

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF EAST)	
KENTUCKY MIDSTREAM, LLC FOR APPROVAL)	CASE NO.
OF A PROPOSED TARIFF UNDER 807 KAR)	2023-00112
5:026, SECTION 9)	

ORDER

On May 31, 2023, East Kentucky Midstream, LLC (East Kentucky Midstream) filed an application to establish a farm tap tariff and increase rates to farm tap customers pursuant to KRS 278.485 and 807 KAR 5:026, which govern gathering systems that provide service to retail customers who tap onto farm tap systems. East Kentucky Midstream proposed an effective date of August 1, 2023. In addition to its application, East Kentucky Midstream filed a request for deviation and exception to the filing requirements of 807 KAR 5:026, Section 9(1)(b), regarding cost data. East Kentucky Midstream's request was granted, in part, and denied, in part, by Commission Order issued June 12, 2023.¹ East Kentucky Midstream's application was rejected for filing due to certain filing deficiencies, which were ultimately cured resulting in the application being deemed filed as of July 21, 2023. In compliance with 807 KAR 5:026, Section (1)(d), East Kentucky Midstream provided notice to its customers detailing the proposed changes in its farm tap rates and services. On August 2, 2023, the tariff filing was suspended

¹ East Kentucky Midstream's request for an exception to providing cost data from the previous two years is granted. The request for an exception to providing cost data that is current within 90 days of the date the proposed tariff is filed is denied.

pursuant to KRS 278.190(2) for five months up to and including February 19, 2024. East Kentucky Midstream responded to three rounds of discovery from Commission Staff.² There are no intervenors in this proceeding.

LEGAL STANDARD

The Commission has exclusive jurisdiction over the regulation of rates and services of utilities in Kentucky,³ including natural gas distribution companies. KRS 278.190 permits the Commission to investigation any schedule of new rates to determine its reasonableness.

The Commission also has jurisdiction to regulate the retail rates of gas pipeline companies that do not meet the definition of a utility but provide limited retail gas service pursuant to KRS 278.485. This statute requires every company obtaining natural gas from producing wells located within the state to furnish retail gas service to owners of property located within one-half air mile of one of the company's wells or gathering lines by direct tap, known as a farm tap, on the company's piping.

As to the rates that gas pipeline companies providing farm tap service may charge, KRS 278.485 in pertinent part provides only that "[t]he gas service shall be furnished at rates and minimum monthly charges determined by the Public Service Commission." Commission regulation 807 KAR 5:026, Section 1(4), defines "gas company" as the owner of any producing gas well or gathering line.

² East Kentucky Midstream's First Response to Commission Staff First Request for Information (Staff's First Request) (filed Sept. 1, 2023); East Kentucky Midstream's Response to Commission Staff's Second Request for Information (Staff's Second Request) (filed Sept. 29, 2023); and East Kentucky Midstream's Response to Commission Staff's Third Request for Information (Staff's Third Request) (filed Apr. 23, 2024).

³ KRS 278.040(2).

Commission Regulation 807 KAR 5:026, Section 9, allows a farm tap operator to request an adjustment in retail rates through a proposed tariff if (1) the percentage change in rates does not exceed the percentage change in the price index during the most recent 12-month period immediately preceding the date the proposed tariff is filed,⁴ and (2) the proposed rate does not exceed the highest average volumetric rate of a local gas distribution utility approved by the commission and in effect on the date the proposed tariff is filed. If the proposed percentage increase in rates exceeds the percentage change in the price index but the proposed rate remains below the highest prevailing gas rate approved by the Commission, the gas company must submit its proposed tariff and cost data that supports the proposed increase.

BACKGROUND

East Kentucky Midstream acquired the Jefferson Gas Transmission Company d/b/a Jefferson Gas, LLC (Jefferson Gas) system in March 2021.⁵ Jefferson Gas already had an established farm tap tariff adopted from Capitol Oil Company on October 23, 1996. East Kentucky Midstream, after acquiring the system, began to charge the farm tap customers a non-Commission approved rate. The rates charged were calculated based on: FERC TCo Appalachian Index + \$5.75/Dth + \$2.00/Dth (LAUF & Meter reading).⁶

⁴ Commission regulation 807 KAR 5:026 defines price index as the average of the producer price index utility natural gas (PPI 5-05) for the most recent 12-month period as published monthly by the United States Department of Labor, Bureau of Labor Statistics.

