COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY POWER COMPANY FOR 1) A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT A MECHANICAL DRAFT COOLING TOWER AT THE MITCHELL PLANT 2) APPROVAL OF CERTAIN REGULATORY AND ACCOUNTING TREATMENTS, AND 3) ALL OTHER REQUIRED APPROVALS AND RELIEF	)))))))	CASE No. 2026-00001

JOINT POST-HEARING BRIEF OF ATTORNEY GENERAL AND KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.

The intervenors, the Attorney General of the Commonwealth of Kentucky, through his Office of Rate Intervention ("OAG"), and Kentucky Industrial Utility Customers, Inc. ("KIUC") hereby submit their Joint Post-Hearing Brief in the above-styled matter.

I. STATEMENT OF THE CASE

On January 5, 2026, Kentucky Power Company ("KPCo" or "the Company") filed its notice of intent to file an application for a certificate of public convenience and necessity ("CPCN"). The OAG filed its motion to intervene in this docket on January 8, 2026, which was granted by order dated January 16, 2026. On February 17, 2026, KPCo filed its application in the above-styled matter. The Kentucky Public Service Commission ("Commission") accepted the Company's application for filing on February 23, 2026. On March 11, 2026, KIUC filed its motion to intervene, which was granted by order dated March 18, 2026.[1]

[1] On March 13, 2026, the only other party seeking intervention, the Sierra Club, filed its motion to intervene, which was granted by order dated March 23, 2026.

Following the Commission's issuance of a procedural schedule on March 6, 2026, the Commission Staff and the parties issued several rounds of data requests, to which KPCo filed responses into the record. The OAG and KIUC jointly filed the direct testimony of their witness Mr. Lane Kollen on May 15, 2026, and filed responses to KPCo's data requests on May 28, 2026. KPCo filed its rebuttal testimony on June 10, 2026. The evidentiary hearing in this matter was held on July 8, 2026.

II. LEGAL STANDARD

Well-settled Commission precedent provides that under KRS 278.020(1), no utility may construct or acquire any facility to be used in providing utility service to the public until it has obtained a CPCN from the Commission.[2] To obtain a CPCN, the utility must demonstrate a need for such facilities and an absence of wasteful duplication.[3] "Need" requires:

> ". . . [A] showing of a substantial inadequacy of existing service, involving a consumer market sufficiently large to make it economically feasible for the new system or facility to be constructed or operated. . . .[T]he inadequacy must be due either to a substantial deficiency of service facilities, beyond what could be supplied by normal improvements in the ordinary course of business; or to indifference, poor management or disregard of the rights of consumers, persisting over such a period of time as to establish an inability or unwillingness to render adequate service."[4]

"Wasteful duplication" is defined as "an excess of capacity over need"[5] and ". . . an excessive investment in relation to productivity or efficiency, and an unnecessary multiplicity

[2] *See, e.g., In Re: Application of Grayson RECC for a CPCN to Install an AMI System*, Case No. 2017-00419, Final Order dated July 16, 2018, at 6.
[3] *Id. See also, Kentucky Utilities Co. v. Pub. Serv. Comm'n,* 252 S.W.2d 885, 890 (Ky. 1952).
[4] *Kentucky Utilities Co. v. Pub. Serv. Comm'n, supra*, at 890.
[5] *Id*.

of physical properties."[6] To demonstrate that a proposed facility does not result in wasteful duplication, the Commission has held that the applicant must demonstrate that a thorough review of all reasonable alternatives has been performed.[7] The fundamental principle of reasonable, least-cost alternative is embedded in such an analysis. Selection of a proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication.[8] All relevant factors must be balanced.[9]

