COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF THE REASONABLENESS OF THE DEMAND SIDE MANAGEMENT PROGRAMS AND RATES OF KENTUCKY POWER COMPANY	))))	CASE NO. 2017-00097

ORDER

This case was initiated by the Commission on its own motion to investigate the reasonableness of Kentucky Power Company's ("Kentucky Power") Demand Side Management ("DSM") programs based on the significant increase in its DSM rates, its level of spending on DSM programs, and the declining economic conditions in its service territory.[1] Kentucky Power subsequently requested the entry of an interlocutory order regarding its obligations regarding the administration of its DSM programs during the pendency of this investigation. Specifically, Kentucky Power noted its obligation to achieve a minimum annual level of DSM spending of $6 million through 2018, described certain actions it must take over the following months to continue administering its DSM programs, and requested either confirmation of its obligation to continue its current DSM annual spending level or relief from that annual spending level. The Commission granted Kentucky Power's motion by Order entered May 4, 2017, directing it to continue administering its existing DSM programs and relieving it of the obligation to spend $6 million in 2017.[2]

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[1] Order entered February 23, 2017.

[2] Order entered May 4, 2017.

Intervenors Beverly May, Jim Webb, and the Sierra Club (collectively, "Sierra Club") then filed a motion requesting clarification of the Commission's May 4, 2017 Order. Sierra Club notes that Kentucky Power's obligation to annually spend $6 million on DSM programs in 2017 and 2018 arose out of a Stipulation and Settlement Agreement ("Stipulation") entered into by both entities and Kentucky Industrial Utility Customers, Inc. in Case No. 2012-00578, and that the Stipulation was ultimately approved with modifications by the Commission.[3] In so approving, the Commission stated that the Stipulation provided for ratepayer benefits that could not have otherwise been achieved, and modified the Stipulation to require Commission approval for DSM spending below $6 million after 2018. Sierra Club states that it entered into the Stipulation based upon Kentucky Power's agreement to the DSM spending levels, which are for cost-effective programs in which the benefits exceed the costs, and that the agreed-to levels for DSM spending are now the ordinary course of business for administrating Kentucky Power's DSM programs. Thus, Sierra Club asserts that the annual spending level of $6 million is a floor and is not a discretionary level of spending, and that the Commission's May 4, 2017 Order should be interpreted as directing Kentucky Power to refrain from any DSM spending that exceeds the minimum level of $6 million.

Also pending are two motions filed by Kentucky Power. The first motion requests a deviation from previously established requirements related to the timing of filing DSM

[3] 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).

program evaluations. In Case No. 2012-00367,[4] the Commission directed Kentucky Power to file any DSM evaluations or proposed expanded or new programs, along with specified supporting documentation, by August 15 of each year or, if there are no DSM evaluations or proposed expanded or new programs, to file by November 15 of that year a revised tariff showing the proposed DSM factors for the following year with supporting documentation. Since the May 4, 2017 Order directed Kentucky Power to eliminate any discretionary DSM spending, its motion states that it will not be proposing any expanded or new programs in 2017 and will file its revised DSM tariff as directed by November 15, 2017, but seeks authority to include with that filing its DSM evaluations.

Kentucky Power's second motion, designated as a Status Report, sets forth two separate issues for adjudication. The first issue relates to Kentucky Power's use of third-party contractors to implement many of its DSM programs. Three of those contracts, covering the Residential Efficiency Products program, the Energy Education for Students program, and the Residential Home Performance program, will soon expire and will need to be renewed, extended, or replaced. Absent further direction from the Commission, Kentucky Power states that it intends to continue administrating its DSM programs in the ordinary course of business and will renew, extend, or replace these contracts in an amount not to exceed the total cost of the expiring contracts. The second issue relates to $87,720 of unexpended funds remaining from two separate programs previously approved by the Commission for use by the Kentucky School Boards Association ("KSBA") to fund school energy managers. Both of the programs expired as of July 1, 2017. Kentucky Power requests authority to extend its contract with the KSBA to allow

[4] Case No. 2012-00367, *Application of Kentucky Power Company to Amend Its Demand Side Management Program and for Authority to Implement a Tariff to Recover costs and Net Lost Revenues and to Receive Incentives Associated with the Implementation of the Programs* (Ky. PSC Feb. 22, 2013).

for the spending of the remaining funds and states that no additional funds will be paid to the KSBA.

