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**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

**APPLICATION OF EAST KENTUCKY POWER)
COOPERATIVE, INC. FOR AN ORDER APPROVING)
A PILOT REAL-TIME PRICING PROGRAM FOR) CASE NO. 2007-00165
LARGE COMMERCIAL AND INDUSTRIAL)
CUSTOMERS)**

ATTORNEY GENERAL'S COMMENTS

Comes now the intervenor, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and tenders the following comments in the above-styled matter.

I. Summary of Plan

East Kentucky Power Cooperative, Inc. (hereinafter referred to as "Petitioners" or "Company") seeks Commission approval of a wholesale tariff of EKPC and a member system tariff for a pilot real-time pricing program to large commercial and industrial customers. This program is proposed in response to the Commission's Order in Administrative Case No. 2006-00045.

In designing the proposed pilot program, the company reviewed similar RTP programs offered by various utilities. The programs reviewed by the company included those offered by AEP (PSO), Cinergy, Duke Power, First Energy, Progress Energy and Georgia Power. All of the programs reviewed were "two-part" type programs which provide that a participant's bill consists of two parts - a base bill consisting of a historical "baseline" to be charged at the standard tariff, and a incremental charge based upon the deviation from the participant's historical baseline which is charged or credited based upon the hourly pricing summed over all

hours in the applicable billing period. In its application, the company's pilot program utilizes the above two-part approach. The pilot program is voluntary and is restricted to customers having a firm load and a peak demand of 1000 kW or more. Additionally, the customer must also have the correct metering system in place or be willing to pay for any required upgrade. Interruptible customers are not eligible to participate in this program. The purpose of the program is to discern whether users within these customer classes will respond to the posted next-day hourly pricing of electrical energy proposed under the program to reduce their overall demand and/or shift their variable demand to low peak hours. In support of its application, the Petitioner offers testimony from Michael T. O'Sheasy of Christensen Associates Energy Consultants, who participated in the design of Georgia Power Company's RTP program. In his testimony, Mr. O'Sheasy claims that the Georgia Power Company RTP program has been successful in achieving its goals of lowering critical peak demand, encouraging a shift of variable demand to low peak hours and allowing customers to reap the economic benefits of this reduced and/or shifted demand. The proposed tariff for those choosing to participate in the program provides that participants are to be charged a flat fee of \$150.00 per month. This monthly fee is to cover incremental costs related to the program's administration and operation. The basis for these incremental costs were detailed in the Petitioner's Response to Commission Staff's First Data Request, specifically question 4. These charges appear to be reasonably related to the company's expenses and are nominal for customers of this size. Additionally, the company intends to charge a "Risk Adder" charge to participants. This "Risk Adder" is designed to provide a contribution to fixed costs and to cover the incremental risk the company assumes by offering real-time pricing to participants.

The program tariff is based on the cost of generation at various times of the day and year and for those customers participating in the program, the company and the customer will jointly develop a "Customer Baseline Load" (CBL) based upon the participants historical electrical usage over a designated 12-month period and is subject to change by the company only upon the permanent removal of major, customer owned electrical equipment or significant conservation or efficiency enhancements made by one of the company's retail customers. The application states that any such modification must be approved by all parties.

Under the terms of the program, participants will be assigned a company specific login ID and password and are required to login to receive pricing data (both real-time and forecasted) via a secure website which will be implemented by the company as part of the pilot program. This pricing data will be disseminated to participants no later than 4:00 p.m. and will reflect the pricing for the 24-hour period beginning the following day at 1:00 a.m.. Initially, participants will only be able to access pricing data, a copy of the tariff, a program description and EKPC contact information from the program's website; however it is anticipated that other features may be added to allow a customer to view historical "CBL" usage versus actual usage and previous bills. The company notes that the identities of program participants and pricing information are confidential and, therefore, dissemination will be restricted.

The company states that it intends to educate participants concerning the pilot program initially via a introductory workshop which is then to be followed up with discussions between prospective participants and EKPC and member system marketing representatives. Upon enrollment into the pilot program, the company intends to offer annual workshops for

participants to discuss successful techniques and ideas to maximize participant involvement in the program.

If the program is approved, the Petitioners expect to implement the program and tariffs approximately four months after the receipt of approval by the Commission. The program is anticipated to have an initial term of three years and the company will file annual reports concerning the program with the Commission.

II. Attorney General's Comments

From a general perspective, the Attorney General applauds Petitioners' initiative, subject to the following provisos.

First, the Attorney General's comments should not be construed in any manner as acquiescing to the inclusion of any administrative costs in a future rate case.

Second, the Attorney General notes that continued support and interaction between the company and participants is necessary to ensure successful results under the program and therefore, the Attorney General urges that the Commission require Petitioners to forthrightly and plainly advise participants regarding the tariff and the options which a participant can take to reduce and/or shift their demand. In addition, although the company has stated that it considers participant involvement in the program to be confidential, the Attorney General urges that successful techniques to reduce demand and/or shift load be disseminated to both participants and non-participants as widely as possible to maximize any benefits under the program.

