COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY POWER COMPANY FOR (1) APPROVAL OF CONTINUATION OF ITS DEMAND-SIDE MANAGEMENT PROGRAMS; (2) AUTHORITY TO RECOVER COSTS AND NET LOST REVENUES, AND TO RECEIVE INCENTIVES ASSOCIATED WITH THE IMPLEMENTATION OF ITS DEMAND-SIDE MANAGEMENT PROGRAMS; (3) ACCEPTANCE OF ITS ANNUAL DSM STATUS REPORT; AND (4) ALL OTHER REQUIRED APPROVAL AND RELIEF	)	CASE NO. 2025-00365

POSTHEARING BRIEF OF JOINT INTERVENORS APPALACHIAN CITIZENS' LAW CENTER AND MOUNTAIN ASSOCIATION

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INTRODUCTION

Joint Intervenors Appalachian Citizens' Law Center and Mountain Association ("Joint Intervenors") support the continuation of Kentucky Power Company's ("Kentucky Power," "KPCo," or the "Company") demand-side management ("DSM") programs — the Targeted Energy Efficiency ("TEE") program, the Home Energy Improvement Program ("HEIP"), and the Commercial Energy Solutions Program ("CESP") — through December 2026. Energy efficiency remains one of the least expensive resources available to Kentucky Power and its customers, and Joint Intervenors support the programs themselves. Joint Intervenors also see considerable room for improvement in implementation of the programs and surcharge calculations.

The record developed at hearing and through post-hearing data requests confirms three things. First, the Company has offered no persuasive reason not to hold DSM surcharge collections in an interest-bearing account. Second, the Company's calculation of net lost revenues continues to rely exclusively on forecasted, rather than actual, measures installed, and improperly charges customers for savings caused by third-party efficiency improvements. Finally, while mooted by the Company's testimony at hearing, the Company's proposal to increase its 2026 program year budgets was misguided and unlikely to improve program performance on its own.

With the Company's budget roll-over proposal no longer at issue, Joint Intervenors urge the Commission to make adjustments to the surcharge consistent with Witness Sherwood's testimony, including with respect to the calculation of net lost revenues and use of an interest-bearing account for over-recovery balances. Furthermore, the Commission should consider establishing filing timelines for the

Company to ensure future applications are provided on a timeline that allows for regulatory review of progress on implementing programs.

LEGAL STANDARD

Review of Kentucky Power's DSM Plan is governed by KRS 278.285. Principally, the Commission must determine the reasonableness of a proposed plan, informed by consideration of a non-exhaustive list of eight factors:

> (a) The specific changes in customers' consumption patterns which a utility is attempting to influence;
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> (b) The cost and benefit analysis and other justification for specific demand-side management programs and measures included in a utility's proposed plan;
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> (c) A utility's proposal to recover in rates the full costs of demand-side management programs, any net revenues lost due to reduced sales resulting from demand-side management programs, and incentives designed to provide positive financial rewards to a utility to encourage implementation of cost-effective demand-side management programs;
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> (d) Whether a utility's proposed demand-side management programs are consistent with its most recent long-range integrated resource plan;
>
> (e) Whether the plan results in any unreasonable prejudice or disadvantage to any class of customers;
>
> (f) The extent to which customer representatives and the Office of the Attorney General have been involved in developing the plan, including program design, cost recovery mechanisms, and financial incentives, and if involved, the amount of support for the plan by each participant, provided however, that unanimity among the participants developing the plan shall not be required for the commission to approve the plan;
>
> (g) The extent to which the plan provides programs which are available, affordable, and useful to all customers; and
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> (h) Next-generation residential utility meters that can provide residents with amount of current utility usage, its cost, and can be capable of being read by the utility either remotely or from the exterior of the home.

If after consideration of these statutory factors, along with any other factors deemed informative, the Commission determines the plan to be reasonable, the plan should be approved. Apart from those factors, the demand-side management plan statute is not prescriptive with respect to timelines, savings targets, programs, or budget—so long as the plan is reasonable.

