

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE  
COMMISSION

In the Matter of:

TARIFF FILING OF FLEMING-MASON ENERGY ) CASE NO.  
COOPERATIVE, INC. TO AMEND ITS SERVICE ) 2013-00142  
CHARGE )

ATTORNEY GENERAL'S  
MOTION TO INTERVENE AND COMMENTS

MOTION TO INTERVENE

Comes now the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and pursuant to KRS 367.150(8), which grants him the right and obligation to appear before regulatory bodies of the Commonwealth of Kentucky to represent consumers' interests, hereby moves the Public Service Commission to grant him full intervenor status in this action pursuant to 807 KAR 5:001(8).

COMMENTS

The Attorney General hereby files his comments objecting to the request by Fleming-Mason Energy Cooperative, Inc. (hereinafter "Fleming-Mason"). Succinctly stated, Fleming-Mason seeks approval to "file revised tariff sheets proposing revisions to its existing rules and regulations concerning its right to discontinue service to customers and introducing a \$25.00 per month per meter service charge for meter reading for those customers that choose not to allow an advanced meter reading

infrastructure (“AMI”) meter to be installed.”<sup>1</sup> However, **outside of the context of a general rate case**, Fleming-Mason may or may not recover revenues that would apply to the company’s calculation of its timed interest earned ratio (“TIER”) as authorized in its last approved rate case filed under KRS 278.190.

Fleming-Mason requests an approval to charge customers a fee of \$25.00 to read a meter because those customers who do not wish to have an automatic meter have not acquiesced to the AMI. The specific language proposed in the tariff, as revised, states: “A charge will be made for each service ~~trip~~ made for the following reasons: . . . . A service charge of \$25.00 per month per meter will be made to read a customer's meter that refuses to allow an automated meter to be installed at their location(s).”<sup>2</sup> This approach, if adopted by the Commission, would enable Fleming-Mason, as well as other utility companies, to obviate a rate case for single issue ratemaking. Without a complete review of the revenues generated, if any, the impact on general rates is inconclusive, ill contrived and could lead to unfair, unjust, and unreasonable rates. Moreover, as to the specific charge, a full review of the associated costs, **and savings**, is warranted and does not appear to be in the record to date. Indeed, the Commission has itself stated that a review under KRS 278.190(2) is required.<sup>3</sup> This review, however, should be done in the context of a general rate case.

Further, Fleming-Mason’s filing appears to circumvent the Commission’s comprehensive review of the electric industry as it relates to the Smart Grid and its many intricacies, including but not limited to advanced meters and the associated

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<sup>1</sup> See Order dated 25 April 2013 at page 1.

<sup>2</sup> See Revised Tariff, KY PSC No. 3, 1<sup>st</sup> Revision, Sheet Nos. 8-9

<sup>3</sup> See Order dated 25 April 2013 at page 1.

infrastructure along with the costs and benefits.<sup>4</sup> The comprehensive Smart Grid docket is underway and will explore the very issue of how to address those consumers who wish to opt out of AMI.<sup>5</sup> With this tariff filing, Fleming-Mason appears to be seeking a first bite at the apple as it relates to the AMI opt-out issue. As such, the Commission should refrain from granting Fleming-Mason the relief which it seeks in the instant matter. Indeed, Fleming-Mason attended an informal conference in that matter on April 19<sup>th</sup> and is actively engaged in the Smart Grid proceeding.<sup>6</sup>

WHEREFORE, the Attorney General respectfully requests the Commission DENY Fleming-Mason's application.

Respectfully submitted,

JACK CONWAY  
ATTORNEY GENERAL

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<sup>4</sup> See In the Matter of Consideration of the Implementation of Smart Grid and Smart Meter Technologies (Smart Grid?) Case No. 2012-00428 in general and Commission Staff's First Request for Information questions 98, 99, 106, 107, 108, 109, 113, 114 and 116.

<sup>5</sup> Note that, while the Attorney General does not specifically adopt a final position in this pleading, there remain questions as to whether a penalty fee for opting out of AMI or a related Smart Grid technology constitutes an "unreasonable prejudice or disadvantage," as prohibited under KRS 278.170(1) or an unreasonable rate or classification under KRS 278.030. The consideration of these questions are better suited to the administrative case process, which is intended to include collaboration which is underway in the Smart Grid proceeding.

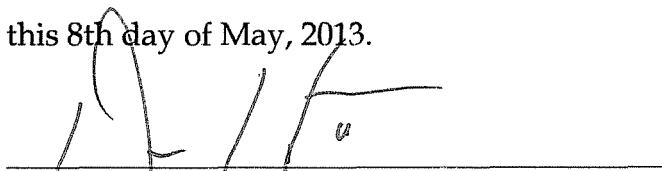
<sup>6</sup> See Smart Grid list of attendees on the Commission's IC Memo on the informal conference at [http://psc.ky.gov/PSCSCF/2012%20cases/2012-00428/20130426\\_PSC%20memo.pdf](http://psc.ky.gov/PSCSCF/2012%20cases/2012-00428/20130426_PSC%20memo.pdf)

*Certificate of Service and Filing*

Counsel certifies that an original and ten photocopies of the foregoing were served and filed by hand delivery to Jeff Derouen, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; counsel further states that true and accurate copies of the foregoing were mailed via First Class U.S. Mail, postage pre-paid, to:

Chris Perry  
President and CEO  
Fleming-Mason Energy Cooperative, Inc.  
P. O. Box 328  
Flemingsburg, KY 41041

this 8th day of May, 2013.



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Assistant Attorney General