

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF DUKE ENERGY)	
KENTUCKY, INC. FOR APPROVAL OF ITS)	CASE NO.
PREMIER POWER SERVICE TARIFF AND)	2015-00347
STANDARD CONTRACT)	

ORDER

On October 23, 2015, Duke Energy Kentucky, Inc. ("Duke Kentucky") filed with the Commission an application for approval of a Premier Power Service Tariff ("Rider PPS") and Standard Contract. The proposed tariff is voluntary and allows non-residential electric customers to have a backup generator installed on-site for enhanced reliability. The application proposed that the Rider PPS become effective on November 23, 2015. By Order dated November 13, 2015, the Commission suspended the effective date of the proposed tariff for five months up to and including April 22, 2016, to allow the Commission time to determine the reasonableness of the proposed tariff.

Commission Staff issued, and Duke Kentucky responded to, two rounds of requests for information, and a telephonic informal conference ("IC") was held on February 9, 2016. There are no intervenors in this matter, and it is now before the Commission for a decision based on the evidentiary record.

BACKGROUND

Duke Kentucky proposes that Rider PPS be available to commercial and industrial customers who want to have a backup power supply during power outages.¹

¹ Rider PPS filed with the application was revised in response to Commission Staff's Initial Request for Information ("Staff's First Request"), Item 11, for a change made to the Availability section of the tariff.

For customers choosing service under this tariff, a backup generator with a nameplate rating of 50 kW or greater would be located at the customer's site and would be installed, owned, operated, and maintained by Duke Kentucky. The backup generator will supply power only to the participating customer during a power outage and for routine testing of the generator.² In addition, the backup generator would be located on the Duke Kentucky side of the meter and equipped with an automatic throw-over switch to prevent electricity from flowing into the distribution system during power outages and to allow electricity from the backup generator to flow only in the direction to the customer.³ Duke Kentucky states that it will work with participating customers to design a system that will meet the customer's individual needs including size and fuel type of the backup generator.⁴

According to Duke Kentucky, the backup generators will not be dispatched into PJM Interconnection, LLC⁵ nor will they be included in Duke Kentucky's Integrated Resource Plan analysis or be eligible for demand response.⁶ Duke Kentucky states that the air permit for the backup generators will only be sited for emergency backup operation and that if the generators were to be used for other purposes, such as for load control or demand response, additional air permitting would be required. However,

² Application at 2.

³ *Id.* at 2–3, and Direct Testimony of Keith L. Dale (“Dale Testimony”) at 5.

⁴ Dale Testimony at 5.

⁵ PJM Interconnection, LLC is the regional transmission organization of which Duke Kentucky is a member.

⁶ Application at 3.

additional air permitting would require additional costs that would likely make the backup generators not cost effective for potential participants.⁷

Customers choosing Rider PPS will be served pursuant to a Standard Contract having an initial term of ten years which will set forth the charges and type of service to be provided. The specific rate charged under Rider PPS will be calculated based on the customer's needs and the equipment selected by the customer. The rate will be equal to the sum of the present value of estimated levelized capital costs and estimated expenses converted to a uniform monthly payment for the term on the contract. The formula will use the currently approved weighted cost of capital assuming a return on equity as approved in the immediately preceding base rate case to determine the levelized monthly charge.⁸ The monthly fixed charge for each participating customer would be calculated and agreed to prior to the Standard Contract being executed.

Duke Kentucky proposes that the capital and operation and maintenance costs associated with Rider PPS be excluded from the revenue requirement in future base rate cases and states that Rider PPS "will be a self-sustaining program, accounted for below the line, with no subsidization by non-participating customers."⁹ According to Duke Kentucky, participating customers will pay their own fuel costs through the Rider PPS fixed monthly charge and fuel related to Rider PPS will not be included in its monthly fuel adjustment clause filings.¹⁰ The Rider PPS tariff states that each

⁷ Dale Testimony at 15.

⁸ *Id.* at 7.