As in all matters before the Commission, reasonableness must be determined in light of the Commission's constitutional and statutory obligations to advance the public interest through effective regulation of monopoly utility companies' rates and services.[1] These obligations include ensuring rates that are fair, just, and reasonable, and service that is adequate, efficient and reasonable.[2]

Commission Orders routinely encourage exploration of all cost-effective demand-side management programs. As noted in the Commission's February 17, 2011, Final Order in Case No. 2010-00222:

> The Commission believes that conservation, energy efficiency and DSM, generally, will become more important and cost-effective as there will likely be more constraints placed upon utilities whose main source of supply is coal-based generation . . . . [T]he Commission believes that it is appropriate to strongly encourage Meade, and all other electric energy providers, to make greater effort to offer cost-effective DSM and other energy efficiency programs.[3]

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[1] KRS 278.030(1); KRS 278.040. *See also* Order*, In the Matter of Electronic Application of Duke Energy Kentucky, Inc. to Amend Its Demand Side Management Programs*, Case No. 2019-00277, at 11 (Apr. 27, 2020) (observing statutory obligation to ensure rates are fair, just, and reasonable at the outset of discussion of proposed DSM/EE plan).
[2] KRS 278.030(1), (2).
[3] Order, *In the Matter of Application of Meade County Rural Electric Cooperative Corporation to Adjust Electric Rates*, Case No. 2010-00222, at 15–16 (Feb. 17, 2011). *See also* Order, *In the Matter of Consideration of the New Federal Standards of the Energy Independence and Security Act of 2007*, Case No. 2008-00408*,* at 22 (Oct. 6, 2011); Order*, In the Matter of Joint Application of PPL Corporation. E.ON AG., E.ON US Investments Corp., E.ON U.S. LLC. Louisville Gas and Electric Company and Kentucky Utilities Company for Approval of an Acquisition of Ownership and Control of Utilities*, Case No. 2010-00204, at 14 (Sept. 30, 2010) ("DSM, energy efficiency, and conservation are important now and will become more important and cost-effective in the future as more constraints are likely to be placed on utilities that rely significantly on coal-fired generation.").

More narrowly, since 2017, the Commission has consistently directed Kentucky Power Company to pursue cost-effective DSM and other energy efficiency programs to answer known energy and capacity needs.

In either a rate case proceeding initiated pursuant to KRS 278.190, or a proceeding limited to DSM Plan issues and related rate-recovery, the Commission may also review a proposed demand-side management mechanism.[4] A demand-side management mechanism can include (a) recovery of the full costs of implementing an approved DSM Plan and related lost revenues; or (b) incentives to provide financial rewards for implementing a cost-effective DSM Plan; or (c) both.[5] As in all instances concerning proposed rate or tariff changes, the regulated utility bears the burden of proof to show that DSM-related rates and tariff changes are just and reasonable.[6]

PROCEDURAL BACKGROUND

On November 17, 2025, Kentucky Power filed an application seeking approval to continue its DSM programs, shift approved funds between program years 2025 and 2026, and increase its D.S.M.C. surcharge rates, requesting an effective date of January 1, 2026.[7] Stevi N. Cobern sponsored pre-filed direct testimony in support of the application.[8]

By Order entered December 8, 2025, the Commission suspended Kentucky Power's proposed rates and tariff for five months, through June 1, 2026.[9] To its credit, Kentucky Power did not implement its proposed D.S.M.C. rates during the pendency of

[4] KRS 278.285(2).
[5] *Id.*
[6] KRS 278.190(3).
[7] KPCO Application, Case No. 2025-00365 (Nov. 17, 2025).
[8] Direct Testimony of Stevi N. Cobern, Case No. 2025-00365 (Nov. 17, 2025) ("Cobern Direct").
[9] Order, Case No. 2025-00365, at 1 (Dec. 8, 2025).

this proceeding and has continued to bill customers using the 2025 DSM surcharge rates.[10]

