

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC EMERGENCY DOCKET RELATED) Case No. 2020-00085
TO THE NOVEL CORONAVIRUS COVID-19)

**DUKE ENERGY KENTUCKY, INC.'S PETITION FOR CLARIFICATION AND
DEVIATION AND REQUEST FOR EXPEDITED TREATMENT**

Now comes Duke Energy Kentucky, Inc. (Duke Energy Kentucky or the Company), and respectfully requests clarification and deviation of the Commission's September 21, 2020 Order in the above-styled proceeding (Order). In its Order, the Commission has provided much needed direction to jurisdictional utilities regarding treatment of customer arrearages, late payment fees, and payment plan options that should be afforded to customers. Duke Energy Kentucky is appreciative of the Commission's guidance and directives in this regard. Duke Energy Kentucky is developing the communications to its customers to effectuate the Commission's Order. To effectively implement the intentions of the Commission and benefit affected customers, the Company respectfully requests clarification regarding the arrearages that may be included in the default payment plan as more fully explained below.

Additionally, given the timing of the Commission's Order with respect to actions to be taken to place customers on default payment plans, the limitations in the Company's billing systems, particularly with regard to managing arrearages and billing cycles, necessitate reasonable deviations from the Commission's Order to provide customers with greater flexibility and notice. Compliance with the Commission's Order, absent minor and reasonable deviations, would necessitate costly and timely programming changes that would create additional costs and

confusion for customers.

Given the time frame for entering customers into a default payment plan as directed by the Commission's Order, the Company requests expedited treatment of the deviation requests explained below so that the Company may provide timely notifications to its customers and provide customers with the intended default payment plans consistent with the Commission's Order. In support of this Petition, the Duke Energy Kentucky respectfully states as follows:

Introduction

1. Duke Energy Kentucky is an investor-owned utility engaged in the business of furnishing natural gas and electric services to various municipalities and unincorporated areas in Boone, Bracken, Campbell, Gallatin, Grant, Kenton, and Pendleton Counties in the Commonwealth of Kentucky.

2. Pursuant to 807 KAR 5:001, Section 14(2), Duke Energy Kentucky is a Kentucky corporation originally incorporated on March 20, 1901, in good standing, and a public utility as that term is defined in KRS 278.010(3), and, therefore, is subject to the Commission's jurisdiction.

3. Pursuant to 807 KAR 5:001, Section 14(1), Duke Energy Kentucky's business address is 139 East Fourth Street, Cincinnati, Ohio 45202.

4. In response to the COVID-19 pandemic, the Company swiftly took action on March 13, 2020, to ensure service continuity for its customers and mitigate the social spread of the virus. These actions were supplemented by the Commission's March 16, 2020 directive that all jurisdictional utilities suspend disconnections for non-payment and the imposition of late payment charges.

5. On September 21, 2020, the Commission issued its Order that, among other things, lifted its moratorium, subject to certain criteria intended to assist customers with arrearages while balancing other considerations. Through this Order, the Commission required a number of different measures for utilities to take for residential customers, including, but not limited to, establishment of default payment plans for no less than six months in length, continued suspension of late payment fees through the end of the year, and delaying disconnection processes. In addition, the Order permitted the resumption of late payment fees for non-residential customers and encourage utility flexibility in payment plan offerings.

6. Duke Energy Kentucky is diligently working to comply with the Commission's Order. However, the Company desires clarification regarding portions of the Commission's Order directing the Company to take action and requests deviation from certain provisions to provide greater protections and flexibility for its residential customers.

7. Consistent with the Commission's Order, the Company intends to establish a default payment plan of no less than six months for residential customers. The Company intends to send communications to its customers detailing the terms of the default payment plan and providing residential customers an opportunity to "opt-out" by contacting the Company to make alternative payment arrangements. To ease the transition to the default payment plan for all residential customers and so not to overly tax its customer call center by requiring proactive calling for confirmation of acceptance of the default plan, the Company intends to consider the customer's first payment under the default payment plan as affirmative acceptance of the default plan.

