

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC JOINT APPLICATION OF LOUISVILLE)
GAS AND ELECTRIC COMPANY AND KENTUCKY)
UTILITIES COMPANY FOR A CERTIFICATE OF PUBLIC) CASE NO.
CONVENIENCE AND NECESSITY FOR FULL) 2018-00005
DEPLOYMENT OF ADVANCED METERING SYSTEMS)

**ATTORNEY GENERAL’S MOTION TO AMEND THE PROCEDURAL
SCHEDULE**

Comes now, the Attorney General of the Commonwealth of Kentucky, Andy Beshear, by and through his Office of Rate Intervention and moves the Kentucky Public Service Commission (“Commission”) to amend the procedural schedule in this matter, and in support of his motion, the Attorney General states as follows:

The Attorney General incorporates, by reference, his prior motion to set a procedural schedule in this matter. In furtherance of his prior motion, the Attorney General would state that rate cases take precedence over all other cases. However, here the only proposed changes to the tariff sheets concern the AMS Opt-Out Special Charges. These opt-out tariffs are dependent on the approval of the Joint Applicants’ requested Certificates of Public Convenience and Necessity (“CPCN”) by the Commission. Accordingly, the five month suspension of rates is not important and should not dictate the schedule in this matter, as the proposed rates—the AMS Opt-Out Special Charges—have nothing to apply to unless and until the Commission has approved the CPCN. Whether or not the tariff changes go into effect should have no bearing on the time allotted to the Commission in determining the ultimate fate of the Joint Applicants’ CPCN request. Further, beyond the 5-month suspension

period, the Commission Staff has recently opined on the theoretical occurrence of the Commission not ruling “in time” on a tariff change under KRS 278.190, stating:

Rather, in the event that a statutory deadline to issue an order requesting a new rate is missed, the proposed rate may be considered to have been deemed reasonable, and the utility may act to collect rate [sic]. However, whether a rate is approved through the operation of law or through a finding and order, the PSC has authority to later review the rates and determine whether the [sic] they are still reasonable at which time the PSC can order that the rate be altered or suspended. *See* KRS 278.260 (stating that the PSC can alter any rate prospectively); Kentucky Public Service Com’n v. Com. ex rel. Conway, 324 S.W.3d 373 (Ky. 2010) (holding that the PSC has plenary authority to regulate rates to fulfill its statutory obligation of ensuring reasonable rates).¹

Thus, it seems that even if the Commission does not rule on the proposed Opt-Out tariffs within 10 month of their filing, at any time they may review those tariffs as to their reasonableness. The Commission’s power to review the tariffs at any time negates any adverse effect to customers or the Joint Applicants that may come about if Opt-Out rates go into effect prior to the Commission ruling on the CPCNs.

WHEREFORE, the Attorney General requests that the current procedural schedule be amended to require the initial requests for information to the Joint Applicants to be filed no earlier than April 1, 2018, and that the rest of the dates be amended to coincide with this date according to the Commission’s normal scheduling practices.

¹ Bullitt Utilities, Inc., By Robert W. Keats, Its Chapter 7 Trustee v. Kentucky Public Service Comm’n, et .al., Franklin Circuit Court 17-CI-1160, Defendant, Kentucky Public Service Commission’s Response to Plaintiff’s Brief in Support of Its Appeal, Jan. 26, 2018, p. 40.

Respectfully submitted,

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