company requests that the Commission grant immediate rehearing and order that the Company is allowed to defer the capital investments made from June

1, 2025, through February 28, 2026, for future review and recovery in the Company's next base rate case. The Company respectfully requests that such relief be ordered by **no later than Monday, April 6, 2026**, so it can be reflected in Kentucky Power's first quarter 2026 financial statements. This will allow Kentucky Power to avoid a potential \$17 million write-off that would have significant impacts on the Company's financial metrics.

Regulatory asset treatment of these amounts is appropriate. Traditionally, the Commission has exercised its discretion to approve a regulatory asset upon demonstration that the expenses to be deferred fall into one of four categories:

(1) an extraordinary nonrecurring expenses which could not have reasonably been anticipated or included in the utility's planning; (2) an expense resulting from a statutory or administrative directive; (3) an expense in relation to an industry sponsored initiative; or (4) an extraordinary nonrecurring expense that over time will result in a savings that fully offsets the costs.<sup>40</sup>

The Commission's directive to reclassify capitalized vegetation management expenditures as expense is clearly an administrative directive, and the creation of the regulatory asset comprised of the vegetation management capital expenditures incurred and capitalized from June 1, 2025 through February 28, 2026, would respond to that directive. It also would be no different than the Commission's removal of capitalized TOR expense contained in rate base through May 31, 2025, for recovery through a regulatory asset, which the Commission already considered appropriate. The Commission's reclassification of capitalized vegetation management expenditures could also be considered an industry sponsored initiative, in light of the previously-referenced recent FERC guidance on this issue, which the Commission relied on to support the reclassification. Thus, if the Commission does not reconsider its decision to reclassify these capital expenditures as expense

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<sup>40</sup> *In The Matter Of: The Application of East Kentucky Power Cooperative, Inc. For An Order Approving Accounting Practices To Establish A Regulatory Asset Related To Certain Replacement Power Costs Resulting From Generation Forced Outages*, Case No. 2008-00436 at 4 (Ky. P.S.C. December 23, 2012).

for ratemaking purposes as requested by the Company, then regulatory asset treatment would also be appropriate.

Second, the Order explicitly prohibits Kentucky Power from recovering carrying costs on the amounts removed from rate base to be collected instead through the regulatory asset. The Commission's Order fails to account for the fact that Kentucky Power otherwise would have been able to recover a return on the amounts capitalized and included in rate base.

The prohibition on recovering any carrying costs, on at least \$46 million of costs prudently incurred to provide customers with electric service for over 30 years is plainly unreasonable and unlawful. It does not comport with the Commission's indication that "Kentucky Power should not be penalized by losing the principal balance of the capitalized amount as of the end of the test year of 18 C.F.R. §101, Electric Plant Instructions No. 8(A) prior to the Pacific Gas and Electric Company decision."<sup>41</sup> Nor is it constitutional. Left uncured, the Commission's removal of at least \$46 million of capital expense from rate base, combined with its deprivation of carrying costs, constitutes an unlawful taking without just compensation in violation of Section 13 of the Kentucky Constitution and the Takings Clause of the Fifth Amendment to the United States Constitution, which provide: "[N]or shall any man's property be taken or applied to public use without the consent of his representatives, and without just compensation being previously made to him."

At the very least, if the Commission determines it is more appropriate to treat the TOR Program as an expense moving forward, the Company requests that the Commission apply this determination as effective from March 1, 2026 prospectively. This would allow the Company to continue to keep the capital placed in-service through February 28, 2026 in rate base, which would

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<sup>41</sup> Order at 42.

avoid the potential write-off referenced above and eliminate the need for the request for deferral accounting authority also discussed above.

Finally, while the Commission expressly directed TOR to be treated as expense rather than capital, it was silent about the treatment of the portions of TIR that are capitalized. While a majority of the TIR work is expensed, there are certain portions (related to larger vegetation) that are, and have been, capitalized. While Kentucky Power maintains that the capitalized TIR should remain in rate base for the same reasons that TOR should remain in rate base, if the Commission intended for capitalized TIR to also be expensed, the Commission failed to provide a corresponding increase in expense in the Order. This unreasonably deprives the Company of the appropriate funding to continue certain meaningful portions of its regular TIR trim cycle. To resolve this issue, the Commission should grant rehearing and increase the O&M expense by approximately \$6.3 million.

