

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF CUMBERLAND)	CASE NO.
VALLEY ELECTRIC, INC. FOR A RATE)	2024-00388
ADJUSTMENT PURSUANT TO 807 KAR 5:078)	

ORDER

On April 4, 2025, Cumberland Valley Electric, Inc. (Cumberland Valley Electric) filed a response to deficiency order (Response), seeking to cure the deficiencies from the Commission's April 4, 2025 Order¹ rejecting its application for an alternative rate adjustment pursuant to 807 KAR 5:078. Cumberland Valley Electric also filed a motion for deviation from 807 KAR 5:078 Section 2(8), requiring Cumberland Valley Electric's application in this proceeding to be based on a historical test year that coincides with Cumberland Valley Electric's most recent annual report on file with the Commission.²

LEGAL STANDARD

Commission regulation 807 KAR 5:078 establishes an alternative procedure for rural electric cooperatives to apply for rate adjustments.³ The regulation allows cooperatives to request modest rate increases under specific conditions and outlines the necessary documentation and procedures for filing such applications, aiming to simplify and reduce the costs associated with rate adjustments for electric cooperatives.

¹ Cumberland Valley Electric's Response to Deficiency Order (Response) (filed Apr. 4, 2025)

² Cumberland Valley Electric's Motion for Deviation (Motion for Deviation) (filed Apr. 4, 2025).

³ 807 KAR 5:078.

Commission regulation 807 KAR 5:078, Section 3(2), requires that, if five or more years have elapsed since the cooperative's most recent general rate adjustment, a detailed explanation must be provided for why the cooperative did not seek a *general rate adjustment* in that period.

Pursuant to 807 KAR 5:078 Section 1(3), a “general rate adjustment” is defined as an adjustment in rates received pursuant to an application filed pursuant to 807 KAR 5:001, Section 16. Pursuant to 807 KAR 5:078 Section 1(4) a “‘base rate adjustment’ means a general rate adjustment or an adjustment in rates received pursuant to an application filed pursuant to Section 2 of this administrative regulation.”

Additionally, administrative regulation 807 KAR 5:078 addresses expenses that should be excluded from ratemaking. Section 6 provides:

Exclusions for Ratemaking Purposes. The following shall be excluded for ratemaking purposes and from the pro forma test year income statement and supporting documentation included in an application made pursuant to Section 2 of this administrative regulation:

(1) the contribution made for the least generous plans for employer retirement contributions for employees participating in multiple benefit packages.

Commission regulation 807 KAR 5:078, Section 2(8), requires that the proposed rate increase in an application filed pursuant to this regulation is based upon a historical test year that corresponds with the most recent annual report filed with the Commission.

DISCUSSION AND FINDINGS

The Commission’s April 4, 2025 Order rejected Cumberland Valley Electric’s application pursuant to 807 KAR 5:078, Section 8(3)(a), for failure to meet the regulatory requirements of 807 KAR 5:078, Section 3(2), and 807 KAR 5:078, Section 6(1). The

Commission's April 4, 2025 Order also required both of the above deficiencies to be cured within 60 days.⁴

807 KAR 5:078 Section 3(2) Deficiency:

The Commission's April 4, 2025 Order found that, pursuant to 807 KAR 5:078, since five or more years have elapsed since Cumberland Valley Electric's last general rate adjustment, Cumberland Valley Electric must provide a detailed explanation for why it did not seek a *general rate adjustment* since that time.⁵ The April 4, 2025 Order noted that Cumberland Valley Electric's last adjustment of rates was pursuant to the Streamlined Pilot Program, and those rates went into effect in March 2021,⁶ so its last actual general rate adjustment was granted in 2016 in Case No. 2016-00169.⁷

In its Response, Cumberland Valley Electric acknowledged the Commission's classification of its last adjustment of rates.⁸ Cumberland Valley Electric explained that it filed its current application pursuant to the streamlined process because it believed the amount of revenue increase that could be requested in a streamlined proceeding would be sufficient for Cumberland Valley Electric's operation and would enable it to offer safe and reliable service to its members, while also obtaining a decision by the Commission in a much shorter timeframe with cost savings and a reduction of burden on Cumberland

⁴ The Order also allowed for Cumberland Valley Electric to amend its application to a general rate adjustment or withdraw the application.

⁵ Order (Ky. PSC Apr. 4, 2025).

⁶ Case No. 2020-00264, *Electronic Application of Cumberland Valley Electric, Inc. for a General Adjustment of Rates Pursuant to Streamlined Pilot Program Established in Case No. 2018-00407*.

⁷ Case No. 2016-00169, *Application of Cumberland Valley Electric for a General Adjustment of Rates*.

⁸ Cumberland Valley Electric's Response to Deficiency Order (Response) (filed Apr. 4, 2025).

