

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC PURCHASED GAS)	
ADJUSTMENT FILING OF)	CASE NO. 2025-00389
VALLEY GAS, INC.)	

APPLICATION FOR REHEARING

Pursuant to KRS 278.400 and 807 KAR 5:001, Section 5, Valley Gas, Inc. (“Valley Gas”) applies for rehearing of the Kentucky Public Service Commission’s (“Commission”) March 17, 2026 Order, which requires Valley Gas to refund \$81,123.71. Valley Gas respectfully submits that the required refund is contrary to applicable law, including the finality of rates under KRS 278.190, the filed rate doctrine and prohibition against retroactive ratemaking, and the terms of Valley Gas’s filed tariff. The Order also appears to calculate a prospective rate component contrary to tariff requirements. Therefore, Valley Gas respectfully asks the Commission to grant rehearing on these issues.

I. Introduction and Summary of Argument

Valley Gas is a small, family-owned and -operated natural gas distribution company that serves approximately 470 customers in Irvington, Kentucky. As such, it has long depended on the Commission and Commission Staff for guidance and instruction, particularly concerning the implementation of its Purchased Gas Cost Adjustment (“PGCA”) Clause, which can be confusing even to experienced utility professionals. Valley Gas is grateful for the guidance and assistance it has received, and it has endeavored to follow all guidance and instruction from the Commission and Commission Staff.

That is one reason why the Commission’s March 17, 2026 Order surprised Valley Gas; it applied a new calculation methodology for the Actual Cost Adjustment (“ACA”) component of

Valley Gas’s Gas Cost Recovery (“GCR”) rate *retrospectively* to arrive at an ordered refund amount of over \$81,000.¹ In addition to being a large financial burden for such a small utility to bear, the refund requirement is contrary to law; it requires applying a new calculation approach *retrospectively* to ACAs that were final by action of law,² violating the filed rate doctrine and its corollary prohibition against retroactive ratemaking.³ Moreover, the Order requires Valley Gas to refund this amount through the Refund Amount (“RA”) component, contrary to Valley Gas’s Commission-approved PGCA tariff text, and it appears to calculate the prospective ACA contrary to tariff requirements.⁴ Thus, Valley Gas asks the Commission to rehear and reconsider these aspects of the March 17, 2026 Order.

To be clear, Valley Gas takes no issue with calculating an over- or-under-recovery amount based on the GCR rate and its components *lawfully in effect at the time* of the relevant customer billings and collections; such a true-up adjustment is both consistent with the filed rate doctrine and an explicitly contemplated component of the ACA as set forth in Valley Gas’s tariff. Instead, what Valley Gas respectfully asks the Commission to rehear and reconsider is applying a new ACA calculation methodology *retrospectively* to arrive at a refund amount that is not a simple

¹ Case No. 2025-00389, Order at 7-8 (Ky. PSC Mar. 17, 2026) (“Based on the responses filed by Valley Gas *and utilizing the revised AA calculation provided as an example in Appendix A to this Order*, the Commission has determined the amount over-collected for the period since Case No. 2023-00385 to be \$81,123.71”) (emphasis added).

² KRS 278.190(3); *Proposed Adjustment of the Wholesale Rate of the City of Falmouth, Kentucky*, Case No. 2006-00403, Order at 1-2 (Ky. PSC Jun. 27, 2007).

³ *See, e.g., Cincinnati Bell Telephone Co. v. Kentucky Public Service Commission*, 223 S.W.3d 829, 838-39 (Ky. App. 2007) (“The PSC’s statutory rate-making authority is derived from an integrated, comprehensive system aimed at providing stability and notice to all entities involved in the rate process. ... In light of the General Assembly’s comprehensive rate-making scheme, including only a narrowly defined circumstance under which refunds can be ordered, *the filed rate can only be lawfully altered prospectively.*”) (emphasis added); *Electronic Application for Revised Quarterly Gas Cost Recovery Schedules for Kentucky Frontier Gas, LLC*, Case No. 2023-00067, Order at 8-9 (Ky. PSC May 6, 2023).

⁴ The PGCA Clause states that the RA “reflects the refunds received from suppliers during the reporting period,” and that the ACA “shall equal the sum of the ACA for the reporting period and for the three (3) preceding calendar quarters.”

true-up adjustment; rather, it is retroactive ratemaking, which Valley Gas respectfully asks the Commission to reject on rehearing.

II. Valley Gas Is a Small, Family-Owned Utility that Has Consistently Sought and Attempted to Follow the Guidance and Instructions of the Commission and Commission Staff, Particularly Regarding Its Purchased Gas Cost Adjustment Clause.