Appalachian Citizens' Law Center and Mountain Association were granted full intervention as Joint Intervenors by Order entered January 20, 2026.[11] The Company responded to three sets of requests for information from Commission Staff,[12] and two sets from Joint Intervenors.[13]

Stacy L. Sherwood filed direct testimony on behalf of Joint Intervenors on March 18, 2026, addressing 2025 program performance, the Company's proposed 2026 program budgets, the D.S.M.C. surcharge calculation, the calculation of net lost revenues, and the content of the Company's annual DSM status report.[14] Joint Intervenors responded to one set of data requests each from Commission Staff and the Company.[15]

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[10] June 30, 2026, Hearing Video Transcript ("HVT") at 9:14:07 a.m.
[11] Order, Case No. 2025-00365, at 1 (Jan. 20, 2026).
[12] Commission Staff's First Request for Information to Kentucky Power Company, Case No. 2025-00365 (Jan. 15, 2026); Kentucky Power Company's Responses to Commission Staff's First Set of Data Requests, Case No. 2025-00365 (Feb. 4, 2026); Commission Staff's Second Request for Information to Kentucky Power Company, Case No. 2025-00365 (Feb. 16, 2026); Kentucky Power Company's Responses to Commission Staff's Second Set of Data Requests, Case No. 2025-00365 (Mar. 4, 2026); Commission Staff's Third Request for Information to Kentucky Power Company, Case No. 2025-00365 (Mar. 27, 2026); Kentucky Power Company's Responses to Commission Staff's Third Set of Data Requests, Case No. 2025-00365 (Apr. 15, 2026).
[13] Initial Requests for Information of Joint Intervenors Appalachian Citizens' Law Center and Mountain Association to Kentucky Power Company, Case No. 2025-00365 (Jan. 21, 2026); Kentucky Power Company's Responses to Joint Intervenors' First Set of Data Requests, Case No. 2025-00365 (Feb. 4, 2026); Supplemental Requests for Information of Joint Intervenors Appalachian Citizens' Law Center and Mountain Association to Kentucky Power Company, Case No. 2025-00365 (Feb. 18, 2026); Kentucky Power Company's Responses to Joint Intervenors' Supplemental (Second Set of) Data Requests, Case No. 2025-00365 (Mar. 4, 2026).
[14] Direct Testimony of Stacy L. Sherwood, Case No. 2025-00365 (Mar. 18, 2026) ("Sherwood Direct").
[15] Kentucky Power Company's Data Requests to the Appalachian Citizens' Law Center and Mountain Association, Case No. 2025-00365 (Apr. 1, 2026); Commission Staff's First Request for Information to Appalachian Citizens' Law Center and Mountain Association, Case No. 2025-00365 (Mar. 27, 2026); Responses of Joint Intervenors Appalachian Citizens' Law Center and Mountain Association to Kentucky Power Company's First Request for Information, Case No. 2025-00365 (Apr. 15, 2026), with Attachment A (Apr. 17, 2026).

Kentucky Power filed the rebuttal testimony of Stevi N. Cobern on April 29, 2026, responding to Ms. Sherwood's recommendations.[16] The Commission held a formal hearing on June 30, 2026.[17] Following the hearing the Commission set a further procedural schedule, allowing one set of post-hearing requests for information, and simultaneous initial and response briefs.[18] The Company responded to post-hearing data requests from Commission Staff and Joint Intervenors.[19] No post-hearing requests were propounded to Joint Intervenors.

The matter is now ripe for briefing, and pursuant to the Commission's post-hearing scheduling Order, Joint Intervenors offer this initial brief in support of their post-hearing position.

