COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN ELECTRONIC EXAMINATION OF THE APPLICATION OF THE FUEL ADJUSTMENT CLAUSE OF KENTUCKY POWER COMPANY FROM NOVEMBER 1, 2020 THROUGH OCTOBER 31, 2022	)))))	CASE NO. 2023-00008

O R D E R

Pursuant to 807 KAR 5:056, the Commission, on September 6, 2023, established this case to review and evaluate the operation of the Fuel Adjustment Clause (FAC) of Kentucky Power Company (Kentucky Power) for the period of November 1, 2020, through October 31, 2022, and to determine the amount of fuel costs that should be included in its base rates.

BACKGROUND

Kentucky Power is a jurisdictional electric utility that generates, transmits, distributes, and sells electricity to approximately 163,000 customers in Boyd, Breathitt, Carter, Clay, Elliott, Fleming, Floyd, Greenup, Johnson, Knott, Lawrence, Leslie, Letcher, Lewis, Magoffin, Martin, Morgan, Owsley, Perry, Pike, and Rowan counties.[1]

In establishing this review, the Commission ordered Kentucky Power to submit certain information concerning its fuel procurement, fuel usage, and the operation of its FAC. In addition, Kentucky Industrial Utility Customers, Inc. (KIUC), and the Attorney

[1] *Annual Report of Kentucky Power to the Public Service Commission for the Year Ending December 31, 2023* (filed April 12, 2024) at 4, 5.

General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General) were granted intervention in this proceeding.[2]

On October 6, 2023, Kentucky Power submitted direct testimony and responses to Commission Staff's initial request for information.[3] Subsequently, Kentucky Power filed responses to two additional requests for information issued by Commission Staff.[4]

Kentucky Power responded to two requests from the Attorney General and KIUC, jointly.[5] The Attorney General/KIUC filed testimony on December 22, 2023. The Attorney General/KIUC filed responses to Kentucky Power's request for information on January 16, 2024. Kentucky Power filed Rebuttal Testimony on February 5, 2024.

A public hearing was held on February 13, 2024. Kentucky Power filed four post-hearing responses.[6] Kentucky Power, KIUC, and the Attorney General filed post-hearing briefs on May 15, 2024, and each filed post-hearing reply briefs on May 22, 2024.

Kentucky Power filed for a motion for Informal Conference (IC) on October 25, 2024, which was held on November 13, 2024. The IC participants discussed a proposed

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[2] Order (Ky. PSC Sept. 6, 2023).

[3] Kentucky Power's Response to Commission Staff's First Request for Information (Staff's First Request) (filed Oct. 6, 2023).

[4] Kentucky Power's Response to Commission Staff's Second Request for Information (Staff's Second Request) (filed Nov. 3, 2023); Kentucky Power's Response to Commission Staff's Third Request for Information (Staff's Third Request) (filed Dec. 12, 2024).

[5] Kentucky Power's Response to the Attorney General/KIUC's First Request for Information (Attorney General/KIUC's First Request) (filed Nov. 3, 2023); Kentucky Power's Response to the Attorney General/KIUC's Second Request for Information (Attorney General/KIUC's Second Request) (filed Dec. 12, 2023).

[6] Kentucky Power's Response to Commission Staff's First Post-Hearing Request for Information (Staff's First Post-Hearing Request) (filed Mar. 22, 2024); Kentucky Power's Response to Commission Staff's Second Request for Information (Staff's Second Post-Hearing Request) (filed May 1, 2024); Kentucky Power's Response to Commission Staff's Third Post-Hearing Request for Information (Staff's Third Post-Hearing Request) (filed Aug. 16, 2024); Kentucky Power's Response to Commission Staff's Fourth Post-Hearing Request for Information (Staff's Fourth Post-Hearing Request) (filed Sept. 30, 2024).

Settlement Agreement between the parties to be tendered to the Commission. On November 14, 2024, Kentucky Power, KIUC, and the Attorney General filed a proposed Settlement Agreement and a Joint Motion to Approve a Settlement Agreement by December 15, 2024.

SETTLEMENT AGREEMENT

The Settlement Agreement's terms are summarized below and found in greater detail attached in the Appendix to this Order:[7]

1. The total settlement amount credit to Kentucky Power customers (customer credit) agreed upon by Kentucky Power, KIUC, and the Attorney General will be $16,900,000.

2. The credit will be allocated between the Residential and Non-Residential classes based on historical energy usage for the period November 2020 through July 2024, and the amount of the credit allocated to the Residential Class will be further increased by 10 percent and will be credited based on future energy usage.

a. The Residential Class customer credit will total $6,710,990.

b. The Non-Residential Class customer credit will total $10,189,010.

c. As part of the Non-Residential customer credit, Kentucky Power will reimburse KIUC's member that funded its participation in this proceeding for its litigation expenses which equated to $363,183.[8] The remaining $9,825,827 will be credited to the Non-Residential Class based on future energy usage.

[7] Joint Motion to Approve Settlement Agreement (filed Nov. 14, 2024).

[8] Kentucky Power explained that this reimbursement will result in KIUC's member being treated equally compared to all other Non-Residential customers who will receive the same transitional monthly credit, but who did not intervene and fund the litigation of this case.

