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Brittany Hayes Koenig
(859) 368-8803
brittany@hloky.com

January 12, 2024

***Via Electronic Filing**

Ms. Linda C. Bridwell, P.E.
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40602

Re: *In the matter of Roger D. Shocklee, Complainant vs. Kenergy Corp - Case No. 2023-00421*

Dear Ms. Bridwell:

Enclosed, please find for filing, Kenergy Corp.'s Answer in the above-styled case.

This is to certify that the electronic filing has been transmitted to the Commission on January 12, 2024 and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means. Pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085 no paper copies of this filing will be made.

Please do not hesitate to contact me with any questions or concerns.

Sincerely,



Brittany Hayes Koenig

Brittany Hayes Koenig

Enclosure

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

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

KENERGY CORP.'S ANSWER

Comes now Kenergy Corp. (“Kenergy or Company”), by counsel, pursuant to the Commission’s January 3, 2024, Satisfy or Answer Order entered herein, and does hereby tender its Answer to the Complaint filed by Mr. Roger D. Shocklee on or about December 18, 2023, respectfully stating as follows:

I. INTRODUCTION

1. Mr. Roger D. Shocklee has been a member of Kenergy since 1993, and has multiple service accounts.

2. Two applications were tendered to Kenergy by Solar Energy Solutions LLC (SES) on November 9, 2023. Kenergy reviewed the two applications at issue in this matter and applied its Commission-approved tariff properly in furtherance of the applicable statutes and regulations relevant to this matter.

3. The two applications tendered by SES were for two accounts in the name of Roger D. Shocklee. Once Kenergy reviewed the two applications, Kenergy communicated with Roger D. Shocklee by telephone on November 13, 2023 that the applications were rejected, even though

SES was listed as the contact person for the applications. Kenergy's policy is not to discuss details of a member's account with anyone other than the account holder,

4. Kenergy initially called Roger D. Shocklee to discuss the technical problems with the applications at issue, however, when Mr. Shocklee confirmed that he did not own the property where the applications proposed to build facilities, Kenergy explained that the applications would be rejected because he did not meet the requirements as set forth in Kenergy's Commission-approved tariff, nor KRS 278.465, which state that a facility should be built upon the "**customer's premises.**" (emphasis added)

5. Kenergy's policy is such that the engineer reviewing applications of this type, will contact the account holder to discuss an application if the application does not meet requirements to be approved.

6. Kenergy's engineer reviewing applications contacted Roger D. Shocklee by telephone for the purpose of discussing the applications and the technical problems with the applications that would not meet the requirements for the applications to be approved.

7. Kenergy later documented the rejections of the applications in Exhibit D to Roger D. Shocklee's Complaint upon request from Mr. Shocklee's counsel.

8. Kenergy is subject to the laws of the State of Kentucky, and the regulations set forth by the Kentucky Public Service Commission, all of which adopt basic business principles and practices contained in systems, such as the Uniform System of Accounting, and other professional and safety board systems that dictate a level of professional conduct which protects utility customers' privacy, account information, and requires Kenergy to exercise a basic level of due diligence to determine whether a customer has the ownership rights of a property owner to cause improvements to be made upon real property.

II. ANSWER

9. With respect to Items 1-3 of the Complaint, Kenergy generally admits that Roger D. Shocklee's service address is as stated and that Kenergy's Office is located at the address listed.

10. With respect to Items 4-7 of the Complaint, Kenergy generally admits that it is a utility as defined by KRS 278.010(3)(a), and further that the Commission has jurisdiction pursuant to KRS 278.040, KRS 278.260, and KRS 278.467.

11. With respect to Item 8(a) of the Complaint, Kenergy admits that Roger D. Shocklee is an account holder of multiple accounts with Kenergy.

12. With respect to section 8(b) of the Complaint, Kenergy admits that it offers net-metering service through its Commission-approved tariffs, specifically Tariff Sheet Numbers 46 through 46Z.

