

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In The Matter Of:

Electronic Investigation Of The Reasonableness)	
Of The Demand Side Management Programs And)	Case No. 2017-00097
Rates Of Kentucky Power Company)	

**KENTUCKY POWER COMPANY’S REPORT, MOTION FOR REHEARING, AND
MOTION TO AMEND NOVEMBER 2, 2017 ORDER**

Kentucky Power Company provides the report below of its actions in response to the Commission’s November 30, 2017 Order. Kentucky Power also moves the Public Service Commission of Kentucky pursuant to KRS 278.400 for rehearing for the limited purpose of clarifying the Commission’s November 30, 2017 Order with respect to the 218 New Construction and Commercial Incentive Prescriptive Custom projects, and the 18 Whole House Efficiency rebate arrangements, that were agreed to or undertaken prior to November 3, 2017 when the Company suspended all new DSM program activity. The Company anticipates that many of these projects will continue after December 31, 2017. Finally, the Company moves the Commission to issue an Order amending the Commission’s November 2, 2017 Order to permit Kentucky Power to file its rebuttal testimony in this proceeding on or before February 2, 2018.

Kentucky Power states:

Report

1. The Commission’s November 30, 2017 Order approved the Company’s Targeted Energy Efficiency program for 2018.¹ The Order also directed Kentucky Power to file within ten days of the Order “revised DSM tariff sheets with an effective date of January 1, 2018, reflecting

¹ Order, *In The Matter Of: Electronic Investigation Of The Reasonableness Of The Demand Side Management Programs And Rates Of Kentucky Power Company*, Case No, 2017-00097 at 4 (Ky. P.S.C. November 30, 2017).

a continuation only of the Targeted Energy Efficiency program and new DSM rates for 2018, along with all supporting calculations of the 2018 DSM rates.”² Kentucky Power is taking the necessary actions to make the required filings, and, subject to its motion for rehearing discussed below, will make the filings on or before Monday, December 11, 2017 as ordered.

2. The Order also deferred “a decision of the continuation of Kentucky Power’s [other] DSM programs for 2018” until the Commission’s Order following a public hearing in this matter.³

3. Kentucky Power suspended all new program activity November 3, 2017 in response to the Commission’s November 2, 2017 Order. With the exception of its contract with DNV GL Energy Services USA Inc. for implementation of the New Construction and Commercial Incentive Prescriptive Custom programs, and its contract with Honeywell Utility Solutions for implementation of the Whole House Efficiency program⁴, Kentucky Power is terminating its third-party commercial and residential DSM implementation contracts⁵ effective December 31, 2017.

4. Applied Energy Group, Inc. provides program evaluation services under a contract expiring March 31, 2019. The Company is not terminating the Applied Energy Group, Inc. contract at this time to allow for the necessary evaluation, measurement, and verification of

² *Id.*

³ *Id.* at 3-4.

⁴ To obtain the required evaluation, measurement, and verification services to support future programs, Kentucky Power also proposes to continue the Applied Energy Group, Inc. (AEG) contract as described in paragraph 4. Scenario “B” in the November 15, 2017 filing assumed a permanent cessation of all DSM program activity thus foreclosing the need for the AEG contract that provides Evaluation, Measurement & Verification (EM&V) services in connection with the existing programs. Now that the Commission has continued a program and left open a process to consider other future offerings, the EM&V process must be completed to receive the benefit of what is learned from existing programs.

⁵ The Targeted Energy Efficiency program is implemented by Kentucky Power and not a third-party vendor.

the Company's 2016 and 2017 programs. Those services will continue to be required notwithstanding the Commission's November 30, 2017 Order.

Motion for Rehearing For The Limited Purpose Of
Clarifying The Commission's Order

5. On November 3, 2017, following the Commission's November 2, 2017 Order, Kentucky Power notified the Commission it had suspended all new DSM program activity, that it had notified its third-party contractors not to undertake any new commitments on behalf of the Company through the programs, and it was working with its third-party contractors to curtail all uncommitted spending and to limit DSM expenses, rebates, and incentives.⁶

6. On November 15, 2017, Kentucky Power made its annual DSM filing with the Commission. At paragraph 8 of that filing, Kentucky Power informed the Commission that the New Construction and Commercial Incentive Prescriptive Custom programs had 218 pending projects and thus it would be necessary to continue the DNV GL Energy Services USA Inc. contract, the third-party contractor implementing the programs, until approximately July 30, 2018 to complete the pending projects.⁷ Similarly, Kentucky Power indicated in paragraph 8 of the November 15, 2018 filing that the Whole House Efficiency program, administered by Honeywell Utility Solutions, had 18 pending rebates and that it would be necessary to continue the Honeywell Utility Solutions contract until approximately February 28, 2018 to complete the

⁶ Kentucky Power Company's Notice To The Commission Of Its Compliance With The Commission's November 2, 2017, *In The Matter Of: Electronic Investigation Of The Reasonableness Of The Demand Side Management Programs And Rates Of Kentucky Power Company*, Case No, 2017-00097 at 1 (Ky. P.S.C. Filed November 3, 2017).

