

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF MARION)	CASE NO.
COUNTY WATER DISTRICT FOR A RATE)	2021-00394
ADJUSTMENT PURSUANT TO 807 KAR 5:076)	

ORDER

This matter arises upon Marion County Water District (Marion District) placing a rate increase into effect prior to Commission approval without written notice to the Commission. On October 27, 2021, Marion District filed an application for an alternative rate adjustment (ARF) pursuant to 807 KAR 5:076. Marion District responded to two requests for discovery. The Staff Report was issued on March 2, 2022, and Marion District filed its response on March 17, 2022. The Commission issued a final Order on May 23, 2022. Without written notice to the Commission¹ or a request for a deviation, Marion District implemented the new rates on its June 15, 2022 billing period, which included water sold no earlier than April 29, 2022. As a result, customers were billed at the increased rate for water that went through customers' meters between April 29, 2022, and May 22, 2022, and a customer raised the issue that Marion District implemented a rate increase before it was permissible under ARF regulations. Marion District sought a Staff Opinion regarding the implementation of rates that was issued on June 21, 2022. The Staff Opinion noted that the Commission could order a refund.²

¹ As required by 807 KAR 5:076 Section 7(2).

² Staff Opinion (issued on June 21, 2022) at 3-4.

LEGAL STANDARD

Marion District filed for an ARF using the process set out in 807 KAR 5:076. As part of that regulation, 807 KAR 5:076, Section 7, sets out when and how a utility may institute its proposed rates. Commission regulation 807 KAR 5:076 Section 7(1) states that an applicant who applies for a rate adjustment pursuant to the procedures set for in 807 KAR 5:076 may not place its proposed rates into effect until the Commission approves those rates or six months from the date of the filing of its application.

Commission regulation 807 KAR 5:076 Section 7(2) states that if the Commission has not issued its order within six months from the date of filing of the application, the applicant may place its proposed rates in effect, subject to refund upon providing the Commission with written notice of its intent to place the rates into effect. However, 807 KAR 5:076, Section 7(3) requires the utility to maintain records so that the utility or the Commission can determine the amounts to be refunded and to whom a refund is due if the Commission orders a refund.

A utility is required to file with the Commission a rate schedule.³ Consistent with Commission precedent⁴ and KRS 278.160, any utility that over collects from its customers because the utility charged a higher rate than authorized by the Commission, must refund customers for the over collection of rates.

DISCUSSION

³ KRS 278.160(1)-(2).

⁴ See Case No. 2020-00396, *Electronic Application of Navitas KY NG, Johnson County Gas Company, and B & H Gas Company for Approval of Acquisition, Transfer of Ownership, and Control of Natural Gas Utility Systems* (Ky. PSC Feb. 1, 2021).

Based upon the facts presented and a review of the case record, the Commission finds that Marion District did not file written notice of its intent to place the rates into effect, subject to refund, for service rendered on and after April 28, 2022, pursuant to 807 KAR 5:076 Section 7(2). Because written notice was required,⁵ but not provided, the Commission finds that Marion District could not place the proposed rates into effect after the suspension period lapsed, but before the Commission entered a final Order authorizing new rates.

KRS 278.160(1) requires utilities, such as Marion District, to file its rate schedules with the Commission. KRS 278.160(2) prohibits a utility, such as Marion District, to charge rates for service rendered other than the rates contained in the rate schedules filed with the Commission. Marion District did not file updated rate schedules with the Commission, and Marion District should be reminded that the utility should file revised tariff sheets whenever there is a change in rates.

As a result, Marion District was not authorized, and thus, could not charge rates for service rendered after the lapse of the suspension period and before the final Order from the Commission, because Marion District failed to file the required written notice in accordance with 807 KAR 5:076, Section 7(2) for the rates Marion District charged for service rendered between April 28, 2022 and May 22, 2022.

The Commission finds that Marion District must refund its customers the actual amount each customer overpaid based on the actual usage of each customer during the timeframe that the utility was charging the higher rate. The Commission orders that the refund shall be done by issuing a single bill credit, where feasible. The Commission

⁵ 807 KAR 5:076(2).

recognizes that the refunds, whether bill credit or check, shall be done by the end of this calendar year.

IT IS HEREBY ORDERED:

1. Marion District shall refund its customers for the actual overcharge for rates for service rendered between April 28, 2022, and May 22, 2022.

2. Marion District shall provide a single bill credit, when feasible, for the amount.

3. Marion District shall refund the amount for the overcharge for customers by the end of the calendar year.

4. Marion District shall provide notice to the Commission, in this case, once the refund to all entitled customers has been accomplished.

PUBLIC SERVICE COMMISSION



Chairman

Vice Chairman



Commissioner



ATTEST:



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