

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

The Electronic Application of Duke Energy)
Kentucky, Inc., for: 1) An Adjustment of the)
Electric Rates; 2) Approval of New Tariffs;) Case No. 2022-00372
3) Approval of Accounting Practices to)
Establish Regulatory Assets and Liabilities;)
and 4) All Other Required Approvals and)
Relief.)

DUKE ENERGY KENTUCKY, INC.’S BRIEF ON REHEARING

Comes now Duke Energy Kentucky, Inc. (Duke Energy Kentucky or the Company), by counsel, pursuant to the February 15, 2024 Order of the Kentucky Public Service Commission (the Commission) and other applicable law, and does hereby submit to the Commission its Brief on Rehearing (Brief), respectfully stating as follows:

I. BACKGROUND

On October 12, 2023, the Commission issued its Final Order in this proceeding (the Final Order). On November 1, 2023, Duke Energy Kentucky filed its Petition for Rehearing (the Rehearing Petition), asserting seven separate grounds for rehearing.¹ On November 8, 2023, two intervenors—the Office of the Attorney General (OAG) and Sierra Club—each tendered a response, collectively contesting Duke Energy Kentucky’s Rehearing Petition with respect to only three of the issues raised therein.² On November 21, 2023, the Commission issued an Order

¹ As part of the Rehearing Petition, Duke Energy Kentucky also submitted a number of Items for Correction or Clarification (*i.e.*, clerical errors and clarifying questions identified by the Company). The Commission indicated that it would “address the[se] issues . . . in a subsequent Order.” Rehearing Order, 13.

² Collectively, these parties contested Duke Energy Kentucky’s request for rehearing on (1) Planned Outage Operations and Maintenance (O&M) and Forced Outage Purchased Power Deferral Discontinuance, (2) East Bend Retirement Date, and (3) Terminal Net Salvage Adjustment. Neither the OAG nor Sierra Club contested the following

granting in part and denying in part the Company's Rehearing Petition (the Rehearing Order). Specifically, the Commission granted rehearing on the following issues presented by the Company: (1) Appendix B Rates, (2) On-Site Payment Location, (3) Waiver of 807 KAR 5:006, Section 7(1)(a)(3) for Time of Use with Critical Peak Pricing, (4) Terminal Net Salvage Adjustment as it relates to the Company's solar generation assets,³ and (5) Rate Case Expense Disallowances. This Brief addresses each of these issues in turn below.

II. ARGUMENT

A. Appendix B Rates

The first issue is the rates prescribed in Appendix B of the Final Order, which do not align with the adjustments described elsewhere in the Final Order. As noted in the Rehearing Petition, the Company has determined that there is an apparent discrepancy between the Appendix B rates and charges and the adjustments otherwise prescribed in the Final Order, which appears to be due to the proposed roll-in to base rates of certain Rider Energy Surcharge Mechanism (ESM) components. While the Company's Application originally proposed to transfer the recovery of the return on rate base and the related depreciation and property tax expenses from Rider ESM revenues to base revenues for four in-service capital projects,⁴ an OAG witness recommended denial of this roll-in,⁵ and the Company did not oppose this recommendation during the

issues raised for rehearing in Duke Energy Kentucky's Rehearing Petition: (1) Appendix B Rates, (2) On-Site Payment Location, (3) Waiver of 807 KAR 5:006, Section 7(1)(a)(3) for Time of Use with Critical Peak Pricing, (4) Rate Case Expense Disallowances, and (5) Items for Correction or Clarification.

³ The Commission otherwise denied the Company's request for rehearing related to the terminal net salvage adjustment for the Company's fossil fuel-fired electric generating units.

⁴ Amy B. Spiller Direct Testimony, 4 (Dec. 1, 2022); Lane G. Kollen Direct Testimony (Kollen Direct), 41 (Mar. 10, 2023); Duke Energy Kentucky Response to AG-DR-02-040(c).

