

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF MUHLENBERG	)	
COUNTY WATER DISTRICT #3 FOR	)	CASE NO.
EMERGENCY RELIEF PURSUANT TO KRS	)	2021-00482
278.170	)	

ORDER

On December 21, 2021, Muhlenberg County Water District #3 (Muhlenberg District #3) filed a letter<sup>1</sup> requesting Commission approval to (1) suspend late payment fees until February 11, 2022; (2) suspend disconnections for nonpayment until February 23, 2022; (3) charge an average bill amount to customers whose homes were destroyed in the December 10, 2021 tornadic event; and (4) waive the meter deposit for customers whose homes were destroyed in the December 10, 2021 tornadic event. The Commission will treat the letter as an application for emergency relief arising from the December 10, 2021 tornadic event.

In its request, Muhlenberg District #3 explained that its customers have experienced significant property damage, loss of homes, physical injuries, and loss of life. Muhlenberg District #3 requested to temporarily suspend imposing late payment fees and waive disconnection for nonpayment to provide their customers with time to get their finances in order. Muhlenberg District #3 also requested to charge the average bill amount to customers who lost their homes, explaining that many meters were under a large amount of debris and thus could not timely be turned off until the debris was cleared.

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<sup>1</sup> Muhlenberg District #3's letter is attached to this Order as an Appendix.

Muhlenberg District #3 further explained that, because the water continued to run through the meter even though the home was destroyed, such customers likely would have higher bills than normal due to an act of God over which the customers had no control. Muhlenberg District #3 requested to waive the meter deposit for customers who have been displaced and, if service is later restored, would otherwise be charged a meter deposit. Muhlenberg District #3 explained that it would be unjust to charge displaced customers a meter deposit due to an act of God over which the customers had no control. Muhlenberg District #3 will flag displaced customers in the utility's billing software to ensure future meter deposits are waived for those customers.

#### LEGAL STANDARD

Pursuant to KRS 278.040(1), the Commission regulates jurisdictional utilities and has the authority to enforce the provisions of KRS Chapter 278. Relevant to Muhlenberg District #3's request, KRS 278.0154(1) allows for, but does not mandate, late fees to be assessed by a water district for payment of a water bill after the payment due date. KRS 278.0154(5) states that the commission **shall not** modify, reject, discontinue, abolish, or suspend the operation of a late payment charge that is provided for currently, or has been provided for in the past, in a water district tariff (emphasis added).

KRS 278.180(1) requires a utility to provide the Commission with a minimum of 20 days' notice prior to a change in a tariffed rate. However, KRS 278.180(2) allows the Commission to prescribe a shorter period to provide notice if there is a reduction in rates. However, the notice period for any tariff changes is also controlled by KRS 278.170(2), which allows a utility to "grant free or reduced rate service for the purpose of providing relief in case of flood, epidemic, pestilence, or other calamity." KRS 278.170(2) further

provides that, in case of an emergency, a utility may notify the Commission of the reduced rate service at least 5 days after the service is rendered.

### DISCUSSION AND FINDINGS

Pursuant to Executive Order 2021-923, there exists a state of emergency in Kentucky resulting from a “severe weather system generating heavy rain, thunderstorms, tornadoes, and strong straight-line winds on December 10, 2021, that caused flash flooding, loss of power, damage to public infrastructure and private properties.”<sup>2</sup> The conditions arising from the severe weather endanger public health and safety.

As a threshold issue, in accordance with KRS 278.0154, the Commission does not have the statutory authority to modify or suspend Muhlenberg District #3’s late payment fees. However, there is no statutory mandate that requires Muhlenberg District #3 to charge a late payment fee. Reduced rates arising from the suspension of late fees, as well as other requests made by Muhlenberg District #3, would represent a change in tariff rates and are subject to statutory notice requirements.

