

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

IN THE MATTER OF:

**ELECTRONIC JOINT APPLICATION OF)
LOUISVILLE GAS AND ELECTRIC)
COMPANY AND KENTUCKY UTILITIES)
COMPANY FOR REVIEW, MODIFICATION,)
AND CONTINUATION OF CERTAIN)
EXISTING DEMAND-SIDE MANAGEMENT)
AND ENERGY EFFICIENCY PROGRAMS)**

CASE NO. 2017-00441

DIRECT TESTIMONY AND EXHIBIT OF

KENNETH E. BAKER

ON BEHALF OF

WAL-MART STORES EAST, LP AND SAM'S EAST, INC.

Dated: March 21, 2018

**Wal-Mart Stores East, LP and Sam's East, Inc.
Direct Testimony of Kenneth E. Baker
Kentucky Public Service Commission, Case No. 2017-00441**

1 **Introduction**

2 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND OCCUPATION**
3 **FOR THE RECORD.**

4 A. My name is Kenneth E. Baker. I am employed by Walmart, Inc.¹ as the Senior Manager
5 of Sustainable Regulation. My business address is 2001 SE 10th Street, Bentonville, AR
6 72716.

7 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS DOCKET?**

8 A. I am testifying on behalf of Wal-Mart Stores East, LP and Sam's East, Inc. (collectively,
9 "Walmart").

10 **Q. PLEASE DESCRIBE YOUR EDUCATION AND PROFESSIONAL**
11 **EXPERIENCE.**

12 A. I received my Bachelor of Science in Health Science from the College of St. Frances in
13 1985. In 1992, I obtained a Juris Doctorate from the University of Arkansas at Little
14 Rock School of Law. From 1992 to 1999, I practiced law at the Center for Arkansas
15 Legal Services. I joined Walmart in November 1999 as the Manager of Real Estate, and
16 was responsible for locating sites around the United States to build distribution centers
17 and negotiating agreements with local communities related to the building of such
18 centers. In 2006, I transferred to the Energy Department. In my current role, I am
19 responsible for monitoring and participating in cases before state and federal utility
20 commissions and for monitoring energy legislation relevant to Walmart's business
21 operations. I have also been involved in the negotiation, drafting, and execution of
22 renewable energy and energy efficiency contracts.

¹ Effective February 1, 2018, Wal-Mart Stores, Inc. changed its corporate legal name to Walmart Inc.

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1 **Q. PLEASE STATE YOUR QUALIFICATIONS.**

2 A. My qualifications are attached hereto as Exhibit KEB-1.

3 **Q. HAVE YOU PREVIOUSLY TESTIFIED OR SUBMITTED TESTIMONY**
4 **BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION**
5 **("COMMISSION")?**

6 A. Yes, I submitted both Direct and Supplemental Testimony on behalf of Walmart in the
7 Companies' prior DSM proceeding at Case No. 2014-00003.

8 **Q. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY BEFORE OTHER**
9 **STATE REGULATORY COMMISSIONS?**

10 A. Yes. *See* Exhibit KEB-1.

11 **Q. ARE YOU SPONSORING EXHIBITS IN YOUR DIRECT TESTIMONY?**

12 A. Yes. I am sponsoring Exhibit KEB-1.

13 **Q. BRIEFLY DESCRIBE WALMART'S OPERATIONS IN KENTUCKY UTILITIES**
14 **COMPANY'S ("KU") AND LOUISVILLE GAS & ELECTRIC COMPANY'S**
15 **("LG&E") (COLLECTIVELY, "COMPANIES") SERVICE TERRITORIES.**

16 A. Walmart operates 36 facilities within KU's territory and 22 facilities within LG&E's
17 territory.

18 **Q. HOW DOES WALMART'S LOAD COMPARE TO OTHER CUSTOMERS IN**
19 **THE COMPANIES' SERVICE TERRITORIES?**

20 A. On an aggregated basis, Walmart's load is likely one of the largest loads served by the
21 Companies, making it one of the Companies' largest customers.