DISCUSSION

1. The Commission Should Require Kentucky Power to Hold D.S.M.C. Surcharge Collections in an Interest-Bearing Account.

Joint Intervenors recommend that funds collected through the D.S.M.C. surcharge be held in an interest-bearing account, with accrued interest used to offset future collections.[20] This is not a novel or unprecedented request: the Commission has required other regulated Kentucky utilities to hold surcharge proceeds in interest-bearing accounts in other contexts, and there is no constitutional, statutory, or regulatory barrier to doing so here.[21]

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[16] Rebuttal Testimony of Stevi N. Cobern, Case No. 2025-00365 (Apr. 29, 2026) ("Cobern Rebuttal").
[17] Order, Case No. 2025-00365, at 1 (May 28, 2026) (scheduling hearing for June 30, 2026).
[18] Order, Case No. 2025-00365, at 1 (July 7, 2026).
[19] Commission Staff's Post-Hearing Request for Information to Kentucky Power Company (July 2, 2026); Kentucky Power Company's Responses to Commission Staff's Post-hearing Data Requests, Case No. 2025-00365 (July 15, 2026); Posthearing Requests for Information of Joint Intervenors Appalachian Citizens' Law Center and Mountain Association to Kentucky Power Company (July 6, 2026); Kentucky Power Company's responses to Joint Intervenors' Post-Hearing Requests for Information (July 15, 2026); Kentucky Power Company's Supplemental Response to JI PHDR_7 (July 22, 2026).
[20] Sherwood Direct at 23-24.
[21] Sherwood Direct at 23 n.29 (citing *Elec. Southern Water & Sewer District's Meter Replacement Surcharge Monitoring*, Order, Case No. 2020-00121, at 2-3 (requiring deposit of meter replacement

Kentucky Power currently collects D.S.M.C. funds at a faster rate than it has been able to spend its approved budget — as the 2025 HEIP and CESP underspending discussed below illustrates — meaning customer funds are sitting uninvested rather than earning a return that could be used to offset future collections.[22] The Company's only stated objection is that it does not maintain interest-bearing accounts for its other riders and surcharges, and that doing so would impose unspecified "additional administrative cost" and require "frequent adjustments to available funds" given the sporadic timing of DSM invoices and incentive payments.[23] The Company offers no quantification of that administrative cost, and does not explain why ordinary treasury-management practices could not accommodate periodic, rather than continuous, adjustments. A reasonable enterprise genuinely committed to minimizing costs to the customers it says it wants to help would, at minimum, investigate and report on the actual costs and benefits of this option — something the Company has not done.

The Commission should order Kentucky Power to establish an interest-bearing account for D.S.M.C. collections and to report on its implementation in the Company's next annual DSM filing. In the alternative, the Commission should require Kentucky Power to more seriously evaluate the administrative costs and customer benefits of utilizing interest-bearing accounts, and report such details to the Commission.

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surcharge proceeds into a separate interest-bearing account); *App. of Big Rivers Electric Corp. for Approval to Issue Evidences of Indebtedness*, Case No. 2012-00119, at 4-5). *See also* June 30, 2026 HVT at 11:52 to 11:54 a.m. (cross examination of witness Sherwood confirming that the Commission has approved use of interest bearing accounts in "different contexts" and interest bearing accounts are routinely used for DSM surcharge revenues in other jurisdictions).

[22] Sherwood Direct at 23; Kentucky Power Company's Responses to Joint Intervenors' First Set of Data Requests, Case No. 2025-00365, Responses to JI 1_24, 1_25 (Feb. 4, 2026) ("The Company does not earn or pay a return on the over/under balance.").

[23] Cobern Rebuttal COBERN - R5–R6.

2. Net Lost Revenue Recovery Should Be Based on Actual Measures Installed, Not Estimated Values.

Joint Intervenors do not dispute that net lost revenues may properly be included in the calculation of the D.S.M.C. surcharge.[24] The question is not whether the Company may recover net lost revenues, but whether it is just and reasonable for the Company to calculate net lost revenues exclusively from forecast measure-mix savings without any true-up that accounts for the measures actually installed under Company-sponsored programs. Joint Intervenors maintain that just and reasonable net lost revenue recovery should account for actual savings achieved and be limited to savings resulting from measures funded by the Company-sponsored programs.