⁵ Application at 1 of 5.

⁶ Case No. 2022-00238, *Electronic Investigation of Jurisdictional Status of East Kentucky Midstream, LLC, and of Its Compliance with KRS Chapter 278, 807 KAR Chapter 005, and 49 CFR Parts 191 and 192* (Ky. PSC Aug. 16, 2023), East Kentucky Midstream's Response to Staff's First Request, Item 9.

PROPOSAL

East Kentucky Midstream stated that it is a limited liability company that operates a gas gathering system located in Breathitt, Clark, Johnson, Lawrence, Menifee, Montgomery, Morgan, and Wolfe counties, Kentucky.⁷ East Kentucky Midstream used the calendar year period ended December 31, 2022, as the test year to determine the reasonableness of the proposed farm tap rates. East Kentucky Midstream reported that, based on 2022 data, it averaged 315 farm tap customers per month, 10 of which East Kentucky Midstream would describe to be nonresidential. Total average usage per month in 2022 was 1,932.75 Mcf or approximately 6.14 Mcf per customer. As of July 2023, East Kentucky Midstream reported 294 active farm tap customers. East Kentucky Midstream does not supply free gas to its farm tap customers via lease or right-of-way agreements.⁸ East Kentucky Midstream stated it expects a maximum of 315 farm tap customers in the near future, but East Kentucky Midstream also reported that its farm tap accounts have been in a slow decline.⁹

East Kentucky Midstream proposed to establish two separate rate classes: Residential and Non-Residential (small volume) customers. According to its proposed tariff, East Kentucky Midstream plans to distinguish the two classes based on dwelling, type of end-use, and average Mcf usage. The Non-Residential (small volume) class is based on in any 12-month period, actual or expected usage that averages less than 20 Mcf per month and does not exceed 60 Mcf in any one month. East Kentucky

⁷ Application at 1, paragraph 1 and 3. East Kentucky Midstream also provided the service area in the Application, Appendix B at 4.

⁸ East Kentucky Midstream's Response to Staff's First Request, Item 10.

⁹ East Kentucky Midstream's Response to Staff's First Request, Item 8a.

Midstream also included a section leaving open the option for special contract for supply of gas to a single property owner at multiple points of service or for resale or large volume non-residential end-use to persons otherwise qualifying for farm tap service.

East Kentucky Midstream proposed an \$11.00 monthly residential customer charge, which considers the effects of competition from other suppliers, alternate fuel and energy options and the benchmarks for reasonableness set out in 807 KAR 5:026, Section 9(1)(a). In accordance with KRS Chapter 278 and 807 KAR Chapter 5 in effect on the date the proposed tariff is filed, the proposed rates for customer charges and usage do not exceed the highest average volumetric rate for a local gas distribution utility approved by the Commission.¹⁰ The Non-Residential (small volume) monthly customer charge was set to be at double the residential charge at \$22.00 based on perceived patterns of usage and the specific needs of said customer class.¹¹ The proposal also included a per Mcf usage rate of \$13.00 per Mcf which remained the same for both classes.

East Kentucky Midstream based its proposed revenue requirement on its 2022 unallocated totals for this subset of ordinary expenses incurred to provide farm tap service:¹²

		2022
5200	Wages	332,899.20
5210	Workers Comp	18,565.15
5215	Payroll Taxes	26,547.72
60200	Automobile Expense	119,746.25

¹⁰ Sentra Corporation held the highest Commission approved LDC rates at the time of \$21.2112 per Mcf for residential and \$21.2112 for nonresidential. See Case No. 2023-00103, *Purchased Gas Adjustment of Sentra Corporation* (Ky. PSC Apr. 28, 2023).

¹¹ East Kentucky Midstream Response to Staff's First Request, Item 8d at 4 of 4.

¹² Supplemental Application Exhibits to Cure Deficiency (filed June 29, 2023), Exhibit D at 2 of 4.