⁷ Kentucky Power Company's Status Report, Motion For Leave To Make The Company's November 15, 2017 D.S.M. Filing In This Case, And Motion For Leave To File Proposed Tariffs Following Approval Of 2018 D.S.M. Factors, *In The Matter Of: Electronic Investigation Of The Reasonableness Of The Demand Side Management Programs And Rates Of Kentucky Power Company*, Case No, 2017-00097 at 4 (Ky. P.S.C. Filed November 15, 2017).

pending rebates.⁸ The continuation of these contracts, to permit the Company to close-out pending arrangements with customers, will result in the Company incurring costs it is entitled to recover.

7. In the case of the 218 projects being administered by DNV GL Energy Services USA Inc., and 18 rebates being administered Honeywell Utility Solutions, the program services and rebate benefits were offered by Kentucky Power and accepted by customers in reliance on the Company's Commission-approved tariffs prior to the Company's November 3, 2017 suspension of new program activity in response to the Commission's November 2, 2017 Order. The Company and its customers incurred costs or undertook actions in reliance on the availability of the tariffed program services and benefits.

8. The Commission's November 30, 2017 Order directs the Company to withdraw its DSM program tariffs (tariff sheets 22-3 to 22-18) and refile only the Targeted Energy Efficiency tariff as its sole DSM program: "Kentucky Power shall file in the record of this case revised DSM tariff sheets with an effective date of January 1, 2018 *reflecting a continuation only of the Targeted Energy Efficiency program*"⁹ The November 30, 2017 Order makes clear that beginning January 1, 2018, and until further order of the Commission in this and later proceedings, the sole DSM program to be offered by Kentucky Power is the Targeted Energy Efficiency program.

9. Not expressly addressed by the November 30, 2017 Order is the status after December 31, 2017 of program services, incentives, and rebates in connection with other DSM programs that were initiated, or agreed to, prior to the Company's November 3, 2017 suspension

⁸ *Id.*

⁹ Order, *In The Matter Of: Electronic Investigation Of The Reasonableness Of The Demand Side Management Programs And Rates Of Kentucky Power Company*, Case No, 2017-00097 at 4 (Ky. P.S.C. November 30, 2017) (emphasis supplied).

of all new DSM program activity. The New Construction, Commercial Incentive Prescriptive Custom, and Whole House Efficiency program services can require extended periods to plan and complete. The New Construction program, for example, includes new commercial construction and major commercial renovation projects. By their nature, these types of projects can require extended periods from design to completion. The continuation of the third-party vendor contracts associated with these three programs is for the sole purpose of winding down the 2017 programs.

10. KRS 278.160(2) provides in pertinent part:

No utility shall charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules.

Fundamental to this statutory provision, and the filed-rate doctrine it embodies, is predictability, and the right of both the utility and its customers to rely on a utility's Commission-approved tariffs in their business relations. As this Commission explained in 2012:

“Predictability is an underlying purpose of both the filed rate doctrine and the rule against retroactive ratemaking. These doctrines are designed to allow ‘... [customers] to know the consequences of purchasing decisions they make.’”¹⁰

Here, that predictability requires that Kentucky Power be authorized, to the extent required, to close out after December 31, 2017 the DSM projects and rebate arrangements pending at the time the Company suspended new program activity, and that it be permitted to recover its costs in doing so, including recovering its lost revenues and receiving any incentives. Both are important to ensure public and Company confidence in programs that could be offered in the future.

¹⁰ Order, *In the Matter of: Application of Kentucky Power Company To Withdraw Its Tariff RTP Pending Submission By The Company And Approval By The Commission Of A New Real-Time Pricing Tariff*, Case No. 2012-00226 at 23 (Ky. P.S.C. December 20, 2012) quoting *Public Utilities Commission of the State of California v. FERC*, 988 F.2d 154, 164 69 (D.C. Cir. 1993).

11. Notwithstanding the withdrawal of the related program tariff sheets effective December 31, 2017, Kentucky Power interprets the Commission's November 30, 2017 Order to permit it, through its third-party contractors, to continue to provide DSM program services after December 31, 2017 in connection with the 218 New Construction and Commercial Incentive Prescriptive Custom projects, and the 18 Whole House Efficiency rebate arrangements, that were pending at the time the Company suspended all new program activity on November 3, 2017. Likewise, the Company believes it is entitled to collect rates after December 31, 2017 sufficient to permit it to recover the associated costs of doing so. This interpretation is consistent with KRS 278.160(2) and fundamental fairness.

