

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF DUKE ENERGY KENTUCKY, INC.)	
FOR AN ADJUSTMENT TO RIDER NM RATES AND)	CASE NO.
FOR TARIFF APPROVAL)	2023-00413

DUKE ENERGY KENTUCKY, INC.’S
POST-HEARING REPLY BRIEF

Comes now Duke Energy Kentucky, Inc. (Duke Energy Kentucky or the Company), by counsel, pursuant to the Commission’s May 24, 2024, Order setting a schedule for the filing of briefs in the above-styled case, and other applicable law, does hereby respectfully state as follows:

I. INTRODUCTION

For the sake of brevity, Duke Energy Kentucky refers back to its initial post-hearing brief for the history and procedural posture of this proceeding.¹ In this reply brief, the Company will respond to the Kentucky Solar Energy Society and Kentuckians for the Commonwealth’s (collectively Joint Intervenors)² and Kentucky Solar Industries Association, Inc.’s (KYSEIA) Post-Hearing Briefs³.

Certain of the arguments raised by Intervenors in their post-hearing Briefs were anticipated and addressed by Duke Energy Kentucky in its post-hearing Brief. For such arguments, Duke Energy Kentucky will not re-address arguments asserted by the Intervenors in their Briefs and will

¹ *In the Matter of the Application of Duke Energy Kentucky, Inc. to for an Adjustment to Rider NM Rates and Tariff Approval*, Case No. 2023-00413, Duke Energy Kentucky, Inc.’s Post-Hearing Brief (Duke Brief), pp. 2-7 (filed June 26, 2024).

² *Id.*, Kentucky Solar Energy Society and Kentuckians for the Commonwealth’s Post-Hearing Brief (Joint Intervenors’ Brief) (filed June 26, 2024).

³ *Id.*, Kentucky Solar Energy Industries Association, Inc. Post-Hearing Brief (KYSEIA Brief) (filed June 26, 2024). The Office of the Attorney General also filed a post-hearing brief, in support of approval of the Company’s filing. *Id.*, Attorney General’s Post-Hearing Brief (AG Brief) (filed June 26, 2024).

be content to stand upon the arguments it has previously asserted, as noted throughout this Reply Brief. The Company's silence herein on various arguments asserted by the Intervenors should be recognized as an effort to achieve administrative economy and not as acquiescence or agreement.

As detailed below, Duke Energy Kentucky submits that, for the reasons given in its initial post-hearing brief and herein, its request to update the Company's tariff to comply with statutory revisions and to improve clarity and organization should be approved by the Commission, along with the remainder of its Application in this case.

II. ARGUMENT

A. Duke Energy Kentucky's Proposed Netting Complies With The Statute And The Most Recent Commission Precedent.

Joint Intervenors claim that the "revised definition of 'net metering' in KRS 278.465(4) . . . did **not** change the essence of net metering, which is the netting of the *volume* of electricity generation and consumption over the course of the billing period."⁴ However, as explained in the Company's post-hearing Brief, the statute *did* change net metering: from a netting of volumes to a netting of *dollar values*. The total electricity fed-back over a billing period is converted to a dollar value and *that dollar value* is netted with the dollar value of the consumed electricity.

The new definition explicitly defines net metering as "the difference between the: (a) [d]ollar value of all electricity generated . . . that is fed back to the electric grid over a billing period and priced as prescribed in KRS 278.466; and (b) [d]ollar value of all electricity consumed by the eligible customer-generator over the same billing period and priced using the applicable tariff of the retail electric supplier."⁵ Thus, the statute clearly contemplates that the electricity fed back to the grid over the billing period will be converted to a dollar value *before* netting of dollar values

⁴ Joint Intervenors' Brief, p. 35 (emphasis in original).

⁵ KRS 278.465(4).

occurs, not after. The “difference,” *i.e.*, netting, is calculated with a dollar value and a second dollar value, not with a volume and a volume. However, the key point is that it is converted to a dollar value and only *then* netted with the dollar value of the consumption.