6040	Credit Card Fees	404.40
61700	Computer / Internet Expenses	2,382.87
6330	Insurance Expense	26,505.95
6331	Health Insurance	79,258.76
64300	Meals and Entertainment	58.01
64900	Office Supplies	4,038.60
66700	Professional Fees	107,569.74
67201	Pipeline repairs	525,719.66
67205	Vehicle	85,855.44
68100	Telephone Expense	4,425.93
68405	Taxes	13,184.56
68600	Utilities	25,395.98
TOTAL		1,362,558.22

East Kentucky Midstream used an overall allocator to farm tap service operations for these categories of 0.153 for its 2022 expenses.¹³ The subset of expenses does not include such categories as depreciation, amortization, or compressor expense. East Kentucky Midstream, in its application, insinuated that it plans to return to the Commission at a later date for an adjustment, as it expects that the proposed rates will not fully recover all the costs incurred to provide farm tap service.¹⁴

DISCUSSION

East Kentucky Midstream supplied an analysis of its farm tap expenses based on information to provide service during the 2022 calendar year period. The Commission accepts these expenses as reasonable, with minor modifications, as discussed below.

East Kentucky Midstream reported an expense total for its Pipeline Repairs to be \$525,720 for 2022. The months of June and November 2022 were outliers reporting an expense of \$155,450 and \$298,886, respectively. Since East Kentucky Midstream utilizes a cash accounting procedure, these large payments were made to pipeline supply

¹³ Supplemental Application Exhibits to Cure Deficiency, Exhibit D at 1 of 4.

¹⁴ Supplemental Application Exhibits to Cure Deficiency, Exhibit D at 1 of 4.

companies and large construction equipment rental companies.¹⁵ The Commission finds that the outlier months should be normalized to a more reasonable 2022 expense amount of \$85,660.64. The Commission further finds that the expenses related to Meal and Entertainment should be removed as it is not a necessary expense for farm tap service operations. This produces a Pro Forma Operating Expense Before Income Taxes of \$922,441.19. East Kentucky Midstream, in its cost justification for its proposed rates, used a 0.153 Operating Expenses Allocation Factor to Farm Taps. The Commission finds this reasonable and approves of using the same operating expenses allocation factor as originally proposed by East Kentucky Midstream. This results in a Pro Forma Operating Expense of \$141,134.

As part of its cost justification, East Kentucky Midstream provided its gas costs for 15 months from January 2022 thru March 2023.¹⁶ East Kentucky Midstream used the Inside FERC TCo Appalachian Index, converted to volumetric units of Mcf using 1.1837 as the conversion factor. The gas cost in 2022 ranged between \$3.906 per Mcf and \$9.635 per Mcf; the average being \$6.786 per Mcf and the median is \$6.818 per Mcf. The Commission finds that the average gas cost of \$6.786 per Mcf multiplied by the expected annual usage of 23,193.00 Mcf¹⁷ for the estimated annual cost of natural gas is reasonable, and the \$157,388 should be included for natural gas recovery. The Total Revenue Required from Rates for Service is \$298,522.

¹⁵ East Kentucky Midstream's Response to Staff's Third Request, Item 2.

¹⁶ Supplemental Application Exhibits to Cure Deficiency, Exhibit D at 1 of 4.

¹⁷ East Kentucky Midstream reports its average monthly customer usage to be 1,932,75 Mcf.

The Commission finds that the proposed monthly customer charges of \$11.00 for residential and \$22.00 for Non-Residential (small volume) are reasonable and will apply the remaining revenue requirement to the volumetric charge. This results in a usage-based rate of \$11.0211 per Mcf. Residential customers, based on an average monthly usage of 4 Mcf,¹⁸ should expect to have an average bill of \$55.08. Non-Residential (small volume) customers with an average usage of 10 Mcf¹⁹ should expect an average bill of approximately \$132.21.

PROPOSED TARIFF

East Kentucky Midstream filed a proposed tariff containing its rates, rules, and regulations. An application for Gas Service was also filed containing additional rules and regulations.²⁰ Except as modified herein, the Commission finds that the proposed tariff is reasonable and that it should be accepted as filed.

Seasonal Temporary Disconnect Fee. East Kentucky Midstream proposed a \$100 Seasonal Temporary Disconnect Fee to cover the cost of disconnecting and reconnecting customers who request seasonal disconnection. Cost Justification for the proposed fee was provided and included field labor, clerical and office labor, mileage, and pipeline repairs expense.²¹ East Kentucky Midstream provided a low and high amount in the cost justification of \$144.86 and \$206.96, respectively.²² East Kentucky Midstream indicated

¹⁸ Revised customer notice (filed July 21, 2023) at 1 of 2.

¹⁹ Revised customer notice at 1 of 2.

²⁰ East Kentucky Midstream's Response to Staff's Third Request for Information, Item 4.

²¹ East Kentucky Midstream's Response to Staff's Second Request, Item 1.