3. Kentucky Power will remit the Residential Class customer credit by applying a transitional monthly credit to the Peaking Unit Equivalent (PUE) calculation for Residential customers of $838,874 for four consecutive months beginning the later of the first month after the date of the Commission's issuance of the final Order approving the proposed Settlement Agreement or the first day of the first billing cycle of January 2025.

4. The 2025 Residential Class credit will be made through a new line-item bill credit of approximately $6.40 on each Residential customer's bill over the first four months of 2025.

5. Kentucky Power will apply a transitional monthly credit to the PUE calculation for all Non-Residential class customers of $1,228,228 for four consecutive months beginning the later of the first month after the date of the Commission's issuance of a final order approving the proposed Settlement Agreement or the first day of the first billing cycle of January 2025.

6. Kentucky Power will apply a transitional monthly credit to the PUE calculation for Residential customers of $838,874 for four consecutive months beginning the later of the first month after the date of the Commission's issuance of a final order approving without modification the settlement agreement in that two-year review proceeding, or the first day of the first billing cycle of January 2026. This average Residential customer credit over both of 2025 and 2026 is expected to total approximately $51.19.

7. Kentucky Power will apply a transitional monthly credit to the PUE calculation for Non-Residential class customers of $1,228,228 for four consecutive months beginning the later of the first month after the date of the Commission's issuance

of a final order approving without modification the proposed settlement agreement in that two-year review proceeding, or the first day of the first billing cycle of January 2026.

8. The transitional monthly credits shall be reflected as a separate billing line item labeled "Fuel Adjustment Credit" in the months applied.

9. Kentucky Power will true-up the credits to ensure that the full credits are provided to Residential and Non-Residential customers.

10. Starting with FAC-eligible costs incurred on the first day of the first billing month after the date of the Commission's issuance of a final Order approving this proposed Settlement Agreement without modification and until Kentucky Power's next base rate case, Kentucky Power will use a startup cost component of the PUE calculation for each future six-month FAC review period equal to $4.62/MWh.

11. All other components of Kentucky Power's PUE calculation methodology will remain unchanged until at least its next base rate proceeding.

12. Kentucky Power and KIUC agreed that the Commission should issue a final Order in this proceeding that finds that the proposed base fuel rate is reasonable, the charges and credits billed through the FAC for the review period were reasonable, Kentucky Power's fuel procurement practices during the review period were reasonable, Kentucky Power operated its generating units prudently during the review period, and the PUE shall not be retroactively modified.

13. The Attorney General agreed that the Commission should issue a final Order in this proceeding approving this Settlement Agreement.

14. The Attorney General and KIUC will withdraw their proposal to limit the size of the hypothetical peaking unit in this proceeding, and KIUC agrees not to participate in any of the six-month review proceedings concerning the 2022-2024 FAC Review Period.

15. The Attorney General and KIUC will move to intervene in the two-year review proceeding concerning the 2022-2024 FAC Review Period. In that proceeding, KIUC will support this Settlement Agreement as the reasonable resolution of all issues and will not advocate for adjustments to Kentucky Power's FAC rates during the 2022-2024 Review Period.

16. Kentucky Power will withdraw its appeal of the Commission's final order in Case No. 2023-00145,[9] concerning deferral of Winter Storm Elliott PUE expenses, pending before the Franklin Circuit Court in Case No. 23-CI-682.

LEGAL STANDARD

The FAC is a regulatory mechanism that permits jurisdictional utilities to regularly adjust the per unit price of electricity to reflect fluctuations in the cost of fuel, or purchased power, used to supply that electricity and is pursuant to 807 KAR 5:056. The statutory foundations for the regulation are KRS 278.040, which gives the Commission exclusive jurisdiction over the regulation of rates and services of utilities, and KRS 278.030(1), which grants the PSC the authority to set rates that are fair, just and reasonable. The Commission's right to conduct six-month and two-year reviews of a utility's FAC is established in 807 KAR 5:056, Section 3. Every two years the Commission shall conduct

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[9] Case No. 2023-00145, *Electronic Application of Kentucky Power Company for an Order Approving Accounting Practices to Establish a Regulatory Asset Related to the Extraordinary Fuel Charges Incurred by Kentucky Power Company in Connection With Winter Storm Elliott in December 2022* (Ky PSC June 23, 2023).

a formal review and evaluate past operations of the clause, disallow improper expenses and, to the extent appropriate, reestablish the baseline fuel clause charge.

DISCUSSION

Having reviewed both the evidence and the proposed Settlement Agreement in this matter, the Commission finds that the Settlement Agreement should be accepted as filed without modification as discussed further below. Although the Commission finds that the Settlement Agreement should be accepted without modification, the Commission notes that there are issues that the Settlement Agreement did not address that are necessary to resolve to complete the review of the FAC, thus the Commission will make findings on those issues.

