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. 2025-000257**
(3) Approval Of Certain Regulatory And Accounting	)	
Treatments; and (4) All Other Required Approvals	)	
And Relief	)	

DIRECT TESTIMONY

AND EXHIBITS

OF

LANE KOLLEN

ON BEHALF OF THE
OFFICE OF THE ATTORNEY GENERAL OF THE COMMONWEALTH OF KENTUCKY
AND KENTUCKY INDUSTRIAL UTILITY CUSTOMERS

J. KENNEDY AND ASSOCIATES, INC.
ROSWELL, GEORGIA

NOVEMBER 17, 2025

COMMONWEALTH OF KENTUCKY

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DIRECT TESTIMONY OF LANE KOLLEN

I. QUALIFICATIONS AND SUMMARY

Q. State your name and business address.

A. My name is Lane Kollen. My business address is J. Kennedy and Associates, Inc. (Kennedy and Associates), 570 Colonial Park Drive, Suite 305, Roswell, Georgia 30075.

Q. What is your occupation and by whom are you employed?

A. I am a utility rate and planning consultant and am the President and a Principal of Kennedy and Associates.

Q. Describe your education and professional experience.

A. I earned a Bachelor of Business Administration (BBA) degree in accounting and a Master of Business Administration (MBA) degree from the University of Toledo. I also earned a Master of Arts (MA) degree in theology from Luther Rice University. I am a Certified Public Accountant (CPA), with a practice license, Certified

Management Accountant (CMA), and Chartered Global Management Accountant (CGMA). I am a member of numerous professional organizations, including the Society of Depreciation Professionals.

I have been an active participant in the utility industry for more than forty years, as a consultant in the industry since 1983, an employee of The Toledo Edison Company in various accounting, auditing, and planning positions from 1976 to 1983, and an employee of an underground cable installation contractor from 1974 to 1976.

I have testified as an expert witness on several hundred occasions in proceedings before regulatory commissions and courts at the federal and state levels. I have addressed ratemaking, accounting, finance, tax, restructuring, mergers and acquisitions, system planning, resource acquisition, and distribution system performance issues.

I have testified before the Kentucky Public Service Commission (Commission) on several dozen occasions in base rate (electric, gas, and water), environmental surcharge, fuel adjustment clause, resource acquisition, and merger and acquisition proceedings involving Kentucky Power Company (Company or KPC), Duke Energy Kentucky, Inc. (DEK), East Kentucky Power Cooperative, Inc. (EKPC), Kentucky Utilities Company (KU), Louisville Gas and Electric Company (LG&E), Big Rivers Electric Corporation (BREC), Atmos Energy Corporation (Atmos), Columbia Gas of

Kentucky, Inc. (Columbia), Kentucky-American Water Company (KAW), and Water Service Corporation of Kentucky (WSCK).[1]

Q. On whose behalf are you testifying?

A. I am testifying on behalf of the Office of the Attorney General of the Commonwealth of Kentucky (AG) and Kentucky Industrial Utility Customers, Inc. The AG and KIUC (AG-KIUC) have been active participants in all significant KPC rate, planning, and certification proceedings for many years.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to summarize the adjustments to the Company's requested base revenue rider revenues increases recommended by AG-KIUC witnesses, address specific issues and recommend adjustments to the requested base and rider revenue increases, quantify the effects on the Company's claimed base and rider revenue requirements and requested revenue increases of AG-KIUC witness Richard Baudino's recommended return on equity, address the Company's proposed new Generation Rider (Tariff G.R.) to recover the Mitchell Plant non-environmental capital costs, address the Company's proposed modifications to Tariff F.T.C. to allow recovery of the regulatory asset associated with a net operating loss carryforward (NOLC) deferred tax asset (DTA) and a deficient NOLC DTA authorized by the Commission in Case 2023-00159, address the Company's proposal to discontinue the

[1] I provide additional detail on my qualifications and a list of my expert testimonies in Exhibit LK-1.

accrual of a regulatory liability equivalent to the regulatory asset associated with the NOLC DTA and deficient NOLC DTA, and address the Company's proposal to set its storm expense to $0 in the revenue requirement and defer actual storm expenses incurred for future securitization financing and rider recovery.

Q. Please summarize your testimony.

A. I recommend the Commission approve a base revenue increase of no more than $52.603 million, a reduction of at least $22.667 million from the Company's requested increase of $75.270 million. I recommend the Commission approve an initial revenue requirement of no more than $18.516 million for recovery through the proposed Tariff G.R., a reduction of at least $1.773 million from the Company's requested revenue requirement and rate increase of $20.289 million. These recommendations reflect the adjustments addressed by AG-KIUC witnesses as summarized and shown on the following table.[2]

[2] The calculations of the amounts shown on the table are detailed in an Excel workbook in live format and with all formulas intact filed along with my Direct Testimony.

Kentucky Power Company Revenue Requirement
Summary of AG and KIUC Recommendations
Case No. 2025-00257
For the Test Year Ended May 31, 2025
($ Millions)

	Amount	AG-KIUC Witness
Base Rate Increase Requested by Company	**75.270**	
Increase Due to New Generation Rider Requested by Company - Without ELG Investment	**20.289**	
Total Increase Requested by Company	**95.558**	
AG and KIUC Rate Base Issues		
Subtract Vendor Supplied Fuel Inventory	(0.914)	Kollen
Subtract Vendor Supplied Materials & Supplies Inventory	(0.207)	Kollen
Reduce Deferred Tax Asset Federal NOL ADIT	(4.110)	Kollen
Reduce Asset Deficient Federal NOL ADIT	(0.885)	Kollen
Remove Post-Test Year Capital Increase to TOR Vegetation Management	(1.646)	Futral
AG and KIUC Operating Income Issues		
Exclude Incentive Compensation Expense Tied to Financial Performance	(1.842)	Futral
Exclude SERP Expense	(0.144)	Futral
Exclude 401(k) Matching Expense for Employees Who Also Participate in Defined Pension Plan	(1.943)	Futral
Correct Property Tax Expense	(0.320)	Futral
Defer Pension Settlement Accounting Expenses for AEPSC Employees and Amortize Over 12 Years	(0.985)	Futral
Remove Depreciation Expense - Capital Increase for TOR Vegetation Management	(0.588)	Futral
Reduce Depreciation Expense to Remove Terminal Net Salvage - Big Sandy	(1.011)	Kollen
Reduce Depreciation Expense to Remove Interim Retirements and Interim Net Salvage - Big Sandy	(0.779)	Kollen
Reduce Depreciation Expense to Remove Interim Retirements and Interim Net Salvage - Mitchell	(2.793)	Kollen
Reduce Depreciation Expense Removal to Recover in Generation Rider - Mitchell	1.190	Kollen
Remove EEI and Kentucky Chamber of Commerce Dues	(0.113)	Futral
AG and KIUC Cost of Capital Issues		
Correct Small Error of 0.0004% in the Short-Term Debt Rate	(0.075)	Futral
Reduce Return on Equity from 10.0% to 9.5%	(5.502)	Baudino
Total AG and KIUC Adjustments to KPCo Base Rate Request	**(22.667)**	
Maximum Base Rate Increase After AG and KIUC Adjustments	**52.603**	
Adjustments to Generation Rider - Without ELG Investment		
Remove Recovery of Property Tax Expense - To Be Recovered Through Base Rates	(0.195)	Kollen
Reduce Depreciation Expense to Remove Interim Retirements and Interim Net Salvage - Mitchell	(1.185)	Kollen
Reduce Return on Equity from 10.0% to 9.5%	(0.393)	Baudino
Total AG and KIUC Adjustments to KPCo Generation Rider Rate Request	**(1.773)**	
Maximum Generation Rider Rate Increase After AG and KIUC Adjustments	**18.516**	
Maximum Base Rate and Generation Rider Increases After AG and KIUC Adjustments	**71.118**	

Although it is not shown on the preceding table, the Company's calculations of the NOLC DTA and deficient NOLC DTA are overstated and inconsistent with the calculation methodology described by Company witness Linda Schlessman in Case 2023-00159, which both the settlement agreement and Commission Order in that proceeding referenced. In the event the Commission allows the NOLC DTA and deficient NOLC DTA in rate base and the amortization of the deficient NOLC DTA in operating expenses, then I recommend it correct all three amounts to limit the adjustments to the amounts necessary to avoid a normalization violation using the calculation methodology described by Company witness Linda Schlessman in Case 2023-00159. These corrections also affect the regulatory asset and equivalent regulatory liability related to the two NOLC DTA amounts authorized in Case 2023-00159.

I recommend the Commission approve the Company's proposed new Tariff G.R. to recover the Mitchell Plant non-environmental capital costs. Relocating the costs and the recovery from base revenues to Tariff G.R. will facilitate the use of securitization financing and the related financing order rider recovery at a future date. In addition, Tariff G.R. will facilitate the recovery of the $60.4 million in non-ELG costs the Company will incur if the Commission approves the requests in the pending CPCN proceeding, Case 2025-00175.

I recommend the Commission deny the Company's proposed modification to Tariff F.T.C. to recover a regulatory asset associated with the NOLC DTA and its request to discontinue accruing the regulatory liability authorized by the Commission in Case 2023-00159. The Company has not yet received a Private Letter Ruling (PLR) from the Internal Revenue Service (IRS). In addition, the Company's regulatory asset related to the deferred return on the NOLC DTA and the NOLC DTA is overstated and inconsistent with the calculation methodology described by Company witness Linda Schlessman in Case 2023-00159, which both the settlement agreement and Commission Order in that proceeding referenced.

I recommend the Commission approve the Company's request to recover $0 for storm expense and to defer the actual expenses incurred to a regulatory asset to facilitate the use of securitization financing at a future date.

II. RATE BASE ISSUES

A. Cost-Free Vendor Financing Should Be Subtracted From Rate Base

Q. Describe the fuel/allowance inventories included by the Company in rate base.

A. The Company included $68.140 million in fuel/allowance inventories in rate base.[3]

Q. Describe the non-fuel materials and supplies (M&S) inventories included by the Company in rate base.

A. The Company included $21.816 million in non-fuel M&S inventories in rate base.[4]

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[3] SCH 4, line 234.
[4] *Id.*, lines 235-238.

Q. Are these fuel/allowance and non-fuel M&S inventories financed solely by equity and debt investors?

A. No. A portion of the inventories are financed temporarily by vendors in the form of accounts payable. This vendor financing is cost free and displaces the need for equity and debt investor financing of these inventories. As the Company consumes and reduces the fuel/allowance and non-fuel M&S inventories, it purchases, replenishes, and increases those inventories. As the Company pays vendor invoices when due and reduces the payables, it accrues new payables for the purchases of the replacement inventories. This process continuously repeats itself.

Q. Did the Company subtract the cost-free vendor financing from rate base?

A. No. The Company incorrectly assumed the entirety of these inventories were financed by equity and debt investors and that it incurred the related financing costs. To the contrary, vendors provided cost-free financing for $9.996 million of the fuel/allowance inventories and $2.262 million of the non-fuel M&S inventories included in rate base.[5]

Q. Has the Commission subtracted cost-free vendor financing from rate base in other recent base revenue proceedings?

A. Yes. The Commission subtracted cost-free vendor financing in the Company's prior base rate proceeding, Case 2023-00159; the three most recent Duke Energy Kentucky

[5] Responses to AG-KIUC 1-82 for the fuel/allowance inventories and AG-KIUC 1-83 for the non-fuel M&S inventories. I have attached a copy of the response to AG-KIUC 1-82 as Exhibit LK-2 and a copy of the response to AG-KIUC 1-83 as Exhibit LK-3.

electric and gas base rate proceedings, Cases 2021-00190, 2022-00372, and 2024-00354; and the most recent Atmos base rate proceeding, Case 2024-00276.

Q. What is your recommendation?

A. I recommend the Commission subtract the cost-free vendor financing for these inventories from rate base necessary to correctly reflect the financing costs incurred by debt and equity investor financing.

Q. What are the effects of your recommendation?

A. The effects are a reduction of $0.914 million in the revenue requirement and requested increase for the fuel/allowance cost-free vendor financing and a reduction of $0.207 million in the revenue requirement and requested increase for the non-fuel M&S cost-free vendor financing.

B. <u>NOLC DTA And Deficient NOLC DTA Should Not Be Added To Rate Base At This Time And, If They Are Added, Then Should Be Corrected And Reduced To Reflect The Methodology Described By Company Witness Schlessman In Case 2023-00159</u>

Q. Describe the Company's adjustments to include an NOLC DTA as an addition to rate base, include a deficient NOLC DTA as a reduction to the excess deferred income taxes (EDIT) subtracted from rate base, and reflect the amortization of the deficient NOLC DTA as a reduction to the protected EDIT amortization reflected in Tariff F.T.C.

A. The Company's request consists of three separate proforma adjustments, which are described by Company witness David Hodgson, the first two of which increase rate base and increase the base revenue requirement in this proceeding and the third of which will reduce the negative amortization expense for the EDIT reflected in Tariff F.T.C. and will increase the Tariff F.T.C. revenue requirement (a reduction to the EDIT refunds reflected in that tariff).[6]

The Company included $44.950 million for an NOLC DTA as a proforma addition to rate base,[7] reflected as an increase to account 190 DTA, and $9.675 million for a deficient NOLC DTA as another proforma addition to rate base, reflected as a reduction to account 282 protected EDIT accumulated deferred income tax liability (DTL).[8] The Company quantified a $0.414 million reduction in the negative amortization expense for the EDIT reflected in Tariff F.T.C.; this amount is a tax amount and will be grossed-up to $0.549 million revenue equivalent if the Commission approves the Company's request.

These NOLC-related adjustments are predicated on a hypothetical so-called "standalone" calculation of the Company's taxable income and losses that would have occurred historically and resulted in an NOLC DTA and a deficient NOLC DTA assuming the Company had not received payments from AEP to offset and reduce these amounts to $0 pursuant to the AEP Tax Allocation Agreement (TAA). The payments from AEP historically have been and will continue to be recorded by the

[6] Direct Testimony of David Hodgson at 10-11.
[7] Section V, Exhibit 3 at 15.
[8] *Id.* 16.

Company as a reduction to account 236 income taxes payable and/or as a reduction to account 190 accumulated deferred income taxes for per books accounting purposes.

Witness Hodgson states the adjustment to add the NOLC DTA to rate base "represents the amount of ADIT associated with accelerated tax depreciation for which the Company has not received an interest-free loan from the federal government. This adjustment reflects the ADIT associated with the taxable losses the Company has generated in excess of the taxable income it has generated and been able to offset based on the NOLC and carryback provisions of the Internal Revenue Code."[9] Witness Hodgson states further in response to AG-KIUC discovery that the Company used a "with and without" methodology as described in the various AEP requests for PLR to determine the portion of the NOLC DTA and deficient NOLC DTA caused by tax depreciation in excess of book depreciation in each tax year.[10]

Witness Hodgson states the adjustment to add the deficient NOLC DTA to rate base "reduces the Excess ADIT balance to account for a NOLC DTA calculated on a stand-alone basis. This adjustment takes into account the NOLC DTA in the calculation of Excess ADIT available to be amortized thereby increasing the rate base as reflected in Figure DAH-1 and Section V, Exhibit 3."

If the requested proforma adjustments are added to rate base, the Company will not record an increase to account 190 for an NOLC DTA for per books accounting

[9] Direct Testimony of David Hodgson at 11.
[10] Response to AG-KIUC 2-30. I have attached a copy of this response as Exhibit LK-4.

purposes,[11] but will record reductions to the regulatory liability for EDIT recorded in account 253 and the related DTA recorded in account 190 to reflect the reduction for the deficient NOLC DTA for per books accounting purposes.

Witness Hodgson claims the proforma NOLC DTA addition to rate base and the deficient NOLC reduction to the EDIT subtracted from rate base, are required in order to comply with the "requirements of section 168(i)(9) of the Internal Revenue Code, Treasury Regulation § 1.167(l)-1(h), and section 13001 of the TCJA ("Normalization Rules")."

Q. Describe briefly the origin of the Company's three NOLC-related adjustments requested in this proceeding.

A. The Company is a member of a group of affiliated companies owned by AEP and included in the AEP federal consolidated tax return. As a member of the affiliate group, the Company also is a party to the TAA.[12] Pursuant to the TAA, AEP identifies each affiliate company each tax year as either a taxable income or a taxable loss company. The TAA requires the taxable income companies to pay AEP for their federal income tax liability calculated on a separate tax return basis. The taxable loss

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[11] If the Commission allows the Company's proposed proforma adjustment to rate base for the NOLC DTA, the Company plans to record an NOLC DTA to an account 190 subaccount and an equivalent negative NOLC DTA to another account 190 subaccount, the sum of which will net to $0, according to its response to AG-KIUC 1-71. In subsequent rate proceedings, the Company will include the positive amount in the one subaccount in rate base, but will not include the negative amount in the other subaccount, which it states will be treated as a "non-utility" account, also according to its response to AG-KIUC 1-71. I have attached a copy of the response as Exhibit LK-5.

[12] Response to AG-KIUC 1-56, Attachment 1, which is a copy of the TAA. I have attached a copy of this response as Exhibit LK-6.

companies receive payments from AEP for the tax effects of their taxable losses. The sum of the payments to AEP by the taxable income companies less the sum of the payments by AEP to the taxable loss companies equals the AEP consolidated income tax liability in each tax year. The payments by AEP to the taxable loss companies have no effect on and do not increase or reduce the payments to AEP by the taxable income companies.

The Company has alternated between a "taxable loss" company in some prior tax years and a taxable income company in other prior tax years. In the "taxable loss" years, the Company received payments from AEP pursuant to the TAA that reimbursed the Company for the federal tax effects of those taxable losses because AEP was able to use those losses in the consolidated tax return to reduce its consolidated federal tax liability. None of the taxable income companies made payments to the taxable loss companies; there is no credible argument that the taxable income companies subsidize or have subsidized the taxable loss companies or that the Company was subsidized in the taxable loss years or subsidized other taxable loss companies in the taxable income years.

In the taxable loss years, the Company did not record or report an NOLC DTA or a deficient NOLC DTA in compliance with generally accepted accounting principles (GAAP) and the FERC Uniform System of Accounts (USOA) for accounting and reporting purposes. Nor did the Company include an NOLC DTA or a deficient NOLC DTA as an addition to rate base because these amounts did not exist for book accounting purposes after they were extinguished by the AEP payments to the Company in those tax years. Nor were the costs financed by investors in any manner. The payments reduced the costs that otherwise would have been financed by investors due to the inability to realize or "monetize" the savings from tax depreciation in excess of book depreciation or any other causes of the taxable losses in any tax year.

In Case 2023-00159, the Company claimed to have newly "discovered" two potential normalization violations that would occur if the Commission did not upend decades of accounting and ratemaking precedent and include the effects of a hypothetical NOLC DTA and a hypothetical deficient NOLC DTA in rate base and amortization expense that the Company would have recorded if it had not been a party to the TAA and had not received payments from AEP that extinguished the two DTAs.[13]

In Case 2023-00159 and for the first time ever, the Company requested the Commission include an NOLC DTA in rate base despite the fact it did not record an NOLC DTA for book accounting purposes and would not record it for book accounting purposes even if the Commission agreed to its request. In addition, in that proceeding and for the first time ever, the Company requested the Commission direct it to record a deficient NOLC DTA as a reduction to the excess deferred income taxes (EDIT) related to the federal corporate income tax rate reduction from 35% to 21%

[13] Direct Testimony of Linda Schlessman at 20-34 in Case 2023-00159. I have attached a copy of the relevant pages from the Direct Testimony of Witness Schlessman as Exhibit LK-7.

pursuant to the Tax Cuts and Jobs Act (TCJA) enacted into law in late 2017. If the Commission agreed to its request, the Company stated it would record the deficient NOLC DTA and the amortization expense for accounting purposes as well as for ratemaking purposes as a reduction to the regulatory liability for the refund of the EDIT pursuant to the TCJA.

On behalf of the AG-KIUC, I strongly opposed the Company's NOLC-related requests in Case 2023-00159. I argued that the Company had no NOLC DTA and no deficient NOLC DTA on its accounting books and for financial reporting purposes pursuant to GAAP and FERC USOA requirements, both of which were audited by external auditors. I argued that the NOLC DTA and deficient NOLC DTA were hypothetical costs that would be recognized solely for ratemaking purposes, costs that the Company did not incur because of the payments received from AEP pursuant to the TAA and recorded for book accounting purposes. I argued that these hypothetical costs should not be included in rate base because they were not financed by investors or any other party. I also argued these hypothetical costs were not paid by AEP or the taxable income companies paid because the Company's taxable loss did not affect the payments from the taxable income companies to AEP. I argued that the payments to the taxable loss companies, including the Company, simply reflected the savings those losses made possible in the AEP consolidated federal income tax liability. I argued that the normalization rules did not require the Company's requested accounting or ratemaking treatment. I argued the AEP payments pursuant to the TAA correctly extinguished the NOLC DTA and deficient NOLC DTA that otherwise would have been recorded for accounting purposes.

Although I opposed the Company's requests in Case 2023-00159, I agreed with Company witness Schlessman that only the portion of the NOLC DTA and deficient NOLC DTA related to the tax depreciation in excess of book depreciation in any vintage tax year would be necessary to add to rate base to avoid a normalization violation, if, in fact, the IRS affirmed the Company's position. In her Direct Testimony in that proceeding, Witness Schlessman described how the Company would determine the limited portion of the NOLC DTA and deficient NOLC DTA related to the tax depreciation in excess of book depreciation.

Q. How did the Commission resolve the Company's requests in Case 2023-00159?

A. The Commission approved a settlement that resolved the Company's requests. In the Order in that proceeding, the Commission stated:

> In the Settlement, the parties agreed that a return on the NOLC ADIT will be excluded from the base rate revenue requirement. That amount would be deferred as a regulatory asset until base rates including the stand-alone NOLC are effective in a future base rate case. Kentucky Power will not accrue a carrying charge on the NOLC regulatory asset or the NOLC regulatory liability. Recovery of the regulatory asset would be contingent on Kentucky Power receiving a PLR from the IRS that affirms Kentucky Power's position regarding the NOLC ADIT. If the PLR indicates it is a normalization violation, Kentucky Power will reverse the NOLC regulatory liability and recover the NOLC regulatory asset, and the NOLC deficient taxes over a three-year period through base rates established in the first base rate case filed after the private letter ruling from the IRS is received.
>
> The Commission finds that it is reasonable to exclude the NOLC ADIT from rate base and defer amortization of the NOLC ADIT to a regulatory asset

with recovery contingent on Kentucky Power receiving a PLR that affirms its position regarding the NOLC ADIT.

Q. Has the Company received a PLR in response to its request to the IRS?

A. No. The Company's request for a PLR is still pending.[14] The Company now requests, contrary to its agreement to support the terms of the settlement in Case 2023-00159, the Commission act in this proceeding to include these hypothetical costs in the base and Tariff F.T.C. revenue requirements based on PLRs received by other AEP utilities regarding similar issues instead of waiting until the IRS responds to its request.

Q. Has there been other activity before the IRS regarding the AEP utility requests for PLR that could influence the outcome of the Company's pending request?

A. Yes. The Louisiana Public Service Commission, which regulates Southwestern Electric Power Company (SWEPCO), and the Oklahoma Corporation Commission, which regulates Public Service Company of Oklahoma (PSO), have filed requests for guidance with the IRS in opposition to the PLRs issued to AEP utilities, asserting that such PLRs are contrary to established law and inconsistent with IRS guidance, precedent, and PLRs issued to other utilities.[15] Those requests for guidance are pending.

Q. What is your recommendation?

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[14] Response to AG-KIUC 1-60. I have attached a copy of this response as Exhibit LK-8.

[15] I provide a copy of the LPSC request as Exhibit LK-9 and a copy of the OCC request as Exhibit LK-10.

A. I recommend the Commission wait until after the Company receives a PLR. The Company's requests to include an NOLC DTA and a deficient NOLC DTA in rate base and the deficient NOLC DTA amortization expense in Tariff F.T.C. in this proceeding are premature. In its haste to ensure these hypothetical costs are reflected in the Company's rates before it receives a response to its request for a PLR, the Company has violated its commitment in the settlement agreement in Case 2023-00159 not to seek to include these costs in rates until after it receives a PLR.

Q. What are the effects of your recommendations?

A. The effects are a reduction of $4.110 million for the NOLC DTA and a reduction of $0.885 million for the deficient NOLC DTA in the base revenue requirement and requested increase in this proceeding. The effects also include a reduction of $0.414 million to the negative EDIT amortization expense, which will be grossed up to a $0.549 million revenue equivalent in Tariff F.T.C.

Q. If the Commission decides to include the NOLC DTA and deficient NOLC DTA costs in the base revenue requirement in this proceeding and authorize recovery of the deficient NOLC DTA amortization expense in Tariff F.T.C., are the Company's amounts correct?

A. No. They are significantly overstated and do not reflect the calculations described by Witness Schlessman in Case 2023-00159 or the so-called "with and without [tax depreciation in excess of book depreciation]" calculations referenced by Witness Hodgson in response to AG-KIUC discovery in this proceeding. Instead, the Company simply included the entirety of the NOLC DTA and the deficient NOLC DTA and related amortization in its calculations of the proforma adjustments to rate base in the base revenue requirement and in the amortization expense in Tariff F.T.C. The Company failed to correctly limit its calculation to the historic annual tax losses comprising the NOLC and reflected in the NOLC DTA and deficient NOLC DTA caused solely by the excess of tax depreciation over book depreciation (the so-called "with and without" approach), the only temporary differences relevant to the claimed normalization violation.

Witness Hodgson states that "Including a NOLC on a stand-alone basis in the calculation of ADIT and Excess ADIT is necessary to comply with the requirements of section 168(i)(9) of the Internal Revenue Code, Treasury Regulation § 1.167(l)-1(h), and section 13001 of the TCJA."[16] That assertion is overly broad and does not accurately state the actual limited requirements of the IRC and related regulations necessary to avoid a normalization violation, to the extent the IRS affirms the Company's position. The requirements of the IRC and related regulations were described by Witness Schlessman in Direct Testimony in Case 2023-00159. More specifically, and only to the extent they apply to the Company given the payments from AEP pursuant to the TAA, Witness Schlessman clearly stated that the normalization rules implicate only the portion of the NOLC caused by tax depreciation

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[16] Direct Testimony of David Hodgson at 10.

in excess of book depreciation. Witness Schlessman stated the following in Direct Testimony in Case 2023-00159:

> The Code and accompanying treasury regulations provide normalization requirements, specifically in three areas: 1) Accelerated depreciation and the associated deferred tax liability that results from its use; 2) NOL Carryforwards ("NOLC") as a result of accelerated depreciation; and 3) Investment Tax Credits ("ITC").[17]

Witness Schlessman provided further detail on the calculation requirements in Direct Testimony in Case 2023-00159. These details are important because they affect the NOLC-related amounts included in rates, if, in fact, the IRS issues a PLR affirming the Company's claim, yet are noticeably lacking in Witness Hodgson's Direct Testimony in this proceeding and are not reflected in the Company's calculations:

> Although neither the Code nor the regulations specifically address the manner in which the NOL should be treated in ratemaking under the normalization rules, the IRS has addressed this issue in several private letter rulings ("PLRs"). PLRs 201436037, 21438003, 201519021, 201534001, 201548017, 201709008, and 202010002, which are attached to my testimony as Exhibits LMS-1 through LMS-7, clarify that a tax calculation ***with and without*** accelerated depreciation is used to determine the amount of the NOLC ADFIT required to be normalized. To the extent that accelerated depreciation creates an NOLC, the NOLC ADFIT must be a component of rate base. This can be reflected in rate base through ADFIT using either one of two methods to adhere to the normalization rules. In the first method, the deferred tax liability that is a result of accelerated depreciation would simply be reduced by the amount of the NOLC ADFIT. In the second method, the full, deferred tax liability is included as a rate base reduction and a separate deferred tax asset in the amount of the NOLC ADFIT is included as a rate base increase. The result of both is the same: the impact on rate base includes the net balance of the ADFIT for accelerated depreciation and

[17] Direct Testimony of Linda Schlessman at 21 in Case 2023-00159. I have provided a copy of the relevant portions of Witness Schlessman's Direct Testimony in Case 2023-00159 as Exhibit LK-11.

the ADFIT for the NOLC. The PLRs uniformly conclude that excluding the NOLC ADFIT would constitute a normalization violation.[18] *(emphasis added).*

Witness Schlessman correctly recognized that the normalization requirements apply only to the portions of the NOLC DTA, deficient NOLC DTA, and the related amortization expense caused by tax depreciation in excess of book depreciation. This distinction is important because it affects the amounts of the NOLC DTA and deficient NOLC DTA that are required to be included in rate base and the related amortization expense. The Company's proposed adjustments incorrectly include the effects of all other income and deductions in the calculations of taxable income and taxable losses in the historic years reflected in the NOLC DTA and the deficient NOLC DTA.

Although not reflected in the Company's quantification of the NOLC DTA proforma adjustment to rate base, Witness Hodgson did acknowledge the actual requirements of the IRC and related regulations in Direct Testimony and responses to AG-KIUC discovery in this proceeding.[19]

Q. Describe the Company's calculations of the NOLCs, NOLC DTAs, and deficient NOLC DTAs in support of its proposed ratemaking adjustments.

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[18] *Id.*, 22-23.

[19] *Id.* "This adjustment represents the amount of ADIT associated with accelerated tax depreciation for which the Company has not received an interest-free loan from the federal government" and response to AG-KIUC 2-30 wherein Witness Hodson states: "Please see the Company's response to AG-KIUC 2-16 for a description of the "with and without" calculation of the NOLC performed by the Company to comply with the normalization rules. To the Company's knowledge, the "with and without" method is the only method approved by the IRS to ensure that the NOLC DTA includes the full amount attributable to accelerated tax depreciation." Refer to Exhibit LK-4 for copy of the response.

A. The Company provided its taxable losses, NOLCs, and the utilization of those NOLCs against taxable income in the historic years reflected in the NOLC DTA and deficient NOLC DTA in the test year in response to AG-KIUC discovery.[20] The Company also provided its tax depreciation and book depreciation in each of those historic years. The following table summarizes the NOLC and utilization effects, as well as the tax depreciation, book depreciation, and excess of tax depreciation over book depreciation on a last dollars deducted basis.[21]

Kentucky Power Company NOLC - Total Company Calculation
Net Operating Loss Schedule - Total Company

	Taxable Income/(Loss)	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	May-25
		(138,371,964)	(11,839,011)	(28,876,901)			(42,427,944)	(44,205,805)		(18,704,943)	(9,161,127)	(18,997,844)
2013 As Filed	21,088,012	16,285,457										
2013 RAR	493,069	493,069										
2014 As Filed	30,249,142	30,249,142										
2014 Amend	51,008	51,008										
2014 RAR	612,080	612,080										
2015 As Filed	(138,371,964)											
2016 As Filed	(11,839,011)											
2017 As Filed	(28,876,901)											
2018 As Filed	10,685,671	10,685,671										
2019 As Filed	2,356,998	2,356,998										
2020 As Filed	(42,427,944)											
2021 As Filed	(36,697,777)											
2021 Amend	(7,508,028)											
2022 Return	33,435,369	33,435,369										
2023 As Filed	(18,704,943)											
2024 Provision	(9,161,127)											
2025 Provision	(18,997,844)											
	(218,416,745)	(44,203,170)	(11,839,011)	(28,876,901)	-	-	(42,427,944)	(44,205,805)	-	(18,704,943)	(9,161,127)	(18,997,844)
Tax Depreciation		92,720,720	109,986,414	76,224,913	65,642,868	49,645,007	58,770,714	71,870,568	83,563,952	94,503,391	87,273,120	36,363,800
Book Depreciation		63,661,696	59,395,718	59,857,250	56,583,660	59,210,732	61,568,585	56,461,147	67,631,058	60,768,032	62,789,540	26,162,308
Tax Depr in Excess of Book Depr		29,059,025	50,590,696	16,367,663	9,059,209	(9,565,726)	(2,797,871)	15,409,421	15,932,894	33,735,359	24,483,580	10,201,492

In the first numeric column, the Company provided the taxable income or taxable loss for each prior tax year. The other columns summarize the Company's calculations of the NOLCs each year, the utilization of the NOLCs from prior tax years

[20] Response to AG-KIUC 1-64, as corrected through a supplemental response dated November 7, 2025. The Company's original response included materially incorrect data for the years 2021-2025. I have attached a copy of the supplemental response was Exhibit LK-12.

[21] *Id.*

(in vintage tax year sequence) when carried forward and used against taxable income in future years.

Q. Did the Company correctly calculate the effects on the NOLCs, NOLC DTAs, and deficient NOLC DTAs caused solely by tax depreciation in excess of book depreciation, the only temporary differences implicated by the normalization rules as explained by Witness Schlessman in Direct Testimony in Case 2023-00159?

A. No. The Company simply asserted and, thus, assumed that the entirety of the NOLCs each year were caused by tax depreciation in excess of book depreciation, despite the fact that assertion/assumption is not correct. The Company knew or should have known that it was incorrect because it has the burden to prove and/or defend its claim to the IRS and to its federal and state regulators and it develops and has the data necessary to perform the correct calculations as described and illustrated by Witness Schlessman in Direct Testimony in Case 2023-00159. When the calculations are corrected to reflect the "with and without" methodology described by Witness Schlessman in the prior proceeding and referenced by Witness Hodgson in this proceeding, the amounts are significantly less than the adjustments requested in this proceeding.

Q. Have you performed a vintage tax year analysis of the NOLC DTA and deficient NOLC DTA for NOLC to correct the Company's calculations of the NOLC-

related amounts to reflect only the amounts that were caused by the excess of tax depreciation over book depreciation?

A. Yes. I started with the Company's analysis reflected in the preceding table, but calculated the NOLCs each year that were caused by tax depreciation in excess of book depreciation using the "with and without" methodology, also referred to as the "last dollars deducted" methodology, consistent with the methodology described by Witness Schlessman in Case 2023-00159. I assumed that the "last dollars deducted" in each vintage year were the "first dollars used" when the NOLCs were used in oldest vintage year first sequence to reduce taxable income in future years. This is a necessary assumption if the subsets of NOLCs caused by tax depreciation in excess of book depreciation in each vintage tax year are going to be tracked to determine the amount of the NOLC DTA and deficient NOLC that must be included in rate base to avoid a normalization violation. To do otherwise would assume not only that the tax deprecation in excess of book depreciation are the last dollars deducted each tax year, but that they are the last dollars utilized in subsequent taxable income tax years. In the Company's hypothetical so-called standalone tax return world, that would be logically inconsistent.

To describe the corrected calculations, I have replicated the preceding table and reflected the corrections in the following table. I provide a description of each correction in the narrative following the table.

Kentucky Power Company NOLC - Total Company Calculation
Net Operating Loss Schedule - Total Company

	Taxable Income/(Loss)	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	May-25	Total DTAs
		(138,371,964)	(11,839,011)	(28,876,901)			(42,427,944)	(44,205,805)		(18,704,943)	(9,161,127)	(18,997,844)	
2013 As Filed	21,088,012	16,285,457											
2013 RAR	493,069	493,069											
2014 As Filed	30,249,142	30,249,142											
2014 Amend	51,008	51,008											
2014 RAR	612,080	612,080											
2015 As Filed	(138,371,964)												
2016 As Filed	(11,839,011)												
2017 As Filed	(28,876,901)												
2018 As Filed	10,685,671	10,685,671											
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2022 Return	33,435,369	33,435,369											
2023 As Filed	(18,704,943)												
2024 Provision	(9,161,127)												
2025 Provision	(18,997,844)												
	(218,416,745)	(44,203,170)	(11,839,011)	(28,876,901)	-	-	(42,427,944)	(44,205,805)	-	(18,704,943)	(9,161,127)	(18,997,844)	
Original NOLC Due to Tax Depr Over Book Depr		29,059,025	11,839,011	16,367,663	-	-	-	15,409,421	-	18,704,943	9,161,127	10,201,492	
Reductions Due to Utilization in Later Tax Years		(29,059,025)	-	-									
Rem NOLC Due to Tax Depr Over Book Depr		-	11,839,011	16,367,663	-	-	-	15,409,421	-	18,704,943	9,161,127	10,201,492	
NOLC DTA Due to Tax Depr Over Book Depr @21%		-	2,486,192	3,437,209	-	-	-	3,235,978	-	3,928,038	1,923,837	2,142,313	17,153,568
Def NOLC DTA Due to Tax Depr Over Book Depr @14%		-	1,657,462	2,291,473	-	-	-	-	-	-	-	-	3,948,934
Less Def NOLC DTA Already Recorded and Adjusted													(1,129,053)
Less Def NOLC DTA Already Amortized													(3,468,165)
Remaining Def NOLC DTA													0

The corrected NOLC caused by tax depreciation in excess of book depreciation for tax year 2015 is $0; thus, the corrected NOLC DTA and deficient NOLC DTA caused by tax depreciation in excess of book depreciation for tax year 2015 are both $0. In 2015, the Company had a taxable loss of $138.372 million. The Company was able to utilize NOLCs from 2013 ($16.285 million plus $0.493 million) and 2014 ($30.249 million plus $0.051 million plus $0.612 million) to reduce the remaining taxable loss and NOLC for 2015 to $90.581 million. In addition, the Company was able to utilize NOLCs from 2015 against taxable income in 2018 ($10.686 million) 2019 ($2.357 million) and 2022 ($33.435 million) to reduce the remaining taxable loss and NOLC for 2015 to $44.203 million. Of the taxable loss of $138.372 million in 2015, only $29.059 million represented tax depreciation in excess of book depreciation, assuming this difference was the last dollar deducted in 2015. The

Company was able to utilize $46.478 million of the NOLC from 2015 in 2018, 2019, and 2022, or all of the $29.059 million on a first dollar used basis caused by tax deprecation in excess of book depreciation on a last dollar deducted basis in 2015. Thus, there is no remaining NOLC ($0) and no remaining NOLC DTA ($0 NOLC times 21%) and no remaining deficient NOLC DTA ($0 times 14%) caused by tax depreciation in excess of book depreciation for 2015.

In 2016, the Company had a taxable loss of $11.839 million. The excess of tax depreciation over book depreciation was $50.591 million, so the entirety of that tax year's taxable loss and the related NOLC DTA and deficient NOLC DTA were caused by the excess of tax deprecation over book depreciation on a last dollar deducted basis. The corrected NOLC DTA related to the $11.839 million is $2.486 million ($11.839 million times 21%) and the corrected deficient NOLC DTA related to the $11.839 million is $1.657 million ($11.839 million times 14%) for 2016.

