

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC ANNUAL COST RECOVERY	)	
FILING FOR DEMAND SIDE MANAGEMENT	)	CASE NO.
BY DUKE ENERGY KENTUCKY, INC.	)	2018-00370

**ATTORNEY GENERAL'S MOTION TO RESPOND TO MOTION TO AMEND  
OUT OF TIME, AND MOTION TO SUSPEND AND INVESTIGATE  
PROPOSED TARIFFS**

Comes now, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention (“Attorney General”), and moves the Commission to:

1) suspend and investigate as part of this matter, including the opportunity to conduct discovery, the tariffs attached to the Motion of Duke Energy Kentucky, Inc. to Amend its Home Energy Assistance Program (“Motion to Amend”), and 2) grant him the opportunity to file a response to Duke Energy Kentucky, Inc.’s (“Company” or “DEK”) Motion to Amend at the conclusion of the proceeding, rather than the time prescribed by regulation. In support of his Motions, the Attorney General states as follows:

Upon two rounds of discovery in this matter, the Commission entered an order incorporating “by reference the record of Case No. 2018-00261,” which was the Company’s most-recent gas base rate case.<sup>1</sup> As the Attorney General was a party to the gas base rate case, he moved to intervene in this matter on April 25<sup>th</sup>, and was granted intervention May 1<sup>st</sup>.<sup>2</sup> The

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<sup>1</sup> Order, Case No. 2018-00370, Electronic Annual Cost Recovery Filing for Demand Side Management by Duke Energy Kentucky, Inc. (Ky. PSC April 9, 2019).

<sup>2</sup> Order (Ky. PSC May 1, 2019) at 1.

Commission subsequently set a hearing date in this case of July 31, 2019.<sup>3</sup> On July 2, 2019, DEK filed its Motion to Amend, proposing to change its “HEA program in order to increase the availability of funds to assist low income customers in paying energy bills, reduce the overall administrative fees associated with the expanded program and provide greater coverage for eligible participants in the seven months of the year when energy bills are typically the highest.”<sup>4</sup> As exhibits to the Motion to Amend, DEK attached proposed tariffs and testimony in support of its amendments. The proposed tariffs have a proposed effective date of August 1, 2019.<sup>5</sup>

As the Commission has already set a hearing date in this matter,<sup>6</sup> and the primary issue in the case is DEK’s HEA program,<sup>7</sup> the Commission should suspend the proposed tariffs and investigate them as part of this docket,<sup>8</sup> including at the July 31, 2019 hearing. Suspending the tariffs will give time for the Commission and the Attorney General to properly investigate the efficacy of the proposed changes, and investigating the tariffs changes in this matter will ensure efficiencies of time and effort. Furthermore, in order to ensure the July 31, 2019 hearing in this case is orderly and productive, the Attorney General seeks leave to file one round of discovery to DEK regarding its July 2, 2019 filing. The Attorney General proposes to file discovery on July 15, for DEK to respond no later than July 29, 2019. By permitting a single round of discovery on the newly-filed proposal, the Commission can

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<sup>3</sup> Order (Ky. PSC May 16, 2019).

<sup>4</sup> Motion of Duke Energy Kentucky, Inc. to Amend its Home Energy Assistance Program (Ky. PSC Filed July 2, 2019) at 1.

<sup>5</sup> Exhibit A. Importantly, although the tariffs state they were issued July 1, 2019, they were filed with the Motion to Amend on July 2.

<sup>6</sup> Order (Ky. PSC May 16, 2019).

<sup>7</sup> Informal Conference Inter-Agency Memorandum (Ky. PSC Filed June 27, 2019).

<sup>8</sup> Pursuant to KRS 278.190.

narrow the issues to be addressed during the hearing and doing so will likely reduce the time spent at the hearing. Such a proposal benefits the adequacy of the record and respects the limited time and effort of the parties to the case.

Although tariff changes are governed by the provisions of 807 KAR 5:011, the instant tariffs were filed alongside a motion, ostensibly pursuant to the practice permitted by 807 KAR 5:001, Section 5. At this time, the Attorney General takes no position on whether DEK has materially complied with the tariff requirements under 807 KAR 5:011.<sup>9</sup> Nevertheless, since the tariffs were filed attached to a motion, 807 KAR 5:001, Section 5(2) requires that any response shall be filed “no later than seven (7) days from the date of filing of a motion.” Since DEK’s Motion to Amend is effectively a pleading seeking approval of the proposed tariffs (i.e. an Application), the Attorney General seeks leave from the Commission to delay the filing of his response to DEK’s Motion to Amend until the conclusion of the case, at which time he can take a position on the proposal based on the entirety of the record.

**Wherefore**, the Attorney General respectfully requests this Commission:

1. Suspend and investigate the proposed amendments to the Company’s HEA tariffs;
2. Permit a single round of discovery regarding DEK’s July 2, 2019 filing, to be filed on July 15, 2019 and responded to no later than July 29, 2019; and
3. Allow the Attorney General to delay the response afforded to him by 807 KAR 5:001 Section 5(2) until the conclusion of evidence in this case.

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<sup>9</sup> For instance, it does not appear that the proposed HEA changes are filed with the Commission’s electronic Tariff Filing System.

Respectfully submitted,

ANDY BESHEAR  
ATTORNEY GENERAL



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