

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CONSIDERATION OF THE)	
REQUIREMENTS OF THE FEDERAL)	
ENERGY POLICY ACT OF 2005)	CASE NO.
REGARDING TIME-BASED METERING,)	2006-00045
DEMAND RESPONSE AND)	
INTERCONNECTION SERVICE)	

O R D E R

On August 8, 2005, President George W. Bush signed into law the Energy Policy Act of 2005 ("EPAAct 2005"). EPAAct 2005 amends the Public Utility Regulatory Policies Act of 1978 by adopting new standards for electric utilities regarding net metering, fuel source diversity, fossil fuel generation efficiency, smart metering, cogeneration and small power production, and interconnection. EPAAct 2005 requires that certain actions be taken by each electric utility and each state regulatory authority regarding the EPAAct 2005 amendments.

With this Order, the Commission initiates an administrative proceeding to consider the requirements of EPAAct 2005, Subtitle E Section 1252, Smart Metering, which entails time-based metering and demand response, and Section 1254, Interconnection. This proceeding only addresses these specific sections because EPAAct 2005 requires the Commission to consider them within either 18 or 24 months of the enactment of EPAAct 2005. An administrative proceeding to address the fuel source diversity and fossil fuel generation efficiency standards of Section 1251 will be initiated at a later date.

Section 1252, Smart Metering, requires each state regulatory authority to conduct a formal investigation and issue a decision on whether or not it is appropriate to

implement certain Section 1252 standards no later than 18 months after the enactment of EAct 2005. Two Section 1252 standards directly impact Kentucky.

The first standard states that, not later than 18 months after the enactment of EAct 2005, each electric utility shall offer each customer class and provide upon request a time-based rate schedule where the rate charged varies during different time periods and reflects the variance in the utility's cost of service. The time-based rate schedule is to allow the customer to manage energy use and cost through advanced metering and communications technology.

The types of time-based rate schedules that may be offered and thus considered include among others:

- Time-of-use pricing – prices are pre-established for a specific time period on an advanced or forward basis based on the utility's cost of service. This allows consumers to vary demand and usage in response to such prices to manage their energy cost by shifting usage to a lower cost period or reducing overall consumption.
- Critical peak pricing – time-of-use prices are in effect except for certain peak days when prices may reflect costs at a higher cost of service. Consumers may receive additional discounts for reducing peak period energy consumption.
- Real-time pricing – prices are set for a specific time period on an advanced or forward basis reflecting the utility's cost of service. Real-time prices may change as often as hourly.
- Credits for consumers with large loads that enter into pre-established peak load reduction agreements that reduce a utility's planned load capacity obligations.

The second standard requires that, no later than 18 months after the enactment of EAct 2005, each utility is to provide each customer requesting a time-based rate with a meter capable of enabling the utility and the customer to offer and receive such a rate. Appendix A includes the complete language of Section 1252, Smart Metering.

Plainly, with regard to Smart Metering, EAct 2005 requires each state regulatory authority to conduct an investigation and determine whether or not it is appropriate for jurisdictional electric utilities to provide and install time-based meters and communications devices to enable each customer to participate in time-based pricing rate schedules and other demand response programs. If the Commission determines that the Smart Metering standards should be implemented, then each jurisdictional electric utility is required to implement them no later than 18 months after the enactment of EAct 2005.

The Section 1254 Interconnection standard requires each electric utility to make interconnection service available to any customer. EAct 2005 defines interconnection service as service to an electric consumer under which an on-site generating facility on the consumer's premises shall be connected to the local distribution facilities. The service is to be offered based on standards developed by the Institute of Electrical Electronics Engineers: IEEE Standard 1547 for Interconnecting Distributed Resources with Electric Power Systems. The standard provides for just and reasonable agreements and procedures to be established so the services offered promote current best practices of interconnection for distributed generation.

