

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CHARLES E DOWNTON	)	
	)	
COMPLAINANT	)	
	)	CASE NO.
V.	)	2025-00239
	)	
NORTHERN KENTUCKY WATER DISTRICT	)	
	)	
DEFENDANT	)	

ORDER

This matter arises from a formal complaint filed on July 8, 2025, by Charles E. Downton against Northern Kentucky Water District (Northern Kentucky District).¹ By Order entered on September 15, 2025, the Commission found that Mr. Downton's complaint established a *prima facie* case and ordered Northern Kentucky District to satisfy or answer the complaint.² Northern Kentucky District filed a response to the Complaint and a request to dismiss on September 25, 2025,³ and responded to one request for information from Commission Staff.⁴

¹ Charles Downton's Complaint (Complaint) (filed July 8, 2025).

² Order (Ky. PSC Sept. 15, 2025).

³ Northern Kentucky District's Answer and Motion to Dismiss (Answer) (filed Sept. 25, 2025).

⁴ Northern Kentucky District's Response to Commission Staff's First Request for Information (Staff's First Request) (filed Mar. 9, 2026).

LEGAL STANDARD

KRS 278.040(7) requires the Commission to “regulate utilities and enforce the provisions of [KRS Chapter 278].” Pursuant to KRS 278.040(8), the Commission has exclusive jurisdiction over the regulation of the rates and service of utilities in Kentucky. The Commission also has original jurisdiction with respect to complaints regarding the rates or services of any utility pursuant to KRS 278.260.

KRS 278.160(1) requires utilities to file schedules containing all rates and conditions for service with the Commission under rules proscribed by the Commission. KRS 278.160(2) prohibits a utility from charging “greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules.” Under 807 KAR 5:011, a utility's schedule showing all rates and conditions for service shall be filed in the form of a tariff, or in the form of a special contract establishing rates, charges, or conditions of service not contained in its tariff.⁵

DISCUSSION AND FINDINGS

Mr. Downton's complaint stated that a water break in the service line went undetected and not reported by tenants, causing a substantial increase in charges to the landlord.⁶ Mr. Downton asserted that the district acknowledged the break and that the leak qualified for a charge adjustment to his bill.⁷ Mr. Downton further asserted that the district now disputes the adjustment consideration as it qualifies as “multi-family” in its

⁵ See 807 KAR 5:011 (generally setting forth the requirement that schedules containing rates be filed in the form of a tariff); 807 KAR 5:011, Section 13 (requiring that utilities file a copy of any “special contract” establishing rates, charges, or conditions of service not contained in its tariff); *see also* 807 KAR 5:001, Section 16 (requiring that tariffs be filed with any application for a general rate adjustment).

⁶ Complaint at unnumbered page 1.

⁷ Complaint at unnumbered page 1.

“code.”⁸ Mr. Downton asserted that the multi-family residence does not have a master meter and argued that it should be eligible for the charge adjustment.⁹ Mr. Downton attached a copy of Northern Kentucky District’s Tariff Sheet No. 14, highlighting that “[m]ulti-family buildings and mobile home parks with master meters are not eligible for Type 1 adjustments.”¹⁰ Lastly, Mr. Downton stated that the disputed total in question was \$550.84.¹¹

On September 25, 2025, Northern Kentucky District answered the complaint, stating it denies acknowledging the break and that the leak qualified for a charge adjustment to the bill.¹² However, Northern Kentucky District provided that an adjustment was denied due to Mr. Downton’s account serving a multi-family dwelling, and that it would otherwise qualify for an adjustment if it were not excluded as outlined in its tariff.¹³ In response to Mr. Downton’s statement that the district was ignoring the stipulation “with master meter” in the tariff, Northern Kentucky District denied the allegation as “it is a question of legal interpretation” of its tariff.¹⁴

Northern Kentucky District also denied the disputed total of \$550.84, stating that “the balance owed from the bill in dispute is \$504.55 plus \$46.29 in penalty for a total of

⁸ Complaint at unnumbered page 2.

⁹ Complaint at unnumbered page 2.

¹⁰ Compliant, Attachment at unnumbered page 6.

¹¹ Complaint at unnumbered page 2.

¹² Answer at unnumbered page 2.

¹³ Answer at unnumbered page 2.

¹⁴ Answer at unnumbered page 3.

\$550.84.”¹⁵ Northern Kentucky District asserted that if a bill adjustment is granted, it would only reduce the bill by \$123.02 and attached the Charge Adjustment Worksheet to show how it accounted for the underground leak using the difference between the billed amount and the average of Mr. Downton’s usage before the reported incident.¹⁶ Northern Kentucky District also provided that if a charge adjustment is ordered, it would remove the pending late fee, reissue the bill, and Mr. Downton would have 30 days to pay the bill at that time.¹⁷

Neither party disputes the fact that the property in question is a multi-family dwelling without a master meter. As it relates to the charge adjustment, Northern Kentucky District’s tariff states:

Type 1 – Underground Leaks. In cases where it shall be found after an investigation that a leak is underground and not subject to detection by ordinary methods, and where the customer is free from negligence in causing or failing to report the leak, the District will make an adjustment on the customer’s bill for this type of leak. An underground leak is defined as a leak in the customer service line between the meter and the premises. **Multi-family buildings and mobile home parks with master meters are not eligible for Type 1 adjustments.**¹⁸

The question is whether “with master meters,” in the section quoted above, applies to both multi-family buildings and mobile home parks or only mobile home parks. The

¹⁵ Answer at unnumbered page 3.