The purpose of a net lost revenue recovery mechanism is only to overcome a utility's financial disincentive to support energy conservation and efficiency, and it is only appropriate where verifiable savings result from utility program spending. These fundamental principles of net lost revenue recovery are codified in section 278.285(1)(c), which allows recovery of "net revenues lost due to reduced sales **resulting from** demand-side management programs"; and section 278.285(2)(a), which limits the amounts that may be recovered via a DSM surcharge mechanism to the "costs of commission-approved demand-side management programs and **revenues lost by implementing these programs**."

These statutory provisions are consistent with standard industry practice, which adjusts kilowatt hour savings, and associated lost revenues, to the portion of measure costs actually funded by a utility's own DSM program(s).[25] Using actual installed measures protects customers from over-recovery and protects a utility from

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[24] KRS 278.285(1)(c), (2)(a).
[25] Sherwood Direct at 23-24.

under-recovery. Net lost revenue recovery is limited to savings funded by a utility-sponsored DSM program because a utility has no general right to recover money from customers for savings unrelated to program spending.

To illustrate, consider a customer who replaces a 20-year old HVAC system on failure without using a utility-sponsored DSM program. Even if that customer does not seek to buy the most efficient equipment available, based on technology advancements their new equipment will be more efficient, resulting in reduced energy usage. But the utility would have no right to claim it had “lost revenue” that customers should have to pay back through a DSM surcharge in such instances.

Applied here, it is unlawful, unjust, and unreasonable to continue to allow the Company to recover net lost revenues derived from DOE-funded measures. Net lost revenues under the TEE Program must be adjusted to include only the portion of savings attributable to the Company’s program spending. For example, if TEE funds paid for 30% of an insulation measure that produces 200 kWh in incremental annual savings, the Company should be able to claim only 60 kWh of savings — and the associated lost revenues — attributable to its own program investment.[26]

In defense of its current approach, the Company offers two sentences: “The Commission’s February 28, 2025, Order in Case No. 2024-00115 approved the Company’s long-standing calculation of its DSM surcharge, inclusive of the calculation of lost revenues. The Commission has reviewed and approved the Company’s current DSM mechanism as-is since at least 2018.”[27] Furthermore, at hearing, it appeared that

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[26] Sherwood Direct at 24.
[27] Cobern Rebuttal at COBERN - R4.

Ms. Cobern was uncertain whether actual savings or average savings were being used.[28]

Respectfully, this defense falls flat. It is never too late to align a ratemaking mechanism with the authorizing statute or to require the use of actual savings data already at hand. Furthermore, the Company's rebuttal does not address the actual question presented: not whether the Commission has approved the current mechanism in the past, but whether it is just and reasonable, going forward, based on record evidence in this proceeding. Prior approval of a calculation methodology is not, by itself, a reasoned defense of that methodology's continued accuracy, particularly where — as here — a party's expert witness has identified a specific, industry-standard alternative.

The Commission should require Kentucky Power to calculate net lost revenues based on the measures actually installed as a result of its DSM programs, net of any co-funded portion attributable to other funding sources, beginning with the 2026 D.S.M.C. calculation.

3. *Kentucky Power's Original Request to Roll Over Unspent 2025 HEIP and CESP Funds Was Unreasonable.*

Kentucky Power originally proposed to roll over $326,813 in unspent 2025 HEIP funds and more than $500,000 in unspent 2025 CESP funds into 2026, increasing the requested 2026 budgets to $991,494 for HEIP and $1,267,246 for CESP — well above the $548,607 and $779,409, respectively, that the Commission approved for those programs in Case No. 2024-00115.[29] At hearing, however, the Company withdrew this proposal through the testimony of Lerah M. Kahn.[30] This is a respectable change of

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[28] HVT at 9:28:24 to 9:39:50 a.m.
[29] Application, Case No. 2025-00365, at ¶¶14-15 (Nov. 17, 2025).
[30] HVT at 9:04:30 to 9:08:00 a.m.

position. Based on the facts of this case, the underwhelming roll out of programs in the back half of 2025 raised legitimate questions about the ability of the Company and its third-party implementors to cost-effectively ramp-up programs to higher program budgets and customer participation.

