

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Duke Energy Kentucky, Inc.'s Application for)
Approval of a Special Contract and for Waiver) Case No. 2021-00192
of 807 KAR 5:041, Section 6(2)(c))

**DUKE ENERGY KENTUCKY, INC.'S APPLICATION FOR APPROVAL OF A
SPECIAL CONTRACT AND FOR WAIVER OF 807 KAR 5:041, SECTION 6(2)(c)**

Now comes Duke Energy Kentucky, Inc. (Duke Energy Kentucky or Company), pursuant to 807 KAR 5:011, Section 13, 5:006, Section 28, and 5:041, Section 6(6) and hereby respectfully requests the Kentucky Public Service Commission (Commission) approve the attached special contract and to grant a waiver from 807 KAR 5:041, Section 6(2)(c) to the extent necessary.

In support of this Application, Duke Energy Kentucky respectfully states:

1. Duke Energy Kentucky is a Kentucky corporation with its principal office and principal place of business at 139 East Fourth Street Cincinnati, Ohio 45202. The Company's local office in Kentucky is Duke Energy Operations Center, 1262 Cox Road, Erlanger, Kentucky 41018.

2. Copies of all orders, pleadings and other communications related to this proceeding should be sent to:

Rocco O. D'Ascenzo
Deputy General Counsel
Duke Energy Kentucky, Inc.
139 E. 4th St., Cincinnati, OH 45202
Rocco.D'Ascenzo@duke-energy.com
KYfilings@duke-energy.com

3. Duke Energy Kentucky is a utility engaged in the gas and electric business. Duke Energy Kentucky purchases, sells, stores and transports natural gas in Boone, Bracken, Campbell, Gallatin, Grant, Kenton and Pendleton Counties, Kentucky. Duke Energy Kentucky also generates electricity, which it distributes and sells in Boone, Campbell, Grant, Kenton and Pendleton Counties.

4. Pursuant to 807 KAR 5:001, Section 14(2), Duke Energy Kentucky states that it was originally incorporated in the Commonwealth of Kentucky on March 20, 1901, and attests that it is currently in good standing in said Commonwealth.

5. Duke Energy Kentucky customer, Northern Kentucky Water District (NKWD) operates the Ohio River Pumping Station 1, also known as the Mary Ingles Pumping Station, located on Mary Ingles Highway, Ft. Thomas, Kentucky (the Pumping Station) where a total of six 1,250 HP pumps are installed.

6. Duke Energy serves the Pumping Station from its 12.47 kV electric distribution circuit, Wilder 46, which also serves other businesses and residences.

7. NKWD currently takes service at the Pumping Station in accordance with Duke Energy Kentucky's approved Time-Of-Day Rate For Service At Distribution Voltage, Rate DT, KY.P.S.C Electric No. 2, Eleventh Revised Sheet No. 41. See Attachment 1. Rate DT offers lower rates on electric demand and energy consumed during off-peak hours. The off-peak hours are as follows:

- a. Summer: 8:00 pm – 11:00 am
- b. Winter: 9:00 pm – 9:00 am; 2:00 pm – 5:00 pm

8. NKWD, in order to manage its energy costs, operates its pumps primarily during off-peak hours. This results in NKWD having to run more pumps, and start them more

frequently, than if they were able to operate their pumps continuously, 24 hours a day. Multiple pump starts also causes wear and tear on the pumps.

9. When the pumps start, they draw a large amount of power until they can reach normal operating levels. This power draw periodically results in a momentary voltage drop on Wilder 46 that can be more than 4%.

10. The Company and NKWD have been actively engaged in finding a solution to voltage drop issue that balances the interests of the two companies and their respective customers, who would ultimately pay for any incremental facility upgrades to mitigate voltage drops (e.g., motor controls for NKWD or additional electric service substations for the Company). Together, the companies have developed a solution through a reasonable special contract structure that will enable NKWD to have greater control over running their Pumping Station 1 without an adverse impact on their electric costs paid to Duke Energy Kentucky, or necessitating significant capital investments or upgrades to the Pumping Station or Duke Energy's distribution system.

