

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

In the Matter of:

**ELECTRONIC APPLICATION OF)
KENTUCKY POWER COMPANY FOR (1) A)
GENERAL ADJUSTMENT OF ITS RATES)
FOR ELECTRIC SERVICE; (2) APPROVAL)
OF TARIFFS AND RIDERS; (3) APPROVAL)
OF ACCOUNTING PRACTICES TO)
ESTABLISH REGULATORY ASSETS AND)
LIABILITIES; (4) APPROVAL OF A)
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY; AND (5) ALL OTHER)
REQUIRED APPROVALS AND RELIEF)**

CASE NO. 2020-00174

**WALMART INC.'S RESPONSE IN OPPOSITION TO
KENTUCKY POWER COMPANY'S MOTION FOR REHEARING**

Comes now Walmart Inc. ("Walmart"), by and through its counsel, and pursuant to 807 KAR 5:001, Section 5(2) hereby submits this response to Kentucky Power Company's ("KPCo" or "Company") Motion for Rehearing ("Motion") of the Public Service Commission of Kentucky's January 13, 2021 Order ("Order"), solely to address the Company's request that the Commission "amend its Order and approve conditionally the establishment of the [Grid Modernization Rider] GMR for the limited purpose of funding the deployment of [Advanced Metering Infrastructure] AMI meters and technology."¹ This is a request for relief that is being raised for the very first time in the Motion even though it could have been raised during the hearing. The Commission should reject the Company's request to conditionally approve the GMR as a placeholder rider for future recovery of AMI costs.

¹ Motion at 34.

STANDARD OF REVIEW

In the Motion, KPCo recites the standard for rehearing as articulated by KRS 278.400 and as interpreted by this Commission. In particular, the Company admits that requests for rehearing are generally limited to three circumstances: (1) to consider "new evidence not readily discoverable at the time of the original hearings;"² (2) to "consider new arguments, particularly where the argument could not reasonably have been raised before;"³ or (3) to address errors or omissions in the Commission's order.⁴ None of these reasons are present here so as to justify the Company's request that the GMR be approved as a placeholder rider for future recovery of AMI costs.

ARGUMENT

In its Order, the Commission accurately summarized the Company's request with respect to the GMR, noting that the Company did not merely seek to fund AMI deployment through the GMR, but it also wanted to "recover additional grid modernization expenses approved by the Commission in future proceedings."⁵ Indeed, in response to objections from multiple parties, including Walmart, to the Company's request that the GMR be approved as a rider to recover the costs of yet-unknown future grid modernization projects, the Company did not amend its request to seek approval solely for AMI deployment. Rather, the Company defended its proposal on the basis that the GMR is needed not only for AMI but also to update the grid in the future.⁶ The

² Motion at 1 *quoting* Order, *In the Matter of Application Of Kentucky-American Water Company For A Certificate Of Public Convenience And Necessity Authorizing Construction Of The Northern Division Connection*, Case No. 2012-00096 at 4 (Ky. P.S.C. January 23, 2014).

³ Motion at 2 *citing* Order, *In the Matter of America's Tele-Network Corp.'s Alleged Violation of KRS 278.535*, Case No. 2000-00421 at 2 (Ky. P.S.C. March 23, 2001) (limiting scope of rehearing to new arguments raised in petition).

⁴ Motion at 2 *citing* Order, *In the Matter of Application of Jessamine-South Elkhorn Water District For A Certificate Of Public Convenience And Necessity To Construct And Finance A Waterworks Improvement Project Pursuant To KRS 278.020 And 278.300*, Case No. 2012-00470 at 11 (Ky. P.S.C. January 3, 2014).

⁵ Order at 70.

⁶ *Id.* at 77.

Company could have requested the relief it seeks here, namely, that the GMR be approved solely to recover the costs of AMI deployment, but it did not do so. The Company should not be permitted to make that request for the first time in the Motion.

Although the Company broadly asserts that "each of the bases [for rehearing identified in its Standard for Rehearing] supports rehearing here,"⁷ a review of the Motion contradicts this claim as it relates to the GMR. The Company fails to articulate the legal basis for granting approval of the GMR for recovery of future AMI deployment costs. There is no allegation that the Commission erred in its Order. Similarly, the Company presents no new evidence. In fact, the Company expressly regurgitates arguments it made in the underlying proceedings.⁸ Finally, the Company is seeking new relief that it clearly could (and arguably should) have requested in the underlying proceedings.⁹ Simply put, the Company does not provide sufficient grounds for granting it the relief it requests with respect to the GMR, and the Motion should be denied on this point.

⁷ Motion at 2.

⁸ *Id.* at 34.

⁹ There were numerous parties, Walmart included, that did not oppose issuance of a Certificate of Public Convenience and Need ("CPCN") for AMI but adamantly opposed approval of the GMR for future unknown grid modernization projects.

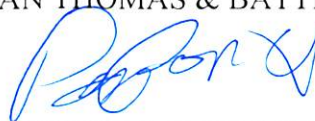
CONCLUSION

For all the reasons set forth herein as well as all the reasons set forth in Walmart Inc.'s Post-Hearing Brief, Walmart Inc. respectfully requests that the Commission deny Kentucky Power Company's request that the Commission approve the Grid Modernization Rider as a placeholder rider for future recovery of AMI costs.

Respectfully submitted,

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Dated: February 9, 2021

CERTIFICATE OF SERVICE

I hereby certify that Walmart's February 9, 2021, electronic filing is a true and accurate copy of Walmart Inc.'s Response in Opposition to Kentucky Power Company's Motion for Rehearing; and that on February 9, 2021, the electronic filing has been transmitted to the Commission. Pursuant to the Commission's Order dated March 24, 2020, in Case No. 2020-00085, and in accordance with all other applicable law, counsel certifies that an electronic copy of the foregoing was served by email to the following. A physical copy of the filing will be submitted to the Commission within 30 days after the Governor lifts the current State of Emergency.

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