

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN ELECTRONIC EXAMINATION BY THE)	
PUBLIC SERVICE COMMISSION OF THE)	
ENVIRONMENTAL SURCHARGE MECHANISM)	
OF DUKE ENERGY KENTUCKY, INC. FOR THE)	
SIX-MONTH BILLING PERIODS ENDING)	CASE NO.
NOVEMBER 30, 2020, MAY 31, 2021,)	2023-00374
NOVEMBER 30, 2021, NOVEMBER 30, 2022,)	
AND MAY 31, 2023, AND THE TWO-YEAR)	
BILLING PERIODS ENDING MAY 31, 2020, AND)	
MAY 31, 2022)	

ORDER

On December 8, 2023, the Commission initiated (1) the six-month review of Duke Kentucky Energy Inc.'s (Duke Kentucky) environmental surcharge for the billing periods ending November 30, 2020; May 31, 2021; November 30, 2021; November 30, 2022; and May 31, 2023; and (2) the two-year review of Duke Kentucky's environmental surcharge for billing periods ending May 31, 2020, and May 31, 2022.¹

LEGAL STANDARD

KRS 278.183(3) requires, in pertinent part, that:

At six (6) month intervals, the commission shall review past operations of the environmental surcharge of each utility, and after hearing, as ordered, shall, by temporary adjustment in the surcharge, disallow any surcharge amounts found not just and reasonable and reconcile past surcharges with actual costs recoverable pursuant to subsection (1) of this section. Every two (2) years the commission shall review and evaluate past operation of the surcharge, and after hearing, as ordered, shall disallow improper expenses, and to the extent

¹ Opening Order (Ky. PSC Dec. 8, 2023).

appropriate, incorporate surcharge amounts found just and reasonable into the existing base rates of each utility.

Additionally, KRS 278.183(5) states

The commission shall retain all jurisdiction granted by this section and KRS 278.020 to review the environmental surcharge authorized by this section and any complaints as to the amount of any environmental surcharge or the incorporation of any environmental surcharge into the existing base rate of any utility.

BACKGROUND

On April 13, 2018, the Commission approved Duke Kentucky's environmental surcharge application and established a surcharge mechanism.² As noted above, this review covers the six-month billing periods ending November 30, 2020; May 31, 2021; November 30, 2021; November 30, 2022; and May 31, 2023; and (2) the two-year review of Duke Kentucky's environmental surcharge for billing periods ending May 31, 2020, and May 31, 2022, but those billing months included costs incurred from a two-month lag that is consistent with Duke Kentucky's tariff, and states that the environmental surcharge is to be imposed on customer bills in the second month following the month in which the applicable environmental costs are incurred. The Commission's last review was completed on January 25, 2021,³ and the Commission approved an amendment to the

² Case No. 2017-00321, *Electronic Application of Duke Energy Kentucky, Inc. for: 1) An Adjustment of the Electric Rates; 2) Approval of an Environmental Compliance Plan and Surcharge Mechanism; 3) Approval of New Tariffs; 4) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and 5) All Other Required Approvals and Relief* (Ky. PSC Apr. 13, 2018).

³ Case No. 2020-00142, *An Electronic Examination by The Public Service Commission of the Environmental Surcharge Mechanism of Duke Energy Kentucky, Inc. for the Six-Month Billing Period Ending November 30, 2019* (Ky. PSC Jan. 25, 2021).

environmental compliance plan (ECP) for recovery by environmental surcharge mechanism (ESM) on March 4, 2022.⁴

The Commission issued a procedural schedule as Appendix A to the Opening Order.⁵ Duke Kentucky responded to two requests for information from Commission Staff.⁶ There were no intervenors. Duke Kentucky requested to submit the case for a decision.⁷ The matter stands submitted for a decision.

TWO-YEAR BILLING PERIOD ENDING MAY 31, 2020

SURCHARGE AMOUNT

Duke Kentucky's ECP and ESM tariffs were established in Case No. 2017-00321.⁸ During the two-year review period, Duke Kentucky filed for a Certificate of Public Convenience and Necessity (CPCN) to construct Phase Two of its West Landfill located at its East Bend Generating Station. In addition, Duke Kentucky requested amendments to its ECP to include the proposed Phase Two expansion and to recover the cost of that

⁴ Case No. 2021-00290, *Electronic Application of Duke Energy Kentucky, Inc. for a Certificate of Public Convenience and Necessity to Close Its East Landfill at the East Bend Generating Station and for Approval to Amend Its Environmental Compliance Plan for Recovery by Environmental Surcharge Mechanism* (Ky. PSC Mar. 4, 2022).

