COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF EAST KENTUCKY POWER COOPERATIVE, INC. AND ITS MEMBER DISTRIBUTION COOPERATIVES FOR UPDATES TO THE RENEWABLE ENERGY PROGRAM	)))))	CASE NO. 2026-00188

O R D E R

East Kentucky Power Cooperative, Inc. (EKPC) and its 16 distribution cooperatives filed proposed tariffs to update their Renewable Energy Program tariff.[1] EKPC proposed an effective date of July 30, 2026.[2] By Order entered July 20, 2026, the tariff filings were suspended for five months up to and including December 29, 2026.[3] EKPC and Inter-County Energy Cooperative (Inter-County Energy) responded to one request for

[1] TFS2026-00284, Big Sandy Rural Electric Cooperative Corporation (filed June 18, 2026); TFS2026-00289, Jackson Energy Cooperative Cooperation (filed June 24, 2026); TFS2026-00296, Grayson Rural Electric Cooperative Corporation (filed June 26, 2026); TFS2026-00297, Fleming-Mason Energy Cooperative, Inc. (filed June 29, 2026); TFS2026-00298, Shelby Energy Cooperative, Inc. (filed June 29, 2026); TFS2026-00301, Salt River Electric Cooperative Corp. (filed June 30, 2026); TFS2026-00302, Inter-County Energy Cooperative Corporation (filed June 30, 2026); TFS2026-00303, Cumberland Valley Electric, Inc. (filed June 30, 2026); TFS2026-00306, Owen Electric Cooperative, Inc. (filed June 30, 2026); TFS2026-00309, Taylor County Rural Electric Cooperative Corporation (filed June 30, 2026); TFS2026-00310, Farmers Rural Electric Cooperative Corporation (filed June 30, 2026); TFS2026-00311, East Kentucky Power Cooperative, Inc. (filed June 30, 2026); TFS2026-00314, Nolin Rural Electric Cooperative Corporation (filed June 30, 2026); TFS2026-00315, Blue Grass Energy Cooperative Corp. (filed June 30, 2026); TFS2026-00316, Clark Energy Cooperative, Inc. (filed June 30, 2026); TFS2026-00317, Licking Valley Rural Electric Cooperative Corporation (filed June 30, 2026); TFS2026-00323, South Kentucky Rural Electric Cooperative Corporation (filed July 1, 2026).

[2] TFS2026-00311, East Kentucky Power Cooperative, Inc. (filed June 30, 2026).

[3] Order (Ky. PSC July 20, 2026).

information by Commission Staff.[4] On September 28, 2026, EKPC and Inter-County Energy filed a motion to submit on the record.[5] This case is now submitted for decision.

LEGAL STANDARD

The Commission has broad plenary authority to regulate rates and services of utilities pursuant to KRS 278.040.[6] KRS 278.190 empowers the Commission to investigate any schedule of new rates for reasonability and places the burden on the utility to "show that the increased rate or charge is just and reasonable."[7] In addition, KRS 278.030 requires the Commission to ensure:

> (1) Every utility may demand, collect and receive fair, just and reasonable rates for the services rendered or to be rendered by it to any person.
> (2) Every utility shall furnish adequate, efficient and reasonable service, and may establish reasonable rules governing the conduct of its business and the conditions under which it shall be required to render service.
> (3) Every utility may employ in the conduct of its business suitable and reasonable classifications of its service, patrons and rates. The classifications may, in any proper case, take into account the nature of the use, the quality used, the quantity used, the time when used, the purpose for which used, and any other reasonable consideration.

In applying KRS 278.160,[8] the Commission has stated, "[t]he filed rate doctrine is the bedrock of utility rate regulation" and "the basic bulwark against rate discrimination and

[4] EKPC's Response to Commission Staff's First Request for Information (Staff's First Request) (filed Aug. 27, 2026). Inter-County Energy's Response to Commission Staff's First Request for Information (Staff's First Request) (filed Aug 27, 2026).

[5] Motion to Submit on the Record (filed Sept. 28, 2026).

[6] *Kentucky Public Service Com'n v. Com ex. Rel Conway*, 324 S.W. 3d 373 (Ky. 2010) at 377–378.

[7] KRS 278.190.

[8] KRS 278.160 states, "(1) Under rules prescribed by the commission, each utility shall file with the commission, within such time and in such form as the commission designates, schedules showing all rates and conditions for service established by it and collected or enforced. The utility shall keep copies of its

arbitrary utility action."[9] Lastly, all tariffs must comply with 807 KAR 5:011 requirements, including but not limited to, formatting, content, and notice.

BACKGROUND

EKPC proposed to add clarifying language to its Rate H – Wholesale Renewable Energy Program (Rate H) tariff, Options B and C, to note that these options are only applicable for commercial and industrial members.[10] EKPC explained that commercial and industrial members have always been the only members that could take service under Options B and C and that the purpose of the proposed tariff revision is to explicitly state it.[11]

EKPC also proposed to modify Option B so that the credit is equal to the PJM Interconnection LLC (PJM) Locational Marginal Price (LMP).[12] EKPC stated that the billing system cannot accommodate the current credit calculation.[13] EKPC estimated that it would cost approximately $30,000 to upgrade its current billing software; however, the Commission notes that EKPC neither requested nor received a quote from the vendor.[14]

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schedules open to public inspection under such rules as the commission prescribes. (2) No utility shall charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules. (3) The provisions of this section do not require disclosure or publication of a provision of a special contract that contains rates and conditions of service not filed in a utility's general schedule if such provision would otherwise be entitled to be excluded from the application of KRS 61.870 to 61.884 under the provisions of KRS 61.878(1)(c)1."

