

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENERGY	)	
CORP. FOR A GENERAL ADJUSTMENT OF	)	
RATES PURSUANT TO STREAMLINED PROCEDURE	)	Case No. 2021-00066
PILOT PROGRAM ESTABLISHED IN	)	
CASE NO. 2018-00407	)	

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**ATTORNEY GENERAL’S COMMENTS**

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The intervenor in this proceeding, the Attorney General of the Commonwealth of Kentucky, through his Office of Rate Intervention (“Attorney General”), submits the following Comments to the Public Service Commission (“Commission”) in the above-styled matter.

**STATEMENT OF THE CASE**

Kenergy Corp. (hereinafter “Kenergy” or the “Company”), is a non-profit electric cooperative organized under KRS Chapter 279.<sup>1</sup> The Company provides distribution electric service to approximately 58,000 customers in Daviess, Hancock, Henderson, Hopkins, McLean, Muhlenberg, Ohio, Webster, Breckinridge, Union, Crittenden, Caldwell, Lyon, and Livingston Counties.<sup>2</sup> On March 11, 2021, Kenergy filed an application for an adjustment in rates pursuant to the pilot program established by the Commission in Case No. 2018-00407. Specifically, Kenergy is requesting to increase its annual revenues by \$3,665,491,<sup>3</sup> to achieve a Times Interest Earned

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<sup>1</sup> Application at 1.

<sup>2</sup> *Id.*

<sup>3</sup> Application at 3; Direct Testimony of Steve Thompson (“Thompson Testimony”) at 3; In what appears to be contradictory information, in the Direct Testimony of John Wolfram (“Wolfram Testimony”), at 8, he stated that Kenergy’s requested rate increase is \$3,634,224.

Ratio (“TIER”) of 1.98, which equates to an Operating Times Interest Earned Ratio (“OTIER”) of 1.85.<sup>4</sup>

Kenergy is also requesting to increase the residential monthly customer charge from \$18.20 to \$20.60, while simultaneously increasing the residential energy charge from \$0.102038 to \$0.105357.<sup>5</sup> Pursuant to the pilot program’s streamlined process, only one round of discovery was conducted, with Kenergy providing responses to the Attorney General’s and Commission Staff’s discovery requests on April 29, 2021. Following the submission of these Comments, the case will stand submitted for a decision on the record on May 7, 2021.

## **ARGUMENT**

### **I. The Commission should evaluate Kenergy’s compensation and benefit plan and only allow what is reasonable.**

Due to the effects of the Covid-19 pandemic a large portion of Kentuckians lost not only their jobs and businesses, but their insurance benefits as well. In fact, at the height of the pandemic around one-third of the Commonwealth’s workforce lost their jobs, making it the hardest hit workforce in the United States of America.<sup>6</sup> Due to the devastation caused by Covid-19, some Kentuckians have had to make impossible choices between buying food and medicine or paying healthcare expenses and utility bills. The Attorney General commends Kenergy’s attempt at cost containment by reducing operating expenses through employee staffing reductions from 150 to 131 employees.<sup>7</sup> Kenergy also increased the contribution percentage that employees pay towards

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<sup>4</sup> Excel Spreadsheet 1.\_Kenergy\_Rev\_Req.xlsx; Wolfram Testimony at 8.

<sup>5</sup> Application, Exhibit 4, Customer Notice.

<sup>6</sup> Ben Tobin, Louisville Courier Journal, The Coronavirus Pandemic has put 1 in 3 Kentuckians out of Work – the Worst in the Nation, (May 8, 2020, 2:45 PM) <https://www.courier-journal.com/story/news/2020/05/08/coronavirus-kentucky-33-percent-workers-submit-initial-jobless-claims/3094840001/>.

<sup>7</sup> Thompson Testimony at 5.

health insurance, which will bring the contribution rate closer to state and national averages.<sup>8</sup> However, there is more that can and should be done. Just as Kentuckians have had to work with a confined budget, Kenergy should continue to evaluate areas where cost-containment and savings can be achieved for its members/ratepayers.

