COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE TARIFF FILING OF EAST KENTUCKY POWER COOPERATIVE INC. TO ADD A NEW BILLING PROCEDURE TO ITS FUEL ADJUSTMENT CLAUSE MECHANISM	))))	CASE NO. 2004-00401

O R D E R

East Kentucky Power Cooperative ("EKPC") proposes to revise its Fuel Adjustment Clause ("FAC") to introduce a new billing procedure that reduces the volatility of its FAC factors. At issue is whether the proposed revision, which would limit EKPC's monthly FAC factor to no more than $0.003 per kilowatt hour ("KWH"), is consistent with Administrative Regulation 807 KAR 5:056. Finding that the proposed revision involves not merely a revision in billing procedures but revises the methodology upon which the FAC charge is calculated and thus conflicts with Administrative Regulation 807 KAR 5:056, we deny EKPC's proposed revision.

EKPC is a rural electric cooperative organized pursuant to KRS Chapter 279. It owns and operates facilities used to generate and transmit electricity to its 16 member cooperatives for compensation for lights, heat, power and other uses. It is a utility subject to Commission jurisdiction. KRS 278.010(3)(a); KRS 279.210.

EKPC's current tariffs contain an FAC. An FAC is "a means for [an electric] utility to recover from its customers its current fuel expense through an automatic rate adjustment without the necessity for a full regulatory rate proceeding. This rate may increase or decrease from one billing cycle to the next depending on whether the utility's cost of fuel increased or decreased in the same period. The rate provides for a straight pass-through of fuel costs, with no allowance for a profit to the utility." Kentucky Power Company, Case No. 6877 (Ky. P.S.C. Dec. 15, 1977) at 2.

Administrative Regulation 807 KAR 5:056 permits electric utilities to establish FACs to adjust their rates to reflect changing fuel prices. It requires that an FAC "provide for periodic adjustment per KWH of sales equal to the difference between the fuel costs per KWH sale in the base period and in the current period." 807 KAR 5:056, Section 1(1). It establishes an adjustment factor based upon the following formula:

$$\textbf{Adjustment Factor} = \frac{\textbf{Monthly Fuel Costs}}{\textbf{Monthly Sales}} - \frac{\textbf{Base Fuel Costs}}{\textbf{Base Sales}}$$

This factor, which is also expressed in terms of cents per KWH, is multiplied by the customer's usage to determine his or her monthly FAC charge. The charge, which may be positive or negative, appears as a separate line item on the customer's bill.

In the past two years, EKPC's FAC charges have risen as a result of the utility's increased reliance on purchased power, higher wholesale power prices, increased coal and gas prices, and higher levels of load on EKPC's system. In 2003 EKPC's FAC charge exceeded $0.003 per KWH in 5 of 12 months.[1] In 2004 its monthly FAC factors

[1] See Memorandum from Roy M. Palk, President, East Kentucky Power Cooperative, Inc., to EKPC Board of Directors (July 30, 2004) 1.

exceeded $0.003 per KWH during every month.[2] According to EKPC's members, this increased volatility created "uncertainties and difficulties in budgeting."[3]

To lessen this volatility, EKPC proposes to revise the method by which it "bills" its FAC charge. Under its proposal, EKPC's monthly FAC factor will be capped at $0.003 per KWH. If the actual FAC factor exceeds $0.003 per KWH, EKPC will carry forward the unrecovered dollar amount resulting from the billed FAC factor. In later months, if the factor is less than $0.003 per KWH, any unrecovered amounts carried forward will be added to the actual FAC costs for the month and recovered up to the $0.003 per KWH ceiling. Under EKPC's proposal, if the unrecovered amount carried forward surpasses $10 million, the cap will be raised to 5 mills until the under-recovered amount has been recovered.[4] EKPC will absorb any carrying costs that may result from the extended recovery period and will not assess its members for such costs.[5]

EKPC asserts that this revision is consistent with the methodology set forth in Administrative Regulation 807 KAR 5:056 for calculating FAC factor and charges. It contends that under the proposed revision it will continue to calculate its FAC factors in

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[2] EKPC's Response to Commission Staff's First Data Request, Item 1; EKPC's Fuel Adjustment Clause Schedule for December 2004 (filed Jan. 20, 2005).

[3] Memorandum from Roy M. Palk, President, East Kentucky Power Cooperative, Inc., to EKPC Board of Directors (July 30, 2004) 1.