Valley Gas is a small, family-owned and -operated natural gas distribution company that serves approximately 470 customers in Irvington, Kentucky. It has been in operation since 1962 when Kenneth Kasey organized the company. The Kasey family has operated Valley Gas since then. Kerry Kasey, the current president of Valley Gas, began working for Valley Gas in 1986. He became president of Valley Gas in 2017. Valley Gas's only other employee is Kerry Kasey's brother, Kevin Kasey, who serves as Valley Gas's vice president. Valley Gas primarily relies upon Irvington Gas Company, Inc., a related company that provides propane services, for administrative and operational support.⁵

No Valley Gas employee or officer has had any formal training regarding the laws and administrative regulations that govern the operations of natural gas utilities. Due to its small size and limited resources, Valley Gas has rarely retained legal counsel to assist with its filings with the Commission.⁶ Rather, Valley Gas has frequently sought and relied upon Commission Staff's assistance to meet the requirements of applicable laws and regulations.⁷ Commission Staff has assisted Valley Gas by preparing the spreadsheet template used to prepare gas cost recovery filings and reviewing quarterly gas cost recovery filings prior to the formal filing. When questions arose regarding any regulatory matter, Valley Gas would contact Commission Staff for assistance, and it

⁵ Valley Gas, Inc. Response to Order of October 26, 2023 at 1 (filed Nov. 15, 2023 in *Electronic Investigation into Valley Gas, Inc. for an Alleged Failure to Comply with Commission Orders and KRS 278.160*, Case No. 2023-00331 (Ky. PSC initiated Oct. 26, 2023)).

⁶ *Id.* at 1-2.

⁷ For an example of Valley Gas's relationship with Commission Staff, see Case No. 2023-00331, Valley Gas, Inc. Response to Order of October 26, 2023, Exhibit E.

would endeavor to follow the guidance Commission Staff provided. Valley Gas has long been and remains grateful for Commission Staff's guidance and assistance.

Valley Gas's filed tariff contains the PGCA Clause to facilitate the utility's recovery of its actual purchased gas costs.⁸ This clause provides for a gas cost recovery ("GCR") rate that must be updated quarterly. Valley Gas is required to file quarterly reports at least 30 days prior to each calendar quarter. The GCR rate becomes effective for billing for service rendered on or after the first day of each calendar quarter. Calendar quarters begin on the first day of January, April, July, and October and are three months in length.

The GCR rate is applied to all customer bills. It is expressed as the following formula:⁹

$$\text{GCR} = \text{EGC} + \text{ACA} + \text{RA}$$

It is the sum of three components: Expected Gas Cost, Actual Cost Adjustment, and Supplier Refund Adjustment. The Expected Gas Cost ("EGC") represents the average expected cost of purchase gas (gas purchases in the upcoming quarter). The Actual Cost Adjustment ("ACA") performs two functions: first, it compensates for over- and under-collection of gas costs resulting from differences between expected gas cost and the actual cost of gas using "the sum of the ACA for the reporting period and for the three (3) preceding calendar quarters";¹⁰ second, it includes a balancing adjustment or true-up function, "compensat[ing] for any over or under recoveries remaining from previous actual and/or refund adjustments after a 12 month period." The PGCA Clause defines the reporting period as the "three-month accounting period that ended approximately sixty (60) days prior to the filing date of the updated gas cost recovery rates, i.e.,

⁸ Tariff of Valley Gas, Inc., P.S.C. No. 1. The PGCA Clause consists of three unnumbered pages that are stamped "Effective" as of July 1, 1991.

⁹ PGCA Clause, page 2 of 3.

¹⁰ *Id.*, page 1 of 3.

the calendar quarters ended March 31, June 30, September 30, and December 31 of each year.”¹¹
The Supplier Refund Adjustment (“RA”) “reflects the refunds received from suppliers during the reporting period.”¹²

Valley Gas’s PGCA Clause became effective on July 1, 1991. Its text has never been modified. The PGCA Clause provides no methodology for calculating the ACA component’s purchased gas cost. For example, it does not explain how the ACA should be calculated if the utility purchases gas for current use and for injection and future use or if the utility purchased gas at the request and on behalf of an industrial customer. The Clause does not address deviations or variations in the required reporting and review procedures.

In 2014 the Commission approved a special contract between Valley Gas and Mago Construction Company (“Mago”) for gas service.¹³ This contract permitted Mago the option of purchasing natural gas from Valley Gas or directly purchasing natural gas from Valley Gas’s supplier and having that natural gas delivered to Valley Gas’s distribution facilities. For direct purchases, Mago would pay a specified rate to cover the cost of transporting the purchased gas through Valley Gas’s distribution system but not the gas utility’s GCR rate.¹⁴ In all other situations, Valley Gas would charge Mago its tariffed rate, which included the gas utility’s GCR rate.¹⁵ In addition to approving the special contract, the Commission authorized Valley Gas to exclude the cost of natural gas procured from . . . [its supplier] solely for the benefit of Mago from . . . [its PGCA Clause] filings for the life of the special contract or until as otherwise ordered by the Commission.”¹⁶

¹¹ *Id.*, page 3 of 3.

¹² *Id.*, page 1 of 1.

¹³ *Valley Gas, Inc. Request for Approval of a Special Contract with Mago Construction Company and a Deviation from the Gas Cost Adjustment Clause*, Case No. 2014-00368 (Ky. PSC Oct. 28, 2014).

