

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF THE EAST)	
KENTUCKY POWER COOPERATIVE, INC.)	CASE NO.
DISTRIBUTION COOPERATIVES TO ESTABLISH)	2023-00135
AN EARNING MECHANISM TARIFF)	

ORDER

On March 28, 2023, Big Sandy R.E.C.C., Blue Grass Energy Cooperative Corp., Clark Energy Cooperative Corp., Cumberland Valley Electric, Inc., Farmers R.E.C.C., Fleming-Mason Energy Cooperative, Inc., Grayson R.E.C.C., Inter-County Energy Cooperative Corporation, Jackson Energy Cooperative Corporation, Licking Valley R.E.C.C., Nolin R.E.C.C., Owen Electric Cooperative, Inc., Salt River Electric Cooperative Corp., Shelby Energy Cooperative, Inc., South Kentucky R.E.C.C., and Taylor County R.E.C.C. (collectively, Distribution Cooperatives) filed new tariff sheets, using the Commission’s electronic Tariff Filing System, to establish an Earnings Mechanism Tariff. The Distribution Cooperatives proposed an effective date of April 28, 2023.

As part of their filing, the Distribution Cooperatives state that customer notice is not required because a “charge, fee, condition of service, or rule regarding the provision of service” is not being added or changed. They state that the filing is a pass-through of any credit amount that they receive from East Kentucky Power Cooperative, Inc. (EKPC) as a result of EKPC’s Earnings Mechanism.¹ The Distribution Cooperatives request that

¹ Distribution Cooperatives’ Motion for Deviation (filed Mar. 28, 2023) at 1, paragraph 2.

if the Commission concludes that a customer notice is required, then the Commission should grant a deviation to the Distribution Cooperatives because providing notice would create an additional cost to the cooperatives for a tariff filing that is a mechanism to pass-through any Times Interest Earned Ratio (TIER) sharing credit that they may receive from EKPC.²

LEGAL STANDARD

The Commission has exclusive jurisdiction over the regulation of rates and service of utilities in Kentucky.³ Kentucky law provides that a utility may demand, collect and receive fair, just and reasonable rates⁴ and that the service it provides must be adequate, efficient and reasonable.⁵ KRS 278.190 permits the Commission to investigate any schedule of new rates to determine its reasonableness.

A utility shall provide notice if a charge, fee, condition of service or rule regarding the provision of service is changed, revised, or initiated and the change will affect the amount that a customer pays for service or the quality, delivery, or rendering of a customer's service.⁶

BACKGROUND

² Distribution Cooperatives' Motion for Deviation (filed Mar. 28, 2023) at 2, paragraph 4.

³ KRS 278.040(2).

⁴ KRS 278.030(1).

⁵ KRS 278.030(2).

⁶ 807 KAR 5:011, Section 8.

In Case No. 2021-00429,⁷ the Commission approved EKPC's Earnings Mechanism Tariff, which allows EKPC to return excess margins to customers in the form of a bill credit if EKPC achieves per book margins in excess of 1.40 TIER during a calendar year. Per the Earnings Mechanism Tariff, EKPC submits an annual filing with the Commission setting forth EKPC's calculations of margins and any required bill credit for the most recent calendar year on or before April 30th of the following year.⁸ EKPC would then apply the applicable bill credit to each Distribution Cooperative on the June billing invoices of the year for the annual filing, unless the one-time credit would create an adverse impact to EKPC's cash flows, in which EKPC may request and the Commission may order, other amortization periods on a case-by-case basis.⁹

DISTRIBUTION COOPERATIVE EARNINGS MECHANISM TARIFF

The Distribution Cooperatives will calculate the bill credit applicable to their retail members as follows:

1. The Distribution Cooperatives will determine which of their retail rate schedules correspond with the EKPC wholesale rate classes, and using the same calendar year as EKPC, determine the total revenues for the set of their rate schedules that correspond with each EKPC rate class;

⁷ Case No. 2021-00429, *Electronic Tariff Filing of East Kentucky Power Cooperative, Inc. to Establish its Earnings Mechanism Tariff* (Ky. PSC Mar. 29, 2022).

⁸ EKPC's current tariff on file with the Commission, P.S.C. No. 35, First Revised Sheet No. 47, Cancelling P.S.C. No. 35, Original Sheet No. 47.

⁹ EKPC's current tariff on file with the Commission, P.S.C. No. 35, Original Sheet No. 47.1.

