

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TARIFF FILING OF NOLIN RECC, EAST)	
KENTUCKY POWER COOPERATIVE, INC. AND)	CASE NO.
AGC AUTOMOTIVE AMERICAS FOR)	2009-00097
ACCEPTANCE AND EXPEDITED)	
IMPLEMENTATION OF AN AGREEMENT FOR)	
ELECTRIC SERVICE)	

O R D E R

Nolin Rural Electric Cooperative Corporation (“Nolin”) is an electric distribution cooperative organized under KRS Chapter 279. East Kentucky Power Cooperative, Inc. (“EKPC”) is a cooperative corporation also organized under the provisions of KRS Chapter 279 and generates and transmits electric energy for sale at wholesale to 16 rural electric cooperative corporations that are principally engaged in the distribution of electricity. Nolin purchases power at wholesale from EKPC.

On January 9, 2006, EKPC, Nolin, and AGC Automotive Americas (“AGC”) entered into a special contract in which EKPC agreed to sell, through Nolin, and AGC agreed to buy electric power with a designated minimum monthly firm power demand of 20 MW for purposes of calculating billing demand. As a result of the current economic downturn, production has declined at AGC’s Elizabethtown, Kentucky plant and AGC’s monthly electricity demand has decreased. On March 2, 2009, EKPC and Nolin filed an amendment to the special contract reducing the monthly firm power demand to 17 MW.

EKPC and Nolin requested expedited treatment of the filing and proposed an effective date for services rendered on or after March 1, 2009.

KRS 278.180(1) requires EKPC and Nolin to provide 30 days' notice to the Commission prior to implementing the amendments to the special contract. Pursuant to the same section, the Commission may shorten the notice period to 20 days upon a showing of good cause. EKPC and Nolin's filing herein does not satisfy the notice requirement unless KRS 278.180(2) is applicable.

KRS 278.180(2) allows the Commission, upon application by a utility, discretion to prescribe a shorter time period within which a reduction of rates may be made. EKPC and Nolin have requested that the notice period be reduced, as permitted by KRS 278.180(2).

KRS 278.010(12) defines a "rate" to include, *inter alia*, "any schedule or tariff or part of a schedule or tariff thereof." The special contract is part of both EKPC's and Nolin's tariffs and thus constitutes a "rate." The reduction in the monthly power demand would effectively result in a decrease in the rate, as that term is defined in KRS 278.010(12), charged by EKPC and Nolin. Therefore, the Commission finds good cause to reduce the notice period to one day. Consequently, the amendment to the special contract will be accepted to become effective on March 3, 2009.¹


IT IS THEREFORE ORDERED that the amendment to EKPC's and Nolin's special contract with AGC is accepted for service effective March 3, 2009.

¹ The filing is also in violation of the prohibition against retroactive rate-making. See Case No. 1995-00011, *Kentucky Industrial Utility Customers, Inc. v. Big Rivers Electric Corporation* (Ky. PSC April 1, 1997). However, this issue is moot in light of the finding that the amendment will be accepted for services rendered on or after March 3, 2009.

By the Commission

ENTERED
MAR 25 2009 *ml*
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2009-00097

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