Indeed, even where Kentucky Power did achieve forecasted energy savings in 2025 and early 2026, it did so at a higher cost than planned. The Company is meeting its savings targets, but also spending disproportionately on marketing and administration rather than on the incentives that drive customer-side investment. To some extent, the disproportionate spending on program administration and marketing reflects the reality of reintroducing DSM programs — it takes time and financial investment to rebuild internal expertise, to develop relationships with trade partners, and to reach customers with the news of available demand-side management services. Joint Intervenors hope and expect that year-over-year, a greater proportion of overall program budgets will be dedicated to customer incentive investments.

a. The Company could not have met the participation targets underlying its withdrawn request.

HEIP and CESP did not launch to customers until July 2025, and both programs spent significantly less than forecast in their first year: HEIP spent $237,445 against a forecast of $664,681 (53 participants against a forecast of 661), and CESP spent $202,106 against a forecast of $710,011 (one participant against a forecast of 130).[31] Ms. Sherwood's testimony explained why the Company's proposed 2026 participation targets were never achievable with current vendor capacity: the Company’s primary

[31] Sherwood Direct at 6, *citing* Application, Case No. 25-00365, Exhibit SNC -1 (Nov. 17, 2025) and Kentucky Power Company’s Responses to Commission Staff’s First Set of Data Requests, Case No. 2025-00365, at 1_1 (Feb. 4, 2026).

HEIP subcontractor can complete only 45–50 assessments per month — roughly 600 per year, or less than 40% of the 1,519 participants the Company's withdrawn budget assumed.[32] Similarly, as of January 2026, only one contractor had participated in CESP, and the Company's third-party implementer was still working to recruit the ten HVAC contractors needed to support the program's expanded 2026 offerings, against a forecast of 272 CESP participants for the year,[33] and at hearing could not confirm progress on this important step.[34]

Kentucky Power's rebuttal testimony never meaningfully engaged with this vendor-capacity problem, or concerns of a budget cliff after the proposed rollover ended next year. The Company asserted generally that it "always considers the impact that its decisions have on customers," and pointed to a Commission Staff data request response purporting to show no "rate shock" from the proposed rates — but rate shock was never the relevant standard,[35] and the Company never responded to the specific staffing and contractor-recruitment limitations Ms. Sherwood identified, nor the concerns of a potential budget cliff.[36]

b. Actual 2026 spending confirms that, even where the Company achieved savings, it did so at relatively high cost.

Post-hearing data requests directed to the Company's actual January–June 2026 spending confirm that the withdrawal was the right outcome. The Company's response to KPSC_PHDR_4 reports HEIP spending of $169,079 through June 30, 2026;[37] however, that figure does not reconcile with the Company's own responses to

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[32] Sherwood Direct at 14-15 (citing KPC Response to JI 1_18).
[33] Sherwood Testimony at 18 (citing KPC Response to JI 1_9, 1_18).
[34] HVT at 10:12:00 to 10:14:30 a.m.
[35] As a matter of course, rate shock should be avoided in all ratemaking contexts. But avoidance of rate shock, standing alone, does not demonstrate that a rate is just and reasonable.
[36] Sherwood Direct at 14-15.
[37] Kentucky Power Company's Responses to Commission Staff's Post-hearing Data Requests, Case No. 2025-00365, at KPSC PHDR_4 (July 15, 2026).