In 2017, the Company had a taxable loss of $28.877 million. The excess of tax depreciation over book depreciation was $16.368 million. That means that only the NOLC DTA and the deficient NOLC DTA related to the $16.368 million are necessary to include in rate base to avoid a normalization violation. The corrected NOLC DTA related to the $16.368 million is $3.437 million ($16.368 million times 21%) and the corrected deficient NOLC DTA related to the $16.368 million is $2.292 million ($16.368 million times 14%) for 2017.

As noted previously, the NOLC from vintage year 2015 was utilized in the vintage tax years 2018 and 2019, thus reducing the NOLC for vintage year 2015 and reducing taxable income to $0 in vintage years 2018 and 2019. There are no NOLC DTAs for those tax years. There are no deficient NOLC DTAs related to any vintage tax years after 2017 because there were no federal income tax rate changes after 2017.

In 2020, the Company had a taxable loss of $44.428 million. The excess of tax depreciation over book depreciation was negative $2.798 million. That means that none of the NOLC DTA related to the taxable loss that year is necessary to include in rate base to avoid a normalization violation. There is no deficient NOLC DTA related to any vintage tax years after 2017. The corrected NOLC DTA is $0.

In 2021, the Company had a taxable loss of $44.206 million. The excess of tax depreciation over book depreciation was $15.409 million. That means that only the NOLC DTA related to the $15.409 million is necessary to include in rate base to avoid a normalization violation. There is no deficient NOLC DTA related to any vintage tax years after 2017. The corrected NOLC DTA related to the $15.409 million is $3.236 million ($15.409 million times 21%).

As noted previously, the NOLC from vintage year 2015 also was utilized in the vintage tax year 2022, thus reducing the NOLC for vintage year 2015 and reducing taxable income to $0 in vintage year 2022.

In 2023, the Company had a taxable loss of $18.705 million. The excess of tax depreciation over book depreciation was $33.735 million. So the entirety of that tax year's loss was caused by tax depreciation in excess of book depreciation on a last dollar deducted basis. The NOLC DTA related to the $18.705 million is $3.928 million ($18.705 million times 21%).

In 2024, the Company had a taxable loss of $9.161 million; however, this was an estimated tax loss. The estimated tax loss remains subject to revision based on the AEP consolidated tax return filing for tax year 2024 that was due on October 15, 2025. The excess of tax depreciation over book depreciation was $24.484 million, so the entirety of that tax year's estimated loss was caused by those temporary differences on a last dollar deducted basis. The NOLC DTA related to the $9.161 million is $1.924 million ($9.161 million times 21%).

For the five months ending May 2025, the Company had a taxable loss of $18.998 million; however, this was an estimated tax loss and remained subject to revision based on the AEP consolidated tax return filing for entire tax year 2025 on or before October 15, 2026. For the five months ending May 2025, the excess of tax depreciation over book depreciation was $10.201 million, so the entirety of that five-month estimated loss was caused by those temporary differences on a last dollar deducted basis. The NOLC DTA related to the $10.201 million is $2.142 million ($10.201 million times 21%).

Q. What is your recommendation?

A. I recommend the Commission deny the Company's proposed NOLC-related adjustments as previously discussed. However, as an *alternative*, if the Commission allows the adjustments in the base and Tariff F.T.C. revenue requirements, then I recommend the Commission use the *corrected* amounts for all three adjustments.

Q. What are the effects of your alternative recommendation?

A. The effects of my alternative recommendation are a reduction of $3.246 million to the base revenue requirement and a reduction of $0.549 million to the proposed Tariff F.T.C. revenue requirement (restoring the EDIT refunds to the presently authorized amount).[22] The alternative recommendation reflects a $17.154 million NOLC DTA and a $0 deficient NOLC DTA, both correctly limited to the tax depreciation in excess of book depreciation using the "with and without" methodology.

Q. Is there another NOLC-related cost issue that needs to be addressed?

A. Yes. The Commission should make customers whole for harm caused by the NOLC-related revenue recoveries in excess of the Company's actual costs. It is a fact that the NOLC-related adjustments are not costs actually incurred by the Company due to the payments received from AEP pursuant to the TAA. If the Commission allows these costs in the base and Tariff F.T.C. revenue requirements, then customers will be permanently harmed because of the Company's self-identified and self-interested pursuit of the claimed normalization violations without further action by the

[22] The Company calculated the Tariff F.T.C. revenue requirement as $1.960 million without the offset for the proposed amortization of a deficient NOLC DTA and $1.411 million with the proposed amortization of a deficient NOLC DTA. Refer to the Application Section II Exhibit E Redlined Tariff F.T.C.

Commission to ensure this harm is remedied in the future and that customers are made whole for the recoveries resulting from this issue.

Q. How can the Commission address this harm?

A. The Commission can address this harm in a manner that does not invoke yet another claim of a potential normalization violation. The Commission can and should direct the Company to defer the incremental base and Tariff F.T.C. revenue requirement effects, along with a return at the Company's weighted average cost of capital, to a regulatory liability for future refund to customers after the Company's claimed normalization violations are no longer relevant. In the case of the NOLC DTA, the effects can be refunded to customers after the NOLC related to each vintage tax year has been fully utilized. In the case of the deficient NOLC DTA, as noted previously, the effects can be refunded to customers after the deficient NOLC DTA is fully amortized.

III. OPERATING INCOME ISSUES

A. Production Plant Account Depreciation Rates And Expense Are Overstated Because They Reflect *Estimated* Terminal Net Salvage, Contrary to KRS 278.264

Q. Describe the Company's request to recover generating unit terminal net salvage (decommissioning expense) in the requested depreciation rates and expense.

A. The Company has included estimates of future decommissioning costs in the requested depreciation rates and expense for Big Sandy 1 plant accounts. The present depreciation rates for Big Sandy 1 do not include terminal net salvage pursuant to a settlement approved by the Commission in Case 2017-00179.

Company witness John Spanos relied on decommissioning studies for the Big Sandy 1 and Mitchell generating facilities.[23] Witness Spanos then escalated the current dollar estimated cost to a future dollar estimated cost at the probable retirement date for each generating unit using a 2.5% annual escalation rate for this purpose. Witness Spanos divided the decommissioning cost by the gross plant remaining after estimated interim retirements and then weighted the terminal and interim net salvage rates to develop a combined net salvage rate. Witness Spanos then multiplied the combined net salvage rate times the gross plant in each account at the study date and added the resulting net negative salvage to the net plant at the study date to calculate the total cost to be recovered over the average remaining service life of each account for each generating unit.

Although Witness Spanos developed new depreciation rates for the Mitchell plant accounts and included terminal net salvage calculated in the same manner used for Big Sandy 1, the Company does not request any changes to the present Mitchell depreciation rates. The present Mitchell depreciation rates do not include terminal net salvage pursuant to a settlement approved by the Commission in Case 2017-00179. The Company will continue to use the present depreciation rates for the non-environmental costs removed from the base revenue requirement and relocated to the

[23] Direct Testimony of John Spanos at 13 and Attachments 3 and 4 to response to AG-KIUC 1-42. I have attached a copy of the narrative portion of this response as Exhibit LK-13.

proposed Tariff G.R., as well as for the environmental costs presently included in the environmental surcharge (ES).

Q. Has the Commission previously denied recovery of decommissioning expense for another utility?

A. Yes. In its Order in Case 2022-00372, shortly after KRS 278.264 was enacted, the Commission disallowed the decommissioning expense for DEK's thermal (coal, gas, and oil fired) generating unit plant accounts, stating: "The Commission also finds that terminal net salvage should be removed from the depreciation rates due to the requirements of KRS 278.264(2) that the Commission 'shall not . . . take any other action which authorizes or allows for the recovery of costs for the retirement of an electric generating unit…unless the presumption created by this section is rebutted.'"[24] The Commission initially denied recovery of decommissioning expense for the solar generating units as well; however, on rehearing in that case, the Commission allowed recovery of decommissioning expense for the solar generating units, but did so solely on the basis that KRS 278.264 did not apply to the solar generating units. The record in that case was not developed as to other reasons to deny recovery of decommissioning expense on non-thermal generating units until after they were retired.

[24] Case 2022-00372, *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* (Ky. PSC Oct. 12, 2023), Order at 14.

In its Order in Case 2024-00354, the Commission again disallowed the decommissioning expense for DEK's thermal generating unit plant accounts, stating:[25]

> While it is unclear whether the negative terminal net salvage values were specifically considered in adopting KRS 278.264, the Commission is bound by the plain language of the statute. As noted above, that statute expressly prohibits the Commission from "approv[ing] the retirement of an electric generating unit, authoriz[ing] a surcharge for the decommissioning of the unit, or tak[ing] any other action which authorizes or allows for the recovery of costs for the retirement of an electric generating unit, . . . unless the presumption created by this section is rebutted." The decommissioning costs recovered as part of a utility's terminal net salvage value would be costs for the retirement of the unit, and therefore, pursuant to the plain language of the statute, the Commission would be prohibited from taking action to allow the recovery of such costs, unless Duke Kentucky rebutted the presumption against the retirement of the unit. Thus, while there are valid reasons for allowing utilities to recover such costs in certain circumstances as part of the terminal net salvage value for an asset, Duke Kentucky must rebut the KRS 278.264 presumption prior to recovering estimated decommissioning costs for fossil fuel generating plants included in the negative net salvage value calculation.

Q. Has the Commission addressed the decommissioning expense issue for the Company since KRS 278.264 was enacted?

A. No. The Commission issued its Order in Case 2021-00103, the Company's last base rate proceeding, on September 30, 2021, prior to the date KRS 278.264 was enacted.

Q. Does KRS 278.264 preclude recovery of decommissioning expense prior to seeking and obtaining Commission approval to retire a specific thermal generating unit?

A. Yes. The Company has not filed an application to obtain approval to retire a specific

[25] Case 2024-00354. Order dated Oct. 2, 2025 at 40-41 (footnotes omitted).

thermal generating unit pursuant to the requirements set forth in KRS 278.264. As the Commission noted in the DEK Orders previously cited, the statute precludes recovery of decommissioning costs until after the utility files such an application and the Commission approves the retirement of the specific thermal generating unit.

Q. Have any of the Company's witnesses in this proceeding addressed the requirements of KRS 278.264?

A. No.

Q. Even without the KRS 278.264 statutory prohibition against recovery of terminal net salvage for the thermal generating units that have not been approved for retirement, are there reasons why decommissioning expense should not be recovered prior to the retirement of any of the generating units, regardless of whether they are thermal or non-thermal generating units?

A. Yes. The decommissioning cost is inherently not known or measurable. The costs are estimates of costs many years into the future.

In addition, delayed recovery of decommissioning expense promotes intergenerational equity among customers now and in the future. Generating units are retired when they are no longer economic and are replaced with lower cost generation, that generally is more efficient and has lower fuel and non-fuel operating expenses. The cost of decommissioning is thus a transition cost to the newer, more efficient, and lower cost replacement generation and appropriately recovered from the customers who benefit from the new replacement generation.

Q. What is your recommendation?

A. I recommend the Commission deny recovery of the decommissioning expense for the Company's thermal generating units in this proceeding. It is prohibited by statute until after a specific generating is retired; it is unnecessary; it results in a permanent cost penalty to customers; and it results in intergenerational inequity among customers.

Q. What are the effects of your recommendation?

A. The effects are a $1.007 million reduction in Big Sandy 1 depreciation expense and a $1.011 million reduction in the base revenue requirement.[26] The effects also include a reduction in depreciation expense on the plant costs included in the Company's environmental surcharge (Rate ES), although I have not quantified those additional effects.

B. Production Plant Account Depreciation Rates And Expense Are Overstated Because They Reflect Unreasonable *Estimated* Interim Retirements And Interim Net Salvage

Q. Describe the accounting for *actual* interim retirements and *actual* interim net negative salvage and how these costs are reflected in depreciation studies for the production plant accounts, including the depreciation studies developed by Company witness John Spanos for these rate case proceedings.

[26] The Company provided revised depreciation rates excluding estimated terminal net salvage in the response to AG-KIUC 1-43(a). I have attached a copy of the narrative portion of the response as Exhibit LK-14. I used the revised depreciation rates and the proposed depreciation rates to calculate the difference in the depreciation rates and depreciation expense in the test year. The calculations are included in my electronic workpapers filed contemporaneously with my testimony.

A. *Actual* interim retirements are retirements of existing production plant physical components, referred to as "retirement units," that are replaced during the operating lives and prior to the retirement of the production plant remaining at the end of the generating unit's life span. *Actual* interim net negative salvage is the cost of removing the retirement units that are replaced prior to the end of a generating unit's life span less the income from salvaging the retired plant components.

The accounting for *actual* interim retirements is to debit accumulated depreciation and to credit the gross plant, both for the original cost of the retirement unit, thus removing the retired plant cost from gross plant in service, but leaving the net book value as a debit (reduction) to the accumulated depreciation.

The accounting for *actual* interim net negative salvage (where the cost of removal exceeds the salvage income) on the *actual* interim retirements is to debit accumulated depreciation and credit cash and or payables, thus further reducing accumulated depreciation.

In the depreciation study, these *actual* reductions in gross plant and accumulated depreciation allow the remaining net book value of the *actual* interim retirements to continue to be recovered along with the *actual* net negative salvage through the depreciation rates and expense over the remaining average service life of each generating unit.

Q. Describe the *estimated* interim retirements and *estimated* interim net negative salvage and how these costs are reflected in depreciation studies for the

production plant accounts, including the depreciation study developed by Witness Spanos for this base rate proceeding.

A. In addition to the *actual* interim retirements and the *actual* net negative salvage costs actually incurred and included in the depreciation studies, Witness Spanos included *estimated* additional future interim retirements and *estimated* additional net negative salvage in the costs to be recovered over the remaining lives of the production plant assets through the depreciation rates and expense. The *estimated* additional future interim retirements and *estimated* additional net negative salvage are guestimates of future costs from the present to the probable retirement dates of each generating unit, usually decades beyond the end of the test year. In the depreciation studies, Witness Spanos used the *estimated* interim retirements to effectively shorten the average remaining lives for the production plant accounts, which increased the depreciation rates and depreciation expense. In addition, Witness Spanos added the *estimated* future interim net negative salvage to the *actual* net book value of the plant accounts to increase the costs recovered through the depreciation rates, thus further increasing the depreciation rates and expense.

Q. Is there any GAAP accounting requirement to include *estimated* additional future interim retirements and *estimated* additional future interim net negative salvage in depreciation rates and depreciation expense?

A. No. In fact, no entities are allowed to include such estimates in depreciation expense for GAAP accounting purposes, except for rate regulated utilities where such recoveries have been authorized by their regulators. In the case of regulated utilities, GAAP accounting requires that all recoveries of *estimated* interim net negative salvage, and for that matter, *estimated* terminal net salvage, be disaggregated from accumulated depreciation and instead reported as regulatory liabilities. That accounting and reporting recognizes that the costs are collected from customers before they actually are incurred by the utility and until the costs are incurred, the amounts collected are regulatory liabilities, not the recovery of actual plant costs recorded in the plant accounts.

Q. Have the *estimated* retirements or the *estimated* interim net negative salvage been incurred at the depreciation study date?

A. No. This is an important point because the estimated costs are forecasts of future costs that may or may not be incurred and that extend far beyond the end of the test year, and for many generating units, extend decades into the future. These *estimated* future costs are not known and measurable and do not fit within either the historic test year or forecast test year statutory constructs in Kentucky, which technically do not allow *estimated* costs beyond the end of the test year that have not yet been incurred and that are not known and measurable.

This also is an important point because the *actual* interim retirements and actual interim net negative salvage are included in every depreciation study, thus ensuring timely recovery of all costs *actually* incurred to date. Ultimately, all of the *actual* costs incurred, to the extent they are prudent and reasonable, will be recovered from customers through the ratemaking process, albeit on a brief delay depending on the timing of the depreciation studies. It isn't necessary to guesstimate and prematurely recover *estimated* future costs from customers that are not actually known and measurable and have not yet actually been incurred prior to the test year.

Q. Is it reasonable to include the *estimated* interim retirements and *estimated* interim net negative salvage in depreciation rates?

A. No. First, it is unreasonable to unnecessarily and prematurely recover costs that have not yet been incurred, which results in an ongoing cycle of excessive depreciation rates, excessive depreciation expense, and excessive rates to customers.

Second, the Company will recover the net book value of the *actual* interim retirements and the related *actual* net negative salvage through depreciation rates, albeit only after the *actual* interim retirement are recorded and the *actual* net negative salvage costs are incurred and recorded. The Company also will recover these costs, along with the interest expense and related TIER on the debit amounts for the net book value of the interim retirements and the interim net negative salvage *actually* incurred and financed until those costs are fully recovered through depreciation rates and depreciation expense.

Third, the Company is not harmed by excluding *estimated* future costs in depreciation rates and depreciation expense. Ultimately, the Company is entitled to full recovery of its *actual* costs, to the extent they are prudent and reasonable, and the Company will receive full recovery of these costs without unnecessarily and unreasonably harming customers by accelerating recovery through the use of *estimated* future costs before they are incurred.

Fourth, like with the *estimated* terminal net salvage, there are asset ADIT amounts that are added to rate base due to the book tax temporary differences. This unnecessary permanent harm to customers can be avoided simply by using only *actual* interim retirements and *actual* interim net salvage rather than also including *estimated* interim retirements and *estimated* interim net salvage before those costs actually are incurred.

Fifth, the exclusion of these *estimated* future costs greatly simplifies the development and improves the accuracy of the depreciation rates by completely avoiding the need to develop guesstimates of future interim retirements and future interim net negative salvage and instead relying solely on the *actual* costs incurred. The result is recovery of *actual* known and measurable costs that have been incurred and recorded, the avoidance of guesstimating, and the use of the *actual* remaining life until the probable retirement date without reductions to reflect the *estimated* future interim retirements over that actual remaining life.

Q. What is your recommendation?

A. I recommend the Commission exclude *estimated* interim retirements and *estimated* interim net negative salvage from the calculation of the production plant depreciation rates and depreciation expense. I recommend the Commission continue the practice of recovering the effects of *actual* interim retirements and *actual* interim net salvage through the reductions in accumulated depreciation reflected in the net book value used to calculate depreciation rates. The Company will not be harmed. The customers will benefit because the costs will be recovered only after they are actually incurred rather than prematurely before they are incurred and because it will avoid the harm due to the unnecessary increases to rate base over the life of the assets for the asset ADIT caused by the inability to deduct *estimated* interim net salvage for income tax purposes.

Q. What are the effects of your recommendation?

A. The effects are a \$0.775 million reduction in depreciation expense and a \$0.779 million reduction in the base revenue requirement and requested base revenue increase for Big Sandy 1.[27] The effects also include a \$2.781 million reduction in depreciation expense and a \$2.793 million reduction in the base revenue requirement and requested base revenue increase before the transfer of Mitchell plant costs to the proposed Tariff. G.R. offset by a \$1.185 million increase in depreciation expense and a \$1.190 million increase in the base revenue requirement and requested increase after the transfer of Mitchell plant costs to the proposed Tariff G.R. In addition, the effects include a \$1.185 million reduction in depreciation expense and a \$1.190 million reduction in the Tariff G.R. revenue requirement and requested increase after the transfer of Mitchell

[27] The Company provided revised depreciation rates excluding estimated terminal net salvage, but failed to provide revised depreciation rates excluding terminal net salvage, estimated interim retirements, and estimated interim net negative salvage in the response to AG-KIUC 1-43(b). Consequently, I calculated the revised depreciation rates that excluded all three components. The calculations are included in my electronic workpapers filed contemporaneously with my testimony.

plant costs to the proposed Tariff G.R.

IV. QUANTIFICATION OF WITNESS BAUDINO'S RETURN ON EQUITY RECOMMENDATION

Q. Have you quantified the effects of Witness Baudino's recommended return on equity of 9.50% compared to the 10.00% return on equity requested by the Company?

A. Yes. The effects are a reduction of $5.502 million in the base revenue requirement and a reduction of $0.393 million in the initial Tariff G.R. revenue requirement. I calculated these effects using rate base after all adjustments recommended by AG-KIUC witnesses. There also will be an effect of a lower return on equity in the ES revenue requirement; however, I have not quantified that effect.

Q. Have you quantified the effects of a 10-basis point change in the return on common equity?

A. Yes. Each 0.1% return on equity is equivalent to $1.100 million in the base revenue requirement and $0.079 million in the initial Tariff G.R. revenue requirement. I calculated these effects using rate base after all adjustments recommended by AG-KIUC witnesses. These quantifications can be used to estimate the effects of changes in the authorized return on equity up or down compared to Witness Baudino's recommendation, not only for the base revenue requirement and the initial Tariff G.R. revenue requirement, but also for the ES revenue requirement. Witness Baudino recommends that the return on equity used for the ES revenue requirement be 10 basis points less than the authorized return for the base revenue requirement, consistent with the Commission's prior Orders.

V. COMPANY'S REQUEST FOR PROPOSED GENERATION RIDER SHOULD BE APPROVED WITH MODIFICATIONS

Q. Describe the Company's proposed Generation Rider.

A. The Company's proposed Tariff G.R. is described generally by Company witness Tanner Wolffram. The Company's proposed Tariff G.R. provides additional detail describing the rate base, rate of return, and the expenses included in the calculation of the revenue requirement, allocation of the revenue requirement between classes with no demand billing and classes with demand billing, and the filing procedures, including the requirement for the Company to file by February 15 each year based on the revenues and costs incurred in the prior calendar year and implementation of the revised rates effective with the April billing cycle.

Q. The Company included CWIP in rate base in the proposed Tariff G.R., but did not include allowance for funds used during construction (AFUDC) as an offset to the capital related depreciation and property tax expenses. Is that consistent with the calculations of rate base and operating income in the Company's base revenue requirement?

A. No. The Company includes CWIP in rate base, but also includes AFUDC on the CWIP projects that qualify for AFUDC as an increase to operating income (or offset to capital related expenses) in the calculation of the base revenue requirement. If all CWIP projects qualify for AFUDC, then the AFUDC will exactly equal the operating income deficiency caused by the return on the CWIP in rate base, effectively removing all CWIP from rate base. In the event that some of the CWIP projects are not eligible for AFUDC, then the grossed-up return on those CWIP projects is included in the base revenue requirement.

Q. Should the Tariff G.R. calculation of rate base mimic the calculation methodology used for the base revenue requirement?

A. Yes. The purpose of the Tariff G.R. is to temporarily recover the base revenue requirement for capital costs after the costs are removed from the rate base and operating income in this proceeding until the remaining net book value is sold as a regulatory asset to the SPE. When the regulatory asset is sold to the SPE, the Tariff G.R. should be reduced to $0, subject only to refund or recovery of the balancing (true-up) adjustment. After the regulatory asset is sold to the SPE, the return on rate base in Tariff G.R. will be replaced with the securitization debt interest expense and the depreciation expense will be replaced with a principal recovery component included in the securitization rider.

To achieve this objective and reset the Tariff G.R. to zero when the regulatory asset is sold to the SPE, two modifications are necessary. First, Tariff G.R. must include an AFUDC offset for the CWIP projects that are eligible for AFUDC. In this manner, the calculation of rate base and operating income in Tariff G.R. will mimic the calculation of rate base and operating income in the base revenue requirement.

Second, property tax expense should remain in the base revenue requirement, To the extent property tax expense will continue to be incurred, then it should be recovered through the base revenue requirement in the same manner that non-fuel operating expenses will continue to be recovered through the base revenue requirement. AG-KIUC witness Randy Futral addresses this issue in more detail.

Q. What is your recommendation?

A. I recommend the Commission approve the Company's proposed Tariff G.R., but only if it includes the AFUDC offset on CWIP projects eligible for AFUDC and only if it retains the property tax expense in the base revenue requirement.

VI. COMPANY'S REQUEST TO MODIFY TARIFF F.T.C. TO INCLUDE RECOVERY OF THE REGULATORY ASSET RELATED TO A DEFICIENT NOLC DTA SHOULD BE DENIED

Q. Describe the Company's request to modify Tariff F.T.C. to include recovery of the regulatory asset related to the NOLC DTA.

A. The Company seeks to modify Tariff F.T.C. to include recovery of the regulatory asset related to the NOLC DTA. As I noted in the Rate Base Issues section of my testimony in conjunction with the NOLC-DTA related issues, the Company also seeks to include an amortization of a deficient NOLC DTA in Tariff F.T.C. The Company's calculation of the regulatory asset includes not only the return on the hypothetical NOLC DTA and the hypothetical deficient NOLC DTA, but also an amortization of the hypothetical deficient NOLC DTA.[28]

Q. Describe the origin of this regulatory asset related to the NOLC DTA.

A. This regulatory asset was the result of a settlement approved by the Commission in Case 2023-00159 in lieu of including an NOLC DTA and a deficient NOLC DTA in rate base in that proceeding. As I noted previously, the NOLC DTA issues were strongly contested. The settlement resolution of the NOLC DTA issues was the deferral of the return on the two DTA amounts offset by an equivalent DTL. The settlement specified that the Company could seek recovery of the regulatory asset if the IRS issued a PLR that affirmed the Company's position and that if the IRS issued a PLR that rejected the Company's position, the Company would write off both the regulatory asset and the regulatory liability. The trigger for any action was the receipt of a PLR. The settlement agreement included the following provisions:

> A return on the net operating loss carryforward (NOLC) will be excluded from the base rate revenue requirement. That amount would be deferred as a regulatory asset until base rates including the stand-alone NOLC are effective, if ever, in a future base rate case. Kentucky Power will contemporaneously establish an NOLC regulatory liability that offsets the NOLC regulatory asset. Kentucky Power will not accrue a carrying charge on the NOLC regulatory asset or the NOLC regulatory liability.
>
> • Recovery of the NOLC regulatory asset and NOLC deficient taxes would be contingent upon a private letter ruling (PLR) from the Internal Revenue Service (IRS) stating it is not a normalization violation to exclude NOLC and NOLC deficient taxes from the calculation of the revenue requirement. If the PLR indicates it is a normalization violation, Kentucky Power will reverse the

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[28] Attachment 1, response to AG-KIUC 1-68. I have attached a copy of the narrative response as Exhibit LK-15.

> NOLC regulatory liability and recover the NOLC regulatory asset and the NOLC deficient taxes over a three-year period through base rates established in the first base rate case filed after the PLR from the IRS is received. Kentucky Power will also adjust the excess deferred income tax regulatory liability to reflect the deficient deferred income taxes to the stand-alone NOLC.

> The Commission found these provisions of the settlement agreement reasonable in its Order in that proceeding, stating:

> The Commission finds that it is reasonable to exclude the NOLC ADIT from rate base and defer amortization of the NOLC ADIT to a regulatory asset with recovery contingent on Kentucky Power receiving a PLR that affirms its position regarding the NOLC ADIT.

Q. Have the predicate conditions pursuant to the settlement agreement approved by the Commission in Case 2023-00159 to recover the regulatory asset been met?

A. No. The IRS has not issued a PLR, let alone a PLR affirming the Company's position. Also, as I previously noted, there have been filings by the Louisiana Public Service Commission and the Oklahoma Corporation Commission with the IRS that may be considered by the IRS in the Company's request for PLR that were not considered in response to the requests for PLR made by other AEP utilities.

Q. Did the Company correctly calculate the regulatory asset?

A. No. The Company did not correctly calculate the NOLC DTA or the deficient NOLC DTA as I discussed in the Rate Base Issues section of my testimony. The Company has overstated both the NOLC DTA and the deficient NOLC DTA and thus, has overstated the regulatory asset it now seeks to prematurely recover through Tariff F.T.C.

Q. What are your recommendations?

A. I recommend the Commission deny all NOLC DTA-related requests, including this one. The Company's request is premature and is inconsistent with the settlement agreement in Case 2023-00159. I also recommend the Commission direct the Company to correct the amount of the regulatory asset to reflect the corrections of the errors in its calculations of the NOLC DTA and deficient NOLC DTA that I discuss in the Rate Base Issues section of my testimony.

VII. COMPANY'S REQUEST TO SET STORM EXPENSE TO $0 AND DEFER ACTUAL STORM EXPENSES INCURRED TO A REGULATORY SHOULD BE APPROVED

Q. Describe the Company's request to set the storm expense to $0 and to defer the actual storm expenses incurred to a regulatory asset.

A. The Company adjusted the storm expense to $0 and seeks authorization to defer the actual storm expenses incurred to a regulatory asset to both mitigate the requested revenue increase in this proceeding and to maximize the value of future securitization financing. The Company proposes to retain the related ADIT as a subtraction from rate base for base ratemaking purposes.

Q. Do you agree with this proposal?

A. Yes. All components of the Company's proposal maximize the savings to customers from securitization financing without harming the Company. If adopted, the Company will defer all actual storm expenses to a regulatory asset. Storm costs incurred to construct new assets to replace damaged assets will continue to be capitalized and the cost of removal for damaged assets will continue to be debited (used to reduce) to the accumulated depreciation reserve.

The Company plans to securitize and lower the costs to customers by selling the storm regulatory asset (in the form of the right to recover the costs), along with the remaining undepreciated Mitchell Plant costs regulatory asset (at closing, the plant costs will be converted to a regulatory asset in the form of the right to recover the costs), to a wholly owned special purpose entity (SPE).

The more costs that are removed from rate base and sold to the SPE and securitized, the greater the savings to customers from the lower cost securitization financing compared to the traditional or conventional debt and equity investor financing. In addition, the proposal to retain the related ADIT as a subtraction from rate base rather than using it to reduce the amount securitized ensures that customers receive a grossed-up weighted average cost of capital rate of return on this amount instead of reducing the costs that are securitized for savings and the securitization financing average interest rate. Further, the securitization financing can be structured to extend the recovery period compared to the recovery periods that would be reflected in the revenue requirement under traditional ratemaking.

Q. What is your recommendation?

A. I recommend the Commission approve all three of the Company's requests.

Q. Are the effects of the Company's requests already reflected in the claimed revenue requirement?

A. Yes. No adjustments to are necessary.

Q. Does this complete your testimony?

A. Yes.

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. 2025-000257
(3) Approval Of Certain Regulatory And Accounting	)	
Treatments; and (4) All Other Required Approvals	)	
And Relief	)	

EXHIBITS

OF

LANE KOLLEN

ON BEHALF OF THE
OFFICE OF THE ATTORNEY GENERAL OF THE COMMONWEALTH OF KENTUCKY
AND KENTUCKY INDUSTRIAL UTILITY CUSTOMERS

J. KENNEDY AND ASSOCIATES, INC.
ROSWELL, GEORGIA

NOVEMBER 17, 2025

EXHIBIT LK-1

RESUME OF LANE KOLLEN, PRESIDENT

EDUCATION

University of Toledo, BBA
Accounting

University of Toledo, MBA

Luther Rice University, MA

PROFESSIONAL CERTIFICATIONS

Certified Public Accountant (CPA)

Certified Management Accountant (CMA)

Chartered Global Management Accountant (CGMA)

PROFESSIONAL AFFILIATIONS

American Institute of Certified Public Accountants

Georgia Society of Certified Public Accountants

Institute of Management Accountants

Society of Depreciation Professionals

Mr. Kollen has more than forty years of utility industry experience in the financial, rate, tax, and planning areas. He specializes in revenue requirements analyses, taxes, evaluation of rate and financial impacts of traditional and nontraditional ratemaking, utility mergers/acquisition and diversification. Mr. Kollen has expertise in proprietary and nonproprietary software systems used by utilities for budgeting, rate case support and strategic and financial planning.

EXPERIENCE

1986 to Present: **J. Kennedy and Associates, Inc.:** Vice President and Principal. Responsible for utility stranded cost analysis, revenue requirements analysis, cash flow projections and solvency, financial and cash effects of traditional and nontraditional ratemaking, and research, speaking and writing on the effects of tax law changes. Testimony before Connecticut, Florida, Georgia, Indiana, Louisiana, Kentucky, Maine, Maryland, Minnesota, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Texas, West Virginia and Wisconsin state regulatory commissions and the Federal Energy Regulatory Commission.

1983 to 1986: **Energy Management Associates:** Lead Consultant.
Consulting in the areas of strategic and financial planning, traditional and nontraditional ratemaking, rate case support and testimony, diversification and generation expansion planning. Directed consulting and software development projects utilizing PROSCREEN II and ACUMEN proprietary software products. Utilized ACUMEN detailed corporate simulation system, PROSCREEN II strategic planning system and other custom developed software to support utility rate case filings including test year revenue requirements, rate base, operating income and pro-forma adjustments. Also utilized these software products for revenue simulation, budget preparation and cost-of-service analyses.

1976 to 1983: **The Toledo Edison Company:** Planning Supervisor.
Responsible for financial planning activities including generation expansion planning, capital and expense budgeting, evaluation of tax law changes, rate case strategy and support and computerized financial modeling using proprietary and nonproprietary software products. Directed the modeling and evaluation of planning alternatives including:

Rate phase-ins.
Construction project cancellations and write-offs.
Construction project delays.
Capacity swaps.
Financing alternatives.
Competitive pricing for off-system sales.
Sale/leasebacks.

CLIENTS SERVED

Industrial Companies and Groups

Air Products and Chemicals, Inc.
Airco Industrial Gases
Alcan Aluminum
Armco Advanced Materials Co.
Armco Steel
Bethlehem Steel
CF&I Steel, L.P.
Climax Molybdenum Company
Connecticut Industrial Energy Consumers
ELCON
Enron Gas Pipeline Company
Florida Industrial Power Users Group
Gallatin Steel
General Electric Company
GPU Industrial Intervenors
Indiana Industrial Group
Industrial Consumers for Fair Utility Rates - Indiana
Industrial Energy Consumers - Ohio
Kentucky Industrial Utility Customers, Inc.
Kimberly-Clark Company
Lehigh Valley Power Committee
Maryland Industrial Group
Multiple Intervenors (New York)
National Southwire
North Carolina Industrial Energy Consumers
Occidental Chemical Corporation
Ohio Energy Group
Ohio Industrial Energy Consumers
Ohio Manufacturers Association
Philadelphia Area Industrial Energy Users Group
PSI Industrial Group
Smith Cogeneration
Taconite Intervenors (Minnesota)
West Penn Power Industrial Intervenors
West Virginia Energy Users Group
Westvaco Corporation

Regulatory Commissions and Government Agencies

Cities in Texas-New Mexico Power Company's Service Territory
Cities in AEP Texas Central Company's Service Territory
Cities in AEP Texas North Company's Service Territory
City of Austin
Georgia Public Service Commission Staff
Florida Office of Public Counsel
Indiana Office of Utility Consumer Counsel
Kentucky Office of Attorney General
Louisiana Public Service Commission
Louisiana Public Service Commission Staff
Maine Office of Public Advocate
New York City
New York State Energy Office
South Carolina Office of Regulatory Staff
Texas Office of Public Utility Counsel
Utah Office of Consumer Services

Utilities

Allegheny Power System
Atlantic City Electric Company
Carolina Power & Light Company
Cleveland Electric Illuminating Company
Delmarva Power & Light Company
Duquesne Light Company
General Public Utilities
Georgia Power Company
Middle South Services
Nevada Power Company
Niagara Mohawk Power Corporation
Otter Tail Power Company
Pacific Gas & Electric Company
Public Service Electric & Gas
Public Service of Oklahoma
Rochester Gas and Electric
Savannah Electric & Power Company
Seminole Electric Cooperative
Southern California Edison
Talquin Electric Cooperative
Tampa Electric
Texas Utilities
Toledo Edison Company

Expert Testimony Appearances
of
Lane Kollen
As of November 2025

Date	Case	Jurisdict.	Party	Utility	Subject
10/86	U-17282 Interim	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Cash revenue requirements financial solvency.
11/86	U-17282 Interim Rebuttal	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Cash revenue requirements financial solvency.
12/86	9613	KY	Attorney General Div. of Consumer Protection	Big Rivers Electric Corp.	Revenue requirements accounting adjustments financial workout plan.
1/87	U-17282 Interim	LA 19th Judicial District Ct.	Louisiana Public Service Commission Staff	Gulf States Utilities	Cash revenue requirements, financial solvency.
3/87	General Order 236	WV	West Virginia Energy Users' Group	Monongahela Power Co.	Tax Reform Act of 1986.
4/87	U-17282 Prudence	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Prudence of River Bend 1, economic analyses, cancellation studies.
4/87	M-100 Sub 113	NC	North Carolina Industrial Energy Consumers	Duke Power Co.	Tax Reform Act of 1986.
5/87	86-524-E-SC	WV	West Virginia Energy Users' Group	Monongahela Power Co.	Revenue requirements, Tax Reform Act of 1986.
5/87	U-17282 Case In Chief	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Revenue requirements, River Bend 1 phase-in plan, financial solvency.
7/87	U-17282 Case In Chief Surrebuttal	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Revenue requirements, River Bend 1 phase-in plan, financial solvency.
7/87	U-17282 Prudence Surrebuttal	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Prudence of River Bend 1, economic analyses, cancellation studies.
7/87	86-524 E-SC Surrebuttal	WV	West Virginia Energy Users' Group	Monongahela Power Co.	Revenue requirements, Tax Reform Act of 1986.
8/87	9885	KY	Attorney General Div. of Consumer Protection	Big Rivers Electric Corp.	Financial workout plan.
8/87	E-015/GR-87-223	MN	Taconite Intervenors	Minnesota Power & Light Co.	Revenue requirements, O&M expense, Tax Reform Act of 1986.
10/87	870220-EI	FL	Occidental Chemical Corp.	Florida Power Corp.	Revenue requirements, O&M expense, Tax Reform Act of 1986.
11/87	87-07-01	CT	Connecticut Industrial Energy Consumers	Connecticut Light & Power Co.	Tax Reform Act of 1986.
1/88	U-17282	LA 19th Judicial District Ct.	Louisiana Public Service Commission	Gulf States Utilities	Revenue requirements, River Bend 1 phase-in plan, rate of return.
2/88	9934	KY	Kentucky Industrial Utility Customers	Louisville Gas & Electric Co.	Economics of Trimble County, completion.

