

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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 ACCOUNTING)	CASE NO.
PRACTICES TO ESTABLISH REGULATORY)	2023-00159
ASSETS AND LIABILITIES; (4) A)	
SECURITIZATION FINANCING ORDER; AND (5))	
ALL OTHER REQUIRED APPROVALS AND)	
RELIEF)	

ORDER

On February 21, 2025, the Commission issued an Order in this Case, establishing revised rates in response to the Franklin Circuit Court’s January 22, 2025 Order. Thereafter, Kentucky Power Company (Kentucky Power) filed a motion for expedited rehearing on February 25, 2025; Joint Intervenors filed a motion for rehearing on March 4, 2025; and Kentucky Power filed a response to Joint Intervenors’ motion for rehearing on March 7, 2025.¹

PROCEDURAL BACKGROUND

This case originated with Kentucky Power Company’s filing of an application requesting, among other items, “approval of a general adjustment of its electric rates[.]”²

¹ Kentucky Power’s Motion for Expedited Rehearing (filed Feb. 25, 2025); Joint Intervenors’ Motion for Rehearing and response to Kentucky Power’s Motion for Expedited Rehearing (filed Mar. 4, 2025); and Kentucky Power’s response to Joint Intervenors’ Motion for Rehearing (filed Mar. 7, 2025). Joint Intervenors in this case are Mountain Association (MA), Appalachian Citizens Law Center (ACLC), Kentuckians for the Commonwealth (KFTC), and the Kentucky Solar Energy Society (KYSES).

² Application at 1.

The procedural history to this case is extensive and the Commission directs all readers to the January 19, 2024 final Order in this case for a full recitation of the facts and process.³ Relevant to this Order, Kentucky Power’s application sought an approximately 13.6 percent increase above the test-year retail sales revenue, which in real dollars amounted to an additional \$93,935,727 above its test-year retail sales revenues of \$694,002,526.⁴ Kentucky Power argued that the increased rates were necessary to allow the utility to operate effectively and because the current rates at the time of the application provided Kentucky Power less return on equity than was supported in the application.⁵

Following discovery, Kentucky Power filed a settlement agreement for the Commission’s consideration (settlement) in which Walmart Inc. (Walmart), Kentucky Industrial Utility Customers (KIUC), and Joint Intervenors joined. Though parties to the case, neither the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), nor SWVA Kentucky, LLC (SWVA), signed onto the settlement; though neither party objected to the terms of the settlement agreement.⁶

The settlement addressed a number of areas, but relevant to this Order, the settlement stated that Kentucky Power’s electrical retail revenues should be increased by \$74,666,028 instead of \$93,935,727 requested in Kentucky Power’s application.⁷ As part of the settlement, the PJM LSE OATT expense, which represents transmission costs

³ Final Order (Ky. PSC Jan. 19, 2024) at 2-12.

⁴ Application at 10; Final Order (Ky. PSC Jan. 19, 2024) at 2.

⁵ Application at 8-9; Final Order (Ky. PSC Jan. 19, 2024) at 3.

⁶ Final Order (Ky. PSC Jan 19, 2024) at 8.

⁷ Final Order (Ky. PSC Jan 19, 2024) at 8.

allocated to Kentucky Power pursuant to the AEP Transmission Agreement, were included in Kentucky Power's revenue requirement for base rates.⁸ Kentucky Power stated that the total annualized expense of the PJM LSE OATT was approximately \$136.4 million, which included \$122.2 million in actual test-year expenses and a proforma adjustment to the test year expense of about \$14.2 million.⁹ The Commission accepted the \$122.2 million test-year sum, but found the additional \$14.2 million adjustment unreasonable.¹⁰ Additionally, the Commission reduced the recoverable portion of Kentucky Power's rate case expense adjustment by \$64,000.¹¹ Notably, the Commission allocated the removal of the entirety of these disallowed adjustments from the residential rate classes.¹² Following these adjustments, Kentucky Power was ultimately allowed to increase its base rate revenues by \$60,096,031, or stated differently, approximately 11.96 percent.¹³