¹⁴ Agreement between Valley Gas, Inc. and Mago Construction Company at Article 4.1.

¹⁵ *Id.*, Article 4.3.

¹⁶ Case No. 2014-00368, Order of Oct. 28, 2014 at 5.

Mago never purchased gas directly from Valley Gas's supplier, and Valley Gas has not purchased gas at Mago's direction. As a result, Valley Gas has charged Mago its GCR rate since Mago began receiving service in September 2015.¹⁷ Until Case No. 2018-00089, Valley Gas included gas sales to Mago in its EGC calculations and the gas cost associated with those sales in its ACA calculation. In 2018-00089,¹⁸ based upon Commission guidance and using a revised ACA calculation sheet Commission Staff provided, Valley Gas removed gas sales to Mago from its EGC calculation and the cost of such sales from its ACA calculation.¹⁹ It continued to calculate its GCR rate in this manner until its GCR rate filing in the current proceeding. The Commission approved GCR rates using this methodology to address gas sales to Mago in the following twenty-three PGCA Clause proceedings covering a period of over five and one-half years ending December 31, 2023.

In Case No. 2022-00149,²⁰ which concerned an issue unrelated to Mago, the Commission modified the methodology used to calculate the ACA component of Valley Gas's GCR rate to address gas storage injection and withdrawal. Determining that the existing methodology failed to properly account for storage injection, it directed that Valley Gas's ACA calculation be modified

¹⁷ Valley Gas's Response to Commission Staff's First Request for Information, Item 1 (filed Jan. 24, 2024 in *Electronic Purchased Gas Adjustment of Valley Gas, Inc.*, Case No. 2023-00385 (Ky. PSC)); Valley Gas's Response to Order of October 28, 2023 at para. 10 (filed Nov. 15, 2023 in *Electronic Investigation of Valley Gas, Inc. for an Alleged Failure to Comply with Commission Orders and KRS 278.160*, Case No. 2023-00331 (Ky. PSC)).

¹⁸ *Electronic Purchased Gas Adjustment of Valley Gas, Inc.*, Case No. 2018-00089 (Ky. PSC filed Mar. 5, 2018).

¹⁹ The Commission has referred to the change in the methodology used to calculate Valley Gas's GCR as "due to a misunderstanding that occurred in Case No. 2017-00439." *Electronic Purchased Gas Adjustment Filing of Valley Gas, Inc.*, Case No. 2023-00385 (Ky. PSC Sep. 4, 2025) Order at 8. It has not addressed the source of this "misunderstanding" or explained how it occurred. In Case No. 2017-00439, Commission Staff requested Valley Gas to state whether it still served Mago and to explain how Mago purchases volumes for Mago. Valley Gas responded: "Mago's usage comes from the same gas I am purchasing monthly. They have not purchased gas from another supplier. No gas for Mago is purchased just for them. Mago's volumes used are not listed differently on my invoices from Constellation [Valley Gas's supplier]." Valley Gas's Response to Commission Staff's First Request for Information, Item 4 (filed in *Purchased Gas Adjustment Filing of Valley Gas, Inc.*, Case No. 2017-00439 (Ky. PSC filed Nov. 20, 2017)). The record of Case No. 2017-00439 contains no evidence that Valley Gas was acting contrary to the PGCA Clause, its special contract with Mago, or the Order of October 28, 2014.

²⁰ *Electronic Purchased Gas Adjustment of Valley Gas, Inc.*, Case No. 2022-00149 (Ky. PSC June 30, 2022).

to reflect the total supply of gas purchased by its supplier for Valley Gas’s use and the injection of storage for each month.²¹ It appended to its decision a detailed calculation sheet to calculate the ACA component.²² Importantly, the Commission affirmed the exclusion of gas purchases and sales from Mago from the calculation of the proposed GCR rate: “Mago should also continue to be removed from the Total Gas calculation for each month in the true up period.”²³

In 2023 the Commission and its Staff began expressing concerns about the calculation of Valley Gas’s GCR regarding Mago. In Case No. 2022-00315,²⁴ Commission Staff questioned about Valley Gas about its GCR rate calculations at a conference on April 11, 2023, and found that “due to Mago purchasing natural gas directly from Valley Gas[,] the Commission’s *approved* deviation of Mago gas supply from Valley Gas’s GCR mechanism . . . is *no longer* reasonable.”²⁵ Commission Staff subsequently recommended to the Commission that an investigation be initiated into Valley Gas’s GCR rate filings to address any under- or over-collection of GCR rate revenue.²⁶ In its October 18, 2023 Order in that case, the Commission found that a “separate proceeding to investigate the [Mago] special contract . . . should be established,”²⁷ but it did not specify any change to the existing methodology for Valley Gas’s calculation of its GCR rate. The GCR rate stated in that Order used the GCR rate calculation methodology Valley Gas had used since Case No. 2018-00089, as modified by the Commission’s Order in Case No. 2022-00149.²⁸

²¹ *Id.* at 2-3.

