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 RESPONSE 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" or "JIs") continue to 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") — and maintain the positions expressed in Joint Intervenors' Initial Brief.

In response to the Company's Initial Brief, Joint Intervenors elaborate here on six issues: (1) reasonable efforts to increase participation in the DSM programs; (2) the need and ability to immediately improve estimated savings based on actual data; (3) the Commission's authority and discretion to direct investigation and/or use of interest-bearing accounts for DSM surcharge over-collections; (4) the difference between the surcharge calculation and how inputs to that calculation are derived; (5) the value of recognizing and responding to barriers that limit the ability of the Company's highest-need customers from participating in income-qualified weatherization programs; and (6) the need to dictate timelines for future DSM reports and program proposals.

DISCUSSION

1. The Company does appear to be making reasonable efforts to build DSM Program participation, which understandably takes time.

Joint Intervenors agree that reasonable efforts appear to be underway to increase participation in the DSM programs. Beyond the traditional outreach methods detailed by the Company, Joint Intervenors specifically applaud the use of account-specific portal messaging for customers with high bill alerts, and targeted outreach to customers with high usage.[1] As Joint Intervenors pointed out in their initial brief, however, this appears to be occurring with a relatively high spend on costs other than actual installed measures.[2] Further, the amounts vary depending on source, as Joint Intervenors pointed out in our initial brief, a discrepancy perpetuated in KPCo's initial brief, which bears further scrutiny.[3]

Going forward, the Company might also consider targeting outreach to customers based on payment history, ensuring that all employees taking customer calls are prepared to refer customers to DSM program offerings, and targeting specific geographic areas. If invited, Joint Intervenors and other stakeholders would welcome continued collaboration on these matters.

Even with reasonable outreach efforts, it is understandable that the Company's restarted DSM Programs came with early roll-out costs and some lag between program launch and reaching customers.[4] DSM Programs are most successful when they are sustained over time, enabling roll-out costs to return benefits throughout the life of a program, building customer awareness and trust through direct experience, and establishing contractor networks, with the direct effect of increasing business for local

[1] Post-Hearing Brief of Kentucky Power Company at 5 (July 27, 2026) ("KPCo Br.").
[2] Post-Hearing Brief of Joint Intervenors at 14-16 (July 27, 2026) ("JI Br.").
[3] *Id.*; KPCo Br. at 7 cites $169,079 spend through June 30 on HEIP based on KPSC PHDR-4, in contrast with the program, administration, and marketing costs given in JI PHDR-4 in combination with the incentives from JI PHDR-2(j), which gives amounts that sum to $262,363.41. KPCo Br. at 7 also gives a $217,274 total for CESP based on KPSC PHDR-5, in contrast with a $251,078.26 based on JI PHDR-4 in combination with the incentives listed in KPCO_R_JI_PHDR_2_Attachment 1 at 202. This latter discrepancy for CESP appears to be the total amount actually spent on CESP incentives ($251,078.26 - $33,804 = $217,274), meaning KPSC PHDR-5 actually gives the totals only for program, administration, and marketing costs for CESP, matching the response to JI PHDR-4. A similar calculation does not appear to work for HEIP ($168,899.2 for the total program, administration, and marketing costs in JI PHDR-4, which still doesn't match the $169,079 given in KPSC PHDR-4). Note, JI Br. at 15 inadvertently used only the $88,054 on incentives for Direct Install for HEIP, instead of the actual $93,464 total, which resulted in the total listed in the brief incorrectly stating a total based on JI PHDR-2(j) and JI PHDR-4, leading to an incorrect total of $256,954.41, rather than a true total from those sources of $262,363.41.
[4] *E.g.*, Direct Testimony of Stacy L. Sherwood at 6 (Mar. 18, 2026) ("Sherwood Direct").

trades. Joint Intervenors continue to support long-term administration of the TEE Program, HEIP, and CESP, beyond a three-year pilot period, so the programs can be truly established and sustained as part of the Company's portfolio.

2. **Joint Intervenors appreciate the Company's commitment to true-up net lost revenue values based on verified savings, and in the meantime, it should also use actual measure data already at hand.**

The Company's Initial Brief commits to adjust its net lost revenue values based on verified savings.[5] This is a respectable commitment, but would benefit from more detail and does not need to wait for completion of an Evaluation, Measurement & Verification study ("EM&V").