²² East Kentucky Midstream's Response to Staff's Second Request, Item 1.

that the labor costs and mileage expense were included in the 2022 operating expenses from which the allocation to farm tap service operation were made and used to support the proposed recurring charge.²³ Commission regulation 807 KAR 5:026, Section 7(1), sets out a \$25 reconnection fee when service is disconnected for nonpayment. The Commission finds that the Seasonal Temporary Disconnect Fee should not exceed the amount set out in the regulation for reconnection for nonpayment. Thus, the Commission finds that the \$100 fee for Seasonal Temporary Disconnect is unreasonable. The Commission finds that East Kentucky Midstream should charge \$25 for seasonal/temporary disconnect, which matches the reconnect fee set out in 807 KAR 5:026, Section 7(1).

East Kentucky Midstream's proposed tariff also contains a provision that states if a customer requests nonseasonal discontinuance of service and is later reconnected under the same account holder, East Kentucky Midstream can require re-application of service or charge and collect the greater of the Seasonal/Temporary Disconnect Fee or the applicable customer charge for each month or part thereof that service was discontinued. As mentioned above, the Commission's regulations set out a \$25 reconnection fee when service is disconnected for nonpayment. Charging a customer the greater of the Seasonal/Temporary Disconnect Fee or the applicable customer charge for each month that service was discontinued could result in such a customer paying more than the \$25 set forth in the regulation for reconnections. Therefore, the Commission finds that this provision should be revised to require re-application of service or charge the Seasonal/Temporary Disconnect Fee of \$25.

²³ East Kentucky Midstream's Response to Staff's First Request , Item 2(a)(2).

Deviations from Tariff. East Kentucky Midstream’s tariff contains a provision that states: “No agent or employee of East Kentucky Midstream has authority to make any oral promise, agreement, or representation inconsistent with this tariff, and no such promise, agreement, or representation shall bind East Kentucky Midstream, unless in writing and signed by an executive officer thereof.” The Commission notes that East Kentucky Midstream cannot deviate from the tariff without executing a special contract.

Application for Service. The application for service, which customers are required to complete, includes requests for spouse’s name (if any), social security number, and place of employment. The Commission has found such information unnecessary to the provision of service. The Commission finds that the place of employment request should be struck from the application, that the request for spouse’s name be changed to co-applicant’s name, and that the social security number be changed to either last four digits of SSN or driver’s license number.

Having considered the evidence of record and being otherwise sufficiently advised, the Commission finds that the rates, charges, and terms set forth in the Appendix to this Order are fair, just and reasonable, in the public interest, and should be approved effective with the date of service of this Order.

IT IS THEREFORE ORDERED that:

1. The rates and charges proposed by East Kentucky Midstream are denied.
2. The rates and charges, as set forth in the Appendix to this Order, are approved as fair, just and reasonable rates for East Kentucky Midstream, and these rates and charges are approved for service rendered on and after the date of service of this Order.

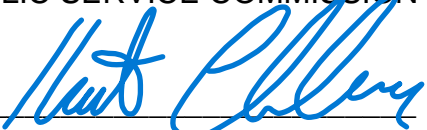
3. Except for the tariff provisions that have been modified herein, East Kentucky Midstream's proposed tariff is approved as filed.

4. Within 20 days of the date of service of this Order, East Kentucky Midstream 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 herein and reflecting their effective date and that they were authorized by this Order.

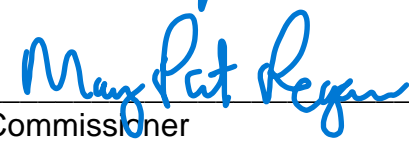
5. This case is closed and removed from the Commission's docket.

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PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ENTERED
MAY 20 2024 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2023-00112 DATED MAY 20 2024

The following rates and charges are prescribed for the customers in the area served by East Kentucky Midstream, LLC. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under the authority of the Commission prior to the effective date of this Order.

Monthly Charges:

Residential Account:

Customer Charge (per month, per account):	\$ 11.00
Per Mcf:	\$ 11.0211

Non-Residential (small volume) Account:

Customer Charge (per month, per account):	\$ 22.00
Per Mcf:	\$ 11.0211

Other Charges:

Installation /Reconnection Fee	\$ 25.00
Seasonal/ Temporary Disconnect Fee	\$25.00
Meter Test Charge	Actual Cost
Deposit	\$100

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