

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
UTILITIES COMPANY FOR AN ADJUSTMENT OF ITS)	CASE NO.
ELECTRIC RATES AND FOR CERTIFICATES OF)	2016-00370
PUBLIC CONVENIENCE AND NECESSITY)	

ORDER

The matter is before the Commission upon a petition filed by Kentucky Industrial Utility Customers, Inc. (“KIUC”) requesting a rehearing of the Commission’s June 22, 2017 final Order, as adjusted and corrected by the June 29, 2017 Order. KIUC requests a ruling on the argument, raised in its post-hearing brief, that if the Commission reduces the revenue increase stipulated by the parties, the reduction should be allocated only to the residential and large industrial rate classes. KIUC points out that the Commission did approve a revenue increase for Kentucky Utilities Company (“KU”) that was \$3.3 million below the amount stipulated by the parties, but that the \$3.3 million reduction was allocated to all rate classes, contrary to KIUC’s recommendation.

KIUC’s post-hearing brief recommended “that 50% of any incremental revenue decreases should be used to lower the otherwise applicable residential rates and the other 50% should be used to lower the otherwise applicable rates for the large industrial rate classes.”¹ KIUC contends that the Commission did not explicitly address KIUC’s

¹ KIUC Petition for Rehearing at 2.

recommendation in the June 22, 2017 and June 29, 2017 Orders, but rather allocated the reductions to the energy charges of the same customer classes, and in the same proportions, as were designated by the stipulation to bear the revenue increases.

In support of its rehearing request, KIUC argues that it is reasonable to use a greater share of the incremental revenue decrease to offset the otherwise applicable increase to residential customers because the percentage of the total rate increase allocated to that customer class under the stipulation exceeds the average percentage increases for all customers. Further, KIUC contends that lowering the otherwise applicable rate increases to the large industrial customers would foster economic development in Kentucky. KIUC avers that it is unreasonable to grant further rate reductions to the commercial and lighting customer classes, as those customers are already receiving relatively minimal rate increases pursuant to the stipulation. Last, KIUC states that its proposal would result in a reduction in rates below what was agreed to in the stipulation as follows: 1) residential class by \$1,659,565 ; 2) Time of Day Primary Service by \$1,139,042; 3) Retail Transmission Service by \$387,539; and 4) Fluctuating Load Service by \$132,984. KIUC asserts that its proposal preserves the bargained-for benefits of the stipulation for the commercial and lighting rate classes.

On July 24, 2017, The Kroger Company (“Kroger”) filed a response in opposition to KIUC’s petition for rehearing. Kroger contends that the Commission’s allocation of incremental revenue reductions was consistent with the terms of the stipulation, which was reached after lengthy, good-faith negotiations between the parties. According to Kroger, KIUC’s renewal of the argument made in its post-hearing brief, which was rejected through the Commission’s allocations set out in its Orders in this proceeding,

does not cite any new additional evidence which would justify modifying its Orders. Further, Kroger recommends denying the petition of KIUC due to its basis in faulty reasoning. Kroger states that retailers such as itself face significant competition both on local and national levels, and that large industrial manufacturers are not unique in their sensitivity to rate increases, as KIUC contends. The Kroger response insists that maintaining the Commission's allocation is critical to enable commercial customers like Kroger to remain competitive. With respect to the issue of cost of service, Kroger states that the Commission's approach is more than justified on the basis of minimizing cross subsidies among customers. Kroger concludes that the petition of KIUC for rehearing should be denied.

On July 25, 2017, the Kentucky League of Cities ("KLC") filed a response in opposition to KIUC's motion for rehearing. KLC points out that no party to the proceedings has disputed the reasonableness of the additional reduction to the revenue requirement as ordered by the Commission, but that KIUC is now disputing the allocation method used by the Commission, even though that allocation is consistent with the stipulation that KIUC and all the other parties signed. The Commission's decision to follow the parties' proposed allocation method is the most logical approach, according to KLC, and also the most fair, just, and reasonable. KLC quotes the provision of the stipulation which states, "The Parties hereto agree that this Stipulation is a product of negotiation among all Parties hereto, and no provision of this Stipulation shall be strictly construed in favor of or against any party." KLC states that the Commission's allocation was consistent with this provision, ensuring that no party benefitted over another in the additional reduction. It concludes that the Commission's

decision in allocating the incremental decrease to the revenue requirement was in accord with the allocation agreed to by all the parties, was fair, just, and reasonable, and well within the Commission's sound discretion.

On July 26, 2017, KIUC filed a reply to the Kroger and KLC responses. KIUC states that the Commission must decide whether its policy is to help all customers and businesses, consistent with what KIUC terms the Governor's pro-growth agenda, or whether it supports one expert's subjective estimate of cost of service. KIUC claims that the cost-of-service studies filed by KU in this case, which form the basis of Kroger's recommendation, do not provide a valid foundation for the Commission's allocation of the incremental revenue reductions. KIUC offers several criticisms of KU's cost-of-service studies filed with its application in this proceeding, and states that problems with the studies must therefore cause other policy factors to come into play in setting rates.

In response to the arguments of KLC, KIUC states that it is not asking the Commission to undermine the benefit of the stipulation for other parties. KIUC points out that the only harm its recommendation would cause to the lighting classes represented by KLC is that they would not receive the additional revenue reductions ordered by the Commission. For residential and industrial rate classes, KIUC contends that its recommendation to further decrease their rates and otherwise allocate to other classes the resulting shift in revenue responsibility would provide meaningful relief and further economic development in the Commonwealth. KIUC claims that its recommendation upholds its commitment as embodied in the stipulation by preserving the benefits of the decreases for which the parties bargained, while also promoting the policy objectives of Kentucky.

Having reviewed KIUC's petition and the responses thereto, as well as KIUC's reply to the responses, and being otherwise sufficiently advised, the Commission finds that KIUC has failed to provide sufficient justification to grant rehearing. The Commission's method of allocating the reduced revenue requirement as set forth in the June 22, 2017 and June 29, 2017 Orders preserves the spirit of the bargained-for exchanges associated with the stipulation, to which all the parties, including KIUC, agreed. The Commission's allocation method did not disadvantage the industrial rate classes, but instead awarded to KU increased rates that were lower than those agreed to by KIUC. Adopting KIUC's recommendation would further reduce the rate increases to only the residential and large industrial classes, with the lighting and commercial classes receiving none of the benefit of the Commission's incremental reduction. The Commission finds that KIUC's proposal, besides presenting no new additional evidence, as pointed out by Kroger, is unreasonable, and its petition for rehearing should therefore be denied.

IT IS THEREFORE ORDERED that KIUC's petition for rehearing is denied.

By the Commission



ATTEST:

A handwritten signature in blue ink, appearing to be "David L. Hager", written over a horizontal line.

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