

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

**In the Matter of:**

<b>ELECTRONIC TARIFF FILING OF KENTUCKY</b>	)	
<b>UTILITIES COMPANY FOR APPROVAL OF AN</b>	)	<b>CASE NO.</b>
<b>ECONOMIC DEVELOPMENT RIDER SPECIAL</b>	)	<b>2022-00371</b>
<b>CONTRACT WITH BITIKI-KY, LLC</b>	)	

**REBUTTAL TESTIMONY OF**  
**JOHN BEVINGTON**  
**DIRECTOR, BUSINESS AND ECONOMIC DEVELOPMENT**  
**KENTUCKY UTILITIES COMPANY**

**Filed: February 21, 2023**

1 **INTRODUCTION**

2 **Q. Please state your name, position, and business address.**

3 A. My name is John Bevington. I am the Director of Business and Economic Development  
4 for Kentucky Utilities Company (“KU”) and Louisville Gas and Electric Company  
5 (“LG&E”) (collectively, “Companies”) and an employee of LG&E and KU Services  
6 Company, which provides services to KU and LG&E. My business address is 220 West  
7 Main Street, Louisville, Kentucky 40202. A complete statement of my education and  
8 work experience is attached to this testimony as Appendix A.

9 **Q. Have you previously testified before this Commission?**

10 A. Yes. I testified before this Commission in the Companies’ recent application for  
11 certificates of public convenience and necessity and approval of a new demand-side  
12 management and energy efficiency program plan, Case No. 2022-00402.<sup>1</sup> Also, I  
13 testified at the hearing in the Companies’ 2021 Integrated Resource Plan proceeding,  
14 Case No. 2021-00393, and sponsored responses to numerous data requests in that  
15 proceeding.<sup>2</sup> I also testified before the Virginia State Corporation Commission in Case  
16 No. PUR-2021-00171.<sup>3</sup>

17 **Q. What is the purpose of your direct testimony?**

18 A. The purpose of my testimony is to address certain assertions made by Joint Intervenors  
19 witness Stacy L. Sherwood concerning economic development in Kentucky and how  
20 KU uses EDR contracts to help advance those efforts. In addition, I explain the

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<sup>1</sup> *Electronic Joint Application of Kentucky Utilities Company and Louisville Gas and Electric Company for Certificates of Public Convenience and Necessity and Site Compatibility Certificates and Approval of a Demand Side Management Plan*, Case No. 2022-00402, Direct Testimony of John Bevington (Dec. 15, 2022).

<sup>2</sup> *Electronic 2021 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company*, Case No. 2021-00393 (Ky. PSC Application filed Oct. 19, 2021).

<sup>3</sup> *Application of Kentucky Utilities Company d/b/a Old Dominion Power Company For an adjustment of electric base rates*, Case No. PUR-2021-00171 (Va. SCC Application filed Aug. 31, 2021).

1 information the Kentucky Cabinet for Economic Development would have considered  
2 before awarding Bitiki-KY, LLC (“Bitiki”) tax incentives under the Kentucky  
3 Enterprise Initiative Act (“KEIA”), including the potential for new jobs. Also, I  
4 address Ms. Sherwood’s assertions regarding “evidence to support that absent the EDR  
5 that Bitiki would not increase its operational load” by showing that there is evidence to  
6 support the importance of EDR to Bitiki’s locating and growing its load.

7 **Q. Do you have work experience that is particularly pertinent to economic**  
8 **development in Kentucky?**

9 A. I do. Prior to assuming my current role as Director of Business and Economic  
10 Development with the Companies in 2018, I spent more than nine years at the Kentucky  
11 Cabinet for Economic Development. I was a Senior Project Manager for just over four  
12 years, then served briefly as Director of Business and Community Relations before  
13 advancing to the role of Deputy Commissioner for the Department for Business  
14 Development for over three years. During my final year at the Cabinet, I served as  
15 Commissioner for the Department for Business Development. In all, I have spent more  
16 than thirteen years of my career in economic development in the Commonwealth. I am  
17 therefore well versed and have long-term experience in economic development efforts,  
18 initiatives, and requirements in Kentucky, including the requirements of the Kentucky  
19 Enterprise Initiative Act.

