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

In the Matter of:

**APPLICATION OF KENTUCKY POWER)
COMPANY FOR AN ORDER APPROVING)
A PILOT REAL-TIME PRICING PROGRAM) CASE NO. 2007-00166
FOR 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

Kentucky Power Company (hereinafter referred to as "Petitioner" or "Company") seeks Commission approval of its tariff to implement a pilot real-time pricing program for large commercial and industrial customers. This program is proposed in response to the Commission's Order in Administrative Case No. 2006-00045.

The purpose of the program is to discern whether users within these customer classes will respond to 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 Larry C. Foust, a Regulatory Specialist employed by the Company.

In designing the proposed pilot program, the Company states in its application that it reviewed similar RTP programs offered by various utilities. The programs reviewed by the

Company included those offered by Public Service Company, Oklahoma (Kentucky Power's sister company), Duke Energy, Kentucky and FirstEnergy, Ohio. As stated in the application, the pilot program is voluntary and is restricted to customers having a demand of 1 MW or more. Under the terms of the tariff, a participant must designate at least 100 kW of load as being subject to the tariff but may designate more if they so choose. The Company proposes to limit the program to ten (10) participants. The Company states that it will take four to six months to implement the program after Commission approval, but proposes to delay the start date of the program until June of 2008 to coincide with the PJM Interconnection, LLC planning years. The Company states that for those customers participating in the program, no changes to the metering systems are required. The Company states that the customers eligible to participate are large, sophisticated energy users and, therefore, the Company will not make any continuous or on-going efforts to educate or otherwise inform participants on ways to reduce energy consumption or take advantage of load shifting strategies. Although estimates of program costs were requested by both the Commission Staff and Attorney General through data requests, the Company has not prepared or disclosed any estimates of its' program costs. The proposal provides that participants are to be charged a flat fee of \$150.00 per month. This monthly fee is not based on any estimates of the cost of the program nor was it set to recover any certain program costs, rather, the Company set the proposed administration fee based on a review of what other companies' charge under their RTP programs.

The program tariff is based on the market pricing in the PJM power market. Customers participating in the program will designate what portion of their load will be served under the proposed tariff and that load will be billed to the customer at the hourly market prices as

determined by PJM. Load not designated as subject to the tariff will be billed to the customer under standard tariff rates. Under the proposed program, participants will be assigned a Company specific login ID and password and are required to login to receive pricing data via a website which will be implemented by the Company as part of the pilot program. This pricing data will disseminated to participants within an hour after they are posted by PJM. The Company states that PJM issues prices generally by 4:00 p.m. each day. In its application, the Company states that prices posted by PJM are subject to revision and final pricing information may be delayed several days. Participants will only be able to access pricing data and their real-time consumption data on the proposed website. The program is anticipated to have an initial term of three years.

II. Attorney General's Comments

The Attorney General offers the following comments on the program as proposed by the Company.

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 with disappointment that the Company has stated in its response to the Attorney General's Data Requests that it will not undertake any efforts to educate or inform participants on ways to reduce their energy consumption or shift their load as it expects participants in the program to be large, sophisticated users. However, while participants in the pilot program may be more sophisticated than a typical consumer, communication of successful energy saving strategies provide benefits not only to participants but also can be disseminated to non-participants providing benefit to that group as well. The Attorney General believes that continuing support and interaction between the Company and participants is

necessary to ensure successful results under the program. Therefore, the Attorney General urges that the Commission require Petitioners to incorporate into the program features that will ensure that the Company provides on-going support and assistance to participants so that successful techniques to reduce demand and/or shift load can be disseminated to both participants and non-participants to maximize any benefits under the program.

Third, the Attorney General is troubled by the fact that the Company has not provided any estimates of its costs associated with the program. The Company states in its responses to the data requests of the Attorney General and the Commission Staff seeking such information that such estimates are premature since the Company is unsure what will be the “ultimate form” of the program that the Commission will approve. However, the Attorney General believes that estimates of the program costs are essential to evaluate the program’s reasonableness and that the failure of the Company to provide such estimates renders the program un-approvable as submitted.

Related to the Company’s failure to provide program cost estimates is the proposed monthly administrative fee. The Company states in its application that participants under the program will be charged a \$150.00 per month administration fee, however, in its’ responses to the data requests of the Attorney General and those of the Commission Staff the Company states that this figure was not designed to recover any certain costs associated with the program, but was set based on a review of what other companies charged under their programs. The Attorney General states that as this fee has not been shown to be related to any costs of the proposed program, it is unreasonable and should be disallowed.