Kentucky Power Base Fuel Rate

Kentucky Power's current base fuel rate is $0.02612 per kilowatt-hour (kWh). Kentucky Power proposed a new base fuel rate of $0.03380 per kWh using January 2022 as the representative month for the base period.[10] The proposed rate is based on Kentucky Power's examination of historical data over the two-year (November 2020-Ocotober 2022) review period (review period) and forecasted fuel costs for the 2023-2025 period.[11] In the review period, fuel costs ranged from a low of $0.02477 per kWh in November 2020 to a high of $0.06571 per kWh in September 2022.[12] The two-year average fuel rate was $0.04111 cents per kWh and is $0.01499 per kWh greater than the current base fuel rate. The median fuel rate was $0.03437 per kWh and is $0.00825

[10] Kentucky Power's Response to Staff's First Request, Item 23.

[11] Errata Direct Testimony of Scott E. Bishop (Errata Bishop Direct Testimony) (filed Feb. 5, 2024) at 5.

[12] Errata Bishop Direct Testimony at 7.

cents per kWh greater than the current base fuel rate. In addition, the base fuel rate was less than the current base fuel rate in one month (November 2020) only out of the 24-month period.[13]

In evaluating future fuel costs, Kentucky Power forecasted fuel costs and kWh sales for 2023-2025. The 2023-2025 projected fuel costs per kWh are $0.0350294, $0.0343120, and $0.0353881 respectively, with a three-year average projected fuel cost of $0.0349098 per kWh.[14] Kentucky Power noted that the projected rates are below the two-year historical average fuel rate, but relatively in line with the historical median rate.

Having reviewed the evidence, the Commission finds that Kentucky Power's proposed base fuel rate of $0.03380 per kWh with January 2022 as the representative month is reasonable and should be accepted. The new base fuel rate should be placed into effect with service rendered on or after Kentucky Power's first billing cycle following the date of this Order.

<u>Proposed FAC Correction</u>

In Case No. 2022-00036,[15] Kentucky Power discovered an error in its PUE calculations for the months of July 2021 and August 2021. Revised PUE calculations were filed in that case on September 19, 2022. Due to a misalignment of cells in construction of the PUE calculation spreadsheets, Kentucky Power determined that there were no changes to the total amount of fuel costs for July 2021 to be recovered through the FAC. However, for August 2021, the spreadsheet cell misalignment resulted in a

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[13] Errata Bishop Direct Testimony, Table SEB-1 at 6.

[14] Errata Bishop Direct Testimony at 8.

[15] See Case No. 2022-00036, *An Electronic Examination of the Application of the Fuel Adjustment Clause of Kentucky Power Company From May 1, 2021 Through October 31, 2021* (filed Mar 31, 2022).

$172,892.70 exclusion from the FAC which should have been recovered through the FAC.[16] Kentucky Power stated that these funds have not yet been recovered from customers through the FAC or by any other means.[17] The Attorney General and KIUC did not take issue with either Kentucky Power's explanation of the unintentional cell misalignment in the July 2021 and August 2021 PUE calculations or its proposal to recover $172,892.70 through the FAC for one month in the first billing month following the Commission's Order in this proceeding. The Commission agrees that the PUE spreadsheet cell misalignment was an error and that the recovery of $172,892.70 should be approved for recovery in the FAC for one month in the first billing month following the date of this Order.

Coal Conservation Strategy

The Commission takes notice that in the period immediately preceding the review period, the national economy was coming out of a period of drastically reduced electricity demand, primarily due to the COVID-19 pandemic. This caused the demand for coal to decline which, in turn, caused coal mines to reduce employment and production capacity.[18] The current review period experienced a resurgence in the demand for electricity, and paired with relatively high natural gas prices, resulted in coal fired generation being relatively more cost effective. As a result, there was an increase in demand for coal which, in many cases, outpaced coal mine operators' ability to fulfill the

[16] Rebuttal Testimony of Scott E. Bishop (Bishop Rebuttal Testimony) R3-R4 Also see Kentucky Power's Response to Attorney General and KIUC's First Request, Item 2 and Case No. 2022-00036, filed Sep. 16, 2022, Kentucky Power's Response to Staff's First Request for Information, Item 16.

[17] Bishop Rebuttal Testimony at R4.

[18] Direct Testimony of Kimberly Chilcote (Chilcote Direct Testimony) at 3-5. Direct Testimony of Andrew Vaughn (Vaughn Direct Testimony) at 6-8.

resurgent coal demand.[19] Kentucky Power reported that during the current review period, it experienced a significant increase in coal price bids and a reduction in its ability to procure and maintain its coal supply inventory at the Mitchell Station.[20] Additionally, in October 2021, PJM Interconnection (PJM), concerned with the potential levels of coal and reagent inventories for all coal-fired plants, implemented a ten-day minimum coal inventory supply rule. Utilities that fell below the ten-day inventory level could be subject to financial penalties from PJM and the affected generation unit(s) would be placed into emergency shutdown status until coal inventory levels rose to 21 days.[21]

American Electric Power's operating companies, including Kentucky Power, implemented a coal conservation strategy to preserve their coal supply inventory by including a "price adder" to their units' cost-based offers in the PJM day ahead energy market to limit the number of hours the units would be dispatched in order to maintain the generating units' coal supply above the ten-day PJM requirement.[22] The price adder was associated with fuel supply risk that recognized the potential opportunity cost to its customers of being forced into energy shutdown status.[23] Kentucky Power explained its price adder strategy with a hypothetical example of a generating unit that was capable of producing energy at a price of $40/MWh when Kentucky Power expected the day-ahead

[19] Chilcote Direct Testimony at 3-5.

