

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	)	2022-00251
MANAGEMENT PROGRAMS	)	

ORDER

On March 12, 2024, Duke Energy Kentucky, Inc. (Duke Kentucky) filed a motion, pursuant to KRS 278.400, requesting rehearing of the Order entered February 21, 2024, setting requirements for Duke Kentucky’s Peak Time Rebate (PTR) Pilot Program portion of its Demand-Side Management (DSM) program.

LEGAL STANDARD

KRS 278.400, which establishes the standard of review for motions for rehearing, limits rehearing to new evidence not readily discoverable at the time of the original hearings, to correct any material errors or omissions, or to correct findings that are unreasonable or unlawful. A Commission Order is deemed unreasonable only when “the evidence presented leaves no room for difference of opinion among reasonable minds.”<sup>1</sup> An order can only be unlawful if it violates a state or federal statute or constitutional provision.<sup>2</sup>

---

<sup>1</sup> *Energy Regulatory Comm’n v. Kentucky Power Co.*, 605 S.W.2d 46 (Ky. App. 1980).

<sup>2</sup> *Public Service Comm’n v. Conway*, 324 S.W.3d 373, 377 (Ky. 2010); *Public Service Comm’n v. Jackson County Rural Elec. Coop. Corp.*, 50 S.W.3d 764, 766 (Ky. App. 2000); *National Southwire Aluminum Co. v. Big Rivers Elec. Corp.*, 785 S.W.2d 503, 509 (Ky. App. 1990).

By limiting rehearing to correct material errors or omissions, and findings that are unreasonable or unlawful, or to weigh new evidence not readily discoverable at the time of the original hearings, KRS 278.400 is intended to provide closure to Commission proceedings. Rehearing does not present parties with the opportunity to relitigate a matter fully addressed in the original Order.

### MOTION

Duke Kentucky's motion sought rehearing and clarification of the following requirements from the Commission's final Order: (1) developing a process for assessing a participant's reliance on electricity, considering a list of factors; (2) offering participating customers a tiered incentive based on its electric reliance assessment model; and (3) expanding its PTR marketing campaign to include initiatives such as direct mail, television advertisement, mass media outlets, website enrollment, etc. The motion also requested clarification of the deadline for compliance with these requirements. Duke Kentucky requested that it be allowed to incorporate its interpretations and concerns regarding the final Order in its 2024 DSM application, which it plans to file on August 15, 2024.

### DISCUSSION AND FINDINGS

Although the final Order required Duke Kentucky to file its annual DSM application on November 1,<sup>3</sup> the Order does not explicitly set a deadline for compliance with the PTR requirements.

Having reviewed the record and being sufficiently advised, the Commission finds that Duke Kentucky's motion for rehearing should be granted. Lack of an explicit deadline in the final Order is considered a material omission. The deadline for implementation of

---

<sup>3</sup> Order (Ky. PSC Feb. 21, 2024).

the PTR requirements will be set in the final Order for the August 15, 2024 DSM filing. Duke Kentucky should seek to implement these requirements to the best of its ability in that application, and its requests for clarification of the issues set forth in its motion will be addressed by the Commission in that matter.

IT IS THEREFORE ORDERED that:

1. Duke Kentucky's motion for rehearing is granted.
2. Duke Kentucky shall file its PTR Pilot Program application on or before August 15, 2024.
3. Duke Kentucky's 2024 DSM application shall not conflict with any provision of the February 21, 2024 Order.
4. Duke Kentucky shall not be required to complete the requirements set forth in the February 21, 2024 Order until the deadline set forth in the Commission's final Order in the case reviewing Duke Kentucky's 2024 DSM application.
5. The remainder of the February 21, 2024 Order not in conflict with this Order remains in effect.
6. This case is closed and removed from the Commission's docket.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ENTERED  
APR 01 2024 rcs  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

\*Angela M Goad  
Assistant Attorney General  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204

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

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

\*Rocco O D'Ascenzo  
Duke Energy Kentucky, Inc.  
139 East Fourth Street  
Cincinnati, OH 45201

\*John G Horne, II  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204

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

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

\*Larry Cook  
Assistant Attorney General  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204

\*J. Michael West  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204