Based on the motions and being otherwise sufficiently advised, the Commission finds that while Kentucky Power's current DSM program spending level of $6 million annually is the result of a Stipulation previously approved by the Commission, circumstances have changed drastically since that time. This investigation of Kentucky Power's DSM spending was opened due to those changes in circumstances, which include the current adverse economic conditions in much of Kentucky Power's service territory, its declining electric sales, and its declining number of customers, which collectively have resulted in a significant level of excess generating capacity. These factors have all contributed to Kentucky Power's having the highest DSM charge of any jurisdictional utility at $10.61 per month for the average residential customer.[5]

While the increased level of spending on DSM programs was at the time of the Stipulation intended to be a benefit to ratepayers, that level of spending has now become a severe financial burden. These circumstances not only indicate an immediate need for rate relief for residential customers, they also raise serious questions as to whether Kentucky Power's residential customers should be paying higher rates to fund programs that encourage lower consumption when that lower consumption results in unrecovered fixed costs that will ultimately be charged back to residential customers through higher rates. It was with these circumstances as background that we issued our May 4, 2017 interlocutory Order in response to Kentucky Power's earlier motion regarding its obligations to administer its DSM programs during the pendency of this investigation. That Order expressly stated, in ordering paragraph 3:

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[5] Order entered February 23, 2017.

> During the pendency of the instant proceeding, Kentucky Power shall continue its ongoing obligation to administer its DSM portfolio in the ordinary course of business, but shall not be required to attain the existing $6 million DSM expenditure level in 2017.

Thus, for those DSM programs that were being administered under an existing third-party contract which required a specific level of spending, Kentucky Power was authorized to continue administering those contracts, but the obligation to annually spend $6 million on DSM programs through 2017 was suspended. The Commission now clarifies its May 4, 2017 Order to state that Kentucky Power's obligation to annually spend $6 million on DSM programs is suspended during the pendency of this investigation. Consequently, once existing third-party residential DSM contracts expire, Kentucky Power is relieved of any obligation to renew, extend, or replace those contracts, or to enter into other DSM contracts, or to maintain or develop internal programs, in an effort to achieve or maintain an annual DSM spending level of $6 million.

Kentucky Power's motion to file by November 15, 2017, its DSM evaluations, along with its revised DSM tariff and its proposed DSM factors, is reasonable and should be granted. With respect to Kentucky Power's Status Report, the first issue raised therein regarding its obligation to renew, extend, or replace third-party contracts is addressed in the findings above. With respect to the second issue in the Status Report regarding $87,720 of unexpended KSBA funds for school energy managers, allowing those funds to be used after the July 1, 2017 expiration of previously approved programs is reasonable and should be allowed.

Finally, the Commission finds that additional procedural steps should be established to bring this investigation to a conclusion. As requested by the parties at the April 21, 2017 informal conference, intervenors will be afforded the opportunity to file testimony, and Kentucky Power will be afforded the opportunity to file rebuttal testimony, followed by a hearing.[6]

IT IS THEREFORE ORDERED that:

1. The May 4, 2017 Order is clarified as set forth in the findings contained herein.

2. Kentucky Power is relieved of any obligation to renew, extend, or replace third-party residential DSM contracts, or to enter into other DSM contracts, or to maintain or develop internal programs, in an effort to achieve or maintain an annual DSM spending level of $6 million during the pendency of this investigation.

3. Kentucky Power's motion to file by November 15, 2017, its DSM evaluations, along with its revised DSM tariff and its proposed DSM factors, is granted.

4. Kentucky Power's request to spend the $87,720 of unexpended KSBA funds for the school energy managers programs is approved.

5. Intervenor testimony, if any, in verified prepared form shall be filed no later than November 22, 2017.

6. Kentucky Power shall file, in verified prepared form, its rebuttal testimony, if any, no later than December 13, 2017.

7. A Public Hearing to be held in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, for the purpose of cross-examination of witnesses of Kentucky Power and Intervenors shall be scheduled at a later date.

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[6] Informal Conference Memo filed April 27, 2017.

By the Commission

ENTERED

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