

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DUKE ENERGY	)	
KENTUCKY, INC. FOR 1) AN ADJUSTMENT OF	)	CASE NO. 2024-00354
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	)	

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**THE ATTORNEY GENERAL’S POST-HEARING BRIEF**

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The Intervenor, the Attorney General of the Commonwealth of Kentucky, through his Office of Rate Intervention (“Attorney General”) submits the following Post-Hearing Brief to the Kentucky Public Service Commission (“Commission”) in the above-styled matter.

**STATEMENT OF THE CASE**

Duke Energy Kentucky, Inc. (hereinafter “Duke Kentucky” or the “Company”) is a Kentucky corporation with its principal office and place of business in Cincinnati, Ohio.<sup>1</sup> Duke Kentucky is a wholly owned subsidiary of Duke Energy Ohio (“Duke Ohio”).<sup>2</sup> Duke Ohio is a wholly owned subsidiary of Cinergy, and Cinergy is a wholly owned subsidiary of Duke Energy Corporation (“Duke Energy”).<sup>3</sup> Duke Kentucky provides electric service to approximately 155,000 customers and natural gas service to approximately 105,000 customers in Bracken (natural gas only), Boone, Campbell, Gallatin (natural gas only), Grant, Kenton, and Pendleton counties in Northern Kentucky.<sup>4</sup>

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<sup>1</sup> Application at 2.

<sup>2</sup> Direct Testimony of Amy B. Spiller (“Spiller Testimony”) at 5.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at 4; Application at 2.

Duke Kentucky states that it has 141 employees, comprised of 10 exempt employees and 131 non-exempt employees.<sup>5</sup> The Company further asserts that it is a party to multiple Commission-approved affiliate service agreements that provides it with services from attorneys, accountants, engineers, customer service representatives, and other professionals whose time and cost are shared among all utility affiliates within Duke Energy.<sup>6</sup> One such service agreement is with Duke Energy Business Services, LLC (“DEBS”), which is a Federal Energy Regulatory Commission (“FERC”) authorized service company that provides various administrative and other services to Duke Kentucky and other affiliated companies of Duke Energy.<sup>7</sup>

On November 1, 2024, Duke Kentucky filed its notice of intent to file an application for an adjustment of electric rates with the Commission. The Company subsequently filed its application on December 2, 2024, utilizing a forward-looking test period (“forecasted test year”) that spans the twelve months beginning July 1, 2025, and ending June 30, 2026.<sup>8</sup> The Company’s base period is the twelve months ending on February 28, 2025.<sup>9</sup> Specifically, the application requests an increase in revenues of approximately \$70 million per year.<sup>10</sup> According to Duke Kentucky’s application, if the Commission grants the requested rate increase then the Company’s new electric revenue requirement will be \$524.4 million including fuel costs, which equates to an approximately 15.4% increase in revenues per year.<sup>11</sup> Duke Kentucky’s proposed electric rate

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<sup>5</sup> Direct Testimony of Shannon A. Caldwell (“Caldwell Testimony”) at 4. Duke Kentucky states that 131 employees are union employees.

<sup>6</sup> Spiller Testimony at 6; Direct Testimony of Rebekah E. Buck (“Buck Testimony”) at 1 – 5. Ms. Buck states that Duke Kentucky has several service agreements in place that allow the Company to provide services to or receive services from the Duke Energy family of companies that are incidental or necessary to the provision of utility service.

<sup>7</sup> Buck Testimony at 4.

<sup>8</sup> Application at 12; Spiller Testimony at 22.

<sup>9</sup> Direct Testimony of Grady “Tripp” S. Carpenter (“Carpenter Testimony”) at 3.

<sup>10</sup> Application at 5; *See* Duke Kentucky’s response to the Attorney General’s Post-Hearing Request for Information (“Attorney General’s Post-Hearing Request”) at 1. The Company states that its revised rate increase request of \$69,986,752 would equal to a 14.68% increase in electric revenues over current total electric revenues.

<sup>11</sup> Application at 5.

increase will represent a \$19.68 increase, or 16.2%, for an average residential customer using 904 kWh of electricity per month.<sup>12</sup> Duke Kentucky is also requesting to increase the residential monthly customer charge from \$13.00 to \$16.00.<sup>13</sup> The Company further requests approval of new tariffs, approval of accounting practices to establish regulatory assets and liabilities, etc.<sup>14</sup>

The Commission issued a no deficiency letter on December 9, 2024, which stated that the application met the minimum filing requirements and had been accepted for filing as of December 2, 2024. The Attorney General was granted intervention on December 11, 2024. The other parties granted intervention into the pending case were Walmart Inc. and The Kroger Co. Following the Commission's issuance of a procedural schedule, the Commission Staff and the parties issued several rounds of discovery requests, to which Duke Kentucky filed responses into the record. On March 5, 2025, the Attorney General filed direct testimony into the record of his witnesses, Messrs. Lane Kollen, Randy A. Futral, and Richard A. Baudino. The Attorney General responded to both Commission Staff's and Duke Kentucky's discovery requests on April 2, 2025. The Company filed rebuttal testimony on April 9, 2025, and a base period update on April 14, 2025. An evidentiary hearing was conducted during May 21 – 22, 2025. Both the Commission Staff and the Attorney General's Office issued post-hearing discovery requests to Duke Kentucky, and the Company filed responses on June 11, 2025.

## **ARGUMENT**

Pursuant to KRS 278.190(3), Duke Kentucky bears the burden of proof to demonstrate “that an increase of rate or charge is just and reasonable.”<sup>15</sup> Duke Kentucky has failed to meet its

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<sup>12</sup> See Duke Kentucky's response to the Attorney General's Post-Hearing Request, Item 1; Duke Kentucky's response to the Attorney General's First Request for Information (“Attorney General's First Request”), Item 41.

<sup>13</sup> Application, FR 16(1)(b)(5) Attachment – Exhibit A; Duke Kentucky's response to the Attorney General's Post-Hearing Request for Information, Item 1.

<sup>14</sup> Application at 5 – 17.

<sup>15</sup> *Kentucky-American Water Company v. Commonwealth ex rel. Cowan*, 847 S.W.2d 737, 741 (Ky. 1993).

burden.<sup>16</sup> The Attorney General recommends a downward adjustment to the requested \$70 million revenue increase because if the Company's application were accepted as is, then it would result in unfair, unjust, and unreasonable rates due to the following issues.

**I. DUKE KENTUCKY'S REVISED RATE INCREASE BASED UPON SPECIFIC RECOMMENDATIONS PROPOSED BY THE ATTORNEY GENERAL.**

In Duke Kentucky's rebuttal testimony and at the evidentiary hearing, the Company agreed to specific recommendations and adjustments proposed by the Attorney General's witness, Mr. Futral, as discussed below.<sup>17</sup> According to Duke Kentucky, the acceptance of these adjustments reduces the Company's requested rate increase and proposed revenue requirement by approximately \$21,688, for a revised requested rate increase of \$69,986,788.<sup>18</sup>

Duke Kentucky agrees upon the following adjustments proposed by the Attorney General:

1. Correct the Company's errors in the calculation of cash working capital concerning miscellaneous expenses and federal and state income taxes not properly aligning with the as-filed amounts,<sup>19</sup> which overstates the cash working capital by \$51,000, and is a downward adjustment of \$5,000 to the proposed revenue requirement.<sup>20</sup>
2. Correct and include the amortization of the DEBS Excess Accumulated Deferred Income Taxes ("EDIT") as a result of the Tax Cut and Jobs Act,<sup>21</sup>

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<sup>16</sup> See KRS 278.190. "At any hearing involving the rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the utility...."; See KRS 278.030(1). "Every utility may demand, collect and receive fair, just and reasonable rates for the services rendered or to be rendered by it to any person."

<sup>17</sup> Rebuttal Testimony of Lisa D. Steinkuhl ("Steinkuhl Rebuttal") at 3 – 4.

<sup>18</sup> *Id.* at 4. Duke Kentucky's originally proposed rate increase was \$70,008,476; See Duke Kentucky's response to the Attorney General's Post-Hearing Request, Item 1, in which the Company states that the rates would reflect a revised proposed rate increase of \$69,986,752, or a 14.68% increase over current total electric revenues.

<sup>19</sup> Steinkuhl Rebuttal at 3; Direct Testimony of Randy A. Futral ("Futral Testimony") at 6 – 9.

<sup>20</sup> Steinkuhl Rebuttal at 3; Futral Testimony at 6 – 9.

<sup>21</sup> Steinkuhl Rebuttal at 3 – 4; Futral Testimony at 6 – 9.

which is a \$17,000 downward adjustment to the proposed revenue requirement.<sup>22</sup>

## II. RATE BASE ISSUES

### **a. Duke Kentucky's coal expense, lime expense, and amortization of prepaid expenses are not cash expenses and should not be included in cash working capital.**

Duke Kentucky improperly included coal and lime expense, and amortization of prepaid expenses as line items in its cash working capital calculation, even though these are not cash expenses.<sup>23</sup> The physical coal and lime are taken from the coal and lime inventories at East Bend 2 Generating Station ("East Bend 2"), used to generate electricity, and then expensed.<sup>24</sup> In other words, there is only one cash disbursement, which occurs when the coal and lime inventories are purchased.<sup>25</sup> The inventories are included in rate base offset by the related cost-free vendor financing reflected in accounts payable.<sup>26</sup> Thus, there is no second cash disbursement or financing requirement when these inventories are used and then expensed.<sup>27</sup>

Similarly, there is only one cash disbursement that occurs when prepayments are paid, and the prepayments are also included in rate base.<sup>28</sup> There is no second cash disbursement or financing requirement as the prepayments are amortized to expense.<sup>29</sup>

For these reasons, the Attorney General recommends the Commission remove the coal expense, lime expense, and prepaid amortization expenses from the cash working capital calculation.<sup>30</sup> The effect of this recommendation is a reduction of \$5.133 million to cash working

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<sup>22</sup> Steinkuhl Rebuttal at 3 – 4; Futral Testimony at 6 – 9.

<sup>23</sup> Direct Testimony of Lane Kollen ("Kollen Testimony") at 12.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 13.

capital and rate base, and a reduction of \$0.512 million to the Company's requested base revenue requirement and base rate increase.<sup>31</sup>

**b. Duke Kentucky's long-term debt interest expense is a cash expense and should be included in the cash working capital calculation.**

Duke Kentucky erroneously did not reflect long-term debt interest expense in the cash working capital calculation in the pending case.<sup>32</sup> The long-term debt interest is paid in cash, or the electronic funds transfer equivalent of cash, on a lagged basis.<sup>33</sup> The Company collects cash revenues for this expense from customers each and every month before the cash is disbursed to the debtholders at the end of each six-month period for the outstanding long-term debt, except for one debt issue, which is disbursed at the end of each month.<sup>34</sup> This represents cost-free customer financing due to Duke Kentucky's collection and retention of cash revenues from customers well in advance of the Company's cash disbursement to the debtholders.<sup>35</sup> Therefore, the long-term debt interest expense, which is calculated as the adjusted electric rate base times the long-term debt ratio times the weighted average cost of long-term debt, should be included as a cash expense line item in Duke Kentucky's cash working capital calculation.<sup>36</sup> According to the Company's response to the Attorney General's discovery request, if long-term debt interest expense were included in the cash working capital calculation then it would represent 84.00 expense lag days.<sup>37</sup>

Importantly, 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

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<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*; Duke Kentucky's response to the Attorney General's First Request, Item 123.

<sup>35</sup> Kollen Testimony at 14.

<sup>36</sup> *Id.* at 14 – 15.

<sup>37</sup> *Id.* at 15; Duke Kentucky's response to the Attorney General's First Request, Item 56.

cash expense.<sup>38</sup> Even though Mr. Adams, failed to reflect long-term debt interest in the cash working capital in this proceeding,<sup>39</sup> he did correctly reflect this cash expense in the cash working capital calculation for Kentucky Power Company in its most recent base rate case proceeding, Case No. 2023-00159.<sup>40</sup> At the evidentiary hearing in the pending case, Mr. Adams further admitted to the Attorney General under cross-examination that he was aware Duke Kentucky's affiliated utility companies in North Carolina (e.g. Duke Energy Progress, LLC; Duke Energy Carolinas, LLC; Piedmont Natural Gas Company, Inc.) include long-term debt interest expense in their cash working capital calculations.<sup>41</sup>

Thus, the Attorney General recommends the Commission include long-term debt interest expense in the cash working capital calculation, 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.<sup>42</sup> As previously discussed, this recommended approach is consistent with the Commission's treatment of long-term debt interest expense in the cash working capital calculations approved for other Kentucky utilities, is consistent with Duke Kentucky's witness Mr. Adams' recommendations in other Kentucky utility rate cases, and is consistent with Duke Kentucky's affiliated utility companies' cash working capital calculations in North Carolina base rate proceedings.<sup>43</sup> The effect of this recommendation is a reduction of \$2.937 million to cash working capital and rate base, and a reduction of \$0.293 million to the

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<sup>38</sup> Video Transcript of Evidence ("VTE") May 21, 2025, 3:32:00 – 3:32:17; Kollen Testimony at 14.

<sup>39</sup> Rebuttal Testimony of Michael J. Adams ("Adams Rebuttal") at 5 – 8; VTE May 21, 2025, 3:32:14 – 3:04:20.

<sup>40</sup> Kollen Testimony at 14; Duke Kentucky's response to the Attorney General's First Request, Item 56; VTE May 21, 2025, 3:32:45 – 3:33:37; See 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*.

<sup>41</sup> VTE May 21, 2025, 3:33:37 – 3:33:54; Duke Kentucky's response to the Attorney General's First Request, Item 55; Kollen Testimony at 14.

<sup>42</sup> Kollen Testimony at 15.

<sup>43</sup> *Id.*

Company's requested base revenue requirement and base rate increase.<sup>44</sup>

**c. Duke Kentucky's revenue lag days in the cash working capital calculation are excessive and should be reduced to reflect the prudent sale of customer receivables.**

Duke Kentucky calculated 45.52 revenue lag days in the Company's cash working capital calculation in the pending case.<sup>45</sup> In the calculation of the revenue lag days, Duke Kentucky reflected 27.48 collection lag days calculated from the date the bills were sent to the customers until the date cash was collected. The collection lag days reflects the termination of the Company's receivables financing program in March 2024, which lengthened the collection lag days from 1.46 days when the receivables financing program was still in effect to 27.48 days.

Prior to Duke Kentucky's termination of its receivables financing program, the Company sold the prior day's customer accounts receivables on a daily basis to a special purpose financing entity, Cinergy Receivables Company, LLC ("CRC"), for cash.<sup>46</sup> CRC was an affiliated special purpose financing entity used to accelerate Duke Kentucky's conversion of receivables into cash on a daily basis rather than waiting until customers actually paid their bills.<sup>47</sup> CRC borrowed against a short-term loan facility to obtain the cash used to acquire the receivables from Duke Kentucky and other Duke Energy affiliates.<sup>48</sup> CRC then received cash from customer payments on a daily basis, which it used to repay the short-term loans.<sup>49</sup> This process recurred on a daily cycle, although Duke Kentucky only recorded the cumulative effects of these transactions on its accounting books at the end of each month.<sup>50</sup> The Company recorded the cash received from

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<sup>44</sup> *Id.*

<sup>45</sup> *Id.* at 15 – 16.

<sup>46</sup> *Id.* at 16.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.* at 16 – 17.

<sup>50</sup> *Id.* at 17.



CRC as an increase to the cash balance sheet account and the receivables sold as a credit to its receivables account, which it recorded in a receivables contra-account.<sup>51</sup> The cash that Duke Kentucky received from CRC for the receivables sold reflected a discount to compensate CRC in cash for the interest expense on the debt that CRC issued to finance the purchases of the receivables from Duke Kentucky, and for the estimated uncollectible amounts of those receivables.<sup>52</sup> The Company recorded the two discount amounts as interest expense and as uncollectible accounts expense, respectively.<sup>53</sup>

Duke Kentucky's prior 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.<sup>54</sup> Absent the sales of the accounts receivables on a daily basis, the Company would have waited an average of 27.48 days from the date of customer billing to the date when it received cash payment for providing service.<sup>55</sup> The sale of Duke Kentucky's receivables to CRC accelerated the conversion of the receivables to cash and waited an average of only 1.46 days from the date of customer billing to the date when it received cash for service.<sup>56</sup>

The benefit to the customers of Duke Kentucky's sale of its accounts receivables were twofold.<sup>57</sup> First, the Company accelerated the conversion of its customer receivables into cash, which significantly reduced the amount necessary to finance its customer receivables through

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<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.* at 18.

<sup>55</sup> *Id.* at 19.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

traditional common equity and long-term debt sources of financing.<sup>58</sup> This reduction was reflected in a lower cash working capital requirement due to the lesser collection lag days component in the revenue lag days calculation.<sup>59</sup> Second, the short-term interest expense on the collateralized debt financing reimbursed to CRC is significantly less than the traditional weighted average cost of common equity and long-term debt financing for customer receivables that otherwise would be incurred.<sup>60</sup> For example, Duke Kentucky forecasts the cost of short-term debt due to borrowings from the Duke Money Pool at only 3.02% in the test year.<sup>61</sup> In stark contrast to this low-cost short-term debt financing, the Company's requested grossed up weighted cost of capital is 9.97%, which is more than three times the cost of short-term debt previously available through the receivables financing program.<sup>62</sup>

In the pending case, Duke Kentucky incorrectly describes the receivables financing program as a, "security instrument in order to efficiently diversity the long-term debt raised by each [of] these entities at reasonable interest rates."<sup>63</sup> However, the receivables financing program was not long-term debt, but instead it was a separate and distinct form of revolving short-term debt financing available for general corporate purposes.<sup>64</sup> In fact, Duke Kentucky included the receivables financing as short-term debt in the capital structure in base rate proceedings prior to the termination of the receivables financing program, including in the Company's last rate case, Case No. 2022-00372.<sup>65</sup>

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<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.* at 19 – 20.

