

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

In the Matter of:

Electronic Tariff Filing of Kentucky Power Company	)	
To Update Its Purchase Power Adjustment And	)	
Decommissioning Rider Rates And Its Securitized	)	Case No. 2025-00307
Surcharge Rider	)	

**Kentucky Power Company’s Motion for Rehearing**

Pursuant to KRS 278.400 and other applicable law, Kentucky Power Company (“Kentucky Power” or the “Company”) respectfully submits this motion for rehearing of the Public Service Commission of Kentucky’s (“Commission”) May 28, 2026, Order in this proceeding (the “Order”). As set forth below, the Order requires rehearing for two reasons. First, the change in the Tariff P.P.A. over/under deferral accounting set forth in the Order produces rates that are not fair, just, or reasonable because it does not result in recovery of the Company’s actual costs eligible for recovery through Tariff P.P.A., leading either to profits for the Company (arising from over-collection by the Company of amounts that cannot be returned to customers through the approved mechanism) or recorded losses for the Company (arising from under-collection of approved expenses that cannot be later recovered). Second, the Order requires clarification that Decommissioning Rider (“Tariff D.R.”) charges are to be excluded from the application of the Company’s Securitized Surcharge Rider (“Tariff S.S.R.”) rate despite rejecting the Company’s request to modify the language of Tariff S.S.R. to confirm the same.

The Commission should grant rehearing to correct each of these issues and, because the Company must update new rates under Tariff P.P.A. on or before August 15, 2026, the Company respectfully requests expedited review on rehearing.

## I. STANDARD FOR REHEARING

KRS 278.400 authorizes “any party to the proceedings” to apply for rehearing of a Commission order within 20 days of service of an order. The Commission interprets the statute as “limit[ing] rehearing to new evidence not readily discoverable at the time of the original hearings, to correct any material errors or omissions, or to correct findings that are unreasonable or unlawful.”<sup>1</sup> A Commission order is deemed unreasonable if “the evidence presented leaves no room for difference of opinion among reasonable minds.”<sup>2</sup> An order is unlawful if it “violates a state or federal statute or constitutional provision.”<sup>3</sup> The statute requires, and the Commission expects, “the parties to Commission proceedings to use reasonable diligence in the preparation and presentation of their cases and . . . to prevent piecemeal litigation of issues.”<sup>4</sup> The Commission nevertheless has the discretion to grant rehearing to consider new arguments,<sup>5</sup> particularly where the argument could not reasonably have been raised before. These bases support rehearing here.

---

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

<sup>2</sup> *Id.* at 2 (quoting *Energy Regul. Comm’n v. Ky. Power Co.*, 605 S.W.2d 46 (Ky. App. 1980)).

<sup>3</sup> *Id.* (quoting *Pub. Serv. Comm’n v. Conway*, 324 S.W.3d 373, 377 (Ky. 2010); *Pub. Serv. Comm’n v. Jackson Cnty. Rural Elec. Coop. Corp.*, 50 S.W.3d 764, 766 (Ky. App. 2000); *Nat’l Southwire Aluminum Co. v. Big Rivers Elec. Corp.*, 785 S.W.2d 503, 509 (Ky. App. 1990)).

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

<sup>5</sup> Order at 2, *In the Matter of: America’s Tele-Network Corp.’s Alleged Violation of KRS 278.535*, Case No. 2000-00421 (Ky. P.S.C. Mar. 23, 2001) (limiting scope of rehearing to new arguments raised in petition).

## II. MOTION FOR PARTIAL REHEARING

### A. The Commission's Changes to the Tariff P.P.A. Over/Under Deferral Accounting Produces Rates that are Not Fair, Just, or Reasonable.

#### 1. Operation of Tariff P.P.A.

The Commission initially approved Tariff P.P.A. in October 2013.<sup>6</sup> Since its inception, Tariff P.P.A. has authorized Kentucky Power to collect:

- The costs of power purchased through eligible purchase power agreements;
- Avoided cost payments to net metering customers;
- Interruptible credits under Tariff C.S. I.R.P.;
- Net cost of fuel related to substitute generation during forced outages; and
- Net gains or losses on incidental sales of gas (up to a \$3 million cap).<sup>7</sup>

Tariff P.P.A. is subject to periodic adjustment and Commission review and approval. The Company includes an annual amount of purchase power costs in base rates ("Base Rate Amount"). Each year, the Company calculates a per-kilowatt-hour (or in limited cases, per kilowatt) factor ("Tariff P.P.A. Factor") designed to recover Tariff P.P.A.-eligible expenses in excess of the Base Rate Amount ("Tariff P.P.A. Expense"). The calculation produces an annual Tariff P.P.A. revenue requirement (the "Tariff P.P.A. Revenue Requirement") designed to recover the Tariff P.P.A. Expense. The operation of the Company's Tariff P.P.A. also produces a regulatory asset or liability related to the over- or under-recovery of Tariff P.P.A. Expense.