There is absolutely no “complete and irreconcilable variance” between the Commission’s Answer in Case No. 2021-CI-00872 and its rehearing order in Case Nos. 2020-00349 and 2020-00350.⁶

The Commission clearly explains in its Answer that the utility’s filed compliance tariff complied with the Commission’s understanding of its November 4, 2021, rehearing order:

The plain language of the September 24, 2021 and November 4, 2021 Orders are consistent with KRS 278.465 and KRS 278.466 because, for each billing period, KU/LG&E were directed to net the dollar value of the total energy consumed by an eligible customer-generator and the dollar value of all energy produced and exported by an eligible customer-generator over the billing period. The PSC further states that, ***consistent with the September 24, 2021 and November 4, 2021 Orders, KU/LG&E filed and the PSC accepted NMS-2 tariffs1 (attached as Exhibit 1 and Exhibit 2) that reflect the methodology approved by the PSC*** in the September 24, 2021 and November 4, 2021 Orders, with the dollar value of the total energy consumed by an eligible customer-generator netted against the dollar value of the total energy exported by an eligible customer-generator.⁷

The Commission’s Answer simply makes it even more clear than it already is, that Joint Intervenors misinterpreted both the language of the statute and the Commission’s rehearing order.

As noted in the Answer, the Commission has accepted that utility’s compliance tariffs, which state as follows regarding netting:

For each billing period, Company will net the dollar value of the total energy consumed and the dollar value of the total energy exported by Customer as follows: Company will (a) bill Customer for all energy consumed from Company in accordance with Customer’s standard rate and (b) Company will provide a dollar

⁶ Joint Intervenors’ Brief, pp. 44-45.

⁷ *Ky. Utils. Co. & Louisville Gas & Elec. Co.*, Case No. 21-CI-00872 (Cir. Ct. Franklin Cty. Dec. 15, 2021).

denominated bill credit for each kWh Customer produces to the Company's grid.⁸

Duke Energy Kentucky's proposed tariff similarly provides for valuing the consumed energy and the fed-back-to-grid energy separately before netting the dollar values. Although Joint Intervenors believe that the compliance tariff filed after Case Nos. 2020-00349 and 2020-00350 violates the statute,⁹ the Commission appears to disagree.

B. Duke Energy Kentucky's Proposed ACEGC Is Reasonable And Should Be Approved.

1. Duke Energy Kentucky's As-Proposed ACEGC Was Reasonable In Imputing No Value For Avoided Distribution and Transmission Capacity Costs.

As Company explained in its post-hearing Brief, it does not expect to avoid transmission and distribution capacity investments as a result of excess energy fed to the grid by net metering customers.¹⁰ This is not only because solar generation is intermittent and non-dispatchable, but because the specific energy being compensated by the ACEGC—*net metering exports*—are significantly less predictable than the solar generation in general. As explained in the post-hearing Brief and elaborated below, the Company cannot rely on *net metering exports* to make planned reductions to its transmission and distribution investments.

When the Commission had dismissed another utility's arguments against including such costs as not "convincing, accurate, or reasonable,"¹¹ that utility was in a "nascent stage" of DER integration, had a "lack of experience with DERs," and "very low penetrations of traditional

⁸ See TFS2021-00468, Tariff (Filed November 9, 2021). An acceptance letter was issued by the Commission on November 30, 2021.

⁹ See *Electronic Tariff Filings of Louisville Gas & Electric Company and Kentucky Utilities Company to Revise Purchase Rates for Small Capacity and Large Capacity Cogeneration and Power Production Qualifying Facilities and Net Metering Service-2 Credit Rates*, Case No. 2023-00404, Joint Intervenors Kentucky Solar Energy Society and Mountain Association' Memorandum Brief, p. 9 n. 30 (May 24, 2024) ("Joint Intervenors maintain . . . that Companies continue to not be in compliance with the requirements of KRS 278.465. . . .").

¹⁰ Duke Energy Kentucky Brief, pp. 18-20 (June 26, 2024).

¹¹ See Joint Intervenors' Brief, p. 19 (citing Case Nos. 2020-00349 & 2020-00350, Order (Sep. 24, 2021) at 51).

