

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE TARIFF FILING OF NORTHERN KENTUCKY )  
WATER DISTRICT TO AMEND ITS CROSS- ) CASE NO. 2004-00309  
CONNECTION CONTROL POLICY )

ORDER

In Case No. 2001-00202,<sup>1</sup> the Commission found Northern Kentucky Water District's ("NKWD") practice of requiring multi-family residences, but not single-family residences, to meet the water district's standards for cross-connection control was unreasonably discriminatory. We expressly rejected NKWD's contention that connections using larger size meters, which are generally used to serve multi-family residences, pose a higher degree of hazard and thus should be subject to stricter standards. We directed NKWD to amend the cross-connection control provisions of its tariff to "reflect a reasonable and nondiscriminatory cross-connection policy that applies equally to both single-family and multi-family residences."<sup>2</sup>

On July 9, 2004, NKWD filed revised tariff sheets that amend its cross-connection control provisions. Our initial review of these revisions indicates that NKWD has failed to remedy the defects noted in the Order of June 17, 2003 and raises the question of whether the proposed revision should be rejected in its entirety.

---

<sup>1</sup> Case No. 2001-00202, Crestbrook Properties v. Northern Kentucky Water District (Ky. PSC Jun. 17, 2003).

<sup>2</sup> Id. at 9.

Despite our express rejection of meter size as a basis upon which to implement cross-connection control, NKWD's proposed cross-connection control provisions continue to be based in part on meter size. The revised tariff states:

[T]he District maintains the ability to proceed, at its discretion, with a multi-family and residential cross connection control program in a logical progression that may be based on meter size, degree of hazard, or other criteria deemed appropriate.

Northern Kentucky Water District Tariff, PSC No. 2, Original Sheet No. 28 (proposed) (emphasis added). Given the differences in meter sizes for multi-family and residential structures, this proposed revision would grant NKWD the discretion to implement its previously announced plan for a cross-connection enforcement program for multi-family structures while deferring any enforcement program for residential structures. This result is the very result that we previously found unreasonably discriminatory.

Similarly, while the proposed tariff states that the cross-connection provisions will apply to "[a]ll existing commercial, industrial, government, multi-family, and residential accounts," it further provides that existing accounts will be prioritized by the largest meter size and that "[i]nspection[s] will start with the largest meters and consumption." Id. Given that multi-residential structures generally have larger meters, the proposed tariff appears to retain the same discriminatory effects as its predecessor.

The proposed tariff's provisions relating to the start of implementation of a multi-family and residential cross-connection program appear unreasonably vague. The proposed tariff provides in part:

Implementation of the multi-family and residential cross connection program will begin when the state and federal regulatory agencies with statutory oversight of cross connection programs have written rules or regulations specifying the type of device that is approved or approvable

for multi-family and residential use and have determined the extent to which such devices must be installed on existing and new multi-family and residential connections.

Id. The proposed tariff contains no specific date when implementation to these groups will begin and, if allowed to become effective, provides no notice to members of the groups that the program is currently applicable to them.<sup>3</sup>

Finally, our review indicates that the proposed tariff revision contains extraneous and unnecessary language whose sole purpose appears to be one of advocacy for future action by this Commission and other state agencies. The proposed tariff at pertinent part states:

At the Kentucky Public Service Commission's direction, the District has revised this cross connection control tariff. The District is making this change with the understanding that the District maintains the ability to proceed, at its discretion, with a multi-family and residential cross connection control program in a logical progression that may be based on meter size, degree of hazard, or other criteria deemed appropriate. The District continues to encourage the Division of Water and the Commission to further investigate important issues such as type of approved device, financial impacts, and technical feasibility that has statewide implications on the implementation of a cross connection control program that includes multi-family and residential customers.

Id. NKWD provides no explanation for the presence of these statements in its rules and conditions for service.

Based upon our review of NKWD's proposed tariff revisions, we find that NKWD should be required to show cause why the proposed revisions should not be rejected or,

---

<sup>3</sup> We are also concerned that the proposed tariff revisions condition compliance with standards for cross-connection control for all new accounts "upon notification from the District." In effect the water utility has discretion on the imposition of the requirement based on the timing of notification. Moreover, this provision does not specify when the water district must give notification or the form of such notification.

in the alternative, why the referred provisions should not be stricken from the proposed tariff and the remaining provisions be allowed to become effective.

IT IS THEREFORE ORDERED that:

1. Within 20 days of the date of this Order, NKWD shall show cause in writing why its proposed tariff revisions should not be rejected as unreasonable for their failure to comply with the Commission's holding in Case No. 2001-00202 or, in the alternative, why they should not be stricken from the proposed tariff and the remaining portions be allowed to become effective.

2. NKWD shall further show cause in writing why:

a. The proposed revisions identified as vague or extraneous should not be stricken from the proposed tariff revisions.

b. Those provisions related to the implementation of a multi-family and residential cross connection program should not be rejected as premature.

Done at Frankfort, Kentucky, this 4<sup>th</sup> day of February, 2005.

By the Commission

ATTEST:



Executive Director