

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION OF THE	)	
ENERGY AND REGULATORY	)	ADMINISTRATIVE
ISSUES IN SECTION 50 OF	)	CASE NO. 2007-00477
KENTUCKY'S 2007 ENERGY ACT	)	

O R D E R

The Commission, on its own motion, hereby initiates this investigation into the energy and regulatory issues enumerated by the General Assembly in Section 50 of House Bill 1, enacted during the 2007 Second Extraordinary Session ("2007 Energy Act"). The General Assembly directed the Commission to examine its statutes and make recommendations on or before July 1, 2008 to the Legislative Research Commission ("LRC") regarding four highly technical energy and regulatory issues.

The issues set forth in Section 50 of the 2007 Energy Act are as follows:

1. Eliminating impediments to the consideration and adoption by utilities of cost-effective demand-management strategies for addressing future demand prior to Commission consideration of any proposal for increasing generating capacity;
2. Encouraging diversification of utility energy portfolios through the use of renewables and distributed generation;
3. Incorporating full-cost accounting that considers and requires comparison of life-cycle energy, economic, public health, and environmental costs of various strategies for meeting future energy demand; and
4. Modifying rate structures and cost recovery to better align the financial interests of the utility with the goals of achieving energy efficiency and lowest life-cycle energy costs to all classes of ratepayers.

The 2007 Energy Act created various tax and financial incentives aimed generally at entities that develop: (1) facilities which produce alternative transportation fuels; (2) gasification facilities which produce, primarily, alternative transportation fuels, synthetic natural gas, chemicals, chemical feedstocks, or liquid fuels; (3) renewable energy facilities which produce electricity; or (4) energy efficiency projects which decrease energy consumption in a manufacturing process. The 2007 Energy Act also included incentives for producers of ethanol and renewable diesel.

In determining how best to analyze the technical issues enumerated in Section 50, the Commission decided to employ an expert consultant to assist in this investigation. The consultant will gather input from Kentucky's regulated generating utilities as well as from affected stakeholders, prepare a written report, and assist the Commission in the preparation of a final report with recommendations which will to be sent to the LRC.

The Commission has already issued a Request for Proposal ("RFP")<sup>1</sup> and has selected a consultant. The scope of the consultant's work, as set forth in the RFP, is to perform an in-depth review of the statutes relating to the Commission's authority over public utilities and to make findings and recommendations that will encompass the four energy and regulatory issues set forth in Section 50 of the 2007 Energy Act. The consultant is expected to commence work on this project on November 20, 2007.

In accordance with the RFP, the consultant will discuss the issues set forth in Section 50 of the 2007 Energy Act with Kentucky's six jurisdictional generating utilities, the Office of the Attorney General, and stakeholders representing low-income advocacy groups, environmental organizations, economic development representatives, and

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<sup>1</sup> See [http://psc.ky.gov/agencies/psc/hot\\_list/RFP\\_6950700000948.pdf](http://psc.ky.gov/agencies/psc/hot_list/RFP_6950700000948.pdf).

appropriate industry representatives. Once the consultant's report has been completed, it will be filed in this case as testimony.

There are six major jurisdictional electric utilities that own generation in Kentucky and they are hereby made parties to this proceeding. Four of them are investor-owned utilities: Duke Energy Kentucky, Inc. ("Duke Kentucky"); Kentucky Power Company ("Kentucky Power"); Kentucky Utilities Company ("KU"); and Louisville Gas and Electric Company ("LG&E"). The other two are generating and transmission cooperatives: Big Rivers Electric Corporation ("Big Rivers"), which is owned by and serves three distribution cooperatives; and East Kentucky Power Cooperative, Inc. ("EKPC"), which is owned by and serves 16 distribution cooperatives. The Commission encourages the distribution cooperatives to take an active role in this case since the issues under review will directly impact retail electric rates.

The six jurisdictional generating utilities will be required to file, either individually or jointly, initial testimony coincident with the filing of the consultant's report. All of the intervenors will have the option of filing testimony at that time as well, and the Commission encourages them to do so. Only those parties that have filed initial testimony will be permitted to file supplemental testimony. A procedural schedule, attached hereto as Appendix A, has been developed with the goal of completing this investigation in a timely manner so that the Commission's report and recommendations can be filed with the LRC by July 1, 2008 as directed by the 2007 Energy Act.

The first step in the procedural schedule is for the six generating utilities to respond to the data request which is attached hereto as Appendix B. The responses should be filed with the Commission and its consultant. In the event that the

Commission's consultant has additional requests for information, they will be handled on an informal basis. Any such requests and the responses thereto will be included with the consultant's workpapers which will be filed in the record along with the consultant's report. The other steps in the procedural schedule provide for discovery of the consultant concerning his report and of the parties concerning their testimony, the subsequent filing of supplemental testimony, a public hearing, and the submission of briefs.

The consultant's role will include preparing an initial report, assisting Commission Staff in conducting discovery of the parties, the filing of supplemental testimony, and being subject to cross-examination at the public hearing. The Commission also expects the consultant to review the parties' testimony, assist the Commission Staff in developing questions for the hearing, review briefs, and assist in the development of the Commission's report to the LRC. While the Commission will submit its own report to LRC as directed by the 2007 Energy Act, the Commission expects the consultant to be available to testify, if requested, before the Kentucky General Assembly regarding his report and that of the Commission.