The specific language used by the Company — committing to "incorporate the validated savings into its calculations" — is understood by Joint Intervenors to mean that surcharge calculations will be adjusted on a backward- and forward-looking basis. Meaning, the assumed savings previously used to estimate net lost revenues for purposes of the surcharge calculation will be trued-up against the verified savings from actual measures installed in Program Year 2025; and future estimated savings will be adjusted to better reflect actual savings results when calculating the net lost revenue portion of the surcharge going forward.[6]

Using verified savings to true-up and refine surcharge calculations would be an improvement over the current approach, which applies outdated and rough

[5] KPCo Br. at 11.
[6] It is unreasonable for the Company to be estimating TEE Program net lost revenues based on 2015 estimates. Kentucky Power Company's Responses to Commission Staff's Post-Hearing Set of Data Requests, Response to KPSC PHDR_3 (July 15, 2026) ("KPCo Response to KPSC PH DR"). Given the annual availability of actual measure data in CAA reporting to DOE and the Company, there is no reasonable justification for failing to true-up or update estimated savings for net lost revenue recovery annually.

per-participant savings estimates.[7] But it is unreasonable for the Company to wait for verified savings results when it can make refinements now using data reported by its third-party implementers on the measures actually installed for each participant.

Using the reported data on actual measures installed requires no incremental cost to the Company and would result in more accurate savings estimates than the extremely rough per participant savings assumptions that Company currently bases surcharge calculations and program performance on.

Using “verified” savings goes a step further, with a third-party investigating whether the reports of actual measures installed are accurate (e.g., via inspections and spot measurement tests) and whether assumed baseline conditions reflect actual conditions. This EM&V process does further improve the accuracy of estimated savings, but it does so at considerable expense and is not something it would be reasonable to do on an annual basis, particularly for DSM programs with such modest annual budgets.

While the Company’s commitment to update performance reports and true-up past net lost revenue values based on future EM&V results will be an improvement over the status quo, the Commission should require immediate use of data on the actual measures installed for each participant for the same purpose.

3. The Commission can require the use of interest-bearing accounts and there are compelling reasons to encourage their use here.

As set out in Joint Intervenors’ Initial Brief, there are compelling reasons to hold surcharge overcollections in an interest-bearing account, and there are no legal barriers to doing so if supported by the facts of a case. The Company, however, continues to

[7] *Id.*

resist the idea of earning interest on surcharge over-collections, saying there is "no basis" for doing so and going so far as to claim that it is "not something that the Company can accomplish."

Whatever the Commission decides with respect to the investigation or use of interest-bearing accounts, the Commission should be assured of its authority and discretion to require use of interest-bearing accounts where it deems them appropriate. The Company has identified no authority limiting the use of interest-bearing accounts or preventing the Commission from requiring their use when doing so is consistent with just and reasonable rates. Instead, the Company's brief concedes that Witness Sherwood's cited examples establish that, in other contexts, the Commission has required utilities to hold surcharge funds in interest-bearing accounts.[8]

Furthermore, contrary to the Company's aspersions, there has been no "misunderstand[ing] [of] the facts" underlying the two previously cited examples of interest-bearing accounts.[9] The contexts and facts are indeed different, but that proves the point: the Commission has the discretion and authority, based on the specific facts before it, to direct a utility to use an interest-bearing account. In reality, it is the Company's contrary position that finds no support in the law or Commission precedent.

As a factual matter, the Company's Initial Brief incorrectly asserts that the record does not provide a legitimate basis for using an interest-bearing account.[10] But Witness Sherwood's direct testimony plainly explained:

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[8] KPCo Br. at 14 ("The Commission in this case required Southern Water & Sewer District to deposit the surcharge collections into an interest-bearing account."); *id.* at 15 ("the Commission required BREC to place a portion of the proceeds of the applied-for loans in an interest-bearing account").
[9] KPCo Br. at 14.
[10] KPCo Br. at 15 ("Plainly, there is no basis for requiring Kentucky Power to place funds collected through the DSM surcharge into an interest-bearing account.").