⁵ Kollen Direct, 6.

proceeding.⁶ The Commission agreed with the OAG and denied the roll-in proposal, reducing the Company's forecasted test year base rate revenue requirement increase by \$3.290 million.⁷

However, the rates and charges shown in Appendix B appear to have applied the approved increase in revenues to the Company's current revenues without removal of the proposed (but denied) Rider ESM roll-in. Specifically, the revenue requirement increase represented by the rates approved in Appendix B is \$54,291,451, which is higher than the Commission's approved increase of \$47,498,000 and likely resulted from the Commission starting with current revenues that included the Rider ESM roll-in.⁸ This results in higher customer rates than those otherwise approved and described by the Commission in the Final Order.⁹ The Company provided responses to rehearing data requests that present alternative rates and charges that resolve the likely discrepancy, as well as mathematical calculations underlying the likely discrepancy.¹⁰ As these responses show, customers will benefit from this correction, as customer rates will be reduced from those otherwise shown on Appendix B of the Final Order. More importantly, customer rates will also reflect those approved by the Commission as "fair, just and reasonable."¹¹

To implement this correction, Duke Energy Kentucky requests that the Commission approve the calculations provided by the Company and amend Appendix B to the Final Order. However, it will also be important to recognize that the Company's proposed correction is based

⁶ Duke Energy Kentucky Initial Post-Hearing Brief, 71 (June 9, 2023); Lisa D. Steinkuhl Revised Rebuttal Testimony, 4 (May 5, 2023); Steinkuhl Cross, Hearing Video Recording (HVR) at 10:06:48 (May 10, 2023).

⁷ Final Order, 10–11.

⁸ See Duke Energy Kentucky Response to STAFF-RHDR-01-005(a); Duke Energy Kentucky Response to STAFF-RHDR-01-005(b).

⁹ See Duke Energy Kentucky Response to STAFF-RHDR-01-005(a) (including STAFF-RHDR-01-005(a) Attachment) for the mathematical discrepancy calculated by the Company with regard to the Appendix B rates and the Commission-approved revenue requirement.

¹⁰ See Duke Energy Kentucky Response to STAFF-RHDR-01-005(a) and (b) (including STAFF-RHDR-01-005(a) Attachment and STAFF-RHDR-01-005(b) Attachments 1–3).

¹¹ Final Order, 87.

on the Commission’s Final Order and may require further adjustment to the extent the Commission approves any other rehearing request addressed in this Brief.¹² The Company therefore notes that calculated rates, charges, or revenues in Appendix B, as updated, should be revised as appropriate to reflect any other items and adjustments approved by the Commission on rehearing.

B. On-Site Payment Location

In the Final Order, the Commission directed Duke Energy Kentucky to “maintain an office that is open five days a week for a total of 40 hours each week in which customers can make payments without having to pay a service fee.” While the Company has several concerns regarding this directive on the record in this proceeding—and given that the Final Order does not provide for the recovery of additional costs associated with opening a new office or renovating an existing one—the purpose of this rehearing request is to demonstrate that the Company has made arrangements to offer additional fee-free payment locations in Kentucky to meet Commission objectives at a significantly lower cost, subject to the Commission’s approval in this case.¹³ As a result, the Company requests that the Commission remove the requirement to maintain a Company-staffed payment location and find that Duke Energy Kentucky’s new arrangements satisfies the Commission’s primary objectives.

The Company offers its customers a variety of bill payment options, including the option to pay a bill “by mail, online, automatic bank draft, or at one of the over 50 locations that make up Duke [Energy] Kentucky’s pay agent network.”¹⁴ The Kroger Company (Kroger) is part of the Company’s pay agent network, and there are currently 16 Kroger locations across the

¹² See Duke Energy Kentucky Response to STAFF-RHDR-01-005(b).

¹³ Final Order, 44.

¹⁴ *Id.* at 43.

