

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

In the Matter of:

ELECTRONIC APPLICATION OF)	
LOUISVILLE GAS AND ELECTRIC)	
COMPANY FOR AN ADJUSTMENT OF ITS)	
ELECTRIC AND GAS RATES, A)	
CERTIFICATE OF PUBLIC CONVENIENCE)	
AND NECESSITY TO DEPLOY ADVANCED)	CASE NO. 2020-00350
METERING INFRASTRUCTURE,)	
APPROVAL OF CERTAIN REGULATORY)	
AND ACCOUNTING TREATMENTS, AND)	
ESTABLISHMENT OF A ONE-YEAR)	
SURCREDIT)	

MOTION TO INTERVENE OF WALMART INC.

Pursuant to K.R.S. § 278.310 and 807 KAR 5:001 Section 4(11), Walmart Inc. ("Walmart"), by its attorneys, respectfully requests that the Kentucky Public Service Commission ("Commission") permit it to intervene and become a party in the above-captioned matter. In support of its Motion to Intervene, Walmart states as follows:

1. On October 23, 2020, Louisville Gas and Electric Company ("LGE" or "Company") filed a Notice of Intent to file an Application for a general adjustment in its electric rates, including changes to its electric tariffs, a Certificate of Public Convenience and Necessity to deploy advanced metering infrastructure, approval of certain regulatory and accounting treatments, and establishment of a one-year sur-credit ("Application").

2. The Company subsequently filed its Application on November 25, 2020.

3. Walmart has filed a timely request for intervention. As per the Commission's Procedural Order entered December 9, 2020, the deadline to file intervention requests is December 23, 2020.

4. Under 807 KAR 5:001, Section 4(11)(b), the Commission shall grant leave to intervene if it finds that "a timely motion for intervention" was made, that the party seeking intervention has "a special interest in the case that is not otherwise adequately represented," or that "intervention is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly disrupting the proceedings."

5. Walmart is a national retailer of goods and services throughout the United States. Walmart's principal office is at 2608 SE J Street, Bentonville, AR 72716.

6. Walmart has the privilege of providing its retail services in the Commonwealth of Kentucky and directly employs over 28,000 individuals and indirectly supports another 40,000 supplier jobs within this Commonwealth.¹ Indeed, Walmart is one of the largest employers in Kentucky.

7. Walmart is a large commercial customer of the Company. Walmart has 20 retail facilities in Kentucky that are served by the Company. Walmart purchased more than 54 million kWh in 2019 and over 47 million kWh so far in 2020 from LGE, principally under the Time-of-Day Secondary and Primary Rate Schedules. Walmart also purchased approximately 939,000 therms of natural gas in 2019 and over 656,000 therms so far in 2020 from the Company pursuant to service under a Firm Commercial Rate Schedule. In light of the significant amount of energy purchased by Walmart, any modification to the Company's rates has the potential to substantially impact Walmart's operations and personnel in Kentucky.

8. Walmart's energy needs -- and the impact of LGE's Application on Walmart's facilities within the Company's service territory -- are unique both as compared to other commercial customers and to customers who take service from the Company under electric Time-

¹ <https://corporate.walmart.com/our-story/locations/united-states/kentucky>

of-Day Secondary and Primary Rate Schedules and natural gas Firm Commercial Rate Schedule. First, Walmart is a single customer that purchases substantial amounts of energy for numerous accounts across multiple locations within the Company's service territory. Other customers purchasing similar amounts of energy often do so for a single or only a handful of locations whereas Walmart's energy needs are for 20 different facilities. Second, Walmart's load profile differs significantly from other customers in its rate class because it typically operates 24 hours a day² and does not have the load fluctuations often seen from other customers in its rate class who may see spikes or declines in energy usage due to manufacturing or production processes that vary with changes in economic conditions.

9. These factors make Walmart's interest in this case unique and special.

10. No other party could adequately represent Walmart's unique interests in this proceeding. While it is true that the Office of the Attorney General has a statutory mandate pursuant to KRS 367.150(8) to represent consumers' interests, it does not have a mandate to represent a subset or a single customer's interests. Moreover, when read in context, KRS 361.150(8) is part of Kentucky's Consumer Protection Act³, which focuses on protecting the individual consumer rather than an entity like Walmart. Consistent with the mandate in KRS 361.150(8) and the Kentucky Consumer Protection Act's focus on the individual consumer, the Attorney General has historically focused most closely on issues impacting residential consumers in cases of this nature.⁴

² Some of Walmart's operating hours have been adjusted due to the COVID-19 pandemic.