Requests for Clarification

8. Pursuant to the Commission's Order, with regard to residential customers, utilities

must create default payment plans for all accumulated arrearages from service rendered on or after March 16, 2020 and before October 1, 2020.¹ The Order is silent with respect to arrearages that may have existed for service rendered prior to March 16, 2020 as well as arrearages that may, due to billing cycles, accrue for periods after October 1 and before the customer's October bill becomes due.

9. As an added protection for its residential customers, Duke Energy Kentucky intends to include any arrearages that existed for service rendered prior to March 16, 2020 in the residential customer's default payment plan arrearage balance. The Company acknowledges that these customers may have entered into a payment plan or sought other bill assistance for those pre-March 16 balances absent the disconnection moratorium. Duke Energy Kentucky interprets the Commission's Order in conjunction with 807 KAR 5:006 Section 14 (2) that requires the utility to negotiate and accept reasonable partial payment plans, such that the Company has the flexibility to include pre-March 16 arrearages in the default payment plan for those affected residential customers.

10. Including pre-March 16 arrearages in the default plan balance is beneficial to customers who continue to be impacted by the state of emergency. It will also avoid customer confusion-and adverse impact- that is likely to result as a customer with arrearages that accrued before March 16 could otherwise be immediately eligible for disconnection under a strict reading of the Commission's Order. It also avoids the significant costs and time required to make billing system and bill format changes that would be needed to allow multiple arrearage balances or separate payment plans related to pre-and post-March 16, 2020 balances.

11. Similarly, due to existing utility billing cycles and the difficulty and confusion that would result with having to bifurcate arrearages mid-cycle between a default payment plan

¹ Order at 7.

and a credit timeline, the Company interprets 807 KAR 5:006 Section 14 (2) to also provide needed flexibility to include post October 1, 2020 arrearages within the default plan. Due to the Company's billing cycles, not all of its customers receive a bill for service that ends exactly on October 1st. Rather than "cut off" its residential customers from including arrearages in the default payment plan balance based upon a billing cycle that ends on *or before* October, 1, 2020, the Company interprets the Commission's Order and regulations as permitting arrearages that accumulate within the billing cycle that include October 1st to qualify for the default payment plan. The Company believes both of these interpretations are in the best interests of its customers by providing them a greater level of protection as it avoids having customers manage separate arrearage balances, or worse, falling into the credit default timeline because of out-of-period arrearages. The Company requests clarification regarding the Commission's Order and the Company's interpretation thereof in conjunction with 807 KAR 5:006 Section 14 (2). And to the extent necessary, the Company requests a deviation that affirms the inclusion of pre-March 16, 2020, and post October arrearages in the default payment plan as more fully explained below.

Requests for Deviation

12. In addition to the aforementioned clarification request, Duke Energy Kentucky requests that the Commission authorize deviation from the Commission's Order as follows:

- a. Using the October billing cycle to enroll residential customers into the default payment plan and to calculate arrearage balances;
- b. Allowing carrying charges to accrue on the entire balance of the customer arrearage as of the date of the default payment plan;
- c. Maintaining existing equal installment payment plans; and

- d. Establishing a minimum threshold arrearage balance for enrollment into the default payment plan;

The Company believes each of these deviations is in the best interests of customers and is reasonable insofar as such deviations either provide a greater level of protection and avoid additional costs that would be incurred to implement the Commission's Order as issued.

13. **Use of the October Billing Cycle:** Duke Energy Kentucky respectfully requests deviation from the Commission's Order that directs utilities to use October 1, 2020 as the end date for determination of the default payment plan and arrearage deadline and to instead permit Duke Energy Kentucky to use the October billing cycle for both purposes.