DERs.”¹² Duke Energy Kentucky, by contrast, has substantial penetration and is approaching the net metering cap established in statute.¹³

More importantly, in Case No. 2020-00174 and also in Case Nos. 2020-00349 and 2020-00350, the utilities’ arguments did not sufficiently distinguish between benefits of **total generation** by net metering customers and the benefits of **excess generation** (*i.e.*, generation fed back to the grid) by net metering customers. Joint Intervenors also fail to make this distinction in their post-hearing Brief. Whatever the avoided costs due to customer **generation**, the Company’s proposal already effectively compensates a significant portion of customer generation—the entire amount self-consumed by the customer—at the full retail rate. The ACEGC applies only to excess generation fed back to the grid. The Company makes and explains this distinction in its post-hearing Brief.¹⁴ For the reasons given there, the Company cannot rely on that excess generation to avoid distribution and transmission investments.

2. *If the Commission requires Duke Energy Kentucky to include a component for avoided distribution and transmission capacity costs, the amount provided by the Company for both should be used.*

In the event the Commission requires the inclusion of avoided cost components for transmission and distribution capacity, Joint Intervenors recommend accepting the Company’s conditionally calculated value for distribution. However, they recommend a “full cost of service study” to determine such values for transmission avoided cost, and in the meantime to use Dr. McCann’s recommended value of \$0.0174 per kWh for avoided transmission cost.¹⁵ This recommendation should be rejected.

¹² *In the Matter of the Electronic Application of Kentucky Utilities Company for an Adjustment of its Electric Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit*, Case No. 2020-00349, Order, p. 44 (September 24, 2021).

¹³ Direct Testimony of Bruce L. Sailors (Sailors’ Direct), p. 8 (December 11, 2023).

¹⁴ Duke Energy Kentucky Brief, pp. 18-20.

¹⁵ Joint Intervenors’ Brief, pp. 22-23.

Joint Intervenors cite no precedent for requiring a full cost of service study, and do not attempt to grapple with the Commission’s prior remarks on the viability of a separate net metering rate class. Duke Energy Kentucky did consider these remarks and therefore did not do a full cost of service study.¹⁶ The Company instead proposed to use gradualism, similar to other utilities, and not separate net metering customers into a separate rate class. Indeed, without the support of the unit cost analysis, the Company proposes to maintain net metering customers in the rate RS class due to the prior Commission comments. This was the more reasonable course of action; requiring a full cost of service study would be unreasonable.

If the Commission sees fit to include an avoided transmission capacity cost component in the ACEGC, it should use the Company’s figure, which is based on historical transmission costs related to load growth transmission projects that has been reviewed and approved for use with the cost effectiveness analysis of DSM programs.¹⁷

3. Duke Energy Kentucky’s use of confidential data in setting avoided generation capacity costs was reasonable and in line with prior Commission guidance.

Joint Intervenors misrepresent the Commission’s prior orders when they state that it is a “requirement of the Commission to use publicly available information, namely PJM’s [Net CONE] values.”¹⁸ For this proposition, Joint Intervenors cite to Case No. 2020-00174, where the Commission ordered another utility to use Net CONE after rejecting its proposed approach—which had also used publicly available data—as unreasonable, due to “reflect[ing] a short-term capacity value and rel[ying] upon an unjustified downward adjustment.”¹⁹ The issue in that case

¹⁶ Sailers’ Direct, p. 12.

¹⁷ Rebuttal Testimony of Bruce L. Sailers (Sailers Rebuttal), p. 13 (April 17, 2024).

¹⁸ Joint Intervenors’ Brief, p. 23.

¹⁹ *In the Matter of the Electronic Application of Kentucky Power Company for (1) A General Adjustment of its Rates for Electric Service; (2) Approval of Tariffs and Riders; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; (4) Approval of a Certificate of Convenience and Necessity; and (5) All Other Required Approval and Relief*, Case No. 2020-00174, Order, pp. 28-29 (May 14, 2021).

was not the public availability of data, but the Commission’s substantive disagreement with the way the utility had used the data.

It is not a “requirement” to use publicly available data, much less specifically to use Net CONE. While the Commission has expressed encouragement to use publicly available information, the Commission has also acknowledged that “there may be instances in which confidential data provides insight or enables a superior methodological approach.”²⁰ For the reasons given in the Company’s post-hearing Brief, this is such an instance.²¹ Accordingly, Joint Intervenors’ challenge to Duke Energy Kentucky’s avoided generation capacity cost calculation should be rejected and the Company’s calculation for this component should be approved.