III. BACKGROUND

KPCo's Mitchell Unit 2 is a super-critical pulverized coal-fired generating unit with a capacity of 790 MW that KPCo co-owns with its affiliate, Wheeling Power Company ("Wheeling"). In 2016, KPCo became aware of certain structural anomalies in Mitchell Unit 2's Cooling Tower.[10] Because the Cooling Tower is an essential part of Unit 2's generating system (regardless of the type of fuel used),[11] the Company performed an initial engineering assessment, which revealed surface cracking and deterioration that likely originated years prior.[12] This led to a more detailed engineering analysis performed by a third-party, which found that the Cooling Tower is continuing to deteriorate and may soon become unsafe and unfit for service. The Company therefore concluded that the Mitchell Unit 2 Cooling Tower needed repair or replacement.[13]

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[6] *Id.*
[7] Case No. 2005-00142, *Joint Application of Louisville Gas & Elec. Co. and Kentucky Utilities Co. for the Construction of Transmission Facilities in Jefferson, Bullitt, Meade, and Hardin Counties, Kentucky*, Final Order dated Sept. 8, 2005, at 6-9.
[8] *Kentucky Utilities Co. v. Pub. Serv. Comm'n*, 390 S.W.2d 168, 175 (Ky. 1965). *See also, Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity for the Construction of a 138 kV Electric Transmission Line in Rowan County, Kentucky*, Case No. 2005-00089, Final Order dated Aug. 19, 2005.
[9] Case No. 2005-00089, *East Kentucky Power Cooperative, Inc.*, Final Order dated Aug. 19, 2005, at 6.
[10] Direct Testimony of Daniel W. Pizzino at 5.
[11] Pizzino Direct at 4.
[12] *Id.* at 4-5.
[13] *Id.* at 5, 7.

In 2024, KPCo and Wheeling initiated a capital project ("Initial Repair Project," or "IRP") to address the identified surface irregularities and deformations in Unit 2's Cooling Tower.[14] The scope of the IRP repair work included repairing damaged concrete, sealing cracks, and the application of a fiber-reinforced cementitious material ("FRCM").[15] However, inspections conducted during that IRP revealed even more cracking and deterioration than originally anticipated, which would require more extensive work at a greater expense.[16] Additionally, application of the FRCM material proved more difficult than anticipated.[17]

In July 2025, the AEP Generation Projects team halted work on the IRP and concluded that additional engineering solutions and repairs would be necessary to protect the structural integrity of the Unit 2 Cooling Tower, which included the installation of a comprehensive around-the-clock monitoring system.[18] The engineering review identified four potential options to address the Tower's structural needs:[19]

- <u>Option 1</u>: Expand and extend the paused exterior shell reinforcement project;
- <u>Option 2</u>: Retire Unit 2 and partially demolish the existing cooling tower;
- <u>Option 3</u>: Construct a new mechanical draft cooling tower and partially demolish the existing cooling tower; and
- <u>Option 4</u>: Reduce the height of the existing cooling tower and continue with a reduced scope of exterior shell reinforcement.

Of these four options, the Company ultimately chose Option 3 - construction of a new mechanical draft Cooling Tower and partial demolition of the existing Cooling Tower - as its

[14] Wolfram Direct Testimony at 5. On June 10, 2026, KPCo filed into the record of this matter a "Verified Notice of Adoption of Testimony and Responses to Data Requests" ("Notice"), indicating that because witness Tanner Wolfram is no longer employed by the Company, his testimony and responses to certain data requests has been adopted by the various witnesses identified in the Notice.
[15] *Id.*
[16] *Id.; see also* Pizzino Direct at 6-7.
[17] *Id.*
[18] *Id*. at 6, 8-9.
[19] *Id*. at 9.

intended path since it represented the least-cost option.[20] On February 6, 2026, KPCo filed its request for a CPCN to proceed with Option 3 at the Commission.

IV. ARGUMENT

A. The Company Has Established that a Cooling Tower is Essential to Mitchell Unit 2's Operation, and That Construction of a New Cooling Tower is the Least-Cost Solution.

The Company's analysis makes it clear that the continued use of the existing hyperbolic-shaped Cooling Tower is not a viable long-term option due to safety factors.[21] Moreover, the failure to address the Cooling Tower issues would result in a loss of approximately 305 – 610 MW of highly valuable capacity.[22] KPCo therefore has demonstrated a need to address the Cooling Tower structural issues at Mitchell Unit 2.