After the Commission issued the January 19, 2024 final Order, Kentucky Power appealed the Commission's disallowances of the \$14.2 million adjustment to annual PJM LSE OATT test-year expense and the \$64,000 reduction in rate case expense.¹⁴ On January 22, 2025, the Franklin Circuit Court reversed the Commission's findings on the annual PJM LSE OATT expense and the rate case expense reductions, stating that: "[t]his

⁸ Final Order (Ky. PSC Jan 19, 2024) at 37.

⁹ Final Order (Ky. PSC Jan 19, 2024) at 36.

¹⁰ Final Order (Ky. PSC Jan. 19, 2024) at 37.

¹¹ Final Order (Ky. PSC Jan. 19, 2024), Appendix B.

¹² Final Order (Ky. PSC Jan. 19, 2024) at 44.

¹³ Final Order (Ky. PSC Jan. 19, 2024) at 44-45.

¹⁴ *Kentucky Power Company v. Public Service Commission of Kentucky, et al.*, Franklin Circuit Court Civil Action 24-CI-00160, filed Feb. 16, 2024.

matter is remanded to the Commission with directions to enter an order, within 30 days of the date of entry, consistent with the findings, including setting rates to allow Kentucky Power to recover the \$14.2 million annual Transmission Expense adjustment.”¹⁵

After the Franklin Circuit Court issued its Order, Commission Staff held an informal conference on February 10, 2025, attended by Kentucky Power and other parties involved in the original rate case. The parties discussed the Franklin Circuit Court’s Order, after which Kentucky Power filed its Notice of Filing of Rates to be Implemented After Appeal, describing proposed rates which Kentucky Power believed were necessary to cover the \$14.2 million in annual PJM LSE OATT expense. On February 21, 2025, the Commission issued an Order establishing new rates in accordance with the Franklin Circuit Court Order. The new rates changed the Residential Service – RS Tariff to:

RS Service Charge \$24.50 per month

Energy Charge 11.652 cents per kWh

The new February 21, 2025 rates raised the service charge from \$20 per month and lowered the energy charge from 12.785 cents per kWh.

On February 25, 2025, Kentucky Power filed a motion for expedited rehearing requesting that the Commission’s updated rates were insufficient to fully recover the \$14.2 million in annual PJM LSE OATT expense.¹⁶ Specifically, Kentucky Power’s motion argued that the energy charge prescribed for Tariff R.S. did not allow Kentucky Power to

¹⁵ *Kentucky Power Company v. Public Service Commission of Kentucky, et al.*, Franklin Circuit Court Civil Action 24-CI-00160, Jan. 22, 2025, Order at 11.

¹⁶ Kentucky Power’s Motion for Expedited Rehearing and for Compliance with the Franklin Circuit Court’s Order on Appeal (Motion for Expedited Rehearing) (filed Feb. 25, 2025) at 7.

collect the increased base fuel rate Kentucky Power was entitled to.¹⁷ Additionally, Kentucky Power noted that the Commission's updated rates did not allow Kentucky Power to recover the transmission expense from the remaining residential tariff rate classes.¹⁸ Kentucky Power requested that the Commission grant Kentucky Power "deferral authority to accumulate and defer for later recovery the portion of the \$14.2 million annual Transmission Expense Adjustment that should have been recovered beginning February 21, 2025 through the date so ordered by the Commission, to be amortized and recovered over six months through a temporary surcharge."¹⁹ Alternatively, Kentucky Power proposed recovering that portion of the transmission expense by adding it to the Tariff P.P.A Under-Recovery Regulatory Asset.²⁰

