

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF TROUBLESOME)	
CREEK GAS CORPORATION FOR INITIAL)	CASE NO.
RULES, REGULATIONS, AND RATES FOR)	2019-00467
FURNISHING GAS SERVICE PURSUANT TO KRS)	
278.485)	

ORDER

On December 19, 2019, Troublesome Creek Gas Corporation (Troublesome Creek) filed a proposed tariff to revise its rates, charges, rules, and regulations pursuant to KRS 278.485 and 807 KAR 5:026, which govern gathering systems that provide gas service to retail customers who tap into such systems (farm tap systems). Troublesome Creek proposed an effective date of January 19, 2020. On January 16, 2020, the Commission suspended the effective date of Troublesome Creek's proposed tariff for five months, up to, and including June 18, 2020, and initiated this proceeding to investigate the reasonableness of the proposed tariff.

The January 16, 2020 Order also established a procedural schedule. Troublesome Creek responded to three rounds of discovery from Commission Staff. There are no intervenors in this matter. This matter now stands submitted for a decision on the written record.

BACKGROUND

KRS 278.485 requires gas-gathering systems to provide service, upon request, to customers whose property and point of service is located within one-half air mile of the

company's producing gas well(s) or gas gathering pipeline(s). Troublesome Creek has 50 such farm tap customers receiving service in Wolfe and Breathitt counties in Kentucky. Troublesome Creek acquired its system from Holly Creek Production Corporation on March 1, 2014, and has expanded its gas wells since that time.¹ Troublesome Creek proposes the following increase in its farm tap rates:²

	<u>Current</u>	<u>Proposed</u>
Minimum Bill (2 Mcf)	\$21.38	-
All Additional Mcf	\$10.69	\$11.25
Customer Charge		\$15.00

The impact on an average residential customer using 6.38 Mcf per month is an increase of 27.24 percent or \$18.58 from \$68.20 per month to \$86.78 per month.³

Commission Regulation 807 KAR 5:026, Section 9, allows a farm tap operator to request an adjustment in retail rates through a proposed tariff if (1) the percentage change in rates does not exceed the percentage change in the price index during the most recent 12-month period immediately preceding the date the proposed tariff is filed;⁴ and (2) the proposed rate does not exceed the highest average volumetric rate of a local gas distribution utility approved by the commission and in effect on the date the proposed tariff is filed. If the proposed percentage increase in rates exceeds the percentage change in

¹ Troublesome Creek's responses to Commission Staff's First Request for Information (Staff's First Request), Item 8 and Commission Staff's Second Request for Information (Staff's Second Request), Item 16(a).

² Troublesome Creek revised its proposed rates in response to Staff's First Request, Item 1.

³ In response to Staff's First Request, Item 1i.

Total Annual Sales:	4,377 Mcf
Less School:	<u>624 Mcf</u>
Residential Sales	<u>3,753 Mcf</u>
Avg Monthly Usage	6.38 Mcf

⁴ 807 KAR 5:026 defines price index as the average of the producer price index utility natural gas (PPI 5-05) for the most recent 12-month period as published monthly by the United States Department of Labor, Bureau of Labor Statistics.

the price index but the proposed rate remains below the highest prevailing gas rate approved by the Commission, the gas company must submit its proposed tariff and cost data that supports the proposed increase.

The percentage change in the price index during the most recent 12-month period immediately preceding the proposed tariff was a 15.3 percent decrease.⁵ Troublesome Creek's proposal, which represents an increase in rates, exceeds this percentage change in the price index. Troublesome Creek's proposed rates do not exceed the highest average volumetric rate of a local gas distribution utility approved by the Commission. Therefore, pursuant to 807 KAR 5:026, Section 9(1)(b), Troublesome Creek was required to provide its costs to provide service during the previous two years, current within 90 days of the date the proposed tariff is filed.

DISCUSSION

Troublesome Creek supplied an analysis of its administrative costs, but rather than strictly applying the criteria set forth in 807 KAR 5:026, it proposed to use its costs to provide service during the previous year. The Commission will accept these costs, with minor modifications, as discussed below. Troublesome Creek also supplied an analysis of its proposed gas costs, but rather than strictly applying the criteria set forth in 807 KAR 5:026, it proposed to use \$2.00 per thousand cubic feet (Mcf) as the gas cost portion of its rate. Troublesome Creek states that the NYMEX 12-month strip for February 2020-January 2021 of \$2.13 per dekatherm (dth) converts to \$1.99 per Mcf using Troublesome Creek's British thermal unit (BTU) factor of 1.07.⁶ Since the proposed gas cost rate and

⁵ United States Department of Labor, Bureau of Labor Statistics, PPI Detailed Report Data for December 2019, Table 9.

⁶ Troublesome Creek's response to Staff's First Request, Item 1(e).

the NYMEX conversion are nearly identical, the Commission will accept this method in determining the rates for Troublesome Creek's farm tap customers.