> Currently, the funds are not held in an account that earns or pays a return. That is a missed opportunity generally, and particularly so where, as here, the Company has collected money from customers via the DSM surcharge at a faster rate than the Company has been able to spend the approved 2025 budget. If held in an interest bearing account, accrued interest can be used to offset DSM costs. If interest had been accrued on the unspent but collected 2025 funds, then that could have been used to further reduce the surcharge collection needed for 2026. This should be corrected going forward. Allowing for interest to be earned on the collected funds and re-invested in the programs to offset collections is a responsible use of ratepayer funds that maximizes system benefits.[11]

This general notion that money over-collected from customers should be "put to work" by accruing interest, with benefits flowing back to customers as part of future surcharge adjustments, has not been disputed by the Company as a just and reasonable practice on rebuttal or in its Initial Brief.

Instead, the Company insists that using an interest-bearing account is "not something the Company can accomplish,"[12] and vaguely asserts that incremental administrative costs could outweigh the potential benefits. Even when asked by Staff in a post-hearing data request to "provide a breakdown of the administrative costs referenced … regarding implementation and management of an interest-bearing account," the Company offers no numbers or calculations that seriously attempt to test whether, and under what circumstances, use of an interest bearing account for DSM over-collections would result in net customer benefits.[13]

This should not be so difficult to take seriously. Banks routinely handle a great variety of interest-bearing accounts, including accounts that allow daily deposits and

[11] Sherwood Direct at 23.
[12] KPCo Br. at 15.
[13] KPCo Response to KPSC PH DR, Response to KPSC PHDR 9.

withdrawals. Furthermore, it is unclear that there would be any ongoing incremental administrative costs once use of an interest-bearing account is established. Wherever the funds are held, the Company will be recovering money from customers and paying money out for DSM program expenses.

For these reasons, and as put forward in Joint Intervenors' Initial Brief, the Company's resistance to even taking a serious look at a new accounting practice falls flat. The Commission should be confident in its authority to require a reasonable investigation and quantification of the net benefits of using interest-bearing accounts, and consider requiring that the Company begin holding DSM surcharge over-collections in such an account.

4. No one has argued to upend the DSM surcharge calculation.

The Company's Initial Brief asserts that Joint Intervenors have sought to "upend the calculation" previously used to determine the DSM surcharge,[14] but Joint Intervenors have done no such thing. This is evidenced by the fact that Witness Sherwood's surcharge recommendations used the Company's own workpaper, without any formula changes, to calculate surcharges based on the approved 2026 Program Year budgets without the proposed rollover. The calculation was the same; it was only the budget input that changed.

As emphasized in Initial Briefing, Joint Intervenors have not opposed the inclusion of net lost revenues in the DSM surcharge calculation. But again, the inputs need to be made more reasonable via two changes: (1) replace use of outdated per

[14] KPCo Br. at 10 ("Despite the rate calculations being in line with Commission precedent, Joint Intervenors assert that the Commission should upend the calculation it previously approved for their own, unsupported proposition.")

participant savings assumptions with available data on the measures actually installed and (2) consistent with the DSM statutes and sound policy, reduce claimed savings inputs to include only those savings that result from the utility's own DSM Program investments.[15] These updates will result in more accurate, just and reasonable rates, benefiting customers and the Company.

5. **The Company does not dispute the relatively high need for income-qualified weatherization assistance in its service territory and now is the time to start problem solving so that, in future years, all available funding is used.**

The need for assistance in reducing customer usage and bills across Kentucky Power service territory is beyond dispute.[16] Joint Intervenors further trust that all parties to this proceeding genuinely want to maximize the ability of Kentucky Power to assist its highest need customers through its long-standing TEE Program. Accomplishing that shared goal requires recognizing and responding to the known barriers that limit the ability of qualified customers to participate in the TEE Program.[17] Along those lines, Witness Sherwood recommended that, "if the Company recognizes that the CAAs continue to struggle to invest the TEE funds in 2026, then the Company should develop plans to implement the TEE program itself."[18]

The Company's Brief misconstrues this recommendation.[19] Community Action Agencies' ("CAA") weatherization assistance programs ("WAP") are and will continue to be "dependent on the WAP," but that does not mean that income-qualified

[15] *Generally* Sherwood Direct at 23-25; JI Br. at 10-12.
[16] Sherwood Direct at 8-13.
[17] For example, in recognition of health and safety barriers that prevent weatherization assistance, both the DOE WAP program and the TEE Program have adapted to allow a portion of per participant funding to go toward pre-weatherization measures.
[18] Sherwood Direct at 13.
[19] KPCo Br. at 12.

weatherization services can not also be independently administered in order to reach more customers than possible given CAA capacity constraints and the availability or timing of WAP funding.