For example, Kenergy acknowledges in discovery responses that employees received across the board average raises of 2.00% in 2016, 2.00% in 2017, 2.00% in 2018, 3% in 2019, and 3% in 2020.<sup>9</sup> Kenergy also provided each employee, except the CEO, the following incentive compensation for goals achieved: \$1,600 in 2016, \$1,680 in 2017, \$2,240 in 2018, \$1,440 in 2019, and \$1,280 in 2020.<sup>10</sup> Each Kenergy employee also received a \$100 Christmas bonus grossed up for taxes so the employee's net check would be \$100 in 2019.<sup>11</sup> The total bonus in 2019 was \$13,000 (130 employees times \$100), and the total taxes were \$5,380, for a total Christmas bonus amount of \$18,380.<sup>12</sup> Kenergy also provided a \$150 Christmas bonus to its employees in 2020.<sup>13</sup> Further, Kenergy avers that in 2019 alone the CEO received a \$21,250 bonus, out of a maximum of \$25,000, for performance measures achieved in 2019.<sup>14</sup> Kenergy also continues to pay 100% of dental insurance premiums for employee only coverage, and 100% of the employees' life insurance premiums, including the plans that are greater than \$50,000 in coverage.<sup>15</sup>

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<sup>8</sup> Kenergy's response to Commission Staff's First Request for Information ("Commission Staff's First Request"), Item 11(a). Kenergy has increased the employee contribution towards health insurance from 12% in 2018 to 18% in 2021, and projects to increase it to 20% in 2022.

<sup>9</sup> Kenergy's response to Commission Staff's First Request, Item 16.

<sup>10</sup> Kenergy's response to Commission Staff's First Request, Item 6(a); Excel Spreadsheet Response to PSC-1 Item 16(1).

<sup>11</sup> *Id.*

<sup>12</sup> Kenergy's response to Commission Staff's First Request, Item 6(a).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> Application, Exhibit 38.

The Commission has recognized that Christmas bonuses should not be included for rate-making purposes.<sup>16</sup> Whether or not these amounts were included or excluded for ratemaking purposes does not change the fact that the excessive compensation and benefits are being paid with member/ratepayer funds. The Commission should examine the continuous raises, incentive compensation, bonuses, and benefits packages provided to Kenergy employees, and determine whether these expenditures are reasonable. Due to the present economic issues, Kenergy should evaluate whether it has properly balanced the economic realities between employee expenses and member/ratepayer affordability. The Attorney General requests a full evaluation of the compensation and benefits offered by Kenergy to its employees to ensure that the Company is complying with Commission precedent regarding the same.

**II. Kenergy should be required to reduce its miscellaneous expenses.**

Mr. Hohn states in his testimony that Kenergy has implemented several cost containment measures in recent years to combat annual energy sales declining nearly 5% due to energy efficiency.<sup>17</sup> However, during the 2019 test year, Kenergy provided a list of miscellaneous expenses totaling over \$400,000, including the following:

- \$19,130 in member appreciation day costs,
- \$83,183 for life insurance premiums over \$50,000 for employees and their spouses,
- \$59,621 in charitable donations;
- \$21,579.55 for the annual meeting;
- \$13,063 for employee break room supplies;

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<sup>16</sup> See Case No. 2005-000187, *In the Matter of: Application of Cumberland Valley Electric, Inc. for an Adjustment of Rates* (Ky. PSC May 2, 2006), Order at 11.

<sup>17</sup> Direct Testimony of Jeff Hohn (“Hohn Testimony”), at 4 – 6.

- \$14,435 for recognition and awards for employees;
- \$6,450 for employee service awards;
- \$4,143 for special employee events;
- \$10,834 for an industrial and commercial golf outing;
- \$6,252 for retirement gifts for employees; and
- \$8,047 for civil and political activities.<sup>18</sup>

As aforementioned, even if these expenses are being excluded for ratemaking purposes, it does not change the fact that the expenses are still being paid with member/ratepayer funds. Thus, Kenergy needs to rein in these expenses moving forward in order to stave off further rate increases. Kenergy should work to better utilize ratepayers' money by reducing the hundreds of thousands of dollars of expenditures that are not directly related to providing safe and reliable electric service. Due to the Covid-19 pandemic induced economic decline, the Company's ratepayers have been required to cut expenditures. Likewise, Kenergy needs to do the same.