EAct 2005 requires each state regulatory authority to commence consideration of the Section 1254 standard or set a hearing date for consideration no later than one year after the enactment of EAct 2005. Each state regulatory authority is to complete its consideration and make a determination whether to implement the interconnection standard within two years after the enactment of EAct 2005. Appendix B includes the complete language of Section 1254, Interconnection.

All of Kentucky's jurisdictional electric utilities will be made parties to this case and required to respond to the initial data request included as Appendix C of this Order. A procedural schedule for this proceeding is included as Appendix D of this Order.

IT IS THEREFORE ORDERED that:

1. This proceeding to permit the Commission to consider the requirements of the federal Energy Policy Act of 2005 regarding time-based metering, demand response, and interconnection service is opened. All jurisdictional electric utilities are made parties to this proceeding.
2. All jurisdictional electric utilities shall file responses to each item in the information request contained in Appendix C. The original and 7 copies of the responses shall be filed with the Commission by March 23, 2006.
3. The procedural schedule set forth in the attached Appendix D shall be followed.
4. All requests for intervention shall be made within 30 days of the date of this Order. Anyone who wishes to participate but not intervene will be given the opportunity to file written comments or to offer comments at the public hearing.

Done at Frankfort, Kentucky, this 24th day of February, 2006.

By the Commission

ATTEST:



Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN ADMINISTRATIVE CASE NO. 2006-00045 DATED February 24, 2006

SEC. 1252. SMART METERING.

(a) In General- Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

`(14) TIME-BASED METERING AND COMMUNICATIONS- (A) Not later than 18 months after the date of enactment of this paragraph, each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

`(B) The types of time-based rate schedules that may be offered under the schedule referred to in subparagraph (A) include, among others--

`(i) time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year, based on the utility's cost of generating and/or purchasing such electricity at the wholesale level for the benefit of the consumer. Prices paid for energy consumed during these periods shall be pre-established and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their energy costs by shifting usage to a lower cost period or reducing their consumption overall;

`(ii) critical peak pricing whereby time-of-use prices are in effect except for certain peak days, when prices may reflect the costs of generating and/or purchasing electricity at the wholesale level and when consumers may receive additional discounts for reducing peak period energy consumption;

`(iii) real-time pricing whereby electricity prices are set for a specific time period on an advanced or forward basis, reflecting the utility's cost of generating and/or purchasing electricity at the wholesale level, and may change as often as hourly; and

`(iv) credits for consumers with large loads who enter into pre-established peak load reduction agreements that reduce a utility's planned capacity obligations.

`(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.

`(D) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

`(E) In a State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive the same time-based metering and communications device and service as a retail electric consumer of the electric utility.

`(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than 18 months after the date of enactment of this paragraph

conduct an investigation in accordance with section 115(i) and issue a decision whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).'

(b) State Investigation of Demand Response and Time-Based Metering- Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended as follows:

(1) By inserting in subsection (b) after the phrase 'the standard for time-of-day rates established by section 111(d)(3)' the following: 'and the standard for time-based metering and communications established by section 111(d)(14).'

(2) By inserting in subsection (b) after the phrase 'are likely to exceed the metering' the following: 'and communications'.

(3) By adding at the end the following:

(i) Time-Based Metering and Communications- In making a determination with respect to the standard established by section 111(d)(14), the investigation requirement of section 111(d)(14)(F) shall be as follows: Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices for each of their customers which enable such customers to participate in time-based pricing rate schedules and other demand response programs.'

(c) Federal Assistance on Demand Response- Section 132(a) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(a)) is amended by striking 'and' at the end of paragraph (3), striking the period at the end of paragraph (4) and inserting '; and', and by adding the following at the end thereof:

(5) technologies, techniques, and rate-making methods related to advanced metering and communications and the use of these technologies, techniques and methods in demand response programs.'

