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

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

Duke Energy Kentucky, Inc. (Duke Energy Kentucky or the Company), by counsel, pursuant to the May 30, 2025 Order of the Kentucky Public Service Commission (Commission), and other applicable law, hereby tenders to the Commission its Post-Hearing Reply Brief (Reply Brief), respectfully stating as follows:

I. INTRODUCTION

Duke Energy Kentucky seeks to increase annual electric base rates by $69,986,788 in this case.[1] To support this request, Duke Energy Kentucky filed its Initial Post-Hearing Brief on June 16, 2025, the same day that the Office of the Attorney General (OAG), Walmart Inc. (Walmart), and The Kroger Co. (Kroger) (collectively, the Intervenors) filed their initial briefs. Many of the issues and arguments raised by the Intervenors in their initial briefs were already addressed by the Company in its Initial Brief. Rather than reiterating those arguments in this Reply Brief, the Company will rely on the arguments presented in its Initial Brief. In this Reply Brief, the Company will focus its response to a

[1] Lisa D. Steinkuhl Rebuttal Testimony at 4 (Steinkuhl Rebuttal) (Apr. 9, 2025).

few important issues that warrant special attention, respond to new issues and arguments raised by Intervenors in their initial briefs or which were not otherwise addressed in the Company's Initial Brief.

II. ARGUMENT

A. Return on Equity

As discussed in the Company's Initial Brief, Duke Energy Kentucky is requesting a return on equity (ROE) of 10.85 percent, within a range of 10.25 to 11.25 percent.[2] In contrast, OAG witness Richard Baudino proposes an ROE of 9.65 percent, which is lower than the Company's current ROE despite (1) markedly different market conditions and investor expectations that warrant a substantial increase in the Company's ROE; and (2) witness Baudino's highly inconsistent, results-oriented approach to Discounted Cash Flow (DCF) and Capital Asset Pricing Model (CAPM) analyses. Walmart witness Lisa Perry recommends, without any analysis or consideration of market conditions or investor expectations, that the Commission simply retain the Company's currently authorized 9.75 percent ROE—despite notable increases in average authorized ROEs for vertically integrated electric utilities (witness Perry's preferred metric) in the years since the current ROE was established. These issues are discussed at length in the Company's Initial Brief.[3]

1. Response to OAG Initial Brief

In its Initial Post-Hearing Brief, the OAG reiterated Mr. Baudino's position that there are "several challenges in obtaining a reliable ROE estimate from the CAPM."[4] As discussed at the evidentiary hearing, witness Baudino solved for that concern in the

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[2] Duke Energy Kentucky Initial Brief at 63.
[3] Duke Energy Kentucky Initial Brief at 63-69.
[4] OAG Initial Brief at 52.

Company's last Kentucky electric rate case by simply disregarding the CAPM when it would have increased his range of ROE results.[5] Here, Mr. Baudino addressed that concern by adding multiple new and unreliable forms of the CAPM model that he did not use in prior cases. And while Mr. Baudino spent considerable time in his testimony explaining why CAPM analyses tend to be too high, he offers no consideration as to whether his CAPM results—as low as a wholly unrealistic 8.34 percent—are too low.[6] Further, while Mr. Baudino suggests for purposes of the CAPM that it is appropriate to consider the "supply side" Market Risk Premium (MRP) based on the expectation that recent high price-to-earnings (P/E) ratios are not expected to continue indefinitely, he does not consider that normalization of P/E ratios (a decline) would increase the dividend yield component of both Company witness Joshua Nowak's and Mr. Baudino's DCF analysis and therefore suggest that the DCF results in this proceeding are understated.[7] As such, OAG's claim in its Initial Brief that Mr. Baudino's results are reasonable because they "are the midpoint of the average DCF and CAPM models"[8] – without any consideration or weight given to Mr. Baudino's own concerns about CAPM, the number of new CAPM variants he includes for the first time in this case to reduce the CAPM average, or the likelihood the DCF models are understated – is unfounded and unsupported by the record evidence.

Additionally, the OAG's Initial Brief demonstrates further unreliable inconsistencies in Mr. Baudino's Direct Testimony. For example, the OAG reiterates Mr. Baudino's claims that Value Line analysts' earnings growth forecasts are unreliable because they exceed historical earnings and dividend growth and the long-run gross

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[5] Baudino Cross, HVR at 4:16-4:25 (May 22, 2025).
[6] Joshua C. Nowak Rebuttal Testimony at 16 (Nowak Rebuttal) (Apr. 9, 2025).
[7] *Id.* at 17.
[8] OAG Initial Brief at 53.

domestic product (GDP) forecasts,[9] but throughout Mr. Baudino's testimony he explains just how reliable Value Line and Value Line growth rate data tends to be.[10] Further, Mr. Baudino's comparison to historical earnings and dividend forecasts and the GDP are not reasonable or reliable, because the GDP is not specific to the energy industry nor any particular industry, proxy group, nor company, nor the period rates will be in effect.[11] The OAG notes that Mr. Baudino also criticizes Mr. Nowak for not using Value Line's dividend growth forecast and argues that this leads to an overstatement of Mr. Nowak's DCF results, but ignores that growth in dividends is primarily a function of growth in earnings and that independent, reliable sources illustrate that investors base their decisions on earnings growth expectations.[12]

The OAG also argues that Mr. Nowak's CAPM analysis reflects an inflated MRP range of 7.11 percent to 10.87 percent, on the grounds that Mr. Nowak does not consider that investors might use approaches other than Mr. Nowak's to "evaluate the return on the overall market and the resulting MRP."[13] This criticism of Mr. Nowak fails to recognize that the S&P 500, is a widely referenced measure of market returns, and represents broader diversified equity market.[14] Similarly, Mr. Baudino's use of multiple MRP's again reflects data mismatches, because "for consistency, the market index employed should closely correspond to the market index used to derive beta, which is either the NYSE index in the case of Value Line or [the] S&P 500 index in the case of Bloomberg."[15] Mr. Nowak's forward-looking market return estimate is highly consistent with actual returns over the

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[9] OAG Initial Brief at 54.
[10] Richard Baudino Direct Testimony at 18, 24, 35, 39 (Baudino Direct) (Mar. 5, 2025).
[11] Baudino Cross, HVR at 4:28-4:32 (May 22, 2025).
[12] Nowak Rebuttal at 15.
[13] OAG Initial Brief at 56.
[14] Nowak Rebuttal at 17.
[15] *Id.* at 17-18.

last 99 years, and the method is specifically endorsed by the Federal Energy Regulatory Commission (FERC).[16] As such, Mr. Baudino's criticisms are unfounded.

As the OAG notes in its Initial Brief, the Company agrees that the Commission should place little weight on the ROE determinations of other states over a long period of time.[17] However, the OAG incorrectly faults Mr. Nowak's Bond Yield Plus Risk Premium Approach on this basis.[18] Mr. Nowak's methodology is not simplistically relying on other ROEs in other jurisdictions; rather, it reflects a regression equation that evaluates the relationship between bond yields and the equity risk premium over time, thereby using "the historical relationship between bond yields and equity risk premia to predict how investors will react to changes in interest rates as a result of monetary policy and economic conditions."[19] In any event, the Bond Market Risk Premium model is an additional, verifiable, and valid methodology utilized by multiple other commissions,[20] and is therefore reasonably part of the overall analysis.

Lastly, the OAG's Initial Brief takes issue with Mr. Nowak's Expected Earnings Analysis on the grounds that "the forecasted book returns from Value Line will not be as reliable or accurate as a properly specified DCF analysis using current stock prices," because "[o]nly through current stock prices do investors reveal their return requirements through what they are willing to pay in the marketplace for the stocks of regulated electric utilities."[21] The OAG further argues that Mr. Nowak overstates the returns from Value Line by making an adjustment to the average shares outstanding for 2027-2029.[22] However, the

[16] *Id.* at 18-19.
[17] OAG Initial Brief at 58.
[18] *Id.*
[19] Nowak Rebuttal at 21.
[20] *Id.* at 23-24.
[21] OAG Initial Brief at 58.
[22] *Id.*

OAG offers no actual evidence that Value Line's expected returns are not as reliable or accurate as the DCF model. Perhaps just as importantly, the OAG again fails to appreciate that an additional, frequently accepted and tested model like the Expected Earnings Analysis "provides another perspective to the market-based models and is uniquely suited to estimating the expected return for regulated utilities."[23] And while Mr. Baudino criticized Mr. Nowak's adjustment, the adjustment simply converts shares from a year-end (point in time) number to the average shares for the year – which better reflects that shareholders earn a return on the average number of shares during the year rather than the year-end quantity.[24] As discussed earlier in this ROE discussion, it is important to use data in the proper way (as Mr. Nowak does) and not to selectively reject an appropriate adjustment simply because it increases the result, nor selectively deploy ROE models that lead to a particular outcome. Mr. Nowak's models are reasonable, consistent, and present a range of perspectives and outcomes, leading to an ROE range and recommendation that are likewise reasonable and reflective of the overall market data. Whereas Mr. Baudino's 9.65 percent recommendation is not a reflection of a decline in the cost of equity from the currently authorized 9.75 percent, but rather is a reflection of his use of variations of the CAPM with lower results that were not considered by Mr. Baudino in the Company's prior case. The Company respectfully submits that Mr. Nowak's analysis is far more reasonable than averaging DCF models and certain new and inconsistently-deployed CAPM models to arrive at a result that does not align with current market conditions or investor expectations for the proxy group or Duke Energy Kentucky.

