

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)
FRONTIER GAS, LLC FOR AN ALTERNATIVE) CASE NO.
RATE FILING PURSUANT TO 807 KAR 5:0076) 2025-00277
AND OTHER GENERAL RELIEF)

ATTORNEY GENERAL’S POST-HEARING BRIEF

The Intervenor, the Attorney General of the Commonwealth of Kentucky, through his Office of Rate Intervention (“Attorney General”) submits the following Post-Hearing Brief to the Kentucky Public Service Commission (“Commission”) in the above-styled matter.

STATEMENT OF THE CASE

Kentucky Frontier Gas, LLC (“Frontier” or the “Company”) is a limited liability company organized in the state of Colorado¹ with its principal office in Prestonsburg, Kentucky.² The sole member of Frontier Gas is Steve Shute, who also owns Pinedale Natural Gas in the state of Wyoming and is the partner of other companies.³ Frontier provides natural gas utility services to over 4,700 customers⁴ in the Kentucky counties of Breathitt, Floyd, Johnson, Knott, Lawrence, Lee, Letcher, Magoffin, Martin, Morgan, Perry, Pike, and Wolfe Counties.⁵ Frontier is a utility subject to the rates and service jurisdiction of the Commission.

On August 19, 2025, Frontier submitted notice of its intent to file an application for an alternative rate adjustment. Subsequently, the Company filed its application on August 29, 2025.

¹ Application, page 2.

² Application, page 1.

³ Rebuttal Testimony of Steve Shute (Shute Rebuttal), at 1.

⁴ Application page 7.

⁵ Application, page 213.

The Commission granted intervention to the Attorney General by an order dated September 11, 2025. In a following order, the Commission deemed the application filed as of September 19, 2025.

In the application, Frontier initially requested a revenue increase of \$1,162,024, or 27.91% for a total revenue of \$5,325,460.⁶ The Company proposed adjustments to the rates of all its customer classes. For residential and commercial customers, the company proposed increasing the monthly customer charge from \$13.00 to \$25.00. For volumetric rates, the company initially proposed an increase from .04220 to .4692 per Ccf. In total, this proposal would result in a monthly increase of \$13.61 or 47% for the average residential customer and a \$16.29 or 30% monthly increase for the average commercial customer. For farm tap customers, the Company proposes increasing the monthly customer charge from \$10 to \$25.00 or 150%, and the volumetric rate of .04 to .046492. The Company estimated that monthly bill for the average farm tap customer would increase by \$18.46 or 59%. For large commercial customers, the Company proposed increasing the monthly customer charge from \$50 to \$150, or 200%, and increasing the volumetric rate from .03445 to 0.3868. Per the application, this request would result in the average large commercial customer's monthly bill increasing by \$1,156.50 or 13%. Additionally, the Company proposes ending the Automated Meter Reading (AMR) program, adjusting the Pipeline Replacement Program (PRP), and unifying rates and tariffs.⁷

The Attorney General and Commission each propounded several rounds of discovery, to which Frontier filed responses into the record. On December 19, 2025, the Attorney General filed direct testimony into the record of his expert witness, John Defever ("Mr. Defever"). On January 16, 2026, the Attorney General filed responses to discovery requests of the Company. The

⁶ Application, page 3.

⁷ Application, page 7.

Company filed rebuttal testimony of its sole member and owner, Mr. Steven Shute (“Mr. Shute”)⁸ on January 23, 2026. Per the rebuttal testimony, the Company raised its requested revenue increase to \$1,252,956.64, or 30.09% for a total revenue of \$5,416,391.85.⁹ To achieve this additional request, the Company now proposes that the volumetric rates for Residential and Commercial customers be further increased by 2.3¢ per CCF and 2.9 for large commercial customers.¹⁰ Accordingly, with additionally requested increases, the average monthly bill for residential customers would rise by \$12.37 and by \$18.72 for commercial customers.¹¹ Frontier has not issued notice to its customers advising of its additional request.¹²

An evidentiary hearing was conducted on February 3, 2026. Both the Attorney General and Commission submitted post-hearing data requests on February 6, 2026, with the Company responding on February 16, 2026. The pending case will stand submitted for a decision on the record on February 28, 2026.

ARGUMENT

I. Frontier agreed to specific recommendations proposed by the Attorney General to revise the rate increase and revenue requirement.

In the rebuttal testimony of Steve Shute, Frontier agreed, or partially agreed, to specific recommendations and adjustments proposed by the Attorney General. These adjustments include:

1. Agreed with the Attorney General’s recommendations to remove recovery of donations from the revenue requirement. The Attorney General’s expert witness recommended that the amount allotted for donations should not be recovered from ratepayers and

⁸ Shute Rebuttal at 2.

