

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ROGER D. SHOCKLEE)	
)	
COMPLAINANT)	
)	CASE NO.
V.)	2023-00421
)	
KENERGY CORP.)	
)	
DEFENDANT)	

ORDER

On December 18, 2023, Roger D. Shocklee filed a complaint against Kenergy Corp. (Kenergy), alleging that Kenergy improperly denied two applications he filed to interconnect two planned solar electric facilities to Kenergy’s distribution system pursuant to Kenergy’s net metering tariff.¹ On January 3, 2024, the Commission ordered Kenergy to answer or satisfy Mr. Shocklee’s complaint. Kenergy filed its answer on January 12, 2024. Mr. Shocklee responded to one request for information from Commission Staff.² Kenergy responded to two requests for information from Commission Staff.³ On February 16, 2024, Mr. Shocklee filed a motion for summary disposition. On February 23, 2024, Kenergy filed a response to this motion and sought dismissal of the complaint. Mr.

¹ Complaint at 3–4.

² Roger Shocklee’s Response to Commission Staff’s First Request for Information (Staff’s First Request) (filed Feb. 15, 2024).

³ Kenergy’s Response to Commission Staff’s First Request for Information (Staff’s First Request) (filed Mar. 14, 2024); Kenergy’s Response to Commission Staff’s Second Request for Information (Staff’s Second Request) (filed Oct. 4, 2024).

Shocklee filed a reply on February 27, 2024. Neither party requested an evidentiary hearing. This matter stands ready for a decision based on the written record.

BACKGROUND

Mr. Shocklee is a Kenergy customer who takes service under two accounts with two meters at the same service address in McLean County, Kentucky.⁴ According to his complaint, he is a lessee and lawful occupant of the premises located at said service address.⁵ Mr. Shocklee obtained the services of Solar Energy Solutions, LLC (SES) to design two 38-kW solar facilities to be constructed on the premises.⁶ On November 9, 2023, on behalf of Mr. Shocklee, SES tendered two applications to Kenergy for net metering and interconnection of the two planned solar facilities pursuant to KRS 278.465 et seq. and Kenergy's net metering tariff.⁷

Kenergy rejected Mr. Shocklee's applications.⁸ Mr. Shocklee filed, with his complaint, a letter from Kenergy dated November 30, 2023, stating that "Mr. Shocklee's application was rejected because he is not the owner of the property where the proposed solar facility was to be installed. KRS 278.465(1) defines an "[e]ligible customer-generator" as one who owns and operates an electric generating facility . . . located on the customer's premises." Kenergy stated that its representative contacted Mr. Shocklee by phone on November 13, 2023, to explain the denial of the applications, including in its

⁴ Complaint at 2; Exhibits B and C (Applications for Interconnection); Answer (filed Jan. 12, 2024) at 7.

⁵ Complaint at 5.

⁶ Complaint, Exhibits B and C.

⁷ Complaint at 3; Answer at 5; P.S.C. Third Revised Sheet 46 et seq.

⁸ Complaint at 3; Answer at 5.

explanation the ownership issue as well as technical issues.⁹ Technical issues were further described in Kenergy's answer and response to Mr. Shocklee's motion for summary disposition, and include that the proposed facilities would result in: (1) generation exceeding the maximum load on the distribution circuit permitted by tariff;¹⁰ (2) exceeding the maximum permitted array size of 20 kilovolt-amperes (kVA) on a shared secondary transformer;¹¹ and (3) exceeding the maximum permitted array size of 45 kilowatts (kW).¹²

LEGAL STANDARD

This matter involves interpretation of various statutory and tariff provisions. First, the issue of who is permitted to file an application for net metering is governed by KRS 278.465(1), which states: "[e]ligible customer-generator" means a customer of a retail electric supplier who owns and operates an electric generating facility that is located on the customer's premises, for the primary purpose of supplying all or part of the customer's own electricity requirements.

Under KRS 278.466(1), net metering is limited to eligible customer-generators. KRS Chapter 278 does not include a definition of "customer's premises."

