

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF DUKE ENERGY KENTUCKY,) CASE NO.
INC. FOR AN ADJUSTMENT OF RATES) 2009-00202

O R D E R

Before the Commission is the motion of Duke Energy Kentucky, Inc. ("Duke Energy") for rehearing of the Commission's July 13, 2009 letter rejecting as deficient Duke Energy's July 1, 2009 rate application. In the alternative, Duke Energy requests permission to supplement its application with information responsive to the deficiency notice and asks that it be permitted the earliest possible effective date allowed under KRS 278.180. Duke Energy has filed a request for an increase in its rates for gas service based on a forecasted test year. Among other things, rate applications based on a forecasted test year are required to include certain data for the period covered by the applicant's three-year forecast of construction expenditures. Two of those items are the capital structure requirements and the rate base required pursuant to 807 KAR 5:001, Sections 10(9)(h)(11) and 10(9)(h)(12), for which Duke Energy's application was found deficient in the notice of deficiencies.

In its motion, Duke Energy states that the information submitted to satisfy the capital structure requirements and rate base items for the three-year forecast period is

in the same form as it submitted in Case Nos. 2005-00042¹ and 2006-00172² and that the Commission determined in those proceedings that said information satisfied the filing requirements. Therefore, Duke Energy opines, the Commission's determination that the information satisfied the filing requirements in those cases can be considered as establishing a precedent for this case.

As an alternative to its request for rehearing, Duke Energy requests that it be permitted to supplement its application with the information called for in the deficiency letter of July 13, 2009. It further requests that the supplemental filing be accepted and that its application be considered filed as of July 16, 2009, the date of submission of its supplemental data. Duke also requests, under this procedure, that the effective date of its proposed tariffs be consistent with the shortest period permitted under KRS 278.180.³

FINDINGS AND CONCLUSION

Based on the evidence of record and being otherwise advised, the Commission finds that Duke Energy's rate application submitted on July 1, 2009 did not include the data required by 807 KAR 5:001, Sections 10(9)(h)(11) and 10(9)(h)(12) and was properly rejected as deficient. Although the Commission previously accepted Duke

¹ Case No. 2005-00042, An Adjustment of the Gas Rates of The Union Light, Heat and Power Company (Ky. PSC, Feb. 2, 2006). Duke Energy was formerly known as The Union Light, Heat and Power Company.

² Case No. 2006-00172, An Adjustment of the Electric Rates of The Union Light, Heat and Power Company d/b/a Duke Energy Kentucky, Inc. (Ky. PSC, Dec. 21, 2006).

³ The normal period permitted under this statute requires a notice of 30 days prior to the effective date of new tariffs which increase rates. The shortest period permitted under the statute requires a notice of 20 days prior to the effective date of such tariffs.

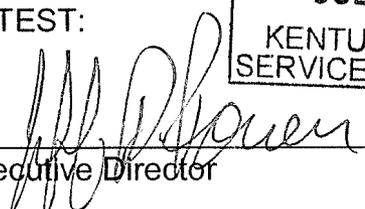
Energy rate applications which were deficient, our prior failure to properly enforce this regulation does not now bar proper enforcement here. As such, we find that Duke's argument for rehearing and a finding that its application of July 1, 2009 should be accepted as filed is not persuasive and that its rehearing request should be denied.

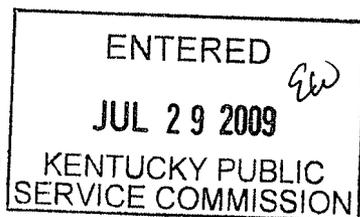
Duke Energy's alternative to its request for rehearing is, in part, acceptable to the Commission. Its supplemental filing satisfies the filing requirements of 807 KAR 5:001, Sections 10(9)(h)(11) and 10(9)(h)(12); however, the effective date of its proposed tariffs will not be established based on the shortest period, 20 days, permitted under KRS 278.180. Per the statute, the Commission may shorten the notice period to 20 days, in its discretion, *based upon a showing of good cause* (Emphasis added). Duke Energy has merely requested that the period be shortened; it has made no showing of good cause. Accordingly, the notice period will remain at 30 days, meaning the earliest effective date of Duke Energy's proposed rates is August 15, 2009.

IT IS THEREFORE ORDERED that:

1. Duke Energy's motion is denied.
2. Duke Energy's application is accepted and considered filed as of July 16, 2009, the date on which its filing deficiencies were cured.
3. The notice period for the effective date of Duke Energy's proposed rates will remain at 30 days, pursuant to KRS 278.180.

ATTEST:


Executive Director



By the Commission

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