

**Goss
Samford**

ATTORNEYS AT LAW | PLLC

David Samford

(859) 368-7740

david@gosssamfordlaw.com

RECEIVED

DEC 03 2018

December 3, 2018

PUBLIC SERVICE
COMMISSION

VIA HAND DELIVERY

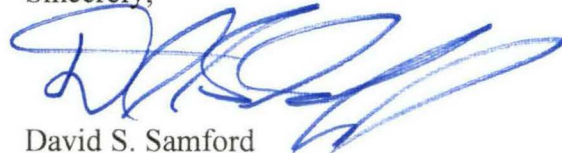
Ms. Gwen Pinson, Executive Director
Kentucky Public Service Commission
P.O. Box 615
211 Sower Boulevard
Frankfort, KY 40602

Re: PSC Case No. 2018- 00404

Dear Ms. Pinson:

Please find enclosed for filing with the Commission an original and ten copies of an Application for a Declaratory Order and Deviation from Certain Filing Requirements included in 807 KAR 5:011, to be filed on behalf of East Kentucky Power Cooperative, Inc. Please return a file stamped copy of this filing to my office.

Sincerely,



David S. Samford

Enclosure

COMMONWEALTH OF KENTUCKY
BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION PUBLIC SERVICE
COMMISSION

IN THE MATTER OF:

THE APPLICATION OF EAST KENTUCKY POWER))
COOPERATIVE, INC. FOR A DECLARATORY))
ORDER AND A DEVIATION FROM CUSTOMER)) CASE NO 2018- 00404
NOTICE REQUIREMENTS SET FORTH IN))
807 KAR 5:011, SECTION 8(4)(b)-(d)))

APPLICATION

Comes now East Kentucky Power Cooperative, Inc. (“EKPC”), by counsel, pursuant to 807 KAR 5:001, Sections 14 and 19; 807 KAR 5:011, Sections 8 and 15; and other applicable law; and does hereby request the Kentucky Public Service Commission (“Commission”) to, **on or before December 23, 2018**, enter a Declaratory Order and grant a deviation from certain notice requirements associated with a series of tariff filings anticipated to be made by EKPC and its Owner-Member Cooperatives (“owner-members”) on or about January 30, 2019, respectfully stating as follows:

A. General Filing Requirements and Background

1. Pursuant to 807 KAR 5:001 Section 14(1), EKPC’s mailing address is P.O. Box 707, Winchester, Kentucky 40392-0707. EKPC’s electronic mail address to receive service is psc@ekpc.coop. Applicant’s counsel should be served at david@gosssamfordlaw.com and allyson@gosssamfordlaw.com.

2. Pursuant to 807 KAR 5:001, Section 14(1), the grounds for EKPC’s request for a Declaratory Order and deviation from 807 KAR 5:011, Section 8 are set forth herein.

3. Pursuant to 807 KAR 5:001, Section 14(2), EKPC is a Kentucky corporation, in good standing, and was incorporated on July 9, 1941.

4. EKPC and its owner-members have undertaken an extensive review of their respective Demand Side Management (“DSM”) programs and tariffs to evaluate their continued cost-effectiveness and value. EKPC and its owner-members anticipate filing tariffs revising the terms and conditions of six DSM programs and eliminating five other programs in a series of filings through the Commission’s tariff filing system, on or about January 30, 2019.

B. Request for a Declaratory Order

5. Because EKPC has twenty (20) or fewer customers, it is able to provide customer notice of the proposed changes to its DSM tariffs via a written notice mailed to each owner-member under the authority of 807 KAR 5:011, Section 8(2)(a). EKPC’s customer notice is not at issue herein.

6. Each of EKPC’s owner-members have substantially greater numbers of customers, however, and the ability to provide customer notice is instead dictated by one of the four methods described in 807 KAR 5:011, Section 8(2)(b). The costs of preparing customer bill inserts, providing a separate mailing or newspaper publication for filing what amounts to substantially similar tariffs is enormous and cost-prohibitive.¹ Likewise, the owner-members have limited space within *Kentucky Living*, the monthly trade publication of Kentucky’s rural electric cooperatives, and the use of such space for a customer notice would displace other important updates and features important to the owner-members’ End-Use Retail Members (“retail-members”).

¹ It is anticipated that with one exception, the tariff filings will be identical for all owner-members. The one exception is Blue Grass Energy Cooperative Corporation which has unique eligibility and incentive terms in its Touchstone Energy Home tariff. This is noted on the owner-members’ draft customer notice, which is attached hereto and incorporated herein as Exhibit A.

