COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DUKE ENERGY KENTUCKY, INC. FOR DEVIATION FROM AFFILIATE PRICING REQUIREMENTS AND TO AMEND EXISTING SERVICE AGREEMENTS TO INCLUDE PIEDMONT NATURAL GAS COMPANY AS PARTY	))))))	Case No. 2016-00312

ORDER

This matter comes before the Commission with the application of Duke Energy Kentucky, Inc. ("Duke Kentucky") for approval of amendments to existing utility-affiliate agreements ("Service Agreements") in order to add Piedmont Natural Gas Company ("Piedmont") as an affiliate. Duke Kentucky seeks this approval pursuant to KRS 278.2207 and 278.2219, and 807 KAR 5:080, Section 5, which govern transactions between utilities and their affiliates. With its acquisition by Duke Energy Corporation ("Duke Energy"), Piedmont is now an affiliate of Duke Kentucky, causing transactions between Piedmont and Duke Kentucky to be subject to the pricing requirements of KRS 278.2207. Duke Kentucky also seeks a deviation from the pricing requirements of KRS 278.2207(1) pursuant to the provisions of KRS 278.2207(2). Duke Kentucky responded to Commission Staff's discovery request and participated in an informal conference. There are no intervenors in this matter.

DISCUSSION

Duke Kentucky is a Kentucky corporation engaged in the business of distributing and selling natural gas and electricity within the Commonwealth of Kentucky and is regulated by the Commission as a utility under KRS 278.010(3). Duke Kentucky states that it is authorized to engage in transactions with affiliates provided the transactions are in compliance with Kentucky law and, as applicable, are pursuant to Commission-approved Service Agreements. Duke Kentucky and many of its affiliates are already parties to Commission-approved Service Agreements that permit certain transactions to occur between the affiliates under defined pricing terms and conditions.[1]

Based on its recent acquisition by Duke Energy, Piedmont is now a wholly owned subsidiary of Duke Energy, making it an anticipated party to existing Service Agreements that have been approved by the Commission in past cases involving Duke Energy's merger with Cinergy Corp. and, more recently, Duke Energy's merger with Progress Energy. Duke Kentucky states in its application that it anticipates that Piedmont will be added to the following agreements:

1. The Intercompany Asset Transfer Agreement, which allows the transfer of inventory assets (excluding commodities) at the transferring company's fully allocated costs, subject to certain limitations;

2. Operating Companies Service Agreement, which allows utilities to perform services for each other;

3. Tax Sharing Agreement, which allows for joint filing of federal tax returns;

4. Utility Money Pool Agreement, which allows intercompany loans among the utility affiliates, service company, and holding company;

5. Asymmetrically Priced Operating Company/Non-Utility Agreement, which allows utilities and non-utility affiliates to perform services for each other in accordance with Federal Energy Regulatory Commission pricing rules and KRS 278.2207(1); and

[1] Application at 2.

6. Service Company Utility Service Agreement, which allows the service company to perform services for each of the public utilities.

Of these six agreements, Duke Kentucky states, only those that directly authorize transactions between Duke Kentucky and Piedmont at a price based upon cost require Commission approval for a deviation from the affiliate-pricing requirements of KRS 278.2207. The four such agreements are:

a. Intercompany Asset Transfer Agreement;

b. Operating Companies Services Agreement;

c. Tax Sharing Agreement ; and

d. Utility Money Pool Agreement.

Duke Kentucky states that Commission approval is not necessary to add Piedmont to the Asymmetrically Priced Operating Company-Non-Utility Agreement and Service Company-Utility Service Agreement. Duke Kentucky also states that the Asymmetrically Priced Operating Company-Non-Utility Agreement requires only that services between Duke Energy utilities and non-utility affiliates be priced asymmetrically, which is already provided for pursuant to KRS 278.2207. In addition, Duke Kentucky states that the Service Company Utility Service Agreement merely permits Duke Energy Business Services to provide services to Piedmont, as it already provides such services to other Duke Energy companies.[2]

Duke Kentucky states that adding Piedmont to the Duke Energy organization provides a benefit for Duke Kentucky in its gas operations, since it has been able to pool resources and share inventories only with its parent, Duke Energy Ohio, the only other gas distribution company among the Duke Energy companies. Duke Kentucky

[2] Application at 5, footnote 8.

states that adding Piedmont to the Intercompany Asset Transfer Agreement will permit the transfer of assets, other than commodities, with a larger number of affiliates in order to realize economies of scale and improve reliability.

