

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF OLDHAM)	
COUNTY WATER DISTRICT FOR A DEVIATION)	CASE NO.
FROM 807 KAR 5:076, SECTION 2 (1) TO BE)	2023-00118
PERMITTED TO USE ALTERNATIVE RATE)	
FILING PROCEDURES)	

ORDER

On April 17, 2023, Oldham County Water District (Oldham District) filed a motion pursuant to 807 KAR 5:001E, Section 19 for a deviation from the requirement of 807 KAR 5:076, Section 2(1) Order to be permitted to use the procedures set forth in 807 KAR 5:076 to apply for an adjustment of retail water rates. There have been no intervenors or objections to Oldham District’s application filed in this matter.

BACKGROUND

Oldham District is a water district organized pursuant to KRS Chapter 74. Oldham District provides retail water service to approximately 9,058 customers in Oldham County, Kentucky and wholesale water service to the city of LaGrange, Kentucky.¹ Oldham District had total revenues of \$5,200,444 for the year ending December 31, 2022.²

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:

¹ *Annual Report of Oldham County Water District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2022* (2022 Annual Report) at 27.

² 2022 Annual Report at 11.

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.³

Commission regulation 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.⁴

DISCUSSION AND FINDINGS

Oldham District reported total revenues of \$5,200,444 in 2022.⁵ Therefore, Oldham District's gross annual revenue of its wastewater division exceeds \$5,000,000

³ 807 KAR 5:076, Section 2.

⁴ 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 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); Case No. 2022-00410, *Electronic Application of Hardin County Water District No. 1 for a Declaratory Order Regarding the use of the Procedures set forth in 807 KAR 5:076 to Apply for an Adjustment of the Rates of its Radcliff Wastewater Sewer System for Sewer Service, or in the alternative, a Deviation from 807 KAR 5:076, Section 2(1)* (Ky. PSC Feb. 10, 2023).

⁵ 2022 Annual Report at 11.

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.

Oldham District's retail water rates were last adjusted in 2009 in Case No. 2009-00436.⁶ Since then, Oldham District has not applied to the Commission for any adjustment to its retail water rates. In its application, Oldham District stated that, up until now, it has been able to fully fund its depreciation each year and still maintain a reasonable operating margin through careful planning and close monitoring of its finances on a regular basis.⁷ Oldham District claimed that it is not currently operating at a loss, however, it will be soon absent a rate adjustment due to its annual operating expenses increasing at a much greater rate than its annual operating revenues, which is due in large part to the lingering economic disruptions and unprecedented price increases stemming from the COVID-19 pandemic.⁸ Oldham District further claimed its request to adjust rates is based in large part on recent economic developments, including price increases in inventory, chemicals, fuel, labor, employee-retention, and various other required expenditures, and Oldham District has determined that a rate adjustment is now necessary in order to continue providing quality services to its customers.⁹

Oldham District argued it has maintained a sound financial condition in the 13 years since its last rate adjustment, and has filed annual reports with the Commission for every year since its inception, and its request for deviation is in line with the Commission's

⁶ Case No. 2009-00436, *Application of Oldham County Water District for a Certificate of Public Convenience and Necessity to Construct, Finance and Increase Rates Pursuant to KRS 278.023* (Ky. PSC Dec. 9, 2009).

⁷ Motion for Deviation (filed Apr. 17, 2023) at 2.

⁸ Motion for Deviation at 6.

⁹ Motion for Deviation at 2, 6.

well-established precedent.¹⁰ Oldham District therefore argued that, other than the annual revenue limit, it "substantially meets the requirements for the alternative rate filing procedure in all other regards."¹¹

The Commission concludes that Oldham District has been consistent in filing its annual reports, and its 2022 reported gross annual revenue was only approximately 4 percent over the \$5,000,000 threshold. In reviewing the annual reports since its last rate adjustment, Oldham District's gross revenues have remained consistently close to, or only slightly over, the \$5,000,000 threshold. The Commission agrees with Oldham District's contention that it meets the requirements for the alternative rate procedure in all regards except for the relatively small excess over the required threshold. Additionally, the Commission concludes that Oldham District's use of the alternative rate adjustment procedure will not impede the Commission's ability to perform its statutory duties. For these reasons, the Commission finds that good cause exists to grant the requested deviation under 807 KAR 5:076, Section 17, and finds that Oldham District 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.

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

¹⁰ Motion for Deviation at 3–6.

¹¹ Motion for Deviation at 7.

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. Oldham District's request for a deviation from 807 KAR 5:076 is granted.
2. Oldham District may use the alternative rate filing procedure in 807 KAR 5:076, Section 2 to apply for an adjustment to its retail water rates.
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

*Cameron F. Myers
STOLL KEENON OGDEN PLLC
300 West Vine Street
Suite 2100
Lexington, KENTUCKY 40507-1801

*Honorable Damon R Talley
Attorney at Law
STOLL KEENON OGDEN PLLC
300 West Vine Street
Suite 2100
Lexington, KENTUCKY 40507-1801

*Oldham County Water District
P.O. Box 51
2160 Spencer Court
Buckner, KY 40010

*Russell D. Rose
Oldham County Water District
P. O. Box 51
Buckner, KY 40010