

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF KENTUCKY)	
UTILITIES COMPANY OF AN AMENDMENT TO)	CASE NO.
THE RENEWABLE POWER AGREEMENTS)	2021-00031
WITH TOYOTA MOTOR MANUFACTURING)	
COMPANY AND DOW CHEMICAL COMPANY)	

ORDER

The Commission establishes this proceeding to address the reasonableness of certain contractual provisions related to a Renewable Power Agreement (RPA) between Kentucky Utilities Company (KU) and Toyota Motor Manufacturing Company (Toyota), and to an RPA between KU and Dow Chemical Company (Dow). On January 13, 2021, KU filed, through the Commission’s electronic Tariff Filing System, amendments to the RPAs. The RPAs were amended to remove certain contractual provisions regarding demand charges in accordance with the Commission’s May 8, 2020 Order, as modified by an Order entered on December 16, 2020, in Case No. 2020-00016.¹ The effective date for the amendments is February 13, 2021, in accordance with KRS 278.180(1), which requires a utility to provide the Commission with 30 days’ notice before making changes to any rate.

On January 20, 2020, Commission Staff contacted KU to request additional language that KU would provide statutory notice and obtain Commission approval prior

¹ Case No. 2020-00016, *Electronic Application of Louisville Gas and Electric Company and Kentucky Utilities Company for Approval of a Solar Power Contract and Two Renewable Power Agreements to Satisfy Customer Requests for a Renewable Energy Source Under Green Tariff Option #3* (Ky. PSC May 8, 2020 and Dec. 16, 2020).

to re-instating the removed contractual provisions if there were a change in laws or a subsequent order of the Commission regarding the treatment of demand charges. In response, KU filed a letter on January 22, 2021, stating that it will not restore the contractual provisions related to the treatment of demand charges unless KU provides notice and obtains Commission approval of the new contractual provisions. A copy of the letter and correspondence by Commission Staff is attached as an Appendix to this Order.

Having reviewed the Amendments and January 22, 2021 letter, the Commission finds that the amendments to the RPAs, and the written agreement not to restore the contractual provisions related to demand charges without notice to and approval granted by the Commission, are reasonable, and should be approved with an effective date of February 13, 2021.

The Commission further finds that this matter should be closed and removed from the Commission's docket.

IT IS THEREFORE ORDERED that:

1. This proceeding is established to investigate the reasonableness of the amendments to RPAs between KU and Toyota, and between KU and Dow.
2. The amendments to the RPAs between KU and Toyota, and between KU and Dow, with the written agreement by KU not to restore the contractual provisions related to demand charges without notice to and approval granted by the Commission, are approved effective February 13, 2021.
3. The proceeding is now closed and removed from the Commission's docket.

By the Commission



ATTEST:

A handwritten signature in blue ink that reads "Linda C. Adwell". The signature is written in a cursive style and is positioned above a horizontal line.

Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00031 DATED JAN 26 2021

[FOUR PAGES TO FOLLOW]



VIA ELECTRONIC FILING

Ms. Linda Bridwell
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40601-8294

January 22, 2021

Re: Electronic Application of Louisville Gas and Electric Company and Kentucky Utilities Company for Approval of a Solar Power Contract and Two Renewable Power Agreements to Satisfy Customer Requests for a Renewable Energy Source Under Green Tariff Option #3 Case No. 2020-00016

Dear Ms. Bridwell:

On January 13, 2021, Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) filed amendments to the Renewable Power Agreements (“Amendment No. 1”) between KU and Toyota Motor Manufacturing Company and between KU and Dow Chemical Company in the above-referenced proceeding.

Since that filing, Commission Staff has advised LG&E and KU that notice to, and prior approval by, the Commission is required before restoring the contractual provisions referenced in Section 1(b) of Amendment No. 1 to Renewable Power Agreement. As such, and consistent with the language contained in the amendments, KU will not restore the referenced provisions related to the treatment of demand charges unless notice is given to, and approval is granted by, the Commission.

Please contact me should you have any additional questions concerning this filing.