1 **KU HAS PROVIDED SUFFICIENT EVIDENCE OF POTENTIAL JOB CREATION**  
2 **TO SUPPORT THE BITIKI EDR CONTRACT**

3 **Q. How do you respond to Ms. Sherwood’s assertion that “KU did not provide**  
4 **evidence to reasonably and in good faith support that any jobs would be created**  
5 **as a result of this EDR contract”?**<sup>4</sup>

6 A. It is an unfounded assertion. First and foremost, it overlooks a key requirement of EDR  
7 eligibility in KU’s EDR tariff provisions, namely that an applicant must have “a  
8 certification that Customer has been qualified by the Commonwealth of Kentucky for  
9 benefits under programs reviewed and approved by the Kentucky Economic  
10 Development Finance Authority [(“KEDFA”)] ....”<sup>5</sup> This requirement is not  
11 superfluous; it helps ensure that KU’s EDR candidates have bona fide economic  
12 development projects in the view of the Commonwealth—those that both create new  
13 jobs and new capital investments—and removes an element of subjectivity from KU’s  
14 EDR decision-making. Concerning Bitiki, the Kentucky Enterprise Initiative Act  
15 explicitly requires KEDFA to “consider the creditworthiness of the eligible company,  
16 employment opportunities for Kentucky residents, wages to be paid, ... [and] the  
17 likelihood that the project will be an economic success ....”<sup>6</sup> During my tenure at the  
18 Kentucky Cabinet for Economic Development, I found that KEDFA took seriously its  
19 obligations to consider incentive applications, including those related to the Kentucky  
20 Enterprise Initiative Act, and it did indeed consider applicants’ potential investments  
21 and job and wage impacts. Though I did not participate in KEDFA’s consideration of  
22 Bitiki, I have no reason to doubt that KEDFA carried out its duties here. Thus, unless

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<sup>4</sup> Sherwood Testimony at 4 lines 5-6.

<sup>5</sup> Kentucky Utilities Company, P.S.C. No. 20, Original Sheet No. 71.1.

<sup>6</sup> KRS 154.31-030(2).

1 the Joint Intervenors intend to assert that KEDFA did not meet its statutory obligations,  
2 the fact of KEDFA’s awarding tax credits to Bitiki under the Kentucky Enterprise  
3 Initiative Act is evidence that the Commonwealth views Bitiki as a legitimate economic  
4 development prospect *including considerations of potential jobs and wages*.

5 Second, Ms. Sherwood’s related assertion that “KU has not provided any  
6 evidentiary support for the level of job creation that would result specifically from the  
7 Special Contract” is plainly incorrect.<sup>7</sup> Bitiki represented to KU that it planned to  
8 create five jobs associated with the service KU would provide; indeed, it signed a  
9 contract containing that representation.<sup>8</sup> Notably, the Commission recently issued an  
10 Order approving a similar EDR contract for another cryptocurrency mining operation  
11 (UMine, LLC) that involved less capital investment and fewer potential jobs, both of  
12 which the serving utility supported only with representations from the prospect—a  
13 prospect that had not received KEDFA approval at the time of application (or  
14 apparently at the time the Commission issued its Order).<sup>9</sup> Therefore, KU has provided  
15 *more* evidence supporting Bitiki’s anticipated job creation than the Commission  
16 required to approve the UMine, LLC EDR contract in October 2022.

17 Third, it is important to address Ms. Sherwood’s claim that “KU did not provide  
18 evidence to reasonably and in *good faith* support that any jobs would be created as a  
19 result of this EDR contract.”<sup>10</sup> I reject the necessary implication of that assertion,  
20 namely that KU is acting either entirely recklessly or intentionally in bad faith. It is

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<sup>7</sup> Sherwood Testimony at 9 lines 1-3.

<sup>8</sup> See Bitiki EDR Contract Appx. A.

<sup>9</sup> *Electronic Tariff Filing of East Kentucky Power Cooperative, Inc. for Approval of a Special Contract Pursuant to Its Interruptible Service Tariff and Economic Development Rider between It, Jackson Energy Cooperative Corp., and UMine, LLC*, Case No. 2022-00355, Order (Ky. PSC Oct. 31, 2022).

<sup>10</sup> Sherwood Testimony at 4 lines 5-6 (emphasis added).

