

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENERGY)	CASE NO.
CORP. FOR A DECLARATORY ORDER)	2020-00095

ORDER

On March 25, 2020, Kenergy Corp. (Kenergy) filed an application, pursuant to 807 KAR 5:001, Section 19, requesting a declaratory order that its proposed method of allocating a rate change by Big Rivers Electric Corporation (BREC) is consistent with the requirements of KRS 278.455. Specifically, Kenergy proposed to allocate any potential change in BREC's rates "based on the ratio of cost of service of each class" and requested a declaration from the Commission that the "proportional basis" required by KRS 278.455 should be "gauged by the cost of service among each class."

Pursuant to 807 KAR 5:001, Section 19, the Commission may, among other things, "issue a declaratory order . . . with respect to the meaning and scope of an order or administrative regulation of the commission or provision of KRS Chapter 278." Unless the Commission orders otherwise, responses to an application for a declaratory order shall be filed within 21 days of the application and replies shall be filed within 14 days thereafter.¹ The Commission "may dispose of an application for a declaratory order solely

¹ 807 KAR 5:001, Section 19(4) and (5).

on the basis of the written submissions filed”² or may allow for other actions, including additional discovery, to ensure that the record is complete.³

Here, the Commission finds that clarification is needed regarding the exact nature of Kenergy’s proposed allocation method before it addresses the application. For that reason, the Commission finds that Kenergy shall respond to the request for information attached hereto within seven days from the date this Order is entered. Intervenors must then file any response to the application for a declaratory order within seven days from the date Kenergy files its response to the request for information, and Kenergy shall file any reply to an intervenor’s response within 14 days after the response is filed. The Commission will then take this matter under submission for a final determination.

The Commission also directs Kenergy and any intervenors in this matter to the Commission’s March 16, 2020 and March 24, 2020 Orders in Case No. 2020-00085⁴ regarding filings with the Commission. The Commission expects the original documents to be filed with the Commission within 30 days of the lifting of the current state of emergency.

IT IS THEREFORE ORDERED that:

1. Kenergy shall respond to the requests for information attached as an Appendix to this Order within seven days from the date this Order is entered.

² 807 KAR 5:001, Section 19(7).

³ 807 KAR 5:001, Section 19(8).

⁴ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC Mar. 16, 2020), Order at 5–6. Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC Mar. 24, 2020), Order at 1–3.

2. Intervenor shall file any response to the application for a declaratory order within seven days from the date Kenergy files its response to the request for information attached as an Appendix to this Order.

3. Kenergy shall file any reply to an intervenor's response within 14 days after the response is filed.

4. a. Responses to requests for information in paper medium shall be appropriately bound, tabbed, and indexed, and filed according to the Commission's March 16, 2020 and March 24, 2020 Orders in Case No. 2020-00085. Electronic documents shall be in portable document format (PDF), shall be searchable and shall be appropriately bookmarked. Each response shall include the name of the witness responsible for responding to questions related to the information provided.

b. Each response to requests for information shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

c. Any party shall make timely amendment to any prior response to requests for information if it obtains information which indicates that the response was incorrect when made or, though correct when made, is not incorrect in any material respect.

d. For any request to which a party fails or refuses to furnish all or part of the requested information that party shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

e. Careful attention should be given to copied material to ensure that it is legible. When the requested information has been previously provided in this proceeding in the requested format, reference may be made to the specific location of that information in responding to this request.

f. A party filing a paper containing personal information shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the paper so that personal information cannot be read.

5. The Commission does not look favorably upon motions for continuance. Accordingly, motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

6. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

By the Commission



ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2020-00095 DATED APR 13 2020

1. Explain whether Kenergy requests that proportional be defined as allocating any increase or decrease from the Generation and Transmission proportionally based upon the most recently approved revenue allocation, and then upon the approved revenue allocation from each rate class component. If this is not Kenergy's intent in the instant case, explain what Kenergy's intent is.

*J. Christopher Hopgood
Dorsey, Gray, Norment & Hopgood
318 Second Street
Henderson, KENTUCKY 42420

*J. Michael West
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Jeffrey Hohn
President
Kenergy Corp.
6402 Old Corydon Road
P. O. Box 18
Henderson, KY 42419

*Honorable Michael L Kurtz
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Jody Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*John G Horne, II
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Honorable Kurt J Boehm
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Kenergy Corp.
6402 Old Corydon Road
P. O. Box 18
Henderson, KY 42419

*Larry Cook
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204