³ See KRS 361.120(2).

⁴ Indeed, in *In the Matter of Application of Big Rivers Electric Corporation for Approval to Modify MRSM Tariff, Cease Deferring Depreciation Expenses, Establish Regulatory Assets, Amortize Regulatory Assets, and Other Appropriate Relief*, Case No. 2020-00064 at Post-Hearing Brief of Attorney General, pp. 2-3, the Attorney General advocated for a "per customer" as opposed to a "per kWh" bill credit mechanism, which favored residential customers over other types of customers (e.g., commercial and industrial).

11. Testimony that Walmart would present in this proceeding will provide the unique perspective of a commercial customer impacted by LGE's requested rate increase. Walmart's testimony will also be informed by its experience as a customer that maintains operations on a national basis and is attuned to regional and national issues and trends. Walmart's unique understanding and input will assist the Commission in adjudicating this case and evaluating the question of whether the rate increase requested by the Company or otherwise resolved through settlement is just and reasonable for all rate classes. That perspective cannot be provided or represented by the Office of the Attorney General or by any other party to these proceedings.

12. Walmart was an intervening party and active participant in the Company's 2018 rate case, Case No. 2018-00295, its 2016 rate case, Case No. 2016-00371, and its 2014 rate case, Case No. 2014-00372.⁵ Aside from rate cases, Walmart has also actively participated in other filings made by the Company.⁶ Walmart has also been an active participant in other proceedings filed by other utilities before this Commission.⁷ In all these matters, Walmart has advocated specifically on its own behalf and for other similarly situated customers, offering testimony that provided a perspective different from all other parties participating in those proceedings. Moreover, Walmart did so in a way that provided a more complete record for Commission

⁵ Walmart has also been an active participant before this Commission in matters filed by Kentucky Power Company ("KU"), including its 2018 rate case, Case No. 2018-00294, its 2016 rate case, Case No. 2016-00370, its 2014 rate case, Case No. 2014-00371, and its 2009 rate case, Case No. 2009-00548. These cases were consolidated with the corresponding LGE rate cases.

⁶ For example, Walmart was an active participant in two of KU/LGE's Demand-Side Management and Energy Efficiency Programs Cases. *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. 2014-00003; *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.

⁷ Walmart was an intervening party and active participant in the Kentucky Power Company's 2020 rate case, Case No. 2020-00174, its 2017 rate case, Case No. 2017-00179, its 2014 rate case, Case No. 2014-00396, its 2013 rate case, Case No. 2013-00197, and its 2009 rate case, Case No. 2009-00459.

consideration and without disrupting the proceedings. Indeed, the Commission relied, in part, on testimony provided by Walmart in awarding Kentucky Power a 9.70 percent return on equity in its 2017 rate case.⁸

13. Walmart expects to present the testimony of Lisa Perry, Walmart's Senior Manager, Energy Services, and may choose to present testimony of other witnesses not yet identified.

14. The attorneys representing Walmart in this proceeding are:

Don C. A. Parker Spilman Thomas & Battle, PLLC 300 Kanawha Blvd, East Charleston, WV 25301 Phone: (304) 340-3800 Fax: (304) 340-3801 E-mail: dparker@spilmanlaw.com	Carrie H. Grundmann Spilman Thomas & Battle, PLLC 110 Oakwood Drive, Suite 500 Winston-Salem, NC 27103 Phone: (336) 631-1051 Fax: (336) 725-4476 Email: cgrundmann@spilmanlaw.com
---	--

Barry A. Naum
Spilman Thomas & Battle, PLLC
1100 Bent Creek Blvd., Suite 101
Mechanicsburg, PA 17050
Phone: (717) 795-2742
Fax: (717) 795-2743
Email: bnaum@spilmanlaw.com

Mr. Parker is authorized to accept service of papers in this proceeding on behalf of Walmart. Walmart also respectfully requests that Ms. Grundmann and Mr. Naum be added jointly to the service list. Walmart plans to file motions for Ms. Grundmann and/or Mr. Naum to be admitted *pro hac vice* before this Commission, and subsequent to any Commission grant of such requests, Walmart requests that Ms. Grundmann and Mr. Naum be added to the official service list as attorneys authorized to accept service of papers in this proceeding.