Third, the Attorney General notes that the Petitioner has stated that the "CBL" is subject to change by the company only upon the permanent removal of major, customer owned electrical equipment or significant conservation or efficiency enhancements made by one of the company's

retail customers. As the goal of the program is to discern whether participants will undertake conservation and/or efficiency efforts to reduce and/or shift their demand in response to the RTP pricing structure, the Attorney General believes that some additional criteria be established to ensure that the “CBL” data is not modified extensively or repeatedly. It is the Attorney General’s position that some participants may desire to use the “credits” received under the program to fund the purchase of high efficiency equipment to replace older, less efficient equipment. While it is true that the participant would receive these “credits” in the form of a lower base bill under the standard tariff should the CBL be modified by the company, the possibility exists that rapid payback periods could be achieved which would make such investments by the participants more attractive and, therefore, encourage the goals envisioned by the program. While it is recognized that revenue erosion is a possibility should a participant achieve substantial savings from their efforts to reduce or shift demand, it is suggested that the CBL not be modified unless a participant achieves a continuing reduction of 10% over their initial historical baseline.

Additionally, while the application suggests that the CBL be modified only for reductions in a participant’s demand, the Attorney General envisions that situations will also occur during the term of the pilot program where a company expanding its operations will increase its demand. Although not specifically identified as a situation where the CBL may be modified on a going-forward basis, the Attorney General believes that a situation wherein a company increases its usage, as compared to historical data, due to expansion of its operations must also be considered as justifying an on-going modification to the CBL. If the program does not recognize such situations, it is possible that a company desiring to increase its’ operations could suffer substantial economic penalties. As it is in the interest of the state and ratepayers to encourage

economic development, increases to electrical demand due to an expansion of operations should be considered justification for modification to the CBL. While determining the extent of a modification's future impact on the CBL may be difficult to determine precisely, the Attorney General believes that good faith negotiations between the participant and the company would be able to resolve any dispute as it relates to a CBL modification. Therefore, it is suggested that the CBL be subject to modification if a participant, due to an expansion of their operation, increases their demand 10% over their initial historical baseline on a continuing basis.

Fourth, the Attorney General notes that the program is designed to be cost neutral to the participants. By inference, over a calendar year the participant should experience no changes assuming no conservation measures have been undertaken. Given this twelve month period as the time period against which the company will gauge the monetary consequences to the participant, the Attorney General suggests that the Petitioner collect customer equipment costs associated with any upgrades to a participant's metering system over a twelve month period.

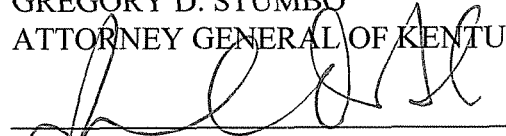
Lastly, the Petitioner's objectives under the program are to encourage participants to reduce their demand during critical peak hours and to shift their variable demand to low peak hours. To evaluate whether these objectives are achieved, the Petitioner proposes to collect data from participants in the program each year for a period of three years and issue annual reports detailing the results obtained under the program to the Commission. The Attorney General believes that in order for the Commission to adequately monitor the program, such interim reporting should contain, at a minimum, 1) the current number of program participants, 2) the type of industry or primary business activity for each participant, 3) the number of participants who have withdrawn from the program along with any reasons for such withdrawal, 4) the

average, minimum and maximum monthly electrical usage and cost for program participants during each 12 month reporting period, 5) the average, minimum and maximum monthly electrical usage and costs for program participants for the 12 month period immediately preceding enrollment into the program, 6) the requirement that the Petitioner solicit and report any comments or suggestions of program participants, 7) an evaluation by the utility of the impact of the program on its peak and/or base demand as compared to its' historical data for the 12 month period immediately preceding implementation of the program, 8) the requirement that the Petitioner submit whether, in its opinion, the program is achieving its stated objectives and Petitioner's evaluation of the comments and suggestions of the program participants, 9) in addition to the individual, yearly results, a cumulative comparison of the information furnished in item 4, 5, and 7, to allow year over year comparison of program results, and 10) the program costs to the date of the report along with the details of any deviations from the program budget submitted along with the application. The Attorney General suggest that such reports be made a part of the record and distributed to all parties in the matter.

Subject to the above comments, the Attorney General would recommend the Commission approve the Application of Petitioner.

Respectfully submitted,

GREGORY D. STUMBO
ATTORNEY GENERAL OF KENTUCKY

A handwritten signature in black ink, appearing to read "Dennis Howard II", is written over a horizontal line.

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CERTIFICATE OF SERVICE AND NOTICE OF FILING

I hereby give notice that this the 12th day of July, 2007, I have filed the original and ten copies of the foregoing Attorney General's Comments with the Kentucky Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky, 40601 and certify that this same day I have served the parties by mailing a true copy of same, postage prepaid, to those listed below.

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