Valley Electric and Commission Staff.⁹ Furthermore, Cumberland Valley Electric explained that it has been able to meet its debt covenants, but the numbers are beginning to trend in the wrong direction; Cumberland Valley Electric thought it would be prudent to file for a streamlined proceeding now (consistent with the Commission's expressed desire for smaller, more frequent rate adjustments) and did not need to file for a general adjustment of rates now or in the past ten years.¹⁰

The Commission finds that Cumberland Valley Electric has adequately addressed the requirements of 807 KAR 5:078, Section 3(2) through its explanation in the Response regarding why five or more years have elapsed since its most recent general rate adjustment.

807 KAR 5:078 Section 6(1) Deficiency:

The Commission's April 4, 2025 Order also found that Cumberland Valley Electric failed to comply with 807 KAR 5:078, Section 6(1),¹¹ which requires a statement or supporting documentation in the application that it does not have employees participating in multiple benefit packages.¹² In its response, Cumberland Valley Electric clarified that it did not need to exclude amounts contributed for employees participating in multiple benefit packages because it does not contribute to multiple retirement benefit packages

⁹ Response (filed Apr. 4, 2025) at 2.

¹⁰ Response (filed Apr. 4, 2025) at 2.

¹¹ 807 KAR 5:078, Section 6(1) states, "The contribution made for the least generous plans for employer retirement contributions for employees participating in multiple benefit packages;"

¹² Order (Ky. PSC Apr. 4, 2025).

for any employee.¹³ The Commission finds that this statement by Cumberland Valley adequately complies with 807 KAR 5:078, Section 6(1).

Motion for Deviation:

The Commission noted that utilities' annual reports are due to be filed with the Commission on March 31st of each calendar year,¹⁴ and, noting this fact, cautioned Cumberland Valley Electric that if its application is not accepted for filing prior to March 31, 2025, the application will need to be refiled using a 2024 historical test year or provide evidence that Cumberland Valley Electric has been granted an extension for filing its 2024 annual report.¹⁵

Cumberland Valley Electric filed a Motion for Deviation from 807 KAR 5:078, Section 2(8), requiring Cumberland Valley Electric's application in this proceeding to be based on a historical test year that coincides with Cumberland Valley Electric's most recent annual report on file with the Commission. Cumberland Valley Electric requested a deviation in order to be allowed to use 2023 as its test year for this application.¹⁶ Cumberland Valley Electric stated that it requested an extension to file its annual report that was due on March 31, 2025, since it had not received an Order accepting its application in this proceeding as filed as of that date.¹⁷ Cumberland Valley Electric further stated it was advised to request a deviation in this rate proceeding instead of an informal

¹³ Response (filed Apr. 4, 2025) at 3.

¹⁴ See, 807 KAR 5:006, Section 4(2).

¹⁵ Order (Ky. PSC Apr. 4, 2025) at 5.

¹⁶ Motion for Deviation (filed Apr. 4, 2025).

¹⁷ Motion for Deviation (filed Apr. 4, 2025) at 1–2.

request for an extension to file its annual report, and therefore, filed its annual report on April 4, 2025.¹⁸

Cumberland Valley Electric stated in its motion that the application in this proceeding is based upon the 2023 calendar year, which was the latest annual report on file with the Commission at the time the application was tendered.¹⁹ Cumberland Valley Electric further stated it was not aware the application was deemed deficient until April 4, 2024.²⁰ Cumberland Valley Electric argued that, if it must base this application on the 2024 calendar year, it will force Cumberland Valley Electric to redo the entire cost of service study, and redo the entire application, testimony and exhibits, resulting in additional expenses and a delay the effective date of the rate increase for Cumberland Valley Electric and its customers.²¹ Cumberland Valley Electric further argued that it will not inconvenience any party to this proceeding for the application to be filed utilizing the 2023 test year, as filed.²²

807 KAR 5:078 Section 8(3)(b) Compliance:

The Commission's April 4, 2025 Order further directed Cumberland Valley Electric upon any re-filing of the application, to re-evaluate its adjustment for the lost loads and revenues resulting from the loss of two of its large power bitcoin customers, given that

¹⁸ Motion for Deviation (filed Apr. 4, 2025) at 1–2.

¹⁹ Motion for Deviation (filed Apr. 4, 2025) at 2. The motion used the term filed but to reduce confusion, the term tendered was used for purposes of this discussion.

²⁰ Motion for Deviation (filed Apr. 4, 2025) at 2.

²¹ Motion for Deviation (filed Apr. 4, 2025) at 2.