<sup>63</sup> *Id.* at 20; Direct Testimony of Thomas J. Heath ("Heath Testimony") at 25 – 26.

<sup>64</sup> Kollen Testimony at 20.

<sup>65</sup> *Id.*; See 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.*

Duke Kentucky asserts that its decision to terminate the accounts receivable financing program was based upon comparing the borrowing costs of the program to other alternative forms of financing.<sup>66</sup> Yet, it appears that the Company failed to consider the comprehensive effects on its customers by limiting the comparative analyses to support the desired termination outcome.<sup>67</sup> The effect of the termination on Duke Kentucky's customers has been to increase their costs by eliminating the accelerated conversion of the receivables to cash.<sup>68</sup> The harm to customers is apparent because the deceleration in the conversion of the receivables to cash increases the revenue lag days, increases cash working capital, increases rate base, and increases the revenue requirement.<sup>69</sup> If Duke Kentucky had not terminated the accounts receivable financing program then the Company's collection lag would have been 1.46 days instead of 27.48 days.<sup>70</sup> If this reduction in the collection lag days were properly included in the cash working capital calculation then it would reflect real benefits to the customers such as reducing the revenue lag days, reducing the cash working capital, reducing rate base, and reducing the revenue requirement and rate increase.<sup>71</sup>

Duke Kentucky's decision to terminate the accounts receivable financing program was imprudent and unreasonable, which imposes increased costs on customers that are not justified.<sup>72</sup> Thus, the Commission should impute the accounts receivable financing program to reflect the lesser collection lag days in the cash working capital calculation.<sup>73</sup> This recommendation would also reduce the working capital, rate base, and the revenue requirement to remedy the Company's

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<sup>66</sup> Kollen Testimony at 20 – 21; *See* Heath Testimony at 27.

<sup>67</sup> Kollen Testimony at 21.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.* at 21 – 22.

<sup>72</sup> *Id.* at 22.

<sup>73</sup> *Id.*

unreasonable termination of said program.<sup>74</sup> The effects of this recommendation are reductions to cash working capital and rate base of \$16.247 million, and a reduction of \$1.621 million to the requested base revenue requirement and base rate increase.<sup>75</sup>

**d. Duke Kentucky's cash working capital should be reduced to reflect revenue collection lag days on 2024 parameters.**

Duke Kentucky included \$4.508 million of cash working capital in rate base in the pending case based on the results of a lead/lag study performed on its behalf.<sup>76</sup> The requested cash working capital was later reduced to \$4.457 million to correct a synchronization error.<sup>77</sup> The lead/lag study utilized per books revenue and expense data for the twelve months ending December 31, 2023.<sup>78</sup>

One of the starting components of a lead/lag study is the determination of revenue lag days, and based upon this lead/lag study it was determined that the Company's revenue lag days were 45.52 days.<sup>79</sup> The revenue lag days in the Company's lead/lag study are comprised of service lag, billing lag, collection lag, and payment processing lag components.<sup>80</sup> Although the service lag and billing lag components of the lead/lag study seem to be reasonable, the collection lag and the payment processing lag were computed to be a combined 27.48 days, which is quite high.<sup>81</sup> The collection/payment processing lag represents the average number of days between the time customers are billed and the receivables posted and the time billings are collected.<sup>82</sup> Duke Kentucky provided its computation of the 26.66 collection lag days in response to

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<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> Futral Testimony at 13.

<sup>77</sup> *Id.*; Application at Schedules B-1 and B-5

<sup>78</sup> Futral Testimony at 13.

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> *Id.* at 13 – 14.

<sup>82</sup> *Id.* at 14.

discovery, and the computation determined a weighted average number of days associated with the amounts receivable in all of its individual aging buckets over all the months in 2023 and summed those weighted days to derive an average weighted collection days amount of 26.66 days.<sup>83</sup> Additionally, Duke Kentucky confirmed in response to the Attorney General's discovery that the receivables balances data, in total and separated by aging bucket, represented a combination of its electric and gas divisions.<sup>84</sup> Even though Duke Kentucky is only requesting to increase electric rates in the pending case and not gas rates, the Company further confirmed in response to the Attorney General's discovery that it could not separate the data between the electric and gas divisions because, "the billing system does not maintain the Accounts Receivable Aging Reports by service."<sup>85</sup>

Since Duke Kentucky included natural gas receivables balances data in the lead/lag study, it is extremely important to consider that the natural gas prices soared in 2022 to levels not seen since 2008.<sup>86</sup> The Henry Hub natural gas prices began increasing in 2021 from a long-standing level of around \$2 - \$3 per Million Metric British Thermal Units ("mmBtu") to around \$4 - \$5 per mmBtu.<sup>87</sup> Then in 2022 natural gas prices soared even higher, rising to over \$8 per mmBtu in August 2022, and ending the year at over \$5 per mmBtu.<sup>88</sup> In 2023, natural gas prices began substantially decreasing to levels in the \$2 - \$3 per mmBtu, which was similar to the prices experienced in the years prior to 2021.<sup>89</sup> Fortunately, natural gas prices have remained lower since the beginning of 2023.<sup>90</sup>

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<sup>83</sup> *Id.*

<sup>84</sup> *Id.*; Duke Kentucky's response to the Attorney General's Second Request for Information ("Attorney General's Second Request"), Item 54.

<sup>85</sup> Futral Testimony at 14; Duke Kentucky's response to the Attorney General's Second Request, Item 54.

<sup>86</sup> Futral Testimony at 15.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

Even though the commodity price increase of natural gas would have affected owned generation and market prices for both the electric and gas divisions, Duke Kentucky's gas division would have been much more impacted.<sup>91</sup> This is because the Company's electric division relies on a variety of fuel sources for its generation and upon market purchases, while the natural gas division is totally dependent on the pricing for natural gas that it purchases.<sup>92</sup> The Company's natural gas customers' bills increased substantially during the period of higher natural gas prices, which led to higher receivable balances in later months.<sup>93</sup>

Since the 2023 combined electric and gas division receivables data relied upon by the Company in the lead/lag study was highly impacted by the short-term spike in natural gas commodity prices, the Commission should use the 2024 data as a more reasonable and recurring level of historic collection data to set the level of collection lag days.<sup>94</sup> Duke Kentucky responded to an Attorney General's discovery question by providing the 2023 and 2024 receivables data,<sup>95</sup> so after removing the 2023 receivables data it would yield 23.15 for the collection days for 2024.<sup>96</sup>

In rebuttal testimony, Duke Kentucky's witness, Mr. Adams, argues that, "[a] cash working capital study, as well as a rate test year should adhere to the matching principle unless there are anomalous conditions that overwhelm the general principle of relying on a matching period for the purposes of analyzing leads and lags."<sup>97</sup> The fatal flaw with this argument is that there were anomalous conditions that existed – the spike in natural gas prices that had not been seen since 2008. Mr. Adams further states that the proposed adjustment ignores the matching

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<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> *Id.* at 16.

<sup>95</sup> *Id.* at 15 – 16; Duke Kentucky's response to the Attorney General's Second Request, Item 54.

<sup>96</sup> Futral Testimony at 16. Mr. Futral's calculation of the 23.15 collection days is included in his electronic workpapers filed along with his direct testimony. After Mr. Futral's calculations, the combined collection days and payment processing days sum to 23.97 days.

<sup>97</sup> Adams Rebuttal at 9.

concept of a study period,<sup>98</sup> but failed to cite to any known differences in expense payment patterns in 2024 that did not exist in his 2023 lead/lag study data, which renders Mr. Adams' argument meritless.

Based upon the foregoing, the Attorney General recommends that the Commission base the collection lag days in Duke Kentucky's lead/lag study upon 2024 data only, which would result in collection lag days of 23.15 instead of the requested 26.66 collection lag days based upon 2023 data only.<sup>99</sup> If the Commission were to accept this recommendation, it would decrease the combined collection and payment processing days to 23.97 days instead of the as-filed 27.48 days, which would then lower the overall revenue lag days from the as-filed 45.52 days to 42.01 days.<sup>100</sup> This recommendation is made before consideration of Mr. Kollen's separate recommendation related to the cessation of the Company's sale of its receivables to CRC.<sup>101</sup> The effect of this recommendation would be a reduction of \$2.894 million in rate base and a reduction of \$0.289 million to Duke Kentucky's requested base revenue requirement and base rate increase.<sup>102</sup>

**e. Duke Kentucky's regulatory asset for deferred rate case expense should be removed from rate base.**

Duke Kentucky included \$1.231 million in deferred rate case expenses in rate base that breaks down as follows: \$734,000 in rate case expense for the pending case, \$58,000 for the remaining unamortized deferred balance associated with Case No. 2019-00271, and \$439,000 for the remaining unamortized deferred balance associated with Case No. 2022-00372.<sup>103</sup> Duke

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<sup>98</sup> *Id.*

<sup>99</sup> Futral Testimony at 16.

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> *Id.* at 10.

Kentucky also included an accumulated deferred income tax (“ADIT”) offset of \$307,000 as a subtraction to rate base related to the unamortized rate case costs.<sup>104</sup>

The Commission should disallow Duke Kentucky to include the regulatory asset for deferred rate case expenses in rate base because the rate case expenses were and will be incurred to benefit Duke Kentucky’s ultimate parent company, Duke Energy, and its shareholders – not the Company’s customers.<sup>105</sup> This recommendation adheres to Commission precedent in which it rejected Duke Kentucky’s request to include regulatory assets for deferred rate expenses in rate base in Case No. 2019-00271.<sup>106</sup> In the Final Order, the Commission concluded that, “[t]he Commission agrees that rate case expense regulatory assets should not be included in rate base, as that would allow a return on the unamortized balance of the expense. The Commission has historically excluded this item from rate base to share the cost of rate proceedings between the stockholders and ratepayers.”<sup>107</sup> It is important to note that in Duke Kentucky’s most recent rate case, Case No. 2022-00372, the Company did not request to include regulatory assets for deferred rate case expenses.<sup>108</sup> The Commission also used this same reasoning when denying other utilities’ requests to include regulatory assets for deferred rate case expenses in rate base in Case Nos. 2021-00214<sup>109</sup> and Case No. 2022-00147.<sup>110</sup> It is significant to highlight that in Duke

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<sup>104</sup> *Id.* The ADIT amount was calculated using the 24.9251% effective tax rate included by the Company in its application.

<sup>105</sup> Futral Testimony at 11.

<sup>106</sup> Case No. 2019-00271, *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* (Ky. PSC April 27, 2020), Order at 7 – 8; Futral Testimony at 11.

<sup>107</sup> Case No. 2019-00271, *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* (Ky. PSC April 27, 2020), Order at 7 – 8.

<sup>108</sup> Futral Testimony at 11 – 12.

<sup>109</sup> Case No. 2021-00214, *Electronic Application of Atmos Energy Corporation for An Adjustment of Rates*, (Ky. PSC May 19, 2022), Order at 17 – 18.

<sup>110</sup> Case No. 2022-00147, *Electronic Application of Water Service Corporation of Kentucky for General Adjustment in Existing Rates and a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure*, (Ky. PSC April 12, 2023), Order at 13 – 14.



Kentucky's rebuttal testimony, the Company does not even attempt to address or refute the aforementioned Commission precedent, which supports Mr. Futral's recommendation to remove the regulatory asset for deferred rate case expense from rate base.<sup>111</sup>

Moreover, an additional reason to allocate the return on the regulatory asset for rate case expense to Duke Energy's shareholders and the amortization expense to Duke Kentucky's customers is because the revenue requirement cost of the regulatory asset declines each year as it is amortized and as the net rate base amount declines.<sup>112</sup> Yet, Duke Kentucky's customers never benefit from this annual cost reduction until base rates are reset at some future date. This would allow the Company to retain the savings from the declining costs, with no reductions for the customers.<sup>113</sup>

The Attorney General therefore recommends that the Commission adhere to its precedent and allocate the return on the regulatory asset for the deferred rate case expenses to Duke Energy and its shareholders, but allocate the amortization expense to the Company's customers.<sup>114</sup> This recommendation is not only in line with Commission precedent, but is also necessary to ensure that the costs are equitably shared between Duke Kentucky's ultimate shareholders and its customers.<sup>115</sup> Over a five-year amortization period, this recommendation would allocate approximately 20% of the total revenue requirement related to the instant proceeding to Duke Energy and approximately 80% to the Company's customers based on the as-filed revenue requirement.<sup>116</sup> This recommendation is further necessary to ensure that Duke Kentucky does not obtain excessive recovery of these costs as the regulatory asset is amortized and the underlying

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<sup>111</sup> See Rebuttal Testimony of Sarah E. Lawler ("Lawler Rebuttal") at 2 – 3.

<sup>112</sup> Futral Testimony at 12.

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

cost curve declines, ultimately to \$0, without adjustment to the base revenues to reflect the declines in these costs.<sup>117</sup> If the Commission accepts this recommendation, then it will reduce Duke Kentucky's rate base by \$0.924 million and reduce the requested base revenue requirement and base rate increase by \$0.092 million.<sup>118</sup>

**f. Based upon Commission precedent, Duke Kentucky's proposed inclusion of the corporate alternative minimum tax deferred tax asset should be denied because it is a Duke Energy consolidated tax, and not a Duke Kentucky stand-alone tax.**

Duke Kentucky included an \$11.721 million corporate alternative minimum tax deferred tax asset ("CAMT DTA") in the rate base representing an allocation from the Duke Energy's consolidated tax return CAMT DTA forecasted for the test year.<sup>119</sup> The CAMT DTA is the result of the so-called Inflation Reduction Act signed into law in late 2022.<sup>120</sup> The Company did not acknowledge that it was including a CAMT DTA in its application, witness testimonies, schedules, or workpapers in the pending case.<sup>121</sup> Only upon questioning from the Attorney General through discovery did Duke Kentucky acknowledge that it had included the CAMT DTA in rate base.<sup>122</sup>

The CAMT is an alternative federal income tax based on a calculation of adjusted financial statement income ("AFSI") times a 15% tax rate.<sup>123</sup> The CAMT is compared to the regular income tax expense, and if the CAMT is greater than the regular income tax expense in a tax year, then the taxpayer must pay the CAMT and then defers the excess over the regular income tax as a CAMT DTA.<sup>124</sup> The CAMT DTA is added to any CAMT DTA carried forward from prior years.<sup>125</sup>

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<sup>117</sup> *Id.*

<sup>118</sup> *Id.*

<sup>119</sup> Kollen Testimony at 23.

<sup>120</sup> *Id.*

<sup>121</sup> *Id.*

<sup>122</sup> *Id.*

<sup>123</sup> *Id.*

<sup>124</sup> *Id.* at 23 – 24.

<sup>125</sup> *Id.* at 24.

If the regular income tax is greater than the CAMT in a tax year, then the taxpayer must pay the regular income tax.<sup>126</sup> If there is a CAMT DTA carryforward from prior tax years, then the taxpayer can utilize the CAMT carryforward to reduce its regular income tax to the amount of the CAMT in the tax year, which reduces the CAMT DTA in that tax year carried forward to future tax years.<sup>127</sup>

It should be emphasized that the CAMT only applies to “applicable corporations” with an average AFSI for the prior three tax years in excess of \$1 billion.<sup>128</sup> As such, Duke Kentucky would not be considered an applicable corporation on a stand-alone tax return basis.<sup>129</sup> Yet, because Duke Energy is forecasting that it will be an applicable corporation in tax years 2025 and 2026, that will make all of its subsidiaries, including Duke Kentucky, applicable corporations.<sup>130</sup> In other words, Duke Kentucky would not be subject to the CAMT on a stand-alone tax return basis.<sup>131</sup> This distinction is of the utmost importance because the Commission has a long history of using a stand-alone tax return income tax calculation for ratemaking purposes, wherein consolidated tax savings nor consolidated tax costs are included for ratemaking purposes.<sup>132</sup>

At the evidentiary hearing, Duke Kentucky passed out a hearing exhibit while cross-examining the Attorney General’s witness, Mr. Kollen, which was a small portion of a prior Commission Order from Case No. 2010-00036, regarding consolidated income tax adjustments.<sup>133</sup> Duke Kentucky attempted to demonstrate that in Case No. 2010-00036, the Attorney General’s

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<sup>126</sup> *Id.*

<sup>127</sup> *Id.*

<sup>128</sup> *Id.*

<sup>129</sup> *Id.*

<sup>130</sup> *Id.*

<sup>131</sup> *Id.* at 24 – 25.

<sup>132</sup> *Id.* at 25.

<sup>133</sup> VTE May 22, 2025, 11:20:57 – 11:25:28; Case No. 2010-00036, *Application of Kentucky American Water Company for an Adjustment of Rates Supported by a Fully Forecasted Test Year* (Ky. PSC Dec. 14, 2010), Order at 54 – 58.

witness recommended using the consolidated tax return instead of calculating the federal income taxes on a stand-alone basis.<sup>134</sup> In the 2010 case, the Attorney General’s witness argued that the tax loss benefits generated by one group of subsidiaries should be shared by the other consolidated group members, which would result in a reduced effective federal income tax rate.<sup>135</sup> Thus, the Attorney General’s witness proposed that these consolidated tax benefits should flow to the customers to reflect the actual taxes paid rather than calculate the amount of taxes based upon the stand-alone methodology.<sup>136</sup> The utility from the 2010 case opposed any consolidated tax savings adjustment.<sup>137</sup>

However, upon the Attorney General’s redirect examination of his witness at the evidentiary hearing in the pending case, Duke Kentucky’s attempted point utterly collapsed when it was made clear that the Commission actually denied the Attorney General’s prior witness’ proposal to use the consolidated tax return to allow the customers to pay a lower effective tax rate.<sup>138</sup> In fact, the Final Order stated that, “the Commission has consistently rejected proposals to apply a consolidated tax adjusted and treated utilities on a stand-alone basis. We have found that use of such an adjustment would result in the subsidization of ratepayers by the utility’s non-regulated operations. Moreover, many utility regulatory commissioners appear to disfavor the use of consolidated tax adjustments.”<sup>139</sup> The Commission concluded that in, “the absence of any

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<sup>134</sup> VTE May 22, 2025, 11:20:57 – 11:25:28; Case No. 2010-00036, *Application of Kentucky American Water Company for an Adjustment of Rates Supported by a Fully Forecasted Test Year* (Ky. PSC Dec. 14, 2010), Order at 54.