13. With respect to section 8(c) of the Complaint, Kenergy admits that two applications were made on behalf of Roger D. Shocklee, by Solar Energy Solutions, LLC ("SES") regarding account numbers 1) 2510701201, for a Tesla, Tesla 7.6 kW Inverter, quantity of 5, with a power rating of energy source of 7.6kw, 38.kW AC Total; and 2) 5010755500, for a Tesla, Tesla 7.6 kW Inverter, quantity of 5, with a power rating of energy source of 51.30, (95) 540W Modules on November 9, 2023.

14. With respect to section 8(d) of the Complaint, Kenergy is without sufficient information to confirm or deny the accuracy of the averment, which is therefore denied.

15. With respect to section 8(e) of the Complaint, Kenergy admits that SES is listed as the "Project Contact Person" on the applications provided on behalf of Roger D. Shocklee on November 9, 2023, and that SES is not an account holder at Kenergy. Further, Kenergy does not communicate about an account holder's account details with anyone but that account holder.

16. With respect to section 8(f) of the Complaint, Kenergy denies the averment that Application One or Exhibit B to Mr. Shocklee’s Complaint is for a proposed project “that falls within the definition of an ‘eligible electric generating facility.’” In fact, Kenergy states that it contacted Roger D. Shocklee on November 13, 2023 by telephone to explain why the proposed Application One and proposed Application Two or Exhibit C to Mr. Shocklee’s Complaint did not meet the definition or requirements to be approved as an “eligible electric generating facility,” because Roger D. Shocklee was the account holder with Kenergy related to the applications for facilities. On November 13, 2023, Mr. Roger D. Shocklee admitted that he did not own the premises to which Application One and Application Two pertained, at which point, Kenergy explained, practicing the policy it applies to all applications of like-kind in furtherance of its Commission-approved tariff, or Exhibit A to Mr. Shocklee’s Complaint, that Mr. Roger D. Shocklee could not apply for an electric generating facility if he did not own the premises upon which the facility was to be located. Kenergy also discussed other elements of the application that did not meet the requirements but stopped discussing the issues with the application upon confirming that Mr. Roger D. Shocklee was not the owner of the premises at issue and therefore, the applications were not eligible to be considered. Pursuant to Kenergy’s Commission-approved Tariff Sheet 46 under the heading “Availability of Service” item (3), that “an eligible customer-generator shall mean a retail electric customer of Kenergy with a generating facility that: ...(3) Is located on the **customer’s premises;**” (emphasis added)... Further, the tariff mirrors the requirements listed in KRS 278.465 defining “eligible customer generator” as “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.” (emphasis added)

17. With respect to section 8(g) of the Complaint, Kenergy admits that SES is listed as the “Project Contact Person” on the applications provided on behalf of Mr. Shocklee on November 9, 2023, and that SES is not an account holder at Kenergy. Further, Kenergy does not communicate about an account holder’s account details with anyone but that account holder.

18. With respect to section 8(h) of the Complaint, Kenergy denies the averment for the same basis as explained in paragraph 16.

19. With respect to section 8(i) of the Complaint, Kenergy admits that the applications at issue were tendered to Kenergy on November 9, 2023.

20. With respect to section 8(j) of the Complaint, Kenergy admits that Rob Stumph, PE, Vice -President, Eng./Ops. For Kenergy documented the rejection of the applications at issue in the letter attached to Mr. Shocklee’s Complaint as Exhibit D.

21. With respect to section 8(k) of the Complaint, Kenergy admits the averments citing the contents of the letter documenting Kenergy’s rejection of the applications at issue in compliance with Kenergy’s Commission-approved tariffs and KRS 278.465.

22. With respect to section 8(l) of the Complaint, Kenergy admits the averments citing KRS 278.465, and that Kenergy’s rejection of the applications at issue, was in compliance with Kenergy’s Commission-approved tariffs and KRS 278.465.