[20] Chilcote Direct Testimony at 8-9.

[21] Direct Testimony of Andrew Vaughn (Vaughn Direct Testimony) at 5-6. Kentucky Power also noted that any unit below that ten-day limit may be forced to shut down and remain offline until its inventory reaches 21 days, or the unit is required for a PJM Emergency Event. In such a case, the unit could be forced to forgo market revenues during a period when it may be highly profitable to operate or, if it denied PJM's request and subsequently ran out of fuel or the reagents needed to manage its emissions, the unit may be subject to performance penalties if a market performance event occurred.

[22] Vaughn Direct Testimony at 5-6.

[23] Vaughn Direct Testimony at 11.

market energy price to average $40/MWh in the off-peak hours while reaching $80/MWh in the peak hours. In such an instance, Kentucky Power would consider adding an increment to its cost-based offer in order to price the unit above the $40/MWh to ensure that the unit was not dispatched during the off-peak hours, but still have the unit be available to ramp up generation and be dispatched during the higher priced peak hours.[24]

Kentucky Power stated that, if the Mitchell units had been bid into the PJM day-ahead market, based on individual unit cost-based offers and without the implementation of its coal conservation strategy, the Mitchell Station's coal inventory level would have fallen below the PJM ten-day threshold, which, in turn, would have placed the units into a PJM designated emergency shutdown. Kentucky Power claims that this would have increased the overall cost of service for its customers because its units would have been in reserve shutdown and Kentucky Power would have been forced to meet its native load energy requirements through increased energy market purchases.[25]

Kentucky Power, due to its coal procurement strategies before and during the review period, found itself in danger of either violating PJM's ten-day limit, or even running out of coal. The Commission notes that no other jurisdictional electric generator during this FAC review period, whether a member of PJM or not, needed to implement strategies to preserve their respective coal supplies. Nonetheless, Kentucky Power found itself short of fuel and, given the necessity at that moment to act to preserve its fuel, the Commission cannot find that implementation of the coal conservation strategy was

[24] Vaughn Direct Testimony at 11. Kentucky Power noted that Big Sandy Unit 1 did not need the adder strategy because it did not experience fuel constraints.

[25] Vaughn Direct Testimony at 14.

unreasonable. However, the Commission is concerned with the manner in which the coal conservation strategy was implemented.

First, the Commission notes that the concept of a price adder was not unreasonable considering PJM allows for maintenance and operating cost adders as components of the cost-based energy offer. However, the Commission is concerned with how the price adder was implemented on certain days and months. For example, the Commission finds instances where Kentucky Power included a price adder in its market offers on days and months in excess of $100/MWh[26] when Kentucky Power had coal inventory over 25 days for high sulfur, 25 days for low sulfur,[27] and both Mitchell units were available to be dispatched. Additionally, the real time locational marginal prices (LMP) and day ahead LMP's were relatively high, ranging from $80/MWh to $160/MWh, and the cost-based bid of the units were lower than either the real time or day ahead LMP's for each hour of that day.[28] Therefore, had Kentucky Power utilized its coal inventory more frequently, and bid in the Mitchell units at their true cost-based bid, which did not exceed the LMP's, then Kentucky Power would have procured energy at a lower dollar per MWh and produced additional savings to its retail customers.

Second, the Commission is also skeptical of how the cost-based bids were derived. The cost-based bid is made up of four components: fuel and handling, variable

[26] Kentucky Power's Response to Staff's Fourth Post-Hearing Data Request, Item 1, Confidential Attachment 1.

[27] Kentucky Power's Response to Staff's Second Request, Item 6, Attachment 2.

[28] Kentucky Power's Response to Staff's Fourth Post-Hearing Data Request, Item 1, Confidential Attachment 1.

Operation & Maintenance (O&M), Emissions, and PJM Manual 15 Sec. 2.9 costs.[29] The Commission does not take issue with the Emissions or PJM related costs. However, the Commission found that during the entire review period, the Mitchell units had a variable O&M amount of zero for their cost-based bids but had a variable O&M amount that varied by several dollars that were included in the Mitchell units market offer. Additionally, the Commission notes that the fuel and handling component included in the cost-based bid significantly increased. As explained above, Kentucky Power stated that since coal became the lowest cost generation option, the price of coal increased due to increased demand and limited supply. However, Kentucky Power provided evidence that it was still receiving portions of its long-term coal contracts at a cost lower than the coal being procured through spot purchases.[30] If Kentucky Power had blended coal that was purchased at a lower tonnage price with coal that was purchased at higher spot market prices, then the fuel and handling costs likely would have increased only slightly, and thus, the cost-based bids of the Mitchell units would have been more cost-effective to run at higher capacity factors rather than relying on the PJM energy market.

Lastly, the Commission is concerned with the period the coal conservation strategy was implemented. The Commission does not take issue with Kentucky Power implementing its coal conservation strategy during the period its coal inventory levels approached PJM's ten-day threshold. However, Kentucky Power provided evidence that its coal inventory started increasing over time, and there were instances where Kentucky

[29] Kentucky Power's Response to Staff's Fourth Post-Hearing Data Request, Item 1, Confidential Attachment 1.