KPCo has likewise demonstrated that Option 3 is the best course of action to address these issues. The estimated useful lives of both Options 1 and 4 is only ten years making it likely that additional capital investment would be required to ensure that Unit 2 is able to operate up through its 2040 retirement date if either of those options were pursued.[23] And despite the multiple attempted repairs of the Unit 2 Cooling Tower, the Tower continued to deteriorate all while additional problems began to appear. This led the AEP Generation Projects Team to question whether the continued use of the Cooling Tower would be safe.[24] Continued use of the Unit 2 Cooling Tower under Options 1 or 4 would likely prove to be a classic example of throwing good money after bad.

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[20] Direct Testimony of Nicole M. Coon at 9; Wolfram Direct at 11.
[21] *Id.* at 11.
[22] Wolfram Direct at 11.
[23] Coon Direct at 8-9. Witness Coon also pointed out that the nature and amount of such additional capital is unknowable at this time. *Id.* at 9.
[24] Pizzino Direct at 6, 8-9.

Option 2 - retirement of Mitchell Unit 2 - is not a realistic option. First, Mitchell Unit 2 represents a viable, operating generation unit that is *already* providing highly valuable capacity and energy to both KPCo.'s service territory and PJM. Without Mitchell Unit 2, KPCo would likely be forced to procure PJM market power at exorbitant prices, that are predicted to move sharply higher.[25] The Commission has in numerous dockets clearly stated that KPCo must, to the greatest degree possible, avoid dependency on market power. For example, in the recent 2025-00175 docket,[26] the Commission stated:

> ". . . the Commission finds that the evidence presented in this case established that making the investments proposed to continue taking capacity and energy from Mitchell Plant after 2028 is the most reasonable, least cost option for serving customers based on the relative costs of the alternatives, the long-term options Mitchell Plant offers, and the risks of relying heavily on the market in the current environment. . . . Thus, the Commission finds that Kentucky Power needs its 50 percent share of Mitchell Plant or some replacement generation of at least the same capacity to meet its PJM capacity requirement and serve load without significant energy market exposure."[27]

Second, the Company's analysis clearly indicates that the present value cost of pursuing Option 2 is orders of magnitude greater than any of the other Options.[28]

Option 3 is both the least-cost and the most sensible option to retain Mitchell Unit 2 as a capacity resource on the KPCo system. Mechanical draft towers such as that proposed under Option 3 generally represent the industry standard and are preferred for new cooling tower construction at power plants.[29] Moreover, the selection of Option 3 allows Mitchell

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[25] Case No. 2025-00175, Final Order dated Dec. 30, 2025 at 50 ("Additionally, energy prices within PJM, though variable, are likely to increase on average along with capacity prices, especially in peak periods, for the same reason that capacity costs are increasing.").
[26] *In Re*: *Electronic Application Of Kentucky Power Co. For Approval Of (1) A Certificate Of Public Convenience And Necessity To Make The Capital Investments Necessary To Continue Taking Capacity And Energy From The Mitchell Generating Station, etc.,* Case No. 2025-00175, Final Order dated Dec. 30, 2025.
[27] *Id*. at 25, 27-28.
[28] Coon Direct at 9, Table NMC-1.
[29] Pizzino Direct at 11.

Unit 2 to continue operating up through its current projected retirement date of 2040,[30] and minimizes the duration of the Unit 2 outage that will be necessary to tie-in the new tower once it is commissioned.[31]

Further, shortly after the filing of the Company's CPCN application, KPCo announced that it was awarded a grant from the federal government of approximately $51 million for the purpose of offsetting the estimated $196 million in costs for constructing the proposed new Mitchell Unit 2 Cooling Tower.[32] This substantial federal grant will make Option 3 even more cost-effective for KPCo's customers.[33] Importantly, however, that $51 million grant is only available under Option 3.[34]

Additionally, Option 3 will become more cost-effective if the recently-announced TeraWulf data center project for KPCo's service territory is constructed.[35, 36] With the addition of 500 MW of TeraWulf load in 2028, TeraWulf would represent approximately 36% of the KPCo system, and will have to pay a significant portion of the new Cooling Tower construction costs.