23. With respect to section 8(m) of the Complaint, Kenergy denies the averment made by Roger D. Shocklee that incorrectly interprets KRS 278.465(1) and comments on the language “the owner in fee simple of the real property serving as the” which is language that is not found in KRS 278.465, and ignores the language “**customer’s premises,**” which is clear and straightforward. (emphasis added)

24. With respect to section 8(n) of the Complaint, Kenergy denies the averment, and denies that Roger D. Shocklee has represented the definition set forth in KRS 278.465(2) in a relevant manner, and therefore denies the averment that KRS 278.465(2) “does not require a facility to be operated on premises by a customer who is the owner in fee simple of the real property serving as the premises,” as reading a definition of “electric generating facility” into KRS 278.465(2) that does not exist. Further, Kenergy denies that the applications at issue comply with KRS 278.465. Kenergy and its Commission-approved tariffs comply with KRS 278.465 and Kenergy has complied with its tariffs and KRS 278.465 in rejecting the applications at issue in Roger D. Shocklee’s Complaint.

25. With respect to section 8(o) of the Complaint, Kenergy denies the averments made, and further states that Kenergy and its Commission-approved tariffs comply with KRS 278.466 and Kenergy has complied with its tariffs and KRS 278.466 in rejecting the applications at issue in Roger D. Shocklee’s Complaint.

26. With respect to section 8(p) of the Complaint, Kenergy states that its tariff on file with Commission speaks for itself, and states that Kenergy has complied with its Commission-approved tariff and the applicable statutes and regulations.

27. With respect to section 8(q) of the Complaint, Kenergy denies the averments made.

28. With respect to section 8(r) of the Complaint, Kenergy admits the averments to the extent that Exhibit E to Roger D. Shocklee’s Complaint is an Application for Membership for Kenergy.

29. With respect to section 8(s) of the Complaint, Kenergy denies the averments made and states that its Commission-approved tariff speaks for itself.

30. With respect to section 8(t) of the Complaint, Kenergy admits that Roger D. Shocklee is a customer of Kenergy and holds Accounts one and two.

31. With respect to section 8(u) of the Complaint, Kenergy is without sufficient knowledge to either admit or deny the averments contained in section 8(u) of the Complaint, and to the extent that the averments would cause Kenergy to make a legal determination regarding documents not filed into the record of these proceedings, section 8(u) of the Complaint is therefore denied.

32. With respect to section 8(v) of the Complaint, Kenergy denies the averments made.

33. With respect to section 8(w) of the Complaint, Kenergy denies the averments made.

34. With respect to section 8(x) of the Complaint, Kenergy denies the averments made, and states that it has no objection to the Commission's jurisdiction set out in the Kentucky Revised Statutes, specifically KRS 278.260, however everything else contained in the averments in section 8(x) of Roger D. Shocklee's Complaint is denied.

35. With respect to section 8(y) of the Complaint, Kenergy denies the averments made.

36. With respect to section 8(z) of the Complaint, Kenergy denies the averments made.

37. With respect to section 8(aa) of the Complaint, Kenergy denies the averments made.

38. With respect to section 8(bb) of the Complaint, Kenergy denies the averments made.

39. Any other information contained in the Complaint that is not specifically admitted to above, is denied by Kenergy.

III. AFFIRMATIVE DEFENSES

40. Mr. Shocklee has not set forth a sufficient factual basis to support the relief which he seeks.

41. Kenergy has acted in good faith by applying its tariff to the review of the net metering applications at issue herein and communicating with its customer the basis upon which the applications were denied, pursuant to its Commission-approved tariff and KRS 278.465.

