

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.
KENTUCKY POWER COOPERATIVE, INC.)	2021-00109
WHOLESALE RATE ADJUSTMENT)	
)	
)	

**APPHARVEST MOREHEAD FARM, LLC'S RESPONSES TO FLEMING MASON'S
REQUESTS FOR INFORMATION NOS. 1-20**

REQUEST NO. 1:

1. For AppHarvest Morehead, please provide its:
 - a. NAICS classification(s); and
 - b. SIC classification(s).

RESPONSE TO REQUEST NO. 1:

- a. **111000 Crop production (including greenhouse and floriculture)**
- b. **0100 Agricultural Production – Crops**

Witness: Jackie Roberts

REQUEST NO. 2:

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.

RESPONSE TO REQUEST NO. 2:

AppHarvest objects to this Data Request as seeking publicly available information that is equally accessible to EKPC. Subject to and without waiver of the foregoing, AppHarvest responds that these documents can be accessed through the U.S. Securities and Exchange Commission's website, <https://www.sec.gov/edgar/searchedgar/companysearch.html>

Witness: Jackie Roberts

REQUEST NO. 3:

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.

RESPONSE TO REQUEST NO. 3:

- a. **Deny: in the quoted KPSC Order, the Commission rejected a tariff proposal that sought to rename commercial customers to “residential” customers solely for tax purposes. The Commission concluded that, because the proposing utilities would continue to treat the at-issue customers as “commercial” for cost of service, revenue allocation, and demand-side management purposes, the utilities were not actually creating a residential classification for multi-family, master-metered customers. The Commission’s statement that customer classifications are used to determine class cost of service, rate adjustments in the absence of a cost-of-service study, and determining eligibility for demand-side management programs, was essential to its holding that reclassifying customers for tax purposes did not fall within the scope of a utility’s discretion to determine customer classifications.**
- b. **The Commission has noted in other orders that customer classifications —and cost of service studies, if they are submitted — are the basis for determining cost allocation. See, e.g., *In the Matter of: An Investigation of Nat. Gas Retail Competition Programs*, No. 2010-00146, 2010 WL 1638238 (Apr. 19, 2010) (“As cost-of-service studies are used in determining cost allocations across all customer classes, they cannot be separated from a rate case.”); *Re Union Light, Heat, & Power Co.*, 146 P.U.R.4th 81 (July 23, 1993) (noting that “[a] cost-of-service study is intended to allocate costs among various customer classes as accurately as possible,” and “customer class responsibility for utility costs may change over time.”).**

Witness: Sudeen G. Kelly

REQUEST NO. 4:

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.

RESPONSE TO REQUEST NO. 4:

Confirm.

Witness: Suedeem G. Kelly

REQUEST NO. 5:

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.

RESPONSE TO REQUEST NO. 5:

- a. **Fleming-Mason's Tariff LIS-6B has not changed since AppHarvest became a member. This is precisely the challenge: AppHarvest was placed in an existing customer class, when a new customer class (such as an AgTech class) is more suitable and reasonable.**
- b. **Confirm.**
- c. **Confirm: AppHarvest could have agreed to take service an another existing customer class, regardless of whether any class was a suitable and reasonable reflection of the costs AppHarvest causes or revenues they yield.**
- d. **No.**
- e. **Confirm.**
- f. **AppHarvest objects to this Data Request as irrelevant to Ms. Kelly's testimony.**

Witness: Suedeem G. Kelly (5(a), (b), (c)), Jackie Roberts (5(d), (e))

REQUEST NO. 6:

6. Confirm that the addition of the AppHarvest load to the Fleming-Mason system has incrementally increased Fleming-Mason's costs.

RESPONSE TO REQUEST NO. 6:

AppHarvest objects to this request as seeking information that is available to Fleming Mason, and in fact, is not available to AppHarvest.

REQUEST NO. 7:

7. Confirm that the addition of the AppHarvest load to the Fleming-Mason system has incrementally increased EKPC's costs.

RESPONSE TO REQUEST NO. 7:

AppHarvest objects to this request as seeking information that is available to Fleming Mason, and in fact, is not available to AppHarvest.

REQUEST NO. 8:

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).

RESPONSE TO REQUEST NO. 8:

No, Ms. Kelly has not filed written testimony with the Kentucky Public Service Commission prior to the instant case.

Witness: Sudeen G. Kelly

REQUEST NO. 9:

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.

RESPONSE TO REQUEST NO. 9:

- a. No.
- b. **AppHarvest's position is that the rates associated with its customer class — which was vacant during the test year — should not be increased because there was no customer in the customer class during the test year, and the customer class did not contribute any revenue to Fleming Mason during the test year.**

Witness: Suedeen G. Kelly

REQUEST NO. 10:

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.

RESPONSE TO REQUEST NO. 10:

Deny: as noted in Ms. Kelly's direct testimony, by becoming a new customer in 2020, AppHarvest began contributing to the \$43 million annual revenue increase sought by EKPC in Case No. 2021-00103. If the Commission were to increase AppHarvest's 2020–2021 rates as requested by Fleming Mason, AppHarvest's increased payments to Fleming Mason will result in collection of more than \$43 million. Thus, the rate increase proposed for AppHarvest should not be re-allocated to any other customer.