11. On March 19, 2021, Duke Energy Kentucky and NKWD entered into a Rates and Scheduling Agreement (Agreement), subject to approval by the Commission. See Attachment 2.

12. The intent of this Agreement is to provide NKWD greater operational flexibility for its pumping stations in a manner that does not adversely impact its costs of electric service. The Agreement is structured such that NKWD is agreeing to a revised operating schedule in which it may start its pumps between the hours of midnight and 4:00 am (with an exception for emergency conditions) and run the pumps 24 hours per day. This revised operating schedule will see fewer pump starts and fewer pumps running at any given time under normal conditions. Hence, the revised operating schedule will result in fewer instances of voltage drop on Wilder

46, and the voltage drops will occur during a period of the night less likely to impact other customers on the circuit. In return, Duke Energy Kentucky is agreeing to adjust how it charges NKWD for power at the Ohio River Pumping Station 1. Duke Energy will charge NKWD a fixed demand charge of \$3.38 per kW and fixed energy charge of \$0.038016 per kWh for all power consumed at 3,000 kW and below and will charge NKWD the normal Rate DT charges for all power consumed greater than 3,000 kW. All other riders associated with Rate DT will be charged per their terms. Further, the fixed rates charged for power below 3,000 kW will be commensurately adjusted with any Commission-approved adjustment to Rate DT. This structure is intended to make Duke Energy Kentucky whole from an electricity sold perspective, and not to penalize NKWD for implementing the revised operating schedule.

13. Prior to the Agreement becoming effective, Commission approval is required along with an approved waiver from 807 KAR 5:041, Section 6 and any other laws, rules, or regulations that pertain to the potential voltage drops caused by the operation of the pumps.

14. The companies believe the Agreement will mitigate the periodic adverse impacts on the Company's distribution circuit when NKWD starts its pumps. The Agreement will allow NKWD to run their pumps on a more continuous basis, manage their electric demand, and reduce the number of pump starts, thereby reducing their operating costs and mitigating the associated periodic voltage drops impacting Duke Energy Kentucky's distribution system.

15. 807 KAR 5:041, Section 6(2)(c), provides in relevant part: "Where utility distribution facilities supplying customers are reasonably adequate and of sufficient capacity to carry actual loads normally imposed, the utility may require that starting and operating characteristics of equipment on customer premises shall not cause an instantaneous voltage drop of more than four (4) percent of standard voltage nor cause objectionable flicker in other

customer's lights.”

16. Duke Energy Kentucky respectfully submits that the potential for voltage variation as a result of NKWD's pump operation is consistent with 807 KAR 5:041, Section 6 (6), as being in a limited area in and where the business done by NKWD, namely providing adequate water service to the citizens of Northern Kentucky does not justify close voltage administrative regulation. Nonetheless, the companies have worked diligently to find ways to minimize the voltage deviations caused by NKWD's pumping stations and impacts to our common customers. The companies recognize that this contract will likely not eliminate all future voltage impacts on the circuit, particularly in emergency or maintenance situations where NKWD will need to operate additional pumps. Nonetheless, in order to implement this arrangement, and not find itself in a willful violation of the Commission's regulations, the Company requests a waiver, to the extent necessary, for such voltage deviations, in excess of 807 KAR 5:041 during the hours of midnight to 4:00 am and due to the emergency or maintenance operation of NKWD's pumps within the confines of the Agreement. This waiver will allow NKWD to take necessary actions in maintaining their facilities and respond to emergency situations without resulting in Duke Energy Kentucky to suddenly be in violation.

17. Duke Energy Kentucky will provide any additional information that may be required to support this application.

WHEREFORE, for the reasons stated herein, Duke Energy Kentucky respectfully requests the Commission approve the Agreement and grant a waiver of 807 KAR 5:041, Section 6(2)(c) as described herein.