**B. The Order's Reduction in the Company's Compensation Expense is Unreasonable and Unlawful.**

As part of the Settlement Agreement, Kentucky Power made meaningful concessions with respect to its compensation expense, which were negotiated as part of a comprehensive financial package mutually beneficial to the Company and customers alike. The Commission's Order in this case, however, upends that careful balance with material changes to compensation expense that is both unreasonable and unlawful. The Commission should grant rehearing and approve the incentive compensation concessions set forth in the Settlement Agreement by permitting recovery of "Other" pay expenses related to standard salaried compensation and non-financially based incentive compensation that allows Kentucky Power to offer competitive compensation so that it can retain the specialized knowledge necessary to provide safe and reliable service to its customers.

1. ***The Commission’s Removal of “Other” Compensation from the Company’s Compensation Expense Conflicts with the Commission’s Past Practice and is Inconsistent with its Treatment of Other Utilities.***

The Commission’s finding that denied recovery of \$7,286,925 in “Other” compensation paid to its employees during the test year<sup>42</sup> is arbitrary, conflicts with the Commission’s approval of payroll expense for Kentucky Power employees<sup>43</sup> and the test-year level of AEPSC bill expense (of which “Other” compensation is already a component),<sup>44</sup> unreasonably runs counter to nearly a decade of precedent, and is inconsistent with the Commission’s treatment of other utilities.

As an initial matter, the Commission’s Order relies upon the Company’s response to Staff’s First Request for Information, Item 41, to support the Company’s alleged lack of specificity. Item 41 is a standard data request from the Commission included in its first data requests that are propounded to all utilities before the utility files its application. Item 41 provides, in relevant part:

41. Provide, in the format provided in Schedule K, the following information for Kentucky Power’s compensation and benefits, for the three most recent calendar years and the test year. Provide the information individually for each corporate officer and by category for Directors, Managers, Supervisors, Exempt, Non-Exempt, Union, and Non-Union Hourly. Provide the amounts, in gross dollars, separately for total company operations and jurisdictional operations.

[...]

g. Other amounts paid and reported on the employees’ W-2 (specify).

The Commission’s reliance on the Company’s data response to support its payroll expense disallowance is misplaced because Item 41 sought different information than the level of payroll

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<sup>42</sup> *Id.* at 63.

<sup>43</sup> *Id.* at Appendix A, Table 5 (Line Item W31); Application, Section V, Exhibit 2 at 32 of 64; KPSC 1\_55\_ Attachment 1\_Ciborek WP1.

<sup>44</sup> Application, Section II, Exhibit T (detailing the test year level of expense incorporated in the Company’s requested revenue requirements set forth in Section V, Exhibit 1).

expense included in the Company's requested revenue requirement in this case and approved by the Commission as earlier discussed.

Moreover, the "Other" compensation disallowance is unreasonably inconsistent with prior precedent. It has long been established that "radical departure from (past) administrative interpretation consistently followed cannot be made except for the most cogent reasons."<sup>45</sup> The Order, however, makes exactly such a departure. While the number of the request has changed from case to case, the Commission has propounded exactly the same data request as Item 41 since at least 2017. In its prior three rate cases, Kentucky Power responded to this request just as it did in this case.<sup>46</sup> In each case, the information provided by the Company was sufficient for the Commission to include "Other" compensation expense in its revenue requirement.<sup>47</sup> Moreover, other utilities in the Commonwealth have provided the same level of detail to the Commission's

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<sup>45</sup> *S. Cent. Bell Tel. Co. v. Pub. Serv. Comm'n*, 702 S.W.2d 447, 451 (Ky. App. 1985).

<sup>46</sup> *In the Matter of: Electronic Application of Kentucky Power Company for (1) a General Adjustment of its Rates for Electric Service; (2) Approval of Tariffs and Riders; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; (4) a Securitization Financing Order; and (5) All Other Required Approvals and Relief*, Case No. 2023-00159 ("2023 Rate Case"), Attachment 1 to the Company's response to Commission Staff Data Request 1-33; *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. 2020-00147 ("2020 Rate Case"), Attachment 1 to the Company's response to Commission Staff Data Request 2-33; *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 or Liabilities; and (5) an Order Granting All Other Required Approvals and Relief*, Case No. 2017-00179 ("2017 Rate Case"), Attachment 1 to the Company's response to Commission Staff Data Request 1-68.