[30] See Kentucky Power's Response to Staff's Second Request, Item 6, Attachment 1 & 2. See *also* Kentucky Power's Response to Staff's First Post-Hearing Request, Item 1 and Confidential Attachment 1.

Power had 25 days of high sulfur coal and 25 days of low sulfur coal, but it still chose to implement the coal conservation strategy.[31] Based upon that information, there were instances it could have been more cost effective to forego such high price coal adders, resulting in the Mitchell units possibly being dispatched more often, but allowing Kentucky Power to utilize its lower cost (blended) coal resources as compared to purchasing relatively higher cost energy from the PJM market.

While the Commission is concerned about the issues discussed above, the Commission acknowledges the unique combination of high coal prices, natural gas prices, and the spiking coal demand when considering the manner in which Kentucky Power implemented its coal conservation strategy. With that said, the Commission expects Kentucky Power to exercise more prudent judgment and consider all available options in its fuel procurement practices and coal inventory levels going forward. The proposed Settlement in this case recognizes the difficult circumstances at the time and strikes a balance with the proposed refund to retail customers.

FINDINGS

The Attorney General and KIUC argued that the PUE methodology resulted in unfair, unjust, and unreasonable FAC charges, and that the PUE calculation should be modified.[32] However, as noted above, the Attorney General and KIUC signed the Settlement Agreement, which provided for changing the PUE methodology start-up cost from \$30/MWh to \$4.62/MWh, which will be applied hourly, and the Attorney General and

[31] Kentucky Power's Response to Staff's Second Request, Item 6, Attachments 1 & 2.

[32] Joint Reply Brief of Attorney General and KIUC (filed May 22, 2024) at 1.

KIUC agreed to withdraw their proposal to limit the size of the PUE.[33] Therefore, the Commission notes that the arguments raised by the Attorney General and KIUC in their joint brief are moot.

The Commission notes that, in Case No. 2017-00179,[34] both the Attorney General and KIUC were parties to the case where the Commission accepted Kentucky Power's proposal to include startup costs and variable O&M hourly rates in the PUE methodology, but the Commission denied including firm gas service. However, the Commission accepts the PUE methodology in accordance with the settlement. The methodology is based upon certain characteristics of a combustion turbine (CT), although the ratemaking mechanism does not mimic the exact operational characteristics of a CT. The Commission continues to have concerns regarding attempts to continuously adjust or modify components within Kentucky Power's FAC mechanism. It is important to be consistent in the application of methodology that results in fair, just and reasonable rates.

The Commission finds that the Settlement proposal by the parties, to change the PUE methodology hourly startup cost from $30/MWh to $4.62/MWh, is reasonable and should be approved. The Commission notes that by effectively lowering the PUE calculation, Kentucky Power's customers will receive approximately $5.1 million in annual savings through disallowed non-economic energy costs that will no longer be recovered

[33] Joint Motion to Approve Settlement Agreement at 4.

[34] Case No. 2017-00179, *Electronic Application of Kentucky Power Company for (1) A General Adjustment of Its Rates For Electric Service; (2) An Order Approving Its 2017 Environmental Compliance Plan; (3) An Order Approving Its Tariffs and Riders; (4) An Order Approving Accounting Practices To Establish Regulatory Assets and Liabilities; And (5) An Order Granting All Other Required Approvals and Relief* (Ky. PSC Jan. 18, 2018), Order.

through the FAC..[35] Although the parties agreed to this stipulation, the Commission will re-evaluate the reasonableness of changing the PUE methodology in either Kentucky Power's next two-year FAC investigation case or in Kentucky Power's next base rate case to ensure that Kentucky Power is appropriately maintaining its fuel procurement practices and recovering economic energy purchases without unduly burdening itself or its customers.

Having considered the evidence of record, the proposed Settlement, and being otherwise sufficiently advised, the Commission finds that, during the period under review, the Settlement results in a reasonable base rate, and the charges and credits billed through the FAC for the review period were reasonable and as such, accepts the terms of the Settlement. The Commission notes that these monthly credits will provide winter heating bill reduction benefits to Kentucky Power's Residential customers. Additionally, the Commission finds that Kentucky Power should provide monthly updates of the status of the refund balance after the first reimbursement begins in January 2025, including the amount remaining and the amount dispersed, through its monthly FAC filing.

IT IS THEREFORE ORDERED that:

1. The Joint Motion to Approve a Settlement Agreement is granted.

2. The Joint Settlement, attached to this Order as an Appendix is approved.

3. Kentucky Power shall provide monthly updates of the status of the refund balance in its monthly FAC filings.

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[35] *See* Joint Reply Brief of the Attorney General and KIUC at 10. The table on page 10 illustrates the disallowance of costs for all purchases between a PUE startup cost of $30/MWh and $4.62/MWh. The approximate $5.1 million savings is the $10,241,619 variance divided by the two-year historical review period. Additionally, the $5.1 million is based primarily on fuel costs and has the possibility to vary.

4. The charges and credits applied by Kentucky Power through the FAC for the period from November 1, 2020, through October 31, 2022, are approved.