7. EKPC proposes to provide customer notice for all its owner-members through the purchase of a full-page advertisement in the February 2019 edition of *Kentucky Living*. This edition of the magazine will be delivered to the United States Postal Service on January 28, 2019 and should begin to be delivered to the owner-members' retail members immediately thereafter. Except as described in the request for a deviation below, the full-page notice complies with the requirements of 807 KAR 5:011, Section 8(4) in terms of the substance of the customer notice that is applicable to all of EKPC's owner-members. Moreover, by paying approximately \$5,950 for a full-page ad, the cost of providing customer notice is substantially reduced when compared to publishing notice in dozens of local newspapers throughout the eighty-seven (87) counties served by EKPC's owner-members.

8. EKPC respectfully requests the Commission to confirm that publication of a single full-page ad as customer notice on behalf of all EKPC's owner-members in *Kentucky Living* is an acceptable form of publication of notice under 807 KAR 5:011, Section 8(2). The Commission has authority to grant declaratory relief pursuant to 807 KAR 5:001, Section 19(1), which states:

The commission may, upon application by a person substantially affected, issue a declaratory order with respect to the jurisdiction of the commission, the applicability to a person, property, or state of facts of an order or administrative regulation of the commission or provision of KRS Chapter 278, or with respect to the meaning and scope of an order or administrative regulation of the commission or provision of KRS Chapter 278.

9. EKPC and its owner-members are each "a person substantially affected" and each respectively requests the Commission to issue a Declaratory Order as to "the meaning and scope of an...administrative regulation," namely, 807 KAR 5:011, Section 8(2). Based upon the foregoing, EKPC respectfully requests a declaration from the Commission as set forth above.

C. Request for Deviation from Notice Requirements

10. Under 807 KAR 5:011, Section 8(4)(b)-(d), a utility is required to provide a customer with information describing: (1) the present rates and proposed rates for each customer classification to which the proposed rates will apply; (2) the amount of the change requested in both dollar amounts and percentage change for each customer classification to which the proposed rates will apply; and (3) the amount of the average usage and the effect upon the average bill for each customer classification to which the proposed rates will apply.

11. The DSM tariffs that will be the subject of EKPC's and its owner-members' January 2019 filing are not tied to the rates that retail customers pay for electricity consumption. Rather, the tariffs arise from voluntary programs in which a retail member may choose to participate. Therefore, neither EKPC nor its owner-members can readily provide the information required by 807 KAR 5:011, Section 8(4)(b)-(d) in this context. In other words, whether a retail member chooses to participate in any of the DSM tariffs that will be the subject of the filings may impact the quantity of the electricity they consume, but it will not affect the customer charge, the energy charge, any demand charges or any other traditional "rates" that are tied to serving the retail member.

12. The Customer Notice proposed to be published as a full-page ad in *Kentucky Living* instead includes a description of the nature of the changes to the affected tariffs, including an itemization of which programs are proposed to be eliminated.

13. The Commission has authority to grant deviations from the rules promulgated under 807 KAR 5:011 according to Section 15 of the regulation. EKPC respectfully requests a deviation be granted to allow the owner-members' Customer Notice to include a general

description of the proposed changes to the DSM tariffs in place of the information otherwise required in 807 KAR 5:011, Section 8(4)(b)-(d).

D. Publication Deadline

14. In order to utilize the more efficient and cost-effective method for providing customer notice, EKPC must receive an appropriate order from the Commission on or before December 23, 2018. EKPC apologizes for the short decisional horizon.

WHEREFORE, on the basis of the foregoing, EKPC respectfully requests the Commission to:

- 1) Enter a Declaratory Order confirming that publication of the attached single full-page ad as customer notice required from all EKPC's owner-members in *Kentucky Living* is an acceptable method of publication of notice under 807 KAR 5:011, Section 8(2);
- 2) Grant a deviation to allow a general description of the proposed changes to the DSM tariffs to replace the information otherwise required in 807 KAR 5:011, Section 8(4)(b)-(d);
- 3) Grant the relief requested herein on or before December 23, 2018; and
- 4) Grant all other relief to which EKPC may be entitled.

VERIFICATION

COMMONWEALTH OF KENTUCKY)
)
COUNTY OF CLARK)

Comes now Scott Drake, Manager, Corporate Technical Services, of East Kentucky Power Cooperative, Inc., and, after being duly sworn, does hereby verify, swear and affirm that the averments set forth in the foregoing Application are true and correct based upon my personal knowledge and belief, formed after reasonable inquiry, as of this 3rd day of December, 2018.

Scott Drake
Scott Drake,
Manager, Corporate Technical Services
East Kentucky Power Cooperative, Inc.

The foregoing Verification was verified, sworn to and affirmed before me, the NOTARY PUBLIC by Scott Drake, Manager, Corporate Technical Services, of East Kentucky Power Cooperative, Inc. on this 3rd day of December, 2018.