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[23] Nowak Rebuttal at 25.
[24] Nowak Rebuttal at 25-26.

2. Response to Walmart Initial Brief

Contrary to the detailed analyses of other ROE witnesses, Walmart recommends in its Initial Brief that the Company's 10.85 percent ROE is simply too high or unreasonable based on what other commissions have awarded vertically integrated electric utilities in the last few years. In doing so, Walmart suggests that "the Company has put forward no evidence to justify it being awarded the second highest ROE in the entire country."[25]

This argument completely dismisses and ignores that (1) determining an appropriate ROE is premised on establishing a return that attracts capital to the utility during the period rates will be in effect – and is therefore a *forward-looking exercise*; and (2) the *entirety* of Mr. Nowak's Direct, Rebuttal, and evidentiary hearing testimony is evidence of the investors' future return expectations and reasonable ROEs based on established ROE models. Walmart's only evidence in this case pertains to what other commissions in other states have determined in the past with respect to investors' expectations based on the conditions and forecasts in effect in those historical periods. In short, it is Walmart that has failed to provide any evidence justifying that historical outcomes should dictate the present or future. Walmart also fails to recognize that if every utility regulatory commission adopted Walmart's approach, ROEs would become stagnant, self-perpetuating, circular, and based entirely on past rather than current analyses of investor expectations. This approach is simply not reasonable, nor is it consistent with how ROEs are established.

Walmart further claims that because the Company is in a better financial position than in the Company's last electric rate case, it need not receive a higher authorized ROE.[26]

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[25] Walmart Initial Brief at 4.
[26] Walmart Initial Brief at 5.

This is, again, an incorrect, backward looking argument that disregards changes in capital market conditions and the results of market-based models. In the Company's last rate case, the Commission established a higher ROE and higher capital structure than last authorized, as well as an overall rate increase, that helped bolster the Company's precarious credit ratings at that time.[27] This is no guarantee of future financial health; nor does it show that the Commission should maintain a stagnant ROE for the Company at a time when market conditions show substantial volatility and rising interest rates, thereby dictating substantial increases in the ROE from what is currently authorized.[28] The Company also respectfully submits that it should not be necessary for a utility to be in a precarious financial position in order for the Commission to fully evaluate the returns investors will require for that company during the period rates will be in effect. In fact, *Hope* and *Bluefield* require exactly such an evaluation.[29]

Walmart also suggests the Commission should reject Company ROE data because the Company relies upon the same expert as the 2022 rate case who uses the same models.[30] This argument ignores that the Company and the OAG use very similar DCF models, and fully ignores Mr. Nowak's correction of Walmart counsel at the evidentiary hearing that it was not his risk premium model the Commission rejected in the 2022 rate case.[31] Rather, the Commission discussed a model that is wholly different from Mr. Nowak's.[32]

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[27] Thomas J. Heath Direct Testimony at 9 (Heath Direct) (Dec. 2, 2024).
[28] *See* Duke Energy Kentucky Initial Brief at 68-69; Nowak Cross, HVR at 20:50-25:32 (May 22, 2025).
[29] *Bluefield Waterworks & Improvement Co. v. Pub. Serv. Comm'n of W. Va.,* 262 U.S. 679 (1923) (Bluefield); *Fed. Power Comm'n v. Hope Nat'l Gas Co.,* 320 U.S. 591 (1944) (Hope); s*ee also* Joshua C. Nowak Direct Testimony at 7-8 (Nowak Direct) (Dec. 2, 2024); Nowak Rebuttal at 4-5.
[30] Walmart Initial Brief at 5.
[31] Nowak Cross, HVR at 14:58-16:53 (May 22, 2025).
[32] *Id.*

Finally, even if the Commission were to rely wholly on historical data (which is not consistent with *Hope* and *Bluefield*[33] and is not the Company's recommendation), Walmart's data does not, as Walmart suggests, support a "narrow range of 9.65 to 9.85 percent."[34] Rather, Walmart's data shows that average ROEs have increased *each year* since 2022 and in total by approximately 25 basis points.[35] The most recent authorized ROEs for the first quarter of 2025 at roughly 9.83 percent would be based on underlying data and models from 2024, and therefore do not yet reflect current market data and volatility (let alone sufficient data in 2025 to be reliable). Given this trend, plus other information in the record regarding increasing volatility and interest rates in 2025, Walmart's own analysis does not support limiting Duke Energy Kentucky's authorized ROE to the high end of a range based solely on historical data.

For all the foregoing reasons, Duke Energy Kentucky requests that the Commission establish an ROE of 10.85 percent based on witness Nowak's reliable, consistent methodologies, and within a range of 10.25 to 11.25 percent.

If the Commission is not inclined to increase the Company's ROE to that extent at this time, Duke Energy Kentucky submits that all reliable evidence illustrates that the cost of capital has increased since the Company's last case, Duke Energy Kentucky's ROE should be increased substantially from its current authorized 9.75 percent ROE, and should be within the 10.25 to 11.25 percent range recommended by Mr. Nowak. Should the Commission choose to rely more specifically on DCF analyses, as it has in the past, Mr. Nowak's average DCF result is 10.02 percent and his median is 10.28 percent, [36] with Mr.

[33] *Bluefield*, 262 U.S. 679; *Hope*, 320 U.S. 591.
[34] Walmart Initial Brief at 6.
[35] *See* Duke Energy Kentucky Initial Brief at 67 and n. 337.
[36] Nowak Rebuttal at 8, Figure 2.

Baudino's average Method 2 DCF result totaling 10.01 percent and the average of all his DCF results totaling 9.92 percent.[37] Accordingly, the substantial record evidence illustrates the Company's authorized ROE should be higher than its current ROE and set above 10.0 percent.

B. Aligning Depreciation with East Bend's Useful Life

In this case, the Company proposes to align the depreciable life of the East Bend Generating Station (East Bend) with the estimated useful life of the asset.[38] As explained by the Company, based on the Company's 2024 Integrated Resource Plan (2024 IRP), the Company currently estimates East Bend to retire no later than December 31, 2038.[39] The evidence supporting this proposal is described in great detail in the Company's Initial Brief.[40] That said, certain arguments put forth by the OAG (which is the only party to oppose the Company's proposal) are worth addressing in further detail in this Reply Brief.

The OAG tries to call into question the Company's projected 2038 retirement date for East Bend by pointing out that the Company's 2024 IRP did not take into account recently proposed changes to the environmental regulations under which the IRP was developed.[41] First, the Company's 2024 IRP, by definition, could not account for specific changes to environmental regulations that were not in effect as of 2024. The OAG lists various "proposed changes"—which, as noted by the OAG, are proposed and not in

[37] OAG Initial Brief at 52. As a further point of reference, although the Company does not support a simple averaging of parties' positions that are not supported by the record, the average of OAG's, Walmart's, and the Company's ROE recommendations in this proceeding is approximately 10.08 percent.
[38] Sarah E. Lawler Direct Testimony at 4 (Lawler Direct) (Dec. 2, 2024).
[39] *Id.*
[40] *See* Duke Energy Kentucky Initial Brief at 43-55.
[41] *See* OAG Initial Brief at 28 ("Duke Kentucky bases the proposed December 2038 probable retirement date for depreciation purposes on the Company's 2024 Integrated Resource Plan ('IRP') preferred plan. However, the preferred plan was developed under environmental regulations, such as the Clean Air Act, Section 111 Update, that are subject to proposed changes.") (internal citations omitted).

effect—from 2025, one year after the Company was required to file its 2024 IRP.[42] The Company simply could not have predicted what specific rules might be proposed or implemented in the years following its 2024 IRP, and the OAG's suggestion otherwise is nonsensical.

