COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

ELECTRONIC INVESTIGATION INTO	)	
KENERGY CORP.'S COMPLIANCE WITH	)	**CASE NO.**
KRS 278.160 AND ITS NET METERING	)	**2020-00332**
TARIFF	)	

KENERGY CORP.'S PETITION FOR REHEARING

KENERGY CORP. ("Kenergy"), pursuant to KRS 278.400, moves for rehearing of this matter to offer additional evidence that could not, with reasonable diligence, be submitted previously. Because there was neither a formal hearing nor a briefing schedule, Kenergy submits that this petition is necessary to update and clarify the record to allow the Commission to reconsider and alter its findings and ruling.

In many ways Kenergy is like most rural electric cooperatives in that it supplies electricity to remote areas that investor owned utilities ignored out of economic reasons. However, over time industry located in Kenergy's territory. In the 1970's two (2) large aluminum smelters located in Kenergy's territory.[i]

For a rural electric cooperative to build sufficient infrastructure to serve a large industry or aluminum smelter would be wasteful when the industry can be served from the infrastructure of a generating and transmission utility. Thus, Kenergy's large industrial members are served directly from the Big Rivers Electric Corporation's system. These are referred to as direct served members. Since 2014 the aluminum smelters have acquired their power directly from the wholesale market. While the Commission is correct that Kenergy has an exclusive certified territory and is the only retail provider in their territory, none of the energy consumed by these large industrial members and smelters flows over Kenergy's system.

Likewise, the large industrials and aluminum smelters contribute, proportionately, very little to Kenergy's net revenue. Kenergy's markup or "adder" to the large industrials and aluminum smelters is so small because the rate charged to the large industrials and smelters does not cover the cost of constructing and maintaining Kenergy's distribution plant system. They do not pay a portion of Kenergy's distribution plant system cost through their rates because their load is not served by Kenergy's system.

Kenergy's rural load consists of those residential and small business members whose energy flows over the Kenergy distribution lines. This class of members contributes to the great majority of Kenergy's margin. No citation is necessary to prove that many members of the rural class are people of limited means. Kenergy's rates do not take into account ability to pay and as a result, poorer people pay a larger portion of their income for utilities.

Further, the fixed cost of Kenergy's system is in the poles, lines, transformers, offices and equipment necessary to deliver energy before the first electron flows. Hypothetically, if every member in Kenergy's territory ran off a generator and only had Kenergy available as back-up power, the fixed cost would remain. The rate design to compensate the utility for the fixed cost is in the customer charge or demand charge and should theoretically cover the fixed cost of the system as if it were on standby. The Commission has never fully implemented this theory and as such, the Kenergy customer charge remains below fixed cost. The result is the energy charge covers some of Kenergy's fixed cost.

With the advent of solar energy, members were able to generate power for their own use. The traditional rate structure for solar energy allowed the members to receive a retail rate for the power generated. This is sometimes commonly referred to as "one to one" rate and was in Kenergy's tariff Schedule 46. The problem with the one to one rate is that it allows the solar member to use the Kenergy system without fully paying its full share of the fixed cost. KRS 278.466 was amended effective January 1, 2020, to allow a retail electric provider to cease providing one to one net metering once "the cumulative generating capacity of net metering systems reaches one per cent (1%) of a single hour peak load during a calendar year." Because Kenergy's net metering load was beyond 1% of its rural load when the law came into effect, Kenergy switched its net metering applicants to Schedule 43, which pays a lesser rate but does compensate the member in cash for the excess energy that a Schedule 43 member does not use. A Schedule 46 member who generates more energy than is consumed by the member receives no cash but only a bill credit.

Subsequent to the data requests in this matter, the Hawesville Aluminum Smelter idled. The Hawesville sales have dropped from an average of 343 MW in 2021 to 4 MW currently. Prior to the idle of the Hawesville smelter, total smelter megawatt usage in 2021 was 720 MW but is now 381 MW. Using year end 2021 data, the smelter revenue after power cost was $741,863. $428,854 of that figure was paid as a PSC assessment leaving a contribution to gross margin of $313,009 or one tenth (1/10) of one percent (1%). The other direct serve members contribute $1,022,526 to gross margin. The rural class contributes $41,137,543 to gross margin or 96.85% of the total gross margin.

Kenergy's responses to data requests filed in this case on September 30, 2021, showed that the net metering percentage of the rural load was 1.342% as of August 2021. As of December 2021 the net metering percentage of the rural load was 2.07%. As of December 2021 the net metering load as compared to all megawatt sales from Big Rivers through Kenergy was 1.31%. The Commission's decision to use smelter sales in determining Kenergy's load is clearly erroneous.

The error with the Commission's order of August 11, 2022, is confusing sales with load. There is no dispute the statute at issue references "load" not sales. There is no definition of load in Kentucky statute or case law. However, FERC references load as that which uses the system. *San Diego Gas & Elec. Co. v. FERC,* 913 F.3d 127.2 (D.C. Cir. 2019)

As the smelters and direct serves do not use the Kenergy system, their sales should not equate to "load" as defined by KRS 278.466. Even if Kenergy's loand includes the direct serve members, Kenergy's net metering now exceeds 1% of all sales excluding the smelters. To equate "load" with "sales" otherwise is to place more and more members who can afford such solar systems onto a program subsidized by the rural members who cannot afford to purchase such systems. Kenergy submits that the Commission has incorrectly interpreted "load" as defined by KRS 278.466 and resultingly placed an undue hardship on the poorest of Kenergy's rural class. Accordingly, Kenergy requests a rehearing to correct this error.

Alternatively, should the Commission not change its position, it should allow the net metering members the option of remaining on Schedule 43 due to the availability of a higher kw limit and the fact that excess energy produced under Schedule 43 is payable in cash and not just bill credits.

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VERIFICATION

I verify, state and affirm that the factual information in the above Petition for Rehearing is true and correct to the best of my knowledge and belief formed after a reasonable inquiry.

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Travis Siewert

STATE OF KENTUCKY
COUNTY OF HENDERSON

The foregoing was signed, acknowledged and sworn to before me by TRAVIS SIEWERT this 19 day of August, 2022.

My commission expires 4-21-2025

Lisa Ann Hungley
Notary Public, State of Kentucky at Large

(seal)

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was served by electronic filing to the Kentucky Public Service Commission, 211 Sower Blvd., Frankfort, KY 40602 with a copy served electronically to the Kentucky Attorney General, Office of Rate Intervention, 700 Capital Avenue, Suite 20, Frankfort, KY 40601-8204, on this 19th day of August, 2022.

Counsel for Kenergy Corp.

[i] Anaconda Aluminum located in the territory of Henderson-Union RECC and National Aluminum Southwire located in Green River RECC's territory. Henderson-Union and Green River merged to form Kenergy and Century Aluminum acquired both smelters.