²² *Id.*, App. B at 1.

²³ *Id.*, Order at 3.

²⁴ *Electronic Application of Valley Gas, Inc. for an Alternative Rate Adjustment*, Case No. 22-00315 (Ky. PSC filed Oct. 24, 2022).

²⁵ Memorandum from Andrew Bowker, Staff Attorney, to Case File No. 2022-00315 (Apr. 17, 2023) at 2 (filed in Case No. 2022-00315) (emphases added).

²⁶ Case No. 2022-00315, Commission Staff Report at 19 (filed May 23, 2023).

²⁷ Case No. 2022-00315, Order of Oct. 18, 2023 at 6-7.

²⁸ *Id.*, App. at 1. The Order refers to the GCR rate approved in *Electronic Purchased Gas Adjustment of Valley Gas, Inc.*, Case No. 2023-00186 (Ky. PSC June 30, 2023), which was 50 days after Commission Staff had found problems with the methodology then used to calculate Valley Gas’s GCR rate. On October 6, 2023, six months after Commission Staff’s discovery and twelve days before the issuance of its decision in Case No. 2022-00315, the Commission

On October 26, 2023, the Commission established Case No. 2023-00331 to investigate various allegations that Valley Gas had violated KRS 278.160, including failing to properly calculate its GCR Rate, and the Commission's Order of October 28, 2014.²⁹ Responding to allegations regarding the calculation of its GCR rate, Valley Gas stated:

Based upon information and belief, Valley Gas believes that the GCR rate reports submitted since September 30, 2015 are accurate and comply with the instructions and guidance Commission Staff provided regarding the preparation of the reports. If there are any inaccuracies in these reports, they are unintentional and inadvertent errors and not the result of any effort to mislead or misrepresent Valley Gas's sales volumes or costs.³⁰

Commission Staff conducted two rounds of discovery in this proceeding, the last round concluding on January 18, 2024. On November 4, 2024, more than one year after initiating its investigation and almost nine months after the conclusion of discovery, the Commission issued its final decision in which it made "no finding regarding whether Valley Gas incorrectly calculated its . . . [GCR Rate].³¹ The Commission found that "an examination of the methodology [for calculating the GCR rate] would introduce unnecessary confusion" and deferred any decision on the GCR calculation methodology to other proceedings.³²

These other proceedings were Case Nos. 2023-00385 and 2024-00175. On November 24, 2023, Valley Gas filed its quarterly GCR report for the first quarter of 2024 and proposed a new GCR rate to become effective on January 1, 2024. On December 21, 2023, the Commission, noting that exclusion of gas purchases and sales from Mago from the calculation of the proposed GCR rate and finding an investigation into the reasonableness of the proposed rate was necessary,

approved a new GCR rate for Valley Gas calculated using the same methodology as used since Case No. 2018-00089. *See Electronic Purchased Gas Adjustment of Valley Gas, Inc.*, Case No. 2023-00282 (Ky. PSC Oct. 6, 2023).

²⁹ *Electronic Investigation of Valley Gas, Inc. for an Alleged Failure to Comply with Commission Orders and KRS 278.160*, Case No. 2023-00331 (Ky. PSC Oct. 26, 2023)

³⁰ Valley Gas, Inc. Response to Order of October 26, 2023 at 8 (filed Nov. 15, 2023 in Case No. 2023-00331).

³¹ Case No. 2023-00331, Order of Nov. 4, 2024 at 11.

³² *Id.*

established Case No. 2023-00385, suspended the proposed rate pursuant to KRS 278.190 for one day and permitted the rate to thereafter take effect subject to refund. On December 27, 2023, Valley Gas notified the Commission of its intent to place the rates in effect. Shortly thereafter, Commission Staff issued a request for information to which Valley Gas responded on January 24, 2024.

On February 25, 2024, Valley Gas moved for a conference with Commission Staff to discuss the appropriate methodology that should be employed to calculate its GCR Rate in future filings. In its motion, Valley Gas stated its desire to use the appropriate methodology to calculate its GCR rate but that it was uncertain how those calculations should be made because they rely in part on calculations from previous quarterly reports the Commission had deemed improperly calculated.³³ Valley Gas further stated that the requested conference would enable it to submit correctly calculated quarterly reports and avoid the need for additional Commission proceedings to review and correct future GCR Rate filings.³⁴ Valley Gas made its motion after having asked Commission Staff for assistance in using the correct methodology to prepare its GCR Rate quarterly reports and being advised by Staff to request a conference.³⁵ The motion requested “the Commission to proceed quickly to address this motion as Valley Gas’s next GCR Rate quarterly filing is due shortly.”³⁶ The Commission took no action on this motion.

Lacking guidance regarding the correct methodology to use in the preparation of its quarterly GCR Rate filings, on May 30, 2024, Valley Gas filed with the Commission its proposed GCR Rate for the third quarter of 2024, effective July 1, 2024, again based upon the methodology first used in Case No. 2018-00089, as modified in Case No. 2022-00149. On June 28, 2024, the

³³ Case No. 2023-00385, Valley Gas’s Motion for Conference with Commission Staff at 1 (Feb. 15, 2024).