While the Company could not have predicted any specific changes to environmental regulations that would be proposed, the Company's 2024 IRP did in fact account for a range of environmental regulation scenarios that would impact the long-term viability of East Bend as a generating station. There are any number of laws and regulations that may be in effect in the years to come that regulate carbon emissions or fossil fuel generating resources; while, as noted above, the Company cannot predict which specific rules may go into effect in the future, it can account for—and, indeed, has accounted for—environmental regulation scenarios that will impact the future viability of East Bend. For example, Company witness Matthew Kalemba explained that the Company's 2024 IRP includes several updated policies at both the state and federal level.[43] Importantly, Mr. Kalemba testified that "under a no [Environmental Protection Agency (EPA) Clean Air Act (CAA) Section 111 April 2024 Updates (EPA CAA Section 111 Update)] scenario in the 2024 IRP, East Bend actually retires earlier, by December 31, 2035, due to economics and reliability concerns."[44] It is therefore inaccurate for the OAG to suggest that the Company has not properly considered a number of new (and, notably, only *proposed*) changes to environmental regulations when determining that East Bend's likely retirement date is 2038. Moreover, the record in the 2024 IRP and in this case clearly demonstrate that

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[42] *Id.* at 29-30.
[43] Matthew Kalemba Direct Testimony at 4-5 (Kalemba Direct) (Dec. 2, 2024).
[44] *See id.* at 10.

the Company evaluated the likely retirement of East Bend absent the influence of the EPA CAA Section 111 Update, and the result was an even earlier retirement date. The Company fully accounted for environmental regulations in its carbon regulation scenarios contained in its 2024 IRP that determined the 2038 probable retirement date.

The OAG's analysis of KRS 278.264 is likewise lacking in merit. While the OAG is correct that the Company has not filed an application requesting to retire East Bend, contrary to the OAG's argument, the statute does not expressly state that an actual unit retirement is a precursor to receiving recovery of costs.[45] As explained in the Company's Initial Brief, the statute merely makes satisfying the rebuttable presumption a requirement to achieve the cost recovery.[46] In this case, the Company has presented ample evidence rebutting the presumption created by KRS 278.264,[47] and the OAG has not put forth any evidence or argument explaining why the Company's justification or explanation was in anyway deficient or insufficient. It is, therefore, within the Commission's authority to grant the Company's request to include decommissioning costs for East Bend in rates.

Lastly, the OAG argues that "if [East Bend] continues to operate and provide electricity to customers past 2038, then current customers will have subsidized future customers, thereby causing intergenerational inequities to the detriment of current customers."[48] However, the Commission can continue to adjust the Company's depreciation schedules for its generating assets if and when needed in future rate cases. In this case, the Company is simply seeking to align its depreciation rates for East Bend with its probable useful service life, which, according to extensive modeling and analyses

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[45] Sarah E. Lawler Rebuttal Testimony at 8 (Lawler Rebuttal) (Apr. 9, 2024).
[46] Duke Energy Kentucky Initial Brief at 49 (citing Lawler Rebuttal at 8).
[47] *See* Duke Energy Kentucky Initial Brief at 49-51.
[48] OAG Initial Brief at 31.

provided by the Company, is most likely 2038. As explained by Company witness Sarah E. Lawler, this is so that those customers who are benefiting from East Bend generation are paying for the full costs associated with the facility, which will in fact prevent intergenerational inequities.[49]

C. Recovery of Decommissioning Expense in Depreciation Rates

The OAG's position that decommissioning costs should not be included in the depreciation rates for the Company's generation assets[50] should be rejected as it is inconsistent with accepted depreciation practices and all authoritative guidance, and would lead to intergenerational inequities between Duke Energy Kentucky's current and future customers.

In this proceeding, the Company proffered citations to the FERC Uniform System of Accounts (USOA) as well as numerous authoritative treatises and manuals to support its position that decommissioning costs must be included in the depreciation rates for its generation assets.[51] In its initial brief, the OAG tries to dismiss the Company's reliance on these authoritative sources by claiming that none of these texts are clear as to "the specific means or timing" of recovery of decommissioning costs.[52] However, these authoritative sources could not be more straightforward. As one of these treatises states plainly: the "[e]stimated future costs of retiring an asset currently in service must be accrued and allocated as part of the current expenses."[53] In other words, the current depreciation rates

[49] Lawler Rebuttal at 9-10.
[50] OAG Initial Brief at 32-36.
[51] *See e.g.*, Duke Energy Kentucky Initial Brief at 43-46; John J. Spanos Rebuttal Testimony at 9-10 (Spanos Rebuttal) (Apr. 2, 2025).
[52] OAG Initial Brief at 33-34.
[53] Frank K. Wolf and W. Chester Fitch, *Depreciation Systems* at 7 (1994); Spanos Rebuttal at 10.

(*i.e.*, current expenses) for an asset must account for the future costs to retire that asset (*i.e.*, decommissioning costs).

The OAG attempts to refute these authoritative sources by claiming that the FERC USOA only "dictates accounting for FERC purposes" but "does not dictate state ratemaking."[54] This claim is simply incorrect insofar as it suggests that both the Company and the Commission may ignore federal requirements. As a public utility subject to the Federal Power Act and FERC jurisdiction, the Company is required to adhere to certain FERC rules and may not simply change its accounting practices in contravention of applicable federal requirements. The Company also adheres to these FERC accounting requirements consistent with KRS 278.220, which states that the accounting systems for electric utilities in Kentucky "shall conform as nearly as practicable to the system adopted or approved by the [FERC]."

Indeed, this Commission had followed FERC's USOA and generally accepted depreciation practices by including decommissioning expenses in depreciation rates up until the Company's last electric base rate case. In doing so, the Commission acknowledged that including decommissioning in depreciation rates was necessary to avoid intergeneration inequities.[55] In contrast, adopting the OAG's position and removing decommissioning expenses from depreciation rates would mean that future ratepayers, who did not receive the benefit of a generation unit, would be forced to foot the bill for its

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[54] OAG Initial Brief at 34.

[55] Case No. 2017-00321, *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*, Order at 27 (Ky. PSC Apr. 13, 2018) ("The Commission finds Dukes Kentucky's recommendation on the treatment of terminal net salvage value in the computing the depreciation rates for generating units is reasonable in order to avoid intergenerational inequity and should be approved.")

dismantling and removal.[56] In addition, these future customers will be forced to bear the entire burden of all of the decommissioning costs when these generators are retired, unnecessarily and significantly increasing future customer rates, rather than spreading those costs across the useful life of the asset. Moreover, these future customers will be paying for these full decommissioning costs at the same time that they are paying for the costs of new generation. The Commission should correct this intergenerational inequity and allow Duke Energy Kentucky to recover the decommissioning costs for all of its generation units in depreciation rates. The OAG tries to dismiss this concern by claiming that the newer replacement generation will be "lower cost generation, that generally is more efficient and has lower fuel and non-fuel operating expenses."[57] While new replacement generation may have lower fuel costs than the Company's existing generation, there will still be significant costs to construct these new generation resources. Requiring future customers to pay the full costs of decommissioning existing assets, that they are no longer benefiting from, at the same time these customers are paying for new generation is an unreasonable and can be easily avoided by allowing recovery of decommissioning costs in depreciation rates over the remaining lives of these assets.

The OAG also attempts to argue that under KRS 278.264, decommissioning expenses cannot be recovered from customers until Duke Energy Kentucky files an application to retire its fossil fuel generation units.[58] This is not what the statute requires.

First, KRS 278.264 only applies to "fossil fuel-fired" generation units and the OAG seeks to remove decommissioning expenses from the depreciation rates for all of Duke

[56] John J. Spanos Direct Testimony at 18 (Spanos Direct) (Dec. 2, 2024).
[57] OAG Initial Brief at 35.
[58] *Id.* at 34.

Energy Kentucky's generation units, including its solar units which are not covered by this law. Indeed, the Commission has previously held that KRS 278.264 does not apply to the Company's solar generating assets.[59]

Next, KRS 278.264 does not require, as the OAG claims, that the utility file an application to retire a fossil-fueled generation unit prior to being allowed to recover decommissioning costs for that unit.[60] Rather, KRS 278.264(2) provides that the Commission "shall not . . . take any other action which authorizes or allows for the recovery of costs for the retirement of an electric generating unit…unless the presumption created by this section is rebutted." In other words, all that KRS 278.264 requires is that the utility provide sufficient evidence to rebut the statutory presumption against retirement, which is what the Company provided in this case.[61] None of this evidence was refuted by the OAG or any other party.