⁹ Shute Rebuttal at 27.

¹⁰ Shute Rebuttal at 14.

¹¹ Company Response to AG PHDR-1.

¹² HVT 20:00 – 20:10.

- therefore should be removed from the revenue requirement.¹³ The Company agreed to this recommendation, resulting in a \$1,279 reduction from the revenue requirement.¹⁴
2. Agreed with the Attorney General's recommendation to remove penalty expenses from the revenue requirement. During discovery, the Company disclosed that the pro forma period included expenses for penalties and interest paid to the IRS for a total amount of \$3,295. The Company advised that the penalty expenses were not likely to reoccur.¹⁵ Given the Company's response, the Attorney General's expert witness recommended that the \$3,295 be removed from the revenue request.¹⁶ In Mr. Shute's rebuttal testimony, the Company agreed to this recommendation.¹⁷
 3. Partially agreed with the Attorney General's recommendation to disallow recovery for company events and gifts. In his testimony, the Attorney General's expert witnesses recommended that \$5,415 should be removed from the revenue requirement, which was allotted to holiday parties and gifts to employees.¹⁸ In the rebuttal testimony, the Company agreed to remove \$2,676 which was allocated to meals.¹⁹
 4. Partially agreed to reduce the revenue requirement based upon a five-year average of asset sales. During the course of discovery, Frontier initially advised that with a five-year average, it earned \$17,505 per year with the sale of assets, primarily old vehicles.²⁰ Due to this finding, the Attorney General's expert witness recommended that \$17,505 be removed from the total revenue requirement.²¹ In Mr. Shute's rebuttal testimony, he

¹³ Direct Testimony of John Defever (Defever Testimony), at 5.

¹⁴ Shute Rebuttal, at 4, 5.

¹⁵ Response to AG DR 2-20.

¹⁶ Defever Testimony, at 11.

¹⁷ Shute Rebuttal, at 9,10.

¹⁸ Defever Testimony, at 6.

¹⁹ Shute Rebuttal, at 6.

²⁰ Response to AG 1-91.

²¹ Defever Testimony at 9.

advised that the five-year average provided in the data request was inflated due to one-time sales. He opined that, with adjustments to account for one-time sales, \$11,213 was a more accurate reflection of average asset gains for 2022-2025. Mr. Shute stipulated to removal of \$10,000 from the revenue requirement to account for asset sales. This amount, according to him, is the equivalent value of “one old fully depreciated truck.”²² The Attorney General however would argue that the Company’s claim that this figure is inflated by “one-time” events is belied by the fact that they acknowledge five such “one-time” events in a four-year period.²³ As the \$17,505 represents the actual historical revenue from sales, that is the amount most appropriately removed from the revenue requirement. However, if the Commission agrees with the Company’s removal of said “one-time” events, \$11,213, the figure that Company advised as more representative of the average, should be the total amount reduced from the revenue. The Company may retire one vehicle a year, but this amount could account for any additional asset sales that may occur.

II. Frontier has failed to provide public notice of the additional requested increase to volumetric rates.

As stated earlier, Frontier’s application proposed an increase to the monthly customer charge and volumetric rates for all customer classes. Included in the application was the public notice advising customers of the proposed increase, and the effect that it would have on the average user’s monthly bill. The notice stated the exact proposed increase to customer charges and the volumetric charge.²⁴ Subsequently, on January 23, 2026, Frontier filed the rebuttal testimony of

²² Shute Rebuttal at 8.

²³ *Id.*

²⁴ Application, at 9,10.

Steve Shute. In the rebuttal testimony, the Company advised that it was now requesting an additional increase in revenues. To additionally accommodate this, the Company requested the volumetric rates for all customers receive an additional increase, higher than what was initially included on the application. During the hearing, the Company stated that new notice had not been published to customers, advising of this change.²⁵

As an alternative rate filing, 807 KAR 5:0076 governs the guidelines Frontier must follow to obtain a rate increase. Per 807 KAR 5:0076 Section 4, a utility company must issue notice to its customers, advising them of the rate case. This notice must include the proposed rates, the requested change amount, and the effect on each customer class's average monthly bill.

In their rebuttal testimony, the Company materially altered the requested increase they had submitted to the Commission. If the Commission grants the Company's full request, customers will see an increase in their volumetric that is rates higher than what was reported in the public notice. With this change, the public notice does not accurately describe the increase the customers were told to expect. Allowing recovery based on rates materially exceeding those disclosed would be inherently unfair to ratepayers. Accordingly, the Commission should decline to approve the revised volumetric rates proposed in the rebuttal testimony.

III. Frontier's proposed increases to monthly and volumetric customer charges contradict with the principles of gradualism.

