

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

STEWART HOME SCHOOL, LLC)	
)	
COMPLAINANT)	
)	CASE NO.
V.)	2015-00357
)	
FARMDALE WATER DISTRICT)	
)	
DEFENDANT)	

ORDER

On October 9, 2015, Stewart Home School, LLC (“Complainant”) filed a formal complaint against Farmdale Water District (“Farmdale District”) in which it alleges that Farmdale over a year ago implemented a rate increase of more than 60 percent without giving Complainant notice. The relief that Complainant requests is for a meeting to be held to discuss why Farmdale District was allowed to increase its rates without input from the “largest water consumer” in its service territory.

Being unable to determine whether the complaint established a *prima facie* case, the Commission did not require Farmdale District to either satisfy the matter complained of or answer the complaint, and instead scheduled an Informal Conference with Commission Staff (“Staff”) to gather additional facts and to discuss the matters raised in the complaint.¹ The Informal Conference was held on November 24, 2015, and was attended by representatives of the parties. A memorandum of the Informal Conference

¹ Order (Ky. PSC Nov. 6, 2015).

prepared by Staff was filed in the record of this case on December 4, 2015. No party submitted comments on the contents of the memorandum.

Discussion

Farmdale District is a water district organized pursuant to KRS Chapter 74. Farmdale District owns and operates a water distribution system through which it provides water service to approximately 2,600 customers in Anderson, Franklin, and Shelby counties, Kentucky. On December 30, 2013, Farmdale District tendered for filing an application for rate adjustment pursuant to 807 KAR 5:076. The application was assigned Case No. 2013-00485. By letter dated January 29, 2014, the Commission rejected the application for reasons including deficiencies in the newspaper notice of the proposed rates required by 807 KAR 5:076, Section 5. On February 10, 2014, Farmdale District submitted a corrected newspaper notice, but did not submit an affidavit of publication as required by 807 KAR 5:076, Section 5(4). The Commission, however, determined that the application met the minimum filing requirement, and the application was deemed filed as of February 10, 2014.

On June 30, 2014, Staff issued a report finding that a revenue increase of 32.57 percent above pro forma test-year rate revenues was necessary to generate Farmdale District's Overall Revenue Requirement, and further that Farmdale District's rate structure should be adjusted.² Farmdale District's then-current tariff included a four-step declining volumetric rate structure for each class of service. The Staff Report noted that Farmdale District's rate structure did not include a rate differential for four-inch meter service, although one customer, the Complainant, was served by a four-inch

² Case No. 2013-00485, *Alternative Rate Filing of Farmdale Water District* (Ky. PSC June 30, 2014), Commission Staff Report at 3, and 8–9.

meter.³ Staff recommended that Farmdale District's rate structure be adjusted to differentiate the rate and volumetric steps for four-inch meter service to conform to industry standards.⁴ Farmdale District accepted Staff's findings, and by Order entered July 23, 2014, the Commission prescribed the new water rates and rate structure proposed by Staff.⁵

An Informal Conference was held in this case on November 24, 2015. As noted in the Informal Conference Memorandum filed in the record by Staff on December 4, 2015, a representative of Complainant stated that it did not receive a letter from Farmdale District notifying it of the proposed rate increase, and that its water bill increased by approximately 70 percent. Representatives of Farmdale District stated that in the past, Farmdale District charged Complainant for water service at the rate for one-inch meters, when in fact Complainant receives service through four four-inch meters. Farmdale District further stated that it now charges Complainant the new four-inch meter rate, which accounts for most of the increase in the Complainant's water bill. Discussions included reasons why different classes of water users are charged different rates and how the size of the increase found to be necessary and granted by the Commission was a factor in the overall increase in charges to Farmdale's Customers.

With respect to customer notice of Farmdale District's rate adjustment application, it was noted during the Informal Conference that the original newspaper

³ *Id.*

⁴ *Id.* at 8–9.

⁵ *Id.*, Order (Ky. PSC July 23, 2014).

notice submitted by Farmdale District was deficient, and that although Farmdale District had submitted a corrected notice, it did not provide proof of publication as required by 807 KAR 5:076, Section 5(4). In response to a request to provide proof of notice, Farmdale District submitted by correspondence received by the Commission on December 16, 2015, a copy of an invoice from the publisher of a newspaper of general circulation in Farmdale District's service area⁶ showing charges for the publication of notice of revised water rates once a week for three consecutive weeks.

Findings

Based on the foregoing, the Commission finds that the complaint in this case does not establish a *prima facie* case. There is no claim by Complainant that Farmdale District is charging rates for water service that have not been approved and authorized by the Commission, but only an objection to the size of the rate increase. Farmdale properly published newspaper notice of its proposed rate adjustment as required by 807 KAR 5:076, Section 5. The Commission's regulations did not require Farmdale District to provide notice of its proposed rate adjustment to Complainant by letter. Complainant had an opportunity to submit comments regarding Farmdale District's rate-adjustment application or to request to intervene in the rate application case, but did not do so. The Commission finds that Complainant has not presented any evidence that Farmdale District's rates are unfair, unjust, or unreasonable, and that its objection to the size of the increase in Farmdale District's water rates does not establish a *prima facie* case.

⁶ The newspaper shown on the invoice is *The State Journal* of Frankfort, Kentucky.

The Commission also finds that Farmdale District's failure to file an affidavit from the publisher of its corrected customer notice does not create a *prima facie* case. Although Farmdale District did not submit proof of publication of the corrected customer notice in the manner proscribed by 807 KAR 5:076, Section 5(4), Farmdale District did submit the corrected notice itself, after Farmdale District's application was accepted as in compliance with the Commission's filing requirements. Farmdale District has submitted a bill from the publisher showing invoiced charges for the publication of the corrected notice, and previously did file proof of publication of its deficient first notice, which the Commission finds was sufficient to give customers notice of the application for rate adjustment.

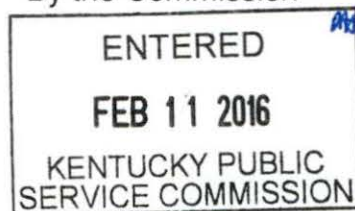
The Commission further finds that Complainant has received the relief it sought in its complaint. Complainant requested a meeting to discuss the rate increase and why it was allowed to go into effect without input from Farmdale District's largest customer. An informal conference with Staff and representatives of the parties was held on November 24, 2015, and the rate increase and Farmdale District's notice to customers of its application for rate adjustment were discussed.

807 KAR 5:001, Section 20(4)(a)(1), provides that if the Commission finds that a complaint does not establish a *prima facie* case, the Commission shall afford the complainant an opportunity to amend the complaint within a specified period of time. The Commission finds that Complainant should have an opportunity to file an amended complaint within 20 days of this Order. The Commission also finds that if Complainant amends its complaint, the amended complaint should request relief which Complainant has not already received.

IT IS THEREFORE ORDERED that:

1. Farmdale District is not required to satisfy or answer Complainant's complaint.
2. Complainant shall file any amendment to its complaint within 20 days of the date of this Order.
3. If Complainant files an amended complaint, the amended complaint must request relief which Complainant has not already received.
4. If the complaint is not amended within 20 days of the date of this Order or within any extension of this time that the Commission may grant, the complaint shall be dismissed without further Order.
5. If an amended complaint is timely filed but does not request relief that the Complainant has not already received, the complaint shall be dismissed as moot.

By the Commission



ATTEST:



Executive Director

Case No. 2015-00357

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