COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DUKE ENERGY KENTUCKY, INC. FOR AN ADJUSTMENT TO RIDER PMM RATES AND FOR TARIFF APPROVAL	))))	CASE NO. 2022-00229

O R D E R

On August 1, 2022, Duke Energy Kentucky, Inc. (Duke Kentucky) filed an application for approval for its Rider Pipeline Modernization Mechanism (PMM) annual projections, charges, and tariff. Duke Kentucky calculated the rates based on an expected effective date of January 1, 2023, but acknowledged that implementation of the rate was contingent on receiving a Certificate of Public Convenience and Necessity (CPCN) for the pipeline replacement project for which Duke Kentucky was seeking to recover costs in this matter. The CPCN would be requested in a separate proceeding. On August 18, 2022, the Commission entered a procedural schedule for the orderly processing of this case. No requests for intervention were filed in this matter. Duke Kentucky responded to three sets of requests for information and requested that this case be submitted on the written record without a hearing. The case now stands submitted for a decision based on the evidentiary record.

LEGAL STANDARD

KRS 278.160(1) requires each utility to "file with the commission, within such time and in such form as the commission designates, schedules showing all rates and conditions for service established by it." KRS 278.160(2) prohibits a utility from charging "greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules." KRS 278.180 prohibits a utility from increasing a rate in its filed schedules without 30 days' notice to the Commission, or 20-days' notice upon a showing of good cause.

KRS 278.030(1) states that "[e]very utility may demand, collect and receive fair, just and reasonable rates" for utility service. Pursuant to KRS 278.509, the Commission may allow a utility to recover costs for investment in natural gas pipeline replacement programs that are not recovered in existing rates through a rider if the costs are fair, just and reasonable. The burden of proof to show that an increased rate or charge is just and reasonable shall be upon the utility.[1]

BACKGROUND

In Duke Kentucky's last base gas rate case, Case No. 2021-00190,[2] the Commission approved, as modified in the final Order, a Joint Stipulation between Duke Kentucky and the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General) that included the Rider PMM. The Rider PMM is intended to provide incremental cost recovery for pipeline replacement projects necessitated by the Pipeline and Hazardous Materials Safety Administration (PHMSA) regulations for pipeline integrity.

The Joint Stipulation stated that the Rider PMM would use a forecasted 13-month average plant in-service balance, and a return on equity of 9.3 percent to calculate the

[1] KRS 278.190(3).

[2] Case No. 2021-00190, *Electronic Application of Duke Kentucky Energy, Inc. for: 1) An Adjustment of the Natural Gas Rates; 2) Approval of New Tariffs, and 3) All Other Required Approvals, Waivers, and Relief* (Ky. PSC Dec. 28, 2021), final Order.

annual revenue requirement.[3] The Joint Stipulation further indicated that the Rider PMM will be adjusted annually for pipeline replacement projects necessitated by PHMSA, but that the Rider PMM may not increase natural gas revenues by more than 5 percent per year as measured against the revenues approved in Case No. 2021-00190.[4] The Joint Stipulation detailed that the Rider PMM would be calculated as a per-bill monthly charge for residential and general service rates, and based upon a per Ccf charge for transportation rates.[5]

PROPOSED RIDER PMM

Duke Kentucky's AM07 pipeline replacement is the first project eligible to be included in the Rider PMM, subject to a Duke Kentucky receiving a CPCN.[6] The AM07 pipeline replacement project consists of replacing approximately 14 miles of AM07 in sections over the next seven years at a total cost of $181.3 million.[7] In Case No. 2022-00084, Duke Kentucky requested approval of a CPCN for Phase One of the AM07 pipeline replacement.[8] If approved, Duke Kentucky projected that approximately $29.5 million of Phase One of the AM07 project would be placed in service in September through December of 2023.[9]

[3] Case No. 2021-00190, Dec. 28, 2021 final Order at 5–7.