Sincerely,

Allyson K. Sturgeon
Managing Sr. Counsel Regulatory & Transactions

LG&E and KU Energy LLC

Legal
220 W Main Street
Louisville, KY 40202
www.lge-ku.com

Allyson K. Sturgeon
Managing Sr Counsel
Regulatory & Transactions
T 502-627-2088
F 502-627-4850
Allyson.Sturgeon@lge-ku.com

Hinton, Daniel E (PSC)

From: Hinton, Daniel E (PSC)
Sent: Wednesday, January 20, 2021 10:18 AM
To: Hornung, Mike
Subject: RE: KU Contract Filings 10 and 11

Mr. Hornung,

There is some additional language that the Commission would like to be added to the contract amendment. Please see below. Revisions are underlined and highlighted.

Section 2.18 - Pursuant to an order entered by the Commission on May 8, 2020, this Agreement has been amended to remove certain provisions described below in this Section 2.18. However, the Parties desire that, in the event a subsequent order of the Commission or a change in the laws of the Commonwealth of Kentucky makes such provisions permissible as previously written, such provisions be restored upon statutory notice to the Commission and receiving the Commission's acceptance or approval. Accordingly, in the event such provisions as previously written do so become permissible and Customer thereafter requests application of such provisions by written notice to Company, those provisions shall, effective as of the start of the billing cycle following such notice and Commission acceptance or approval, be treated as part of this Agreement and inserted in Section 2.7 as replacements for paragraphs (e) and (f) of such Section, with those provisions reading in their entirety as follows:

If KU is agreeable with these changes, please let me know. Also let me know how long it will take for KU to make these changes. I assume the best way to incorporate them would be to file an Amendment No. 2 to the contract, but if KU believes there is another way, please advise. As these are revisions requested by the Commission, I believe we could process them in the current filings if we get the revisions in a timely manner.

If you have any questions, please let me know.

Thanks.

Daniel

Hinton, Daniel E (PSC)

From: Hornung, Mike <[REDACTED]>
Sent: Monday, January 18, 2021 12:46 PM
To: Hinton, Daniel E (PSC)
Subject: RE: KU Contract Filings 10 and 11

Daniel,

Please see our responses below:

Thanks
Michael

From: Hinton, Daniel E (PSC) <[REDACTED]>
Sent: Friday, January 15, 2021 10:50 AM
To: Hornung, Mike <Mike.Hornung@lge-ku.com>
Subject: KU Contract Filings 10 and 11

EXTERNAL email. STOP and THINK before responding, clicking on links, or opening attachments.

Mr. Hornung,

Staff has the following questions regarding KU's contract amendment filings.

Toyota (10) –

1. Explain the change in the current Section 2.7(f), Base Demand Charges and the amendment Section 2.18 language related to Demand Charges.

In accordance with the Commission's May 2020 order, the provisions for Peak and Intermediate Demand offsets originally contained in Section 2.7(e) are removed by the amendment. Therefore, the customer is responsible for all demand charges under their current KU tariff. Section 2.7(f) was originally included to differentiate the treatment of offsets for Base demand - the customer would receive no demand offset for Base Demand. However, Section 2.7(f) is also removed by the amendment because it is no longer necessary since the removal of Section 2.7(e) by the amendment results in customer being responsible for all demand charges, including Base, Intermediate, and Peak demand charges in their current KU tariff, without regard to the renewable power received under the RPA. The Section 2.18 language allows for the possibility that a future order of the Commission or future change in the laws of the Commonwealth might make permissible the provisions removed by the amendment. In such event, the provisions removed by the amendment would be reinserted if requested by the customer.

2. Explain whether the proposed Section 2.18 contains information for which KU seeks confidential protection, as requested on January 23, 2020 and granted on May 8, 2020 in Case No. 2020-00016.

KU is not seeking confidential protection for information contained in Section 2.18 of the amended RPA.

Dow (11) –

1. Explain whether the proposed Section 2.18 contains information for which KU seeks confidential protection, as requested on January 23, 2020 and granted on May 8, 2020 in Case No. 2020-00016.

KU is not seeking confidential protection for information contained in Section 2.18 of the amended RPA.

Responses can be emailed to me at this address.

If you have any questions, please let me know.

Thanks.

Daniel

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*Honorable Allyson K Sturgeon
Managing Senior Counsel - Regulatory &
LG&E and KU Energy LLC
220 West Main Street
Louisville, KENTUCKY 40202

*Kentucky Utilities Company
220 W. Main Street
P. O. Box 32010
Louisville, KY 40232-2010

*Louisville Gas and Electric Company
Louisville Gas and Electric Company
220 W. Main Street
P. O. Box 32010
Louisville, KY 40232-2010