

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC CONSIDERATION OF THE)	CASE NO.
IMPLEMENTATION OF THE NET METERING)	2019-00256
ACT)	

ORDER

On August 26, 2019, Kentucky Solar Industries Association, Inc. (KYSEIA) submitted a letter requesting clarification on the procedure for filing comments into this proceeding and their evidentiary significance . KYSEIA requested a clarification of the distinction between methods of tendering comments in this proceeding and whether the Commission has a hierarchy of how it will respond to the comments in the final order.

As an initial matter, the July 30, 2019 Order establishing this proceeding stated, “[t]he purpose of this proceeding is to invite comments from interested utilities and stakeholders in order to develop a record”¹ that the Commission will consider as it implements the Net Metering Act² as it applies to electric utilities. In other words, the purpose of this proceeding is to solicit comments from utilities and stakeholders who are likely to present issues or develop facts that assist the Commission in fully considering the implementation of the Net Metering Act, which is now established law. As with all proceedings, the Commission also invited comments from any interested persons. The

¹ July 30, 2019 Order at unnumbered page 1.

² The Net Metering Act was signed into law on March 26, 2019, becomes effective January 1, 2020, and amends portions of KRS 278.465 to 278.467.

proceeding will conclude with a final order and report on the comments, with the record of the proceeding incorporated by reference into any ratemaking proceedings pursuant to the Net Metering Act. The record of this proceeding will include comments from utilities and stakeholders filed in this proceeding and public comments from interested persons submitted in this proceeding.

KYSEIA's request seeks clarification of the legal difference and effect of statutory and regulatory procedural rules for filing documents with the Commission and the less-stringent provisions that govern submission of public comments in a proceeding. In order to be deemed as filed in an administrative proceeding, all documents must comply with the rules of procedures found in KRS Chapter 278 and KAR Title 807. This proceeding was established as an electronic case subject to the filing requirements set forth in 807 KAR 5:001, Section 8. Filing requirements for electronic cases include, among other things, that a document is transmitted via the Commission's electronic filing system, meets all filing requirements established in KRS Chapter 278 and KAR Title 807, and that a paper version of the filing is filed at the Commission's offices no later than the second business day following the electronic filing system transmission. It is well established that the Commission speaks through its written orders and that there can be no waiver of compliance with an order absent a subsequent order granting such a waiver.³ Because there are stakeholders who do not have an electronic filing account, the Commission allowed written comments to be filed by mail or hand delivery as an alternative to the Commission's electronic filing system, so that documents that otherwise meet the filing

³ *Union Light, Heat & Power Co. v. Public Service Com'n*, 271 S.W.2d 361 (Ky. 1954).

requirements would not be rejected for filing because they were not first transmitted via the electronic filing system.

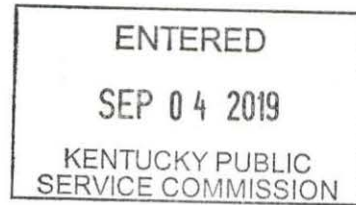
In contrast, public comments are not subject to statutory or regulatory filing requirements, beyond a Commission policy that they include a name and place of residence. They may be submitted by email. Public comments provide the opportunity for persons interested in the outcome of a case to offer their views. Every public comment submitted in this proceeding will be read and considered by the Commission. Public comments submitted in a proceeding do not typically carry the same weight as evidence submitted under oath or comments filed by stakeholders and utilities that have expertise in a particular matter. But public comments often affect the Commission's decisions. For example, when significant public comments raised a concern about an economic development rider paid by utility customers, the Commission engaged in further discovery and found that that rider should be discontinued.⁴

The Commission will consider every comment filed or submitted in this proceeding. We note that the most useful comments address specific issues with fact-based discussion or proposals regarding implementation of the new law. Because this case is in its early stages, it is premature to discuss the content and format of the final order and report with any greater specificity.

IT IS THEREFORE ORDERED that KYSEIA's letter for clarification is granted as set forth herein.

⁴ See Case No. 2017-00179, *Electronic Application of Kentucky Power Company for (1) A General Adjustment of Its Rates for Electric Service; (2) An Order Approving Its 2017 Environmental Compliance Plan; (3) An Order Approving Its Tariffs and Riders; (4) An Order Approving Accounting Practices to Establish Regulatory Assets and Liabilities; and (5) An Order Granting All Other Required Approvals and Relief* (Ky. PSC Jan. 18, 2018).

By the Commission



ATTEST:


Executive Director