Expert Testimony Appearances
of
Lane Kollen
As of November 2025

Date	Case	Jurisdict.	Party	Utility	Subject
2/88	10064	KY	Kentucky Industrial Utility Customers	Louisville Gas & Electric Co.	Revenue requirements, O&M expense, capital structure, excess deferred income taxes.
5/88	10217	KY	Alcan Aluminum National Southwire	Big Rivers Electric Corp.	Financial workout plan.
5/88	M-87017-1C001	PA	GPU Industrial Intervenors	Metropolitan Edison Co.	Nonutility generator deferred cost recovery.
5/88	M-87017-2C005	PA	GPU Industrial Intervenors	Pennsylvania Electric Co.	Nonutility generator deferred cost recovery.
6/88	U-17282	LA 19th Judicial District Ct.	Louisiana Public Service Commission	Gulf States Utilities	Prudence of River Bend 1 economic analyses, cancellation studies, financial modeling.
7/88	M-87017-1C001 Rebuttal	PA	GPU Industrial Intervenors	Metropolitan Edison Co.	Nonutility generator deferred cost recovery, SFAS No. 92.
7/88	M-87017-2C005 Rebuttal	PA	GPU Industrial Intervenors	Pennsylvania Electric Co.	Nonutility generator deferred cost recovery, SFAS No. 92.
9/88	88-05-25	CT	Connecticut Industrial Energy Consumers	Connecticut Light & Power Co.	Excess deferred taxes, O&M expenses.
9/88	10064 Rehearing	KY	Kentucky Industrial Utility Customers	Louisville Gas & Electric Co.	Premature retirements, interest expense.
10/88	88-170-EL-AIR	OH	Ohio Industrial Energy Consumers	Cleveland Electric Illuminating Co.	Revenue requirements, phase-in, excess deferred taxes, O&M expenses, financial considerations, working capital.
10/88	88-171-EL-AIR	OH	Ohio Industrial Energy Consumers	Toledo Edison Co.	Revenue requirements, phase-in, excess deferred taxes, O&M expenses, financial considerations, working capital.
10/88	8800-355-EI	FL	Florida Industrial Power Users' Group	Florida Power & Light Co.	Tax Reform Act of 1986, tax expenses, O&M expenses, pension expense (SFAS No. 87).
10/88	3780-U	GA	Georgia Public Service Commission Staff	Atlanta Gas Light Co.	Pension expense (SFAS No. 87).
11/88	U-17282 Remand	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Rate base exclusion plan (SFAS No. 71).
12/88	U-17970	LA	Louisiana Public Service Commission Staff	AT&T Communications of South Central States	Pension expense (SFAS No. 87).
12/88	U-17949 Rebuttal	LA	Louisiana Public Service Commission Staff	South Central Bell	Compensated absences (SFAS No. 43), pension expense (SFAS No. 87), Part 32, income tax normalization.
2/89	U-17282 Phase II	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Revenue requirements, phase-in of River Bend 1, recovery of canceled plant.
6/89	881602-EU 890326-EU	FL	Talquin Electric Cooperative	Talquin/City of Tallahassee	Economic analyses, incremental cost-of-service, average customer rates.

Expert Testimony Appearances
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As of November 2025

Date	Case	Jurisdict.	Party	Utility	Subject
7/89	U-17970	LA	Louisiana Public Service Commission Staff	AT&T Communications of South Central States	Pension expense (SFAS No. 87), compensated absences (SFAS No. 43), Part 32.
8/89	8555	TX PUCT	Occidental Chemical Corp.	Houston Lighting & Power Co.	Cancellation cost recovery, tax expense, revenue requirements.
8/89	3840-U	GA	Georgia Public Service Commission Staff	Georgia Power Co.	Promotional practices, advertising, economic development.
9/89	U-17282 Phase II Detailed	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Revenue requirements, detailed investigation.
10/89	8880	TX PUCT	Enron Gas Pipeline	Texas-New Mexico Power Co.	Deferred accounting treatment, sale/leaseback.
10/89	8928	TX PUCT	Enron Gas Pipeline	Texas-New Mexico Power Co.	Revenue requirements, imputed capital structure, cash working capital.
10/89	R-891364	PA	Philadelphia Area Industrial Energy Users Group	Philadelphia Electric Co.	Revenue requirements.
11/89 12/89	R-891364 Surrebuttal (2 Filings)	PA	Philadelphia Area Industrial Energy Users Group	Philadelphia Electric Co.	Revenue requirements, sale/leaseback.
1/90	U-17282 Phase II Detailed Rebuttal	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Revenue requirements, detailed investigation.
1/90	U-17282 Phase III	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Phase-in of River Bend 1, deregulated asset plan.
3/90	890319-EI	FL	Florida Industrial Power Users Group	Florida Power & Light Co.	O&M expenses, Tax Reform Act of 1986.
4/90	890319-EI Rebuttal	FL	Florida Industrial Power Users Group	Florida Power & Light Co.	O&M expenses, Tax Reform Act of 1986.
4/90	U-17282	LA 19th Judicial District Ct.	Louisiana Public Service Commission	Gulf States Utilities	Fuel clause, gain on sale of utility assets.
9/90	90-158	KY	Kentucky Industrial Utility Customers	Louisville Gas & Electric Co.	Revenue requirements, post-test year additions, forecasted test year.
12/90	U-17282 Phase IV	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Revenue requirements.
3/91	29327, et. al.	NY	Multiple Intervenors	Niagara Mohawk Power Corp.	Incentive regulation.
5/91	9945	TX PUCT	Office of Public Utility Counsel of Texas	El Paso Electric Co.	Financial modeling, economic analyses, prudence of Palo Verde 3.

**Expert Testimony Appearances
of
Lane Kollen
As of November 2025**

Date	Case	Jurisdict.	Party	Utility	Subject
9/91	P-910511 P-910512	PA	Allegheny Ludlum Corp., Armco Advanced Materials Co., The West Penn Power Industrial Users' Group	West Penn Power Co.	Recovery of CAAA costs, least cost financing.
9/91	91-231-E-NC	WV	West Virginia Energy Users Group	Monongahela Power Co.	Recovery of CAAA costs, least cost financing.
11/91	U-17282	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Asset impairment, deregulated asset plan, revenue requirements.
12/91	91-410-EL-AIR	OH	Air Products and Chemicals, Inc., Armco Steel Co., General Electric Co., Industrial Energy Consumers	Cincinnati Gas & Electric Co.	Revenue requirements, phase-in plan.
12/91	PUC Docket 10200	TX PUCT	Office of Public Utility Counsel of Texas	Texas-New Mexico Power Co.	Financial integrity, strategic planning, declined business affiliations.
5/92	910890-EI	FL	Occidental Chemical Corp.	Florida Power Corp.	Revenue requirements, O&M expense, pension expense, OPEB expense, fossil dismantling, nuclear decommissioning.
8/92	R-00922314	PA	GPU Industrial Intervenors	Metropolitan Edison Co.	Incentive regulation, performance rewards, purchased power risk, OPEB expense.
9/92	92-043	KY	Kentucky Industrial Utility Consumers	Generic Proceeding	OPEB expense.
9/92	920324-EI	FL	Florida Industrial Power Users' Group	Tampa Electric Co.	OPEB expense.
9/92	39348	IN	Indiana Industrial Group	Generic Proceeding	OPEB expense.
9/92	910840-PU	FL	Florida Industrial Power Users' Group	Generic Proceeding	OPEB expense.
9/92	39314	IN	Industrial Consumers for Fair Utility Rates	Indiana Michigan Power Co.	OPEB expense.
11/92	U-19904	LA	Louisiana Public Service Commission Staff	Gulf States Utilities /Entergy Corp.	Merger.
11/92	8469	MD	Westvaco Corp., Eastalco Aluminum Co.	Potomac Edison Co.	OPEB expense.
11/92	92-1715-AU-COI	OH	Ohio Manufacturers Association	Generic Proceeding	OPEB expense.
12/92	R-00922378	PA	Armco Advanced Materials Co., The WPP Industrial Intervenors	West Penn Power Co.	Incentive regulation, performance rewards, purchased power risk, OPEB expense.
12/92	U-19949	LA	Louisiana Public Service Commission Staff	South Central Bell	Affiliate transactions, cost allocations, merger.

Expert Testimony Appearances
of
Lane Kollen
As of November 2025

Date	Case	Jurisdict.	Party	Utility	Subject
12/92	R-00922479	PA	Philadelphia Area Industrial Energy Users' Group	Philadelphia Electric Co.	OPEB expense.
1/93	8487	MD	Maryland Industrial Group	Baltimore Gas & Electric Co., Bethlehem Steel Corp.	OPEB expense, deferred fuel, CWIP in rate base.
1/93	39498	IN	PSI Industrial Group	PSI Energy, Inc.	Refunds due to over-collection of taxes on Marble Hill cancellation.
3/93	92-11-11	CT	Connecticut Industrial Energy Consumers	Connecticut Light & Power Co	OPEB expense.
3/93	U-19904 (Surrebuttal)	LA	Louisiana Public Service Commission Staff	Gulf States Utilities /Entergy Corp.	Merger.
3/93	93-01-EL-EFC	OH	Ohio Industrial Energy Consumers	Ohio Power Co.	Affiliate transactions, fuel.
3/93	EC92-21000 ER92-806-000	FERC	Louisiana Public Service Commission Staff	Gulf States Utilities /Entergy Corp.	Merger.
4/93	92-1464-EL-AIR	OH	Air Products Armco Steel Industrial Energy Consumers	Cincinnati Gas & Electric Co.	Revenue requirements, phase-in plan.
4/93	EC92-21000 ER92-806-000 (Rebuttal)	FERC	Louisiana Public Service Commission	Gulf States Utilities /Entergy Corp.	Merger.
9/93	93-113	KY	Kentucky Industrial Utility Customers	Kentucky Utilities	Fuel clause and coal contract refund.
9/93	92-490, 92-490A, 90-360-C	KY	Kentucky Industrial Utility Customers and Kentucky Attorney General	Big Rivers Electric Corp.	Disallowances and restitution for excessive fuel costs, illegal and improper payments, recovery of mine closure costs.
10/93	U-17735	LA	Louisiana Public Service Commission Staff	Cajun Electric Power Cooperative	Revenue requirements, debt restructuring agreement, River Bend cost recovery.
1/94	U-20647	LA	Louisiana Public Service Commission Staff	Gulf States Utilities Co.	Audit and investigation into fuel clause costs.
4/94	U-20647 (Surrebuttal)	LA	Louisiana Public Service Commission Staff	Gulf States Utilities Co.	Nuclear and fossil unit performance, fuel costs, fuel clause principles and guidelines.
4/94	U-20647 (Supplemental Surrebuttal)	LA	Louisiana Public Service Commission Staff	Gulf States Utilities Co.	Audit and investigation into fuel clause costs.
5/94	U-20178	LA	Louisiana Public Service Commission Staff	Louisiana Power & Light Co.	Planning and quantification issues of least cost integrated resource plan.
9/94	U-19904 Initial Post-Merger Earnings Review	LA	Louisiana Public Service Commission Staff	Gulf States Utilities Co.	River Bend phase-in plan, deregulated asset plan, capital structure, other revenue requirement issues.

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9/94	U-17735	LA	Louisiana Public Service Commission Staff	Cajun Electric Power Cooperative	G&T cooperative ratemaking policies, exclusion of River Bend, other revenue requirement issues.
10/94	3905-U	GA	Georgia Public Service Commission Staff	Southern Bell Telephone Co.	Incentive rate plan, earnings review.
10/94	5258-U	GA	Georgia Public Service Commission Staff	Southern Bell Telephone Co.	Alternative regulation, cost allocation.
11/94	U-19904 Initial Post-Merger Earnings Review (Surrebuttal)	LA	Louisiana Public Service Commission Staff	Gulf States Utilities Co.	River Bend phase-in plan, deregulated asset plan, capital structure, other revenue requirement issues.
11/94	U-17735 (Rebuttal)	LA	Louisiana Public Service Commission Staff	Cajun Electric Power Cooperative	G&T cooperative ratemaking policy, exclusion of River Bend, other revenue requirement issues.
4/95	R-00943271	PA	PP&L Industrial Customer Alliance	Pennsylvania Power & Light Co.	Revenue requirements. Fossil dismantling, nuclear decommissioning.
6/95	3905-U Rebuttal	GA	Georgia Public Service Commission	Southern Bell Telephone Co.	Incentive regulation, affiliate transactions, revenue requirements, rate refund.
6/95	U-19904 (Direct)	LA	Louisiana Public Service Commission Staff	Gulf States Utilities Co.	Gas, coal, nuclear fuel costs, contract prudence, base/fuel realignment.
10/95	95-02614	TN	Tennessee Office of the Attorney General Consumer Advocate	BellSouth Telecommunications, Inc.	Affiliate transactions.
10/95	U-21485 (Direct)	LA	Louisiana Public Service Commission Staff	Gulf States Utilities Co.	Nuclear O&M, River Bend phase-in plan, base/fuel realignment, NOL and AltMin asset deferred taxes, other revenue requirement issues.
11/95	U-19904 (Surrebuttal)	LA	Louisiana Public Service Commission Staff	Gulf States Utilities Co. Division	Gas, coal, nuclear fuel costs, contract prudence, base/fuel realignment.
11/95 12/95	U-21485 (Supplemental Direct) U-21485 (Surrebuttal)	LA	Louisiana Public Service Commission Staff	Gulf States Utilities Co.	Nuclear O&M, River Bend phase-in plan, base/fuel realignment, NOL and AltMin asset deferred taxes, other revenue requirement issues.
12/95	95-299-EL-AIR 95-300-EL-AIR	OH	Industrial Energy Consumers	The Toledo Edison Co., The Cleveland Electric Illuminating Co.	Competition, asset write-offs and revaluation, O&M expense, other revenue requirement issues.
2/96	PUC Docket 14965	TX PUCT	Office of Public Utility Counsel	Central Power & Light	Nuclear decommissioning.
5/96	95-485-LCS	NM	City of Las Cruces	El Paso Electric Co.	Stranded cost recovery, municipalization.
7/96	8725	MD	The Maryland Industrial Group and Redland Genstar, Inc.	Baltimore Gas & Electric Co., Potomac Electric Power Co., and Constellation Energy Corp.	Merger savings, tracking mechanism, earnings sharing plan, revenue requirement issues.

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9/96 11/96	U-22092 U-22092 (Surrebuttal)	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	River Bend phase-in plan, base/fuel realignment, NOL and AltMin asset deferred taxes, other revenue requirement issues, allocation of regulated/nonregulated costs.
10/96	96-327	KY	Kentucky Industrial Utility Customers, Inc.	Big Rivers Electric Corp.	Environmental surcharge recoverable costs.
2/97	R-00973877	PA	Philadelphia Area Industrial Energy Users Group	PECO Energy Co.	Stranded cost recovery, regulatory assets and liabilities, intangible transition charge, revenue requirements.
3/97	96-489	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Power Co.	Environmental surcharge recoverable costs, system agreements, allowance inventory, jurisdictional allocation.
6/97	TO-97-397	MO	MCI Telecommunications Corp., Inc., MCImetro Access Transmission Services, Inc.	Southwestern Bell Telephone Co.	Price cap regulation, revenue requirements, rate of return.
6/97	R-00973953	PA	Philadelphia Area Industrial Energy Users Group	PECO Energy Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, nuclear and fossil decommissioning.
7/97	R-00973954	PA	PP&L Industrial Customer Alliance	Pennsylvania Power & Light Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, nuclear and fossil decommissioning.
7/97	U-22092	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Depreciation rates and methodologies, River Bend phase-in plan.
8/97	97-300	KY	Kentucky Industrial Utility Customers, Inc.	Louisville Gas & Electric Co., Kentucky Utilities Co.	Merger policy, cost savings, surcredit sharing mechanism, revenue requirements, rate of return.
8/97	R-00973954 (Surrebuttal)	PA	PP&L Industrial Customer Alliance	Pennsylvania Power & Light Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, nuclear and fossil decommissioning.
10/97	97-204	KY	Alcan Aluminum Corp. Southwire Co.	Big Rivers Electric Corp.	Restructuring, revenue requirements, reasonableness.
10/97	R-974008	PA	Metropolitan Edison Industrial Users Group	Metropolitan Edison Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, nuclear and fossil decommissioning, revenue requirements.
10/97	R-974009	PA	Penelec Industrial Customer Alliance	Pennsylvania Electric Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, nuclear and fossil decommissioning, revenue requirements.
11/97	97-204 (Rebuttal)	KY	Alcan Aluminum Corp. Southwire Co.	Big Rivers Electric Corp.	Restructuring, revenue requirements, reasonableness of rates, cost allocation.
11/97	U-22491	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, other revenue requirement issues.

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11/97	R-00973953 (Surrebuttal)	PA	Philadelphia Area Industrial Energy Users Group	PECO Energy Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, nuclear and fossil decommissioning.
11/97	R-973981	PA	West Penn Power Industrial Intervenors	West Penn Power Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, fossil decommissioning, revenue requirements, securitization.
11/97	R-974104	PA	Duquesne Industrial Intervenors	Duquesne Light Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, nuclear and fossil decommissioning, revenue requirements, securitization.
12/97	R-973981 (Surrebuttal)	PA	West Penn Power Industrial Intervenors	West Penn Power Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, fossil decommissioning, revenue requirements.
12/97	R-974104 (Surrebuttal)	PA	Duquesne Industrial Intervenors	Duquesne Light Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, nuclear and fossil decommissioning, revenue requirements, securitization.
1/98	U-22491 (Surrebuttal)	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, other revenue requirement issues.
2/98	8774	MD	Westvaco	Potomac Edison Co.	Merger of Duquesne, AE, customer safeguards, savings sharing.
3/98	U-22092 (Allocated Stranded Cost Issues)	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Restructuring, stranded costs, regulatory assets, securitization, regulatory mitigation.
3/98	8390-U	GA	Georgia Natural Gas Group, Georgia Textile Manufacturers Assoc.	Atlanta Gas Light Co.	Restructuring, unbundling, stranded costs, incentive regulation, revenue requirements.
3/98	U-22092 (Allocated Stranded Cost Issues) (Surrebuttal)	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Restructuring, stranded costs, regulatory assets, securitization, regulatory mitigation.
3/98	U-22491 (Supplemental Surrebuttal)	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, other revenue requirement issues.
10/98	97-596	ME	Maine Office of the Public Advocate	Bangor Hydro-Electric Co.	Restructuring, unbundling, stranded costs, T&D revenue requirements.
10/98	9355-U	GA	Georgia Public Service Commission Adversary Staff	Georgia Power Co.	Affiliate transactions.
10/98	U-17735 Rebuttal	LA	Louisiana Public Service Commission Staff	Cajun Electric Power Cooperative	G&T cooperative ratemaking policy, other revenue requirement issues.

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11/98	U-23327	LA	Louisiana Public Service Commission Staff	SWEPCO, CSW and AEP	Merger policy, savings sharing mechanism, affiliate transaction conditions.
12/98	U-23358 (Direct)	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, tax issues, and other revenue requirement issues.
12/98	98-577	ME	Maine Office of Public Advocate	Maine Public Service Co.	Restructuring, unbundling, stranded cost, T&D revenue requirements.
1/99	98-10-07	CT	Connecticut Industrial Energy Consumers	United Illuminating Co.	Stranded costs, investment tax credits, accumulated deferred income taxes, excess deferred income taxes.
3/99	U-23358 (Surrebuttal)	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, tax issues, and other revenue requirement issues.
3/99	98-474	KY	Kentucky Industrial Utility Customers, Inc.	Louisville Gas and Electric Co.	Revenue requirements, alternative forms of regulation.
3/99	98-426	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Utilities Co.	Revenue requirements, alternative forms of regulation.
3/99	99-082	KY	Kentucky Industrial Utility Customers, Inc.	Louisville Gas and Electric Co.	Revenue requirements.
3/99	99-083	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Utilities Co.	Revenue requirements.
4/99	U-23358 (Supplemental Surrebuttal)	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, tax issues, and other revenue requirement issues.
4/99	99-03-04	CT	Connecticut Industrial Energy Consumers	United Illuminating Co.	Regulatory assets and liabilities, stranded costs, recovery mechanisms.
4/99	99-02-05	CT	Connecticut Industrial Utility Customers	Connecticut Light and Power Co.	Regulatory assets and liabilities, stranded costs, recovery mechanisms.
5/99	98-426 99-082 (Additional Direct)	KY	Kentucky Industrial Utility Customers, Inc.	Louisville Gas and Electric Co.	Revenue requirements.
5/99	98-474 99-083 (Additional Direct)	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Utilities Co.	Revenue requirements.
5/99	98-426 98-474 (Response to Amended Applications)	KY	Kentucky Industrial Utility Customers, Inc.	Louisville Gas and Electric Co., Kentucky Utilities Co.	Alternative regulation.
6/99	97-596	ME	Maine Office of Public Advocate	Bangor Hydro-Electric Co.	Request for accounting order regarding electric industry restructuring costs.
7/99	U-23358	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Affiliate transactions, cost allocations.

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7/99	99-03-35	CT	Connecticut Industrial Energy Consumers	United Illuminating Co.	Stranded costs, regulatory assets, tax effects of asset divestiture.
7/99	U-23327	LA	Louisiana Public Service Commission Staff	Southwestern Electric Power Co., Central and South West Corp, American Electric Power Co.	Merger Settlement and Stipulation.
7/99	97-596 Surrebuttal	ME	Maine Office of Public Advocate	Bangor Hydro-Electric Co.	Restructuring, unbundling, stranded cost, T&D revenue requirements.
7/99	98-0452-E-GI	WV	West Virginia Energy Users Group	Monongahela Power, Potomac Edison, Appalachian Power, Wheeling Power	Regulatory assets and liabilities.
8/99	98-577 Surrebuttal	ME	Maine Office of Public Advocate	Maine Public Service Co.	Restructuring, unbundling, stranded costs, T&D revenue requirements.
8/99	98-426 99-082 Rebuttal	KY	Kentucky Industrial Utility Customers, Inc.	Louisville Gas and Electric Co.	Revenue requirements.
8/99	98-474 98-083 Rebuttal	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Utilities Co.	Revenue requirements.
8/99	98-0452-E-GI Rebuttal	WV	West Virginia Energy Users Group	Monongahela Power, Potomac Edison, Appalachian Power, Wheeling Power	Regulatory assets and liabilities.
10/99	U-24182 Direct	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, affiliate transactions, tax issues, and other revenue requirement issues.
11/99	PUC Docket 21527	TX PUCT	The Dallas-Fort Worth Hospital Council and Coalition of Independent Colleges and Universities	TXU Electric	Restructuring, stranded costs, taxes, securitization.
11/99	U-23358 Surrebuttal Affiliate Transactions Review	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Service company affiliate transaction costs.
01/00	U-24182 Surrebuttal	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, affiliate transactions, tax issues, and other revenue requirement issues.
04/00	99-1212-EL-ETP 99-1213-EL-ATA 99-1214-EL-AAM	OH	Greater Cleveland Growth Association	First Energy (Cleveland Electric Illuminating, Toledo Edison)	Historical review, stranded costs, regulatory assets, liabilities.

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Date	Case	Jurisdict.	Party	Utility	Subject
05/00	2000-107	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Power Co.	ECR surcharge roll-in to base rates.
05/00	U-24182 Supplemental Direct	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Affiliate expense proforma adjustments.
05/00	A-110550F0147	PA	Philadelphia Area Industrial Energy Users Group	PECO Energy	Merger between PECO and Unicom.
05/00	99-1658-EL-ETP	OH	AK Steel Corp.	Cincinnati Gas & Electric Co.	Regulatory transition costs, including regulatory assets and liabilities, SFAS 109, ADIT, EDIT, ITC.
07/00	PUC Docket 22344	TX PUCT	The Dallas-Fort Worth Hospital Council and The Coalition of Independent Colleges and Universities	Statewide Generic Proceeding	Escalation of O&M expenses for unbundled T&D revenue requirements in projected test year.
07/00	U-21453	LA	Louisiana Public Service Commission	SWEPCO	Stranded costs, regulatory assets and liabilities.
08/00	U-24064	LA	Louisiana Public Service Commission Staff	CLECO	Affiliate transaction pricing ratemaking principles, subsidization of nonregulated affiliates, ratemaking adjustments.
10/00	SOAH Docket 473-00-1015 PUC Docket 22350	TX PUCT	The Dallas-Fort Worth Hospital Council and The Coalition of Independent Colleges and Universities	TXU Electric Co.	Restructuring, T&D revenue requirements, mitigation, regulatory assets and liabilities.
10/00	R-00974104 Affidavit	PA	Duquesne Industrial Intervenors	Duquesne Light Co.	Final accounting for stranded costs, including treatment of auction proceeds, taxes, capital costs, switchback costs, and excess pension funding.
11/00	P-00001837 R-00974008 P-00001838 R-00974009	PA	Metropolitan Edison Industrial Users Group Penelec Industrial Customer Alliance	Metropolitan Edison Co., Pennsylvania Electric Co.	Final accounting for stranded costs, including treatment of auction proceeds, taxes, regulatory assets and liabilities, transaction costs.
12/00	U-21453, U-20925, U-22092 (Subdocket C) Surrebuttal	LA	Louisiana Public Service Commission Staff	SWEPCO	Stranded costs, regulatory assets.
01/01	U-24993 Direct	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, tax issues, and other revenue requirement issues.
01/01	U-21453, U-20925, U-22092 (Subdocket B) Surrebuttal	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Industry restructuring, business separation plan, organization structure, hold harmless conditions, financing.
01/01	Case No. 2000-386	KY	Kentucky Industrial Utility Customers, Inc.	Louisville Gas & Electric Co.	Recovery of environmental costs, surcharge mechanism.

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Date	Case	Jurisdict.	Party	Utility	Subject
01/01	Case No. 2000-439	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Utilities Co.	Recovery of environmental costs, surcharge mechanism.
02/01	A-110300F0095 A-110400F0040	PA	Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance	GPU, Inc. FirstEnergy Corp.	Merger, savings, reliability.
03/01	P-00001860 P-00001861	PA	Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance	Metropolitan Edison Co., Pennsylvania Electric Co.	Recovery of costs due to provider of last resort obligation.
04/01	U-21453, U-20925, U-22092 (Subdocket B) Settlement Term Sheet	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Business separation plan: settlement agreement on overall plan structure.
04/01	U-21453, U-20925, U-22092 (Subdocket B) Contested Issues	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Business separation plan: agreements, hold harmless conditions, separations methodology.
05/01	U-21453, U-20925, U-22092 (Subdocket B) Contested Issues Transmission and Distribution Rebuttal	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Business separation plan: agreements, hold harmless conditions, separations methodology.
07/01	U-21453, U-20925, U-22092 (Subdocket B) Transmission and Distribution Term Sheet	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Business separation plan: settlement agreement on T&D issues, agreements necessary to implement T&D separations, hold harmless conditions, separations methodology.
10/01	14000-U	GA	Georgia Public Service Commission Adversary Staff	Georgia Power Company	Revenue requirements, Rate Plan, fuel clause recovery.
11/01	14311-U Direct Panel with Bolin Killings	GA	Georgia Public Service Commission Adversary Staff	Atlanta Gas Light Co	Revenue requirements, revenue forecast, O&M expense, depreciation, plant additions, cash working capital.
11/01	U-25687 Direct	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Revenue requirements, capital structure, allocation of regulated and nonregulated costs, River Bend uprate.
02/02	PUC Docket 25230	TX PUCT	The Dallas-Fort Worth Hospital Council and the Coalition of Independent Colleges and Universities	TXU Electric	Stipulation. Regulatory assets, securitization financing.

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Date	Case	Jurisdict.	Party	Utility	Subject
02/02	U-25687 Surrebuttal	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Revenue requirements, corporate franchise tax, conversion to LLC, River Bend uprate.
03/02	14311-U Rebuttal Panel with Bolin Killings	GA	Georgia Public Service Commission Adversary Staff	Atlanta Gas Light Co.	Revenue requirements, earnings sharing plan, service quality standards.
03/02	14311-U Rebuttal Panel with Michelle L. Thebert	GA	Georgia Public Service Commission Adversary Staff	Atlanta Gas Light Co.	Revenue requirements, revenue forecast, O&M expense, depreciation, plant additions, cash working capital.
03/02	001148-EI	FL	South Florida Hospital and Healthcare Assoc.	Florida Power & Light Co.	Revenue requirements. Nuclear life extension, storm damage accruals and reserve, capital structure, O&M expense.
04/02	U-25687 (Suppl. Surrebuttal)	LA	Louisiana Public Service Commission	Entergy Gulf States, Inc.	Revenue requirements, corporate franchise tax, conversion to LLC, River Bend uprate.
04/02	U-21453, U-20925 U-22092 (Subdocket C)	LA	Louisiana Public Service Commission	SWEPCO	Business separation plan, T&D Term Sheet, separations methodologies, hold harmless conditions.
08/02	EL01-88-000	FERC	Louisiana Public Service Commission	Entergy Services, Inc. and the Entergy Operating Companies	System Agreement, production cost equalization, tariffs.
08/02	U-25888	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc. and Entergy Louisiana, Inc.	System Agreement, production cost disparities, prudence.
09/02	2002-00224 2002-00225	KY	Kentucky Industrial Utilities Customers, Inc.	Kentucky Utilities Co., Louisville Gas & Electric Co.	Line losses and fuel clause recovery associated with off-system sales.
11/02	2002-00146 2002-00147	KY	Kentucky Industrial Utilities Customers, Inc.	Kentucky Utilities Co., Louisville Gas & Electric Co.	Environmental compliance costs and surcharge recovery.
01/03	2002-00169	KY	Kentucky Industrial Utilities Customers, Inc.	Kentucky Power Co.	Environmental compliance costs and surcharge recovery.
04/03	2002-00429 2002-00430	KY	Kentucky Industrial Utilities Customers, Inc.	Kentucky Utilities Co., Louisville Gas & Electric Co.	Extension of merger surcredit, flaws in Companies' studies.
04/03	U-26527	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Revenue requirements, corporate franchise tax, conversion to LLC, capital structure, post-test year adjustments.
06/03	EL01-88-000 Rebuttal	FERC	Louisiana Public Service Commission	Entergy Services, Inc. and the Entergy Operating Companies	System Agreement, production cost equalization, tariffs.

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06/03	2003-00068	KY	Kentucky Industrial Utility Customers	Kentucky Utilities Co.	Environmental cost recovery, correction of base rate error.
11/03	ER03-753-000	FERC	Louisiana Public Service Commission	Entergy Services, Inc. and the Entergy Operating Companies	Unit power purchases and sale cost-based tariff pursuant to System Agreement.
11/03	ER03-583-000, ER03-583-001, ER03-583-002 ER03-681-000, ER03-681-001 ER03-682-000, ER03-682-001, ER03-682-002 ER03-744-000, ER03-744-001 (Consolidated)	FERC	Louisiana Public Service Commission	Entergy Services, Inc., the Entergy Operating Companies, EWO Marketing, L.P, and Entergy Power, Inc.	Unit power purchases and sale agreements, contractual provisions, projected costs, levelized rates, and formula rates.
12/03	U-26527 Surrebuttal	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Revenue requirements, corporate franchise tax, conversion to LLC, capital structure, post-test year adjustments.
12/03	2003-0334 2003-0335	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Utilities Co., Louisville Gas & Electric Co.	Earnings Sharing Mechanism.
12/03	U-27136	LA	Louisiana Public Service Commission Staff	Entergy Louisiana, Inc.	Purchased power contracts between affiliates, terms and conditions.
03/04	U-26527 Supplemental Surrebuttal	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Revenue requirements, corporate franchise tax, conversion to LLC, capital structure, post-test year adjustments.
03/04	2003-00433	KY	Kentucky Industrial Utility Customers, Inc.	Louisville Gas & Electric Co.	Revenue requirements, depreciation rates, O&M expense, deferrals and amortization, earnings sharing mechanism, merger surcredit, VDT surcredit.
03/04	2003-00434	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Utilities Co.	Revenue requirements, depreciation rates, O&M expense, deferrals and amortization, earnings sharing mechanism, merger surcredit, VDT surcredit.
03/04	SOAH Docket 473-04-2459 PUC Docket 29206	TX PUCT	Cities Served by Texas-New Mexico Power Co.	Texas-New Mexico Power Co.	Stranded costs true-up, including valuation issues, ITC, ADIT, excess earnings.
05/04	04-169-EL-UNC	OH	Ohio Energy Group, Inc.	Columbus Southern Power Co. & Ohio Power Co.	Rate stabilization plan, deferrals, T&D rate increases, earnings.
06/04	SOAH Docket 473-04-4555 PUC Docket 29526	TX PUCT	Houston Council for Health and Education	CenterPoint Energy Houston Electric	Stranded costs true-up, including valuation issues, ITC, EDIT, excess mitigation credits, capacity auction true-up revenues, interest.

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08/04	SOAH Docket 473-04-4555 PUC Docket 29526 (Suppl Direct)	TX PUCT	Houston Council for Health and Education	CenterPoint Energy Houston Electric	Interest on stranded cost pursuant to Texas Supreme Court remand.
09/04	U-23327 Subdocket B	LA	Louisiana Public Service Commission Staff	SWEPCO	Fuel and purchased power expenses recoverable through fuel adjustment clause, trading activities, compliance with terms of various LPSC Orders.
10/04	U-23327 Subdocket A	LA	Louisiana Public Service Commission Staff	SWEPCO	Revenue requirements.
12/04	Case Nos. 2004-00321, 2004-00372	KY	Gallatin Steel Co.	East Kentucky Power Cooperative, Inc., Big Sandy Recc, et al.	Environmental cost recovery, qualified costs, TIER requirements, cost allocation.
01/05	30485	TX PUCT	Houston Council for Health and Education	CenterPoint Energy Houston Electric, LLC	Stranded cost true-up including regulatory Central Co. assets and liabilities, ITC, EDIT, capacity auction, proceeds, excess mitigation credits, retrospective and prospective ADIT.
02/05	18638-U	GA	Georgia Public Service Commission Adversary Staff	Atlanta Gas Light Co.	Revenue requirements.
02/05	18638-U Panel with Tony Wackerly	GA	Georgia Public Service Commission Adversary Staff	Atlanta Gas Light Co.	Comprehensive rate plan, pipeline replacement program surcharge, performance based rate plan.
02/05	18638-U Panel with Michelle Thebert	GA	Georgia Public Service Commission Adversary Staff	Atlanta Gas Light Co.	Energy conservation, economic development, and tariff issues.
03/05	Case Nos. 2004-00426, 2004-00421	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Utilities Co., Louisville Gas & Electric	Environmental cost recovery, Jobs Creation Act of 2004 and §199 deduction, excess common equity ratio, deferral and amortization of nonrecurring O&M expense.
06/05	2005-00068	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Power Co.	Environmental cost recovery, Jobs Creation Act of 2004 and §199 deduction, margins on allowances used for AEP system sales.
06/05	050045-EI	FL	South Florida Hospital and Heallthcare Assoc.	Florida Power & Light Co.	Storm damage expense and reserve, RTO costs, O&M expense projections, return on equity performance incentive, capital structure, selective second phase post-test year rate increase.
08/05	31056	TX PUCT	Alliance for Valley Healthcare	AEP Texas Central Co.	Stranded cost true-up including regulatory assets and liabilities, ITC, EDIT, capacity auction, proceeds, excess mitigation credits, retrospective and prospective ADIT.
09/05	20298-U	GA	Georgia Public Service Commission Adversary Staff	Atmos Energy Corp.	Revenue requirements, roll-in of surcharges, cost recovery through surcharge, reporting requirements.

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09/05	20298-U Panel with Victoria Taylor	GA	Georgia Public Service Commission Adversary Staff	Atmos Energy Corp.	Affiliate transactions, cost allocations, capitalization, cost of debt.
10/05	04-42	DE	Delaware Public Service Commission Staff	Artesian Water Co.	Allocation of tax net operating losses between regulated and unregulated.
11/05	2005-00351 2005-00352	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Utilities Co., Louisville Gas & Electric	Workforce Separation Program cost recovery and shared savings through VDT surcredit.
01/06	2005-00341	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Power Co.	System Sales Clause Rider, Environmental Cost Recovery Rider. Net Congestion Rider, Storm damage, vegetation management program, depreciation, off-system sales, maintenance normalization, pension and OPEB.
03/06	PUC Docket 31994	TX PUCT	Cities	Texas-New Mexico Power Co.	Stranded cost recovery through competition transition or change.
05/06	31994 Supplemental	TX PUCT	Cities	Texas-New Mexico Power Co.	Retrospective ADFIT, prospective ADFIT.
03/06	U-21453, U-20925, U-22092 (Subdocket B)	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Jurisdictional separation plan.
03/06	NOPR Reg 104385-OR	IRS	Alliance for Valley Health Care and Houston Council for Health Education	AEP Texas Central Company and CenterPoint Energy Houston Electric	Proposed Regulations affecting flow- through to ratepayers of excess deferred income taxes and investment tax credits on generation plant that is sold or deregulated.
04/06	U-25116	LA	Louisiana Public Service Commission Staff	Entergy Louisiana, Inc.	2002-2004 Audit of Fuel Adjustment Clause Filings. Affiliate transactions.
07/06	R-00061366, Et. al.	PA	Met-Ed Ind. Users Group Pennsylvania Ind. Customer Alliance	Metropolitan Edison Co., Pennsylvania Electric Co.	Recovery of NUG-related stranded costs, government mandated program costs, storm damage costs.
07/06	U-23327	LA	Louisiana Public Service Commission Staff	Southwestern Electric Power Co.	Revenue requirements, formula rate plan, banking proposal.
08/06	U-21453, U-20925, U-22092 (Subdocket J)	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Jurisdictional separation plan.
11/06	05CVH03-3375 Franklin County Court Affidavit	OH	Various Taxing Authorities (Non-Utility Proceeding)	State of Ohio Department of Revenue	Accounting for nuclear fuel assemblies as manufactured equipment and capitalized plant.
12/06	U-23327 Subdocket A Reply Testimony	LA	Louisiana Public Service Commission Staff	Southwestern Electric Power Co.	Revenue requirements, formula rate plan, banking proposal.