1 impossible for KU to know precisely how many jobs any given EDR prospect might  
2 create, and it is both reasonable and consistent with KU’s EDR tariff obligations to  
3 depend on KEDFA’s vetting process and the plausible representations of prospective  
4 EDR customers on matters of job creation and capital investment. Moreover, it is both  
5 facially plausible and consistent with my experience in economic development that an  
6 entity proposing to deploy \$25 million of capital and create 13 MW of load might also  
7 create five jobs. Therefore, KU has acted only in good faith in this matter and has  
8 provided more than sufficient evidence to support approving the EDR contract with  
9 regard to potential job creation.

10 **KU ACTED CONSISTENTLY WITH ITS TARIFF AND ITS CUSTOMERS’**  
11 **INTERESTS IN OFFERING BITIKI AN EDR CONTRACT TO SUPPORT ADDING**  
12 **NEW LOAD**

13 **Q. How do you respond to Ms. Sherwood’s assertion that “KU did not provide**  
14 **evidence to support that absent the EDR that Bitiki would not increase its**  
15 **operational load”?**<sup>11</sup>

16 **A.** This too is an unfounded assertion. Underlying it is an apparent belief that Bitiki was  
17 going to locate at its current site and grow to its expected 13 MW load irrespective of  
18 whether KU offered EDR discounts, but all of the evidence is to the contrary.

19 First and foremost, as KU stated in a discovery response I sponsored, “Bitiki  
20 represented that EDR credits were important to establishing their full operations, and  
21 they furthermore sought incentives from the state to defray upfront costs in order to  
22 proceed with their business plan.”<sup>12</sup> That is fully consistent with all of the discussions

23 I had with my team who worked with Bitiki over a course of months to bring the EDR

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<sup>11</sup> Sherwood Testimony at 4 lines 5-6. *See also* Joint Intervenors’ Response to KU 1-3(a).

<sup>12</sup> KU Responseto JI 1-11.

1 contract to fruition; EDR discounts were important to Bitiki’s locating and growing its  
2 load in KU’s service territory.

3 Second, a Bitiki representative stated in an email to KU personnel in February  
4 2022—well before Bitiki had any operations at its current site or executed its contract  
5 for service with KU in August 2022—that where it was planning to locate its data center  
6 had been uncertain and that it was planning to qualify for EDR discounts:

7 We have struggled with determining the best location for our data center  
8 expansion. That said, we have finally made progress with Kentucky  
9 Economic Development Cabinet. ... We intend to transfer the UC  
10 Processing, LLC meter point into Bitiki-KY, LLC’s name/Tax-ID and  
11 use the KEIA approval to qualify for an Economic Development Rider  
12 (activating the EDR in Jan of 2023). We are in the process of working  
13 through the KEIA approval process. We are hoping the approval will  
14 occur at the end of next month. We haven’t made any commitments,  
15 waiting on the KEIA approval.<sup>13</sup>

16 Therefore, it was not a foregone conclusion that Bitiki was going to locate at its current  
17 site (or at any other KU site), and KU’s offering EDR discounts to Bitiki was a  
18 reasonable means of assuring that it would locate and expand its operations in KU’s  
19 service territory.

20 Third, it would be inconsistent with KU’s past practice to offer EDR contracts  
21 to existing or prospective customers as entitlements. As KU stated in a discovery  
22 response I sponsored—which Ms. Sherwood interpreted to be self-contradictory,<sup>14</sup>  
23 though it is not—KU offers EDR discounts to a customer or prospective customer only  
24 if KU believes the discounts will affect the customer’s or prospect’s decision to expand  
25 or locate in KU’s service territory; KU does not offer EDR discounts if there is no

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<sup>13</sup> KU Response to JI 1-4, Attachment 4 at 10.

<sup>14</sup> Sherwood Testimony at 7 lines 13-20.

1 reason to believe it would affect the customer’s or prospect’s plans.<sup>15</sup> Indeed, there has  
2 been a large amount of economic development that has occurred in KU’s and LG&E’s  
3 service territories that has not involved EDR discounts, including businesses that  
4 received KEDFA certification.<sup>16</sup> KU is therefore careful to offer EDR contracts only  
5 when it believes it will influence a decision for new or expanded load that will benefit  
6 all customers, which is precisely what KU did with respect to Bitiki.