[4] To illustrate the effect of the proposal on a customer's bill, the actual FAC factor applied to a customer's bill in November 2004 was $.00527, or 5.27 mills per KWH. Under EKPC's proposal, the factor would be capped at $.00300, or 3 mills per KWH. A customer using 1,000 KWH would be billed $2.27 less with EKPC's 3 mills per KWH cap in place. The shortfall would be applied, up to the 3 mill cap, in succeeding months, when the actual factor is less than 3 mills.

[5] EKPC's Response to Commission Staff's First Data Request, Item 4.

a manner consistent with Administrative Regulation 807 KAR 5:056 and that use of the proposed billing mechanism only defers recovery of FAC costs over time.

EKPC's characterization of its proposal as a change in billing practices and not a change in the methodology of calculating the FAC factor and charge is inaccurate. For the proposed revision to be merely a change in billing procedure, the revision should produce no change in either the revenue that EKPC collects or that any individual EKPC cooperative member pays. While EKPC's proposed revision will not increase the total accumulative FAC charge billed, the accumulative amount that EKPC will recover, or the accumulative amount that EKPC's members as a collective group will pay, it will produce an allocation of fuel costs that differs from the current process. As fuel costs are shifted from one month to another, differences in usage patterns will produce different results. For example, a member cooperative that has lower usage during a month in which EKPC incurs a large FAC charge may be required to pay a greater share of fuel costs if that month's fuel costs are not passed through to EKPC's members until a month when that member has much higher usage.

A comparison to the Commission's residential budget billing plan illustrates the point that EKPC's revision encompasses far more than a change in billing procedures. Under the residential billing plan, a customer pays a fixed amount every month for a 12-month period. At the end of this period or during the 12-month period, the customer's account is adjusted to ensure that the account will be current at the end of the period. The customer is charged the same rates as other customers in the same customer class. Customers having the same usage patterns, regardless of whether they participate in the budget billing program, will pay the same amount for their usage during the 12-month period. While they may pay differing amounts at specific times during the 12-month period, their total bill for the 12-month period is the same. In contrast, a member cooperative's FAC charges for a 12-month period calculated using EKPC's revision will not be the same as that member's FAC charges for the same period calculated using the current methodology.

We find that Administrative Regulation 807 KAR 5:056 does not permit EKPC's proposed revision and that the revision should be denied. Administrative Regulation 807 KAR 5:056 provides a specific methodology to calculate the FAC factor. EKPC's proposal represents a different methodology for such calculations. Administrative Regulation 807 KAR 5:056 makes no exceptions to and provides for no variations or deviations from its methodology. Moreover, it grants no discretion to a utility or to the Commission for the use of an alternative methodology.[6]

We further find that adoption of the proposed revision would undermine the intent of Administrative Regulation 807 KAR 5:056. Upon promulgating that regulation, the Commission noted that the regulation was designed "to require every electrical utility operating within the State of Kentucky to utilize a standard Fuel Adjustment Clause for passing through to the consumer that portion of fuel cost which has not been previously incorporated into the utility's general rate structure."[7] Acceptance of EKPC's proposal

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[6] Unlike many of the other administrative regulations that the Commission has promulgated, Administrative Regulation 807 KAR 5:056 does not authorize the Commission to permit deviations from its provisions.

[7] Letter from Richard S. Taylor, Chairman, Kentucky Public Service Commission, to Julian M. Carroll, Governor, Commonwealth of Kentucky (Mar. 6, 1978) 1.

would result in an FAC that is significantly different from those used by other jurisdictional electric utilities.

Although the Commission does not have the discretion under Administrative Regulation 807 KAR 5:056 to adopt EKPC's proposed methodology, there may be alternative measures that could be adopted to reduce the impact of price volatility on customer bills. However, at this point in time, the Commission does not have sufficient information to determine the extent to which monthly price volatility is a problem for EKPC's member cooperatives and their respective retail customers. Therefore, the Commission will convene an informal conference with representatives of EKPC and its member cooperatives to: (1) examine the effects of monthly price volatility on all affected parties; (2) determine the need for measures to reduce the price volatility; and (3) identify available measures to reduce price volatility.

IT IS THEREFORE ORDERED that:

1. EKPC's proposed revision is denied.

2. Within 30 days of the date of this Order, the Commission's Executive Director shall schedule an informal conference between representatives of EKPC and its member cooperatives and Commission Staff to the effects of a volatile FAC factor upon electric utility operations and finances.

3. Subject to the filing of a timely petition for rehearing pursuant to KRS 278.400, this proceeding is closed. The Commission's Executive Director shall place any future filings in the appropriate utility's general correspondence file or shall docket the filing as a new proceeding.

Done at Frankfort, Kentucky, this 25th day of Februay, 2005.

By the Commission

ATTEST:

Executive Director