

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF FLEMING-)	
MASON ENERGY COOPERATIVE, INC. FOR)	CASE NO.
PASS-THROUGH OF EAST KENTUCKY)	2021-00109
POWER COOPERATIVE, INC. WHOLESALE)	
RATE ADJUSTMENT)	

REBUTTAL TESTIMONY

OF

JOHN WOLFRAM
PRINCIPAL OF CATALYST CONSULTING, LLC

ON BEHALF OF

FLEMING-MASON ENERGY COOPERATIVE, INC.

FILED: July 27, 2021

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) Case No. 2021-00109
KENTUCKY POWER COOPERATIVE, INC.'S)
WHOLESALE RATE ADJUSTMENT)

VERIFICATION OF JOHN WOLFRAM


COMMONWEALTH OF KENTUCKY)
)
COUNTY OF JEFFERSON)

John Wolfram, being duly sworn, states that he has supervised the preparation of his Rebuttal Testimony in the above-referenced case and that the matters and things set forth therein are true and accurate to the best of his knowledge, information and belief, formed after reasonable inquiry.



John Wolfram

The foregoing Verification was signed, acknowledged and sworn to before me this 26th day of July 2021, by John Wolfram.



Notary Commission No. KYNP10362
Commission expiration: 7/23/24

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**REBUTTAL TESTIMONY
OF
JOHN WOLFRAM**

5 **I. INTRODUCTION**

6 **Q. Please state your name, business address and occupation.**

7 A. My name is John Wolfram. I am the Principal of Catalyst Consulting LLC. My business
8 address is 3308 Haddon Road, Louisville, Kentucky 40241.

9 **Q. On whose behalf are you testifying?**

10 A. I am testifying on behalf of Fleming-Mason Energy Cooperative, Inc. (“Fleming-Mason”).

11 **Q. Are you the same John Wolfram that provided direct testimony in this proceeding?**

12 A. Yes.

13

14 **II. PURPOSE OF TESTIMONY**

15 **Q. What is the purpose of your rebuttal testimony in this proceeding?**

16 A. The purpose of my testimony is to respond to testimony submitted by Ms. Suedeem G.
17 Kelly, witness for AppHarvest Morehead Farm LLC (“AppHarvest”). Specifically, I will
18 explain why the Commission should not accept the recommendations of Ms. Kelly to
19 exempt AppHarvest from the proportional allocation of the revenue increase in this case,
20 to create a special rate class for AppHarvest, or to develop a new Economic Development
21 Rider tailored for AppHarvest. I also emphasize Ms. Kelly’s agreement with me that the
22 *Kenergy Order*¹ does not specify how to address variations in rate class composition
23 between the last rate order and the current test year, and recommend that the method

¹ See *In the Matter of: Electronic Application of Kenergy Corp. for a Declaratory Order*, Order, Case No. 2020-00095 (Ky. P.S.C. March 11, 2021).

1 proposed by Fleming-Mason in this case to rely upon test year data in lieu of last rate order
2 data for proportionally allocating revenues to the rate classes will result in reasonable rates
3 for Fleming-Mason’s large industrial customers consistent with the pass-through rate
4 regulation. Doing otherwise and relying on the last rate order for those calculations will
5 produce changes in the rate design currently in effect for virtually all of Fleming-Mason’s
6 Large Industrial Service (“LIS”) rate classes, which is inconsistent with the pass-through
7 rate regulation.

8

9 **III. RATE DESIGN IN PASS-THROUGH RATE CASES**

10 **Q. Ms. Kelly asserts on page 5 of her testimony that AppHarvest should not pay a**
11 **“proportional” share of EKPC’s pass-through increase in its revenue requirement.**
12 **Do you agree?**

13 A. No. First, KRS 278.455(2) clearly states that “any revenue increase authorized by the
14 Commission ...that is to flow through the effects of an increase or decrease in wholesale
15 rates may, at the distribution cooperative’s discretion, be allocated to each rate class and
16 within each tariff on a proportional basis that will result in no change in the rate design
17 currently in effect.” The purpose of the instant case is to flow through the effects of an
18 increase in wholesale rates. AppHarvest takes service from Fleming-Mason pursuant to an
19 approved retail tariff. In this docket, Fleming-Mason proposed an allocation of the EKPC
20 increase on a proportional basis and in a manner that results in no change in the rate design
21 currently in effect. I am not an attorney, but my understanding from counsel is that
22 AppHarvest is not exempt from the proportionality requirements of this statute.

