COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

<u>O R D E R</u>

This matter arises on a motion to modify the Earnings Mechanism Tariff (Rate EM Tariff) approved by the Commission on April 27, 2023, and modified tariff sheets filed by Big Sandy Rural Electric Cooperative Corporation, Blue Grass Energy Cooperative Corp., Clark Energy Cooperative Corp., Cumberland Valley Electric, Inc., Farmers Rural Electric Cooperative Corporation, Fleming-Mason Energy Cooperative, Inc., Grayson Rural Electric Cooperative Corporation, Inter-County Energy Cooperative Corporation, Jackson Energy Cooperative Corporation, Licking Valley Rural Electric Cooperative Corporation, Nolin Rural Electric Cooperative Corporation, Owen Electric Cooperative, Inc., Salt River Electric Cooperative Corp., Shelby Energy Cooperative, Inc., South Kentucky Rural Electric Cooperative Corporation, and Taylor County Rural Electric Cooperative Corporation (collectively, Distribution Cooperatives). On June 1, 2023, the Commission granted rehearing on the Distribution Cooperative's request and reopened this proceeding to investigate the reasonableness of the proposed tariff. The Distribution Cooperatives responded to two rounds of discovery from Commission Staff. On July 17, 2023, the Distribution Cooperatives requested that the matter be submitted for decision based upon the existing evidentiary record. As the Distribution Cooperatives did not request a hearing and a hearing is not necessary to protect substantial rights, the Commission will adjudicate this case based on the evidence of record.

LEGAL STANDARD

The Commission has exclusive jurisdiction over the regulation of rates and service of utilities in Kentucky.[1] Kentucky law provides that a utility may demand, collect and receive fair, just and reasonable rates[2] and that the service it provides must be adequate, efficient and reasonable.[3] 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.[4]

DISCUSSION AND FINDINGS

The Commission finds that the modified Rate EM Tariffs, as further modified herein, are fair, just and reasonable and should be approved for the reasons discussed below. In the Commission's April 27, 2023 Order in this proceeding, the Commission approved the Distribution Cooperatives' Rate EM Tariff, with the following modifications: (1) 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 East

[1] KRS 278.040(2).

[2] KRS 278.030(1).

[3] KRS 278.030(2).

[4] 807 KAR 5:011, Section 8.

Kentucky Power Cooperative, Inc. (EKPC) files its calculations; and (2) the bill credits will be returned to the retail members over the same amortization period EKPC uses to provide the bill credits to the Distribution Cooperatives. The Commission also noted in its April 27, 2023 Order that challenges may arise related to using the past year's customer account information in determining bill credits, and thus, the Commission advised the Distribution Cooperatives that should such issues arise, the Distribution Cooperatives could propose in subsequent years 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. Finally, the Commission found that customer notice is not required pursuant to 807 KAR 5:011, Section 8, given the unique nature of the tariff, in that the tariff is a credit mechanism to pass through credits received by the Distribution Cooperatives from EKPC.

In their motion to modify the Rate EM Tariff, the Distribution Cooperatives stated it was their intent all along to provide the bill credit only to current customers.[5] The Distribution Cooperatives noted several issues with returning bill credits to customers who are no longer retail members. First, the Distribution Cooperatives stated that they would have to cut and mail a check to former members, which would be costly and time-consuming and in most cases result in a net cost to the Distribution Cooperative.[6] The Distribution Cooperatives also noted issues related to the billing software and accounting for the bill credits to former customers.[7] Finally, the Distribution Cooperatives noted that

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[5] Motion to Modify and Extension of Time (filed May 17, 2023) at 2.

[6] Distribution Cooperatives' Response to Commission Staff's First Rehearing Requests for Information (Staff's First Rehearing Requests) (filed June 23, 2023), Item 2.