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1 **Q. UNDER WHAT RATE SCHEDULES DOES WALMART TAKE SERVICE**
2 **FROM THE COMPANIES?**

3 A. Walmart primarily takes service under Rates General Service ("GS"), Time-of-Day
4 Secondary Service ("TODS"), and Time-of-Day Primary Service ("TODP").

5

6 **Purpose of Testimony and Recommendations**

7 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

8 A. The purpose of my testimony is to address the industrial opt-out as proposed by the
9 Companies in their Application for Review, Modification, and Continuation of Certain
10 Existing Demand-Side Management ("DSM") and Energy Efficiency ("EE") Programs
11 ("Application").

12 **Q. PLEASE SUMMARIZE YOUR RECOMMENDATIONS TO THE COMMISSION.**

13 A. Walmart recommends the following to the Commission:

14 1) The Commission should reject the industrial opt-out as proposed by the Companies
15 because it arbitrarily excludes energy intensive customers taking service under
16 industrial rates, and fails to articulate how the rate classes selected by the Companies
17 for inclusion in the proposed industrial opt-out satisfies the "energy intensive"
18 requirement set forth in KRS 278.285(3).

19 2) When determining who does and does not qualify for the opt-out set forth in
20 KRS 278.285(3), the Commission should thoroughly evaluate and give considerable
21 deference to all customers that are receiving service under the Companies' industrial
22 rate schedules, especially those that historically and continually strive to be proactive
23 leaders in the implementation of DSM/EE measures.

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1 3) In the event the Commission rejects Walmart's recommendations concerning the
2 definition and parameters of the industrial opt-out, the Commission should implement
3 an alternative program, such as a self-direct option, in order to provide equitable
4 treatment to all large energy users.

5 **Q. DOES THE FACT THAT YOU MAY NOT ADDRESS AN ISSUE OR POSITION**
6 **ADVOCATED BY THE COMPANIES INDICATE WALMART'S SUPPORT?**

7 A. No. The fact that an issue is not addressed herein or in related filings should not be
8 construed as an endorsement of any filed position.

9

10 **Walmart's use of and participation in DSM and EE Programs.**

11 **Q. DOES WALMART INDEPENDENTLY INVEST IN DSM AND EE MEASURES?**

12 A. Yes.

13 **Q. CAN YOU GIVE SPECIFIC EXAMPLES OF WALMART'S DEPLOYMENT OF**
14 **DSM AND EE TECHNOLOGIES?**

15 A. Walmart has been an industry leader in the implementation of DSM/EE, implementing a
16 multitude of energy efficient technologies, including:

- 17 1) Sub-metering systems in approximately 1,650 facilities in the United States;
- 18 2) Daylight harvesting systems that monitor and adjust lighting intensity while
19 automatically adjusting the given amount of light coming in from the skylights;
- 20 3) White membrane roofs are used in certain parts of the country in order to lower the
21 cooling load;
- 22 4) Heat reclamation from our refrigerator systems;
- 23 5) Highly efficient heating, ventilation, and air conditioning ("HVAC") systems;

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- 1 6) Indoor and outdoor light –emitting diode ("LED") lighting;
- 2 7) Active dehumidification that enables stores to operate at higher temperatures and use
- 3 less electricity;
- 4 8) Variable speed drive fans on refrigeration condenser coils; and,
- 5 9) Anti-sweat heater controls.

6 Additionally, Walmart's United States stores, including those in the Commonwealth

7 of Kentucky, use a centrally monitored energy management system. When this system is

8 combined with select advanced metering, Walmart can more efficiently implement

9 energy efficiency and demand response initiatives.

10 **Q. DOES WALMART PARTICIPATE IN DEMAND RESPONSE WITHIN THE**

11 **COMMONWEALTH OF KENTUCKY?**

12 A. Yes. Walmart participates in demand response at 25 locations within KU's territory and

13 10 locations within the LG&E territory.

