

**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>	)	

**REPLY BRIEF OF WALMART INC.**

Walmart Inc. ("Walmart"), by counsel, respectfully submits this Reply Brief to the Kentucky Public Service Commission ("Commission"). Walmart's Reply Brief addresses: (1) Duke Energy Kentucky, Inc.'s ("DEK" or "Company") arguments in its Initial Brief ("I.B.") regarding Walmart's return on equity ("ROE") evidence; and (2) the Office of Attorney General's ("OAG") on arguments in its I.B. concerning electric vehicle ("EV") rate design and the agreement between the Company and Walmart on this issue.

**I. ARGUMENT**

**A. Walmart's ROE Testimony is Helpful to the Commission in Assessing the Reasonableness of the 10.85 Percent ROE Requested by the Company.**

More than once in DEK's I.B., it wrongly claims that Walmart "relied solely on averages of past commission ROE decisions"<sup>1</sup> or that Walmart based its ROE recommendation "solely on actual historical ROE determinations of commissions in other states."<sup>2</sup> While Ms. Perry did rely

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<sup>1</sup> Duke I.B., p. 64.

<sup>2</sup> *Id.*, p. 66.

upon ROE determinations awarded nationwide from January 1, 2022, through January 8, 2025,<sup>3</sup> that is not the only evidence Walmart witness Perry relied upon to form her ROE recommendation. As clearly set forth in her testimony, Ms. Perry also relied upon recently awarded ROEs by this Commission, including the 9.75 percent ROE awarded to DEK in October 2023.<sup>4</sup> Thus, the Company is demonstrably incorrect when it attempts to characterize the basis for Ms. Perry's testimony.

The Company then goes on to state that the data from Standard & Poor's ("S&P") relied upon by Ms. Perry<sup>5</sup> does "not support Walmart's recommendation that the Commission keep [the Company's] ROE at 9.75" percent.<sup>6</sup> The Company based this argument on the fact that the average ROEs increase when looking at the average ROE for calendar year 2022 as compared to calendar years 2023 and 2024.<sup>7</sup> There are two issues with this argument. First, while Ms. Perry's initial recommendation was that the Commission set an ROE "that is no higher than the currently authorized ROE of 9.75 percent,"<sup>8</sup> in its I.B., Walmart ultimately recommended that the Commission "award an ROE of approximately 9.75 percent."<sup>9</sup> Walmart's ultimate recommendation was based on the evidence produced at the hearing in this case, which as Walmart noted in its I.B., "points towards a narrow band of approximately 9.65 to 9.85 percent as being the appropriate ROE for the Company."<sup>10</sup>

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<sup>3</sup> See Direct Testimony of Lisa V. Perry ("Perry Direct"), p. 10, line 17 to p. 11, line 5.

<sup>4</sup> *Id.*, p. 7, line 15 to p. 9, line 9.

<sup>5</sup> See Perry Direct at Ex. LVP-2.

<sup>6</sup> DEK I.B., p. 67.

<sup>7</sup> *Id.*

<sup>8</sup> Perry Direct, p. 13, lines 2-5.

<sup>9</sup> Walmart I.B., p. 3.

<sup>10</sup> *Id.*, p. 6.

Second, the data from S&P shows that the average ROE in 2023 – when the Commission issued its Order in the Company's last rate case, which awarded an ROE of 9.75 percent – was 9.71 percent.<sup>11</sup> For calendar year 2024, the average ROE for vertically integrated utilities had risen 14 basis points to 9.85 percent.<sup>12</sup> At the hearing in this case, OAG witness Baudino testified that the average ROE for January through March 2025 was 9.83 percent.<sup>13</sup> This evidence in fact supports Walmart's recommendation from pre-filed testimony of 9.75 percent while also amplifying the absolute unreasonableness of the Company's requested ROE. Since 2023, the average ROE awarded to vertically integrated utilities has risen, at most, 14 basis points. Counter to that minimal increase, however, the Company seeks an incredible 110 basis point increase to 10.85 percent. The Company's requested ROE of 10.85 percent is flatly unreasonable and should be rejected by the Commission. Instead, the Commission should award the Company an ROE that is close to the Company's currently-authorized ROE of 9.75 percent.

**B. The Commission Should Disregard the OAG's Opposition to EV Rate Design.**

Walmart and the Company have reached an agreement with respect to EV rate design. As noted by Walmart in its I.B.,<sup>14</sup>

the Company expressed a willingness to meet with Walmart and other interested stakeholders to discuss rate design.<sup>15</sup> Further, while the Company suggested that it would be willing to file such rate design (assuming a rate was developed) as part of its next base rate case,<sup>16</sup> the Company was also open to discussions that could result in the Company proposing a rate appropriate to public EV charging even prior to the next rate case, assuming an appropriate rate could be developed.<sup>17</sup>

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<sup>11</sup> DEK I.B., p. 67.

<sup>12</sup> *Id.*

<sup>13</sup> Walmart I.B. at fn. 20.

<sup>14</sup> Walmart I.B., p. 9.

<sup>15</sup> Rebuttal Testimony of Bruce Sailors ("Sailors Rebuttal"), p. 4, lines 4-6; Hearing Transcript ("Tr."), May 22, 2025, 2:02:56-2:03:10 (Company witness Sailors).