<sup>47</sup> See Order, 2023 Rate Case, (Ky. P.S.C. Jan. 19, 2024); Order, 2020 Rate Case, (Ky. P.S.C. Jan. 13, 2021); Order, 2017 Rate Case, (Ky. P.S.C. Jan. 18, 2018).

data request regarding “Other” compensation,<sup>48</sup> and the Commission has not denied recovery of their “Other” compensation expenses.<sup>49</sup>

The Commission has not provided a cogent reason for departing from a nearly-decade’s long practice of accepting the specificity of “Other” compensation information provided in this case. Had the Commission provided notice that the level of specificity it accepted for nearly a decade was no longer sufficient, Kentucky Power would have provided additional information to support the “Other” compensation amounts. The Company’s test-year “Other” compensation payroll data is substantially comprised of time entry codes other than “regular.” This includes paid vacation time (“T/L-SAL-VACATION (SVC)” and “T/L-VACATION (VAC)”), holiday time (“T/L-SAL-HOLIDAY (SHL)” and “T/L Holiday (HOL)”), sick time (“T/L-SAL-SICK (SSK)” and “T/L-SICK-SCK”), personal days off (“T/L-PERSONAL DAY OFF (PDO)” and “T/L-SAL-PERSONAL DAY OFF (SPD)”), and FMLA-related time. The costs included in the Company’s “Other” compensation amounts are fundamentally a part of salaried compensation.

Kentucky Power respectfully requests rehearing on the issue of “Other” compensation so that the Commission may review evidence, beyond what had historically been sufficient, supporting recovery of the Company’s “Other” compensation expense. As noted above, the Commission’s approval of test-year payroll expense already included approval of these amounts, which are part of employee’s salaried compensation, as reasonable. Nonetheless, the Company

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<sup>48</sup> *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 (“2024 Duke Rate Case”), Response to Commission Staff Data Request 1-41; *In the Matter of: Electronic Application of East Kentucky Power Cooperative, Inc. for a General Adjustment of Rates, Approval of Depreciation Study, Amortization of Certain Regulatory Assets, and Other General Relief*, Case No. 2021-00103 (“2021 EKPC Rate Case”), Response to Commission Staff Data Request 1-33.

<sup>49</sup> See Order, 2024 Duke Rate Case, (Ky. P.S.C. Oct. 2, 2025); Order, 2021 EKPC Rate Case, (Ky. P.S.C. Sept. 30, 2021).

stands ready to provide additional support for these expenses in the rehearing proceeding if the Commission requires more detail.

**2. *The Commission's Removal of All Incentive Compensation Expense is Unreasonable and not Supported by the Record.***

Incentive compensation is integral to the Company's market-competitive total compensation package. Without incentive compensation, the total compensation for many positions would fall below the market-competitive range.<sup>50</sup> Put another way, without incentive compensation, Kentucky Power would need to increase salaries and hourly wages to maintain the market-competitive total compensation package necessary to attract and retain key employees. As described by Company Witness Carlin, incentive compensation provides benefits to customers:

The Company's Incentive Compensation is part of a competitive Total Compensation package, costing no more than providing market-competitive compensation with Base Pay alone. Incentive Compensation also helps maintain higher levels of employee and Company performance than would be achieved using Base Pay alone. It does this by linking a portion of employees' total compensation opportunity to performance without increasing the Company's compensation expense.<sup>51</sup>

Despite the importance of incentive compensation to the Company's market-competitive total compensation package and the benefits to customers that tying a portion of the total compensation package to performance provides, the Company agreed in the Settlement Agreement to remove from its revenue requirement that portion of the compensation expense relating to financial metrics.<sup>52</sup> The Commission, however, removed an additional \$2,168,551 in compensation expense for incentive compensation tied to non-financial metrics, in particular

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<sup>50</sup> Direct Testimony of Company Witness Andrew R. Carlin ("Carlin Direct Testimony") at 33-34, Figures ARC-5 through ARC-8, and Exhibits ARC

<sup>51</sup> Carlin Direct Testimony at 34 (emphasis added).

<sup>52</sup> See Settlement Agreement at Section 2.D.i.

reliability.<sup>53</sup> The Commission asserts that incentive compensation tied to reliability should be denied because the Company's reliability improvements do not meet the Commission's undefined threshold to provide benefits to customers.

As an initial matter, the record is replete with evidence that because incentive compensation is not an additive to the Company's market-competitive total compensation package, the performance and customer benefit threshold for payment of incentive compensation should be the sole purview of the Company. As detailed by Kentucky Power Witness Carlin, without incentive compensation, the Company would need to increase salary and wages to remain market-competitive, breaking the link between employee performance and total compensation to the detriment of its customers. Additionally, the Commission's reliance on the relative reliability metrics of other investor-owned utilities and "most of the electric cooperatives in the Commonwealth" ignores the well-documented, unique nature of Kentucky Power's service territory.