4. *Duke Energy Kentucky properly and sufficiently accounted for avoided environmental costs, including costs of carbon, by using forecasted Locational Marginal Prices (LMPs) to calculate avoided energy costs.*

Joint Intervenors take issue with the Company’s choice to comprehensively determine all avoided energy cost—including carbon costs and costs of environmental compliance—by using a sophisticated multi-faceted LMP forecast. Joint Intervenors primarily point to past Commission orders, the Company’s 2021 Integrated Resource Plan (IRP), developments in environmental regulation since the Company’s Application was filed, and alleged under-inclusions and recommend adding \$0.0466 per kWh for carbon cost and rejecting the Company’s Application entirely for failure to include capital environmental costs.²² For the reasons given below, none of these arguments warrant either rejection or modification of the ACEGC proposed by the Company.

First, the Company’s method of estimating avoided energy cost is different from the

²⁰ *In the Matter of the Electronic Application of Kentucky Utilities Company for an Adjustment of its Electric Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit*, Case No. 2020-00349, Order, p. 42, n.128 (September 24, 2021).

²¹ Duke Energy Kentucky Brief, pp. 16-17.

²² See Joint Intervenors’ Brief, pp. 24-28.

methods used by the utilities in previous orders. In Case No. 2020-00174, the utility’s original method of calculating avoided energy costs was rejected, and the Commission instead used 2017-2019 publicly available LMPs, “levelized . . . to account for long-term change in energy pricing.”²³ Thus, a separate carbon cost needed to be calculated because the out-of-date LMPs were projected forward in time without any special additional considerations. In Case Nos. 2020-00349 and 2020-00350, the ultimately-approved avoided energy cost was based on the utility’s purchased power agreement rate for qualifying facilities, without any attempt to model the future.²⁴ By contrast, as explained in the Direct Testimony of Matthew Kalemba and in the Company’s post-hearing Brief, as well as elaborated in discovery, the Company’s modeled LMPs consider many variables and are intended to already capture these costs. Thus, they are distinguishable and the reasoning in the prior orders is not applicable.

Second, the Company’s 2021 IRP is out of date at this point; the Company filed its 2024 IRP on June 21, 2024.²⁵ Therein, regarding carbon, the Company explained that it has changed its approach, one of these changes being “[r]emoval of a CO2 tax on plant emissions as a likely future policy primarily due to the inclusion of the IRA and EPA CAA Section 111 provisions.”²⁶ Thus, the Company’s 2021 IRP should not be considered to support calculation of a separate carbon cost.

Third, insofar as additional environmental regulations may have been enacted since the Company filed its Application, it was reasonable for the Company to not include rules that were

²³ See *In the Matter of the Electronic Application of Kentucky Power Company for (1) A General Adjustment of its Rates for Electric Service; (2) Approval of Tariffs and Riders; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; (4) Approval of a Certificate of Convenience and Necessity; and (5) All Other Required Approval and Relief*, Case No. 2020-00174, Order, pp. 26-27 (May 14, 2021).

²⁴ See *In the Matter of the Electronic Application of Kentucky Utilities Company for an Adjustment of its Electric Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit*, Case No. 2020-00349, Order, pp. 48-49 (September 24, 2021).

²⁵ See generally, *In the Matter of the Electronic 2024 Integrated Resource Plan of Duke Energy Kentucky, Inc.*, Case No. 2024-00197.

²⁶ *Id.*, Duke Energy Kentucky 2024 Integrated Resource Plan, (June 21, 2024).

only proposed at the time. New developments can occur anytime in the regulatory world, and given the time it takes to prepare, file, review, and issue an order on an Application, it is reasonable for a utility to not constantly amend its Application throughout the course of a proceeding. Although the Company in this proceeding has provided some updated figures for the Commission's consideration, where available,²⁷ it is not demanding that these figures be used instead of those originally filed.

Fourth, Joint Intervenors object that the Company did not include potential capital costs of compliance with environmental regulations, but their own witness did not address or attempt to calculate such costs. Thus, there is no basis to increase the ACEGC for these.