This interpretation of KRS 278.264 is also consistent with the Commission's order in the Company's last rate case, which was being litigated when KRS 278.264 became law. In that case, the Company did not have the opportunity to put forth evidence rebutting the presumption due to the timing of the passage of KRS 278.264. As a result, the Commission found that the Company did not meet its "burden to overcome the presumption established in KRS 278.264 and without sufficient evidence for the rebuttal, the Commission cannot

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[59] Case No. 2022-00372, *Electronic Application of Duke Energy Kentucky, Inc., for (1) An Adjustment of Electric Rates; (2) Approval of New Tariffs; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and (4) All Other Required Approvals and Relief*, Order on Rehearing at 11-12 (Nov. 21, 2023) ("[T]he Commission agrees with Duke Kentucky that KRS 278.264 does not apply to solar generation assets.").

[60] OAG Initial Brief at 34.

[61] *See e.g.*, Direct Testimony of William C. Luke at 11-24 (Luke Direct) (Dec. 2, 2024); Direct Testimony of John Swez at 22-31 (Swez Direct) (Dec. 2, 2024); Kalemba Direct at 14-24; Lawler Direct at 5-9.

allow recovery of costs for the retirement of the electric generating units."[62] Accordingly, the OAG's argument is contrary to the Commission's prior order which stated that it was denying the recovery of terminal net salvage because the Company did not rebut the presumption not because the Company did not file an application to retire a fossil unit at a specific date.

The OAG also argues that the Commission should deny recovery for decommissioning expenses because they are "inherently unknown and unmeasurable."[63] While the Company cannot know the exact amount of decommissioning costs until a plant is retired, there is no dispute that there will be significant decommissioning costs to remove, dismantle, and dispose of all of the equipment, infrastructure, and facilities associated with the Company's generation units. In addition, the Company has recently performed studies to determine appropriate estimates for these decommissioning costs.[64] The OAG has not proffered any evidence to dispute the accuracy or reasonableness of these studies. Just because an *exact* cost cannot be determined, does not make it unknown and unmeasurable. Indeed the entire concept of a forecasted test year is based upon using reasonable assumptions of future costs of providing service to recover them in rates at the time the rates go into effect. That is the point of making reasonable estimates based on expertise and experience that the Company and its expert witnesses have. The fact that these amounts cannot be known with precision should not preclude the Company from recovering these costs through its depreciation rates, especially when failing to do so would

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[62] Case No. 2022-00372, *Electronic Application of Duke Energy Kentucky, Inc., for (1) An Adjustment of Electric Rates; (2) Approval of New Tariffs; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and (4) All Other Required Approvals and Relief*, Order at 14 (Oct. 12, 2023).
[63] OAG Initial Brief at 35.
[64] Spanos Direct at 13-14.

put an undue burden on future Kentucky customers. To avoid this result, the Commission should permit recovery of decommissioning costs in the depreciation rates of the Company's generation assets consistent with federal and state requirements and established depreciation practice and as it has been doing for decades.

In its initial brief, the OAG also puts forth three alternative recommendations if the Commission decides to allow decommissioning costs within the depreciation rates for the Company's generation assets. Each of these recommendations should be rejected as discussed below.

1. Decommissioning Expense as a Standalone, Separate Expense

The Commission should deny the OAG's proposal to create a separate, standalone expense for decommissioning costs rather than incorporating these costs into depreciation rates.[65] The OAG's recommendation is inconsistent with standard accepted depreciation practices and would also grossly underestimate the full cost of decommissioning these assets. As discussed earlier, inclusion of decommissioning costs in depreciation rates is consistent with the FERC USOA and all authoritative depreciation guidance on this issue.

The Company calculates its terminal net salvage amounts consistent with standard accepted depreciation practices. The Company's calculation of the weighted net salvage includes both interim and terminal net salvage which is based on the plant in service forecasted to be in place at the date of retirement.[66] This means that the Company's calculation accounts for the decommissioning costs associated with the assets that will be in-service at the time the plant is retired. In contrast, the OAG's proposal to calculate decommissioning expenses as a standalone, separate expenses would mean that these costs

[65] OAG Initial Brief at 36.
[66] Spanos Rebuttal at 11.

would be calculated at a single point in time (in this case, December 31, 2023).[67] This method would significantly underestimate the full cost of decommissioning as it would not account for any new components of the generation unit that are placed in service between December 31, 2023 and retirement.[68]

2. Limiting Escalation of Decommissioning Costs to the Company's Test Year

If the Commission allows recovery of decommissioning costs, the OAG urges the Commission to limit the escalation of these costs to the Company's test year in this case.[69] The OAG incorrectly claims that the Company's escalation of decommissioning expense through the date of each asset's retirement violates 807 KAR 5:001, Section 16(6)(b). Section 16 states that "[f]orecasted adjustments shall be limited to the twelve (12) months immediately following the suspension period."[70] The Company's requested recovery of decommissioning expense, escalated through the date of asset retirement, is consistent with this requirement, as the Company is only seeking recovery of test year portions of its decommissioning costs.

The Company's decommissioning study uses costs at current prices. However, since the Company's generation units will not be retired for many years into the future, these costs must be escalated so that correct amounts are allocated over the lives of the generation units.[71] This escalation is not inconsistent with or prohibited by 807 KAR 5:001, Section 16(6)(b), and the straight-line method of depreciation—which the Company used for its generating assets in this case—adheres to this principle by allocating the projected

[67] *Id*.
[68] *Id*.
[69] OAG Initial Brief at 38-40.
[70] 807 KAR 5:001, Section 16(6)(b).
[71] Spanos Rebuttal at 6-7.

costs evenly among each year of the asset's service life. In this rate case, the Company has not proposed recovering *all* decommissioning costs associated with each generating asset in the 12-month period immediately following the suspension period, but has proposed to only recover an allocable test year portion of these costs. As a result, the Company's request is in compliance with Section 16, and OAG's arguments to the contrary should be dismissed.

Adopting the OAG's recommendation and removing escalation of costs to the date of retirement would also result in insufficient recovery of the Company's actual costs in violation of the principle that a utility be permitted to recover its reasonable and prudently incurred costs to provide safe and reliable service to customers. As discussed, decommissioning costs are developed using the cost to decommission a plant today and must be escalated to the time period in which they are expected to be incurred to achieve adequate recovery. Company witness John J. Spanos estimated that removing escalation from the terminal net salvage percentages would result in $11.8 million in under recovery annually for the Company.[72] This is a significant amount and would deny the Company full recovery of necessary costs incurred to serve its customers. Like the OAG's other recommendations, the Commission should also reject the OAG's recommendation to remove escalation from the Company's terminal net salvage percentages.

3. Removal of Estimated Costs of End of Life Materials and Supplies Inventories

The OAG's third recommendation is that even if the Commission allows recovery of decommissioning costs as part of depreciation rates, that the Commission should disallow

[72] *Id.* at 7.

recovery of end of life materials and supplies inventory.[73] When a generation asset is retired, all remaining inventories must be disposed of and all remaining inventory must be safely sold, moved to other locations, or scrapped.[74] This work must be done before the generation plant itself can be fully decommissioned. In fact, the portions of the generation plant that house these end of life materials and inventories cannot be demolished until all of these items are safely removed.[75] As a result, end of life materials and supplies inventories are an essential part of decommissioning a generation asset and should be allowed to be recovered through depreciation rates.

In its brief, the OAG appears to take issue with the fact that the exact cost of the end of life materials and supplies cannot be known until a unit is actually retired. However, the OAG fails again to acknowledge that the Company's decommissioning study used a variety of data and information from various sources to estimate the tasks, quantities, and costs associated with decommissioning each generating facility.[76] The OAG has not put forth any evidence in this proceeding to refute the reasonableness of these studies or the Company's estimates for end of life materials and supplies inventory costs. Absent such evidence, these estimates should be found to be reasonable and should be included in the Company's depreciation rates. Allowing recovery of these costs, like the other costs of decommissioning, also comports with the principle of gradualism and avoids intergenerational inequities, as waiting to recover these costs in the future will increase rates for future customers that have not received the benefit of these resources.

[73] OAG Initial Brief at 40-42.
[74] Spanos Rebuttal at 13.
[75] *Id*.
[76] *Id.* at 11-13.