JI_PHDR_2(j) and JI_PHDR_4, which together show total HEIP spending of $256,954.41 for the same period, broken out below.[38]

Month	Admin	Program	Marketing	Incentives	Total
January	$4,987.50	$8,089.25	$13,355.71	$7,370.00	$33,802.46
February	$5,582.02	$7,633.71	$12,173.85	$4,333.00	$29,722.58
March	$5,350.10	$9,393.24	$17,184.61	$28,580.00	$60,507.95
April	$4,025.45	$8,342.37	$13,145.87	$10,523.00	$36,036.69
May	$5,632.87	$9,263.22	$15,076.68	$19,485.00	$49,457.77
June	$4,842.27	$10,564.06	$14,256.63	$17,764.00	$47,426.96
Total	$30,420.21	$53,285.85	$85,193.35	$88,055.00	$256,954.41

HEIP Spending by Cost Category, January–June 2026

Likewise, the Company's responses to KPSC_PHDR_5 and JI_PHDR_4 report CESP spending of $217,274 through the same period.[39]

Month	Admin	Program	Marketing	Total
January	$6,757.13	$8,136.39	$16,448.66	$31,342.18
February	$8,798.42	$6,408.26	$17,549.13	$32,755.81
March	$6,371.17	$6,799.59	$17,719.47	$30,890.23
April	$4,519.81	$8,669.71	$17,571.41	$30,760.93
May	$9,671.92	$7,859.40	$33,896.99	$51,428.31
June	$5,976.21	$11,811.27	$22,309.32	$40,096.80
Total	$42,094.66	$49,684.62	$125,494.98	$217,274.26

CESP Spending by Cost Category, January–June 2026

While it appears the Company is achieving its savings targets, it is doing so at a higher cost than forecasted. For HEIP, only 36% of program spending for the first half of 2026 went to incentives, with the remainder spent on program administration (12%) and implementation, including 30% on marketing alone. For CESP, only 14% of spending went to incentives, while 51% went to marketing.[40]

Program	Admin	Program	Marketing	Incentives
HEIP	12%	21%	33%	34%
CESP	17%	20%	51%	14%

Percentage of Total Spending by Cost Category, January–June 2026

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[38] Kentucky Power Company's responses to Joint Intervenors' Post-Hearing Requests for Information, Case No. 2025-00365, at JI_PHDR_2(j), JI_PHDR_4 (July 15, 2026).
[39] A presentation made by TRC to Kentucky Power reports $33,804 paid toward CESP incentives over this time period. JI_PHDR_2, Attachment 1, at page 202 of 249. Joint Intervenors cannot explain how that figure relates to the dollar values reported in responses to KPSC_PHDR_5 and JI_PHDR_4.
[40] *Supra* notes 38, 39.

Once established and effectively implemented, well-designed DSM programs should spend a large proportion of their spending on incentives. While that share can reasonably be expected to grow as participation increases year-over-year and the contractor network grows, the current allocation — with marketing and administration together consuming the majority of program dollars — should be expected to improve.

This is not a basis to fault the Company further for a request it has already withdrawn, but it does illustrate the importance of sustaining DSM programs over the long-term. Combined with the vendor-capacity limitations described in Ms. Sherwood's testimony, the actual spending data confirms that the Commission-approved 2026 budget levels from Case No. 2024-00115 represent a more reasonable, sustainable level of funding for 2026.

c. <u>The Commission should confirm the Commission-approved 2026 budget levels and reduced D.S.M.C. surcharge rates.</u>

Because the D.S.M.C. surcharge is trued up against actual spending, the withdrawal of the proposed rollover means that any unspent 2025 funds will be returned to customers rather than folded into an inflated 2026 budget. The Commission should confirm, consistent with Ms. Sherwood's recommendation, that the 2026 D.S.M.C. surcharge reflects the Commission-approved budget levels rather than the Company's withdrawn request: reducing the residential surcharge from \$0.000587/kWh to \$0.000425/kWh — roughly 27% — and reducing the commercial surcharge from \$0.000573/kWh to \$0.000464/kWh, roughly 19%.[41] For a residential customer using

[41] Sherwood Direct at 22-23 (surcharge calculation); Exhibit SLS-2 to Sherwood Direct.

1,300 kWh in a month, this reduces the DSM surcharge bill impact from $0.76 to $0.55.[42]

4. Timelines for Future DSM Filings May Be Necessary to Ensure that the Commission has an Adequate Opportunity to Review Company Proposals.