---

<sup>6</sup> Order at 43, *In The Matter Of: Application Of Kentucky Power Company For (1) A Certificate Of Public Convenience And Necessity Authorizing The Transfer To The Company Of An Undivided Fifty Percent Interest In The Mitchell Generating Station And Associated Assets; (2) Approval Of The Assumption By Kentucky Power Company Of Certain Liabilities In Connection With The Transfer Of The Mitchell Generating Station; (3) Declaratory Rulings; (4) Deferral Of Costs Incurred In Connection With The Company's Efforts To Meet Federal Clean Air Act And Related Requirements; And (5) All Other Required Approvals And Relief*, Case No. 2012-00578, (Ky. P.S.C. Oct. 7, 2013); *id.* at Appendix A, Exhibit 5.

<sup>7</sup> See, Kentucky Power Company Tariff, Sheet 31-1.

A simplified example of the operation of Tariff P.P.A. over two years, both as it operated prior to the Commission's Order and how it will operate following the Order is enclosed with this motion as **EXHIBIT A**. In Exhibit A, the Company made the following assumptions:

- Year 1 Tariff P.P.A. Revenue Requirement = \$6,000,000
- Base Amount = \$5,000,000
- The Base Amount is recovered each month through base rates
- The Tariff P.P.A. Factor is calculated on a calendar year basis instead of the July to June basis. This change was made for ease of reference.

References to cells or rows below are references to cells or rows in Exhibit A. In both situations, the Year 2 Tariff P.P.A. Revenue Requirement is calculated the same way.

## **2. Tariff P.P.A. Over/Under Prior to the Order.**

Prior to the Order, the Company utilized deferral accounting to reflect future recovery of actual Tariff P.P.A. Expense, and record a regulatory asset (or liability) in the amount of the difference between the amount of Tariff P.P.A. Expense incurred in a month (Row 25) and the Tariff P.P.A. Revenue (Row 27) for the month. This over- or under-recovery accumulates from month to month. In the example provided in Exhibit A, the over- or under-recovery in Year 1 results in a cumulative under-recovery of \$2,270,000 (Cell O30). In Year 2, because the monthly amounts of Tariff P.P.A. Expense were less than in Year 1, the cumulative over- or under-recovery (including the cumulative amount from Year 1) shifts to an over-recovery of \$4,982,000 (Cell AC30).

Kentucky Power previously sought to incorporate the over- or under-recovery from an expense year into the calculation of the Tariff P.P.A Revenue Requirement for the following

expense year. The Commission denied the Company's request<sup>8</sup> and instead the Company now tracks the cumulative over- or under-recovery amount for recovery in future base rate case. While there is a delay in incorporating the over- or under-recovery into rates, which impacts how long it takes for customers to recoup any amount that was over-recovered and the Company to recover costs that were under-recovered, the end result is that the Company recovers, and customers pay, no more and no less than the full amount of Tariff P.P.A. Expense.

### **3. Tariff P.P.A. Over/Under After the Order.**

In the Order, the Commission altered the over/under deferral accounting mechanism:

The Commission finds that Kentucky Power should align the deferral accounting to the actual under/over-recovery true-up mechanism in its Tariff P.P.A. rates, which correctly calculates the difference between the revenue requirement and the revenues collected from rates based on that revenue requirement. Kentucky Power should compare 1/12th of its revenue requirement for the year plus 1/12th of the base amount to the actual revenues collected in a month and record the difference as a regulatory asset or liability. This change will not result in a change to the Tariff P.P.A. rate calculations, and accordingly, the Commission finds that the Tariff P.P.A. rates should be approved as filed. While the Commission does not find that this issue warrants disapproval of the current Tariff P.P.A. rates, the Commission finds that continued monitoring of this issue is warranted.<sup>9</sup>

This means that instead of creating a regulatory asset or liability that reflects the difference between monthly Tariff P.P.A. Expense and the Tariff P.P.A. Revenue, the Company is required to track the difference between the monthly Tariff P.P.A. Revenue Requirement and Tariff P.P.A. Revenue. Because the deferral accounting can now only track the difference between Tariff P.P.A. Revenue and the monthly Tariff P.P.A. Revenue Requirement and there is no deferral accounting for the difference between the actual monthly Tariff P.P.A. Expense and the Tariff P.P.A. Revenue, the difference between Tariff P.P.A. Expense and Tariff P.P.A. Revenue cannot

---

<sup>8</sup> Order at 6, *In The Matter Of: Electronic Tariff Filing Of Kentucky Power Company To Update Its Purchase Power Adjustment Rates*, Case No. 2023-00318 (Ky. P.S.C. June 14, 2024).