⁹ Application at 3, and Duke Kentucky's Response to Commission Staff's Second Request for Information ("Staff's Second Request"), Item 3.b.(2).

¹⁰ *Id.*

participating customer will be billed for all usage registered at the meter under the customer's applicable rate schedule. To ensure that a Rider PPS customer would not be paying double fuel costs given that the fixed monthly charge includes a fuel cost and the energy charge at which the usage would be billed includes a base fuel cost, Duke Kentucky stated that it would credit Rider PPS customers annually for the embedded cost of fuel in base rates based upon an assumption of the estimated annual run time of the generator.¹¹

Duke Kentucky states that it is proposing Rider PPS in order to provide commercial and industrial customers enhanced reliability. Duke Kentucky asserts that although some large commercial and industrial customers want to be able to continue operations during a power outage, investing in the equipment to provide backup power requires a significant upfront capital cost that many customers are not able to incur.¹² Duke Kentucky claims that Rider PPS offers these customers enhanced reliability by having a tailor-made backup generation offer that does not require a large capital investment or a large planning and construction effort on the customer's part but rather has the convenience of a fixed monthly payment for the term of the contract.¹³ Duke Kentucky points out that several of its affiliated companies have similar tariffs approved in Florida, South Carolina, North Carolina, and Indiana.¹⁴ Duke Kentucky will market

¹¹ Duke Kentucky's Response to Staff's Second Request, Item 6.

¹² Dale Testimony at 3.

¹³ Application at 4, and Dale Testimony at 10–11. The monthly charge remains unchanged during the term of the contract if the initial design criteria of the customer remain unchanged and no change requests are made by the customer. Any change in costs under the contract will be discussed with, and approved by, the customer. *See also* Duke Kentucky's Response to Staff's Second Request, Item 4.

¹⁴ Dale Testimony at 3.

Rider PPS to large sophisticated, commercial and industrial customers who have previously indicated a wish for, or are likely to want, backup generation.¹⁵

As part of the application, Duke Kentucky is also requesting approval of the Standard Contract mentioned previously. The Standard Contract, which was provided as Exhibit 2 of the application, is intended to be uniform for all Rider PPS customers and would be filed with the Commission as part of the Rider PPS tariff. However, Duke Kentucky contends that, because the scope of the work and payment schedule would be individualized for each customer and the information would be customer-specific, the Scope of Work and Pricing sections of the Standard Contract would contain sensitive competitive information and be highly confidential.¹⁶ In lieu of filing individual customer contracts, Duke Kentucky is proposing to file an annual report with the Commission to include the following information:

- Total number of Rider PPS customers;
- Number of Rider PPS customers added within the last 12 months;
- Number of times the Rider PPS backup generation has operated during a service outage during the last 12 months;
- Duration of each power outage at each Rider PPS customer service location;
- Number and size(s) (i.e., nameplate rating) of any new generators supplied to each Rider PPS customer during the last 12 months;
- Type of backup power equipment supplied to each Rider PPS customer;

¹⁵ *Id.* at 4.

¹⁶ *Id.* at 6.

- Effective date and term (i.e., number of years) of each Rider PPS agreement signed during the last 12 months;
- Confirmation that all Rider PPS related revenues and expenses are being tracked “below the line;”
- Number and nature of any Rider PPS customer complaints reported during the last 12 months and a description of any resolution; and
- Any positive customer feedback Duke Kentucky receives from a Rider PPS customer during the preceding 12 months.

Duke Kentucky is proposing to file the above information in summary form and contends that, because the uniform Standard Contract will be on file with the Commission, this proposal is a reasonable compromise between maintaining “customer confidence and keeping the Commission informed.”¹⁷

DISCUSSION

Although Duke Kentucky is proposing to provide service under Rider PPS through a regulated tariff, the Commission notes that Duke Kentucky’s proposed “below the line” accounting treatment would imply that the service is unregulated. Duke Kentucky states that “[t]here is a competitive, free open public market for the sale or lease of backup generators of the size and type to be used in Premier Power Services”¹⁸ and that “[b]ack-up generators are available from other vendors in the competitive market place for purchase or lease, so customers wishing to have this enhanced level of redundancy are not obligated to take this service from the

¹⁷ *Id.* at 18.