³⁴ *Id.*

³⁵ *Id.* at 2.

³⁶ *Id.*

Commission established Case No. 2024-00175 to investigate Valley Gas’s most recent GCR Rate quarterly filing for the same reasons for which Case No. 2023-00385 was initiated, suspended the proposed rate pursuant to KRS 278.190 for one day and permitted the rate to thereafter take effect subject to refund. On July 15, 2024, Valley Gas notified the Commission of its intent to place the proposed GCR rates into effect.

On July 15, 2024, Valley Gas moved in Case No. 2024-00175 and again in Case No. 2023-00385 for a conference with Commission Staff to discuss the methodology that Valley Gas should employ to calculate its GCR Rate in future GCR rate filings. On September 13, 2024, approximately 201 days after Valley Gas’s initial motion, the Commission ordered a conference held on September 19, 2024. At this conference, Commission Staff indicated the need for “additional data and clarification,” including information regarding the effect of gas storage on GCR rate calculations.³⁷ Commission Staff followed the conference with a request for information to Valley Gas on October 16, 2024, to which the utility responded on November 1, 2024.

No further action occurred in either proceeding until the Commission issued its decision in Case No. 2023-00385 on September 4, 2025, more than 21 months after Valley Gas had filed its proposed GCR rate. In this Order, the Commission found “Valley Gas should include Mago in the calculation of its GCR when Mago purchases natural gas from Valley Gas and is charged the GCR rate.”³⁸ It further found that Mago should not be included in the calculation of Valley Gas’s GCR and not be charged the GCR rate when Mago purchases natural gas from a source other than Valley Gas. In other words, the Commission ordered Valley Gas to revert to the methodology used prior

³⁷ Memorandum from Jason Colyer, Staff Attorney, and Sarah Jankowski and Mitchell Pollard, Financial Analysts, to Case Files No. 2023-00385 and No. 2024-00175 (Sep. 26, 2023) at 1 (filed in Case Nos. 2023-00385 and 2024-00175).

³⁸ Case No. 2023-00385, Order of Sep. 4, 2025 at 9.

to Case No. 2018-00089.³⁹ The Commission also directed modifications to the methodology used to calculate the ACA component and appended to its decision a calculation sheet detailing the new methodology.

But the Commission did not establish a GCR rate for Valley Gas or rule on the GCR rates proposed in Cases No. 2023-00385 and 2024-00175. Instead, it directed Valley Gas to file additional information with the utility's next quarterly GCR report. It further directed that Cases No. 2023-00385 and 2024-00175 be closed and "that any under- and over-recoveries of gas costs would have been reconciled in this case, should be reconciled in" Valley Gas's next quarter GCR report."⁴⁰

On November 26, 2025, Valley Gas filed its proposed GCR rate for the first quarter of 2026 to take effect on January 1, 2026. On December 23, 2025, the Commission established this case for the purpose of reviewing the proposed rate, suspended the proposed rate pursuant to KRS 278.190 for one day, and permitted the rate to become effective subject to refund on January 2, 2026. Valley Gas subsequently notified the Commission that it was placing the proposed rate into effect.

On March 17, 2026, the Commission issued the order concerning which Valley Gas seeks rehearing. The Commission announced modifications to the methodology for calculating the ACA component that it had previously announced in its Order of September 4, 2025. *Using this new methodology*, it then calculated an over-recovery of \$81,123.71 for the period from July 1, 2023, through September 30, 2025, and ordered Valley Gas to refund this amount over a 36-month period through the PGCA Clause's RA (Refund Amount) Component.

³⁹ *Id.* at 12 (noting that revised methodology "in this Order is based on the original AA calculation methodology").

⁴⁰ *Id.* at 15. On September 23, 2025, the Commission issued an Order in Case No. 2025-00175 closing that proceeding without ruling upon the GCR rate that Valley Gas had originally proposed or establishing a GCR rate for the period under review.

III. Argument

- A. Not Rendering a Decision in Case Nos. 2023-00385 and 2024-00175 within the Period Specified by KRS 278.190(3) Rendered the Proposed GCR Rates Final and Precluded the Commission from Recalculating those Rates When Determining the Extent of Any Over-Recovery of GCR Rate Revenue.

The March 17, 2026 Order in Case No. 2025-00389 assumes that the GCR rates proposed in Cases No. 2023-00385 and No. 2024-00175 remained subject to refund and modification as of the date of that Order. The Commission's failure to render a final decision on the GCR Rates proposed within ten months of their filing rendered those rates final. The rule against retroactive ratemaking, moreover, precludes the Commission from recalculating those rates when determining the extent of any over-recovery of revenue from the GCR rate.

