

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

**In the Matter of:**

<b>ELECTRONIC APPLICATION OF DUKE</b>	)	
<b>ENERGY KENTUCKY, INC. FOR 1) AN</b>	)	
<b>ADJUSTMENT OF ELECTRIC RATES;</b>	)	<b>CASE NO. 2024-00354</b>
<b>2) APPROVAL OF NEW TARIFFS;</b>	)	
<b>3) APPROVAL OF ACCOUNTING</b>	)	
<b>PRACTICES TO ESTABLISH</b>	)	
<b>REGULATORY ASSETS AND LIABILITIES;</b>	)	
<b>AND 4) ALL OTHER REQUIRED</b>	)	
<b>APPROVALS AND RELIEF</b>	)	

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**MOTION TO INTERVENE OF WALMART INC.**

Pursuant to 807 KAR 5:001 Section 4(11) and K.R.S. §§ 278.310, 278.040(2), Walmart Inc. ("Walmart"), by its attorneys, respectfully requests that the Kentucky Public Service Commission ("Commission") permit it to intervene and become a party in the above-captioned matter. In support of its Motion to Intervene, Walmart states as follows:

1. On November 1, 2024, Duke Energy Kentucky, Inc. ("Duke Energy Kentucky" or "Company") filed a Notice of Intent to file an Application for an adjustment in its electric rates, approval of new tariffs, approval of accounting practices to establish regulatory assets and liabilities, and all other required approvals and relief ("Application").
2. The Company subsequently filed its Application on December 2, 2024.
3. Thereafter, via Order entered December 9, 2024, the Commission accepted Duke Energy Kentucky's application for filing for meeting the minimum filing requirements and set January 3, 2025, as the last day for intervention requests to be accepted.
4. This Motion to Intervene is timely because it precedes the January 3, 2025, date set by the Commission's January 9, 2025, Order.

5. Under 807 KAR 5:001, Section 4(11)(b), the Commission shall grant leave to intervene if it finds that "a timely motion for intervention" was made, that the party seeking intervention has "a special interest in the case that is not otherwise adequately represented," or that "intervention is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly disrupting the proceedings."

6. Walmart's request for leave to intervene is timely filed as it is filed prior to any deadline being set by the Commission.

7. Walmart is a national retailer of goods and services throughout the United States. Walmart's principal office is at 2608 SE J Street, Bentonville, AR 72716. Walmart has the privilege of providing its retail services in the Commonwealth of Kentucky, directly employing over 31,000 associates and indirectly supporting another 53,700 supplier jobs within this Commonwealth.<sup>1</sup>

8. Walmart is a large commercial customer of Duke Energy Kentucky, operating five retail facilities in Duke Energy Kentucky's service territory, and purchasing more than 17.9 million kWh in the previous 12 months from Duke Energy Kentucky, under the Secondary Distribution Voltage Rate Schedule ("Rate DS") and the Time-of-Day Rate for Service at Distribution Voltage Schedule ("Rate DT"). In light of the significant amount of electricity purchased by Walmart, any modification to the Company's rates has the potential to substantially impact Walmart's operations and personnel in Kentucky.

9. Walmart's electricity needs -- and the impact of Duke Energy Kentucky's Application on Walmart's facilities within the Company's service territory -- are unique both as compared to other commercial customers and to customers who take service from the Company under the Rate DS and Rate DT Schedules. First, Walmart is a single customer that purchases

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<sup>1</sup> <https://corporate.walmart.com/about/location-facts/united-states/Kentucky>.

substantial amounts of energy for numerous accounts across multiple locations within the Company's service territory. Other customers purchasing similar amounts of energy often do so for a single or only a handful of locations whereas Walmart's energy needs are for nine different facilities. Second, Walmart's load profile differs significantly from other customers in its rate class because it typically operates 24-hours a day and does not have the load fluctuations often seen from other customers in its rate class who may see spikes or declines in energy usage due to manufacturing or production processes that vary with changes in economic conditions. Each of these factors make Walmart's interest in this case unique and special.

10. Walmart's interests in this case cannot be adequately represented by any other party. While KRS 367.150(8) – a part of Kentucky's Consumer Protection Act<sup>2</sup> – imposes a statutory duty on the Kentucky Attorney General's Office of Rate Intervention to represent the interests of "consumers," that duty relates primarily to residential customers as a group. Consistent with the mandate set forth in KRS 361.150(8) and the Kentucky Consumer Protection Act's focus on the individual consumer, the Attorney General has historically focused most closely on issues impacting residential consumers in cases of this nature.<sup>3</sup> Walmart is not a residential customer and, in any event, its interest is as a single, large commercial customer that takes service on different rate schedules than residential customers. Thus, the Kentucky Attorney General's Office of Rate Intervention will not represent Walmart's interests in this proceeding.

11. Testimony that Walmart is likely to present in this proceeding will provide the unique perspective of a commercial customer impacted by KPCo's requested rate increase.

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<sup>2</sup> See KRS 361.120(2).

