

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

**THE ELECTRONIC APPLICATION OF )  
FLEMING-MASON ENERGY COOPERATIVE, )  
INC., FOR PASS-THROUGH OF EAST )  
KENTUCKY POWER COOPERATIVE, INC.'S )  
WHOLESALE RATE ADJUSTMENT )**

**Case No. 2021-00109**

**INITIAL DATA REQUESTS OF FLEMING-MASON ENERGY COOPERATIVE, INC.  
TO APPHARVEST MOREHEAD FARM, LLC**

**Filed: July 15, 2021**

## I. DEFINITIONS AND INSTRUCTIONS

1. With respect to each discovery request, all information is to be divulged that is within the knowledge, possession or control of the parties to whom it is addressed, including their agents, employees, advisors, consultants, attorneys and/or investigators.

2. Please identify the witness(es) who will be prepared to answer questions concerning each request.

3. These requests shall be deemed continuing so as to require further and supplemental responses if the party receives or generates additional information within the scope of these requests between the time of the response and the time of any hearing conducted hereon.

4. All answers must be separately and fully stated in writing under oath.

5. Where a data request calls for an answer in more than one part, each part should be separated in the answer so that the answer is clearly understandable.

6. If any request appears confusing, please request clarification directly from counsel for Fleming-Mason Energy Cooperative, Inc., (“Fleming-Mason”).

7. For purpose of these discovery requests, the following terms shall have meanings set forth below:

- (a) As used herein, “document,” “documentation” and/or “record,” whether stated as the singular or the plural, means any course of binders, book, pamphlet, periodical, letter, correspondence, memoranda, including but not limited to, any memorandum or report of a meeting or telephone or other conversation, invoice, account, credit memo, debit memo, financial statement, general ledger, ledger, journal, work papers, account work papers, report, diary, telegram, record, contract, agreement, study, draft,

telex, handwritten or other note, sketch, picture, photograph, plan, chart, paper, graph, index, tape, data processing card, data processing disc, data cells or sheet, check acceptance draft, e-mail, studies, analyses, contracts, estimates, summaries, statistical statements, analytical records, reports and/or summaries of investigations, opinions or reports of consultants, opinions or reports of accountants, trade letters, comparisons, brochures, pamphlets, circulars, bulletins, notices, forecasts, electronic communication, printouts, all other data compilations from which information can be obtained (translated if necessary by defendants into usable form), any preliminary versions, drafts or revisions of any of the foregoing, and/or any other written, recorded, transcribed, punched, taped, filmed or graphic matter, however produced or reproduced and regardless of origin or location, in the possession, custody and/or control of the defendant and/or their agents, accountants, employees, representatives and/or attorneys. "Document" and "record" also mean all copies of documents by whatever means made, if the copy bears any other markings or notations not found on the original.

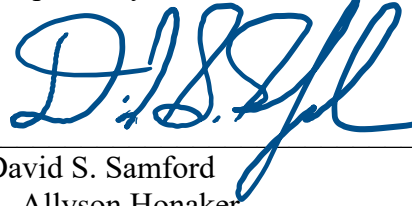
- (b) The terms "relating to," "referring to," "referred to," "pertaining to," "pertained to" and "relates to" means referring to, reporting, embodying, establishing, evidencing, comprising, connected with, commenting on, responding to, showing, describing, analyzing, reflecting, presenting and/or constituting and/or in any way involving.

- (c) The terms “and,” “or,” and “and/or” within the meaning of this document shall include each other and shall be both inclusive and disjunctive and shall be construed to require production of all documents, as above-described, in the broadest possible fashion and manner.
- (d) Unless otherwise noted, the terms “AppHarvest” and “Company” shall mean AppHarvest Morehead Farm LLC, and shall include, but is not limited to, each and every parent, affiliate, subsidiary, agent, employee, servant, advisor, consultant, insurer and/or attorney of AppHarvest Morehead Farm LLC. The term “you” shall be deemed to refer to AppHarvest and the Company.
- (e) The term “Commission” shall mean the Kentucky Public Service Commission.
- (f) To “identify” shall mean:
  - (1) With respect to a document, to state its date, its author, its type (for example, letter, memorandum, chart, photograph, sound reproduction, etc.), its subject matter, its present location, and the name of its present custodian. The document may be produced in lieu of supplying the foregoing information. For each document which contains information as privileged or otherwise excludable from discovery, there shall be included a statement as to the basis for such claim of privilege or other grounds for exclusion.