14

15 **Industrial Opt-Out**

16 **Q. WHAT IS THE INDUSTRIAL OPT-OUT?**

17 A. It is my understanding that the industrial opt-out is statutory in nature and permits

18 industrial customers to opt out from participating in an incumbent electric utility's

19 sponsored DSM/EE programs. *See* KRS 278.285(3). The industrial opt-out is set forth in

20 KRS 278.285(3) and states as follows:

21 The commission shall assign the cost of demand-side management

22 programs only to the class or classes of customers which benefit from the

23 programs. The commission shall allow individual industrial customers

24 with energy intensive processes to implement cost-effective energy

25 efficiency measures in lieu of measures approved as part of the utility's

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1 demand-side management programs if the alternative measures by these
2 customers are not subsidized by other customer classes. Such individual
3 industrial customers shall not be assigned the cost of demand-side
4 management programs.
5

6 **Q. DOES KRS 278.285(3) DEFINE WHO IS ELIGIBLE TO OPT OUT?**

7 A. The statute directs the Commission to allow individual industrial customers with energy
8 intensive processes to implement cost-effective energy efficiency measures instead of
9 participating in utility-sponsored DSM programs. The meaning of "industrial," "energy
10 intensive processes," and "cost-effective energy efficiency measures" were not defined by
11 the Legislature.

12 **Q. HAS THE COMMISSION INTERPRETED KRS 278.285(3), OR DEFINED THE**
13 **MEANING OF THESE TERMS IN THAT STATUTE?**

14 A. No; however, in the Commission's Final Order approving a settlement in Case Nos. 2014-
15 00371 and 2014-00372, the Companies committed to address the opt-out criteria set forth
16 in KRS 278.285(3) "in their first DSM/EE application following completion" of a study
17 on possible utility-sponsored DSM/EE programs for industrial customers.² Under the
18 terms of the settlement approved in that case, this requirement included addressing the
19 definition of the term "industrial."³ This Application by the Companies is the first such
20 DSM/EE filing.

² See *Application of Kentucky Utilities Company for an Adjustment of its Electric Rates and Application of Louisville Gas & Electric Company for an Adjustment of its Electric and Gas Rates*, Case Nos. 2014-00371 and 2014-00372, Final Order, (issued June 30, 2015), p. 7.

³ *Id.* at Appendix A, p. 9.

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1 **Q. DO YOU BELIEVE THE LEGISLATURE LEFT CONSIDERABLE**
2 **DISCRETION TO THE COMMISSION TO DEFINE THE SCOPE OF AND**
3 **QUALIFICATIONS FOR PARTICIPATION IN THE INDUSTRIAL OPT OUT?**

4 A. Yes.

5 **Q. PLEASE EXPLAIN.**

6 A. By failing to define certain terms such as the meaning of "industrial" or "energy intensive
7 processes," it seems apparent that the Kentucky Legislature left the Commission with
8 considerable latitude to determine who can and should participate in the opt-out. If the
9 Legislature wanted to define who could participate in the opt-out, it could have done so.⁴
10 The Commission's discretion is exercised through defining the controlling provisions that
11 make up the heart of opt-out eligibility, *i.e.*, the meaning of "industrial" and "energy
12 intensive processes".

13 **Q. ARE YOU FAMILIAR WITH THE DEFINITIONS OF "INDUSTRIAL" AND**
14 **"ENERGY INTENSIVE" PROPOSED BY THE COMPANIES?**

15 A. Yes. The Companies' witness, Rick E. Lovekamp, offers testimony on the scope of the
16 industrial opt-out proposed by the Companies and offers redline revisions to the
17 Companies' current tariffs as follows:

18 1) Eliminates the use of the North American Industry Classification System
19 ("NAICS") codes to define "industrial."⁵

2) Defines "industrial customers" as:

non-residential customers engaged in activities primarily
using energy (electricity or gas) in a process or processes
involving either the extraction of raw materials from the

⁴ See, e.g., KRS 278.010 (providing definitions applicable to public utilities).