Finally, in addition to requesting updated rates and recommending that the new rates impact all of the residential tariff rate classes, Kentucky Power requested that the Commission also approve what it referred to as the historical, or "catch-up", amounts of the \$14.2 million in annual PJM LSE OATT expense that was not included in Kentucky Power's revenue requirement between January 16, 2024, and the Commission's implementation of the Franklin County Circuit Court's January 22, 2025 Order. Kentucky Power argued that the Franklin Circuit Court Order required the Commission not only to set rates prospectively based on a revenue requirement that included the \$14.2 million in

¹⁷ Motion for Expedited Rehearing at 7-8. The Commission approved the increase base fuel rate in Case. No 2023-00008, *An Electronic Examination of the Application of the Fuel Adjustment Clause of Kentucky Power Company from November 1,2020 Through October 31, 2022* (Ky. PSC Dec. 13, 2024), final Order.

¹⁸ Motion for Expedited Rehearing at 7. Those rate subclasses are: Tariff R.S.-L.M.-T.O.D., Tariff R.S.-T.O.D., Tariff R.S.-T.O.D.2, and Tariff R.S.D.

¹⁹ Motion for Expedited Rehearing at 13.

²⁰ Motion for Expedited Rehearing at 13, footnote 17.

additional annual PJM LSE OATT expense but also required the Commission to set rates allowing the recovery of an amount based on the period in which the revenue requirement used to calculate base rates did not include the \$14.2 million in annual PJM LSE OATT expense.²¹

On March 4, 2025, Joint Intervenors filed their own motion for rehearing and response to Kentucky Power.²² Joint Intervenors requested rehearing on the rates issued by the Commission in its February 21, 2025 Order. Specifically, Joint Intervenors requested that the Commission reset the Tariff R.S. Service Charge back to the \$20 per month, or alternatively, that the Commission “grant rehearing and set a procedural schedule to receive additional evidence regarding the justness and reasonableness of doing so.”²³ Joint Intervenors argued that the PJM LSE OATT expense was demand related, and therefore, the record did not support an adjustment to the Service Charge.²⁴ Joint Intervenors argued that KRS 278.400, which governs the process and standards for rehearing, authorized the Commission to establish a procedural schedule and that the Franklin Circuit Court’s January 22, 2025 Order did not require the Commission to issue an expedited Order. Joint Intervenors reasoned that reopening the record for additional discovery would be “consistent with the [Franklin Circuit Court’s] decision requiring the

²¹ Motion for Expedited Rehearing at 11.

²² Motion for Rehearing and Response to Kentucky Power Company’s Motion for Expedited Rehearing of Joint Intervenors (Joint Intervenors’ Motion for Rehearing) (filed Mar. 4, 2025).

²³ Joint Intervenors’ Motion for Rehearing at 6-7.

²⁴ Joint Intervenors’ Motion for Rehearing at 9.

Commission implement its findings, and the Commission's Legal obligation to engage in reasoned decision-making."²⁵

On March 7, 2025, Kentucky Power filed a response to Joint Intervenors' Motion for Rehearing.²⁶ Kentucky Power did not oppose Joint Intervenors' request for a rehearing, instead arguing that the motion would be mooted if the Commission issued rates utilizing the original Service Charge.²⁷ Kentucky Power also stated that implementing a full procedural schedule on rehearing to take additional evidence would prejudice Kentucky Power.²⁸ Additionally, Kentucky Power requested, consistent with its Motion for Expedited Rehearing, that the Commission issue an Order by March 17, 2025, allowing Kentucky Power to recover the \$14.2 Million in annual Transmission Expense Adjustment for the period between the Commission's final Order in this case²⁹ and the Franklin Circuit Court's Order; and that the Commission grant Kentucky Power deferral authority to collect the full annual Transmission Expense Adjustment for the period beginning February 21, 2025, and the issuance of this Order.³⁰

²⁵ Joint Intervenors' Motion for Rehearing at 14.

²⁶ Kentucky Power Company's Response to Joint Intervenors' Motion for Rehearing (Kentucky Power's Response to Joint Intervenors' Motion) (filed Mar. 7, 2025).

