

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF CLARK ENERGY )	
COOPERATIVE, INC. FOR PASS-THROUGH OF )	CASE NO.
EAST KENTUCKY POWER COOPERATIVE, INC. )	2021-00106
WHOLESALE RATE ADJUSTMENT )	

ORDER

On April 1, 2021, Clark Energy Cooperative, Inc. (Clark Energy) filed an application to pass through any wholesale rate adjustment granted to its wholesale supplier, East Kentucky Power Cooperative, Inc. (EKPC), in Case No. 2021-00103.<sup>1</sup> Clark Energy submitted its application pursuant to the authority of KRS 278.455(2) and proposed that the new rates become effective on May 1, 2021.

By Order entered April 13, 2021, in Case No. 2021-00103, the Commission explained that EKPC's rate application was deemed filed as of April 6, 2021. Additionally, based on the periods set forth in KRS 278.180(1), which requires 30 days' notice to the Commission before a change in utility rates, and KRS 278.190(2), which permits the Commission to suspend the effective date of the proposed rates for five months, the Commission suspended the effective date of EKPC's proposed rates up to and including October 5, 2021.

KRS 278.455(2) provides that the rates of a distribution cooperative shall become effective on the same date as those of its wholesale supplier. Consequently,

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<sup>1</sup> Case No. 2021-00103, *Electronic Application of East Kentucky Power Cooperative, Inc. for a General Adjustment of Rates, Approval of Depreciation Study, Amortization of Certain Regulatory Assets, and Other General Relief* (filed April 6, 2021).

Clark Energy's proposed rates may not become effective until the Commission renders a decision in EKPC's proposed rates or until EKPC's rates become effective as a matter of law. Therefore, the Commission will suspend the effective date of Clark Energy's proposed rates up to and including October 5, 2021.

The Commission further finds that a procedural schedule should be established to review the reasonableness of the proposed rates. The procedural schedule is attached hereto as an Appendix to this Order and is incorporated herein.

IT IS THEREFORE ORDERED that:

1. Clark Energy's proposed rates are suspended for five months, up to and including October 5, 2021.
2. The procedural schedule set forth in the Appendix to this Order shall be followed.
3. a. Responses to requests for information in paper medium shall be appropriately bound, tabbed and indexed, with the original and an electronic version to the Commission. 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 the questions related to the information provided.
  - b. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or an 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. A party shall make timely amendment to any prior response if it obtains information that indicates the response was incorrect when made or, though correct when made, is now 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. Any 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 the personal information cannot be read.

4. Any party filing a paper with the Commission shall file an original in paper medium and an electronic copy in accordance with the electronic filing procedures set forth in 807 KAR 5:001, Section 8. The original in paper medium shall be appropriately bound, tabbed, and indexed. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked. The Commission directs the parties to the Commission's March 16, 2020 and March 24, 2020 Orders in

Case No. 2020-00085<sup>2</sup> 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.

5. As set forth in 807 KAR 5:001, Section 4(11)(a), a person requesting permissive intervention in a Commission proceeding is required to demonstrate either (1) a special interest in the proceeding which is not adequately represented in the case, or (2) that the person requesting permissive intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Further, KRS 278.040(2) requires that a person seeking intervention must have an interest in the rates or service of a utility, as those are the only matters that are subject to the Commission's jurisdiction. Therefore, any person requesting to intervene in a Commission proceeding must state with specificity the person's special interest that is not otherwise adequately represented, or the issues and facts that the person will present that will assist the Commission in fully considering the matter. A mere recitation of the quantity of utility service consumed by the movant or a general statement regarding a potential impact of possible modification of rates will not be deemed sufficient to establish a special interest. In addition, any motion to intervene filed after the date established in the procedural schedule shall also show good cause for being untimely. If the untimely motion is granted, the movant shall accept and abide by the existing procedural schedule.

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<sup>2</sup> 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.

6. Clark Energy shall give notice of the hearing in accordance with the provisions set forth in 807 KAR 5:001, Section 9(2). In addition, the notice of hearing shall include the following statements: “This hearing will be streamed live and may be viewed on the PSC website, [psc.ky.gov](http://psc.ky.gov)”; and “Public comments may be made at the beginning of the hearing. Those wishing to make oral public comments may do so by following the instructions list on the PSC website, [psc.ky.gov](http://psc.ky.gov).” At the time publication is requested, Clark Energy shall forward a duplicate of the notice and request to the Commission.

7. At any public hearing in this matter, neither opening statements nor summarization of direct testimonies shall be permitted.

8. Pursuant to KRS 278.360 and 807 KAR 5:001, Section 9(9), a digital video recording shall be made of the hearing.

9. 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.

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

By the Commission



ATTEST:



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Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2021-00106 DATED APR 15 2021

Last day for intervention requests to be accepted.....	04/30/2021
All initial requests for information to Clark Energy shall be filed no later than.....	05/14/2021
Clark Energy shall file responses to initial requests for information no later than.....	05/28/2021
All supplemental requests for information to Clark Energy shall be filed no later than .....	06/16/2021
Clark Energy shall file responses to supplemental requests for information no later than .....	06/28/2021
Intervenor testimony, if any, in verified prepared form shall be filed no later than .....	07/01/2021
All requests for information to Intervenors shall be filed no later than.....	07/15/2021
Intervenors shall file responses to requests for information no later than.....	07/23/2021
Clark Energy shall file, in verified form, its rebuttal testimony no later than .....	07/27/2021
Last day for Clark Energy to publish notice of hearing .....	To be scheduled
Public Hearing to be held in the Richard Raff Hearing Room at the offices of the Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky, for the purpose of cross-examination of witnesses of Clark Energy and Intervenors .....	To be scheduled
Post-Hearing Briefs, if any.....	To be scheduled

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