⁵ See Direct Testimony of Companies' Witness Rick E. Lovekamp ("Lovekamp Direct"), p. 6, lines 2-4.

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earth or a change of raw or unfinished materials into another form or product.⁶

1 3) Limits the industrial opt-out to those customers who take service under rate
2 schedules Fluctuating Load Service ("Rate FLS"), Retail Transmission Service
3 ("Rate RTS"), and Rate TODP, claiming those rate schedules are "energy
4 intensive."⁷

5 **Q. DOES WALMART HAVE ANY CONCERNS WITH THE COMPANIES'**
6 **RECOMMENDATIONS?**

7 A. Yes. While Walmart supports the Companies' proposal to eliminate the use of the
8 NAICS codes, it appears that the definition for "industrial" proposed by the Companies is
9 tantamount to continued use of the NAICS codes.

10 **Q. PLEASE EXPLAIN.**

11 A. The description underlying the NAICS code numbers previously relied on by the
12 Companies are compatible with the definitions proposed in Mr. Lovekamp's Direct
13 Testimony. Under their prior definition, the Companies linked the opt-out to NAICS
14 numbers 21, 22, and 31-33. By way of example, the definition for NAICS code numbers
15 31-33 are "establishments engaged in the mechanical, physical, or chemical
16 transformation of materials, substances, or components into new products."⁸ The NAICS
17 code number description is synonymous with the definition for "industrial" proposed by
18 the Companies in this proceeding. There is little difference between referencing a
19 specific NAICS code number and writing out the substance of the code number's

⁶ *Id.* at lines 4-7.

⁷ *Id.* at lines 8-13.

⁸ https://www.census.gov/eos/www/naics/2017NAICS/2017_NAICS_Manual.pdf, p. 143.

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1 description. The impact remains the same: the Companies effectively still rely on the
2 NAICS codes to determine what constitutes "industrial" for purposes of the opt-out.

3 **Q. HAS THE COMMISSION PREVIOUSLY EXPRESSED CONCERN OVER USE**
4 **OF THE NAICS CODES?**

5 A. Yes. In Case No. 2014-0003, the Commission noted that there were legitimate concerns
6 regarding the Companies' use of NAICS codes to determine the parameters of the
7 industrial opt-out authorized by KRS 278.285(3).⁹

8 **Q. DO YOU HAVE CONCERNS WITH THE COMPANIES' PROPOSAL TO LIMIT**
9 **THE OPT-OUT TO CERTAIN RATE SCHEDULES BASED ON THE**
10 **COMPANIES' CLAIM THAT THESE RATE SCHEDULES ARE "ENERGY**
11 **INTENSIVE"?**

12 A. Yes.

13 **Q. PLEASE EXPLAIN.**

14 A. The Companies do not attempt to define the meaning of the phrase "energy intensive"
15 and they offer no explanation or justification for limiting the opt-out to only Rate
16 Schedules RTS, TODP and FLS. Although they claim these are "energy intensive" rate
17 schedules, and appear to presume that customers on these rate schedules employ "energy
18 intensive processes," they fail to offer any explanation to support this position.
19 Moreover, they do not explain how customers who take service under other traditionally
20 "industrial" rate schedules such as TODS would not also be involved in "energy

⁹ See *Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for Review, Modification, and Continuation of Existing, and Addition of New, Demand-Side Management and Energy-Efficiency Programs*, Case No. 2014-0003, Final Order (issued Nov. 4, 2014), , p. 26.

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1 intensive" processes. Simply put, there is insufficient support for the Companies'
2 proposed industrial opt-out.

3 **Q. WHAT IS THE POTENTIAL IMPACT OF THE COMPANIES' PROPOSED**
4 **DEFINITIONS?**

5 A. The end result of the Companies' unnecessarily limited definition of "industrial" would
6 mean that similarly situated customers on the same or similar rate schedules would be
7 treated discriminatorily for purposes of the opt-out simply by not meeting the narrowly
8 expressed confines of "industrial" as that term has been defined by the Companies. For
9 example, an energy intensive customer that takes service under Rate TODP may be
10 prohibited from opting out simply because it does not "extract raw materials from the
11 earth or [effects] a change of raw or unfinished materials into another form or product,"
12 regardless of the fact that it takes service under the same rate schedule as a qualified
13 "industrial" customer (as defined by the Companies) and its level of energy usage may be
14 the same as, if not greater than, that of the qualified "industrial" customer.