5. Kentucky Power's base fuel rate of $0.03380 per kWh is approved.

6. Kentucky Power's request to recover $172,892.70 from a PUE spreadsheet calculation cell misalignment is approved for recovery in the FAC for one month in the first billing month following the date of this Order.

7. Kentucky Power shall file an update with its monthly FAC filings as to the credit to retail customers as set forth in the Order.

8. Within 20 days of the date of this Order, Kentucky Power shall file, using the Commission's electronic Tariff Filing System, its revised tariff sheets with the Commission setting out the increase in its base energy rates discussed herein and reflecting that they were approved pursuant to this Order.

9. This case is closed and removed from the Commission's docket.

PUBLIC SERVICE COMMISSION

Chairman

Commissioner

Commissioner

ATTEST:

Executive Director

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KENTUCKY PUBLIC
SERVICE COMMISSION

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2023-00008 DATED DEC 13 2024

TWELVE PAGES TO FOLLOW

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

An Electronic Examination Of The Application Of The Fuel Adjustment Clause Of Kentucky Power Company From November 1, 2020 Through October 31, 2022	))))	Case No. 2023-00008

SETTLEMENT AGREEMENT

This Settlement Agreement is made and entered into this 13th day of November, 2024, by and between Kentucky Power Company ("Kentucky Power" or "Company"); the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention ("Attorney General"); and Kentucky Industrial Utility Customers, Inc. ("KIUC"). Kentucky Power, the Attorney General, and KIUC are collectively referred to herein as the "Signatory Parties."

RECITALS

1. On September 6, 2023, the Public Service Commission of Kentucky ("Commission") initiated this proceeding to examine Kentucky Power's application of its Fuel Adjustment Clause ("FAC") from November 1, 2020, through October 31, 2022.

2. The Commission has granted the Attorney General and KIUC intervention in this proceeding. The Attorney General and KIUC proceeded jointly throughout the pendency of this proceeding and are referred to herein collectively as "AG-KIUC."

3. The parties to this proceeding have had a full opportunity for and have engaged in substantial discovery, including the filing of written data requests and responses; have filed testimony; participated in a one-day evidentiary hearing; and filed post-hearing briefs.

4. The Signatory Parties, representing diverse interests and viewpoints, have reached a complete settlement of all issues raised in this proceeding and have executed this Settlement Agreement for purposes of documenting and submitting their agreement to the Commission for approval. The Signatory Parties agree that this Settlement Agreement provides for a fair, just, and reasonable resolution of all issues in this proceeding.

5. The Signatory Parties request that the Commission issue an Order approving this Settlement Agreement in its entirety before December 15, 2024. This request is based upon the belief that the Parties' participation in settlement negotiations and the materials on file with the Commission adequately support this Settlement Agreement. The Signatory Parties submit that it is important for the Commission to act promptly to approve this Settlement Agreement so that the transitional monthly credits described below can begin to be applied to January 2025 customer bills and thereby provide the most benefits to residential customers possible during the upcoming winter heating months.

6. Adoption of this Settlement Agreement in its entirety will lessen the need for the Commission and the Parties to expend significant resources and will eliminate the possibility of, and any need for, rehearing or appeals of the Commission's final Order herein. It will also lessen the need for the Commission and the Parties to expend significant time and resources in FAC proceedings concerning Kentucky Power's fuel and purchased power costs incurred between November 1, 2022 and October 31, 2024 (the "2022-2024 FAC Review Period").

NOW, THEREFORE, for and in consideration of the mutual promises, agreements, and covenants set forth herein, the Signatory Parties hereby agree as follows:

AGREEMENT

1. Negotiated Settlement Amount.

a. Kentucky Power will prospectively modify its Peaking Unit Equivalent ("PUE") calculation and, in conjunction with that change, will provide a transitional monthly credit to reduce the amount of future fuel costs recovered from Kentucky retail customers through its FAC tariff by a total of up to $16,900,000 as a fair and reasonable compromise of this proceeding.

b. The negotiated settlement amount of $16,900,000 set forth in Paragraph 1.a shall be allocated as follows:

i. Residential Class. Residential Class energy usage for the period November 2020 through July 2024 was 36.1% of Kentucky Power's total retail sales. The Residential Class share of the settlement amount will start at $6,100,900. This amount will be increased by ten percent (10%), for a total Residential Class settlement amount of $6,710,990. The per kWh Residential Class credit totaling $6,710,990 will be reflected in the Residential FAC billings consistent with Paragraph 3.

ii. Non-Residential Class. The starting point for the Non-Residential Class credit will be $10,189,010 (total settlement amount less the residential share). KIUC's costs of litigating this proceeding from May 2022 through August 2024 for legal services and expert witnesses was $363,183. This amount ($363,183) shall reduce the Non-Residential Class allocation and shall be paid directly from shareholder funds to KIUC members who funded this FAC litigation in the first month after the date of the Commission's issuance of a final order approving this Settlement Agreement without modification. None of the litigation reimbursement will be retained by KIUC or its counsel. This reimbursement will result in the members of KIUC being treated equally compared to all other Non-Residential customers who will receive the same per kWh credit as set forth in Paragraph 3, but who did not intervene and fund the litigation of this case. The remaining Non-Residential Class credit of $9,825,827 will be reflected in the Non-Residential FAC billings consistent with Paragraph 3.

