

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|----------------------------|---|------------|
| NICHOLAS COLEMAN |) | |
| |) | |
| COMPLAINANT |) | |
| |) | |
| V. |) | CASE NO. |
| |) | 2022-00151 |
| |) | |
| KENTUCKY UTILITIES COMPANY |) | |
| |) | |
| DEFENDANT |) | |

ORDER

On May 25, 2022, Nicholas Coleman tendered a formal complaint with the Commission against Kentucky Utilities Company (KU). In his complaint, Mr. Coleman alleged that his eligible electric generating facility (Net Metering Facility) was installed and operational prior to September 24, 2021, and thus should have qualified to take service under KU's net metering service-1 (NMS-1) tariff, but instead KU is crediting his account under the net metering service-2 (NMS-2) tariff. Mr. Coleman's requested relief is for KU to credit Mr. Coleman for energy exported to the grid in October, November, and December 2021 under NMS-1 rates, and to continue to take service under NMS-1.

LEGAL STANDARD

In accordance with 807 KAR 5:001, Section 20(1)(c), a complaint must state fully, clearly, and with reasonable certainty, the act or omission, of which complaint is made, with a reference, if practicable, to the law, order, or administrative regulation, of which a failure to comply is alleged, and other matters, or facts, if any, as necessary to acquaint

the commission fully with the details of the alleged failure. Commission regulation 807 KAR 5:001, Section 20(4)(a) states that the Commission prima facie must examine the complaint to determine if it states a prima facie case. A complaint establishes a prima facie case when, on its face, it states sufficient allegations that, if uncontroverted by other evidence, would entitle the complainant to the relief requested.

Prior to the enactment of the Net Metering Act,¹ net metering customers received a one-to-one credit for each kilowatt hour (kWh) of energy consumed and energy exported to the grid at the utility's applicable retail rate. The Net Metering Act was codified in KRS 278.465-.468. Under one section of the Net Metering Act, codified in KRS 278.466(3), the Commission shall set an export compensation rate for net metering customers. Under KRS 278.465(4), net metering compensation was established as the difference between the dollar value of all electricity generated by an eligible customer-generator that is fed back to the grid and the dollar value of all electricity consumed by the eligible customer-generator over the same billing period. Further, KRS 278.466(4) states that, each billing period, export compensation provided to net metering customers shall be in the form of a dollar-denominated credit. However, KRS 278.466(6) provides that net metering customers with eligible generating facilities "in service" prior the effective date of net metering rates established by the Commission according to KRS 278.466(3) will continue to receive compensation based upon one-to-one kWh credit for energy exported for 25 years. KRS 278.466(2) requires a utility serving a customer with a Net Metering Facility to install a meter capable of registering the flow of electricity in two directions.

¹ KRS 278.465

On September 24, 2021, in Case No. 2020-00349,² the Commission approved KU's NMS-2 tariff, which established net metering rates based upon KRS 278.466, and amendments to KU's NMS-1 tariff. The effective date for NMS-2 rates was September 24, 2021.³ Thus, customers with Net Metering Facilities in service on or before September 23, 2021, were eligible to take service under NMS-1 and customers with Net Metering Facilities in service on or after September 24, 2021, take service under NMS-2.

Administrative Case No. 2008-00169⁴ and KU's NMS-2 tariff⁵ established the process for a customer to take service under a net metering tariff. First, a customer submits an interconnection application, which was standardized in Case No. 2008-00169. The utility has 20 days to review the application and notify the customer whether the application is approved or denied, based on the criteria established in Case No. 2008-00169. The approval is subject to successful completion of the initial installation inspection and witness test unless the test is waived by the utility. If a test is required, the customer notifies the utility within three business days of completion of the Net Metering Facility installation to schedule inspection and witness test within ten business days. The customer may not operate the Net Metering Facility until successful completion of the inspection and witness test unless the utility expressly permits operational testing

² Case No. 2020-00349, *Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit* (Ky. PSC Sept. 24, 2021).