¹⁸ *Id.* at 16.

Company.”¹⁹ Although a competitive market exists for the purchase and installation of backup generators, the Commission finds that the service being provided by Duke Kentucky under Rider PPS should be considered a regulated service and therefore, the associated revenues, capital costs, and expenses should be recorded “above the line” in regulated accounts. Duke Kentucky noted during the IC that its affiliate in the Florida jurisdiction accounts for this same service above the line, but then removes the revenues, capital costs, and expenses associated with the tariff from the determination of base rates in rate case proceedings. In this proceeding, Duke Kentucky has proposed that these items be removed from the determination of base rates in future base rate proceedings. The Commission is in agreement with this proposal and finds that the revenues, capital costs, and expenses associated with Rider PPS should be removed from the determination of base rates in future base rate proceedings given that the PPS Tariff is structured to be self-sustaining and to guard against cross-subsidization.

As stated previously, Duke Kentucky proposes to file an annual summary report in lieu of filing the individual special contracts because of certain information that Duke Kentucky and its customers would consider competitively sensitive information. Kentucky regulation 807 KAR 5:011, Section 13 states that “[e]ach utility shall file a copy of each special contract that establishes rates, charges, or conditions of service not contained in its tariff.” The existence of sensitive information does not justify a deviation from this regulation. Pursuant to 807 KAR 5:001, Section 13, Duke Kentucky is able to request confidential treatment of the portions of a special contract that contain sensitive information. Therefore, the Commission finds that Duke Kentucky’s request to

¹⁹ Application at 3.

file an annual summary report in lieu of filing the individual special contracts should be denied. The Commission also finds that, since it is requiring the filing of the individual special contracts, approval of the Standard Contract is not necessary.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Duke Kentucky's revised proposed Rider PPS as discussed herein should be approved.

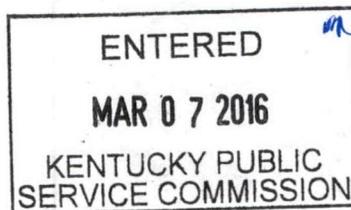
IT IS THEREFORE ORDERED that:

1. Duke Kentucky's revised proposed Rider Premier Power Service tariff is approved for service rendered on and after the date of this Order.
2. Duke Kentucky's proposal to file an annual summary report in lieu of filing the individual special contracts is denied.
3. Duke Kentucky's request for approval of the proposed Standard Contract in lieu of filing individual customer contracts is denied.
4. Duke Kentucky shall file with the Commission all special contracts related to Rider PPS.
5. Duke Kentucky's request to record the revenues, capital costs, and expenses associated with the proposed Rider Premier Power Service tariff below the line for accounting purposes is denied.
6. Duke Kentucky shall record the revenues, capital costs, and expenses associated with the proposed Rider Premier Power Service tariff above the line for accounting purposes.

7. Duke Kentucky shall remove the revenues, capital costs, and expenses associated with Rider PPS from the determination of base rates in future base rate proceedings.

8. Within 20 days of the date of this Order, Duke Kentucky shall file, using the Commission's electronic Tariff Filing System, its revised Rider PPS tariff with the Commission reflecting that it was approved pursuant to this Order.

By the Commission



ATTEST:


Acting Executive Director *for*

*Duke Energy Kentucky, Inc.
139 East Fourth Street
Cincinnati, OH 45202

*Duke Energy Kentucky, Inc.
139 East Fourth Street
Cincinnati, OH 45202

*Rocco O D'Ascenzo
Duke Energy Kentucky, Inc.
139 East Fourth Street
P. O. Box 960
Cincinnati, OH 45201