Respectfully submitted,

/s/Rocco D'Ascenzo

Rocco D'Ascenzo (92796)

Deputy General Counsel

Duke Energy Business Services LLC

139 East Fourth Street, 1303-Main

Cincinnati, Ohio 45202

Phone: (513) 287-4320

Fax: (513) 287-4385

Email: rocco.d'ascenzo@duke-energy.com

Counsel for Duke Energy Kentucky, Inc.

CERTIFICATE OF SERVICE

This is to certify that the foregoing electronic filing is a true and accurate copy of the document being filed in paper medium; that the electronic filing was transmitted to the Commission on May 5, 2021; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and the original filing in paper medium will be delivered to the Commission pending further instruction from Case No. 2020-00085.¹

John G. Horne, II
The Office of the Attorney General
Utility Intervention and Rate Division
700 Capital Avenue, Ste 118
Frankfort, Kentucky 40601

/s/ Rocco D'Ascenzo

Rocco D'Ascenzo

¹ *In the Matter of Electronic Emergency Docket Related to the Novel Coronavirus COVID-19*, Order, Case No. 2020-00085 (Ky. P.S.C. March 16, 2020).

Duke Energy Kentucky, Inc.
 1262 Cox Road
 Erlanger, Kentucky 41018

RATE DT

TIME-OF-DAY RATE FOR SERVICE AT DISTRIBUTION VOLTAGE

APPLICABILITY

Applicable to electric service for customers with an average monthly demand of 500 kilowatts or greater where the Company specifies service at a nominal distribution system voltage of 34,500 volts or lower, and the Company determines that facilities of adequate capacity are available and adjacent to the premises to be served. Electric service must be supplied at one point of delivery and is not applicable for resale service.

TYPE OF SERVICE

Alternating current 60 Hz, single phase or three phase at Company's standard distribution voltage of 34,500 volts or lower.

NET MONTHLY BILL

Computed in accordance with the following charges (kilowatt of demand abbreviated as kW and kilowatt-hours are abbreviated as kWh):

1. Base Rate

(a) Customer Charge			
Single Phase	\$ 63.50	per month	
Three Phase	\$127.00	per month	
Primary Voltage Service	\$138.00	per month	
(b) Demand Charge			
Summer			
On Peak kW	\$ 14.85	per kW	(I)
Off Peak kW	\$ 1.34	per kW	(I)
Winter			
On Peak kW	\$ 14.05	per kW	(I)
Off Peak kW	\$ 1.34	per kW	(I)
(c) Energy Charge			
Summer On Peak kWh	\$0.046825	per kWh	(I)
Winter On Peak kWh	\$0.044698	per kWh	(I)
Off Peak kWh	\$0.038345	per kWh	(I)

Issued by authority of an Order of the Kentucky Public Service
 Commission dated October 16, 2020 in Case No. 2019-00271.

Issued: October 29, 2020

Effective: October 29, 2020

Issued by Amy B. Spiller, President /s/ Amy B. Spiller

Duke Energy Kentucky, Inc.
1262 Cox Road
Erlanger, Kentucky 41018

KY.P.S.C. Electric No. 2
Eleventh Revised Sheet No. 41
Cancels and Supersedes
Tenth Revised Sheet No. 41
Page 2 of 4

NET MONTHLY BILL (Contd.)

2. Applicable Riders

The following riders are applicable pursuant to the specific terms contained within each rider:

Sheet No. 76, Rider ESM, Environmental Surcharge Mechanism Rider

Sheet No. 78, Rider DSMR, Demand Side Management Rider

Sheet No. 80, Rider FAC, Fuel Adjustment Clause

Sheet No. 82, Rider PSM, Profit Sharing Mechanism

The minimum charge shall be the Customer Charge, as stated above.

