

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF EAST)	
KENTUCKY MIDSTREAM, LLC FOR APPROVAL)	CASE NO.
OF A PROPOSED TARIFF UNDER 807 KAR)	2023-00112
5:026, SECTION 9)	

ORDER

On May 31, 2023, East Kentucky Midstream, LLC (East Kentucky Midstream) filed an application to establish a farm tap tariff and increase rates to farm tap customers pursuant to KRS 278.485 and 807 KAR 5:026, which govern gathering systems that provide service to retail customers who tap onto farm tap systems. East Kentucky Midstream proposed an effective date of August 1, 2023. Included in its application was a request for a deviation and an exception to the filing requirements of 807 KAR 5:026, Section 9(1)(b) regarding the filing of cost data. East Kentucky Midstream's request was granted in part and denied in part by Commission Order issued June 12, 2023.¹

The Commission notified East Kentucky Midstream by letter dated June 29, 2023, that its application was rejected for failure to satisfy the minimum filing requirements set forth in certain Commission regulations. East Kentucky Midstream subsequently cured the filing deficiencies and its application was deemed filed as of July 21, 2023.

¹ East Kentucky Midstream's request for an exception to providing cost data from the previous two years is granted. The request for an exception to providing cost data that is current within 90 days of the date the proposed tariff is filed is denied.

KRS 278.485 provides that the rates and minimum monthly charges for a gathering system shall be determined by the Commission. East Kentucky Midstream proposed an effective date of August 1, 2023; however, pursuant to 807 KAR 5:026 Section 9(1)(a), the earliest the proposed tariff could be effective is September 19, 2023, which is 60 days after the accepted filing date of the application. Having reviewed the application and being otherwise sufficiently advised, the Commission finds that an investigation is necessary to determine the reasonableness of the proposed tariff and rates and that such investigation cannot be completed by September 19, 2023. Therefore, pursuant to KRS 278.190(2), the Commission will suspend the effective date of the proposed tariff for five months, up to and including February 19, 2024.

The Commission directs East Kentucky Midstream to the Commission's July 22, 2021 Order in Case No. 2020-00085² 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 shall 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 tariff and rates. The procedural schedule is attached as an Appendix to this Order.

Additionally, any hearing scheduled in this matter shall be held on the designated day or days and continued until called from the bench by the presiding officer. Pursuant

² 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 the original physical copies of the filings required by 807 KAR 5:001, Section 8).

to 807 KAR 5:001, Section 2, if the hearing is not concluded on the designated day, the hearing may be continued upon verbal announcement by the presiding officer. A verbal announcement made by the presiding officer shall be proper notice of the continued hearing. Hearings are held in the Richard Raff Hearing Room at the offices of the Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky. Witnesses who sponsor schedules, testimony, or responses to requests for information are expected to participate in person at a hearing.

IT IS THEREFORE ORDERED that:

1. This proceeding is established to investigate the reasonableness of the proposed tariff and rates.
2. East Kentucky Midstream's proposed tariff and rates are suspended for five months from September 19, 2023, up to and including February 19, 2024.
3. The procedural schedule set forth in the Appendix to this Order shall be followed.
4. East Kentucky Midstream shall respond to all requests for information propounded by Commission Staff, whether identified on the procedural schedule or otherwise, as provided in those requests.
5. East Kentucky Midstream shall, by counsel, enter an appearance in this proceeding within seven days of service of this Order. The entry of appearance shall include the name, address, telephone number, fax number, and electronic mail address of counsel.

6. Unless otherwise ordered by the Commission, the procedures set forth in 807 KAR 5:001, Section 8, related to service and electronic filing of papers shall be followed in this proceeding.

7. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of the date of service of this Order, East Kentucky Midstream shall file by electronic means a written statement that it waives any right to service of Commission Orders by United States mail and that it or its authorized agent possess the facilities to receive electronic submissions.

8. 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 service 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 shall be served.

9. 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).

10. 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. 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.

11. 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. 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.

12. Any motion to intervene filed 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.

13. East Kentucky Midstream shall give notice of the hearing in accordance with the provisions 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” and “Public comments may be made at the beginning of the hearing. Those wishing to make oral public comments may do so by following the instructions listed on the PSC website, psc.ky.gov.” At the time publication is requested, East Kentucky Midstream shall forward a duplicate of the notice and request to the Commission.

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

15. Any hearing scheduled in this matter shall be held on the designated day or days and continued until called from the bench by the presiding officer. Pursuant to 807 KAR 5:001, Section 2, if the hearing is not concluded on the designated day, the hearing shall be continued upon verbal announcement by the presiding officer. A verbal announcement made by the presiding officer shall be proper notice of the continued hearing.

16. Witnesses who sponsor schedules, testimony, or responses to requests for information shall participate in person at any hearing scheduled in this matter.

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


18. 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.

19. The Commission does not look favorably upon motions to excuse witnesses from testifying at Commission hearings. Accordingly, motions to excuse a witness from


testifying at a Commission hearing or from testifying in person at a Commission hearing shall be made in writing and will be granted only upon a showing of good cause.

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PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ENTERED
AUG 02 2023 bsb
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2023-00112 DATED AUG 02 2023

- Requests for intervention shall be filed no later than 08/11/2023
- Initial requests for information to East Kentucky Midstream shall be filed no later than 08/18/2023
- East Kentucky Midstream shall file responses to initial requests for information no later than.....09/01/2023
- All supplemental requests for information to East Kentucky Midstream shall be filed no later than 09/15/2023
- East Kentucky Midstream shall file responses to supplemental requests for information no later than09/29/2023
- Intervenor Testimony, if any, in verified prepared form shall be filed no later than..... 10/13/2023
- All requests for information to Intervenors shall be filed no later than..... 10/27/2023
- Intervenors shall file responses to requests for information no later than..... 11/13/2023
- East Kentucky Midstream shall file, in verified form, its rebuttal testimony no later than.....11/27/2023
- East Kentucky Midstream or any Intervenor shall request either a hearing or that the case be submitted for decision based on the record no later than.....12/04/2023

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