

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF	)	
AMENDMENTS TO THE PUBLIC UTILITY	)	CASE NO.
REGULATORY POLICIES ACT OF 1978 AND	)	2022-00370
DEMAND RESPONSE PRACTICES	)	

ORDER

On November 7, 2022, the Commission issued an Order<sup>1</sup> initiating this proceeding in response to the Infrastructure Investment and Jobs Act (IIJA)<sup>2</sup> that was signed into law on November 15, 2021. The IIJA, *inter alia*, amended Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (PURPA).<sup>3</sup> In relevant part, the amendments added the following standard:

(20) Demand-response practices

(A) In general

Each electric utility shall promote the use of demand response and demand flexibility practices by commercial, residential, and industrial consumers to reduce electricity consumption during periods of unusually high demand.

(B) Rate recovery

(i) In general

Each State regulatory authority shall consider establishing rate mechanisms allowing an electric utility with respect to which the State regulatory authority has ratemaking authority

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<sup>1</sup> Order (Ky. PSC Nov. 7, 2022).

<sup>2</sup> H.R. 3684, 117th Cong. (2021).

<sup>3</sup> 16 U.S.C. § 2621(d).

to timely recover the costs of promoting demand-response and demand flexibility practices in accordance with subparagraph (A).<sup>4</sup>

Under the PURPA amendments, the Commission must, “commence consideration . . . or set a hearing date for consideration, with respect to the standard established by [the PURPA amendments]” within one year of November 15, 2021.<sup>5</sup>

The November 7, 2022 Order establishing this matter made all jurisdictional utilities a party to the proceeding, established a deadline for requests for intervention, and established a December 16, 2022 deadline for comments to be filed. The jurisdictional utilities were directed to provide comments in response to specific questions.

The jurisdictional utilities timely filed responsive comments. The Commission granted intervention to Kentuckians for the Commonwealth Mountain Association, Metropolitan Housing Coalition, and Earth Tools, Inc., who jointly filed comments. The Commission also granted intervention to the Kentucky Industrial Utility Customers, Inc. (KIUC). KIUC elected to not file comments.

After considering the comments filed from jurisdictional utilities, the Commission, by Order<sup>6</sup> issued November 15, 2023, declined to adopt universally applicable demand side management (DSM) or energy efficiency (EE) standards, finding instead that these issues are best addressed on a case-by-case basis because each jurisdictional electric utility in Kentucky has needs and challenges that are unique to its customer base, service territory, and load management. The Commission noted that Kentucky’s General

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<sup>4</sup> 16 U.S.C. § 2621(d)(20).

<sup>5</sup> 16 U.S.C. § 2622(b)(8)(A).

<sup>6</sup> Order (Ky. PSC Nov. 15, 2023).

Assembly has addressed various considerations to be taken into account when reviewing DSM programs<sup>7</sup> and has established factors to be considered when reviewing DSM mechanisms to recover costs of DSM programs.<sup>8</sup> Furthermore, the Commission encouraged utilities to adequately consider DSM and EE programs in its future applications for approval to construct generation as these are necessary factors to prove the absence of wasteful duplication and prove that all reasonable alternatives were explored before concluding that new generation is the least cost most reasonable option. Lastly, the Commission kept the docket open to further develop the record and further consider and address issues concerning the increased electrification of the transportation fleet.

Now, the Commission, being sufficiently advised, finds that no further action is necessary in this matter and that this case should be dismissed and removed from the Commission's docket.

IT IS THEREFORE ORDERED that this case is closed and removed from the Commission's docket.

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<sup>7</sup> See, KRS 278.285(1).

<sup>8</sup> See, KRS 278.285(2).

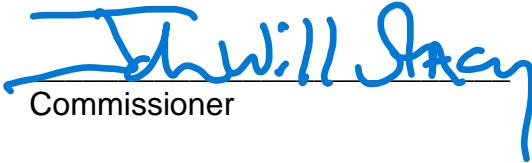
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Chairman

  
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Commissioner

  
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Commissioner

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