

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENERGY)	CASE NO.
CORP. FOR A DEVIATION FROM 807 KAR 5:011,)	2024-00066
SECTION 8(2))	

ORDER

On February 23, 2024, Kenergy Corp. (Kenergy), filed a proposed change to its net metering and interconnection tariff via the online tariff filing system.¹ The proposed tariff included, *inter alia*, new requirements for applying for interconnection to Kenergy’s distribution system. These changes included requiring the customer to provide proof of (1) passed electrical inspection, (2) liability insurance, and (3) property ownership in the form of a deed or tax bill. The revised tariff also interpreted a provision in KRS 278.465 limiting the capacity of a facility for which a customer is applying for interconnection—the revised tariff disallows subdivision of an account to circumvent this capacity limit.

This tariff filing was rejected on March 12, 2024, because Kenergy did not comply with the customer notice provisions set forth in 807 KAR 5:011, Section 8, which requires notice to customers by mail or publication under Section 8(2)(b) “if a charge, fee, condition of service, or rule regarding the provision of service is changed, revised, or initiated and the change will affect the amount that a customer pays for service or the quality, delivery, or rendering of a customer's service.”

¹ TFS2024-00076, P.S.C. Second Revised Tariff, First Revised Sheets No. 46D, 46K, and 46Q (filed Feb. 23, 2024).

Kenergy refiled the tariff on March 13, 2024,² accompanied by a motion for deviation for good cause pursuant to 807 KAR 5:011, Section 15, from the customer notice requirements set forth in 807 KAR 5:011, Section 8. Kenergy posted notice of the proposed tariff changes on its website and at its office. Kenergy argued that (1) no conditions of service were being changed and therefore customer notice should not be required, (2) website notice was sufficient to notify the small subset of customers affected by the change, and (3) the cost of publishing notice is burdensome, with the most economical option not available until May 2024.³

Kenergy is a party to two pending cases that deal with ambiguities over its net metering and interconnection tariff and provisions of KRS 278.465. Kenergy applied for a declaratory order in Case No. 2023-00309,⁴ interpreting tariff language limiting the aggregated generation on the circuit to 15 percent of a line section's most recent one-hour peak load. Case No. 2023-00421⁵ is a complaint case that addresses the same issue plus a disagreement over whether the “located on the customer’s premises” language in KRS 278.465 requires ownership in fee simple to be deemed an eligible customer-generator. Complainant is a lessee. Kenergy also argued, in that case, that

² TFS2024-00108, P.S.C. Second Revised Tariff, First Revised Sheets No. 46D, 46K, and 46Q (filed Mar. 13, 2024).

³ Motion for Deviation at 3, paragraph 8.

⁴ Case No. 2023-00309, *Electronic Petition of Kenergy Corp. for a Declaratory Order* (filed Sept. 13, 2023).

⁵ Case No. 2023-00421, *Roger D. Shocklee v. Kenergy Corp.* (filed Dec. 18, 2023).

the complainant should not be allowed to avoid the KRS 278.465 limit on capacity by splitting its facility into two applications.⁶

Having reviewed the record and being fully advised, the Commission finds that Kenergy's motion for deviation from 807 KAR 5:011, Section 8, should be denied. Changing what applicants must include with their interconnection applications constitutes a change in the conditions of service that affects rendering of a customer's service under 807 KAR 5:011, Section 8. Although Kenergy points out that an electric inspection is already required under 815 KAR 35:020, Section 3, providing proof of this inspection is a new condition for rendering service. Providing proof of liability insurance as well as a deed or tax bill are also new prerequisites. Therefore, a deviation would be required from customer notice requirements.

While notice via website is a source that many customers may use when they are seeking out tariff information, only providing notice via the website does not put those who have an interest in the net metering and interconnection tariff on notice that changes have been proposed. Kenergy noted in Case No. 2023-00309 that "[r]ecently, Kenergy has received inquiries about members who desire to install solar equipment on their property,"⁷ suggesting that members of the public, who might not otherwise have reason to regularly check the website for tariff changes, may have interest in such changes.

Lastly, the Commission recognizes that publishing notice increases the economic burden on ratepayers and prefers to minimize that burden when possible. Multiple issues raised in Cases No. 2023-00309 and 2023-00421 are sought to be resolved by this tariff

⁶ Case No. 2023-00421, Kenergy Corp.'s Response to Complainant's Motion for Summary Disposition (filed Feb. 23, 2024), Direct Testimony of Robert Stumph, at 8.

⁷ Case No. 2023-00309, Petition (filed Sept. 13, 2023) at 2.

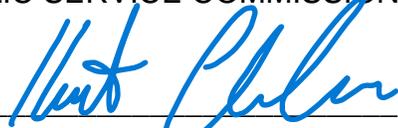
filing. However, the resolution of those cases may necessitate additional tariff changes or preclude certain changes. The most economical option is to allow the Commission to resolve the issues raised in those cases, file a new tariff in conformity with the final orders in those cases, and only bear the cost of one tariff filing notice.

IT IS THEREFORE ORDERED that:

1. Kenergy's motion for deviation from customer notice required by 807 KAR 5:011, Section 8, is denied.
2. Kenergy's March 13, 2024 tariff filing in Case No. TFS2024-00108 is rejected for filing.
3. This matter is closed and shall be removed from the Commission's docket.

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PUBLIC SERVICE COMMISSION



Chairman



Vice Chairman



Commissioner

ENTERED
APR 09 2024
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KENTUCKY PUBLIC
SERVICE COMMISSION

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