

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

|                                      |   |            |
|--------------------------------------|---|------------|
| AN ELECTRONIC EXAMINATION OF THE     | ) |            |
| APPLICATION OF THE FUEL ADJUSTMENT   | ) |            |
| CLAUSE OF EAST KENTUCKY POWER        | ) | CASE NO.   |
| COOPERATIVE, INC. COOPERATIVES FROM  | ) | 2023-00014 |
| NOVEMBER 1, 2020 THROUGH OCTOBER 31, | ) |            |
| 2022                                 | ) |            |

ORDER

On May 28, 2024, East Kentucky Power Cooperative (EKPC)'s 16-member cooperatives, jointly, filed a motion for rehearing or clarification of the final Order in Case No. 2023-00014<sup>1</sup> as well as a motion for an extension of time to file each cooperatives' tariff, and a request for an informal conference. In the motion for rehearing, EKPC stated that the member cooperatives have informed the utility that they cannot determine the calculation used to determine the percentage contained in the final Order in this matter.<sup>2</sup> EKPC argued that the member cooperatives have indicated that they would be under-recovering FAC charges using the percentage set out in the final Order.<sup>3</sup> In addition, EKPC and the member cooperatives requested an additional 20 days after the final Order on the motion for rehearing to file updated tariffs. EKPC and its member cooperatives requested an informal conference to facilitate the exchange of information related to the calculation. EKPC and the member cooperatives noted that the request for an extension

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<sup>1</sup> Order (Ky. PSC May 6, 2024) and Order (Ky. PSC May 6, 2024).

<sup>2</sup> Motion for Rehearing at unnumbered page 2. See Order (Ky. PSC May 6, 2024, 5:37:51 p.m.).

<sup>3</sup> Motion for Rehearing at unnumbered page 2.

to file updated tariffs relates directly to the belief that the member cooperatives would be financially harmed by the changed rate as a result of the alleged under-recovery.

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>4</sup> An order can only be unlawful if it violates a state or federal statute or constitutional provision.<sup>5</sup>

Having considered the motion and the evidence in this matter, the Commission finds that the motion for rehearing should be granted. The Commission believes that EKPC and its member cooperatives have presented a possible material discrepancy relating to the true-up of base energy rates. The Commission acknowledges that there appears to be a difference in the amount of the final Order as it relates to each individual member cooperative and the amount calculated by each member utility in response to Commission Staff’s First Request for Information, Item 4.<sup>6</sup> The monthly line loss forms submitted by the member cooperatives did not, in every case, match the numbers submitted in response to the request for information. The final Order did not contain a

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<sup>4</sup> *Energy Regulatory Comm’n v. Kentucky Power Co.*, 605 S.W.2d 46 (Ky. App. 1980).

<sup>5</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).

<sup>6</sup> “Provide a schedule showing the calculation of the increase or decrease in base fuel costs per kWh as proposed by wholesale electric supplier adjusted for the 12-month average line loss for the period under review.”

detailed explanation of the calculation if the increase in base fuel costs per kWh adjusted for average line loss.


In order to address this alleged discrepancy and omission, the Commission establishes the procedural schedule set out as Appendix to this Order. The Commission also finds that the motion for the extension to file the tariff sheets should be granted.

To provide EKPC's member cooperatives the opportunity to informally provide information regarding the matters granted rehearing, the Commission grants the motion for an informal conference.

IT IS THEREFORE ORDERED that:

1. The motion for rehearing is granted.
2. The motion for an extension to file tariff sheets for EKPC's member cooperatives is granted.
3. The motion for an informal conference is granted.
4. Parties shall follow the rehearing procedural schedule set out as an Appendix to this Order.
5. The remainder of both May 6, 2024 Orders not in conflict with this Order remains in effect.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ENTERED  
MAY 31 2024 rcs  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2023-00014 DATED MAY 31 2024

Informal Conference.....to be scheduled

All rehearing requests for information to EKPC's member cooperatives  
shall be filed no later than ..... 06/21/2024

EKPC's member cooperatives shall file responses to rehearing requests for  
information no later than..... 07/10/2024

If any other dates are needed, the Commission will address them by Order.

\*Farmers R.E.C.C.  
Farmers R.E.C.C.  
504 South Broadway  
P. O. Box 1298  
Glasgow, KY 42141-1298

\*Cumberland Valley Electric, Inc.  
Cumberland Valley Electric, Inc.  
Highway 25E  
P. O. Box 440  
Gray, KY 40734

\*Grayson R.E.C.C.  
Grayson R.E.C.C.  
109 Bagby Park  
Grayson, KY 41143

\*Big Sandy R.E.C.C.  
Big Sandy R.E.C.C.  
504 11th Street  
Paintsville, KY 41240

\*Inter-County Energy Cooperative Corp  
Inter-County Energy Cooperative Corporation  
1009 Hustonville Road  
P. O. Box 87  
Danville, KY 40423-0087

\*Taylor County R.E.C.C.  
Taylor County R.E.C.C.  
625 West Main Street  
P. O. Box 100  
Campbellsville, KY 42719

\*Fleming-Mason Energy Cooperative, In  
Fleming-Mason Energy Cooperative, Inc.  
1449 Elizaville Road  
P. O. Box 328  
Flemingsburg, KY 41041

\*Jackson Energy Cooperative Corporati  
Jackson Energy Cooperative Corporation  
115 Jackson Energy Lane  
McKee, KY 40447

\*Nolin R.E.C.C.  
Nolin R.E.C.C.  
411 Ring Road  
Elizabethtown, KY 42701-6767

\*Licking Valley R.E.C.C.  
Licking Valley R.E.C.C.  
P. O. Box 605  
271 Main Street  
West Liberty, KY 41472

\*South Kentucky R.E.C.C.  
South Kentucky R.E.C.C.  
200 Electric Avenue  
Somerset, KY 42501

\*Owen Electric Cooperative, Inc.  
Owen Electric Cooperative, Inc.  
8205 Highway 127 North  
P. O. Box 400  
Owenton, KY 40359

\*Blue Grass Energy Cooperative Corp.  
Blue Grass Energy Cooperative Corp.  
1201 Lexington Road  
P. O. Box 990  
Nicholasville, KY 40340-0990

\*Shelby Energy Cooperative, Inc.  
Shelby Energy Cooperative, Inc.  
620 Old Finchville Road  
Shelbyville, KY 40065

\*Clark Energy Cooperative, Inc.  
Clark Energy Cooperative, Inc.  
2640 Ironworks Road  
P. O. Box 748  
Winchester, KY 40392-0748

\*Salt River Electric Cooperative Corp  
Salt River Electric Cooperative Corp.  
111 West Brashear Avenue  
P. O. Box 609  
Bardstown, KY 40004