Revenue Requirement

Cost support provided by Troublesome Creek for its base rate consisted of estimated hours required for meter reading, maintenance, billing, and clerical functions. To cover these costs, plus postage, office supplies, and depreciation and correcting Troublesome Creek's calculations of the income tax provision⁷ and payroll taxes,⁸ Troublesome Creek's total revenue requirement is \$57,862.33, including gas costs.⁹

Rate Design

Troublesome Creek is proposing to charge a monthly customer charge of \$15.00 plus a volumetric charge. Troublesome Creek's proposed customer charge is based upon 1.5 times the volumetric rate, rounded down to the nearest five. The volumetric charge was calculated by dividing the balance of the revenue requirement after adjusting for the customer charge revenue by usage. Based upon the revenue requirement of \$57,862.33, this volumetric charge is \$11.16/Mcf.¹⁰ Typically, a customer charge is estimated through a cost-of-service study (COSS). However, given the small size of the

⁷ Troublesome Creek's response to Staff's First Request, Item 1(j) and Staff's Second Request, Item 7. Contrary to Troublesome Creek's assertion, the 2017 Tax Cuts and Jobs Act did not eliminate the tax deductibility of state income taxes for pass through entities; however, it did limit the deductibility to \$10,000, which is more than Troublesome Creek's Kentucky income tax expense for ratemaking purposes. Therefore, the composite tax rate is 24.95 percent for ratemaking purposes.

⁸ Troublesome Creek's response to Staff's First Request, Item 1(d). After correcting an inadvertent math error in the calculation of federal unemployment taxes and applying the 60 percent allocation factor to state and federal unemployment taxes, the payroll taxes that should be included in Troublesome Creek's rates are \$2,091.

⁹ See Appendix A for a summary calculation.

¹⁰ $\$57,863.33 - (\$15.00 \times 50) = \$48,862.32 / 4,377 \text{ Mcf} = \$11.16/\text{Mcf}$.

utility, a COSS is not cost effective. Troublesome Creek states that its proposed minimum charge is calculated to cover continued services to its customers during those months when customer usage is low, so that consistent and reliable services can be maintained without placing burdens on its customer base.¹¹ The Commission agrees that revenue stability is important as it allows for consistency and continuity in a business, especially one that is small. Therefore, the Commission finds that the proposed customer charge of \$15.00 is reasonable and should be approved. Based upon the revised revenue requirement, the average monthly usage of 6.38 Mcf, the average monthly bill will increase 26.39 percent or a total of \$18.02 from \$68.23 to \$86.25.

PROPOSED TARIFF

Troublesome Creek filed a proposed tariff containing its rates, rules and regulations. An Application for Gas Service was also filed containing additional rules and regulations. Except as modified herein, the Commission finds that the proposed tariff is reasonable and that it should be accepted as filed.

Application for Gas Service. Troublesome Creek's Application for Gas Service contains terms and conditions of service that were not included in the proposed tariff. Troublesome Creek stated that it deemed the additional terms and conditions of service to only apply to the Application for Gas Service and that only the rates, rules and regulations for furnishing natural gas were included in the proposed tariff.¹² 807 KAR 5:011 defines a tariff as "the schedules of a utility's rates, charges, regulations, rules, tolls, terms, and conditions of service over which the commission has jurisdictions." The

¹¹ Troublesome Creek's response to Staff's Second Request, Item 8.

¹² Troublesome Creek's response to Staff's First Request, Item 3.

Commission finds that the terms and conditions of service found in the Application for Gas Service should also be included in Troublesome Creek's tariff.

Special Meter Reading Charge. Troublesome Creek's proposed tariff contains a Special Meter Reading Charge in the amount of \$50.00. After further review of the costs, Troublesome Creek requested to reduce the Special Meter Reading Charge to \$39.50.¹³ The Commission finds that Troublesome Creek's request to reduce the Special Meter Reading Charge to \$39.50 is reasonable and should be approved.

Budget Billing Plan. Troublesome Creek's Application for Gas Service contained a statement that residential customers could enroll in a budget payment plan by contacting Troublesome Creek. Troublesome Creek provided the specific provisions of the Budget Billing Plan.¹⁴ Troublesome Creek later indicated that it would include the specific provisions of the Budget Billing Plan in its tariff.¹⁵ The Commission finds that the provisions of the Budget Billing Plan should be included in Troublesome Creek's tariff.

Reconnection Fee. The reconnection fee language in the Application for Gas Service states, in part, "Service which has been terminated due to failure to pay or make arrangements for payment of bills for service rendered will be restored if Customer pays all past due payments, collection fees, and reconnection charges." Troublesome Creek indicated that the reference to collection fees refers to fees such as the late payment charge, returned check charge, and service trip charge.¹⁶ Troublesome Creek agreed to

¹³ Troublesome Creek's response to Staff's Second Request, Item 14.

¹⁴ Troublesome Creek's response to Staff's Second Request, Item 2.

¹⁵ Troublesome Creek's response to Commission Staff's Third Request for Information (Staff's Third Request), Item 1.

¹⁶ Troublesome Creek's response to Staff's Second Request, Item 3.

revise this language to state, “Service which has been terminated due to failure to pay or make arrangements for payment of bills for service rendered will be restored if the Customer pays all past due payments, applicable fees, and reconnection charges.”¹⁷ The Commission finds that the revised language is reasonable and that it should be approved.