1 Second, in its Order in Case No. 2006-00473, the Commission stated that the statute
2 and the administrative regulation “are quite clear that the allocation of the wholesale rate
3 increase must not change the retail rate design currently in effect and that the wholesale
4 rate increase must be allocated to each retail class and within each retail tariff on a
5 proportional basis” and that they “require the distribution cooperative to follow a ‘strict
6 adherence’ to the existing proportion of revenues at retail, by rate mechanism
7 component.”² Fleming-Mason does not have the discretion to forego the proportional
8 allocation of the increase to AppHarvest without violating the “strict adherence”
9 requirement set forth in that Order.

10 Third, Ms. Kelly appears to be promoting a change in the retail rate design
11 applicable to AppHarvest, but the instant case is a pass-through case pursuant to KRS
12 278.455(2), not a full rate case. In the *Kenergy* Order, the Commission found that “if the
13 G&T rate increase distorts the total revenue received by the Member System as compared
14 to revenue prior to the rate increase, the Member System may seek to adjust their rate
15 design through a rate case.” Such changes are not permitted in a pass-through rate filing.

16 For these reasons, AppHarvest should bear a proportional share of EKPC’s pass-
17 through increase in Fleming-Mason’s revenue requirement.

18 **Q. Ms. Kelly asserts on page 5 of her testimony that AppHarvest is already contributing**
19 **to the desired revenue requirement increase, and that raising AppHarvest’s rates will**
20 **result in an over-collection of the desired annual revenue. Do you agree?**

² *In the Matter of: Application of Big Sandy Rural Electric Cooperative Corporation to Pass-Through An Increase Of Its Wholesale Power Supplier Pursuant to KRS 278.455(2)*, Case No. 2006-00472, Order dated April 1, 2007, at 3-4.

1 A. No. It is correct that AppHarvest did not contribute revenues to Fleming-Mason during
2 the 2019 test period. However, Fleming-Mason did not incur wholesale purchased power
3 costs associated with serving AppHarvest in 2019 either. Thus, the share of EKPC's
4 revenue requirement allocated to Fleming-Mason excludes any costs for serving
5 AppHarvest in the same way that the revenue used in determining Fleming-Mason's retail
6 rates excludes revenue from AppHarvest. The rates currently paid by AppHarvest are
7 based on the current cost of wholesale power to Fleming-Mason, not the proposed increase
8 in wholesale power costs. For some unknown reason, AppHarvest does not acknowledge
9 this obvious fact.³ AppHarvest cannot only look at one side of the equation. Any increased
10 revenue attributable to AppHarvest following the test year should be largely offset by
11 Fleming-Mason's increased expenses over the same period.

12 **Q. Does Ms. Kelly acknowledge the Commission's intent to (a) define proportional in**
13 **such a manner that when a G&T increases its rates, the result avoids undoing any**
14 **past rate design and (b) avoid distorting the current rate design while maintaining**
15 **the spirit of the pass-through regulation?**

16 A. Yes. On page 6 of her testimony, Ms. Kelly cites this language from the *Kenergy* Order.
17 But she later proposes that the Commission should revise the rate design for AppHarvest,
18 which contradicts this intent, as I discuss later in my testimony. The irony inherent in her
19 testimony is that it doesn't really matter whether the Commission uses the traditional
20 understanding of "proportional" or the *Kenergy* method, the result is the same – some
21 portion of any higher rates from EKPC must be allocated to AppHarvest.

³ See AppHarvest Response to Fleming Mason's First Information, Request No. 6, Case No. 2021-00109 (July 23, 2021).

1 **Q. Ms. Kelly then asserts on page 7 that the Commission should direct Fleming-Mason**
2 **to develop a new customer class for AppHarvest. Should the Commission adopt this**
3 **recommendation?**

4 A. No. A new retail rate class for AppHarvest is not required, nor should that be undertaken
5 now, as doing so is outside the scope of a pass-through rate filing.