[9] Case No. 1995-00107, *In the Matter of North Marshall Water District Alleged Violation of KRS 278.160 and KRS 278.170* (Ky. PSC Oct. 13, 1995), Order at 3.

[10] EKPC's Cover Letter (Ky. PSC July 13, 2026) on unnumbered page 1.

[11] EKPC's Cover Letter (Ky. PSC July 13, 2026) on unnumbered page 1.

[12] EKPC's Cover Letter (Ky. PSC July 13, 2026) on unnumbered page 1.

[13] EKPC's Cover Letter (Ky. PSC July 13, 2026) on unnumbered page 1.

[14] EKPC's Response to Staff's First Request, Item 2.

In the Commission's July 20th Order, the Commission found that Inter-County Energy should provide notice of the proposed tariff revisions to Diageo Americas Supply, Inc. (Diageo) and Maker's Mark, Inc. (Maker's Mark) in accordance with 807 KAR 5:011, Section 8.[15] Inter-County Energy provided proof of notice in the record on July 27, 2026.[16]

DISCUSSION AND FINDINGS

The proposed revisions to Rate H, Option B, impacts two existing customers, Diageo and Maker's Mark.[17] EKPC and Inter-County Energy have not yet provided any Option B credits to the existing customers.[18] Inter-County Energy explained that Diageo's solar facility is still under construction and Marker's Mark's solar facility is operational.[19] However, Maker's Mark is not receiving power from its facility.[20]

EKPC argued that the PJM LMP is a more effective credit for Option B because EKPC purchases all of its energy needs from PJM.[21] Additionally, EKPC explained that if EKPC was its own balancing authority utilizing its own generation resources to match load, then the credit based on EKPC's avoided costs of its own generation fuel use and variable environmental cost from EKPC's generation facilities would be the more appropriate credit.[22] The Commission finds the PJM LMP to be an appropriate credit for

[15] Order (Ky. PSC July 20, 2026) at 3.

[16] Proof of Customer Notice (filed July 27, 2026).

[17] EKPC's Response to Staff's First Request, Item 3.

[18] EKPC's Response to Staff's First Request, Item 5.

[19] Inter-County Energy's Response to Staff's First Request, Item 1.

[20] Order (Ky. PSC July 20, 2026), Appendix B at 1.

[21] EKPC's Response to Staff's First Request, Item 6.

[22] EKPC's Response to Staff's First Request, Item 6.

Rate H, Option B, customers because of EKPC's reliance on PJM as its balancing authority. The PJM LMP would more accurately reflect the credit applicable to Rate H customers than a credit that included the Fuel Adjustment Clause (FAC) and Environmental Surcharge (ESM).

Having considered the record and being otherwise sufficiently advised, the Commission finds the proposed revisions to the 16 distribution cooperatives' Renewable Energy Program tariffs to be fair, just and reasonable under KRS 278.030 as the revisions reflect the approved methodology discussed herein for Rate H, Option B, customers. The Commission also finds the clarifying language that states Rate H Option B and Option C are only available to commercial and industrial customers, as well as removing the FAC and ESM as applicable charges to the Options, to be necessary and should be approved. Additionally, the Commission finds that EKPC should revise its proposed Renewable Energy Program tariff to clarify that the avoided costs from the FAC and ESM are not included in the calculation of the credit and that the total credit will be limited to the PJM LMP.

Regarding compliance with 807 KAR 5:011, only Inter-County Energy filed proof of notice to customers, in which it only provided notice to Diageo and Maker's Mark, and included an effective date in the notice that did not match the tariff.[23] The Commission previously found that customer notice of tariff changes must be given to all customers, regardless of direct impact of changes—"[t]he Commission strives for transparency and requiring a customer be kept informed of opportunities to participate in programs championed as environmentally friendly yet will still impact their wallet is just as important

[23] Proof of Notice (filed July 27, 2026).

as a tariff directly impacting service."[24] Other customers besides those directly affected may have interest in taking service under this tariff and other customers may want to be aware of how resources are being distributed across EKPC programs. Nothing in 807 KAR 5:011, Section 8, suggests that a utility may limit which customers receive notice of tariff change. All 16 EKPC member cooperatives are required to notify all customers of the tariff change and must either refile the tariff with a KRS 278.180(1)-compliant effective date set forth in customer notice under 807 KAR 5:011, Section 8 or file a request for deviation from 807 KAR 5:011, Section 8, requirements.

IT IS THEREFORE ORDERED that:

1. EKPC's requested revisions to the Rate H, Option B, credit calculation to be limited to the PJM LMP are approved.

2. The request to add clarifying language to the Rate H tariff to signify that Option B and Option C are only available to commercial and industrial customers is approved.

3. EKPC's shall revise its Rate H tariff to reflect the modifications as discussed herein.

4. Within 20 days of the date of service of this Order, EKPC and the 16 distribution cooperatives shall file with the Commission, using the Commission's electronic Tariff Filing System, new tariff sheets setting forth the rates, charges, and modifications approved or as required herein and reflecting their effective date and that they were authorized by this Order.

[24] Case No. 2022-00049, *Electronic Application of Columbia Gas of Kentucky, Inc. for Approval of the Green Path Rider Pilot Program* (Ky. PSC Feb. 10, 2023), Order at 4.

5. The 16 distribution cooperatives shall provide notice of the revised tariff to all customers in the manner required by 807 KAR 5:011, Section 8.

6. The 16 distribution cooperatives shall provide proof of publication of the notice to the Commission no later than 30 days from the date of this Order.

7. Any documents filed in the future pursuant to ordering paragraph 6 herein shall reference this case number and shall be retained in the post-case correspondence file.

8. This case is closed and removed from the Commission's docket.

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Entered on this 29th day of October, 2026.

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