

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DUKE ENERGY )	
KENTUCKY, INC. FOR: 1) AN ADJUSTMENT OF )	CASE NO.
THE NATURAL GAS RATES; 2) APPROVAL OF )	2021-00190
NEW TARIFFS, AND 3) ALL OTHER REQUIRED )	
APPROVALS, WAIVERS, AND RELIEF )	

ORDER

On January 13, 2022, Duke Energy Kentucky, Inc. (Duke Kentucky), pursuant to KRS 278.400, filed a motion for rehearing or clarification of two fees approved in the Commission’s Order that was entered on December 28, 2021.

LEGAL STANDARD

KRS 278.400, which establishes the standard of review for motions for rehearing, limits rehearing to new evidence not readily discoverable at the time of the original hearings, to correct any material errors or omissions, or to correct findings that are unreasonable or unlawful. A Commission Order is deemed unreasonable only when “the evidence presented leaves no room for difference of opinion among reasonable minds.”<sup>1</sup> An order can only be unlawful if it violates a state or federal statute or constitutional provision.<sup>2</sup>

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<sup>1</sup> *Energy Regulatory Comm’n v. Kentucky Power Co.*, 605 S.W.2d 46 (Ky. App. 1980).

<sup>2</sup> *Public Service Comm’n v. Conway*, 324 S.W.3d 373, 377 (Ky. 2010); *Public Service Comm’n v. Jackson County Rural Elec. Coop. Corp.*, 50 S.W.3d 764, 766 (Ky. App. 2000); *National Southwire Aluminum Co. v. Big Rivers Elec. Corp.*, 785 S.W.2d 503, 509 (Ky. App. 1990).

By limiting rehearing to correct material errors or omissions, and findings that are unreasonable or unlawful, or to weigh new evidence not readily discoverable at the time of the original hearings, KRS 278.400 is intended to provide closure to Commission proceedings. Rehearing does not present parties with the opportunity to relitigate a matter fully addressed in the original Order.

#### DUKE KENTUCKY'S MOTION FOR REHEARING OR CLARIFICATION

In the motion, Duke Kentucky requested rehearing on two matters: the reduction of the amount of the bad check fee from \$11 to \$5 for natural gas customers and the waiver of the residential late fee for certain natural gas customers.

#### Bad Check Fee

Duke Kentucky explained that the December 28, 2021 Order reduced the amount of the bad check fee from \$11 to \$5 for natural gas customers. Duke Kentucky further explained that, because electric rates were not at issue in this proceeding, the Commission-approved bad check fee for electric customers remains at \$11 while the bad check fee for natural gas customers is \$5. Duke Kentucky maintained that it can adjust the charge for customers who take natural gas only, but customers who take both electric and natural gas are charged a single fee, which presents an issue of which amount to charge.

Duke Kentucky requested that the Commission also allow Duke Kentucky to charge a \$5 bad check fee to electric and combined account customers as well. Duke Kentucky stated that it reserved the right to request and seek a higher bad check charge in future filings. Duke Kentucky further stated that, because of the *de minimus* nature of

the bad check charge as applied to electric accounts, it would not seek any additional adjustment to its electric rates at this time.

#### Waiver of Residential Late Fee

Similar to the situation set forth above, in the December 28, 2021 Order, the Commission directed Duke Kentucky to waive a late payment fee for residential natural gas accounts for whom a pledge of payment has been received from an authorized agency, creating a discrepancy between how natural gas customers and electric customers are treated. Duke Kentucky requested Commission authorization to extend the waiver of late payment charges to residential electric and combined account customers as well where a pledge of payment has been received from an authorized agency.

#### DISCUSSION AND FINDINGS

Based upon a review of the motion and the case record, and being otherwise sufficiently advised, the Commission finds that Duke Kentucky established good cause to grant rehearing and clarification regarding the applicability of the bad check fee and late payment fee waived for natural gas customers and for electric customers. As background, Duke Kentucky provides both electric and natural gas service to its customers. Rather than file one case seeking rate adjustments for electric and natural gas service, Duke Kentucky files separate rate adjustment cases addressing electric rates separately from natural gas rates. Here, the Commission inadvertently approved a different rate and condition of service for natural gas customers that applied to electric customers subject to the same rate and condition of service.

The Commission finds that, for the reasons set forth in the December 28, 2021 Order and to resolve the disparity between electric and natural gas customers regarding the bad check fee and late payment waiver, Duke Kentucky is approved to charge a bad check fee of \$5 to electric and combined account customers as well, and to waive a late payment fee for residential electric and combined account customers for whom a pledge of payment has been received from an authorized agency. Consistent with the findings of the Order of December 28, 2021, Duke Kentucky should additionally be granted approval, for accounting purposes only, to record a regulatory asset for any late payment charges waived under this provision for both residential electric or combined account customers between the date of this Order and Duke Kentucky's next rate case.

IT IS THEREFORE ORDERED that:

1. Duke Kentucky's motion for rehearing and clarification is granted.
2. Duke Kentucky is authorized to charge a \$5 bad check fee to electric and combined account customers.
3. Duke Kentucky is authorized to waive a late payment fee for residential electric or combined account customers for whom a pledge of payment has been received from an authorized agency.
4. Duke Kentucky is authorized to establish a regulatory asset for the late payment charges waived as a result of receipt of a pledge or notice of low-income assistance from an authorized agency for both residential electric or combined account customers between the date of this Order and Duke Kentucky's next general rate case.
5. The regulatory asset related to late payment charge waivers approved in this case is for accounting purposes only.

6. The amount, if any, of the regulatory asset authorized in this Order that is to be amortized and included in rates, shall be determined in Duke Kentucky's next rate case.

7. Within 20 days of the date of this Order, Duke Kentucky shall file with the Commission, using the Commission's electronic Tariff Filing System, new tariff sheets setting forth the rates, charges, and modifications approved or as required in this Order, and reflecting their effective date and that they were authorized by this Order.

8. This case is closed and removed from the Commission's docket.

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By the Commission

ENTERED  
JAN 25 2022 rcs  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2021-00190

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