<sup>3</sup> Indeed, in *In the Matter of Application of Big Rivers Electric Corporation for Approval to Modify MRSB Tariff, Cease Deferring Depreciation Expenses, Establish Regulatory Assets, Amortize Regulatory Assets, and Other Appropriate Relief*, Case No. 2020-00064 at Post-Hearing Brief of Attorney General, pp. 2-3, the Attorney General advocated for a "per customer" as opposed to a "per kWh" bill credit mechanism, which favored residential customers over other types of customers (e.g., commercial and industrial).

Walmart's testimony will also be informed by its experience as a customer that maintains operations on a national basis and is attuned to regional and national issues and trends. Walmart's unique understanding and input will assist the Commission in adjudicating this case and evaluating the question of whether the rate increase requested by the Company or otherwise resolved through settlement is just and reasonable for all rate classes. That perspective cannot be provided or represented by the Office of the Attorney General or by any other party to these proceedings.

12. Walmart was an intervening party and active participant in Duke Energy Kentucky's last rate case, Case No. 2022-00372.

13. Walmart has also participated in numerous proceedings before this Commission involving Kentucky Power Company ("KPCo")<sup>4</sup> and Kentucky Utilities Company ("KU") and Louisville Gas & Electric Company ("LG&E")<sup>5</sup>. In all of these matters, Walmart has advocated specifically on its own behalf and for other similarly situated customers, offering testimony that provided a perspective different from all other parties participating in those proceedings. Moreover, Walmart did so in a way that provided a more complete record for Commission consideration and without disrupting the proceedings. Indeed, the Commission relied, in part, on

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<sup>4</sup> Walmart is an active participant in KPCo's rate investigation, Case No. 2021-00370. Walmart was also an intervening party and active participant in the KPCo's 2023 rate case, Case No. 2023-00159, KPCo's and Liberty Utilities Company's merger case, Case No. 2021-00481, KPCo's 2020 rate case, Case No. 2020-00174, KPCo's 2017 rate case, Case No. 2017-00179, KPCo's 2014 rate case, Case No. 2014-00396, and KPCo's 2013 rate case, Case No. 2013-00197.

<sup>5</sup> Walmart has also been an active participant before this Commission in matters filed by KU/LG&E, including KU/LG&E's Application for certificates of public convenience and necessity and site compatibility certificates and approval of a DSM plan and approval of fossil fuel-fired generating unit retirements, Case No. 2022-00402, their 2020 rate cases, Case Nos. 2020-00349 and 2020-00350, their 2018 rate cases, Case Nos. 2018-00294 and 2018-00295, their 2016 rate cases, Case Nos. 2016-00370 and 2016-00371, and their 2014 rate cases, Case Nos. 2014-00370 and 2014-00371. Walmart was also an active party in KU/LG&E's last demand side management ("DSM")/energy efficiency ("EE") proceedings at Case Nos. 2014-00003 and 2017-00441.

testimony provided by Walmart in awarding KPCo a 9.70 percent return on equity in its 2017 rate case.<sup>6</sup>

14. Walmart expects to present the testimony of Lisa Perry, Director, Utility Partnerships – Regulatory at Walmart, and may choose to present testimony of other witnesses not yet identified.

15. The attorneys representing Walmart in this proceeding are:

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Ms. Grundmann is authorized to accept service of papers in this proceeding on behalf of Walmart. Walmart also respectfully requests that Ms. Al-Chami be added to the service list. Walmart may file a Motion for Ms. Al-Chami to be admitted *pro hac vice* before this Commission, and subsequent to the Commission granting such request, Walmart requests that Ms. Al-Chami be added to the official service list as an attorney authorized to accept service of papers in this proceeding.

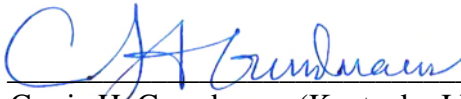
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<sup>6</sup> *In the Matter of Electronic Application of Kentucky Power Company for (1) A General Adjustment of its Rates for Electric Service; (2) An Order Approving its 2017 Environmental Compliance Plan; (3) An Order Approving its Tariffs and Riders; (4) An Order Approving Accounting Practices to Establish Regulatory Assets and Liabilities; and (5) An Order Granting All other Requested Approvals and Relief*, Case No. 2017-00179 ("KPCo 2017 Base Rate Case"), Final Order (entered Jan. 18, 2018), pp. 29-30, the Commission cited to specifically to Walmart Witness Greg Tillman's testimony regarding nationwide trends on ROE in awarding KPCo a 9.70 percent ROE and rejecting the 9.75 percent ROE proposed in a settlement agreement.

**WHEREFORE**, Walmart respectfully requests that it be granted leave to intervene and be made a party to the above-captioned proceeding.

Respectfully submitted,

SPILMAN THOMAS & BATTLE, PLLC

By 

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*Counsel to Walmart Inc.*

Dated: January 2, 2025

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served upon parties and/or counsel of record in this proceeding by electronic mail (when available) or by first-class mail, unless otherwise noted, this 2<sup>nd</sup> day of January, 2025, to the following:

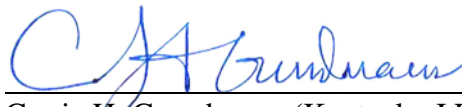
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