15 In the same way, under the Companies' proposed delineation of "energy intensive"
16 that encompasses just three rate schedules would treat similarly situated customers on
17 different rates in a discriminatory manner, regardless of whether they meet the proposed
18 definition of "industrial." For example, a customer that "extracts raw materials from the
19 earth or [effects] a change of raw or unfinished materials into another form or product
20 using energy intensive processes" may be prevented from opting out simply because it
21 takes service under Rate TODS, while a competitor, doing the same business, would be
22 able to opt-out simply because it takes service under Rate TODP or another of the

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1 Companies' qualified rate schedules. Such results are inherently discriminatory and
2 unjustified.

3 In short, the Companies' proposal arbitrarily picks winners and losers for the purpose
4 of the opt-out in virtually the same negative way that historical usage of the NAICS Code
5 has led to negative and discriminatory results.

6 **Q. DOES WALMART PROPOSE AN ALTERNATIVE FRAMEWORK FOR**
7 **DEFINING "INDUSTRIAL" AS SET FORTH IN KRS 278.285(3)?**

8 A. Yes. Walmart agrees with the Companies that rate schedules certainly can be used to
9 determine whether a customer takes service under an "industrial" rate schedule. In fact,
10 Walmart believes that a traditional regulatory understanding of "industrial" versus
11 "commercial" rates can be employed to identify which customers are eligible for the opt-
12 out. To that end, rather than limiting the opt-out to only certain industrial rate schedules,
13 Walmart believes that all of the Companies' largest "industrial" rate schedules (*i.e.*, Rates
14 RTS, FLS, TODP, *and* TODS) should qualify for the opt-out set forth in KRS 278.285(3).
15 This broad definition would capture all of the Companies' industrial energy users, as well
16 as all of their largest users in general.

17 **Q. DOES WALMART PROPOSE AN ALTERNATIVE FRAMEWORK FOR THE**
18 **DEFINITION OF "ENERGY INTENSIVE" AS SET FORTH IN KRS 278.285(3)?**

19 A. Yes. Merriam-Webster defines "intensity" as "the magnitude of a quantity (such as force
20 or energy) per unit (as of area, charge, mass, or time)."¹⁰ Walmart proposes that the
21 definition of "energy intensive" should incorporate a combination of an average monthly
22 load factor and a minimum customer size.

¹⁰ See <https://www.merriam-webster.com/dictionary/intensity>

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1 Load factor is an easily measurable indicator of energy intensity – as load factor
2 increases, the amount of energy usage in kWh relative to the maximum demand in kW of
3 the energy-using equipment installed at the facility increases. A customer with a load
4 factor of 60 percent is a more energy intensive customer than one with a load factor of 10
5 percent. For the purposes of this docket, Walmart recommends a minimum average
6 monthly load factor of 60 percent.

7 In terms of customer size, Walmart recommends that the Commission align the
8 minimum customer size with the requirements for the Time-of-Day Schedules, which are
9 250 kW for secondary service and 250 kVa for primary service.¹¹

10 **Q. TO DATE, CUSTOMER SIZE AND LOAD FACTOR REQUIREMENTS HAVE**
11 **NOT BEEN USED TO DETERMINE OPT-OUT ELIGIBILITY. WHAT IS**
12 **WALMART'S RECOMMENDATION FOR THOSE CUSTOMERS?**

13 A. Walmart recommends that the Commission grandfather all existing opt-out customers.
14 Walmart would also not oppose a proposal that very large customers (*e.g.*, above 5 MW)
15 be able to opt-out regardless of load factor.

