

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DUKE ENERGY)	CASE NO.
KENTUCKY, INC. TO AMEND ITS DEMAND SIDE)	2023-00269
MANAGEMENT PROGRAMS)	

ORDER

On August 15, 2023, Duke Energy Kentucky, Inc. (Duke Kentucky) filed a motion pursuant to 807 KAR 5:001, Section 22, for deviation from 807 KAR 5:001, Section 17(2)(b)(3), customer notice requirements in connection with its application to amend its demand-side management (DSM) programs, including changes to its tariff increasing electric rates and decreasing gas rates.

A rate adjustment by a utility with more than 20 customers, such as Duke Kentucky, requires notice to customers in one of four ways listed in 807 KAR 5:001, Section 17(2)(b). Duke Kentucky opted for “[p]ublishing notice once a week for three (3) consecutive weeks in a prominent manner in a newspaper of general circulation in the utility's service area, the first publication to be made no later than the date the application is submitted to the commission”¹ Duke Kentucky’s application was filed on August 15, 2023, and proposed effective date in its proposed DSM tariff was September 15, 2023.

Duke Kentucky’s motion stated that on August 2, 2023, it contacted Kentucky Press Association (Kentucky Press) and requested it effectuate notice in Duke Kentucky’s service area. Duke Kentucky also stated that on August 3, 2023, it was notified by

¹ 807 KAR 5:001, Section 17(2)(b)(3).

Kentucky Press that the deadline to have notice published in the weekly publication *Grant County News* for the week of August 14, 2023, was missed. However, *The Kentucky Enquirer*, which collectively covers the same counties as the weekly publications, published notice within the requirements on August 9, 2023, and was scheduled to publish notice on August 16, 2023, and August 23, 2023. Duke Kentucky stated that the notice would run in the *Grant County News* on August 17, 2023, August 23, 2023, and August 30, 2023. Duke Kentucky stated that notice was scheduled to run in five newspapers of general circulation, namely the *Falmouth Outlook*, *Gallatin County News*, *Grant County News*, *The Kentucky Enquirer*, and *LinkNKY*, covering each of the counties in the service territory. Duke Kentucky asserted that due to the timing of the weekly newspapers, it was unable to entirely complete the required publication in the *Grant County News* on or before the filing of the application. Duke Kentucky argued that it made a good faith attempt to publish its notices.

Having considered the motion and all evidence in the record, the Commission finds that Duke Kentucky's motion for deviation should be denied. Although the Commission grants deviation from notice requirements when a newspaper fails to publish a notice through no fault of the utility, in this case, Duke Kentucky simply did not timely request notice be published in two newspapers before filing its application. The application was tendered on August 15, 2023, at a time when Duke Kentucky had been aware for 12 days that it had missed the deadline for publication. In Case No. 2019-00119,² the Commission held that the proper outcome in the event of failure of Section 17(2)(b)(3) notice due to

² Case No. 2019-00119, *Electronic Application of Estill County Water District No. 1 for a Surcharge to Finance Water Loss Control Efforts* (Ky. PSC Aug. 29, 2019), Order at 3.

inattention by the utility was to delay the date the application was deemed filed until the date the first notice was given, conditioned on filing compliant notice in the two subsequent weeks and filing proof of notice for all three notices within 45 days of the date the application was first submitted.³

Therefore, Duke Kentucky's application is deemed filed as of August 17, 2023. KRS 278.180 requires 30 days' notice to the Commission before any rate changes can take effect, meaning the proposed rate changes would not take effect any earlier than September 16, 2023. However, in order for the Commission to fully investigate the proposed changes to Duke Kentucky's DSM programs and associated rate changes, the proposed rate changes are suspended for five months until February 16, 2024.

IT IS THEREFORE ORDERED that:

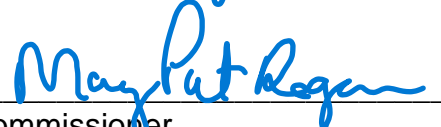
1. Duke Kentucky's motion for deviation from 807 KAR 5:001, Section 17(b)(2) is denied.
2. Duke Kentucky's application to amend its DSM programs is accepted for filing and deemed filed on August 17, 2023, conditioned upon Duke Kentucky filing proof of notice of publication of the three notices in the *Grant County News* by September 29, 2023.
3. Duke Kentucky's proposed rate changes are suspended for five months until February 16, 2024.

³ 807 KAR 5:001, Section 17(2)–(3).

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ENTERED
SEP 14 2023 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

*Debbie Gates
Duke Energy Kentucky, Inc.
139 East Fourth Street
Cincinnati, OH 45201

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

*Larisa Vaysman
Duke Energy Kentucky, Inc.
139 East Fourth Street
Cincinnati, OH 45201

*Minna Sunderman
Duke Energy Kentucky, Inc.
139 East Fourth Street
Cincinnati, OH 45201