

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

ELECTRONIC APPLICATION OF)	
KENERGY CORP. TO)	TARIFF NO.
REVISE ITS TARIFF)	TFS2024-00____

MOTION FOR DEVIATION

Comes now Kenergy Corp., (“Kenergy”) by and through the undersigned counsel, pursuant to 807 KAR 5:001, Section 15 and other applicable law, and as grounds for its Motion for Deviation in the above-styled proceeding respectfully states as follows:

1. On February 23, 2024, Kenergy filed through the tariff filing system to revise Schedules 46D, 46Q, and 46K of its tariff, containing Kenergy’s Application for Interconnection and Net Metering (“Application TFS2024-00076”). The purpose of tariff filing TFS2024-00076 was to clarify the Net Metering application review process.

2. The Commission entered a letter on March 12, 2024, rejecting Kenergy’s tariff filing TFS2024-00076.

4. Kenergy states that its original tariff filing was filed on February 23, 2024, which provided the Commission with 30 days’ notice for the March 24, 2024 effective date.

5. With the letter entered into the record, rejecting Kenergy’s February 23, 2024, tariff filing, TFS2024-00076, and therefore, submits a new tariff filing attached, with the proposed effective date of April 13, 2024.

6. Kenergy moves the Commission to allow Kenergy's revised tariff to take effect April 12, 2024, and allow Kenergy a deviation from 807 KAR 5:011, Section 8 that requires notice be given if a charge, fee, condition of service, or rule regarding the provision of service is changed, revised, or initiated and the change will affect the amount that a customer pays for service or the quality, delivery, or rendering of service. The Commission has indicated that the proposed revisions are "adding conditions of service to the tariff that would affect the quality, delivery, or rendering of service." Kenergy does not agree that any conditions of service are being added, however out of an abundance of caution, Kenergy provided public notice of the changes on its website and at their office. Kenergy requests that the Commission grant deviation, pursuant to 807 KAR 5:011, Section 15, from 807 KAR 5:011, Section 8(2)(b), which sets forth the acceptable methods of notice to customers and to accept the notice on its website and at its office. .

5. Kenergy believes that its amended tariff, simply clarifies procedures already codified in regulations and legislation. The statutory and regulatory requirements remain unchanged.

6. Regarding the addition of the text listed at (9) on Schedule 46D, the additional statement indicates that members must follow the existing requirements and not attempt to circumvent the limit of 45kW. The addition to the application is not an additional requirement, but instead an admonition to clarify that some members applying for Schedule 46D are have attempted to split an otherwise adequately served account, without additional load, in order to install more than the 45kW limit. Kenergy supports the addition of language in its tariff to its Net Metering Application to directly address the concern that members must follow the existing requirements. It is not an additional requirement.

7. No additional requirements are made through the tariff filing regarding Schedule 46D, including the different text and reconfiguration of the application on Schedules 46K and 46Q. The additional text provides clarification and examples of the documents that show proof of ownership, which has been required to show that the subject property of the application is the “customer’s premises” as already required by KRS 278.465 and the tariff. The revisions are clarifying the requirements that were already in place and that members have failed to comply with in practical application of the same requirements that were already in place. For example, the inspections discussed were already required pursuant to 815 KAR 35:020. Electrical inspections, which states:

Section 3. Electrical Inspections. (1) Except as provided in subsection (2) of this section, the department or a local certified electrical inspector having jurisdiction shall inspect each electrical construction, installation, alteration, or repair to ensure compliance with NFPA 70, the National Electrical Code, incorporated by reference in 815 KAR 7:120, Kentucky Building Code, 815 KAR 7:125, Kentucky Residential Code, and 815 KAR 10:060, Kentucky Standards of Safety.

A state licensed inspection to verify National Electric Code compliance has always been required. In application of Kenergy’s Tariff, there have been members who thought that they did not need an electrical inspection for their solar array installation. The new language clarifies that the electrical inspection is needed, and the Kenergy site verification is also required, however the customer is permitted to operate their system prior to Kenergy’s site verification.

8. Placing public notice in *Kentucky Living* at the soonest opportunity could not take place until May based upon the timing of the rejection letter and the deadlines required to publish notice in *Kentucky Living*. Publication in *Kentucky Living* is the most economical option, additionally, notice of the changes proposed only affects a small subset of members, making it unreasonable to place the burden of the cost of publishing full notice in local newspapers upon all

of Kenergy's members. Placing public notice of the proposed changes on its website and at its offices will sufficiently comply with the intent of the notice requirement, as Kenergy's members are just as likely, if not more likely to view the notice on its website or at its offices; as, for example, the member is paying their bill or contacting Kenergy for other reasons, as they are likely to view the notice in a local newspaper or *Kentucky Living*.