Additionally, the Commission unreasonably relies upon unfounded comparisons to the reliability metrics of other investor-owned utilities and cooperatives. Kentucky Power's service territory presents unique reliability and operational challenges, primarily related to its terrain and vegetation density that makes comparison to the other investor-owned utilities in the Commonwealth unwarranted.<sup>54</sup> Specifically, Company Witness Ross explained how the unique terrain (mountains with steep, rocky, and heavily-forested hillsides, along with narrow valleys), vegetation density, rainfall and soil topography found in the Company's service territory create operational challenges not experienced by more urban or flat-landed service territories of other

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<sup>53</sup> Order at 63.

<sup>54</sup> Direct Testimony of Company Witness Michele Ross ("Ross Direct Testimony") at 4-6.

investor-owned utilities in the Commonwealth.<sup>55</sup> Thus, comparison to other the investor-owned utilities<sup>56</sup> serves as an unreasonable basis for denying incentive compensation especially when it amounts to below-market compensation.

Similarly, comparing Kentucky Power’s reliability metrics to electric cooperatives, as the Commission did in its Order,<sup>57</sup> also fails to account for the direct correlation between the terrain and vegetation density in the electric cooperative’s service territory. An electric cooperative operating the relatively flat farmland of western Kentucky would not face the same reliability challenges that Kentucky Power faces in the forested mountains of eastern Kentucky. The 2024 annual reliability reports filed in Case No. 2011-00450 by the electric cooperatives that neighbor the Company’s service territory demonstrate the reliability challenges faced by the Company and its success. Additionally, in Case No. 2021-00370, Company Witness Shlatz provided a comparison of peer utilities reliability metrics. The Kentucky electric cooperatives in that peer group included Big Sandy RECC, Grayson RECC, Cumberland Valley Electric, Jackson Energy Cooperative and Licking Valley RECC. The five-year averages for SAIDI and SAIFI for these cooperatives and the Company are shown below.<sup>58</sup>

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<sup>55</sup> *Id.*

<sup>56</sup> *See* Order at 61.

<sup>57</sup> *Id.*

<sup>58</sup> *See In the Matter of: Electric Investigation of the Reliability Measures of Kentucky’s Jurisdictional Electric Distribution Utilities*, Case No. 2011-00450, 2024 Annual Report Filings: Kentucky Power Company (May 1, 2025); Jackson Energy Cooperative (April 22, 2025); Fleming-Mason Energy Cooperative (April 17, 2025); Cumberland Valley Electric, Inc. (March 31, 2025); Grayson RECC (March 31, 2025); Big Sandy RECC (March 12, 2025); Licking Valley RECC (February 17, 2025).

<b>Utility</b>	<b>SAIFI</b>	<b>SAIDI</b>
Licking Valley RECC	1.37594	153.1656
Jackson Energy Cooperative	2.0299	256
Kentucky Power	2.034	405.55
Cumberland Valley Electric, Inc.	2.046	237.98
Grayson RECC	2.39	333.4
Big Sandy RECC	3.75	524.54

Contrary to the Commission’s rationale for denying the non-financially based incentive compensation, Kentucky Power’s metrics compare favorably with the electric cooperatives neighboring its service territory that are faced with similar terrain and vegetation challenges.<sup>59</sup>

Kentucky Power hears the concerns from customers regarding reliability and strove to engage in a comprehensive vegetation management program to provide for its customers the reliable electric service they deserve. The Commission’s reliance on reliability metrics to deny non-financially based incentive compensation runs counter to the Commission’s treatment in the Order of the Company’s TOR Program in which it effectively denied the Company’s ability to make additional investments in its TOR Program and in turn prevents the Company from proactively addressing the single largest cause of system disruptions.<sup>60</sup> The analysis also ignores the significant improvements that have been made to the Company’s reliability metrics since the beginning of the Company’s comprehensive vegetation management plan, described by Company Witness Ross’s testimony.<sup>61</sup>

Because the Commission’s reliance on vague and undefined thresholds for demonstrating customer benefits to deny all of the Company’s incentive compensation expense is unreasonable,

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<sup>59</sup> Order at 61.

<sup>60</sup> Hearing Testimony of Company Witness Michele Ross (Ross Hearing Testimony”) at Hearing Vol. II, 624-626; Ross Direct Testimony at 9-10.

<sup>61</sup> Ross Direct Testimony at 8-9.

Kentucky Power requests rehearing on recovery of its incentive compensation expense related to non-financial metrics.