Frontier's application proposed substantial increases to all customers' classes. Per the requests in the application, the average monthly residential bill would increase by 47% and the commercial bill by 30%.²⁶ With the revisions made in the rebuttal testimony, the Company is now making requests that would see the monthly bills for average customers increase to an even higher

²⁵ HVT 20:00 – 20:10.

²⁶ Application at 9.

amount The Attorney General is concerned that this increase is contradictory to the principles of gradualism and could risk rate shock.

The final order for Frontier's last rate case was on December 22, 2017.²⁷ Since that time, Frontier has not filed for another rate case. Rates under Frontier have remained relatively unchanged since December 2017. Implementing the full requested increase at once, after such a prolonged period of consistency could create a sudden and significant shock to ratepayers.

The impact of a sudden increase could be further impacted by the undesirable economic conditions of the region. As acknowledged by the Company, Frontier's service territory includes counties with extreme poverty rates.²⁸ Furthermore, in response to Staff DR 1-15²⁹ and Staff PHDR-1, the Company provided information showing that significant amount of late fees has been incurred by ratepayers since 2021. The Attorney General is concerned that this amount will continue to increase drastically, if the proposed rates are implemented.

The Commission has historically relied upon the principle of gradualism, in order to mitigate the financial impact rate increases may have on customers.³⁰ Given the extreme poverty located in Frontier's service territory, the Attorney General respectfully requests the Commission to continue to rely upon these principles when awarding any increase to rates.

IV. Frontier has failed to provide sufficient documentation to support its proposed

²⁷ Case No. 2017-00263, *Application of Kentucky Frontier Gas, LLC For Alternative Rate Adjustment* (Ky. PSC December 22, 2017).

²⁸ Company Response to AG DR 1-7.

²⁹ Company Response to Staff DR 1-15, Excel Attachment.

³⁰ Case No. 2014-00396, *In the Matter of Application of Kentucky Power Company for: (1) A General Adjustment of its Rates for Electric Service; (2) An Order Approving its 2014 Environmental Compliance Plan; (3) An Order Approving its Tariffs and Riders; and (4) An Order Granting All Other Required Approvals and Relief*, (Ky. PSC June 22, 2014) ("the Commission has long employed the principle of gradualism"); See also Case No. 2000-00080, *In the Matter of: The Application of Louisville Gas & Electric Company to Adjust its Gas Rates and to Increase its Charges for Disconnecting Service, Reconnecting Service and Returned Checks* (Ky. PSC Sept. 27, 2000) ("the Commission is adhering to the rate-making concepts of continuity and gradualism in order to lessen the impact of these increases on the customers that incur these charges.")

wage increases.

Frontier has asked the Commission to approve a \$233,000 increase in the revenue requirement for the purpose of financing higher employee wages. Notably, this amount constitutes approximately 20.5% of the Company's initial requested increase. In the application, the Company did not submit wage surveys or a supportive analysis, instead asserting that the increase is needed "to make wages locally competitive in order to retain employees."³¹ In both rounds of discovery, the Attorney General requested documentation, such as workpapers, that supported the increase. In response to AG 1-31, the Company referred to an Excel sheet provided as a response to Staff 1-9. Said sheet provided current wages and the proposed increases. Additionally, the Company stated in their response to Staff 1-9, that they had to increase wages to retain employees. When the Attorney General again requested supporting documentation in questions AG 2-26 and 2-27, the Company responded with an account of a former employee leaving for a position to a "large local producer" due to the promise of a pay increase. In his rebuttal testimony, Mr. Steven Shute stated that the company referred to wage information privately provided by another gas utility in order to calculate the proposed increase.³² Additionally, the rebuttal testimony included wage information from other gas utilities filed in recent rate cases.³³

Pursuant to KRS 278.190(3), a company has the burden of proof to demonstrate that a proposed rate increase is just and reasonable.³⁴ Frontier has failed to meet the burden of proof as to the requested wage increase. The Company has failed to supply workpapers or supporting documentation demonstrating that any analysis was performed. In the rebuttal testimony the company provided public wage information from other gas utilities, but this alone does not satisfy

³¹ Application, ARF Form 1, Attachment SAO-G, at 2.

³² Shute Rebuttal, at 3,

³³ *Id.*, at 15-10.

³⁴ *Kentucky-American Water Company v. Commonwealth ex rel. Cowan*, 847 S.W.2d 737,741 (Ky. 1993).

the burden of proof required for this proposed increase. A supporting analysis would be needed to determine if duties, hours and requirements for positions are comparable. Given the lack of documentation, the Attorney General's expert witness recommended that the Commission disallow the proposed adjustment, which in turn would correspond to an adjustment of \$21,000 to payroll taxes.³⁵

The Attorney General is not opposed to the notion of wage increases; however, sufficient supporting documentation must exist for it endorse the specific amount proposed. The burden to provide that evidence rests with the Company, not the Attorney General. As such, the Company has failed to meet its burden of proof, and the Commission should reject the requested wage adjustment or modify it to a level that is fair, just, and reasonable for ratepayers.