<sup>135</sup> Case No. 2010-00036, *Application of Kentucky American Water Company for an Adjustment of Rates Supported by a Fully Forecasted Test Year* (Ky. PSC Dec. 14, 2010), Order at 54 – 55.

<sup>136</sup> *Id.* at 55.

<sup>137</sup> See Case No. 2010-00036, *Application of Kentucky American Water Company for an Adjustment of Rates Supported by a Fully Forecasted Test Year*, Kentucky-American Water Company’s Post-Hearing Brief filed on September 3, 2010.

<sup>138</sup> Case No. 2010-00036, *Application of Kentucky American Water Company for an Adjustment of Rates Supported by a Fully Forecasted Test Year* (Ky. PSC Dec. 14, 2010), Order at 57 – 58; VTE May 22, 2025, 12:00:25 – 12:03:23.

<sup>139</sup> Case No. 2010-00036, *Application of Kentucky American Water Company for an Adjustment of Rates Supported by a Fully Forecasted Test Year* (Ky. PSC Dec. 14, 2010), Order at 57 – 58.

compelling argument to jettison the ‘stand-alone’ ratemaking principle, we find that the AG’s proposed income tax consolidation adjustment should be denied.”<sup>140</sup>

Consequently, in the pending case the Attorney General’s witness, Mr. Kollen’s recommendation to require Duke Kentucky’s federal taxes to be calculated on a stand-alone basis, which would exclude the CAMT DTA from rate base, follows Commission precedent.<sup>141</sup> If consolidated tax savings are not allowed to be passed on to benefit Kentucky utility customers, then those same customers should not be harmed and forced to pay a consolidated tax expense. The effects of this recommendation would be a reduction in rate base of \$11.721 million to remove the CAMT DTA that was improperly included by Duke Kentucky, and a reduction in the requested base revenue requirement and base rate increase of \$1.169 million.<sup>142</sup>

**g. Due to Duke Kentucky’s testimony at the evidentiary hearing regarding its calculation of allowance for funds used during construction wherein it takes into account the construction payables, Mr. Kollen no longer recommends that construction payables representing cost-free vendor financing be subtracted from rate base in the pending case.**

The Attorney General’s witness, Mr. Kollen, recommended in his direct testimony that Duke Kentucky should subtract the construction payables representing cost-free vendor financing from rate base.<sup>143</sup> However, at the evidentiary hearing, Duke Kentucky asserted for the first time that the Company calculates allowance for funds used during construction (“AFUDC”) based on payments, and not on additions to capital work in progress (“CWIP”).<sup>144</sup> Due to this new

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<sup>140</sup> *Id.*

<sup>141</sup> VTE May 22, 2025, 12:00:25 – 12:03:23; Kollen Testimony at 25; See Case No. 2009-00549, *In the Matter of: Application of Louisville Gas and Electric Company for an Adjustment of Electric and Gas Rates* (Ky. PSC July 30, 2010), Order at 24-25; Case No. 2009-00548, *In the Matter of: Application of Kentucky Utilities Company for an Adjustment of Electric Rates* (Ky. PSC July 30, 2010), Order at 22-24; Case No. 2010-00036, *Application of Kentucky American Water Company for an Adjustment of Rates Supported by a Fully Forecasted Test Year* (Ky. PSC Dec. 14, 2010), Order at 57 – 58.

<sup>142</sup> Kollen Testimony at 26.

<sup>143</sup> *Id.* at 10.

<sup>144</sup> VTE May 22, 2025, 10:24:00 – 10:28:05.

information that the Company's customers are receiving the construction payables cost-free vendor financing benefit in the AFUDC, Mr. Kollen agrees that it is appropriate to withdrawal this recommendation in the pending case.

### **III. OPERATING INCOME ISSUES**

#### **a. Duke Kentucky's utilization of billed revenues instead of unbilled revenues to calculate the revenue requirement in the pending case is unreasonable.**

The Company proposed an adjustment to reduce base revenues by \$0.331 million to reflect a change from the unbilled revenue methodology used for the per books revenues to the billed revenue methodology for ratemaking purposes.<sup>145</sup> The unbilled revenue methodology estimates the accrued revenue for service provided or delivered during the month even though it is billed on a lagged basis.<sup>146</sup> On the other hand, the unbilled revenue methodology is required for accounting and financial reporting purposes under generally accepted accounting principles ("GAAP") and the FERC Uniform System of Accounts ("FERC USOA").<sup>147</sup> The Company's forecast of revenues in the test year for accounting and financial reporting purposes is based on sales for the service provided during the test year, not service billed.<sup>148</sup>

The billed revenue methodology reflects revenues that are billed during the month, which lags the service provided or delivered during the month.<sup>149</sup> This change to the billed revenue methodology for ratemaking purposes results in the revenues at present rates and the revenues at proposed rates on Schedule M being calculated using kW and kWh billed during the test year instead of the kW and kWh delivered and recorded as sales revenues under the unbilled revenue

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<sup>145</sup> Kollen Testimony at 26.

<sup>146</sup> *Id.*

<sup>147</sup> *Id.*; Duke Kentucky's response to the Attorney General's Second Request, Item 51.

<sup>148</sup> Kollen Testimony at 26.

<sup>149</sup> *Id.* at 26 – 27.

methodology for accounting purposes during the test year.<sup>150</sup> Duke Kentucky asserted in response to the Attorney General’s discovery, that revenue requirements by rate class are, “targets for revenue collection” and that, “[r]evenue collection occurs through billed kW and kWh.”<sup>151</sup>

As the Attorney General’s witness, Mr. Kollen, asserts in his direct testimony, “this claimed justification is a tautology, meaning that an incorrect premise is used to justify the resulting incorrect conclusion.”<sup>152</sup> The revenue requirements are the revenues by rate class and are properly characterized and calculated as the revenues to be recovered from each rate class for service provided and delivered during the test year and beyond.<sup>153</sup> The revenue requirement is properly calculated using the unbilled revenue methodology which accrues revenues based on service provided/delivered to match the accrued expenses based on service provided/delivered in that same time period, whether in the test year or during the rate effective period.<sup>154</sup> Duke Kentucky’s billings lag the accrued revenues, but do not affect the Company’s revenue requirement or the accrued revenues.<sup>155</sup> Duke Kentucky’s collections lag the billings, but do not affect either the Company’s revenue requirement and accrued revenues or the subsequent billings.<sup>156</sup>

Based upon the foregoing, the Attorney General recommends the Commission use unbilled revenues/delivered kW and kWh to calculate the revenue requirement, present revenues, forecast revenues, and base rates in the pending case.<sup>157</sup> Duke Kentucky records actual accrued revenues and forecasts accrued revenues based on delivered kW and kWh, not billed kW and kWh, and not

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<sup>150</sup> *Id.* at 27.

<sup>151</sup> *Id.*; Duke Kentucky’s response to the Attorney General’s Second Request, Item 51.

<sup>152</sup> Kollen Testimony at 27.

<sup>153</sup> *Id.*

<sup>154</sup> *Id.* at 27 – 28.

<sup>155</sup> *Id.* at 28.

<sup>156</sup> *Id.*

<sup>157</sup> *Id.*

the collections of billed kW and kWh.<sup>158</sup> If the Commission were to accept this recommendation then it would increase the base revenues by \$0.331 million, and reduce the Company's requested base revenue requirement and base rate increase by \$0.333 million, after the gross-up for uncollectible expense and Commission assessment fees.<sup>159</sup>

**b. The Commission should deny Duke Kentucky's request to include credit card and other electronic processing fees in the revenue requirement.**

The Company currently requires customers who pay the electric bill via electronic payment (e.g. debit card, credit card, prepaid cards, and electronic check) to pay a \$1.25 fee to a third-party service provider.<sup>160</sup> In the pending application, Duke Kentucky requests to become the first investor-owned utility in Kentucky to waive the payment processing fees assessed to customers who pay their electric bills via electronic payment.<sup>161</sup> and to instead include these fees in the proposed revenue requirement.<sup>162</sup> Duke Kentucky includes \$0.055 million for payment processing fees, but then added a staggering \$0.319 million to increase the expense for the proposed expansion to allow electronic payments to be made without a fee.<sup>163</sup>

Although there is a cost of processing all forms of bill payment, the monetary amount proposed to be included in the revenue requirement to process electronic payments is substantially higher than all other payment processing amounts combined. If Duke Kentucky's proposal is approved by the Commission, then the customers who pay their electric bill with a cash or check, which has low processing fees, essentially will be subsidizing the customers who utilize electronic

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<sup>158</sup> *Id.*

<sup>159</sup> *Id.*

<sup>160</sup> *Id.* at 29; Direct Testimony of Jacob S. Colley ("Colley Testimony") at 18. The Company currently accepts residential customer payments through check, money order, cash, automated bank drafts, and electronic funds transfer without fees.

<sup>161</sup> Duke Kentucky's response to the Attorney General's Second Request, Item 14(a). The Company asserts that it, "is not aware whether any other investor-owned utilities in Kentucky offer a fee-free program."

<sup>162</sup> Colley Testimony at 18.

<sup>163</sup> Kollen Testimony at 29.



payments to pay their bills, to which much larger processing fees are applicable. It is possible, if not probable, that if the Company begins to waive the fee to pay an electric bill by electronic payment then it will entice even more customers to pay with a credit card/debit card in order to increase points and rewards associated with various credit card/debit card loyalty programs. Duke Kentucky admits in rebuttal testimony that if the fees are waived then it is possible that there will be increased usage of electronic payments in the future.<sup>164</sup> Consequently, in the pending case the proposed electronic payment processing fee is proposed to be \$0.319 million, but in the next rate case that amount could significantly increase.<sup>165</sup>

According to a 2025 publication by the Federal Reserve, almost all adults with an income of \$100,000 or more had a credit card, but “the lowest-income adults were the least likely to have a credit card...”<sup>166</sup> In fact, according to the Federal Reserve, 54% of people with family income less than \$25,000 do not have a credit card.<sup>167</sup> Due to low-income customers having more difficulty obtaining credit cards,<sup>168</sup> 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. The proposed electronic processing fees should be disallowed from the Company’s revenue requirement on this basis alone.

Notably, in the Company’s rebuttal testimony, it does not address that the Commission

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<sup>164</sup> Rebuttal Testimony of Jacob S. Colley (“Colley Rebuttal”) at 3 – 4.

<sup>165</sup> Kollen Testimony at 30; See Case No. 2024-00085, *Electronic Application of Jackson Purchase Energy Corporation for a General Adjustment of Rates and other General Relief*. The significant increase in credit card processing fees borne by all customers of rural electric cooperative corporations can be found in a multitude of cases. For example, in Case No. 2024-00085, the rural electric cooperative corporation’s credit card processing fees had quadrupled in a decade. The credit card processing fees began at \$54,037.50 in 2014, then rose to \$193,935.22 in 2023, and was on track to accrue over \$200,000 in fees for 2024.

<sup>166</sup> See Federal Reserve, *Economic Well-Being of U.S. Households in 2024*, issued in May 2025, <https://www.federalreserve.gov/publications/files/2024-report-economic-well-being-us-households-202505.pdf>, page 57.

<sup>167</sup> *Id.*

<sup>168</sup> *Id.* The Federal Reserve publication further states that 22% of people with a family income less than \$25,000 are unbanked, meaning neither they nor their spouse or partner had a checking, savings, or money market account.

denied a similar request of Duke Kentucky's in Case No. 2019-00271,<sup>169</sup> in which the Commission rightly asserted that, "asking all customers to share the cost for payment methods that are at least ten times more expensive than the alternative is unreasonable. Duke Kentucky offers multiple fee free payment methods and should offer those alternatives to customers that take issue with the convenience fees."<sup>170</sup>

Moreover, the Commission should deny Duke Kentucky's proposal to include an additional \$0.319 million to increase the expense to cover electronic payments, because the Company did not propose any adjustments to reduce uncollectible accounts expense, collections expense, etc.<sup>171</sup> The Commission similarly denied an investor-owned utility's request to include credit card fees in base rates in its Final Order in Case No. 2023-00191, because the utility, "did not provide evidence that there would be a decrease in transaction costs, an overall benefit to customers, or increased revenues..."<sup>172</sup>

For these reasons, the Attorney General recommends that Duke Kentucky's request to include the electronic payment processing fees in the revenue requirement be denied. The Company can continue to allow customers to pay electric bills via electronic payment as long as the customer pays 100% of the corresponding fee that is assessed to the Company.<sup>173</sup> If the

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<sup>169</sup> Case No. 2019-00271, *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 4) All Other Required Approvals and Relief* (Ky. PSC April 27, 2020), Order at 19 – 21.

<sup>170</sup> *Id.*

<sup>171</sup> Kollen Testimony at 30.

<sup>172</sup> Case No. 2023-00191, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, A Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure, Approval of Regulatory and Accounting Treatments, and Tariff Revisions* (Ky. PSC May 3, 2024 ), Order at 23 – 24.

<sup>173</sup> See <https://www.kentuckypower.com/account/bills/pay/compare> (Kentucky Power Company assesses a \$1.85 fee for a residential customer to pay a utility bill with a credit card, debit card, or ATM card.); <https://lge-ku.com/residential/payment> (Louisville Gas and Electric and Kentucky Utilities charge an additional fee to a residential customer paying a utility bill with a credit card, PayPal, Amazon Pay, Apple Pay, Google Pay, Paypal Credit, or Venmo.); <https://www.columbiagasky.com/bills-and-payments/pay-my-bill> (Columbia Gas of Kentucky assesses a \$2.00 fee to a residential customer paying a utility bill with a credit card, debit card, PayPal, Venmo, or Amazon Pay).

Commission were to accept this recommended adjustment, then it would reduce the Company's processing fee expense by \$0.319 million and reduce the requested base revenue requirement and base rate increase by \$0.321 million.<sup>174</sup>

**c. Duke Kentucky's request to accelerate the depreciation and decommissioning expense for East Bend 2 from 2041 to 2038 should be denied.**

In the pending case, Duke Kentucky requests that the depreciation and decommissioning expense of East Bend 2 be increased to reflect an earlier probable retirement date of December 31, 2038, compared to the probable retirement date of 2041 as is currently reflected in the present depreciation rates.<sup>175</sup> In Duke Kentucky's testimonies and discovery responses, the Company cites to various reasons behind this request, including uncertain and unknown future economic and market conditions; environmental concerns; investor environmental, societal, and governmental ("ESG") concerns; and the industry trend to accelerate the retirement of coal-fired power plants.<sup>176</sup> However, one reason potentially behind the request that Duke Kentucky's witnesses do not discuss is that its ultimate parent company, Duke Energy, has announced plans to shut down all coal plants by 2035.<sup>177</sup>

Even though this request to accelerate the probable retirement date for depreciation and decommissioning expense will force customers to pay over \$5.272 million extra in electric rates, Duke Kentucky currently has no plans to actually retire East Bend 2 in 2038, or any other date for

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<sup>174</sup> Kollen Testimony at 31.

<sup>175</sup> *Id.* at 31 – 32.

<sup>176</sup> Spiller Testimony at 21 – 26; Direct Testimony of Matthew Kalembe ("Kalembe Testimony") at 4 – 24; Direct Testimony of William C. Luke ("Luke Testimony") at 11 – 24; Direct Testimony of John Swez ("Swez Testimony") at 22 – 29; Direct Testimony of Joshua C. Nowak ("Nowak Testimony") at 44.

<sup>177</sup> In Duke Kentucky's response to the Attorney General's Second Request, Item 1, the Company states that Duke Energy's "goal" is to fully exit coal generation by the end of 2035, pending regulatory approval. However, on Duke Energy's website it states, "[t]he company plans to fully exit coal by 2035." See <https://www.duke-energy.com/energy-education/how-energy-works/energy-from-coal>.

that matter.<sup>178</sup> The pending case record makes it clear that the reason Duke Kentucky has not made a decision to retire East Bend 2 is because the generating facility is extremely valuable for both the Company and its customers.<sup>179</sup> East Bend 2 is Duke Kentucky’s principal source of generation to serve its customers,<sup>180</sup> and has provided, and continues to provide, considerable value to the customers.<sup>181</sup> The Company admits that East Bend 2, “has proven to be a reliable generating asset for Duke Energy Kentucky’s native load customers.”<sup>182</sup> The Company further acknowledges that the reliability and resiliency of East Bend is valuable to customers because it provides a dispatchable source of power that can quickly adjust to meeting fluctuating electricity demand, particularly during peak electric usage times ensuring a stable electricity supply to help maintain grid stability.<sup>183</sup> Duke Kentucky further asserts that one useful measure of performance of a coal-fired generating station is the Equivalent Forced Outage Rate (“EFOR”).<sup>184</sup> In fact, as an example of East Bend’s reliability and resiliency, East Bend 2 has outperformed the North American Electric Reliability Corporation’s (“NERC”) average EFOR, in the past eight out of nine years.<sup>185</sup>

Duke Kentucky bases the proposed December 2038 probable retirement date for depreciation purposes on the Company’s 2024 Integrated Resource Plan (“IRP”) preferred plan.<sup>186</sup> However, the preferred plan was developed under environmental regulations, such as the Clean Air Act, Section 111 Update, that are subject to proposed changes.<sup>187</sup> Since the current presidential

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<sup>178</sup> Duke Kentucky’s response to the Attorney General’s First Request, Item 31(a)(ii); Duke Kentucky’s response to the Attorney General’s First Request, Item 64(b); Kalembe Testimony at 14; VTE May 21, 2025, 11:03:00 – 11:03:12.