Attorney’s Fees. Troublesome Creek’s proposed tariff includes two references to recovery of attorney’s fees. For customers whose services are disconnected for diversion of natural gas, one of Troublesome Creek’s proposed requirements to have service reconnected states, “2) Customer has paid all the costs of collection of previous bills, including reasonable attorney fees, if applicable...” Troublesome Creek indicated that the cost of collection of previous bills would be the late payment charge, and if applicable, a returned check charge, a service trip charge, and a reconnection fee.¹⁸ Troublesome Creek’s proposed tariff also includes an “Indemnity to Company” clause, which states, “Customer shall hold the Company harmless and indemnify it against all claims and liability, including reasonable attorney fees” The Commission does not have the authority to approve attorney’s fees. Those can only be awarded by a court of competent jurisdiction. The Commission finds that the language above should be revised to state, “2) Customer has paid all applicable fees, including, if applicable, reasonable attorney fees awarded by a court of competent jurisdiction” and “Customer shall hold the Company harmless and indemnify it against all claims and liability, including reasonable attorney fees awarded by a court of competent jurisdiction.”

¹⁷ Troublesome Creek’s response to Staff’s Third Request, Item 2.

¹⁸ Troublesome Creek’s response to Staff’s Second Request, Item 4.

Meter Test Fee. Troublesome Creek's proposed tariff contains a meter test fee in the amount of \$225. Due to Troublesome Creek's most recent meter testing company relocating and not having an alternative at this time, Troublesome Creek indicates that it is not able to provide an accurate cost justification at this time. Therefore, Troublesome Creek requested to revise the meter test fee to be the cost from the meter testing company plus the cost of the field agent's travel and labor, not to exceed \$225.¹⁹ The Commission finds that Troublesome Creek's request to revise the meter test fee to be actual cost not to exceed \$225 is reasonable and should be approved.

Having considered the evidence of record and being otherwise sufficiently advised, the Commission finds that the rates, charges, and terms in the Appendix to this Order are fair, just, and reasonable, in the public interest, and should be approved effective with the date of entry of this Order.

IT IS THEREFORE ORDERED that:

1. The rates and charges proposed by Troublesome Creek are denied.
2. The rates and charges, as set forth in Appendix B to this Order, are approved as fair, just, and reasonable rates for Troublesome Creek, and these rates and charges are approved for service rendered on and after the date of entry of this Order.
3. Except for the tariff provisions that have been modified herein, Troublesome Creek's proposed tariff is approved as filed.
4. Within 20 days of the date of entry of this Order, Troublesome Creek shall file with the Commission, using the Commission's electronic Tariff Filing System, new

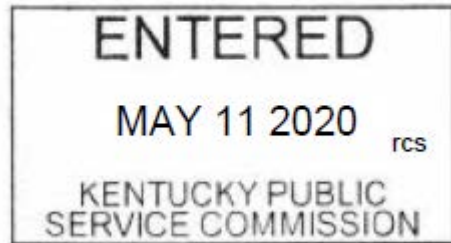
¹⁹ Troublesome Creek's response to Staff's Third Request, Item 4.

tariff sheets setting forth the rates, charges, and modifications approved or as required herein and reflecting their effective date and that they were authorized by this Order.

5. This case is closed and removed from the Commission's docket.

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By the Commission



ATTEST:

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Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00467 DATED MAY 11 2020

Troublesome Creek Gas Corporation

Gross Wages		21,968.00	
Employee Benefits/Expenses:			
Health Insurance	6,486.00		
Workers Compensation	766.93		
Payroll Taxes (See Note 1)	2,091.28	9,344.20	
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Gas Costs (Foregone Revenue)		8,754.00	
Vehicle Gas/Maintenance		3,600.00	
Billing		2,880.00	
Administration		2,232.00	
Postage and Office Expenses		1,300.00	
Well and Road Repairs		2,400.00	
Income Tax Provision		2,184.12	
Depreciation		3,200.00	
Revenue Requirement		57,862.33	<hr/>

Note 1		Base	Rate			
	FICA	137,700	7.65%	1,680.55	1,680.55	100%
	SUTA	10,800	6.68%	432.54	259.52	60%
	FUTA	7,000	6.00%	252.00	151.20	60%
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				2,365.09	2,091.28	

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00467 DATED MAY 11 2020

Residential & Commercial Farm taps

Monthly Minimum Customer Charge	\$ 15.00
Per Mcf	\$ 11.16

Other Charges

Seasonal or Temporary Turn on Fee	\$ 50.00
Reconnection Fee	\$ 25.00
Relocate Meter	\$150.00
Transfer Service Fee	\$ 30.00
Returned Check Charge	\$ 30.00
Service Trip Charge	\$ 50.00
Farm Tap Fee	\$150.00
Special Meter Reading Charge	\$ 39.50
Meter Test Fee	Actual cost not to exceed \$225.00
Late Payment Charge	10 percent
Deposit	2/12ths of estimated annual bill

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