- (2) With regard to a natural person, to state his or her full name, last known employer or business affiliation, title and last known home address.
  - (3) With regard to a person other than a natural person, state the title of that person, any trade name, or corporate name or partnership name used by that person, and the principal business address of that person.
- (g) To “produce” or to “identify and produce,” shall mean that Company shall produce each document or other requested tangible thing. For each tangible thing which Company contends is privileged or otherwise excludable from discovery, there shall be included a statement as to the basis for such claim of privilege or other grounds for exclusion.
- (h) The terms “Party or Parties” shall mean any organization, person, corporation, entity, etc., which intervened in the above-captioned proceeding and shall further include the Commission Staff.
- (i) “Incentive” means any:
- (1) tax credit, rebate, discount or deferral;
  - (2) waived fees or charges;
  - (3) contribution to aid in construction;
  - (4) payment by cash, wire or other means;
  - (5) deferred or waived liability or obligation; or
  - (6) other type of financial consideration, assistance or subsidy.

8. The information requested herein is due back to Fleming-Mason no later than July 23, 2021.

Respectfully submitted,



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*Counsel for Fleming-Mason Energy  
Cooperative, Inc.*

1. For AppHarvest Morehead, please provide its:
  - a. NAICS classification(s); and
  - b. SIC classification(s).
2. Please provide copies of any prospectus, 10-Ks or 10-Qs that have been filed by AppHarvest, Inc. with the U.S. Securities and Exchange Commission for the calendar years 2018, 2019, 2020 and 2021.
3. Please refer to page 3, lines 50-54 of the Direct Testimony of Sudeen G. Kelly (“Kelly Testimony”).
  - a. Confirm that the quoted language is dicta in an Order in which the Commission denied the applicant’s proposed tariff change to reclassify multi-family master metered residential service customers for tax purposes.
  - b. Please provide any other authority of which the witness is aware that supports the quoted statement.
4. Please confirm that an Industrial Power Agreement with Interruptible Service and Economic Development Rider between AppHarvest Morehead, Fleming-Mason and EKPC (“AppHarvest IPA”) was entered into on April 18, 2019.
5. Please refer to page 3, lines 58-64 of the Kelly Testimony.
  - a. Please explain in detail how the characteristics of Fleming-Mason’s Tariff LIS-6B have changed since AppHarvest became a member.
  - b. Please confirm that AppHarvest agreed in the AppHarvest IPA to take service under Tariff LIS-6B.
  - c. Please confirm that AppHarvest could have instead agreed to take service under one or more different tariffs offered by Fleming-Mason.

- d. Was AppHarvest aware at the time of its site selection that its facility would not qualify for the then-current Economic Development Rider?
  - e. Please confirm that – at AppHarvest Morehead’s request – the AppHarvest IPA includes two contract demand amounts to reflect the seasonal nature of AppHarvest Morehead’s load.
  - f. Please identify those individuals who advised AppHarvest Morehead on its negotiations of the AppHarvest IPA.
6. Confirm that the addition of the AppHarvest load to the Fleming-Mason system has incrementally increased Fleming-Mason’s costs.
7. Confirm that the addition of the AppHarvest load to the Fleming-Mason system has incrementally increased EKPC’s costs.
8. Please refer to Exhibit SGK-1, pages 4-5 of the Kelly Testimony. Has Ms. Kelly filed written testimony with the Kentucky Public Service Commission prior to the instant case? If so, please provide the docket number(s).
9. Refer to page 5, lines 87-94 of the Kelly Testimony.
  - a. Is it AppHarvest’s position that no customer that begins taking service following the end of a test year should have its rates increased as the result of a rate case using the test year?
  - b. If the answer to a. above is anything other than “yes”, explain in detail why it should be treated differently from other customers who became customers of Fleming-Mason following the expiration of the test year.
10. Confirm that your request to be exempt from the effect of EKPC’s proposed rate increase in Case No. 2021-00103 would increase the rates above those proposed by Fleming-Mason



in its application for other Fleming-Mason customers.

