

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE ANNUAL COST RECOVERY FILING FOR)	
DEMAND SIDE MANAGEMENT BY DUKE)	CASE NO.
ENERGY KENTUCKY, INC.)	2008-00473

O R D E R

On November 17, 2008, Duke Energy Kentucky, Inc. ("Duke Kentucky") filed its annual Demand-Side Management ("DSM") application with the Commission wherein it proposes to continue its existing DSM programs and requests approval to revise the gas and electric DSM cost recovery mechanisms ("DSM rates") contained in its tariffs. It also filed a motion asking, in the event the Commission cannot rule on its application prior to the proposed effective date of its revised DSM rates, that its existing DSM programs and DSM rates be permitted to remain in effect until the Commission issues an Order on its DSM application.

Historically, the Commission has reviewed Duke Kentucky's DSM programs annually, using its best efforts to issue final Orders by January 1 of the following year.¹ Recognizing the constraints that the timing of its application places on the Commission, Duke Kentucky requests that it be allowed to continue its existing DSM programs and DSM rates until a decision on its 2008 DSM application is rendered. The Commission approved a similar request on May 14, 2008² in Case No. 2007-00369 in which Duke

¹ Until recently, Duke Kentucky submitted its DSM filings prior to the end of September of each year, while it now makes its annual filings in mid-November.

² Case No. 2007-00369, The Annual Cost Recovery Filing For Demand Side Management By Duke Energy Kentucky, Inc.

Kentucky's 2007 annual DSM application was investigated. Duke Kentucky also requests an Order stating that, as long as it files its annual DSM applications by November 15 of each year, the rates approved by the Commission after it investigates the application shall remain in effect until the effective date of new DSM rates approved by the Commission, or until otherwise Ordered by the Commission.

In its current application, Duke Kentucky gives notice of its intent that its new DSM rates will take effect 30 days from the date of its application.³ Based on a review of Duke Kentucky's application, the Commission finds that an investigation will be necessary to determine the reasonableness of the proposed DSM rates. We also find that an investigation cannot be completed prior to either the proposed effective date(s) contained in Duke Kentucky's 2008 DSM application or the December 31, 2008 expiration date of Duke Kentucky's current DSM tariff. We further find that the earliest date the proposed DSM rates could become effective is December 17, 2008, and that the proposed rates should be suspended for five months from that date pursuant to KRS 278.190(2).

Based on the time constraints imposed by the timing of Duke Kentucky's 2008 DSM application, and being otherwise sufficiently advised, we find Duke Kentucky's request to continue its existing DSM programs and DSM rates until such time as the Commission issues a decision on the 2008 DSM application to be reasonable.

³ While the text of the application contains the 30-day notice language, Duke Kentucky's proposed tariffs state that the new DSM rates will be effective with the January 2009 revenue month.

IT IS THEREFORE ORDERED that:

1. Duke Kentucky's proposed DSM rates are suspended for five months from December 17, 2008, up to and including May 16, 2009.
2. Duke Kentucky's request to continue its existing DSM programs and DSM rates while its 2008 DSM application is pending before the Commission is approved.
3. Regarding future annual DSM applications filed by Duke Kentucky by mid-November each year, the rates approved in such applications shall remain in effect until the effective date of new DSM rates approved by the Commission pursuant to its investigation of a subsequent Duke Kentucky annual DSM application, or until otherwise ordered by the Commission.

Done at Frankfort, Kentucky this 16th day of December, 2008.

By the Commission

ATTEST.


Executive Director

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