

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF LINDSEY &)	
ELLIOTT GAS CO. FOR INITIAL RULES,)	CASE NO.
REGULATIONS, AND RATES FOR FURNISHING)	2023-00225
GAS SERVICE PURSUANT TO KRS 278.485)	

ORDER

On June 16, 2023, Lindsey & Elliott Gas Co. (Lindsey & Elliott Gas) filed, through the Commission’s electronic Tariff Filing System, its tariff to establish initial rates, rules, and regulations pursuant to KRS 278.485 and 807 KAR 5:026, which govern natural gas service provided to customers who tap onto a production or gathering system. On July 7, 2023, the tariff filing was suspended pursuant to KRS 278.190(2) for five months pending an investigation to determine the reasonableness of the proposed tariff and a procedural schedule was established.¹ Lindsey & Elliott Gas has responded to two requests for information issued by Commission Staff.² Lindsey & Elliott Gas, in its response to Staff’s Second Request, specifically its response to Item 8,³ stated that the rules and regulations were inadvertently omitted from Lindsey & Elliott Gas’ proposed tariff and requested leave to amend its proposed tariff within its response.

¹ Order (Ky. PSC July 7, 2023).

² Lindsey & Elliot Gas’ Response to Commission Staff’s First Request for Information (Staff’s First Request) (filed Aug. 25, 2023), and Lindsey & Elliot Gas’ Response to Commission Staff’s Second Request for Information (Staff’s Second Request) (filed Sep. 29, 2023).

³ Lindsey & Elliot Gas’ Responses to Staff’s Second Request, Item 8.

LEGAL STANDARD

Pursuant to 807 KAR 5:001, Section 4(5): “Amendments, upon motion of a party and for good cause shown, the commission shall allow a complaint, application, answer, or other paper to be amended or corrected or an omission supplied. Unless the commission orders otherwise, the amendment shall not relate back to the date of the original paper.”

Commission regulation 807 KAR 5:001, Section 5(1) states: “all requests for relief that are not required to be made in an application, petition, or written request shall be by motion.”

DISCUSSION AND FINDINGS

As a threshold issue, 807 KAR 5:001, Section 4(5) outlines the process for amending an application upon ***motion*** of a party to amend. Commission regulation 807 KAR 5:001, Section 5(1) states that all requests for relief not required to be made in an application, petition, or written request shall be by motion. However, this request for leave to amend was made as part of a response to Staff’s Second Request, not by formal motion. The Commission does permit deviation pursuant to 807 KAR 5:001, Section 22 for good cause shown.

Having reviewed the record, the Commission finds good cause to grant the request for leave to amend the tariff filing and treat the request as a motion.

Furthermore, because Lindsey & Elliott Gas did not request that the amended tariff relate back to the initial filing date of the tariff, or provide a reason the amended application should relate back to the initial tariff filing date, the Commission finds that

Lindsey & Elliott Gas' application is deemed filed on September 29, 2023, the date the request to amend was filed.

IT IS THEREFORE ORDERED that:

1. Lindsey & Elliott Gas' motion for leave to amend is granted.
2. Lindsey & Elliott Gas' tariff is deemed filed as of September 29, 2023.
3. All provisions of the Commission's August 11, 2023 Order that are not in conflict with this Order shall remain in effect.

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PUBLIC SERVICE COMMISSION

Hurt Cole
Chairman

Adh
Vice Chairman

Mary Pat Ryan
Commissioner

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KENTUCKY PUBLIC
SERVICE COMMISSION

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