⁵ Opening Order (Ky. PSC Dec. 8, 2023).

⁶ Duke Kentucky's Response to Commission Staff's First Request for Information (Staff's First Request) (filed Jan. 31, 2024). Duke Kentucky's Response to Commission Staff's Second Request for Information (Staff's Second Request) (filed Apr. 11, 2024).

⁷ Duke Kentucky's Letter to Executive Director (filed May 14, 2024).

⁸ Case No. 2017-00321, Dec. 2, 2018 Order at 82.

construction through the ESM.⁹ The Commission subsequently approved Duke Kentucky's requested CPCN and ECP amendments.¹⁰

In Case No. 2020-00142, the Commission initiated a review of Duke Kentucky's ESM for the billing period ending November 30, 2019.¹¹ As a result of that investigation, the Commission found that Duke Kentucky improperly included allowance for funds used during construction (AFUDC) in its ESM from November 2018 through July 2020. The Commission ordered that the resulting over-recovery be refunded; \$380,992 to native customers and \$8,924 to non-native customers. In addition, ESM Forms 2.00 and 2.10 were modified going forward to indicate explicitly that the gross plant excludes AFUDC.¹²

Duke Kentucky reported that its ESM rate base at the beginning of the two-year period was \$23,672,358 and that its ESM rate base at the end of the two-year period was \$63,724,830. The return on ESM rate base during the period was \$7,786,998.¹³ Duke Kentucky did not propose any additional over- or under-recovery for the review period.¹⁴ The Commission has reviewed and finds reasonable Duke Kentucky's calculation of its

⁹ See Case No. 2018-00156, *Electronic Application of Duke Energy Kentucky, Inc. for a Certificate of Public Convenience and Necessity to Construct Phase Two of Its West Landfill and Approval to Amend Its Environmental Compliance Plan for Recovery by Environmental Surcharge Mechanism* (filed June 15, 2018), and Dec. 10, 2018 Order at 1. The total cost of the project did not include any additional Operation and Maintenance (O&M) costs.

¹⁰ Case No. 2018-00156, Dec. 10, 2018 Order at 11.

¹¹ Case No. 2020-00142, May 18, 2020 Order.

¹² Case No. 2020-00142, Jan. 25, 2021 Order at 3 and 5, and Direct Testimony of Libbie Miller (Miller Direct Testimony) at 7. Duke Kentucky had indicated that it would refund the monies to customers in the expense month August 2020.

¹³ Duke Kentucky's Response to Staff's First Request, Item 1, Attachments 4 through 51.

¹⁴ Duke Kentucky's Response to Staff's First Request, Item 2.

environmental surcharge costs, and further finds no need for any subsequent adjustments of Duke's environmental costs as a result of this review.

RATE OF RETURN

In Case No. 2018-00156,¹⁵ Duke Kentucky was allowed to continue using a 9.725 return on equity (ROE) that had been set in its previous rate case, Case No. 2017-00321.¹⁶ These rates remain constant until the Commission set base rates in Duke Kentucky's next base rate case proceeding.

SIX MONTH BILLING PERIOD ENDING NOVEMBER 30, 2020

SURCHARGE AMOUNT

Duke Kentucky reported that its ESM rate base at the beginning of the six-month period was \$63,724,831 and that its ESM rate base at the end of the period was \$61,223,965. Duke Kentucky's return on ESM rate base during the period was \$2,453,578.¹⁷ Duke Kentucky did not propose any additional over- or under-recovery for the review period.¹⁸ The Commission has reviewed and finds reasonable Duke Kentucky's calculation of its environmental surcharge costs, and further finds no need for any subsequent adjustments of Duke Kentucky's environmental costs as a result of this review.

¹⁵ Case No. 2018-00156, Dec. 10, 2018 Order.

¹⁶ Case No. 2017-00321, Apr. 13, 2018 Order at 39.

¹⁷ Duke Kentucky's Response to Staffs First Request, Attachments 27 through 33.

¹⁸ Duke Kentucky's Response to Staff's First Request, Item 2.

RATE OF RETURN

In Duke Kentucky's rate case, Case No. 2019-00271,¹⁹ the Commission approved a new ROE of 9.25 percent and a pre-tax rate of return (ROR) of 7.905 percent.²⁰ The updated ROE and ROR were incorporated into the ESM effective for the June 2020 billing month.²¹ These rates remain constant until the Commission sets base rates in Duke Kentucky's next base rate case proceeding.