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03/07	U-29764	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc., Entergy Louisiana, LLC	Jurisdictional allocation of Entergy System Agreement equalization remedy receipts.
03/07	PUC Docket 33309	TX PUCT	Cities	AEP Texas Central Co.	Revenue requirements, including functionalization of transmission and distribution costs.
03/07	PUC Docket 33310	TX PUCT	Cities	AEP Texas North Co.	Revenue requirements, including functionalization of transmission and distribution costs.
03/07	2006-00472	KY	Kentucky Industrial Utility Customers, Inc.	East Kentucky Power Cooperative	Interim rate increase, RUS loan covenants, credit facility requirements, financial condition.
03/07	U-29157	LA	Louisiana Public Service Commission Staff	Cleco Power, LLC	Permanent (Phase II) storm damage cost recovery.
04/07	U-29764 Supplemental and Rebuttal	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc., Entergy Louisiana, LLC	Jurisdictional allocation of Entergy System Agreement equalization remedy receipts.
04/07	ER07-682-000 Affidavit	FERC	Louisiana Public Service Commission	Entergy Services, Inc. and the Entergy Operating Companies	Allocation of intangible and general plant and A&G expenses to production and state income tax effects on equalization remedy receipts.
04/07	ER07-684-000 Affidavit	FERC	Louisiana Public Service Commission	Entergy Services, Inc. and the Entergy Operating Companies	Fuel hedging costs and compliance with FERC USOA.
05/07	ER07-682-000 Supplemental Affidavit	FERC	Louisiana Public Service Commission	Entergy Services, Inc. and the Entergy Operating Companies	Allocation of intangible and general plant and A&G expenses to production and account 924 effects on MSS-3 equalization remedy payments and receipts.
06/07	U-29764	LA	Louisiana Public Service Commission Staff	Entergy Louisiana, LLC, Entergy Gulf States, Inc.	Show cause for violating LPSC Order on fuel hedging costs.
07/07	2006-00472	KY	Kentucky Industrial Utility Customers, Inc.	East Kentucky Power Cooperative	Revenue requirements, post-test year adjustments, TIER, surcharge revenues and costs, financial need.
07/07	ER07-956-000 Affidavit	FERC	Louisiana Public Service Commission	Entergy Services, Inc.	Storm damage costs related to Hurricanes Katrina and Rita and effects of MSS-3 equalization payments and receipts.
10/07	05-UR-103 Direct	WI	Wisconsin Industrial Energy Group	Wisconsin Electric Power Company, Wisconsin Gas, LLC	Revenue requirements, carrying charges on CWIP, amortization and return on regulatory assets, working capital, incentive compensation, use of rate base in lieu of capitalization, quantification and use of Point Beach sale proceeds.
10/07	05-UR-103 Surrebuttal	WI	Wisconsin Industrial Energy Group	Wisconsin Electric Power Company, Wisconsin Gas, LLC	Revenue requirements, carrying charges on CWIP, amortization and return on regulatory assets, working capital, incentive compensation, use of rate base in lieu of capitalization, quantification and use of Point Beach sale proceeds.

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10/07	25060-U Direct	GA	Georgia Public Service Commission Public Interest Adversary Staff	Georgia Power Company	Affiliate costs, incentive compensation, consolidated income taxes, §199 deduction.
11/07	06-0033-E-CN Direct	WV	West Virginia Energy Users Group	Appalachian Power Company	IGCC surcharge during construction period and post-in-service date.
11/07	ER07-682-000 Direct	FERC	Louisiana Public Service Commission	Entergy Services, Inc. and the Entergy Operating Companies	Functionalization and allocation of intangible and general plant and A&G expenses.
01/08	ER07-682-000 Cross-Answering	FERC	Louisiana Public Service Commission	Entergy Services, Inc. and the Entergy Operating Companies	Functionalization and allocation of intangible and general plant and A&G expenses.
01/08	07-551-EL-AIR Direct	OH	Ohio Energy Group, Inc.	Ohio Edison Company, Cleveland Electric Illuminating Company, Toledo Edison Company	Revenue requirements.
02/08	ER07-956-000 Direct	FERC	Louisiana Public Service Commission	Entergy Services, Inc. and the Entergy Operating Companies	Functionalization of expenses, storm damage expense and reserves, tax NOL carrybacks in accounts, ADIT, nuclear service lives and effects on depreciation and decommissioning.
03/08	ER07-956-000 Cross-Answering	FERC	Louisiana Public Service Commission	Entergy Services, Inc. and the Entergy Operating Companies	Functionalization of expenses, storm damage expense and reserves, tax NOL carrybacks in accounts, ADIT, nuclear service lives and effects on depreciation and decommissioning.
04/08	2007-00562, 2007-00563	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Utilities Co., Louisville Gas and Electric Co.	Merger surcredit.
04/08	26837 Direct Bond, Johnson, Thebert, Kollen Panel	GA	Georgia Public Service Commission Staff	SCANA Energy Marketing, Inc.	Rule Nisi complaint.
05/08	26837 Rebuttal Bond, Johnson, Thebert, Kollen Panel	GA	Georgia Public Service Commission Staff	SCANA Energy Marketing, Inc.	Rule Nisi complaint.
05/08	26837 Suppl Rebuttal Bond, Johnson, Thebert, Kollen Panel	GA	Georgia Public Service Commission Staff	SCANA Energy Marketing, Inc.	Rule Nisi complaint.

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06/08	2008-00115	KY	Kentucky Industrial Utility Customers, Inc.	East Kentucky Power Cooperative, Inc.	Environmental surcharge recoveries, including costs recovered in existing rates, TIER.
07/08	27163 Direct	GA	Georgia Public Service Commission Public Interest Advocacy Staff	Atmos Energy Corp.	Revenue requirements, including projected test year rate base and expenses.
07/08	27163 Taylor, Kollen Panel	GA	Georgia Public Service Commission Public Interest Advocacy Staff	Atmos Energy Corp.	Affiliate transactions and division cost allocations, capital structure, cost of debt.
08/08	6680-CE-170 Direct	WI	Wisconsin Industrial Energy Group, Inc.	Wisconsin Power and Light Company	Nelson Dewey 3 or Colombia 3 fixed financial parameters.
08/08	6680-UR-116 Direct	WI	Wisconsin Industrial Energy Group, Inc.	Wisconsin Power and Light Company	CWIP in rate base, labor expenses, pension expense, financing, capital structure, decoupling.
08/08	6680-UR-116 Rebuttal	WI	Wisconsin Industrial Energy Group, Inc.	Wisconsin Power and Light Company	Capital structure.
08/08	6690-UR-119 Direct	WI	Wisconsin Industrial Energy Group, Inc.	Wisconsin Public Service Corp.	Prudence of Weston 3 outage, incentive compensation, Crane Creek Wind Farm incremental revenue requirement, capital structure.
09/08	6690-UR-119 Surrebuttal	WI	Wisconsin Industrial Energy Group, Inc.	Wisconsin Public Service Corp.	Prudence of Weston 3 outage, Section 199 deduction.
09/08	08-935-EL-SSO, 08-918-EL-SSO	OH	Ohio Energy Group, Inc.	First Energy	Standard service offer rates pursuant to electric security plan, significantly excessive earnings test.
10/08	08-917-EL-SSO	OH	Ohio Energy Group, Inc.	AEP	Standard service offer rates pursuant to electric security plan, significantly excessive earnings test.
10/08	2007-00564, 2007-00565, 2008-00251 2008-00252	KY	Kentucky Industrial Utility Customers, Inc.	Louisville Gas and Electric Co., Kentucky Utilities Company	Revenue forecast, affiliate costs, ELG v ASL depreciation procedures, depreciation expenses, federal and state income tax expense, capitalization, cost of debt.
11/08	EL08-51	FERC	Louisiana Public Service Commission	Entergy Services, Inc.	Spindletop gas storage facilities, regulatory asset and bandwidth remedy.
11/08	35717	TX PUCT	Cities Served by Oncor Delivery Company	Oncor Delivery Company	Recovery of old meter costs, asset ADFIT, cash working capital, recovery of prior year restructuring costs, levelized recovery of storm damage costs, prospective storm damage accrual, consolidated tax savings adjustment.
12/08	27800	GA	Georgia Public Service Commission	Georgia Power Company	AFUDC versus CWIP in rate base, mirror CWIP, certification cost, use of short term debt and trust preferred financing, CWIP recovery, regulatory incentive.
01/09	ER08-1056	FERC	Louisiana Public Service Commission	Entergy Services, Inc.	Entergy System Agreement bandwidth remedy calculations, including depreciation expense, ADIT, capital structure.

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Date	Case	Jurisdict.	Party	Utility	Subject
01/09	ER08-1056 Supplemental Direct	FERC	Louisiana Public Service Commission	Entergy Services, Inc.	Blytheville leased turbines; accumulated depreciation.
02/09	EL08-51 Rebuttal	FERC	Louisiana Public Service Commission	Entergy Services, Inc.	Spindletop gas storage facilities regulatory asset and bandwidth remedy.
02/09	2008-00409 Direct	KY	Kentucky Industrial Utility Customers, Inc.	East Kentucky Power Cooperative, Inc.	Revenue requirements.
03/09	ER08-1056 Answering	FERC	Louisiana Public Service Commission	Entergy Services, Inc.	Entergy System Agreement bandwidth remedy calculations, including depreciation expense, ADIT, capital structure.
03/09 04/09	U-21453, U-20925 U-22092 (Sub J) Direct Rebuttal	LA	Louisiana Public Service Commission Staff	Entergy Gulf States Louisiana, LLC	Violation of EGSI separation order, ETI and EGSL separation accounting, Spindletop regulatory asset.
04/09	2009-00040 Direct-Interim (Oral)	KY	Kentucky Industrial Utility Customers, Inc.	Big Rivers Electric Corp.	Emergency interim rate increase; cash requirements.
04/09	PUC Docket 36530	TX PUCT	State Office of Administrative Hearings	Oncor Electric Delivery Company, LLC	Rate case expenses.
05/09	ER08-1056 Rebuttal	FERC	Louisiana Public Service Commission	Entergy Services, Inc.	Entergy System Agreement bandwidth remedy calculations, including depreciation expense, ADIT, capital structure.
06/09	2009-00040 Direct-Permanent	KY	Kentucky Industrial Utility Customers, Inc.	Big Rivers Electric Corp.	Revenue requirements, TIER, cash flow.
07/09	080677-EI	FL	South Florida Hospital and Healthcare Association	Florida Power & Light Company	Multiple test years, GBRA rider, forecast assumptions, revenue requirement, O&M expense, depreciation expense, Economic Stimulus Bill, capital structure.
08/09	U-21453, U-20925, U-22092 (Subdocket J) Supplemental Rebuttal	LA	Louisiana Public Service Commission	Entergy Gulf States Louisiana, LLC	Violation of EGSI separation order, ETI and EGSL separation accounting, Spindletop regulatory asset.
08/09	8516 and 29950	GA	Georgia Public Service Commission Staff	Atlanta Gas Light Company	Modification of PRP surcharge to include infrastructure costs.
09/09	05-UR-104 Direct and Surrebuttal	WI	Wisconsin Industrial Energy Group	Wisconsin Electric Power Company	Revenue requirements, incentive compensation, depreciation, deferral mitigation, capital structure, cost of debt.

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Date	Case	Jurisdict.	Party	Utility	Subject
09/09	09AL-299E Answer	CO	CF&I Steel, Rocky Mountain Steel Mills LP, Climax Molybdenum Company	Public Service Company of Colorado	Forecasted test year, historic test year, proforma adjustments for major plant additions, tax depreciation.
09/09	6680-UR-117 Direct and Surrebuttal	WI	Wisconsin Industrial Energy Group	Wisconsin Power and Light Company	Revenue requirements, CWIP in rate base, deferral mitigation, payroll, capacity shutdowns, regulatory assets, rate of return.
10/09	09A-415E Answer	CO	Cripple Creek & Victor Gold Mining Company, et al.	Black Hills/CO Electric Utility Company	Cost prudence, cost sharing mechanism.
10/09	EL09-50 Direct	FERC	Louisiana Public Service Commission	Entergy Services, Inc.	Waterford 3 sale/leaseback accumulated deferred income taxes, Entergy System Agreement bandwidth remedy calculations.
10/09	2009-00329	KY	Kentucky Industrial Utility Customers, Inc.	Louisville Gas and Electric Company, Kentucky Utilities Company	Trimble County 2 depreciation rates.
12/09	PUE-2009-00030	VA	Old Dominion Committee for Fair Utility Rates	Appalachian Power Company	Return on equity incentive.
12/09	ER09-1224 Direct	FERC	Louisiana Public Service Commission	Entergy Services, Inc.	Hypothetical versus actual costs, out of period costs, Spindletop deferred capital costs, Waterford 3 sale/leaseback ADIT.
01/10	ER09-1224 Cross-Answering	FERC	Louisiana Public Service Commission	Entergy Services, Inc.	Hypothetical versus actual costs, out of period costs, Spindletop deferred capital costs, Waterford 3 sale/leaseback ADIT.
01/10	EL09-50 Rebuttal Supplemental Rebuttal	FERC	Louisiana Public Service Commission	Entergy Services, Inc.	Waterford 3 sale/leaseback accumulated deferred income taxes, Entergy System Agreement bandwidth remedy calculations.
02/10	ER09-1224 Final	FERC	Louisiana Public Service Commission	Entergy Services, Inc.	Hypothetical versus actual costs, out of period costs, Spindletop deferred capital costs, Waterford 3 sale/leaseback ADIT.
02/10	30442 Wackerly-Kollen Panel	GA	Georgia Public Service Commission Staff	Atmos Energy Corporation	Revenue requirement issues.
02/10	30442 McBride-Kollen Panel	GA	Georgia Public Service Commission Staff	Atmos Energy Corporation	Affiliate/division transactions, cost allocation, capital structure.
02/10	2009-00353	KY	Kentucky Industrial Utility Customers, Inc., Attorney General	Louisville Gas and Electric Company, Kentucky Utilities Company	Ratemaking recovery of wind power purchased power agreements.
03/10	2009-00545	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Power Company	Ratemaking recovery of wind power purchased power agreement.

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03/10	E015/GR-09-1151	MN	Large Power Interveners	Minnesota Power	Revenue requirement issues, cost overruns on environmental retrofit project.
04/10	2009-00459	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Power Company	Revenue requirement issues.
04/10	2009-00548, 2009-00549	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Utilities Company, Louisville Gas and Electric Company	Revenue requirement issues.
08/10	31647	GA	Georgia Public Service Commission Staff	Atlanta Gas Light Company	Revenue requirement and synergy savings issues.
08/10	31647 Wackerly-Kollen Panel	GA	Georgia Public Service Commission Staff	Atlanta Gas Light Company	Affiliate transaction and Customer First program issues.
08/10	2010-00204	KY	Kentucky Industrial Utility Customers, Inc.	Louisville Gas and Electric Company, Kentucky Utilities Company	PPL acquisition of E.ON U.S. (LG&E and KU) conditions, acquisition savings, sharing deferral mechanism.
09/10	38339 Direct and Cross-Rebuttal	TX PUCT	Gulf Coast Coalition of Cities	CenterPoint Energy Houston Electric	Revenue requirement issues, including consolidated tax savings adjustment, incentive compensation FIN 48; AMS surcharge including roll-in to base rates; rate case expenses.
09/10	EL10-55	FERC	Louisiana Public Service Commission	Entergy Services, Inc., Entergy Operating Cos	Depreciation rates and expense input effects on System Agreement tariffs.
09/10	2010-00167	KY	Gallatin Steel	East Kentucky Power Cooperative, Inc.	Revenue requirements.
09/10	U-23327 Subdocket E Direct	LA	Louisiana Public Service Commission	SWEPCO	Fuel audit: S02 allowance expense, variable O&M expense, off-system sales margin sharing.
11/10	U-23327 Rebuttal	LA	Louisiana Public Service Commission	SWEPCO	Fuel audit: S02 allowance expense, variable O&M expense, off-system sales margin sharing.
09/10	U-31351	LA	Louisiana Public Service Commission Staff	SWEPCO and Valley Electric Membership Cooperative	Sale of Valley assets to SWEPCO and dissolution of Valley.
10/10	10-1261-EL-UNC	OH	Ohio OCC, Ohio Manufacturers Association, Ohio Energy Group, Ohio Hospital Association, Appalachian Peace and Justice Network	Columbus Southern Power Company	Significantly excessive earnings test.
10/10	10-0713-E-PC	WV	West Virginia Energy Users Group	Monongahela Power Company, Potomac Edison Power Company	Merger of First Energy and Allegheny Energy.

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Date	Case	Jurisdict.	Party	Utility	Subject
10/10	U-23327 Subdocket F Direct	LA	Louisiana Public Service Commission Staff	SWEPCO	AFUDC adjustments in Formula Rate Plan.
11/10	EL10-55 Rebuttal	FERC	Louisiana Public Service Commission	Entergy Services, Inc., Entergy Operating Cos	Depreciation rates and expense input effects on System Agreement tariffs.
12/10	ER10-1350 Direct	FERC	Louisiana Public Service Commission	Entergy Services, Inc. Entergy Operating Cos	Waterford 3 lease amortization, ADIT, and fuel inventory effects on System Agreement tariffs.
01/11	ER10-1350 Cross-Answering	FERC	Louisiana Public Service Commission	Entergy Services, Inc., Entergy Operating Cos	Waterford 3 lease amortization, ADIT, and fuel inventory effects on System Agreement tariffs.
03/11 04/11	ER10-2001 Direct Cross-Answering	FERC	Louisiana Public Service Commission	Entergy Services, Inc., Entergy Arkansas, Inc.	EAI depreciation rates.
04/11	U-23327 Subdocket E	LA	Louisiana Public Service Commission Staff	SWEPCO	Settlement, incl resolution of S02 allowance expense, var O&M expense, sharing of OSS margins.
04/11 05/11	38306 Direct Suppl Direct	TX PUCT	Cities Served by Texas-New Mexico Power Company	Texas-New Mexico Power Company	AMS deployment plan, AMS Surcharge, rate case expenses.
05/11	11-0274-E-GI	WV	West Virginia Energy Users Group	Appalachian Power Company, Wheeling Power Company	Deferral recovery phase-in, construction surcharge.
05/11	2011-00036	KY	Kentucky Industrial Utility Customers, Inc.	Big Rivers Electric Corp.	Revenue requirements.
06/11	29849	GA	Georgia Public Service Commission Staff	Georgia Power Company	Accounting issues related to Vogtle risk-sharing mechanism.
07/11	ER11-2161 Direct and Answering	FERC	Louisiana Public Service Commission	Entergy Services, Inc. and Entergy Texas, Inc.	ETI depreciation rates; accounting issues.
07/11	PUE-2011-00027	VA	Virginia Committee for Fair Utility Rates	Virginia Electric and Power Company	Return on equity performance incentive.
07/11	11-346-EL-SSO 11-348-EL-SSO 11-349-EL-AAM 11-350-EL-AAM	OH	Ohio Energy Group	AEP-OH	Equity Stabilization Incentive Plan; actual earned returns; ADIT offsets in riders.
08/11	U-23327 Subdocket F Rebuttal	LA	Louisiana Public Service Commission Staff	SWEPCO	Depreciation rates and service lives; AFUDC adjustments.
08/11	05-UR-105	WI	Wisconsin Industrial Energy Group	WE Energies, Inc.	Suspended amortization expenses; revenue requirements.

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Date	Case	Jurisdict.	Party	Utility	Subject
08/11	ER11-2161 Cross-Answering	FERC	Louisiana Public Service Commission	Entergy Services, Inc. and Entergy Texas, Inc.	ETI depreciation rates; accounting issues.
09/11	PUC Docket 39504	TX PUCT	Gulf Coast Coalition of Cities	CenterPoint Energy Houston Electric	Investment tax credit, excess deferred income taxes; normalization.
09/11	2011-00161 2011-00162	KY	Kentucky Industrial Utility Consumers, Inc.	Louisville Gas & Electric Company, Kentucky Utilities Company	Environmental requirements and financing.
10/11	11-4571-EL-UNC 11-4572-EL-UNC	OH	Ohio Energy Group	Columbus Southern Power Company, Ohio Power Company	Significantly excessive earnings.
10/11	4220-UR-117 Direct	WI	Wisconsin Industrial Energy Group	Northern States Power-Wisconsin	Nuclear O&M, depreciation.
11/11	4220-UR-117 Surrebuttal	WI	Wisconsin Industrial Energy Group	Northern States Power-Wisconsin	Nuclear O&M, depreciation.
11/11	PUC Docket 39722	TX PUCT	Cities Served by AEP Texas Central Company	AEP Texas Central Company	Investment tax credit, excess deferred income taxes; normalization.
02/12	PUC Docket 40020	TX PUCT	Cities Served by Oncor	Lone Star Transmission, LLC	Temporary rates.
03/12	11AL-947E Answer	CO	Climax Molybdenum Company and CF&I Steel, L.P. d/b/a Evraz Rocky Mountain Steel	Public Service Company of Colorado	Revenue requirements, including historic test year, future test year, CACJA CWIP, contra-AFUDC.
03/12	2011-00401	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Power Company	Big Sandy 2 environmental retrofits and environmental surcharge recovery.
4/12	2011-00036 Direct Rehearing Supplemental Rebuttal Rehearing	KY	Kentucky Industrial Utility Customers, Inc.	Big Rivers Electric Corp.	Rate case expenses, depreciation rates and expense.
04/12	10-2929-EL-UNC	OH	Ohio Energy Group	AEP Ohio Power	State compensation mechanism, CRES capacity charges, Equity Stabilization Mechanism
05/12	11-346-EL-SSO 11-348-EL-SSO	OH	Ohio Energy Group	AEP Ohio Power	State compensation mechanism, Equity Stabilization Mechanism, Retail Stability Rider.
05/12	11-4393-EL-RDR	OH	Ohio Energy Group	Duke Energy Ohio, Inc.	Incentives for over-compliance on EE/PDR mandates.

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06/12	40020	TX PUCT	Cities Served by Oncor	Lone Star Transmission, LLC	Revenue requirements, including ADIT, bonus depreciation and NOL, working capital, self insurance, depreciation rates, federal income tax expense.
07/12	120015-EI	FL	South Florida Hospital and Healthcare Association	Florida Power & Light Company	Revenue requirements, including vegetation management, nuclear outage expense, cash working capital, CWIP in rate base.
07/12	2012-00063	KY	Kentucky Industrial Utility Customers, Inc.	Big Rivers Electric Corp.	Environmental retrofits, including environmental surcharge recovery.
09/12	05-UR-106	WI	Wisconsin Industrial Energy Group, Inc.	Wisconsin Electric Power Company	Section 1603 grants, new solar facility, payroll expenses, cost of debt.
10/12	2012-00221 2012-00222	KY	Kentucky Industrial Utility Customers, Inc.	Louisville Gas and Electric Company, Kentucky Utilities Company	Revenue requirements, including off-system sales, outage maintenance, storm damage, injuries and damages, depreciation rates and expense.
10/12	120015-EI Direct	FL	South Florida Hospital and Healthcare Association	Florida Power & Light Company	Settlement issues.
11/12	120015-EI Rebuttal	FL	South Florida Hospital and Healthcare Association	Florida Power & Light Company	Settlement issues.
10/12	40604	TX PUCT	Steering Committee of Cities Served by Oncor	Cross Texas Transmission, LLC	Policy and procedural issues, revenue requirements, including AFUDC, ADIT – bonus depreciation & NOL, incentive compensation, staffing, self-insurance, net salvage, depreciation rates and expense, income tax expense.
11/12	40627 Direct	TX PUCT	City of Austin d/b/a Austin Energy	City of Austin d/b/a Austin Energy	Rate case expenses.
12/12	40443	TX PUCT	Cities Served by SWEPCO	Southwestern Electric Power Company	Revenue requirements, including depreciation rates and service lives, O&M expenses, consolidated tax savings, CWIP in rate base, Turk plant costs.
12/12	U-29764	LA	Louisiana Public Service Commission Staff	Entergy Gulf States Louisiana, LLC and Entergy Louisiana, LLC	Termination of purchased power contracts between EGSL and ETI, Spindletop regulatory asset.
01/13	ER12-1384 Rebuttal	FERC	Louisiana Public Service Commission	Entergy Gulf States Louisiana, LLC and Entergy Louisiana, LLC	Little Gypsy 3 cancellation costs.
02/13	40627 Rebuttal	TX PUCT	City of Austin d/b/a Austin Energy	City of Austin d/b/a Austin Energy	Rate case expenses.
03/13	12-426-EL-SSO	OH	The Ohio Energy Group	The Dayton Power and Light Company	Capacity charges under state compensation mechanism, Service Stability Rider, Switching Tracker.

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04/13	12-2400-EL-UNC	OH	The Ohio Energy Group	Duke Energy Ohio, Inc.	Capacity charges under state compensation mechanism, deferrals, rider to recover deferrals.
04/13	2012-00578	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Power Company	Resource plan, including acquisition of interest in Mitchell plant.
05/13	2012-00535	KY	Kentucky Industrial Utility Customers, Inc.	Big Rivers Electric Corporation	Revenue requirements, excess capacity, restructuring.
06/13	12-3254-EL-UNC	OH	The Ohio Energy Group, Inc., Office of the Ohio Consumers' Counsel	Ohio Power Company	Energy auctions under CBP, including reserve prices.
07/13	2013-00144	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Power Company	Biomass renewable energy purchase agreement.
07/13	2013-00221	KY	Kentucky Industrial Utility Customers, Inc.	Big Rivers Electric Corporation	Agreements to provide Century Hawesville Smelter market access.
10/13	2013-00199	KY	Kentucky Industrial Utility Customers, Inc.	Big Rivers Electric Corporation	Revenue requirements, excess capacity, restructuring.
12/13	2013-00413	KY	Kentucky Industrial Utility Customers, Inc.	Big Rivers Electric Corporation	Agreements to provide Century Sebree Smelter market access.
01/14	ER10-1350 Direct and Answering	FERC	Louisiana Public Service Commission	Entergy Services, Inc.	Waterford 3 lease accounting and treatment in annual bandwidth filings.
02/14	U-32981	LA	Louisiana Public Service Commission	Entergy Louisiana, LLC	Montauk renewable energy PPA.
04/14	ER13-432 Direct	FERC	Louisiana Public Service Commission	Entergy Gulf States Louisiana, LLC and Entergy Louisiana, LLC	Union Pacific Settlement benefits and damages.
05/14	PUE-2013-00132	VA	HP Hood LLC	Shenandoah Valley Electric Cooperative	Market based rate; load control tariffs.
07/14	PUE-2014-00033	VA	Virginia Committee for Fair Utility Rates	Virginia Electric and Power Company	Fuel and purchased power hedge accounting, change in FAC Definitional Framework.
08/14	ER13-432 Rebuttal	FERC	Louisiana Public Service Commission	Entergy Gulf States Louisiana, LLC and Entergy Louisiana, LLC	Union Pacific Settlement benefits and damages.
08/14	2014-00134	KY	Kentucky Industrial Utility Customers, Inc.	Big Rivers Electric Corporation	Requirements power sales agreements with Nebraska entities.
09/14	E-015/CN-12-1163 Direct	MN	Large Power Intervenors	Minnesota Power	Great Northern Transmission Line; cost cap; AFUDC v. current recovery; rider v. base recovery; class cost allocation.
10/14	2014-00225	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Power Company	Allocation of fuel costs to off-system sales.

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10/14	ER13-1508	FERC	Louisiana Public Service Commission	Entergy Services, Inc.	Entergy service agreements and tariffs for affiliate power purchases and sales; return on equity.
10/14	14-0702-E-42T 14-0701-E-D	WV	West Virginia Energy Users Group	First Energy-Monongahela Power, Potomac Edison	Consolidated tax savings; payroll; pension, OPEB, amortization; depreciation; environmental surcharge.
11/14	E-015/CN-12-1163 Surrebuttal	MN	Large Power Intervenors	Minnesota Power	Great Northern Transmission Line; cost cap; AFUDC v. current recovery; rider v. base recovery; class allocation.
11/14	05-376-EL-UNC	OH	Ohio Energy Group	Ohio Power Company	Refund of IGCC CWIP financing cost recoveries.
11/14	14AL-0660E	CO	Climax, CF&I Steel	Public Service Company of Colorado	Historic test year v. future test year; AFUDC v. current return; CACJA rider, transmission rider; equivalent availability rider; ADIT; depreciation; royalty income; amortization.
12/14	EL14-026	SD	Black Hills Industrial Intervenors	Black Hills Power Company	Revenue requirement issues, including depreciation expense and affiliate charges.
12/14	14-1152-E-42T	WV	West Virginia Energy Users Group	AEP-Appalachian Power Company	Income taxes, payroll, pension, OPEB, deferred costs and write offs, depreciation rates, environmental projects surcharge.
01/15	9400-YO-100 Direct	WI	Wisconsin Industrial Energy Group	Wisconsin Energy Corporation	WEC acquisition of Integrys Energy Group, Inc.
01/15	14F-0336EG 14F-0404EG	CO	Development Recovery Company LLC	Public Service Company of Colorado	Line extension policies and refunds.
02/15	9400-YO-100 Rebuttal	WI	Wisconsin Industrial Energy Group	Wisconsin Energy Corporation	WEC acquisition of Integrys Energy Group, Inc.
03/15	2014-00396	KY	Kentucky Industrial Utility Customers, Inc.	AEP-Kentucky Power Company	Base, Big Sandy 2 retirement rider, environmental surcharge, and Big Sandy 1 operation rider revenue requirements, depreciation rates, financing, deferrals.
03/15	2014-00371 2014-00372	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Utilities Company and Louisville Gas and Electric Company	Revenue requirements, staffing and payroll, depreciation rates.
04/15	2014-00450	KY	Kentucky Industrial Utility Customers, Inc. and the Attorney General of the Commonwealth of Kentucky	AEP-Kentucky Power Company	Allocation of fuel costs between native load and off-system sales.
04/15	2014-00455	KY	Kentucky Industrial Utility Customers, Inc. and the Attorney General of the Commonwealth of Kentucky	Big Rivers Electric Corporation	Allocation of fuel costs between native load and off-system sales.

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04/15	ER2014-0370	MO	Midwest Energy Consumers' Group	Kansas City Power & Light Company	Affiliate transactions, operation and maintenance expense, management audit.
05/15	PUE-2015-00022	VA	Virginia Committee for Fair Utility Rates	Virginia Electric and Power Company	Fuel and purchased power hedge accounting; change in FAC Definitional Framework.
05/15 09/15	EL10-65 Direct, Rebuttal Complaint	FERC	Louisiana Public Service Commission	Entergy Services, Inc.	Accounting for AFUDC Debt, related ADIT.
07/15	EL10-65 Direct and Answering Consolidated Bandwidth Dockets	FERC	Louisiana Public Service Commission	Entergy Services, Inc.	Waterford 3 sale/leaseback ADIT, Bandwidth Formula.
09/15	14-1693-EL-RDR	OH	Public Utilities Commission of Ohio	Ohio Energy Group	PPA rider for charges or credits for physical hedges against market.
12/15	45188	TX PUCT	Cities Served by Oncor Electric Delivery Company	Oncor Electric Delivery Company	Hunt family acquisition of Oncor; transaction structure; income tax savings from real estate investment trust (REIT) structure; conditions.
12/15 01/16	6680-CE-176 Direct, Surrebuttal, Supplemental Rebuttal	WI	Wisconsin Industrial Energy Group, Inc.	Wisconsin Power and Light Company	Need for capacity and economics of proposed Riverside Energy Center Expansion project; ratemaking conditions.
03/16 03/16 04/16 05/16 06/16	EL01-88 Remand Direct Answering Cross-Answering Rebuttal	FERC	Louisiana Public Service Commission	Entergy Services, Inc.	Bandwidth Formula: Capital structure, fuel inventory, Waterford 3 sale/leaseback, Vidalia purchased power, ADIT, Blythesville, Spindletop, River Bend AFUDC, property insurance reserve, nuclear depreciation expense.
03/16	15-1673-E-T	WV	West Virginia Energy Users Group	Appalachian Power Company	Terms and conditions of utility service for commercial and industrial customers, including security deposits.
04/16	39971 Panel Direct	GA	Georgia Public Service Commission Staff	Southern Company, AGL Resources, Georgia Power Company, Atlanta Gas Light Company	Southern Company acquisition of AGL Resources, risks, opportunities, quantification of savings, ratemaking implications, conditions, settlement.
04/16	2015-00343	KY	Office of the Attorney General	Atmos Energy Corporation	Revenue requirements, including NOL ADIT, affiliate transactions.
04/16	2016-00070	KY	Office of the Attorney General	Atmos Energy Corporation	R & D Rider.

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05/16	2016-00026 2016-00027	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Utilities Co., Louisville Gas & Electric Co.	Need for environmental projects, calculation of environmental surcharge rider.
05/16	16-G-0058 16-G-0059	NY	New York City	Keyspan Gas East Corp., Brooklyn Union Gas Company	Depreciation, including excess reserves, leak prone pipe.
06/16	160088-EI	FL	South Florida Hospital and Healthcare Association	Florida Power and Light Company	Fuel Adjustment Clause Incentive Mechanism re: economy sales and purchases, asset optimization.
07/16	160021-EI	FL	South Florida Hospital and Healthcare Association	Florida Power and Light Company	Revenue requirements, including capital recovery, depreciation, ADIT.
07/16	16-057-01	UT	Office of Consumer Services	Dominion Resources, Inc. / Questar Corporation	Merger, risks, harms, benefits, accounting.
08/16	15-1022-EL-UNC 16-1105-EL-UNC	OH	Ohio Energy Group	AEP Ohio Power Company	SEET earnings, effects of other pending proceedings.
9/16	2016-00162	KY	Office of the Attorney General	Columbia Gas Kentucky	Revenue requirements, O&M expense, depreciation, affiliate transactions.
09/16	E-22 Sub 519, 532, 533	NC	Nucor Steel	Dominion North Carolina Power Company	Revenue requirements, deferrals and amortizations.
09/16	15-1256-G-390P (Reopened) 16-0922-G-390P	WV	West Virginia Energy Users Group	Mountaineer Gas Company	Infrastructure rider, including NOL ADIT and other income tax normalization and calculation issues.
10/16	10-2929-EL-UNC 11-346-EL-SSO 11-348-EL-SSO 11-349-EL-SSO 11-350-EL-SSO 14-1186-EL-RDR	OH	Ohio Energy Group	AEP Ohio Power Company	State compensation mechanism, capacity cost, Retail Stability Rider deferrals, refunds, SEET.
11/16	16-0395-EL-SSO Direct	OH	Ohio Energy Group	Dayton Power & Light Company	Credit support and other riders; financial stability of Utility, holding company.
12/16	Formal Case 1139	DC	Healthcare Council of the National Capital Area	Potomac Electric Power Company	Post test year adjust, merger costs, NOL ADIT, incentive compensation, rent.
01/17	46238	TX PUCT	Steering Committee of Cities Served by Oncor	Oncor Electric Delivery Company	Next Era acquisition of Oncor; goodwill, transaction costs, transition costs, cost deferrals, ratemaking issues.
02/17	16-0395-EL-SSO Direct (Stipulation)	OH	Ohio Energy Group	Dayton Power & Light Company	Non-unanimous stipulation re: credit support and other riders; financial stability of utility, holding company.
02/17	45414	TX PUCT	Cities of Midland, McAllen, and Colorado City	Sharyland Utilities, LP, Sharyland Distribution & Transmission Services, LLC	Income taxes, depreciation, deferred costs, affiliate expenses.

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03/17	2016-00370 2016-00371	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Utilities Company, Louisville Gas and Electric Company	AMS, capital expenditures, maintenance expense, amortization expense, depreciation rates and expense.
06/17	29849 (Panel with Philip Hayet)	GA	Georgia Public Service Commission Staff	Georgia Power Company	Vogtle 3 and 4 economics.
08/17	17-0296-E-PC	WV	West Virginia Energy Users Group	Monongahela Power Company, The Potomac Edison Power Company	ADIT, OPEB.
10/17	2017-00179	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Power Company	Weather normalization, Rockport lease, O&M, incentive compensation, depreciation, income taxes.
10/17	2017-00287	KY	Kentucky Industrial Utility Customers, Inc.	Big Rivers Electric Corporation	Fuel cost allocation to native load customers.
12/17	2017-00321	KY	Attorney General	Duke Energy Kentucky (Electric)	Revenues, depreciation, income taxes, O&M, regulatory assets, environmental surcharge rider, FERC transmission cost reconciliation rider.
12/17	29849 (Panel with Philip Hayet, Tom Newsome)	GA	Georgia Public Service Commission Staff	Georgia Power Company	Vogtle 3 and 4 economics, tax abandonment loss.
01/18	2017-00349	KY	Kentucky Attorney General	Atmos Energy Kentucky	O&M expense, depreciation, regulatory assets and amortization, Annual Review Mechanism, Pipeline Replacement Program and Rider, affiliate expenses.
06/18	18-0047	OH	Ohio Energy Group	Ohio Electric Utilities	Tax Cuts and Jobs Act. Reduction in income tax expense; amortization of excess ADIT.
07/18	T-34695	LA	LPSC Staff	Crimson Gulf, LLC	Revenues, depreciation, income taxes, O&M, ADIT.
08/18	48325	TX PUCT	Cities Served by Oncor	Oncor Electric Delivery Company	Tax Cuts and Jobs Act; amortization of excess ADIT.
08/18	48401	TX PUCT	Cities Served by TNMP	Texas-New Mexico Power Company	Revenues, payroll, income taxes, amortization of excess ADIT, capital structure.
08/18	2018-00146	KY	KIUC	Big Rivers Electric Corporation	Station Two contracts termination, regulatory asset, regulatory liability for savings
09/18 10/18	20170235-EI 20170236-EU Direct Supplemental Direct	FL	Office of Public Counsel	Florida Power & Light Company	FP&L acquisition of City of Vero Beach municipal electric utility systems.

