

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF BLUEGRASS)	CASE NO.
GAS SALES, INC. FOR A RATE ADJUSTMENT)	2021-00483
PURSUANT TO 807 KAR 5:076)	

ORDER

This matter arises on Bluegrass Gas Sales, Inc.'s (Bluegrass) late responses to Commission Staff's Second Request for Information (Staff's Second Request).

BACKGROUND

Bluegrass's original application was submitted December 30, 2021, and deemed filed January 18, 2022. The Commission entered an Order on January 25, 2022, that established a procedural schedule. On February 25, 2022, Bluegrass filed a motion requesting an extension of time to respond to Commission Staff's First Request for Information (Staff's First Request), which was issued on February 10, 2022, with responses due February 25, 2022. As the basis for the request, Bluegrass stated that it was in the process of gathering the data necessary to respond to Staff's First Request and requested an additional five business days to file its responses. The Commission granted Bluegrass's motion on April 5, 2022, and revised the procedural schedule so that responses were due April 8, 2022; however, Bluegrass did not file its responses to Staff's First Request.

On April 27, 2022, Bluegrass requested an additional extension of time to file its responses. As the basis for the request, Bluegrass stated that it has experienced

additional problems gathering the necessary information, due to health issues, scheduling problems, and staffing issues, which have now been resolved. The Commission granted Bluegrass's motion on May 20, 2022,¹ and revised the procedural schedule so that responses were due May 27, 2022; however, Bluegrass did not file its responses to Staff's First Request or request an extension of time to file responses.

Bluegrass's amended application was submitted June 16, 2022, and deemed filed July 13, 2022. On July 18, 2022, the Commission issued an Order which granted Bluegrass's request to amend the application and revised the procedural schedule. The revised procedural schedule, among other things, provided for Commission Staff's Second Request for Information (Staff's Second Request), which was issued on August 1, 2022, with responses due by August 16, 2022. On September 1, 2022, Bluegrass filed responses to Staff's Second Request; however Bluegrass did not request an extension of time to file responses and Bluegrass's responses were not accompanied by a signed certification of the preparer or the 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.

LEGAL STANDARD

Alternative rate adjustment proceedings, such as this one, are governed by 807 KAR 5:076, which establishes a simplified process for small utilities to use to request rate adjustments, with the process designed to be less costly to the utility and to the utility ratepayers. The Commission's standard of review of a utility's request for a rate increase

¹ The May 20, 2022 Order also required Bluegrass to file notice with the Commission that informed the Commission whether it agreed to delay placing the proposed rates into effect until the Commission issues a final Order in this proceeding. Bluegrass did not respond to this directive.

is well established. In accordance with KRS 278.030 and case law, Bluegrass is allowed to charge its customers “only ‘fair, just and reasonable rates.’”² Further, Bluegrass bears the burden of proof to show that the proposed rate increase is just and reasonable, under KRS 278.190(3).

DISCUSSION AND FINDINGS

Over nine months have passed since the original application was filed and in that time Bluegrass has repeatedly failed to timely respond to directives of the Commission. The Commission finds that for purposes of administrative efficiency it may be in the best interest of Bluegrass, the Commission, and Commission Staff for this case to be dismissed and removed from the Commission's docket.

Based upon the evidence of record and being otherwise sufficiently advised, the Commission finds that Bluegrass’s late responses to Staff’s Second Request should be accepted, but if Bluegrass fails to file any further responses or other requested filings by the established deadline, without timely filing a request for an extension of time, this case should be dismissed. A utility requesting a rate increase has the burden of proof to show that the rates it seeks are just and reasonable.³ In reaching a decision whether rates are fair, just and reasonable, there must be sufficient evidence of record for the Commission, as trier of fact, to weigh. The Commission also finds that Bluegrass must agree to refrain from placing the proposed tariff provisions into effect until the Commission issues a final Order in this proceeding, except in accordance with the statutory period in KRS 278.192.

² *City of Covington v. Public Service Commission*, 313 S.W.2d 391 (Ky. 1958); and *Pub. Serv. Comm’n v. Com. of Kentucky v. Dewit Water District*, 720 S.W.2d 725 (Ky. 1986).

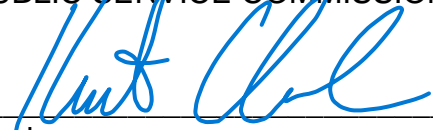
³ “[T]he burden of proof of showing that an increase of rate or charge is just and reasonable [is] upon the applicant utility.” *Kentucky American Natural Gas Co. v. Commonwealth ex rel. Cowan*, 847 S.W.2d 737, 741 (Ky. 1993).

This will permit the Commission time to conduct discovery and issue a final Order in this proceeding. The Commission further finds that the procedural schedule should be amended. An amended procedural schedule is set forth in the Appendix to this Order.

IT IS THEREFORE ORDERED that:

1. Bluegrass's late responses to Staff's Second Request are accepted.
2. If Bluegrass fails to file any further responses or other requested filings by the established deadline, without timely filing a request for an extension of time, this case will be dismissed.
3. On or before October 13, 2022, Bluegrass shall file notice with the Commission that informs the Commission whether it agrees to delay placing the proposed rates into effect until the Commission issues a final Order in this proceeding, except in accordance with the statutory period in KRS 278.192.
4. The procedural schedule set forth in the Commission's July 18, 2022, Order is canceled and replaced with the procedural schedule set forth in the Appendix to this Order.
5. All other provisions of the Commission's July 18, 2022, Order remain in full force and effect.

PUBLIC SERVICE COMMISSION



Chairman

Vice Chairman



Commissioner



ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00483 DATED OCT 05 2022

All supplemental requests for information to Bluegrass
shall be filed no later than 10/14/2022

Bluegrass shall file responses to supplemental requests
for information no later than 10/21/2022

Last day for Bluegrass to request a Public Hearing or submit a
request for the matter be decided based upon the written record 11/04/2022

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