When both single and three phase secondary voltage services are required by a customer, the monthly kilowatt-hour usage and kilowatt demands shall be the respective arithmetical sums of both services.

For purposes of administration of the above Base Rate charges, the summer period is defined as that period represented by the Company's billing for the four (4) revenue months of June through September. The winter period is defined as that period represented by the Company's billing for the eight (8) revenue months of January through May and October through December.

RATING PERIODS

The rating periods applicable to the demand charge shall be as follows:

a) On Peak Period

Summer - 11 a.m. to 8 p.m. Monday through Friday, excluding holidays.

Winter - 9 a.m. to 2 p.m. and 5 p.m. to 9 p.m., Monday through Friday, excluding holidays.

b) Off Peak Period - All hours Monday through Friday not included above plus all day Saturday and Sunday, as well as New Year's Day, President's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day and Christmas Day on the day nationally designated to be celebrated as such.

METERING

The company may meter at secondary or primary voltage as circumstances warrant. If the Company elects to meter at primary voltage, kilowatt hours registered on the Company's meter will be reduced one and one-half percent (1.5%) for billing purposes.

If the customer furnishes primary voltage transformers and appurtenances, in accordance with the Company's specified design and maintenance criteria, the Demand Charge, as stated above, shall be reduced as follows:

First 1,000 kW of On Peak billing demand at \$0.75 per kW.

Additional kW of On Peak billing demand at \$0.58 per kW.

Issued by authority of an Order of the Kentucky Public Service
Commission dated October 16, 2020 in Case No. 2019-00271.

Issued: October 29, 2020

Effective: October 29, 2020

Issued by Amy B. Spiller, President /s/ Amy B. Spiller

Duke Energy Kentucky, Inc.
1262 Cox Road
Erlanger, Kentucky 41018

DEMAND

The On Peak billing demand shall be the kilowatts derived from the Company's demand meter for the fifteen minute period of greatest use in the on peak rating period adjusted for power factor as provided herein. The Off Peak billing demand shall be the kilowatts derived from the Company's demand meter for the fifteen minute period of greatest use in the off peak rating period adjusted for power factor minus the On Peak billing demand. In no case shall the Off Peak billing demand be less than zero.

POWER FACTOR ADJUSTMENT

The power factor to be maintained shall be not less than 90% lagging. If the Company determines the customer's power factor to be less than 90%, the on peak and off peak billing demands will be the number of kilowatts equal to the respective on peak and off peak kilovolt amperes multiplied by 0.90.

The power factor, as determined by continuous measurement, will be derived from the intervals in which the maximum on peak and off peak kW demands are established.

LATE PAYMENT CHARGE

Payment of the Net Monthly Bill must be received in the Company's office within twenty-one (21) days from the date the bill is mailed by the Company. When not so paid, the Gross Monthly Bill, which is the Net Monthly Bill plus 5%, is due and payable.

TERMS AND CONDITIONS

The initial term of contract shall be for a period of three (3) years for secondary voltage service and five (5) years for primary voltage service terminable thereafter by a minimum notice of either the customer or the Company as follows:

- (1) For secondary voltage service customers, as prescribed by the Company's Service Regulations.
- (2) For primary voltage service customers with a most recent twelve month average demand of less than 10,000 kVA or greater than 10,000 kVA, written notice of thirty (30) days or twelve (12) months respectively, after receipt of the written notice.

The Company is not obligated to extend, expand or rearrange its transmission system if it determines that existing distribution and/or transmission facilities are of adequate capacity to serve the customer's load.

If the Company offers to provide the necessary facilities for transmission service, in accordance with its Service Regulations, an annual facilities charge, applicable to such additional facilities, is established at twenty (20) percent of actual cost. The annual facilities charge shall be billed in twelve monthly installments to be added to the demand charge.

Duke Energy Kentucky, Inc.
1262 Cox Road
Erlanger, Kentucky 41018

TERMS AND CONDITIONS (Contd.)