In Case No. 2023-00385, Valley Gas filed its proposed GCR rate on November 24, 2023, to take effect on January 1, 2024. Pursuant to 278.190(2), the Commission suspended the proposed GCR rate prior to the rate's effective date for one day and then permitted the rate to take effect subject to refund. On September 4, 2025, approximately *22 months after the proposed rate was filed*, the Commission ordered the matter closed but deferred any decision on the proposed rate.

In Case No. 2024-00175, Valley Gas filed its proposed GCR rate on May 30, 2024, to take effect on July 1, 2024. Pursuant to 278.190(2), the Commission suspended the proposed GCR rate prior to the rate's effective date for one day and then permitted the rate to take effect subject to refund. On September 23, 2025, approximately *16 months after the proposed rate was filed*, the Commission ordered the matter closed but deferred any decision on the proposed rate.

KRS 278.190(3) provides that the Commission shall give preference to hearing and decisions on proposed rates and "decide the same as speedily as possible, and *in any event not*

*later than ten (10) months after the filing of such schedules.”*⁴¹ As the Commission itself has observed, not issuing a decision within ten months renders the proposed rates effective and final.⁴²

Because the Commission failed to issue a final decision on the proposed GCR rates in Cases No. 2023-00385 and No. 2024-00175 within ten months of their filing, those proposed rates became final as of September 24, 2024, and March 30, 2025, respectively. The rates collected subject to refund prior to those dates became final rates and were no longer subject to refund. As discussed at greater length below, the individual components of those GCR rates also became final and are not subject to recalculation or modification. The quarterly ACA components that compose the total ACA component of those two GCR rates are also final and not subject to recalculation or modification.

Because the GCR rate and its components are final—and were more than a year before the Commission’s Order of March 17, 2026—the “reconciliation period” used to determine the over-collected amount is much shorter than the period used determine the over-recovery amount. Pursuant to KRS 278.190(3), the GCR rate that Valley Gas proposed in Case No. 2024-00175 was the “filed rate” from July 2, 2024 until January 2, 2026.⁴³ KRS 278.160(2) requires a utility to

⁴¹ Emphasis added.

⁴² *City of Falmouth, Kentucky*, supra note 2, at 1-2. “KRS 278.180(1) provides that a utility may not change any rate without 30 days’ notice to the Commission. KRS 278.190(1) authorizes the Commission to hold a hearing on and otherwise investigate the reasonableness of a proposed rate. KRS 278.190(3) requires that the Commission complete its investigation and render a final decision within 10 months of the filing of the proposed rate. The Commission’s failure to render a decision within this period will result in the proposed rates becoming effective.”

⁴³ Valley Gas proposed an effective date of July 1, 2024 for the GCR rate proposed in Case No. 2024-00175. The Commission suspended this rate for one date and allowed the rate to become effective subject to refund. That rate would have replaced the existing GCR rate, which Valley Gas had proposed in Case No. 2023-00385. The rate proposed in Case No. 2024-00175 would have continued until the proposed rate in Case No. 2025-00389 became effective subject to refund.

charge the filed rate,⁴⁴ and the Commission is required to enforce that rate.⁴⁵ The filed rate may only be changed by (1) a utility-initiated filing of a new rate schedule,⁴⁶ (2) a complaint filed by any directly interested person,⁴⁷ or (3) the Commission’s own-motion investigation.⁴⁸ Because none of these actions occurred prior to Valley Gas’s proposed GCR rate in Case No. 2025-00389 becoming effective subject to refund on January 2, 2026, the Commission is limited to calculating any over-recovery to the 12-month period specified in the PGCA Clause for calculating the ACA, which would run from October 2024 to September 2025.

Alternatively, assuming *arguendo* that the finality of the GCR rates proposed in Case Nos. 2023-00375 and 2024-00175 applied only to rates for the quarter that they were proposed, the components of the ACA used to calculate those rates should be considered “final” and not subject to recalculation for purposes of determining any over-recovery for subsequent quarters. Accordingly, the “reconciliation period” used in that Order to determine the over-collected amount resulting from Valley Gas’s ACA should not include the months used for the proposed ACA in Case Nos. 2023-00385 and No. 2024-00175.⁴⁹ Instead of a “reconciliation period” beginning with the month of July 2023,⁵⁰ the period for calculating any over-collection due to the ACA component

⁴⁴ “No utility shall charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules.”

⁴⁵ KRS 278.040(1) (“The Public Service Commission shall regulate utilities and enforce the provisions of this chapter.”); KRS 278.040(3) (“The commission may . . . investigate the methods and practices of utilities to require them to conform to the laws of this state . . .”).

⁴⁶ KRS 278.180

⁴⁷ KRS 278.260(1).

⁴⁸ *Id.*

⁴⁹ In its initial filing in Case No. 2023-00385, Valley Gas proposed a current ACA consisting of the months of July, August and September 2023. In its initial filing in Case No. 2024-00175, it proposed a current ACA of the months of January, February, and March 2024. The three prior reporting quarters included the months from April 2023 through December 2023.