KPCo has established the need for a new mechanical draft Cooling Tower for Mitchell Unit 2 that will not result in wasteful duplication. KPCo has established that it conducted a thorough review and analysis of all reasonable alternatives and that constructing the proposed

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30 Wolfram Direct at 10.
31 *Id.*
32 July 8, 2026 Hearing Video Transcript of Evidence ("VTE") beginning at 9:19:00 – 9:22:05, cross-examination of KPCo witness Amy Elliott.
33 July 8, 2026 Hearing VTE beginning at 9:21:20.
34 *Id.* The Company's witnesses have noted that the federal grant can only be used for offsetting the costs of a new cooling tower for Mitchell Unit 2. VTE at 9:44:30 – 9:45:34.
35 *See, e.g.*, article: "The bitcoin mining company TeraWulf has announced plans to build a hyperscale a data center at the EastPark Industrial Park near Ashland, Kentucky," accessible at: https://www.lpm.org/news/2026-05-28/massive-new-data-center-project-announced-in-northeastern-kentucky (last accessed July 27, 2026).
36 VTE at 9:26:50 – 9:27:25; and 10:50:03 – 10:50:47.

mechanical draft Cooling Tower is economically feasible. Further attempts at repairing the existing Cooling Tower will likely prove futile and may result in unsafe conditions at the plant. Unit 2 cannot operate without a Cooling Tower. And Unit 2 is necessary for KPCo to meet its statutory requirements of providing power to its service territory and its contractual commitments with PJM. KPCo has demonstrated that building a new mechanical draft Cooling Tower represents the least-cost reasonable solution to address the current unsafe conditions at Mitchell Unit 2.[37] Therefore, the Commission should approve the requested CPCN.

B. KPCo's Request to Recover Financing Costs Through Tariff G.R. During Construction Should be Denied Because It Is Contrary to Its Commitments in Case No. 2025-00257 to Continue to Use AFUDC for All Qualifying Mitchell Construction.

The Company's request in this proceeding to recover financing costs during construction through Construction Work in Progress ("CWIP") in rate base, instead of deferring those costs as Allowance for Funds Used During Construction ("AFUDC") and recovering the costs through depreciation over the service life of the asset, represents a significant change in ratemaking policy. This proposed change to accelerate the recovery of financing costs before an asset provides service to customers instead of over the service life of the asset is unnecessary, unreasonable, and inappropriate. It harms KPCo's customers through higher costs on both a nominal and present value basis, and should be denied. The continued use of AFUDC will not harm the Company; it is fully compensatory.

The Company's historic *accounting* practice has been to defer the financing costs on qualifying construction expenditures in the form of AFUDC during the construction period

[37] OAG-KIUC witness Kollen agrees that the proposed Cooling Tower represents the least -cost solution. Direct Testimony of Lane Kollen at 4, FN 2.

and to add the AFUDC to the direct construction costs included in CWIP.[38] The Company's historic *ratemaking* practice has been to include the CWIP in rate base,[39] which increases the revenue requirement, but then include an "AFUDC offset" as an addition to operating income,[40] which reduces the revenue requirement by an equivalent amount, thus negating the effect of the CWIP in rate base during the construction period. The Company's historic ratemaking practice also excluded the AFUDC from the CWIP amount included in rate base as a separate ratemaking adjustment ("AFUDC exclusion").[41]

This historic ratemaking treatment ensured there was no recovery of the financing costs during the construction period prior to providing a new asset to customers. When construction of the asset is completed and the asset is providing service to customers, the CWIP, including the AFUDC, is transferred to plant in service, and thereafter included in rate base and the related depreciation expense included in operating expenses with recovery over the service life of the new asset.[42]