D. Proposed Deferral Mechanisms

As discussed in the Duke Energy Kentucky's Initial Brief, the Company is requesting approval to reimplement two previously authorized deferral mechanisms. Specifically, the Company seeks authorization to reestablish its forced outage replacement purchased power deferral mechanism, which would allow the Company to defer the actual forced outage purchased power expense not otherwise recovered through the Company's Fuel Adjustment Clause (FAC) that is above or below the baseline amount being recovered in base rates as established in this case.[77] The Company also seeks to reestablish its planned generation outage operations and maintenance (O&M) deferral mechanism, which would allow the Company to defer actual O&M expenses related to planned outages above or below the baseline amount being recovered in base rates as established in this case.[78] The OAG is the only party that opposes the Company's proposed deferral mechanisms, arguing that "the deferral mechanisms removed all incentives for the Company to manage and control these expenses."[79] However, the Company presented evidence clearly refuting this claim.

With respect to the forced outage replacement purchased power deferral mechanism, Company witness John D. Swez explained that the Company uses its best efforts to avoid forced outages and derates by addressing maintenance issues proactively as a scheduled outage or, if necessary, a scheduled derate.[80] This typically results in less damage to equipment, a shorter return time, and potentially less expensive repairs.[81] In

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[77] Duke Energy Kentucky Initial Brief at 35 (citing Swez Direct at 31-32); *see also,* Application of Duke Energy Kentucky, Inc. (Application) at 16-17 (Dec. 2, 2024).
[78] Duke Energy Kentucky Initial Brief at 39 (citing Luke Direct at 24).
[79] OAG Initial Brief at 61.
[80] John D. Swez Rebuttal Testimony at 2 (Swez Rebuttal) (Apr. 9, 2025).
[81] *Id.*

addition, Mr. Swez stated that once the generation dispatch group has knowledge of a potential event, personnel perform a variety of actions to attempt to reduce the replacement power cost of the forced event and increase the value of the Company's generating units in the energy market.[82] Further, Mr. Swez testified that the Company manages any outage event, forced or otherwise, to reliably serve customers in the most economic manner possible and maintain the safe and reliable operation of the generating units, without regard to how costs are recovered or the allocation of any costs between customers and shareholders.[83]

Similarly, regarding the planned generation outage O&M deferral mechanism, Company witness William C. Luke explained that when determining the planned maintenance activities required to maintain the safe, reliable, and efficient operation of its generating assets, the Company does not consider how costs are recovered or the allocation of any costs between customers and shareholders.[84] Rather, maintenance activities are planned and executed based on several factors including the operating profile of the equipment, online monitoring, offline condition inspections, fleet operating experience, and original equipment manufacturers' recommendations.[85] Additionally, Mr. Luke stated that it is in the Company's interest to manage and control these expenses, as the Company is required to demonstrate prudency of expenses incurred in rate case reviews, and that the Company does this through a rigorous cost management program.[86]

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[82] *Id.* at 3.
[83] *Id.* at 4.
[84] William C. Luke Rebuttal Testimony at 2 (Luke Rebuttal) (Apr. 9, 2025).
[85] *Id.*
[86] *Id.* at 3.

The OAG has not rebutted any of this evidence, and its claim that "the deferral mechanisms removed all incentives for the Company to manage and control these expenses"[87] is unsupported by the record. Moreover, the OAG does not address the reasonableness of reimplementing the deferral mechanisms or whether the conditions underlying the Commission's decision to eliminate the deferral mechanisms in the Company's last electric base rate case, Case No. 2022-00372, still exist.

In contrast to the OAG, the Company put forth ample evidence that the deferral mechanisms are reasonable, necessary, and in customers' best interest. The Commission's justification for terminating the deferral mechanisms in Case No. 2022-00372 was that continuation of the deferral mechanisms was unnecessary in light of Duke Energy Kentucky's expectation that the expenses would be in line with base rates going forward.[88] The evidence in this case demonstrates that is no longer the case.[89] The Company has experienced and expects to continue to experience volatility in the actual expenses incurred. The increased variability in actual expenses warrants reinstatement of the deferral mechanisms to ensure accurate cost recovery and protect both the Company and customers from significant rate and earnings fluctuations. As explained by the Company, the costs covered by the deferral mechanisms are volatile and impact the Company's financial stability and customer rates.[90] The deferral mechanisms balance the need for protecting customers from overpaying for these costs when the utility's actual costs incurred are below the levels used to establish base rates and conversely mitigate the utility's risk of

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[87] OAG Initial Brief at 61.
[88] Case No. 2022-00372, *Electronic Application of Duke Energy Kentucky, Inc., for: 1) An Adjustment of the Electric Rates; 2) Approval of New Tariffs; 3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and 4) All Other Required Approvals and Relief*, Order at 18 (Ky. PSC Oct. 12, 2023).
[89] Duke Energy Kentucky Initial Brief at 36 (Table 2), 40 (Table 3).
[90] Duke Energy Kentucky Initial Brief at 36, 38-40, 43 (citing Lawler Direct at 12; Swez Rebuttal at 4; Luke Rebuttal at 4).

financial harm, instability, and performance during periods where the Company's actual costs incurred are higher than amounts included in base rates.[91] Reestablishing the deferral mechanisms ensures that the Company is able to maintain financial stability to reliably serve customers' demand and that customers are paying for their actual costs of service.[92]

E. Fee-Free Card Payment Proposal

As noted in the Company's Initial Brief, in this case, Duke Energy Kentucky is proposing a new customer program designed to alleviate the most frequently expressed payment-related frustration of residential customers: payment fees.[93] The Company's proposal would expand the available fee-free payment options to include payments by debit, credit, prepaid cards, and electronic check (collectively, Card Payments).[94] Elimination of Card Payment fees would place these types of payment on the same footing as other payment options. The Company does not charge customers a payment fee for paying by check, money order, or cash, even though there are expenses associated with processing these payments. Instead these processing fees are built into the cost of service paid for by all customers. Eliminating fees for Card Payments as proposed would provide more inclusive access to fee-free payment options, especially for unbanked and underbanked customers who may rely on prepaid or debit cards.[95]

In continuing to oppose the Company's proposal, the OAG asserts that the proposal would result in low-income customers subsidizing higher-income customers' use of credit

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[91] Duke Energy Kentucky Initial Brief at 39, 43 (citing Swez Rebuttal at 4-5; Luke Rebuttal at 4); *see also,* Danielle L. Weatherston Direct Testimony at 5 (Weatherston Direct) (Dec. 2, 2024).
[92] *See* Duke Energy Kentucky Initial Brief at 39 (citing Swez Rebuttal at 5); *see also,* Weatherston Direct at 5.
[93] Duke Energy Kentucky Initial Brief at 59-62 (citing Jacob S. Colley Direct Testimony at 18 (Colley Direct) (Dec. 2, 2024)).
[94] Colley Direct at 18.
[95] *Id*. at 19; Jacob S. Colley Rebuttal Testimony at 2-3 (Colley Rebuttal) (Apr. 9, 2025).

cards, disregarding the evidence provided by the Company that expanding fee-free payment options would, in fact, significantly benefit Duke Energy Kentucky's low-income customers.[96] Citing to a 2025 Federal Reserve publication, the OAG declares that while "almost all adults with an income of $100,000 or more had a credit card . . . the lowest-income adults were least likely to have a credit card…"[97]

But as explained by the Company in testimony, Card Payment options are relied upon *more often* by Duke Energy Kentucky's low-income customers – nearly 50 percent of customers who received assistance from utility assistance agencies used a Card Payment at least once over the past six months to pay their utility bill compared to 19 percent of non-recipients.[98] In focusing exclusively on access to credit cards, the OAG's argument ignores the reality experienced by the Company's most vulnerable customers. As explained in testimony, prepaid and reloadable debit cards are becoming more prevalent as workers' paychecks, Social Security benefits, tax refunds, Medicare benefits, and unemployment benefits are being distributed via these card types. Prepaid card utilization is growing more quickly than debit or credit, and customers should not be isolated from fee-free options simply because a loadable card is utilized by an employer for payroll, a governmental agency to issue benefits, or the customer is unbanked or underbanked.[99]

The Commission should approve the fee-free Card Payment proposal as it is a crucial step in providing more inclusive access to payment methods, especially for

[96] OAG Initial Brief at 25 ("Due to low-income customers having more difficulty obtaining credit cards, if Duke Kentucky is allowed to include credit card processing fees in the revenue requirement, then the low-income customers will be subsidizing higher income customers' use of credit cards through the electric rates.")
[97] *Id*.
[98] Colley Direct at 19; Colley Rebuttal at 5. Utility assistance agencies provide financial assistance and resources to low-income households including through the federal Low-Income Home Energy Assistance Program and Home Energy Assistance Program.
[99] Colley Direct at 18-19; Colley Rebuttal at 2-3, 5.

unbanked and underbanked customers who may rely on prepaid or debit cards.[100] The record in this proceeding demonstrates the value of the proposed expansion of fee free payment options for Duke Energy Kentucky's customers by addressing a significant customer frustration while providing all customers, regardless of their financial situation, with access to convenient and fee-free payment options.[101]

F. Other Rate Base and Operating Income Issues

1. Cash Working Capital

a. Coal Fuel, Lime Expense, and Amortization of Prepayments

In its Initial Brief, the OAG continues to take the position that the Company improperly included coal and lime expense and amortization of prepaid expenses in its cash working capital (CWC) calculation.[102]

First, with respect to the amortization of prepayments, as explained by the Company in rebuttal testimony and in its Initial Brief, "the amortization of prepayments recorded on the balance sheet was not included in the CWC calculation."[103] As a result, no further adjustment as recommended by the OAG is warranted or required.

