

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF HARDIN)	
COUNTY WATER DISTRICT NO. 1 FOR A)	
DECLARATORY ORDER REGARDING THE USE)	
OF THE PROCEDURES SET FORTH IN 807 KAR)	CASE NO.
5:076 TO APPLY FOR AN ADJUSTMENT OF THE)	2022-00410
RATES OF ITS RADCLIFF WASTEWATER)	
SYSTEM FOR SEWER SERVICE, OR IN THE)	
ALTERNATIVE, A DEVIATION FROM 807 KAR)	
5:076, SECTION 2(1))	

ORDER

On January 10, 2023, Hardin County Water District No. 1 (Hardin District No. 1) tendered an application pursuant to 807 KAR 5:001E, Section 19 for an Order declaring that Hardin District No. 1 is eligible to use the procedures set forth in 807 KAR 5:076 to apply for an adjustment of the rates for its Radcliff Wastewater System for sewer services, or in the alternative, granting a deviation from 807 KAR 5:076, Section 17, to permit it to apply for an adjustment of its Radcliff Wastewater System using the procedures set forth in 807 KAR 5:076. There have been no intervenors or objections to Hardin District No. 1's application filed in this matter. Hardin District No. 1 requests a ruling by February 15, 2023. This matter now stands before the Commission for a decision.

BACKGROUND

Hardin District No. 1 owns and operates the Radcliff Wastewater System that provides wastewater service to approximately 9,016 customers in Hardin County,

Kentucky, primarily the city of Radcliff.¹ It also owns and operates facilities that provide retail water service in Hardin County, Kentucky and wholesale water service to Meade County Water District and the cities of Vine Grove, Hardinsburg, and West Point.² The Radcliff Wastewater System had total revenues of \$4,044,918 for the year ending December 31, 2021.³

Hardin District No. 1 also owns and operates the Fort Knox Military Installation (FKMI) Wastewater System and the water treatment and distribution system that serves Fort Knox Military Installation.⁴ Hardin District No. 1 acquired the Fort Knox Military Installation (FKMI) Wastewater System on September 30, 2004, through an agreement with the U.S. Government.⁵ The agreement required Hardin District No. 1 to provide wastewater service to the military installation for a term of 50 years, limited the use of the facilities to Fort Knox and the city of Muldraugh, and granted Hardin District No. 1 an easement for the construction, operation, maintenance, repair or replacement of the wastewater facilities for that 50-year term.⁶ The FKMI Wastewater System had total revenues of \$2,907,819 for the year ending December 31, 2021.⁷

¹ Application at 3 (filed Jan. 10, 2023).

² Application at 3.

³ Application at 4.

⁴ Application at 3.

⁵ Application at 6.

⁶ Application at 6.

⁷ Application at 4.

LEGAL STANDARD

Commission regulation 807 KAR 5:076, Section 2 sets the guidelines for when a utility can file an alternative rate adjustment. The regulation states, “A utility may apply for an adjustment of rates using the procedure established in this administrative regulation if it: (1) Had a gross annual revenue in the immediate past calendar year of \$5,000,000 or less; (2) Maintained financial records fully separated from a commonly-owned enterprise; and (3) Filed with the commission fully completed annual reports for the immediate past year and for the two (2) prior years if the utility has been in existence that long.”⁸ Additionally, 807 KAR 5:076, Section 1(4) provides that, if the applicant utility operates “two or more divisions that provide different types of utility service,” the applicant’s eligibility to use the alternative procedures will be determined based upon “the total amount of revenue derived from the division for which a rate adjustment is sought.” Finally, 807 KAR 5:076, Section 17, provides the Commission with the authority to permit deviations from this regulation for good cause shown. The Commission granted deviations of this nature on previous occasions.⁹

⁸ 807 KAR 5:076, Section 2.

⁹ Case No. 1992-00407, *In the Matter of the Notice of Gas Cost Adjustment Filing of Valley Gas, Inc.* (Ky. PSC Apr. 22, 1997); Case No. 1995-00231, *In the Matter of the Application of Valley Gas, Inc. for an Adjustment of Rates Pursuant to the Alternative Rate Filing Procedure for Small Utilities* (Ky. PSC Dec. 4, 1995); Case No. 1996-00617, *In the Matter of the Application of East Knox County Water District for a Rate Adjustment Pursuant to the Alternative Rate Filing Procedure for Small Utilities* (Ky. PSC Nov. 24, 1997); Case No. 2001-00009, *The Application of Valley Gas, Inc. for an Alternative Rate Filing* (Ky. PSC Mar. 14, 2001); Case No. 2003-00237, *Application of Ledbetter Water District for an Adjustment of Rates Pursuant to the Alternative Rate Filing Procedure for Small Utilities* (Ky. PSC Sept. 16, 2003); Case No. 2004-00038, *Application of Black Mountain Utility District for an Adjustment of Rates Pursuant to the Alternative Rate Filing Procedure for Small Utilities* (Ky. PSC Apr. 7, 2004); Case No. 2004-00376, *Application of Hendron Water District for a Declaratory Ruling Authorizing Applicant to Collect Payment of Sewer Service Bills on Behalf of the Paducah-McCracken County Joint Sewer Authority and to Discontinue Water Service for Non-Payment* (Ky. PSC Dec. 17, 2004); Case No. 2006-00012, *Application of Valley Gas, Inc. for an Adjustment of Rates Pursuant to the Alternative Rate Filing Procedure for Small Utilities* (Ky. PSC Mar. 29, 2006); Case No. 2007-00476, *Application of Garrison-Quincy-Ky-O-Heights Water District for an Adjustment in Rates Pursuant to the Alternative Rate Filing Procedure for Small Utilities* (Ky. PSC Feb. 4, 2008); Case No. 2009-00367, *Application of Kentucky American Water Company for an Adjustment*

