

STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 6, 2020

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APPLICATION OF

KENTUCKY UTILITIES COMPANY
d/b/a OLD DOMINION POWER COMPANY

CASE NO. PUR-2019-00060

For an adjustment of electric base rates

FINAL ORDER

On July 12, 2019, Kentucky Utilities Company d/b/a Old Dominion Power Company ("KU/ODP" or "Company") filed an application ("Application") with the State Corporation Commission ("Commission") requesting authority to adjust its electric base rates pursuant to Chapter 10 of Title 56 of the Code of Virginia ("Code")¹ and the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings.²

KU/ODP requested an increase in base rates to produce an increase in revenues in the amount of approximately \$12.7 million, which is an 18.2% increase in its total operating revenues, including fuel.³ The Company indicated that this rate request is based on a 10.50% return on common equity ("ROE").⁴ Additionally, KU/ODP proposed to increase its basic service charge and to have the charge calculated on a daily rather than a monthly basis for each class of customers.⁵ Specifically, for residential customers, the Company proposed a basic

¹ Code § 56-232 *et seq.*

² 20 VAC 5-201-10 *et seq.*

³ Ex. 2 (Application) at 1; Ex. 6 (Garrett Direct) at 1.

⁴ Ex. 2 (Application) at 2; Ex. 5 (McKenzie Direct) at 3.

⁵ Ex. 9 (Conroy Direct) at 22-23.

service charge of \$0.53 per day, which is equivalent to \$16.13 per month.⁶ This represents a \$4.13 increase to the Company's current \$12 basic service charge for residential service.⁷

KU/ODP also proposed revisions to the Company's tariffs, including revisions to late payment charges, private outdoor lighting service, the Cogeneration and Small Power Producer Rider, the line extension plan, and special charges related to returned payments and disconnecting and reconnecting service.⁸ KU/ODP also proposed new tariffs including a Green Tariff governing the Company's proposed renewable energy offerings and an Economic Development Rider.⁹

On August 1, 2019, the Commission issued an Order for Notice and Hearing that, among other things, (i) suspended the Company's proposed increase in rates until the Commission entered its Final Order in this proceeding; (ii) required the Company to provide notice of its Application; (iii) provided any interested person an opportunity to file comments on the Application or to participate in the case as a respondent by filing a notice of participation; (iv) scheduled a local hearing for October 2, 2019, in the Town of Norton, Virginia, to receive the testimony of public witnesses; (v) scheduled a public hearing for January 22, 2020, in Richmond, Virginia, to receive the testimony of public witnesses and the evidence of the Company, any respondents, and the Staff of the Commission ("Staff"); and (vi) appointed a Hearing Examiner to conduct all further proceedings in this matter on behalf of the Commission, including filing a final report ("Report").

⁶ *Id.* at 23.

⁷ *Id.* at 23, 26.

⁸ Ex. 8 (Hornung Direct) at 2-5.

⁹ Ex. 9 (Conroy Direct) adopting Hornung Prefiled Direct at 5-7; Ex. 8 (Hornung Direct) at 7-10.

On September 6, 2019, the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel") filed a notice of participation. On September 26, 2019, Appalachian Voices filed a notice of participation. On October 2, 2019, 17 witnesses testified during the public hearing in Norton, Virginia.¹⁰ Each public witness testified in opposition to KU/ODP's proposed rate increase, rate design, or Green Tariff offerings.¹¹

On November 8, 2019, Appalachian Voices filed prefiled testimony in accordance with the Commission's Order for Notice and Hearing, and on November 20, 2019, filed a motion requesting leave to file a corrected copy of the testimony. The testimony opposed KU/ODP's proposed basic service charge increase and change in structure for residential customers; addressed the rate structure for nonresidential customers and recommended that KU/ODP be directed to offer several new rate options to nonresidential customers that take service under demand rates; and opposed the Company's Green Tariff offerings on renewable energy credit purchases and the proposed Business Solar Program.¹²

On December 6, 2019, Staff filed its testimony addressing issues of rate design; the Company's terms and conditions for tariffed service in Virginia;¹³ accounting adjustments; ROE; and overall cost of capital, resulting in a recommended increase in revenue lower than the increase proposed by KU/ODP.¹⁴

¹⁰ See Hearing Examiner's Report at 4-7; Tr. 12-49, 52-86.

