COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENERGY CORP.	**)**	**CASE No.**
FOR A GENERAL ADJUSTMENT OF RATES	**)**	**2023-00276**

KENERGY CORP.'S BRIEF

Applicant, Kenergy Corp. ("Kenergy"), submits the following brief.

FACTS

Kenergy filed its application for a general adjustment in rates on October 2, 2023. Shortly thereafter the Commission suspended the proposed rates until and including April 1, 2024. Both Kenergy and the Attorney General's Office of Rate Intervention have responded to data requests and filed testimony.

Kenergy's current rates were set June 24, 2021, in a streamlined case, being Case No. 2021-00066. Kenergy's last full rate case was in 2015 in Case No. 2015-00312.

Kenergy seeks approval for a rate increase of $4,876,566, or 3.2% (Application, p. 2). This increase would result in a TIER of 2.00X. Kenergy's proposed rate increase is based on a twelve (12) month historical test period ending February 28, 2023 (*Id*).. As part of the rate increase Kenergy proposes to increase its monthly residential customer charge from $18.20 to $21.95 (*Id. At p. 3*).

Kenergy relies upon two (2) expert witnesses: Blair Johanson (wage and benefit study) and John Wolfram (rates and rate structure). The Attorney General relies upon its rate and rate structure expert, Randy A. Futral, who has the opinion that Kenergy's revenue requirement is satisfied with an increase of no more than $3,188,109.

Mr. Futral's testimony starts with Kenergy's proposed revenue increase and subtracts amounts for:

(1) Certain right of way vegetation management expenses;

(2) Vegetation management expenses he contends are associated with the broadband project;

(3) A reduction in payroll expenses and overhead for vacant positions; and

(4) A reduction for credit card processing fees (Futral direct testimony, p. 2).

Because the issues are formed by the Futral challenges to the Kenergy proposed revenue requirement, the following argument demonstrates why Kenergy's proposed revenue requirement is correct and the Attorney General's is misplaced.

ARGUMENT

I. Kenergy's Vegetation Management Proposed Costs Are Correct

Kenergy has 5,466 miles of primary line that must be maintained [1]. Kenergy has on file with the Commission a Vegetation Management Plan requiring a trim cycle that does not exceed a six (6) year period (AG First Data Req. Response, Item 25[d]). The six year requirement is the upper limit, and should not be used to adjust the miles Kenergy normally trims in a year. Further, as acknowledged by the Attorney General, right of way costs have increased state wide and are not unique to Kenergy. Kenergy's right of way costs have increased $1.5 million and now amount to $5.8 million annually (Lindahl testimony, p. 9).

Mr. Futral also contends that Kenergy should only include 906 miles of right of way in the test year because that is the average for the last six (6) years.[2] However, this logic is

[1]Kenergy has 7,200 miles of primary and secondary line (Lindahl testimony, App. Ex. 8 at p. 7).
[2] He acknowledges that the nine (9) year average is 962.

flawed as well. As shown in Mr. Futral's testimony on page 8, Townsend left Kenergy's system in 2019 and only 782 miles were trimmed that year. Only 685 miles were trimmed the following year. As noted in Mr. Wolfram's rebuttal testimony on page 4, it would be more appropriate to average the nine (9) years prior to Townsend's departure, rather than averaging the six (6) years that include Townsend's departure. This results in an average of 1,107 miles of routine vegetation management per year.

Mr. Futral's opinion is based on faulty input. It ignores the fact that six (6) years is the maximum cycle and accepts as representative two (2) very anomalous years. His opinion should be rejected and Kenergy's proposed vegetation management cost should be accepted.

II. Broadband Vegetation Management Is a Red Herring

Kenergy is in the process of installing broadband fiber on its system so every member may be served. Thus, 5,466 miles of broadband fiber will be installed. Mr. Futral contends that Kenergy should have its revenue requirement reduced by $122,178 because some of the vegetation management invoices referenced "broadband." This argument ignores the fact that the broadband fiber is being strung on Kenergy poles just beneath the electrical lines. While some vegetation management spots were selected for trimming in order to facilitate the installation of fiber, the electrical system received a commensurate benefit. If portions of Circuit "C" got trimmed to benefit broadband a year or two (2) ahead of schedule, then Kenergy should benefit down the road when Circuit "C" is scheduled for its normal maintenance cycle. Broadband is causing some of the chairs to be rearranged but it is not causing an increase in the number of chairs needed. Rescheduling within the six (6) year plan does not increase cost to Kenergy (Wolfram, rebuttal testimony at p. 5). As such, Mr. Futral's claim that vegetation management is associated with broadband is in error.