²² Motion for Deviation (filed Apr. 4, 2025) at 2.

the replacement to this load is imminent.²³ In its response, Cumberland Valley Electric stated that the replacement contracts were just approved by the Commission to be effective April 1, 2025, and the service was energized on April 4, 2025, therefore, it does not yet have any usage data for this large customer. Because the usage could vary from that of the terminated service, Cumberland Valley Electric cannot make a known and measurable change to its revenue requirement or make a pro forma adjustment that meets the known and measurable standard.²⁴ However, based on the replacement contracts as filed, the Commission finds that Cumberland Valley Electric should be able to provide estimates for usage based on the historical information of the former contracted customers. These estimates should be addressed further in a subsequent Commission Staff's Request for Information.

The Commission also noted its concerns regarding Cumberland Valley Electric's compliance with 807 KAR 5:078, Section 8(3)(b), regarding the applicant seeking sufficient revenue to provide the service, in its April 4, 2025 Order.²⁵ While the Commission did not reject the application on this basis due to the projected load replacement, it did note a difference of \$540,581 between the target increase requested by Cumberland Valley Electric in its application, and the necessary revenue calculated by Commission.²⁶ Cumberland Valley Electric was accordingly ordered to provide a detailed explanation of how it intends to manage its financial resources and maintain its statutorily

²³ Order (Ky. PSC Apr. 4, 2025) at 7.

²⁴ Response (filed Apr. 4, 2025) at 2.

²⁵ Order (Ky. PSC Apr. 4, 2025) at 7.

²⁶ Order (Ky. PSC Apr. 4, 2025) at 7.

required duty to provide adequate service despite the projected shortfall to be compliant with 807 KAR 5:078 Section 8(3)(b).²⁷

The Commission notes that Cumberland Valley Electric's Response does not directly address the projected shortfall, other than the arguments presented in support of curing the deficiencies discussed above.²⁸ While the Commission finds that the deficiencies discussed above are cured, it would caution that this does not lessen Cumberland Valley Electric's obligation to provide a detailed explanation of how it intends to manage its financial resources and maintain its statutorily required duty to provide adequate service despite the projected shortfall to be compliant with 807 KAR 5:078 Section 8(3)(b) throughout the proceeding. The sufficiency of Cumberland Valley Electric revenue should be further addressed in Commission Staff's Request for Information.

IT IS THEREFORE ORDERED that:

1. Cumberland Valley Electric's motion for deviation from the requirements of 807 KAR 5:078, Section 2(1), is granted.
2. Cumberland Valley Electric's application for an alternative rate adjustment for electric cooperatives pursuant to 807 KAR 5:078 is accepted for filing as of the date of this Order.
3. The 75-day review period established in 807 KAR 5:078 shall begin as of the issuance date of this Order.
4. The procedural schedule set forth in the Appendix attached to this Order shall be followed.

²⁷ Order (Ky. PSC Apr. 4, 2025) at 7.

²⁸ Response (filed Apr. 4, 2025) at 1–2.

5. Cumberland Valley Electric's 2022 and 2023 Annual Reports are incorporated by reference into the record of this proceeding.

6. Cumberland Valley Electric shall respond to all requests for information propounded by Commission Staff, whether identified on the procedural schedule or otherwise, as provided in those requests.

7. Any party filing a paper with the Commission shall file an electronic copy in accordance with the electronic filing procedures set forth in 807 KAR 5:001, Section 8. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked. The Commission directs the parties to the Commission's July 22, 2021 Order in Case No. 2020-000856 regarding filings with the Commission.²⁹

8. As set forth in 807 KAR 5:001, Section 4(11)(a), a person requesting permissive intervention in a Commission proceeding is required to demonstrate either (1) a special interest in the proceeding that is not adequately represented in the case, or (2) that the person requesting permissive intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Therefore, any person requesting to intervene in a Commission proceeding must state with specificity the person's special interest that is not otherwise adequately represented, or the issues and facts that the person will present that will assist the Commission in fully considering the matter. A mere

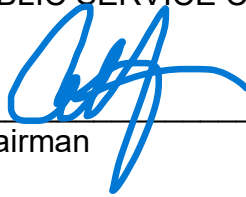
²⁹ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

recitation of the quantity of utility service consumed by the movant or a general statement regarding a potential impact of possible modification of rates will not be deemed sufficient to establish a special interest.

9. Any motion to intervene filed after the date established in the procedural schedule attached as an Appendix to this Order shall also show good cause for being untimely. If the untimely motion is granted, the movant shall accept and abide by the existing procedural schedule.

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PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner

ATTEST:


Executive Director

RP



APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2024-00388 DATED APR 30 2025

Last day for intervention requests to be accepted..... 05/09/2025

All requests for information to Cumberland Valley Electric
shall be filed no later than 05/19/2025

Cumberland Valley Electric shall file responses to requests
for information no later than 05/29/2025

Any written comments regarding Cumberland Valley Electric's application
shall be filed no later than 06/09/2025

This case shall be submitted for a decision on..... 06/13/2025

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