COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Electronic Application Of Kentucky Power Company For An Order Approving Accounting Practices To Establish A Regulatory Asset Related To The Extraordinary Expenses Incurred By Kentucky Power Company In Connection With The January 2026 Major Storm Event	)	Case No. 2026-00101

MOTION OF KENTUCKY POWER COMPANY FOR REHEARING

Pursuant to KRS 278.400 and other applicable law, Kentucky Power Company ("Kentucky Power" or the "Company") respectfully submits this motion for rehearing of the Public Service Commission of Kentucky's ("Commission") July 21, 2026 order in this proceeding (the "Regulatory Asset Order"). As discussed below, the Regulatory Asset Order requires rehearing because it relies on an incorrect interpretation of the Commission's February 28, 2026 order in Case No. 2025-00257 ("Rate Case Order") in concluding that major storm expense is included in the Company's current base rates. The Commission's interpretation ignores the different treatment of storm costs in base rates established in the Commission's order in Case No. 2023-00159 and in those rates established in the Rate Case Order. The Commission should grant rehearing to address and correct each of these issues.

I. STANDARD FOR REHEARING

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

II. MOTION FOR PARTIAL REHEARING

A. The Commission's Conclusion in the Regulatory Asset Order that Both Major and Non-Major Storm Expenses are Included in Base Rates is Inconsistent with the Commission's Rate Case Order.

In Case No. 2025-00257, Kentucky Power sought to establish rates to collect increased revenues of $75,269,689. In its application in that case, the Company included zero dollars for storm expense and instead sought approval to automatically record all storm expense as a regulatory asset, subject to quarterly review by the Commission.[6] As part of a settlement

---

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

[2] *Id.* at 2 (quoting *Energy Regul. Comm'n v. Ky. Power Co*., 605 S.W.2d 46 (Ky. App. 1980)).

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

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

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

[6] Application at 17, *In the Matter of: Electronic Application of Kentucky Power Company for (1) A General Adjustment of Its Rates for Electric Service; (2) Approval Of Tariffs And Riders; (3) Approval of Certain Regulatory and Accounting Treatments; and (4) All Other Required Approvals and Relief*, Case No. 2025-00257 (filed Aug. 29, 2025); Wolffram Direct Test. at 33, *In the Matter of: Electronic Application of Kentucky Power Company for (1) A*

agreement, however, the Company agreed to include $2.0 million in storm expense in the revenue requirement while retaining the ability to establish a regulatory asset or liability for storm expenses incurred above or below the $2.0 million included in the calculation of base rates. The settlement agreement language on this issue is as follows:

> Kentucky Power will increase the level of major and non-major storm expense ("Storm Expense") included in base rates from $0 to $2.0 million in response to the Commission's orders in Case No. 2025-00031 and Case No. 2025-00291. The Company will defer actual Storm Expense above or below the $2.0 million included in base rates as a regulatory asset (under-collection) or a regulatory liability (over-collection), respectively.[7]

The Commission relied on a portion of this language in the Regulatory Asset Order:

> In Case No. 2025-00257, the Commission approved a $2.0 million increase in Kentucky Power's storm damage reserve embedded in base rates that was included in the proposed settlement agreement. The settlement agreement specifically stated that "Kentucky Power will increase the level of major and non-major storm expense (Storm Expense) included in base rates from $0 to $2.0 million." The Commission finds the $2.0 million included in base rates is not only to be used for non-major storms as asserted by Kentucky Power.

While the $2.0 million amount for storm expense in the Rate Case Order is the same amount included in the settlement agreement, the Rate Case Order did not approve the settlement agreement as presented. Instead, as discussed further below, the Rate Case Order (i) rejected the proposed automatic deferral mechanism and (ii) consistently made clear that the $2.0 million included in base rates were for non-major storms only, not all storm expense.

First, the Commission rejected the Company's ability to automatically establish a regulatory asset for storm expense in excess of the $2.0 million amount included in base rates.[8]

General Adjustment of Its Rates for Electric Service; (2) Approval Of Tariffs And Riders; (3) Approval of Certain Regulatory and Accounting Treatments; and (4) All Other Required Approvals and Relief, Case No. 2025-00257 (Ky. P.S.C. Aug. 29, 2025).

[7] Wolffram Settlement Test., Exh. TSW-1 at 7, *In the Matter of: Electronic Application of Kentucky Power Company for (1) A General Adjustment of Its Rates for Electric Service; (2) Approval Of Tariffs And Riders; (3) Approval of Certain Regulatory and Accounting Treatments; and (4) All Other Required Approvals and Relief*, (Ky. P.S.C. Jan. 9, 2026) ("Settlement Agreement").

[8] Rate Case Order at 89.

The link between including both major and non-major storm expense in base rates and the ability to establish a regulatory asset or liability for actual expenses in excess or below the $2.0 million amount was highlighted at the hearing by Company Witness Wolffram:

> And so as part of settlement, given the overall reductions to the revenue requirement, we thought it would be appropriate to address some of those concerns around the amount of storm cost in base rates to increase and set some level so that we could defer over or above—or, sorry, defer any storm cost above that 2 million or set up a rate liability at any amount less than that 2 million so that we could ultimately reflect that on a dollar-per-dollar basis back to customers.[9]

The Commission denied the automatic regulatory asset and, therefore, broke the link to the inclusion of both major and non-major storm expense in base rates.

