

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In The Matter of:

The Electronic Application of Duke Energy)
Kentucky, Inc., for: 1) An Adjustment of the)
Electric Rates; 2) Approval of an) Case No. 2017-00321
Environmental Compliance Plan and Surcharge)
Mechanism; 3) Approval of New Tariffs; 4))
Approval of Accounting Practices to Establish)
Regulatory Assets and Liabilities; and 5) All)
Other Required Approvals and Relief.)
)

DUKE ENERGY KENTUCKY, INC.’S

REPLY IN SUPPORT OF MOTION TO STRIKE

Comes now Duke Energy Kentucky, Inc. (Duke Energy Kentucky or Company), by counsel, and respectfully submits the following reply in support of its May 10, 2018 Motion to Strike the expert opinion testimony filed by the Attorney General (AG), respectfully stating as follows:

On May 3, 2018, the AG filed a petition for rehearing which raised three issues, but focused almost exclusively upon one question – whether the Commission correctly comprehends the function and purpose of testimony offered by the AG. Duke Energy Kentucky filed a response in opposition to the AG’s petition for rehearing and a motion to strike that portion of the expert opinion testimony tendered and disavowed by the AG. The AG and Northern Kentucky University (NKU) filed responses to the Company’s motion on May 17, 2018.

The AG’s response does not dispute that: (1) the AG primarily files opinion evidence and not fact evidence in Commission proceedings; (2) the Company expended significant time and

resources responding to the opinion testimony offered by the AG's witnesses; (3) the AG's witnesses have no independent standing to intervene or file testimony in a Commission proceeding; (4) offering useless opinion testimony complicates a case and makes it more expensive and time-consuming; (5) utilities are prejudiced by having no opportunity to respond to "positions" made known for the first time in the AG's brief when simultaneous briefing occurs; and (6) numerous cases from Kentucky and elsewhere demonstrate that due process and equitable estoppel apply equally to administrative proceedings as they do to judicial proceedings. It is an unnecessary waste of everyone's time and resources to procure *opinion* testimony and then tell the Commission that the testimony does not reflect the position of the party offering it.

WHEREFORE, Duke Energy Kentucky respectfully requests that its motion to strike be granted.

This 21st day of May, 2018.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that the foregoing electronic filing is a true and accurate copy of the document being filed in paper medium; that the electronic filing was transmitted to the Commission on May 21, 2018; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that a copy of the filing in paper medium is being hand delivered to the Commission on the 22nd day of May, 2018.



Counsel for Duke Energy Kentucky, Inc.