

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 RESPONSE TO DUKE
ENERGY KENTUCKY, INC.'S BRIEF**

Comes now, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention (“Attorney General”), and tenders his Response to Duke Energy Kentucky, Inc.’s Brief (“Response”). Duke Energy Kentucky, Inc.’s (“DEK”) Brief (“Brief”) argues in support of DEK’s proposed HEA program changes,¹ noting that the proposal “is a significant improvement over its existing program and will better serve the Company’s income-eligible customers without imposing a significant burden on other customers.”² DEK’s proposal is certainly an improvement over its current Home Energy Assistance (“HEA”) offering. However, based on the record in this matter, DEK’s proposal should be a starting point for improvements to its HEA program, not a conclusion. Issues raised at the hearing in this matter, such as additional clarity around what items funds can or cannot be used for,³ communication between DEK and agencies if concerns are raised,⁴ questions surrounding barriers for customer participation in the HEA programs,⁵ and conflict

¹ See Motion of Duke Energy Kentucky, Inc. to Amend its Home Energy Assistance Program, Case No. 2018-00370 (Ky. Commission Jul. 2, 2019).

² Brief, Case No. 2018-00370 (Ky. Commission Aug. 30, 2019) at 17.

³ July 31, 2019 Video Testimony Evidence (“VTE”) at 10:08:14 AM.

⁴ VTE at 10:11:01 AM.

⁵ VTE at 10:02:04 AM, *et seq.*

between processes in practice and documents as presented in evidence,⁶ support an on-going review of DEK's proposal should it receive the Kentucky Public Service Commission's ("Commission") approval. In reliance on the Commission's indication in a separate docket, with a different utility, that the "Commission intends to initiate an administrative case in which all low-income assistance programs operated by investor-owned utilities will be examined in order to achieve uniformity in benefits and enable better access to these programs by low-income ratepayers,"⁷ the Attorney General expects a holistic review of DEK's HEA offerings soon. As such, for the benefit of the Commission and DEK, the Attorney General provides the following:

- KRS 278.285 allows HEA programs to "be part of a demand-side management program," and in considering the HEA program, the Commission shall determine the extent to which customer representatives and the Attorney General "have been involved in developing the plan."⁸ DEK failed to mention this standard in its Brief, but it is the Attorney General's understanding that other than discussions with Northern Kentucky Community Action Commission ("NKCAC"), no customer representatives were involved in developing the proposed changes. Certainly the legislature envisioned

⁶ See VTE at 3:29:08 PM *et seq.*; Direct Testimony of Cindy Given on Behalf of Duke Energy Kentucky, Inc. ("Givens Direct"), Attachment A, Case No. 2018-00370 (Ky. Commission Jul. 2, 2019) stating that "[p]articipants must apply for and accept Weatherization services if available," in order to be eligible for HEA assistance.

⁷ Order, In Re. Electronic Application of Kentucky Power Company to: 1) Modify Kentucky Power Company's Residential Energy Assistance Program; 2) Approve the Amended Operating Agreement; and 3) Grant All Other Relief to Which It May Be Entitled, Case No. 2019-00245 (Ky. Commission Sept. 11, 2019) at 7.

⁸ KRS 278.285(1)(f) & (4).

customer involvement in the development of programs as an important criteria for the Commission to consider in examining HEA programs. DEK should not make such “significant” changes to its HEA program in the future without the benefit of significant customer input.

- On a related note, DEK’s ad hoc, and to a degree, haphazard amendments to its HEA program in response to the Commission initiating a review indicates that DEK should explicitly commit to increasing its interest and attention to its suite of HEA offerings.⁹
- DEK and the Commission should continue to work to make it easier, not harder, to receive income-eligible benefits. Reducing barriers to participation should be a priority to ensure the programs are more beneficial to recipient ratepayers. The Attorney General appreciates that Duke has stated in its Brief that it “agrees that participation in the weatherization program should not be an eligibility requirement for the HEA Program.”¹⁰ DEK should follow the lead of Kentucky Power and after implementation of program changes, meet with NKCAC and other stakeholders to discuss lessons learned and determine what further modifications would improve DEK’s offerings.¹¹
- DEK’s \$50,000 pre-weatherization/safety-related improvements (“health and safety improvements”) annual shareholder donation is ostensibly not

⁹ See VTE 10:27:32 AM *et seq.*, whereat Commission Vice Chairman Cicero noted the speed at which DEK amended its HEA program after the Commission’s interest was made clear, stating that DEK was able to make the changes, “pretty quickly.”