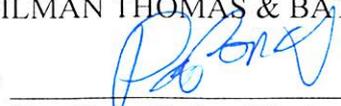
⁸ *In the Matter of Electronic Application of Kentucky Power Company for (1) A General Adjustment of its Rates for Electric Service; (2) An Order Approving its 2017 Environmental Compliance Plan; (3) An Order Approving its Tariffs and Riders; (4) An Order Approving Accounting Practices to Establish Regulatory Assets and Liabilities; and (5) An Order Granting All other Requested Approvals and Relief,"* Case No. 2017-00179, Final Order (Entered Jan. 18, 2018) at p. 29-30, the Commission cited to specifically to Walmart Witness Greg Tillman's testimony regarding nationwide trends on ROE in awarding Kentucky Power a 9.70 percent return on equity and rejecting the 9.75 percent return on equity proposed in a settlement agreement.

WHEREFORE, Walmart respectfully requests that it be granted leave to intervene and be made a party to the above-captioned proceeding.

Respectfully submitted,

SPILMAN THOMAS & BATTLE, PLLC

By



Don C. A. Parker (Kentucky I.D. No. 94113)
300 Kanawha Blvd, East
Charleston, WV 25301
Phone: (304) 340-3800
Fax: (304) 340-3801
E-mail: dparker@spilmanlaw.com

Carrie H. Grundmann
110 Oakwood Drive, Suite 500
Winston-Salem, NC 27103
Phone: (336) 631-1051
Fax: (336) 725-4476
Email: cgrundmann@spilmanlaw.com

Barry A. Naum
1100 Bent Creek Blvd., Suite 101
Mechanicsburg, PA 17050
Phone: (717) 795-2742
Fax: (717) 795-2743
E-mail: bnaum@spilmanlaw.com

Counsel to Walmart Inc.

Dated: December 15, 2020

CERTIFICATE OF SERVICE

I hereby certify that Walmart's December 15, 2020, electronic filing is a true and accurate copy of the Motion to Intervene; and that on December 15, 2020, 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 accord 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.

Robert M. Conroy
Allyson K. Sturgenon
Sara V. Judd
Rick E. Lovecamp
LG&E and KU Services Company
220 West Main Street
Louisville, KY 40202
Robert.conroy@lge-ku.com
Allyson.sturgenon@lge-ku.com
sara.judd@lge-ku.com
rick.lovecamp@lge-ku.com

Kendrick R. Riggs
Stoll Keenon Ogden PLLC
500 West Jefferson Street, Suite 2000
Louisville, K 40202-2828
Kendrick.riggs@skofirm.com

Lawrence W. Cook
J. Michael West
Angela M. Goad
John G. Horne II
Office of the Attorney General
700 Capital Avenue, Suite 20
Frankfort, KY 40601-8204
Larry.Cook@ky.gov
Michael.West@ky.gov
Angela.Goad@ky.gov
John.Horne@ky.gov

Michael L. Kurtz
Kurt J. Boehm
Jody Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202
MKurtz@bkllawfirm.com
kboehm@bkllawfirm.com
jkylercohn@bkllawfirm.com

Robert C. Moore
Stites & Harbison, PLLC
421 West Main Street
P.O. Box 634
Frankfort, KY 40602-0634
rmoore@stites.com

James W. Gardner
M. Todd Osterloh
Sturgill, Turner, Barker & Moloney, PLLC
333 W. Vine Street, Suite 1500
Lexington, KY 40507
jgardner@sturgillturner.com
tosterloh@sturgillturner.com

Certificate of Service
Case No. 2020-00350
Page 2

Jeff Derouen
Lauren Givhan
Assistant Jefferson County Attorneys
First Trust Centre
200 S. 5th St., Suite 200N
200 East Main Street
Louisville, KY 40202
jeff.derouen@louisvilleky.gov
lauren.givhan@louisvilleky.gov



Don C. A. Parker (Kentucky I.D. No. 94113)