**III. Kenergy's proposal to increase its residential monthly customer charge by 13.19% is unreasonable and not supported by the evidentiary record.**

Kenergy proposes to increase the residential monthly customer service charge from \$18.20 to \$20.60,<sup>19</sup> which equates to a 13.19% increase. An increase of this magnitude to the residential charge will hinder the residential customers' ability to control their monthly bills, and will pose a financial hardship on those customers who are already struggling to make ends meet.

In support of the increase to the residential monthly customer charge, Kenergy provides a Cost of Service Study ("COSS"), which concludes that the actual cost to serve its residential

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<sup>18</sup>Kenergy's response to the Commission Staff's First Request, Excel Spreadsheet 6\_Disallowed Expense\_Adjustment\_Detail(1).

<sup>19</sup> Application at 2.

customers is \$25.65 per month.<sup>20</sup> However, the Commission instructed Kenergy to provide revisions to the COSS in order to comply with recent Commission precedent.<sup>21</sup> Specifically, Kenergy was instructed to modify the costs in Accounts 364, 365, and 367 and classify them as 100 percent demand-related.<sup>22</sup> According to the revised COSS, the actual cost to serve each residential customer is only \$14.30 per month.<sup>23</sup> Therefore, based upon the revised COSS, the Commission should reduce the residential customer service charge to \$14.30 per month. In the alternative, if the Commission were inclined to preserve the current residential customer service charge, then it should be maintained at \$18.20 per month. Thus, based upon the evidence in the record, Kenergy's request to increase the residential monthly customer service charge to \$20.60 should be denied.

## CONCLUSION

WHEREFORE, the Attorney General requests that the Commission set fair, just and reasonable rates for the members/ratepayers of Kenergy. If the Commission is inclined to grant a rate increase, then it should be limited to what the Company has proven with known and measurable evidence that will result in fair, just, and reasonable rates for the Company's ratepayers.

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<sup>20</sup> Commission Staff's First Request, Item 9(a).

<sup>21</sup> *Id.*; See Case No. 2020-00131, *Electronic Application of Meade County Rural Electric Cooperative Corporation for an Adjustment in Rates* (Ky. PSC Sept 16, 2020), Order at 12 – 13; See Case No. 2020-00264, *Electronic Application of Cumberland Valley Electric, Inc. for a General Adjustment of Rates Pursuant to Streamlined Procedure Pilot Program Established in Case No. 2018-00407* (Ky. PSC Dec. 30, 2020), Order at 10 – 11; See Case No. 2020-00338, *Electronic Application of Licking Valley Rural Electric Cooperative Corporation for a General Adjustment of Rates Pursuant to Streamlined Procedure Pilot Program Established in Case No. 2018-00407* (Ky. PSC Apr. 8, 2021), Order at 10 – 12.

<sup>22</sup> Kenergy's response to Commission Staff's First Request, Item 9(a).

<sup>23</sup> Kenergy's response to Commission Staff's First Request, Excel Spreadsheet Kenergy\_COS\_2019\_REV\_PSC\_1-9.

Respectfully submitted,

DANIEL J. CAMERON  
ATTORNEY GENERAL

/s/ J. Michael West

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*Certificate of Service and Filing*

Pursuant to the Commission's Orders dated March 16, 2020 and March 24, 2020, in Case No. 2020-00085, and in accord with all other applicable law, Counsel certifies that the foregoing electronic filing was transmitted to the Commission on May 6, 2021, and there are currently no parties that the Commission has excused from participation by electronic means in this proceeding. Further, the Attorney General will submit the paper originals of the foregoing to the Commission within 30 days after the Governor lifts the current state of emergency.

This 6<sup>th</sup> day of May, 2021.

/s/ J. Michael West  
Assistant Attorney General