

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)) CASE NO.
APPROVAL OF NEW TARIFFS; 3) APPROVAL) 2024-00354
OF ACCOUNTING PRACTICES TO ESTABLISH)
REGULATORY ASSETS AND LIABILITIES;)
AND 4) ALL OTHER REQUIRED APPROVALS)
AND RELIEF.

REBUTTAL TESTIMONY OF
SARAH E. LAWLER
ON BEHALF OF
DUKE ENERGY KENTUCKY, INC.

April 9, 2024

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I. INTRODUCTION

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Sarah E. Lawler, and my business address is 139 East Fourth Street,
3 Cincinnati, Ohio 45202.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am employed by Duke Energy Business Services LLC (DEBS), as Vice President,
6 Rates and Regulatory Strategy for Ohio and Kentucky. DEBS provides various
7 administrative and other services to Duke Energy Kentucky, Inc., (Duke Energy
8 Kentucky or Company) and other affiliated companies of Duke Energy Corporation
9 (Duke Energy).

10 **Q. ARE YOU THE SAME SARAH E. LAWLER THAT FILED DIRECT**
11 **TESTIMONY IN THIS PROCEEDING?**

12 A. Yes.

13 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY IN THESE**
14 **PROCEEDINGS?**

15 A. The purpose of my Rebuttal Testimony is to respond to certain of the
16 recommendations made by Mr. Randy Futral and Mr. Lane Kollen on behalf of the
17 Office of the Attorney General of the Commonwealth of Kentucky (AG).
18 Specifically, I will address the recommendations related to:

- 19 (1) including deferred rate case expenses in rate base;
20 (2) adjustments to the revenue requirement for unbilled revenues;
21 (3) the Company's request to re-instate the deferrals for planned outage O&M
22 expense and forced outage purchased power expense; and

1 (4) the Company's request to include terminal net salvage in depreciation rates.

2 **II. DISCUSSION**

3 **Q. PLEASE DESCRIBE MR. FUTRAL'S RECOMMENDATION**
4 **REGARDING THE INCLUSION OF DEFERRED RATE CASE EXPENSES**
5 **IN RATE BASE?**

6 A. Mr. Futral recommends that the Commission remove deferred rate case expenses
7 from rate base which would reduce the Company's requested revenue requirement
8 increase by \$0.092 million. Mr. Futral claims that these rate case expenses were
9 and will be incurred to benefit the Company's parent company, Duke Energy, and
10 its shareholders rather than the Company's customers.

11 **Q. DOES THE COMPANY AGREE WITH THIS RECOMMENDATION?**
12 **PLEASE EXPLAIN.**

13 A. No. These deferred rate case expenses represent costs incurred by the Company as
14 part of its cost of service in providing safe and reliable service to its customers.
15 Rate case expenses are part of the cost of being a regulated public utility and of
16 providing safe and reliable service to customers. As a regulated utility, the
17 Company must file rate cases, such as the current proceeding, to modify its cost of
18 service and tariffs. Rate cases are a necessary cost of operating as a public utility,
19 not unlike any other costs included in the cost of service. They represent cash
20 outlays by the Company that the Company must finance just like any other deferred
21 expense until revenues are received from its customers to recover these costs. It is
22 appropriate to include these regulatory assets in rate base so that the Company is
made whole for the time value of money associated with these cash outlays and

1 investors can earn a reasonable return on their investment. There is no reason to
2 treat these costs differently than any other regulatory asset that the Company is
3 including in rate base and amortizing over a period of years. Unlike typical annual
4 O&M, rate case expense recovery is amortized over a period of years, typically
5 three-to five years. This makes accounting for the time value of money all the more
6 important. Allowing the Company to earn an appropriate return on its investments
7 ensures the financial health of the Company is strong which ultimately helps in
8 keeping customer rates from increasing significantly. The Commission should
9 reject Mr. Futral's recommendation.

10 **Q. PLEASE DESCRIBE MR. KOLLEN'S RECOMMENDATION**
11 **REGARDING UNBILLED REVENUES?**

12 A. Mr. Kollen recommends that the Commission use unbilled revenues to calculate
13 current revenues and the resulting revenue deficiency, in order to determine the
14 overall revenue requirement increase needed by the Company. Using this
15 methodology reduces the Company's requested revenue requirement increase by
16 approximately \$0.333 million.