(d) Federal Guidance- Section 132 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642) is amended by adding the following at the end thereof:

(d) Demand Response- The Secretary shall be responsible for--

(1) educating consumers on the availability, advantages, and benefits of advanced metering and communications technologies, including the funding of demonstration or pilot projects;

(2) working with States, utilities, other energy providers and advanced metering and communications experts to identify and address barriers to the adoption of demand response programs; and

(3) not later than 180 days after the date of enactment of the Energy Policy Act of 2005, providing Congress with a report that identifies and quantifies the national benefits of demand response and makes a recommendation on achieving specific levels of such benefits by January 1, 2007.'

(e) Demand Response and Regional Coordination-

(1) IN GENERAL- It is the policy of the United States to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable demand response services to the public.

(2) TECHNICAL ASSISTANCE- The Secretary shall provide technical assistance to States and regional organizations formed by two or more States to assist them in--

(A) identifying the areas with the greatest demand response potential;

(B) identifying and resolving problems in transmission and distribution networks, including through the use of demand response;

(C) developing plans and programs to use demand response to respond to peak demand or emergency needs; and

(D) identifying specific measures consumers can take to participate in these demand response programs.

(3) REPORT- Not later than 1 year after the date of enactment of the Energy Policy Act of 2005, the Commission shall prepare and publish an annual report, by appropriate region, that assesses demand response resources, including those available from all consumer classes, and which identifies and reviews--

(A) saturation and penetration rate of advanced meters and communications technologies, devices and systems;

(B) existing demand response programs and time-based rate programs;

(C) the annual resource contribution of demand resources;

(D) the potential for demand response as a quantifiable, reliable resource for regional planning purposes;

(E) steps taken to ensure that, in regional transmission planning and operations, demand resources are provided equitable treatment as a quantifiable, reliable resource relative to the resource obligations of any load-serving entity, transmission provider, or transmitting party; and

(F) regulatory barriers to improve customer participation in demand response, peak reduction and critical period pricing programs.

(f) Federal Encouragement of Demand Response Devices- It is the policy of the United States that time-based pricing and other forms of demand response, whereby electricity customers are provided with electricity price signals and the ability to benefit by responding to them, shall be encouraged, the deployment of such technology and devices that enable electricity customers to participate in such pricing and demand response systems shall be facilitated, and unnecessary barriers to demand response participation in energy, capacity and ancillary service markets shall be eliminated. It is further the policy of the United States that the benefits of such demand response that accrue to those not deploying such technology and devices, but who are part of the same regional electricity entity, shall be recognized.

(g) Time Limitations- Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

`(4)(A) Not later than 1 year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to the standard established by paragraph (14) of section 111(d).

`(B) Not later than 2 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to the standard established by paragraph (14) of section 111(d).'

(h) Failure to Comply- Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following:

`In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).'

(i) Prior State Actions Regarding Smart Metering Standards-

(1) IN GENERAL- Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

`(e) Prior State Actions- Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (14) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection--

`(1) the State has implemented for such utility the standard concerned (or a comparable standard);

`(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility within the previous 3 years;

or

`(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility within the previous 3 years.'.

(2) CROSS REFERENCE- Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: `In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).'

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN ADMINISTRATIVE CASE NO. 2006-00045
DATED February 24, 2006

SEC. 1254. INTERCONNECTION.

(a) Adoption of Standards- Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

`(15) INTERCONNECTION- Each electric utility shall make available, upon request, interconnection service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term `interconnection service' means service to an electric consumer under which an on-site generating facility on the consumer's premises shall be connected to the local distribution facilities. Interconnection services shall be offered based upon the standards developed by the Institute of Electrical and Electronics Engineers: IEEE Standard 1547 for Interconnecting Distributed Resources with Electric Power Systems, as they may be amended from time to time. In addition, agreements and procedures shall be established whereby the services are offered shall promote current best practices of interconnection for distributed generation, including but not limited to practices stipulated in model codes adopted by associations of state regulatory agencies. All such agreements and procedures shall be just and reasonable, and not unduly discriminatory or preferential.'