9.. Because the proposed revisions do not add any requirements, Kenergy is not changing or initiating a charge, fee or rule regarding the provision of service that will affect the amount that a customer pays for service or the quality, delivery, or rendering of a customer's service.¹ However, because the Commission disagrees, Kenergy requests a deviation as allowed pursuant to 807 KAR 5:011 Section 15, for good cause, from the customer notice requirements contained in 807 KAR 5:011 Section 8 and allow the posting of customer notice at its office as well as on its website to be sufficient customer notice.

WHEREFORE, based on the foregoing, Kenergy requests a deviation of the notice requirement in 807 KAR 5:011 Section 8(2)(b) pursuant to 807 KAR 5:001, Section 15.

Dated this 13th day of March 2024.

Respectfully submitted,



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

¹ 807 KAR 5:011, Section 8.

Counsel for Kenergy Corp.

CERTIFICATE OF SERVICE

This is to certify that foregoing electronic filing was transmitted to the Commission on March 13, 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.

PUBLIC NOTICE

On March 13, 2024, Kenergy Corp. filed with the Kentucky Public Service Commission ("Commission"), a tariff revision for the Schedules 46D, 46Q, and 46K. The proposed effective date for the tariff is April 12, 2024, which may be pushed back due to the timing of this notice. The proposed revision effects Schedules 46D, 46Q, and 46K ("tariff") and Kenergy's Application for Interconnection and net Metering ("application"). The tariff and application are being amended to clarify the application review process. The original version did not anticipate the confusion over the interpretation of the requirements of KRS 278.465 that are mirrored in Kenergy's tariff or that there would be attempts to exceed the capacity limits.

The changes include:

A) Sheet 46D: the addition of the clarifying statements:

(9) "An adequately served account shall not be permitted to be subdivided into multiple accounts in an attempt to circumvent the 45 KW statutory limit."

"When approved, Kenergy will notify the Customer by phone or Email. The final approval will be subject to successful completion of an initial installation inspection and witness test. The Customer shall notify Kenergy within 3 business days of completion of the generating facility inspection by an electrical inspector. Kenergy will perform a witness test within 10 business days of completion of the generator facility installation or as otherwise agreed to by Kenergy and the Customer. If the installation fails the inspection or witness test due to noncompliance with any provision in the Application and Kenergy approval, the Customer shall not operate the generating facility until any and all noncompliance is corrected and re-inspected by Kenergy. Upon successful completion of the witness test Kenergy will install a meter capable of bi-directional flow and the application process is considered complete."

B) Sheet 46K: The format of the application has been arranged differently and the additions of noting evidence of liability insurance and proof of property ownership is used to determine the property is the "customer's premises."

"...(4) Attach proof of liability insurance.

(5) Attach proof of property ownership (copy of deed or tax bill)"

C) Sheet 46Q: The "Kenergy Approval Process" has been edited and reorganized as follows:

Pre-Inspection operational testing not to exceed two hours:

Unless otherwise notified a generating facility may be tested for up to two hours prior to inspection by the electrical inspector

Final approval:

The Customer shall provide proof of the passed electrical inspection of the generating facility within three days of its passage.

Kenergy will exchange the metering of the facility for one capable of bi-directional flow within 10 business days of receipt of the passed electrical inspection for the generating facility.

Application for Interconnection and net Metering is considered approved upon installation by Kenergy of a meter capable of bi-directional flow.

You may examine this tariff filing at the offices of Kenergy located at 3111 Fairview Drive, Owensboro, Kentucky 42303. This tariff filing may also be examined at the offices of the Commission located at 211 Sower Boulevard, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m., or through the Commission's Web site at <http://psc.ky.gov>. Any comments regarding this tariff filing may be submitted to the Commission through its Web site or by mail to the Public Service Commission, P. O. Box 615, Frankfort, Kentucky 40602.

The proposals contained in this notice are the items being proposed by Kenergy, however, the Commission may order a program that differs from the proposed program contained in this notice. The proposed tariff does not amend or revise existing rates of Kenergy and does not include any proposed new rates for Kenergy. Consequently, an analysis of the amount of change in dollars and percentage change or the effect upon an average bill for each customer classification is not provided.

A person may submit a timely written request for intervention to the Commission, P. O. Box 615, Frankfort, Kentucky 40602, establishing the grounds for the request including the status and interest of the party. If the Commission does not receive a written request for intervention within thirty (30) days of the initial publication or mailing of the notice, the Commission may take final action on the tariff filing.