

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION INTO LATE)	CASE NO.
PENALTY OF OHIO COUNTY WATER)	2021-00017
DISTRICT)	

ORDER

This matter arises from the Commission’s investigation to review Ohio County Water District’s (Ohio District) omission of a late payment penalty amount in its filed tariff since 2005. In its response to the allegations filed on April 9, 2021, Ohio District admitted that the late payment penalty amount was omitted from its tariff sheets, but that the omission was irrelevant. Ohio District argued that because the Commission had approved the late payment penalty amount in Case No. 2001-00010,¹ Ohio District was authorized to charge the late payment penalty amount and the omission did not terminate Ohio District’s authority to charge the late payment penalty amount.

When a utility’s required action is merely clerical in nature, willfulness can be inferred from the fact of noncompliance.² In accordance with 807 KAR 5:011, Sections 6(1) and 7, a utility must file a tariff sheet when the Commission has ordered a change in rates and cannot revise its tariff sheets without prior Commission approval. The late payment penalty amount was approved by Commission Order in Case No. 2001-00010.

¹ Case No. 2001-00010, *Application of Ohio County Water District for Non-Recurring Charges* (Ky. PSC Feb. 26, 2001).

² See Case No. 2017-00045, *Alleged Failure of Lewis Sanitation Company, Inc. D/B/A Garden Heights Sewer Division to File Required Reports* (Ky. PSC May 2, 2017)

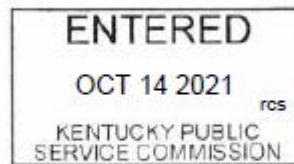
Based upon Ohio District's admission that the Commission approved a late payment penalty amount, that the late payment penalty amount was omitted from its tariff, and that the late payment penalty continued to be collected, the Commission finds that Ohio District willfully filed a tariff sheet that failed to include a late payment penalty amount ordered by the Commission and that was charged to customers. The Commission further finds that Ohio District violated the Commission's February 26, 2001 Order in Case No. 2001-00010 and 807 KAR 5:011, Section 6(1) and 7, when it filed a tariff sheet that failed to include the late payment penalty amount that was charged to customers. As a result of the omission, Ohio District's customers were not on notice of the late payment penalty amount.

KRS 278.990(1) provides that any utility, and any officer, agent, or employee of a utility that willfully violates any Commission Order provision of KRS Chapter 278, any regulation promulgated pursuant to KRS Chapter 278, or fails to perform any duty imposed upon it shall be subject to a civil penalty not less than \$25 and not more than \$2,500 for each offense.

Based on the above, the Commission finds that Ohio District and its officers, agents, and employees should show cause why they should not be subject to the assessment of a civil penalty pursuant to KRS 278.990(1).

IT IS THEREFORE ORDERED that Ohio District, its officers, agents, and employees shall file a response within 20 days of the date of this Order to show cause why they should not be subject to civil penalties pursuant to KRS 278.990(1).

By the Commission



ATTEST:

A handwritten signature in blue ink that reads "Linda E. Bridwell". The signature is written in a cursive style with a large initial "L".

Executive Director

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