

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF LOUISVILLE	)	
WATER COMPANY OF A WHOLESALE WATER	)	CASE NO.
PURCHASE AGREEMENT WITH NORTH	)	2024-00335
NELSON WATER DISTRICT	)	

ORDER

On September 26, 2024, Louisville Water Company (Louisville Water) filed a Wholesale Water Purchase Agreement (Agreement) with North Nelson Water District (North Nelson District) to replace the current wholesale water purchase agreement between the two parties. The main purpose of the Agreement is to provide additional water to North Nelson District to sell to the city of Bardstown.

LEGAL STANDARD

The Commission has exclusive jurisdiction over the rates and service of utilities and is charged with enforcing the provisions of KRS Chapter 278.<sup>1</sup> A city-owned utility is generally exempt from the Commission's exclusive jurisdiction over utility rates and services.<sup>2</sup> However, pursuant to KRS 278.200, the Commission may, under the provisions of KRS Chapter 278

[o]riginate, establish, change, promulgate and enforce any rate or service standard of any utility that has been or may be fixed by any contract, franchise, or agreement between the utility and any city, and all rights, privileges and obligations arising out of any such contract, franchise or agreement,

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<sup>1</sup> See KRS 278.040.

<sup>2</sup> See KRS 278.030(3) (excluding city utilities from the definition of utilities subject to Commission jurisdiction).

regulating any such rate or service standard, shall be subject to the jurisdiction and supervision of the commission.<sup>3</sup>

The Kentucky Supreme Court held that a city providing utility service loses its exemption and “is rendered subject to the PSC rates and service regulation” when it enters into a contract to provide wholesale utility service to a public utility subject to the Commission’s jurisdiction.<sup>4</sup>

KRS 278.030 provides that a utility may collect fair, just and reasonable rates and that the service it provides must be adequate, efficient and reasonable. “Whenever any utility files with the commission any schedule stating new rates, the commission may, upon its own motion, and upon reasonable notice, hold a hearing concerning the reasonableness of the new rates.”<sup>5</sup> Pending the final decision on a proposed schedule or rate, “. . . the commission may, at any time before the schedule becomes effective, suspend the operation of the schedule and defer the use of the rate, charge, classification, or service, for a period of up to five months beyond the time when it would otherwise go into effect if a historical test period is used, and up to six months if a forward-looking test period is used . . .”.<sup>6</sup>

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<sup>3</sup> KRS 278.200.

<sup>4</sup> *Simpson County Water District v. City of Franklin*, 872 S.W.2d 460, 463 (Ky. 1994); see also *City of Russellville v. Public Service Com’n of Kentucky*, No. 2003-CA-002132-MR, 2005 WL 385077 (Ky. App. Feb. 18, 2005) (unpublished) (in which the court found that a city’s failure to provide water districts notice and file a proposed wholesale rate increase for water district pursuant to the provision of KRS Chapter 278 and 807 KAR 5:011 prevented the city from charging the rate).

<sup>5</sup> KRS 278.190(1).

<sup>6</sup> KRS 278.190(2).

## DISCUSSION

In terms of the effective date of the Agreement, numerical paragraph 16, Effective Date, states that it will become effective when accepted for filing by the Commission. As the Agreement was filed with the Commission on September 26, 2024, the Commission finds that the earliest possible effective date is October 26, 2024, which is 30 days after the filing date.<sup>7</sup>

Having reviewed the proposed Agreement and being otherwise sufficiently advised, the Commission finds that an investigation is necessary to determine the reasonableness of the proposed Agreement and that such investigation cannot be completed by October 26, 2024. Pursuant to KRS 278.190(2), the Commission will, therefore, suspend the effective date of the proposed Agreement for five months, up to and including March 25, 2025.

The Commission directs Louisville Water to the Commission's July 22, 2021 Order in Case No. 2020-00085<sup>8</sup> in which the Commission mandated the use of electronic filing procedures listed in 807 KAR 5:001, Section 8. Consistent with the filing procedures set forth in Case No. 2020-00085, the Commission finds that electronic filing procedures should be used.

The Commission further finds that a procedural schedule should be established to review the reasonableness of the proposed tariff. The procedural schedule is attached as an Appendix to this Order.

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<sup>7</sup> 807 KAR 5:001, Section 16.

<sup>8</sup> Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

Additionally, any hearing scheduled in this matter shall be held on the designated day or days and continued until called from the bench by the presiding officer. Pursuant to 807 KAR 5:001, Section 2, if the hearing is not concluded on the designated day, the hearing may be continued upon verbal announcement by the presiding officer. A verbal announcement made by the presiding officer shall be proper notice of the continued hearing. Hearings are held in the Richard Raff Hearing Room at the offices of the Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky. Witnesses who sponsor schedules, testimony, or responses to requests for information are expected to participate in person at a hearing.