With respect to coal fuel and lime expenses, as explained in testimony and the Company's Initial Brief, the coal fuel and lime expenses included in the CWC calculation are not non-cash items as asserted by the OAG. Instead, the Company expends cash at the time it purchases coal and lime, and the CWC requirement for these items reflects the actual cash outlays made during the study period.[104] The lead-lag study reflects actual, empirical

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[100] *Id*. at 2-3.
[101] *Id*. at 3.
[102] OAG Initial Brief at 5-6.
[103] Duke Energy Kentucky Initial Brief at 18-19 (citing Michael J. Adams Rebuttal Testimony at 3 (Adams Rebuttal) (Apr. 9, 2025)).
[104] Duke Energy Kentucky Initial Brief at 17-18.

data on timing differences, demonstrating that coal and lime cash outflows precede revenue collections. Including fuel inventory in the rate base allows the Company to recover the cost of maintaining physical inventories of coal and lime, which are essential for providing reliable service. On the other hand, the CWC adjustment computed through the lead-lag study compensates the Company for cash flow timing differences—specifically, the period between when cash is paid for coal and lime and when cash is received from customers. The inclusion of coal and lime inventories in rate base does not eliminate the cash flow lag, as the value of inventory in rate base is static based on the average inventory levels while cash outflows for coal and lime purchases occur continuously and recovery of those costs occurs later (*i.e.*, there is a lag between when payments are made for inventories and when those costs are collected from customers through rates). Excluding coal fuel and lime expense from the CWC calculation would unreasonably understate the Company's cash needs.

b. Long Term Debt Interest Expense

The OAG also continues to recommend that the Commission include long-term debt interest expense in the Company's CWC analysis.[105] According to the OAG, such inclusion is necessary "because it reflects a cost-free customer financing due to the cash recovery of this expense from the customers months in advance of Duke Kentucky's cash payment of the expense."[106] As explained in Duke Energy Kentucky's Initial Brief, exclusion of interest expense from the CWC analysis in this case is consistent with both the CWC analysis approved in the Company's most recent electric base rate case

[105] OAG Initial Brief at 6-8.
[106] *Id.* at 7.

proceeding, Case No. 2022-00372 and standard regulatory practice with respect to CWC analysis.[107]

The OAG, in its Initial Brief, mischaracterizes the testimony of Company Witness Mr. Adams asserting "when asked by the Attorney General at the evidentiary hearing whether long-term debt is a cash expense, Duke Kentucky's witness, Mr. Adams, admitted that it is indeed a cash expense."[108] In fact, in response to the line of questioning from the OAG, Mr. Adams went on to explain that long-term debt is paid out of operating income, which is owned by shareholders not by customers.[109]

c. Collection Lag Days

Despite the Company's clear explanation in testimony and the Commission's previous order rejecting the OAG's same position,[110] the OAG continues to misunderstand and misstate how the now-terminated Cinergy Receivables Company (CRC) accounts receivable financing arrangement operated. In their Initial Brief, the OAG continues to assert that CRC received cash from customer payments on a daily basis and that "Duke Kentucky's daily sales of customer accounts receivables effectively and substantially accelerated the conversion of its customer receivables into cash, significantly reducing the collection lag days (the number of days between the customer billing and receipt of the customer payments) that should be reflected in the cash working capital calculations."[111]

But as explained in the Company's testimony and Initial Brief, under the now-terminated receivables financing program, Duke Energy Kentucky did *not* receive any cash

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[107] Duke Energy Kentucky Initial Brief at 19-20.
[108] OAG Initial Brief at 6-7.
[109] Adams Cross, HVR at 6:37 (May 21, 2025).
[110] *See* Duke Energy Kentucky Initial Brief at 24-29.
[111] OAG Initial Brief at 8-9.

immediately upon customer billing as asserted by the OAG. The Company did not receive cash until it was paid by its customers, which is properly reflected in the Company's lead-lag study in this case. As a result, neither collection lag nor revenue lag overall were impacted by the securitization financing.

As detailed in the Company's Initial Brief, the same mischaracterizations and arguments made by OAG in this proceeding were considered *and rejected* by the Commission in Duke Energy Kentucky's last electric rate case, Case No. 2022-00372, when the accounts receivable financing program was still in place. Even if the program had impacted cash working capital, which the Commission has already concluded it did not, it would be wholly inappropriate to impute impacts of a financing program that no longer exists.[112]

The Commission should decline to adopt the recommended adjustment which is based solely on a fundamentally flawed and incorrect recitation of facts, especially when corrected time and time again and previously rejected by the Commission.

Additionally, the OAG continues to suggest that "anomalous conditions" stemming from a spike in natural gas prices existed in 2023 and justify basing the collecting lag days on 2024 data only rather than matching the 2023 collection lag to the other data used for the Company's lead/lag study.[113] As explained in detail in the Company's Initial Brief, a CWC study, as well as a rate test year should reflect data from a matching period. The collection lag should not be arbitrarily singled out and adjusted to reflect a different period of time.[114] The OAG's claim that the collection lag based on 2023 data is somehow

[112] *See* Duke Energy Kentucky Initial Brief at 24-29.
[113] OAG Initial Brief at 14-15.
[114] Duke Energy Kentucky Initial Brief at 20-24.

anomalous is further rebutted by the fact that the Company's revenue lag days in this case *declined* from what the Commission approved as reasonable in the Company's last electric base rate case, Case No. 2022-00372.[115] In other words, an even higher collection lag was not considered in any way anomalous. The OAG's suggestion that use of a different period to compute the collection lag is reasonable or warranted is without merit or support and should be rejected.

2. Rate Case Expense

In this case, the Company is proposing to include $1.231 million of deferred rate case expenses in rate base, which reflects costs incurred by the Company as part of its cost of service in providing safe and reliable service to its customers.[116] The OAG recommends that the Commission disallow the inclusion of the regulatory asset for deferred rate case expenses in rate base, reasoning that rate case expenses are incurred to benefit the Company's ultimate parent company and its shareholders – not the customers.[117]

Rate case expenses are incurred to comply with regulatory requirements and to ensure that rates are just and reasonable. Further, unlike typical annual O&M costs, rate case expense recovery is amortized over a period of years, typically three-to five years.[118] Rate case expenses are not discretionary; they are incurred to comply with statutory and regulatory requirements that ultimately protect customers and ensure that rates remain just and reasonable. Customers benefit directly from this process through appropriately set rates

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[115] Case No. 2022-00372, *Electronic Application of Duke Energy Kentucky, Inc. for (1) an Adjustment of Electric Rates; (2) Approval of New Tariffs; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities and (4) All Other Required Approvals and Relief*, Order at 9-10 (Ky. PSC Oct. 12, 2023). In that proceeding, Duke Energy Kentucky computed a collection lag of 27.02 days based on a calendar year 2021 study period, which is 0.36 days less than the collection lag computed in this case.
[116] Duke Energy Kentucky Initial Brief at 30-31.
[117] OAG Initial Brief at 15-18
[118] Lawler Rebuttal at 3.

and regulatory oversight. By allowing these costs to be deferred and included in rate base, recovery is aligned with the period during which customers benefit from the outcome of the rate case, supporting intergenerational equity. Moreover, this treatment provides utilities with the financial stability and regulatory certainty necessary to maintain access to capital markets at reasonable rates—benefiting customers through lower financing costs. The Commission should reject the OAG's recommendation and approve the Company's proposal to include deferred rate case expenses in rate base.