II. Payroll and Overhead for Vacant Positions Should Be Included

Kenergy has based its revenue requirement on 128 full time employees. Mr. Futral seems to minimize the revenue requirement because Kenergy had vacant positions during the test year. He contends that the average number of employees in the test year was 125 and was only 124 in the last seven (7) months of the test year.

After the test year five (5) vacant positions were filled: Three (3) apprentice I line technicians; one (1) apprentice line technician II and a meter/AMI technician. No one has argued that these entry level positions are unnecessary. These employees keep the lines up and the meters running. Fewer line technicians means longer outages, more inconvenience and less revenue.

In calculating the hourly rate for Kenergy's proposed 128 positions, Kenergy used the actual average hourly rate resulting in the $41.10 hourly pro forma. Mr. Futral's argument to the contrary is without merit.

Kenergy has made great strides to reduce its number of employees from 155 (in 2008) to its current level of 129 (Wolfram rebuttal at p. 6). The year end number of employees at 124 was a timing matter where the positions were filled the following year. Kenergy's proposed number of positions at 128 is the level of employment needed to run the cooperative and is still lower than Kenergy's actual year end head count over the last 16 years (*Id.*). As noted in Mr. Wolfram's rebuttal testimony at page 6, Kenergy's *pro forma* adjustment is underestimated, not overstated.

In the recent rate case involving Farmers Rural Electric Cooperative Corporation, citation *infra*, the Attorney General's comments as to a vacant engineering position were that there was no certainty the position would be filled. (OAG Comments, 2023-00158, September 14, 2023). No where in the comments or the Commission's Order was a discussion of whether an employment vacancy to be filled constituted a "known and measurable" change, and a proper adjustment for known and measurable changes is required. *Public Service Com. v. Continental Tel. Co.*, 692 S.W.2d (Ky. 1985). Kenergy submits that filling vacant entry level positions constitutes a known and measurable change. The fact that the positions were filled supports the prediction of a known and measurable change.

IV. Credit Card Processing Fees Should Remain as Part of the Rate Calculations

Mr. Futral submits that $308,551 in credit card processing fees should be removed from the rate calculation. His position is that these costs should be charged to the credit card user. There are two (2) flaws with this logic.

First, as noted in Mr. Wolfram's rebuttal testimony pages 7-8, a large portion of Kenergy's membership use credit cards to pay their electric bill. The cost incurred to collect credit card payments should be included in rates, just like the cost incurred to collect other payment types. If Kenergy implements a special charge (convenience fee) either at the time of the transaction, or after the fact, Kenergy will lose its VISA utility interchange rate and Kenergy's membership will incur significantly higher processing fees. Also, given the fact that convenience fees must be applied to all payment types within a given payment channel (including e-checks) and the fact that convenience fees cannot be applied to recurring credit card transactions or in-person credit card transactions, a convenience fee would not result in the correct member paying the cost.

Second, the Commission recently rejected the same arguments in Case No. 2023-00158, *Electronic Application of Farmers Rural Electric Cooperative Corporation for a General Adjustment of Rates Pursuant to a Streamlined Procedure Pilot Program* established in Case No.

2018-00407 (Ky. PSC October 3, 2023), order at page 12. As there, so here.

CONCLUSION

Kenergy has submitted an Application to adjust rates upward so that Kenergy can achieve a 2.0 TIER. If the Commission accepts the Attorney General's position, Kenergy will soon be back in seeking another rate adjustment. Any fear that the Commission has in overestimating Kenergy's revenue requirement is counterbalanced by the fact that Kenergy's margins, unlike investor owned utilities, are returned to the cooperatives' members in the form of capital credits. Simply, Kenergy has submitted a reasonable revenue request that will allow it to make a TIER that satisfies Kenergy's creditors. The Commission should approve Kenergy's requested rates as fair, just and reasonable.

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing electronic filing was transmitted to the Kentucky Public Service Commission for filing on March 6, 2024; that same was electronically sent to Larry Cook, LARRY.COOK@KY.GOV; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding by virtue of the Commission's Order of 2020-00085, no paper copies of this filing will be made.

J. Christopher Hopgood
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