Commonwealth of Kentucky at which customers can pay their utility bills.¹⁵ The Company already contracts with Fiserv/CheckFreePay (CFP) to manage and provide walk-in payment, processing, and remittance services throughout the Company's broader pay agent network¹⁶; however, the current arrangement requires the customer to pay any applied convenience and processing fees when paying their bills at an in-person service location.¹⁷

As part of this rehearing process, the Company has arranged for these 16 Kroger locations in Kentucky to accept customer bill payments without requiring customers to pay any additional service or other processing fees. Specifically, the Company plans to modify its existing contract with CFP to provide a fee-free payment model to all customers paying their bills at any of the Kroger locations. This arrangement also allows the Company to shift to a model where the Company will pay all convenience and processing fees charged by the contractor for accepting, processing, and remitting customer bill payments.¹⁸ The Company simply must provide CFP with at least 60 days' notice of its intention to switch from a customer-paid fee model to a company-paid fee model, and the requested change in fee structure will become effective on the first day of the calendar month following the required notice period.¹⁹ Thus, if the Commission approves this proposal, the Company may be able to offer 16 fee-free payment locations in the commonwealth within as little as 60 days following the Commission's order.²⁰ The incremental costs of these additional no-fee payment locations will be treated as operations and maintenance costs as part of future base rate proceedings for the Company's electric and natural gas operations.

¹⁵ Duke Energy Kentucky Response to STAFF-RHDR-01-007(a); *see also* Duke Energy Kentucky Response to STAFF-RHDR-01-007(b) (listing all sixteen Kentucky Kroger locations at which customers can pay their utility bills).

¹⁶ The Company has provided this contract in rehearing data request responses as STAFF-RHDR-001-007 Confidential Attachment.

¹⁷ *See* Duke Energy Kentucky Response to STAFF-RHDR-01-007(c).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

Further, upon approval, the Company will take actions to ensure customers are made aware of the additional fee-free payment offerings. In general, the Company plans to both provide a note on all customer bills notifying them of the new fee-free payment locations and update all appropriate webpages to include information about the new locations and offerings.²¹ For customers that contact the Company via phone, the Company will also provide a recorded message that discusses the new offerings and will update its call center management tool to ensure that all call center specialists are informed about the new offerings and can appropriately respond to any related customer inquiries.²² This multi-media approach is designed to reach customers through various avenues regardless of their chosen bill receipt or payment method.

This alternative provides a broad, efficient solution to the Commission's concerns underlying the requirement in the Final Order. While the requirement in the Final Order is to maintain an office that is open five days a week for a total of 40 hours each week,²³ the Company's current proposal would provide more Kentucky locations, longer hours, and the convenience of being co-located with a major grocery and pharmacy in accessible commercial areas. It also provides a cost- and time-efficient solution, as it does not require the Company to engage in lengthy construction of a new facility or conversion of an existing facility, and can be initiated and effective just months after the Commission approves it.²⁴ The Company thus requests that the Commission modify its Final Order requirement to offer a Company-staffed fee-free payment location and accept the alternative solution proposed by the Company here.

²¹ See Duke Energy Kentucky Response to STAFF-RHDR-02-002. For example, the 'Payment Locations' webpage will display a banner notifying customer of the new fee-free payment options. *Id.*

²² *Id.*

²³ In the Final Order, the Commission ordered the Company to "maintain an office that is open five days a week for a total of 40 hours each week in which customers can make payments without having to pay a service fee." Final Order, 44.

²⁴ As the Company previously discussed in its Rehearing Petition, the Company cannot easily, efficiently, or practically implement the Commission's proposal to offer fee-free payment services at its Erlanger, Kentucky facility, as this would require extensive renovations, personnel changes, and security updates. See Rehearing Petition, 4-7.

C. Waiver of 807 KAR 5:006, Section 7(1)(a)(3) (Section 7) for Time of Use with Critical Peak Pricing (Rate RS-TOU-CPP)

Section 7 requires the Company to show the present and last preceding meter readings on its customer bills. The Company originally requested a waiver of this requirement for its new Rate RS-TOU-CPP as part of its Application and reiterated that request in its Rehearing Petition, noting that it likely could not comply with certain sections of the Final Order if the waiver was not granted.²⁵ The Company maintains its request for a waiver of Section 7, as the information required by Section 7 does not neatly apply to dynamic interval billed rates like Rate RS-TOU-CPP, and customers on this rate will have access to alternative information that will provide ample detail as to usage and billing for a given period. Further, if the requested waiver is not approved, the Company's billing system will require significant, time-consuming, and costly reprogramming that was not accounted for in the test year in this case, and the Company may not be able to offer Rate RS-TOU-CPP at all.