¹¹ See Hearing Examiner's Report at 4-7; Tr. 12-49, 52-86.

¹² Ex. 10 (Barnes Direct) at 3-44. Consumer Counsel did not prefile witness testimony but did participate in the hearing on January 22, 2020.

¹³ See Ex. 19 (Tufaro Direct).

¹⁴ See Ex. 17/17C (Mattox Direct); Ex. 18 (Lee Direct).

On January 6, 2020, KU/ODP filed rebuttal testimony, in which the Company described points of agreement and dispute with the prefiled testimony of Staff and Appalachian Voices.¹⁵

On January 16, 2020, KU/ODP and Staff filed a Partial Stipulation and Recommendation ("Partial Stipulation")¹⁶ and Joint Motion to Accept Stipulation and Recommendation ("Motion").¹⁷ In the Partial Stipulation, KU/ODP and Staff recommended that the Commission approve increasing KU/ODP's operating revenues by \$9 million, effective for service rendered on and after May 1, 2020, as a fair, just, and reasonable resolution of the revenue requirement and cost of capital issues in this proceeding. The Partial Stipulation documented that the recommended increase in operating revenues was the product of compromise and settlement between KU/ODP and Staff based upon the evidence in the record and represented a settlement as to a specific revenue number, but not on a specific determination of ROE, accounting adjustments, or ratemaking methodologies, except as otherwise provided therein.¹⁸ The Partial Stipulation further documented that KU/ODP and Staff recommended using an ROE range of 9.00 to 10.00% for purposes of the Commission's review of filings under Code § 56-234.2 and the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings, 20 VAC 5-201-10 *et seq.*, beginning in the calendar year 2020 and continuing thereafter until KU/ODP's ROE is reset by the Commission; that KU/ODP should use the capital structure methodology recommended by Staff witness Lee for forward looking purposes in future Annual

¹⁵ See Ex. 20 (Bellar Rebuttal); Ex. 21 (Arbough Rebuttal); Ex. 22 (McKenzie Rebuttal); Ex. 23/23C (Wilson Rebuttal); Ex. 25 (Conroy Rebuttal).

¹⁶ See Ex. 24 (Partial Stipulation).

¹⁷ The Motion reflects that neither Consumer Counsel nor Appalachian Voices objected to the Partial Stipulation nor to the motion that it be accepted by the Commission.

¹⁸ Ex. 24 (Partial Stipulation) at 1.

Informational Filings ("AIFs") until the next base rate proceeding; and that KU/ODP will implement a one-time distribution of the Commission-ordered Tax Cuts and Jobs Act ("TCJA") regulatory liability for the interim period January 1, 2018, through May 31, 2018, in the amount of \$1,063,588 within 60 days of the Commission's Final Order in this proceeding, with the distribution occurring on a per kWh basis calculated in the manner described in KU/ODP witness Conroy's rebuttal testimony.¹⁹ The Partial Stipulation also documented the issues not resolved by agreement that were to be addressed in the evidentiary hearing, and that proposed tariff changes not so listed should be considered reasonable and recommended for approval.²⁰

The Hearing Examiner convened the hearing as scheduled on January 22, 2020. Three public witnesses appeared, each testifying in opposition to the proposed rate increase, rate design, or Green Tariff offerings.²¹ KU/ODP, Appalachian Voices, Consumer Counsel, and the Staff participated in the hearing, during which the Hearing Examiner received testimony from witnesses on behalf of the participants and admitted evidence on the Application.²²

On February 14, 2020, the Report of Mary Beth Adams, Hearing Examiner, was issued. In the Report, the Hearing Examiner thoroughly reviewed the record, including the written comments received; the public witness testimony presented in Norton and Richmond, Virginia; and the testimony, exhibits, and statements presented by KU/ODP, Appalachian Voices,

¹⁹ *Id.* at 1-4.

²⁰ *Id.* at 3-4.

²¹ Hearing Examiner's Report at 7; Tr. at 93-106.

²² While Consumer Counsel did not sponsor a witness, Consumer Counsel conducted witness cross-examination and provided opening and closing statements during the hearing. *See, e.g.*, Tr. at 228-121, 255-56.

