

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| DEVELOPMENT OF GUIDELINES FOR |) | ADMINISTRATIVE |
| INTERCONNECTION AND NET METERING |) | CASE NO. |
| FOR CERTAIN GENERATORS WITH |) | 2008-00169 |
| CAPACITY UP TO THIRTY KILOWATTS |) | |

ORDER

In its January 8, 2009 Order in this case, the Commission issued its “Interconnection and Net Metering Guidelines—Kentucky” (“Net Metering Guidelines”) in accordance with Senate Bill 83 (“SB 83”). Enacted by the Kentucky General Assembly in 2008, SB 83 amended the statutory requirements for the net metering¹ of electricity (codified in KRS 278.465 to 278.468), expanding the types and kilowatt capacity of customer-owned electric generating facilities that qualify for net metering in order to increase the number of net metering customers in Kentucky. The January 8, 2009 Order also required all jurisdictional electric utilities to file with the Commission net metering tariffs and application forms to comply with the Net Metering Guidelines within 90 days of the issuance of the Order, pursuant to KRS 278.467(3).

All jurisdictional electric utilities complied with the January 8, 2009 Order. However, in its April 24, 2009 Order, the Commission found that all but two utilities (Blue Grass Energy Cooperative Corp. and Duke Energy Kentucky, Inc.) had failed to

¹ “Net metering” is defined as “measuring the difference between the electricity supplied by the electric grid and the electricity generated by an eligible customer-generator that is fed back to the electric grid over a billing period.” KRS 278.465(4).

comply with the 30-day notice requirement set forth in KRS 278.180(1). Pursuant to KRS 278.190(2), the Commission suspended each of the proposed tariffs for five months to allow sufficient time for their review by Commission Staff and the intervening parties. The April 24, 2009 Order provided 30 days for intervening parties to file any comments on the utility filings and 10 days for the utilities to file any response.

In response to the net metering tariff and application forms, Appalachia-Science in the Public Interest ("ASPI"), Solar Energy Solutions, LLC ("SES"), and Joshua Bills (collectively "Intervenors") filed comments on May 27, 2009, objecting to certain provisions of the net metering tariffs and application forms filed by Big Sandy RECC, Fleming-Mason Energy Cooperative, Taylor County RECC, Louisville Gas and Electric Company ("LG&E") and Kentucky Utilities Company ("KU"). The Attorney General did not file comments in response to the tariff filings. LG&E/KU filed a response to the Intervenors' comments on June 9, 2009, asserting that their net metering tariffs and application forms fully complied with the Net Metering Guidelines.

Big Sandy RECC, Fleming-Mason Energy Cooperative, and Taylor County RECC did not respond to the Intervenors' comments. The Intervenors' concerns regarding the \$200 filing fee for Level 2 applications included in Big Sandy RECC's original tariff filing had already been addressed by Big Sandy RECC's April 15, 2009 amended tariff filing. The amended net metering tariff and application forms changed the filing fee for Level 2 applications to the maximum \$100 allowed under the Net Metering Guidelines.

On June 19, 2009, the parties participated in a telephonic informal conference ("IC") during which LG&E/KU and the Intervenors agreed to certain tariff language amendments to LG&E/KU's net metering tariffs and also discussed the possibility of conducting further negotiations in order to resolve their disagreements over the remaining tariff language. The parties did not discuss the Intervenors' comments regarding the net metering tariffs filed by Big Sandy RECC, Fleming-Mason Energy Cooperative, or Taylor County RECC.

On July 7, 2009, the Intervenors filed their reply to LG&E/KU's response, incorporating the changes agreed to at the June 19, 2009 IC and outlining their remaining concerns with the net metering tariff language. On July 14, 2009, LG&E/KU filed a "sur-reply" to the Intervenors' reply, which included amended net metering tariffs for both companies and a copy of a July 9, 2009 letter from Intervenors' counsel stating that the Intervenors had reviewed the amended net metering tariffs and had found them to be in substantive conformity with the Commission's January 8, 2009 guidelines and that the Intervenors did not oppose them as currently filed.

COMMISSION DETERMINATION

Having reviewed the proposed net metering tariffs and application forms, the Intervenors' comments and reply comments, LG&E/KU's response comments and "sur-reply" comments, and the amended LG&E/KU net metering tariffs, the Commission finds that the net metering tariffs and application forms filed by all of the jurisdictional utilities, except for Fleming-Mason Energy Cooperative and Taylor County RECC, are in compliance with the provisions of KRS 278.465-468 and the Net Metering Guidelines.