<sup>179</sup> VTE May 21, 2025, 11:02:00 – 11:03:07.

<sup>180</sup> Luke Testimony at 4 – 7.

<sup>181</sup> VTE May 21, 2025, 11:02:45 – 11:02:52.

<sup>182</sup> Luke Testimony at 6.

<sup>183</sup> Duke Kentucky’s response to the Attorney General’s First Request, Item 35(e).

<sup>184</sup> Luke Testimony at 6 – 7. Duke Kentucky’s response to the Attorney General’s First Request, Item 31(a)(ii).

<sup>185</sup> Luke Testimony at 6 – 7; VTE May 21, 2025, 11:02:00 – 11:02:41; Duke Kentucky’s response to the Attorney General’s First Request, Item 32(b).

<sup>186</sup> Kalembe Testimony at 14; Kollen Testimony at 32.

<sup>187</sup> Kollen Testimony at 33.

administration took office, it has been clear that their goal is to unleash American energy in order to provide dependable and affordable electricity to American families. The current presidential administration has issued countless executive orders affecting the energy sector, including coal-fired fossil fuel generating units.<sup>188</sup>

On March 12, 2025, in order to achieve the goal of providing dependable and affordable electricity to Americans, the United States Environmental Protection Agency (“EPA”) announced that it would undertake a multitude of actions to reconsider the regulation of powerplants under the Clean Power Plan 2.0, the Mercury and Air Toxic Standards (“MATS”) that target coal-fired powerplants, the Good Neighbor Plan, etc.<sup>189</sup> Significantly, on June 11, 2025, the EPA proposed to repeal all greenhouse gas emissions standards for the power sector under Section 111 of the Clean Air Act, which is estimated to save the power sector approximately \$19 billion in regulatory costs over two decades.<sup>190</sup> The EPA further proposed to repeal the amendment to the 2024 MATS that would directly result in coal-fired power plants having to shut down, which is estimated to save \$1.2 billion in regulatory costs over a decade.<sup>191</sup> Thus, the environmental regulations that Duke Kentucky utilized to develop their IRP preferred plan, which provided the December 2038

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<sup>188</sup> See January 20, 2025, Executive Order Unleashing American Energy, <https://www.whitehouse.gov/presidential-actions/2025/01/unleashing-american-energy/>; February 14, 2025 Executive Order Establishing the National Energy Dominance Council, <https://www.whitehouse.gov/presidential-actions/2025/02/establishing-the-national-energy-dominance-council/>; April 8, 2025 Executive Order Reinvigorating America’s Beautiful Clean Coal Industry and Amending Executive Order 14241, <https://www.whitehouse.gov/presidential-actions/2025/04/reinvigorating-americas-beautiful-clean-coal-industry-and-amending-executive-order-14241/>; April 8, 2025 Executive Order Protecting American Energy from State Overreach, <https://www.whitehouse.gov/presidential-actions/2025/04/protecting-american-energy-from-state-overreach/>; April 8, 2025 Executive Order Strengthening the Reliability and Security of the United States Electric Grid <https://www.whitehouse.gov/presidential-actions/2025/04/strengthening-the-reliability-and-security-of-the-united-states-electric-grid/>; April 9, 2025 Executive Order Zero-Based Regulatory Budgeting to Unleash American Energy, <https://www.whitehouse.gov/presidential-actions/2025/04/zero-based-regulatory-budgeting-to-unleash-american-energy/>.

<sup>189</sup> See <https://www.epa.gov/newsreleases/epa-launches-biggest-deregulatory-action-us-history>.

<sup>190</sup> See <https://www.epa.gov/newsreleases/epa-proposes-repeal-biden-harris-epa-regulations-power-plants-which-if-finalized-would>; <https://www.epa.gov/stationary-sources-air-pollution/greenhouse-gas-standards-and-guidelines-fossil-fuel-fired-power>.

<sup>191</sup> See <https://www.epa.gov/newsreleases/epa-proposes-repeal-biden-harris-epa-regulations-power-plants-which-if-finalized-would>; <https://www.epa.gov/stationary-sources-air-pollution/mercury-and-air-toxics-standards>.

probable retirement date for depreciation purposes for East Bend 2, are already being modified and/or completely rolled back, or may be overturned in the courts.<sup>192</sup> The Company also has not filed an application for a Certificate of Public Convenience and Necessity (“CPCN”) with the Commission to request the necessary approval for replacement capacity.<sup>193</sup> With that said, if at any time in the future a specific environmental regulation would require East Bend 2 to shutter earlier than 2041, then the Company can analyze the same and advise the Commission as to how it will affect its generating facilities at that time. The Commission should rule in the pending case, as it appropriately found in Duke Kentucky’s last rate case when the Company requested to accelerate East Bend 2’s probable retirement date for depreciation expense purposes from 2041 to 2035, “[l]eaving the current depreciable rate for East Bend balances the risk of retirement before the unit is fully depreciated while encouraging Duke Kentucky to operate East Bend as long as it is economically viable.”<sup>194</sup>

Additionally, the General Assembly of the Commonwealth of Kentucky enacted KRS 278.264,<sup>195</sup> which requires a utility to file an application and receive Commission approval before retiring a fossil fuel-fired generating unit.<sup>196</sup> KRS 278.264(1) states that, “a utility shall apply to the commission for an order approving the retirement...”<sup>197</sup> KRS 278.264(2), states that there is a rebuttable presumption *against* the retirement of a fossil fuel-fired electric generating unit, and the Commission shall not approve the retirement, or authorize a surcharge for the decommissioning

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<sup>192</sup> *Id.*; Kollen Testimony at 34; See *West Virginia v. Environmental Protection Agency*, 597 U.S. 697, 735, 142 S. Ct. 2587, 2616, 213 L. Ed. 2d 896 (2022).

<sup>193</sup> Duke Kentucky’s response to the Attorney General’s Second Request, Item 19; VTE May 21, 2025, 11:03:15 – 11:03:32.

<sup>194</sup> 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* (Ky. PSC Oct. 12, 2023), Order at 14.

<sup>195</sup> <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=54591>.

<sup>196</sup> *Id.*

<sup>197</sup> *Id.*

of the unit or taken any other action which authorizes or allows for the recovery of costs for the retirement of an electric generating unit, including any stranded asset recovery, unless the utility can rebut the presumption against retirement with sufficient evidence.<sup>198</sup> Duke Kentucky admits that it has not filed an application pursuant to KRS 278.264(1) to request authorization from the Commission to retire East Bend 2.<sup>199</sup> This is a threshold that must be met to attempt to recover decommissioning costs, which have not been completed by the Company. It cannot be prematurely met under the specious argument that East Bend 2 will be retired at some date in the future. That isn't the standard set forth in the statute. Thus, since Duke Kentucky has not filed an application requesting to retire East Bend 2 pursuant to KRS 278.264(1), the Company cannot get to the next step under KRS 278.264(2), as it has attempted to do in the pending case. Duke Kentucky cannot prematurely attempt to rebut the presumption against the retirement of East Bend 2 in order to receive decommissioning expenses, prior to seeking authorization to retire the unit.

Further, the Company persistently argues throughout the pending case that it is seeking to accelerate the depreciation and decommissioning cost of East Bend 2 in order to prevent "intergenerational subsidies" or inequities so that future customers are not paying for stranded costs of the asset.<sup>200</sup> But, if East Bend 2 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. Interestingly, Duke Kentucky does not discuss or appear to have any concern with current customers potentially overpaying for electric rates and subsidizing the rates of future customers.

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<sup>198</sup> *Id.* (emphasis added).

<sup>199</sup> VTE May 21, 2025, 11:03:15 – 11:03:21; Duke Kentucky's response to the Attorney General's First Request, Item 64(b).

<sup>200</sup> Direct Testimony of Sarah E. Lawler ("Lawler Testimony") at 5; Direct Testimony of John J. Spanos ("Spanos Testimony") at 14 – 18; Swez Testimony at 3.

Duke Kentucky's goal of accelerating and increasing the depreciation and decommissioning expense of East Bend 2 based on a probable retirement date of 2038 will increase customer rates by over \$5 million, even though the proposal is not based on certainty, but instead on speculation. Based on the foregoing, the Commission must deny the Company's request to accelerate the probable retirement date for East Bend from 2041 to 2038 for depreciation rates and decommissioning expense purposes. If the Commission accepts this recommendation, then it will reduce the Company's depreciation expense by \$5.373 million, a reduction of \$1.347 million in accumulated depreciation, net of the ADIT effects, and a \$5.272 million reduction in the requested base revenue requirement and base rate increase.<sup>201</sup>

**d. Duke Kentucky's decommissioning expense associated with its generating units should not be recovered until after each unit is retired.**

Duke Kentucky requests recovering decommissioning expense for its electric generating units based on an estimated decommissioning cost escalated for inflation to the probable retirement dates over the remaining lives of the units.<sup>202</sup> The Company estimated the decommissioning costs for the generating facilities in 2022 dollars, except for the Aero solar facility, which did not exist at the time these estimates were developed by the 1898 & Co.<sup>203</sup> The estimates were sponsored by Duke Kentucky's witness, Jeffrey Kopp, in Case No. 2022-00372, but the decommissioning study was not updated for the pending case.<sup>204</sup>

In the pending case, Duke Kentucky's witness, John Spanos, escalated the decommissioning cost estimates from the estimates in 2022 dollars from the prior case to future dollars based on the probable retirement date for each generating unit in the pending case.<sup>205</sup> Mr.

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<sup>201</sup> Kollen Testimony at 37.

<sup>202</sup> *Id.*

<sup>203</sup> *Id.* at 38.

<sup>204</sup> *Id.*

<sup>205</sup> *Id.*



Spanos then calculated the combined depreciation/decommissioning rates in multiple steps.<sup>206</sup> Mr. Spanos added the decommissioning cost estimates in future dollars to the net plant amounts by plant account at December 31, 2023.<sup>207</sup> Next, Mr. Spanos divided that result by the average remaining life after adjustments for interim retirements to calculate the combined depreciation/decommissioning expense.<sup>208</sup> Finally, Mr. Spanos divided the calculated expense by the gross plant in service as of December 31, 2023.<sup>209</sup>

Duke Kentucky contends in rebuttal testimony that when the following sections of the FERC USOA are “read together” then it “should be clear” that the decommissioning costs “must be recovered through depreciation expense.”<sup>210</sup>

FERC USOA 19. Net salvage value means the salvage value of property retired less the cost of removal.

FERC USOA 10. Cost of removal means the cost of demolishing, dismantling, tearing down or otherwise removing electric plant, including the cost of transportation and handling incidental thereto. It does not include the cost of removal activities associated with asset retirement obligations that are capitalized as part of the tangible long-lived assets that give rise to the obligation.

FERC USOA 9. Cost means the amount of money actually paid for property or services. When the consideration given is other than cash in a purchase and sale transaction, as distinguished from a transaction involving the issuance of common stock in a merger or a pooling of interest, the value of such consideration shall be determined on a cash basis.<sup>211</sup>

This assertion is simply inaccurate. None of the above cited FERC USOA sections specifically state that depreciation rates must include decommissioning costs. It does not state in the FERC USOA, that decommissioning expense should be included in the depreciation rates,

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<sup>206</sup> *Id.*

<sup>207</sup> *Id.*

<sup>208</sup> *Id.*

<sup>209</sup> *Id.*

<sup>210</sup> Rebuttal Testimony of John J. Spanos (“Spanos Rebuttal”) at 8 – 9.

<sup>211</sup> *Id.*; FERC USOA, <https://www.ecfr.gov/current/title-18/chapter-I/subchapter-C/part-101>.

instead of being recovered on a standalone basis. The FERC USOA simply requires that the decommissioning expense be recovered and does not identify the specific means or timing of such recovery. Regardless, the FERC USOA dictates accounting for FERC reporting purposes; it does not dictate state ratemaking. FERC USOA also does not mandate how depreciation rates and decommissioning expense are recovered at the retail level, and it certainly does not direct this Commission to set rates that provide excessive recovery of decommissioning expense.

The Commission should disallow Duke Kentucky's request to include decommissioning expense in the electric rates. In Duke Kentucky's last rate case, Case No. 2022-00372, the Commission denied recovery of the decommissioning costs for the Company's fossil fuel generating units pursuant to KRS 278.264.<sup>212</sup> As previously discussed, KRS 278.264(1) requires a utility to file an application and obtain Commission approval prior to retiring an electric generating unit.<sup>213</sup> KRS 278.264(2) further states that there is a rebuttable presumption against the retirement of a fossil fuel-fired electric generating unit, and that the Commission shall not approve the retirement, or authorize a surcharge for decommissioning, etc. unless the presumption created by this law is rebutted by sufficient evidence.<sup>214</sup> As aforementioned, Duke Kentucky has not filed an application pursuant to KRS 278.264(1) to request to retire any of its fossil fuel generating units. In fact, Duke Kentucky admits throughout the case that, "[t]he Company is not seeking permission to retire its generating unit, just to correct the depreciable life of the asset and recover the appropriate level of depreciation costs."<sup>215</sup> Duke Kentucky cannot attempt to overcome the

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<sup>212</sup> 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* (Ky. PSC Oct. 12, 2023), Order at 14 – 15; 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* (Ky. PSC July 1, 2024), Order at 9 – 10.

<sup>213</sup> <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=54591>.

<sup>214</sup> *Id.*

<sup>215</sup> Lawler Rebuttal at 8.

rebuttal presumption as laid out in KRS 278.264(2) to obtain decommissioning expense in the pending rate case – but can do so in a future application filing requesting permission to actually retire the electric generating unit as required by KRS 278.264(1).

Even though the Commission only denied the decommissioning costs for the fossil fuel generating units in Case No. 2022-00372, the Attorney General recommends denying decommissioning costs for all of Duke Kentucky’s generating units. First, the decommissioning cost is inherently unknown and unmeasurable.<sup>216</sup> The costs are estimates of costs many years into the future.<sup>217</sup> Second, recovery of decommissioning costs prior to cash disbursements associated with the actual retirement of a generating unit results in a temporary difference for book and tax purposes because the decommissioning expense for book purposes is not deductible for income tax purposes.<sup>218</sup> This temporary difference results in a decommissioning deferred tax asset (“DTA”), which is included by the Company in rate base.<sup>219</sup> This is a cost that is unnecessary and can be completely avoided simply by delaying recovery of decommissioning costs until they are actually incurred and deductible for income tax purposes.<sup>220</sup> Third, delayed recovery of decommissioning expense promotes intergenerational equity among customers now and in the future.<sup>221</sup> Generating units are retired when they are no longer economic and are ideally replaced with lower cost generation, that generally is more efficient and has lower fuel and non-fuel operating expenses.<sup>222</sup> The cost of decommissioning is thus a transition cost to the newer, more efficient, and lower cost replacement generation.<sup>223</sup>

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<sup>216</sup> Kollen Testimony at 42.

<sup>217</sup> *Id.*

<sup>218</sup> *Id.*

<sup>219</sup> *Id.*

<sup>220</sup> *Id.*

<sup>221</sup> *Id.*

<sup>222</sup> *Id.*

<sup>223</sup> *Id.*

Based on the foregoing, the Attorney General recommends the Commission deny recovery of decommissioning expense associated with all of Duke Kentucky's electric generating units.<sup>224</sup> The effects of this recommendations would be a reduction to Duke Kentucky's depreciation expense of \$5.469 million, a reduction of the accumulated depreciation and increase in rate base of \$1.371 million, net of the ADIT effects, and a \$5.365 million reduction in the requested base revenue requirement and rate increase.<sup>225</sup>

- e. In the alternative, if the Commission allows decommissioning expense to be recovered, then it should be included and recovered as a separate standalone expense instead of embedded in depreciation rates and expense.**

As discussed in the prior section of this brief, the Company incorporated an estimate of the future decommissioning costs for its generating units into the calculation of the proposed depreciation rates.<sup>226</sup> Due to the reliance on a decommissioning study that made no assumption as to the probable retirement dates for generating facilities, Duke Kentucky's witness, Mr. Spanos, escalated the decommissioning costs from 2022 dollars to future probable retirement date dollars using an annual 2.5% escalation rate.<sup>227</sup> Mr. Spanos then added the decommissioning cost estimate in future dollars to the generating unit's remaining net book values as of December 31, 2023, the date of his depreciation study in the pending case.<sup>228</sup> Mr. Spanos divided this sum by the average remaining service lives for each of the generating facilities in the calculation of the proposed depreciation rates for each plant account.<sup>229</sup> Duke Kentucky utilized the proposed depreciation rates developed by Mr. Spanos to calculate the depreciation expense for each month during the

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<sup>224</sup> *Id.*

<sup>225</sup> *Id.*

<sup>226</sup> *Id.* at 43.

<sup>227</sup> *Id.*

<sup>228</sup> *Id.* at 44.

