

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| ELECTRONIC APPLICATION FOR REVISED |) | |
| QUARTERLY GAS COST RECOVERY |) | CASE NO. |
| SCHEDULES FOR KENTUCKY FRONTIER GAS, |) | 2023-00067 |
| LLC. |) | |

ORDER

On February 24, 2023, Kentucky Frontier Gas, LLC (Kentucky Frontier) filed an application to revise its quarterly gas cost recovery (GCR) schedule. Kentucky Frontier filed two motions with its application: (1) a motion for a deviation from certain notice requirements and (2) a motion for expedited review by March 31, 2023. There are no intervenors in this matter. Kentucky Frontier's motions are now before the Commission for a decision.

BACKGROUND

Kentucky Frontier initially proposed its consolidated GCR mechanism in Case No. 2011-00443.¹ Among other things, Kentucky Frontier proposed a consolidated GCR mechanism with an expected gas cost component, an actual adjustment, a refund adjustment, and an adjustment to limit recovery of lost and unaccounted for gas to 5 percent,² which was included in some form in many of the GCR mechanism tariffs

¹ Case No. 2011-00443, *Application of Kentucky Frontier Gas, LLC for Approval of the Consolidation of and Adjustment of Rates, Approval of AMR Equipment and a Certificate of Convenience and Necessity for Installation of AMR, Pipeline Replacement Program, Revision of Non-Recurring Fees and Revision of Tariffs* (filed Aug. 9, 2012), Application.

² Case No. 2011-00443, *Kentucky Frontier Rate Case* (filed Aug. 9, 2012) Application, Proposed Tariffs.

Kentucky Frontier was seeking to consolidate.³ The Commission ordered Kentucky Frontier to add a balancing adjustment to track any under/over-recoveries that remained following the expiration of any refund adjustment and actual adjustment and ordered Kentucky Frontier to track existing under/over-recoveries separately by system but otherwise approved Kentucky Frontier's consolidated GCR mechanism as proposed.⁴ Kentucky Frontier added the Public Gas system to its consolidated GCR mechanism in 2017.

Before Kentucky Frontier's consolidated GCR mechanism was first approved, Kentucky Frontier requested and the Commission granted waivers to the 5 percent lost and unaccounted for gas limit for certain systems. In Case No. 2014-00304, the Commission granted a broad waiver of the 5 percent limit for the consolidated GCR mechanism based on the condition of systems Kentucky Frontier purchased and its efforts to repair the systems to reduce line loss but noted that the waiver would be subject to review.⁵ In Case No. 2017-00401, the Commission discussed Kentucky Frontier's past efforts to limit line loss and the waiver that had been granted and stated that it "expects that the waiver of the 5 percent L&U limit for gas cost recovery through the EGC and the AA will not be approved on an ongoing basis past November 1, 2018."⁶ In Case No. 2018-00013, the Commission stated that the waiver of the 5 percent limit should not

³ Case No. 2011-00443, *Kentucky Frontier Rate Case* (filed Aug. 9, 2012) Application, Current Tariffs.

⁴ Case No. 2011-00443, *Kentucky Frontier Rate Case* (Ky. PSC Apr. 30, 2013), Order at 10-11.

⁵ Case No. 2014-00304, *Kentucky Frontier Gas, LCC Purchased Gas Adjustment Filing and Petition for Waiver* (Ky. PSC. Oct. 31, 2014), Order.