²⁷ Kentucky Power's Response to Joint Intervenors' Motion at 2.

²⁸ Kentucky Power's Response to Joint Intervenors' Motion at 2-3.

²⁹ As stated in footnote 21 of this Order, January 19, 2024, is the date the Commission issued its rates.

³⁰ Kentucky Power's Response to Joint Intervenors' Motion at 3.

LEGAL STANDARD

Kentucky Power filed its rate increase application pursuant to KRS 278.180; KRS 278.190; KRS 278.220³¹; 807 KAR 5:001³², Sections 14 through 16; 807 KAR 5:011³³; and 807 KAR 5:041.³⁴

Relevant to the Commission's findings below, KRS 278.030(1)³⁵ limits utilities to collect only "fair, just and reasonable rates[.]" and KRS 278.040(2) empowers the Commission with "exclusive jurisdiction over the regulation of rates and service of utilities[.]" The Commission's statutory rate-making authority is a function of its quasi-legislative duties intended to provide "stability and notice to all entities involved in the rate process."³⁶ To that end, KRS 278.160 states, in relevant part, the following:

(1) Under rules prescribed by the commission, each utility shall file with the commission, within such time and in such form as the commission designates, schedules showing all rates and conditions for service established by it and collected or enforced. The utility shall keep copies of its schedules open to public inspection under such rules as the commission prescribes.

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

³¹ KRS 278.220 empowers, among other items, the Commission to establish a system of accounts.

³² 807 KAR 5:001, Sections 14 through 16, generally govern the application requirements for rate adjustments and certificates of public convenience and necessity

³³ 807 KAR 5:011 establishes the general requirements for utility tariffs.

³⁴ 807 KAR 5:041 establishes the general rules which apply to electric utilities.

³⁵ See also, *Pub. Serv. Comm'n v. Com. ex rel. Conway*, 324 S.W.3d 373, 377 (Ky. 2010).

³⁶ *Cincinnati Bell Telephone Co. v. Kentucky Public Service Com'n.*, 223 S.W.3d 829, 837-838 (Ky. App. 2007).

Additionally, KRS 278.180(1) forbids utilities from adjusting a filed rate without first providing thirty days' notice to the Commission, "stating plainly the changes proposed to be made and the time when the changed rates will go into effect."

For its part, KRS 278.190 governs several crucial aspects related to rate adjustment applications. First, KRS 278.190(1) authorizes the Commission to, "upon reasonable notice, hold a hearing concerning the reasonableness of the new rates."³⁷ Additionally, KRS 278.190(2) authorizes the Commission to suspend the operation of proposed rates for a period of up to "five (5) months beyond the time when it would otherwise go into effect if an historical test period is used[.]"³⁸ If the Commission does not issue an Order at the conclusion of this five month period a utility may notify the Commission, in writing, of its intention to place the increased rate into effect. But, KRS 278.190(2) is clear that a proposed rate is not final until the Commission has deemed it so through an order, and explicitly empowers the Commission to direct the utility to maintain sufficient records to issue refunds to ratepayers for the portion of the rates the Commission, "by its decision [has] found unreasonable."³⁹ Finally, KRS 278.190(3) explicitly places "the burden of proof to show that the increased rate or charge is just and reasonable [on] the utility[.]"

Once the Commission has issued an Order, KRS 278.390 states that:

³⁷ Relatedly, KRS 278.270 requires the Commission to, after a hearing, and finding that "any rate is unjust, unreasonable, insufficient, unjustly discriminatory or otherwise in violation of any of the provisions of [KRS Chapter 278],. . . [to] by order prescribe a just and reasonable rate to be followed in the future."

³⁸ KRS 278.190(2) allows for a six-month suspension of rates when a utility files its application with a "forward-looking test period[.]"

³⁹ KRS 278.190(4) governs a utility's responsibilities to ratepayers if the Commission finds that a refund must be issued.

