

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DUKE ENERGY )	
KENTUCKY, INC. TO EXTEND THE FILING )	CASE NO.
DEADLINE OF ITS BACKUP POWER SUPPLY )	2020-00089
PLAN )	

ORDER

On March 31, 2020, Duke Energy Kentucky, Inc. (Duke Kentucky) filed an application (Application) requesting Commission approval to extend the deadline for filing Duke Kentucky's next backup power supply plan from March 1, 2020, until March 1, 2021, and for authority to continue its current plan through May 31, 2021. In Case No. 2017-00117, the Commission authorized Duke Kentucky's current backup power supply plan through May 31, 2020.<sup>1</sup> Duke Kentucky requests an expedited decision because it could not continue the backup power supply plan after May 31, 2020, without Commission approval.

When the Commission approved Duke Kentucky's current backup power supply plan, the Commission established certain filing deadlines for future backup power supply plans. Duke Kentucky was required to file notice of its intentions concerning its prospective backup power supply plan no later than six months prior to the expiration of the current plan on May 31, 2020, and to file an application for future backup power supply plan no later than 90 days prior to the effective date of the new backup power supply

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<sup>1</sup> Case No.2017-00117, *Back-Up Power Supply Plan of Duke Energy Kentucky, Inc.* (Ky. PSC May 31, 2017).

plan.<sup>2</sup> Pursuant to these deadlines, Duke Kentucky should have filed notice of its intentions regarding future backup power supply plans no later than December 2, 2019, and, presuming an effective date of June 1, 2020, should have filed a new backup power supply plan no later than March 1, 2020. Duke Kentucky states that it failed to file the requisite notice on December 2, 2019, due to an “inadvertent calendaring error.”<sup>3</sup> Duke Kentucky did not address why it missed the filing date for a new backup power supply plan or why it waited until March 17, 2020, to provide notice<sup>4</sup> that it would file an application to extend the filing deadlines.

As a basis for the request, Duke Kentucky explains that it needs additional time to evaluate potential changes to the PJM Interconnection LLC (PJM) wholesale market in response to recent rulings by the Federal Regulatory Commission (FERC) because changes to PJM’s wholesale market will impact Duke Kentucky’s prospective backup power supply plan.

As explained in Case No. 2017-00117, Duke Kentucky participates in PJM under the Fixed Resource Requirement (FRR) option for the purposes of meeting PJM’s resource adequacy requirement.<sup>5</sup> As an FRR entity, Duke Kentucky does not participate in the PJM capacity market auctions but is required to submit an FRR capacity plan to satisfy the unforced capacity obligation for all loads in Duke Kentucky’s FRR service

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<sup>2</sup> *Id.* at ordering paragraphs 3–4.

<sup>3</sup> Application at paragraph 5.

<sup>4</sup> 807 KAR 5:001, Section 8(2) required Duke Kentucky to file notice of its election to use electronic filing procedures at least seven days prior to submitting its Application.

<sup>5</sup> Case No. 2017-00117 at 1–2.

area.<sup>6</sup> Even when Duke Kentucky's FRR Plan has been accepted by PJM, PJM can still assess penalties to Duke Kentucky under the new Capacity Performance construct if Duke Kentucky's resources are not available in any hour during compliance hours, which are set by PJM during periods of capacity or operational stress on the PJM system. Thus, the backup power supply plan is necessary in the event that Duke Kentucky experiences generation facility outages.

On December 19, 2019, FERC directed PJM to, among other things, expand its Minimum Offer Price Rule (MOPR) by extending the MOPR to new and existing capacity auction resources of all fuel types that receive, or are entitled to receive, a state subsidy, with certain exemptions.<sup>7</sup> According to Duke Kentucky, the FERC order required significant changes to PJM's capacity market, which impacts the capacity mix in PJM and overall energy prices. Pursuant to the FERC order, PJM made a compliance filing with FERC on March 18, 2020.<sup>8</sup> Duke Kentucky contends that it needs additional time to review PJM's compliance filing because of the potential for significant impact on the energy competitiveness of Duke Kentucky's generation assets. In particular, Duke Kentucky states that it needs additional time to determine whether PJM's compliance filing impacts the power procurement and energy hedging strategies in PJM's wholesale market that are contained in Duke Kentucky's backup power supply plan.

Additionally, Duke Kentucky states that if the Commission authorizes Duke Kentucky to hedge forced outages at its generating stations in Duke Kentucky's pending

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<sup>6</sup> *Id.* at 2.

<sup>7</sup> *Calpine Corp. v. PJM Interconnection, LLC*, 169 FERC ¶ 61, 239 (Dec. 19, 2019).

<sup>8</sup> Application at 1.

electric base rate case,<sup>9</sup> Duke Kentucky would seek to include similar authority in its backup power supply plan. Duke Kentucky, noting that the final Order in Case No. 2019-00271 has not yet been issued, asserts that it will require time to review the final order in that case once it has been issued.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Duke Kentucky's request for an extension of time should be granted. To the degree that PJM's compliance filing impacts the evaluation of Duke Kentucky's backup power supply plan, Duke Kentucky established good cause to extend the time to file its future backup power supply plan. Duke Kentucky did not establish good cause for its failure to comply with two established deadlines for filing backup power supply plans. Duke Kentucky attributed one missed deadline to a calendaring error and never addressed missing the second deadline. The Commission strongly encourages Duke Kentucky to resolve the calendaring issue to prevent future occurrences of its failure to comply with deadlines established in a Commission Order.

IT IS THEREFORE ORDERED that:

1. Duke Kentucky's request to continue the backup power supply plan approved in Case No. 2017-00117 through May 31, 2021, is granted.
2. Duke Kentucky's request to extend the filing deadline for filing its backup power supply plan from March 1, 2020, to March 1, 2021, is granted.

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<sup>9</sup> Case No. 2019-00271, *Electronic Application of Duke Energy Kentucky, Inc. for 1) An Adjustment of the Electric Rates; 2) Approval of New Tariffs; 3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and 4) All Other Required Approvals and Relief* (filed Sept. 3, 2019).

3. Six months prior to the expiration of Duke Kentucky's backup power supply plan, as extended in this Order, Duke Kentucky shall inform the Commission of its intentions concerning its prospective backup power supply plan.

4. This case is closed and removed from the Commission's docket.

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By the Commission



ATTEST:

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Executive Director

Case No. 2020-00089

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