COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE REVISION OF COGENERATION AND SMALL POWER PURCHASE RATES OF EAST KENTUCKY POWER COOPERATIVE, INC.	)))	CASE NO. 2008-00128

ORDER

On March 31, 2008, East Kentucky Power Cooperative, Inc. ("East Kentucky") filed proposed revisions to its Tariff for Qualified Cogeneration and Small Power Production Facilities ("cogen tariff") as directed by the Commission in Case No. 2006-00472.[1] The revised cogen tariff included a proposed effective date of May 1, 2008. The rates proposed in the cogen tariff, based on increases in East Kentucky's avoided costs,[2] increase the amount of compensation provided to cogeneration customers[3] served by the 16 distribution cooperatives that comprise the East Kentucky system. On April 22, 2008, East Kentucky and Commission Staff ("Staff") participated in a telephonic informal conference to discuss procedural issues.

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[1] Case No. 2006-00472, General Adjustment of Electric Rates of East Kentucky Power Cooperative, Inc., Order dated December 5, 2007.

[2] 807 KAR 5:054 defines "avoided costs" as incremental costs to an electric utility of electric energy or capacity or both which, if not for the purchase from the qualifying facility, the utility would generate itself or purchase from another source.

[3] Cogeneration facility, qualifying facility and small power production facility, as referenced in East Kentucky's proposed tariff, are defined in Administrative Regulation 807 KAR 5:054.

On April 28, 2008, the Commission issued a procedural schedule, which allowed for two rounds of discovery on East Kentucky and suspended the proposed tariff for one month, to be effective, subject to change, for service rendered on and after June 1, 2008. This allowed the distribution cooperatives served by East Kentucky time to file their companion cogen tariffs with the same June 1, 2008 effective date and permit affected cogen customers to realize the benefit of the higher avoided cost rates as soon as possible.

Gallatin Steel Company ("Gallatin"), the largest customer in the East Kentucky system, which is served by Owen Electric Cooperative, Inc., requested and was granted intervention.[4] Staff served two rounds of discovery on East Kentucky. On June 20, 2008, the Commission issued an Order allowing any party to file comments or request a hearing. No comments or hearing requests were received from either East Kentucky or Gallatin; therefore, the case stands submitted for decision.

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[4] On April 10, 2008, Geoffrey M. Young, an individual, also filed a petition for intervention as well, which was opposed by East Kentucky. See Response and Objections of East Kentucky Power Cooperative, Inc. to Petition to Intervene of Geoffrey M. Young, filed April 15, 2008. The Commission denied his petition, as well as a subsequent motion for rehearing. See Commission Orders dated April 28, 2008 and June 3, 2008. Mr. Young filed an appeal of the June 3, 2008 Order in Franklin Circuit Court in Case No. 08-C1-1043 on June 20, 2008. However, his appeal is subject to a motion to dismiss filed by the Commission for failure to comply with the statutory requirements under KRS 278.410. The Franklin Circuit Court took the Commission's motion to dismiss under submission on August 11, 2008 following oral arguments. The Court has not ordered the Commission to suspend these proceedings during pendency of its decision on the motion to dismiss.

DISCUSSION

East Kentucky's process for establishing its cost rates for avoided capacity begins with the development of a capacity expansion plan reflecting its average annual load growth of 70 to 80 MW. Its avoided capacity costs are based on the assumption that enough qualifying capacity will be added to delay implementing the plan for one year. East Kentucky then compares the cost of the base capacity expansion plan with that of the one-year delayed plan and divides the savings resulting from the delay by its average annual load growth to derive its annual avoided capacity cost rates.

East Kentucky develops its avoided energy costs based on an estimated load reduction of 100 MW at a 100-percent load factor. To calculate its avoided energy costs, East Kentucky assumes it will avoid the equivalent purchase of two 50 MW blocks of power, as 50 MW is the standard offering in the wholesale power market.

In addition to updating its avoided cost rates, East Kentucky revised its cogen tariff by (1) reducing the term of the standard contract from 20 years to 5 years, (2) inserting language stating that customers' generating facilities must meet the definition of qualifying facilities contained in 807 KAR 5:054, and (3) adding a statement that it will annually file, by March 31 of each year, updated avoided cost rates.

FINDINGS AND ORDERS

The Commission, based on East Kentucky's application and responses to discovery and being otherwise sufficiently advised, finds that:

1. The updated cogen tariffs of East Kentucky and its 16 member distribution cooperatives, previously permitted to become effective June 1, 2008, subject to change, should be approved on a permanent basis.

2. East Kentucky and its distribution cooperatives should file updates to their avoided costs rates annually with such updates due by March 31 of each year.

IT IS THEREFORE ORDERED that:

1. The updated cogen tariffs of East Kentucky and its 16 member distribution cooperatives, which the Commission permitted to become effective June 1, 2008, subject to change, are approved on a permanent basis.

2. East Kentucky and its distribution cooperatives shall file updates to their avoided cost rates annually by March 31 of each year.

Done at Frankfort, Kentucky, this 20th day of August, 2008.

By the Commission

ATTEST:

Stephanie Stumbo

Executive Director