

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

GENERAL ADJUSTMENTS IN)
ELECTRIC RATES OF)
KENTUCKY POWER COMPANY)

CASE NO. 2005-00341

O R D E R

On September 26, 2005, Kentucky Power Company ("Kentucky Power") tendered for filing an application for a general adjustment in electric rates. The rate application was reviewed to determine whether it complied with all applicable statutes and regulations. By Commission letter dated September 30, 2005, Kentucky Power was notified that its rate application was rejected as deficient because its customer notice did not include the percentage change for each customer classification to which the proposed rate change will apply, as required by 807 KAR 5:001, Section 10(3)(a). Kentucky Power responded by letter dated October 5, 2005, stating that the percentage change for each customer classification was included in its customer notice, as set forth in its tendered application at Section II, Exhibit A, page 33 of 352.

An informal conference was held at the Commission's offices on October 6, 2005 to discuss whether Kentucky Power's rate application satisfied the minimum filing requirements. At the conference, Commission Staff advised Kentucky Power that its rate application did not comply with three filing requirements set forth in 807 KAR 5:001: Section 10(3)(a); Section 10(3)(c); and Section 10(6)(e). The Commission then issued a revised notice of deficiencies by letter dated October 7, 2005.

On October 7, 2005, Kentucky Power filed a motion requesting the Commission to accept its rate application as of September 26, 2005, the date it was originally tendered. Kentucky Power claims that the filing deficiencies arise from its interpretation of the term “customer classification,” as used in the Commission’s regulations. Since there is no definition of that term in either the Commission’s statutes or regulations, Kentucky Power stated that it reasonably interpreted the term to mean the broad categories of residential, commercial, and industrial, as utilized by the Federal Energy Regulatory Commission, rather than the specific classifications of customers under each of Kentucky Power’s filed tariffs.

The motion further states that Kentucky Power will provide all the information cited in the October 7, 2005 deficiency letter and will publish a revised customer notice, a copy of which was appended to its motion as Exhibit A. Based on its claim that the language in the Commission’s regulations is not clear, Kentucky Power states there is good cause to accept its application for filing as of September 26, 2005.

In the alternative, Kentucky Power’s motion requests leave to amend its application, publish a supplemental customer notice, and requests that its application be accepted for filing as of October 7, 2005, the date its motion was filed. In the event the Commission grants this alternative relief, Kentucky Power further requests that the 30-day statutory notice period, set forth in KRS 278.180(1), be shortened to 20 days, as is within the Commission’s discretion under that statute. Finally, Kentucky Power requests a waiver of 807 KAR 5:001, Section 10(4)(c)3, which requires the publication of the customer notice to be made within 7 days of the filing of the application with the Commission. Since many of the newspapers in its service territory only publish weekly,

Kentucky Power stated that if its application is accepted for filing as of October 7, 2005, it may not be in compliance with that regulation.

Based on the motion and being otherwise sufficiently advised, the Commission finds that Kentucky Power's rate application, as tendered for filing on September 26, 2005, did not comply with three of the Commission's regulations under 807 KAR 5:001, Section 10. Those regulations and their requirements are as follows:

Section 10(3)(a). The amount of the change requested in both dollar amounts and percentage change for each customer classification to which the proposed rate change will apply;

Section 10(3)(c). Electric, gas, water and sewer utilities shall include the effect upon the average bill for each customer class to which the proposed rate change will apply; and

Section 10(6)(e). If the utility provides electric, gas, water or sewer service, the effect upon the average bill for each customer classification to which the proposed rate change will apply.

The first two of these regulations specify the requisite information which must be included in the customer notice, whereas the third regulation specifies information which must be included in the rate application. Kentucky Power's customer notice, as included in its tendered application, showed the following information:

Residential: estimated effect of 1,000 kWh per month - \$15.40 per month, 26.4%.
Commercial: estimated effect of 4,084 kWh per month - \$35.53 per month, 14.8%.
Industrial: effect of 2,671,452 kWh per month - \$12,508 per month, 13%.

The above information does not comply with either Section 10(3)(a) or Section 10(3)(c).

Even assuming that "customer classification" means the broad categories of residential, commercial, and industrial, the information included in the customer notice

did not include the dollar amounts and percentage change for each of these customer classifications as required by Section 10(3)(a). Rather, the notice included the dollar amounts and percentage change for a customer at a selected consumption level within each of those classes. In addition, the information included in the notice did not satisfy Section 10(3)(c), which requires the effect upon the average bill for each customer class. For example, while the notice indicates that the effect on a residential customer using 1,000 kWh per month would be an increase of \$15.40, Kentucky Power's application, page 6, states that the average residential customer uses 1,353 kWh and the effect of the proposed rates will be an increase of \$20.50 per month.

The Commission further finds no merit in Kentucky Power's claim that the term "customer classification," as used in the regulations, is unclear. The purpose of requiring customer notification is to ensure that customers are accurately informed of the effects on them of the proposed rate change. Combining Kentucky Power's numerous customer classes into three broad categories results in a distortion of the effect of the proposed rate change on each customer class. In addition, both the customer notice and the rate application must show the effect of the proposed rates on the average bill for each customer classification. In its customer notice, Kentucky Power interpreted "customer classification" to mean the broad categories of residential, commercial, and industrial. However, in its application, at page 6, it interpreted the same term to mean six of its specific classifications of customers under its filed tariffs. The motion provides no explanation for these conflicting interpretations.

Under the circumstances presented here, the Commission is unable to find good cause to justify granting any deviations from its regulations or the 30-day statutory

notice. To group Kentucky Power's customer classifications into three broad categories defeats the purpose of the regulation in requiring notice to the customers and the Commission. In addition, there has been no compliance with Section 10(3)(a). The Commission does find that the revised customer notice, set forth as Exhibit A to the motion, complies with all applicable regulations, and the requested amendment to the rate application should be granted. Under Section 10(4)(c)3, the customer notice must be published within 7 days of filing the application with the Commission. Since Kentucky Power's motion states that the revised notice will be published no later than October 18, 2005, the earliest date that the application can be accepted for filing is October 11, 2005.


IT IS THEREFORE ORDERED that:

1. Kentucky Power's motion to amend its application and to publish supplemental notice is granted.
2. Kentucky Power's rate application is accepted for filing as of October 11, 2005.
3. All other relief requested in Kentucky Power's motion is denied.

Done at Frankfort, Kentucky, this 26th day of October, 2005.

By the Commission

ATTEST:



Executive Director