**C. PJM LSE OATT Expense Adjustment.**

The Commission's denial of the proposed pro forma adjustment to LSE OATT expense has the effect of arbitrarily using the Company's actual, calendar year 2025 expenses as a benchmark to set prospective base rates. The Commission's Order unreasonably makes unsupported assumptions that the Company's LSE OATT costs will remain the same as or decrease from test-year expenses in order to justify the denial of the proposed pro forma adjustment.<sup>62</sup> There is no evidence of record to support the Commission's assumptions. In fact, the Company's expected 2026 LSE OATT costs, based on 2026 rates in effect, have increased over 2025 expenses such that the amount currently approved by the Commission to be recovered through base rates (the test-year amount) is already estimated to result in a recovery deficiency of approximately \$11 million.<sup>63</sup> This fact directly rebuts the Commission's suppositions that underpinned the adjustment denial. As such, as the Company explained in responses to the Commission's second set of post-hearing data requests,<sup>64</sup> denying the proposed LSE OATT expense adjustment because it does not equal 2025 actual expenses, when those expenses are already out of date and new FERC-approved rates are known, is not reasonable. Had the Commission approved the proposed pro forma adjustment, then base rates would be sufficient, or much closer to sufficient, to collect Kentucky Power's actual incurred LSE OATT expenses to date. Instead, the denial has the effect of immediately preventing Kentucky Power from recovering

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<sup>62</sup> See Order at 83-85.

<sup>63</sup> Kentucky Power stands ready to provide additional evidentiary support on this issue if rehearing is granted.

<sup>64</sup> See Company's responses to Staff PHDR 2-2, 2-3, 2-4, and 2-5.

its actual LSE OATT costs, which then further threatens the Company's ability to provide safe and reliable service and earn its authorized ROE.

Moreover, the Commission's denial of the proposed pro forma adjustment again unreasonably denies, or traps, recovery of actual transmission costs deemed reasonable and recoverable by the Federal Energy Regulatory Commission ("FERC"), the agency with exclusive jurisdiction over those costs. The Franklin Circuit Court recently struck down the very same practice by the Commission in Kentucky Power's last base rate case, where the Commission, as here, approved test-year LSE OATT expenses but denied the Company's proposed pro forma adjustment.<sup>65</sup> In that appeal, the Franklin Circuit Court held that "[w]holesale transmission costs are FERC-regulated and, because of this, the Commission does not have the jurisdiction to unilaterally reduce the level of Transmission Expense that Kentucky Power may recover from customers."<sup>66</sup> The Court correctly recognized that "Transmission Expense is a FERC-jurisdictional cost and its reasonableness is not subject to the Commission's jurisdiction. Once approved by FERC, Transmission Expense cannot be reduced or disallowed by the Commission under the Supremacy Clause of the United States Constitution."<sup>67</sup>

The Commission's denial of the proposed pro forma adjustment here is no different. Whatever the Commission's reasoning for the denial, FERC still maintains exclusive jurisdiction over these costs, and the Commission cannot take any action that has the effect of preventing Kentucky Power from recovering them.<sup>68</sup> The Order has that prohibited effect.

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<sup>65</sup> See Order, *Ky. Power Co. v. Pub. Serv. Comm'n*, No. 24-CI-00160 (Franklin Cir. Ct. Jan. 22, 2025); Order at 4, *Ky. Power Co. v. Pub. Serv. Comm'n*, No. 25-CI-00310 (Franklin Cir. Ct. Sept. 15, 2025).

<sup>66</sup> Order at 8, *Ky. Power Co. v. Pub. Serv. Comm'n*, No. 24-CI-00160 (Franklin Cir. Ct. Jan. 22, 2025).

<sup>67</sup> *Id.*

<sup>68</sup> *Nantahala Power and Light Co. v. Thornburg*, 476 U.S. 953 (1986); *Miss. P. & L. Co. v. Miss. ex rel. Moore*, 487 U.S. 354 (1988).

For these reasons, and the reasons stated in the Company's Application and its responses to Commission Staff's second set of post-hearing data requests, the Commission should grant rehearing and approve Kentucky Power's proposed pro forma adjustment for LSE OATT expenses (Adjustment W16).