17 **Q. DOES THE COMPANY AGREE WITH THIS RECOMMENDATION?**
18 **PLEASE EXPLAIN.**

19 A. No. I disagree with Mr. Kollen's recommendation. First, calculating the revenue
20 requirement based on billed revenues is the most precise and accurate measurement
21 of total revenues. Billed revenues represent the total amount billed in a given
22 period. The unbilled revenue calculation is simply a non-cash accounting
23 adjustment to accrue for revenues earned not yet billed that gets reversed and re-

1 established monthly. There is no reason to add this layer of complexity into the
2 calculation by adding in these amounts. The Company's revenue estimates in this
3 proceeding are based on 12 months of revenues. Adding in this adjustment just adds
4 another level of complexity that is not necessary to still get to an estimate of 12
5 months of revenues. The unbilled revenue accounting adjustment is made at the
6 beginning and ending of a year (and a month and quarter) to ensure that the accrual
7 basis of accounting is employed for accounting purposes. But it is not something
8 that is necessary or appropriate to use when setting rates. Customer rates should be
9 based on the actual billed usage of a customer.

10 Additionally, this goes against Commission precedent in computing rates
11 for the Company. The billed-revenue methodology that has been used in all of the
12 Company's electric and natural gas rate cases for as far back as the Company has
13 records. Mr. Kollen has participated in all of those cases since 2017 and has never
14 made this recommendation. There is no need for a decades old reasonable process
15 to be changed only because in this one instance, the adjustment goes in Mr. Kollen's
16 favor. Depending on timing of usage earned and usage billed, this adjustment could
17 be positive or negative in any given month or test-year. Mr. Kollen is once again
18 cherry-picking adjustments that go in the favor of reducing the Company's revenue
19 requirement. If the Commission adopts this recommendation, it should be
20 consistently applied going forward, no matter if the unbilled adjustment is positive
21 or negative. However, as I noted earlier, there is no need to make this adjustment.
22 It is simply another extra unnecessary step in the process. The Company's
23 calculation is reasonable, based on decades of precedence and provides a

1 reasonable 12 month estimate of total revenues for a given year. The Commission
2 should reject this recommendation.

3 **Q. PLEASE DESCRIBE MR. KOLLEN'S RECOMMENDATION**
4 **REGARDING THE COMPANY'S REQUEST TO REINSTATE ITS**
5 **PLANNED OUTAGE O&M AND FORCED OUTAGE PURCHASED**
6 **POWER DEFERRALS?**

7 A. Mr. Kollen recommends that the Commission deny the Company's request to
8 reinstate these deferrals. He claims that the establishment of these deferrals
9 removes all incentives for the Company to manage and control these expenses.

10 **Q. DOES THE COMPANY AGREE WITH THIS RECOMMENDATION?**
11 **PLEASE EXPLAIN.**

12 A. No. Company witnesses John Swez and William Luke explain in their rebuttal
13 testimony why these deferrals do not remove incentives for the Company to manage
14 and control these expenses. The Company always has an obligation to its customers
15 and shareholders to appropriately manage their costs in a prudent manner. These
16 mechanisms merely allow the Company to manage the annual volatility in these
17 costs and ensure that customers do not pay more than the actual costs incurred by
18 the Company over time. It also avoids the instance where due to a year with a large
19 outage, the Company is driven to come in for a base rate increase, which could
20 cause base rates to increase higher and longer than necessary. The deferral
21 mechanism simply allows the Company to account for the year over year
22 fluctuations on its balance sheet without affecting customer rates.