<sup>16</sup> Sailors Rebuttal, p. 4, lines 16-19.

<sup>17</sup> Hearing Tr., May 22, 2025, 2:03:10-2:03:56 (Company witness Sailors).

The Company's I.B. confirms this agreement stating that "[d]uring the hearing, Duke Energy Kentucky confirmed its agreement to meet with Walmart to discuss a potential revenue neutral rate suitable for public facing [Direct Current Fast Chargers ("DCFC")] chargers and to file such rate prior to its next rate case if such a rate is developed."<sup>18</sup> The agreement between Walmart and the Company is a simple one: they agree to meet to see if a rate can be developed that would be appropriate for public-facing EV charging, and if one can be reached, the Company will propose it to the Commission for approval.

It appears that the OAG opposes not only a stakeholder process to discuss EV rate design, but the OAG also "opposes any discounted electric rates" claiming it is discriminatory because it potentially could "increase rates for other customers."<sup>19</sup> For the two reasons discussed below, Walmart requests that the Commission reject the arguments from the OAG and instead adopt the recommendation from Walmart to order the Company to undertake a stakeholder process to discuss public-facing EV charging rate design, including ordering the Company to report on the status of such discussions within six months of the Final Order in this case.<sup>20</sup>

***1. If cost-based rates are important, then all subsidies in rates should be eliminated to avoid what the OAG describes as "discriminatory rates."***

Walmart has long-supported cost-based rates<sup>21</sup> and believes it is possible to design a cost-based rate for public-facing EV charging.<sup>22</sup> Despite this support for cost-based rates, it is indisputable that current rates in the Company's service territory across all rate classes are not fully

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<sup>18</sup> DEK I.B., p. 78.

<sup>19</sup> OAG I.B., pp. 71-72.

<sup>20</sup> Walmart I.B., pp. 9-10.

<sup>21</sup> Walmart agrees with the statement in DEK's I.B. (in the context of its cost of service study) that "each customer class should, to the extent practicable, pay the costs of providing service to that class." DEK. I.B., p. 71.

<sup>22</sup> Walmart I.B., p. 9.

cost-based.<sup>23</sup> While the Company proposes to make incremental movement to address the subsidies existing in rates, even after a decision is issued in this case, substantial subsidies would remain, meaning some rates classes are paying more than they should and others are paying less than their allocable share. As the Company notes in its I.B., to address these subsidies, "much greater relative increases for some rate classes than others in order to match class revenue responsibility with underlying cost causation."<sup>24</sup>

While the OAG seems to take issue with potentially discriminatory rates that *could* occur with EV rate design, assuming such a rate could be developed, the OAG does not similarly argue that actual subsidies in rates should be resolved in this case. From Walmart's perspective it is hard to reconcile these positions. If rates not being cost-based is an issue because it creates discriminatory rates, then the Commission should take steps to fully eliminate all subsidies in rates in this case rather than singling out this stakeholder process that may or may not result in an agreement on a potential rate for public-facing EV charging.

**2. *There is no reason to adopt the OAG's recommendation at this time.***

Second, Walmart views the OAG's objection to a potential future proposal on EV rate design as premature and unnecessary. There is no legitimate basis for the OAG to oppose a stakeholder process between the Company and its customers. Indeed, the Company can engage in discussions with its customers with – or without – Commission approval. The reason Walmart seeks an Order from the Commission is to set forth an enforceable timeline by which those discussions should occur. Walmart is not even requesting the Commission require the Company to guarantee that it will propose a rate design applicable to public-facing EV charging. Thus, there

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<sup>23</sup> Perry Direct, p. 22, lines 2-6 and Table 1.

<sup>24</sup> DEK I.B., p. 72.

is no guarantee a rate proposal will come before the Commission, let alone that it would necessarily be discriminatory.

The OAG will have the opportunity to participate in any stakeholder discussions regarding EV rate design. Moreover, assuming a rate was put forward for Commission approval, the OAG would be able to intervene in such a proceeding and oppose that rate should it view the rate as inappropriate. At this time, however, there is no reason for the Commission to prejudge the outcome of these stakeholder discussions that have yet to occur. For these reasons, Walmart requests that the Commission disregard the opposition from the OAG on this issue and instead adopt the recommendation of Walmart in its I.B.

## **II. CONCLUSION**

For the reasons set forth herein and in its I.B., Walmart stands by its recommendation as set forth in its I.B. As such, Walmart respectfully requests that the Commission take the following actions with respect to the Company's Application:

1. Reject the Company's requested ROE of 10.85 percent and instead award DEK an ROE of approximately 9.75 percent.
2. Set the threshold for the new tariff provisions application to "large loads" under Rate DT (and other applicable rate schedules) at no lower than 40 MW.
3. Order the Company to undertake a stakeholder process to discuss the issue of public-facing EV rate design, and within six months of the Final Order being issued in this case, file a letter in this docket to report on the status of such stakeholder discussions.
4. If the Commission awards the Company a revenue requirement less than requested by the Company, the Commission should apportion the reduced revenue

requirement consistent with the recommendation of Walmart witness Perry to further reduce interclass subsidization.

5. Grant such other and further relief as the Commission deems appropriate.

Respectfully submitted,

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By 

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Dated: June 23, 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 23<sup>rd</sup> day of June, 2025, to the following:

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