2. Resolution of Contested Issues.

a. Kentucky Power and KIUC agree that the Commission should issue a final Order in this proceeding that finds that:

i. Kentucky Power's proposed base fuel rate is reasonable and approved;

ii. Kentucky Power's charges and credits billed through the FAC during the review period at issue are reasonable and approved;

iii. Kentucky Power's fuel procurement practices during the review period at issue were reasonable and prudent;

iv. Kentucky Power operated its generating units prudently during the review period at issue; and

v. The PUE calculation shall not be retroactively modified.

b. The Attorney General agrees that the Commission should issue a final Order in this proceeding approving this Settlement Agreement.

c. Upon approval of this Settlement Agreement without modification,

i. the Attorney General and KIUC will withdraw their proposal to limit the size of the hypothetical peaking unit in this proceeding.

ii. KIUC agrees not to participate in any of the 6-month review proceedings concerning the 2022-2024 FAC Review Period.

d. The Attorney General and KIUC will move to intervene in the 2-year review proceeding concerning the 2022-2024 FAC Review Period. In that proceeding, KIUC will support this Settlement Agreement as the reasonable resolution of all issues and will not advocate for adjustments to Kentucky Power's FAC rates during the 2022-2024 Review Period.

e. Kentucky Power will withdraw its appeal of the Commission's final order in Case No. 2023-00145, pending before the Franklin Circuit Court in Case No. 23-CI-682.

3. <u>Prospective Modification to PUE Calculation</u>.

a. Subject to the Commission's issuance of a final order approving this Settlement Agreement without modification, the Company shall apply the following transitional monthly credits to the PUE calculation.

i. Beginning the later of the first month after the date of the Commission's issuance of a final order approving this Settlement Agreement without modification or the first day of the first billing cycle of January 2025, the Company shall apply a transitional monthly credit to the PUE calculation for Residential customers of $838,874 for 4 consecutive months. At the end of 2023, there were 131,090 residential customers. This results in an average residential customer credit of $51.19. This credit will be made through a new line-item bill credit of approximately $6.40 over the first four months of 2025. These monthly credits will provide winter heating bill reduction benefits to the Company's residential customers.

ii. Beginning the later of the first month after the date of the Commission's issuance of a final order approving this Settlement Agreement without modification or the first day of the first billing cycle of January 2025, the Company shall apply a transitional monthly credit to the PUE calculation for Non-Residential customers of $1,228,228 for 4 consecutive months.

b. Subject to the Commission's issuance of a final order approving without modification the settlement agreement to be filed in the 2-year review proceeding concerning the 2022-2024 FAC Review Period, described in Paragraph 2.d above, the Company shall apply the following additional transitional monthly credits to the PUE calculation.

i. Beginning the later of the first month after the date of the Commission's issuance of a final order approving without modification the settlement agreement in the 2-year review proceeding concerning the 2022-2024 FAC Review Period or the first day of the first billing cycle of January 2026, the Company shall apply a transitional monthly credit to the PUE calculation for Residential customers of $838,874 for 4 consecutive months. This credit will be made through a new line-item bill credit of approximately $6.40 over the first four months of 2026. These monthly credits will provide winter heating bill reduction benefits to the Company's residential customers.

ii. Beginning the later of the first month after the date of the Commission's issuance of a final order approving without modification the settlement agreement in the 2-year review proceeding concerning the 2022-2024 FAC Review Period or the first day of the first billing cycle of January 2026, the Company shall apply a transitional monthly credit to the PUE calculation for Non-Residential customers of $1,228,228 for 4 consecutive months.

c. The transitional monthly credits described in Paragraphs 3.a and 3.b above shall be reflected as a separate billing line item labeled "Fuel Adjustment Credit" in the months applied. Kentucky Power will true-up the Residential Class credits to ensure that the full $6,710,990 is credited to residential customers, no more or no less. Kentucky Power also will true up the Non-Residential Class credits to ensure that the full $9,825,827 is credited to non-residential customers, no more or no less.

d. Starting with FAC-eligible costs incurred on the first day of the first billing month after the date of the Commission's issuance of a final order approving this Settlement Agreement without modification and until the Company's next base rate case, Kentucky Power will use a startup cost component of the PUE calculation for each future 6-month FAC review period equal to $4.62/MWh:

e. All other components of the Company's PUE calculation methodology not explicitly modified in this Settlement Agreement shall remain unchanged.

4. Future Prospective PUE Changes.

a. The Signatory Parties agree that any party can propose to modify the startup cost component of the Company's PUE calculation in the Company's next base rate case.

b. The Signatory Parties agree that any future proposed changes to the PUE calculation shall be made in base rate proceedings so that any resulting non-FAC eligible costs are incorporated into the Company's base rate revenue requirement.

c. The transitional monthly credits totaling $16,900,000 agreed upon in this Settlement Agreement shall be excluded when calculating the ongoing level of PUE costs included in base rates in the Company's future base rate proceedings.