[e]very order entered by the commission shall continue in force until the expiration of the time, if any, named by the commission in the order, or until revoked or modified by the commission, unless the order is suspended, or vacated in whole or in part, by order or decree of a court of competent jurisdiction.

Parties may, pursuant to KRS 278.400, file an application for rehearing of Commission Orders and the Commission must grant or deny the application within 20 days after it is filed. If the Commission does not file an Order within the 20 days, the application is deemed denied. Additionally, KRS 278.400 establishes the standard of review for rehearing applications, requiring that only evidence which “could not with reasonable diligence have been offered on the former hearing[]” be considered. At the conclusion of the rehearing, the Commission “may change, modify, vacate or affirm its former orders, and make and enter such order as it deems necessary.

Finally, KRS 278.450 states that:

Upon final submission of any action brought under KRS 278.410, the Circuit Court shall enter a judgment either sustaining the order of the commission or setting it aside or vacating it in whole or in part, or modifying it, or remanding it to the commission with instructions. Any final order of the commission, on remand of the proceedings, shall be subject to court review in the same manner as any other final order of the commission. Either party to the action may appeal from the judgment of the Circuit Court to the Court of Appeals in accordance with the Rules of Civil Procedure.

DISCUSSION AND FINDINGS

As with the Commission’s February 21, 2025 Order, also issued on an expedited basis, this Order addresses specifically the Franklin Circuit’s Order reversing the Commission’s disallowance of the additional \$14.2 million in annual PJM LSE OATT expense and the \$64,000 in rate case expense adjustment. Parties should take care to

review the extensive record and the Commission’s prior Orders in this case for further guidance regarding broader issues related to Kentucky Power’s original application for a general adjustment of rates.

“Catch Up” Rates

As noted above, Kentucky Power argued that the “Commission’s Order on remand [is] silent as to, and therefore disallows, recovery of the historical, or ‘catch-up,’ amounts that Kentucky Power was prevented from recovering from January 16, 2024[,] through the date of the Order On Remand.”⁴⁰ Kentucky Power argued that not being allowed to recover the historical PJM LSE OATT expense adjustment violated the Franklin Circuit Court’s Order because it would “disallow[] recovery of the \$14.2 million annually of FERC⁴¹-approved and FERC-jurisdictional Transmission Expense that otherwise should have been collected beginning January 16, 2024.”⁴² Additionally, Kentucky Power argued that the Franklin Circuit Court held the Commission did not have the jurisdiction to reduce or disallow expenses approved by the Federal Energy Regulatory Commission (FERC). Finally, Kentucky Power argued that any position opposed to allowing the historical transmission expense was a “logical fallacy” that would cause Kentucky Power to “bear the cost of the Commission’s unlawful Original Order until such time as a reviewing court confirms the Original Order’s unlawfulness.”⁴³

⁴⁰ Kentucky Power’s Motion for Expedited Rehearing at 10.

⁴¹ FERC is the Federal Energy Regulatory Commission.

⁴² Kentucky Power’s Motion for Expedited Rehearing at 10.

⁴³ Kentucky Power’s Motion for Expedited Rehearing at 11.

As the Commission discussed in its February 21, 2025, Order, KRS 278.450 states that when reviewing an Order of the Commission:

[T]he Circuit Court shall enter a judgment either sustaining the order of the commission or setting it aside or vacating it in whole or in part, or modifying it, or remanding it to the commission with instructions.

In this case, the Franklin Circuit Court made two fundamental findings: (1) that the Commission's disallowance of the adjustment to Kentucky Power's annual test year transmission expenses was improper⁴⁴; and (2) that the Commission's disallowance of the rate case expense without an explanation was "deficient, and therefore unreasonable."⁴⁵ The Court remanded the matter "to the Commission with directions to enter an order, within 30 days of the date of entry, consistent with the findings, including setting rates to allow Kentucky Power to recover the \$14.2 million annual Transmission Expense Adjustment."⁴⁶ However, nothing in the Franklin Circuit Court's Order authorized or required the Commission to set rates allowing the recovery of the "historical" or "catch-up" amounts.