Additionally, pursuant to 807 KAR 5.001E, Section 19, the Commission may, upon application by a person substantially affected, issue a declaratory order with respect to the jurisdiction of the Commission, the applicability to a person, property, or state of facts of an order or administrative regulation of the commission or provision of KRS Chapter 278, or with respect to the meaning and scope of an Order or administrative regulation of the Commission or provision of KRS Chapter 278. Here, Hardin District No. 1 seeks an Order declaring that Hardin District No. 1 is eligible to use the procedures set forth in 807 KAR 5:076 to apply for an adjustment of the rates for its Radcliff Wastewater System for sewer services.

DISCUSSION AND FINDINGS

Because the Commission is resolving this matter on alternate legal grounds, and because 807 KAR 5.001E, Section 19, is permissive in nature, and does not mandate that the Commission issue a declaratory order upon request, the Commission chooses not to address Hardin District No. 1's request for a declaratory order. However, having considered the application and all the evidence in the record, the Commission finds that good cause exists to grant the requested deviation under 807 KAR 5:076, Section 17, and finds that Hardin District No. 1 should be allowed to use the alternative rate filing procedure set out in 807 KAR 5:076, Section 2 to apply for a rate adjustment for the Radcliff Wastewater System for the following reasons. Hardin District No. 1's wastewater division is comprised of the Radcliff Wastewater System, which reported total revenues of \$4,044,918 in 2021, and the FKMI Wastewater System which had total revenues of

of Sewer Rates Pursuant to the Alternative Rate Filing Procedure (Ky. PSC Dec. 8, 2009); Case No. 2011-00364, *Alternative Rate Filing Adjustment of Bluegrass Gas Sales, Inc.* (Ky. PSC July 17, 2012).

\$2,907,819 in 2021. Therefore, Hardin District No. 1's gross annual revenue of its wastewater division exceeds \$5,000,000 and it would be required to use the procedures set forth in 807 KAR 5:001E, Section 16 to request a rate adjustment unless a deviation is granted. Hardin District No. 1 maintains separate tariffs for the Radcliff Wastewater System and the FKMI Wastewater System. Hardin District No. 1 also operates each wastewater system separately and maintains separate accounts and funds for each wastewater system.¹⁰ Any application for an adjustment to the Radcliff Wastewater System would not include the FKMI Wastewater System, and while rate case expenses are recoverable through rates, the ratepayers of the Radcliff Wastewater System would ultimately bear the higher costs of using the procedures of 807 KAR 5:001E, Section 16, because the FKMI Wastewater System rates would not be affected. Additionally, Hardin District No. 1's use of the alternative rate adjustment procedure will not impede the Commission's ability to perform its statutory duties.

The Commission acknowledges that 807 KAR 5:076, Section 2 has not been amended since 2011 when the ceiling on revenues amount increased from \$300,000 or less to \$5,000,000 or less. The Commission continues to look at this requirement and the potential need to increase the amount of the gross revenue requirement in 807 KAR 5:076. Until 807 KAR 5:076, Section 2 is amended, the Commission will continue to evaluate any requests for a deviation on a case-by-case basis.

IT IS THEREFORE ORDERED that:

1. Hardin District No. 1's request for a deviation from 807 KAR 5:076 is granted.

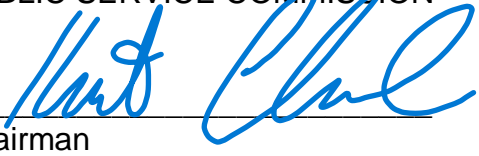
¹⁰ Application at paragraph 18. See also *Hardin County Water District No. 1, Financial Statements for the Year Ended December 31, 2021* at 5, and 34-35.

2. Hardin District No. 1 may use the alternative rate filing procedure in 807 KAR 5:076, Section 2 to apply for an adjustment to its present rates for the Radcliff Wastewater System.

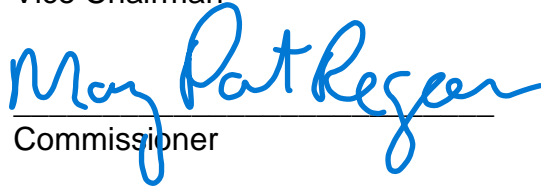
3 This case is closed and removed from the Commission's docket.

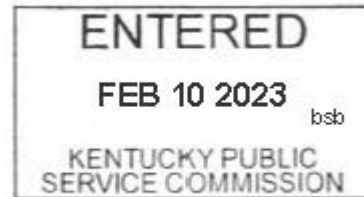
[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner



ATTEST:


Executive Director

*Honorable David T Wilson II
Attorney at Law
Skeeters, Bennett, Wilson & Humphrey
550 W. Lincoln Trail Boulevard
Radcliff, KENTUCKY 40160

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

*Hardin County Water District #1
1400 Rogersville Road
Radcliff, KY 40159-0489

*Stephen M. Hogan
General Manager
Hardin County Water District #1
1400 Rogersville Road
Radcliff, KY 40160

*Scott Schmuck
Hardin County Water District #1
1400 Rogersville Road
Radcliff, KY 40160