[7] Distribution Cooperatives' Response Staff's First Rehearing Requests, Item 2.

there could be issues tracking down former customers, which would bring up accounting and billing treatment issues.[8]

The modified tariff included in the Distribution Cooperatives' motion to modify the Rate EM Tariff contained the two modifications ordered by the Commission in its April 27, 2023 Order in this proceeding. The Distribution Cooperatives proposed to further modify the tariff as follows: (1) indicate that the bill credit percentage will be applied to each rate schedule by customer account, membership, usage, or total revenues; (2) reflect that the bill credits will only be returned to current retail members at the time the bill credit is given; (3) explain that if excess margins are returned based on total revenues or usage within a customer class, any retail member's share who is no longer a member at the time the credit is given will be distributed to the active retail members within that same customer class; and (4) explain that the calculation filed with the Commission will show whether the excess margins were returned based on current customer account, membership, usage, or total revenue.[9]

The Distribution Cooperatives explained that they proposed different approaches for calculating the bill credit because all retail rate classes for all sixteen distribution cooperatives are not homogeneous. The Distribution Cooperatives explained that some retail classes have few members while others have a larger number of members, some rate classes experience very little change in member count over time while others experience larger changes, and some rate classes have members with comparable consumption and revenue patterns while others have few members with disparate

[8] Distribution Cooperatives' Response to Staff's First Rehearing Requests, Item 2.

[9] Motion to Modify and Extension of Time, Attachment.

consumption and revenue patterns. The Distribution Cooperatives stated that without the flexibility the different approaches provide, they might have to file tariff changes any time the composition of a particular retail rate class changes in a way that would make a single proposed method less reasonable.[10] The Distribution Cooperatives later stated that it would be reasonable to allocate the bill credits to residential customers by either customer count or revenue, as some may feel that allocating by revenue more accurately reflects each residential customer's contribution to any excess margins while others may not be able to allocate by revenue as easily.[11]

In response to several requests for information, the Distribution Cooperatives noted that the costs associated with returning the bill credits to customers should not exceed the amount of the bill credits themselves.[12] The Commission agrees that the costs of returning the bill credits should not exceed the bill credits themselves. Therefore, the Commission finds that the bill credits should be allocated to residential customers by customer count and that the bill credits to all other rate schedules should be allocated by revenue. The Commission believes choosing one allocation method for residential customers and one allocation for all other rate classes would put less stress on the Distribution Cooperatives' Staff and would cut down on the administrative cost to the Distribution Cooperatives. Using customer count to allocate the bill credits to residential customers is the most reasonable method as most residential customers have similar

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[10] Distribution Cooperatives' Response to Staff's First Rehearing Requests, Item 1(a).

[11] Distribution Cooperatives' Response to Commission Staff's Second Rehearing Request (filed July 14, 2023), Item 1.

[12] Distribution Cooperatives' Response to Staff's First Rehearing Requests, Items 1(a) and 1(c).

usage patterns. Using revenue to allocate the bill credits to all other rate classes takes into account the disparate revenue patterns of those rate classes.

As noted in its April 27, 2023 Order, the Commission foresaw that there might be issues with returning the bill credits to former customers. Given the Distribution Cooperatives' acknowledgement of these issues,[13] the Commission finds that providing the bill credits to current customers only is reasonable and that it should be approved.

The Commission finds that the language explaining that if excess margins are returned based on total revenues or usage within a customer class, any retail member's share who is no longer a member at the time the credit is given will be distributed to the active retail members within that same customer class is unnecessary and should not be approved. Given that the bill credit calculation will only be based on current customers, such language is unnecessary and can only lead to confusion amongst the Distribution Cooperatives' customers.

Based on the Commission's finding above regarding the allocation methodology to be used for residential rate schedules and all other rate schedules, the Commission finds that the language indicating that the Distribution Cooperatives calculations filed with the Commission will show whether the excess margins were returned based on current customer account, membership, usage, or total revenue is unnecessary and should not be approved.

IT IS THEREFORE ORDERED that:

1. The Distribution Cooperatives' modified Rate EM Tariff, as further modified herein, is approved.

[13] Distribution Cooperatives' Response to Staff's First Rehearing Requests, Item 2.

2. The Distribution Cooperatives shall allocate the bill credits to residential rate schedule customers by customer count and to all other rate schedule customers by revenue.

3. The Distribution Cooperatives proposal to return the bill credits to current customers is approved.

4. The Distribution Cooperatives shall remove the language explaining that if excess margins are returned based on total revenues or usage within a customer class, any retail member's share who is no longer a member at the time the credit is given will be distributed to the active retail members within that same customer class.

5. The Distribution Cooperatives shall remove the language indicating that the Distribution Cooperatives calculations filed with the Commission will show whether the excess margins were returned based on current customer account, membership, usage, or total revenue.

6. 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.

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

PUBLIC SERVICE COMMISSION

Chairman

Vice Chairman

Commissioner

ENTERED

SEP 12 2023 rcs

KENTUCKY PUBLIC SERVICE COMMISSION

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