(b) Compliance-

(1) TIME LIMITATIONS- Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

`(5)(A) Not later than 1 year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated utility shall commence the consideration referred to in section 111, or set a hearing date for consideration, with respect to the standard established by paragraph (15) of section 111(d).

`(B) Not later than two years after the date of the enactment of the this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraph (15) of section 111(d).'

(2) FAILURE TO COMPLY- Section 112(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following: `In the case of the standard established by paragraph (15), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of paragraph (15).'

(3) PRIOR STATE ACTIONS-

(A) IN GENERAL- Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

`(f) Prior State Actions- Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (15) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection--

`(1) the State has implemented for such utility the standard concerned (or a comparable standard);

`(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility; or

`(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility.'.

(B) CROSS REFERENCE- Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: `In the case of each standard established by paragraph (15) of section 111(d), the reference contained in this subsection to the date of enactment of the Act shall be deemed to be a reference to the date of enactment of paragraph (15).'.`

APPENDIX C

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN ADMINISTRATIVE CASE NO. 2006-00045
DATED February 24, 2006

Smart Metering

1. Provide a list of programs you offer at present or have offered at any time since the enactment of the Public Utilities and Regulatory Policies Act ("PURPA") that can be included under the definition of either time-based metering or demand response set forth in Section 1252 of EAct 2005. Include a brief description of each program, the relevant tariffs (if applicable) and a cite to the Commission case number in which the program was approved (if applicable).

2. Provide a general discussion of the types of time-based metering or demand response programs that are possible using existing technologies and a specific discussion on which of these programs, if any, are feasible for current implementation in Kentucky.

3. Provide, in narrative form, with all relevant calculations, workpapers and assumptions included, what you see as the potential impact of implementing the Smart Metering standard included in Section 1252 of EAct in Kentucky. At a minimum, the response should address the costs of implementation, financial impact on the utility, who should bear the costs of implementation, and possible rate making and rate treatment issues.

4. Provide a general discussion of what you perceive to be the pros and cons of implementing a Smart Metering standard in Kentucky and the policy issues that you believe the Smart Metering standard presents for the Commission.

Interconnection

1. Provide, in narrative form, with all relevant calculations, workpapers and assumptions included, what you see as the potential impact of implementing the Interconnection standard included in Section 1254 of EAct in Kentucky. At a minimum, the response should address the costs of implementation, financial impact on the utility, who should bear the costs of implementation, and possible rate making and rate treatment issues.
2. Provide a general discussion of what you perceive to be the pros and cons of implementing an Interconnection standard in Kentucky and the policy issues that you believe the Interconnection standard presents for the Commission. Include discussion of the issues that must be addressed to comply with IEEE 1547.
3. Identify any customer with on-site generation that is currently connected to your distribution system. Provide the customer's maximum demand in 2005 and current generating capacity.

APPENDIX D

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN ADMINISTRATIVE CASE NO. 2006-00045
DATED February 24, 2006

Commission information request to all jurisdictional electric utilities 02/24/06

All jurisdictional electric utilities shall file responses to initial requests for information no later than.....03/23/06

All supplemental requests for information to all jurisdictional electric utilities shall be filed no later than04/13/06

All jurisdictional electric utilities shall file responses to supplemental requests for information no later than04/27/06

Informal Conference is to begin at 9:00 a.m., Eastern Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky..... 05/10/06

Jurisdictional electric utilities shall file testimony, if any, in verified prepared form no later than05/18/06

Intervenor testimony, if any, in verified prepared form shall be filed no later than06/06/06

Last day for all jurisdictional electric utilities to publish notice of hearing07/11/06

Public Hearing is to begin at 9:00 a.m., Eastern Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, for the purpose of cross-examination of witnesses 07/18/06

Briefs, if any, shall be filed by.....08/30/06