

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF SOUTH	)	
KENTUCKY RURAL ELECTRIC	)	CASE NO.
COOPERATIVE CORPORATION TO REVISE	)	2020-00205
THE PEOPLE FUND TARIFF	)	

ORDER

On May 15, 2020, South Kentucky Rural Electric Cooperative Corporation (South Kentucky RECC) filed a proposed revision to its existing tariff sheet no. R-32 with an effective date of July 1, 2020. On June 29, 2020, the Commission initiated this matter and suspended the tariff to investigate the reasonableness of the revised tariff sheet. On August 27, 2020, South Kentucky RECC filed a motion to dismiss this case, without prejudice, based upon information it discovered regarding The People Fund, Inc.'s (The People Fund) corporate and tax-exempt statuses while preparing answers to Commission Staff's Requests for Information. South Kentucky RECC's motion is now before the Commission for a decision.

BACKGROUND

South Kentucky RECC's original tariff sheet no. R-32, which became effective on February 1, 2004, allowed customers to voluntarily have their electric bills rounded up to the nearest dollar to be collected by South Kentucky RECC and donated to The People Fund. In its revised tariff, South Kentucky RECC proposes to allow customers to contribute to The People Fund by voluntarily having their electric bill rounded up to the nearest dollar plus voluntarily contribute any additional whole dollar amount.

The People Fund was a nonprofit Kentucky corporation organized to collect donations and distribute funds to help people and communities in South Kentucky RECC's service area.<sup>1</sup> Pursuant to The People Fund's by-laws, its board of directors are appointed by majority vote of South Kentucky RECC's board of directors<sup>2</sup> and must be composed of employees of South Kentucky RECC.<sup>3</sup> Further, the president and CEO of South Kentucky RECC is an ex officio member of The People Fund's board.<sup>4</sup>

South Kentucky RECC indicated that when it was responding to Commission Staff's discovery it determined that the The People Fund had been administratively dissolved by the Kentucky Secretary of State in 2013 for failing to file an annual report.<sup>5</sup> Similarly, South Kentucky RECC determined that The People Fund had been placed on the IRS's Tax Exempt Organizations Auto-Revocation List, which contains those organizations whose federal tax-exempt status was automatically revoked for not filing a Form 990-series return or notice for three consecutive years.<sup>6</sup>

On August 18, 2020, South Kentucky RECC filed a motion to hold this case in abeyance for 90 to 180 days to provide The People Fund necessary time to resolve issues with respect to its corporate and tax exempt status and receive reinstatement from both

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<sup>1</sup> South Kentucky RECC's Response to Commission Staff's First Request for Information (Staff's First Request) (filed July 31, 2020), Item 1, Articles of Incorporation; see also Order (Ky. PSC June 29, 2020), Attachment 1, The People Fund's By-Laws.

<sup>2</sup> The People Fund's By-Laws, Article VI.

<sup>3</sup> *Id.* at Article IV.

<sup>4</sup> *Id.* at Article XIII.

<sup>5</sup> South Kentucky RECC's Response to Staff's First Request (filed July 31, 2020), Item 3. Note that in the Attachment to Item 3, South Kentucky RECC provided documentation showing that it had filed for Reinstatement with the Kentucky Secretary of State's office.

<sup>6</sup> South Kentucky RECC's Motion to Hold Case in Abeyance (filed Aug. 18, 2020) at 2.

the Kentucky Secretary of State's Office and the IRS. South Kentucky RECC committed to instituting the following procedures while the case was being held in abeyance if the Commission granted its motion: (1) it would account for and retain amounts collected under the existing tariff without transfer to The People Fund until this case is resolved and Commission Orders otherwise; (2) it would ensure that The People Fund neither awards nor pays further grants to recipient organizations but will allow for the payment of incidental non-grant related incidental charges, if any, incurred during normal course of The People Fund's activities; and (3) it would provide periodic status reports the Commission desires during the abeyance period.<sup>7</sup> Before the Commission ruled on the motion to hold this case in abeyance, South Kentucky RECC filed the motion to dismiss that is currently before the Commission.

In support of its motion to dismiss, South Kentucky RECC indicated it was unclear when The People Fund would be able to resolve the issues with its corporate and tax exempt statuses given the COVID-19 situation and associated administrative delays, particular at the Internal Revenue Service. South Kentucky RECC argued that it would be prudent for the Commission to dismiss this case, without prejudice, to allow receipt of all necessary state and federal approvals, and it stated that it would refile its proposed tariff once it receives such state and federal approvals.

#### DISCUSSION

The Commission interprets South Kentucky RECC's motion to dismiss as a motion both to withdraw its revised tariff sheet no. R-32 and to dismiss this matter initiated to investigate the reasonableness of that revised tariff. No customers are currently making

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<sup>7</sup> South Kentucky RECC's Motion to Hold Case in Abeyance at 3.

payments pursuant revised tariff sheet no. R-32 because it was suspended before its effective date. Further, it would be inappropriate to revise tariff sheet no. R-32 in a manner that allowed South Kentucky RECC to collect additional amounts to distribute to The People Fund while its corporate and tax exempt status is unknown. Thus, having reviewed the record and being otherwise sufficiently advised, the Commission finds that South Kentucky RECC should be allowed to withdraw its revised tariff sheet no. R-32 and that this matter should be dismissed.

IT IS THEREFORE ORDERED that:

1. South Kentucky RECC's motion to dismiss is granted.
2. South Kentucky RECC's revised tariff sheet no. R-32 filed on May 15, 2020, is withdrawn.
3. This case is dismissed without prejudice.
4. South Kentucky RECC's motion to hold case in abeyance is denied as moot.
5. This case is closed and removed from the Commission's docket.

By the Commission



ATTEST:

  
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Deputy Executive Director

Case No. 2020-00205

\*L Allyson Honaker  
Goss Samford, PLLC  
2365 Harrodsburg Road, Suite B325  
Lexington, KENTUCKY 40504

\*South Kentucky R.E.C.C.  
200 Electric Avenue  
Somerset, KY 42501

\*South Kentucky R.E.C.C.  
South Kentucky R.E.C.C.  
200 Electric Avenue  
Somerset, KY 42501

\*Mark David Goss  
Goss Samford, PLLC  
2365 Harrodsburg Road, Suite B325  
Lexington, KENTUCKY 40504

\*Michelle D. Herrman  
South Kentucky R.E.C.C.  
200 Electric Avenue  
Somerset, KY 42501