The Commission well recognizes the importance of the issues under investigation in this case, and the fact that we have been tasked with a quasi-legislative function. Consequently, we strongly encourage interested stakeholders to actively participate in this proceeding, either by requesting to intervene or by simply filing written comments in accordance with the procedural schedule.<sup>2</sup> We have compiled a list of

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<sup>2</sup> The Commission notes that under the rules of the Kentucky Bar Association, the filing of a request to intervene on behalf of a group or organization constitutes the practice of law and may only be done by a Kentucky-licensed attorney.

potential stakeholders who may be interested in this proceeding, and a courtesy copy of this Order will be mailed to each of them.

IT IS THEREFORE ORDERED that:

1. This investigation of the issues set forth in Section 50 of the 2007 Energy Act is initiated.

2. The procedural schedule set forth in Appendix A shall be followed in this case.

3. Big Rivers, Duke Kentucky, EKPC, Kentucky Power, KU, and LG&E shall be parties to this case and they shall individually or jointly file initial testimony in accordance with the procedural schedule set forth in Appendix A attached hereto.

4. The six generating utilities enumerated in the findings above shall file on or before November 29, 2007 the information requested in Appendix B, which is attached hereto.

a. Responses to requests for information shall be appropriately bound, tabbed and indexed and shall include the name of the witness responsible for responding to the questions related to the information provided, with one copy to each party of record, six copies to the Commission, and one copy to the Commission's consultant, Overland Consulting, 10801 Mastin, Building 84, Suite 420, Overland Park, Kansas 66210.

b. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a

governmental agency, be accompanied by a signed certification of the preparer or person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

c. Any party shall make timely amendment to any prior responses if it obtains information which indicates that the response was incorrect when made or, though correct when made, is now incorrect in any material respect.

d. For any requests to which a party fails or refuses to furnish all or part of the requested information, that party shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

Done at Frankfort, Kentucky, this 20<sup>th</sup> day of November, 2007.

By the Commission

ATTEST:

A handwritten signature in black ink, consisting of several overlapping loops and flourishes, positioned above a horizontal line.

Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN ADMINISTRATIVE CASE NO. 2007-00477  
DATED NOVEMBER 20, 2007

Procedural Schedule

Consultant's report and prepared direct testimony of parties shall be filed no later than .....	02/29/08
Data requests to consultant and parties shall be filed no later than .....	03/11/08
Responses to data requests shall be filed no later than .....	03/20/08
Supplemental testimony, if any, by parties filing initial testimony, shall be filed no later than.....	04/01/08
Data requests on supplemental testimony shall be filed no later than .....	04/11/08
Responses to data requests on supplemental testimony shall be filed no later than .....	04/22/08
Written comments, if any, by non-parties or parties not filing testimony shall be filed no later than .....	04/28/08
Public hearing shall be held on .....	04/29/08
Briefs, if any, shall be filed no later than.....	05/30/08

## APPENDIX B

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN ADMINISTRATIVE CASE NO. 2007-00477 DATED NOVEMBER 20, 2007

1. Provide a copy of the most recent strategic plans and financial forecasts approved by the Board of Directors.
2. Provide a copy of the most recent utility level and parent company rating agency reports from Moody's, Fitch's, and Standard & Poor's.
3. Provide copies of any internal reports or utility-commissioned studies on renewable capabilities in Kentucky, including capacity for development of integrated gasification combined cycle facilities.
4. Provide a review of existing demand-side management programs, with description which includes, at a minimum, the rate classification of customers eligible for each program, the date each program commenced, the current number of customers on each program, the technology being deployed, whether any third-party vendors are involved, the measurement and verification protocols being utilized, and the estimated annual energy savings.
5. Provide copies of any internal reports or utility-commissioned studies on the extent of untapped opportunities for additional demand-side management programs in Kentucky.
6. Provide copies of any research materials, industry publications, investment banking or rating agency reports, in your possession, that relate to the following issues under review in this investigation:

- a. Considerations for utility adoption of cost-effective demand-management strategies.
  - b. Diversification of utility energy portfolios through the use of renewables and distributed generation.
  - c. Variables and methodologies to consider full-cost accounting of strategies for consideration of alternatives in meeting future energy demand.
  - d. Rate structure and cost recovery options to mitigate adverse financial impacts of alternative energy option.
  - e. The need for and type of financial incentives for a utility to provide energy efficiency and lowest alternative generation/DSM options to customers.
7. Identify the person having primary responsibility for the utility resource plan.
  8. Identify the person or persons having primary responsibility for the utility financial forecasts and strategic plan or strategic planning documents.
  9. Identify the person or persons within the utility having primary responsibilities for siting new generation.
  10. Identify the person or persons within the utility having the primary responsibility for conservation, energy efficiency, and demand-side management programs.
  11. Identify and discuss all portions of the utility's current integrated resource plan which discuss future plans for implementation of demand-side management, renewable energy resources, and energy efficiency.