The OAG also recommends that the Commission "only grant the Company's actual rate case costs that are deemed reasonable and necessary and supported by sufficient evidence, as opposed to estimated rate case costs, in the revenue requirement."[119] To date, no party has objected to the reasonableness or necessity of the rate case expenses incurred. Duke Energy Kentucky has continued to provide periodic updates regarding actual expenses incurred and has demonstrated the reasonableness of its rate case costs in this proceeding to date.[120] In Case No. 2022-00372, Duke Energy Kentucky requested rehearing on the removal of estimated rate case expense incurred after the evidentiary hearing in that case and requested further direction on how to handle estimated rate case expense in the future.[121] In its order on rehearing, the Commission allowed recovery of Duke Energy Kentucky's additional rate case expense actuals. The Commission further

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[119] OAG Initial Brief at 72.

[120] *See* Application, at Volume 11, Schedule F-6, Rate Case Expense (Dec. 2, 2024); Duke Energy Kentucky's Fifth Supplemental Response to Staff's First Request for Information (Filed June 5, 2025). Duke Energy Kentucky provided supplemental responses to Staff's First Request for Information throughout this proceeding detailing expenses incurred for the preparation of this case including expenses related to accounting, engineering, legal, consultant, and other expenses.

[121] Case No. 2022-00372, *Electronic Application of Duke Energy Kentucky, Inc. for (1) an Adjustment of Electric Rates; (2) Approval of New Tariffs; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities and (4) All Other Required Approvals and Relief*, Rehearing Order (Ky. PSC Jul. 1, 2024).

directed that "[i]n future cases, the Commission appreciates that rate case work is on-going throughout the pendency of the matter. Consequently, utilities may consider filing periodic updates of case expenses, including legal fees, until such time as an Order is issued, even if not requested in a Commission Staff request for information."[122] Consistent with the Commission's direction provided in Case No. 2022-00372, Duke Energy Kentucky will file monthly updates of actual rate case expense incurred until an Order is received.

3. Corporate Alternative Minimum Tax Deferred Tax Asset

The OAG continues to recommend that the Commission require Duke Energy Kentucky's federal taxes to be calculated on a stand-alone basis, thereby excluding the Corporate Alternative Minimum Tax (CAMT) Deferred Tax Asset (DTA) from rate base, because of several prior Commission decisions that required federal income tax liability to be calculated on a standalone basis.[123] However, as explained in Duke Energy Kentucky's Initial Brief, all of the decisions cited by the OAG were prior to the passage of the Inflation Reduction Act, under which CAMT was established, and none of those decisions address the issue of CAMT DTA.[124] In addition, the Commission recently approved a settlement agreement in another rate case that included CAMT DTA in a utility's rate base.[125]

While the CAMT represents a tax expense that flows from being part of a larger consolidated tax group, it would be one-sided for Duke Energy Kentucky's customers to receive the benefits associated with being part of a consolidated tax group but not also

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[122] *Id.* at 10-11.
[123] OAG Initial Brief at 18-21.
[124] OAG's Response to Duke Energy Kentucky's First Request for Information, Item 18 (Filed Apr. 2, 2025).
[125] Case No. 2023-00159, *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) a Securitization Financing Order; and (5) all other Required Approvals and Relief*, Order at 25 (Ky. PSC Jan. 19, 2024).

share in the costs.[126] The Commission should therefore reject the OAG's recommendation related to CAMT DTA and accept the Company's proposed CAMT DTA included in rate base for the test year.

4. Billed vs. Unbilled Revenues

As explained in Duke Energy Kentucky's Initial Brief, to calculate the overall revenue requirement, the Company used billed revenues to determine current revenues and the resulting revenue deficiency, consistent with longstanding practice and regulatory ratemaking principles.[127] In this proceeding, the OAG, for the first time, recommends a departure from that longstanding practice, urging the Commission to instead rely on unbilled revenues to set rates.[128] The OAG's recommendation should not be adopted as reliance on unbilled revenues is less accurate and is contrary to decades of established practice for determining revenues. Further, the OAG provides no rationale or justification for its recommended change to longstanding practice. The OAG's sudden shift to advocating for the use of unbilled revenue appears to be driven solely by the fact that, in this particular case, including unbilled revenue would lower the Company's revenue requirement. Such a transparently results-oriented approach is unreasonable, as it undermines consistency in regulatory principles and selectively applies accounting methods based on desired outcomes rather than sound ratemaking policy.

5. PJM NITS Transmission Fees

As described in the Company's Initial Brief, to project the PJM Network Integrated Transmission Service (NITS) transmission fees for the test year, the Company compared

[126] Duke Energy Kentucky Initial Brief at 31-33.
[127] Duke Energy Kentucky Initial Brief at 34-35.
[128] OAG Initial Brief at 22-24.

actual expense for the first six months of 2024 with actual PJM NITS fees for the first six months of 2023 to determine a 11.7 percent escalation factor. The Company relied on a partial year for 2024 because at the time the Application was filed, this was the most recent data. This 11.7 percent escalation factor was then applied to 2023 actual PJM NITS fees to project 2024, 2025, and 2026 fees.[129]

The OAG recommends that instead of the approach used by the Company to compute these fees, the Commission base the projected PJM NITS fees on 2024 actual fees of $23.576 million escalated by 8.1 percent in 2025 and 2026 – reflecting the percentage increase from 2023 actuals to 2024 actuals. This approach results in test year PJM NITS fees of $26.517 million or $2.278 million less than the amount forecasted by the Company.[130] Duke Energy Kentucky continues to believe its calculation was reasonable and that the OAG's methodology was not feasible at the time the Company filed its Application.

6. Uncollectible Expense

The Company computed test year uncollectible expense of $4.152 million by applying the actual historical 2023 total company (electric and natural gas divisions combined) uncollectible expense factor of 0.921 percent to total projected electric revenue of $450.814 million.[131] As explained in testimony and Duke Electric Kentucky's Initial Brief, the Company relied on total company uncollectible amounts in part because the Company did not track separate electric and natural gas amounts in 2023.[132] Additionally, the majority of Duke Energy Kentucky's customers are combination customers that take

[129] Duke Energy Kentucky Initial Brief at 62-63.
[130] OAG Initial Brief at 42-45.
[131] *See* Duke Energy Kentucky Initial Brief at 58-59.
[132] *Id.*

both electric and natural gas service and receive one bill for their service. Of Duke Energy Kentucky's total customers, there are only approximate 9 percent that are natural gas-only customers.[133]

The OAG continues to recommend reducing the Company's uncollectible expense factor to 0.454 percent based on the 2024 electric-only uncollectible expense, arguing that the uncollectible expense in 2023 is an outlier.[134] For the reasons explained in the Company's testimony and Initial Brief, it is reasonable to base the uncollectible expense factor on the available historical percentage of uncollectible expense for electric and gas. Use of the 2024 electric-only uncollectible factor as proposed by the OAG would not reasonably reflect expected test year uncollectible expense.

7. Directors and Officers Insurance, Board of Directors' Compensation, and Investor Relations Expense

The OAG recommends that the Company's Directors and Officers (D&O) insurance, Board of Directors' compensation, and investor relations expenses each be reduced by 50 percent such that these expenses are shared 50/50 between ratepayers and customers.[135] For the reasons detailed in the Company's Initial Brief, the Commission should reject the OAG's proposed adjustments. These expenses are prudent and necessary to provide electric service to customers; each of the proposed expenses that the OAG recommends be reduced are legitimate, and in some cases statutorily required, expenses incurred to support the utility's ability to provide safe and reliable service to its customers. The OAG has failed to provide any analysis demonstrating the reasonableness of its

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[133] Steinkuhl Rebuttal at 7.
[134] OAG Initial Brief at 45-47.
[135] OAG Initial Brief at 48-50.

proposed adjustments, which are arbitrary and inconsistent with prior Commission decisions.[136]

G. Residential Customer Charge

In its Brief, the OAG expresses concern that the Company's rate increase in this case would constitute rate shock for residential customers and would violate the ratemaking principle of gradualism.[137] The OAG notes that the rate increase, as proposed by Duke Energy Kentucky, would increase an average residential customer's monthly electric bill by approximately $20, including an increase to the monthly residential customer charge from $13.00 to $16.00.[138] Notably, the OAG does not recommend that the Commission reduce the proposed monthly residential customer charge or propose other modifications to the Company's rate design.[139] No party filed testimony in this proceeding opposing the Company's proposed monthly customer charges, which move closer to the cost of providing service to residential customers, thereby mitigating intraclass subsidies.

