

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

This matter arises upon Big Sandy Water District's (Big Sandy District) multiple requests for rehearing of a Commission Order.¹ In compliance with the Commission's October 21, 2022 Order, Big Sandy District provided with specificity the proposed effective dates for the phased-in rates and nonrecurring charges approved by the Commission on September 13, 2022.

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

¹ The Commission issued an Order approving phased-in rates and nonrecurring charges on September 13, 2022. Big Sandy District requested rehearing based upon its inability to include multiple rate schedules for each customer class when a rate increase is approved during a billing cycle. The Commission established a new effective date for the phased-in rates and nonrecurring charges on September 28, 2022. Big Sandy District again requested rehearing, asserting that the effective date approved in the September 28, 2022 Order for service rendered on and after October 31, 2022 would result in increased rates for service rendered between October 31 and the November 1-2, 2022 meter reading, which did not resolve the issue of multiple rate schedules for each customer class during the same billing period. Finally, Big Sandy District requested rehearing on approval of phase-in rates and expenditures to be included in the water loss prevention surcharge.

minds.”² An order can only be unlawful if it violates a state or federal statute or constitutional provision.³

REHEARING ISSUES

The Commission granted Big Sandy District’s request for rehearing on the effective dates for phase 1 and 2 of Big Sandy District’s monthly water rates and the nonrecurring charges. Because Big Sandy District’s proposed effective date was tied to bill issuance dates and was not stated with sufficient clarity, the Commission directed Big Sandy District to file specific information regarding the specific bill issuance dates, the dates for which service was rendered that would be included in the bills, and the meter reading dates for the referenced bills. On October 25, 2022, Big Sandy District filed the information that the proposed effective date would be for bills issued on and after December 1, 2022, for service rendered on and after the billing cycle that begins on October 3, 2022, with meters read on November 1–2, 2022.

In a separate motion, Big Sandy District requested rehearing of the Commission’s approval of phased-in rates. Big Sandy District argued that the phased-in rates do not implement the revenue requirement approved by the Commission until the second year of the rate increase. Big Sandy District further argued that the phase 1 rates do not fully fund depreciation thus are so unreasonable that they jeopardize the utility’s financial integrity and stability. Bis Sandy District asserted that phased-in rates violate *Public*

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

³ *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).

Service Comm'n v. Dewitt Water District,⁴ a Kentucky Supreme Court decision that found that a water district was entitled to a reasonable depreciation deduction on its entire plant in-service for the purpose of computing its operating expenses. Big Sandy District argued that phasing in rates is effectively a disallowance of a portion of depreciation expense.

Finally, Big Sandy District requested rehearing on the Commission's approval of a water loss reduction surcharge to clarify that the Commission approved the proposed projects to address water loss that were set forth in Big Sandy District's application.

DISCUSSION AND FINDINGS

Based upon Big Sandy District's October 25, 2022 filing and the case record, the Commission finds that the Phase 1 rates and nonrecurring charges approved in the September 13, 2022 Order should be effective as of bills issued on and after December 1, 2022, which bills for service rendered on and after the billing cycle that begins on October 3, 2022, with meters read on November 1–2, 2022. The Commission further finds that the Phase 2 rates approved in the September 13, 2022 Order should be effective as of bills issued on and after December 1, 2023, which bills for service rendered on and after the billing cycle that begins on October 2, 2023, with meters read on November 1–2, 2023. The Phase 1 and 2 and nonrecurring charges effective dates approved in this Order allow for rate increase timing that does not compromise Big Sandy District's billing software limitations and bills for services rendered after the rate increases were originally approved on September 13, 2022.

The Commission again reminds Big Sandy District to state with clarity the proposed effective date for future requests for general rate increases, along with the

⁴ *Public Service Comm'n v. Dewitt Water District*, 720 S.W.2d 725, 730 (Ky. 1986).

reason for the proposed date, and that the proposed effective date should be clearly highlighted in Big Sandy District's application.

Regarding Big Sandy District's request to implement its rates, the Commission finds that Big Sandy District failed to meet its burden of proof and therefore its request for rehearing on this issue should be denied. Big Sandy District requested a revenue increase of \$215,619.46, or 8.18 percent. In the September 13, 2022 Order, the Commission accepted Commission Staff's recommendation that increased Big Sandy District's revenue by \$226,154, or 8.67 percent, and the water loss reduction surcharge of \$6.42. In the September 13, 2022 Order, the Commission discussed that the impact of the increase in water rates and the water loss reduction surcharge, and determined that a phased-in rate increase would mitigate the hardship on Big Sandy District's customers. Had the rates been implemented without phases, the bill for a typical residential customer's monthly bill would increase from \$46.45 to \$56.91, or a 22.52 percent increase. Under the phased-in rates and surcharge approved by the Commission, a typical residential customer's monthly bill would increase in phase 1 from \$46.45 to \$54.89, or 18.17 percent, and increase in phase 2 from \$54.89 to \$56.91, or 3.68 percent. The Commission explained that phased-in rates would mitigate the hardship to Big Sandy District's customers while allowing for adequate revenues to cover expenses, debt service, and a portion of the depreciation reserves. Based upon the above discussion, the Commission finds that rehearing on this issue should be denied.

Regarding Big Sandy District's request to clarify that projects set forth in its application should be approved, the Commission notes that the September 13, 2022 Order expressly stated the steps that Big Sandy District needed to undertake regarding

proposed projects, including developing a comprehensive qualified infrastructure improvement plan with project priorities and a time schedule for eliminating each source of unaccounted-for water loss, and a detailed spending plan for the proceeds of the requested surcharge. As noted in the September 13, 2022, Big Sandy District has to file the qualified infrastructure improvement plan within 120 days of the date of service of that Order. Because the September 13, 2022 Order addressed the use of the surcharge proceeds, the Commission finds that rehearing on this issue should be denied.

IT IS THEREFORE ORDER that:

1. The monthly water rates for Phase 1 and nonrecurring charges set forth in Appendix B of the September 13, 2022 Order are effective for bills issued on and after December 1, 2022, which bill for service rendered on and after the billing cycle that begins on October 3, 2022, with meters read on November 1–2, 2022.

2. The monthly water rates for Phase 2 set forth in Appendix B of the September 13, 2022 Order are effective for bills issued on and after December 1, 2023, which bill for service rendered on and after the billing cycle that begins on October 2, 2023, with meters read on November 1–2, 2023.

3. Big Sandy District's requests for rehearing on approval of phased-in rates and to use the surcharge proceeds on projects set forth in Big Sandy District's application are denied.

4. All other provisions of the Commission's September 13, 2022 Order not in conflict with this Order shall remain in effect.

5. This case is closed and removed from the Commission's Docket.

PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner



ATTEST:


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