SIX MONTH BILLING PERIOD ENDING MAY 31, 2021

SURCHARGE AMOUNT

Duke Kentucky reported that its ESM rate base at the beginning of the six-month period ending May 31, 2021 was \$61,223,965, and that its ESM rate base at the end of the six-month period ending May 31, 2021 was \$60,227,663. Duke Kentucky calculated its ESM return on rate base during the period to be \$2,397,330.²² Duke Kentucky did not propose any additional over- or under-recovery for the review period.²³ The Commission has reviewed and finds reasonable Duke Kentucky's calculation of its environmental surcharge costs, and further finds no need for any subsequent adjustments of Duke Kentucky's environmental costs as a result of this review.

¹⁹ Case No. 2019-00271, *Electronic Application of Duke Energy Kentucky, Inc. For 1) An Adjustment of The Electric Rates; 2) Approval of New Tariffs; 3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; And 4) All Other Required Approvals and Relief* (Ky. PSC Apr. 27, 2020).

²⁰ Case No. 2019-00271, Apr. 27, 2020 Order at 47, and the Direct Testimony of Libbie S. Miller (Miller Direct Testimony) at 6–7.

²¹ Miller Direct Testimony at 7.

²² Duke Kentucky's Response to Staffs First Request, Item 1, Attachments 33 through 39.

²³ Duke Kentucky's Response to Staff's First Request, Item 2.

RATE OF RETURN

For the six-month period ending May 31, 2021, Duke Kentucky continued to use the ROE of 9.25 percent and a pre-tax ROR of 7.905 percent. These rates remain constant until the Commission sets base rates in Duke Kentucky's next base rate case proceeding.

SIX MONTH BILLING PERIOD ENDING NOVEMBER 30, 2021

SURCHARGE AMOUNT

Duke Kentucky reported that its ESM rate base at the beginning of the six-month period ending November 30, 2021, was \$60,227,663 and that its ESM rate base at the end of the six-month period ending November 30, 2021 was \$59,205,658. Duke Kentucky calculated its ESM return on rate base during the period to be \$2,356,931.²⁴ Duke Kentucky did not propose any additional over- or under-recovery for the review period.²⁵ The Commission has reviewed and finds reasonable Duke Kentucky's calculation of its environmental surcharge costs, and further finds no need for any subsequent adjustments of Duke Kentucky's environmental costs as a result of this review.

RATE OF RETURN

For the six-month period ending November 30, 2021, Duke Kentucky continued to use the ROE of 9.25 percent and a pre-tax ROR of 7.905 percent. These rates remain constant until the Commission sets base rates in Duke Kentucky's next base rate case proceeding.

²⁴ Duke Kentucky's Response to Staffs First Request, Attachments 39 through 45.

²⁵ Duke Kentucky's Response to Staff's First Request, Item 2.

TWO-YEAR BILLING PERIOD ENDING MAY 31, 2022

SURCHARGE AMOUNT

Duke Kentucky filed a CPCN for construction activities related to the closure of the East Landfill and to amend its ECP to recover the costs of the closure and maintenance of the East Landfill and the maintenance of the West Landfill. In addition, it requested to recover its unrecovered construction, maintenance, closure, and post-closure maintenance costs of the West Landfill in Case No. 2021-00290.²⁶ The Commission subsequently granted Duke Kentucky's requests and to revise its Tariff sheets to reflect the changes approved as of the effective date of the Order.²⁷

Duke Kentucky reported that its ESM rate base at the beginning of the two-year period ending May 31, 2022, was \$63,724,830 and that its ESM rate base at the end of the two-year period ending May 31, 2022, was \$58,036,145. Duke Kentucky calculated its ESM return on rate base during the period to be \$9,519,828.²⁸ Duke Kentucky did not propose any additional over- or under-recovery for the review period.²⁹ The Commission has reviewed and finds reasonable Duke Kentucky's calculation of its environmental surcharge costs, and further finds no need for any subsequent adjustments of Duke Kentucky's environmental costs as a result of this review.

²⁶ Case No. 2021-00290, Sept. 9, 2021 Application.

²⁷ Case No. 2021-00290, Mar. 4, 2022 Order.

²⁸ Duke Kentucky's Response to Staffs First Request, Attachments 4 through 51.

²⁹ Duke Kentucky's Response to Staff's First Request, Item 2.

RATE OF RETURN

For the two-year period ending May 31, 2022, Duke Kentucky continued to use the ROE of 9.25 percent and a pre-tax ROR of 7.905 percent. These rates remain constant until the Commission sets base rates in Duke Kentucky's next base rate case proceeding.

