

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF BIG SANDY)	CASE NO.
WATER DISTRICT FOR AN ADJUSTMENT OF ITS)	2022-00044
WATER RATES PURSUANT TO 807 KAR 5:076)	

ORDER

On October 10, 2022, Big Sandy Water District (Big Sandy District), pursuant to KRS 278.400, filed a motion requesting to amend an Order entered on September 28, 2022. The September 28, 2022 Order granted rehearing of the September 13, 2022 Order to amend the effective date for the rate increase. As a basis for the motion, Big Sandy District asserted that there were inconsistencies that resulted in material errors in the September 28, 2022 Order that needed to be corrected.

LEGAL STANDARD

KRS 278.400, which establishes the standard of review for motions for rehearing, limits any new evidence on rehearing to evidence not readily discoverable at the time of the original hearings, to correct any material errors or omissions, or to correct findings that are unreasonable or unlawful. A Commission Order is deemed unreasonable only when “the evidence presented leaves no room for difference of opinion among reasonable

minds.”¹ An order can only be unlawful if it violates a state or federal statute or constitutional provision.²

By limiting rehearing to correct material errors or omissions, and findings that are unreasonable or unlawful, or to weigh new evidence not readily discoverable at the time of the original hearings, KRS 278.400 is intended to provide closure to Commission proceedings. Rehearing does not present parties with the opportunity to relitigate a matter fully addressed in the original Order.

BACKGROUND

In the September 13, 2022 Order, the Commission approved a phased monthly water rate increase, approved nonrecurring charges, and approved a water loss reduction surcharge, all of which were effective as of the date of the Order. Big Sandy District subsequently requested to amend the September 13, 2022 Order to establish an effective date for phase 1 of the monthly water rates and nonrecurring charges of meter readings performed after October 31, 2022. As a basis for the motion, Big Sandy District stated that the September 13, 2022 effective date for water rates and nonrecurring charges fell into the middle of the billing period and its software system could not apply two different rate schedules for the same billing period. Big Sandy District asserted that the revenue requirement establishing in the September 13, 2022 Order were based upon both the nonrecurring charges and monthly water rates, and thus both should have the same effective date.

¹ *Energy Regulatory Comm’n v. Kentucky Power Co.*, 605 S.W.2d 46 (Ky. App. 1980).

² *Public Service Comm’n v. Conway*, 324 S.W.3d 373, 377 (Ky. 2010); *Public Service Comm’n v. Jackson County Rural Elec. Coop. Corp.*, 50 S.W.3d 764, 766 (Ky. App. 2000); *National Southwire Aluminum Co. v. Big Rivers Elec. Corp.*, 785 S.W.2d 503, 509 (Ky. App. 1990).

Big Sandy did not request to amend the effective date for the water loss reduction surcharge, explaining that the surcharge was not impacted by meter reading dates and the revenue requirement established in the September 13, 2022 Order was not based upon the water loss reduction surcharge.

The Commission granted rehearing and approved phase 1 of the monthly water rates and the nonrecurring charges to take effect for services rendered on and after October 31, 2022, and for phase 2 of the monthly water rates to take effect for services rendered on and after October 31, 2023.

MOTION TO AMEND SEPTEMBER 28, 2022 ORDER

In its motion to amend the September 28, 2022 Order, Big Sandy District asserted that because October 31, 2022, fell within the billing cycle the effective date established in the September 28, 2022 Order again approved two rate schedules that would be charged in the same billing period.

Big Sandy District explained that it reads meters on the first work days of the month, then mails bills based upon those readings on the last work day of the month, and that the issuance date of the bill is the first day of the following month. For example, a meter read on September 1, 2022, would be mailed on September 30, 2022, with an issuance date on the bill of October 1, 2022.