For purposes of the administration of this rate, the Company will determine the customer's average monthly demand based upon the twelve months ending December of each year after the applicable term of service has been fulfilled by the customer. If the customer's demand is less than 500 kilowatts and the Company expects the customer's demand to remain below 500 kilowatts, then the Company will notify the customer prior to May of the succeeding year that the provisions of Rate DS, Service at Secondary Distribution Voltage or Rate DP, Service at Primary Distribution Voltage shall be applicable initiating with the June revenue month billing and shall continue until the term of service of that rate is fulfilled. In the case where a customer's average demand is estimated by the Company to be significantly greater than 500 kilowatts, the Company may, at its discretion, waive the twelve month demand history requirement in the determination of the applicability of this rate.

The supplying of, and billing for, service and all conditions applying thereto, are subject to the jurisdiction of the Kentucky Public Service Commission, and to Company's Service Regulations currently in effect, as filed with the Kentucky Public Service Commission, as provided by law.

Issued by authority of an Order of the Kentucky Public Service
Commission dated October 16, 2020 in Case No. 2019-00271.

Issued: October 29, 2020

Effective: October 29, 2020

Issued by Amy B. Spiller, President /s/ Amy B. Spiller

RATES AND SCHEDULING AGREEMENT

This RATES AND SCHEDULING AGREEMENT (hereinafter referred to as "Agreement") is entered into as of the 19th day of March, 2021 (the "Effective Date"), by and between Duke Energy Kentucky, Inc. a Kentucky corporation ("Duke Energy") and Northern Kentucky Water District, a public water district established pursuant to KRS Chapter 74 (the "NKWD"). Duke Energy and the NKWD may be hereinafter referred to individually as a "Party" and collectively as the "Parties."

RECITALS

A. NKWD operates the Ohio River Pumping Station 1 (ORPS 1), also known as the Mary Ingalls Pumping Station, located on Mary Ingalls Highway, Ft. Thomas Kentucky (the "Pumping Station") where a total of six 1,250 HP pumps are installed, all 6 of which are currently in service, at the Pumping Station (collectively, the "Pumps").

B. The current practice of NKWD is to operate the Pumps during off-peak hours to take advantage of Duke Energy's time of use distribution rate, Rate DT ("Normal Operating Schedule").

C. The current operating practice of NKWD results in the Pumps being cycled on and off at least once per day, which due to the frequent on-off cycling, reduces the life of the pumps. In addition, when the Pumps are turned on there is a significant drop in voltage on Duke Energy's circuit serving the Pumping Station which has resulted in complaints from other Duke Energy customers on the circuit.

D. Based on the foregoing, Duke Energy and NKWD desire to enter into this Agreement to implement a special contract rate and scheduling arrangement for the operation of the Pumps, which the Parties intend to be cost and revenue neutral to both Parties and which will allow NKWD to run their Pumps on a more continuous basis and reduce the number of pump starts and associated voltage drops, all in accordance with the terms of this Agreement ("Stated Purpose").

NOW, THEREFORE, in consideration of the recitals, the mutual promises in the Agreement and other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows:

1. Special Contract Rate. A special contract rate as detailed in Exhibit A attached hereto (the "Contract Rate") shall be applicable to the Pumping Station subject to the terms and conditions of this Agreement. The rate design assumes a monthly average of 2,566 kW. The maximum peak demand for the special contract rate will be 3,000 kW (the "Demand Limit") which is based on the estimated energy usage over 15 minutes of 3 Pumps operating at any one time. All electricity used at the Pumping Station in excess of the Demand Limit shall be considered excess demand ("Excess Demand") and shall not qualify for the Contract Rate. All Excess Demand used in any billing period shall be billed at Duke Energy's then current Rate DT. The Contract Rate shall be applicable only to the Pumping Station as defined in Recital A of this Agreement and shall in no way limit or affect any other service provided or

offered by Duke Energy to NKWD or any other customer whatsoever. During the Term of this Agreement, each time a change in Duke Energy's base rates is approved by the Kentucky Public Service Commission (the "**Commission**"), the Contract Rate shall be adjusted by Duke Energy accordingly. If NKWD does not agree with the adjusted rate and the Parties are unable to resolve their differences with respect to the adjusted rate, then either Party may terminate this Agreement by providing 30 days written notice to the other Party.