¹⁶ Answer at unnumbered page 3-4 and Exhibit C Billing Adjustment Worksheet.

¹⁷ Northern Kentucky District’s Response to Staff’s First Request, Item 2.

¹⁸ Northern Kentucky Water District, *Rates & Charges and Rules & Regulations for Furnishing Water Service*, PSC KY No. 5, 1st Revised Sheet No. 14 (effective Feb. 8, 2023) (emphasis added).

complainant argues that it applies to both, and since his multi-family building does not have a master meter, that he is eligible for the charge adjustment.¹⁹

As with the interpretation of a statute or contract, the plain language of the tariff should control where it is clear.²⁰ However, the tariff language at issue here is ambiguous, so much like with statutory and contract interpretation, the purpose and context of the language within the broader tariff scheme may be considered to resolve the ambiguity.²¹

In the current matter, the Commission finds that the record lacks a reason or other justification that would explain why multi-family buildings and mobile home parks, each served by single meter, should be treated differently with respect to leak adjustments. Further, traditionally both multi-family buildings and mobile home parks often have master meters, so when referring to those two types of customers and then including the “with master meters” limitation, it is logical that it would be read as applying to both. Thus, the Commission finds that the exclusion at issue should only apply to multi-family buildings with master meters as opposed to all multi-family buildings, and therefore, that Mr. Downton should be entitled to a leak adjustment.

However, the Commission agrees with Northern Kentucky District’s argument as it relates to the leak adjustment amount. Northern Kentucky District’s tariff states that “[t]he leak will be based on the customer’s average bill plus one half of the lost water due

¹⁹ Answer at unnumbered page 2.

²⁰ See *Stephenson v. Woodward*, 182 S.W.3d 162, 169-70 (Ky. 2005) (quoting *Gateway Construction Company v. Wallbaum*, 356 S.W.2d 247, 249 (Ky. 1962); See also *Marksberry v. Chandler*, 126 S.W.3d 747, 753 (Ky. App. 2003) (stating that the same rules of construction or interpretation that apply to statutes also apply to administrative regulations).

²¹ See *Erie Insurance Exchange v. Johnson*, 713 S.W.3d 149, 156 (Ky. 2025) (stating that “all of the relevant accompanying facts, circumstances, and laws, including time-honored canons of construction” must be considered).

to the leak.”²² Northern Kentucky District provided Mr. Downton’s usage data from September 1, 2024, through September 16, 2025,²³ and determined that Mr. Downton’s average usage before the incident was 35 hundred cubic feet (HCF).²⁴ Mr. Downton’s usage for the bill in question was 78 HCF.²⁵ Northern Kentucky District calculated the leak amount by determining the difference between the total amount billed and the average bill ($78 - 35 = 43$) and then dividing it by two ($43 / 2 = 21.5$) pursuant to its tariff.²⁶ Northern Kentucky District’s Charge Adjustment Worksheet indicated that Mr. Downton’s account would be credited \$123.02 for the 22 HCF determined as part of the leak.²⁷ The Commission finds that Northern Kentucky District’s calculation is consistent with its tariff, and therefore, that Mr. Downton is entitled to \$123.02 credit as opposed to the full bill as requested by Downton.

IT IS THEREFORE ORDERED that:

1. As described in this Order, Mr. Downton is eligible for a leak adjustment pursuant to Type 1, Section IX, of Northern Kentucky Water District’s, *Rates & Charges and Rules & Regulations for Furnishing Water Service*, PSC KY No. 5, 1st Revised Sheet No. 14. (effective Feb. 8, 2023).

²² Northern Kentucky Water District, *Rates & Charges and Rules & Regulations for Furnishing Water Service*, PSC KY No. 5, 1st Revised Sheet No. 14 (effective Feb. 8, 2023).

²³ Answer, Exhibit B Meter Reading Data.

²⁴ Answer, Exhibit C Billing Adjustment Worksheet.

²⁵ Answer, Exhibit C Billing Adjustment Worksheet.

²⁶ Answer, Exhibit C Billing Adjustment Worksheet. The Commission notes that Northern Kentucky District rounded and 22 HCF instead of 21.5 HCF.

²⁷ Answer, Exhibit C Billing Adjustment Worksheet.

2. Northern Kentucky District shall apply a charge adjustment to Mr. Downton's account in the amount of \$123.02.

3. This case is now closed and should be removed from the Commission's docket.

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Entered on this 25th day of August, 2026.

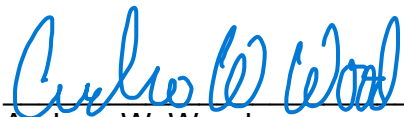
PUBLIC SERVICE COMMISSION



Angie Hatton
Chair



Mary Pat Regan
Vice Chair



Andrew W. Wood
Commissioner



Barry L. Mayfield
Commissioner

ATTEST:



Justin McNeil
Executive Director

Service List for Case 2025-00239

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Alexandria, KY 41001

* Northern Kentucky Water District
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Erlanger, KY 41018-0640