The Company's request to change the historic approach in this case is unnecessary. The historic accounting and ratemaking using AFUDC is fully compensatory. There is no harm to the Company if its request is denied. At the hearing, Company witnesses acknowledged that utilizing AFUDC will not have a detrimental effect on the Company's

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[38] Direct Testimony of Lane Kollen at 11-12.
[39] Refer to OAG-KIUC Hearing Ex 1 - KPCo Case 2025-00257 Exh 1 Sect V Sched 4 Showing CWIP in Rate Base Less AFUDC. For demonstrative purposes, the relevant line is highlighted in yellow as "Construction Work in Progress (excludes AFUDC in CWIP)." More specifically, the CWIP is included in the rate base component, but reduced by the AFUDC *exclusion*, *not* the AFUDC *offset*, which is a separate adjustment that increases operating income.
[40] Refer to OAG-KIUC Hearing Ex 2 - KPCo Case 2025-00257 Exhibit 1 Sect V Schedule 1 Showing AFUDC Offset as Increase to Operating Income. For demonstrative purposes, the relevant line is highlighted in yellow as "AFUDC Offset Adjustment/Deferred Income."
[41] Refer to OAG-KIUC Hearing Ex 1 - KPCo Case 2025-00257 Exh 1 Sect V Sched 4 Showing CWIP in Rate Base Less AFUDC.
[42] Direct Testimony of Lane Kollen at 11.

earnings.[43] The Company's request to recover a current return on CWIP is not necessary to maintain its financial metrics or to maintain its investment grade debt rating. The Company's share of the new Cooling Tower construction costs is approximately $75 million over the next two years, a relatively small amount compared to its historic capital expenditures.

The Company's request will harm customers. CWIP in rate base without an AFUDC offset will cost customers more than if the historic AFUDC ratemaking is maintained. As Witness Kollen testified, AFUDC is lower-cost than CWIP in rate base without an AFUDC offset, on both a nominal and present value basis.[44]

The request for CWIP in rate base without an AFUDC offset harms customers by accelerating the recovery of the financing costs from customers. Instead of adding these financing costs to CWIP and recovering the costs over the service life of the new Cooling Tower, along with all other construction costs, the Company's request will recover these financing costs *during* the construction period and *before* the new Cooling Tower is completed and used to provide service to customers. This is inconsistent with the Company's stated intent in Case No. 2025-00257 to pursue securitization financing and maximize the savings from securitization through the use of the Tariff G.R. and by maintaining the historic AFUDC ratemaking and reducing the existing depreciation rates for Mitchell.

The Company's request also is contrary to the ratemaking commitments it made in its most recent base rate proceeding where the Commission adopted the Tariff G.R., including all modifications proposed by the OAG-KIUC, agreed to by the Company, and approved by

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[43] VTE at 9:25:00 – 9:25:36; and 10:49:50 – 10:50:50, "the difference between CWIP and AFUDC is earnings-indifferent."

[44] Direct Testimony of Lane Kollen at 13, wherein Witness Kollen points out that this is due to a permanent tax penalty that imposes an unnecessary cost on customers over the service life of the assets.

the Commission.[45] The Company did not include the AFUDC offset or the AFUDC exclusion in the initial version of the proposed Tariff G.R. in Case 2025-00257. However, in response to the OAG-KIUC direct testimony recommending that the revenue requirement formula in the proposed Tariff G.R. be modified to include the AFUDC offset, Company Witness Wolffram agreed to this OAG-KIUC recommendation in his rebuttal testimony in that proceeding. Witness Wolffram stated in his rebuttal testimony that "[t]he Company currently includes an AFUDC offset for CWIP projects in base rates, as evidenced by Adjustment 41 supported by Company Witness Ciborek. As such, it is appropriate to reflect that same treatment in the Generation Rider for ***any*** CWIP included in the Generation Rider moving forward, consistent with Mr. Kollen's recommendation."[46] (emphasis added).