V. Income tax expenses should be excluded from the revenue requirement.

In the Company's rebuttal testimony, \$85,418.17 was added to the revenue requirement for income taxes. In response to post-hearing data requests, the Company asserted that it interpreted a comment in the testimony of the Attorney General's expert as a recommendation that tax expense should be included.³⁶ However, the Attorney General's expert merely observed the absence of income tax from the revenue requirement and did not recommend its inclusion.³⁷

Frontier Gas is a pass-through entity organized as a limited liability company, and any tax liability arises at the owner level rather than the utility level.³⁸ Despite this, the Company introduced an income tax allowance into the rebuttal's revenue requirement, without demonstrating why the burden should shift to ratepayers.

Frontier has not met its burden of proof to justify this addition to the revenue requirement.

³⁵ Defever Testimony, at 4.

³⁶ Response to AG PHDR-6.

³⁷ Defever Testimony at 12.

³⁸ Application at 1,2.

Ratepayers should not be responsible for unsupported owner-level tax obligations. Given these factors, this adjustment made by the Company should be excluded from the revenue requirement.

VI. Additional Recommendations of the Attorney General.

a. Expenses for gift cards should not be recovered.

As mentioned earlier, the Attorney General's expert witness recommended that \$5,415 allocated to events and gifts should be removed from the revenue requirement.³⁹ In the Company's rebuttal testimony, they conceded to reducing these expenses by \$2,676. The Company advised that the remaining \$2,739, for employee gift cards, would be kept as a taxable employee benefit.⁴⁰ In response to post-hearing data requests posed by the Attorney General, the Company clarified that the gift cards will be classified as a "taxable employee bonus"⁴¹ used as "expressions of appreciation."⁴²

Regardless of the tax treatment, these funds for gift cards remain discretionary employee awards rather than expenses necessary to provide utility service. Gift cards are not employee compensation, instead they are incentives or tokens of appreciation. Given these factors, these bonuses should not be recovered from ratepayer funds and therefore disallowed from the revenue requirement.

b. Ratepayers should only be responsible for reasonable and accurate total rate case expenses.

In the application, Frontier projected the total rate case expenses to be \$90,000 and requested that it be amortized over three years for \$30,00 per year.⁴³ The Company has received

³⁹ Defever Testimony at 6.

⁴⁰ Shute Rebuttal at 6.

⁴¹ Response to AG PHDR-7.

⁴² Response to AG PHDR-8.

⁴³ Application, ARF Form 1- Attachment SAO-G

an ongoing request to provide updated case invoices, which will show an accurate amount of expenses paid on this rate case.⁴⁴ It is the Commission’s precedent that recovery of rate expenses is not guaranteed, and there must be sufficient evidence to support a finding that the expense is just and reasonable.⁴⁵ Ratepayers should not be required to pay for rate expenses that are not reasonable or nonexistent. The Attorney General requests the Commission only grant the Company’s actual rate case costs that are deemed reasonable and necessary, and that are supported by sufficient evidence.

c. Non-rate case legal expenses associated with the EKM litigation should not be included in the revenue requirement.

The Attorney General’s expert witness recommended that \$9,300 in relation to its ongoing dispute with East Kentucky Midstream, LLC. Instead, the expert witness recommends that legal expenses be recovered from the GCA.⁴⁶ In his rebuttal testimony, Mr. Shute advised that the company “would not be opposed” to requesting recovery in its GCA filings, “if the Commission believes that is what Kentucky Frontier should do.”⁴⁷ The Attorney General asserts that recovery for these legal expenses is more appropriate in the GCA filings and respectfully requests the Commission to remove it from the revenue requirement.

CONCLUSION

WHEREFORE, the Attorney General requests that the Commission deny Frontier’s requested rate increase. If the Commission is inclined to grant a rate increase, it should be limited to what Frontier has proven with known and measurable evidence that will result in fair, just, and

⁴⁴ Response to Staff PHDR-27.

⁴⁵ Case No. 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 Dec. 13, 2022), Order at 4.

⁴⁶ Fever Testimony at 7, 8.

⁴⁷ Shute Rebuttal at 7.

reasonable rates for the Company's customers.

Respectfully submitted,

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Certificate of Service and Filing

Pursuant to the Commission's Orders and in accord with all other applicable law, Counsel certifies that, on February 20, 2026 an electronic copy of the foregoing was served via the Commission's electronic filing system.

This 20th day of February, 2026.



Assistant Attorney General