IT IS THEREFORE ORDERED that:

1. This proceeding is established to investigate the reasonableness of the proposed Agreement.
2. Louisville Water's proposed Agreement is suspended for five months from October 26, 2024, up to and including March 25, 2025.
3. Louisville Water shall, by counsel, enter an appearance in this proceeding within seven days of the date of service of this Order. The entry of appearance shall include the name, address, telephone number, fax number, and electronic mail address of counsel.
4. Unless otherwise ordered by the Commission, the procedures set forth in 807 KAR 5:001, Section 8, related to service and electronic filing of papers shall be followed in this proceeding.
5. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of the date of service of this Order, Louisville Water shall file by electronic means a written statement

that it waives any right to service of Commission Orders by United States mail and that it or its authorized agent possess the facilities to receive electronic submissions.

6. Unless a party granted leave to intervene states its objection to the use of electronic filing procedures in a motion for intervention, the party shall:

a. Be deemed to have consented to the use of electronic filing procedures and the service of all papers, including Orders of the Commission, by electronic means; and

b. Within seven days of the date of service of an order of the Commission granting intervention, file with the Commission a written statement that:

(1) It or its authorized agent possesses the facilities to receive electronic transmissions; and

(2) Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding shall be served.

7. If a party objects to the use of electronic filing procedures and the Commission determines that good cause exists to excuse that party from the use of electronic filing procedures, service of documents on that party and by that party shall be made in accordance with 807 KAR 5:001, Section 4(8).

8. The procedural schedule set forth in the Appendix to this Order shall be followed.

9. Louisville Water shall respond to all requests for information propounded by Commission Staff, whether identified on the procedural schedule or otherwise, as provided in those requests.

10. As set forth in 807 KAR 5:001, Section 4(11)(a), a person requesting permissive intervention in a Commission proceeding is required to demonstrate either (1) a special interest in the proceeding, which is not adequately represented in the case, or (2) that the person requesting permissive intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Therefore, any person requesting to intervene in a Commission proceeding must state with specificity the person's special interest that is not otherwise adequately represented, or the issues and facts the person will present that will assist the Commission in fully considering the matter. A mere recitation of the quantity of utility service consumed by the movant or a general statement regarding the potential impact of possible modification of rates will not be deemed sufficient to establish a special interest.

11. Any motion to intervene after the date established in the procedural schedule shall also show good cause for being untimely. If the untimely motion is granted, the movant shall accept and abide by the existing procedural schedule.

12. Louisville Water shall give notice of the hearing in accordance with the provisions set forth in 807 KAR 5:001, Section 9(2). In addition, the notice of the hearing shall include the following statements: "This hearing will be streamed live and may be viewed on the PSC website, [psc.ky.gov](http://psc.ky.gov)" and "Public comments may be made at the beginning of the hearing. Those wishing to make oral public comments may do so by following the instructions listed on the PSC website, [psc.ky.gov](http://psc.ky.gov)." At the time publication is requested, Louisville Water shall forward a duplicate of the notice and request to the Commission.

13. At any public hearing in this matter, neither opening statements nor summarization of direct testimonies shall be permitted.

14. Any hearing scheduled in this matter shall be held on the designated day or days and continued until called from the bench by the presiding officer. Pursuant to 807 KAR 5:001, Section 2, if the hearing is not concluded on the designated day, the hearing shall be continued upon verbal announcement by the presiding officer. A verbal announcement made by the presiding officer shall be proper notice of the continued hearing.

15. Witnesses who sponsor schedules, testimony, or responses to requests for information shall participate in person at any hearing scheduled in this matter.

16. Pursuant to KRS 278.360 and 807 KAR 5:001, Section 9(9), a digital video recording shall be made of the hearing.

17. The Commission does not look favorably upon motions for continuance. Accordingly, motions for extensions of times with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

18. The Commission does not look favorably upon motions to excuse witnesses from testifying at Commission hearings. Accordingly, motions to excuse a witness from testifying at a Commission hearing or from testifying in person at a Commission hearing shall be made in writing and will be granted only upon a showing of good cause.

19. The Executive Director shall serve a copy of this Order upon North Nelson District.

PUBLIC SERVICE COMMISSION

Chairman

Commissioner

Commissioner

ENTERED  
OCT 25 2024  
rCS  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

Executive Director



APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2024-00335 DATED OCT 25 2024

- Requests for intervention shall be filed no later than ..... 11/08/2024
- Initial requests for information to Louisville Water shall be filed no later than ..... 11/18/2024
- Louisville Water shall file responses to initial requests for information no later than..... 12/02/2024
- All supplemental requests for information to Louisville Water shall be filed no later than ..... 12/16/2024
- Louisville Water shall file responses to supplemental requests for information no later than ..... 01/03/2025
- Intervenor testimony, if any, in verified prepared form shall be filed no later than.... 01/10/2025
- All requests for information to Intervenors shall be filed no later than ..... 01/24/2025
- Intervenors shall file responses to requests for information no later than..... 02/07/2025
- Louisville Water shall file, in verified form, its rebuttal testimony no later than ..... 02/14/2025
- Louisville Water or any Intervenor shall request either a hearing or that the case be submitted for decision based on the record no later than ..... 02/21/2025

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