

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

APPLICATION OF KENERGY CORP. FOR) CASE NO.
A GENERAL ADJUSTMENT OF RATES) 2015-00312

**ATTORNEY GENERAL’S COMMENTS TO
KENERGY’S POSITION STATEMENT**

The Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, tenders the following Comments to Kenergy’s Position Statement. The Comments filed herein, along with the discovery filings and the issues discussed at the public hearing, represent the position of the Attorney General in this matter. The Attorney General recommends a downward adjustment to Kenergy’s requested \$2,563,807 dollar revenue increase,¹ because if the Company’s application is accepted as filed, then it would result in unjust, unfair, and unreasonable rates.

I. Revenue Requirement

In order to improve its financial condition Kenergy should have taken multiple steps to improve its financial health, yet it neglected to do so. Even though the average residential Kenergy customer’s electricity bill has risen by roughly 40% since 2011,² the Company provided continuous wage and salary increases, merit increases, step increases, multiple types of bonuses, and overly generous insurance and benefits packages to its employees.³ Therefore, the Attorney

¹ *The Application of Kenergy Corp. For An Adjustment In Existing Rates*, Case No. 2015-00312 (Ky. PSC October 29, 2015) at p. 2, paragraph d.

² Kenergy’s Response to AG 2-20.

³ Direct Testimony of Steve Thompson, p. 3, lines 13-15; Kenergy’s Responses to AG 1-12, 1-13, 1-14, 2-10, 2-11, 2-13.

General recommends that the Commission adjust Kenergy's requested \$1,150,000 dollar revenue increase for labor and overhead costs downward to reflect more appropriate and justified wages, salaries, and benefits.⁴

2. Apportionment of the Increase

The Attorney General finds it extremely problematic that Kenergy proposes to place the bulk of the requested \$2.5 million dollar rate increase largely on the customer charge as opposed to the volumetric charge.⁵ The Company's current customer charge for the residential class is \$15.60, but the proposal would increase the charge to \$18.50 with the energy charge increasing from \$.101304 to \$.102042.⁶ If the Commission approves this significant increase of the customer charge, it can have detrimental effects to those people who can least afford it, such as the elderly and the low-income population.

Since Kenergy is a regulated, public monopoly service provider and its ratepayers are captive customers, rate regulation is intended to be a substitute for competition. This fundamental principle of regulation was designed to stimulate a utility to act as it would if it was in a competitive industry. By increasing Kenergy's customer charge to the extent the Company seeks is tantamount to reimbursement ratemaking, and represents a clear departure from generally accepted ratemaking foundations. Competitive entities do not have any such guarantees. Since regulation is supposed to be a substitute for competition, regulated entities should not receive guaranteed recovery of costs if such guarantees are not available in the competitive marketplace.

The regulatory compact under which Kenergy is operating dictates that the utility must provide safe, adequate and reliable service, and in exchange is allowed an opportunity to

⁴ Direct Testimony of Steve Thompson, p. 3, lines 13-15.

⁵ *Kenergy's Position Statement*, Case No. 2015-00312 (Ky. PSC May 19, 2016) at p. 1, paragraph 2.

⁶ *Id.*

maintain a reasonable TIER or, when financially sound, earn a return on investment for its members. Conversely, the member ratepayers are required only to pay rates that are fair, just, and reasonable and represent the lowest possible cost. Thus, the regulatory compact calls for a *balancing of interests* between a utility and its ratepayers with both benefits and detriments to be shared in an appropriate manner. An imbalance occurs when all of a rate increase is placed on the customer charge, because the company virtually eliminates its financial risk while the ratepayer is trapped with a bill over which (s)he has virtually *no control*. Thus, Kenergy's rate design clearly rewards and protects the Company's management by freeing it from risk to the greatest degree possible, while it transfers that risk to the ratepayers.

Stated another way, the Company would be guaranteed its income regardless of whether its management operates in a manner prudent enough to provide safe, adequate and reliable service at the lowest possible cost. Under Kenergy's current regulatory compact, an increase in costs in any one area should stimulate cost cutting elsewhere as the Company strives to attain its above TIER financial goals. However, this crucial incentive will be abolished if the customer charge is increased to the levels the Company seeks.

In practical terms, it is axiomatic that ratepayers are given control over the amount of their energy bills - not the utility. The goal of empowering ratepayers to conserve in order to lower their electricity bill is a fundamental principle that the Commission and consumer advocates, like the Attorney General, must address as affordability of utility services is rapidly becoming a major issue - if not *the most important issue* - for the Commonwealth's utility customers. Thus, the Attorney General recommends placing any Commission approved reasonable increase to rates upon the volumetric charge as opposed to the customer charge.

3. Depreciation

The Attorney General opposes Kenergy's proposed depreciation rate increase from 3.8% to 3.9% because the Company did not provide sufficient evidence to prove the increase would lead to fair, just, and reasonable rates. Furthermore, if the Commission approves Kenergy's request to establish a regulatory asset for the retired electromechanical meters, the Attorney General recommends a longer amortization period than the Company has proposed.

CONCLUSION

WHEREFORE, based on the record and the reasons set forth in the Comments, the Attorney General recommends that any Commission approved rate increase be limited to what the Company has proven with known and measurable evidence that will result in fair, just, and reasonable rates for Kenergy's ratepayers.

Respectfully submitted,

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ATTORNEY GENERAL



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Certificate of Service and Filing

Counsel certifies that the foregoing is a true and accurate copy of the same document being filed in paper medium with the Commission within two business days; that the electronic filing has been transmitted to the Commission on May 27, 2016; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

this 27th day of May, 2016.



Assistant Attorney General