

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF EAST)	
KENTUCKY MIDSTREAM, LLC FOR APPROVAL)	CASE NO.
OF A PROPOSED TARIFF UNDER 807 KAR)	2023-00112
5:026, SECTION 9)	

ORDER

On May 31, 2023, East Kentucky Midstream, LLC (East Kentucky Midstream) filed an application to establish a farm tap tariff and increase rates to farm tap customers. The filing included a request for an exception to the filing requirements of 807 KAR 5:026, Section 9(1)(b) regarding the filing of cost data.

LEGAL STANDARD

Commission regulation 807 KAR 5:026, Section 9(1)(a) permits a gathering system, also known as a farm tap, to request an adjustment in rates through a proposed tariff submitted at least 60 days prior to the proposed effective date if: (1) the percentage change in rates does not exceed the percentage change in the producer price index-utility natural gas (price index) during the most recent 12-month period immediately preceding the date the proposed tariff is filed; 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.

Commission regulation 807 KAR 5:026, Section 9(1)(b) states that if the proposed percentage increase in rates exceeds the percentage change in the price index but remains below the highest prevailing gas rate approved by the commission, the gas

company is to submit cost data which support the proposed increase with such cost data indicating the costs to provide service during each of the previous two years and being current within 90 days of the date the proposed tariff is filed.

Commission regulation 807 KAR 5:026, Section 10 permits a utility to request an exception based on good cause for a requirement listed in Commission regulation 807 KAR 5:026.

DISCUSSION AND FINDINGS

East Kentucky Midstream's proposed a change in rates that exceeds the percentage change in the price index during the most recent 12-month period immediately preceding the date the proposed tariff was filed. However, the proposed rates do not exceed the highest volumetric rate of a local gas distribution utility approved by the commission and in effect on the date the proposed tariff was filed. Therefore, 807 KAR 5:026, Section 9(1)(b) would be applicable.

East Kentucky Midstream requested that the Commission grant an exception to the requirements of 807 KAR 5:026, Section (9)(1)(b) as it pertains to filing cost data for the previous two years current within 90 days of the date of the filing. East Kentucky Midstream indicated that it acquired the former Jefferson Gas system in March 2021 and that since it is a farm tap system and not a utility as defined in KRS 278.010, East Kentucky Midstream is not required to keep records as a utility under KRS Chapter 278. Instead, East Kentucky Midstream indicated that it is dependent on bookkeepers to maintain records related to the costs and expenses of its business. East Kentucky Midstream further indicated that the bookkeeper employed prior to 2022 kept records in

such a manner that accessing accurate information prior to 2022 has been difficult and has provided inconsistent or incomplete data for that time period.¹

As part of the application, East Kentucky Midstream provided a subset of its ordinary expenses for 2022, focused on non-gas-cost categories directly allocable to farm tap service operations or allocable on a relatively straightforward basis.² East Kentucky Midstream argued that, through the information provided, it has been able to justify the proposed rates.³

Having reviewed the request and being otherwise sufficiently advised, the Commission finds that East Kentucky Midstream's request for an exception from 807 KAR 5:026, Section 9(1)(b) should be granted in part and denied in part as discussed below. The Commission finds that East Kentucky Midstream has provided sufficient evidence to grant an exception from providing cost data from the previous two years because East Kentucky Midstream demonstrated that its records prior to 2022 are not sufficient to provide such information. The Commission further finds that East Kentucky Midstream has not provided sufficient evidence to grant an exception for the cost data being current within 90 days of the date the proposed tariff is filed. East Kentucky Midstream's request was silent regarding the cost data being current within 90 days of the date the proposed tariff is filed. Because East Kentucky Midstream was able to file its 2022 cost information, there does not appear a basis to conclude that East Kentucky Midstream could not file cost data that is current within 90 days of the date the proposed tariff is filed.

¹ Request for Deviation and Exception from Filing Requirements (filed May 31, 2023) (Request for Exception) at 2, paragraph 4.

² Application, Exhibit D.


³ Request for Exception at 2, paragraph 5.

IT IS THEREFORE ORDERED that:

1. East Kentucky Midstream's request for an exception to filing requirements in 807 KAR 5:026, Section (9)(1)(b) is granted in part and denied in part.
2. East Kentucky Midstream's request for an exception to providing cost data from the previous two years is granted.
3. East Kentucky Midstream's request for an exception to providing cost data that is current within 90 days of the date the proposed tariff is filed is denied.
4. East Kentucky Midstream shall file cost data that is current within 90 days of the date of the proposed tariff on or before 21 days after service of this Order.

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PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ENTERED
JUN 12 2023
rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

*Honorable Jason R Bentley
Attorney at Law
McBrayer PLLC
201 East Main Street
Suite 900
Lexington, KENTUCKY 40507

*Kathryn A Eckert
McBrayer PLLC
201 East Main Street
Suite 900
Lexington, KENTUCKY 40507

*Katherine Yunker
McBrayer PLLC
201 East Main Street
Suite 900
Lexington, KENTUCKY 40507