6 **Q. Ms. Kelly also recommends on page 8 that AppHarvest should receive an appropriate**
7 **EDR since it does not qualify for the EDR set forth in the currently-approved tariff.**
8 **Should the Commission adopt this recommendation?**

9 A. No. A new EDR would undo the past rate design and distort the current rate design, which
10 violates the spirit of the pass-through regulation cited by Ms. Kelly on page 6 of her
11 testimony.

12 **Q. Are the rate design issues raised by AppHarvest appropriate for consideration by the**
13 **Commission in this pass-through rate filing?**

14 A. No. AppHarvest willingly entered into its current service agreements, taking service under
15 Fleming-Mason's retail tariffs – standard rate schedules and riders – as they existed at the
16 time AppHarvest became a customer in 2020. This was just last year. If changes to
17 Fleming-Mason's rate classes and the EDR were necessary, AppHarvest should have raised
18 those concerns during site selection and subsequent negotiations with EKPC and Fleming-
19 Mason prior to taking service under those rates in 2020. A pass-through rate proceeding
20 is clearly not the forum for such a renegotiation of the contract. While Ms. Kelly describes
21 the operating characteristics of AppHarvest that she considers unique, she offers no
22 evidence that the rates paid by AppHarvest are unreasonable and should be revised. That
23 point notwithstanding, rate changes of the magnitude suggested by Ms. Kelly undo the past

1 rate design and distort the current rate design, and thus are not appropriate for a pass-
2 through rate filing.

3 **Q. On page 6 of her testimony, Ms. Kelly cites your direct testimony regarding how the**
4 ***Kenergy Order* “does not specify how to address this kind of variance” between the**
5 **list of rate classes with active members from the last rate order and the present test**
6 **year. Is this important for the proper allocation of the revenue increase to the rate**
7 **classes under which Fleming-Mason’s large industrial customers like AppHarvest**
8 **take service?**

9 A. Yes. In my direct testimony I noted this point because relying on the last rate order to
10 allocate the class revenue to the individual billing components instead of relying on test
11 year data was problematic. I explained some of these anomalies in response to discovery
12 from Commission Staff.⁴ As the data provided in response to Staff discovery for Fleming-
13 Mason (and most of EKPC’s other members) shows, applying the last rate order component
14 percentages often yielded rates that would result in a significant change to the rate design
15 currently in effect. This appears to run afoul of the proportionality standard in KRS
16 278.455(2) and would result in a rate design change. It could also violate the ratemaking
17 principle of gradualism. For this reason, Fleming-Mason elected to use the present test
18 year allocations in full, rather than the last rate order data (or a combination of the two), to
19 develop proposed rates. Fleming-Mason recommends that the Commission permit that
20 here. Relying on the data from the last rate order would only exacerbate the issues raised
21 by AppHarvest and would ultimately result in unreasonable rates for virtually all of

⁴ See Fleming-Mason Response to Commission Staff’s First Request For Information Dated 5/12/21, filed 5/26/221, Item 2.

1 Fleming-Mason's Large Industrial Service rate classes, as demonstrated in the data
2 provided in response to Staff's First Data Request Item 4. Ms. Kelly's reference to the
3 *Kenergy* Order's ambiguity in essence agrees with my point – relying upon it leads to
4 anomalous results. That does not mean, however, that the traditional test year approach is
5 also anomalous. In fact, the traditional approach yields a reliable and fairly predictable
6 outcome that appears to be consistent with both the spirit and letter of the statute and
7 Commission precedent.

8

9 **IV. CONCLUSION**

10 **Q. What is your recommendation to the Commission in this case?**

11 A. In this docket, the proposed increase to Fleming-Mason from EKPC is allocated to each
12 retail class and within each retail tariff on a proportional basis, and results in no change in
13 the retail rate design currently in effect. The proposed rates are fair, just, and reasonable,
14 and are also consistent with KRS 278.455 and prior Commission precedent, specifically
15 Case Nos. 2010-00167 and 2008-00409. The proposed rates should be approved without
16 the revisions recommended by AppHarvest.

17 **Q. Does this conclude your testimony?**

18 A. Yes, it does.