2. The Distribution Cooperatives will determine the percentage of the total revenues for each of their rate schedules that correspond with the applicable EKPC rate class;

3. The Distribution Cooperatives will allocate the excess margin by EKPC rate class to their corresponding rate schedules by multiplying the allocated excess margin by EKPC rate class by the percentage calculated in step 2 above;

4. The Distribution Cooperatives will calculate a bill credit percentage for each of their retail rate schedules by dividing the excess margin allocated to the retail rate schedule by the total revenues for that retail rate schedule used in step 1 above; and

5. The Distribution Cooperatives will, utilizing their customer account information, apply the bill credit percentage for each retail rate schedule to the total revenues provided by each retail rate member in the calendar year used by EKPC.

Each Distribution Cooperative's Earnings Mechanism Tariff states that they may elect to return the bill credit as a one-time credit on the retail member's current bill or spread the bill credit out over several billings. If spread over several billings, the payment of the bill credit will be completed by the end of the year.

DISCUSSION AND FINDINGS

Based upon a review of the Distribution Cooperative tariff filings and being otherwise sufficiently advised, the Commission finds that the Distribution Cooperatives' Earnings Mechanism Tariffs, as modified below are fair, just and reasonable because the method for calculating the bill credit percentage results in an equitable allocation of the excess margins that are allocated to each Distribution Cooperative by EKPC. The Commission also finds that customer notice is not required pursuant to 807 KAR 5:011,

Section 8, given the unique nature of the tariff, namely that the tariff is a credit mechanism to pass through credits received by the Distribution Cooperatives from EKPC.

The Distribution Cooperatives' Earnings Mechanism Tariffs are silent whether the Distribution Cooperatives will file the bill credit percentage calculations with the Commission. In order to be transparent to the Distribution Cooperatives' retail rate members, the Commission finds that the Distribution Cooperative Earnings Mechanism Tariffs should state that, should the Earnings Mechanism Tariffs be triggered, the Distribution Cooperatives will file with the Commission their calculations of the bill credit percentage in the same manner that EKPC files its calculations with the Commission.

As noted above, EKPC's Earnings Mechanism tariff allows for either a one-time bill credit to each Distribution Cooperative or, if EKPC determines that a one-time bill credit would create an adverse impact to EKPC's cash flows, then EKPC may request, and the Commission may order, other amortization periods on a case-by-case basis. For this reason, the Commission finds that the Distribution Cooperatives' Earnings Mechanism Tariffs should state that the bill credits will be returned to their retail members over the same amortization period EKPC uses to provide the bill credits to the Distribution Cooperatives.

The Commission recognizes that challenges may arise under step 5 of the above process, particularly issues related to using the past year's customer account information in determining bill credits. Should issues arise under the current process, in subsequent years the Distribution Cooperatives may propose a modification for Commission consideration to provide a bill credit to all current customers based on expected or

anticipated usage, or based on customer count. The Commission will consider the reasonableness of any proposal if and when it is submitted.

IT IS THEREFORE ORDERED that:

1. The Distribution Cooperatives' request to establish an Earnings Mechanism Tariff is approved with the revisions discussed herein.

2. The Distribution Cooperatives shall revise their Earnings Mechanism Tariffs to indicate that, should the tariff be triggered, the Distribution Cooperatives will file with the Commission their calculations of the bill credit percentage in the same manner that EKPC files its calculations.

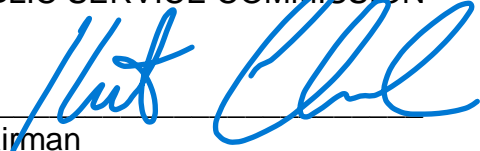
3. The Distribution Cooperatives shall revise their Earnings Mechanism Tariffs to indicate that the bill credits will be returned to their retail members over the same amortization period EKPC uses to provide the bill credits to the Distribution Cooperatives.

4. The Distribution Cooperatives' request for a deviation from the notice requirements under 807 KAR 5:011 is granted and the Distribution Cooperatives are not required to provide customer notice of the proposed tariff.

5. Within 20 days of the date of service of this Order, the Distribution Cooperatives will file with this Commission, using the Commission's electronic Tariff Filing System, revised tariff sheets setting out the revisions approved herein and reflecting that they were approved pursuant to this Order.

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

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ENTERED
APR 27 2023 bsb
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


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