1 **Q. DO YOU AGREE WITH MR. KOLLEN'S ASSERTION THAT THE**
2 **AUTHORIZATION OF THESE DEFERRALS WILL MOST LIKELY**
3 **INCREASE THE REVENUE REQUIREMENT IN FUTURE BASE RATE**
4 **CASE PROCEEDINGS?**

5 A. Once again, Mr. Kollen is only presenting one side of the argument. The
6 establishment of these deferrals will require the Company to defer costs incurred
7 greater than base rates to a regulatory asset and also defer costs incurred less than
8 base rates to a regulatory liability. Depending on the actual costs incurred, the net
9 balance could ultimately be an asset or a liability that the Company would seek to
10 amortize in a future base rate case proceeding. If the net balance is a net liability,
11 customers will see a reduction in rates for the amortization of that regulatory
12 liability in a future base rate case proceeding. In years between rate cases where
13 these costs are less than amounts in base rates, the deferred asset balance would be
14 reduced. Similarly, in years where the amount of expense is greater than what is in
15 base rates, the deferred asset balance would increase. In a subsequent rate case, the
16 deferral balance, whether a net asset or liability, would be amortized over a
17 reasonable period in base rates, resulting in a more reasonable adjustment to
18 customer rates than if the Company simply filed multiple base rate cases to recover
19 these costs in their totality at once.

1 **Q. PLEASE DESCRIBE MR. KOLLEN'S RECOMMENDATION**
2 **REGARDING THE INCLUSION OF TERMINAL NET SALVAGE IN**
3 **DEPRECIATION EXPENSE?**

4 A. Mr. Kollen argues that that KRS 278.264 precludes the Company from requesting
5 and the Commission considering the recovery of decommissioning costs unless the
6 utility is actually seeking to retire a thermal generating unit in a proceeding initiated
7 for that specific purpose. Indeed, Mr. Kollen acknowledges that the Company's
8 application and testimony includes evidence to rebut the presumption. His form-
9 over-substance position is simply that the Company is precluded from even
10 addressing the issue of terminal net salvage recovery unless it files an application
11 to physically retire a thermal generating asset.

12 **Q. DOES THE COMPANY AGREE WITH MR. KOLLEN'S CONCLUSION**
13 **AND RECOMMENDATION? PLEASE EXPLAIN.**

14 A. No. As the Company outlined in its application and as I summarized in my Direct
15 Testimony, in the Company's last base rate proceeding, Case No. 2022-00372, the
16 Commission raised the issue of the rebuttable presumption under KRS 278.264 as
17 it relates to the ability to continue recovering terminal net salvage expense in base
18 rates. The Commission's Order did not state that it was denying the recovery of
19 terminal net salvage because the Company did not file an application to retire a
20 fossil unit at a specific date under KRS 278.264. It merely stated that the Company
21 did not rebut the presumption. Indeed, the plain language of KRS 278.264, which
22 prohibits the Commission, per its interpretation, from "taking any other action
23 which authorizes or allows for the recovery of costs for retirement of an electric

1 generating unit...” presumably includes actions within other proceedings,
2 including a base rate proceeding. Put another way, the statute does not expressly
3 state that an actual unit retirement is a gating precursor to receiving recovery of
4 costs. It merely makes satisfying the rebuttable presumption a requirement to
5 achieve the cost recovery.

6 Among other things, the Company’s Application is seeking to appropriately
7 recover depreciation expense, including terminal net salvage costs that have
8 historically been recoverable through rates. The Company is not seeking
9 permission to retire its generating unit, just to correct the depreciable life of the
10 asset and recover the appropriate level of depreciation costs. Indeed, current
11 depreciation rates for East Bend presume the unit will be fully depreciated by 2041.
12 The Commission determined in the Company’s last rate case that terminal net
13 salvage could not be included in depreciation without a showing that the
14 presumption against retirement has been rebutted. And the Company has met the
15 rebuttable presumption in this proceeding as I explain in my Direct Testimony and
16 through the testimony of other witnesses in this case. Mr. Kollen does not proffer
17 any evidence that the Company’s justification or explanation was in anyway
18 deficient or insufficient. He merely alleges that because the Company did not file
19 an actual and separate application under KRS 278.264 to retire its generating assets
20 at a specific date, it cannot request recovery.

21 The Commission is not required to approve the retirement of an electric
22 generation unit in order to approve a surcharge or other cost recovery for the
23 decommissioning of the unit. In this proceeding, the Company is only seeking

1 approval for the Commission to re-authorize the recovery of terminal net salvage
2 expense through depreciation rates as it has for decades, and as was fully litigated
3 in the Company's 2017 electric base rate case, Case No. 2017-00321 and as upheld
4 on rehearing as it relates to non-fossil generation in Case No. 2022-00372.