Currently, Duke Energy Kentucky's billing system includes these meter readings on customer bills for scalar billed rates (*e.g.*, Rate RS).²⁶ However, it is common utility industry practice—and one that all of Duke Energy Kentucky's affiliates employ—to not display starting and ending meter reads for time-of-use (TOU) rates like Rate RS-TOU-CPP.²⁷ Instead, for these dynamic TOU rates, billing is calculated based on a customer's energy usage during a designated interval of time, and are therefore considered “interval billed” rates.²⁸ Interval billing is an inherent component of the customer incentive to take service on a TOU rate, as customers on these rates are encouraged to shift their usage to certain times of day and billing is in turn calculated during

²⁵ See Rehearing Order, 5–6.

²⁶ See Duke Energy Kentucky Response to STAFF-RHDR-01-001(a).

²⁷ *Id.*

²⁸ *Id.*

the relevant interval of time. For this reason, there are no tangible benefits for customers on interval billed rates having access to scalar meter reading data.²⁹

Moreover, while a Section 7 waiver will allow the Company to omit the present and last preceding meter readings from the bills of customers taking service under Rate RS-TOU-CPP, customers on this rate will continue to have access to ample information on their energy usage. After enrolling in Rate RS-TOU-CPP, customers will continue to be able to view detailed information on how they use energy throughout the month via the Company's website.³⁰ Customers will also receive summarized monthly TOU period usage information on their bill,³¹ as well as other meter data like total kWh and on- and off-peak usage information.³² This existing billing infrastructure for TOU rates will allow customers to verify their usage and billing for a given period without requiring access to starting and ending meter reads; if customers wish to verify the kWh billed during a billing period, they can access their hourly data on the Company's website, sum across the period of interest, and compare that sum to the total kWh billed.³³ This mitigates concerns related to usage verification without scalar meter readings.

Finally, without the requested Section 7 waiver, significant redesign of the Company's existing billing infrastructure would be necessary, and this redesign would be economically and programmatically infeasible. Currently, the integration between the Company's meter data management (MDM) system and billing system is designed to provide either scalar meter readings

²⁹ *Id.*

³⁰ *See* Duke Energy Kentucky Response to STAFF-RHDR-01-002(a).

³¹ *Id.* STAFF-RHDR-01-002(a) Attachment shows a sample bill for customers taking service on the proposed Rate RS-TOU-CPP, and this sample bill provides extensive customer-specific energy usage information.

³² Duke Energy Kentucky Response to STAFF-RHDR-01-001(a).

³³ *See* Duke Energy Kentucky Response to STAFF-RHDR-02-001(a). Further, as the Company indicated in responses to rehearing data requests, should a customer served under Rate RS-TOU-CPP file a complaint alleging that the billed usage is incorrect, the Company will be able to verify whether or not the customer was billed for the correct usage by reviewing the interval data from the customer's meter to confirm whether the correct usage was billed. *See* Duke Energy Kentucky Response to STAFF-RHDR-02-001(b).

or interval data for billing, but not both.³⁴ Modifying both systems and integration layers to accommodate a Section 7 requirement for Rate RS-TOU-CPP would require significant system programming changes and testing.³⁵ This would include over \$1,000,000 of costs not accounted for in the test year in this case and would likely entail 12 to 18 months of significant configuration work to scope, design, test, and implement the required changes.³⁶ This reconfiguration work would include changes to technical rate configuration; standard billing presentation; the MDM system such that both scalar meter readings and interval data would be provided at the same time; and the overall billing system such that the system could request meter readings for an account that is otherwise set up to provide interval billing.³⁷ All of this would require additional technical support, which would require employees that have other daily operational duties to provide subject matter expertise to technical teams as needed.³⁸ This would result in extensive time and cost without proportional value to customers.