In the Final Order in Case 2025-00257, the Commission ordered the Company to modify the revenue requirement formula in the proposed Tariff G.R. to include the AFUDC offset. Yet despite its agreement in Case 2025-00257 to include the AFUDC offset in the revenue requirement formula in the proposed Tariff G.R., the Company in the instant case failed to include the AFUDC offset as an increase to operating income,[47] but did include the AFUDC exclusion as a reduction to the CWIP in its compliance filing for Tariff G.R.

In Rebuttal Testimony, the Company described the AFUDC exclusion from CWIP incorrectly as an "AFUDC offset," while correctly describing the AFUDC offset as an increase to operating income.[48] However, the Company failed to recognize that there were

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[45] Case No. 2025-00257, Final Order dated Feb. 28, 2026 at 12-13, 167-168.
[46] Rebuttal Testimony of Tanner Wolffram at R8-R9 in Case 2025-00257.
[47] Kollen Direct at 11-12.
[48] Kahn Rebuttal at R6 which states "During base rate case proceedings, the balance of CWIP (account 107) is used in the determination of rate base. However, there is AFUDC within this account. Accordingly, an adjustment is made (AFUDC offset) that increases operating income to ensure that the Company does not inappropriately recover the interest costs associated with AFUDC, which should not begin recovery until those assets are placed in service."

two adjustments, one for the AFUDC offset to increase operating income and one for the AFUDC exclusion to reduce the CWIP in rate base. KPCo incorrectly asserted that the Company complied with the Commission Order and provided a copy of the compliance tariff with the following language in support of that assertion:

> CWIP = Construction Work in Progress for Non-Environmental Mitchell Projects not included within the Company's base rates *including any AFUDC offset if applicable* (emphasis added).[49]

But the compliance tariff does *not* include the AFUDC offset as an adjustment to increase operating income and the adjustment to CWIP should be for the AFUDC exclusion; the reference to the AFUDC offset is incorrect.

These errors in the Tariff G.R. matter. If the Commission denies the Company's request to include CWIP in rate base with no AFUDC offset to increase operating income, then there is no AFUDC offset in the revenue requirement formula in the approved tariff as ordered by the Commission in Case 2025-00257. With no AFUDC offset in the tariff, then the revenue requirement formula will provide a rate of return on the CWIP by default even if the Commission denies the Company's request to include CWIP in rate base.

Finally, continuing to use AFUDC for all qualifying Mitchell construction costs will benefit existing KPCo customers by aligning cost recovery with the in-service date for the new TeraWulf load in 2028. This approach would result in TeraWulf contributing towards the full cost of the new Cooling Tower as approximately 36% of the system along with KPCo's other customers, helping to offset rate impacts for existing customers.

The Commission should deny the Company's request to include construction costs for the new Mitchell 2 cooling tower in CWIP with no AFUDC offset in Tariff G.R., because it:

[49] Kahn Exhibit LMK-R1, a copy of the Company's Tariff G.R., page 1 provides the revenue requirement formula and definitions of the terms used in the revenue requirement formula.

(1) adds unnecessary expense for KPCo's customers; (2) results in premature and accelerated recovery of the financing costs during the construction period before the asset is completed and before it provides any service to customers; and (3) could set the wrong precedent moving forward, especially since KPCo has filed a new CPCN docket (Case No. 2026-00103) for permission to build new generation.[50] Additionally, the Commission should direct the Company to revise its Tariff G.R. to include the AFUDC offset as an increase to operating income, as the Commission ordered in Case No. 2025-00257.[51]

C. The Commission Should Deny The Request To Increase The Existing Depreciation Rates for the New Cooling Tower.

The Company's CPCN application proposes to establish a depreciation rate (8.33%) unique to the new Cooling Tower. This proposed rate is more than double the existing rate of 3.19% for the Mitchell Plant accounts.[52] KPCo's depreciation rate proposal should be denied.

