

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DUKE)	
ENERGY KENTUCKY, INC. FOR AN ORDER)	CASE NO.
TO ENTER INTO UP TO \$25,000,000)	2020-00322
PRINCIPAL AMOUNT OF CAPITAL LEASE)	
OBLIGATIONS)	

ORDER

On September 28, 2020, Duke Energy Kentucky, Inc. (Duke Kentucky) tendered its application for authority to enter into Capital Lease Obligations (Capital Leases) of up to a \$25 million principal amount over a period ending December 31, 2022. The application did not meet the minimum filing requirements and was deemed deficient. Duke Kentucky cured the deficiency on October 7, 2020, and the application was accepted for filing on that date. Duke Kentucky proposes to utilize the Capital Leases as another form of financing for capital requirements such as meters, computers, office equipment, and intangible property (i.e., software and site licenses).¹ Capital leases could also be used for land, plant or equipment in service; plant under construction; or land, plant or equipment to be acquired or constructed.² There are no intervenors in this proceeding, and the matter now stands submitted to the Commission for a decision.

Duke Kentucky states that the Capital Leases will have structures and terms similar to other forms of debt financing, but with the potential to lower the overall cost

¹ Application at 2–3.

² *Id.* at 3.

associated with financing property acquisitions.³ According to Duke Kentucky, lessors with credit ratings higher than Duke Kentucky's can often secure capital at a lower cost and may be able to better utilize tax depreciation benefits than Duke Kentucky can secure and use as lessee, which may lower the cost of financing.⁴

Duke Kentucky may enter into one or more participation agreements with its affiliates and a lessor in connection with the Capital Leases for the purpose of providing administrative efficiencies and for the convenience of the parties involved. At the end of a lease, Duke Kentucky anticipates that it will have the following options: (1) renew the lease, (2) purchase the property, or (3) terminate the lease.⁵ Duke Kentucky will retain its obligation to pursue the best terms available for the structure selected.

Having considered the evidence of record and being otherwise sufficiently advised, the Commission finds that Duke Kentucky's entering into Capital Lease obligations of up to \$25 million is for lawful objects within its corporate purposes, is necessary and appropriate for and consistent with the proper performance of its service to the public, is reasonably necessary and appropriate for such purposes, and should therefore be approved. We also find that Duke Kentucky should be required to document the Capital Leases into which it enters; therefore, we will impose the documentation requirements set forth in ordering paragraph 3 below.

³ *Id.* at 2.

⁴ *Id.*

⁵ *Id.* at 4.

IT IS THEREFORE ORDERED that:

1. Duke Kentucky is authorized to enter into Capital Leases of up to \$25 million in one or more transactions through December 31, 2022.

2. Duke Kentucky shall agree only to terms and prices that are consistent with the parameters set out in its application.

3. Duke Kentucky shall file with the Commission, within ten days after entering into a Capital Lease, a statement setting forth the starting date and period of the lease, a description of the property, the name and address of the lessor, the dollar amount of the lease, any stated or implied interest rate, all fees and expenses included in the lease, and a copy of any participation agreements. In addition, Duke Kentucky shall perform an analysis comparing the cost of financing through Capital Leases to that of other forms of debt financing for any Capital Lease in excess of \$1 million. The analysis and supporting data should be retained as documentation for establishing ratepayer benefits from Capital Leases during future rate proceedings.

4. The proceeds from the transactions authorized herein shall be used only for the lawful purposes set out in the application.

5. Any documents filed pursuant to ordering paragraph 3 of this Order shall reference this case number and shall be retained in the post-case correspondence file.

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

Nothing contained herein shall be construed as a finding of value for any purpose or as a warranty on the part of the Commonwealth of Kentucky or any agency thereof as to the securities authorized herein.

By the Commission



ATTEST:



Deputy Executive Director

Case No. 2020-00322

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