The Commission establishes base rates, pursuant to KRS 278.192 and 807 KAR 5:001, Section 16(1)(a), based on either a historical test year with known and measurable adjustments or a fully forecasted test year based on a historical base period. In the case of a historical test period, the actual historical test year expenses, with adjustments for

⁴⁴ *Kentucky Power Company v. Public Service Commission of Kentucky, et al.*, Franklin Circuit Court Civil Action 24-CI-00160, Jan. 22, 2025 Order at 7,9.

⁴⁵ *Kentucky Power Company v. Public Service Commission of Kentucky, et al.*, Franklin Circuit Court Civil Action 24-CI-00160, Jan. 22, 2025 Order at 11.

⁴⁶ *Kentucky Power Company v. Public Service Commission of Kentucky, et al.*, Franklin Circuit Court Civil Action 24-CI-00160, Jan. 22, 2025 Order at 11.

known and measurable changes to those expenses, are used to determine the revenue requirement, or what it is expected to cost to provide service for a year, and rates are set at levels that are expected to allow for the recovery of that annual revenue requirement based on test year revenues and billing determinants such as expected usage and customer counts.

The Franklin Circuit Court's Order recognized the Commission's use of a test year revenue requirement to set rates and the use of adjustments for known and measurable changes to test years costs "that will more accurately reflect the cost of providing service going forward." As noted above, the Court then found that the Commission improperly rejected Kentucky Power's proposed adjustment to the test year transmission expense and remanded the case to the Commission to set rates to "allow Kentucky Power to recover the \$14.2 million annual Transmission Expense Adjustment." In doing so, the Court directed the Commission to enter a new order setting rates based on a test year revenue requirement that included Kentucky Power's \$14.2 million annual Transmission Expense Adjustment and thereby allowed recovery of that amount going forward. Thus, while the rates were initially calculated incorrectly as discussed below, the Commission complied with the Franklin Circuit Court's Order by setting rates, based on the test year revenue requirement, with the adjustment increasing the test year's actual annual Transmission Expense by \$14.2 million and including the \$64,000 in rate case expense that the Court found was improperly excluded from the revenue requirement.

Moreover, KRS 278.390 plainly states that "[e]very order entered by the commission shall continue in force until the expiration of the time, if any, named by the commission in the order, or until revoked or modified by the commission, unless the order

is suspended, or vacated in whole or in part, by order or decree of a court of competent jurisdiction.” The Commission’s January 19, 2024 Order, therefore, remained in full force and effect up until modified pursuant to the Franklin Circuit Court’s Order reversing and remanding the matter to the Commission to enter an Order consistent with its findings.

Kentucky Power’s position also carries with it risks to ratepayers because it implies that any appealable or appealed Commission Order lacks finality. Since ratepayers are a captive audience, it is inappropriate to saddle them with additional risk. This is especially true in light of KRS 278.160(2), which establishes the scope of the relationship between the utility and the ratepayer, and states that: “[n]o utility shall charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules.” In this case, the filed rates in question were final upon the issuance of the Commission’s January 19, 2024 Order. Indeed, the General Assembly recognized the prospective nature of utility rates when adopting KRS 278.270, which addresses the adjustment of filed rates requires that: “the commission shall by order prescribe a just and reasonable rate to be followed in the future.”⁴⁷

As Kentucky Power’s motion recognizes, in order to allow for the recovery of the “catch-up amounts”, it would be necessary to allow Kentucky Power to record a regulatory asset,⁴⁸ and then increase rates to collect an amount in excess of its newly adjusted test

⁴⁷ See also *Cincinnati Bell Telephone Co. v. Kentucky Public Service Com’n*, 223 S.W.3d 829, 837-839 (Ky. App. 2007).