Witness: Sudeen G. Kelly

REQUEST NO. 11:

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).

RESPONSE TO REQUEST NO. 11:

- a. **Confirm: see response to Request No. 4. However, AppHarvest Morehead Farm did not begin taking power until after the end of the test year in EKPC’s rate case.**
- b. **Confirm. However, AppHarvest Morehead Farm did not begin taking power until after the end of the test year in EKPC’s rate case.**

Witness: Sudeen G. Kelly

REQUEST NO. 12:

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.

RESPONSE TO REQUEST NO. 12:

Confirm.

Witness: Suedeem G. Kelly

REQUEST NO. 13:

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...”

RESPONSE TO REQUEST NO. 13:

The Industrial Power Agreement (IPA) states that AppHarvest Morehead agrees to pay for power under Fleming-Mason tariff LIS-6B “as approved by the Commission, and as modified, replaced, or adjusted from time to time and approved the Commission.” See IPA at 2.

Witness: Sudeen G. Kelly

REQUEST NO. 14:

14. Please provide a schedule showing the date, time, duration and purpose of each occasion AppHarvest Morehead has utilized its backup generator.

RESPONSE TO REQUEST NO. 14:

AppHarvest has only used its backup generator on one scheduled shutdown, to verify that the generator worked, and also during our weekly startup to test the backup generator according to manufacturer specifications. But, no load is put on the generator during those weekly tests. AppHarvest has not had to switch over to generator power due to loss of utility power.

Witness: Jackie Roberts

REQUEST NO. 15:

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.

RESPONSE TO REQUEST NO. 15:

The IPA does not appear to include terms defining 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. AppHarvest is aware that the IPA Section 5(f) requires that, if AppHarvest ceases operations at Morehead Farm or otherwise stops taking service at Morehead Farm, AppHarvest shall reimburse a portion of the EDR credits to EKPC and Fleming Mason.

Witness: Jackie Roberts

REQUEST NO. 16:

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.

RESPONSE TO REQUEST NO. 16:

Ms. Kelly is not sufficiently-familiar with all Fleming Mason customers to identify those that may qualify as Agricultural Technology customers and therefore may qualify for an AgTech tariff. However, one purpose of such a tariff — particularly one that features an EDR — is to attract economic opportunities, such as those provided by agricultural technology companies, to the state and region.

Witness: **Sudeen G. Kelly**

REQUEST NO. 17:

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."

RESPONSE TO REQUEST NO. 17:

- a. **With limited load data, it is not yet clear when AppHarvest's daily load will be off-peak or on-peak. As Ms. Kelly noted in her direct testimony, AppHarvest's daily load *can* be off-peak, such as on weekends (Kelly Dir. at 7:146-47).**
- b. **To the extent that the relative amount of sunshine reaching crops in AppHarvest's facilities varies from year-to-year, yes, solar irradiance is one of multiple factors relevant to determining how AppHarvest's demand varies from one year to the next.**
- c. **AppHarvest has considered and discussed growing tomatoes (primarily beefsteak and TOVs), leafy greens, strawberries, and cucumbers. AppHarvest is in the early phases of selecting products and focusing on construction, and therefore does not yet have estimates of load and the load impacts of particular crops. While AppHarvest does expect that load will vary by product, load will also be affected by the adoption of new technologies.**
- d. **Other AgTech customers may develop in the region, and if they do, they too may be eligible for an AgTech tariff. As such, AppHarvest may not always be the only customer in this customer class.**
- e. **Ms. Kelly did not testify that a particular load factor would be necessary to qualify for the proposed AgTech tariff.**
- f. **Ms. Kelly did not testify that a particular minimum or maximum demand would be necessary to qualify for the proposed AgTech tariff.**

- g. Ms. Kelly was referring to the fact that demand is not high across all months of the year.**

***Witnesses:* Suedeem G. Kelly (17(a), (b), (d), (e), (f), (g)), Jackie Roberts (17(c))**

REQUEST NO. 18:

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.

RESPONSE TO REQUEST NO. 18:

- a. **Ms. Kelly testified that AppHarvest delivers economic development benefits to the region, including job growth and opportunities to pilot and demonstrate cutting-edge agricultural technologies. Use of advanced LEDs, rainwater recycling irrigation systems, robotic harvesting, and artificial intelligence to monitor crop health and yield are cutting-edge agricultural technologies. AppHarvest is attracting investment to the region as it demonstrates these technologies and scales-up their use at its facilities. AppHarvest is also training members of the labor force and educating students in the region on the use of these technologies in agriculture.**
- b. **See response to a.**
- c. **See response to a.**
- d. **See response to a.**

Witness: **Sudeen G. Kelly**

REQUEST NO. 19:

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

RESPONSE TO REQUEST NO. 19:

Principal amongst the benefits the Commission seeks to encourage via EDRs is an increase in economic activity in the region, including creation of new jobs and the encouragement of capital investment in new and/or expanded enterprises.

Witness: **Sudeen G. Kelly**

REQUEST NO. 20:

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).

RESPONSE TO REQUEST NO. 20:

- a. **Ms. Kelly did not testify that AppHarvest Morehead would qualify for a specific Pacific Gas & Electric agricultural tariff.**
- b. **Confirm.**
- c. **Confirm.**
- d. **Confirm.**

Witness: Suede G. Kelly