Furthermore, Witness Sherwood did not recommend any TEE program administration changes as part of this proceeding. Rather, the recommendation is for the Company to continue to be watchful of CAA capacity to utilize WAP, TEE Program, and AEP foundation funding streams, and *if* there are continued difficulties serving as many customers as possible with the available funding streams, the Company should consider independently administering income-qualified weatherization assistance.

Doing so would require proposals to modify the existing terms and conditions of the TEE Program, or to propose a supplemental weatherization program administered by the Company. These and other possibilities could be developed with the input of stakeholders, including CAAs, and presented to the Commission in a future proceeding, as appropriate.

6. Ordinary regulatory process should be expected and welcomed by a regulated monopoly utility.

Joint Intervenors strongly disagree with the Company's assertion that, "in a matter that was solely meant to update the Commission on the Company's progress with respect to [DSM program] approvals" Joint Intervenors' participation "has done nothing but delay the Company in its ability to reach a greater number of customers who can benefit from these DSM programs."[20]

[20] KPCo Br. at 11.

First of all, it is flat wrong to say that the Company initiated this proceeding solely to update the Commission. The Company's application sought DSM surcharge increases for residential and commercial customers and material changes to the reasonable budgets approved for Program Year 2026 in Case No. 2024-00115. By the Company's own admission, the "previously-approved 2026 budgets are reasonably calculated to get customers enrolled, help those customers make improvements to assist with their energy consumption, and also cover the costs associated with administering the programs."[21] There was no need for the Company to treat the DSM surcharge as "a means to collect a set amount of money," but that is precisely what their original proposal sought to do, irrespective of obvious capacity limitations.[22]

Second, the Company's assertion implies that its surcharge increases ought to have been approved in a matter of weeks, apparently discounting the Commission's constitutional and statutory duty to investigate rate changes, with statutorily prescribed time periods for such proceedings. With that in mind, pointing to stakeholders to complain about "delay" shirks the Company's own responsibility to present filings and rate proposals sufficiently in advance of proposed rate increases to allow reasonable process as required by law.[23] The time constraints the Company complains of are of their own making.

For these reasons, Joint Intervenors continue to encourage prescriptive timelines.[24] Without them, there is a foreseeable risk that the Companies will not file a

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[21] KPCo Br. at 13.
[22] KPCo Br. at 15; *see also* Sherwood Direct at 5 ("The primary goal of the programs should not be to fully expend the funds within the three-year period to meet its goals. Rather, the Company should be focused on the successful implementation of the programs for reasonable growth throughout the ramp up period.").
[23] JI Br. at 19.
[24] JI Br. at 17-19.

DSM application in sufficient time for the Commission to consider the merits of extending the three-year DSM pilot to continue beyond December 31, 2027. That would result in potential loss of progress in building contractor networks and raising public awareness and trust in the ability of Kentucky Power to help reduce bills through participation in cost-effective DSM programs.

CONCLUSION

DSM Programs are an indispensable part of delivering affordable bills, especially at a time when Kentucky Power and other utilities claim considerable need for new capacity, and existing customers struggle against persistent inflation that many household and business budgets simply cannot afford. Like any resource, DSM Programs do have a cost, but what matters is that DSM Programs are a least cost resource and the only utility investment that reduces system-wide demand and participant bills.[25]

For the foregoing reasons, and those raised in Initial Briefing, Joint Intervenors urge the Commission to approve the reduced surcharge proposal from Kentucky Power; encourage ongoing and innovative efforts to reach customers and build contractor networks; order regular true-ups of net lost revenue collections based on actual measures installed and later verified savings, and limit net lost revenue recovery to savings resulting from DSM Program investments; encourage monitoring and possible answers to the limited capacity to provide weatherization services to income-qualified customers; and direct future filings—particularly a filing addressing whether the three-year pilot DSM Programs should continue in 2028—to be made by dates certain.

[25] Sherwood Direct at 3-4.

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 August 5, 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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