11. Please refer to page 5, lines 100-101 of the Kelly Testimony.
  - a. Please confirm that the AppHarvest IPA was entered into on April 18, 2019 – over eight months before the expiration of the test year in EKPC’s rate case (Case No. 2021-00103).
  - b. Please confirm that the AppHarvest IPA was accepted and approved by the Commission on July 1, 2019 – six months prior to the expiration of the test year in EKPC’s rate case (Case No. 2021-00103).
12. Please confirm that, after one year, the IPA allows AppHarvest Morehead to change to any existing tariff of Fleming-Mason that is consistent with the IPA and for which AppHarvest Morehead qualified.
13. Please confirm that the IPA expressly states that AppHarvest Morehead agrees to pay for power under Fleming-Mason tariff LIS-6B “as approved by the Commission, and as modified from time to time by appropriate authority....”
14. Please provide a schedule showing the date, time, duration and purpose of each occasion AppHarvest Morehead has utilized its backup generator.
15. Please identify the form and amount of any performance assurance or similar financial instrument by which Fleming-Mason or EKPC may recoup demand charge discounts provided under the economic development portion of the IPA in the event that AppHarvest Morehead fails to take service as required for the full period of the IPA.
16. Please identify any other consumers of whom you are aware that would be eligible to take service under your proposed Agricultural Technology (“AgTech”) tariff.
17. Please refer to page 7-8, lines 146-153 of the Kelly Testimony.

- a. Please explain in detail why the testimony is not definitive as to whether AppHarvest's daily load will be off-peak.
  - b. Please confirm that the relative amount of sunshine in a given year will be a factor in determining whether AppHarvest's demand varies from one year to the next.
  - c. Please identify all the "particular crops" AppHarvest has discussed growing now or in the future and how those particular crops will affect load.
  - d. Please explain in detail why the testimony is not definitive as to whether the enumerated factors are unique and instead describes them as "potentially-unique."
  - e. Please identify what load factor would be necessary to qualify for the proposed AgTech tariff.
  - f. Please identify what minimum demand and maximum would be necessary to qualify for the proposed AgTech tariff.
  - g. Please explain in detail why the testimony is not definitive as to whether the demand of customers in AppHarvest's proposed AgTech class is "high" and is instead referred to as being "generally high."
18. Please refer to page 8, lines 155-159 of the Kelly Testimony. Please describe how the following cited factors provide economic development benefits to the region, including job growth:
- a. Use of advanced LEDs.
  - b. Use of rainwater recycling irrigation systems.
  - c. Use of robotic harvesting.
  - d. Use of artificial intelligence.
19. Please refer to pages 8-9, line 169-170 of the Kelly Testimony. Please list the benefits that

the Commission seeks to encourage via EDRs.

20. Please refer to page 9, lines 173-179 of the Kelly Testimony.
  - a. Please identify the specific Pacific Gas & Electric agricultural tariff(s) that AppHarvest Morehead would currently qualify for if it was a customer of Pacific Gas & Electric.
  - b. Please confirm that the referenced Southern California Edison Agriculture and Pumping tariff is not available for a customer with more than 500 kW of demand.
  - c. Please confirm that the referenced San Diego Gas & Electric Company tariff is only available to customers whose monthly maximum demand does not exceed 20kW for more than three months during a twelve-month period.
  - d. Please confirm that that the referenced Public Service Company of New Mexico tariff is only available for irrigation pumping installations of not less than 5 HP and where service is used to irrigate three or more acres of land used (principally for agricultural purposes).