

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENERGY)	CASE NO.
CORP. FOR A GENERAL ADJUSTMENT OF)	2023-00276
RATES)	

ORDER

On July 31, 2024, the Commission issued a final Order addressing Kenergy Corp.'s (Kenergy) application for a general adjustment of rates.¹ On August 19, 2024, Kenergy filed a petition, pursuant to KRS 278.400, requesting a rehearing on the issue of resultant and unanticipated changes to Kenergy's Budget Billing Tariff.² The Commission granted Kenergy's petition for rehearing in an Order issued September 5, 2024.³ On November 13, 2024, Kenergy filed a motion for an informal conference (IC) pursuant to 807 KAR 5:001, Section 9(4). An IC was held on December 2, 2024.

Kenergy responded to three additional requests for information from Commission Staff.⁴ On October 11, 2024, the Attorney General, through the Office of Rate Intervention, filed a notice that it was not requesting a hearing and to submit the matter for a decision based upon the record. On November 4, 2024, Kenergy filed a request to

¹ The initial Application was filed on Oct. 2, 2023.

² Kenergy's Petition for Partial Rehearing (Petition) (filed Aug. 19, 2024) at 1.

³ Order (Ky. PSC Sept. 5, 2024).

⁴ Kenergy's Response to Commission Staff's First Rehearing Request for Information (Staff's First Rehearing Request) (filed Oct. 4, 2024); Kenergy's Response to Commission Staff's Second Rehearing Request for Information (Staff's Second Rehearing Request) (filed Oct. 28, 2024); Kenergy's Response to Commission Staff's Third Rehearing Request for Information (Staff's Third Rehearing Request) (filed Nov. 22, 2024).

submit the rehearing matter on the record. This matter now stands for a decision on the record.

PETITION

In the July 31, 2024 final Order, the Commission ordered Kenergy to continue offering its “fixed” budget billing method and to also implement its proposed “levelized” budget billing method.⁵ Kenergy stated that when it began to implement the Commission’s Order, in consultation with its payment software provider, National Information Solutions Cooperative (NISC), it learned that to provide both billing options must use the same number of months in the budget billing calculation.⁶ Kenergy stated that NISC must change the operation of the “fixed” budget billing method so that both programs use 12 months for the calculation.⁷ Kenergy further stated that implementing this change would require revisions to its budget billing tariff.⁸

Kenergy stated its “fixed” budget billing method fixed a member’s bill each September at a set amount and billed the customer that amount in 11 subsequent bills, beginning in October.⁹ Kenergy further stated that the “levelized” budget billing method involved a 12-month rolling average of billed amounts.¹⁰ Kenergy explained that NISC advised it that the implementing software would require that the billing calculation use the

⁵ Final Order (Ky. PSC July 31, 2024) at 27–28.

⁶ Petition at 1–2.

⁷ Petition at 2.

⁸ Petition at 2.

⁹ Petition at 2.

¹⁰ Petition at 2.

same number of months for both budget billing options.¹¹ Kenergy stated that it could not offer both the “fixed” budget billing option on an 11-month billing pattern and the “levelized” budget billing on a 12-month billing pattern as ordered.¹²

Kenergy proposed two operational changes to its “fixed” budget billing plan: (1) change the 11-month billing pattern to a 12-month billing pattern, and (2) revise the true-up mechanism to operate on the 12-month pattern.¹³

Kenergy’s first proposed change would change what happens in the 12th month for customers on the “fixed” budget billing option.¹⁴ Customers on the “fixed” budget billing option currently have the estimated annual usage divided over 11 months with the customers receiving 11 bills.¹⁵ In the 12th month, a customer would either owe for under-payment or is due a credit for over-payment.¹⁶ Kenergy proposed to divide the estimated annual billed amount over 12 bills instead of 11 bills.¹⁷ This change will generate a 12th monthly bill for the customer.¹⁸

Kenergy’s second proposal would change the true-up mechanism from being in the 12th month, along with the “fixed” monthly bill, to spreading the true-up difference

¹¹ Petition at 2.

¹² Petition at 2.

¹³ Petition at 3.

¹⁴ Petition at 3.

¹⁵ Petition at 3.

¹⁶ Petition at 3.

¹⁷ Petition at 3.

¹⁸ Petition at 3.

across the next 12 bills as part of calculating the aggregate annual amount to be billed.¹⁹ Kenergy stated that this would maintain the goal of the “fixed” budget billing method and would avoid a customer from potentially owing two amounts in the true-up month.²⁰

LEGAL STANDARD

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.”²¹ An order can only be unlawful if it violates a state or federal statute or constitutional provision.²² By limiting rehearing to correct material errors or omissions, and findings that are unreasonable or unlawful, or to weigh new evidence not readily discoverable at the time of the original hearings, KRS 278.400 is intended to provide closure to Commission proceedings. Rehearing does not present parties with the opportunity to relitigate a matter fully addressed in the original Order.

