

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

**APPHARVEST MOREHEAD FARM, LLC'S
BRIEF IN OPPOSITION TO PROPOSED RATE INCREASE**

Comes AppHarvest Morehead Farm, LLC (“AppHarvest”), by counsel, and for its Brief in opposition to Fleming-Mason Energy Cooperative, Inc.’s (“Fleming-Mason”) Application to pass-through East Kentucky Power Cooperative, Inc.’s (“EKPC”) wholesale rate adjustment (the “Pass Through Application” or “Application”) states as follows:

INTRODUCTION

KRS 278.030(1) requires that a utility may “demand, collect and receive fair, just and reasonable rates.” Fleming-Mason employed the pass-through mechanism authorized by KRS 278.455 as the basis in this Application for its Application to increase rates. Because of the unique circumstances related to the COVID-19 pandemic, AppHarvest’s interconnection, and the timing of this Application request, the proposed rates are not fair, just and reasonable.

ARGUMENT

The unique circumstances of the Application herein and that of EKPC’s application in Case No. 2021-00103 include the following: (1) the COVID-19 pandemic caused EKPC and Fleming-

Mason to choose a test year that preceded the pandemic, i.e., the calendar year 2019;¹ (2) AppHarvest was not a customer of Fleming-Mason during the selected test year; (3) the Class LIS-6B (AppHarvest's Class) was vacant as there were no customers; and (4) use of KRS 278.455 pass-through mechanism.

PROBLEM

The selection of the calendar year was unusual in that the filing of this case in February 2021 occurred nearly two years from the beginning of the test year and over one year from the end. This delay, allegedly justified by the pandemic, nonetheless increased the chances of relying on stale information. And that is precisely what happened. AppHarvest, one of Fleming-Mason's largest consumers of electricity, was not a customer during the test year and its assigned class had no customers during the test year. Thus, as clearly pointed out in Suede Kelly's direct testimony, AppHarvest was already contributing to the rate increase that Fleming-Mason seeks to recover.

FLEMING-MASON'S ERRONEOUS PROPOSED SOLUTION

Because there were no customers in AppHarvest's rate class (LIS-6B) during the test year, Fleming-Mason cobbled together the elements from two different classes (LIS-7 and LIS-4B) to construct the rate for AppHarvest for purposes of this case. Thus, it relied on the historical test-year mechanism to construct a future known and measurable rate for AppHarvest, but it did not likewise credit the revenue Fleming-Mason received from AppHarvest to reflect that known and measurable adjustment. This is clearly reflected in the exhibit prepared by John Wolfram to allocate the adjusted increase (See page 1, exhibit 3 to Notice of Filing on July 30, 2021).² Lines 1-11 on this Exhibit list the revenue assigned to the eleven classes. That total is \$1,776,764, which

¹ See Response 2 to AppHarvest's Initial Request for Information to EKPC in Case No. 2021-00103 filed on May 28, 2021.

² Special contract and steam are handled differently and separately. See page 1, exhibit 3 to Notice of Filing on July 30, 2021.

is the number at the top of the page assigned to Fleming-Mason by EKPC, but does not include the increase applying to LIS-6B which is the class that AppHarvest takes under. Thus, the Excel spreadsheet shows that none of the revenue is coming from AppHarvest or LIS-6B.

PROPER SOLUTIONS

Fleming-Mason could have rectified these problems through a variety of solutions. First, because there were significant changes due to the addition of AppHarvest, a large industrial customer, a cost-of-service study could have been employed. However, such a study was not performed as Fleming-Mason instead relied on KRS 278.455. In his rebuttal testimony Mr. Wolfram complains that AppHarvest is causing expenses to be incurred by Fleming-Mason and those are not being considered. The flaw in his argument is that this is not a general rate case, because Fleming-Mason chose this to be a pass-through case. It thus cannot now complain about those expenses.

But, there are two possible solutions to allow the general framework of this pass-through case to survive. First, the revenues which AppHarvest has contributed should reduce the figure from page 1 of the Excel spreadsheet by the revenues Fleming-Mason received.³ This net allocation⁴ should then be used to recalculate the rates for all parties including AppHarvest, so that Fleming-Mason does not overearn. Alternatively, since that revenue is from AppHarvest then that revenue should be netted to AppHarvest alone and, therefore, it should have no increase in rates.

Our proposal does not treat AppHarvest like other customers with load data. Unlike other customers, AppHarvest has no load data for the test year unlike other customers and, therefore, should be treated differently.

³ revenues received by AppHarvest per Staff DR2-1 filed June 23, 2021; ⁴ which is the net allocation.

CONCLUSION

Because of the unusual circumstances of this matter resulting from choices Fleming-Mason made, AppHarvest, and by extension class LIS-6B, should have no rate increase.

Respectfully submitted,

/s/ James W. Gardner

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