¹⁰ Brief, Case No. 2018-00370 (Ky. Commission Aug. 30, 2019) at 11

¹¹ Order, Case No. 2019-00245 (Ky. Commission Sept. 11, 2019) at 1-6.

comingled with customer money. The Commission should consider the degree to which it has jurisdiction over those donations and the health and safety improvements made by NKCAC with those donations.

- The Attorney General urges DEK, given the questions surrounding the Commission's jurisdiction over the funding for health and safety improvements, to ensure that its agreements with NKCAC regarding health and safety improvements are sufficiently prescriptive or that they provide adequate detail regarding lines of communication should questions or concerns arise around the program, such as what improvements funds can be used for.
- The record also indicates an interest in having flexibility in moving monies across programs if some are over- and under-funded, but the record does not indicate any actual proposals to do so.¹² DEK and NKCAC should make clear what flexibility they are seeking.
- Regarding health and safety improvements, the Attorney General commends DEK for seeking input from NKCAC regarding what it believes are the most-pressing issues around energy usage and energy burden. Additional stakeholder input may have further informed DEK's modifications. Even so, given the relative novelty of the funding and improvements, the Attorney General respectfully requests that DEK and NKCAC track the program with sufficient detail so as to accumulate data for the Commission and stakeholders to study the efficacy of the program, perhaps to determine whether it is cost-beneficial

¹² DEK Response to AG-DR-01-003(g), Case No. 2018-00370 (Ky. Commission Jul. 29, 2019); VTE at 10:12:01-10:13:20 AM; VTE at 3:15:53 PM.

for customer funds to be used in such a manner. For instance, the Attorney General looks forward to seeing the actual average cost per home for health and safety improvements, what degree the funding improves the current weatherization waitlist and how much customers reduce their usage after weatherization.

- DEK and the Commission should continue reviewing DEK’s HEA offerings, including a holistic look at the interplay between programs. For instance, DEK’s DSM Weatherization offering still refers to credits reducing customer arrearages, even though the requirement to have an arrearage was previously removed.¹³ Furthermore, the practice of DEK’s DSM Weatherization “incentive,” providing a bill credit to customers for having their home weatherized, seems to reward customers for something they were already going to do and is not structured in a way to actually incent the weatherization.¹⁴ DEK should continually review its programs, not only for efficacy, but also redundancy.
- The Attorney General commends DEK’s increase in shareholder contributions to help reduce low-income customers’ energy burden. The Attorney General also appreciates DEK’s interest in increasing the monthly per account HEA charge to a level more in-line with other Kentucky investor-owned utilities.

¹³ VTE at 1:16:25 PM.

¹⁴ See VTE at 1:19:19-1:20:34 PM, where Ms. Lorrie Maggio described the DSM program, indicating that the incentive is provided *after* the weatherization work is done by a separate agency, and “after the work is completed, if it turns out it’s a Duke Energy customer and it meets our criteria . . . then [the agency] come[s] back to us and give[s] us that customer information and we provide an incentive back to them.”

However, given the number of changes proposed, coupled with the flaws inherent in DEK's current HEA offering, like the inability to roll over excess funds into the next year and only providing crisis funding, the Attorney General believes that the Commission should require DEK to monitor the proposed changes and provide quarterly updates for twenty-four months following approval. These updates will allow the Commission to determine if both rolling dollars over year-to-year and increasing per account funding is needed.

- Finally, the Attorney General merely notes the mismatch between collecting HEA funding on a per-meter/account basis¹⁵ and truing up excess amounts on a kWh basis.¹⁶

WHEREFORE, the Attorney General recommends that should the Commission approve Duke Energy Kentucky, Inc.'s proposed Home Energy Assistance changes, it does so with the modifications and conditions mentioned herein.

¹⁵ Givens Direct, Case No. 2018-00370 (Ky. Commission Jul. 2, 2019) at 5.

¹⁶ Filing of the Annual Status Report, Adjustment of the DSM Cost Recovery Mechanism, and Amended Tariff Sheets for Gas Rider DSMR (Sheet No. 62) and Electric Rider DSMR (Revised Sheet No. 78), Case No. 2018-00370 (Ky. Commission Nov. 15, 2018) at 17.

Respectfully submitted,

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Certificate of Service and Filing

Counsel certifies that the foregoing is a true and accurate copy of the same document being filed in paper medium within two business days; that the electronic filing has been transmitted to the Commission on September 13, 2019; and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

This 13th day of September, 2019



Assistant Attorney General