

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

*Electronic* APPLICATION OF EAST )  
KENTUCKY MIDSTREAM, LLC FOR )  
APPROVAL OF A PROPOSED TARIFF )  
UNDER 807 KAR 5:026, SECTION 9 )

Case No.  
2023-00112

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**East Kentucky Midstream’ s Request for Deviation  
and Exception from Filing Requirements**

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East Kentucky Midstream, LLC (“EKM”) files this request to obtain an exception from the Kentucky Public Service Commission (“PSC”) for certain filing requirements pursuant to KRS 278.485, 807 KAR 5:026 Section 10 and 807 KAR 5:001 Section 22. In support of its request, EKM submits as follows:

1. On this date, EKM filed an application for approval of its proposed farm tap tariff pursuant to 807 KAR 5:026 Section 9. A requirement of Section 9 is that if the proposed percentage increase in rates exceeds the percentage change in the price index but the proposed rate remains below the highest prevailing gas rate approved by the PSC, the gas company is to submit cost data which supports the increase. *See* 807 KAR 5:026 Section 9(1)(b). EKM has provided cost data information and a discussion of cost justification in Exhibit D.

2. 807 KAR 5:026 Section 9(1)(b) specifies that cost data is to include the gas company’s costs to provide the service during each of the previous two (2) years and shall be current within ninety (90) days of the date the proposed tariff is filed. EKM seeks a waiver for the specified requirement for two (2) years of costs current within ninety (90) days pursuant to 807 KAR 5:026 Section 10 (allowing requests for exceptions to requirements based on good

cause) and 807 KAR 5:001 Section 22 (allowing deviations from rules in special cases for good cause shown).

3. 807 KAR 5:026 Section 10(3) indicates that the PSC shall consider whether the evidence shows that complying with the relevant requirement would be impracticable or contrary to the public interest in determining whether good cause exists for granting a requested exception. Here, EKM believes that the evidence shows good cause supportive of the requested exception.

4. EKM acquired the former Jefferson Gas system in March 2021. *See* Application Exhibit A. Because EKM is not a utility, it is not required to keep records as a utility otherwise would under KRS ch. 278. Instead, EKM is dependent on bookkeepers to maintain records related to the costs and expenses of its business. Because the bookkeeper employed prior to 2022 kept records in a different fashion than the current bookkeeper, accessing accurate information prior to that time has been difficult (if not impossible) and has provided inconsistent or incomplete data related to the expenses of the business.

5. Application Exhibit D provides a subset of EKM's ordinary expenses for 2022, focused on non-gas-cost categories directly allocable to farm-tap service operations or allocable on a relatively straightforward basis. Through these calculations, EKM has been able to justify the proposed rates it seeks approval for in its filing of the proposed tariff, and therefore has provided appropriate notice and support to the farm tap customers affected by the proposed tariff filing.

6. KRS 278.485 requires that gas companies provide farm tap service at rates and charges determined by the PSC. In complying with this statute, EKM has gathered the best information it has to provide as full a picture as possible of its costs and expenses in providing

service to farm tap customers. EKM does not have existing records to comply with the subject regulatory requirement for the past two (2) years in serving farm tap customers. However, EKM does have pertinent data for 2022 which has allowed it to cost-justify the proposed rates in a tariff to continue providing farm tap service (provided in Application Exhibit B). Therefore, EKM believes that it has provided good cause to allow an exception to the two (2) year/ninety (90) day requirement specified in 807 KAR 5:026 Section 9(1)(b) as it seeks approval from the PSC for its proposed tariff filing.

WHEREFORE, Applicant East Kentucky Midstream, LLC respectfully requests that the PSC issue an order finding good cause shown and granting its request for an exception to the requirements of 807 KAR 5:026 Section 9(1)(b) as detailed above.

Respectfully submitted,

/s/ Kathryn A. Eckert

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