[4] Case No. 2021-00190, Dec. 28, 2021 final Order at 5–7; Application, paragraph 5.

[5] Case No. 2021-00190, Dec. 28, 2021 final Order at 5–7.

[6] Case No. 2021-00190, Dec. 28, 2021 final Order at 6.

[7] Duke Kentucky's Response to Commission Staff's First Request for Information (filed Sept. 16, 2022) (Staff's First Request), Item 1.

[8] Case No. 2022-00084, *Electronic Application of Duke Energy Kentucky, Inc. for a Certificate of Public Convenience and Necessity Authorizing the Phase One Replacement of the AM07 Pipeline* (filed Mar. 29, 2022), Application.

[9] *See* Application, Exhibit 2 at 5.

Duke Kentucky filed this matter on August 1, 2022, to recover the incremental costs associated with plant additions related to Phase One of the AM07 pipeline replacement in 2023.[10] Duke Kentucky proposed the following Rider PMM Rates:[11]

Residential:	$0.67 per month
General Service:	$1.20 per month
Firm Transportation:	$0.00011 per Ccf
Interruptible Transportation	$0.00012 per Ccf

Duke Kentucky calculated rates based on an expected effective date of January 1, 2023.[12] However, Duke Kentucky's tariff filed with its application did not include a proposed effective date, and Duke Kentucky acknowledged that the proposed Rider PMM rates were contingent upon it receiving a CPCN for Phase One of the AM07 project.[13] The application for the CPCN was filed March 29, 2022.

Duke Kentucky received Commission approval of the CPCN for Phase One of the AM07 pipeline replacement on February 24, 2023.[14] Duke Kentucky stated that it allowed sufficient time for the approval of the CPCN and that the schedule for construction is planned to begin in the first quarter of 2023.[15]

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[10] *See* Application.

[11] *See* Application, Exhibit 1.

[12] *See* Application, Exhibit 2 at. 2, 8.

[13] Case No. 2022-00084, Mar. 29, 2022 Application.

[14] Case No. 2022-00084, *Duke Kentucky Energy, Inc.* (Ky. PSC Feb. 24, 2023), Order.

[15] Duke Kentucky's Response to Commission Staff's Third Request for Information (filed Nov. 30, 2022) (Staff's Third Request), Item 1c.

DISCUSSION

Revenue Requirement

Duke Kentucky's Rider PMM rates are based on a Rider PMM revenue requirement for 2023 in the amount of $889,527. That revenue requirement is based on a 13-month average rate base of $8,313,398 associated with $29,551,661 in plant additions in 2023 related Phase One of the AM07 pipeline replacement project.[16]

The Commission takes note of two omissions in the revenue requirement calculation. First, Duke Kentucky did not reflect the effects of plant retirements associated with pipeline replacements on plant in service or accumulated depreciation.[17] To the extent that pipeline being replaced is not fully depreciated, such a failure could result in Duke Kentucky earning a return on plant that is no longer in service. Further, Duke Kentucky acknowledged that even if the retired plant has been fully depreciated that the failure to identify and remove retired plant from plant in service would result in Duke Kentucky receiving depreciation expense for plant that is no longer in service.[18] Thus, the Commission finds that it is unreasonable for Duke Kentucky not to reflect the effects of plant retirements associated with additions from pipeline replacements when calculating Rider PMM rates.

Second, Duke Kentucky acknowledged that it did not reflect any incremental decrease in operations and maintenance (O&M) expense associated with the pipeline

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[16] *See* Application, Exhibit 2.

[17] *See* Duke Kentucky's Response to Commission Staff's Second Request for Information (filed Oct. 7, 2022) (Staff's Second Request), Item 3.