The Commission finds that the net metering tariff filed by Fleming-Mason Energy Cooperative is not in compliance with the Net Metering Guidelines because, as noted in the Intervenor's May 27, 2009 comments, the net metering application form for Level 2 applications does not indicate whether Fleming-Mason Energy Cooperative intends to charge a filing fee for Level 2 applications. Therefore, Fleming-Mason Energy Cooperative must file an amended net metering tariff and application form, indicating either that there is no filing fee for Level 2 applications or, if there is a filing fee, the amount of the Level 2 filing fee, not to exceed \$100.²

The Commission finds that the net metering tariff filed by Taylor County RECC is not in compliance with the Net Metering Guidelines because, as noted in the Intervenor's May 27, 2009 comments, the Taylor County RECC net metering tariff does not state whether customers may file net metering applications electronically. The Net Metering Guidelines provide that "[a]t its sole discretion, the Utility may accept [net metering] applications electronically." Taylor County RECC does maintain a website located at <http://www.tcrecc.com/>. Therefore, in order to comply with the "Application and Approval Process" portion of the Commission's Net Metering Guidelines, it must provide its net metering application forms and information regarding the retail electric provider's net metering program on its website.³ As such, the Commission finds that Taylor County RECC must file an amended net metering tariff indicating whether it will accept electronically filed net metering applications.

² Interconnection and Net Metering Guidelines – Kentucky at 6.

³ Id. at 2-3.

The Commission also finds that the net metering tariff filed by Taylor County RECC is not in compliance with the Net Metering Guidelines because, as noted in the Intervenor's May 27, 2009 comments, the Taylor County RECC net metering tariff does not provide for the establishment of a training protocol for line workers on the location and proper use of an external disconnect switch ("EDS"). The Net Metering Guidelines provide that "[a]ny utility requiring the use of an EDS shall establish a training protocol for line workers on the location and use of the EDS"⁴ Taylor County RECC's net metering tariff requires the use of EDS.⁵ Therefore, the Commission finds that Taylor County RECC must amend its net metering tariff and application forms to include language at pages 9, 17, and 26 of its tariff stating the following or substantively similar language: "Taylor County RECC shall establish a training protocol for line workers on the location and use of the EDS, and shall require that the EDS be used when appropriate, and that the switch be turned back on once the disconnection is no longer necessary."

Finally, pursuant to the Net Metering Guidelines, the Commission finds that each jurisdictional utility which maintains a website on the internet should provide its net metering application forms and information regarding its net metering program on its website. As such, the Commission will order all jurisdictional electric utilities to comply with that requirement in order to facilitate the dissemination of information regarding net metering to those who may be interested in becoming net metering customers.

⁴ Id. at 12 and 20.

⁵ See Taylor County RECC Net Metering Tariff at 9, 16-17, and 26.

IT IS THEREFORE ORDERED that:

1. The net metering tariffs and application forms filed by all of the jurisdictional utilities except Fleming-Mason Energy Cooperative and Taylor County RECC, as noted below, are approved.

2. Within 10 days of the date of this Order, Fleming-Mason Energy Cooperative shall file an amended net metering tariff and application forms, indicating at 1st Revised Sheet 39, either:

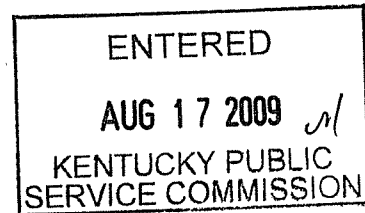
a. Fleming-Mason Energy Cooperative does not require a filing fee for Level 2 applications; or

b. Fleming-Mason Energy Cooperative does require a filing fee for Level 2 applications, and the amount of the Level 2 filing fee, not to exceed \$100.

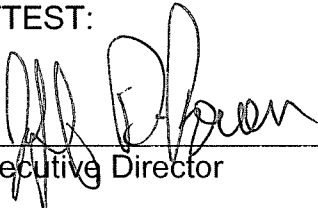
3. Within 10 days of the date of this Order, Taylor County RECC shall file an amended net metering tariff and application forms stating, at page 3 under "Application and Approval Process," whether it will accept electronically filed net metering applications; and amending pages 9, 17, and 26 of its net metering tariff and application forms stating the following or substantively similar language: "Taylor County RECC shall establish a training protocol for line workers on the location and use of the EDS, and shall require that the EDS be used when appropriate, and that the switch be turned back on once the disconnection is no longer necessary."

4. All jurisdictional electric utilities which maintain online websites shall provide their net metering application forms and information regarding the retail electric provider's net metering program on their websites.

By the Commission



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