14. As previously mentioned, Duke Energy Kentucky's billing processes incorporate approximate 30-day billing cycles for its customers. The use of billing cycles is common in the industry and allows the utility to better manage its costs and resources by spreading monthly meter reading, billings, and collections throughout the month. As a result, Duke Energy Kentucky does not bill customers on a strict calendar month-basis such that the customer's October bill would only include service rendered during the month of September. Rather, the vast majority of customer bills actually include periods that span across consecutive months. As a result, a significant number of residential customers who receive a bill that includes October 1, 2020 in the billing cycle, will also have usage for periods after October 1, 2020 on that same bill. Duke Energy Kentucky's billing system cannot accommodate subdivision of arrearage balances that are attributed to different time sub-periods within a single bill cycle (*i.e.* pre-October 1, 2020 vs. post-October 1, 2020 arrearages). As such, the Company, as a convenience and benefit to customers, should be permitted to use a residential customer's October billing cycle charges for

purposes of enrollment into the default payment plan and for calculating the end of the arrearage period included in the plan.

15. Duke Energy Kentucky's credit timeline process also supports this proposal and will afford customers additional time to take action to avoid disconnection, well after the October 20, 2020 date discussed in the Commission's Order. A customer whose billing cycle actually ends with an October 1, 2020 meter reading date will typically have a bill that was prepared on or about October 8, 2020. That bill will not come past due until twenty-one days later, or approximately October 29, 2020. As such, the service rendered on October 1, 2020, would actually not be considered delinquent until on or after October 29, 2020. Whereas, a customer whose billing cycle commences late September, will have a bill with October 1, 2020 in the middle of the billing cycle and an end date meter reading in mid-October. Again, their bill will be prepared in late October, and will only become past-due if payment is not made within approximately twenty-one days after that, or in mid-November. As such the Company requests to also use the October billing cycle for purposes of enrolling its residential customers into a default payment plan. The Company submits that it is logical under this billing cycle approach, that if a residential customer account reflects an arrearage that would be included in their Oct bill, such arrearage will be converted to a default payment plan. And per the Commission's Order, carrying charges should then be eligible for assessment once the October billing cycle charges become past-due and converted to the default payment plan.

16. The Company intends to provide customers with separate communications through bill messages and/or direct mail informing them of their automatic enrollment into the default payment plan and to provide them with the opportunity to make alternative arrangements and to seek other financial assistance in advance of actually enrolling them into the plan. Given

that, as of this filing date, October 1, 2020 is a mere few days away, allowing the Company to enroll customers on a rolling basis consistent with their October billing cycle will afford customers time to decide whether they wish to make alternative arrangements.

17. **Carrying Charges**: The Company also requests deviation from adherence to the strict March 16, 2020, to October 1, 2020, period for purposes of calculation of any carrying costs on the default plan arrearages. As previously discussed, a significant number of residential customers with pending arrearages had past due balances that pre-dated March 16, 2020. And the Company interprets the Commission's regulations as providing the needed flexibility to include those balances in the default plan as a service to its customers. These customers, absent the moratorium on late payment fees and disconnections, would have had their balances subject to late payment fees and would have had the incentive to seek either a payment plan or seek other assistance to avoid disconnection. Per the Commission's Order, the Company will not assess late payment fees on these balances through the end of the year. Therefore, it is logical to include these balances in the default plan arrearage balance, and the Company should be permitted to include such a balance in the calculation of carrying charges. Likewise, if the Commission grants deviation for purposes of using the October billing cycle for purposes of enrolling customers and determining the balance to include in the default payment plan, it is logical to permit carrying charges on those October billing cycle period balances as well. The Company's request is simply to include the calculation of carrying charges for residential customers based upon the "book end" periods for arrearages existing prior to March 16, 2020, and to round out the October billing cycle.

