

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF BREATHITT)	CASE NO.
COUNTY WATER DISTRICT FOR A RATE)	2022-00136
ADJUSTMENT PURSUANT TO 807 KAR 5:076)	

ORDER

This matter arises from the copy of customer notice of proposed rate increase filed by Breathitt County Water District’s (Breathitt District). Breathitt District was ordered to provide customer notice of the proposed rate increase on May 5, 2023.¹

LEGAL STANDARD

Commission regulation 807 KAR 5:076. Section 5(2)(b)(3) states, “If a utility has more than twenty (20) customers, it shall provide notice by: . . . Publishing notice once a week for three (3) consecutive weeks in a prominent manner in a newspaper of general circulation in the utility’s service area, the first publication to be made no later than the date the application is submitted to the commission.”

Commission regulation 807 KAR 5:076, Section 5(3) allows the utility up to 45 days from the date the application was initially submitted to the Commission to provide proof of notice.

¹ Order (Ky. PSC May 5, 2023) at ordering paragraph 2.

Commission regulation 807 KAR 5:076 provides the information of what each notice shall contain.²

Commission regulation 807 KAR 5:076, Section 9 states, “The reasonableness of the proposed rates shall be determined using a twelve (12) month historical test period, adjusted for known and measurable changes, that coincides with the reporting period of the applicant’s annual report for the immediate past year.” Commission regulation 807 KAR 5:076, Section 17 allows for deviations of this regulation upon a showing of good cause.

² 807 KAR 5:076, Section 5(4) states:

- Notice Content. Each notice issued in accordance with this section shall contain:
- (a) The date the proposed rates are expected to be filed with the commission;
 - (b) The present rates and proposed rates for each customer classification to which the proposed rates will apply;
 - (c) The amount of the change requested in both dollar amounts and percentage change for each customer classification to which the proposed rates will apply;
 - (d) The amount of the average usage and the effect upon the average bill for each customer classification to which the proposed rates will apply;
 - (e) A statement that a person may examine this application at the offices of (utility name) located at (utility address);
 - (f) A statement that a person may examine this application at the commission’s offices located at 211 Sower Boulevard, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m., or through the commission’s Web site at <http://psc/ky.gov>;
 - (g) A statement that comments regarding the application may be submitted to the Public Service Commission through the commissions Web site or by mail to Public Service Commission, Post Office Box 615, Frankfort, Kentucky 40602;
 - (h) A statement that the rates contained in this notice are the rates proposed by (utility name) but that the Public Service Commission may order rates to be charged that differ from the proposed rates contained in this notice;
 - (i) A statement that a person may submit a timely written request for intervention to the Public Service Commission, Post Office Box 615, Frankfort, Kentucky 40602, establishing the grounds for the request including the status and interest of the party; and
 - (j) A statement that if the commission does not receive a written request for intervention within thirty (30) days of initial publication or mailing of the notice, the commission may take final action on the application.

BACKGROUND

On June 13, 2022, Breathitt District tendered an application for rate adjustment (ARF) that was rejected for filing under 807 KAR 5:076, Section 9, which requires the test year for the proposed rates coincide with the reporting period of the applicant's annual report for the immediate past year. Breathitt District used the 2020 annual report data as the basis of its ARF application, but its most recent annual report filed with the Commission was for the 2021 calendar year. By Order entered on July 25, 2022, the Commission held the case in abeyance to permit Breathitt District to file an ARF application based upon the 2021 calendar year. Breathitt District tendered an ARF amended application on March 15, 2023, which was based upon its most recent annual report filed with the Commission for the 2021 calendar year. In the amended application, Breathitt District requested to deviate from the requirement to provide customers with notice of the ARF amended application. The Commission denied Breathitt District's request to deviate and ordered it to publish notice pursuant to 807 KAR 5:076, Section 5(1) and (2).³ On May 12, 2023, Breathitt District filed its 2022 Annual Report. On June 6, 2023, Breathitt District filed a copy of the customer notice and stated that customer notice had been published twice and was scheduled to run a third time.

DISCUSSION AND FINDINGS

Having reviewed the matter and being otherwise sufficiently advised, the Commission finds that Breathitt District has cured its filing deficiency and its application is deemed filed as of June 6, 2023. The customer notice filed by Breathitt District meets the requirements of 807 KAR 5:076, Sections 5(2)(b)(3) and 5(4) curing the deficiency.

³ Order (Ky. PSC May 5, 2023), at ordering paragraph 2.

The Commission also reminds Breathitt District that proof of publication is required within 45 days under 807 KAR 5:075, Section 5(3).

Additionally, the Commission, on its own motion, finds that Breathitt District should be granted a deviation of 807 KAR 5:076, Section 9. Breathitt District filed its 2022 annual report on May 12, 2023, and 807 KAR 5:076, Section 9 would require it to amend its application using the annual report from the immediate past year. However, requiring Breathitt District to file another amended application would result in an additional delay to a case that has pending for over a year. Therefore, the Commission finds there is good cause to grant Breathitt District a deviation of 807 KAR 5:076, Section 9 and allow it to proceed with its application using the 2021 annual report.

IT IS THEREFORE ORDERED that:

1. Breathitt District's deficiency has been cured and its application is deemed filed on June 6, 2023.
2. Breathitt District shall file proof of publication pursuant to 807 KAR 5:076, Section 5(3) within 45 days of June 6, 2023. The proof of publication shall include an affidavit from the newspaper stating the dates the customer notice was published and copies of the published customer notification showing the published dates.
3. Breathitt District is granted a deviation of 807 KAR 5:076, Section 9 and shall use the 2021 annual report.
4. Nothing contained in this Order shall prevent the Commission from entering further Orders in this matter.

PUBLIC SERVICE COMMISSION



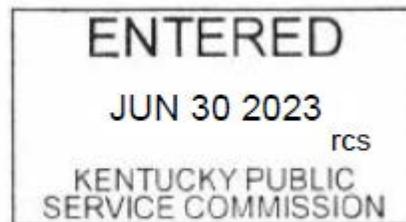
Chairman



Vice Chairman



Commissioner



ATTEST:



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