[18] Duke Kentucky's Response to Staff's Second Request, Item 4.

replacement projects in the Rider PMM revenue requirement.[19] The replacement of the older plant will generally result in a corresponding decrease in O&M expense, since a new plant typically requires less maintenance. Duke Kentucky claimed any incremental O&M savings would be minimal and that it would be offset in this case by an increase in O&M associated with a new regulating facility.[20] However, Duke Kentucky did not reflect any of those incremental changes in its application or explain why they were excluded until it was specifically asked. Further, such incremental O&M changes arising from pipeline replacements will not always result in a wash. Thus, the Commission finds that it is necessary to reflect O&M expense changes arising from pipeline replacements recovered through the rider in the revenue requirement of the Rider PMM to ensure that the full cost effects are reflected in the rider.

However, Duke Kentucky's failure to project the effects of retirements on plant in service and to reflect decreases in O&M arising from the pipeline replacement had a limited effect on the revenue requirement in this case. Duke Kentucky submitted evidence that the cost of the pipeline replaced as part of Phase One of the AM07 pipeline replacement project, which was originally installed in 1955, was approximately $142,000. Further, as noted above, Duke Kentucky explained that the O&M saving would be negligible. Finally, Duke Kentucky inadvertently reduced plant in service by $308,000 in 2023, which offsets the effect of Duke Kentucky's failure to reflect plant retirements and O&M savings. Based on the above discussion, the Commission finds that Duke Kentucky's proposed revenue requirement in this matter is reasonable because certain

[19] Duke Kentucky's Response to Staff's First Request, Item 3.

[20] *See* Duke Kentucky's Response to Staff's First Request, Item 3; Duke Kentucky's Response to Staff's Second Request, Item 2.

errors in calculation offset the effect of Duke Kentucky's omission of plant retirement and O&M savings in the revenue requirement calculation. However, the Commission further finds that in future Rider PMM filings Duke Kentucky should project the effects of plant retirements and any net decrease in O&M expense arising from a pipeline replacement project included in the mechanism.

Rate Design

Duke Kentucky indicated that it allocated the revenue requirement between customer classes based on the distribution approved in Case No. 2021-00190. Duke Kentucky then developed a fixed rate for Residential and General Service customers based annual billing numbers and a per CCF charge for transportation customers based on annual sales. Duke Kentucky's methodology is consistent with what was proposed in the Stipulation in Case No. 2021-00190. However, Duke Kentucky's proposed Rider PMM rates could not become effective on January 1, 2023, as expected because the Rider PMM rate for Phase One of the AM07 pipeline replacement project was contingent on Duke Kentucky receiving a CPCN for the project, which was not approved until February 24, 2023. Further, Duke Kentucky's proposed Rider PMM rate cannot become effective until the Commission enters an order approving the rate, because among other things, Duke Kentucky's Rider PMM tariff and other filings did not include a specific effective date due to the contingent nature of the proposal.[21] Thus, Duke Kentucky's

[21] The Commission notes that an Order was entered on January 10, 2023, in this matter purportedly suspending the rate proposed herein through June 1, 2023, to the extent necessary. The Commission notes that Order, which indicated that suspension may be unnecessary, was issued in error after it was determined that suspension was not necessary in this matter. The Order had not legal effect since the proposed rate could not become effective by operation of law during the purported suspension period.

Rider PMM rate must become effective later than the date that Duke Kentucky used to calculate its proposed rates.

Considering the timing of this Order, the Commission finds that Duke Kentucky's PMM Rider rates should be adjusted based on a June 1, 2023, effective date, as listed in the Appendix to this Order. Those rates were calculated based on the monthly number of bills from June to December 2023 for Residential and General Service customers and the monthly CCF sales from June to December 2023 for transportation customers. The Commission finds that this method for determining the Rider PMM rate is reasonable in this case, because it is consistent with the method used by Duke Kentucky and approved in Case No. 2021-00190, while accounting for the rate being placed in effect at a later date than expected.