16
17 **The benefits to voluntary DSM/EE measures undertaken by large customers.**

18 **Q. DO THE COMPANIES ACKNOWLEDGE THE EXTENSIVE ENERGY**
19 **EFFICIENCY MEASURES INSTALLED BY SOME CUSTOMERS.**

20 A. Yes. Companies' witness David E. Huff stated in his Direct Testimony:

21 In addition, large customers, both commercial and industrial, have
22 invested in energy efficiency beyond utility-run DSM-EE
23 programs. For example, Walmart has testified before this

¹¹ See P.S.C. No. 18, Second Revision of Original Sheet No. 20 and No. 22.

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1 Commission concerning its own substantial energy-efficiency
2 efforts.¹²

3 **Q. GIVEN THE OPPORTUNITY TO PARTICIPATE IN THE COMPANIES' NON-**
4 **RESIDENTIAL DSM PROGRAMS, WHY WOULD WALMART DESIRE TO**
5 **OPT-OUT OF THE COMPANIES DSM/EE PROGRAMS?**

6 A. As previously stated, Walmart is a national retailer who has undertaken DSM/EE
7 measures on an expansive scale. With its extensive experience in DSM/EE, Walmart is
8 in the best position to create programs tailored to maximize the impact of the DSM and
9 EE measures installed at its facilities, not only in the Companies' service territory, but
10 throughout the Commonwealth of Kentucky and its global operations. Additionally, due
11 to the size and scope of the DSM/EE measures Walmart can implement on a company-
12 wide scale, it can potentially benefit in the competitive marketplace for energy efficient
13 goods and services, as energy service companies compete to provide the most innovative
14 and cost-effective products to those customers on a regional and national basis. Fostering
15 innovation will also benefit the Commonwealth of Kentucky as it will improve DSM/EE
16 products available in Kentucky. Further, if allowed to opt out, Walmart, or any other opt-
17 out customer, would assume all risk of its investment in DSM/EE measures, which
18 eliminates having that risk passed on to other ratepayers in the Companies' service
19 territories.

20 **Q. CAN WALMART'S DSM/EE MEASURES BENEFIT OTHER RATEPAYERS**
21 **WHO DO NOT OPT OUT?**

22 A. Yes. Proactive customers, such as Walmart, who aggressively pursue their own EE
23 measures yield numerous benefits to other utility customers. Some of those benefits

¹² See Direct Testimony of Companies' Witness, David E. Huff ("Huff Direct"), p. 11, lines 3-6.

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1 include reduced overall energy costs that result from the reduced demand of the
2 customer's facilities. Additionally, increased system reliability is realized due to
3 reduction in electric usage due to increased EE installations. These and numerous other
4 benefits flow to all customers at no cost to those customers when a large customer is
5 allowed to opt out of the incumbent electric utility's DSM/EE programs.

6 **Q. DO YOU HAVE A RECOMMENDATION FOR THE COMMISSION**
7 **CONCERNING THE OPT-OUT?**

8 A. Yes. I recommend that the Commission take a holistic view of the energy usage of
9 customers taking service from traditional "industrial" rate schedules and determine that
10 Walmart, and perhaps other businesses with multiple locations and very large loads in the
11 Companies' territories on these rate schedules, qualify for the opt-out codified in
12 KRS 278.285(3). In light of the size of Walmart's aggregated load, exclusion of Walmart
13 (and other similarly situated customers) from the opt-out proposed by the Companies in
14 their Application results in somewhat illogical and certainly inequitable and
15 discriminatory distinctions. In light of the significant discretion granted to the
16 Commission by the Kentucky Legislature, the Commission should implement a definition
17 of both "industrial" and "energy intensive" that creates an environment that will allow
18 energy efficiency to flourish.

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1 **Q. TO THE EXTENT WALMART QUALIFIED FOR AN OPT-OUT FROM THE**
2 **COMPANIES' DSM/EE PROGRAMS, WOULD WALMART**
3 **AUTOMATICALLY OPT OUT?**

4 A. No. Our responsibility to our shareholders dictates that we weigh the amount of DSM
5 charges paid annually against the rebates or other program benefits received from the
6 utility.