**D. The Order's Reduction in the Company's Rate Case Expense Unreasonably Prevents the Company from Recovering its Actual Rate Case Costs.**

The costs identified in the Company's February 2, 2026 supplemental response to Commission Staff Data Request 1-14, upon which the Commission relied to reduce the rate case expense, do not represent the most recent actual costs incurred by the Company. The February 2, 2026 supplemental response to Staff Data Request 1-14 instead provides the amount paid for rate case-related services by the Company through the end of December 2025. There is a timing lag between when the Company's service providers provide rate case-related services, when those services are billed to the Company, and when the invoices are paid by the Company. The amounts identified in the Company's February 2, 2026 filing do not include rate case-related services provided in December 2025, January 2026, or February 2026, and therefore understate the Company's actual rate case expenses. This understatement is especially pronounced here because the months of December 2025, January 2026, and February 2026 included preparation for the evidentiary hearing, participation in the evidentiary hearing, responding to two rounds of post-hearing data requests, and drafting post-hearing briefs.

Kentucky Power filed on March 20, 2026 a further supplemental response to Commission Staff Data Request 1-14 updating the actual rate case expense to reflect the amounts paid for rate case-related expenses incurred in December 2025, January 2026, and February 2026. The updated, actual costs paid by Kentucky Power for rate case-related expenses is \$1,206,219. This update results in a difference between estimated rate case expense (\$1,393,500) and actual rate case

expense of \$187,281. Amortized over three years the difference is \$62,427 and increases annual amortization of rate case expense by \$179,512, instead of \$74,830 as prescribed in the Order.

Kentucky Power respectfully requests rehearing to update the actual costs incurred for rate case-related expense and the annual amortization of rate case expense.

#### **E. Generation Rider**

For the reasons discussed in Section IV.E., Kentucky Power requests that the Commission grant rehearing to confirm and make clear that the Company is approved to recover those Big Sandy amounts through the Generation Rider as detailed in the Settlement Agreement, as that aspect of the Settlement Agreement was not otherwise modified by the Order.

### **VI. CONCLUSION**

The Company respectfully asserts that rehearing is warranted on each of the issues discussed herein and requests the following relief with respect to each of them:

1. Grant rehearing to:

(a) allow the Company to continue its practice of classifying TOR expenditures and certain TIR expenditures as capital for ratemaking purposes; or

(b) in the alternative, (i) grant immediate rehearing and **issue an order on or before April 6, 2026**, allowing the Company to defer the vegetation management capital investments made from June 1, 2025, through February 28, 2026, for future review and recovery in the Company's next base rate case in order to avoid a potential \$17 million write-off that would significantly harm the Company's financial metrics; (ii) allow Kentucky Power to recover carrying costs on the regulatory asset(s) comprised of capitalized vegetation management expenditures previously contained in rate base, in an amount appropriate to make Kentucky Power whole had those amounts continued to be

included in rate base; and (iii) properly account for capitalized TIR expenditures in the allowed level of ongoing vegetation management O&M expense in base rates.

2. Grant rehearing and approve recovery of the Company's test-year incentive compensation expense not otherwise reduced by the Settlement Agreement and "Other" compensation expense.

3. Grant rehearing and approve the Company's proposed LSE OATT expense adjustment (W16) as fixed, known, measurable, and reasonable.

4. Grant rehearing and approve the Company's updated actual rate case expense incurred through February 28, 2026, as recoverable, and increase annual amortization of rate case expense by \$179,512.

5. Grant rehearing to clarify and confirm that the Company is approved to recover capital investments made at the Big Sandy Plant after May 31, 2025, through the Generation Rider as detailed in the Settlement Agreement.

The rehearing process is appropriate to address each of these issues. The Company requests and appreciates the Commission's further consideration of them.

Respectfully submitted,



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COMPANY

**EXHIBIT 1**

Revenue Requirement Summary - TIR, TOR, and Storms/Other Distribution Overhead Line Costs  
 Kentucky Power Company  
 Case No. 2025-00257