Pursuant to KRS 278.2207(2), in order to transact with its affiliates at cost, as provided for in a number of the various Service Agreements, Duke Kentucky must obtain Commission approval for a deviation from the affiliate pricing requirements set forth in KRS 278.2207(1)(a) and(b).[3] Duke Kentucky claims that the affiliate-pricing requirements in KRS 278.2207(1)(a) and (b), which require an affiliate to charge the lesser of cost or market when transferring equipment to Duke Kentucky, but pay the greater of cost or market when receiving equipment from Duke Kentucky, discourage affiliates from transacting business with it.

A benefit of being part of a large public utility holding company, Duke Kentucky contends, is the ability to leverage relationships among affiliates to achieve operational efficiencies. Adding Piedmont to the Service Agreements will allow Duke Kentucky and its affiliated utilities to realize such efficiencies by pooling resources and providing access to a wider supply of equipment and inventory assets, while not harming the customers of the respective utilities.

Duke Kentucky states that it is not asking the Commission to waive or cede any of its authority over transactions involving an asset with an original book value of one million dollars or more. It agrees to continue to abide by KRS 278.218 for transactions

[3] Transactions permitted under the tax sharing and money pool agreements are short-term (less than two years) and do not require approval under KRS 278.300.

involving assets with an original book value of one million or more and states that it would seek Commission approval before engaging in such a transfer.[4]

Duke Kentucky states that it will continue its existing commitment to maintain a list of all transactions occurring under the Intercompany Asset Transfer Agreement in its Cost Allocation Manual for Commission inspection pursuant to KRS 278.2205(2)(e). It also states that parties to the Service Agreements will continue to maintain their own records and inventories and will document any such transactions to ensure compliance with KRS 278.2213, including, but not limited to, requirements for separate accounting and the avoidance of cross subsidies, and to ensure that utility assets are not used to finance a non-regulated activity or a utility affiliate.[5]

FINDINGS AND ORDERS

The Commission, having considered Duke Kentucky's requests and being otherwise sufficiently advised, finds that good cause exists to approve the amendments to the existing Service Agreements to permit the addition of Piedmont as a party thereto. The Commission also finds that granting Duke Kentucky's requested deviation will enable it to improve the cost and reliability of providing service to its customers and is, therefore, in the public interest and should be approved as requested.

---

[4] Case No. 2008-00122, *In the Matter of the Application of Duke Energy Kentucky, Inc. for Deviation from Affiliate Pricing Requirements and Approval of an Intercompany Asset Transfer Agreement* (Ky. PSC July 18, 2008). Duke Kentucky agreed that it would seek Commission approval of transactions involving gas utility assets under the same terms and conditions that apply to electric utility assets under KRS 278.218.

[5] The Service Agreements, according to Duke Kentucky, are also being filed by its utility affiliates with the state utility commissions in North Carolina, South Carolina, and Indiana. Regulatory approval of the Service Agreements is not required in Ohio or Florida.

IT IS THEREFORE ORDERED that:

1. The amendments to certain Service Agreements to allow the inclusion of Piedmont as a party are approved.

2. Duke Kentucky's request to deviate from the affiliate pricing standards of KRS 278.2207 to permit Duke Kentucky to engage in transactions with its affiliates under the terms of the amended Service Agreements is approved.

By the Commission

ENTERED
JUN 01 2017
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

Taline R. Mathews

Executive Director

*Amy B Spiller
Associate General Counsel
Duke Energy Kentucky, Inc.
139 East Fourth Street
Cincinnati, OH 45201

*Debbie Gates
Duke Energy Kentucky, Inc.
139 East Fourth Street
Cincinnati, OH 45201

*Dianne Kuhnell
Duke Energy Kentucky, Inc.
139 East Fourth Street
Cincinnati, OH 45201

*Duke Energy Kentucky, Inc.
139 East Fourth Street
Cincinnati, OH 45202

*Duke Energy Kentucky, Inc.
139 East Fourth Street
Cincinnati, OH 45202