7 Finally, I would note that a reoccurring theme in Ms. Sherwood’s testimony is  
8 to make a comparison to Bitiki’s *current* operations, both in terms of jobs and load  
9 growth.<sup>17</sup> That is not the appropriate comparison for EDR purposes. As I described  
10 above and as demonstrated at greater length in KU’s discovery responses and EDR  
11 contract filing, EDR was part of KU’s discussions with Bitiki when Bitiki had no  
12 operations at its current site.<sup>18</sup> Bitiki moved forward with its plans and began adding  
13 significant load under the reasonable expectation that it would indeed receive EDR  
14 discounts beginning in early 2023, when it anticipated being at or close to full load,  
15 maximizing the value of EDR discounts, which is entirely consistent with KU’s past  
16 practice and its EDR tariff provisions.<sup>19</sup> Therefore, the appropriate comparison for  
17 EDR purposes is between what was happening at the site *before* Bitiki began  
18 developing its operations there and what it is planning to do there, which is to add 13  
19 MW of load with no new investment from KU. That is an economic development  
20 success, an appropriate use for an EDR contract, and a benefit for KU and its customers.

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<sup>15</sup> KU Response to JI 2-4.

<sup>16</sup> *Id.*

<sup>17</sup> *See, e.g.,* Sherwood Testimony at 8 lines 10-14, 8 line 20 – 9 line 6, and 16 lines 4-7.

<sup>18</sup> *See, e.g.,* KU Response to JI 1-4, Attachment 4 at 10.

<sup>19</sup> *See* Kentucky Utilities Company, P.S.C. No. 20, Original Sheet No. 71.2 (“Customer may request an EDR effective initial billing date that is no later than twelve (12) months after the date on which the Kentucky Public Service Commission approves the customer agreement.”).



**CONCLUSION**

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**Q. What is your recommendation for the Commission?**

A. From my perspective as the person most directly responsible for supporting economic development for KU and with my more than 13 years in this field in Kentucky, I recommend the Commission approve the Bitiki EDR contract as expeditiously as possible. Kentucky has long supported economic development, and under the current administration and General Assembly it is in the midst of a significant statewide effort in that regard, including a \$100 million program for communities to develop potential economic development sites.<sup>20</sup> In this case, the site was ready and the investment in the necessary infrastructure was already made from past productive use. All that was necessary was the right prospective customer, the right support from the state in the form of KEIA sales tax incentives, and the proposed EDR contract, which is fully consistent with the intent and text of KU’s Commission-approved tariff provisions and the Commission’s recent approval of EDR discounts for a smaller but similar cryptocurrency mining operation.<sup>21</sup> Therefore, I believe the Commission should swiftly approve the Bitiki EDR contract.

**Q. Does this conclude your testimony?**

A. Yes.

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<sup>20</sup> See <https://ced.ky.gov/kpdi>.  
<sup>21</sup> Case No. 2022-00355, Order (Ky. PSC Oct. 31, 2022).



## APPENDIX A

### **John Bevington**

Director, Business and Economic Development  
Kentucky Utilities Company  
Louisville Gas and Electric Company  
220 West Main Street  
Louisville, Kentucky 40202  
Telephone: (502) 627-4335

### **Previous Positions**

LG&E and KU Services Company Director, Business & Economic Development	Oct. 2018 - Present
Kentucky Cabinet for Economic Development Commissioner, Dept. for Business Development	Oct. 2017 – Oct. 2018
Deputy Commissioner, Dept. for Business Development	July 2014 – Oct. 2017
Director of Business and Community Relations	Feb. 2014 – July 2014
Senior Project Manager	Aug. 2009 – Feb. 2014
Select Auto Sales and Leasing Inc. General Manager	Apr. 2001 – Aug. 2009
The Bankers' Bank of Kentucky Frankfort, KY Marketing Representative	June 2000 – Apr. 2001

### **Education**

Western Kentucky University, Bachelor of Science in Marketing and Finance	2000
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### **Civic Activities**

Kentucky Association for Economic Development Board of Directors	September 2017-Present
Board Chair	2021
Frankfort YMCA, Board of Directors	2015-Present
YMCA of Central Kentucky, Board of Directors	2017-Present
Volunteer coach for youth sports	
Western Kentucky University student mentoring program	