COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

FILING OF UTILITY DEPOSIT AGREEMENT BETWEEN KENTUCKY POWER COMPANY AND KES ACQUISTION COMPANY LLC AS A SPECIAL CONTRACT AND REQUEST FOR DEVIATION FROM RULES	))))))	CASE NO. 2006-00006

O R D E R

On December 29, 2005, Kentucky Power Company ("Kentucky Power") filed with the Commission as a special contract its Utility Deposit Agreement ("Agreement") with KES Acquisition Company LLC ("KES"). The Agreement governs the deposit, billing and termination of service terms of Kentucky Power's provision of electric service to KES. Kentucky Power requests permission to deviate from 807 KAR 5:006, Sections 6 and 14 and those provisions of its tariff contrary to the terms of the Agreement. Administrative Regulation 807 KAR 5:006, Section 27, provides the Commission the authority to permit deviations from the regulation for good cause shown.

The prior operator of the facilities now owned by KES filed for bankruptcy protection in February 2003, which forced Kentucky Power to write-off approximately $300,000 in outstanding accounts.[1] When KES began operations in late summer 2003, Kentucky Power initially required a deposit of $150,000, which was based upon anticipated usage during start-up operations. The deposit, which was equal to two-

[1] Kentucky Power Company Response to Commission Staff's Initial Set of Data Requests, Item 1.

twelfths (2/12) of KES's forecasted annual bill under its start-up operations, was collected in August 2003.[2] Since Kentucky Power collected the initial deposit, KES has increased its operations and electric consumption such that the $150,000 deposit is no longer equal to two-twelfths (2/12) of KES's annual bill. Kentucky Power states that the Agreement is necessary for its financial protection while minimizing the effect upon KES's cash flow.

In return for Kentucky Power's acceptance of a reduced deposit of $150,000, KES agrees to semi-monthly payments of its bill, and to streamlined service termination procedures. The special billing arrangement requires semi-monthly electronic payments, in an amount equal to one-half of the normal monthly bill, and the remaining balance between the normal monthly bill and the previous partial payment. The Agreement also sets out certain responsibilities of the parties concerning any bankruptcy petition that KES might file.

Kentucky Power states that the special billing arrangement and reduced deposit was agreed to in an effort to protect Kentucky Power from financial loss while avoiding the effects on KES that requiring a full two-twelfths (2/12) deposit would cause. "KES Acquisitions informed Kentucky Power that requiring the full deposit to be paid could force the closing of the facility and loss of employment by 200 workers."[3]

[2] 807 KAR 5:006, Section 7(1)(a), provides that deposit amounts shall not exceed two-twelfths (2/12) of the customer's actual or estimated annual bill where bills are rendered monthly or three-twelfths (3/12) where bills are rendered bi-monthly.

[3] Kentucky Power Company Response to Commission Staff's Initial Set of Data Requests, Item 10.

Having reviewed the evidence of record and being otherwise sufficiently advised, the Commission finds that good cause exists to permit Kentucky Power to deviate from the requirements of 807 KAR 5:006, Sections 6 and 14 and to provide service to KES upon the terms and conditions of the Agreement.

IT IS THEREFORE ORDERED that:

1. Kentucky Power's request to deviate from the requirements of Administrative Regulation 807 KAR 5:006, Sections 6 and 14 is granted.

2. The Agreement is accepted and approved for service that Kentucky Power provides to KES on and after the date of this Order.

Done at Frankfort, Kentucky, this 21st day of February, 2006.

By the Commission

ATTEST:

Executive Director