

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

In the Matter of:

ELECTRONIC APPLICATION OF DUKE)	
ENERGY KENTUCKY, INC. FOR (1) AN)	
ADJUSTMENT OF ELECTRIC RATES;)	CASE NO. 2022-00372
(2) APPROVAL OF NEW TARIFFS;)	
(3) APPROVAL OF ACCOUNTING)	
PRACTICES TO ESTABLISH)	
REGULATORY ASSETS AND LIABILITIES;)	
AND (4) ALL OTHER REQUIRED)	
APPROVALS AND RELIEF)	

MOTION TO INTERVENE OF WALMART INC.

Pursuant to 807 KAR 5:001 Section 4(11) and K.R.S. §§ 278.310, 278.040(2), 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 November 1, 2022, Duke Energy Kentucky, Inc. ("Duke Energy Kentucky" or "Company") filed a Notice of Intent to file an Application for an adjustment in its electric rates, approval of new tariffs, approval of accounting practices to establish regulatory assets and liabilities, and all other required approvals and relief ("Application").
2. The Company subsequently filed its Application on December 1, 2022.
3. Thereafter, via Order entered December 13, 2022, the Commission rejected Duke's application for filing for failure to comply with required notice requirements.
4. Duke Energy Kentucky re-filed its Application on December 14, 2022, and on December 15, 2022, Commission Staff filed a letter with the Commission indicating that the Company had cured the previously identified notice deficiencies.

5. The Commission established a procedural schedule for this case by Order entered December 19, 2022, setting a deadline to intervene on January 3, 2023.

6. 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."

7. Walmart's request for leave to intervene is timely filed as it is filed prior to the January 3, 2023, deadline set by the Commission.

8. 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. Walmart has the privilege of providing its retail services in the Commonwealth of Kentucky, directly employing over 31,000 associates and indirectly supporting another 44,700 supplier jobs within this Commonwealth.¹

9. Walmart is a large commercial customer of Duke Energy Kentucky, operating five retail facilities in Duke Energy Kentucky's service territory, and purchasing more than 17.6 million kWh in 2021 from Duke Energy Kentucky, principally under the Time-of-Day Rate for Service at Distribution Voltage ("DT") and Service at Distribution Voltage ("DS") Rate Schedules.

10. Walmart has a special and unique interest in this case that cannot be adequately represented by any other party. While KRS 367.150(8) imposes a statutory duty on the Kentucky Attorney General's Office of Rate Intervention to represent the interests of "consumers," that duty relates primarily to residential customers. Walmart is not a residential customer and, in any event,

¹ <https://corporate.walmart.com/about/kentucky>

its interest is as a large commercial customer that takes service on different rate schedules than residential customers.

11. Walmart's interests are also dissimilar to other commercial or industrial customers. 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 location whereas Walmart's energy needs are for five different facilities within the Company's service territory. Additionally, Walmart has established aggressive and significant companywide renewable energy goals, including to be supplied 100 percent by renewable energy by 2035. As an existing electric customer of Duke Energy Kentucky, the proposed voluntary community-based solar program, Clean Energy Connection ("CEC"), is important in achieving Walmart's renewable energy goals within Kentucky, and specifically, Duke Energy Kentucky's service territory.

12. The rate increase in this proceeding would represent a fundamental change for Duke Energy Kentucky's existing customers, including Walmart.

13. If allowed to intervene, Walmart will present issues and develop facts that will assist the Commission in fully considering the Application, including the proposed CEC program (with which Walmart has experience from its implementation in Duke Energy Florida's service territory), the 10.35 percent requested return on equity requested by the Company, cost allocation, and rate design for relevant rate schedules.

14. Walmart has participated in numerous proceedings before this Commission.² In all these matters, Walmart has advocated specifically on its own behalf and for other commercial and industrial customers, offering testimony that provided a perspective different from all other parties and witnesses offering testimony in these proceedings. Walmart's participation provided a more complete record for Commission consideration without disrupting the proceedings.

15. In this case, Walmart would offer testimony and participate in these proceedings in a manner that assists the Commission in fully considering the Application, and it will do so without unduly disrupting the proceedings.

16. The attorneys representing Walmart in this proceeding are:

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Ms. Grundmann is authorized to accept service of papers in this proceeding on behalf of Walmart.

Walmart also respectfully requests that Mr. Lee be added to the service list. Walmart may file a

² Walmart was an active participant in Kentucky Power Company ("Kentucky Power") and Liberty Utilities Co. merger case, Case No. 2021-00481, Kentucky Power's rate investigation, Case No. 2021-00370, Kentucky Power's 2020 rate case, Case No. 2020-00174, 2017 rate case, Case No. 2017-00179, 2014 rate case, Case No. 2014-00396, and its 2013 rate case, Case No. 2013-00197. Walmart has also been an active participant before this Commission in matters filed by Kentucky Utilities ("KU") and Louisville Gas & Electric ("LG&E"), including their 2020 rate case, Case No. 2020-00349 and 2020-00350, 2018 rate case, Case Nos. 2018-00294 and 2018-00295, their 2016 rate case, Case Nos. 2016-00370 and 2016-00371, and their 2014 rate case, Case Nos. 2014-00370 and 2014-00371.

Motion for Mr. Lee to be admitted *pro hac vice* before this Commission, and subsequent to the Commission granting such request, Walmart requests that Mr. Lee be added to the official service list as an attorney authorized to accept service of papers in this proceeding.

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 

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Counsel to Walmart Inc.

Dated: January 3, 2023

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon parties and/or counsel of record in this proceeding by electronic mail (when available) or by first-class mail, unless otherwise noted, this 3rd day of January, 2023, to the following:

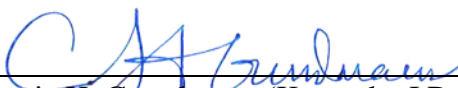
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