<sup>229</sup> *Id.*

test year in the pending case.<sup>230</sup> The Company applied the proposed depreciation rates to the gross plant, including capital additions, less retirements, for each generating facility for each month during the test year.<sup>231</sup>

The aforementioned methodology that Duke Kentucky utilized results in the overstatement of decommissioning expense in the test year when compared to calculating and reflecting that expense as a separate and stand-alone expense.<sup>232</sup> The error occurs when Duke Kentucky includes the decommissioning expense as a component of the depreciation rates calculated using the gross plant at December 31, 2023, the date of the depreciation study, but then the depreciation rates are applied to plant balances in the test year ending June 30, 2026.<sup>233</sup> To the extent that the test year's gross plant is greater than the gross plant at December 31, 2023, the decommissioning component in the depreciation rate expense applied to the gross plant in the test year results in a proportionately greater decommissioning expense than if the decommissioning costs were calculated and reflected as a separate and stand-alone decommissioning expense.<sup>234</sup> The Company's plant balances in the test year are significantly greater than the gross plant at December 31, 2023.<sup>235</sup>

It is crucial to highlight that the Attorney General recommends the Commission disallow decommissioning expense for all of the Company's generating units. But, if the Commission does not accept this recommendation, then in the alternative, to rectify the overstatement of decommissioning expense, the Attorney General recommends the Commission remove the decommissioning expense from the East Bend 2, Woodsdale Combustion Turbines ("Woodsdale"), Crittenden Solar Project ("Crittenden Solar"), and Walton Solar Project ("Walton

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<sup>230</sup> *Id.*

<sup>231</sup> *Id.*

<sup>232</sup> *Id.*

<sup>233</sup> *Id.* at 44 – 45.

<sup>234</sup> *Id.* at 45.

<sup>235</sup> *Id.* at 44 – 45.

Solar”) depreciation rates and the resulting calculations of depreciation expense for the test year, and instead, simply include the decommissioning expense as a separate and stand-alone expense in the base revenue requirement.<sup>236</sup> This will ensure that the test year’s decommissioning expense is not incorrectly increased and overstated by the percentage increases in the generating facilities’ gross plant during the test year as compared to the gross plant balances at the date of the depreciation study.<sup>237</sup> If the Commission accepts this recommendation, then it would reduce Duke Kentucky’s requested depreciation/decommissioning expense by \$0.494 million, a \$0.124 million reduction in accumulated depreciation/decommissioning, net of the ADIT effects, and a \$0.462 million reduction in the base revenue requirement and requested base revenue increase.<sup>238</sup>

**f. In the alternative, if the Commission allows decommissioning expense to be recovered, then it should be reduced to limit the escalation to the Company’s test year.**

Pursuant to 807 KAR 5:001, Section 16(6)(b), forecasted adjustments in a rate case shall be limited to the twelve months immediately following the suspension period.<sup>239</sup> In the pending case, pursuant to KRS 278.190(2), the Commission suspended the effective date of Duke Kentucky’s proposed rates to July 2, 2025. Yet, as previously discussed, Duke Kentucky escalated decommissioning expense well beyond the fully forecasted test year ending on June 30, 2026.<sup>240</sup> For example, Duke Kentucky includes forecasted decommissioning costs for East Bend 2 that are extrapolated out to 2038, twelve years after the test year in the pending case.<sup>241</sup> In the case of Woodsdale, the decommissioning expense is based on a forecasted decommissioning cost

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<sup>236</sup> *Id.* at 45.

<sup>237</sup> *Id.*

<sup>238</sup> *Id.* at 45 – 46.

<sup>239</sup> 807 KAR 5:001, Section 16(6)(b).

<sup>240</sup> Kollen Testimony at 47.

<sup>241</sup> *Id.*

extrapolated out to 2040, fourteen years after the test year in the pending case.<sup>242</sup> Likewise, the forecasted decommissioning expense for the solar facilities are extrapolated out to 2047 and 2053, twenty-one and twenty-seven years beyond the end of the test year, respectively.<sup>243</sup> Thus, the Company's forecasted adjustments to the decommissioning expense, which occur over a decade past the test year, are not in compliance with 807 KAR 5:001, Section 16(6)(b).

In contrast to how Duke Kentucky calculated its decommissioning cost, the gross plant included in the Company's rate base used to calculate depreciation expense is limited to the capital expenditures through the end of the test year, and does not reflect a forecast of future costs after the test year.<sup>244</sup> Moreover, the forecast of gross plant in the test year is based on the Company's budget process and reasonably known and certain, but the retirement dates being used for the Company's generating units to escalate the decommissioning costs are not known and measurable because not only are the decommissioning costs in future dollars not known and certain, but these costs are tied to probable retirement dates that are not known and certain because there are no official retirement dates for the generating units.<sup>245</sup>

Duke Kentucky asserts in rebuttal testimony that the decommissioning costs, "need to be escalated so that the correct amounts are allocated over the lives of the plants,"<sup>246</sup> and that, "Mr. Kollen's proposal to remove escalation to the date of retirement from the decommissioning costs would result in insufficient recovery of the Company's actual costs."<sup>247</sup> The assertion that the Company will receive insufficient recovery of its decommissioning costs is incorrect as the Company will have future opportunities to update its decommissioning cost estimates to reflect

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<sup>242</sup> *Id.*

<sup>243</sup> *Id.* at 48.

<sup>244</sup> *Id.*

<sup>245</sup> *Id.*

<sup>246</sup> Spanos Rebuttal at 6 – 7.

<sup>247</sup> Kollen Testimony at 48.

changes in assumptions, and subsequently, to true-up the costs recovered to its actual costs incurred. Thus, Duke Kentucky will receive sufficient recovery of their actual decommissioning costs – not excessive decommissioning costs.

The Company's decommissioning costs are not known and measurable because they have not been incurred yet, the decommissioning expense is based on unknown and uncertain costs extrapolated out decades past the test year, and it creates a mismatch between revenues and costs used to determine the test year revenue requirement that are forecasted and limited to the test year.<sup>248</sup> As such, if the Commission does not accept the Attorney General's recommendation to disallow all decommissioning costs associated with Duke Kentucky's generating units, then the alternative recommendation is for the Commission to limit the escalation of the decommissioning cost and related expense to the test year and reject the Company's request to escalate the cost through the speculative, probable retirement dates.<sup>249</sup> The effect of this recommendation would be a reduction of \$0.535 million in decommissioning expense, a \$0.134 million reduction in accumulated decommissioning, including the effects of ADIT, and a \$0.527 million reduction in Duke Kentucky's requested base revenue requirement and the requested base rate increase.<sup>250</sup>

**g. In the alternative, if the Commission allows decommissioning expense to be recovered, then it should be reduced to remove estimated end of life materials and supplies inventories.**

Duke Kentucky's decommissioning study includes \$8.176 million for East Bend 2 and \$4.475 million for Woodsdale in estimated end of life materials and supplies inventories, net of salvage.<sup>251</sup> These referenced amounts are in 2022 dollars.<sup>252</sup> The end of life materials and supplies

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<sup>248</sup> *Id.*

<sup>249</sup> *Id.* at 37.

<sup>250</sup> *Id.*

<sup>251</sup> Case No. 2022-00372, Direct Testimony of Jeffrey Kopp ("Kopp Testimony") at 17, Attachment JTK-1; Kollen Testimony at 49.

<sup>252</sup> Kollen Testimony at 49.



inventories comprise 21% of the East Bend 2 decommissioning cost estimate and 40% of the Woodsdale decommissioning cost estimate.<sup>253</sup> Duke Kentucky includes these amounts even though it is impossible to know either the inventory items or the dollar amount of those inventory items that cannot be salvaged at the end of life for each of the Company's generating facilities.<sup>254</sup> In other words, almost \$13 million is included in Duke Kentucky's decommissioning expense based on sheer speculation, which are neither known or measurable at this time. Relying on such speculation would not lead to fair, just, and reasonable rates.

At the end of life for each of the Company's generating facilities, any remaining inventory items that cannot be salvaged will be included in the remaining undepreciated net book value and recovered from the customers.<sup>255</sup> Only at that point will the inventory, supply items, and dollar amounts be known and measurable. In fact, end of life remaining inventory amounts that cannot be salvaged are included as recoverable retirement costs in Kentucky Power Company's Decommissioning Rider (D.R.), as authorized by the Commission in Case No. 2012-00578,<sup>256</sup> as well as in the Kentucky Utility ("KU") and Louisville Gas & Electric ("LG&E") Retired Asset Recovery Riders as authorized by the Commission in Case Nos. 2020-00349<sup>257</sup> and 2020-00350, respectively.<sup>258</sup>

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<sup>253</sup> *Id.* at 49.

<sup>254</sup> *Id.*

<sup>255</sup> *Id.* at 49 – 50.

<sup>256</sup> Case No. 2012-00578, *Application of Kentucky Power Company for (1) A Certificate of Public Convenience and necessity Authorizing the Transfer to the Company of an Undivided Fifty Percent Interest in the Mitchell Generating Station and Associated Assets; (2) Approval of the Assumption by Kentucky Power Company of Certain Liabilities in Connection with the Transfer of the Mitchell Generating Station; (3) Declaratory Rulings; (4) Deferral of Costs Incurred in Connection with the Company's Efforts to Meet Federal Clean Air Act and Related Requirements; And (5) All Other Required Approvals and Relief* (Ky. PSC Oct. 7, 2013); Kollen Testimony at 50 – 51.

<sup>257</sup> Case No. 2020-00349, *Electronic Application of Kentucky Utilities Company for an Adjustment of its Electric Rates, A Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit* (Ky. PSC June 30, 2021); Kollen Testimony at 50 – 51.

<sup>258</sup> Case No. 2020-00350, *Electronic Application of Louisville Gas and Electric Company for Adjustment of its Electric and Gas Rates, A Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure,*

Duke Kentucky argues in rebuttal testimony that these end-of-life materials and supplies costs should be recoverable.<sup>259</sup> The Attorney General agrees with this premise but disagrees with the Company as to the proper time to recover these costs. The Company's argument does nothing to negate the fact that end-of-life materials and supplies' costs should not be based on speculation, but instead should be recovered when they are actually known and measurable. Stated differently, Duke Kentucky's current customers should not be required to pay for unknown and unmeasurable end of life materials and supplies costs in current electric rates. Finally, to the extent that end-of-life materials and supplies costs do arise when the generating facilities actually retire, then those costs should be trued-up and recovered in the future either through a retired plant costs rider, securitized through a securitization financing rider, etc.<sup>260</sup>

As such, if the Commission does not accept the Attorney General's recommendation to disallow all decommissioning costs associated with Duke Kentucky's generating units, then the alternative recommendation is for the Commission to remove the estimated end of life materials and supplies from the decommissioning cost estimate and instead allow any future recovery of these costs to occur when they are known and measurable.<sup>261</sup> The effect of this recommendation is a \$1.211 million reduction in the requested decommissioning amortization expense, a \$0.304 million reduction in accumulated decommissioning, including the effects of ADIT, and a \$1.194 million reduction in Duke Kentucky's requested revenue requirement and rate increase.<sup>262</sup>

**h. Duke Kentucky's projection of PJM NITS Transmission Fees should be reduced based upon actual expense.**

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*Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit* (Ky. PSC June 30, 2021); Kollen Testimony at 50 – 51.

<sup>259</sup> Spanos Rebuttal at 13.

<sup>260</sup> Kollen Testimony at 51.

<sup>261</sup> *Id.*

<sup>262</sup> *Id.*

Duke Kentucky projected a large increase in the level of account 565 expense in the projected test year as compared to the base year.<sup>263</sup> The total expense in said account was projected to be \$29.352 million in the test period compared to only \$24.452 million in the base period, or an increase of over 20%.<sup>264</sup> The majority of the expenses in this account relate to PJM Interconnection LLC (“PJM”) Network Integrated Transmission Service (“NITS”) fees. Duke Kentucky projected the PJM NITS fees to be \$28.795 million in the test period and projected another \$557,000 in expense for the accretion of Midcontinent Independent System Operator (“MISO”) Transmission Expansion Plan (“MTEP”) obligations.<sup>265</sup> Yet, the MTEP expenses have been flat over the last several years and are expected to remain flat through the projected test period, so the only projected increase in account 565 is related to the PJM NITS fees.<sup>266</sup>

Duke Kentucky projected the PJM NITS fees for the test period by comparing the actual expense for the first six months of 2024 with the actual expense for the first six months of 2023 to determine an escalation rate of 11.7% to apply to the entirety of the 2023 expense in order to project all future years.<sup>267</sup> The 2023 actual expense amount was \$21.808 million, and once escalated by 11.7% the projected level of PJM NITS fees for 2024 was \$24.359 million.<sup>268</sup> This amount was then escalated by 11.7% to project the PJM NITS fees for 2025 of \$27.209 million, and then escalated again by 11.7% to project the PJM NITS fees for 2026 of \$30.392 million.<sup>269</sup> Based on these calculations, Duke Kentucky projects PJM NITS fees for the test period ending June 30, 2026, to be \$28.795 million, derived by combining half of the 2025 amount with half of

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<sup>263</sup> Futral Testimony at 21.

<sup>264</sup> *Id.*

<sup>265</sup> *Id.* at 21 – 22.

<sup>266</sup> *Id.* at 22.

<sup>267</sup> *Id.*

<sup>268</sup> *Id.*

<sup>269</sup> *Id.*

the 2026 amount along with a small reconciling amount of \$6,000 identified by the Company in response to discovery.<sup>270</sup>

There are multiple flaws with the Company's calculations concerning the projected PJM NITS fees, which make the fees higher than necessary. First, Duke Kentucky's escalation rate of 11.7% was based on the use of only six months of data.<sup>271</sup> The Company should have used data for at least an entire year to derive this escalation percentage to alleviate concerns of fluctuating expense levels applicable to only portions of a year.<sup>272</sup> These type of concerns are why most rate base components are based on the monthly average levels of amounts over a full thirteen-month period, not just a six-month period.<sup>273</sup> Second, when utilizing the actual PJM NITS fees for 2023 and 2024, \$21.808 million compared to \$23.576 million, respectively, it represents an increase of only 8.1%.<sup>274</sup> An 8.1% increase is considerably lower than Duke Kentucky's 11.7% per year escalations used in its projections of PJM NITS fees.<sup>275</sup>

Thus, the Attorney General recommends that the Commission base the projected PJM NITS fees at a starting point of \$23.576 million for 2024, which was the actual fees that the Company paid, and then escalate that amount by 8.1% (the escalation percentage based upon 2023 and 2024 actual PJM NITS fee expense) each year to determine the 2025 and 2026 amounts for the test period.<sup>276</sup> This would result in PJM NITS fees of \$25.485 million for 2025, and \$27.549 million for 2026.<sup>277</sup> Half of the 2025 amount combined with half of the 2026 amount yields a

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<sup>270</sup> *Id.*; Duke Kentucky's response to the Attorney General's First Request, Item 95.

<sup>271</sup> Futral Testimony at 23.

<sup>272</sup> *Id.*

<sup>273</sup> *Id.*

<sup>274</sup> *Id.* at 24.

<sup>275</sup> *Id.*

<sup>276</sup> *Id.* at 25.

<sup>277</sup> *Id.*

recommended projected test period amount of PJM NITS fees of \$26.517 million, which is \$2.278 million less than the \$28.795 million projected by the Company.

It is important to note that Duke Kentucky admitted in both rebuttal testimony and at the evidentiary hearing that the Attorney General's recommended approach to calculating the Company's PJM NITS fees is reasonable.<sup>278</sup> Duke Kentucky further asserted that the Company did not have the full 2024 actual data when it initially proposed the PJM NITS fees, but admitted that it is now available.<sup>279</sup> If the Commission were to accept this recommendation, it would reduce Duke Kentucky's PJM NITS fees in account 565 by \$2.278 million and reduce the Company's requested base revenue requirement and base rate increase by \$2.292 million, after the gross-up for the effects of uncollectible expense and Commission assessment fees.<sup>280</sup>

**i. Duke Kentucky's uncollectible expense should be reduced to a more reasonable level based upon 2024 actual electric division data.**

Duke Kentucky proposes to include \$4.152 million in uncollectible expense in the base revenue requirement in the pending case.<sup>281</sup> The Company calculated this amount by applying the total projected revenue subject to the uncollectible expense of \$450.814 million<sup>282</sup> by a historical uncollectible expense factor of 0.921%, which was computed based on 2023 total company (electric and gas divisions combined) uncollectible net charge-off experience.<sup>283</sup> The \$4.152 million is nearly double the amount of uncollectible expense in the base period of \$2.246 million and the \$2.367 million in the forecast test period prior to pro forma adjustments.<sup>284</sup>

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<sup>278</sup> Rebuttal Testimony of Claire Hudson ("Hudson Rebuttal") at 5; VTE May 22, 2025, 9:24:30 – 9:27:07.

<sup>279</sup> VTE May 22, 2025, 9:26:30 – 9:26:48.

<sup>280</sup> Futral Testimony at 25; VTE May 22, 2025, 9:26:30 – 9:27:07.

<sup>281</sup> Futral Testimony at 17.

<sup>282</sup> *Id.* This total revenue amount includes the proposed base revenues, projected fuel revenues, less projected interdepartmental revenues

<sup>283</sup> *Id.*

<sup>284</sup> *Id.*

Duke Kentucky determined the 0.921% uncollectible expense factor by dividing actual net receivable charge-offs by the total applicable revenues during 2023, both of which were applicable to the combined electric and gas divisions of the Company.<sup>285</sup> The Company asserted via a response to the Attorney General's discovery that it relied upon combined electric and gas division activity in 2023 because the Company had sold its receivables to CRC and did not track the data separately.<sup>286</sup> According to Duke Kentucky, it now owns the receivables and tracks the charge-offs separately, so the separate electric and gas division charge-off data became available starting in 2024.<sup>287</sup>

After reviewing the uncollectible data since 2022 it is clear that the Company's proposed 0.921% uncollectible expense is excessive and should be reduced to a level that is more reasonable and recurring.<sup>288</sup> The uncollectible expense factors for the net charge-offs for the combined electric and gas divisions were as follows: 0.448% in 2022, 0.921% in 2023, and 0.636% in 2024.<sup>289</sup> This information proves that even when reviewing the combined division uncollectible expense factors, the high expense factor in 2023 of 0.921% is an outlier.<sup>290</sup> As previously discussed, the spike in natural gas prices in late 2022 would have led to the uncollectible expense factor increasing substantially during the latter part of 2022 through the middle of 2023.<sup>291</sup> However, since the Company's pending case is requesting an electric rate increase, not a natural gas rate increase, it would be more appropriate to look at the electric only division uncollectible expense factors.<sup>292</sup> In

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<sup>285</sup> *Id.* at 17 – 18; Duke Kentucky's response to the Attorney General's First Request, Item 57.