For all these reasons, and the reasons given in the post-hearing Brief, the Company's proposed avoided energy cost should be considered to include any avoided carbon costs and environmental compliance costs.

5. Duke Energy Kentucky should not be required to incorporate any additional hedging component into the ACEGC.

Joint Intervenors cite no precedent or even Commission guidance in support of their request to adopt Dr. McCann's proposed risk-hedging value for purposes of the ACEGC.²⁸ Likewise, Dr. McCann cites no such precedent in his testimony.²⁹ This recommendation is unreasonable and, even if it were otherwise reasonable, Dr. McCann's methodology in assigning a value is unreliable and insufficient to support the value assigned.

First, Mr. Sailers has already explained why the amount recommended by Dr. McCann lacks credibility:

Dr. McCann opines on page 20 lines 1 through 7 that "...the hidden cost of market volatility in market gas price appears to be \$1.50 to

²⁷ See, e.g., Sailers Rebuttal Testimony, pp. 11-12.

²⁸ See Joint Intervenors' Brief, pp. 28-29.

²⁹ See Direct Testimony of Richard McCann, Ph. D (McCann Direct Testimony), pp. 18-20 (March 13, 2024).

\$2.50 per MMBtu.” He references a 2012 study from the Rocky Mountain Institute. The Company performed a search for these values in the study which returned no results. Further review of the report would suggest that Dr. McCann may be referencing the specific prices, \$1.38/mmbtu and \$2.38/mmbtu, a Colorado utility paid as premiums in the Anadarko contract. These premiums are specific to the contract. This single reference to an old contract from Colorado has little, if any, material value to the instant proceeding. Dr. McCann’s proposed value should be rejected.³⁰

Although the Company generally supports the concept of hedging to manage portfolio risk, Joint Intervenors make no attempt to defend the use of a single outdated data point from another jurisdiction.

Second, as explained in the rebuttal testimony of Mr. Sailers, Dr. McCann’s proposal runs counter to Commission precedent, where the Commission has only permitted the Company to engage in very limited hedging, while denying hedging for forced outages and economic purchases.³¹ Joint Intervenors claim that the ability to hedge provides a value to the Company, but this is only true if the Company can recover this hedging cost component under the Fuel Adjustment Clause, which is how it plans to recover the costs of net metering exports purchased at the ACEGC rate. To date, Commission precedent does not support the Joint Intervenors’ assertion, as explained in Mr. Sailers’ rebuttal testimony.

Their recommendation to add a risk-hedging cost component should be rejected.

6. *Duke Energy Kentucky acted reasonably and consistently with prior Commission orders by not including a component for jobs benefits in the ACEGC.*

Joint Intervenors claim the Company “disregarded the Commission’s previous orders” because it did not include a separate component for jobs benefits in calculating its ACEGC.³² They recommend that the Company’s Application be rejected in its entirety on this basis or, in the

³⁰ Sailers Rebuttal Testimony, p. 9.

³¹ *Id.*, pp. 9-10.

³² Joint Intervenors’ Brief, pp. 29-30.

alternative, that the Company be required to conduct a “full jobs and economic benefit analysis” prior to reapplying.³³ Both of these recommendations should be rejected, as the Company’s proposal is in line with prior Commission orders.

In prior cases, the Commission has declined to make a finding of fact on the quantification of jobs benefits because it lacked “sufficient evidence on which to base a decision” and in part due to “limited penetration of customer-generators.”³⁴ In both cases, the Commission accepted the utilities’ applications, and ordered them to evaluate job benefits and economic development as an export rate component in their next rate case filing.³⁵ As Mr. Sailors explained in his Direct Testimony and further at hearing, the Company found that similar circumstances obtained in this case, especially since the Company was nearing the net metering cap.³⁶ There is no precedent for rejecting an Application wholesale or for demanding an analysis be performed within six months. The Joint Intervenors’ recommendation in this regard should be rejected and the Company’s Application approved.

7. *Duke Energy Kentucky’s analysis of the unit cost approach was reasonable, but even if it had not been, it is only a reference point and is not ultimately used to establish incremental charges or credits for NM II participants.*

KYSEIA takes issue with certain aspects of the Company’s unit cost analysis, arguing that

³³ *Id.*, p. 30.