Based on Muhlenberg District #3’s filing and being otherwise sufficiently advised, the Commission finds that the tornadic event and subsequent damage fall within the statutory provisions of KRS 278.170(2) that allow a utility to provide free or reduced rate service and for abbreviated notice to the Commission to provide relief in the event of a “calamity.” Because Muhlenberg District #3’s request results in a reduced rate service under KRS 278.170, the Commission finds that Muhlenberg District #3 should file a tariff that includes the provision that Muhlenberg District #3’s late payment fees are suspended or removed until Muhlenberg District #3 files a subsequent tariff reinstating them. The

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<sup>2</sup> Executive Order 2021-924 (Dec. 11, 2021), <http://web.sos.ky.gov/execjournalimages/2021-MISC-2021-0923-277844.pdf>.

Commission finds good cause exists to allow the suspension or removal of the late fee to go into effect upon its acceptance of filing. Further, the Commission finds that Muhlenberg District #3's tariff requires disconnection for nonpayment upon five (5) days written notice. As such, as long as the utility chooses not to provide notice of a disconnection, no disconnection can occur and Commission action regarding the utility's request to suspend disconnections is unnecessary. The Commission further finds that the notice provision in KRS 278.170(2) applies and that Muhlenberg District #3 provided notice of the reduced rate service within the statutory timeframe and as of the date of the letter. This waiver or reduction should satisfy the request the utility made regarding the ability to charge average bills and to waive meter deposits.

Because this matter arises from a state of emergency due to tornadic events, the Commission further finds that, pursuant to 807 KAR 5:001, Section 22, good cause exists to allow Muhlenberg District #3 to deviate from the electronic filing requirement in 807 KAR 5:001, Section 8(1), which requires a utility to file notice of its intent to use electronic filing procedures prior to filing its application.

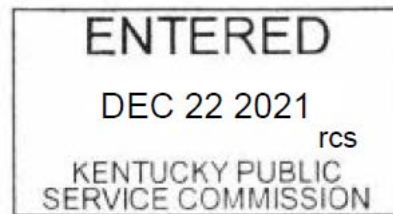
Nothing in this Order should be construed as relieving customers from the obligation to pay for service rendered. The Commission is taking this measure to ensure that customers are provided necessary services required to maintain health and safety. The Commission expects Muhlenberg District #3 to file notice with the Commission in this proceeding when disconnections for nonpayment are resumed and to provide notice to its customers when the suspension is lifted. Reinstatement of a late payment fee shall be included in a revised tariff and filed via the Commission's Tariff Filing System.

IT IS THEREFORE ORDERED that Muhlenberg District #3 should file with the Commission, using the Commission's electronic Tariff Filing System, new tariff sheets

setting forth the modification of the late payment fee as discussed in this Order and reflecting the effective date of December 21, 2021.

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By the Commission



ATTEST:

  
Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2021-00482 DATED DEC 22 2021

ONE PAGE TO FOLLOW

**From:** [Cindy Darr](#)  
**To:** [PSC Executive Director](#)  
**Subject:** Tornado relief  
**Date:** Tuesday, December 21, 2021 3:07:30 PM

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Hello,

Muhlenberg County Water District #3 is located in Bremen, KY. As you are probably aware, our town has been hit with a deadly tornado on December 10, 2021. Governor Andy Beshear has declared a State of Emergency for our area. Our people are hurting and we do not want to add more on them. I am writing to ask the commission to suspend our tariff for late fees and disconnects until February. Late fees will resume February 11 and disconnects February 23, 2022. Our customers have more to worry about right now than if their water bill has been paid. Some have lost homes and even family members. Hopefully this extra time will allow them to get their finances in order and other arrangements made.

MCWD#3 would ask for these customers whose homes were destroyed, an average usage bill would be charged. As tornados are an Act of God, the customers had no control over what happened to them. After it first occurred, many meters could not be turned off for debris on top of them. Thus water ran through the meter resulting in higher bills than normal.

The commission would also ask that the meter deposit be waived for these customers who have been displaced. We understand it is going to take time (possibly years) for them to build back. MCWD3# will flag these customers in the billing software to know not to charge the meter deposit again. This applies only to the same customers who were displaced. The commission feels if it wasn't for the tornado then they would not have to be out the deposit again.

Thank you for your time and consideration,

*Cindy Darr*

Office Manager

Muhlenberg County Water Dist. #3

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