<sup>286</sup> Futral Testimony at 18.

<sup>287</sup> *Id.*; Duke Kentucky's response to the Attorney General's First Request, Item 57.

<sup>288</sup> Futral Testimony at 18.

<sup>289</sup> *Id.* at 19; Duke Kentucky's response to the Attorney General's First Request, Item 57.

<sup>290</sup> Futral Testimony at 19.

<sup>291</sup> *Id.* at 20.

<sup>292</sup> *Id.*

2024, Duke Kentucky's electric division's uncollectible expense factors net charge-offs were only 0.454% - which is less than half of the Company's proposed factor of 0.921%.<sup>293</sup>

In rebuttal testimony, Duke Kentucky attempts to argue that since the majority of the Company's customers are combination customers taking both electric and natural gas service, it is appropriate to calculate the uncollectible expense factor on combined data.<sup>294</sup> Yet, Duke Kentucky does not appear to be concerned about their customers that only receive electric service, and who will be forced to pay millions of dollars more in rates due to the uncollectible expense factor in the natural gas division being higher. Duke Kentucky does not address the fact that the proposed 2023 combined data appears to be an outlier when compared to recent history. Finally, the Company states that the full year of 2024 actual uncollectible expense factor data was not available when they made the proposed calculation of 0.921%.<sup>295</sup> However, the full year of 2024 actual uncollectible expense factor data is now available and therefore, should be used in setting the recurring level of going-forward uncollectible expense.

Since Duke Kentucky can now separate the electric and gas division uncollectible data there is no rational reason to rely upon a combined total company expense factor to determine the projected uncollectible expense.<sup>296</sup> This is especially true when considering that Duke Kentucky's proposed combined uncollectible expense factor was an extremely high outlier when compared to recent data.<sup>297</sup> Thus, the Attorney General recommends the Commission utilize the 2024 electric-only uncollectible expense factor of 0.454% to compute the Company's projected uncollectible expense for its electric division. This 2024 electric-only data is a more reasonable and recurring

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<sup>293</sup> *Id.* at 19.

<sup>294</sup> Steinkuhl Rebuttal at 7.

<sup>295</sup> *Id.*

<sup>296</sup> Futral Testimony at 20.

<sup>297</sup> *Id.*

level to use to set the projected level of future uncollectible expense for the electric division and customers.<sup>298</sup>

If the Commission were to accept this recommendation, then the Company's uncollectible expense in the test year would be reduced by \$2.105 million, and the base revenue requirement and base rate increase after the gross-up for Commission assessment fees would be reduced by \$2.109 million.<sup>299</sup>

**j. The Commission should require a 50% sharing of corporate expenses between the customers and shareholders.**

Duke Kentucky's ultimate parent company, Duke Energy incurs expenses related to the directors and officers of the corporation, and other expenses related to communications with its investors.<sup>300</sup> These expenses are allocated to each of the Duke Energy subsidiaries, utilizing a three-factor allocation formula as described in the Company's Cost Allocation Manual.<sup>301</sup> The projected director's & officer's ("D&O") insurance expense allocated to Duke Kentucky's electric division for the test year is \$0.183 million.<sup>302</sup> The D&O insurance is designed to protect the individual directors and officers from personal losses if a lawsuit is filed against them for their service and decisions made while serving in those roles.<sup>303</sup> The projected Board of Directors compensation expense allocated to Duke Kentucky's electric division is \$0.023 million, and the allocated investor relations expense allocated is \$0.059 million.

Although the customers may potentially benefit from some of these proposals, such as the D&O insurance, as it can help to defray the legal costs incurred for any lawsuits against the

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<sup>298</sup> *Id.*

<sup>299</sup> *Id.* at 21.

<sup>300</sup> *Id.* at 26.

<sup>301</sup> *Id.*

<sup>302</sup> *Id.*

<sup>303</sup> *Id.*



directors and Officers, it also acts as an ultimate protection to shareholders by providing them protection from any negligent acts committed by the utility's directors and officers.<sup>304</sup> Likewise, the customers may benefit from investor relations through attracting investment at favorable terms<sup>305</sup> – but the shareholders are also benefitting from the investor relations as well.<sup>306</sup>

Duke Kentucky argues in its rebuttal testimony that the Commission recently found that corporate expenses were appropriate and reasonable in Case No. 2024-00092.<sup>307</sup> Yet, the Company failed to mention that the Commission stated in the Final Order of Case No. 2024-00092, “the Commission’s decision to accept the terms of the Joint Settlement does not constitute approval of any individual item and is not intended to create precedent for similar items in future rate cases, whether the applicable be Columbia Kentucky or a different utility.”<sup>308</sup> Furthermore, pursuant to the terms of the settlement agreement in said case, the agreement does not have any precedential value in this or any other jurisdiction.<sup>309</sup>

Thus, because both shareholders and customers benefit from corporate expense, it would be prudent and reasonable to allocate a 50/50 sharing of the expenses between the shareholders and the customers. It would be inherently unfair to place 100% of the corporate costs on the customers’ shoulders when the shareholders are equally benefitting from the same. If the Commission were to accept this recommendation it would reduce D&O insurance by \$0.092 million, reduce Board of Directors’ compensation expense by \$0.012 million, and reduce investor

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<sup>304</sup> *Id.*

<sup>305</sup> Steinkuhl Rebuttal at 10.

<sup>306</sup> Futral at 28.

<sup>307</sup> Steinkuhl Rebuttal at 11 – 12; Case No. 2024-00092, *Electronic Application of Columbia Gas of Kentucky, Inc. for an Adjustment of Rates; Approval of Depreciation Study; Approval of Tariff Revisions; and Other Relief* (Ky. PSC Dec. 30, 2024), Order at 22 – 26.

<sup>308</sup> Case No. 2024-00092, *Electronic Application of Columbia Gas of Kentucky, Inc. for an Adjustment of Rates; Approval of Depreciation Study; Approval of Tariff Revisions; and Other Relief* (Ky. PSC Dec. 30, 2024), Order at 13.

<sup>309</sup> *Id.* at 82 (Page 13 of the Settlement Agreement).

relations' expense by \$0.029 million.<sup>310</sup> After grossing up for the effects of uncollectible expense and Commission assessment fees it would result in a \$0.134 million reduction to Duke Kentucky's requested revenue requirement and requested rate increase.<sup>311</sup>

#### **IV. COST OF CAPITAL ISSUES**

##### **a. Return on Equity**

Based upon the direct testimony of Duke Kentucky's witness Mr. Joshua C. Nowak ("Mr. Nowak"), the Company proposes an inflated and unreasonable 10.85% return on equity ("ROE") for its electric operations,<sup>312</sup> while the Attorney General's witness Mr. Baudino recommends a reasonable 9.65% allowed ROE.<sup>313</sup>

Mr. Baudino's recommended ROE of 9.65% is based on the results of a Discounted Cash Flow ("DCF") analysis as applied to a proxy group of sixteen regulated electric utilities, and Capital Asset Pricing Model ("CAPM") analyses using historical and forecasted market risk premiums as well as publicly available estimates of market risk premiums from other sources.<sup>314</sup> The DCF analysis is Mr. Baudino's standard constant growth form of the model that employs four different growth rate forecasts from the Value Line Investment Survey, S&P Capital IQ, and Zacks.<sup>315</sup> Mr. Baudino also performed CAPM analyses using both historical and forward-looking data, as well as sources that provide additional recommendations for the market risk premium portion of the CAPM.<sup>316</sup> Mr. Baudino's results from the DCF and CAPM support the reasonableness of his 9.65% ROE recommendation in the pending case.<sup>317</sup>

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<sup>310</sup> Futral at 27 – 28.

<sup>311</sup> *Id.* and Table 1.

<sup>312</sup> Nowak Testimony at 4; Direct Testimony of Richard A. Baudino Testimony ("Baudino Testimony") at 3 and 33.

<sup>313</sup> Baudino Testimony at 3.

<sup>314</sup> *Id.*

<sup>315</sup> *Id.* at 14.

<sup>316</sup> *Id.*

<sup>317</sup> *Id.* at 3.; *See* Baudino Testimony at 33, Table 1 – Summary of ROE Estimates.

Mr. Baudino utilized the following proxy group for purposes of his ROE analyses: Alliant Energy Corporation; Ameren Corporation; American Electric Power Company, Inc.; Duke Energy Corp.; Entergy Corporation, Evergy, Inc.; IDACORP, Inc.; NextEra Energy; NorthWestern Energy Group; OGE Energy Corporation; Pinnacle West Capital Corp.; Portland General Electric Company; PPL Corporation; Southern Company; TXNM Energy, Inc.; and Xcel Energy, Inc.<sup>318</sup> Except for Mr. Baudino's addition of Duke Energy Corp. to the proxy group, this is the same proxy group of vertically integrated electric utilities that Duke Kentucky's witness Mr. Nowak used for his analysis.<sup>319</sup> Mr. Baudino asserts that Duke Energy Corp. fits the selection criteria as specified by Mr. Nowak, and thus it is reasonable to include the company in the proxy group.<sup>320</sup>

Mr. Baudino used the constant growth form of the DCF model using the following general formula:

$$k = D_1/P_0 + g$$

*Where:*         $D_1$  = the next period dividend  
                      $P_0$  = current stock price  
                      $g$  = expected growth rate  
                      $k$  = investor-required return<sup>321</sup>

Mr. Baudino relied on a six-month average of stock prices and the current dividend in order to calculate the dividend yield for the companies in his proxy group.<sup>322</sup> Regarding the growth component, Mr. Baudino included three earnings growth estimates from Value Line, S&P Capital IQ, and Zacks.<sup>323</sup> Mr. Baudino also used a dividend growth forecast from Value Line.<sup>324</sup> These are

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<sup>318</sup> Baudino Testimony at 16 – 17.

<sup>319</sup> *Id.* at 16.

<sup>320</sup> *Id.*

<sup>321</sup> *Id.* at 15.

<sup>322</sup> *Id.* at 17.

<sup>323</sup> *Id.* at 18 – 20.

<sup>324</sup> *Id.* at 19.

all trusted sources of information for investors.

Mr. Baudino's DCF analyses as applied to the proxy group resulted in the average growth rate range of 8.62% - 10.61%, with an average of 9.83%.<sup>325</sup> The DCF analysis based upon the median growth rates resulted in a range of 9.23% - 10.45%, with the average of 10.01%.<sup>326</sup>

Mr. Baudino's CAPM analyses as applied to the proxy group resulted with an average CAPM result of 9.33%.<sup>327</sup> Mr. Baudino considered three approaches to estimating the CAPM ROE that are reasonably indicative of the information available to investors.<sup>328</sup> Mr. Baudino first considered a forward-looking MRP using Value Line data that is based on a DCF model applied to the stock market.<sup>329</sup> The resulting CAPM ROE was 9.75%.<sup>330</sup> Second, Mr. Baudino considered three historical measures of the MRP from Kroll, resulting in a CAPM ROE range of 9.08% - 10.75%.<sup>331</sup> Third, Mr. Baudino included four publicly available sources of the MRP from Kroll, KMPG, Damodaran, and the 2024 IESE Survey.<sup>332</sup> These MRPs resulted in a CAPM ROE range of 8.34% - 9.24%.<sup>333</sup>

In his direct testimony, Mr. Baudino noted several challenges in obtaining a reliable ROE estimate from the CAPM.<sup>334</sup> Mr. Baudino testified that in the final analysis, a considerable amount of judgment must be employed in determining the market return and expected risk premium elements of the CAPM equation.<sup>335</sup> The analyst's application of judgment can significantly

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<sup>325</sup> *Id.*

<sup>326</sup> *Id.*

<sup>327</sup> *Id.* at 33; *See* Baudino Testimony at 33, Table 1 – Summary of ROE Estimates.

<sup>328</sup> Baudino Testimony at 20 – 32.

<sup>329</sup> *Id.*

<sup>330</sup> *Id.*

<sup>331</sup> *Id.*

<sup>332</sup> *Id.*

<sup>333</sup> *Id.*

<sup>334</sup> *Id.* at 22 – 24.

<sup>335</sup> *Id.* at 23 – 24.

influence the results obtained from the CAPM.<sup>336</sup> Mr. Baudino's experience with the CAPM indicates that it is prudent to use a wide variety of data in estimating investor-required returns. Of course, the range of results may also be wide, indicating the challenge in obtaining a reliable estimate from the CAPM.<sup>337</sup> Mr. Baudino's approach to estimating the CAPM ROE draws on several different trusted sources of investor information. His approach stands in stark contrast to Mr. Nowak's CAPM approach, which will be addressed later in this brief.

Based upon the results from his DCF and CAPM analyses, Mr. Baudino recommends an ROE for Duke Kentucky of 9.65%, which is consistent with the midpoint between the average DCF and CAPM ROE results.<sup>338</sup> In reaching this recommendation, Mr. Baudino explained that consensus analysts' earnings growth forecasts of 6.83% - 6.86% are significantly greater than the long-run forecasts for GDP growth, making them unsustainable in the long run.<sup>339</sup> Mr. Baudino also provided detailed analyses showing that these consensus analysts' forecasts significantly exceed historical earnings and dividend growth, which averaged 3.5% - 5.6% over the last 5 to 10 years.<sup>340</sup> In making his ROE recommendation to the Commission, Mr. Baudino testified that his recommendation still includes the DCF results using consensus analysts' forecasts, but tempers them with the results from the CAPM, which suggest mostly lower required ROEs at this time.<sup>341</sup> The midpoint of the average DCF and CAPM results represents a reasonable balance of all the results from these two models.<sup>342</sup>

Additionally, Mr. Baudino agrees with Mr. Nowak's recommendation that a downward or

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<sup>336</sup> *Id.*

<sup>337</sup> *Id.*

<sup>338</sup> *Id.* at 33.

<sup>339</sup> *Id.* at 33 – 35.

<sup>340</sup> *Id.* at 35, Table 2.

<sup>341</sup> *Id.* at 36.

<sup>342</sup> *Id.*

upward adjustment for risk factors specific to Duke Kentucky is not necessary in this case.<sup>343</sup> In conclusion, Mr. Baudino's ROE recommendation of 9.65% is reasonable for a relatively low-risk regulated electric utility investment such as Duke Kentucky, and fully reflects the current economic and financial market conditions at the time of the filing of his testimony.<sup>344</sup>

As Mr. Baudino's testimony demonstrates, Mr. Nowak's recommended ROE of 10.85% significantly overstates the investor-required return for regulated electric utilities, is inconsistent with current financial market evidence, and is significantly above recent commission allowed ROEs.<sup>345</sup> Mr. Nowak's range of ROE results from his DCF, CAPM, and Risk Premium models range from 10.23% - 12.82%.<sup>346</sup> Mr. Nowak termed his Expected Earnings analyses as a "benchmark," with the results ranging from 10.27% to 10.86%.<sup>347</sup> From these results, Mr. Nowak concluded that a reasonable ROE range would be 10.25% - 11.25%.<sup>348</sup> Based upon Mr. Nowak's evaluation of Duke Kentucky's risk profile, he then recommended an ROE of 10.85% from the aforementioned range.<sup>349</sup>

Mr. Nowak utilized DCF, CAPM, Risk Premium, and Expected Earnings models to evaluate a rate of return for Duke Kentucky in the pending case.<sup>350</sup> In the first model, Mr. Nowak's DCF analyses yielded a mean, or average, range of 10.23% to 10.62% for the proxy group.<sup>351</sup> Even though Mr. Baudino did not have any major criticism for Mr. Nowak's DCF analyses, he did note that even though Mr. Nowak utilized earnings growth rates from Value Line, Yahoo! Finance, and

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<sup>343</sup> *Id.* at 46.

<sup>344</sup> *Id.* at 3; *See* Baudino Testimony at 5 – 13, wherein he thoroughly reviews the current economic conditions.

<sup>345</sup> *Id.* at 37.

<sup>346</sup> *Id.*

<sup>347</sup> *Id.* at 37 – 38.

<sup>348</sup> *Id.* at 38.

<sup>349</sup> *Id.*

<sup>350</sup> *Id.* at 37.

<sup>351</sup> *Id.* at 38; *See* Rebuttal Testimony of Joshua C. Nowak ("Nowak Rebuttal") at 4. In Mr. Nowak's rebuttal testimony, he continues to recommend a 10.85% ROE for Duke Kentucky. Additionally, Mr. Nowak provided his updated DCF results in his rebuttal testimony on page 8, with the DCF average result of 10.02%, and the median result of 10.28%.