The Commission's historic practice has been to change depreciation rates only in the context of a base rate proceeding.[53] Further, there is no compelling reason to increase the depreciation rate for the new Cooling Tower from the current 3.19% recently approved for the Mitchell plant in the Company's most recent base rate case, Case No. 2025-00257. Both the existing depreciation rates and the proposed revision for the new Cooling Tower assume a probable retirement date of 2040.[54] Maintaining the existing depreciation rates also helps mitigate cost impacts for its customers while KPCo pursues securitization of the Mitchell

[50] Kollen Direct at 13-14.
[51] *Id.* at 12. *See also* Case No. 2025-00257, Final Order dated Feb. 28, 2026 at 168.
[52] Coon Direct at 12; *see also* Kollen Direct at 17-19.
[53] Kollen Direct at 17.
[54] Kollen Direct at 17.

Plant investments.[55] The Commission should deny the Company's request to authorize a new depreciation rate unique to the new cooling tower, as it is not necessary or justified.[56]

D. The Commission Should Deny the Company's Request to Defer Construction Costs to a Regulatory Asset.

In its CPCN Application, the Company requests that the Commission authorize the creation of a new regulatory asset for the purpose of deferring construction costs associated with the new Mitchell Unit.[57] As Mr. Kollen points out, this request is inconsistent with Generally Accepted Accounting Principles and the FERC Uniform System of Accounts, which require that construction costs be recorded to CWIP and transferred from CWIP to plant-in-service when construction is completed; these costs do not qualify for deferral to a regulatory asset.[58] Additionally, this request is inconsistent with the Company's request to recover the new Cooling Tower costs through Tariff G.R., which has no term for a regulatory asset in rate base and no term for the amortization expense in the revenue requirement formula.[59] Nor has the Company sought to modify Tariff G.R. in this or any other proceeding to include a regulatory asset or amortization expense in the revenue requirement formula. Accordingly, this deferral request should be denied.

E. The Commission Should Deny the Company's Request to Include the Recovery of the Incremental O&M Expense and Property Tax Expense in Tariff G.R.

The Company proposes to recover incremental O&M and property tax expenses through either Tariff G.R. or deferrals to a regulatory asset. But the revenue requirement

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[55] *In Re: Electronic Application Of Kentucky Power Company For (1) A General Adjustment Of Its Rates For Electric Service*, etc.; Case No. 2025-00257, Final Order dated Feb. 28, 2026 at 7, 49 (*citing* KPCo's application in that case at 8-9, and Direct Testimony of Cynthia G. Wiseman at 14).
[56] *Id*. at 19.
[57] Application at 1, 8-10.
[58] Kollen Direct at 7-10.
[59] *Id.* at 10.

formula in Tariff G.R. does not include these expenses.[60] As Mr. Kollen explains, "Tariff G.R. includes only the depreciation expense and income tax expense on those plant-related costs. The expenses were retained in the base revenue requirement and excluded from the Tariff G.R. revenue requirement because they will be incurred regardless of whether the plant-related costs are securitized."[61] In fact, the costs which the Company seeks to collect were expressly excluded by the Commission in the Company's most recent base rate case.[62] Accordingly, this request should be denied.

V. CONCLUSION

WHEREFORE, the OAG-KIUC respectfully request that the Commission grant the requested CPCN, subject to the additional recommendations stated herein.

Respectfully submitted,

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[60] Kollen Direct at 15.
[61] *Id*. at 15-16. Mr. Kollen further recommended that the Commission deny the request to defer any cost, but if it decides to defer any costs, they should be limited to the costs included in the revenue requirement formula in Tariff G.R. *Id.* at 16.
[62] *In Re: Electronic Application Of Kentucky Power Company For (1) A General Adjustment Of Its Rates For Electric Service, etc.*; Case No. 2025-00257, Final Order dated Feb. 28, 2026 at 161-163.

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Certificate of Service

Pursuant to the Commission's Orders in Case No. 2020-00085, and in accord with all other applicable law, Counsel certifies that an electronic copy of the forgoing was served and filed by e-mail to the parties of record.

This 21st day of August, 2026

Assistant Attorney General