

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

ELECTRONIC APPLICATION OF)	
FLEMING-MASON ENERGY)	Case No. 2023-00223
COOPERATIVE, INC. FOR A GENERAL)	
ADJUSTMENT OF RATES)	

ATTORNEY GENERAL’S MEMORANDUM REPLY BRIEF

Comes now the Attorney General of the Commonwealth of Kentucky, by his Office of Rate Intervention (“Attorney General”), and submits the following Memorandum Reply Brief pursuant to the Commission’s Order of January 31, 2024 and in Reply to Fleming-Mason Energy Cooperative, Inc.’s (“Fleming-Mason” or the “Cooperative”) Memorandum Brief of February 8, 2023.

None of the arguments made by the Cooperative in its Initial Brief alter the positions taken by the Attorney General in his Initial Brief. In general, the support for those positions will not be reiterated here. However, certain arguments made by the Cooperative merit response. The Cooperative’s assertions regarding OTIER are overstated, and the Cooperative’s proposed overtime wage level is overstated. Further, the Commission should exercise caution in setting the fixed customer charge.

OTIER

The Attorney General and the Cooperative simply disagree on what constitutes a reasonable OTIER in this circumstance. The Cooperative requested an OTIER of 1.85 while the Expert Witness for the Attorney General suggested 1.5. Contrary to the

Cooperative's assertion, a 1.5 OTIER would not cause it "to operate on the razor's edge."¹ The OTIER level suggested by the Expert Witness for the Attorney General provides over \$500,000 of cushion for unforeseen expenses.² Additionally, the Cooperative has indicated it is reasonable to assume it will file rate cases more frequently.³ More frequent rate cases mitigate the potential impact of unforeseen expenses.

Overtime Wages

Fleming-Mason suggests that using a five-year average is the appropriate basis for setting overtime wage expense because "the test year actual amounts were unusually low."⁴ This is incorrect. Utilization of a five-year average for overtime hours has the effect of overstating overtime hours because it contains a single year, 2021, with aberrational, outlier results. In 2021, the Cooperative shows 9,886.5 overtime hours.⁵ This is over 22% higher than the next highest year in the five-year range, 2018, when there were 8,067 overtime hours. The Commission should not rely on a five-year average because a year of abnormally high overtime hours is included which has the effect of overstating overtime hours.

Customer Charge

Fleming-Mason's Brief correctly states that "several issues are uncontested by the AG."⁶ Fleming-Mason is correct that there were a number of issues on which the

¹ Fleming-Mason's Initial Brief at 13.

² Attorney General's Initial Brief at 5.

³ Fleming-Mason's Initial Brief at 10.

⁴ Fleming-Mason's Initial Brief at 11.

⁵ Fleming-Mason's Initial Brief at 11.

⁶ Fleming-Mason's Initial Brief at 7.

Attorney General agreed with the Cooperative in this case. But one of the issues mentioned as being an area of agreement is not. While it is true that the Expert Witness sponsored by the Attorney General did not provide treatment of the proposed increase in the basic customer charge from \$15.57 to \$19.50, the Expert Witness's silence should not be taken as agreement on that issue on the part of the Attorney General. As stated in his Initial Brief, the Attorney General requested that the Commission exercise caution in ruling on the proposed increase in customer charge.⁷ The Commission has always relied upon the principle of gradualism in ratemaking, which mitigates the financial impact of rate increases on customers.⁸ The Attorney General respectfully requests the Commission to continue to rely upon the principle of gradualism when awarding any increase to the residential monthly customer charge.

Therefore, as stated in his Initial Brief, the Attorney General believes that further reductions of the revenue requirement, in addition to those agreed to by the Company over the course of this proceeding, should be made to reflect (1) a more reasonable OTIER, (2) a reasonable level of wages, (3) a reasonable level of healthcare costs, and (4) a reasonable rate case amortization period. Further, the Commission should employ the principles of gradualism in consideration of increasing the monthly customer charge.

⁷ Attorney General's Initial Brief at 8.

⁸ Case No. 2014-00396, *In the Matter of Application of Kentucky Power Company for: (1) A General Adjustment of its Rates for Electric Service; (2) An Order Approving its 2014 Environmental Compliance Plan; (2) An Order Approving its Tariffs and Riders; and (4) An Order Granting All Other Required Approvals and Relief*, (Ky. PSC June 22, 2014) ("the Commission has long employed the principle of gradualism"); See also Case No. 2000-00080, *In the Matter of: The Application of Louisville Gas & Electric Company to Adjust its Gas Rates and to Increase its Charges for Disconnecting Service, Reconnecting Service and Returned Checks* (Ky. PSC Sept. 27, 2000) ("the Commission is adhering to the rate-making concepts of continuity and gradualism in order to lessen the impact of these increases on the customers that incur these charges.")

The Attorney General requests that the Commission enter an order reducing the revenue requirement accordingly.

Respectfully submitted,

RUSSELL COLEMAN
ATTORNEY GENERAL



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Certificate of Service and Filing

Pursuant to the Commission's Orders and in accord with all other applicable law, Counsel certifies that, on February 15, 2024, an electronic copy of the foregoing was served via the Commission's electronic filing system.

This 15th day of February, 2024.

A handwritten signature in blue ink, appearing to read "J. Michael New". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Assistant Attorney General