

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF EAST	)	
KENTUCKY POWER COOPERATIVE, INC. TO	)	CASE NO.
ESTABLISH ITS EARNINGS MECHANISM	)	2021-00429
TARIFF	)	

ORDER

On October 29, 2021, East Kentucky Power Cooperative, Inc. (EKPC) filed, in accordance with the Stipulation and Settlement Agreement in Case No. 2021-00103,<sup>1</sup> a tariff revision to establish an Earnings Mechanism Tariff to return excess margins to customers in the form of a bill credit if EKPC achieves a per book margin in excess of 1.40 TIER in any calendar year. EKPC proposed an effective date of December 1, 2021.

KRS 278.030 provides that a utility must collect fair, just and reasonable rates and that the service it provides must be adequate, efficient and reasonable. Having reviewed the proposed tariff and being otherwise sufficiently advised, the Commission finds that an investigation will be necessary to determine the reasonableness of the proposed tariff and that such an investigation cannot be completed by December 1, 2021. In accordance with KRS 278.190(2), the Commission will suspend the effective date of the proposed tariff for five months, up to and including April 30, 2022. However, because the first

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<sup>1</sup> Case No. 2021-00103, *Electronic Application of East Kentucky Power Cooperative, Inc. for a General Adjustment of Rates, Approval of Depreciation Study, Amortization of Certain Regulatory Assets and Other General Relief* (filed July 29, 2021), Joint Stipulation and Settlement Agreement.

annual filing for the Earnings Mechanism is due on or before April 30, 2022, the Commission will use its best efforts to render a decision by March 30, 2022.

The Commission directs EKPC to the Commission's July 22, 2021 Order in Case No. 2020-00085<sup>2</sup> in which the Commission mandated the use of electronic filing procedures listed in 807 KAR 5:001, Section 8. The Commission finds that electronic filing procedures should be used, consistent with the filing procedures set forth in Case No. 2020-00085.

The Commission further finds that a procedural schedule should be established to review the reasonableness of the proposed tariffs. The procedural schedule is attached hereto as an Appendix to this Order and is incorporated herein.

IT IS THEREFORE ORDERED that:

1. This proceeding is established to investigate the reasonableness of the proposed Earnings Mechanism Tariff.
2. The proposed tariff is suspended for five months from December 1, 2021, up to and including April 30, 2022.
3. EKPC shall, by counsel, enter an appearance in this proceeding within seven days of the date of entry of this Order. The entry of appearance shall include the name, address, telephone number, fax number, and electronic mail address of counsel.
4. Any party filing a paper with the Commission shall file an electronic copy in accordance with the electronic filing procedures set forth in 807 KAR 5:001, Section 8.

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<sup>2</sup> Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file original physical copies of the filings required by 807 KAR 5:001, Section 8).

Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked. The Commission directs the parties to the Commission's July 22, 2021 Order in Case No. 2020-00085 regarding filings with the Commission.

5. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of entry of this Order, EKPC shall file by electronic means a written statement that they waive any right to service of Commission Orders by United States mail and that they or their authorized agents possess the facilities to receive electronic submissions.

6. Unless a party granted leave to intervene states its objection to the use of electronic filing procedures in a motion for intervention, the party shall:

a. Be deemed to have consented to the use of electronic filing procedures and the service of all papers, including Orders of the Commission, by electronic means; and

b. Within seven days of the date of entry of an Order of the Commission granting intervention, file with the Commission a written statement that:

(1) It or its authorized agent possesses the facilities to receive electronic transmissions; and

(2) Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding should be served.

7. If a party objects to the use of electronic filing procedures and the Commission determines that good cause exists to excuse that party from the use of electronic filing procedures, service of documents on that party and by that party shall be made in accordance with 807 KAR 5:001, Section 4(8).

8. The procedural schedule set forth in the Appendix to this Order shall be followed.

9. As set forth in 807 KAR 5:001, Section 4(11)(a), a person requesting permissive intervention in a Commission proceeding is required to demonstrate either (1) a special interest in the proceeding which is not adequately represented in the case, or (2) that the person requesting permissive intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Further, KRS 278.040(2) requires that a person seeking intervention must have an interest in the rate or service of a utility, as those are the only matters that are subject to the Commission's jurisdiction. Therefore, any person requesting to intervene in a Commission proceeding must state with specificity the person's special interest that is not otherwise adequately represented, or the issues and facts the person will present that will assist the Commission in fully considering the matter. A mere recitation of the quantity of utility service consumed by the movant or a general statement regarding the potential impact of possible modification of rates will not be deemed sufficient to establish a special interest. In addition, any motion to intervene after the date established in the procedural schedule shall also show good cause for being untimely. If the untimely motion is granted, the movant shall accept and abide by the existing procedural schedule.

10. EKPC shall give notice of the hearing in accordance with the provision set forth in 807 KAR 5:001, Section 9(2). In addition, the notice of the hearing shall include the following statements: "This hearing will be streamed live and may be viewed on the PSC website, [psc.ky.gov](http://psc.ky.gov)"; and "Public comments may be made at the beginning of the

hearing. Those wishing to make oral public comments may do by following the instructions listed on the PSC website, psc.ky.gov.” At the time publication is requested, EKPC shall forward a duplicate of the notice and request to the Commission.

11. At any public hearing in this matter, neither opening statements nor summarization of direct testimonies shall be permitted.

12. Pursuant to KRS 278.360 and 807 KAR 5:001, Section 9(9), a digital video recording shall be made of the hearing.

13. The Commission does not look favorably upon motions for continuance. Accordingly, motions for extensions of times with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

14. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

By the Commission



ATTEST:

A handwritten signature in blue ink that reads "Linda G. Bridwell". The signature is written in a cursive style and is positioned above a horizontal line.

Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2021-00429 DATED NOV 23 201

Requests for intervention shall be filed no later than .....	12/03/2021
Initial requests for information to EKPC shall be filed no later than .....	12/10/2021
EKPC shall file responses to initial requests for information no later than.....	12/22/2021
All supplemental requests for information to EKPC shall be filed no later than .....	01/07/2022
EKPC shall file responses to supplemental requests for information no later than .....	01/18/2022
Intervenor testimony, if any, in verified prepared form shall be filed no later than.....	01/24/2022
All requests for information to Intervenors shall be filed no later than.....	02/07/2022
Intervenors shall file responses to requests for information no later than.....	02/18/2022
EKPC shall file, in verified form, its rebuttal testimony no later than.....	02/23/2022
EKPC or any Intervenor shall request either a hearing or that the case be submitted for decision based on the record no later than.....	02/24/2022

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