For these reasons, the Company asks that the Commission find it reasonable and consistent with the rehearing record to waive any requirement that the Company show the present and last preceding meter readings on bills for customers taking service on Rate RS-TOU-CPP. The Company has existing avenues for interval billed customers to access detailed usage and billing information, and the dynamic nature of rates like Rate RS-TOU-CPP makes the provision of scalar meter readings inadequate to provide customers with a clear snapshot of their energy usage information. Further, substantial costs would be required to redesign and reprogram the Company's billing system to provide scalar meter reading information for interval billed rates,

³⁴ See Duke Energy Kentucky Response to STAFF-RHDR-01-001(b).

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

costs which were not accounted for in the test year. A waiver is therefore both necessary and reasonable in this instance, and the Company requests that the Commission grant the requested waiver for Rate RS-TOU-CPP.

D. Terminal Net Salvage Adjustment for Solar Generating Facilities

KRS 278.264, which addresses certain electric generating unit retirements and related costs, applies to “fossil fuel-fired combustion or steam generating sources” only.³⁹ Despite this, the Commission’s Final Order, citing KRS 278.264, ordered removal of terminal net salvage (*i.e.*, decommissioning costs) from the Company’s depreciation rates for all generating assets, including the Company’s solar generating assets.⁴⁰ Longstanding ratemaking principles support the inclusion of decommissioning costs in the calculation of cost recovery for depreciable assets, and—as noted by the Commission in the Rehearing Order—“KRS 278.264 does not apply to solar generation assets.”⁴¹ Removal of decommissioning costs from the depreciation rates of the Company’s solar generation assets is therefore not aligned with KRS 278.264, and the Company provides further justification for recovery of these reasonable costs below. This change would increase the Commission-approved revenue requirement by \$0.141 million.⁴²

Pursuant to past approved practice and applicable Commission precedent, the Company included decommissioning costs in the depreciation rates for all generating assets—including its solar generating assets—in this case. The Commission has previously approved decommissioning costs in the Company’s depreciation rates,⁴³ properly finding that decommissioning costs are an

³⁹ KRS 278.262(a).

⁴⁰ Final Order, 14–15, 87.

⁴¹ Rehearing Order, 12.

⁴² See Duke Energy Kentucky Response to AG-RHDR-01-003(a)–(c) (including STAFF-RHDR-01-003 Attachment).

⁴³ John J. Spanos Rebuttal Testimony, 5 (Apr. 14, 2023); In the Matter of the Electronic Application of Duke Energy Kentucky, Inc. for: 1) An Adjustment of the Electric Rates; 2) Approval of an Environmental Compliance Plan and Surcharge Mechanism; 3) Approval of New Tariffs; 4) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and 5) All Other Required Approvals and Relief, Case No. 2017-00321 (2017 Rate Case), Order at 27 (Apr. 13, 2018).

inherent component of a generating asset's depreciation. This decision was the result of a fully-litigated proceeding, whereafter the Commission concluded that "Duke [Energy] Kentucky's recommendation on the treatment of terminal net salvage value in the computing [of] the depreciation rates for generating units is reasonable in order to avoid intergenerational inequity and should be approved."⁴⁴ The Company treated depreciation of its generating assets the same in this case, as the relevant facts remain the same: upon the inevitable retirement of its solar generating assets, the Company must incur costs to safely decommission that plant in compliance with Kentucky law. Removing decommissioning costs from rates during the life of these facilities not only potentially increases the total costs of retirement, but also creates the same intergenerational inequity underlying the Commission's concerns in the Company's prior case.

While the Commission removed the terminal net salvage costs for solar generation assets from rates in reliance upon KRS 278.264, the Commission has likewise acknowledged that "KRS 278.264 does not apply to solar generation assets."⁴⁵ While KRS 278.264 addresses retirement and decommissioning of "electric generating unit[s]," it defines an "electric generating unit" to include only "fossil fuel-fired combustion or steam generating sources."⁴⁶ This, by definition, does not include renewable energy facilities like the Company's solar generation assets. The Company's request for inclusion of decommissioning costs in the depreciation rates for these facilities was therefore not in conflict with the cited law, and indeed is supported by other applicable legal requirements and recent Commission precedent.