42. Mr. Shocklee has generally failed to sustain his burden of proof under KRS 278.260 and other applicable law.

43. Kenergy has acted in good faith by applying its tariff to the review of the net metering applications at issue herein and communicating with its customer the basis upon which the applications were denied, pursuant to its Commission-approved tariff and KRS 278.465, and should the Commission determine that the use of “**customer’s premises**” is not straightforward, containing the possessive use of an apostrophe denoting ownership as a generally accepted use of the English language, the Commission is the proper venue to determine the interpretation of KRS 278.465 and the definition of “**customer’s premises.**” (emphasis added)

44. Kenergy has acted in good faith by applying its tariff to the review of the net metering applications at issue herein and communicating with its customer the basis upon which the applications were denied, pursuant to its Commission-approved tariff and KRS 278.465, and further Kenergy communicated to Mr. Shocklee that the applications would not be approved.

45. Furthermore, even if Mr. Shocklee, as the customer owned the premises, the applications would still not be approved as filed. The proposed power needs exceed the peak load

described in Kenergy's Tariff on Sheet 46C paragraph (1), which states that Kenergy will approve a Level 1 Interconnection System if the generating facility meets the following conditions:

"(1) 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 one hour peak load. A line section is the smallest part of the primary distribution system the generating facility could remain connected to after operation of any sectionalizing devices."

This is also referred to as the "15% rule" and is the subject of a separate pending case before the Commission, Case No. 2023-00309, further discussed below.¹ The "15%" rule, as well as the whole of Tariff Sheet 46, are consumer protection rules and rules to manage consumption and use of capacity to maintain safe and reliable service.

46. Kenergy has a separate pending petition for a Declaratory Order before the Commission, Case No. 2023-00309,² that requests a Declaratory Order regarding the interpretation of Tariff Sheets 46B and 46C, specifically Tariff Sheet 46C paragraph (1) quoted above, the "15% rule." The issue in Case No. 2023-00309 involves Kenergy's definition of a "line section" in order to quantify the amount of aggregated generation on the circuit, including the proposed generation facility, and the treatment of installation of solar facilities that are not in compliance with Kenergy's interpretation of Tariff Sheet 46. Kenergy has applied to the Commission as a retail supplier of electric energy to ensure that its rural class members do not bear undue expense to pay for system upgrades that only benefit one member, and this issue, although tenuous to the issue of defining a "**customer's premises**," is related to the issues that Kenergy would address should Roger D. Shocklee cure the issue of premises ownership. (emphasis added)

¹ Case 2023-00309, *Electronic Petition of Kenergy Corp. for a Declaratory Order*, (filed September 13, 2023).

² *Id.*

In other words, even if Mr. Shocklee owned the property, the applications seek more power than is available on the circuit, even given the most liberal definition of “line section,” as used in Tariff Sheet 45C paragraph (1). Mr. Shocklee proposes to use more power than is available and all of the power available on the relevant circuit for himself, and that circuit supplies over 400 other customers.

47. Kenergy has applied its Commission-approved tariff in good faith, and the rules it contains, reflecting KRS 278.465, as well, are not in place to inhibit solar generating, the rules exist to help manage generation from its customers fairly, and so that Kenergy can maintain the safety and reliability of its services for all of its customers.

WHEREFORE, on the basis of the foregoing, Kenergy respectfully requests the Commission to dismiss the Complaint.

This 12th day of January 2024.

Respectfully submitted,

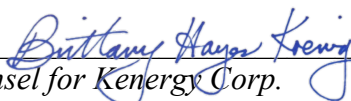


L. Allyson Honaker
Brittany Hayes Koenig
Heather S. Temple
HONAKER LAW OFFICE PLLC
1795 Alysheba Way, Suite 6202
Lexington, KY 40509
(859) 368-8803
allyson@hloky.com
brittany@hloky.com
heather@hloky.com

Counsel for Kenergy Corp.

CERTIFICATE OF SERVICE

This is to certify that foregoing electronic filing was transmitted to the Commission on January 12, 2024; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085, no paper copies of the filing will be made.



Counsel for Kenergy Corp.