³ KU filed its NMS-2 tariff with the Commission and it was accepted on October 13, 2021, with rates for service rendered on and after September 24, 2021.

⁴ Case No. 2008-00169, *Development of Guidelines for Interconnection and Net Metering for Certain Generators with Capacity Up to Thirty Kilowatts* (Ky. PSC Jan. 8, 2009).

⁵ KU Tariff Sheet No. 58, NMS-2 (effective date Sept. 24, 2021).

not to exceed two hours. A Net Metering Facility is “in service” once these steps are completed, the customer receives approval to operate, and the Net Metering Facility is interconnected with the utility.

COMPLAINT

Mr. Coleman alleged that his Net Metering Facility was installed, the interconnection application was submitted, and the net metering facility was operational, as indicated by his meter spinning backward when energy was exported to the grid, prior to September 24, 2021, and that KU installed a “solar meter” several weeks after the Net Metering Facility was installed and operational. Mr. Coleman provided copies of his bills that indicate he was billed for service under NMS-1 for service rendered between October 5, 2021, and December 14, 2021, and that he received a revised bill that credited energy exported to the grid under NMS 2 for the same period. On January 28, 2022, Mr. Coleman received a letter from KU stating that he was erroneously credited under NMS-1 when he actually takes service under NMS-2 based upon the facility’s operational date.

DISCUSSION AND FINDINGS

In his complaint, Mr. Coleman asserted that the events to bring his Net Metering Facility in service all occurred on or before September 23, 2021, however he did not provide any dates for the events or any documents that evidence the dates of the events. Mr. Coleman provided the first page of the NMS-2 Level 1 Interconnection Application (Interconnection Application), but not the subsequent pages with certification, signature, and date. Nor did Mr. Coleman provide a copy of KU’s notice of approval of the Net

Metering Facility or provide the dates when the bi-directional meter was installed and when the Net Metering Facility was actually interconnected to KU's distribution system.

The date that Mr. Coleman's Net Metering Facility was in service is relevant to a determination whether the complaint established a prima facie case. If the Net Metering Facility was in service, as defined by Case No. 2008-00169 and KU's tariff, prior to September 24, 2021, then Mr. Coleman is eligible to take service under NMS-1; if the Net Metering Facility was first in service on or after September 24, 2021, then Mr. Coleman is eligible to take service under NMS-2.

Based on a review of the complaint, the Commission is unable to determine at this time whether the complaint establishes a prima facie case because there are allegations but not specific details or documents regarding the date the Net Metering Facility was in service. Because the allegations support further investigation into the merits of the complaint, the Commission finds that Mr. Coleman should file, within 20 days of the date of this Order, certain information to support his claim.

IT IS THEREFORE ORDERED that:

1. Mr. Coleman shall file the following within 20 days of the date of this Order:
 - a. A copy of the completed, signed, and dated Level 1 interconnection application.
 - b. The date the Level 1 interconnection application was submitted to KU and documents that evidence the submission date.
 - c. The date that KU approved the interconnection application and a copy of KU's approval.

d. If an initial inspection and witness test was required by KU, the date the inspection and witness test occurred and a copy of the inspection and witness test report.

e. The date that the Net Metering Facility was interconnected to KU.

f. The date the bi-directional meter was installed.

2. Mr. Coleman shall file the documents pursuant to ordering paragraph 1 by electronic mail to PSCED@ky.gov.

3. If the documents are not filed within 20 days of the date of this Order, the Commission shall dismiss the complaint by separate Order.

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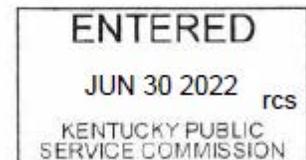
PUBLIC SERVICE COMMISSION



Chairman

Vice Chairman

Commissioner



ATTEST:



Executive Director

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