12. To avoid any misunderstanding, and to ensure the Company acts consistently with the Commission's intent in its November 30, 2017 Order, Kentucky Power requests the Commission to grant rehearing for the limited purpose of amending its November 30, 2017 Order to clarify that after December 31, 2017 the Company may continue the New Construction, Commercial Incentive Prescriptive Custom, and Whole House Efficiency projects and rebate arrangements for the limited purpose of closing out the previously committed 218 projects and 18 rebates, and that the Company may recover its costs, lost revenues, and incentives, in connection therewith.

13. Alternatively, to the extent KRS 278.160(2) makes doing so necessary, Kentucky Power requests that the Commission grant rehearing for the limited purpose of directing the Company to file amended New Construction (Tariff Sheet 22-8), Commercial Incentive Prescriptive Custom (Tariff Sheet 22-13), and Whole House Efficiency (Tariff Sheet 22-17 and 22-18) program tariffs on or before December 31, 2017 authorizing the continuation of the three programs in 2018 for the limited purpose of closing out the previously committed 218 projects

and 18 rebates, and allowing the Company's recovery of the costs, lost revenues, and incentives associated therewith.

Motion To Amend November 2, 2017 Order.

14. The Commission's November 2, 2017 Order directs Kentucky Power to file "its rebuttal testimony, if any," to intervenor testimony on or before December 13, 2017.¹¹ Sierra Club filed intervenor testimony on November 22, 2017. No other intervenor filed testimony. Prior to the November 30, 2017 Order, Kentucky Power was preparing to file its rebuttal testimony on or before December 13, 2017.

15. The Commission's November 30, 2017 Order fundamentally changes Kentucky Power's planned 2018 DSM program offerings by limiting the Company's 2018 DSM portfolio, subject to further proceedings in this case, only to the Targeted Energy Efficiency program. Kentucky Power requires additional time, in light of this fundamental change, to reconsider and re-develop its rebuttal testimony in light of the new direction, to assess the evidence available to support additional programs, and to provide the Commission the level of information it seeks in connection with its decision.

16. The hearing on the Company's application for a general adjustment of its base rates and related relief is scheduled to begin December 6, 2017. Messrs. Satterwhite, Wohnhas, and Sharp are witnesses in that case. They also will be involved in the reconsideration and re-development of the Company's rebuttal testimony in this proceeding. Because of their involvement in the rate case hearing beginning December 6, 2017, Messrs. Satterwhite, Wohnhas, and Sharp will be unavailable until after the conclusion of that hearing, and the filing of the simultaneous briefs following the hearing, to address the rebuttal testimony.

¹¹ Order, *In The Matter Of: Electronic Investigation Of The Reasonableness Of The Demand Side Management Programs And Rates Of Kentucky Power Company*, Case No, 2017-00097 at 6 (Ky. P.S.C. November 2, 2017).

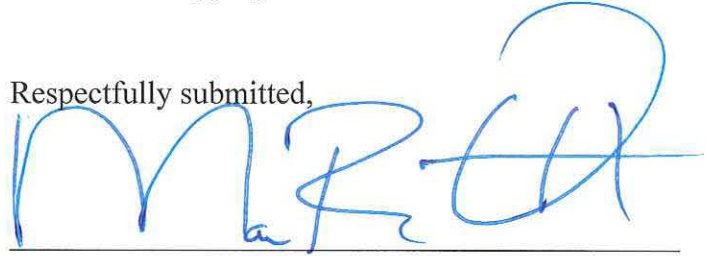
17. Amending the November 2, 2017 Order to permit Kentucky Power to file its rebuttal testimony on or before February 2, 2018 will not unduly delay proceedings in this case. No public hearing in this matter has been scheduled.

Wherefore, Kentucky Power Company respectfully requests the Commission to enter an Order:

1. Accepting this report;
2. Granting rehearing for the limited purpose of amending its November 30, 2017 Order to close-out the 2017 programs and to state expressly that after December 31, 2017 the Company may continue the New Construction, Commercial Incentive Prescriptive Custom, and Whole House Efficiency projects and rebate arrangements for the limited purpose of closing out the previously committed 218 projects and 18 rebates, to state expressly that the Company may continue its contract with Applied Energy Group, Inc. for the purpose of performing the necessary evaluation, measurement, and verification of the 2017 programs, and to state expressly that the Company may recover its costs, lost revenues, and incentives, in connection therewith.
3. Alternatively, to the extent required by KRS 278.160(2), granting rehearing for the limited purpose of directing the Company to file amended New Construction, Commercial Incentive Prescriptive Custom, and Whole House Efficiency program tariffs on or before December 31, 2017 authorizing the continuation of the three programs in 2018 for the limited purpose of closing out the previously committed 218 projects and 18 rebates and recovering the costs, lost revenues, and incentives associated therewith, and authorizing the continuation contract with Applied Energy Group, Inc. for the purpose of performing the necessary evaluation, measurement, and verification of the 2017 programs;

4. Amending the Commission's November 2, 2017 Order to permit Kentucky Power to file its rebuttal testimony on or before February 2, 2018; and
5. Granting Kentucky Power all other appropriate relief.

Respectfully submitted,



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