Description	Per Book	Allocator	KY Juris Per Book	Adjustments (per Section V, Sch 5)	KY Juris	Final Order Adjustments	February 2026 Order	Adjustment	March 2026 Rehearing Request
<b>FERC Account 593 - Maintenance of Overhead Lines (Distribution)</b>									
Major Storm Expense	(215,408)	1.00	(215,408)	215,408	0	2,000,000	2,000,000	-	2,000,000
Major Storm Expense Deferral Amortization	-	1.00	-	-	-	-	-	-	-
TIR	28,985,358	1.00	28,985,358	(6,159,962)	22,825,396	-	22,825,396	2,717,378	1,8 25,542,774
TIR Deferral Amortization (2018-May 25 Costs)	-	1.00	-	-	-	-	-	567,461	1,7 567,461
Other (Minor Storms, Trouble, etc.)	908,088	1.00	908,088	798,811	1,706,899	(608,698)	1,098,201	-	1,098,201
<b>Subtotal TIR, Storms, Other</b>	<b>29,678,038</b>		<b>29,678,038</b>	<b>(5,145,742)</b>	<b>24,532,295</b>	<b>1,391,302</b>	<b>25,923,597</b>	<b>3,284,840</b>	<b>29,208,437</b>
TOR	-	-	-	-	-	7,209,925	7,209,925	620	1,5 7,210,545
TOR Deferral Amortization (2018-May 25 Costs)	-	-	-	-	-	1,552,183	1,552,183	43,382	1,2 1,595,565
<b>Subtotal TOR</b>	<b>-</b>		<b>-</b>	<b>-</b>	<b>-</b>	<b>8,762,108</b>	<b>8,762,108</b>	<b>44,002</b>	<b>8,806,110</b>
<b>Total Expense</b>	<b>29,678,038</b>		<b>29,678,038</b>	<b>(5,145,742)</b>	<b>24,532,295</b>	<b>10,153,410</b>	<b>34,685,705</b>	<b>3,328,841</b>	<b>38,014,547</b>

Description	Per Book	Allocator	KY Juris Per Book	Adjustments (per Section V, Sch 5)	KY Juris	Final Order Adjustments	February 2026 Order	Adjustment	March 2026 Rehearing Request
<b>Distribution Vegetation Management Rate Base</b>									
TOR Gross Plant in Service - FERC Plant Accts 364 & 365	50,521,249	1.00	50,521,249	18,000,000	68,521,249	(72,178,819)	(3,657,570)	3,657,570	2 -
Accumulated Depreciation	(6,363,643)	1.00	(6,363,643)	-	(6,363,643)	7,613,333	1,249,690	(1,249,690)	2 -
Net Plant in Service	44,157,607		44,157,607	18,000,000	62,157,607	(64,565,486)	(2,407,879)	2,407,879	-
CWIP	3,709,345	1.00	3,709,345	-	3,709,345	-	3,709,345	(3,709,345)	2 -
Net Plant	47,866,951		47,866,951	18,000,000	65,866,951	(64,565,486)	1,301,465	(1,301,465)	-
ADIT - Plant in Service	(1,019,550)	1.00	(1,019,550)	-	(1,019,550)	-	(1,019,550)	1,019,550	3 -
<b>Subtotal TOR Rate Base</b>	<b>46,847,401</b>		<b>46,847,401</b>	<b>18,000,000</b>	<b>64,847,401</b>	<b>(64,565,486)</b>	<b>281,915</b>	<b>(281,915)</b>	<b>-</b>
TIR Gross Plant in Service - FERC Plant Accts 364 & 365	19,648,715	1.00	19,648,715	-	19,648,715	-	19,648,715	(19,648,715)	7 -
Accumulated Depreciation	(2,624,881)	1.00	(2,624,881)	-	(2,624,881)	-	(2,624,881)	2,624,881	7 -
Net Plant in Service	17,023,834		17,023,834	-	17,023,834	-	17,023,834	(17,023,834)	-
CWIP	-	1.00	-	-	-	-	-	-	7 -
Net Plant	17,023,834		17,023,834	-	17,023,834	-	17,023,834	(17,023,834)	-
ADIT - Plant in Service	(502,916)	1.00	(502,916)	-	(502,916)	-	(502,916)	502,916	7 -
<b>Subtotal TIR Rate Base</b>	<b>16,520,917</b>		<b>16,520,917</b>	<b>-</b>	<b>16,520,917</b>	<b>-</b>	<b>16,520,917</b>	<b>(16,520,917)</b>	<b>-</b>
TOR Regulatory Asset (2018-May 25 Costs)	-	1.00	-	-	-	-	-	47,866,951	4 47,866,951
TIR Regulatory Asset (2018-May 25 Costs)	-	1.00	-	-	-	-	-	17,023,834	7 17,023,834
ADIT - TOR Regulatory Asset (2018-May 25 Costs)	-	1.00	-	-	-	-	-	(10,052,060)	4 (10,052,060)
ADIT - TIR Regulatory Asset (2018-May 25 Costs)	-	-	-	-	-	-	-	(3,575,005)	7 (3,575,005)
<b>Subtotal - Regulatory Assets - Other Rate Base</b>	<b>-</b>		<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>51,263,720</b>	<b>51,263,720</b>
<b>Total Rate Base</b>	<b>63,368,318</b>		<b>63,368,318</b>	<b>18,000,000</b>	<b>81,368,318</b>	<b>(64,565,486)</b>	<b>16,802,832</b>	<b>34,460,887</b>	<b>51,263,720</b>