Second, Kenergy's net metering tariff states:

For interconnection to a radial distribution circuit, the aggregated generation on the circuit, including the proposed generating facility, will not exceed 15% of the Line Section's most recent annual one hour peak load. A line section is the

⁹ Answer at 4. Admitted by Mr. Shocklee in Complainant's Responses to Staff's First Request, Item 1(d).

¹⁰ Answer at 8–9.

¹¹ Kenergy's Response to Motion for Summary Disposition, Exhibit A (Direct Testimony of Robert Stumph) (filed Sept. 23, 2024) at 8.

¹² Direct Testimony of Robert Stumph at 8.

smallest part of the primary distribution system the generating facility could remain connected to after operation of any sectionalizing devices.¹³

For purposes of this Order, the Commission will refer to this provision as the “15 percent rule.”

Third, Kenergy’s net metering tariff includes a provision stating “[i]f the proposed generating facility is to be interconnected on a single-phase shared secondary, the aggregate generation capacity on the shared secondary, including the proposed generating facility, will not exceed the smaller of 20 kVA or the nameplate rating of the transformer.”¹⁴

Lastly, KRS 278.466 also limits net metering to eligible electric generating facilities. KRS 278.465(2)(c) defines “eligible electric generating facility” as only including a facility that “[h]as a rated capacity of not greater than forty-five (45) kilowatts.”

Complainant bears the burden to establish that a utility has violated a statute, regulation, tariff, or Commission order.¹⁵

DISCUSSION AND FINDINGS

15 Percent Rule

Kenergy filed a petition for a declaratory order prior to the filing of Mr. Shocklee’s net metering applications.¹⁶ Kenergy sought guidance from the Commission on the interpretation of the definition of “line section” in the net metering tariff’s 15 percent rule

¹³ P.S.C. First Revised Tariff, Sheet 46C(1).

¹⁴ P.S.C. First Revised Tariff, Sheet 46C(2) (issued Apr. 1, 2009), effective Apr. 30, 2009.

¹⁵ *Energy Regulatory Comm’r v. Kentucky Power Co.*, 605 S.W.2d 46, 50 (KY. App. 1980).

¹⁶ Case No. 2023-00309, *Electronic Petition of Kenergy Corp. for a Declaratory Order* (filed Sept. 13, 2023), Petition at 2.

in response to inquiries from customers desiring to install solar facilities.¹⁷ A final Order was issued in that case, finding:

The 15 percent capacity penetration threshold is one of the screening tools developed to expedite interconnection of small, low-impact generators without the need for additional technical studies. The 15 percent threshold is intended to mitigate possible unsafe conditions that can be caused when distributed generation continues to feed excess power back into the grid after the utility source of power is de-energized, which can result in an unintentional “island,” a condition can pose a risk to utility equipment, personnel, and to appliances. Based on the purpose of the 15 percent capacity penetration threshold, the Commission finds the term “sectionalizing device” as used in Kenergy’s net metering tariff is any safety device that can isolate distributed solar generation from the rest of Kenergy’s distribution grid. The Commission further find that the term “line section” is the portion of Kenergy’s distribution system connected to a customer-generator bounded by the first sectionalizing device upstream from the customer’s proposed facility and the end of the radial distribution line. (citation omitted)¹⁸

After the Commission issued that Order, Commission Staff issued a second request for information to Kenergy, asking for a transmission capacity analysis of Mr. Shocklee’s applications in light of the clarified interpretation of “line section” under the tariff’s 15 percent rule. Kenergy responded that under the clarified interpretation, Mr. Shocklee had already exceeded available capacity due to interconnection of previously existing solar arrays on Mr. Shocklee’s property.¹⁹ Therefore, the Commission finds that Kenergy did not violate its net metering tariff regarding its application of the 15 percent rule. In the present case, Kenergy filed a map of its distribution system, including Mr.

¹⁷ Case No. 2023-00309, Petition at 2.

¹⁸ Case No. 2023-00309, Aug. 6, 2024 Order at 7–8.

¹⁹ Kenergy’s Response to Staff’s Second Request, Item 1.