7 **Q. IN THE EVENT THAT THE COMMISSION REJECTS WALMART'S**
8 **RECOMMENDATIONS, DO YOU HAVE ANY ALTERNATIVE PROPOSALS**
9 **FOR THE OPT-OUT?**

10 A. Yes. While I believe that my recommendations are reasonable and workable, as
11 indicated above, my primary concern is that the Companies' proposed opt-out will result
12 in discriminatory treatment of similarly-situated customers. As such, if the Commission
13 rejects my recommendations and adopts the Companies' proposed definition of
14 "industrial" for purposes of the opt-out, I respectfully recommend that the Commission
15 can, and should, still exercise its discretion to require the Companies to extend opt-out
16 eligibility to all customers on all "energy intensive" rates, including Rate TODS,
17 regardless of whether they meet the "raw material" process and other requirements of the
18 proposed "industrial" definition. This would mean that *all* qualified "industrial"
19 customers, as well as all similarly-situated customers taking service on those rates, would
20 be treated equally as a rate class. This would be a just and reasonable solution for the
21 Commission to adopt, and nothing in KRS 278.285(3) prohibits the Commission from
22 doing so.

23

1 **Implementation of a Self-Direct Option**

2 **Q. DOES WALMART PROPOSE ANOTHER ALTERNATIVE COURSE FOR NON-**
3 **RESIDENTIAL CUSTOMERS IF THE COMMISSION DETERMINES TO KEEP**
4 **THE OPT-OUT AS PROPOSED BY THE COMPANIES?**

5 A. The Commission should give serious and thorough consideration to allowing an
6 aggregated large energy user a "self-direct program." A self-direct program would
7 provide reasonable treatment to aggregated large energy users.

8 **Q. WHAT RECOMMENDATIONS DO YOU HAVE FOR THE COMMISSION IF**
9 **THEY IMPLEMENT A SELF-DIRECT PROGRAM?**

10 A. The Commission should allow any non-residential customer who has electric usage
11 above a benchmark level for all of its sites aggregated under one of the Companies to
12 elect to not participate in KU's or LG&E's DSM program if it commits to achieve its own
13 DSM/EE savings. For example, a non-residential customer with aggregated usage above
14 the benchmark for all of its sites under KU could elect to not participate in KU's DSM
15 program. Similarly, a non-residential customer with aggregated usage above the
16 benchmark for all of its sites under LG&E could elect to not participate in LG&E's DSM
17 program.¹³

¹³ See Direct Testimony of Kenneth E. Baker, Case No. 2014-00003, p. 7, lines 7-14.

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1 **Q. WHAT AGGREGATED LEVEL OF ANNUAL USAGE DOES WALMART**
2 **RECOMMEND?**

3 A. For purposes of this docket, Walmart recommends a benchmark level of 15 million kWh
4 per year aggregated across all sites in the particular utility territory. This 15 million kWh
5 benchmark is the standard used in Oklahoma.¹⁴

6 **Q. SHOULD THE SELF-DIRECT PROGRAM CONTAIN ANY TYPE OF**
7 **EVALUATION, MEASUREMENT, AND VERIFICATION ("EM&V")**
8 **PROCEDURE?**

9 A. Walmart would not oppose a reasonable EM&V requirement.

10 **Q. WHAT LEVEL REDUCTION IN ENERGY USAGE WOULD WALMART DEEM**
11 **REASONABLE?**

12 A. Walmart would not oppose an energy usage reduction requirement equal to any reduction
13 requirement placed upon the Companies. For example, if the Companies were required
14 to achieve an annual reduction of 2.5%, Walmart and other customers that qualify for the
15 self-direct program would have to meet that same percentage across their aggregated
16 load.