⁶ Case No. 2017-00401, *Kentucky Frontier Gas, LCC Purchased Gas Adjustment Filing* (Ky. PSC. Oct. 17, 2017), Order at 4.

extend past November 1, 2018,⁷ and in Case No. 2018-00334, the Commission began applying the 5 percent limit for GCR rates effective on or after November 1, 2018.⁸

With the exception of the waiver of the 5 percent limit, Kentucky Frontier's consolidated GCR mechanism has generally been applied in the same manner since it was first approved in 2013. Specifically, Kentucky Frontier's GCR rate has been established by four separately calculated components—the expected gas cost (EGC), the actual adjustment (AA), the refund adjustment (RA), and the balancing adjustment (BA)—and each of those components have each been calculated in a specific way.⁹

On November 30, 2022, Kentucky Frontier filed a revised tariff to establish a gas cost reconciliation charge of \$0.10 per Ccf with a proposed effective date of December 30, 2022, to recover under-recoveries in its GCR mechanism. The Commission established Case No. 2022-00428, and suspended the proposed tariff for five months, up to and including May 29, 2023, in order to investigate the reasonableness of the proposed

⁷ Case No. 2018-00013, *Kentucky Frontier Gas, LLC Purchased Gas Adjustment Filing* (Ky. PSC. Jan. 30, 2018), Order.

⁸ Case No. 2018-00334, *Kentucky Frontier Gas, LLC Purchased Gas Adjustment Filing* (Ky. PSC. Oct. 30, 2018), Order.

⁹ The EGC is used to estimate the expected cost of gas during the upcoming quarter (e.g. Nov.—Jan. for an application filed in Oct.). The AA is used to true-up the difference between the expected and actual gas costs for the quarter proceeding the filing of the GCR report, but the true-up of each quarter is spread across an entire year based on annual sales such that the total AA is made up of four quarterly AA components. The RA is used to true-up refunds received from suppliers in the quarter proceeding the filing of the GCR report, but like the AA, the true-up of each quarter is spread across an entire year based on annual sales such that the total RA adjustment is made up of four quarterly RA adjustments. Finally, the BA is used to true-up the AA, RA, and BA adjustments that ended in the quarter proceeding the filing of the GCR report based on differences in actual sales that occurred during the year they were in effect and the sales used to calculate the adjustment. However, again, the adjustment is true-up over a year such that the total BA is made up of four quarterly BAs. See, e.g. Case No. 2014-00477, *Purchased Gas Adjustment Filing of Kentucky Frontier Gas, LLC* (filed Dec. 31, 2014), Application; Case No. 2017-00401, *Purchased Gas Adjustment Filing of Kentucky Frontier Gas, LLC* (filed Sept. 29, 2017), Application; Case No. 2022-00196, *Electronic Purchased Gas Adjustment Filing of Kentucky Frontier Gas, LLC* (filed July 1, 2022), Application.

tariff.¹⁰ Because Kentucky Frontier had a pending proceeding, Case No. 2022-00327,¹¹ regarding its quarterly purchased gas cost adjustment that related to the gas cost reconciliation charge on the proposed tariff sheet, the Commission directed that the record of Case No. 2022-00428 be combined into Case No. 2022-00327 for processing.

On December 30, 2022, Kentucky Frontier filed a GCR application, Case No. 2022-00434,¹² in which it proposed to change its GCR mechanism in a manner similar to the changes proposed in this matter and also proposed the \$0.10 Ccf gas cost reconciliation charge. Kentucky Frontier filed a revised tariff sheet in that matter that included the specific charge that would arise from the proposed mechanism and the \$0.10 Ccf gas cost reconciliation charge. However, Kentucky Frontier did not file a tariff that actually proposed to change the mechanism and did not provide customer notice of the proposed change. The final Order in Case No. 2022-00434, among other things, rejected the proposed change in the mechanism both because Kentucky Frontier did not propose a change to the tariff describing the GCR rate calculation or provide the required customer notice pursuant to 807 KAR 5:011, Section 8.¹³

¹⁰ Case No. 2022-00428, *Electronic Tariff Filing of Kentucky Frontier Gas Cost Reconciliation Charge* (Ky. PSC Dec. 28, 2022).

¹¹ Case No. 2022-00327, *Electronic Purchased Gas Adjustment Filing of Kentucky Frontier Gas, LLC* (filed Nov. 30, 2022).