Consumer Counsel, and Staff.²³ The Hearing Examiner found that based on the evidence received in this case:

- (1) The terms of the Partial Stipulation offer a fair and reasonable resolution to the revenue requirement and cost of capital issues in this case;
- (2) KU/ODP's operating revenues should be increased by \$9,000,000;
- (3) An ROE range of 9.00 to 10.00% for purposes of the Commission's review of filings under Code § 56-234.2 and the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings, 20 VAC 5-201-10 *et seq.*, beginning in the calendar year 2020 and continuing thereafter until KU/ODP's ROE is reset by the Commission. KU/ODP should use the capital structure methodology recommended by Staff witness Lee for forward looking purposes in future AIFs until the next base rate proceeding;
- (4) KU/ODP should implement a one-time distribution of the Commission-ordered TCJA regulatory liability for the interim period January 1, 2018, through May 31, 2018, in the amount of \$1,063,588 within 60 days of the Commission's Order in this proceeding. The distribution should occur on a per kWh basis and be calculated per KU/ODP witness Conroy's rebuttal testimony;
- (5) KU/ODP's Jurisdictional Separation and Class Cost of Service are reasonable and KU/ODP's proposed revenue apportionment should be used by the Commission for establishing base rates in this proceeding;
- (6) The reduction to the as-filed revenue requirement resulting from the Partial Stipulation should be allocated proportionally to all classes based on their respective non-fuel revenues as shown in Exhibit 1 to the Partial Stipulation.

²³ Hearing Examiner's Report at 2-36.

(7) The stipulated terms and conditions proposed in KU/ODP's tariffs are reasonable and should be adopted;

(8) The BSC for RS customers should remain unchanged at \$12 per month;

(9) The Company's proposed daily BSC billing structure for Rate Schedules RS, General Service ("GS"), Power Service, Time of Day Secondary, Time of Day Primary, and Retail Transmission Service should be rejected;

(10) The Company's proposed daily separation of the non-demand Rate Schedules RS and GS energy charge into two components in the tariff should be rejected;

(11) The Company's proposed voluntary Green Tariff should be approved; and

(12) Appalachian Voices' proposed non-residential demand rate alternatives should be rejected.²⁴

Accordingly, the Hearing Examiner recommended that the Commission enter an Order: (i) adopting the Partial Stipulation and the findings in the Report; (ii) approving the revenue requirement set forth in the Partial Stipulation and the rates, charges, and tariff provisions recommended in the Report; and (iii) dismissing this case from the Commission's docket of active cases.²⁵ On March 5, 2020, KU/ODP, Staff, Appalachian Voices, and Consumer Counsel each filed comments on the Report, addressing aspects of the findings and recommendations contained therein.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that based upon the record herein, the findings and recommendations of the Hearing Examiner should be adopted.

²⁴ *Id.* at 59-60.

²⁵ *Id.* at 60.

Accordingly, IT IS ORDERED THAT:

- (1) The findings and recommendations in the February 14, 2020 Hearing Examiner's Report are hereby adopted.
- (2) The Partial Stipulation filed in this case is hereby approved.
- (3) KU/ODP forthwith shall file revised tariffs and terms and conditions of service with the Commission's Division of Public Utility Regulation, in accordance with the findings made herein, for service rendered on and after May 1, 2020. This shall include retaining the residential service basic service charge at the current level of \$12 per month.
- (4) An ROE range of 9.00 to 10.00% for purposes of the Commission's review of filings under Code § 56-234.2 and the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings, 20 VAC 5-201-10 *et seq.*, beginning in the calendar year 2020 and continuing thereafter until KU/ODP's ROE is reset by the Commission. KU/ODP shall use the capital structure methodology recommended by Staff for forward looking purposes in future AIFs until the next base rate proceeding. This ROE range is a result of a partial stipulation for purposes of a global resolution of the case and does not represent a finding of fact as to the cost of equity capital.
- (5) KU/ODP shall implement a one-time distribution of the Commission-ordered TCJA regulatory liability for the interim period January 1, 2018, through May 31, 2018, in the amount of \$1,063,588 within 60 days of entry this Final Order. The distribution shall occur on a per kWh basis and be calculated per KU/ODP's rebuttal testimony.
- (8) This case is dismissed.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.