³⁴ See *In the Matter of the Electronic Application of Kentucky Power Company for (1) A General Adjustment of its Rates for Electric Service; (2) Approval of Tariffs and Riders; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; (4) Approval of a Certificate of Convenience and Necessity; and (5) All Other Required Approval and Relief*, Case No. 2020-00174, Order, p. 38 (May 14, 2021); *In the Matter of the Electronic Application of Kentucky Utilities Company for an Adjustment of its Electric Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit*, Case No. 2020-00349, Order, p. 57 (September 24, 2021).

³⁵ See *In the Matter of the Electronic Application of Kentucky Power Company for (1) A General Adjustment of its Rates for Electric Service; (2) Approval of Tariffs and Riders; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; (4) Approval of a Certificate of Convenience and Necessity; and (5) All Other Required Approval and Relief*, Case No. 2020-00174, Order, p. 38 (May 14, 2021); *In the Matter of the Electronic Application of Kentucky Utilities Company for an Adjustment of its Electric Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit*, Case No. 2020-00349, Order, p. 58 (September 24, 2021).

³⁶ Sailors Direct Testimony, pp. 7-8, 21.

the analysis was oversimplified, failed to account for weather specific to the period of the analysis, required correction in post-hearing to align hours, and generally understates the value of solar generation.³⁷ While the Company acknowledges that its analysis was streamlined and required revision, its flaws were not material enough to render it unreasonable for the purpose that it served: a mere *reference point*, to compare the change in the cost of service to the change in the customer’s bill. As explained in the Direct Testimony of Bruce Sailers, the unit cost analysis was used to assess whether “the Company’s proposed Rider NM II will closely align the change in cost of service with the change in bill for a customer adopting solar under the unit cost approach.”³⁸ The unit cost analysis was not used to calculate any additional cost component, whether incremental charge or incremental credit, for NM II participants. Thus, the minor flaws identified do not invalidate the Company’s proposed NM II tariff and the associated ACEGC. Indeed, without the unit cost analysis, the Company’s recommendation remains unchanged—maintaining net metering customers in the Rate RS class—and is similar to prior Commission approved orders in this respect for other utilities.

8. Duke Energy Kentucky’s Application is consistent with the Commission’s guiding principles on net metering.

Joint Intervenors contend that Duke Energy Kentucky “did not comply” with the Commission’s guiding principles on net metering in four regards.³⁹ While Joint Intervenors may take issue with the Company’s approach, they fail to establish any deviation from the guiding principles.⁴⁰ First, the guiding principles do not require utilities to offer “long-term rates tied to

³⁷ See KYSEIA Brief, pp. 7-11.

³⁸ Sailers Direct Testimony, p. 11.

³⁹ See Joint Intervenors’ Brief, pp. 12-18.

⁴⁰ See *In the Matter of the Electronic Application of Kentucky Utilities Company for an Adjustment of its Electric Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit*, Case Nos. 2020-00349, 2020-00350, Order, pp. 41-42 (September 24, 2021).

the rate [customers] pay for energy from the Company”⁴¹ to net metering customers, but only to evaluate them with other energy resources “using consistent methods and assumptions.”⁴² As explained by Company witness Sailers, the *exports* to the grid of net metering customers whose systems are primarily designed to serve their own energy needs are materially distinguishable from the exports to the grid of a solar facility which is designed primarily for grid export.⁴³ Second, the reasonableness of the Company’ assessment of costs and benefits is explained in earlier sections above. Third, the Company has met the Commission’s guideline to “[c]onduct forward-looking, long-term, and incremental analysis,” by using a 25-year analysis period.⁴⁴ The fact that rates may be subject to future change does not change this; any future changes would be subject to Commission review for reasonableness, etc. Additionally, although gradualism is not part of this guiding principle, the grandfathering provided by KRS 278.466(6) provides for gradualism inherently. Fourth, the Joint Intervenors’ complaints about the collaborative⁴⁵ are irrelevant to the transparency principle, which pertains to information provided in a proceeding for review. The Company has already explained *supra* why it relied on confidential data for certain items in this proceeding. Thus, all of these challenges by Joint Intervenors should be rejected.