5. Filing of Settlement Agreement.

Following the execution of this Settlement Agreement, the Signatory Parties shall file this Settlement Agreement with the Commission along with a joint request to the Commission for approval of this Settlement Agreement in its entirety without modification.

6. Good Faith and Best Efforts to Seek Approval.

a. The Signatory Parties shall act in good faith and use their best efforts to recommend to the Commission that this Settlement Agreement, and the settlement agreement to be filed in the 2-year review proceeding concerning the 2022-2024 FAC Review Period, described in Paragraph 2.d above, be approved in their entirety and without modification.

b. The Signatory Parties further agree to support the reasonableness and enforceability of this Settlement Agreement, and the settlement agreement to be filed in the 2-year review proceeding concerning the 2022-2024 FAC Review Period, described in Paragraph

2.d above, before the Commission, and to cause their counsel to do the same, including in connection with any appeal from the Commission's adoption or enforcement of either settlement agreement.

c. No party to this Settlement Agreement shall challenge any order of the Commission approving the Settlement Agreement in its entirety and without modification.

7. Failure of Commission to Approve Settlement Agreement.

If the Commission does not accept and approve this Settlement Agreement in its entirety and without modification, then any adversely affected Signatory Party may withdraw from the Settlement Agreement within the statutory periods provided for rehearing and appeal of the Commission's order by (1) giving written notice of withdrawal to all other Parties and (2) timely filing for rehearing or appeal. Upon the latter of (1) the expiration of the statutory periods provided for rehearing and appeal of the Commission's order and (2) the conclusion of all rehearings and appeals, all Signatory Parties that have not withdrawn will continue to be bound by the terms of the Settlement Agreement as modified by the Commission's order.

8. Continuing Commission Jurisdiction.

This Settlement Agreement shall in no way be deemed to divest the Commission of jurisdiction under Chapter 278 of the Kentucky Revised Statutes.

9. Effect of Settlement Agreement.

This Settlement Agreement shall inure to the benefit of, and be binding upon, the parties to this Settlement Agreement, their successors, and assigns.

10. Complete Agreement.

This Settlement Agreement constitutes the complete agreement and understanding among the parties to this Settlement Agreement. Any and all oral statements, representations, or agreements made prior hereto or contained contemporaneously herewith shall be null and void and shall be deemed to have been merged into this Settlement Agreement.

11. Independent Analysis.

The terms of this Settlement Agreement are based upon the independent analysis of the parties to this Settlement Agreement, are the product of compromise and negotiation, and reflect a fair, just, and reasonable resolution of the issues herein. Notwithstanding anything contained in this Settlement Agreement, the Signatory Parties recognize and agree that the effects, if any, of any future events upon the income of Kentucky Power are unknown and this Settlement Agreement shall be implemented as written.

12. Settlement Agreement and Negotiations Are Not an Admission.

a. The Settlement Agreement shall not be deemed to constitute an admission by any party to this Settlement Agreement that any computation, formula, allegation, assertion, or contention made by any other party in these proceedings is true or valid. Nothing in this Settlement Agreement shall be used or construed for any purpose to imply, suggest, or otherwise indicate that the results produced through the compromise reflected herein represent fully the objectives of the Signatory Parties.

b. Neither the terms of this Settlement Agreement nor any statements made or matters raised during the settlement negotiations shall be admissible in any proceeding, or binding on any of the Signatory Parties, or be construed against any of the Signatory Parties, **except that** in the event of litigation or proceedings involving the approval, implementation or enforcement of this Agreement, the terms of this Settlement Agreement shall be admissible. This Settlement Agreement shall not have any precedential value in this or any other jurisdiction.

13. Consultation with Counsel.

The Signatory Parties warrant that they have informed, advised, and consulted with their respective counsel with regard to the contents and significance of this Settlement Agreement and are relying upon such advice in entering into this agreement.

14. Authority to Bind.

Each of the signatories to this Settlement Agreement hereby warrant they are authorized to sign this agreement upon behalf of, and bind, their respective parties.

15. Construction of Agreement.

This Settlement Agreement is a product of negotiation among all Signatory Parties, and no provision of this Settlement Agreement shall be construed in favor of or against any party hereto. This Settlement Agreement is submitted for purposes of this case only and is not to be deemed binding upon the parties hereto in any other proceeding, nor is it to be offered or relied upon in any other proceeding involving Kentucky Power or any other utility, except when necessary to support the enforceability of the commitments made in this Settlement Agreement.

16. Counterparts.

This Settlement Agreement may be executed in multiple counterparts.

17. Future Rate Proceedings.

Subject to Paragraphs 2, 3 and 4 of this Agreement, nothing in this Settlement Agreement shall preclude, prevent, or prejudice any party to this Settlement Agreement from raising any argument or issue, or challenging any adjustment, in any future rate proceeding of Kentucky Power.

IN WITNESS WHEREOF, this Settlement Agreement has been agreed to by and between the following Signatory Parties as of this 13th day of November 2024.

KENTUCKY POWER COMPANY

By: Christen M. Blend

Its: Counsel

ATTORNEY GENERAL OF THE COMMONWEALTH OF KENTUCKY

By: John G. Horne II

Its: Executive Director
Office of Rate Intervention

KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.

By: Michael L. Kurtz

Its: Counsel

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