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09/18 10/18	2017-370-E Direct 2017-207, 305, 370-E Surrebuttal Supplemental Surrebuttal	SC	Office of Regulatory Staff	South Carolina Electric & Gas Company and Dominion Energy, Inc.	Recovery of Summer 2 and 3 new nuclear development costs, related regulatory liabilities, securitization, NOL carryforward and ADIT, TCJA savings, merger conditions and savings.
12/18	2018-00261	KY	Attorney General	Duke Energy Kentucky (Gas)	Revenues, O&M, regulatory assets, payroll, integrity management, incentive compensation, cash working capital.
01/19	2018-00294 2018-00295	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Utilities Company, Louisville Gas & Electric Company	AFUDC v. CWIP in rate base, transmission and distribution plant additions, capitalization, revenues generation outage expense, depreciation rates and expenses, cost of debt.
01/19	2018-00281	KY	Attorney General	Atmos Energy Corp.	AFUDC v. CWIP in rate base, ALG v. ELG depreciation rates, cash working capital, PRP Rider, forecast plant additions, forecast expenses, cost of debt, corporate cost allocation.
02/19 04/19	UD-18-07 Direct Surrebuttal and Cross-Answering	New Orleans	Crescent City Power Users Group	Entergy New Orleans, LLC	Post-test year adjustments, storm reserve fund, NOL ADIT, FIN48 ADIT, cash working capital, depreciation, amortization, capital structure, formula rate plans, purchased power rider.
03/19	2018-00358	KY	Attorney General	Kentucky American Water Company	Capital expenditures, cash working capital, payroll expense, incentive compensation, chemicals expense, electricity expense, water losses, rate case expense, excess deferred income taxes.
03/19	48929	TX PUCT	Steering Committee of Cities Served by Oncor	Oncor Electric Delivery Company LLC, Sempra Energy, Sharyland Distribution & Transmission Services, L.L.C.., Sharyland Utilities, L.P.	Sale, transfer, merger transactions, hold harmless and other regulatory conditions.
06/19	49421	TX PUCT	Gulf Coast Coalition of Cities	CenterPoint Energy Houston Electric	Prepaid pension asset, accrued OPEB liability, regulatory assets and liabilities, merger savings, storm damage expense, excess deferred income taxes.
07/19	49494	TX PUCT	Cities Served by AEP Texas	AEP Texas, Inc.	Plant in service, prepaid pension asset, O&M, ROW costs, incentive compensation, self-insurance expense, excess deferred income taxes.
08/19	19-G-0309 19-G-0310	NY	New York City	National Grid	Depreciation rates, net negative salvage.

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10/19	42315	GA	Atlanta Gas Light Company	Public Interest Advocacy Staff	Capital expenditures, O&M expense, prepaid pension asset, incentive compensation, merger savings, affiliate expenses, excess deferred income taxes.
10/19	45253	IN	Duke Energy Indiana	Office of Utility Consumer Counselor	Prepaid pension asset, inventories, regulatory assets and labilities, unbilled revenues, incentive compensation, income tax expense, affiliate charges, ADIT, riders.
12/19	2019-00271	KY	Attorney General	Duke Energy Kentucky	ADIT, EDIT, CWC, payroll expense, incentive compensation expense, depreciation rates, pilot programs
05/20	202000067-EI	FL	Office of Public Counsel	Tampa Electric Company	Storm Protection Plan.
06/20	20190038-EI	FL	Office of Public Counsel	Gulf Power Company	Hurricane Michael costs.
07/20 09/20	PUR-2020-00015 Direct Surrebuttal	VA	Old Dominion Committee for Fair Utility Rates	Appalachian Power Company	Coal Amortization Rider, storm damage, prepaid pension and OPEB assets, return on joint-use assets.
07/20 09/20	2019-226-E Direct Surrebbutal	SC	Office of Regulatory Staff	Dominion Energy South Carolina	Integrated Resource Plan.
10/20	2020-00160	KY	Attorney General	Water Service Corporation of Kentucky	Return on rate base v. operating ratio.
10/20	2020-00174	KY	Attorney General and Kentucky Industrial Utility Customers, Inc.	Kentucky Power Company	Rate base v. capitalization, Rockport UPA, prepaid pension and OPEB, cash working capital, incentive compensation, Rockport 2 depreciation expense, EDIT, AMI, grid modernization rider.
11/20 12/20	2020-125-E Direct Surrebuttal	SC	Office of Regulatory Staff	Dominion Energy South Carolina	Summer 2 and 3 cancelled plant and transmission cost recovery; TCJA; regulatory assets.
12/20	2020172-EI	FL	Office of Public Counsel	Florida Power & Light Company	Hurricane Dorian costs.
12/20	29849 (Panel with Philip Hayet, Tom Newsome)	GA	Georgia Public Service Commission Staff	Georgia Power Company	VCM23, Vogtle 3 and 4 rate impact analyses.
02/21 04/21	2019-224-E 2019-225-E Direct Surrebuttal	SC	Office of Regulatory Staff	Duke Energy Carolinas, LLC, Duke Energy Progress, LLC	Integrated Resource Plans.
03/21	51611	TX PUCT	Steering Committee of Cities Served by Oncor	Sharyland Utilities, L.L.C.	ADIT, capital structure, return on equity.

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Date	Case	Jurisdict.	Party	Utility	Subject
03/21	2020-00349 2020-00350	KY	Attorney General and Kentucky Industrial Utility Customers, Inc.	Kentucky Utilities Company and Louisville Gas and Electric Company	Rate base v. capitalization, retired plant costs, depreciation, securitization, staffing + payroll, pension + OPEB, AMI, off-system sales margins.
04/21 Direct 07/21	18-857-EL-UNC 19-1338-EL-UNC 20-1034-EL-UNC 20-1476-EL-UNC Supplemental Direct	OH	The Ohio Energy Group	First Energy Ohio Companies	Significantly Excessive Earnings Test; legacy nuclear plant costs.
05/21 06/21	2021-00004 Direct Supplemental Direct	KY	Attorney General and Kentucky Industrial Utility Customers, Inc.	Kentucky Power Company	CPCN for CCR/ELG Projects at Mitchell Plant.
06/21	29849 (Panel with Philip Hayet, Tom Newsome)	GA	Georgia Public Service Commission Staff	Georgia Power Company	VCM24, Vogtle 3 and 4 rate impact analyses.
06/21	2021-00103	KY	Attorney General and Nucor Steel Gallatin	East Kentucky Power Cooperative, Inc.	Revenues, depreciation, interest, TIER, O&M, regulatory asset.
07/21 08/21 10/21	U-35441 Direct Cross-Answering Surrebuttal	LA	Louisiana Public Service Commission Staff	Southwestern Electric Power Company	Revenues, O&M expense, depreciation, retirement rider.
09/21	05-21-00007061	TX RRCT	Texas Cities Alliance	CenterPoint, CoServe, Corix, EPCOR, SiEnergy, TGS, UniGas	Securitization; regulatory asset; rates.
09/21	2021-00190	KY	Attorney General	Duke Energy Kentucky	Revenues, O&M expense, depreciation, capital structure, cost of long-term debt, government mandate rider.
09/21	43838	GA	Public Interest Advocacy Staff	Georgia Power Company	Vogtle 3 base rates, NCCR rates; deferrals.
09/21	2021-00214	KY	Attorney General	Atmos Energy Corp.	NOL ADIT, working capital, affiliate expenses, amortization EDIT, capital structure, cost of debt, accelerated replacement Aldyl-A pipe, PRP Rider, Tax Act Adjustment Rider.
12/21	29849 (Panel with Philip Hayet, Tom Newsome)	GA	Georgia Public Service Commission Staff	Georgia Power Company	VCM25, Vogtle 3 and 4 rate impact analyses.
01/22	2021-00358	KY	Attorney General	Jackson Purchase Energy Corporation	Revenues, nonrecurring expenses, normalized expenses, interest expense, TIER.

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01/22	2021-00421	KY	Attorney General and Kentucky Industrial Utility Customers, Inc.	Kentucky Power Company	Proposed Mitchell Plant Operations and Maintenance and Ownership Agreements; sale of Mitchell Plant interest.
02/22	2021-00481	KY	Attorney General and Kentucky Industrial Utility Customers, Inc.	Kentucky Power Company	Proposed Liberty Utilities, Inc. acquisition of Kentucky Power Company; harm to customers; conditions to mitigate harm.
03/22	2021-00407	KY	Attorney General	South Kentucky Rural Electric Cooperative Corporation	Revenues, interest income, interest expense, TIER, payroll.
03/22 04/22	U-36190 Direct Cross-Answering	LA	Louisiana Public Service Commission Staff	Entergy Louisiana, LLC	Certification of solar resources.
05/22	20200241-EI 20210078-EI 20210079-EI	FL	Office of Public Counsel	Florida Power & Light Company, Gulf Power Company	Hurricanes Sally, Zeta, Isaias; Tropical Storm Eta, pre-planning, restoration and repair, costs, ratemaking recovery.
05/22	U-36268	LA	Louisiana Public Service Commission Staff	1803 Electric Cooperative, Inc.	Wholesale power contracts, wholesale rate tariffs, wholesale rates.
06/22	20220048-EI 20220049-EI 20220050-EI 20220051-EI	FL	Office of Public Counsel	Tampa Electric Company, Florida Public Utilities Company, Duke Energy Florida, LLC, Florida Power & Light Company	Storm Protection Plans. prudence, reasonableness, cost recovery, including deferred return on CWIP.
06/22	29849 (Panel with Philip Hayet, Tom Newsome)	GA	Georgia Public Service Commission Staff	Georgia Power Company	VCM26, Vogtle 3 and 4 rate impact analyses.
07/22	S-36267	LA	Louisiana Public Service Commission Staff	1803 Electric Cooperative, Inc.	Non-opposition to establish revolving LOC and supporting guarantees by member cooperatives.
08/22	53601	TX PUCT	Steering Committee of Cities Served by Oncor	Oncor Electric Delivery Company, LLC	Vendor financing, customer advances, cash working capital, ADFIT and temporary differences, depreciation expense, amortization expense.
09/22	20220010-EI	FL	Office of Public Counsel	Tampa Electric Company, Florida Public Utilities Company, Duke Energy Florida, LLC, Florida Power & Light Company	Storm Protection Plan, Cost Recovery Clause, prudence, reasonableness, deferred return on CWIP.
10/22	5-UR-110	WI	Wisconsin Industrial Energy Group	Wisconsin Electric Power Company	Levelized recovery of retired plan costs, securitization financing.
10/22	2022-00283	KY	Attorney General and Kentucky Industrial Utility Customers, Inc.	Kentucky Power Company	Rockport deferrals and recoveries.

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Date	Case	Jurisdict.	Party	Utility	Subject
12/22	2022-00263	KY	Attorney General and Kentucky Industrial Utility Customers, Inc.	Kentucky Power Company	Fuel adjustment clause methodology and disallowances.
01/23	29849 (Panel with Philip Hayet, Tom Newsome)	GA	Georgia Public Service Commission Staff	Georgia Power Company	VCM27, Vogtle 3 and 4 rate impact analyses.
1/23 02/23	2022-256-E Direct Surrebuttal	SC	Office of Regulatory Staff	Duke Energy Progress, LLC	Storm response process, costs, deferrals, deferred carrying costs.
03/23	2022-00372	KY	Attorney General	Duke Energy Kentucky, Inc.	Cash working capital, depreciation, decommissioning, regulatory asset amortization, retired generation asset recovery, modifications to existing tariffs, proposed new tariffs.
06/23	20230023-GU	FL	Office of Public Counsel	Peoples Gas System, Inc.	Restructuring, staffing, O&M expenses, storm expense, depreciation expense, amortization of theoretical depreciation surplus.
07/23	2022-00402	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Utilities Company and Louisville Gas and Electric Company	CPCNs for combined cycle and owned solar resources, acquisition of PPA solar resources, retirement of coal resources.
07/23 08/23	2023-89-E Direct Surrebuttal	SC	Office of Regulatory Staff	Duke Energy Progress, LLC	Securitization financing, quantifiable net benefits, regulatory liability for return on ADIT, financing order and tariff language for calculation of storm recovery charges.
08/23	U-36685	LA	Louisiana Public Service Commission Staff	Entergy Louisiana, LLC	Certification of solar PPAs and related ratemaking.
09/23	6680-UR-124 Direct Surrebuttal	WI	Wisconsin Industrial Energy Group	Wisconsin Power and Light Company	Ratemaking alternatives for recovery of retired plant costs, including securitization financing.
09/23	05-UR-110 (Reopener) Direct	WI	Wisconsin Industrial Energy Group	Wisconsin Electric Power Company	Ratemaking alternatives for recovery of retired plant costs, including securitization financing.
10/23	29849	GA	Georgia Public Service Commission Staff	Georgia Power Company	Vogtle 3 and 4 prudence.
10/23	2023-00159	KY	Attorney General Kentucky Industrial Utility Customer, Inc.	Kentucky Power Company	NOL, COR, and other ADIT, incentive comp, regulatory assets, transmission and distribution cost riders, CAMT and other IRA, tax costs rider, securitization.

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Date	Case	Jurisdict.	Party	Utility	Subject
12/23 02/24	2021-00370 Direct Rebuttal	KY	Attorney General Kentucky Industrial Utility Customer, Inc.	Kentucky Power Company	Investigation into adequacy of service and reasonableness of rates.
02/24	2023-00008	KY	Attorney General, Kentucky Industrial Utility Customesr, Inc.	Kentucky Power Company	Fuel adjustment clause; fuel and purchased power expense; peaking unit equivalent methodology.
03/24	05-23-0015513	TX RRCT	Cities Served by CenterPoint Gas	CenterPoint Energy Resources Corp.	Capital structure, Tax Rider, NOL ADIT, CAMT ADIT, annualize revenues, incentive compensation, vendor financing, customer financing, working capital.
05/24	56165	TX PUCT	Cities Served by AEP Texas	AEP Texas, Inc.	Tax Rider, NOL ADIT, CAMT ADIT, annualize revenues, incentive compensation, vendor financing, customer financing, working capital.
05/24 06/24	U-37071 Direct Direct in Support of Settlement	LA	Louisiana Public Service Commission Staff	Entergy Louisiana, LLC	RFP for solar resources; certification of Mondu PPA.
06/24	2024-34-E	SC	Office of Regulatory Staff	Dominion Energy South Carolina, Inc.	Working capital, cash working capital.
06/24	20240026-EI	FL	Office of Public Counsel	Tampa Electric Company	O&M expense, A&G expense, incentive compensation, depreciation rates and expenses, dismantlement expense, tax credits, subsequent year adjustments, tax rider.
06/24	56211	TX PUCT	Gulf Coast Coalition of Cities	Centerpoint Energy Houston Electric, LLC	Tax Rider, CAMT ADIT, vendor financing, customer financing, working capital, prepaid pension, regulatory assets, annualize revenues, Texas margin tax.
08/24 09/24 09/24	5-UR-111 Direct Rebuttal Surrebuttal	WI	Wisconsin Industrial Energy Group	Wisconsin Electric Power Company	Recovery of retired plant costs; securitization.
08/24 09/24 09/24	6690-UR-128 Direct Rebuttal Surrebuttal	WI	Wisconsin Industrial Energy Group	Wisconsin Public Service Corporation	Recovery of retired plant costs; securitization.
11/24	2024-00243	KY	Attorney General, Kentucky Industrial Utility Customers, Inc.	Kentucky Power Company	Bright Mountain Solar renewable energy purchase agreement.
12/24	2024-00285	KY	Attorney General	Duke Energy Kentucky, Inc.	Transition from PJM FRR entity to RPM entity; modifications to Rider Profit Sharing Mechanism.
01/25	2024-00276	KY	Attorney General	Atmos Energy Corporation	NOLC DTA, working capital, cash working capital, riders.

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02/25	05-24-00018879	TX (RRCT)	Cities Served by Atmos West Texas	Atmos Energy Corporation	NOLC DTA, other DTAs, DTLs, working capital, riders.
03/25	2024-00354	KY	Attorney General	Duke Energy Kentucky, Inc. (electric)	CAMT, working capital, CWC, unbilled revenues, depreciation, decommissioning, credit card fees, capacity performance insurance, new programs and riders.
05/25 06/25	2025-65-E Direct Surrebuttal	SC	Office of Regulatory Staff	Duke Energy Carolinas	Storm recovery costs, securitization, net benefits, regulatory assets and liabilities.
06/25	57568	TX	Freeport-McMoRan, Inc.	El Paso Electric Company	Revenue annualization, nuclear decommissioning, depreciation rates, long term debt interest payable.
06/25	2025-00045	KY	Attorney General, Kentucky Industrial Utility Customers, Inc.	Kentucky Utilities Company, Louisville Gas and Electric Company	CPCN, AFUDC, post in-service deferrals, generation cost recover rider, extremely high factor tariff.
08/25	2025-00113 2025-00114	KY	Attorney General, Kentucky Industrial Utility Customers, Inc.	Kentucky Utilities Company, Louisville Gas and Electric Company	Capitalization vs. rate base, CWIP in rate base, storm damage, vegetation management, pension, OPEB, depreciation, sharing OSS margins, extremely high load factor tariff, renewable purchased power agreement, tariff, Mill Creek 2 tariff, Mill Creek 6 tariff.
09/25	2025-154-E	SC	Office of Regulatory Staff	Duke Energy Carolinas, LLC	Working capital, cash working capital.
09/25	2025-00125	KY	Attorney General	Duke Energy Kentucky, Inc. (gas)	Cash working capital, CAMT, unbilled revenues, credit card fees, accelerated replacement of Aldyl-A.
10/25	57932	TX (PUCT)	Steering Committee of Cities Served by Oncor	Oncor Electric Delivery Company, LLC	Deferral of increases in insurance expense, self-insurance expense.
10/25	58306	TX (PUCT)	Steering Committee of Cities Served by Oncor	Oncor Electric Delivery Company, LLC	Securitization of storm costs, self-insurance, cost-free vendor and customer financing, revenue annualization, deferral of tax rate changes.
10/25	2025-00208	KY	Attorney General, Kentucky Industrial Utility Customers, Inc.	East Kentucky Power Cooperative, Inc.	Annualization and normalization of revenues, terminal net salvage, interim retirements, interim net salvage, life spans, earnings mechanism, deferral mechanism for revenues, RTEP expenses.
10/25	2025-00175	KY	Attorney General, Kentucky Industrial Utility Customers, Inc.	Kentucky Power Company	Mitchell ELG CPCN, securitization, environmental surcharges, deferral of costs.

EXHIBIT LK-2

Kentucky Power Company
KPSC Case No. 2025-00257
AG-KIUC's First Set of Data Requests
Dated September 29, 2025

DATA REQUEST

AG_KIUC 1_82	Provide the accounts payable balances for fuel inventories at month-end for each month January 2023 through August 2025. Describe the process the Company utilized to determine the accounts payable balances for fuel inventories. If these payables are maintained in a separate subaccount, then provide the balances for the months requested by subaccount.

RESPONSE

The Company objects to this request to the extent it seeks information that is outside of the test year period and, therefore, is not reasonably calculated to lead to the discovery of relevant or admissible evidence. Subject to and without waiving these objections, the Company states as follows. Please see KPCO_R_AG_KIUC_1_82_Attachment1. Accounts payable balances for fuel inventories were determined by analyzing accrued and unpaid balances related to account 151 and 152.

Witness: Brian C. Ciborek

Kentucky Power
Acconts Payable Balances for Fuel
January 2023 to August 2025

Month	2320011-Uninvoiced Fuel	2340001-Affiliated Payables	Total
Jan-23	(2,292,504)	(11,059,795)	(13,352,300)
Feb-23	(4,435,577)	(11,875,331)	(16,310,908)
Mar-23	(4,198,600)	(18,644,436)	(22,843,036)
Apr-23	(1,337,235)	(13,169,496)	(14,506,731)
May-23	(1,587,566)	(14,377,689)	(15,965,255)
Jun-23	(2,235,513)	(13,091,309)	(15,326,822)
Jul-23	(3,271,864)	(13,178,362)	(16,450,226)
Aug-23	(2,862,480)	(15,468,542)	(18,331,022)
Sep-23	(1,471,649)	(18,176,800)	(19,648,449)
Oct-23	(2,033,518)	(7,441,075)	(9,474,593)
Nov-23	(2,625,942)	(8,748,646)	(11,374,589)
Dec-23	(3,586,796)	(11,264,725)	(14,851,520)
Jan-24	(4,056,753)	(6,828,781)	(10,885,534)
Feb-24	(3,637,442)	(6,999,230)	(10,636,672)
Mar-24	(3,539,632)	(7,726,767)	(11,266,399)
Apr-24	(3,035,314)	(6,888,848)	(9,924,162)
May-24	(3,225,165)	(3,271,954)	(6,497,120)
Jun-24	(3,209,775)	(6,889,817)	(10,099,592)
Jul-24	(3,598,803)	(7,794,607)	(11,393,410)
Aug-24	(4,181,291)	(6,981,373)	(11,162,664)
Sep-24	(1,296,357)	(8,531,750)	(9,828,107)
Oct-24	(1,255,994)	(8,307,582)	(9,563,576)
Nov-24	(1,519,881)	(7,633,169)	(9,153,049)
Dec-24	(4,124,489)	(5,875,235)	(9,999,724)
Jan-25	(6,204,307)	(7,689,049)	(13,893,357)
Feb-25	(5,876,095)	(6,623,141)	(12,499,236)
Mar-25	(2,921,792)	(5,156,396)	(8,078,188)
Apr-25	(2,072,575)	(3,850,181)	(5,922,756)
May-25	(3,136,957)	(8,718,056)	(11,855,013)
Jun-25	(4,028,149)	(6,443,068)	(10,471,217)
Jul-25	(5,118,071)	(8,195,294)	(13,313,365)
Aug-25	(4,278,837)	(16,787,596)	(21,066,432)

EXHIBIT LK-3

Kentucky Power Company
KPSC Case No. 2025-00257
AG-KIUC's First Set of Data Requests
Dated September 29, 2025

DATA REQUEST

AG_KIUC 1_83	Provide the accounts payable balances for non-fuel materials and supplies inventories at month-end for each month January 2023 through August 2025. Describe the process the Company utilized to determine the accounts payable balances for materials and supplies inventories. If these payables are maintained in a separate subaccount, then provide the balances for the months requested by subaccount.

RESPONSE

The Company objects to this request to the extent it seeks information that is outside of the test year period and, therefore, is not reasonably calculated to lead to the discovery of relevant or admissible evidence. The Company further objects that the request seeks a narrative response. Subject to and without waiving these objections, the Company states as follows. Please see KPCO_R_AG_KIUC_1_83_Attachment1. Accounts payable balances for non-fuel materials and supplies were determined by analyzing accrued and unpaid balances related to account 154.

Witness: Brian C. Ciborek

Kentucky Power
Acconts Payable Balances for Non-Fuel Material & Supply
January 2023 to August 2025

Month	2320001 - Unpaids	2320002 - UVLs	2320077 - Procurement Goods & Services	2340001 - Affiliated	Total
Jan-23	(1,276,210.50)	(31,883.43)	(637,025.19)	(1,382,008.31)	(3,327,127.43)
Feb-23	(1,452,689.86)	(71,751.37)	(651,512.42)	(1,062,313.83)	(3,238,267.48)
Mar-23	(1,442,644.94)	(71,751.37)	(790,709.64)	(1,794,194.27)	(4,099,300.22)
Apr-23	(1,600,150.21)	(163,486.99)	(938,494.82)	(1,533,257.73)	(4,235,389.75)
May-23	(1,473,166.82)	(315,947.77)	(747,305.84)	(1,262,288.45)	(3,798,708.88)
Jun-23	(1,089,095.87)	-	(547,698.62)	(970,182.89)	(2,606,977.38)
Jul-23	(1,156,752.61)	(90,053.89)	(606,523.10)	(711,504.59)	(2,564,834.19)
Aug-23	(1,906,623.38)	(28,308.00)	(608,323.32)	(708,954.60)	(3,252,209.30)
Sep-23	(1,215,523.74)	(194,734.43)	(620,563.01)	(778,558.32)	(2,809,379.50)
Oct-23	(966,637.97)	(109,625.31)	(1,011,110.97)	(808,340.84)	(2,895,715.09)
Nov-23	(895,606.79)	(2,650.68)	(1,008,355.73)	(676,508.31)	(2,583,121.51)
Dec-23	(486,476.88)	(48,224.63)	(413,340.28)	(620,575.08)	(1,568,616.87)
Jan-24	(913,751.88)	-	(297,201.81)	(478,614.64)	(1,689,568.33)
Feb-24	(982,598.70)	-	(318,053.72)	(510,015.79)	(1,810,668.21)
Mar-24	(841,371.50)	(144,407.61)	(285,135.48)	(851,621.16)	(2,122,535.75)
Apr-24	(1,201,391.63)	(153,154.50)	(233,069.01)	(542,094.72)	(2,129,709.86)
May-24	(1,020,238.79)	(31,662.00)	(277,098.59)	(612,559.98)	(1,941,559.36)
Jun-24	(583,009.27)	-	(372,432.03)	(870,092.58)	(1,825,533.88)
Jul-24	(799,911.34)	(30,327.85)	(552,903.79)	(937,897.68)	(2,321,040.66)
Aug-24	(812,057.42)	(57,093.42)	(434,948.97)	(676,459.58)	(1,980,559.39)
Sep-24	(1,216,958.13)	(93,460.63)	(503,616.36)	(806,088.88)	(2,620,124.00)
Oct-24	(1,265,037.65)	(84,937.72)	(406,618.63)	(1,082,739.09)	(2,839,333.09)
Nov-24	(1,176,613.83)	(158,367.67)	(328,688.49)	(973,488.40)	(2,637,158.39)
Dec-24	(1,307,449.06)	(4,080.00)	(282,326.43)	(862,633.83)	(2,456,489.32)
Jan-25	(847,539.06)	(111,090.80)	(464,650.82)	(547,720.64)	(1,971,001.32)
Feb-25	(843,903.88)	-	(387,911.94)	(869,196.47)	(2,101,012.29)
Mar-25	(894,126.01)	-	(351,367.39)	(896,110.02)	(2,141,603.42)
Apr-25	(1,272,393.06)	(2,398.72)	(423,375.02)	(547,477.73)	(2,245,644.53)
May-25	(1,320,835.36)	(5,474.26)	(427,108.73)	(565,499.19)	(2,318,917.54)
Jun-25	(2,178,094.04)	-	(409,952.29)	(626,840.92)	(3,214,887.25)
Jul-25	(2,144,655.47)	(167,515.48)	(510,926.85)	(792,975.72)	(3,616,073.52)
Aug-25	(1,338,704.68)	-	(411,664.33)	(407,875.45)	(2,158,244.46)

EXHIBIT LK-4

Kentucky Power Company
KPSC Case No. 2025-00257
AG-KIUC's Second Set of Data Requests
Dated October 23, 2025

DATA REQUEST

AG_KIUC 2_30 Confirm the Company makes a calculation of the NOLC and the minimum NOLC DTA related to the excess of tax depreciation over book depreciation to ensure that it complies with the normalization rules set forth in the IRC and the related regulations. If confirmed, then describe this calculation and provide all documentation, procedures, and all authoritative support for the methodologies used in this calculation. In addition, provide the Company's calculations for each tax year since it first had an NOLC. If denied, then explain how the Company demonstrates to the IRS on audit that it has complied with the normalization rules.

RESPONSE

The Company objects because the request is vague, undefined, and overly broad. The Company further objects to this request on the basis that it calls for a legal conclusion. Subject to and without waiving these objections, the Company states as follows:

Please see the Company's response to AG_KIUC 2_16 for a description of the "with and without" calculation of the NOLC performed by the Company to comply with the normalization rules. To the Company's knowledge, the "with and without" method is the only method approved by the IRS to ensure that the NOLC DTA includes the full amount attributable to accelerated tax depreciation. The three PLRs issued to affiliates of Kentucky Power and provided in response to AG_KIUC 1_61 and attached to the testimony of Company witness Hodgson also describe the "with and without" method. See KPCO_R_AG_KIUC_1_64_Attachment1 for the Company's calculation of the NOLC DTA.

Witness: David A. Hodgson

EXHIBIT LK-5

Kentucky Power Company
KPSC Case No. 2025-00257
AG-KIUC's First Set of Data Requests
Dated September 29, 2025

DATA REQUEST

AG_KIUC 1_71 Confirm that the Company will not record an NOLC DTA on its accounting books to the extent that AEP makes a payment for the tax effects of the Company's taxable losses each year pursuant to the AEP Tax Allocation Agreement. If this is not correct, then provide a corrected statement and a detailed explanation of each correction and a copy of all support relied on for your response. Confirm that the NOLC DTA is for ratemaking purposes only and will require a proforma adjustment to rate base in each base rate case filing, all else equal.

RESPONSE

The Company objects to this request as vague and overly broad. The Company further objects to this request as speculative and not timebound. Subject to and without waiving these objections, as set forth in this case, the Company is not proposing to record a net NOLC DTA on its accounting books to the extent that AEP makes a payment for the tax effects of the Company's taxable losses pursuant to the AEP Tax Allocation Agreement but may record a NOLC DTA in its utility account and a contra NOLC DTA in a non-utility account. The Company is proposing a pro forma adjustment to rate base for the NOLC DTA.

Witness: David A. Hodgson

EXHIBIT LK-6

Kentucky Power Company
KPSC Case No. 2025-00257
AG-KIUC's First Set of Data Requests
Dated September 29, 2025

DATA REQUEST

AG_KIUC 1_56 Provide a copy of the AEP Tax Allocation Agreement.

RESPONSE

Please see KPCO_R_KPSC_1_56_Attachment1.

Witness: David A. Hodgson

AMERICAN ELECTRIC POWER COMPANY, INC. AND ITS CONSOLIDATED AFFILIATES — 2024 TAX AGREEMENT REGARDING METHOD OF ALLOCATING CONSOLIDATED INCOME TAXES

The below listed affiliated companies, joining in the annual filing of a consolidated federal income tax return with American Electric Power Company, Inc., under the provisions of sections 1501 and 1502 of the Internal Revenue Code (the "Code") and the Treasury Regulations thereunder, agree to allocate the consolidated annual net current federal income tax liability and/or benefit to the members of the consolidated group in accordance with the following procedures:

(1) The consolidated regular federal income tax, exclusive of capital gains and preference taxes and before the application of general business credits including foreign tax credits, shall be apportioned among the members of the consolidated group based on corporate taxable income. Loss companies shall be included in the allocation, receiving a negative tax allocation which is similar to a separate return carryback refund, before considering general business credits, which would have resulted had the loss company historically filed a separate return.

(2) The corporate taxable income of each member of the group shall be first reduced by its proportionate share of American Electric Power Company, Inc.'s (the holding company) tax loss (excluding the effects of extraordinary items which do not apply to the regulated business) in arriving at adjusted corporate taxable income for each member of the group with positive taxable income.

(3) To the extent that the consolidated and corporate taxable incomes include material items taxed at rates other than the statutory tax rate (such as capital gains and preference items), the portion of the consolidated tax attributable to these items shall be apportioned directly to the members of the group giving rise to such items.

(4) General business credits, other tax credits, and foreign tax credits shall be equitably allocated to those members whose investments or contributions generates the tax credit.

(5) If the tax credits can not be entirely utilized to offset the consolidated tax liability, the tax credit carryover shall be equitably allocated to those members whose investments or contributions generated the credit.

(6) Should the consolidated group generate a net operating tax loss for a calendar year, the tax benefits of any resultant carryback refund shall be allocated proportionately to member companies that generated corporate tax losses in the year the consolidated net operating loss was generated.

Any related loss of general business credits, shall be allocated to the member companies that utilized the credits in the prior year in the same proportion that the credit lost is to the total credit utilized in the prior year. A consolidated net operating tax loss carryforward shall be allocated proportionately to member companies that generated the original tax losses that gave rise to the consolidated net operating tax loss carryforward.

(7) A member with a net positive tax allocation shall pay the holding company the net amount allocated, while a tax loss member with a net negative tax allocation shall receive current payment from the holding company in the amount of its negative allocation. The payment made to a member with a tax loss should equal the amount by which the consolidated tax is reduced by including the member's net corporate tax loss in the consolidated tax return. The holding company shall pay to the Internal Revenue Service the consolidated group's net current federal income tax liability from the net of the receipts and payments.

(8) No member of the consolidated group shall be allocated a federal income tax which is greater than the federal income tax computed as if such member had filed a separate return.

(9) In the event the consolidated tax liability is subsequently revised by Internal Revenue Service audit adjustments, amended returns, claims for refund, or otherwise, such changes shall be allocated in the same manner as though the adjustments on which they are based had formed part of the original consolidated return using the tax allocation agreement which was in effect at that time.

(10) In furtherance of the foregoing, American Electric Power Company, Inc. shall indemnify and hold each individual subsidiary member of its consolidated group harmless for any and all losses, damages, liabilities or obligations (whether accrued, contingent, absolute or otherwise), claims, demands, causes of action, legal proceedings, orders, remedies, obligations, assessments, awards, payments, costs and expenses, interest, penalties, fines, judgments and settlements relating to taxes of American Electric Power Company, Inc. or any other member of the consolidated group (other than related to taxes of the subsidiary member itself) of which American Electric Power Company, Inc. is the parent, including pursuant to Treasury Regulation Section 1.1502-6 or any similar provision of state or local law, as a result of being and/or having been a member of an affiliated, consolidated, joint, unitary, combined or similar group of which American Electric Power Company, Inc. is the parent for any taxable period.

Any current state tax liability and/or benefit associated with a state tax return involving more than one member of the consolidated group, shall be allocated to such members following the principles set forth above for current federal income taxes. Due to certain states utilizing a unitary approach, the consolidated return liability may exceed the sum of the liabilities computed for each company on a separate return basis. If this occurs, the excess of the consolidated liability over the sum of the separate return liabilities shall be allocated proportionally based on each member's contribution to the consolidated apportionment percentage. If additional tax is attributable to a significant transaction or event, such additional tax shall be allocated directly to the members who are party to said transaction or event.

This agreement is subject to revision as a result of changes in federal and state tax law and relevant facts and circumstances.

The above procedures for apportioning the consolidated annual net current federal and state tax liabilities and expenses of American Electric Power Company, Inc. and its consolidating affiliates have been agreed to by each of the below listed members of the consolidated group as evidenced by the signature of an officer of each company.

Any additional company that becomes a member of the consolidated group, within the meaning of section 1504 of the Code, shall become a party to this agreement by amendment thereto. This agreement shall cease to apply with respect to any company that is a party hereto that ceases to be a member of the consolidated group, effective for all tax years of such company beginning after the company ceases to be a member of the consolidated group.

COMPANY	OFFICER'S SIGNATURE
American Electric Power Company, Inc.	/S/ Kate Sturgess
American Electric Power Service Corporation	/S/ David E. Muth
Abstract Digital, LLC	/S/ David E. Muth
AEP Appalachian Transmission Company, Inc.	/S/ David E. Muth
AEP Clean Energy Resources, LLC	/S/ David E. Muth
AEP Coal, Inc.	/S/ David E. Muth

AEP Credit, Inc.	/S/
AEP Cyber Risk, LLC	/S/
AEP Development Services, LLC	/S/
AEP Energy, Inc.	/S/
AEP Energy Partners, Inc.	/S/
AEP Investments Holding Company, Inc.	/S/
AEP Energy Services LLC	/S/
AEP Energy Services Gas Holding Company	/S/
AEP Energy Supply LLC	/S/
AEP Generating Company	/S/
AEP Generation Resources, Inc.	/S/
AEP Indiana Michigan Transmission Company, Inc.	/S/
AEP Investments, Inc.	/S/
AEP Kentucky Coal, LLC	/S/
AEP Kentucky Transmission Company, Inc.	/S/
AEP Nonutility Funding, LLC	/S/
AEP Ohio Transmission Company, Inc.	/S/
AEP Oklahoma Transmission Company, Inc.	/S/
AEP Pro Serv, Inc.	/S/
AEP Properties, LLC	/S/

AEP Retail Energy Partners, LLC	/S/ Daniel E Mueller
AEP Southwestern Transmission Company, Inc.	/S/ Daniel E Mueller
AEP Storage Holding Company, LLC	/S/ Daniel E Mueller
AEP Storage New York, LLC	/S/ Daniel E Mueller
AEP T & D Services, LLC	/S/ Daniel E Mueller
AEP Texas Central Transition Funding III, LLC	/S/ Kate Sturgess
AEP Texas Inc.	/S/ Daniel E Mueller
AEP Texas North Generation Company, LLC	/S/ Daniel E Mueller
AEP Texas Restoration Funding LLC	/S/ Matthew D Fransen
AEP Transmission Company, LLC	/S/ Daniel E Mueller
AEP Transmission Holding Company, LLC	/S/ Daniel E Mueller
AEP Utility Funding, LLC	/S/ Daniel E Mueller
AEP Ventures, LLC	/S/ Daniel E Mueller
AEP West Virginia Transmission Company, Inc.	/S/ Daniel E Mueller
Amherst County VA S1, LLC	/S/ Daniel E Mueller
Appalachian Consumer Rate Relief Funding LLC	/S/ Kate Sturgess
Appalachian Power Company	/S/ Daniel E Mueller
Blue Star Energy, LLC	/S/ Daniel E Mueller
Bold Transmission, LLC	/S/ Daniel E Mueller

Cedar Coal Company	/S/ Daniel E. Mueller
Central Appalachian Coal Company	/S/ Daniel E. Mueller
Central Coal Company	/S/ Daniel E. Mueller
Conesville Coal Preparation Company	/S/ Daniel E. Mueller
CSW Energy, Inc.	/S/ Daniel E. Mueller
Dolet Hills Lignite Company, LLC	/S/ Daniel E. Mueller
Franklin Real Estate Company	/S/ Daniel E. Mueller
Indiana Franklin Realty, Inc.	/S/ Daniel E. Mueller
Indiana Michigan Power Company	/S/ Daniel E. Mueller
Kamaaha PNL LLC	/S/ Daniel E. Mueller
Kentucky Power Company	/S/ Daniel E. Mueller
Kentucky Power Cost Recovery LLC	/S/ Daniel E. Mueller
Kingsport Power Company	/S/ Daniel E. Mueller
Kyte Works, LLC	/S/ Daniel E. Mueller
Kona CE, LLC	/S/ Daniel E. Mueller
Midwest Transmission Holdings, LLC	/S/ Daniel E. Mueller
Mutual Energy SWEPCO LLC	/S/ Daniel E. Mueller
Ohio Franklin Realty, LLC	/S/ Daniel E. Mueller
Ohio Power Company	/S/ Daniel E. Mueller
Price River Coal Company, Inc.	/S/ Daniel E. Mueller

Public Service Company of Oklahoma	/S/
Rock Falls Wind Farm, LLC	/S/
Snowcap Coal Company, Inc.	/S/ Matthew D Fransen
Southern Appalachian Coal Company	/S/
Southwest Arkansas Utilities Corp.	/S/
Southwestern Electric Power Company	/S/
SWEPCO Storm Recovery Funding LLC	/S/ Kate Sturgess
United Sciences Testing, Inc.	/S/
Wheeling Power Company	/S/

AMERICAN ELECTRIC POWER COMPANY, INC

Final Audit Report 2025-01-08

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EXHIBIT LK-7

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 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

DIRECT TESTIMONY OF

LINDA M. SCHLESSMAN

ON BEHALF OF KENTUCKY POWER COMPANY

Q. IS THE REGULATORY ASSET INCLUDED AS A COMPONENT OF ADIT OR AS AN INCREASE TO RATE BASE?

A. No. The regulatory asset and corresponding ADIT is not a part of rate base. As noted above, the Company is proposing to amortize $1,667,845 annually over a 20-year period and cease the double benefit going forward.