2. New Operating Schedule. NKWD anticipates that, under normal operating conditions, the Pumping Station will run two Pumps at a time, however, additional Pumps may need to be operated in the event of an Emergency Condition (as defined below) and in addition, the remaining unused Pumps will need to be cycled periodically as part of their routine maintenance. Therefore, subject to Section 3 below, under normal operating conditions, NKWD hereby agrees to comply with the following operating schedule (the "**New Operating Schedule**"):
 - a. no more than 2 Pumps shall be started per day,
 - b. no more than 50 Pump starts shall occur in any calendar month,
 - c. all Pump starts shall take place between 12:00 am and 4:00 am.
3. Emergency Conditions. The Parties hereby acknowledge and agree that under Emergency Conditions, the above stated Operating Schedule may need to be temporarily suspended. As used herein the term "**Emergency Condition**" shall mean a condition or an activity affecting or relating to the Pumping Station that, in the commercially reasonable opinion of NKWD, requires immediate attention to: (i) mitigate or prevent imminent damage or injury to the health or safety of any person; (ii) restore necessary lost utility service; (iii) prevent the imminent loss of utility service; or (iv) protect persons, property, or the environment from imminent and substantial harm. In the event of an Emergency Condition NKWD shall promptly notify Duke Energy and shall provide reasonably available details of the event causing the Emergency Condition as soon as reasonably practicable after becoming aware of the occurrence of the event, but in no event later than 5 business days after the initial occurrence of the Emergency Condition. For so long as the Emergency Condition is continuing, the Operating Schedule may be temporarily suspended to the extent and for the duration made necessary by the Emergency Condition only. NKWD shall act in a commercially reasonable manner to remedy the Emergency Condition as soon as practicable and shall keep Duke Energy advised as to the continuance of the Emergency Condition. Notwithstanding the foregoing, during the suspension of the Operating Schedule all other provisions of this Agreement shall remain in full force and effect, including without limitation the provisions of paragraph 1, Special Contract Rate.
4. Disclosure of Pump Operation Data. If requested by Duke Energy, NKWD shall promptly provide the actual Pump operating data for the Pumping Station, as may be reasonably necessary for Duke Energy to determine NKWD's compliance with this Agreement.
5. Termination Due to Suspension of Operating Schedule. If the Operating Schedule has been suspended for any reason for an aggregate of thirty (30) days or more in any year during the Term, Duke Energy shall have the right in its sole discretion to terminate this Agreement by

providing NKWD not less than thirty (30) days written notice.