⁴¹ Joint Intervenors’ Brief, p. 13.

⁴² *In the Matter of the Electronic Application of Kentucky Utilities Company for an Adjustment of its Electric Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit*, Case Nos. 2020-00349, 2020-00350, Order, p. 41 (September 24, 2021).

⁴³ See Sailers Rebuttal Testimony, pp. 16-17.

⁴⁴ See *In the Matter of the Electronic Application of Kentucky Utilities Company for an Adjustment of its Electric Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit*, Case Nos. 2020-00349, 2020-00350, Order, p. 41 (September 24, 2021) (“Given that the typical warranty provided by a solar panel manufacturer is 25 years, this would be an appropriate analysis period for LG&E/KU’s net metered customers.”)

⁴⁵ See Joint Intervenors’ Brief, pp. 16-18.

C. The Remainder Of Duke Energy Kentucky’s Proposed Tariff Complies With The Net Metering Statutes, Is Reasonable, And Should Be Approved.

1. Duke Energy Kentucky’s Proposed Tariff Complies With The Grandfathering Language of KRS 278.466(6).

KYSEIA is incorrect in stating that “Duke’s proposal seeks to violate the plain language of KRS 278.466(6),” and “mak[es] the continuation of legacy rights subject to the discretion of Duke.”⁴⁶ Although KYSEIA does not cite to anything for its assertions or describe the specific violation to which it refers, it is presumably referring to the Company’s position that, after moving into a premises previously on the NM I tariff, a customer must complete a new application for net metering service/interconnection before receiving the NM I rate.⁴⁷

An interconnection application and agreement are not just meaningless red tape. By completing the application and signing the interconnection agreement, the customer agrees to commitments which are important to the safety and reliability of the Company’s grid. The fact that the previous resident of the premises had committed to all the necessary conditions does not in any way imply, much less guarantee, that a subsequent resident will agree to comply with them. Among other things, the terms and conditions of interconnection include the following important commitments by the customer:

- To install, operate, and maintain at his or her sole cost any equipment required by the listed technical standards and the facility manufacturer’s suggested practices;
- To operate the generating facility in such a manner as not to cause undue fluctuations in voltage, intermittent load characteristics, or other interference with the utility’s electric system;

⁴⁶ KYSEIA Brief, p. 5.

⁴⁷ See Duke Energy Kentucky Response to KYSEIA-DR-01-001.

- To grant access to the generating facility at reasonable times, upon reasonable advance notice, for inspection to verify tariff compliance;
- Ensuring that the location of the required external disconnect switch be properly and legibly identified, as well as accessible to utility personnel at all times;
- To refrain from making any changes to the generating facility without prior written permission from the utility; and
- To maintain general liability insurance coverage and provide proof of such insurance at the time of an application.⁴⁸

A subsequent resident of a grandfathered premises may not wish to, for example, maintain liability insurance. Or may wish to make changes to the property that obstruct the utility’s access to the external disconnect switch. If so, the customer would be in violation of the tariff terms and conditions and might not be eligible for interconnection. Duke Energy Kentucky should not be required to provide interconnection and net metering to a customer until the customer accepts the tariff conditions of such.

With regard to the statutory language itself, it merely says that “the net metering *tariff provisions . . . shall remain in effect* at those premises for a twenty-five (25) year period, regardless of whether the premises are sold or conveyed.”⁴⁹ The Company’s process leaves the tariff provisions in effect the entire time. The tariff provisions require—as they did even before SB 100—that a new customer moving into a premises complete an interconnection application and sign an agreement before receiving interconnection and net metering service. KYSEIA’s demand, on the other hand, would be changing existing interconnection processes and tariff provisions,

⁴⁸ See *In the Matter of Development of Guidelines for Interconnection and Net Metering for Certain Generators with Capacity Up to Thirty Kilowatts*, Case No. 2008-00169, Order, Appendix A, pp. 6-9 (January 8, 2009); see also, K.Y.P.S.C. Electric No. 2, Sheet No. 89, pp. 6-9.

⁴⁹ KRS 278.466(6) (emphasis added).

which was never contemplated by the statute. For this reason, the Company’s net metering tariffs are reasonable and should be approved as proposed.