¹² Case No. 2022-00434, *Electronic Purchased Gas Adjustment Filing of Kentucky Frontier Gas, LLC* (filed Dec. 30, 2022).

¹³ Case No. 2022-00434, *Electronic Purchased Gas Adjustment Filing of Kentucky Frontier Gas, LLC* (Ky. PSC Jan. 31, 2023), Order; see also *Bullitt Utilities, Inc. v. Kentucky Public Service Commission*, 2018-CA-000559-MR, 2019 WL 2157926 (Ky. App. May 17, 2019) (unpublished) (noting that the KRS 278.160 gives the Commission the authority to establish the manner in which a schedule, i.e. a tariff, containing rates should be filed and indicating that the Commission acted within its authority in determining that an application for a surcharge should not be deemed filed until the application complied with Commission regulations).

Following the Order in Case No. 2022-00434, Kentucky Frontier filed a motion to withdraw its tariff that was under investigation in Case No. 2022-00428. The Commission granted that motion on March 22, 2023, and dismissed that case.¹⁴ Kentucky Frontier filed this matter on February 24, 2022, and is proposing to change its GCR mechanism.

Specifically, Kentucky Frontier proposed a GCR mechanism with an EGC component similar to its current mechanism. For the true-up, Kentucky Frontier stated that it developed a balancing account spreadsheet that tracks its total under/over-recoveries since January 2018. It proposes to calculate the “balancing adjustment,” which will now be the only adjustment to the EGC, on an ongoing basis based on the balance of that balancing account. Kentucky Frontier also proposed to increase the 5 percent limit on recovering costs for lost and unaccounted for gas to 7.5 percent based on the unique nature of its system, including its low number of customers per mile of line as compared to other local gas distribution systems in more urban and suburban areas.

Kentucky Frontier did not file any proposed amendment to its GCR mechanism tariff or provide customer notice of the proposed change in the GCR mechanism. Kentucky Frontier indicated that it did not believe that the tariff should be changed, because it claimed it would still be using the same formula from the tariff and the 5 percent limit is not currently listed in its tariff. Further, Kentucky Frontier indicated in its motion for a deviation that it did not believe notice was required, because the proposed change to its schedules filed with its quarterly GCA filing does not change or revise the provision of service, any charge, fee, condition of service or rule regarding the provision of service

¹⁴ Case No. 2022-00428, *Electronic Tariff Filing of Kentucky Frontier Gas Cost Reconciliation Charge* (Ky. PSC Mar. 22, 2022).

any more than the quarterly GCA filing does already. Kentucky Frontier requested that the Commission waive the notice requirement at this time or that it be permitted to provide notice in its upcoming quarterly GCR filing to the extent that it does apply.

Kentucky Frontier is requesting expedited review in Case No. 2023-00067 to allow Kentucky Frontier to file its quarterly GCR filing by March 31, 2023. Kentucky Frontier reported that it had under recoveries of approximate \$600,000 since November 2020, which it indicated is difficult for a company of its size to absorb. Kentucky Frontier requests that the Commission issue its final Order on or before March 31, 2023.

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 amending a rate in its filed schedules without 30 days’ notice to the Commission (or 20 days-notice upon a showing of good cause).

Commission regulations prescribe that a utility's schedule showing all rates and conditions for service be filed in the form of a tariff, or in the form of a special contract establishing rates, charges, or conditions of service not contained in its tariff.¹⁵ Among

¹⁵ See 807 KAR 5:011 (generally setting forth the requirement that schedules containing rates be filed in the form of a tariff); 807 KAR 5:011, Section 13 (requiring that utilities file a copy of any “special contract” establishing rates, charges, or conditions of service not contained in its tariff); see also 807 KAR 5:001, Section 16 (requiring that tariffs be filed with any application for a general rate adjustment).

other things, a tariff must contain a clear statement of all rates in the schedule.¹⁶ A new or revised tariff shall be placed in effect by:

(a) Order of the commission; or

(b) Issuing and filing with the commission a new tariff or revised sheet of an existing tariff and providing notice to the public in accordance with Section 8 of this administrative regulation and statutory notice to the commission.¹⁷

If the Commission orders a change in the rates or rules of a utility, the utility shall file a new tariff or revised sheet of an existing tariff establishing the revised rate, classification, charge, or rule.¹⁸

Pursuant to 807 KAR 5:011, Section 8, a utility is required to provide public and customer notice if a charge, fee, or rule regarding the provision of service is changed, revised, or initiated and the change will affect the amount that a customer pays for service or the quality, delivery, or rendering of a customer's service.¹⁹ However, periodic recalculation of a formulaic rate that does not involve a revision of the rate and that is performed in accordance with provisions of an effective rate schedule or administrative regulation does not require notice pursuant to that section.²⁰ A utility may receive deviations from the notice requirements in special cases, for good cause shown.²¹

¹⁶ 807 KAR 5:011, Section 4.

¹⁷ 807 KAR 5:011, Section 6; see *also* 807 KAR 5:011, Section 9 (discussing how a rate may go into effect by operation of law).

¹⁸ 807 KAR 5:011, Section 7.

¹⁹ 807 KAR 5:011, Section 8; see *also* 807 KAR 5:001, Section 17 (setting forth similar notice requirements for general rate adjustments).

²⁰ 807 KAR 5:011, Section 8(6).

²¹ 807 KAR 5:011, Section 15.

DISCUSSION

The Commission disagrees with Kentucky Frontier that a revised tariff and customer notice is not required for Kentucky Frontier's proposed change to its GCR mechanism. First, Kentucky Frontier's current tariff clearly contemplates four separately calculated components by referring separately an "Expected Gas Cost component, on a dollar per MCF basis," a "Refund Adjustment, on a dollar per MCF basis," an "Actual Adjustment, on a dollar per MCF basis," and a "Balancing Adjustment, on a dollar per MCF basis." Further, with the exception of the waiver of the 5 percent limit, Kentucky Frontier's consolidated GCR mechanism has been applied in the same manner since it was first approved in 2013 and has consisted of the four separately calculated components. Kentucky Frontier's proposal would eliminate most of those specific adjustments from its GCR report and calculation and would rather include only an EGC component along with a single balancing adjustment calculated based on the balance of a balancing account that is not described in the tariff. While the result may be the same or similar as Kentucky Frontier alleges, Kentucky Frontier's proposed GRC calculation is distinct from its current mechanism and is inconsistent with its current tariff.

Further, there is no question that increasing the current 5 percent limit on lost or unaccounted gas to 7.5 percent will change the GCR calculation and increase rates. Kentucky Frontier is specifically proposing that change to allow it to recover the costs for more lost or accounted for gas, which will increase costs to customers. While Kentucky Frontier indicates that the 5 percent limit is not listed in its current tariff, it acknowledges that it was ordered to implement the 5 percent limit. Thus, while Kentucky Frontier should have updated its tariff when the Commission ended its waiver and required it to impose

the 5 percent limit, the 5 percent limit is part of Kentucky Frontier's current GCR mechanism, and therefore, the proposal to increase the limit to 7.5 percent is a proposal to change rates.

For the reasons discussed above, as indicated in Case No. 2022-00434, Kentucky Frontier must propose a tariff revision that reflects the GCR calculation it is proposing in this matter in clear terms such that customers will be able to access the tariff and determine how they will be charged. Further, by changing the manner in which the GCR rate is calculated, Kentucky Frontier has proposed to revise a charge, fee, or rule regarding the provision of service that will affect the amount customer pays for service. Thus, Kentucky Frontier must provide notice of changes it is proposing to its mechanism in this matter pursuant to 807 KAR 5:011, Section 8.