6. Term. The initial term of this Agreement shall commence on the Effective Date and shall continue for a term of five (5) years unless earlier terminated in accordance with the terms of this Agreement. Upon expiration of the initial term, this Agreement shall continue on a month to month basis until terminated by either Party by providing not less than thirty (30) days written notice to the other Party. The Initial term and any renewal term may be referred to individually or collectively as the “Term.”
7. Evaluation Period. Approximately 180 days after the Effective Date, the Parties shall meet in good faith to assess the impact of this Agreement on either or both Parties. If, based on the above assessment, it is reasonably determined by either Party that the Agreement has failed to achieve the Stated Purpose the Parties will attempt to negotiate one or more modifications to the Agreement to achieve the Stated Purpose. If the Parties cannot agree on the modifications within sixty (60) days (or such additional time that the Parties may mutually agree), then either Party may terminate the Agreement by providing not less than sixty (60) days written notice to the other Party.
8. Commission Approval. NKWD hereby acknowledges that Duke Energy must file the Agreement (and any necessary additional documentation or information that may be required by the Commission from time to time) with the Commission and shall have received approval from the Commission (“Commission Approval”) prior to the Agreement becoming effective. After execution of this Agreement by both parties Duke Energy will submit the Agreement for filing with the Commission for consideration and approval. Duke Energy shall have sole discretion over all aspects of such submittal, including without limitation, the form and substance of the submittal, confidentiality, procedure, responding to any data requests, and providing any information to the Commission. If the Commission issues an order or any other directive to modify or condition any aspect of this Agreement as a condition to the Commission’s approval that negatively impacts either Party as determined in such Party’s reasonable discretion, then this Agreement may be terminated by the negatively affected Party by providing not less than 10 business day’s written notice to the other Party, and upon any such termination neither Party shall have any obligation, duty, or liability to the other Party under this Agreement.
9. Grant of Waiver. After the execution of this Agreement by both Parties, Duke Energy shall request that the Commission grant a waiver to Duke Energy from 807 KAR 5:041 Section 6 and any other laws, rules or regulations that pertain to the voltage drop on Duke Energy’s circuit serving the Pumping Station caused by operation of the Pumps (the “Waiver”). NKWD shall support this request. Duke Energy may, in its sole discretion, immediately terminate this Agreement by providing written notice to NKWD under either of the following conditions: (i) if the Commission denies the Waiver request; or (ii) if within one year after the initial filing date of any action with the Commission to approve this Agreement, the Commission fails to grant the Waiver to the satisfaction of Duke Energy as determined in its sole discretion. Upon any such termination under this Section 9, neither Party shall have any further obligation, duty, or liability to the other Party under this Agreement except for those obligations which expressly survive termination hereof.

10. No Liability by Duke Energy. In no event shall Duke Energy be liable for any interruption or damages attributed to NKWD's failure to conform to the requirements of the terms of this Agreement.
11. Non-Compliance and Early Termination. Non-Compliance and Early Termination. In the event either Party (the "Claiming Party") reasonably determines that the other Party (the "Responding Party") is not in compliance with the terms of this Agreement, the Claiming Party will provide the Responding Party with written notice of such non-compliance (the "**Notice of Non-Compliance**"). Within thirty (30) days after its receipt of the Notice of Non-Compliance, the Responding Party will respond to the Claiming Party's assertions of non-compliance. If the Responding Party fails to cure the non-compliance or if the Parties are unable to resolve their differences with respect to the matters addressed in the Notice of Non-Compliance within sixty (60) days after the date of the Notice of Non-Compliance, or such other timeframe agreed upon by both Parties, then either Party may terminate this Agreement by providing not less than ten (10) business days written notice to the other Party.
12. Effect of Expiration or Early Termination. Upon the expiration or early termination of the Agreement, NKWD shall return to Duke Energy's then current Rate DT in effect at the time of the termination or expiration. Upon termination of this Agreement for any reason, the Parties will promptly schedule a joint meeting to discuss potential remedies and allocation of associated costs and next steps, which may include requesting a meeting within 30 days of termination to jointly approach the Commission to discuss responsibility for implementing such solution(s) and allocation of the associated costs. This Section 12 shall survive termination of this Agreement.
13. No Guaranty. The parties hereby acknowledged and agree that NKWD is solely responsible for the operation of its business including the scheduling and operation of the Pumps and the Pumping Station. Duke Energy makes no representations or warranties under this Agreement whatsoever, including any guaranty of uninterrupted service, or that the arrangements agreed to under this Agreement will result in any efficiencies or extended life of the Pumps.
14. Disclaimer of Warranties. DUKE ENERGY MAKES NO WARRANTIES OR GUARANTEES UNDER THIS AGREEMENT OF ANY KIND WHATSOEVER, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ALL SUCH EXPRESS OR IMPLIED WARRANTIES ARE HEREBY WAIVED.
15. No Consequential Damages. In no event shall either Party or their subcontractors or agents be liable under this Agreement, in contract, tort (including negligence), warranty, strict liability or any other legal theory to the other Party for any loss of anticipated profits, or any special, incidental, punitive, exemplary or consequential damages. Notwithstanding the foregoing, nothing precludes either Party from seeking remedies or filing claims with the Commission.
16. Notices. All notices permitted or required under the Agreement shall be deemed given if hand delivered, sent by certified mail, return receipt requested, sent by Federal Express or another