IX. NORMALIZATION OF NET OPERATING LOSSES

Q. WHAT IS THE COMPANY PROPOSING REGARDING NET OPERATING LOSSES IN THIS PROCEEDING?

A. The Company is proposing to include a stand-alone net operating loss carryforward ("NOLC"). This adjustment protects customers from the risk of a normalization violation.

Internal Revenue Code ("Code") requires the Company to treat its tax expense and ADIT consistently with its rate base and book depreciation. The Company calculates rate base and book depreciation on a stand-alone basis and, as such, it must also calculate taxes on stand-alone basis to reflect actual costs in rates. Because the Company calculates taxes on a stand-alone basis, the proposed NOLC methodology is consistent with the normalization requirements within the Code.

Adjustment 63 of Section V, Exhibit 2 adds the deferred tax asset of $51,807,098 related to the Company's stand-alone NOLC position and reduces the protected excess amortization, which is currently being refunded to customers through the Tariff F.T.C., by $290,867. The NOLC is also included in the Capitalization as Column 8, Section V, of Schedule 3.

Q. WHAT IS A NET OPERATING LOSS?

A. A net operating loss ("NOL") occurs when, in a given year, a taxpayer has more deductions than taxable revenues. When an NOL occurs, the Code allows the taxpayer to carry the NOL forward to subsequent years and offset otherwise taxable income produced in that future year.

Q. ARE THERE NORMALIZATION REQUIREMENTS INCLUDED WITHIN THE CODE?

A. Yes. The Code and accompanying treasury regulations provide normalization requirements, specifically in three areas: 1) Accelerated depreciation and the associated deferred tax liability that results from its use; 2) NOL Carryforwards ("NOLC") as a result of accelerated depreciation; and 3) Investment Tax Credits ("ITC").

Q. CAN YOU PLEASE DISCUSS THE NORMALIZATION REQUIREMENTS IN THE CODE AS TO ACCELERATED DEPRECIATION?

A. The Code dictates that a regulated public utility must use the normalization method of accounting to calculate tax expense on temporary differences associated with accelerated depreciation when determining rates using a cost of service/rate of return methodology. 26 U.S. Code §168(i)(9)(A) states that, in order for a public utility to be considered to be using a normalized method of accounting:

> (i) the taxpayer must, in computing its tax expense for purposes of establishing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, use a method of depreciation with respect to such property that is the

> same as, and a depreciation period for such property that is no shorter than, the method and period used to compute its depreciation expense for such purposes, and
> (ii) if the amount allowable as a deduction under this section with respect to such property (respecting all elections made by the taxpayer under this section) differs from the amount that would be allowable as a deduction under section 167 using the method (including the period, first and last year convention, and salvage value) used to compute regulated tax expense under clause (i), the taxpayer must make adjustments to a reserve to reflect the deferral of taxes resulting from such difference[3].

Q. CAN YOU PLEASE DISCUSS THE NORMALIZATION REQUIREMENTS AS THEY RELATE TO NOLC?

A. This is specifically addressed in Treasury Regulation § 1.167(*l*)-1(h)(1)(iii), which states:

> If, however, in respect of any taxable year the use of a method of depreciation other than a subsection (l) method for purposes of determining the taxpayer's reasonable allowance under section 167(a) results in a net operating loss carryover (as determined under section 172) to a year succeeding such taxable year which would not have arisen (or an increase in such carryover which would not have arisen) had the taxpayer determined his reasonable allowance under section 167(a) using a subsection (l) method, then the amount and time of the deferral of tax liability shall be taken into account in such appropriate time and manner as is satisfactory to the district director.

Although neither the Code nor the regulations specifically address the manner in which the NOL should be treated in ratemaking under the normalization rules, the IRS has addressed this issue in several private letter rulings ("PLRs"). PLRs 201436037, 21438003, 201519021, 201534001, 201548017, 201709008, and 202010002, which are attached to my testimony as Exhibits LMS-1 through LMS-7, clarify that a tax calculation with and without accelerated depreciation is

[3] 26 U.S.C. § 168(i)(9)(A).

used to determine the amount of the NOLC ADFIT required to be normalized. To the extent that accelerated depreciation creates an NOLC, the NOLC ADFIT must be a component of rate base. This can be reflected in rate base through ADFIT using either one of two methods to adhere to the normalization rules. In the first method, the deferred tax liability that is a result of accelerated depreciation would simply be reduced by the amount of the NOLC ADFIT. In the second method, the full, deferred tax liability is included as a rate base reduction and a separate deferred tax asset in the amount of the NOLC ADFIT is included as a rate base increase. The result of both is the same: the impact on rate base includes the net balance of the ADFIT for accelerated depreciation and the ADFIT for the NOLC. The PLRs uniformly conclude that excluding the NOLC ADFIT would constitute a normalization violation.

Q. WHAT IS THE RATIONALE FOR THIS TREATMENT OF THE NOLC ADFIT?

A. When a regulated utility experiences a NOLC, the taxpayer has not yet received the benefit of the depreciation related ADFIT, i.e., there is no interest free loan from the federal government. Accordingly, the rate base reduction is deferred until the NOLC is utilized and the loan is extended.

Q. PLEASE DESCRIBE THE CONCLUSIONS IN THE PLRS MENTIONED ABOVE.

A. The PLRs mentioned above confirm that NOLC ADFIT must be included in rate base to avoid a normalization violation when the NOL is the result of accelerated tax depreciation. They describe the NOLC as a necessary reduction to the rate base impact of the deferred tax liability associated with accelerated depreciation. Further, the PLRs prescribe either one of two approaches for determining the amount of the NOLC ADFIT that must be included in rate base: a "with-and-without" or "last dollar deducted" approach. Both of these approaches look at the hypothetical taxable income of the utility without the deductions for accelerated depreciation. The extent to which an NOLC is then attributable to accelerated depreciation must be included in rate base to avoid a normalization violation. The PLRs all contain language very similar to the following:

> Because the [ADFIT] account [Account 282], the reserve account for deferred taxes, reduces rate base, it is clear that the portion of an NOLC that is attributable to accelerated depreciation must be taken into account in calculating the amount of the reserve for deferred taxes [(ADFIT)]...
>
> The "with or without" [or "last dollar deducted"] methodology employed by Taxpayer is specifically designed to ensure that the portion of the NOLC attributable to accelerated depreciation is correctly taken into account by maximizing the amount of the NOLC attributable to accelerated depreciation. This methodology provides certainty and prevents the possibility of "flow through" of the benefits of accelerated depreciation to ratepayers.

Q. IS THE INCLUSION OF AN NOLC IN RATE BASE ALSO A SOUND ACCOUNTING AND REGULATORY PRACTICE?

A. Yes. The normalization treatment of an NOLC assures that the customers of a utility receive the benefit of the deferred tax payment associated with accelerated depreciation no sooner than they would be able to do so based on the operations of the utility on a stand-alone basis. This lines up the timing of customer benefits with the ability of the utility operations to provide those benefits.

Q. ARE THERE REPERCUSSIONS TO NOT FOLLOWING THE NORMALIZATION REQUIREMENTS FOR ACCELERATED DEPRECIATION?

A. Yes. A depreciation-related normalization violation results in the utility no longer being allowed to use accelerated depreciation on all property used to provide regulated service to the jurisdiction in which the violation occurred.[4] In addition, the taxes that have been deferred as a result of the prior accelerated depreciation must be paid to the federal government more quickly than they would be in the absence of the violation.

Q. WHAT IMPACT WOULD A NORMALIZATION VIOLATION HAVE ON CUSTOMERS?

A. A normalization violation would be harmful to customers as it would result in higher utility rates. As noted above, a normalization violation would prevent the utility from claiming deductions for accelerated depreciation and would result in the Company paying the IRS more rapidly for the previously deferred taxes. This would result in a lower ADIT balance which would cause the rate base for the Company to increase. As customers pay a return on rate base, any increase in rate base would directly result in higher rates. This lower ADIT would represent the reduction to a cost-free source of capital for the Company.

[4] 26 U.S.C. § 168(f)(2).

Q. WHAT IS MEANT BY A STAND-ALONE METHOD TO CALCULATING INCOME TAXES?

A. The stand-alone methodology calculates income taxes on utility revenues and expenses that are included in the utility's revenue requirement. This approach appropriately allocates income taxes between customers and shareholders using a benefits/burdens criteria. Under this methodology, income tax expense relates to, and results from, the provision of utility service to customers. Additionally, the stand-alone income tax calculation includes an adjustment to synchronize interest. Synchronized interest represents the portion of return that is deductible for tax purposes, and it is calculated by multiplying the weighted cost of debt by rate base. Use of synchronized interest in the tax calculation effectively "synchronizes" the calculation of income tax expense with rate base and rate of return. It calculates income taxes consistent with the assumptions used to calculate rate base and the rate of return. Synchronized interest may be more or less than the actual interest deducted on the tax return.

Q. DO THE TAXES REQUESTED IN THIS CASE REPRESENT A STAND-ALONE APPROACH?

A. Yes, the tax expense and ADIT included in this case represents the tax associated only with the income and expense of the Company in providing utility service to customers. It does not include any benefits or detriments that may arise from being included in a consolidated tax return.

Q. WHY IS THE STAND-ALONE APPROACH THE PROPER METHODOLOGY TO USE IN CALCULATING INCOME TAXES FOR RATEMAKING PURPOSES?

A. The stand-alone approach includes in the cost of service only income taxes that result from the provision of utility service to customer. Income taxes requested by the Company are based on revenues and expenses included in the cost of service calculation. There are no additions to or reductions from tax expense resulting from revenues or expenses not included in the Company's request. It is neither appropriate nor equitable to increase or reduce cost of service by tax costs or benefits that are not related to the rendition of utility service to customers. The use of a stand-alone approach prevents the cross-subsidization of costs or benefits among affiliate companies. Normalization requires consistency among tax expense, book depreciation expense, rate base, and the deferred tax reserve. [5]

Q. ON WHAT BASIS DID THE COMPANY PRESENT TAXES IN ITS MOST RECENT BASE CASE?

A. In Case No. 2020-00174, the Company presented taxes on a stand-alone basis for all tax expense and ADFIT items except for NOL. The NOL presented in that case reflected adjustments to the ADIT balance for the utilization of those tax attributes as a result of the Company being a member of a consolidated group for its federal tax return.

---

[5] 26 U.S.C. § 168(i)(9)(B).

Q. WHY HAS THE COMPANY PRESENTED NOL ON A STAND-ALONE BASIS FOR THIS FILING?

A. The Company has presented the NOL on a stand-alone basis because it is the proper method to calculate income taxes for ratemaking purposes for the reasons discussed above.

Prior to the preparation for this filing, the Company identified a risk that it faced if the NOL was not presented on a stand-alone basis.[6] In instances, such as this, in which a member of a consolidated group is in an NOL position as determined on a stand-alone basis and the NOL is the result of accelerated tax depreciation, there is a risk that the Company would not be adhering to the consistency requirement of the normalization rules. Tax expense included in rates is calculated only using the revenue and expenses associated with providing utility service to the Company's customers. Similarly, book depreciation is based only on the assets that are used to provide utility service to customers. If the NOL carryforward were not calculated on a stand-alone basis, then the ADIT included in rate base would reflect a reduction that is directly a result of the taxable situation of affiliate companies. This would result in a rate base that is inconsistent with tax expense and book depreciation and therefore not in compliance with the normalization rules.

[6] Company Witness Llende discussed this issue and AEP operating companies' steps to address it on rebuttal in Case No. 2021-00481.

Q. **PLEASE EXPLAIN WHY THE COMPANY'S BOOKS DO NOT REFLECT THE NOL CARRYFORWARD ON A STAND-ALONE BASIS.**

A. The balance reflected on the Company's books are a result of Kentucky Power's participation in a consolidated return with its parent company and affiliates (consolidated return group). As part of the consolidated return group, the Company also participates in the group's tax allocation agreement ("Agreement"). The Agreement dictates the allocation of the consolidated tax liability and tax attributes among members of the group. As a result of the Agreement, the books of the Company reflect an NOL carryforward only to the extent that the consolidated return group has a carryforward and only for the Company's allocated share of that carryforward. At the end of the test year, the consolidated return group was not expecting to have an NOL carryforward. As a result, the Company did not have an NOL carryforward on its books despite the fact that it has an NOL carryforward when calculated on a stand-alone basis.

Q. **DOES THE PARTICIPATION IN THE TAX SHARING AGREEMENT MEAN THAT THE COMPANY RECEIVED PAYMENTS FOR ITS NOL CARRYFORWARDS?**

A. Yes, it has. The tax sharing agreement directs companies with taxable income to remit a payment to the parent company of the consolidated return group in the amount of its tax liability. To the extent that there are companies with taxable losses, the parent company will distribute payments to those companies for the difference between the amount the parent company is required to remit to the IRS and the amount it received from taxable income companies. Through this intercompany payment process, the Company has received payments for use of its NOL carryforwards.

Q. IF THE COMPANY RECEIVED PAYMENTS FOR ITS NOL CARRYFORWARDS THEN WHY SHOULD THE STAND-ALONE NOL CARRYFOWARD BE INCLUDED IN RATE BASE?

A. The stand-alone NOL carryforward is both appropriate and necessary to include in the net ADIT reduction to rate base. First, the IRS guidance and the Code both indicate that a NOL carryforward as a result of accelerated depreciation must be included in the rate base of the utility. As discussed, the IRS has issued numerous PLR's all indicating that in order to comply with the normalization rules of the Code, the NOL carryforward must be a component of rate base. The normalization rules of the Code also specify that the assumptions for tax expense, book depreciation, and rate base must be consistent.

Figure LMS-7 below presents a simple example of a company that has accelerated tax depreciation deductions greater than its pre-tax book income which results in an NOL.

Figure LMS-7

Income Tax Expense - Per Income Statement		
Pre-Tax Net Income	10,000	
Statutory Tax Rate	21%	
Total Tax Expense	2,100	*(Tax Expense collected in customer rates)*

	Taxable Income		Tax Rate	(DTL) / DTA	
Pre-Tax Net Income	10,000				
Accelerated Tax Depreciation Reducing Income to Zero	(14,000)	x	21%	(2,940)	
				(2,940)	*ADIT Rate Base Reduction w/o NOL*
Taxable Income (Loss)	(4,000)				
Net Tax Loss Carry Forward	4,000	x	21%	840	
				(2,100)	*ADIT Rate Base Reduction with NOL*

In the above example, $2,100 is included in the cost of service for tax expense. The $14,000 deduction for accelerated depreciation results in a deferred tax liability of ($2,940). The company in this example has generated an NOL of $4,000 which results in a deferred tax asset of $840. As you can see in the example, when the deferred tax liability is netted with the NOL deferred tax asset the result is a rate base reduction of ($2,100). This rate base reduction is equal to the tax expense customers have paid for in the cost of service. If, however, the NOL deferred tax asset is not included as a component of rate base then rate base is reduced by ($2,940), an amount greater than the tax expense included in the cost of service. That difference between tax expense and rate base exemplifies the need for the NOL carryforward to be included as a component of rate base in order to comply with the consistency requirement of the normalization rules.

Q. CAN YOU DISCUSS THE PRO FORMA ADJUSTMENTS MADE TO REFLECT ADIT ON A STAND-ALONE ACCOUNTING BASIS?

A. Yes. A pro forma adjustment of $51,807,098 is being made to reduce the ADIT balance for a federal NOL calculated on a stand-alone basis. This adjustment represents the amount of ADIT associated with accelerated tax depreciation which has not been able to produce cash benefits to the Company on the basis of a stand-alone method as of the end of the historic test year. This adjustment reflects the ADIT associated with the taxable losses the Company has generated in excess of the taxable income it has generated and been able to offset based on the NOLC and carryback provisions of the Code. The adjustment has two components: a component to calculate the NOL deferred tax asset ("DTA") and a component to calculate the reduction to excess protected taxes, or deficient taxes, due to the establishment of the stand-alone NOL DTA.

The first component is the NOLC through the test period end generated by accelerated depreciation of $200,457,133[7] at the current tax rate of 21% and Kentucky jurisdiction allocation factor which is $41,506,654[8]. This balance will reverse as the Company incurs taxable income in the future. The second component of the NOLC is calculated by applying the change in the tax rate from 35% to 21% under TCJA to the NOLC at December 31, 2017 of $17,266,544 to arrive at the protected deficient NOL ADFIT. The amount is adjusted for the subsequent amended return movement, and the deficient amortization from January 2018 to March 2023 to arrive at a total NOLC deficient tax balance of

[7] Exhibit LMS-8.
[8] Exhibit LMS-9.

$14,641,550. The Kentucky jurisdictional amount of the $14,641,550 is $10,300,444. This balance will reverse as it is amortized through tax expense over the life of property, plant, and equipment. The second component represents the reduction to the regulatory liability for excess protected deferred taxes which was established in Case No. 2018-00035. The result of this journal entry will be a one-time credit to income tax expense and a benefit to the Company.[9] Because of the reduction to the regulatory liability for excess protected deferred taxes, the future amortization will decrease. The reduction to the regulatory liability results in a reduction to protected excess amortization of $290,867 annually for the base rates set in this proceeding.[10]

Q. HAS ANY AFFILIATE OF KENTUCKY POWER REQUESTED A PLR REGARDING THE NOLC TREATMENT IN ANY JURISDCITION?

A. Yes. Kentucky Power affiliates filed PLR requests for Texas, Oklahoma, and Indiana with the IRS in March 2022. Each PLR is identical to the tax attributes of Kentucky Power Company and the opinion applicable to the NOLC treatment proposed in this case.

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[9] Exhibit LMS-11.
[10] Exhibit LMS-10.

X. EXCESS ACCUMULATED DEFERRED FEDERAL INCOME TAXES

Q. WHAT IS THE COMPANY PROPOSING REGARDING EXCESS ACCUMULATED DEFERRED FEDERAL INCOME TAXES AMORTIZATION IN THIS PROCEEDING?

A. The Company is proposing to continue to include amortization of Protected Excess ADFIT in Federal Tax Cut Tariff ("Tariff F.T.C."). Adjustment 62 of Section V, Exhibit 2 removes Kentucky Protected Excess ADFIT amortization related to the Tariff F.T.C. The test period included all Excess ADFIT for Kentucky Power Company that is included in other jurisdictions and/or in other rates that are not associated with base rates proposed in this case. These balances were removed from the case by applying a Non-Allocated factor of 0%. Finally, Kentucky Unprotected Excess ADFIT was removed from ADIT in Adjustment 63, of Section V because the amount will be fully amortized prior to rates from this case being in effect.

Q. WHAT ARE EXCESS ACCUMULATED DEFERRED FEDERAL INCOME TAXES?

A. Excess ADFIT arise not only by accelerated depreciation and bonus deprecation, but by all differences between book and tax provisions of the federal corporate income tax code that result in corporations, such as the Company, recovering, through rates, their federal corporate income tax expense at a different (initially faster) rate than they pay the associated taxes. Kentucky Power, as a regulated utility following Financial Accounting Standards Board Accounting Standards Codification 980, deferred the difference on the Company's books as a regulatory liability, and if income tax rates had remained the same, the deferral would have

EXHIBIT LK-8

DATA REQUEST

AG_KIUC 1_60	Provide a copy of all Company requests for Private Letter Ruling (PLR) in the last five years, a copy of all correspondence with the Treasury/IRS regarding the request, a copy of all comments and/or other materials provided by the relevant Commission Staff to the Treasury/IRS in conjunction with each request for PLR, and a copy of the Ruling.

RESPONSE

The Company objects to this request to the extent it seeks information that is outside of the test year period and, therefore, is not reasonably calculated to lead to the discovery of relevant or admissible evidence. Subject to and without waiving this objection, please see KPCO_R_AG_KIUC 1_60_ConfidentialAttachment1 for a copy of the Company's request for a PLR from the IRS. The IRS has not issued a ruling in response to the Company's request.

Witness: David A. Hodgson

KPCO_R_AG_1_60_ConfidentialAttachment1 is redacted in its entirety.

EXHIBIT LK-9

Louisiana Public Service Commission

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REQUEST OF THE LOUISIANA PUBLIC SERVICE COMMISSION FOR OFFICIAL GUIDANCE CONCERNING PRIVATE LETTER RULINGS ISSUED TO AMERICAN ELECTRIC POWER COMPANY, INC. IN MARCH 2024.

To Ms. Rollinson:

The Louisiana Public Service Commission ("LPSC") hereby requests the issuance of guidance from the Chief Counsel's office concerning three private letter rulings ("PLRs") issued by the Internal Revenue Service ("IRS") that, if applied to utility ratemaking in Louisiana, would substantially increase rates.[1] The LPSC does not see these PLRs serving any purpose of the Internal Revenue Code ("Code"), and thus, is of the opinion that the detriment to Louisiana ratepayers warrants guidance from your office.

---

1 The three PLRs are: PLR-105952-32 (Mar. 8, 2024); PLR-105951-22 and PLR 107270-22 (Mar. 8, 2024).

The LPSC is the regulatory agency with plenary authority to regulate the rates of utilities operating in Louisiana pursuant to Article IV, Section 21 of the 1974 Louisiana Constitution, .2 The referenced PLRs were recently filed at the Federal Energy Regulatory Commission ("FERC") by American Electric Power Co. ("AEP") in an effort to raise FERC-regulated transmission rates. One of the PLRs applies to the Texas retail rates of Southwestern Electric Power Co. ("Swepco"), which is also subject to the jurisdiction of the LPSC. Swepco sought a similar tax-based rate increase in its Louisiana retail rates, which the LPSC rejected until Swepco receives a PLR from the IRS. *See* LPSC Order No. U-35441-A, Southwestern Electric Power Company, ex parte. In re: *Application for Approval of a Change in Rates, Extension of Formula Rate Plan and Other Related Relief.*
https://lpscpubvalence.lpsc.louisiana.gov/portal/PSC/DocumentDetails?documentId=166870

Reasons for seeking guidance. The PLRs characterize the failure to impute a "separate return" net operating loss ("NOL") deferred tax to a utility for ratemaking purposes as a normalization violation, which would subject the utility to the loss of the use of accelerated depreciation deductions. To avoid the loss of the deduction, the PLRs require the regulatory agency to impute a non-existent NOL carryforward deferred tax asset into the utility's rate base. In the case of Swepco, the imputation would significantly increase rates in all three jurisdictions that it serves, as well as in FERC-jurisdictional rates. As other utilities see the revenue-increasing effect of the PLRs, they will use them to raise their rates across the nation, as AEP is currently attempting at the FERC. *See American Elec. Pow. Serv. Corp.*, Docket Nos. 17-405-000 *et al.* (FERC).

Should the PLRs be adhered to for ratemaking purposes, the rate increases would be enormous. In LPSC Docket No. U-35441, Swepco sought to impute NOL carryforward deferred taxes that would have increased its rate base by $457,271,000. These NOL carryforward deferred taxes no longer exist on Swepco's accounting and regulatory records because they were extinguished by tax receipts pursuant to the AEP Tax Allocation Agreement. Additionally, AEP filed the PLRs at FERC in support of its request to permit the imputation of "separate return" NOL carryforward deferred taxes into rate base.

It is the LPSC's opinion that there are fundamental errors in the PLRs that make them inconsistent with the Tax Code and Regulations. In summary form, they are:

1. The PLRs require the imputation of "separate return" NOL carryforward deferred tax into the utility rate base, even though there is no such thing when a utility files with a consolidated group. *United Dominion Ind., Inc. v. United States*, 532 U.S. 822, 830 (2001) ("[W]e think it fair to say . . . that the concept of separate NOL 'simply does not exist.'"); *see also*, 26 C.F.R. § 1.1502-12(h) (separate taxable income, computed for separate return years, excludes NOLs).

2. The PLRs misinterpret the regulatory "stand alone" treatment of consolidated tax savings. They find that the stand-alone treatment does not comply with 26 U.S. § 168(B)(ii), which states that a utility may not use "an estimate or projection of the

2 There are a few exceptions to the LPSC's authority, for example, utilities owned or operated by a municipality are not under the LPSC's jurisdiction.

taxpayer's tax expense, depreciation expense, or reserve for deferred taxes under subparagraph (A)(ii) unless such estimate or projection is also used, for ratemaking purposes, with respect to the other 2 such items and with respect to rate base." Under the stand-alone treatment, all the elements are consistently used in ratemaking.

3. The PLRs upset more than 50 years of consistency between FERC, the Securities and Exchange Commission, and the IRS in the allocation of tax savings and tax liabilities when holding company affiliates file taxes as a consolidated group.

4. The PLRs fail to consider the tax normalization provisions of the Code together with the tax liability provisions applicable to consolidated tax filings.

5. The PLRs treat tax receipts under a consolidated tax allocation as irrelevant, negating the effect of a tax allocation agreement authorized by Treas. Reg. 1.1552-1(a)(3)(i).

6. The PLRs misstate the purpose of the 1969 Tax Reform Act concerning flow-through versus normalization of accelerated depreciation tax benefits; the purpose was to avoid a tax revenue *loss* to the Treasury, which the PLRs do not accomplish. Instead, they transfer the tax allocation benefit of joining a consolidated tax filing from customers to the utility and, ultimately, to AEP. Contrary to the intent of the Act, they increase rates.

7. The PLRs require recognition of a tax deferral that no longer exists, an unused deduction that has been used, and the non-recognition of a tax receipt that has been received.

8. The PLRs require raising rates, which the 1969 Tax Reform Act sought to avoid.

I. BACKGROUND AND FACTS

A. PLRs Subject to the Request for Guidance.

The PLRs were issued to AEP and three of its subsidiaries, which participate in the filing of consolidated income tax returns. The PLRs are: PLR-105952-22 (Mar. 8, 2024); PLR-105951-22 (Mar. 8, 2024); and PLR 107770-22 (Mar. 8, 2024). As the AEP companies requested, the PLRs rule that the failure of a regulatory agency to hypothetically "impute" separate NOL deferred taxes to a utility's rate base is a normalization violation, even though the financial statements of the utility do not reflect the NOL deferred taxes because the utility was compensated through a consolidated tax allocation for the use of the utility's NOL on the consolidated tax return.

B. Regulatory Background and Facts.

1. FERC regulation.

For more than half a century, utilities have followed the "stand-alone" ratemaking treatment of companies that file their taxes as part of a consolidated group. The stand-alone method, adopted by FERC in 1972, treats the utility for ratemaking "as nearly as possible on its own merits and not on those of its affiliates." *Columbia Gulf Trans. Co.*, 23 F.E.R.C. ¶ 61,396 at 61,852 (1983) (footnote omitted). It computes the income tax allowance based on the "revenues and costs entering into the regulated cost of service without increase or decrease for tax gains or losses related to other activities. . . ." *Id.* As the Commission said, the policy "looks like a policy that willfully ignores the consolidated tax liability," but it does not. *Id.* The stand-alone rule considers, rather than ignores, the tax effect of a utility's deductions that reduce the consolidated tax liability.

The FERC explained the difference between its "stand alone" policy and a "separate return" method. It said:

> A separate return policy assumes that the tax allowance should be equal to the tax the jurisdictional service would pay if it filed a separate return. Under a separate return policy the tax allowance would equal the tax the jurisdictional service would pay on its projected revenues less the deductions that would be shown on its return. A separate return policy thus ignores the consolidated tax return and reflects in the tax allowance none of the tax reducing benefits the group realizes from filing a consolidated return.
>
> Our stand-alone method is different. It does not ignore the consolidated return or the tax reducing benefits the group realizes by filing such a return. Unlike a separate return policy, our stand-alone policy in effect looks beneath the single consolidated tax liability and analyzes each of the deductions used to reduce the group's tax liability to determine the deductions for which each service is responsible. It then allocates to the jurisdictional service those deductions which were generated by expenses incurred in providing that service. In making this allocation it is irrelevant on which member's return the deductions would be reported if the group filed separate returns. Instead, the test in whether the expenses that generate the deduction are used to determine the jurisdictional service's rates. *Id.* at 61,852-53 (footnotes omitted).

FERC further explained that its stand-alone policy required consideration of the costs borne by ratepayers that produced savings on the consolidated tax return. It said:

> Thus, when an expense is included in the cost of service, the corresponding tax deduction is also allocated to ratepayers. In this way any tax reducing benefits, or savings, the company realizes in

> providing the service are recognized in calculating the tax allowance for the benefit of the ratepayers. *Id.* at 61,851.
>
> This allocation approach was designed to match the burden of paying an expense with the benefit of a favorable tax deduction for the expense. *Id.*

FERC's determination was approved by the United States Court of Appeals for the District of Columbia Circuit in *City of Charlottesville, Va. v. FERC*, 774 F.2d 1205 (D.C. Cir. 1985), *cert. denied*, 475 U.S. 1108 (1986). Then-judge Scalia, writing for the court, found that the stand-alone approach is "eminently" reasonable. He wrote:

> The object of the inquiry is whether "the customers of a regulated entity contributed to the expenses which created the loss deductions of the affiliate in the consolidated tax group. This is on its face eminently reasonable, and we have no difficulty sustaining it in principle. *Id.* at 1217.

The court also found that the FERC approach was correctly applied. *Id.* at 1217-21.

Under the Federal Power Act and Natural Gas Act, FERC is empowered to establish uniform accounting regulations for utilities subject to its jurisdiction. 16 U.S.C. § 825; 15 U.S.C. § 717. Utilities that file taxes on a consolidated basis thus reflect the stand-alone approach in accounting for the utilities' losses reflected on consolidated tax returns. Also, they are likely to match the use of losses with the allocation of tax savings resulting from those losses among affiliates.

2. Securities and Exchange Commission.

Pursuant to the Public Utility Holding Company Act, the Securities and Exchange Commission ("SEC") regulated the allocation of tax benefits among affiliates of a Public Utility Holding Company until 2005, when the Act was repealed as part of the 2005 Energy Policy Act. The 1935 Act was replaced with the 2005 Public Utility Holding Company Act, which transferred accounting and affiliate regulatory authority to FERC. 42 U.S.C. § 16451 *et seq*. Until the transfer, SEC Rule 45(c) governed tax allocations among holding company affiliates, and it permitted allocating tax allocation payments based on the deductions or losses used to reduce the group's tax liability. Section 5 of Rule 45(c) provided:

> The agreement may, instead of excluding members as provided in paragraph (c)(4), include all members of the group in the tax allocation, recognizing negative corporate taxable income or a negative corporate tax, according to the allocation method chosen. An agreement under this paragraph shall provide that those associate companies with a positive allocation will pay the amount allocated and those subsidiary companies with a negative allocation will receive current payment of their corporate tax credits. . . .17 C.F.R. § 250.45(c)(5) (1991).

The Rule defined "corporate tax credit" as the "negative separate return tax of an associate company for the tax year, equal to the amount by which the consolidated tax is reduced by including a net corporate taxable loss or other net tax benefit of such associate company in the consolidated tax return." *Id.*, § 250.45(c)(1).

3. Tax law and regulations.

The Tax Code and Regulations also line up with these approaches. 26 C.F.R. § 1.1552-1(a)(3)(1) permits the allocation of the tax liability of the group in proportion to the contribution of each member to the consolidated tax return. It states:

> The tax liability of the group (excluding the tax increases arising from the consolidation) shall be allocated on the basis of the **contribution of each member of the group to the consolidated taxable income of the group.** Any tax increases arising from the consolidation shall be distributed to the several members in direct proportion to the reduction in tax liability resulting to such members from the filing of the consolidated return as measured by the difference between their tax liabilities determined on a separate return basis and their tax liabilities . . . based on their contributions to the consolidated taxable income. 26 C.F.R. § 1.1552-1(a)(3)(i) (emphasis added).

Part (ii) of that subsection provides that the allocation of tax liability may not exceed the amount that would be applicable if the utility filed a separate return. 26 C.F.R. § 1.1502-33(a)(1), applicable also to "Earnings and Profits," provides for treating a parent and subsidiary as a "single entity" and provides: "References in this section to earnings and profits include deficits in earnings and profits."

These provisions establish that the AEP Tax Allocation Agreement distributes the "tax liability" of each member of the group, positive or negative. There is no "separate return" tax for a utility that joins in filing a consolidated tax return. The utility receives cash for the use of its NOL carryforward on the consolidated return and that cash extinguishes the asset NOL deferred tax.

These provisions are reinforced by Section 1.1502-21(b)(2) of the Treasury Regulations, which provides only for carrying *apportioned consolidated net operating losses* to separate return years. That section states:

> **(2) Carryovers and carrybacks of CNOLs to separate return years** – (i) *In general.* If any CNOL that is attributable to a member may be carried to a separate return year of the member, the amount of the CNOL that is attributable to the member is apportioned to the member (apportioned loss) and carried to the separate return year. If carried back to a separate return year, the apportioned loss may not be carried back to an equivalent, or earlier, consolidated return year of the group; if carried over to a separate return year,

> the apportioned loss may not be carried over to an equivalent, or later, consolidated return year of the group. 26 C.F.R. § 1.1502-21(b)(2).

Further, Section 1.1502-21(b)(2)(iv)(A) provides that "[t]he amount of a CNOL that is attributable to a member equals the product obtained by multiplying the CNOL and the percentage of the CNOL attributable to the member." 26 C.F.R. § 1.1502-21(b)(2)(iv)(A). That is the same amount as that distributed pursuant to the Tax Allocation Agreement.

4. Consistency of policies.

The FERC "stand-alone" ratemaking policy, the SEC Rule, and the IRS Regulation have been in synch for decades. Utilities distribute tax payments of profitable subsidiaries to those companies whose losses reflected on the consolidated return reduced the consolidated tax liability. The receipts of the company with a loss extinguish the loss carryforward used on the consolidated return and the associated deferred tax asset for accounting. The books and records of the utility thus reflect the reduction or elimination of NOL carryforward deferred taxes.

5. Consistency of tax and rates.

As FERC said in *Columbia Gas*, the stand-alone policy "looks like" an approach that ignores the consolidated tax return. 23 F.E.R.C. ¶ 61,396 at 61,852. But it is not. For accounting and ratemaking, a deferred tax asset is reduced because a consolidated tax payment has been made by the group to extinguish it. Thus, to the extent an unrealized accelerated depreciation deduction contributed to the net operating loss, the net reserve balance for accelerated depreciation is reduced as well.

Moreover, although the tax component of the return allowance is determined on a separate return basis, that tax allowance is adjusted for the amortization of the deferred tax reserve. The amortization returns to ratepayers the tax revenues that the utility did not pay the treasury due to the deferral, as the deduction's effects reverse. In the case of an asset deferred tax, it charges them to reflect the reversal of tax payments made by the utility before they were collected in rates. Thus, for instance, if NOL carryforward deferred taxes are eliminated by a tax allocation payment, the amortization that otherwise would have increased the tax allowance no longer occurs. 18 C.F.R. Pt. 101, Acc'ts 410.1, 411.1. The ratemaking tax allowance thus matches the tax treatment.

PLR-105952-22 recognized that the AEP companies reflected deferred taxes on their books in conformity with the stand-alone approach. It said:

> The receipt of cash from the Taxpayer's Parent Company for the consolidated utilization of the NOL results in the DTA being reduced to zero on Commission B Form A and Form B. Journal entries are not made to the financial statements of the subsidiary to re-establish the NOLC DTA for ratemaking purposes. The tax allocation method utilized by the Parent group for financial reporting reflects the NOLC (and other tax attributes) as realized or realizable when it is realized or realizable by the consolidated group. This methodology conforms to the requirements outlined by Commission B for

> financial accounting and reporting (Form A and Form B) in Enforcement Matter. *Id.* at 6.

These adjustments in parallel change the amortization into the tax allowance in the cost of service.

C. PLRs Issued to AEP.

All of the PLRs at issue find that adherence to the stand-alone method for ratemaking violates the tax normalization requirements of the Code and Regulations with respect to the use of accelerated depreciation. The PLRs all characterize the ratemaking treatment of the AEP utilities as a "separate return" method, and they treat the tax allocation payments as unrelated to the utility losses reflected on the consolidated return. The PLRs conclude that reducing the NOL deferred tax asset for the tax allocation payments, which compensate for the use of the utility's net operating loss on the consolidated tax return, violated the normalization requirements of Section 168(i)(9)(A).

The AEP companies asserted, and the PLRs each found, that the AEP companies used a "separate return" method in determining the reserve for depreciation in establishing their retail rates. For instance, PLR-105952-22 states:

> For ratemaking purposes, Taxpayer includes all used and useful public utility property in rate base, calculates depreciation expense thereon using a straight-line method, depreciates such property for federal income tax purposes using accelerated depreciation (MACRS), and makes an adjustment to the reserve for deferred taxes (at the federal statutory tax rate) to reflect the difference in tax liability attributable to the use of different depreciation methods for book and tax purposes. **All of these calculations were done on a separate return basis without regard to the property, tax attributes, or separate tax liability, of affiliates of Taxpayer.** *Id.* at 3 (emphasis added).

The same determination appears at page 3 of PLR-105951-22 and PLR-107770-22.

PLR-105952-22 discusses the "separate return" and "stand alone" methods and determine that they are consistent with "separate return." It states:

> Regarding Commission B Ratemaking, Opinion from Commission B describes the "stand alone method" as an income tax allowance "that takes into account the revenues and costs entering into the regulated cost of service without increase or decrease for tax gains or losses related to other activities . . ." The "stand alone method" results in the tax allowance being equal to the tax the utility would pay on the basis of its projected revenues less deductions for all operating, maintenance, and interest expenses included in the cost of service. Based on this definition, for ratemaking purposes, the Commission B-approved tax allocation method for ratemaking purposes aligns with the Agency definition of "separate return method" despite using the term "stand alone method" in that the tax expense is only attributable to

> the cost of service and the activities involved in providing service to a utility's customers. *Id.* at 6.