⁴⁸ The recording of a regulatory asset involves capitalizing an amount that should have been expensed in a given period for recovery in a future case. See Case No. 2016-00180, *Application of Kentucky Power Company for an Order Approving Accounting Practices to Establish Regulatory Assets and Liabilities Related to the Extraordinary Expenses Incurred by Kentucky Power Company in Connection with the Two 2015 Major Storm Events* (Ky. PSC Nov. 3, 2016), final Order.

year revenue requirement. Specifically, Kentucky Power proposed in its Motion for Expedited Rehearing that the Commission either add the “catch-up” amount of PJM LSE OATT Expense adjustment to the existing Tariff P.P.A. Under-Recovery Regulatory Asset or to establish a new regulatory asset “to be amortized through a temporary surcharge over 12-24 months from the date of its order on remand, and trued-up at the end of the amortization period in order to ensure full recovery.”⁴⁹ However, consistent with KRS 278.160, KRS 278.192, and KRS 278.390, the Franklin Circuit Court’s Order did not require a regulatory asset to be created for the difference in the amount of transmission expense in the revenue requirement during the pendency of the appeal.⁵⁰ Thus, having reviewed the record and being otherwise sufficiently advised, the Commission finds that allowing the recovery, on a deferred basis, of the “catch-up amounts” through a regulatory asset is not required nor reasonable in this instance and should not be authorized.⁵¹

⁴⁹ Kentucky Power’s Motion for Expedited Rehearing at 12, FN 16.

⁵⁰ If the Court had required the creation of a regulatory asset for the recovery of the “catch-up amounts” as proposed by Kentucky Power, there would be questions regarding the amount of the regulatory asset that should be recorded. As noted above, base rates are established based on a test period but the numbers in the test period may vary from reality. For that reason, it is possible that Kentucky Power was able to recover its reasonable expenses and a reasonable return on its investment, or its test year revenue requirement, despite the fact that the \$14.2 transmission expense adjustment that the Court found to be reasonable was not included in the revenue requirement used to establish rates—for example, if actual sales during the pendency of the appeal were higher than those used to calculate rates. Kentucky Power also could have sought additional relief from the court as part of or during the pendency of the appeal.

⁵¹ Since the Commission is not authorizing the creation of a regulatory asset for the recovery of the “catch-up amounts,” the question of the mechanism through which the regulatory asset will be recovered is moot. However, assuming the regulatory asset had been authorized and the securitization statutes permitted recovery through securitization, the Commission believes that it would have been necessary to amend the financing order to allow such recovery. Out of abundance of caution, the Commission notes that this order should not be construed as modifying the financing order in any way.

Prospective Rates Based on Revenue Requirement that includes Adjustment to Annual PJM LSE OATT Expense

In the Commission's February 21, 2025 Order, the Commission issued new rates intended to allow prospective recovery of the test year revenue requirement with the entire \$14.2 million annual PJM LSE OATT expense adjustment and the \$64,000 rate case expense adjustment. The Commission's February 21, 2025 Order inadvertently only adjusted rates for residential customers taking service under Tariff – R.S. Service Charge and Energy Charge instead of reflecting the change for all residential customers as intended.⁵² Additionally, the rates issued by the Commission did not account for the increased base fuel rates approved in Case No. 2023-00008,⁵³ updated during the pendency of this matter. Kentucky Power's Motion for Expedited Rehearing brought these omissions to the Commission's attention as well as provided the Commission with proposed revised rates which Kentucky Power stated would allow full recovery of the relevant expenses going forward.⁵⁴ The Commission has reviewed the revised rates and finds that the proposed rates provided by Kentucky Power correctly allocate the PJM LSE OATT expense adjustment. The Commission, therefore, finds that the rates issued in the Appendix of its February 21, 2025 Order were erroneously calculated, and therefore, finds that the rates in that Appendix should be struck and replaced, *nunc pro tunc*, with the

⁵² The Commission notes that Kentucky Power conducted a thorough Cost of Service Study which the Commission discussed in its Final Order; and which the Commission recognized supported a customer charge of \$51 per month, well and truly above the \$20 per month customer charge ultimately approved.