Zacks to develop his DCF ROE estimates, he should have considered Value Line's dividend growth forecast due to dividend payments being such a significant portion of the total return to utility shareholders.<sup>352</sup> Mr. Baudino asserts that Mr. Nowak's exclusion of the forecasted dividend growth led to an overstatement of his DCF results.<sup>353</sup>

In stark contrast to Mr. Nowak's DCF analyses, his second model utilizing his CAPM analyses produced an excessive ROE range of 11.39% - 12.82%.<sup>354</sup> Mr. Nowak's CAPM results are so grossly overstated for a regulated electric utility such as Duke Kentucky that the Commission should reject them out of hand.<sup>355</sup> The primary problem with Mr. Nowak's CAPM analysis is his sole reliance on forward-looking market return for the S&P 500.<sup>356</sup> Mr. Nowak's projected market returns are overstated due to reliance on Value Line 3 – 5 year projected earnings growth rates that are unsustainable in the long run, and vastly exceed both the historical capital appreciation for the S&P 500, as well as historical and projected GDP growth rates.<sup>357</sup> These unsustainably high returns ranging from 11.41% - 15.07%, with expected long-run growth rates ranging from 9.81% - 13.63%, directly translate to overstated expected market risk premiums ("MRPs") that Mr. Nowak used in his CAPM analyses.<sup>358</sup> As Mr. Baudino asserts in his testimony, Kroll's historical analysis shows that the arithmetic capital appreciation for the S&P 500 was 7.9% for the historical period 1926 to 2022, and the geometric, or compound growth was 6.1%.<sup>359</sup> This historical experience stands in stark contrast to forecasted growth rates of 9.81% and 13.63% for

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<sup>352</sup> Baudino Testimony at 38 – 39.

<sup>353</sup> *Id.* at 39.

<sup>354</sup> *Id.* at 40; *See* Nowak Rebuttal at 8. Mr. Nowak provided his updated CAPM results in his rebuttal testimony, with the CAPM average result of 12.24%, and the median result of 12.11%.

<sup>355</sup> Baudino Testimony at 40.

<sup>356</sup> *Id.*

<sup>357</sup> *Id.* at 41.

<sup>358</sup> *Id.* at 40 – 41.

<sup>359</sup> *Id.* at 41

the S&P 500 using Value Line data that Witness Nowak employed in his CAPM.<sup>360</sup>

Mr. Nowak's unsustainable earnings growth forecasts are even more unsupportable when considering both the historical and forecasted GDP growth for the United States, which Mr. Baudino calculated as 6.1% from 1929 – 2023.<sup>361</sup> Importantly, the 6.1% GDP growth rate matches the historical compound growth rate for capital appreciation for the S&P 500 of 6.1% from Kroll.<sup>362</sup> As Mr. Baudino pointed out in his testimony, forecast expected GDP growth of around 4.0% are much lower than the historical average, which further underscores how excessive the market growth rates that Mr. Nowak used in his CAPM analyses.<sup>363</sup>

Due to the constant growth DCF requiring a sustainable long-run growth rate, Mr. Nowak's inflated projected market return and MRP estimates are erroneous and should be rejected.<sup>364</sup> Mr. Nowak's usage of these inflated growth rates inevitably lead to an overstatement of the long-run expected market return, the associated MRP, and the CAPM ROE results.<sup>365</sup>

Yet another issue with Mr. Nowak's CAPM analyses is his inflated MRPs range of 7.11% - 10.87%.<sup>366</sup> As Mr. Baudino notes in his testimony, Mr. Nowak's approach incorrectly assumes that investors would only use the approach that he used to evaluate the return on the overall market and the resulting MRP. There is substantial information available that shows much lower and more plausible estimates of the MRP that could be considered by investors.<sup>367</sup> Mr. Baudino included MRPs from Kroll, Damodaran, KMPG, and the IESE Survey that show substantially lower

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<sup>360</sup> *Id.*.

<sup>361</sup> *Id.*

<sup>362</sup> *Id.*

<sup>363</sup> *Id.* at 41 – 42.

<sup>364</sup> *Id.* at 42.

<sup>365</sup> *Id.* at 42 – 43.

<sup>366</sup> *Id.* at 42.

<sup>367</sup> *Id.* at 43.



MRPs.<sup>368</sup> Mr. Nowak failed to include or properly consider these MRPs in his CAPM analysis.<sup>369</sup>

Mr. Nowak's third model using his Risk Premium analyses also produced an inflated ROE range, although not quite as high as the previously discussed CAPM model.<sup>370</sup> Mr. Nowak's resulting ROE range from his Risk Premium analyses was 10.41% - 10.46%.<sup>371</sup> As Mr. Baudino notes, in general, the bond yield plus risk premium approach is imprecise and can only provide very general guidance on the current authorized ROE for regulated utilities.<sup>372</sup> Historical risk premiums can change substantially over time based on investor preferences and market conditions.<sup>373</sup> Mr. Baudino calls this approach a "blunt instrument" for estimating the ROE in regulated proceedings.<sup>374</sup> In Mr. Baudino's expert view, a properly formulated DCF model using current stock prices and growth forecasts is far more reliable than the bond yield plus risk premium model that relies on an historical analysis of risk premiums.<sup>375</sup> Using historical risk premiums assumes that the past will look like the future, which is an assumption that may not hold in present day financial markets.<sup>376</sup>

Mr. Nowak developed a historical risk premium using commission-allowed returns for vertically integrated utility companies from 1992 through October 31, 2024.<sup>377</sup> Mr. Nowak then used regression analysis to estimate the value of the inverse relationship between the yield on the 30-Year Treasury Bond and risk premiums during that period.<sup>378</sup> Mr. Nowak used the following

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<sup>368</sup> *Id.* at 39 – 43.

<sup>369</sup> *Id.*

<sup>370</sup> *Id.* at 44.

<sup>371</sup> *Id.*; *See* Nowak Rebuttal at 8. Mr. Nowak provided his updated Risk Premium results in his rebuttal testimony, with the Risk Premium average result of 10.93%, and the median result of 10.82%.

<sup>372</sup> Baudino Testimony at 43.

<sup>373</sup> *Id.*

<sup>374</sup> *Id.*

<sup>375</sup> *Id.*

<sup>376</sup> *Id.* at 43 – 44.

<sup>377</sup> *Id.* at 44.

<sup>378</sup> *Id.*

three 30-Year Treasury Bond yields: the current 30-day average, near-term Blue Chip consensus forecast for Q1 2025 – Q1 2026, and a Blue Chip consensus forecast for 2026 – 2030.<sup>379</sup> Mr. Nowak’s approach suggests that this Commission should base its ROE determination for Duke Kentucky on the ROE determinations of commissions in other states over a long period of time.<sup>380</sup> Mr. Baudino recommends that the Commission place little weight on this approach and base its decision on a review of the analyses presented in this case to make its determination for a just and reasonable ROE for Duke Kentucky.<sup>381</sup>

Additionally, Mr. Baudino found that Mr. Nowak did accurately track commission-allowed ROEs for vertically integrated electric utilities in 2024.<sup>382</sup> Based upon Mr. Baudino’s calculation the average 30-Year Treasury Bond yield through October 2024 was 4.38%, which is slightly higher than the 4.20% to 4.30% yields that Mr. Nowak used in his analysis.<sup>383</sup> The average commission-allowed ROE through October 2024 was 9.89%.<sup>384</sup> Thus, Mr. Baudino asserts that by using a 4.30% 30-Year Treasury yield, Mr. Nowak’s risk premium ROE was 10.46%, which is 0.57%, or 57 basis points higher than the actual average commission-allowed ROE for 2024. This analysis shows that Mr. Nowak’s risk premium ROE model fails to accurately track commission-allowed ROEs and significantly overstates the actual allowed ROEs.

Mr. Nowak’s fourth model using his Expected Earnings analysis also produced an excessive ROE range of 10.27% - 10.86%.<sup>385</sup> Mr. Nowak’s Expected Earnings analysis relied on Value Line’s forecasted returns for the companies in his proxy group for the period 2027 – 2029.<sup>386</sup>

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<sup>379</sup> *Id.*

<sup>380</sup> *Id.*

<sup>381</sup> *Id.*

<sup>382</sup> *Id.*

<sup>383</sup> *Id.* at 44 – 45.

<sup>384</sup> *Id.*

<sup>385</sup> *Id.* at 45; *See* Nowak Rebuttal at 9. Mr. Nowak provided his updated Expected Earnings results in his rebuttal testimony, with the average result of 10.88%, and the median result of 10.22%.

<sup>386</sup> Baudino Testimony at 45.

Mr. Nowak adjusted these forecasted ROEs to, in his view, “account for the fact that the ROEs reported by Value Line are calculated on the basis of common shares outstanding at the end of the period, as opposed to average shares outstanding over the entire period.”<sup>387</sup>

As Mr. Baudino states in his testimony, the forecasted book returns from Value Line will not be as reliable or accurate as a properly specified DCF analysis using current stock prices.<sup>388</sup> Only 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.<sup>389</sup> Mr. Nowak’s utilization of Value Lines’ projected book returns for a time period several years into the future is highly speculative, and thus, the Commission should not rely on this approach.<sup>390</sup> Additionally, Mr. Nowak overstates the forecasted returns from Value Line by making an adjustment to the average shares outstanding over the 2027 to 2029 time period.<sup>391</sup> The three-year forecasted period already represents an average of shares and ROEs over the period, making Mr. Nowak’s share adjustment both unnecessary and more importantly incorrect.<sup>392</sup> Furthermore, it is highly unlikely that an investor using Value Line’s data would make the adjustment to each utility’s forecasted common shares outstanding as Mr. Nowak proposes in order to calculate a projected ROE for the 2027 to 2029 time period.<sup>393</sup> If Mr. Nowak’s adjustments were removed then the average forecasted ROE based upon his Expected Earnings analysis in the 2027 to 2029 period would be 10.60%, with a median ROE of 10.0%.<sup>394</sup>

Based upon the foregoing, Commission approval of Duke Kentucky’s proposed ROE of

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<sup>387</sup> *Id.*; Nowak Testimony at 40.

<sup>388</sup> Baudino Testimony at 45.

<sup>389</sup> *Id.* at 45 – 46.

<sup>390</sup> *Id.* at 46.

<sup>391</sup> *Id.*

<sup>392</sup> *Id.*

<sup>393</sup> *Id.*

<sup>394</sup> *Id.*

10.85% significantly inflate the Company's revenue requirement, thereby harming and burdening the Kentucky ratepayers.<sup>395</sup> Thus, the Attorney General requests the Commission to adopt Mr. Baudino's reasonable recommendation of a 9.65% ROE for Duke Kentucky.<sup>396</sup> If the Commission accepts Mr. Baudino's proposed ROE of 9.65% then it will reduce Duke Kentucky's requested rate increase by approximately \$10.341 million.<sup>397</sup>

## **V. PROPOSED DEFERRAL MECHANISMS FOR PLANNED MAINTENANCE EXPENSE AND FORCED OUTAGE EXPENSE**

### **a. Duke Kentucky's request for a deferral mechanism for planned maintenance expense and forced outage expense should be denied.**

Duke Kentucky requests approval of a deferred mechanism whereby any actual planned maintenance expense above the baseline expense recovered in the base revenue requirement is deferred to a regulatory asset and below the baseline is deferred to a regulatory liability.<sup>398</sup> The Company would seek to recover the regulatory asset or refund the regulatory liability in future base rate proceedings.<sup>399</sup> Duke Kentucky calculated the baseline expense included in the test year base revenue requirement as the average of four years of historic actual expense and four years of budget and forecast expense.<sup>400</sup>

Similarly, Duke Kentucky requests approval of a deferral mechanism for forced outage expense, in which any actual forced outage expense disallowed from recovery in the fuel adjustment clause ("FAC") above the baseline expense recovered in the base revenue requirement is deferred to a regulatory asset and below the baseline is deferred to a regulatory liability.<sup>401</sup> The

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<sup>395</sup> *Id.* at 3.

<sup>396</sup> *Id.*

<sup>397</sup> Futral Testimony at 5, Table 1.

<sup>398</sup> Kollen Testimony at 52.

<sup>399</sup> *Id.*

<sup>400</sup> Direct Testimony of Danielle Weatherston ("Weatherston Testimony") at 3 – 6.

<sup>401</sup> Kollen at 52.

Company would seek to recover the regulatory asset or refund the regulatory liability in future base rate proceedings. The Company calculated the baseline expense included in the test year base revenue requirement as the average of three years of historic actual expense.<sup>402</sup>

In Case No. 2022-00372, the Commission found that these same deferral mechanisms were no longer necessary. Specifically, the Commission stated that, “the deferral mechanisms for forced and scheduled outages are no longer necessary, given that Duke Kentucky expects the expenses to be in line with the base rate amounts.”<sup>403</sup> Prior to the Commission eliminating the deferral mechanisms in Case No. 2022-00372, Duke Kentucky’s deferral mechanisms in place were net regulatory assets.<sup>404</sup> It is clear that the deferral mechanisms removed all incentives for the Company to manage and control these expenses.<sup>405</sup> The regulatory assets for planned maintenance expenses and forced outage expense in excess of the baselines for those expenses in prior years still have not been fully paid by customers.<sup>406</sup> The grossed-up return on the unamortized regulatory assets and the amortization expense still are included in the revenue requirement in this case, despite the termination of the deferral mechanisms for expenses incurred after the effective date of the Order in that prior case.<sup>407</sup>

Based upon the foregoing reasoning as well as Commission precedent, the Attorney General recommends the Commission continue to deny Duke Kentucky’s requested deferral mechanisms for both planned maintenance expense and forced outage expense.<sup>408</sup> This recommendation has no effect on the revenue requirement in the pending case; however, if the

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<sup>402</sup> Weatherston Testimony at 3 – 6.

<sup>403</sup> 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* (Ky. PSC Oct. 12, 2023), Order at 18.

<sup>404</sup> Kollen Testimony at 53.

<sup>405</sup> *Id.*

<sup>406</sup> *Id.*

<sup>407</sup> *Id.*

<sup>408</sup> *Id.* 54.

Commission reauthorizes the two deferral mechanisms then the effects will be reflected in future base rate cases, and based on historical data, will most likely increase the revenue requirement due to net regulatory assets.<sup>409</sup>

## **VI. PROPOSED NEW PROGRAMS, RELATED TARIFFS, AND REGULATORY ASSETS AND LIABILITIES**

### **a. The Commission should deny Duke Kentucky's proposed new comprehensive hedging program.**

Duke Kentucky proposes a new comprehensive hedging program in the pending case, but only generally describes the proposed program as similar to its former back-up supply plan that expired on June 1, 2022.<sup>410</sup> Duke Kentucky requests, “to implement a more comprehensive hedging strategy introducing additional power hedging for forced outages and economic hedging when the PJM AEP-Dayton (“AD”) hub market power price is under the cost of production.”<sup>411</sup> Additionally, the Company seeks authorization to refund gains and recover losses through the FAC.<sup>412</sup> Even though Duke Kentucky asserts that the Company plans to use financial swap and future contract products listed on the Intercontinental Exchange (“ICE”) or the bilateral over the counter (“OTC”) broker market, no Company witness lists the specific products or otherwise described in detail how it would use those products to mitigate price volatility or reduce costs.<sup>413</sup>

If Duke Kentucky's proposed new comprehensive hedging program is authorized, the Company will realize gains or losses, which it will seek authorization to defer to a regulatory liability and refund through the FAC if there is a gain, or defer to a regulatory asset and recover

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<sup>409</sup> *Id.*

<sup>410</sup> Direct Testimony of James McClay (“McClay Testimony”) at 15 – 21; Kollen Testimony at 55; *See* Case No. 2021-00086, *Electronic Back-Up Power Supply Plan of Duke Energy Kentucky, Inc.* (Ky. PSC Nov. 30, 2021). The Commission last approved the Company's backup supply plan in Case No. 2021-00086.

<sup>411</sup> Kollen Testimony at 54; McClay Testimony at 5.

<sup>412</sup> Kollen Testimony at 54. McClay Testimony at 8 – 9.

<sup>413</sup> Kollen Testimony at 55 – 56.

through the FAC if there is a loss.<sup>414</sup> Although the Company did not address the timing of recoveries of realized losses or refunds of realized gains, unless the Commission determines otherwise, these losses and gains will be recovered or refunded in a single month under the present FAC tariff.<sup>415</sup>

In the Commission’s Final Order in Case No. 2021-00086, the Commission stated, “[t]herefore, in its next filing, Duke Kentucky should evaluate whether there is real risk and a need for a back-up power supply plan and provide support whether a back-up power supply plan is necessary. Duke Kentucky should also provide a long-term cost effectiveness analysis of its back-up power supply plans.”<sup>416</sup> In the Final Order of Case No. 2022-00372, the Commission stated that it, “does not agree that ratepayers have similar risks in all situations. The FAC limits recovery of replacement generation for forced outages. While Duke Kentucky demonstrated the volatility and highest prices of the day ahead and real time energy market, it did not explain why economic purchases should be hedged. The Commission finds that Duke Kentucky’s proposal to hedge forced outages and economic purchases should be denied.”<sup>417</sup>

Duke Kentucky’s proposed new comprehensive hedging program is essentially the same as what the Company proposed, and the Commission denied, in Case No. 2022-00372.<sup>418</sup> Duke Kentucky has failed to provide any evidence in the pending case, or the prior electric base rate case, that the Company performed the required evaluations as directed by the Commission, and

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<sup>414</sup> *Id.* at 56.

<sup>415</sup> *Id.*

<sup>416</sup> See Case No. 2021-00086, *Electronic Back-Up Power Supply Plan of Duke Energy Kentucky, Inc.* (Ky. PSC Nov. 30, 2021), Order at 7.

<sup>417</sup> 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* (Ky. PSC Oct. 12, 2023), Order at 87 (footnote omitted).