The Company states that it intends to collect the fee during the term of the program and that, upon completion of the program, it will compare the recoveries received from customers as a result of this fee and that they will then figure their program costs and feed back to customers any over- or under-recoveries. This approach is unacceptable to the Attorney General. The Attorney General notes that the program is limited by the Company to ten (10) participants and, therefore, proper estimates of the costs of implementing the program could and should have been prepared based upon that level of participation. Further, the Attorney General believes that basing the proposed administration fee on "a review of the program charges for other companies" with no observable relationship to program costs does not meet the Company's burden of reasonableness. The Attorney General notes that the applications for other RTP programs provided such estimates and support for the proposed programs. Therefore, the Attorney General believes the Commission should withhold such approval until such time as proper estimates of program costs and expenses are provided by Kentucky Power Company.

Fourth, the Attorney General points to the fact that the Company has stated that it will not over-recover as a result of the program: however, in its responses to the data requests of the Attorney General and the Commission Staff, the Company states that it buys and sells the power it generates in the PJM power market. Further, it has stated that under the proposed program, it will buy all the power designated by participants as subject to the proposed tariff from the PJM market. As the Company intends to purchase all the power required under the program, the Attorney General believes the possibility exists for the Company to sell the power it would have normally supplied to the participants but which is now designated as subject to the tariff is not acceptable. As the Company can sell this power into the PJM market and will pass through all its

costs of purchasing the power designated by participants as subject to the tariff, it appears that some over-recovery is likely. Therefore, the Attorney General believes, in the event that the Commission approves the program, the Commission should require the Company offset any program costs associated with the proposed program with any additional revenues the Company realizes from selling the power normally supplied to the participants.

Fifth, the Attorney General notes that the program as proposed by the Company departs from the Customer Baseline Load ("CBL") approach. The Company has stated in its response to data requests that the CBL approach is subject to manipulation and, therefore, has not proposed the use of this approach. The Company also states that the CBL approach establishes the baseline period through negotiations with the participants. While it is admitted that the Commissions' Order in 2006-00045 did not mandate the use of the Customer Baseline Load approach, the Attorney General is unclear why negotiations with participants to the program is thought to be particularly undesirable by the Company. The Attorney General believes that discussions concerning the program and good faith negotiations between the participants in the program and the Company are important components to ensure the success of any proposed program and is confused by the Company's position in this regard. It should be noted that Kentucky Power Company's sister company, Public Service Company of Oklahoma, currently utilizes this approach. Nevertheless, the Company's approach is to depart from the use of a CBL and to allow participants to designate a portion of their load as subject to the proposed tariff. The Attorney General notes that while this approach is revenue neutral to the Company, since all embedded costs associated with the power provided are passed through to participants, it is not designed to be cost neutral to participants. The Company admits that PJM power costs are significantly

higher than the standard tariff over 90% of the time and therefore, participants could see substantial cost increases from this program. However, the Attorney General believes that cost decreases would be much more difficult for participants to achieve under the proposed program.

In its response to the Attorney General's data requests, the Company states that participants with high demand spikes; i.e., high demand with little associated usage may benefit by participation in the program since the demand charge is much lower under the proposed tariff even though the energy charges are significantly higher. However, the Attorney General notes that it appears the power usage of typical large industrial and commercial participants would not fit that profile and, therefore, most participants would not benefit under this program.

The Company also maintains that more cost savings could result if a customer lowers his overall demand. However, the Attorney General observes that, as proposed, the load designated by participants as subject to the tariff is fixed so that reductions in overall usage would only reduce the charges applicable under the standard tariff rates and the designated load would still be subject to the significantly higher PJM rates. In fact, any reductions in overall usage which would lower the charges under the standard tariff would more than likely be more than offset by the charges resulting from the significantly higher PJM tariff rates.

While the Attorney General believes that the program is revenue neutral to the Company, participants under the program are likely to see significant increases to their energy costs under the program. Further, financial rewards for the efforts of participants to reduce their energy usage are significantly muted or nonexistent under the program as the designated; i.e., fixed load subject to the proposed tariff guarantees higher energy charges for participants regardless of their ability to lower their overall usage.

Lastly, the objectives of these types of programs 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 requests that such reports be made a part of the record and distributed to all parties in the matter.

In summary, the program as proposed by the Company 1) does not offer any estimate of costs and expenses, 2) proposes to charge an administrative fee that does not reasonably relate to its costs of the program, 3) provides little or no on-going support or assistance to participants, and 4) provides little or no opportunity for savings to participants for their efforts to reduce their energy usage. More importantly, and perhaps contrary to the intent of the Commission in its order in Case No. 2006-00045, the program provides for an opportunity for the Company to wheel power to higher priced markets and enjoy substantial revenue increases. For the above reasons, the Attorney General sees no benefits to participants under this program and recommends that the Commission disapprove the application of the Company.

Respectfully submitted,

GREGORY D. STUMBO
ATTORNEY GENERAL OF KENTUCKY



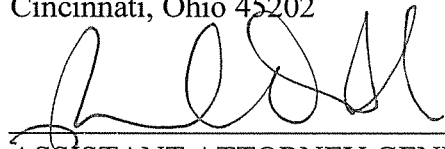
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CERTIFICATE OF SERVICE AND NOTICE OF FILING

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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