COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the matter of:	:	CASE NO. 2017-00321
ELECTRONIC APPLICATION OF DUKE ENERGY	:	
KENTUCKY, INC. FOR: 1) AN ADJUSTMENT OF	:	
THE ELECTRONIC RATES; 2) APPROVAL OF AN	:	
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	:	

KENTUCKY SCHOOL BOARDS ASSOCIATION'S (KSBA) REPLY TO DUKE ENERGY KENTUCKY, INC. RESPONSE TO KSBA'S PETITION FOR REHEARING

The Kentucky School Boards Association (KSBA), by counsel, respectfully submits the following Reply to Duke Energy Kentucky, Inc.'s ("Duke") response to KSBA's Petition for Rehearing.

Recently in Case 2017-00179, the Commission modified and undid portions of a settlement agreement reached by the majority of the parties (including KSBA) which included a K-12 tariff providing a $500,000 annual subsidy to the K-12 public and private schools within the Kentucky Power territory.[1] The $500,000 subsidy was to be absorbed by the other ratepayers on Rate LGS.[2] KCUC (Kentucky Commercial Utility Customers) objected to K-12 schools receiving the subsidy and the Commission cited to this subsidy ("discounted rate") and argument from KCUC as a reason to discontinue (and ultimately did terminate) the pilot K-12

[1] *Case No. 2017-00179, Electronic Application of Kentucky Power Company for a (1) 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 Approvals and Relief.*

[2] Final Order (subject to unrelated rehearing), Case No. 2017-00179, dated January 18, 2018, pgs. 58-59.

public and private school rate agreed upon (to be permanent) in the settlement agreement.[3] Notably, however, prior to its termination by the Commission in Case No. 2017-00179, the K-12 public school tariff had existed as a pilot tariff in Kentucky Power's territory since on or about 2014 arising out of a settlement in Case No. 2014-00396.[4]

Kentucky Power's previous K-12 public school tariff and Duke's Rate DS both have (or had) subsidies. The Commission terminated Kentucky Power's K-12 public school tariff in part based on dislike of the "discounted rate" or subsidy. Like the ratepayers on the former rate LGS in Kentucky Power's territory, P-12 public schools[5] in the Duke territory are *currently* inequitably and inappropriately subsidizing other customers on Rate DS in an approximate amount of $260,000 annually based on the imposition of an 85% demand ratchet in Rate DS.[6] The only difference between the two scenarios is that in Kentucky Power's case, K-12 schools *received* a net $500,000 annual benefit and conversely in the case at bar P-12 schools are *paying* the $260,000 annual inequitable subsidy for the benefit of other Rate DS ratepayers.

Decisions in rate cases should be consistent and consistency in policy decisions is a factor in review of administrative agency decisions by Courts.[7] If the Commission wishes to truly eliminate inequitable subsidies and adhere to, "what is good for the goose is good for the gander" then rehearing is appropriate to address and correct this inequitable subsidy here.

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[3] *Id*.

[4] *Id*.

[5] Without having private school data this $260,000 amount may be much higher for P-12 private and public schools combined.

[6] Testimony of Ronald Willhite, page 5, lines 2-3 (December 29, 2017).

[7] *Motor Vehicle Manufacturers Ass'n v. State Farm Mutual Automobile Insurance Co*., 463 U.S. 29 (1983).

Duke's response argues a few points. Below KSBA addresses each in turn. "…[t]he data underlying KSBA's calculations is speculative at best."[8] Not accurate, KSBA used all of the data provided by Duke which entailed 38 school accounts. [9] And, on Rate DS, in total 66 school accounts have average demand greater than 100 kw. Inasmuch, 58% of the data points (38) out of a small population (66) constitutes more than "speculation".

"KSBA continues to mistakenly claim that P-12 schools do not contribute to Duke Energy Kentucky's Peak load."[10] Duke misunderstands, KSBA merely claims that by schools peaking in September, P-12 schools do not contribute to Duke's peak (and need for capacity) in July at the September peak level.

"KSBA nonetheless tries to persuade the Commission that the only month Duke Energy Kentucky could experience a peak weather condition is the month of July."[11] Duke peaked five out of the last six years in July.[12] Weather can fluctuate but there appears an 83% chance (based on the last 6 years) that Duke will peak again in July – while schools are not in session. Duke however speculates it could peak in June or September however nothing in the record supports such a statement.

"The argument that Rate DS somehow conflicts with KRS 160.325 is simply not a legitimate argument".[13] The legislature previously mandated in KRS 160.325 that public schools enact measures to reduce the rising energy costs that are straining budgets. Duke misunderstood

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[8] p. 2 of Duke's Response, citing Rebuttal Testimony of Bruce Sailers, p. 10 (filed Feb. 14, 2018).

[9] KSBA Response to Question No. 3 of Commission Staff's First Data Requests.

[10] p.2 of Duke's Response, citing VR 5:49:20 (Mar. 7, 2018).

[11] p.2 of Duke's Response.

[12] Corrected Testimony of Ronald Willhite, p. 4 (March 5, 2018).

[13] p. 3 of Duke's Response.

KSBA's point on this issue. Specifically, while P-12 schools already have cost-saving measures in place to address to address energy costs, KSBA in turn addressed how the punitive 85% demand ratchet (fixed costs – generation and transmission costs; not energy costs) created a situation where the schools have no real incentive to conserve their demand throughout the year beyond their peak demand in September – given the 85% demand ratchet. And, such a dichotomy puts the P-12 schools in conflict with the legislative mandates set forth in KRS 160.325 as the P-12 schools will pay an inequitable demand fee billing wise throughout the year because they peak in September outside of Duke's peak in July.

In sum, the Commission recently undid a settlement, discontinuing a K-12 tariff, in the most recent Kentucky Power rate adjustment matter based in part on the perception of an unfair subsidy calling the tariff a "discounted rate" and arguments from KCUC pointing out same.[14] The shoe is on the other foot here and P-12 schools are subsidizing other Rate DS ratepayers. And, consistency is only fair.[15] Elimination of the unfair subsidy should occur. Rehearing is appropriate to address and correct this inequitable subsidy detrimental to Kentucky's public and private schools within Duke's territory.

[14] Final Order (subject to unrelated rehearing), Case No. 2017-00179, dated January 18, 2018, pgs. 58-59.

[15] *Motor Vehicle Manufacturers Ass'n v. State Farm Mutual Automobile Insurance Co*., 463 U.S. 29 (1983).

Respectfully submitted,

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CERTIFICATE OF SERVICE

It is hereby certified, this the 9th day of May, 2018, that the attached is a true and correct copy of the document being filed in paper medium; that the electronic filing has been transmitted to the Commission on May 9, 2018; that there are currently no parties that have been excused from participation by electronic service; that an original and six copies of this document are being mailed to the Commission on May 9, 2018; and that an electronic notification of the electronic filing will be provided to all counsel listed on the Commission's service list in this proceeding.

/s/Matt Malone

ATTORNEY FOR KSBA