⁵⁰ Order of March 17, 2026 at 8.

should begin with April 2024. A similar adjustment should be made for the calculation for over-collections related to the EGC component.⁵¹

To the extent the March 17, 2026 Order applies a different methodology to recalculate the components of those two GCR rates, the Order violates the rule against retroactive ratemaking. That rule “prohibits regulatory commissions from rolling back rates which have already been approved and become final,”⁵² and it “ensures fairness, stability and certainty by preventing a regulatory agency from reversing prior approved rates.”⁵³ At a minimum, the finding of an over-recovery of \$81,123 must be recalculated to reflect the finality of the GCR rates proposed in Cases No. 2023-00385 and No. 2024-00175 *and the finality of the individual components of those rates.*

B. The Modified ACA Component Methodology May Be Applied Only Prospectively, Not Retrospectively.

In its March 17, 2026 Order, the Commission determined that the methodology previously used to calculate the ACA component of Valley Gas’s GCR rates was unreasonable and required modification, and it then ordered a refund of the amounts collected from January 1, 2024, to December 31, 2025, based upon the application of a “modified methodology” to determine the ACA component of GCR rates from July 2023 to September 2025.⁵⁴ KRS 278.270 allows the Commission to apply this modified methodology only prospectively, not retrospectively.

KRS 278.270 permits the Commission to modify rates only prospectively; it does not allow *retroactive* modification:

⁵¹ Valley Gas acknowledges it filed no quarterly reports for the last two quarters of 2024 and the first two quarters of 2025 because it had requested but not received guidance about what methodological changes it should implement. Regardless, had Valley Gas filed such quarterly reports, similar restrictions on the recalculation of the ACA and EGC components for those periods would also have applied; the ten-month time period set forth in KRS 278.190(3) would have run prior to the issuance of March 17, 2026 Order, and those GCR rates would also have been final.

⁵² *Kentucky Industrial Utility Customers v. Big Rivers Electric Corporation*, Case No. 95-011 (Ky. PSC Apr. 1, 1997), Order at 7 (citing *MGTC, Inc. v. Pub. Serv. Comm'n*, 735 P.2d 103, 107 (Wyoming 1987)).

⁵³ *Id.* (citing *Wisconsin Power and Light Co. v. Pub. Serv. Comm'n*, 511 N.W.2d 291, 297 (Wis. 1994) ((Abrahamson, J., dissenting))).

⁵⁴ Case No. 2025-00389, Order at 8.

Whenever the commission, upon its own motion or upon complaint as provided in KRS 278.260, and after a hearing had upon reasonable notice, finds that any rate is unjust, unreasonable, insufficient, unjustly discriminatory or otherwise in violation of any of the provisions of this chapter, the commission shall by order prescribe a just and reasonable rate to be followed *in the future*.⁵⁵

Absent an express grant of authority to retroactively apply a new rate, the Commission lacks the authority to do. As the Kentucky Court of Appeals has stated:

The PSC’s statutory rate-making authority is derived from an integrated, comprehensive system aimed at providing *stability and notice* to all entities involved in the rate process.

...

In light of the General Assembly’s comprehensive rate-making scheme, including only a narrowly defined circumstance under which refunds can be ordered, *the filed rate can only be lawfully altered prospectively*.⁵⁶

The methodology used to calculate the ACA component of the GCR is a rate. A “rate” is “any individual or joint fare, toll, charge, rental, or other compensation for service rendered or to be rendered by any utility, and any *rule, regulation, practice, act, requirement, or privilege in any way relating to such fare, toll, charge, rental, or other compensation, and any schedule or tariff or part of a schedule or tariff thereof.*”⁵⁷

The Commission has previously found that the methodology used to calculate a GCR rate is itself a rate and modifying such a methodology is a rate revision. In Case No. 2023-00067, the Commission declared that modifications to the formulas and methodologies used to determine a GCR rate constituted a rate change:

Kentucky Frontier should note that any change to the calculation of a formula-calculated rate which would result in a different rate if the change were not made requires filing a revised tariff. *To be clear, a*

⁵⁵ Emphases added.

⁵⁶ *Cincinnati Bell Telephone Co. v. Kentucky Public Service Commission*, 223 S.W.3d 829, 839 (Ky. App. 2007) (emphases added).

⁵⁷ KRS 278.010(12) (emphases added).

*change to the calculation of a variable within another variable is a change to the formula. This is true even if the previous tariff is silent as to how to calculate a variable, but either the utility through practice or the Commission by order has previously established a different method of determining the variable.*⁵⁸

Prior to March 17, 2026, Valley Gas’s GCR rate was determined using the methodology ordered in Case No. 2018-00089 for sales to Mago and that ordered in Case No. 2022-00149 for gas purchases for injections. The March 17, 2026 Order significantly modifies those methodologies. Rather than limit that the application of the modified methodology to GCR rates beginning with the second reporting quarter of 2026, it recalculated Valley Gas’s GCR rates assessed since January 2024 and then, based upon those recalculated rates, determined an over-collection had occurred and ordered a refund. This recalculation constitutes impermissible retroactive ratemaking. Accordingly, the calculation of any under- or over-recovery for periods prior to the first quarter of 2026 must be based upon the methodologies in effect at the time of the gas sales to Valley Gas customers, not those first announced on March 17, 2026.