Commission regulation 807 KAR 5:006, Section 14(2)(a)(1), requires a utility to adjust accounts to bring each customer current once each 12-month period. The customer’s account may be adjusted at the end of the 12-month period or through a series

¹⁹ Petition at 4.

²⁰ Petition at 4.

²¹ *Energy Regulatory Comm’n v. Kentucky Power Co.*, 605 S.W.2d 46 (Ky. App. 1980).

²² *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).

of levelized adjustments on a monthly basis if usage indicates that the account will not be current upon payment of the last budget amount.

DISCUSSION AND FINDINGS

Having reviewed the relevant record, the rehearing proceedings, and being otherwise sufficiently advised, the Commission finds that Kenergy's proposed revisions to its "fixed" budget billing plan should be approved. The Commission recognizes that technical limitations in Kenergy's billing software prevent the simultaneous operation of the "fixed" budget billing plan and levelized budget billing plan as originally envisioned. This was evidence that was not readily discoverable during the pendency of the case. The Commission notes that the proposed modifications to the "fixed" budget billing plan will allow Kenergy to offer both payment options while maintaining the fundamental benefits of budget billing for customers.

Kenergy explained that, in each of the 12-month periods, the participating customers' accounts are brought current when the account balance goes from an arrearage to a credit.²³ This is anticipated to occur at least once during the 12-month billing period.²⁴ The Commission finds that the proposed changes to calculate the "fixed" budget amount over 12 months instead of 11 months, and to spread any true-up amount under the "fixed" budget billing plan across the subsequent 12 monthly bills, are reasonable solutions that comply with 807 KAR 5:006, Section 14(2)(a)(1). The regulation requires utilities to adjust accounts to bring each customer current once each 12-month period. While the revised true-up mechanism will extend the adjustment period,

²³ Kenergy's Response to Staff's Third Rehearing Request for Information, Item 3.

²⁴ Kenergy's Response to Staff's Third Rehearing Request for Information, Item 3.

customers will maintain credit balances during portions of the budget period, effectively meeting the requirement that accounts be current at least once during the 12-month period.

Furthermore, the Commission finds that these modifications will benefit customers by providing more consistent monthly payments throughout the year and avoiding potentially burdensome true-up payments in a single month. The proposed changes preserve the essential purpose of budget billing while making the program more manageable for both the utility and its customers.

Lastly, the Commission finds that the effective date for the “fixed” billing plan revisions should October 1, 2025, consistent with the proposed budget year listed in Kenergy’s tariff for the “fixed” billing plan starting in October. Making the changes to the “fixed” billing plan effective October 1, 2025, will prevent “fixed” budget billing customers from having unintended bill changes during the current budget year and will allow their account to be settled in full at the end of the budget year as stated in the tariff at the time of their sign-up or renewal for the October 2024 to September 2025 budget year. Kenergy is required to follow the proposed budget year and settlement month as laid out in its tariff sheets for the current budget year. Furthermore, to alleviate any billing software issues, the Commission also finds that the effective date for the levelized billing plan should be October 1, 2025.

IT IS THEREFORE ORDERED that:

1. Kenergy's proposed revisions to its “fixed” budget billing plan, as described in its petition for rehearing, are approved for services rendered on and after October 1,

2025. Likewise, the levelized budget billing plan is approved for services rendered on and after October 1, 2025.

2. Within 20 days of the date of service of this Order, Kenergy shall file with the Commission, using the Commission's electronic Tariff Filing System, its revised tariff sheets reflecting that the current "fixed" budget billing plan will expire September 30, 2025, that the proposed "fixed" budget billing plan and levelized budget billing plan will be effective October 1, 2025, and reflecting that the revisions were authorized pursuant to this Order.

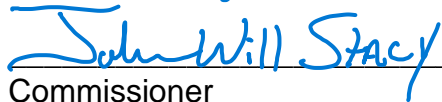
3. This case is now closed and removed from the Commission's docket.

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PUBLIC SERVICE COMMISSION



Chairman



Commissioner



Commissioner

ATTEST:

 *RP*

Executive Director

ENTERED
JAN 7 2025
jdc
KENTUCKY PUBLIC
SERVICE COMMISSION

*Angela M Goad
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Michael West
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Blair Johanson
Johanson Consulting, Inc. dba Johanson Group
2928 McKee Circle
Suite 123
Fayetteville, ARKANSAS 72703

*Steve Thompson
Kenergy Corp.
6402 Old Corydon Road
P. O. Box 18
Henderson, KY 42419

*J. Christopher Hopgood
Dorsey, Gray, Norment & Hopgood
318 Second Street
Henderson, KENTUCKY 42420

*Timothy Lindahl
Kenergy Corp.
6402 Old Corydon Road
P. O. Box 18
Henderson, KY 42419

*John Horne
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*John Wolfram
Catalyst Consulting
3308 Haddon Rd
Louisville, KENTUCKY 40241

*Kenergy Corp.
6402 Old Corydon Road
P. O. Box 18
Henderson, KY 42419

*Larry Cook
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204