Second, and more importantly, the Rate Case Order refers to the $2.0 million included in base rates as non-major storm expense on FOUR separate occasions. In concluding that the $2.0 million amount proposed in the settlement agreement was appropriate, the Commission looked to historical <u>**non-major storm expense amounts**</u>:

> The Commission reviewed the previous five years of <u>**non-major storm damage expenses**</u> and determined the amounts were approximately the $2.00 million proposed by Kentucky Power.[10]

Additionally, in three separate occasions when summarizing the Commission's changes to the Company's revenue requirement, the Commission refers to an increase of $2.0 million in the Company's <u>**Non-Major**</u> Storm Expense[11]:

---

[9] Wolffram Hearing Test. at 265, *In the Matter of: Electronic Application of Kentucky Power Company for (1) A General Adjustment of Its Rates for Electric Service; (2) Approval Of Tariffs And Riders; (3) Approval of Certain Regulatory and Accounting Treatments; and (4) All Other Required Approvals and Relief*, Case No. 2025-00257 (Ky. P.S.C. Jan. 13, 2026).

[10] Rate Case Order at 88–89 (emphasis added).

[11] Rate Case Order at App. A, Tbl. 3 (emphasis added); *see also id.* at 91,139.

Table 3

Kentucky Power Company - Authorized Revenue Increase
For the Test Year Ended May 31, 2025

Kentucky Power Company Requested Base Rate Increase	$ 75,269,689
O&M Adjustments:	
Incentive Compensation - Financial	(1,842,209)
Incentive Compensation - Safety, Reliability, Service	(2,178,173)
Other Compensation	(7,319,257)
SERP Expense	(143,789)
401(k) Expense	(1,865,957)
Property Tax Expense	(320,401)
Pension Settlement (AEP)	(984,952)
Depreciation TOR Veg Management	(2,356,220)
Depreciation Expense - Terminal Net (Big Sandy)	(1,010,981)
Depreciation Expense - Interim (Mitchell)	(2,793,493)
Depreciation Expense - Gen Rider Offset	1,189,877
Membership Dues	(113,206)
Increase Non-Major Storm Expense	2,008,874
O&M TOR Veg Management	7,241,915
Amortization of TOR Reg Asset	1,559,070
Incidental Loss on Gas (Hedging)	(1,880,306)
Increase Revenues for FERC Transmission Rates	(10,026,163)
Decrease Revenues for NRC Adjustments	100,205
Rate Case Expense	(167,109)
Outside Services Employed (Account 923)	(1,716,100)
Total Rate Base Adjustments	(16,245,221)
Rate Increase	$ 36,406,093
Percent Rate Increase	5.57%

*Differences are due to rounding

Based on this clear language from the Rate Case Order that the storm expenses included in base rates were limited to expenses incurred in non-major storms and contain no expenses incurred in major storm events, the Company sought approval in this case to establish a regulatory asset for the extraordinary expenses it prudently incurred in the January 2026 Major Storm Event. The Commission's conclusion that, despite the clear language to the contrary, the Company's base rates included expenses incurred for both non-major and major storms is unlawful and should be corrected on rehearing.

B. The Commission Should Grant the Company Authority to Establish a Regulatory Asset for the January 2026 Winter Storm Expense in the Amount Included in the Application.

The Company's application in this case accounted for the different manner in which storm expenses were treated through rates established in the Company's prior rate case (Case No. 2023-00159) and in the Rate Case Order. The rates established in Case No. 2023-00159 were in effect until March 1, 2026 and, unlike those established by the Rate Case Order, included both major and non-major storm expense.[12] The Company accounted for this in the application by subtracting the pro-rated amount of storm expense in the Case No. 2023-00159 base rates from the January 2026 Major Storm expense.[13] This calculation is provided in Exhibit 2 to the Application and highlighted in the "Summary" and "2026 Base Storm Expense" tabs.

The Commission's conclusion in the Regulatory Asset Order in this case that the Rate Case Order established rates that included both major and non-major storm expenses conflicts with four separate statements in the explicit, plain language of the Rate Case Order. Accordingly, the Commission should grant the Company the authority to establish a regulatory asset for the extraordinary expenses incurred in responding to the January 2026 Major Storm Event in the manner proposed by the Company in its application.

III. CONCLUSION

The Company respectfully asserts that rehearing is warranted as discussed herein and requests the Commission grant rehearing to:

[12] Order at 33–34, *In the Matter of: Electronic Application Of Kentucky Power Company For (1) A General Adjustment Of Its Rates For Electric Service; (2) Approval Of Tariffs And Riders; (3) Approval Of Certain Regulatory And Accounting Treatments; (4) A Securitization Financing Order; And (5) All Other Required Approvals and Relief*, Case No. 2023-00159 (Ky. P.S.C. Jan. 19, 2024).

[13] Application at 9; *id.* at Exh. 2.

1. Address the inconsistencies between the Regulatory Asset Order and the Rate Case Order regarding the inclusion of major storm event expense in base rates; and

2. Grant the Company the authority to establish a regulatory asset for the extraordinary expenses incurred in responding to the January 2026 Major Storm Event in the manner proposed by the Company in its application.

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

Respectfully submitted,

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

COUNSEL FOR KENTUCKY POWER COMPANY