For instance, the Company's request for recovery of decommissioning expense within depreciation rates for generating assets is supported by the Federal Energy Regulatory

⁴⁴ See Duke Energy Kentucky Response to AG-RHDR-01-009; Duke Energy Kentucky Response to AG-RHDR-01-010; 2017 Rate Case, Order at 27 (Apr. 13, 2018).

⁴⁵ Rehearing Order, 12.

⁴⁶ KRS 278.262(a).

Commission's Uniform System of Accounts, which requires regulated utilities like the Company to record decommissioning expense during each generating asset's service life.⁴⁷ Excluding decommissioning expense from rate recovery associated with these assets is inconsistent with these accounting requirements and deprives the Company of an opportunity to recover reasonable costs it has properly incurred in providing safe, reliable electric service to local Kentuckians. Removing these costs from depreciation rates also means that customers will bear the entire burden of decommissioning the units all at once at the time of retirement, unnecessarily and significantly increasing future customer rates, rather than spreading those costs across the useful life of the asset, as has been the case for decades of utility ratemaking. The Company's solar generation assets should be no exception to these long-standing legal requirements and ratemaking principles.

While the Company has provided extensive justification for inclusion of decommissioning costs in its solar generating assets' depreciation rates, it has also provided detailed formulae and calculations that support a corresponding revenue requirement increase of \$0.141 million.⁴⁸ This includes underlying computations related to terminal net salvage⁴⁹ and depreciation expense⁵⁰ for the solar facilities, as well as corresponding impacts to rate base.⁵¹ The Company therefore requests that the Commission determine that the Company may recover terminal net salvage associated with the solar generating facilities, consistent with past precedent, present regulatory accounting requirements, ratemaking principles at large, and the underlying mathematical computations provided by the Company.

⁴⁷ See Duke Energy Kentucky Response to AG-RHDR-01-005 (citing 18 C.F.R. Part 101, Income Accounts, 400 Operating Revenues and 403 Depreciation Expense; and 18 C.F.R. Part 101, Balance Sheet Accounts, 101 Electric Plant in Service and 108 Accumulated Provision for Depreciation of Electric Utility Plant).

⁴⁸ See Duke Energy Kentucky Response to AG-RHDR-01-003(a)–(c) (including STAFF-RHDR-01-003 Attachment).

⁴⁹ See Duke Energy Kentucky Response to AG-RHDR-01-003(a) (including AG-RHDR-01-003(a) Attachments 1–3); Duke Energy Kentucky Response to STAFF-RHDR-01-003(b) (including STAFF-RHDR-01-003 Attachment).

⁵⁰ See Duke Energy Kentucky Response to STAFF-RHDR-01-003(b) (including STAFF-RHDR-01-003 Attachment).

⁵¹ See Duke Energy Kentucky Response to STAFF-RHDR-01-003(c) (including STAFF-RHDR-01-003 Attachment).

E. Rate Case Expense Disallowances

The Company estimated its total rate case expense at \$1.136 million in its Application, which was very close to the final expense update provided at the time its Initial Brief was filed.⁵² The Company's use of estimations in relation to post-hearing rate case expenses in this case was necessary because there was no opportunity to provide actual data under the case's procedural timeline. But the Commission removed those expenses from the Company's rate case expense, seemingly only because they were estimates.⁵³ While the Company disagrees with the Commission's denial of all estimated rate case expenses, it specifically limits its request on rehearing to the disallowance of \$160,000 of estimated outside counsel fees, the allowance of which would result in a revenue requirement increase of \$32,000.