5 It is well within the Commission's rights to grant this authorization if the
6 rebuttable presumption has been met in this proceeding. It is not a question of if the
7 Company's generating assets will retire. It is simply a matter of when. Likewise,
8 incurring costs of decommissioning, including terminal net salvage is not a matter
9 of if the Company will ever experience these costs. These generating units are
10 reaching the end of their useful lives and cannot physically or economically operate
11 into perpetuity. For these reasons as well as those outlined in the Company's
12 application, my direct testimony and the direct testimony of William Luke, John
13 Swez, Matthew Kalemba, and John Spanos, the Company has met the rebuttable
14 presumption in order for the Commission to authorize recovery of terminal net
15 salvage expense.

16 **Q. PLEASE EXPLAIN WHY IT IS REASONABLE AND IN CUSTOMER'S**
17 **BEST INTEREST TO RECOVER TERMINAL NET SALVAGE EXPENSE**
18 **NOW.**

19 A. As I explained in my direct testimony, an important tenet of ratemaking principles
20 is cost causation, which strives to align the cost of service with the customers who
21 benefit from that service. It is imperative that terminal net salvage be included in
22 customer rates today so that those customers who are benefiting from East Bend
23 and Woodsdale generation are paying for the full costs associated with the facility.

1 If this does not occur, future customers will pay for these costs and significant
2 intergenerational subsidies will exist. These customers will be burdened with these
3 costs plus the costs of new generation.

4 To put this into context, in this case, Mr. Kollen recommends removing
5 approximately \$5.5 million from the revenue requirement to exclude terminal net
6 salvage expense from depreciation rates. Of that \$5.5 million, approximately \$4
7 million relates specifically to East Bend. If these costs of service remain excluded
8 from rates until the Company retires East Bend in 2038, the depreciable life
9 projected in the Company's depreciation study in this case, this produces an
10 incremental \$52 million in costs placed on the shoulders of future customers who
11 would also be paying for the replacement generation.¹

12 **Q. IF THE COMMISSION DOES NOT AGREE THE COMPANY HAS MET**
13 **THE REBUTTABLE PRESUMPTION, IS MR. KOLLEN'S REVENUE**
14 **REDUCTION CALCULATION ACCURATE?**

15 A. No, it is not. Mr. Kollen is recommending a reduction to the revenue requirement
16 of \$5.502 million which includes an adjustment to terminal net salvage for the
17 Company's solar assets in addition to that for Woodsdale and East Bend. These
18 solar assets are not governed by KRS 278.264 and for all the reasons outlined in
19 the Company's application and testimony, and as previously decided by the
20 Commission on rehearing in Case No. 2022-00372, the decommissioning expense
21 associated with the solar assets should remain in depreciation rates. The
22 Commission approved these costs in the Company's last electric base rate case

¹ 2038-2025= 13 years. 13 yrs x \$4 million= \$52 million. The remainder of the terminal net salvage is attributable to Woodsdale and the Company's solar generation.

1 when it denied the costs for Woodsdale and East Bend citing KRS 278.264.
2 Nothing has changed since the time of that last case that should warrant a different
3 decision as it relates to the solar assets.

4 **Q. HOW MUCH OF MR. KOLLEN’S REVENUE REQUIREMENT**
5 **ADJUSTMENT OF \$5.502 MILLION ASSOCIATED WITH THE**
6 **DECOMMISSIONING COSTS FOR THE SOLAR ASSETS IN THE**
7 **DEPRECIATION EXPENSE?**

8 A. Mr. Kollen’s reduction to the revenue requirement of \$5.502 million includes a
9 revenue requirement reduction of \$0.157 million associated with the solar assets.
10 The depreciation expense associated with the decommissioning costs for the solar
11 assets is \$0.158 million with a \$0.011 million impact in accumulated depreciation
12 net of the ADIT effect.

III. CONCLUSION

13 **Q. DOES THIS CONCLUDE YOUR PRE-FILED REBUTTAL TESTIMONY?**

14 A. Yes.