However, 807 KAR 5:011, Section 8(4) requires, among other things, that:

(c) The amount of the change requested in both dollar amounts and percentage change for each customer classification to which the proposed rates will apply;

(d) The amount of the average usage and the effect upon the average bill for each customer classification to which the proposed rates will apply;

If the change is not a specific dollar amount, then it is ambiguous regarding how notice should be given since the amounts and percentages could change based on the inputs to the formulas. Thus, when providing notice of its proposed change in this matter, the Commission finds good cause for granting Kentucky Frontier a deviation allowing it to satisfy those two requirements by simply providing what the average per Mcf effect of the proposed change would have been in the year ending January 31, 2023. There is currently no evidence to support granting a deviation from any other applicable provision

of 807 KAR 5:011, Section 8, and therefore, Kentucky Frontier's notice should fully comply with them, including the requirement in 807 KAR 5:011, Section 8(4)(b) that the rate change, here the change in the mechanism itself, be described in the notice.

There is a question whether Kentucky Frontier's proposed changes to its GCR mechanism should have been filed as part of a general rate adjustment pursuant to 807 KAR 5:001, Section 16, or as a revised tariff pursuant to 807 KAR 5:011, Section 5. However, the Commission concludes that it would be in both Kentucky Frontier's and its customers interests for the Commission to take this issue up in this matter. Thus, if Kentucky Frontier provides proper notice pursuant to 807 KAR 5:011, Section 8 and files a final and redlined revised tariff in this matter that has an effective date no sooner than 30 days from the date it is tendered and clearly describes Kentucky Frontier's proposed GCR mechanism, including how the EGC component will be calculated, how the balancing adjustment will be calculated for each quarter from the balance of the balancing account, how the balance of the balancing account will be determined, and how the 7.5 percent limit will apply, then the Commission will take the proposal up in this matter.

For the reasons discussed above, the Commission is not able to issue an Order in this matter in an expedited manner as proposed by Kentucky Frontier. Further, Kentucky Frontier is proposing a significant change in the manner it calculates its GCR rate and has presented limited evidence such that the Commission would not have been able to resolve this matter within 30 days even if Kentucky Frontier had provided notice and filed a revised tariff with its application. Finally, as it reported in Case No. 2023-00049, the under-recovery Kentucky Frontier indicated was affecting its finances is reversing due to

falling gas prices such that its justification for expedited review is less urgent.²² Thus, the Commission will enter a procedural schedule for the orderly review of this matter if Kentucky Frontier provides proper notice and files a revised tariff in a timely manner, but it will not be practical to resolve this matter within the timeframe proposed by Kentucky Frontier.

IT IS THEREFORE ORDERED that:

1. Kentucky Frontier's Motion for Expedited Review is denied.
2. Kentucky Frontier's Motion for a Deviation from the notice requirements set forth in 807 KAR 5:011, Section 8 is granted, in part, and denied, in part.
3. Kentucky Frontier is granted a deviation from 807 KAR 5:011, Section 8(4)(c) and (d) in this matter as discussed above.
4. Except as provided in ordering paragraph 3, Kentucky Frontier's motion for the deviation from 807 KAR 5:011, Section 8 is denied.
5. If Kentucky Frontier files a revised final and redlined tariff in the form required by 807 KAR 5:011 reflecting its proposed GCR mechanism in this matter and provides notice pursuant to 807 KAR 5:011, Section 8, subject to the deviation granted above, then the Commission will accept this application for filing as a proposed change to Kentucky Frontier's GCR mechanism and will enter a procedural schedule for the orderly review of this matter.

²² Case No. 2023-00049, *Electronic Purchased Gas Adjustment Filing of Kentucky Frontier Gas, LLC* (filed Feb. 9, 2023), Motion for Deviation.

6. If Kentucky Frontier does not file a revised tariff or provide notice within 60 days from the date of this Order, then the Commission will dismiss this matter without prejudice.

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ATTEST:


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