Jeannie M. Jones
NOTARY PUBLIC



Commission No. ~~515~~ 592456
My Commission Expires: 1-15-2022

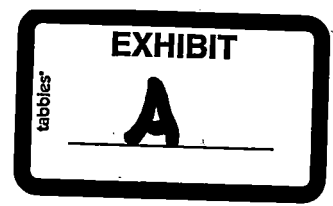
This 3rd day of December, 2018.

Respectfully submitted,



David S. Samford
Allyson Honaker
GOSS SAMFORD, PLLC
2365 Harrodsburg Road, Suite B-325
Lexington, Kentucky 40504
david@gosssamfordlaw.com
allyson@gosssamfordlaw.com
(859) 368-7740

Counsel for East Kentucky Power Cooperative, Inc.



CUSTOMER NOTICE

Proposed Changes to Demand Side Management (DSM) Programs

Notice is hereby given to the members of: **Big Sandy RECC**, 504 Eleventh St., Paintsville, KY 41240; **Blue Grass Energy Coop. Corp.**, 1201 Lexington Rd., Nicholasville, KY40356; **Clark Energy Coop., Inc.**, 2640 Iron Works Rd., Winchester, KY40391; **Cumberland Valley Electric, Inc.**, 6219 North U.S. Highway 25E, Gray, KY 40734; **Farmers RECC**, 504 South Broadway, Glasgow, KY 42141; **Fleming-Mason Energy Coop. Corp.**, 1449 Elizaville Rd., Flemingsburg, KY 41041; **Grayson RECC**, 109 Bagby Park, Grayson, KY 41143; **Inter-County Energy Coop. Corp.**, 1009 Hustonville Rd., Danville, KY 40422; **Jackson Energy Coop. Corp.**, 115 Jackson Energy Lane, McKee, KY 40447; **Licking Valley RECC**, 271 Main St., West Liberty, KY 41472; **Nolin RECC**, 411 Ring Rd., Elizabethtown, KY 42701; **Owen Electric Coop., Inc.**, 8205 Highway 127 N, Owenton, KY 40359; **Salt River Electric Coop., Inc.**, 111 West Brashear Ave., Bardstown, KY 40004; **Shelby Energy Coop., Inc.**, 620 Old Finchville Rd., Shelbyville, KY 40065; **South Kentucky RECC**, 200 Electric Ave., Somerset, KY 42502; **Taylor County RECC**, 625 West Main St, Campbellsville, KY 42718 (collectively, the "Cooperatives").

On or about January 30, 2019, the Cooperatives will file proposed tariffs that revise or eliminate certain DSM programs that are currently in effect. The proposed effective date for the tariff changes is March 1, 2019. Each of the DSM tariffs are voluntary in nature. None of the Cooperatives have a DSM Rider in effect, so there will be no change in the rates charged for electric service to any customer class. However, if the proposed tariffs are approved:

- The Heat Pump Retrofit Program will add ductless mini-splits as an eligible primary heat source. Other eligibility criteria will change and incentives will no longer be tied to AHRI ratings.
- The Button-Up Weatherization Program will no longer apply to installing higher efficiency windows and doors and program levels will be abolished in favor of a single incentive. A new standard for measuring attic insulations will be adopted.
- The Touchstone Energy Home Program will increase the minimum efficiency eligibility standard while retaining only two eligibility paths (Blue Grass Energy also retains the option to provide additional services).
- The Residential Direct Load Control Program will no longer apply to new water heaters or any pool pumps and gives greater flexibility in providing the incentive to members.
- The Commercial Direct Load Control Program will now apply to heat pumps, but will no longer apply to new water heaters. Additional device communication requirements will apply.
- The ENERGY STAR® Manufactured Home Program will have a lower incentive payment now given directly to a qualifying member.

The Cooperatives also propose to eliminate the: (1) ENERGY STAR Appliance Program; (2) Appliance Recycling Program; (3) Commercial and Industrial Advance Lighting Program; (4) Industrial Compressed Air Program; and (5) HVAC Duct Seal Program, where applicable.

A person may examine this tariff filing at any of the Cooperatives' respective offices at the addresses listed above. A person may also examine this tariff filing at the Public Service Commission's offices, which are located at 211 Sower Boulevard, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m., or through the Commission's website at <http://psc.ky.gov>. Any comments regarding this tariff filing may be submitted to the Commission through its website or by mail to Kentucky Public Service Commission, Post Office Box 615, Frankfort, Kentucky 40602. The rates contained in this notice are the rates proposed by the Cooperatives, however, the Public Service Commission may order rates to be charged that differ from the proposed rates contained in this notice. A person may submit a timely written request for intervention to the Public Service Commission, at the address listed above, establishing the grounds for the request including the status and interest of the party. If the commission does not receive a written request for intervention within thirty (30) days of the initial publication of this notice, the Commission may take final action on the tariff filing.