

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF DUKE ENERGY)	
KENTUCKY, INC. OF A NATURAL GAS SERVICE)	CASE NO.
MINIMUM USAGE AGREEMENT AND A PETITION)	2020-00041
FOR CONFIDENTIAL TREATMENT)	

ORDER

On January 27, 2020, Duke Energy Kentucky, Inc. (Duke Kentucky) submitted a Natural Gas Service Minimum Usage Agreement (Agreement) through the Commission's electronic Tariff Filing System. By Order issued on February 20, 2020, the Commission found that further proceedings were necessary to determine the reasonableness of the Agreement and suspended the effective date of the Agreement for five months, up to and including July 25, 2020. To facilitate the review, the February 20, 2020 Order established a procedural schedule that provided for, among other things, a deadline for requesting intervention and two rounds of discovery upon Duke Kentucky's application. Duke Kentucky responded to three rounds of data requests from Commission Staff. There are no Intervenors in this proceeding. On May 20, 2020, Duke Kentucky filed a motion that this case be submitted for a decision based on the existing record without a public hearing. Finding good cause, the Commission will grant Duke Kentucky's request and decide this case based on the evidence of record without a hearing.

Duke Kentucky was granted a Certificate of Public Convenience and Necessity for the UL60 pipeline project in Case No. 2019-00388.¹ Phase I of the UL60 pipeline project, which includes a regulator station, will serve the customer of the proposed Agreement.² Under Duke Kentucky's Rider X, Main Extension Policy, Duke Kentucky may require a minimum customer usage commitment for main extensions to large commercial and industrial customers.³ Consistent with Duke Kentucky's Rider X, Duke Kentucky may require a minimum usage commitment from large commercial and industrial customers for a defined period not to exceed six years, but that extensions may be provided under different arrangements provided such arrangements have been approved by the Commission.⁴ Duke Kentucky states that the ten-year term of the Agreement was necessary to accommodate the on-going build out of the customer's facilities, and that the credit check it performed and payment assurances included in the Agreement support the reasonableness of the ten-year term.⁵ The minimum usage requirements were set to recover from the customer the full cost of customer specific facilities and an allocated portion of the construction costs of the main extension (Incremental Customer Facilities).⁶ The Agreement provides for the minimum usage requirements to be updated based on

¹ Case No. 2019-00388, *Electronic Application of Duke Energy Kentucky, Inc. for a Certificate of Public Convenience and Necessity Authorizing the Construction of a Gas Pipeline from Erlanger, Kentucky to Hebron, Kentucky* (Ky. PSC Mar. 27, 2020).

² Duke Kentucky's response to Commission Staff's Third Request for Information (Staff's Third Request), Item 2.

³ KY.P.S.C. Gas No. 2, Fourth Revised Sheet No. 60, Rider X, Main Extension Policy.

⁴ *Id.*

⁵ Duke Kentucky's response to Commission Staff's First Request for Information (Staff's First Request), Item 1(a).

⁶ *Id.*, Items 1(b) and 1(c).

the actual costs of construction.⁷ The Agreement further protects Duke Kentucky's existing customers by providing for recovery of construction costs from the customer if the customer cancels or terminates gas service prior to the ten-year term of the Agreement or prior to completion of the extension.⁸

Having reviewed the record and being otherwise sufficiently advised, the Commission makes the following findings regarding the proposed Agreement:

1. The minimum usage agreement is consistent with Duke Kentucky's Rider X, Main Extension Policy.

2. The analysis provided by Duke Kentucky results in a neutral position with regard to cash flow and is a reasonable estimate of the Annual Delivery Components necessary to fully recover the costs of the Incremental Customer Facilities.

3. The Agreement allows for the minimum usage requirement to be modified based on actual costs and, therefore, is reasonable.

4. The Agreement states clearly that the customer is responsible for any costs incurred by Duke Kentucky, including gross up for any income tax effects, in the event the customer terminates before the ten-year Agreement is complete. The terms of this portion of the Agreement are reasonable.

5. The terms of the Agreement ensure that the rates paid by the customer cover the cost of the Incremental Customer Facilities, regardless of whether the customer terminates within the ten-year term of the Agreement, and are reasonable.

⁷ Agreement, Section 2.2 and Duke Kentucky's response to Staff's Third Request, Item 1. See also Duke Kentucky's response to Staff's First Request, Items 1(c) and 12(b). The UL60 pipeline project will provide benefits to Duke Kentucky's system in addition to serving the customer; therefore, the customer is allocated a portion of the construction costs.

⁸ Duke Kentucky's response to Staff's First Request, Item 1(d); Duke Kentucky's response to Commission Staff's Second Request for Information, Item 7; and Agreement, Section 3.3.

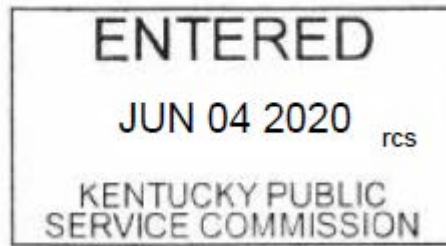
Based on the evidence of record and the findings in the paragraphs above, the Commission finds that the terms of the Agreement are reasonable and should be approved. The Commission directs Duke Kentucky to the Commission's March 16, 2020 and March 24, 2020 Orders in Case No. 2020-00085⁹ regarding filings with the Commission. The Commission expects the original documents to be filed with the Commission within 30 days of the lifting of the current state of emergency.

IT IS HEREBY ORDERED that:

1. The Agreement is approved as filed.
2. Within 20 days of the date of entry of this Order, Duke Kentucky shall file with the Commission, using the Commission's electronic Tariff Filing System, the Agreement as approved herein.
3. Within 45 days of the completion of Phase I of the UL60 pipeline, Duke Kentucky shall file with the Commission, using the Commission's electronic Tariff Filing System, the amended Annual Usage Requirements based on the actual project costs.
4. This case is closed and removed from the Commission's docket.

⁹ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC Mar. 16, 2020), Order at 5–6. Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC Mar. 24, 2020), Order at 1–3.

By the Commission



ATTEST:



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