<sup>418</sup> Kollen Testimony at 54 – 55. The only difference is that in the prior Case No. 2022-00372, the Commission approved the Company’s proposal to hedge market prices for purchases due to scheduled outages, so that proposal is not at issue in the pending case.; VTE May 21, 2025, 11:22:20 – 11:22:40.

equally failed to provide a long-term effectiveness analysis of its back-up power supply plan.<sup>419</sup> Duke Kentucky further admits that it did not prepare any economic or other analytical study that compare outcomes with and without the proposed new comprehensive hedging program.<sup>420</sup> By Duke Kentucky not providing the necessary evaluations and analyses of the proposed comprehensive hedging program, it leaves the Commission with no information as to the expected costs<sup>421</sup> or potential benefits.<sup>422</sup>

In rebuttal testimony, the Company stated that the goal of a hedging program is not to make a profit, “but rather to mitigate customers’ exposure to market price risk and smooth out purchased power cost when the Company’s owned generation units are not available, either due to outages or from an economic perspective.”<sup>423</sup> Duke Kentucky further stated that, “[t]he gains and losses from the hedges help to provide stability in customers’ monthly bills.”<sup>424</sup> However, the Company further discusses gains and losses that Duke Kentucky has experienced from hedging in prior years, with one loss close to \$4 million in December 2021.<sup>425</sup> Hypothetically, if the Commission were to approve of the Company’s proposed hedging program, and Duke Kentucky suffered another \$4 million loss in the future, that substantial loss would flow through the FAC and cause a spike in the customers’ monthly bills.<sup>426</sup> This is the exact opposite of providing stability to the customers’ monthly bills.

Duke Kentucky has not provided sufficient information for the Commission to properly

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<sup>419</sup> Kollen Testimony at 56.

<sup>420</sup> *Id.* at 57.

<sup>421</sup> *Id.* It will cost the Company to purchase the hedging products on ICE, the OTC broker market, and/or other trading platforms.

<sup>422</sup> Kollen Testimony at 57.

<sup>423</sup> Rebuttal Testimony of James McClay (“McClay Rebuttal”) at 5.

<sup>424</sup> *Id.*

<sup>425</sup> *Id.*

<sup>426</sup> VTE May 21, 2025, 11:21:00 – 11:22:05.



assess the Company's proposed new comprehensive hedging program in the pending case.<sup>427</sup> The Attorney General respectfully requests the Commission to direct the Company to file a separate case concerning its proposed backup power supply plan and/or comprehensive heading program, and provide the required evaluation and long-term effectiveness analysis in order for a complete assessment to be conducted. In the alternative, if the Commission grants the Company's request for a new comprehensive hedging program then the Attorney General recommends a twelve-month amortization period for the realized losses and gains.<sup>428</sup>

**b. The Commission should deny Duke Kentucky's proposed new gas management program.**

Duke Kentucky proposes a new gas management program in the pending case, in which the Company requests, "to disposition surplus gas through commodity sales" when the Company from time to time is unable to burn gas that has been purchased due to real-time dispatch decisions by PJM or emergent pipeline operational issues.<sup>429</sup> Duke Kentucky further explained that in, "cases where the pipeline balances accumulate over time and exceed the OBA limit, Duke Energy Kentucky may be forced to burn the gas, or risk having the gas confiscated by the pipeline" to comply with the operational request of the pipeline.<sup>430</sup> The Company requests to refund gains or recover losses through the FAC.<sup>431</sup>

Duke Kentucky has only had one loss in the last 15 years, which was a \$534,000 loss from gas sold in January and February 2014,<sup>432</sup> and the Commission allowed the Company to recover this loss through the profit sharing mechanism ("PSM").<sup>433</sup> In response to the Attorney General's

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<sup>427</sup> McClay Rebuttal at 58.

<sup>428</sup> *Id.*

<sup>429</sup> *Id.* at 59; McClay Testimony at 15.

<sup>430</sup> Kollen Testimony at 59.

<sup>431</sup> *Id.*

<sup>432</sup> McClay Testimony at 17 – 18.

<sup>433</sup> Kollen Testimony at 59.

discovery in the pending case, the Company stated, “Duke Energy Kentucky did not sell any additional natural gas between February 2014 through the end of 2024.”<sup>434</sup> Instead, Duke Kentucky stored the “long imbalance” gas on the pipeline until it was able to burn it at a later date at Woodsdale.<sup>435</sup> Based upon this scenario, a downside risk of the Company’s proposed gas management program is the possibility that Duke Kentucky may sell the surplus gas at a loss when it could have stored the gas on the pipeline and then used the gas to supply the Woodsdale generating units at a later date.<sup>436</sup> The Company has not provided any decision criteria for review by the Commission in this proceeding as to when it would sell at a loss, or continue to store the gas on the pipeline, except for a forced burn or confiscation circumstance.<sup>437</sup>

Thus, the Attorney General recommends the Commission deny the Company’s proposed new gas management program.<sup>438</sup> The Company provides no compelling reason to authorize this request, and even more importantly, provides no safeguards to protect customers from unnecessary sales of “long imbalance” gas at a loss.<sup>439</sup>

## **VII. CAPACITY PERFORMANCE INSURANCE**

Duke Kentucky requests authorization to purchase capacity performance insurance in the pending case.<sup>440</sup> The Company states that it is evaluating capacity performance insurance in order to protect customers against the rising cost of a potential capacity performance event.<sup>441</sup> Duke Kentucky seeks authorization for the purchase of such capacity performance insurance and recovery of the expense to flow through the PSM.

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<sup>434</sup> Duke Kentucky’s response to the Attorney General’s First Request, Item 82.

<sup>435</sup> *Id.*: Kollen Testimony at 59 – 60.

<sup>436</sup> Kollen Testimony at 60.

<sup>437</sup> *Id.*

<sup>438</sup> *Id.*

<sup>439</sup> *Id.*

<sup>440</sup> *Id.*

<sup>441</sup> McClay Testimony at 19.

The Company only obtained quotes from two carriers in preparation for the pending rate case.<sup>442</sup> Duke Kentucky stated in response to the Attorney General’s discovery that there are a, “handful of CP insurance underwriters that provide products from outright CP insurance with variable time and dollar deductibles to weather-linked CP insurance policies.”<sup>443</sup> The Company further asserted that, “there are no standard CP insurance products and each policy could be different and customized. Premiums quoted in the offers the Company received so far ranged between \$1.7 million and \$10.9 million for coverage from \$17.6 million to \$70.2 million.”<sup>444</sup> Duke Kentucky stated that if approved, it will compare different capacity performance insurance offers and choose the policy that best fits Duke Kentucky customers’ needs and risk profile.<sup>445</sup>

Duke Kentucky argues in the rebuttal testimony that due to PJM capacity prices significantly increasing, the capacity performance penalties will similarly rise since the penalties are tied to the auction clearing prices.<sup>446</sup> The Company further asserts that the customers will be better off having capacity performance insurance in case a catastrophic capacity performance event were to occur.<sup>447</sup>

Duke Kentucky’s request to purchase capacity performance insurance should be denied for the following reasons. Duke Kentucky admittedly did not perform any economic or other analytical studies that compare outcomes with and without capacity performance insurance.<sup>448</sup> There is also a significant difference between the two capacity performance quotes obtained by

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<sup>442</sup> Duke Kentucky’s response to the Attorney General’s First Request, Item 83.

<sup>443</sup> *Id.*

<sup>444</sup> *Id.*

<sup>445</sup> *Id.*

<sup>446</sup> McClay Rebuttal at 11.

<sup>447</sup> *Id.* at 13.

<sup>448</sup> Kollen Testimony at 61; Duke Kentucky’s response to the Attorney General’s First Request, Item 83; VTE May 21, 2025, 11:25:30 – 11:25:40.

the Company thus far - \$1.7 million and \$10.9 million.<sup>449</sup> The Company did not propose a specific or maximum premium cost to be approved for any potential capacity performance insurance in the pending case either.<sup>450</sup> In other words, the Company seems to be requesting a blank check to purchase capacity performance insurance, which could be \$1.7 million, \$10.9 million, or more. As such, there is woefully insufficient information for the Commission to grant the Company's vague request to purchase capacity performance insurance. Therefore, the Attorney General recommends the Commission deny the Company's request to purchase capacity performance insurance at this time.

### **VIII. PJM BILLING LINE ITEMS AND CHARGES INCLUDED IN FAC AND PSM RIDERS**

Duke Kentucky is proposing modifications to the PJM billing line items ("BLIs") and to include additional BLIs and charges in the FAC and PSM in the pending case.<sup>451</sup> According to the Company, it proposes to change, "the PJM BLI Codes included in the FAC and PSM to update for the changes PJM has made to PJM BLIs already approved for inclusion by the Commission and to include additional BLIs the Company considers appropriate for recovery in these mechanisms."<sup>452</sup>

As to the proposed modifications to the Company's BLIs in the FAC and PSM in the pending case, the Attorney General relies upon the principles underlying his recommendations as to Duke Kentucky's BLIs in Case No. 2024-00285.<sup>453</sup> In the aforementioned case, the Attorney

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<sup>449</sup> Duke Kentucky's response to the Attorney General's First Request, Item 83; VTE May 21, 2025, 11:23:50 – 11:25:00.

<sup>450</sup> VTE May 21, 2025, 11:25:00 – 11:25:25.

<sup>451</sup> Kollen Testimony at 62.

<sup>452</sup> Swez Testimony at 38 – 42. Attachment JDS-3 to the Swez Testimony shows which PJM BLIs presently are recovered in the FAC, PSM, or both, pursuant to the Commission's Order in Case 2017-00321. Attachment JDS-4 to the Swez Testimony updates the BLIs shown on JDS-3 to reflect changes to the BLIs previously approved for recovery in the FAC, PSM, or both and the additional BLIs for which the Company seeks approval.

<sup>453</sup> Kollen Testimony at 62 – 63; *See* Case No. 2024-00285, *Electronic Application of Duke Energy Kentucky, Inc. to Become a Full Participant in the PJM Interconnection LLC, Base Residual and Incremental Auction Construct for*

General recommended for the Commission to exclude the BLIs that represent penalties for costs imposed on the Company due to compliance and performance failures.<sup>454</sup> By including these penalty BLIs in the FAC and PSM, as the Company proposes, it may establish a presumption that the penalty expenses are reasonable, essentially placing the burden on Intervenor, Commission Staff, and, ultimately, the Commission to review and build an evidentiary record against recovery of such costs if the Company has failed to act prudently or reasonably and has been penalized by PJM. On the other hand, if the penalty BLIs are excluded, then Duke Kentucky can seek to have any penalty expense included for recovery in the FAC or PSM, but will retain the burden to specifically request recovery of the expenses and to justify the expense as reasonable and prudent. The Attorney General respectfully defers to the Commission's expertise for any proposed modifications to the Company's BLIs that the Attorney General did not address in either Case No. 2024-000285, or the pending case.

## **IX. ADDITIONAL RECOMMENDATIONS OF THE ATTORNEY GENERAL**

- a. Duke Kentucky's proposal to increase the average residential customer's monthly electric bill by approximately \$20 and increase the monthly residential customer charge from \$13.00 to \$16.00 constitutes rate shock and therefore violates the ratemaking principle of gradualism.**

As aforementioned, with respect to the residential class, Duke Kentucky proposes to increase its average residential customer's monthly electric bill by \$19.68, which equates to a staggering 16.2% increase.<sup>455</sup> The Company is additionally requesting to increase the monthly

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*the 2027/2028 Delivery year and for Necessary Accounting and Tariff Changes*, Direct Testimony of Lane Kollen filed on December 6, 2024.

<sup>454</sup> See Case No. 2024-00285, *Electronic Application of Duke Energy Kentucky, Inc. to Become a Full Participant in the PJM Interconnection LLC, Base Residual and Incremental Auction Construct for the 2027/2028 Delivery year and for Necessary Accounting and Tariff Changes*, The Attorney General's Post-Hearing Brief filed on March 14, 2025.

<sup>455</sup> Duke Kentucky's response to the Attorney General's First Request, Item 41; VTE May 21, 2025, 9:11:20 – 9:11:35; Duke Kentucky's response to the Attorney General's Post-Hearing Request, Item 1.

residential customer charge from \$13.00 to \$16.00 per month, or a 23.08% increase.<sup>456</sup> An increase of this magnitude to the average residential customer's monthly electric bill will pose a financial hardship on all customers, particularly those who are already struggling to make ends meet. This is especially true for Duke Kentucky's customers who already live in poverty.<sup>457</sup>

To add insult to injury, the proposed rate increase in the pending case represents the *fourth* requested electric rate increase that Duke Kentucky has proposed to foist upon its customers within the last approximately seven years.<sup>458</sup> Duke Kentucky's average residential customer's monthly bill increased by approximately \$15.48, or 14.2%, based upon the rate increase that was approved for the Company in Case No. 2022-00372.<sup>459</sup> If the Commission were to grant Duke Kentucky's full requested rate increase in the pending case, then in only two years the Company's average residential customer's monthly bill will have increased by approximately \$35.17, or \$422.04 per year.<sup>460</sup> Importantly, this substantial monthly increase in the Company's average residential customer's electric bills do not even include Duke Kentucky's electric rate increases that were granted in 2018 and 2020.

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<sup>456</sup> Application, FR 16(1)(b)(5) Attachment – Exhibit A.

<sup>457</sup>Based upon the most recent United States Census information the poverty rates for Duke Kentucky's electric service area are as follows: Pendleton County – 13.2%, Grant County – 13.0%, Kenton County – 10.6%, Campbell County – 10.3%, and Boone County – 7.4%. United States Census Bureau, last accessed on June 8, 2025, <https://www.census.gov/quickfacts/fact/table/boonecountykentucky,campbellcountykentucky,kentoncountykentucky,grantcountykentucky,pendletoncountykentucky/PST045224>; Duke Kentucky's response to the Attorney General's First Request, Item 9; VTE May 21, 2025, 9:11:00 – 9:11:52.

<sup>458</sup> VTE May 21, 2025, 9:10:45 – 9:10:58; 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* (Ky. PSC Apr. 13, 2018); Case No. 2019-00271, *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* (Ky. PSC Apr. 27, 2020); 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* (Ky. PSC Oct. 12, 2023); Duke Kentucky filed the pending request for an electric rate increase on December 2, 2024.

<sup>459</sup> Duke Kentucky's response to the Attorney General's First Request, Item 8(b).

<sup>460</sup> See Duke Kentucky's response to the Attorney General's Second Request, Item 28(b).

The Commission has always employed the principle of gradualism in ratemaking, which mitigates the financial impact, or rate shock, of rate increases on customers.<sup>461</sup> It should be of the utmost importance to avoid sudden and significant rate increases for the customers. In the pending case, Duke Kentucky has violated this important ratemaking tenet by proposing an average \$20 increase to the residential electric customer's monthly bill, and a \$3.00 increase of the monthly residential customer charge. Thus, the Attorney General respectfully requests the Commission utilize all available ratemaking tools at its disposal to ensure the rates are fair, just, and reasonable, and mitigate the detrimental financial impact of the Company's pending rate increase request on its customers.

**b. The Attorney General opposes any potential discounted electric rates or incentives for electric vehicle charging infrastructure.**

In Duke Kentucky's rebuttal testimony, the Company states that one of the Intervenors recommends that the Commission require it to work with stakeholders to develop new, potentially discounted electric vehicle rates or incentives, specifically for public-facing electric vehicle chargers.<sup>462</sup> Duke Kentucky further asserts that the Intervenor requests for the Company to seek approval of the new rate within six months of the Final Order in this proceeding.<sup>463</sup> Duke Kentucky states that it is open to discussing non-discriminatory rate design for public facing electric vehicle chargers, and commits to include the information in the next electric rate case filing.<sup>464</sup>

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<sup>461</sup> Case No. 2014-00396, *In the Matter of Application of Kentucky Power Company for: (1) A General Adjustment of its Rates for Electric Service; (2) An Order Approving its 2014 Environmental Compliance Plan; (2) An Order Approving its Tariffs and Riders; and (4) An Order Granting All Other Required Approvals and Relief*, Order (Ky. PSC June 22, 2014) ("the Commission has long employed the principle of gradualism."); See also Case No. 2000-00080, *In the Matter of: The Application of Louisville Gas & Electric Company to Adjust its Gas Rates and to Increase its Charges for Disconnecting Service, Reconnecting Service and Returned Checks*, (Ky. PSC Sept. 27, 2000) ("the Commission is adhering to the rate-making concepts of continuity and gradualism in order to lessen the impact of these increases on the customers that incur these charges.").

<sup>462</sup> Rebuttal Testimony of Bruce L. Sailors ("Sailors Rebuttal") at 3 – 4.

<sup>463</sup> *Id.*

<sup>464</sup> *Id.*

Nevertheless, the Company, “ does not agree that the objective of the discussion should be solely for public facing DCFC EV charging stations and potentially providing discounted rates to such customers if those rates are not aligned with the cost to serve such customers.”<sup>465</sup>

The Attorney General agrees with the Company in that he opposes any potential discounted electric rates and/or incentives for electric vehicle charging infrastructure as it could produce discriminatory rates,<sup>466</sup> and potentially increase rates on the Company’s other customers. The Attorney General recommends that the Commission deny this request as it would lead to an inequitable result.

**c. The Commission should only approve actual rate case expenses that the Company has proven are just and reasonable with sufficient evidence.**

The Commission stated in the December 13, 2022 Order in Duke Kentucky’s prior rate case, Case No. 2022-00372, that recovery of rate case expense is not guaranteed, and there must be sufficient evidence that supports a finding that the expense is just and reasonable.<sup>467</sup> The Attorney General requests 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.

## **CONCLUSION**

WHEREFORE, the Attorney General requests that the Commission deny Duke Kentucky’s requested rate increase. If the Commission is inclined to grant a rate increase, then it should be limited to what Duke Kentucky has proven with known and measurable evidence that will result in fair, just, and reasonable rates for the Company's ratepayers.

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<sup>465</sup> *Id.*

<sup>466</sup> See KRS 278.170, <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=14067>.

<sup>467</sup> 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* (Ky. PSC Dec. 13, 2022), Order at 4.



Respectfully submitted,

RUSSELL COLEMAN  
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**Certificate of Service and Filing**

Pursuant to the Commission's Orders and in accord with all other applicable law, Counsel certifies that the foregoing electronic filing was transmitted to the Commission on June 16, 2025, and there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

This 16<sup>th</sup> day of June, 2025,



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Assistant Attorney General