To resolve the issue of two rate schedules in the same billing period, Big Sandy District requested that the phase 1 monthly water rates be effective for bills issued on and after November 1, 2022, phase 2 monthly water rates be effective for bills issued on and after November 1, 2023, and nonrecurring charges be effective for service rendered on and after October 20, 2022. Big Sandy District maintained that it could determine the

date on which a nonrecurring service is performed, and thus approving an effective date for nonrecurring rates that is different from phase 1 monthly water rates did not pose an issue for its billing system.

Big Sandy District also requested that the water loss reduction surcharge have an effective date of bills issued after October 1, 2022. Big Sandy District asserted that allowing the surcharge to be collected on bills issued on the last work day of October would allow Big Sandy District to collect the funds “much earlier.”³

DISCUSSION AND FINDINGS

For the reasons discussed below, the Commission finds that Big Sandy’s request to amend the September 28, 2022 Order should be granted in part and denied in part.

Regarding the phase 1 and 2 monthly water rates, the Commission finds that rehearing should be granted for the limited purpose of obtaining greater clarity regarding Big Sandy District’s proposed effective date. Big Sandy District’s requested effective dates for phase 1 and phase 2 monthly water rates lack clarity regarding the applicable billing cycle. It is unclear what service periods, meter reading dates, and bill issuance dates are included in the proposed effective date. For that reason, within ten days of the date of service of this Order, Big Sandy District shall file the service dates, meter reading date, and bill issuance date that apply to Big Sandy District’s proposed effective date.

Regarding nonrecurring charges, the Commission finds that rehearing should be denied to the extent that Big Sandy District requested an effective date of October 20, 2022. However, because Big Sandy District’s revenue requirement is based upon both

³ Big Sandy District’s Revised Motion to Amend September 28, 2022 Order (filed Oct. 10, 2022) at 4.

nonrecurring charges and monthly water rates, the Commission finds that rehearing should be granted for the limited purpose of establishing the same effective date for nonrecurring charges as established for phase 1 monthly water rates. The Commission notes that Big Sandy District's motion to amend the September 13, 2022 Order expressly stated that, because both were included in establishing the revenue requirement, the nonrecurring charges and phase 1 monthly water rates should have the same effective date. In the motion to amend the September 28, 2022 Order, Big Sandy District did not address its change in position or why it is reasonable to have different effective dates for nonrecurring charges and phase 1 monthly water rates given that the revenue requirement is based upon both rates.

Regarding the water loss reduction surcharge, the Commission finds that rehearing should be denied. Big Sandy District expressly excluded the water loss reduction surcharge from its motion to amend the September 13, 2022 Order. Big Sandy District should have implemented the water loss reduction surcharge effective September 13, 2022, which would be reflected on bills issued on October 1, 2022, or on November 1, 2022, depending upon Big Sandy District's billing software vendor. Big Sandy District failed to provide a reasonable basis to amend the surcharge effective date.

IT IS THEREFORE ORDERED that:

1. Big Sandy District's motion to amend the September 28, 2022 Order is granted in part and denied in part.
2. Big Sandy District's request to amend the effective dates established in the September 28, 2022 Order for phase 1 and phase 2 monthly water rates is granted for the limited purpose of Big Sandy District providing additional information regarding the

service periods, meter reading dates, and bill issuance dates applicable to Big Sandy District's proposed effective dates.

3. Big Sandy District's request to amend the effective date of the nonrecurring charge is granted in part and denied in part. Big Sandy District's request to amend the effective date of the nonrecurring charge is granted only to the extent that the nonrecurring charge and phase 1 monthly water rates shall have the same effective date. Big Sandy District's request to establish October 20, 2022, as the effective date for the nonrecurring charges is denied.

4. Big Sandy District's request to amend the effective date of the water loss reduction surcharged established in the September 13, 2022 Order is denied.

5. Within ten days of service of this Order, Big Sandy District shall file the service dates, meter reading dates, and bill issuance dates that apply to Big Sandy District's proposed effective date for phase 1 and phase 2 monthly water rates.

PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner



ATTEST:


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