2. *Requiring a New Interconnection Application For a Customer Who Materially Increases Generating Capacity Is Reasonable and Complies With The Net Metering Statute.*

KYSEIA argues that “there is no basis in the text of the legislation . . . for terminating an existing customer’s ability to continue net metering service under NM-1,” as long as the customer does not increase generating capacity above a rated capacity of 45 kilowatts.⁵⁰ KYSEIA focuses on the statutory language regarding the tariff remaining in effect at the premises, but ignores the beginning of the clause: “For an eligible electric generating facility in service prior to the effective date of the initial net metering order. . . .”⁵¹ When a customer materially increases a facility’s generating capacity, it is no longer the same facility that was in service previously.

The Commission’s longstanding interconnection guidelines explicitly provide for requiring a brand new interconnection application when a customer increases generating capacity, to be evaluated the same “as any other new application”:

Customer shall agree that, without the prior written permission from Utility, ***no changes shall be made*** to the generating facility as initially approved. ***Increases in generating facility capacity will require a new “Application for Interconnection and Net Metering” which will be evaluated on the same basis as any other new application.*** Repair and replacement of existing generating facility components with like components that meet UL 1741 certification requirements for Level 1 facilities and not resulting in increases in generating facility capacity is allowed without approval.⁵²

As the Company has explained in discovery, when a generating facility’s inverter capacity

⁵⁰ KYSEIA Brief, pp. 6-7.

⁵¹ KRS 278.466(6).

⁵² See *In the Matter of Development of Guidelines for Interconnection and Net Metering for Certain Generators with Capacity Up to Thirty Kilowatts*, Case No. 2008-00169, Order, Appendix A, p. 8 (January 8, 2009) (Item 10 in the “Terms and Conditions for Interconnection”).

is increased, it must re-review the facility and re-perform interconnection studies before the facility can be placed into service.⁵³ Thus, it is a new facility that is newly being placed into service, and no longer a facility “in service prior to the effective date of the initial net metering order.” Accordingly, the Company’s tariff is reasonable as proposed and should be approved.

3. Duke Energy Kentucky Provides Adequate and Reasonable Service to Its Net Metering Customers.

KYSEIA complains that Duke Energy Kentucky’s service of net metering customers is lacking and even implies it violates existing statutes but offers no support for such a sweeping allegation.⁵⁴ The fact that the Company has multiple specialized teams supporting net metering customers enables a higher level of service, not a lower one, as KYSEIA claims.⁵⁵ Its arguments on this point should be dismissed as unfounded and baseless.

III. CONCLUSION

For the reasons given herein, and in the Company’s initial post-hearing brief, Duke Energy Kentucky respectfully requests that the Commission issue an Order approving the Application, with certain non-substantive updates to forms. In the alternative, if the Commission believes it appropriate to impute avoided transmission and distribution capacity costs, the Company would respectfully request that the amounts provided in the Direct Testimony of Bruce L. Sailors be used for these variables.

⁵³ See Duke Energy Kentucky Response to STAFF-DR-01-002.

⁵⁴ See KYSEIA Brief, pp. 11-12.

⁵⁵ *Id.*, p. 11.

WHEREFORE, on the basis of the foregoing, Duke Energy Kentucky, Inc., respectfully requests the Commission:

- 1) Approve the Application in its entirety, with the non-substantive updates to forms discussed in response to Staff discovery;⁵⁶ however, if the Commission believes it appropriate to impute avoided transmission and distribution capacity costs, the amounts provided in the Direct Testimony of Bruce L. Sailors should be used; and
- 2) Grant all other relief to which Duke Energy Kentucky may be entitled.

This 18th day of July 2024.

Respectfully submitted,

DUKE ENERGY KENTUCKY, INC.

/s/Larisa M. Vaysman

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⁵⁶ See Duke Energy Kentucky Response to STAFF-DR-03-005 and attachments.

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 July 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.⁵⁷

/s/Larisa M. Vaysman
_____ *Counsel for Duke Energy Kentucky, Inc.*

⁵⁷*In the Matter of Electronic Emergency Docket Related to the Novel Coronavirus COVID-19, Order, Case No. 2020-00085 (Ky. P.S.C. July 22, 2021).*