SIX MONTH BILLING PERIOD ENDING NOVEMBER 30, 2022

SURCHARGE AMOUNT

Duke Kentucky reported that its ESM rate base at the beginning of the six-month period ending November 30, 2022, was \$58,036,145 and that its ESM rate base at the end of the six-month period ending November 30, 2022 was \$59,986,036. Duke Kentucky calculated its ESM return on rate base during the period to be \$2,269,629.³⁰ Duke Kentucky did not propose any additional over- or under-recovery for the review period.³¹ The Commission has reviewed and finds reasonable Duke Kentucky's calculation of its environmental surcharge costs, and further finds no need for any subsequent adjustments of Duke Kentucky's environmental costs as a result of this review.

RATE OR RETURN

For the six-month period ending November 30, 2022, Duke Kentucky continued to use the ROE of 9.25 percent and a pre-tax ROR of 7.905 percent. These rates remain constant until the Commission sets base rates in Duke Kentucky's next base rate case proceeding.

³⁰ Duke Kentucky's Response to Staffs First Request, Item 1, Attachments 51 through 57.

³¹ Duke Kentucky's Response to Staff's First Request, Item 2.

SIX MONTH BILLING PERIOD ENDING MAY 31, 2023

SURCHARGE AMOUNT

During this review period, Duke Kentucky reported that its ESM rate base at the beginning of the six-month period ending May 31, 2023, was \$59,986,036 and that its ESM rate base at the end of the six-month period ending May 31, 2023, was \$55,963,471. Duke Kentucky calculated its ESM return on rate base during the period to be \$2,228,717.³² Duke Kentucky did not propose any additional over- or under-recovery for the review period.³³ The Commission has reviewed and finds reasonable Duke Kentucky's calculation of its environmental surcharge costs, and further finds no need for any subsequent adjustments of Duke Kentucky's environmental costs as a result of this review.

RATE OF RETURN

For the six-month period ending May 31, 2023, Duke Kentucky continued to use the ROE of 9.25 percent and a pre-tax ROR of 7.905 percent. These rates remain constant until the Commission sets base rates in Duke Kentucky's next base rate case proceeding.

SURCHARGE ROLL-IN

Duke Kentucky proposed to roll into base rates the surcharge amounts for the two-year billing period ending May 31, 2022. Duke Kentucky recommended that the Commission approve the amount equating to an annual revenue requirement of

³² Duke Kentucky's Response to Staffs First Request, Item 1, Attachments 57 through 63.

³³ Duke Kentucky's Response to Staff's First Request, Item 2.

\$22,535,632 be incorporated into base rates.³⁴ Duke Kentucky proposed that the roll in amount should take effect for bills rendered beginning with the first billing cycle in the second month following the month the Commission issues its Order in this proceeding.³⁵ In addition, Duke Kentucky proposed changes to its ESM Tariff to reflect the changes regarding its proposed roll in to base rates. Also, Form 1.10 is revised to include the amount recovered in base rates for the ES.³⁶ The Commission has reviewed the record and finds Duke Kentucky's recommendation to incorporate additional environmental surcharge amounts into base rates, in this proceeding, just and reasonable.

IT IS THEREFORE ORDERED that:

1. Duke Kentucky's request to submit this case for a decision on the evidence of record without an evidentiary hearing is granted.
2. The amounts billed by Duke Kentucky through its environmental surcharge for the six-month billing periods ending November 30, 2020; May 31, 2021; November 30, 2021; November 30, 2022; and May 31, 2023; and (2) the two-year billing periods ending May 31, 2020, and May 31, 2022, are approved as reasonable.
3. Duke Kentucky shall roll \$22,535,632 of incremental surcharge amounts found to be just and reasonable herein into its existing base rates.

³⁴ Miller Direct Testimony at 8. Duke Kentucky explained that the amount was calculated by using the rate base as of March 31, 2022 and the operating expenses for the twelve months ending March 31, 2022. The return on rate base was calculated using the pre-tax ROR approved in Case No. 2022-00372. The total environmental compliance revenue requirement is then multiplied by the jurisdictional allocation ratio from the filing for the May 2022 billing period (March 2022 expense month).

³⁵ Miller Direct Testimony at 10.

³⁶ Miller Direct Testimony at 11.


4. Duke Kentucky's proposed changes to its ESM Tariff and monthly reporting forms are approved as reasonable.

5. Within 20 days of the date of service of this Order, Duke Kentucky shall file with the Commission, using the Commission's electronic Tariff Filing System, revised tariffs reflecting the changes to its base rates as a result of the roll-in of environmental surcharge amounts described herein.

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

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PUBLIC SERVICE COMMISSION



Chairman

Vice Chairman



Commissioner



ATTEST:



Executive Director

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