recognized overnight delivery service, or sent by email and confirmed (by physical delivery) to the addresses listed below or the subsequent addresses of which the Parties give each other notice:

To Duke Energy: Duke Energy Kentucky, Inc.
Attn: VP Zone Operations
Chris Lange
1262 Cox Avenue
Erlanger, KY 41018
Email: Chris.Lange@duke-energy.com

To NKWD: Northern Kentucky Water District
Attn: VP of Engineering, Production & Distribution
2835 Crescent Springs Rd., PO Box 18640
Erlanger, KY 41018
Email: akramer@nkywater.org


17. Assignment. NKWD may not assign, or otherwise transfer this Agreement or any of its rights under this Agreement to any third party, other than an affiliate of NKWD that has agreed to assume the obligations hereunder, without the prior written consent of Duke Energy which consent shall not be unreasonably withheld.
18. Service Regulations. Except as modified by this Agreement, retail electric service for the Pumping Station shall be subject to: (a) Duke Energy's Service Regulations contained in Duke Energy's Retail Electric Tariff, including all applicable tariffs, rates and rules as may be revised from time to time with the approval of the Commission; (b) all rules and regulations of the Commission, as such rules and regulations may be revised from time to time by the Commission; and (c) all other applicable local, state, and federal codes and laws, as the same may be in effect from time to time.
19. Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky without regard to its conflicts of laws principles to the extent such principles would require or permit the application of the laws of another jurisdiction. The Parties agree that any suit, action or other legal proceeding by or against any Party with respect to or arising out of this Agreement shall be brought in the federal or state court of competent jurisdiction located in the Commonwealth of Kentucky.
20. No Joint Venture. Nothing in this Agreement is intended to create an association, partnership, joint venture or other joint enterprise between the Parties and/or any other person.

21. Entire Agreement. The Agreement contains the entire agreement of the Parties relating to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, usages of trade and courses of dealing, whether written or oral.

IN WITNESS WHEREOF, the Parties have caused the Agreement to be executed by their duly authorized representatives as of the date first above written.

DUKE ENERGY KENTUCKY, INC.

NORTHERN KENTUCKY WATER DISTRICT

By: 
Name: Chris Lange
Title: Vice President Zone Operations
Date: 3/12/21

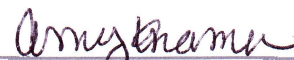
By: 
Name: Amy Kramer
Title: V.P. Engineering, Production & Distribution
Date: 3/19/21

Exhibit A
Contract Rate

The Contract Rate shall be as follows: Customer Charge: \$138 per month; Demand Charge (maximum monthly kW): \$3.38 per kW; and Energy Charge (all kWh): \$0.038016 per kWh; and, as such quantities are measured and calculated in accordance with the Schedule of Rates, Classifications, Rules and Regulations for Electric Service of Duke Energy Kentucky, Inc. as approved by the Commission and as may be amended from time to time.

The Contract Rates specified above shall replace the Demand Charge and the Energy Charge provided in Rate DT, Time-of-Day Rate for Service at Distribution Voltage (Rate DT). All other provisions of Rate DT, including all riders thereto, shall continue to apply.

Notwithstanding anything to the contrary herein the Contract Rate shall not apply to Excess Demand.