17 **Q. HOW SHOULD SELF-DIRECT PROGRAM CUSTOMERS PROVE THEIR**
18 **REDUCTIONS?**

19 A. Preferably through sworn affidavit; however, if more proof is needed, the self-direct
20 program customer should only report to the Commission or utility, no more than every
21 three years, the DSM/EE implementations and the energy savings. Savings may be

¹⁴ See OAC 165:35-41-3.

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1 substantiated by manufacturers' specifications, deemed savings, or other reasonable
2 means.

3 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

4 **A. Yes.**

VERIFICATION

STATE OF ARKANSAS

)

) **SS:**

COUNTY OF BENTON


)

The undersigned, Kenneth E. Baker, being duly sworn, deposes and says that he is Senior Manager Sustainable Regulation for Walmart Inc., and that he has personal knowledge of the matters set forth in the foregoing testimony, and that the answers contained herein are true and correct to the best of his information, knowledge and belief.



Kenneth E. Baker

Subscribed and sworn to before me, a Notary Public in and before said County and State, this 20th day of March 2018.



Notary Public (SEAL)

My Commission Expires:



**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

IN THE MATTER OF:

**ELECTRONIC JOINT APPLICATION OF)
LOUISVILLE GAS AND ELECTRIC)
COMPANY AND KENTUCKY UTILITIES)
COMPANY FOR REVIEW, MODIFICATION,)
AND CONTINUATION OF CERTAIN)
EXISTING DEMAND-SIDE MANAGEMENT)
AND ENERGY EFFICIENCY PROGRAMS)**

CASE NO. 2017-00441

EXHIBIT OF

KENNETH E. BAKER

ON BEHALF OF

WAL-MART STORES EAST, LP AND SAM'S EAST, INC.

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

IN THE MATTER OF:

**ELECTRONIC JOINT APPLICATION OF)
LOUISVILLE GAS AND ELECTRIC)
COMPANY AND KENTUCKY UTILITIES)
COMPANY FOR REVIEW, MODIFICATION,)
AND CONTINUATION OF CERTAIN)
EXISTING DEMAND-SIDE MANAGEMENT)
AND ENERGY EFFICIENCY PROGRAMS)**

CASE NO. 2017-00441

**EXHIBIT KEB-1 OF
KENNETH E. BAKER
ON BEHALF OF
WAL-MART STORES EAST, LP AND SAM'S EAST, INC.**

EXHIBIT KEB-1

New Mexico – Renewable Portfolio Procurement Plan – Docket No. 10-00199-UT; 10-00373-UT

North Carolina – Distributed Generation & EE- Smart Grid – Docket No. E-7 Sub 856; E-100 Sub 123

South Carolina – Smart Grid – Docket No. 2005-385-E

South Carolina – SCE&G DSM/EE – Docket No. 2013-208-E

South Carolina – Duke Energy Carolinas DSM/EE – Docket No. 2013-298-E

Missouri – DSM – Cause No. EO-2012-009

Massachusetts – Forward Capacity Market – Docket No. D.P.U. 08-8

Indiana – Energy Efficiency Self Direct – Cause No. 43580

Arizona – Renewable Energy Standard – Docket Nos. E-01345A-10-0394; E-0134A-12-0290; E-01933A-12-0296; E-04204A-12-0297

Kentucky – DSM Docket – Case No. 2014-00003

Georgia – IRP – Docket Nos. 36498; 36499

Florida – DSM – Docket No. 140226-EI

Georgia – DSM – Docket No. 40162

Arkansas Net Metering Docket No. 10-027-U

Colorado – PSCo Demand Side Management Plan – Proceeding No. 17A-0462EG

Louisiana – Energy Efficiency Incentives – Docket No. R-31106

CERTIFICATE OF SERVICE

I hereby certify that Walmart's March 21, 2018, electronic filing is a true and accurate copy of the Direct Testimony and Exhibit of Kenneth E. Baker to be filed in paper medium; and that on March 21, 2018, the electronic filing has been transmitted to the Commission, and that an original and six copies of the filing will be delivered to the Commission, that no participants have been excused from electronic filing at this time, and served upon the following via Electronic Mail:

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