The PLRs all rely on Section 168(l)(9)(B)(ii) to determine that the ratemaking method used by the retail agencies violated the tax normalization requirements. PLR-105951-22, for instance, states that "Section 168(l)(9)(B)(ii) provides that the use of a procedure or adjustment that uses an estimate or projection of any of (1) the taxpayer's tax expense, (2) depreciation expense, or (3) reserve for deferred taxes under § 168(i)(9)(A)(ii) does not comply with the Consistency Rule unless such estimate or projection is also used, for ratemaking purposes, with respect to all three of these items and with respect to rate base." *Id.* at 10; PLR-107770-22 at 11; PLR-105952-22 at 10.

All three PLRs conclude that reflecting the tax allocation payments as a reduction to NOL deferred taxes in rate base violates the consistency rule. All three also conclude that the introduction of the tax allocation payments into the NOL carryforward deferred tax offset to the depreciation reserve "involves amounts that did not actually defer tax." PLR-105951-22 at 12; PLR-105952-22 at 11; PLR-107770-22 at 12. The LPSC can only assume that these findings were based on the assumption that the unused accelerated depreciation deduction on the NOL *would not* have deferred tax if the utility were a separate company, because the use of the deduction on the consolidated return undeniably did defer tax.

The PLRs all approve AEP's request that the IRS require the imputation of amounts that have been eliminated for accounting and regulatory purposes into the ratemaking treatment of deferred taxes. This action increases rates by increasing the rate base on which the utility earns a return and reducing the net amortization of accelerated depreciation deferred taxes into the ratemaking tax allowance. The PLRs do not avoid a revenue *loss* to the Treasury because the regulators of AEP companies have been using the same stand-alone methodology for decades. They instead raise rates and provide a windfall to AEP. *E.g.*, PLR-105951-22 at 13 ("whether and how group members allocate tax liabilities amongst themselves is irrelevant to the analysis."); *accord.*, PLR-105952-22 at 12; PLR-107770-22 at 13. The PLRs preclude consideration of the tax allocation payments in setting rates, allowing AEP or its subsidiaries to use the payments to increase profits.

II. REASONS RECONSIDERATION AND GUIDANCE IS NEEDED

The PLRs ignore, and essentially reject, an accounting and ratemaking orthodoxy that has been in place for half a century, with little to no analysis associated with ratemaking policy. The analysis that is included within the PLRs indicates a misunderstanding of ratemaking, perhaps due in part to the misrepresentations of the AEP companies. The PLRs require the hypothetical imputation of a "separate return" NOL carryforward deferred tax into utilities' regulated rate bases, even though the U.S. Supreme Court has ruled there is no such thing. They find a tax normalization violation where there is none. They find that the use of a company's depreciation deduction on a consolidated return, when the deduction could not have been used if the utility filed separately, does not defer tax – even though it irrefutably *does* defer tax. They conclude that a deduction that has been taken has not been taken. They require regulators to enter an imaginary world of "separate return" ratemaking, in which utility rates must rise and a windfall is provided to utilities, or suffer the loss of the accelerated depreciation deduction.

The PLRs misstate the underlying purpose of the Tax Reform Act of 1969. They require regulators to include an asset in rate base that does not exist, treat an accelerated depreciation deduction that has been taken as not taken, and treat tax allocation payments made in compensation for the use of the deduction as not received. The rulings, once in widespread use by utilities, will increase rates by tens of billions of dollars.

A. The PLRs Require the Imputation of a Non-Existent "Separate Return" NOL.

The PLRs require the imputation into rate base of a "separate return" NOL deferred tax to purportedly maintain the consistency required by normalization. E.g., PLR-105951-22 at 3, 12. But that determination rests on the incorrect premise that the Code and Regulations recognize something called a "separate return" NOL in the context of a taxpayer that files a consolidated tax return. As the U.S. Supreme Court ruled in *United Dominion Ind., Inc. v. United States*, 532 U.S. 822, 830 (2001), "we think it fair to say . . . that the concept of separate NOL 'simply does not exist.'" The PLRs require the imputation for ratemaking of this non-existent item.

In *United Dominion*, the Supreme Court dealt with an issue concerning the carryback of a "product liability loss," which required the Court to consider whether the loss should reflect consolidated or separate return taxation. The Court analyzed the tax regulations to determine whether the product liability component of the NOL should be determined on a "separate member approach" or a "single entity" approach. *Id.* at 829. The Court determined:

> The first step in applying the definition and methodology of PLL to a taxpayer filing a consolidated return thus requires the calculation of NOL. As United Dominion correctly points out, the Code and regulations governing affiliated groups of corporations filing consolidated returns provide only one definition of NOL: "consolidated" NOL, see Treas. Reg. § 1.1502-21(f). There is no definition of separate NOL for a member of an affiliated group. Indeed, the fact that Treasury Regulations do provide a measure of separate NOL in a different context, for an affiliated corporation as to any year in which it filed a separate return, . . . underscores the absence of such a measure for an affiliated corporation filing as a group member. Given this apparently exclusive definition of NOL as CNOL in the instance of affiliated entities with a consolidated return (and for reasons developed below, . . .) we think it is fair to say, as United Dominion says, that the concept of separate NOL "simply does not exist." *Id.* at 830 (references omitted).

The Court found that methods suggested by the Government for computing a separate return NOL were not consistent with the tax regulations. It said: "[B]y expressly and exclusively defining NOL as CNOL [consolidated net operating loss], the regulations support the position that group members' PLEs should be aggregated and the affiliated group's PLL determined on a consolidated, single entity basis." *Id.* at 834. The Court also recognized that provisions for calculating a "separate return tax" exist only for calculating the portion of a consolidated NOL that can be carried back to a separate return year. *Id.* at 833.

Additionally, Section 1.1502-21(b) makes clear that the NOL of a company that files taxes with a consolidated group is its portion of the consolidated NOL, even if it seeks to carry an NOL to a separate return year. The apportionment is determined on a basis equivalent to that used to distribute consolidated tax liabilities under the AEP Tax Allocation Agreement.

The Supreme Court's decision is also consistent with Section 1.1502-12 for determining separate taxable income for instances that involve separate return years. That provision *excludes* consideration of net operating losses. 26 C.F.R. § 1.1502-12. The regulation states in pertinent part:

> **§ 1.1502-12 Separate taxable income.**
>
> The separate taxable income of a member (including a case in which deductions exceed gross income) is computed in accordance with the provisions of the Code covering the determination of taxable income of separate corporations, subject to the following modifications:
>
> * * *
>
> **(h)** No net operating loss deduction shall be taken into account; . . .*Id.*

None of the PLRs consider *United Dominion* or the consolidated tax provisions of the Code and Regulations. Thus, they require the imputation into rates of a non-existent item under the tax law. The actual stand-alone tax of the utility is its allocation under the Tax Allocation Agreement.

B. The Stand-Alone Policy Is Consistent With the Requirements of 26 U.S.C. § 168, But Is Misunderstood in the PLRs.

The PLRs do not fully comprehend stand-alone ratemaking, most likely as the result of incorrect representations by the AEP companies. For instance, PLR-105951-22 states:

> Tax expense for the test year of approximately $f was thus calculated on a fully-normalized basis to include both current and deferred taxes on a stand-alone basis unreduced for any NOL. All of these calculations were done on a separate return basis without regard to the property, tax attributes, or separate tax liability, of affiliates, or the non-State property of Taxpayer. *Id.* at 3.

Apparently, the inconsistency found in the PLRs results from the belief that the tax expense reflects only separate return ratemaking, although the tax deferral is credited with the payment for the use of the utility's NOL carryforward on the consolidated tax return and the credit is reflected in rates. However, this interpretation is incorrect. The stand-alone method treats tax expense, the deferred tax reserve, the depreciation expense, and the rate base consistently in settings rates. The steps are:

1. The tax allowance in the return requirement is established based only on the separate company's tax expense, reflecting straight-line depreciation;

2. Depreciation expense for taxes reflects the accelerated depreciation rates permitted under Section 167 of the code;

3. The tax effect of the difference between the depreciation expense for accounting and ratemaking and the accelerated depreciation deduction for tax purposes is recorded as a reserve in FERC account 282 as a liability deferred tax, otherwise known as "ADIT" (accumulated deferred income taxes);

4. A tax loss that cannot be used on the separate or consolidated tax returns is recorded as part of an NOL carryforward and the tax effect recorded in FERC account 190 as asset ADIT. The unused accelerated depreciation component of the asset NOL carryforward ADIT effectively reduces the accelerated depreciation reserve to reflect *realized* deferred taxes;

5. When the unrealized depreciation deduction is realized on the consolidated tax return, the utility is compensated for the use of the deduction through a tax allocation payment from the group, reducing the NOL ADIT and the tax depreciation component of that NOL ADIT, thus effectively increasing the reserve for accelerated depreciation;

6. As the accelerated depreciation deduction reverses, ratepayers receive a return of the deferred taxes through an amortization (credits) into the tax allowance. The credits are made to USOA account 411.1-Provision for deferred income taxes-credit, utility operating income. [See generally, Rev. Proc. 88-12, 1988-1 C.B. 637, 638 (flow-back of tax reserves)]. The amortization of NOLC deferred taxes is debited to Account 410.1-Provision for deferred income taxes, utility operating income and has the effect of increasing the tax allowance. If the NOLC deferred tax has been eliminated due to a tax allocation payment, there is nothing to amortize.

7. The credits made to the tax expense in rates are based on the recorded deferred tax balances. The recorded balances reflect the effect of the consolidated tax allocations. The reserves are amortized into rates as deductions reverse.

The determination for taxation and ratemaking of the tax expense are fully consistent. The utility uses straight line depreciation for ratemaking and accelerated depreciation for taxes, pursuant to Section 167. The difference is reflected in the tax depreciation liability reserve, as required by Section 168(A). The payment for the use of the net operating loss on the consolidated tax return is reflected as an adjustment to the depreciation liability reserve through the reduction or elimination of the NOL ADIT. That adjustment is also reflected in the rate base. The regulated tax expense is adjusted for the amortization of the tax reserve after elimination of the net operating loss deferred tax. All the consolidated tax effects are consistently reflected for ratemaking.

The PLRs, on the other hand, impose inconsistency. The utilities participated in a consolidated tax filing, but the PLRs require a "procedure or adjustment" – an imputation – of net operating loss deferred tax that would exist only in a hypothetical separate return world. The accelerated depreciation reserve thus becomes different for ratemaking than the tax treatment. The tax treatment is not reflected in the rate base. Nor is the correct amortization of the tax deferral reflected in rates.

The PLRs step into a ratemaking role and require regulatory agencies to regulate on a basis that does not reflect reality. According to the PLRs, to preserve the ability of the utility to take accelerated depreciation deductions, the regulator must:

1. Treat an accelerated depreciation deduction that has been taken as if it were never taken [*E.g.*, PLR-107770-22 at 12: stand-alone "involves amounts that did not actually defer tax due to the presence of the NOLC."];

2. Treat a NOL carryforward that has been extinguished as if it were not extinguished;

3. Treat the tax allocation payment that determines the consolidated tax liability of the utility pursuant to 26 C.F.R. 1.1552-1(a)(3)(i) as an "irrelevant" payment that can be used by the utility or AEP to enrich itself;

4. Regulate rates based on utility-imputed data that is not reflected on the utility's books and records for accounting or regulatory purposes.

These requirements will disrupt ratemaking and unduly increase rates while not accomplishing the goal intended, to ensure appropriate payments to the Treasury.

The PLRs do not mention the computation and allocation of tax liabilities, positive and negative, for entities filing consolidated tax returns. They therefore reflect an unduly narrow view of the tax law and an incorrect understanding of stand-alone ratemaking.

C. The PLRs Are Not Consistent With the Purpose of the 1969 Tax Reform Act.

The PLRs incorrectly describe the purpose of the 1969 Tax Reform Act, confusing the means chosen by Congress with the underlying purpose. They each state: "The underlying concept and purpose of the Normalization Rules is to prevent the flow-through of these accelerated depreciation-related tax benefits to ratepayers in regulated rates any faster than permitted by the normalization rules." E.g., PLR-105951-22 at 12. Actually, the Act imposed normalization to prevent a revenue loss to the Treasury and it sought also to avoid rate increases. The PLRs do not prevent any revenue loss and will cause rate increases.

The 1969 Tax Reform Act in part was aimed at stemming a *revenue loss* to the Treasury from regulators' decisions to flow the tax benefits of accelerated depreciation to consumers. Jt. Comm. Rpt., H.R. 13270, 91st Cong., 1st Sess. (1969). The House Joint Committee report on the proposed legislation stated:

> "*Problem* – The trends of recent years are shifts from straight line to acclerated (*sic.*) depreciation and shifts from normalization to flow-through, often against the will of the taxpayer utilities. In general, flow through to customers doubles the revenue loss involved in shifting from straight-line to accelerated depreciation. It is understood that continuation of these trends would shortly lead to revenue losses of approximately $1.5 billion. . . ." *Id.* at 72.

The bill sought to address that problem, but at the same time sought to avoid rate increases that would occur if utilities already using flow-through were required to switch to normalization. Thus, it drew a distinction between then-existing property and new property. Practices already existing were frozen so that they could continue. For new property, the bill required normalization. *Id.*

The House Joint Committee Report identified one argument "for" the legislation as follows:

> "*Arguments For* – (1) The bill substantially forestalls the entire revenue loss that continuation of existing trends would have made almost inevitable. It does so in a way that (with very few exceptions) will require no increase in utility rates because of the tax laws, since by and large, it merely takes the various regulatory situations as it finds them and freezes those situations." *Id.* at 73.

The PLRs solve neither of these purposes and conflict with one of them. They do not avoid any revenue loss to the Treasury, because regulators are simply following the practice that has existed for half a century. They require increasing rates because they treat the consolidated tax payments for the use of losses as irrelevant – free cash to the utility. They *impose* rate increases because they require increases in rate base, on which utilities are entitled to a return. The only effects of the PLRs are harm to consumers and enrichment of utilities.

D. Intrusion of the Regulatory Province of FERC and State Regulators.

The PLRs unduly invade the province of ratemaking agencies without any compelling tax reason. In each of the jurisdictions addressed in the PLRs, regulators were requiring tax normalization in the same way that it has been practiced for decades. AEP's imputation request, approved in the PLRs, seeks to change that practice and require regulators to impose enormous rate increases.

A similar issue arose in *Federal Power Comm'n* v. *Memphis Light, Gas and Water*, 411 U.S. 458 (1973). In that case, a public utility regulated by FERC's predecessor, the Federal Power Commission ("FPC"), elected to switch from flow-through to normalization for its pre-1970 property, although the legislative history indicated an intent to not permit that election. A customer and a regulatory agency contended that the election should not be allowed for ratemaking, but the FPC approved it. On appeal, the D.C. Circuit ruled that the election could not be made for ratemaking, relying on its view of Congress's intent. *Memphis Light, Gas & Water* v. *Federal*

Power Comm'n, 462 F.2d 853, 863 (D.C. Cir. 1972). It ruled that the tax law curbed the FPC's discretion in setting rates.

The Supreme Court reversed. It agreed that the tax law could circumscribe regulatory options with respect to the treatment of taxes, but held that Congress did not intend to do so with respect to the normalization issue before it. The Court said:

> "We find no trace of a suggestion that the Federal Power Commission was denied authority to determine whether on particular facts the abandonment of flow-through by a utility within the parameter of the Tax Reform Act of 1969 would be in the public interest as envisaged by the Natural Gas Act, even though it might increase rates. The 'freeze' certainly was designed to cover changes to faster methods of tax depreciation but not changes to slower methods of tax depreciation that the Commission might permit." *Id.* at 472-73.

Here, the PLRs invade the regulatory province not by finding a departure from the normal practice of normalizing rates and taxes, but imposing a new requirement advocated by AEP. The PLRs invade the regulatory arena by requiring never-before-applied imputations at odds with accepted accounting and ratemaking practices. Congress did not mandate this sort of foray into utility regulation.

CONCLUSION

The IRS should issue public guidance on this issue in the public interest. Regulators are generally careful to avoid endangering favorable tax deductions of utilities and may view the PLRs as requiring them to raise rates. The blinkered analyses in the PLRs provide no valid basis for imposing huge additional costs on consumers.

Sincerely,

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CERTIFICATE

I certify that the representations in this Suggestion and Request for Official Guidance are true and correct to my knowledge, information and belief. I also certify that a copy of this Suggestion and Request has been served by U.S. Mail and Federal Express to:

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Michael R. Fontham

MRF/nel

EXHIBIT LK-10

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Attachments 2

3. Ex. A to PSO's PLR Request- OCC coverletter-signed — Download

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OKLAHOMA
Corporation
Commission

EXHIBIT A

August 26, 2025

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Internal Revenue Service
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Washington, DC 20224

Re: Request for Rulings Under Section 168(i)(9)

To whom it may concern:

The Oklahoma Corporation Commission ("Oklahoma Commission"), pursuant to Commission Order No. 749853 in Case No. PUD2024-000032, hereby submits its analysis regarding the Private Letter Ruling ("PLR") request of American Electric Power Company, Inc. and its wholly-owned subsidiary, Public Service Company of Oklahoma ("PSO").

Specifically, the Oklahoma Commission submits the attached *Request for Reconsideration of PLR 105952-22 and Demonstration of the Legality of the Regulatory Liability Approach Adopted in Response to the PLR* ("OCC Request and Memorandum"). The Oklahoma Commission requests, after a full review of the actual facts and applicable authorities, that the Internal Revenue Service ("IRS") reconsider PLR 105952-22 (and companion PLRs), or alternatively, determine that the regulatory liability approach it adopted in Order No. 749853 does not violate the normalization rule.

In addition to the OCC Request and Memorandum, the Oklahoma Commission is separately submitting its *Suggestion for Guidance Concerning Private Letter Rulings Issued without Complete Factual Information or Consideration of Consolidated Tax Regulations, Including PLR 105952-22.*

The Oklahoma Commission appreciates and thanks the IRS for its consideration of this important matter.

Sincerely,

Commissioner Kim David

Commissioner Brian Bingman

Commissioner J. Todd Hiett

KIM DAVID
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OKLAHOMA Corporation Commission

August 26, 2025

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SUGGESTION FOR GUIDANCE OF THE OKLAHOMA CORPORATION COMMISSION CONCERNING PRIVATE LETTER RULINGS ISSUED WITHOUT COMPLETE FACTUAL INFORMATION OR CONSIDERATION OF CONSOLIDATED TAX REGULATIONS, INCLUDING PLR 105952-22

The Oklahoma Corporation Commission ("Oklahoma Commission" or "OCC") hereby requests the issuance of guidance from the Internal Revenue Service ("IRS" or "Service") Chief Counsel concerning three private letter rulings issued to American Electric Power Co. ("AEP") and certain AEP subsidiaries. In particular, the Oklahoma Commission requests that the Service reconsider PLR 105952-22 (Mar. 8, 2024), issued to AEP and Public Service Company of Oklahoma ("PSO"), and two other PLRs issued the same day to AEP and other AEP subsidiaries. The others are PLR 105951-22 and PLR 107770-22.

The Oklahoma Commission is the regulatory agency established under the Oklahoma Constitution to regulate public utilities, including PSO. The Oklahoma Commission regulates the rates charged to consumers by PSO to ensure that they are just and reasonable. PLR 105952-22 impeded this effort.. It ruled for AEP that the company would lose its right to take accelerated depreciation deductions if the Oklahoma Commission continued to adhere to the longstanding regulatory practice of crediting tax allocation payments for the use of PSO's Net Operating Loss ("NOL") Carryforward on the AEP consolidated tax return to reduce PSO's NOL Carryforward Accumulated Deferred Income Taxes ("ADIT") for ratemaking.

The companion PLRs contained materially identical rulings concerning the same regulatory practice of other regulatory agencies, including the Federal Energy Regulatory Commission ("FERC"). Indeed, the PLRs would apply to any regulatory agency that uses FERC's Uniform System of Accounts ("USoA") for ratemaking. That includes most regulatory agencies, because federal law provides that utilities must follow the USoA for their accounting. 16 U.S.C. Section 825.

The Oklahoma Commission requests that the IRS reconsider PLR 105952-22 and its sister rulings because they are based on an inadequate understanding of the regulatory background related to the allocation of payments under a Tax Allocation Agreement adopted by a public utility holding company. They also misunderstand the facts under which the OCC and other regulators consider tax allocations for ratemaking.

Reconsideration is needed because the rulings upset more than 50 years of regulatory and tax policy based on consistent determinations of FERC, the Securities and Exchange Commission ("SEC") and the IRS. If not reconsidered, the PLRs will lead to large rate increases and undermine the consumer sharing of the benefits of accelerated depreciation deductions that was contemplated by Congress and regulators.

The issue raised by the PLRs has immense importance in regulation. If not reconsidered or overruled, PLR 105952-22 and its companions would raise the electric rates of consumers served by many utilities. AEP thus far is the only holding company that has obtained PLRs, but other utilities are likely to pursue the same imputations of non-existent NOL Carryforward ADIT into the rate bases on which they earn a return.

AEP subsidiaries serve customers in 11 jurisdictions and it has indicated that its methodology would apply in 10 of 11 of its jurisdictions. The dollar amounts at stake are substantial. In Oklahoma, PSO imputed $163.9 million into its rate base. The Louisiana Public Service Commission ("Louisiana Commission") filed its own suggestion for guidance on the issue in 2024 and updated it in 2025. It represented that the impact of AEP's methodology would increase the rate base of Southwestern Electric Power Co. by $457.3 million. [Louisiana Commission Sugg. for Guidance at 2, https://www.regulations.gov/comment/IRS-2024-0009-0067.]

The Oklahoma Commission emphasizes that AEP incorrectly portrayed the regulatory setting and omitted any discussion of consolidated tax regulations and United States Supreme Court authority in its analysis that led to the issuance of PLR 105952-22. Although the IRS appears to have gained some additional information from AEP before issuance of the ruling, the PLRs still do not consider relevant facts and law, nor do similar PLRs obtained by AEP. The others are PLR 105951-22 and PLR 107770-22, issued simultaneously with PLR 105952-22 on March 8, 2024.

An issue of this importance should be resolved with a full analysis of applicable law. Here, the PLRs failed to consider the IRS's own consolidated tax regulations, even though the AEP subsidiaries join in filing a consolidated tax return. The tax allocation payment made to PSO by AEP for the use of its NOL Carryforward on the consolidated tax return simply represented a payment for PSO's negative, actual tax liability pursuant to the regulations. The allocation of consolidated taxes to PSO pursuant to the agreement represents its only "separate" tax liability.

The Oklahoma Commission does not believe the IRS would have reached the conclusions reflected in the PLRs absent the misleading presentation of AEP in the PLR requests. This Suggestion for Guidance thus reviews the matters portrayed misleadingly in the AEP requests, with a focus on the request leading to the issuance of PLR 105952-22. It then provides the authorities that should have been included in any complete analysis of whether prevailing regulatory policy conflicts with the IRS normalization rules. Next, the Suggestion for Guidance demonstrates that the stand-alone approach is consistent with, and indeed it is mandated by, the tax regulations governing consolidated tax filings.

The Service has reconsidered private letter rulings related to tax normalization in recent years. For instance, despite the issuance in the mid-2010s of PLRs indicating that the "with and without" method of allocating NOL Carryforward ADIT to accelerated depreciation ADIT, the IRS indicated that any reasonable method of allocation may be used by regulatory agencies. Rev. Proc. 2020-39 at 4; see PLR 148319-13 (2014). The requirement of an imputation of non-existent NOL Carryforward ADIT similarly deserves reconsideration.

The request demonstrates that the tax normalization approach approved by the Oklahoma Commission is not only permissible, but required under the tax regulations governing corporations that participate in the filing of a consolidated tax return.

A. AEP's Factual Portrayal.

AEP provided a misleading portrayal of the regulatory circumstances under which the OCC and other regulators, including FERC, have regulated utilities. The PLR request that led to the issuance of PLR 105952-22 was filed March 4, 2022 and was authored by Eversheds Sutherland on behalf of AEP. Among the misleading or erroneous statements are the following:

1. AEP portrayed its "ratemaking books of account" as if that term is synonymous with "regulatory books of account" as used in 26 U.S.C. Section 168(i)(9)(A)(i). [AEP Req. at 2, see also, AEP Req. at 4 ("ratemaking regulated books of account")]. AEP's "ratemaking books of account" was simply its term for its rate request, which included an imputation of NOL Carryforward ADIT that was not reflected on its "regulatory books of account."

   Pursuant to 16 U.S.C. Section 825(a), every utility must keep accounts, books and records in a manner prescribed by FERC. FERC's USoA constitutes the only "regulated books of account" for utilities. FERC uses the accounts so prescribed for FERC ratemaking and other purposes, and it has been adopted by OCC. Here, the relevant accounting is consistent with Generally Accepted Accounting Principles ("GAAP"), used for financial reporting.

   A state may require that records supplementing the USoA be maintained for state regulatory purposes, but the Oklahoma Commission never prescribed the AEP methodology reflected on its "ratemaking books of account."

2. AEP incorrectly implied that "separate return" and "stand-alone" regulation are the same. AEP first stated that its ratemaking depreciation and tax calculations are done "on a separate return basis without regard to the property, tax attributes, or separate tax liability" of affiliates. [AEP Req. 3]. AEP after that referred to its approach as reflecting a "standalone NOLC DTA." [AEP Req. 3].

   As FERC has explained, the "separate return" and "stand alone" approaches are different. FERC ratemaking and the USoA always reflected the stand-alone approach, not a separate return approach, until FERC recently acquiesced, reluctantly, to the PLRs. *AEP Oklahoma Trans. Co. v. Public Serv. Co. of Oklahoma*, 191 F.E.R.C. P61,396 (June 30, 2025). See *Columbia Gulf Trans. Co.*, 23 F.E.R.C. P61,396 at 61,852 (1983).

3. AEP inaccurately represented that its imputation of an asset NOL ADIT into a ratemaking deferred tax account reflected a "standalone" approach. [AEP Req. 3.]. That was untrue. *Columbia Gulf*, 23 F.E.R.C. P61,396 at 61,852; *AEP Oklahoma*, 191 F.E.R.C. P61,239 at P 44.

4. AEP repeatedly referred to the objections of other parties as seeking an "adjustment" or "proposal" to modify the accounting data, when in fact AEP's "ratemaking" data was an adjustment to the data in the "regulated books of account," as that term is used in 26 U.S.C. Section 168(i)(9)(A). [AEP Req. at 3-4].

5. AEP failed to make clear that its own ratemaking previously followed the "stand-alone" method for dealing with tax allocation payments, that the approach was used by all regulators for which the starting point in ratemaking is the regulated books of account, and that its previous approach reflected policies in place since passage of the Tax Reform Act of 1969 and the adoption of the tax normalization rules.

6. AEP incorrectly represented that "[t]he law is clear" and "[n]o contrary authorities exist", [AEP Req. at 13]. *E.g.*, *City of Charlottesville, Va. v. F.E.R.C.*, 774 F.2d 1205 (D.C. Cir. 1985) (affirming *Columbia Gulf*); *United Dominion Ind., Inc. v. United States*, 532 U.S. 822, 830 (2001) (holding that when a company participates in a consolidated tax filing, the concept of separate return NOL "simply does not exist.").

B. AEP's Omission of Controlling Authorities.

AEP omitted controlling authorities related to companies that participate in the filing of consolidated tax returns. The PLRs similarly omit references to these authorities. The Oklahoma Commission believes that the IRS would not have reached the conclusions in the PLRs had it considered these cases and provisions in its analysis.

1. AEP omitted any reference to *United Dominion*, which held that for a company that joins in the filing of a consolidated tax return, the concept of a "separate return NOL 'simply does not exist.'" 532 U.S. at 830. The PLRs similarly do not address this authority.

2. AEP omitted any reference to *City of Charlottesville*, approving FERC's use of the "stand alone" methodology and the benefits/burdens test as "eminently reasonable." 774 F.2d 1217.
3. AEP omitted any reference to *Federal Power Comm'n v. United Gas Pipe Line Co.*, 386 U.S. 237 (1967), which was issued prior to the Tax Reform Act of 1969's normalization requirement but held that the Federal Power Commission ("FPC") could determine a pipeline's tax allowance on the basis of allocating the results of filing a consolidated tax return. The Supreme Court determined that the pipeline's position that the FPC had to allow at least the taxes payable on a separate return basis was "untenable." *Id.* at 244.

4. AEP omitted any reference to 16 U.S.C. Section 825, establishing that the USoA comprises the books of account for utilities for regulatory purposes.

5. AEP omitted any reference to the IRS regulations for utilities participating in the filing of consolidated tax returns, and the PLRs omit them as well, including:

   a)1.1502-2 (only tax imposed is consolidated tax);

   b)1.1502-13(a) (requirement to clearly reflect tax of the group as a whole and prevent intercompany transactions from affecting taxable income);

   c)1.1502-11(a) (consolidated taxable income is the aggregate taxable income and deductions of members);

   d)1.1502-33(d)(i) (provides that section 1.1552 allocates "tax liability" among members of a consolidated group and states that additional methods of allocation may be adopted to reflect the "absorption" by one member of the tax attributes of another; subsection (d)(ii)(3) permits the allocation of tax liability "based on the absorption of tax attributes"); and

   e)1.1552-1(a)(3)(i) (provides for the allocation of tax liability of a consolidated group "on the basis of the contribution of each member of the group to the consolidated taxable income of the group").

C. Reasons Why Reconsideration Is Necessary.

The IRS should reconsider PLR 105952-22 and its companion PLRs because they are based on the misconception that the OCC and other agencies regulate utilities on a "separate return" basis. Moreover, they fail to consider relevant and controlling judicial precedents and consolidated tax regulations.

Actually, the Oklahoma Commission and other commissions regulate on a "cost of service" basis, and in determining the tax allowance, consider the "jurisdictional activities" of a utility and the actual effect of tax deductions related to jurisdictional expenses, whether they are reflected on a separate return or consolidated return. 18 C.F.R. Section 35.24(b)(2)(ii). Additionally, under the IRS's own regulations, the allocation of the consolidated tax among the members of the group determines each member's separate tax liability.

There is no such thing as a separate return NOL under the tax code and regulations when a company participates in the filing of a consolidated tax return. *United Dominion*, 532 U.S. at 830 ("[w]e think it is fair to say . . . that the concept of separate NOL 'simply does not exist.'"). Separate return data is used in computing the consolidated tax liability of a group, but each company's own tax liability reflects an allocation of the consolidated tax liability.

As the Supreme Court recognized, a separate return tax may be computed for situations when it reflects the actual tax, such as when a company previously was separate and is carrying forward tax attributes, or separates from the group and wishes to carry forward its allocation of consolidated tax attributes. *Id.* The exception is not applicable here, as PSO participated in a consolidated tax filing at all relevant times.

1. **The Stand-Alone Policy**.

The PLRs characterize the stand-alone method as a "separate return" method, based on the misleading presentation of AEP. But as FERC has explained, it is different; it is based on jurisdictional cost of service and only considers the consolidated tax effects to the extent jurisdictional expenses produce benefits on the consolidated tax return.

Prior to the passage of the Tax Reform Act of 1969, FERC and many other regulatory agencies required utilities to "flow through" the benefit of accelerated depreciation deductions, rather than allowing the utilities to defer them for ratemaking. *See City of Charlottesville*, 774 F.2d at 1213-14. The flow-through practice was upheld in *Alabama-Tennessee Natural Gas Co. v. FPC*, 359 F.2d 318 (5^{th} Cir.), cert. denied, 385 U.S. 847 (1966) and *City of Chicago, Ill. v. FPC*, 385 F.2d 629 (D.C. Cir. 1967), cert. denied, 390 U.S. 945 (1968).

Congress in 1969 passed the Tax Reform Act of 1969, including the requirement to normalize accelerated depreciation tax deductions. Congress was concerned that growing adherence to the flow-through practice would substantially reduce revenues to the Treasury. Jt. Comm. Rpt., H.R. 13270, 91^{st} Cong., 1^{st} Sess. at 72 (1969). Congress sought to avoid these revenue losses without causing increases in rates, so it made the new normalization requirement applicable going forward, but not to then-existing property. See Pub. Law 91-172, Section 441 (Dec. 30, 1979); 26 C.F.R. Section 1.167(l)-1.

In response, FERC adopted normalization for accelerated depreciation, and in the case of utilities participating in consolidated tax filings adopted the stand-alone policy. *Columbia Gulf*, 23 F.E.R.C. P61,396 (1983). FERC explained that the stand-alone approach allocates to the jurisdictional service the tax effect of deductions related to jurisdictional expenses, which matches the benefit of a favorable tax deduction with the burden of paying the underlying expense. *Id.* at 81,652-53. Non-utility expenses of the company are not included in the stand-alone calculation, even if they would be included on a separate return.

The stand-alone approach was upheld by the U.S. Court of Appeals for the D.C. Circuit in *City of Charlottesville*. Judge Scalia, then a member of that court, explained:

> That test . . . assigns to the pipelines those tax benefits (deductions) attributable to expenses whose burden was borne by the pipelines' ratepayers. The object of inquiry is whether "the customers of a regulated entity contributed to the expenses which created the loss deductions of the affiliate in the consolidated tax group." This is on its face eminently reasonable, and we have no difficulty sustaining it in principle. 774 F.2d 1217 (citations omitted).

The stand-alone approach also requires recognizing reality—that the utility participated in the filing of a consolidated return that renders the concept of separate return nonexistent. Instead, to reflect the utility's actual tax liability, the regulator needs to consider the tax allocations made by the holding company pursuant to the tax allocation agreement, because the payment represents the utility's actual tax liability, positive or negative.

PSO does not pay taxes to the federal government. It instead pays taxes when it has a tax liability to AEP. If it receives a tax allocation payment from AEP, that allocation represents its negative corporate tax allocation. The stand-alone approach considers only the effect of the utility's own liability pursuant to the consolidated tax filing. It does not consider any losses contributed by other companies in the consolidated group.

As FERC said in *Columbia Gulf*:

> Unlike a separate return policy, our stand-alone policy in effect looks beneath the single consolidated tax liability and analyzes each of the deductions used to reduce the group's tax liability to determine the deductions for which each service is responsible. It then allocates to the jurisdictional service those deductions which were generated by expenses incurred in providing that service. In making this allocation it is irrelevant on which member's return the deductions would be reported if the group filed separate returns. Instead, the test in whether the expenses that generate the deduction are used to determine the jurisdictional service's rates. 23 F.E.R.C. P61,396 at 61,852-53 (footnotes omitted).

FERC's stand-alone policy is reflected in its regulations, which require tax deferrals in rate base to be "related to rate base, construction or other jurisdictional activities." 18 C.F.R. Section 35.24(b)(2)(ii). In turn, the deferred tax accounts in the USoA reflect the stand-alone approach, under which tax allocation payments from a parent are treated as extinguishing an equivalent amount of NOL Carryforward ADIT.

2. Securities and Exchange Commission Rule 45.

The stand-alone policy was consistent with the SEC's public utility holding company regulation concerning consolidated tax allocations. At the time FERC adopted the stand-alone policy, the SEC regulated the allocation among affiliates of the tax benefits of filing a consolidated tax return. Its rule permitted the allocation of payments to loss members based on the losses used on the consolidated tax return.

The tax regulations were always intended to be consistent with the tax allocation rules of the SEC, which are consistent with regulators' consideration of tax allocations pursuant to a tax allocation agreement. See Reg. 1.1502-33(d)(1)(ii)(2) (with respect to one permissible allocation method, stating that the method "is derived from Securities and Exchange Commission procedures.") The SEC regulated public utility holding companies until 2005, when Congress passed the Energy Policy Act of 2005, which repealed the Public Utility Holding Company Act.

SEC Rule 45 prohibited any public utility holding company or subsidiary from making any capital contribution to another subsidiary without first obtaining approval from the SEC, with certain exceptions. Rule 45(c) provided an exception when a consolidated tax return was filed pursuant to a "tax agreement, in writing, relating to either federal or state taxes, for a term of one or more tax years among the associated companies included in the consolidated return" if the agreement was "not inconsistent with the following conditions."

The rule defined the term "corporate tax credit" as follows: "*Corporate tax credit* is a negative separate return tax of an associate company for a tax year, equal to the amount by which the consolidated tax is reduced by including a net corporate taxable loss or other tax benefit of such associated company in the consolidated return." 17 C.F.R. Section 250.45 (1999).

Rule 45(c)(5) provided methods of complying with the required conditions, including the method used by AEP and other utilities. It said:

> The agreement may, instead of excluding members as provided in paragraph (c)(4), include all members of the group in the tax allocation, recognizing negative corporate taxable income or a negative corporate tax, according to the allocation method chosen. An agreement under this paragraph shall provide that those associate companies with a positive allocation will pay the amount allocated and those subsidiary companies with a negative allocation will receive current payment of their corporate tax credits. . . .17 C.F.R. § 250.45(c)(5) (1999).

Under the SEC Rule, the holding company or its subsidiaries were required to make payments under a tax allocation agreement representing the negative taxable income attributable to any company that contributed losses to the consolidated taxable income of the holding company.

The stand-alone method is consistent with former SEC Rule 45(c) and with the tax regulations. The OCC and other regulators do not regulate on a "separate return" basis. Indeed, the revenues and expenses of any unregulated activity of the utility or any activities otherwise excluded in the cost of service are excluded from the stand-alone calculations. Regulators instead regulate on the basis of activities included in the cost of service. That requires including the jurisdictional expenses, including tax expense calculated on a normalized basis, in the cost of service.

3. The "Regulated Books of Account."

The USoA comprises the only "regulated books of account" of a public utility. A ratemaking proposal of a utility, whether characterized as part of "ratemaking books of account" or not, does not qualify as "regulated books of account." Indeed, IRS Reg. 1.46, which defines "public utility property" also defines "regulated rates" as those determined pursuant to a "uniform system of accounts." It provides:

> ***Regulated rates.*** A taxpayer's rates are "regulated" if they are established or approved on a rate-of-return basis. Rates regulated on a rate-of-return basis are an authorization to collect revenues that cover the taxpayer's cost of providing goods or services, including a fair return on the taxpayer's investment in providing such goods or services, where the taxpayer's costs and investment are determined by use of a **uniform system of accounts prescribed by the regulatory body**. 26 C.F.R. Section 1.46-3(g)(2)(iii). (emphasis added).

PSO's so-called "ratemaking books of account" are not part of the USoA and indeed deviate from the requirements of the USoA. Regulatory accounting treats payments received under a tax allocation agreement for net operating losses actually used on the consolidated tax return as extinguishing an equivalent amount of NOL Carryforward ADIT on the regulated books of the utility. That is also how the payments are treated for financial reporting pursuant to GAAP.