However, the Commission is concerned that it is not reasonable to use a fixed charge for Residential and General Service customer, because the benefit of the pipeline is tied to usage and therefore a volumetric rate would more accurately reflect the costs. For that reason, while the Commission will approve Duke Kentucky's rate design in this case, the Commission finds that Duke Kentucky should utilize a volumetric rate rather than fixed charge for Residential and General Service customers when filing for 2024 Rider PMM rates.

Revenue Requirement True-up

The Commission observes that Duke Kentucky's Rider PMM, unlike many other similar riders, does not have a built-in mechanism to true-up the rider recovery in future years based on when plant is actually placed in service or the extent to which revenue is collected through the rider. The final Order in Case No. 2021-00190 did not directly address any such true-up, though it did note that "regulatory accounting approval will be considered only on an as-needed basis."[22] Regardless of whether a true-up was contemplated in Case No. 2021-00190, the Commission finds that a true-up of Duke Kentucky's Rider PMM rate for 2023 is necessary to ensure that the rate is reasonable due to the potential timing issues with when the plant will be placed in service and the effective date of the rate. Specifically, the Commission finds that the Duke Kentucky's Rider PMM rate for 2023 should be trued-up based on the timing of plant additions and retirements in 2023 and revenue collected in 2023, and that the true-up should be fully explained and reflected as an under or over recovery when Duke Kentucky calculates its revenue requirement in Duke Kentucky's 2025 Rider PMM filing.

Tariff Language Change

The Commission notes that the first sentence of Duke Kentucky's Rider PMM tariff currently states: "Customers shall be assessed a surcharge or credit to enable the Company to fully recover all costs associated with compliance with regulations promulgated by the U.S. Department of Transportation Pipeline and Hazardous Materials Administration, as approved by the Kentucky Public Service Commission."[23] The Commission retains the statutory authority to ensure that project costs included in Rider PMM are fair, just and reasonable. The tariff language as currently written adversely impacts the Commission's statutory authority regarding the reasonableness of costs recovered in rates. Therefore, the Commission finds that the words "fully" and "all" should be removed from the first sentence of Rider PMM Rate Section.

[22] Case No. 2021-00190, Dec. 28, 2021 final Order at 23.

[23] Application, Exhibit 1.

IT IS THEREFORE ORDERED that:

1. Duke Kentucky's proposed Rider PMM rates are denied.

2. The Rider PMM rates in the Appendix to this Order are approved for service rendered on and after June 1, 2023.

3. The first sentence in the Rate section of Duke Kentucky's Rider PMM tariff shall be amended to read as follows:

> Customers shall be assessed a surcharge or credit to enable the Company to recover costs associated with compliance with regulations promulgated by the U.S. Department of Transportation Pipeline and Hazardous Materials Administration, as approved by the Kentucky Public Service Commission.

4. Duke Kentucky's Rider PMM rate for 2023 shall be trued-up in the 2025 Rider PMM rate as discussed above.

5. Duke Kentucky shall file Rider PMM rates in volumetric format for the 2024 calendar year.

6. Within 20 days of the date of service of this Order, Duke Kentucky shall file with the Commission, using the Commission's electronic Tariff Filing System, new tariff sheets setting forth the rates, charges, and modifications approved or as required in this Order, and reflecting their effective date and that they were authorized by this Order.

7. This matter is closed and removed from the Commission's docket.

PUBLIC SERVICE COMMISSION

Chairman

Vice Chairman

Mary Pat Regan/AH with permission

Commissioner

ENTERED

MAY 26 2023 bsb

KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

Linda C. Bridwell

Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2022-00229 DATED MAY 26 2023

The following rates and charges are prescribed for the customers in the area served by Duke Energy Kentucky, Inc. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under the authority of the Commission prior to the effective date of this Order.

Rider PMM Surcharge or Credit

Residential (Rate RS)	$ 1.15 per Month
General Service (Rate GS)	$ 2.08 per Month
Firm Transportation – Large (Rate F-L)	$ 0.00022 per Ccf
Interruptible Transportation (Rate IT)	$ 0.00020 per Ccf

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