Because the briefing schedule in this case concluded only six weeks after the hearing, the Company had to make a determination as to what costs would be requested for recovery before those costs were actually known. At the time the hearing concluded, many costs had been incurred but had not yet been invoiced or processed, such as costs related to the hearing itself.⁵⁴ Even more, certain legal costs were yet to be incurred but were likely to be incurred, such as costs related to post-hearing briefing, as well as additional costs for rehearing, for which the Company cannot seek recovery.⁵⁵ When the hearing in this case concluded and the record closed after the issuance of post-hearing data requests, the Company did not—and indeed, could not—know its actual final expense totals, in particular as those expenses related to the hearing, production of post-hearing data requests, and review and drafting of post-hearing briefing.⁵⁶

⁵² Final Order, 18–19.

⁵³ *Id.* at 19.

⁵⁴ See Duke Energy Kentucky Response to STAFF-RHDR-01-004 (including STAFF-RHDR-01-004 Attachment) (showing invoices for hearing work first made in late June 2023).

⁵⁵ See *id.* (showing invoices for post-hearing work made in late June and late July 2023).

⁵⁶ See *id.*

Additionally, while the Commission noted in the Rehearing Order that “the estimated expenses were removed because the expense represented 25 percent of the total rate case expense for a small portion of the total rate case,”⁵⁷ the very nature of a rate case often requires utilities like the Company to incur a large portion of their total proceeding cost in the final few weeks of the case. Although spanning only six or seven weeks, the Company, its outside counsel, and an external expert witness were required to dedicate a significant amount of time to the hearing, post-hearing data requests, and post-hearing briefing—which itself included review of intervenor briefing,⁵⁸ analysis of the non-searchable hearing video transcript totaling over thirty hours,⁵⁹ and drafting and synthesis of the initial and reply briefs.⁶⁰ As the Company’s responses to rehearing data requests show, expense totals for these items were a material portion of total expenses.⁶¹ This was necessary given the procedure of this case, and the Company’s estimates were provided in line with the timelines imposed.

That said, the Company acknowledges that a true-up of estimated expenses to actuals can be appropriate in certain instances, and is open to that possibility for rate case expense in future cases.⁶² However, when the record closes while expenses are still being incurred it is not equitable to disallow expense recovery on the grounds that expenses had to be estimated.⁶³ If, in a future case, all actual costs are known at the time costs must be submitted for requested recovery, it would be reasonable to submit actual costs, without estimates, at that time.⁶⁴ That is not the case here.

⁵⁷ Rehearing Order, 13.

⁵⁸ Five intervenors filed initial briefs collectively totaling over 140 pages.

⁵⁹ See HVR (May 9–11, 2023).

⁶⁰ See Duke Energy Kentucky Response to STAFF-RHDR-01-004 (including STAFF-RHDR-01-004 Attachment). The Company’s initial and reply briefs filed in this case totaled over 110 pages.

⁶¹ See *id.* In the month of June 2023 alone, the Company was invoiced over \$125,000 for legal services related to hearing preparation, hearing attendance, and post-hearing work. An additional \$16,627 was invoiced for the same related services in July 2023, over two months after the hearing concluded and the record closed in this case.

⁶² See Duke Energy Kentucky Response to AG-RHDR-01-004.

⁶³ *Id.*

⁶⁴ *Id.*

The Company therefore requests that the Commission allow recovery of the estimated outside counsel fees that it previously disallowed. The Company also requests clarification from the Commission as to the appropriate use of estimated expenses as part of future cases so that the Company can ensure it uses and provides expense detail to the Commission in an appropriate format.

III. CONCLUSION

WHEREFORE, on the basis of the foregoing, Duke Energy Kentucky respectfully requests that the Commission grant the relief prayed for in this Brief.

This 18th day of March, 2024.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that the foregoing electronic filing is a true and accurate copy of the document in paper medium; that the electronic filing was transmitted to the Commission on March 18, 2024; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that submitting the original filing to the Commission in paper medium is no longer required as it has been granted a permanent deviation.⁶⁵

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⁶⁵ *In the Matter of Electronic Emergency Docket Related to the Novel Coronavirus COVID-19*, Case No. 2020-00085, Order (July 22, 2021).