

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF BIG SANDY	)	CASE NO.
WATER DISTRICT FOR AN ADJUSTMENT OF ITS	)	2022-00044
WATER RATES PURSUANT TO 807 KAR 5:076	)	

ORDER

On September 16, 2022, Big Sandy Water District (Big Sandy District), pursuant to KRS 278.400, filed a motion requesting that the Commission amend portions of the September 13, 2022 Order entered in this proceeding. There are no intervenors in this proceeding. This matter stands submitted for a decision.

LEGAL STANDARD

KRS 278.400, which establishes the standard of review for motions for rehearing, limits any new evidence on rehearing to evidence not readily discoverable at the time of the original hearings, to correct any material errors or omissions, or to correct findings that are unreasonable or unlawful. A Commission Order is deemed unreasonable only when “the evidence presented leaves no room for difference of opinion among reasonable minds.”<sup>1</sup> An order can only be unlawful if it violates a state or federal statute or constitutional provision.<sup>2</sup>

---

<sup>1</sup> *Energy Regulatory Comm’n v. Kentucky Power Co.*, 605 S.W.2d 46 (Ky. App. 1980).

<sup>2</sup> *Public Service Comm’n v. Conway*, 324 S.W.3d 373, 377 (Ky. 2010); *Public Service Comm’n v. Jackson County Rural Elec. Coop. Corp.*, 50 S.W.3d 764, 766 (Ky. App. 2000); *National Southwire Aluminum Co. v. Big Rivers Elec. Corp.*, 785 S.W.2d 503, 509 (Ky. App. 1990).

By limiting rehearing to correct material errors or omissions, and findings that are unreasonable or unlawful, or to weigh new evidence not readily discoverable at the time of the original hearings, KRS 278.400 is intended to provide closure to Commission proceedings. Rehearing does not present parties with the opportunity to relitigate a matter fully addressed in the original Order.

#### DISCUSSION AND FINDINGS

In the September 13, 2022 Order, the Commission, among other things, found that the Phase 1 monthly rates set forth were approved for services rendered by Big Sandy District on and after the date of the Order. The Commission further found that the Phase 2 rates set forth were approved for services rendered by Big Sandy District one year following the date of the Order.

Big Sandy District requested to amend the September 13, 2022 Order to provide that the rates for water service and nonrecurring services approved therein for services rendered on and after the Order date to take effect with meter readings performed after October 31, 2022. In support of this, Big Sandy District explained that it reads its meters using automated meter reading equipment on the first three working days of the month and the effective date of the September 13, 2022 Order falls within a billing cycle rather than at the start of a billing cycle. As a result, two different rate schedules must be applied to each customer's water usage. Big Sandy District maintained it is unable to determine water usage prior to the effective date and the software used is not capable of applying two different rate schedules for the same billing period. Further, changing the software to allow for the application of differing rate schedule for the same billing period would be costly and untimely. Therefore, Big Sandy District requested that the Commission amend

the September 13, 2022 Order and make the new rates effective for meter readings after October 31, 2022. The new rates will be reflected on all bills issued in November 2022 and be assessed for all service received during the October 2022 billing cycle.

Big Sandy District also requested the same for the nonrecurring charges. The argument for the nonrecurring charges effective date is that they are related to the revenue requirement set in the final Order. Big Sandy District noted that this request does not impact the effective date of the surcharge as that is not impacted by the meter read date nor is it related to the revenue requirement established in the final Order.

Based upon the motion and case record, the Commission finds that Big Sandy District established good cause to grant rehearing to amend the September 13, 2022 Order, and therefore Big Sandy District's motion is granted. This is because the Commission has approved placing new rates into effect based upon a utility's billing cycle in prior cases<sup>3</sup> because it allows for an orderly and less costly transition under the facts presented regarding the timing of the billing cycle and limitations of the utility's billing software.

IT IS THEREFORE ORDERED that:

1. The monthly water rates for Phase 1 set forth in Appendix B of the September 13, 2022 Order approved for services rendered by Big Sandy District on and after October 31, 2022.

---

<sup>3</sup> Case No. 2016-00382, *Electronic Annual Cost Recovery Filing for Demand Side Management by Duke Energy Kentucky, Inc.*, (Ky. PSC Mar. 28, 2017).

2. The monthly water rates for Phase 2 rates set forth in Appendix B of the September 13, 2022 Order are approved for services rendered by Big Sandy District on and after October 31, 2023.

3. All other provision of the Commission's September 13, 2022 Order not in conflict with this Order shall remain in effect.

4. This case is closed and removed from the Commission's docket.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

PUBLIC SERVICE COMMISSION

  
\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Vice Chairman

  
\_\_\_\_\_  
Commissioner



ATTEST:

  
\_\_\_\_\_  
Executive Director

\*Big Sandy Water District  
18200 Kentucky Route #3  
Catlettsburg, KY 41129

\*Jessica Sexton  
Big Sandy Water District  
18200 Kentucky Route #3  
Catlettsburg, KY 41129

\*Gerald E Wuetcher  
Attorney at Law  
STOLL KEENON OGDEN PLLC  
300 West Vine Street  
Suite 2100  
Lexington, KENTUCKY 40507-1801