18. **Maintaining Existing Payment Plans**: Duke Energy Kentucky requests deviation to the extent necessary, to maintain existing payment plans that customers have already

proactively entered into to address their arrearages. Duke Energy Kentucky has approximately 1,669 residential customers who have proactively entered into a payment plan to address their arrearages. All of these payment plans are equal installment-based plans. Early on during the moratorium, Duke Energy Kentucky provided its customers with an opportunity to self-enroll into one of three equal-installment payment plan options (3-month, 6-month, and 9-month installment plans) via the Company's website. Duke Energy Kentucky did not direct its customers to any specific timeline plan but gave the customers the flexibility to simply select the plan that best fit their needs. Additionally, Duke Energy Kentucky, through its call center, willingly negotiated other reasonable payment plan terms with customers who desired terms different from the three "default" plans on the website. Duke Energy Kentucky respectfully requests that those customers, whom through their own choosing, have entered into a payment plan already, be permitted to remain in that current plan, and not face automatic enrollment into the default plan.

19. For example, customers who elected a three-month plan in August and have remained current on that plan, are nearly caught up. These customers should not have their remaining arrearage balance automatically extended six additional months, unless they truly desire such an extension. Moreover, a customer who has already selected a nine-month payment plan, a month ago, should not have their arrearage convert to a different default term. Duke Energy Kentucky remains willing to renegotiate any existing payment plan terms for residential customers who desire such an accommodation. It is in the best interests of all customers that the Company's overall arrearages be reduced and bad debt accumulation be minimized, particularly with respect to potential carrying charges or any future deferrals that may be granted by the Commission. Given that customers who have already entered into a default payment plan were

presented options to voluntarily and proactively select one of three types of equal installment plans of varying duration or to contact the Company to negotiate other terms, these customers have not been harmed. Moreover, if these customers desire to renegotiate their plans for a different reasonable duration, consistent with the Commission's Order, the Company would be amenable to do so. Accordingly, deviation of this portion of the Commission's Order is reasonable and in the best interests of these customers.

20. **Minimum Arrearage for a Default Payment Plan:** The Commission's Order directs that all arrearages for the March 16, 2020 to October 1, 2020 period be enrolled into a default payment plan and does not establish a minimum arrearage threshold. Duke Energy Kentucky submits that establishing a minimum threshold is reasonable from both the Company's administrative perspective and customer's payment perspective. Establishing a default payment plan of at least six-months for all arrearages, no matter how de minimis, is not necessary and will cause the utility to incur unnecessary costs to convert these small balances to a lengthy plan. The Company regularly experiences customers who when writing a check, round to the nearest dollar, or may carry over a very small balance from one month to the next. Such a small balance, while creating a "technical" arrearage, does not warrant the utility actually placing the customer on the credit/disconnection timeline and sending disconnect-for-nonpay notices. Nor should it obligate the implementation of a default payment plan. The Company believes establishing a minimum threshold will avoid the situation of having to enroll a customer into a default plan for a few dollars. As such, the Company requests the Commission grant a deviation such that the default payment plan would apply to arrearages that are \$25.00 or more.

21. Utilities are always under an obligation to negotiate a reasonable payment plan for customers who need assistance. It is the Company's experience that the vast majority of

customers who have a small arrearage balance, under \$25.00 simply need a few days or weeks to either become current on their account or to seek assistance. Nonetheless, the Company will enter into payment plans for residential customers (who have not already defaulted on a current plan) no matter what the arrearage amount. The Company commits that it will not process a customer down a disconnection timeline for a utility usage arrearage of less than \$25.00 and will afford any customer with such an arrearage an opportunity to seek a payment plan of at least six months if they desire.

WHEREFORE, for the reasons stated herein, Duke Energy Kentucky respectfully requests clarification and deviation from the Commission's Order. In order to effectuate the Commission's Order and provide necessary communications to customers, the Company respectfully requests expedited treatment of this petition.

Respectfully submitted,

DUKE ENERGY KENTUCKY, INC.

/s/ Rocco D'Ascenzo

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Motion of Duke Energy Kentucky, Inc. has been served via overnight mail to the following party on this 28th day of September 2020:

/s/Rocco D'Ascenzo
Rocco D'Ascenzo

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