C. The March 17, 2026 Order Is Contrary to the Terms of Valley Gas’s PCGA Clause.

KRS 278.160(2) requires utilities to comply with the terms of their filed rate schedules. KRS 278.040(1) places upon the Commission the duty to enforce the provisions of KRS Chapter 278,⁵⁹ and, absent ordering a modification to the utility’s filed rate schedule, to follow and enforce the provisions of the utility’s filed rate schedules. The March 17, 2026 Order is inconsistent with Valley Gas’s PCGA Clause in several respects, contrary to the requirements KRS 278.160(2).

First, the Order’s approved ACA component was not calculated in accordance with the Valley Gas’s PGCA Clause. That Clause provides that “[f]or purposes of determining sum of the

⁵⁸ *Electronic Application for Revised Quarterly Gas Cost Recovery Schedules for Kentucky Frontier Gas, LLC*, Case No. 2023-00067, Order at 8-9 (Ky. PSC May 6, 2023) (emphasis added).

⁵⁹ KRS 278.040(1) (“The Public Service Commission shall regulate utilities and enforce the provisions of this chapter.”). The approved GCR rate was determined using an ACA component is based solely upon the ACA for October, November and December 2025.

ACA, the application period shall equal the sum of the ACA for the reporting period and for the *three (3) preceding calendar quarters.*” It defines “reporting period” as “the three-month accounting period that *ended approximately sixty (60) days prior to the filing date of the updated gas cost recovery rates.*”⁶⁰ It requires that the updated GCR be filed at least thirty (30) days prior to the beginning of the upcoming calendar quarter. Under the PGCA Clause, the ACA would be calculated using the ACA for the period from October 1, 2024, through September 30, 2025. Contrary to this tariffed requirement, the March 17, 2026 Order established a GCR rate using an ACA component based solely upon the ACA for October, November, and December 2025. Moreover, the Commission has previously held that ACAs must be determined in accordance with applicable tariff terms.⁶¹

Second, the Order’s GCR rate contains an RA (Refund Adjustment) component that is calculated to distribute \$81,123 of gas costs to ratepayers over 36 months. Importantly, *none* of this amount is related to a supplier refund and thus cannot be refunded through the RA component; the PGCA Clause provides that the RA component is to be used *solely* for supplier refunds. Under- and over-recoveries are to be recovered through the ACA component, the actual cost component of which is limited to a 12-month period.⁶²

Third, the Order establishes a GCR rate not for the first quarter of 2026 but for the second quarter of 2026. The application period was the first quarter of 2026 (January 1 through March 31). The Order effectively leaves Valley Gas in limbo as to the appropriate GCR rate for the application

⁶⁰ Emphases added.

⁶¹ See, e.g., *Purchased Gas Adjustment of Martin Gas Inc.*, Case No. 2008-00312 (Ky. PSC Sep. 26, 2008) (“Martin’s GCA clause in its tariff only allows Martin to recover costs for the reporting period ending approximately 60 days prior to the filing date; therefore, it can only recover costs for the three-month period ending June 30, 2008.”).

⁶² The ACA also allows for prior-period true-ups “to compensate for any over or under recoveries remaining from previous actual and/or refund adjustments after a 12-month period.” That does not permit using prior period ACAs to determine the current period ACA; rather, it allows for over- or under-recovery true-ups due to previously established any billed ACAs, not to recalculate what those ACAs might have been using a newly established formula or methodology.

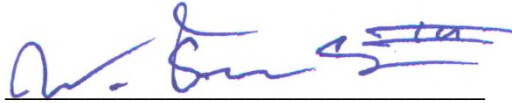
period. Valley Gas's proposed rate was to take effect on January 1, 2026. The Commission suspended the rate for a day and allowed the rate to take effect on January 2, 2026. In denying the proposed rate and making the approved rate effective for service rendered on April 1, the Order does not address a GCR rate for *first* quarter 2026. It also does not address the GCR rates collected subject to refund.

IV. Conclusion

The Commission should grant rehearing on its Order of March 17, 2026 to consider and address the issues identified in this Application for Rehearing regarding the calculation of the GCR rate set forth in that Order.

Dated: April 9, 2026

Respectfully submitted,



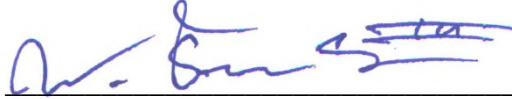
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CERTIFICATE OF SERVICE

In accordance with the Commission's Order of July 22, 2021 in Case No. 2020-00085 (Electronic Emergency Docket Related to the Novel Coronavirus COVID-19), this is to certify that the electronic filing has been transmitted to the Commission on April 9, 2026; and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.



W. Duncan Crosby III

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