Shocklee's proposed facility, with the most recent annual one-hour peak load calculations.²⁰

20 kVA Limit on Shared Secondary

Although Kenergy's tariff limit on transformer load is applicable, the record does not actually contain evidence that the proposed project would or would not have violated the tariff provision. Kenergy provided evidence that its "experience has been that members who want to install a second meter intend to install far more than 20 kVA of solar arrays."²¹ Mr. Shocklee's reply to Kenergy's response to the motion for summary disposition discusses the 20 kVA limit but does not contain any additional factual information. Therefore, the Commission cannot make a finding regarding the 20 kVA limit. Furthermore, the Commission finds that this issue is moot because the 15 percent rule prevents Mr. Shocklee from interconnecting.

45 kW Limit on Rated Capacity

This complaint involves two applications for interconnection of two solar electric facilities pursuant to Kenergy's net metering tariff located at the same service address. Mr. Shocklee implied that the two applications should be treated separately, thus avoiding the capacity limit found in KRS 278.465(2)(c).²² The Commission finds that this issue is moot because the 15 percent rule prevents Mr. Shocklee from interconnecting.

²⁰ Kenergy's Responses to Staff's First Request, Item 2(a-c), Exhibits A and B (filed confidentially).

²¹ Direct Testimony of Robert Stumph at 8.

²² Complainant's Reply to Kenergy's Response to Motion for Summary Disposition (filed Sept. 26, 2024) at 5-6.

Ownership

Mr. Shocklee argued that his applications should not have been rejected based on his lack of fee simple ownership. The Commission finds that this issue is moot because the 15 percent rule prevents Mr. Shocklee from interconnecting.

Complaint Case Tariff Review

The Commission also notes that, while a dispositive motion may be appropriate for resolution of a complaint case, the same remedies are not available to the movant as in a normal civil case. Mr. Shocklee argued that because the written decision letter indicating the reason for denial of the applications was the ownership issue, Kenergy cannot subsequently defend the complaint by alleging other grounds for denial.²³ The tariff notice provision does not require written notice, and Mr. Shocklee admits that a Kenergy representative contacted him to discuss technical limitations to the applications in addition to the ownership issue.²⁴ However, even if these facts were absent, the Commission has a duty to require utilities to adhere to their tariffs and also to protect all customers' right to reasonable service under KRS 278.030(2). Kenergy provided multiple reasons that interconnection could not be safely and reliably achieved as set forth in the applications.²⁵ The tariff includes the 15 percent rule and is designed to prevent inadvertent islanding that could adversely affect other customers in the distribution circuit and potentially pose a risk to utility workers. Therefore, even if Kenergy failed to provide timely and complete notice of application deficiencies, the tariff does not create a remedy

²³ Motion for Summary Disposition at 15-16.

²⁴ Complainant's Responses to Commission Staff's First Request for Information, Item 1(d).

²⁵ Direct Testimony of Robert Stumph at 5-6.

in the form of approval of Mr. Shocklee's applications, because the Commission has duties to protect the interests of others.

Tariff Sheet 46D(8) states "[n]o construction of facilities by Kenergy on its own system will be required to accommodate the generating facility." This provision prevents other customers from being forced to pay for an eligible customer-generator's proposed interconnection.²⁶ However, Kenergy's tariff requires it to offer to meet with applicants to discuss estimated costs and construction timeframe for necessary distribution upgrades to be paid by the applicant to support the facility.²⁷ The record does not indicate whether Kenergy offered to discuss this possibility or whether Mr. Shocklee sought to address the possibility of paying to upgrade the distribution system to handle his load increase, including transformer upgrades to accommodate the facility.

Having reviewed the record and the motions and filings of the parties, the Commission finds that Mr. Shocklee's complaint should be denied because his proposed facility would result in further exceeding available transmission capacity.

IT IS THEREFORE ORDERED that:

1. For the reasons set forth above the relief sought in Mr. Shocklee's complaint is denied.
2. This case is closed and is removed from the Commission's docket.

²⁶ P.S.C. First Revised Tariff, Sheet 46D(8).

²⁷ P.S.C. First Revised Tariff, Sheet 46E.


PUBLIC SERVICE COMMISSION



Chairman



Commissioner



Commissioner

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