Under Section 1.167(l)-1(h)(3) of the tax regulations, the taxpayer is required to establish that it uses a normalization method of accounting by reference to its "operating books of account." Subsection (i) of that provision states that compliance with the normalization requirement can be established using "[t]he most recent periodic report required by a regulatory body . . . having jurisdiction over the taxpayer's operating books of account which was filed with such regulatory body before the due date of the taxpayer's Federal income tax return for such taxable year . . . ."

Section 1.167(l)-1(h) refers repeatedly to the "regulated books of account." Section 1.167(l)-1(h)(1)(i)(a) provides that a taxpayer using normalization must "compute its tax expense and its depreciation expense for purposes of establishing cost of service for ratemaking purposes and for reflecting operating results in its regulated books of account." Section 1.167(l)-1(h)(3) requires that the taxpayer establish compliance with respect to "operating results, and adjustments to a reserve, in its operating books of account" by using the periodic accounting report.

Further, Section 1.167(l)-1(h)(5) of the regulations establishes that the taxpayer must notify the district director of the IRS of "a change in its method of regulated accounting . . . ." To the knowledge of the Oklahoma Commission, PSO has not notified any regulator of the substitution of its "ratemaking books of account" for its "operating books of account" and still credits the tax allocation payment to reduce its NOL Carryforward deferred tax on the "operating books of account."

The regulatory and financial accounting reflects reality, unlike AEP's "ratemaking" adjustment to the data. Once used on a consolidated return, a utility's NOL Carryforward cannot be used again on a tax filing, consolidated or separate. It has been extinguished, has no further economic value, and the utility has been compensated for its use. AEP's "separate return NOL" is an **imaginary concept**.

As AEP notes, FERC acceded to the PLRs on June 30, 2025 for ratemaking purposes. *AEP Oklahoma*, 191 F.E.R.C. P61,396 (2025). But it did so only for accelerated depreciation, maintaining the stand-alone policy for all other tax deductions. Further, FERC ordered no change to the tax reporting under the USoA. PSO's annual FERC Form 1, used for financial and regulatory reporting, showed no NOL ADIT on its books as of 2021 through 2025.

4. Consolidated Tax Regulations.

The tax regulations for consolidated tax returns are fully consistent with, and indeed mandate, treatment consistent with the stand-alone policy for the AEP and other utility tax allocations. The regulations make clear that the consolidated tax liability is the only tax liability to the government, so that there is no separate return tax liability.

In *United Dominion*, the Supreme Court dealt with an issue concerning the carryback of a "product liability loss," which required the Court to consider whether the loss should reflect consolidated or separate return taxation. The Court analyzed the tax regulations to determine whether the product liability component of the NOL should be determined on a "separate member approach" or a "single entity" approach. *Id.* at 829. The Court determined:

> The first step in applying the definition and methodology of PLL to a taxpayer filing a consolidated return thus requires the calculation of NOL. As United Dominion correctly points out, the Code and regulations governing affiliated groups of corporations filing consolidated returns provide only one definition of NOL: "consolidated" NOL, see Treas. Reg. § 1.1502-21(f). There is no definition of separate NOL for a member of an affiliated group. Indeed, the fact that Treasury Regulations do provide a measure of separate NOL in a different context, for an affiliated corporation as to any year in which it filed a separate return, . . .

> underscores the absence of such a measure for an affiliated corporation filing as a group member. Given this apparently exclusive definition of NOL as CNOL in the instance of affiliated entities with a consolidated return (and for reasons developed below, . . .) we think it is fair to say, as United Dominion says, that **the concept of separate NOL "simply does not exist.**" *Id.* at 830 (references omitted; emphasis added).

The Court found that methods suggested by the Government for computing a separate return NOL were not consistent with the tax regulations. It said: "[B]y expressly and exclusively defining NOL as CNOL [consolidated net operating loss], the regulations support the position that group members' PLEs should be aggregated and the affiliated group's PLL determined on a consolidated, single entity basis." *Id.* at 834. [bracketed material added]. The Court also recognized that provisions for calculating a "separate return tax" exist only for calculating the portion of a consolidated NOL that can be carried back to a separate return year. *Id.* at 833.

Another case that provides support for the stand-alone approach is *Federal Power Comm'n.* That case did not involve the normalization rule in 26 U.S.C. Section 168 because it preceded the Tax Reform Act of 1969, but it did involve a utility's contention that the FPC could not consider the results of a consolidated tax filing in setting the utility's rates. The Supreme Court rejected that contention. It said:

> Respondents insist that in making the allocation the Commission would violate the statute unless in every conceivable circumstance, including this one, United is allowed an amount for taxes equal to what it would have paid had it filed a separate return. In their view United should never share in the tax savings inherent in a consolidated return, even if on a consolidated basis system losses exceed system gains and neither the affiliated group nor any member in it has any tax liability. This is an untenable position and we reject it. Rates fixed on this basis would give the pipeline company and its stockholders not only the fair return to which they are entitled but also the full amount of an expense never in fact incurred. In such circumstances, the Commission could properly disallow the hypothetical tax expense and hold that rates based on such an unreal cost of service would not be just and reasonable. 386 U.S. at 243-44.

The tax regulations seek to treat the consolidated group as a single entity in determining the tax liability of the group. 26 C.F.R. 1.1502-2; 26 C.F.R. 1.1502-13(a). 26 C.F.R. 1.1502-13(a) states the purpose "to provide rules to clearly reflect the taxable income (and tax liability) of the group as a whole by preventing intercompany transactions from creating, accelerating, avoiding, or deferring consolidated taxable income (or consolidated tax liability)." Given the possibility that intercompany transactions might have these effects, the rule treats members "as separate entities for some purposes but as divisions of a single corporation for other purposes." 26 C.F.R. 1.1502-13(a)(2).

Intercompany transactions generally offset each other for consolidated tax purposes, but the separate related items still must be considered in determining each member's tax liability. Each member's tax liability must be determined to ensure the appropriate tax accounting for the company, including the tax basis of its assets. Thus, the rules provide direction in determining the tax allocations of each contributing member.

When a utility files taxes as part of a consolidated group and allocates its tax liability pursuant to a tax allocation agreement, the "tax liability" of the utility is the allocated amount. 26 C.F.R. Section 1.1502-33(d)(1)(ii) states that the amounts allocated pursuant to such an agreement "are treated as allocations of tax liability for purposes of section 1.1552-1(b)(2)." That section also describes permissible methods of tax allocation, including the method used by AEP. 1.1502-33(d)(3) ("Percentage method").

These provisions are reinforced by Section 1.1502-21(b)(2) of the Regulations, which provides only for carrying apportioned consolidated net operating losses to separate return years. That section states:

> (2) Carryovers and carrybacks of CNOLs to separate return years – (i) In general. If any CNOL that is attributable to a member may be carried to a separate return year of the member, the amount of the CNOL that is attributable to the member is apportioned to the member (apportioned loss) and carried to the separate return year. If carried back to a separate return year, the apportioned loss may not be carried back to an equivalent, or earlier, consolidated return year of the group; if carried over to a separate return year, the apportioned loss may not be carried over to an equivalent, or later, consolidated return year of the group. 26 C.F.R. § 1.1502-21(b)(2).

Further, Section 1.1502-21(b)(2)(iv)(A) provides that "[t]he amount of a CNOL that is attributable to a member equals the product obtained by multiplying the CNOL and the percentage of the CNOL attributable to the member." 26 C.F.R. § 1.1502-21(b)(2)(iv)(A). The tax effect is the same amount as that distributed pursuant to the tax allocation agreement.

Section 1.1552-1(a)(3)(i), part of the regulation of company "Earnings and Profits", allocates the tax liability of the group based on "the contribution of each member of the group to the consolidated taxable income of the group." This is the allocation made under the tax allocation agreement and considered by the Oklahoma Commission in establishing deferred taxes in the rate base.

Section 1.1502-33(d) permits an extension of the allocation of tax liability when the consolidated group elects to do so, though tax attributes are reflected on a consolidated basis on the tax return. The allocation creates a liability of a member that absorbs another member's tax attribute, here a loss, that can be eliminated through a payment to the loss company. Section 1.1502-33(d)(1)(i) states: "However, the group may elect under this paragraph (d) to allocate additional amounts to reflect the absorption by one member of the tax attributes of another member. Permissible methods are set forth in paragraphs (d)(2) through (4) of this section . . . ."

Section 1.1502-33(d)(3) provides that "[t]he percentage method under this paragraph (d)(3) allocates tax liability based on the absorption of tax attributes, without taking into account the ability of any member to subsequently absorb its own tax attributes." There are consequences if payment is not made for the absorption by one company of another company's loss. Section 1.1502-33(d)(1)(ii) provides: "If the liability of one member to another is not paid, the amount not paid generally is treated as a distribution, contribution, or both, depending on the relationship between the members." The AEP tax allocation agreement provides payments to reflect the absorption of loss companies' attributes.

Pursuant to these provisions, the tax payment received by PSO pursuant to the tax allocation agreement reflects its own negative tax liability and provides compensation for the use of its NOL Carryforward. As the regulatory and financial accounting rules recognize, the payment eliminates or reduces the NOL Carryforward ADIT.

Section 1.1502-33(d)(6)(Ex.2) sets forth an example when a consolidated group uses the percentage method of tax allocation, in a situation where Subsidiary 1 ("S1") has positive net income of $2000 and Subsidiary 2 ("S2") has a loss of $1000. The example assumes a 34 percent tax rate, so S1's tax on a separate basis would be $680, and S1's tax would be negative $340, or ($340). The example states:

> **(b) *Analysis.*** Under § 1.1552-1(a)(2)(ii), $340 of tax liability is allocated to S1 for Year 1. Under paragraph (d)(3)(i) of this section, S1 is allocated another $340 of tax liability because S1 would have had a $680 tax liability if it had filed separate returns but only $340 is allocated to S1 under section 1552. Thus, S1's earnings and profits are decreased by the $680 total. Under paragraph (d)(3)(ii) of this section, S2's earnings and profits are increased by $340 because the additional $340 allocated to S1 under paragraph (d)(3)(i) of this section is attributable to the absorption of S2's losses.

Further, Subsection (c) states that "[i]f S1 pays the $340 tax liability of the P [consolidated] group and the P group pays $340 to S2, the Year 1 tax liability results in no further adjustments to the income, earnings and profits, or basis of any member's stock."

Under this provision, the tax allocation payment from AEP to PSO increased the "earnings and profits" of PSO in the amount of the payment. The increase in earnings and profits eliminates the NOL Carryforward ADIT. The separate company, PSO, no longer has the NOL Carryforward ADIT.

5. Consistency of Stand-Alone Regulation with the Normalization Requirement.

If the Service had considered the consolidated tax regulations in evaluating AEP's requests for the issuance of PLRs, it could not have concluded that the stand-alone policy violates tax normalization. The PLRs focus on the deferred tax amounts included in the rate base and conclude that the results of consolidated tax allocations cannot be used, and that separate return inputs to the determination of consolidated tax liability must be used, in establishing the accelerated depreciation tax deferral. But the only tax liability that exists under the tax law is the utility's allocation of consolidated taxes. PSO and the other AEP subsidiaries did not file separate returns and cannot have a separate return tax.

PLR 105952-22 and the other PLRs rely on Section 168(i)(9) of the Tax Code in determining that the stand-alone methodology violates the normalization requirement. Section 168(i)(9)(A) provides:

> In order to use a normalization method of accounting with respect to any public utility property for purposes of subsection (f)(2):
> (i) the taxpayer must, in computing its tax expense for purposes of establishing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, use a method of depreciation with respect to such property that is the same as, and a depreciation period for such property that is no shorter than, the method and period used to compute its depreciation expense for such purposes; and
> (ii) if the amount allowable as a deduction under this section with respect to such property differs from the amount that would be allowable as a deduction under section 167 using the method (including the period, first and last year convention, and salvage value) used to compute regulated tax expense under clause (i), the taxpayer must make adjustments to a reserve to reflect the deferral of taxes resulting from such difference.

Section 168(i)(9)(A)(i) makes clear that the determination of the "cost of service for ratemaking purposes" is the same thing as "operating results in its regulated books of account." The "operating results" are those included in the cost of service, which do not consider all the company's activities. The stand-alone approach uses the same data. In PSO's case, the regulated books of account did not include, and still do not include, the NOL Carryforward deferred taxes that were extinguished by the tax allocation payment.

Section 168(i)(9)(B) augments this provision by describing a practice that would be inconsistent. It says:

> The procedures and adjustments which are to be treated as inconsistent for purposes of clause (i) shall include any procedure

> or adjustment for ratemaking purposes which uses an estimate or projection of the taxpayer's tax expense, depreciation expense, or reserve for deferred taxes under subparagraph (A)(ii) unless such estimate or projection is also used, for ratemaking purposes, with respect to the other 2 such items and with respect to the rate base.

Although the PLRs do not explain exactly how stand-alone ratemaking qualifies as an inconsistent practice pursuant to this provision, they apparently accept the proposition that this practice determines tax expense and depreciation expense consistently on a separate return basis, but determines the deferral reserve by allowing a tax allocation from the parent to eliminate a hypothetical separate return NOL Carryforward deferred tax. Thus, according to PLR 105952-22 and its companion PLRs, the tax reserve in the rate base is inconsistent with the requirements for tax normalization. PLR 105952-22 at 10 (reducing the "Taxpayer's stand-alone DTA by reason of the TAA payments would introduce a variable, that is, the profits of affiliates and/or TAA payments . . . .").

The DTA referred to in PLR 105952-22 is the deferred tax asset representing the tax effect of the NOL Carryforward that hypothetically would exist if the company did not participate in a consolidated tax return. That DTA is not a "stand-alone DTA"; it is a hypothetical separate-return DTA that does not exist once the consolidated tax allocation is made. As the Supreme Court determined in *United Dominion*, "we think it is fair to say . . . that the concept of separate NOL 'simply does not exist' when a company participates in a consolidated tax filing." 532 U.S. at 830.

Although AEP contends that the stand-alone approach introduces a variable--affiliate profits--into the determination of the accelerated tax deferral, the tax allocation payment is made only to reflect PSO's actual, separate tax liability. AEP distributes the funds to PSO to reflect the group's reduced tax liability produced only by PSO's own NOL. The tax allocation flows through to PSO the cost-free "loan" that AEP received from the government for the use of PSO's NOL.

These provisions are reinforced by Section 1.1502-21(b)(1) of the Treasury Regulations, which provides only for carrying apportioned consolidated net operating losses to separate return years. That section states in part that "the amount of any CNOL absorbed by the group in any year is apportioned among members based on the percentage of the CNOL carryback or carryover that is attributable to each member at the beginning of the year." Additionally, Section 1.1502-21(b)(2) provides that any carryback or carryforward of the consolidated NOL Carryforward to a separate return year must be apportioned to the member.

Further, Section 1.1502-21(b)(2)(iv)(A) provides that "[t]he amount of a CNOL that is attributable to a member equals the product obtained by multiplying the CNOL and the percentage of the CNOL attributable to the member." 26 C.F.R. § 1.1502-21(b)(2)(iv)(A). The tax effect is the same amount as that distributed pursuant to the tax allocation agreement.

Additionally, Section 1.1502-12, which determines separate taxable income for years in which the company filed a separate return, excludes consideration of net operating losses. It provides that the "separate taxable income of a member (including a case in which deductions exceed gross income) is computed consistent with the determination of taxable income of separate corporations," but that "[n]o net operating loss deduction shall be taken into account; . . ." 26 C.F.R. Section 1.1502-12(h).

The stand-alone approach is fully consistent with the tax law. The regulator treats the tax allocation payments as extinguishing or reducing the NOL Carryforward ADIT, reflecting the utility's own tax allocation based on the cost of service. The accelerated depreciation tax deferral is restored because it no longer exists under the tax law, accounting standards, or in reality. The stand-alone method consistently determines the depreciation expense, the depreciation expense reflected in the tax allowance, and the accelerated depreciation tax deferral.

The PLRs, on the other hand, require inconsistency. They demand that regulators impute NOL Carryforward ADIT into the rate base although it does not exist under the tax regulations. The accelerated depreciation tax deferral is not the amount produced by the accelerated depreciation deduction, but an imaginary amount that would only exist under circumstances that did not occur—the filing of a separate tax return.

The PLRs require that regulators treat utilities that participate in a consolidated tax filing as separate filers, even though the IRS itself treats them as consolidated tax filers. They mandate that regulators impute a "separate return" NOL Carryforward deferred tax into the rate base, although there is no such thing when the utility participates in a consolidated tax filing, as the Supreme Court has determined. The NOL Carryforward has been "absorbed" by the group under the tax law and cannot ever be used by the separate company, but the PLRs require treating it as if it still exists.

The PLRs require a departure from the USoA, although the tax law defines "public utility property" as that used in a "public utility activity," where property is used at "regulated rates" based on "a uniform system of accounts prescribed by the regulatory body." 26 C.F.R. Section 1.46-3(g)(2)(i),(ii),(iii). Pursuant to 16 U.S.C. Section 825, the only "uniform system of accounts" is prescribed by FERC. Once the tax allocation payment was received by PSO, the NOL Carryforward ADIT was no longer in the deferred tax account.

The PLRs upset more than 50 years of tax normalization ratemaking and consistency between federal agencies. In half a century, no one to the knowledge of the OCC ever suggested that the stand-alone approach violated tax normalization. The consideration of consolidated tax allocations and the use of tax allocation payments to eliminate NOL Carryforward ADIT was an accepted and universal practice until the issuance of the PLRs. Regulatory commissions, including FERC, are changing the longstanding ratemaking practice solely because they fear losing the accelerated depreciation deductions.

The PLRs also punish consumers for no legitimate reason. The depreciation expenses paid by consumers are the cause of the favorable accelerated depreciation deductions that create the accelerated depreciation deferred tax. By treating the tax allocation payments as extraneous and irrelevant, the PLRs deny to ratepayers the deferred tax benefit that Congress intended to provide them. The benefit instead goes to shareholders, who will pay none of those expenses.

The Service urgently needs to reconsider the PLRs. They are causing huge increases in rates, for reasons that are inconsistent with the IRS tax regulations.

Indeed, PSO has increased its rate base in Oklahoma in excess of $160 million. The Louisiana Commission in its Suggestion for Guidance stated that the rate base increase for Southwestern Electric Power Co. would be $457 million. [La. Sugg. at 2]. AEP in its PLR request states that its methodology is being implemented in 10 of 11 jurisdictions. [AEP Req. at 14]. For AEP companies alone, the total rate base increase could approach $1 billion, and will substantially exceed $.5 billion. Other utilities undoubtedly will follow AEP's lead, increasing rate bases in many jurisdictions across the country.

6. PLR Clarifications.

If the Service chooses not to reconsider the PLRs, the Oklahoma Commission requests that it clarify that regulatory commissions do not have to use the "with and without" method of allocating NOL Carryforward ADIT to accelerated depreciation ADIT, as AEP proposes. Although the Service expressed a preference for the "with and without" methodology in PLRs issued more than a decade ago, it more recently clarified that regulators may use any reasonable method of making the allocation. Moreover, the Service should clarify that only the incremental accelerated depreciation deferral in the year the NOL was created should receive an allocation of NOL Carryforward ADIT.

a. Use of Alternatives to "With and Without" Method.

PSO uses the "with and without" method of allocating NOL Carryforward ADIT to offset accelerated depreciation ADIT. The OCC and many others have accepted this method based on PLRs issued more than a decade ago. But in Rev. Proc. 2020-39, the IRS determined that "there is not one single methodology provided for determination of the portion of an NOLC that is attributable to depreciation. . . . Regulating commissions have expertise in this area, and any reasonable method for determining the portion of the NOLC attributable to depreciation should generally be respected provided such method does not clearly violate normalization requirements." Rev. Proc. 2020-39 at 4 (footnote deleted).

The accelerated depreciation reserve is supposed to include only those deferred taxes produced by accelerated depreciation deductions. 26 C.F.R. Section 1.167(l)-1(h)(1)(i)(b) (tax deferral should reflect the "total amount of the deferral of Federal income tax liability resulting from the use with respect to all of its public utility property of such different methods of depreciation.").

In any tax year in which a utility has a net operating loss, that loss is produced equally by all the tax deductions reflected on the utility's tax return. If any one deduction were not taken, the NOL Carryforward would not contain that amount. Thus, the only way to provide an accurate amount to be deferred is to take the ratio of the accelerated depreciation tax deduction to all tax deductions in determining the amount to be credited to a reserve. The normalization rule requires attributing only a correctly calculated amount of NOL Carryforward ADIT to offset the accelerated depreciation ADIT.

Although FERC accepted the "with and without" method based on the early PLRs, the agency previously provided a method of allocating NOL Carryforward ADIT to offset accelerated depreciation ADIT. In *Entergy Servs, Inc.*, 145 F.E.R.C. P61,045 (2013), FERC clarified an earlier ruling and provided that "Entergy must multiply its net operating loss carry-forward balance by the ratio of incurred *tax deductible* utility expenses includable for Commission cost-of-service purposes to total *tax deductible* expenses incurred during the period the net operating loss was recognized. *Id.*, P14. [italics in original].

The "with and without" method necessarily allocates excessive NOL Carryforward ADIT to the accelerated depreciation reserve, because it allocates NOL Carryforward ADIT first to accelerated depreciation, and only any remaining amount proportionately. This may ensure that the NOL Carryforward allocation is not understated, but it also ensures that it is excessive. That cannot be the intent of the regulations, which are designed to permit regulators to provide the deferred tax time value benefit to ratepayers.

PLR 202206010 reinforces the regulator's discretion to make a reasonable allocation. It determined that "Rev. Proc. 2020-39 . . . is the relevant authority" and provides that "'there is not one single methodology provided for determination of the portion of an NOLC that is attributable to depreciation.'" *Id.* at 8. It also states that "'[r]egulating commissions have expertise in this area, and any reasonable method for determining the portion of the NOLC attributable to accelerated depreciation should generally be respected. . . .'" *Id.*

If the IRS determines that the regulatory liability approach violates normalization requirements, it should also determine that the Oklahoma Commission may allocate the NOL Carryforward ADIT to offset accelerated depreciation ADIT in the manner described by FERC or using any other reasonable allocation method. The Oklahoma Commission does not wish to deny ratepayers the benefit of cost-free capital that was not actually produced by accelerated depreciation.

b. Limiting Any NOL Carryforward ADIT Imputation to Losses Actually Caused by Accelerated Depreciation in the Relevant Tax Year.

The IRS should clarify that the amount of NOL Carryforward ADIT that must be included in the rate base is only the amount of NOL Carryforward ADIT produced by incremental accelerated depreciation taken in the year the NOL was recognized. That is the only amount of NOL Carryforward deferral related to the accelerated depreciation deduction.

It appears from AEP's presentations that it assumes an NOL Carryforward tax deferral created in 2021 can apply to all accelerated depreciation ADIT still on the books from prior accelerated depreciation deferrals. But that would be erroneous because the net operating loss did not prevent the taxpayer from deferring any amount except that resulting from the deduction in the same tax period.

Treasury Regulation 1.167(l)-1(h)(1)(iii) confirms this conclusion. It provides that the accelerated depreciation tax deferral is the amount produced in excess of book depreciation and that "[s]uch amount shall be taken into account for the taxable year in which such different methods of depreciation are used." Moreover, NOL Carryforwards cannot be carried back under current tax law; they can only be carried forward. See IRS Pub. 536 (the only exception is farming losses). The AEP methodology would permit carrying back the effect of an NOL for regulatory purposes, in conflict with IRS guidance.

If AEP's PLR request is granted, the OCC may wish to limit the amount of NOL Carryforward ADIT included in rate base to that amount actually produced in the tax period by the net increase in accelerated depreciation (new accelerated depreciation less the amount of turnaround from past deferrals). The Service should make clear that this approach would be acceptable, or perhaps even mandated, under the normalization rule.

CONCLUSION

The Oklahoma Commission believes that PLR 105952-22 was issued in good faith by the IRS but was based on incomplete information. The Oklahoma Commission requests that the Service reconsider that PLR and its companion PLRs based on more complete factual information and in light of Treasury Regulations governing consolidated tax filings. Also, if PLR 105952-22 is not reconsidered, the Oklahoma Commission requests that the IRS at least clarify that regulators have discretion in choosing the correct allocation of NOLC ADIT to the accelerated depreciation deferral, and that the recognition of a deferred tax asset to offset accelerated depreciation ADIT should be limited to the amount of the accelerated depreciation deferral recognized in the year the NOL was produced.

Sincerely,

OKLAHOMA CORPORATION COMMISSION

Commissioner Kim David Commissioner Brian Bingman Commissioner J. Todd Hiett

EXHIBIT LK-11

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 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

DIRECT TESTIMONY OF

LINDA M. SCHLESSMAN

ON BEHALF OF KENTUCKY POWER COMPANY

Q. WHAT IS A NET OPERATING LOSS?

A. A net operating loss ("NOL") occurs when, in a given year, a taxpayer has more deductions than taxable revenues. When an NOL occurs, the Code allows the taxpayer to carry the NOL forward to subsequent years and offset otherwise taxable income produced in that future year.

Q. ARE THERE NORMALIZATION REQUIREMENTS INCLUDED WITHIN THE CODE?

A. Yes. The Code and accompanying treasury regulations provide normalization requirements, specifically in three areas: 1) Accelerated depreciation and the associated deferred tax liability that results from its use; 2) NOL Carryforwards ("NOLC") as a result of accelerated depreciation; and 3) Investment Tax Credits ("ITC").

Q. CAN YOU PLEASE DISCUSS THE NORMALIZATION REQUIREMENTS IN THE CODE AS TO ACCELERATED DEPRECIATION?

A. The Code dictates that a regulated public utility must use the normalization method of accounting to calculate tax expense on temporary differences associated with accelerated depreciation when determining rates using a cost of service/rate of return methodology. 26 U.S. Code §168(i)(9)(A) states that, in order for a public utility to be considered to be using a normalized method of accounting:

> (i) the taxpayer must, in computing its tax expense for purposes of establishing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, use a method of depreciation with respect to such property that is the

> same as, and a depreciation period for such property that is no shorter than, the method and period used to compute its depreciation expense for such purposes, and
> (ii) if the amount allowable as a deduction under this section with respect to such property (respecting all elections made by the taxpayer under this section) differs from the amount that would be allowable as a deduction under section 167 using the method (including the period, first and last year convention, and salvage value) used to compute regulated tax expense under clause (i), the taxpayer must make adjustments to a reserve to reflect the deferral of taxes resulting from such difference[3].

Q. CAN YOU PLEASE DISCUSS THE NORMALIZATION REQUIREMENTS AS THEY RELATE TO NOLC?

A. This is specifically addressed in Treasury Regulation § 1.167(*l*)-1(h)(1)(iii), which states:

> If, however, in respect of any taxable year the use of a method of depreciation other than a subsection (l) method for purposes of determining the taxpayer's reasonable allowance under section 167(a) results in a net operating loss carryover (as determined under section 172) to a year succeeding such taxable year which would not have arisen (or an increase in such carryover which would not have arisen) had the taxpayer determined his reasonable allowance under section 167(a) using a subsection (l) method, then the amount and time of the deferral of tax liability shall be taken into account in such appropriate time and manner as is satisfactory to the district director.

Although neither the Code nor the regulations specifically address the manner in which the NOL should be treated in ratemaking under the normalization rules, the IRS has addressed this issue in several private letter rulings ("PLRs"). PLRs 201436037, 21438003, 201519021, 201534001, 201548017, 201709008, and 202010002, which are attached to my testimony as Exhibits LMS-1 through LMS-7, clarify that a tax calculation with and without accelerated depreciation is

[3] 26 U.S.C. § 168(i)(9)(A).

used to determine the amount of the NOLC ADFIT required to be normalized. To the extent that accelerated depreciation creates an NOLC, the NOLC ADFIT must be a component of rate base. This can be reflected in rate base through ADFIT using either one of two methods to adhere to the normalization rules. In the first method, the deferred tax liability that is a result of accelerated depreciation would simply be reduced by the amount of the NOLC ADFIT. In the second method, the full, deferred tax liability is included as a rate base reduction and a separate deferred tax asset in the amount of the NOLC ADFIT is included as a rate base increase. The result of both is the same: the impact on rate base includes the net balance of the ADFIT for accelerated depreciation and the ADFIT for the NOLC. The PLRs uniformly conclude that excluding the NOLC ADFIT would constitute a normalization violation.

Q. WHAT IS THE RATIONALE FOR THIS TREATMENT OF THE NOLC ADFIT?

A. When a regulated utility experiences a NOLC, the taxpayer has not yet received the benefit of the depreciation related ADFIT, i.e., there is no interest free loan from the federal government. Accordingly, the rate base reduction is deferred until the NOLC is utilized and the loan is extended.

Q. PLEASE DESCRIBE THE CONCLUSIONS IN THE PLRS MENTIONED ABOVE.

A. The PLRs mentioned above confirm that NOLC ADFIT must be included in rate base to avoid a normalization violation when the NOL is the result of accelerated tax depreciation. They describe the NOLC as a necessary reduction to the rate

EXHIBIT LK-12

Kentucky Power Company
KPSC Case No. 2025-00257
AG-KIUC's First Set of Data Requests
Dated September 29, 2025

DATA REQUEST

AG_KIUC 1_64 Provide the Company's taxable income/taxable loss, NOLC, and NOLC DTA in each year, including 2024 and the twelve months ending May 31, 2025, starting with the first year of the Company's NOLC calculated on a separate tax return basis and without consideration of the AEP payments to the Company as a loss member of the AEP affiliate group pursuant to the AEP Tax Allocation Agreement.

RESPONSE

The Company objects to this request to the extent it seeks information that is not maintained in the ordinary course of business. Subject to and without waiving this objection, please see the KYPCO NOL Vintage Year tab in KPCO_R_AG_KIUC_1_64_Attachment1.

November 7, 2025 Supplemental Response

After filing its response to this data request, it was brought to the Company's attention that there may be some incorrect information included in the attachment. The Company reviewed the attachment and discovered that the book and tax depreciation figures from the year 2021 to 2025 were inadvertently copied from the wrong source. Please see KPCO_SR_AG_KIUC_1_64_Attachment1, which corrects this issue. Additionally, the book depreciation from the workbook will not match the Company's FERC Form 1 because the Company only includes the method/life depreciation, and not all of the depreciation.

Witness: David A. Hodgson

Kentucky Power Company NOLC - Total Company Calculation
Net Operating Loss Schedule - Total Company

																		Provision Estima	Provision Estimate		
	Taxable Income/(Loss)	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	May-25	Total	
			(79,923,011)			(12,507,600)			(138,371,964)	(11,839,011)	(28,876,901)			(42,427,944)	(44,205,805)		(18,704,943)	(9,161,127)	(18,997,844)		
2007 As Filed	26,773,624		26,773,624																		
2008 As Filed	1,238,699		1,238,699																		
2009 As Filed	(79,923,011)																				
2010 As Filed	30,366,964		30,366,964																		
2011 As Filed	29,192,737		21,543,724			7,649,013															
2011 RAR	56,032					56,032															
2012 As Filed	19,277,355																				
2012 RAR	(31,784,955)																				(2)
2013 As Filed	21,088,012					4,802,555			16,285,457												
2013 RAR	493,069								493,069												(2)
2014 As Filed	30,249,142								30,249,142												
2014 Amend	51,008								51,008												
2014 RAR	612,080								612,080												(1),(2)
2015 As Filed	(138,371,964)																				
2016 As Filed	(11,839,011)																				
2017 As Filed	(28,876,901)																				
2018 As Filed	10,685,671								10,685,671												
2019 As Filed	2,356,998								2,356,998												
2020 As Filed	(42,427,944)																				
2021 As Filed	(36,697,777)																				
2021 Amend	(7,508,028)																				
2022 Return	33,435,369								33,435,369												
2023 As Filed	(18,704,943)																				
2024 Provision	(9,161,127)																				
2025 Provision	($18,997,844.31)																				
	(218,416,745)	-	-	-	-	-	-	-	(44,203,170)	(11,839,011)	(28,876,901)	-	-	(42,427,944)	(44,205,805)	-	(18,704,943)	(9,161,127)	(18,997,844)	(218,416,745)	

Calculation of NOL Deferred Tax Asset	
NOL Carryforward @ 12-31-17	131,397,120
Tax Rate	21%
NOL DTA @ 12-31-17	**27,593,395**
NOL (Utilization)/Generation: 2018 - 2023	58,860,654
NOL (Utilization)/Generation: 2024 - May 2025	28,158,971
Tax Rate	21%
Change in NOL DTA: 2018 - 2022	**18,274,121**
NOL DTA @ 05-31-25	**45,867,517**
Total NOLC Deficient Tax Balance @ 05-31-25	**13,798,379**
Total	**59,665,895**

Calculation of Excess NOL ADFIT		
NOL Carryforward @ 12-31-17	131,397,120	
	21%	
NOL DTA @ 21%	**27,593,395**	
NOL DTA @ 35%	45,988,992	
Protected Deficient NOL ADFIT	**18,395,597**	
Consolidated NOLC Already Recorded:	755,807	DTA 12/31/2017
Amended Return Movement:	373,246	
Total Deficient NOL ADFIT to Record as of 12/31/17:	**17,266,544**	
January 2018-May 2024 Deficient Amortization	**(3,054,604)**	
June 2024 - May 2025 Amortization	**(413,561)**	
Total NOLC Deficient Tax Balance as of 5/31/25	**13,798,379**	

*Tax returns not yet finalized.

Company	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
KYPCO											
Tax Depreciation	49,017,950	51,207,209	53,600,600	77,499,466	74,547,125	63,417,696	81,099,820	83,936,115	71,858,988	153,854,803	92,720,720
Book Depreciation	31,698,953	30,859,756	32,705,219	33,296,881	34,276,121	35,652,504	36,966,053	36,942,922	38,501,726	62,867,487	63,661,696
Accel. Depreciation	17,318,997	20,347,453	20,895,381	44,202,585	40,271,004	27,765,192	44,133,767	46,993,193	33,357,262	90,987,317	29,059,025

Company	2016	2017	2018	2019	2020	2021	2022	2023	2024	May-25
KYPCO										
Tax Depreciation	109,986,414	76,224,913	65,642,868	49,645,007	58,770,714	71,870,568	83,563,952	94,503,391	87,273,120	36,363,800
Book Depreciation	59,395,718	59,857,250	56,583,660	59,210,732	61,568,585	56,461,147	67,631,058	60,768,032	62,789,540	26,162,308
Accel. Depreciation	50,590,696	16,367,663	9,059,209	(9,565,726)	(2,797,871)	15,409,421	15,932,894	33,735,359	24,483,580	10,201,492

EXHIBIT LK-13

Kentucky Power Company
KPSC Case No. 2025-00257
AG-KIUC's First Set of Data Requests
Dated September 29, 2025

DATA REQUEST

AG_KIUC 1_42 Refer to Attachment JJS-1 at VIII-2 (Page 140 of 271) as part of the Gannett Fleming Depreciation Study attached to the Direct Testimony of John J. Spanos. Provide all workpapers in support of the terminal and interim retirement amounts and percentages reflected in the table on page VIII-2 in electronic format with all formulas intact, including, but not limited to, the calculations of estimated decommissioning costs for the production plant by site location and/or generating unit, the escalation of current dollar estimated decommissioning costs to future dollars, and the calculation of the weighted terminal net salvage, weighted interim net salvage, and the sum of terminal and interim net salvage.

RESPONSE

Please see KPCO_R_AG_KIUC_1_42_Attachment1 through KPCO_R_AG_KIUC_1_42_Attachment4 for the requested information related to terminal and interim retirements. Attachment 1 includes the Company data that was analyzed to establish interim net salvage estimates. This information was provided in Part VIII of Attachment JJS-1. Attachment 2 is the Excel version of Table 2 from the Depreciation Study that calculates the weighted net salvage percentages. Attachments 3 and 4 are the decommissioning studies for the Big Sandy and Mitchell generation facilities which were utilized for terminal net salvage.

Witness: John Spanos

EXHIBIT LK-14

Kentucky Power Company
KPSC Case No. 2025-00257
AG-KIUC's First Set of Data Requests
Dated September 29, 2025

DATA REQUEST

AG_KIUC 1_43 Refer to Attachment JJS-1 at VI-4 through VI-7 and at VIII-2 (Pages 51, 52, and 140 of 271) as part of the Gannett Fleming Depreciation Study attached to the Direct Testimony of John J. Spanos.

a. Provide a version of these schedules without terminal net salvage on the production plant accounts. Provide these schedules in an Excel workbook in live format and with all formulas intact.

b. Provide a version of these schedules without terminal net salvage and without interim retirements and without interim net salvage on all production plant accounts. Provide these schedules in an Excel workbook in live format and with all formulas intact.

RESPONSE

a. Please see KPCO_R_AG_KIUC_1_43_Attachment1 for the requested schedules without terminal net salvage.

b. Schedules with no terminal net salvage nor any interim retirements and interim net salvage for production plant would violate proper accounting practices so this has not been calculated.

Witness: John Spanos

EXHIBIT LK-15

DATA REQUEST

AG_KIUC 1_68	Refer to the Direct Testimony of David Hodgson at 16-17 wherein he addresses the NOLC DTA and the NOLC regulatory asset. Provide the Company's calculations of the NOLC DTA and the NOLC regulatory asset by month since the Commission Order in Case 2023-00159, including all assumptions, data, and supporting workpapers and/or calculations in an Excel workbook in live format and with all formulas intact.

RESPONSE

The Company objects to this this request as vague and overbroad. The Company further objects to this request to the extent it seeks information that is not maintained in the ordinary course of business. Subject to and without waiving these objections, please see KPCO_R_AG_KIUC_1_68_Attachment1.

Witness: David A. Hodgson

The entirety of this attachment was submitted via USB to the Commission due to its voluminous size (over 50MB)

AFFIDAVIT

STATE OF GEORGIA)

COUNTY OF FULTON)

LANE KOLLEN, being duly sworn, deposes and states: that the attached is his sworn testimony and that the statements contained are true and correct to the best of his knowledge, information and belief.

Lane Kollen

Sworn to and subscribed before me on this
17th day of November 2025.

Notary Public

Jessica K Inman
NOTARY PUBLIC
Cherokee County, GEORGIA
My Commission Expires 07/31/2027