⁵³ Case No. 2023-00008, *An Electronic Examination of the Application of the Fuel Adjustment Clause of Kentucky Power Company From November 1, 2020 Through October 31, 2022* (Ky. PSC Dec. 13, 2024), final Order.

⁵⁴ Kentucky Power's Rate Design and Appendix C (filed Feb. 11, 2025); Kentucky Power's Motion for Expedited Rehearing at 6-10.

rates attached to the Appendix of this Order. These rates result in fair just and reasonable rates based on the Court's Order and should be effective as of February 21, 2025.

IT IS THEREFORE ORDERED that:

1. Kentucky Power's Motion for Expedited Rehearing is granted in part and denied in part.

2. Joint Intervenors' Motion for Rehearing is denied as moot.

3. The Appendix in the Order dated February 21, 2025, is stricken and replaced with the rates in the Appendix to this Order.

4. Kentucky Power's request for a regulatory asset to recover the "historical" PJM LSE OATT expense adjustment dating from January 16, 2024, through February 21, 2025, is denied.

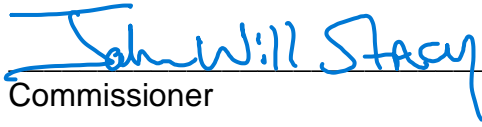
5. Within 20 days of the date of this Order, Kentucky Power shall file with the Commission, using the Commission's electronic Tariff Filing System, new tariff sheets setting forth the rates, charges, and modifications approved or as required in this Order, and reflecting their effective date of February 21, 2025, as authorized by this Order.

6. This case shall remain open for further related proceedings.

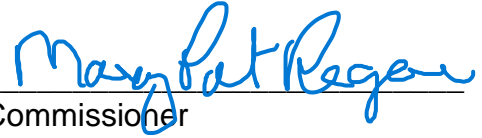
PUBLIC SERVICE COMMISSION



Chairman



Commissioner



Commissioner

ATTEST:

 *RP*

Executive Director

ENTERED
MAR 17 2025 AH
KENTUCKY PUBLIC
SERVICE COMMISSION

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2023-00159 DATED MAR 17 2025

The following rates and charges are prescribed for the customers in the area served by Kentucky Power Company. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under the authority of this Commission prior to the effective date of this Order.

Tariff R.S.
Residential Service

Service Charge per month	\$ 20.00
Energy Charge per kWh	\$ 0.12785
Storage Water Heating Provision per kWh	\$ 0.09317
Load Management Water Heating Provision per kWh	\$ 0.09317

Tariff R.S. – L.M. – T.O.D.
Residential Service Load Management Time of Day

Service Charge per month	\$ 23.00
Separate Meter Provision per month	\$ 4.30
Energy Charge per kWh:	
All kWh used during on-peak billing period	\$ 0.17335
All kWh used during off-peak billing period	\$ 0.09317

Tariff R.S. – T.O.D.
Residential Service Time of Day

Service Charge per month	\$ 23.00
Energy Charge per kWh:	
All kWh used during on-peak billing period	\$ 0.17335
All kWh used during off-peak billing period	\$ 0.09317

Tariff R.S. – T.O.D. 2
Experimental Residential Service Time of Day 2

Service Charge per month	\$ 23.00
Energy Charge per kWh:	
All kWh used during summer on-peak billing period	\$ 0.18291
All kWh used during winter on-peak billing period	\$ 0.13426
All kWh used during off-peak billing period	\$ 0.12167

Tariff R.S.D
Residential Demand-Metered Electric Service

Service Charge per month	\$ 23.00
Energy Charge per kWh:	
All kWh used during on-peak billing period	\$ 0.09861

All kWh used during off-peak billing period
Demand Charge per kW

\$ 0.09317
\$ 5.90

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