

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF)	
KENTUCKY UTILITIES COMPANY FOR AN)	
ADJUSTMENT OF ITS ELECTRIC RATES, A)	
CERTIFICATE OF PUBLIC CONVENIENCE)	
AND NECESSITY TO DEPLOY ADVANCED)	CASE NO. 2020-00349
METERING INFRASTRUCTURE,)	
APPROVAL OF CERTAIN REGULATORY)	
AND ACCOUNTING TREATMENTS, AND)	
ESTABLISHMENT OF A ONE-YEAR)	
SURCREDIT)	

MOTION FOR APPROVAL TO DEVIATE FROM RULES

Kentucky Utilities Company (“KU”) moves the Kentucky Public Service Commission (“Commission”) to grant KU approval, pursuant to 807 KAR 5:001, Section 22 and 807 KAR 5:011, Section 15, to deviate from the notice requirements in the above-captioned proceeding because KU has substantially complied with the Commission’s notice regulations. In support of this motion, KU states as follows:

1. On October 23, 2020, KU filed its Notice of Intent to file a rate application for a general adjustment in its electric rates, including changes to its electric tariffs, a Certificate of Public Convenience and Necessity to deploy advanced metering infrastructure, approval of certain regulatory and accounting treatments, and establishment of a one-year surcredit. KU subsequently filed its application on November 25, 2020.

2. On November 10, 2020, KU delivered to the Kentucky Press Service, Inc. (“Kentucky Press”), an organization that acts on behalf of newspapers of general circulation throughout the Commonwealth of Kentucky in which customers affected reside, for publication therein once a week for three consecutive weeks beginning on November 18, 2020, an abbreviated

notice in conformity with the Commission’s Order of November 10, 2020 in this case. Kentucky Press directed each newspaper in writing to publish the abbreviated notice once a week for three consecutive weeks, with the first publication to be made on November 18, 2020.¹

3. KU requests a deviation because one newspaper, despite clear instructions from the Kentucky Press, failed to publish the abbreviated notice for three consecutive weeks beginning on 18, 2020. This newspaper did publish the notice three times.

4. The *Owenton News Herald*, a newspaper of general circulation in Owen County, Kentucky, failed to publish the KU abbreviated notice beginning on November 18, 2020. Instead, the *Owenton News Herald* inadvertently published the Louisville Gas and Electric Company (“LG&E”) abbreviated notice for the first two weeks, on November 18, 2020 and November 25, 2020. The *Owenton News Herald* then published the KU abbreviated notice on December 2, 2020, December 9, 2020, and December 16, 2020. Therefore, the KU abbreviated notice was published in the *Owenton News Herald* for three consecutive weeks beginning with December 2, 2020.

5. In addition to causing notice of the filing of its application in this case to be published in newspapers of general circulation in its service areas, KU has posted the full customer notice for public inspection at its offices and places of business,² and on its website. Moreover, KU included a general statement explaining the application in this case with the bills for all Kentucky retail customers during the course of their regular monthly billing cycle beginning on November 30, 2020. In addition, beginning on November 13, 2020, KU issued press advisories to all known news media organizations who cover the areas within its certified territory advising

¹ See Certificate of Notice.

² KU has posted the full customer notice for public inspection at the following offices and places of business: Campbellsville, Carrollton, Danville, Earlington, Eddyville, Elizabethtown, Georgetown, Greenville, Harlan, Kevil, Lexington, London, Maysville, Middlesboro, Morehead, Morganfield, Mt. Sterling, Paris, Richmond, Shelbyville, Somerset, Versailles, and Winchester.

of the filing of its application and including a hyperlink to the location on KU's and the Commission's websites where case documents and tariff filings will be available. Finally, the two newspapers with the largest circulation in the state, the *Lexington Herald-Leader* and *The Courier-Journal*, published the notice correctly for three consecutive weeks beginning on November 18, 2020.

6. The purpose of the Commission's notice regulation is to ensure that the public has sufficient notice of KU's application and to respond accordingly. Despite the deviation noted above, notice was published in each county three times, and that notice was further supplemented by posting at KU's offices and on KU's website, in addition to including an explanation in retail customers' bills. KU's substantial compliance with the Commission's regulations has met the purpose of the notice requirement. As stated by the Kentucky Supreme Court:

Substantial compliance in regard to publication requirements has been authorized The purpose of the statute is to allow the public an ample opportunity to become sufficiently informed on the public question involved.³

7. The Commission has authority to permit KU to deviate from the publication requirements pursuant to 807 KAR 5:001, Section 22 and 807 KAR 5:011, Section 15.

8. Because KU is in substantial compliance with the publication requirements of 807 KAR 5:001, Section 17(2) and 807 KAR 5:011, Section 8(2), good cause exists for the Commission to permit KU to deviate from the requirement of the regulations and to accept the publication of notice of KU's application as sufficient.

³ *Conrad v. Lexington-Fayette Urban County Government*, 659 S.W.2d 190, 195 (Ky. 1983) (citing *Queenan v. City of Louisville*, 233 S.W.2d 1010 (Ky. 1950)). See also *Lyon v. County of Warren*, 325 S.W.2d 302 (Ky. 1959) (publishing notice of bond referendum outside statutory time limits, accompanied by media attention and other means, held sufficient notice to public).

WHEREFORE, Kentucky Utilities Company respectfully requests that the Commission grant it approval pursuant to 807 KAR 5:001, Section 22 and 807 KAR 5:011, Section 15 to deviate from the notice requirements of 807 KAR 5:001, Section 17(2) and 807 KAR 5:011, Section 8(2) and to accept the publication of notice of its application as sufficient.

Dated: January 12, 2021

Respectfully submitted,



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CERTIFICATE OF COMPLIANCE

In accordance with 807 KAR 5:001 Section 8(7), this is to certify that Kentucky Utilities Company's January 12, 2021 electronic filing is a true and accurate copy of the documents that will be filed in paper medium subject to the terms of the Commission's March 16, 2020 and March 24, 2020 Orders in Case No. 2020-00085 (Electronic Emergency Docket Related to the Novel Coronavirus COVID-19) ("COVID-19 Orders"); that the electronic filing was transmitted to the Commission on January 12, 2021; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original of the filing will be filed with the Commission consistent with the COVID-19 Orders.



Gerald R. Rios
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