Duke Energy Kentucky's proposed rate increase in this case is driven by identifiable and verifiable increases in the Company's cost of service, including inflationary pressures, system modernization efforts, and grid improvements. The proposed rate increase reflects the current economic realities of utility operation and ensures the continued provision of reliable service. As demonstrated in this proceeding, the Company is proposing new rates because its present base rates are no longer sufficient to enable the Company to furnish adequate, efficient, and reasonable service or have the opportunity to

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[136] *See* Duke Energy Kentucky Initial Brief at 55-58.
[137] OAG Initial Brief at 69-71.
[138] *Id.*
[139] The OAG urges the Commission to "utilize all available ratemaking tools at its disposal to ensure the rates are fair, just, and reasonable. . ." *Id.* at 71.

earn a fair rate of return on investments. A significant driver of the Company's requested rate increase is an increase in the Company's rate base as compared to that in the last rate case as a result of much needed investments made by the Company to enhance the safety, reliability, and resiliency of the electric system and to support localized economic development. These costs are essential to maintaining safe, reliable, and modern electric service. Not allowing for needed revenue recovery would only exacerbate financial strain and lead to larger increases in the future, contrary to the principle of gradualism.

The Company acknowledges the importance of avoiding sudden, significant rate increases that may unduly burden customers. However, the proposed increase in this proceeding is reasonable in light of the underlying cost drivers and will not result in rate shock. Notably, the proposed increase to the customer charge represents only a 2.3 percent bill increase for a typical residential customer using 1,000 kWh.[140] Further, the proposed increase to the fixed monthly residential customer charge from $13.00 to $16.00 is justified based on cost-of-service principles. In fact, the class cost of service study in this case supports a residential customer charge of $18.97 and the proposed increase to $16.00 reflects a reasonable and gradual step to move the residential customer charge closer to the cost of service.[141] Fixed charges are intended to recover customer-related costs that do not vary with usage—such as metering, billing, and maintaining customer accounts. The proposed increase better aligns the customer charge with these fixed costs, mitigates

[140] Duke Energy Kentucky's Response to the OAG's First Request for Information, Item 42 (Filed Jan. 22, 2025) ("Increasing the customer charge by $3 equates to a 2.3%. While the COSS supports a nearly $6 increase in the customer charge, the Company only proposes a $3 increase which is a reasonable proposal incorporating both the concept of gradualism while also making reasonable movement in the customer charge towards the supported COSS value.").
[141] Bruce L. Sailers Direct Testimony at 9 (Sailers Direct) (Dec. 2, 2024) ("For the residential class, the CCOSS supports a value of $18.97 Recognizing however the concept of gradualism and being mindful of the impact to customers, the Company is proposing to increase the current Rate RS customer charge of $13 to $16.").

intraclass subsidies, and enhances long-term rate stability by reducing disproportionate reliance on volumetric charges. Finally, as detailed in this proceeding, Duke Energy Kentucky remains committed to supporting low-income and vulnerable customers through targeted assistance programs, energy efficiency offerings, and customer education. These tools help mitigate the impact of rate adjustments for those most at risk, ensuring that the transition toward cost-reflective rates is as equitable and manageable as possible.[142] While the Company recognizes the need to avoid undue rate impacts, the proposed increase is necessary, justified, and consistent with both the principles of cost-based ratemaking and the long-term interest of all customers. When viewed in light of historical rate stability, the modest increase does not constitute rate shock but rather represents a responsible step toward financial sustainability and continued service excellence.

H. Public-Facing Direct Current Fast Charger (DCFC) Electric Vehicle (EV) Charger Rate

As noted in Duke Energy Kentucky's Initial Brief, the Company is willing to meet with Walmart to discuss a potential revenue neutral rate suitable for public facing DCFC chargers and to file such a rate prior to its next rate case if such a rate is developed.[143] In its initial brief, Walmart requested that the Commission order the Company to file a letter in the docket within six months of the Commission's Final Order to report of the status of stakeholder discussions, including whether and when the Company expects to put forward a "public-facing EV rate design" for the Commission's consideration.[144]

The Company is agreeable to making such a filing within six months of the Commission's final order in this case but notes that these stakeholder discussions will be

[142] *See* Colley Direct at 10-13. Amy B. Spiller Direct Testimony at 13-15 (Spiller Direct) (Dec. 2, 2024).
[143] Duke Energy Kentucky Initial Brief at 78.
[144] Walmart Initial Brief at 9-10.

about a potential rate design suitable for public facing DCFC rather than a "public-facing EV rate design." A public-facing EV rate design includes a variety of different types of EV chargers and there can be big differences in terms of scale and capacity needs for these chargers. To the extent that the Commission orders the Company to meet with Walmart to develop a rate suitable for EV rate design, the Commission's order should be clear that this rate is intended for public-facing DCFC EV chargers.

I. Intervenors' Remaining Arguments

Each of the remaining arguments asserted in the Intervenors' Initial Briefs have been addressed in Duke Energy Kentucky's Initial Brief, and as such will not be repeated here. To assist the Commission in its review of the record, the portions of the Company's Initial Brief which addresses the various Intervenors' arguments are listed below:

1. OAG's argument related to construction payables is addressed on pages 29 through 30 of the Company's Initial Brief; however, it should be noted that the OAG conceded this issue in its Initial Brief, so it is no longer disputed[145];

2. OAG's argument related to the Company's comprehensive hedging program proposal[146] is addressed on pages 78 through 81 of the Company's Initial Brief;

3. OAG's argument related to the Company's gas management program[147] is addressed on pages 81 through 82 of the Company's Initial Brief;

4. OAG's argument related to the Company's capacity performance insurance[148] is addressed on pages 82 through 83 of the Company's Initial Brief;

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145 OAG Initial Brief at 21-22.
146 *Id.* at 62-65.
147 *Id.* at 65-66.
148 *Id.* at 66-68.

7. OAG's argument related to the Company's PJM billing code changes in the FAC and Profit Sharing Mechanism (PSM) Rider[149] is addressed on pages 84 through 86 of the Company's Initial Brief;

8. Walmart's argument related to the Company's proposed changes to its existing Rate DT and Rate TT to address new large load customers[150] is addressed on pages 76 through 77 of the Company's Initial Brief; and

9. Walmart's argument related to the Company's proposed revenue allocation and rate design[151] is addressed on pages 71 through 73 of the Company's Initial Brief.

III. CONCLUSION

WHEREFORE, on the basis of the foregoing, Duke Energy Kentucky respectfully requests that the Commission grant the relief requested in the Company's June 16, 2025 Initial Brief.

This 23rd day of June 2025.

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[149] *Id.* at 68-69.
[150] Walmart Initial Brief at 6-8.
[151] *Id.* at 10-11.

Respectfully submitted,

DUKE ENERGY KENTUCKY, INC.

/s/Rocco D'Ascenzo

Rocco O. D'Ascenzo (92796)
Deputy General Counsel
Larisa M. Vaysman (98944)
Associate General Counsel
Duke Energy Business Services LLC
139 East Fourth Street
Cincinnati, OH 45202
Phone: (513) 287-4320
Fax: (513) 370-5720
Rocco.D'Ascenzo@duke-energy.com
Larisa.Vaysman@duke-energy.com

and

Elizabeth M. Brama, *Pro Hac Vice*
Valerie T. Herring (99361)
TAFT STETTINIUS & HOLLISTER LLP
2200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402
Phone: (612) 977-8400
Fax: (612) 977-8650

Counsel for Duke Energy Kentucky, Inc.

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 June 23, 2025; 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.[152]

Angela M. Goad
J. Michael West
Lawrence W. Cook
John G. Horne II
Assistant Attorneys General
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601
Angela.Goad@ky.gov
Michael.West@ky.gov
Larry.Cook@ky.gov
John.Horne@ky.gov

Carrie H. Grundmann
110 Oakwood Drive, Suite 500
Winston-Salem, NC 27103
cgrundmann@spilmanlaw.com

Kurt J. Boehm, Esq.
Jody Kyler Cohn, Esq.
BOEHM, KURTZ & LOWRY
36 East Seventh Street, Suite 1510
Cincinnati, OH 45202
kboehm@bkllawfirm.com
jkylercohn@bkllawfirm.com

/s/Rocco D'Ascenzo
Counsel for Duke Energy Kentucky, Inc.

[152] Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19*, Order (Ky. PSC July 22, 2021).