Description	Per Book	Allocator	KY Juris Per Book	Adjustments (per Section V, Sch 5)	KY Juris	Final Order Adjustments	February 2026 Order	Adjustment	March 2026 Rehearing Request
<b>Distribution Vegetation Management Revenue Requirement</b>									
WACC (After-Tax)	7.46%		7.46%	7.46%	7.46%		7.46%	7.46%	7.46%
Return on Rate Base (After-Tax)	4,727,277		4,727,277	1,342,800	6,070,077		1,253,491	2,570,782	3,824,274
Gross Revenue Conversion Factor	1.338493		1.338493	1.338493	1.338493		1.338493	1.338493	1.338493
<b>Revenue Requirement - Rate Base</b>	<b>6,327,427</b>		<b>6,327,427</b>	<b>1,797,328</b>	<b>8,124,755</b>	<b>(6,602,630)</b>	<b>1,677,789</b>	<b>3,440,974</b>	<b>5,118,763</b>
TOR Depreciation Expense - FERC Plant Acct 364	1,424,837	1.00	1,424,837	-	1,424,837	-	1,424,837	(1,424,837)	2 -
TOR Depreciation Expense - FERC Plant Acct 365	194,841	1.00	194,841	585,000	779,841	(2,345,812)	(1,565,971)	1,565,971	2 -
TIR Depreciation Expense - FERC Plant Acct 364	93,554	1.00	93,554	-	93,554	-	93,554	(93,554)	7 -
TIR Depreciation Expense - FERC Plant Acct 365	543,567	1.00	543,567	-	543,567	-	543,567	(543,567)	7 -
FERC Account 593 O&M Expense	29,678,038		29,678,038	(5,145,742)	24,532,295	10,153,410	34,685,705	3,328,841	38,014,547
<b>Subtotal Expense</b>	<b>31,934,837</b>		<b>31,934,837</b>	<b>(4,560,742)</b>	<b>27,374,094</b>	<b>7,807,598</b>	<b>35,181,692</b>	<b>2,832,854</b>	<b>38,014,547</b>
Gross Revenue Conversion Factor	1.004437		1.004437	1.004437	1.004437	1.004437	1.004437	1.004437	1.004437
<b>Revenue Requirement - Expense</b>	<b>32,076,532</b>		<b>32,076,532</b>	<b>(4,580,979)</b>	<b>27,495,553</b>	<b>7,842,240</b>	<b>35,337,793</b>	<b>2,845,424</b>	<b>38,183,217</b>
<b>Total Revenue Requirement</b>	<b>38,403,958</b>		<b>38,403,958</b>	<b>(2,783,650)</b>	<b>35,620,308</b>	<b>1,239,610</b>	<b>37,015,583</b>	<b>6,286,398</b>	<b>43,301,981</b>

Proposed/Approved Depreciation Rate - FERC Plant Acct 364 3.20%  
 Proposed/Approved Depreciation Rate - FERC Plant Acct 365 3.25%

**Adjustment - Rehearing Request**

- TOR: Distribution function FERC Account 593 (not Transmission function FERC Account 571)
- TOR: MR-5 based on additions to CWIP. Depreciation should be computed based on timing of additions to Plant in Service. Corrections to calculation of depreciation expense, accumulated depreciation, NBV through May 2025 (TOR Deferral) required. Also, update needed to level of TOR deferral amortization expense in cost of service.
- TOR: Remove ADIT associated with TOR Plant in Service from ratemaking
- TOR: Through base rates, recover carrying cost on TOR Deferral net of related ADIT as of TYE (WACC)
- TOR: Set ongoing-level of annual expense based on 7-year average of actual plant in service [2018-2024].
- TOR: Authority to defer costs incurred June 2025 - Feb 2026 (including CWIP) for future recovery. In next base case, principal to be included in rate base, and recovery of principal over 30 years to be included in revenue requirement. No impact to revenue requirement resulting from this case.
- TIR: Capitalized cost since 2018 to follow ratemaking treatment for TOR
- TIR: Set ongoing-level of annual expense based on 7-year average of actual plant in service [2018-2024].
- TIR: Authority to defer costs incurred June 2025 - Feb 2026 (including CWIP) for future recovery. In next base case, principal to be included in rate base, and recovery of principal over 30 years to be included in revenue requirement. No impact to revenue requirement resulting from this case.