Finally, at this juncture in the implementation of the Company's three-year pilot, the Commission should consider setting timelines for future updates and proposals. In the Company's telling, its ability to successfully roll out new programs in 2025 was stymied by receiving approval in February 2025,[43] and due to the procedural schedule in this proceeding, its original request to dramatically increase the 2026 budgets could no longer be realized, even if approved.[44] This telling unfairly shirks responsibility for at least two reasons.

First, the Company has yet to offer an explanation as to why it was idle in March, April, May, and June of 2025. An asserted benefit of the Company's proposed choice of implementing contractor was that its familiarity with that contractor and the contractor's on-the-ground connections would enable a fast and effective roll out upon approval.[45] Compared against those early representations, the slow roll out in early 2025, and limited ability to deliver customer benefits in the later half of 2025 does disappoint.

Second, the Company's proposal to roll-over unspent 2025 budgets into the 2026 program year and increase the DSM surcharge dispute being in a significant

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[42] Sherwood Direct at 22; Kentucky Power Company's Responses to Commission Staff's Second Set of Data Requests, Case No. 2025-00365, Response to KPSC 2_3 (Mar. 4, 2026) (providing average annual usage and bill data by rate class underlying this calculation).
[43] Cobern Direct at 11.
[44] HVT at 9:42 a.m.
[45] Direct Testimony of Barrett L. Nolen on Behalf of Kentucky Power Company, Case No. 2024-00115, at 29-30 (May 1, 2024); *id.* at 30 ("TRC currently implements similar DSM programs at Kentucky Power's affiliate, Appalachian Power Company … and has established operations and a trade ally network in Appalachia that would allow a more efficient and quicker ramp-up schedule for the programs, if approved.").

overcollection position was filed on November 17, 2025. With that timing, it was practically impossible for the Commission to weigh-in before the start of program year 2026, on January 1st.

Joint Intervenors commend the Commission for not being rushed to decision by the Company's timing. The information developed over the course of this proceeding shed critical light on the state of the Company's DSM program roll out, and demonstrates the genuine value of regulatory oversight.

To avoid future timing-related excuses and ensure that proposals can be considered on reasonable timeframes going forward, the Commission might consider prescribing a timeline for the remainder of the three-year pilot period. For example, the Commission could consider:

- Reminding the Company that surcharge increase proposals will be considered in due course, without expedited schedules.
- Setting a date certain for periodic updates (e.g., on a quarterly basis), ensuring consistent monitoring at the Company and the Commission of implementation progress.
- Requiring the Company to file any proposed modifications to program budgets, targets, or design—including any future rollover requests—no later than a date certain each year (e.g., 90 days before the start of the program year to which the change would apply), so that such proposals can be fully vetted rather than raised on an emergency or after-the-fact basis;

- Directing the Company to provide advance written notice to Joint Intervenors and Commission Staff of any anticipated changes to DSM program administration, contracts, or measures at least one full quarter before implementation;
- Establishing interim reporting checkpoints for the remainder of the pilot (e.g., at the six- and eighteen-month marks) at which the Company must report actual program performance against approved budgets and targets, so that any needed adjustments can be identified and addressed on a predictable schedule rather than late in the pilot term; and
- Making clear that any future request for budget rollover, reallocation, or similar mid-pilot relief must be filed with sufficient lead time to allow for discovery, testimony, and hearing before the requested effective date—foreclosing the Company from relying on compressed timing as a justification for truncated review.

CONCLUSION

Although this proceeding started with an unreasonable proposal and unnecessary surcharge increases, it can and should end on a better note, with adjustments to the surcharge that better align with the benefits actually delivered to customers in program year 2025 and the first half of 2026. Joint Intervenors continue to support the Company's revival of DSM programs, and remain eager partners in helping the Company to overcome early challenges in implementation.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

In accordance with the Commission's July 22, 2021 Order in Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19*, this is to certify that the electronic filing was submitted to the Commission on July 27, 2026; that the documents in this electronic filing are a true representation of the materials prepared for the filing; and that the Commission has not excused any party from electronic filing procedures for this case at this time.

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Byron L. Gary