<sup>9</sup> Order at 11.

be deferred for later credit or recovery. This results in either an over-recovery of revenue from customers that cannot be returned to customers through a regulatory liability and a profit for the Company, or an under-recovery of costs that cannot be recouped by the Company through a regulatory asset and a loss for the Company. Under the deferral accounting mechanism in place prior to the Order, actual Tariff P.P.A. Expense would be reflected in future rates, and no profit or loss occurs (Rows 32 and 33).

Exhibit A shows how the Commission's deferral accounting change will result in either profits for the Company or losses that the Company must record. In January of Year 1, Tariff P.P.A. Expense is \$103,333 (Cell D7), while Tariff P.P.A. Revenue totals \$450,000 (Cell D9) and the monthly Tariff P.P.A. Revenue Requirement is \$500,000 (Cell D11). This produces an under-recovery and regulatory asset for the month of \$50,000 (Cell D13) under the Commission's new deferral accounting methodology. The difference between the amount the Company actually recovered (Tariff P.P.A. Revenue of \$450,000) and the under-recovery of that it will recover via the true-up (\$50,000) and the actual Tariff P.P.A. Expense during January (\$103,333) results in a profit to the Company in January of \$396,667 (Cell D16).

In August, a higher expense month in Exhibit A, the difference between Tariff P.P.A. Revenue of \$825,000 (Cell K9) and the over-recovery of \$325,000 (Cell K13) and the actual Tariff P.P.A. Expense during the month of \$4,583,333 (Cell K7) results in a loss during the month of August of \$4,083,333 (Cell K16). In Example 1, the cumulative profit and loss for Year 1 is a loss to the Company of \$1,970,000 (Cell O17). Year 2 shows an example of a year where Tariff P.P.A. Expense is less than the prior year. In the Year 2 example, under the Commission's deferral accounting mechanism, the Company would receive a cumulative profit of \$5,695,000 (Cell AC17).

The change to the Company's Tariff P.P.A. deferral accounting mechanism produces rates that are not fair, just, and reasonable because it does not result in recovery of actual Tariff P.P.A. Expense. The change produces profits for the Company in months when Tariff P.P.A. Expenses happen to be lower than the Tariff P.P.A. Revenue Requirement and the Company over-recovers. Similarly, the change will result in losses for the Company in months when Tariff P.P.A. Expenses happen to be higher than the Tariff P.P.A. Revenue Requirement and the Company under-recovers. This outcome flies in the face of ratemaking principles based on recovery of actual costs. Neither the customers nor the Company should bear the risk associated with the variable and unpredictable expenses recovered through Tariff P.P.A. Accordingly, and to remove that risk, the Commission should grant rehearing and return the deferral accounting mechanism for Tariff P.P.A. to the status quo prior to the issuance of the Order.

**B. Clarification is Necessary to Confirm that it is Appropriate for the Company to Exclude Application of the Tariff S.S.R. Rate to Tariff D.R. Charges.**

In the Order, the Commission approved the Company's request to reinstate Tariff D.R. to recover ongoing retirement-related costs not included in the securitization approved in Case No. 2023-00159.<sup>10</sup> The Company also sought to update Tariff S.S.R. to clarify that Tariff D.R. charges are excluded from the billing determinants to which Tariff S.S.R. applies.<sup>11</sup> The Commission rejected the Company's proposed change to Tariff S.S.R. because the Financing Order and form of Tariff S.S.R. attached as an exhibit do not contemplate changes to the universe of charges expressly excluded from Tariff S.S.R.<sup>12</sup>

Kentucky Power contends that it is inappropriate for it to apply Tariff S.S.R. charges to Tariff D.R. for the same reason that the Commission expressly stated that Tariff D.R. charges do

---

<sup>10</sup> *Id.* at 5.

<sup>11</sup> *See id.* at 6.

<sup>12</sup> *Id.* at 8-9.

not apply to Tariff S.S.R. Accordingly, the Company seeks rehearing on this issue to confirm that, even though the Commission rejected the proposed changes to the Tariff S.S.R., it is appropriate for the Company to exclude application of the Tariff S.S.R. rate to Tariff D.R. charges.

### III. CONCLUSION

The Company respectfully requests the Commission grant rehearing to:

1. Allow the Company to continue to recover actual Tariff P.P.A. Expense and record over/under deferral accounting that reflects the Company's ability to recover its actual costs through future rates, as it did prior to the Commission's Order; and
2. Confirm that Tariff D.R. charges are to be excluded from the application of the Company's Tariff S.S.R. rate even though the language in Tariff S.S.R. does not include such an exclusion.

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

Respectfully submitted,



---

Kenneth J. Gish, Jr.  
Harlee P. Havens  
STITES & HARBISON PLLC  
250 West Main Street, Suite 2300  
Lexington, Kentucky 40507-1758  
Telephone: (859) 226-2300  
Fax: (859) 253-9144  
[kgish@stites.com](mailto:kgish@stites.com)  
[hhavens@stites.com](mailto:hhavens@stites.com)

COUNSEL FOR KENTUCKY POWER  
COMPANY