

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF NORTHERN)	
KENTUCKY WATER DISTRICT FOR AN)	CASE NO.
ADJUSTMENT OF RATES; ISSUANCE OF)	2022-00161
BONDS; FINANCING; AND TARIFF REVISIONS)	

ORDER

On February 24, 2023, Northern Kentucky Water District (Northern Kentucky District) filed a motion, pursuant to KRS 278.400, requesting reconsideration of the Commission’s February 8, 2023 Order (Final Order) that, among other things, approved a base rate adjustment and tariff revisions.

LEGAL STANDARD

KRS 278.400, which establishes the standard of review for motions for rehearing, limits rehearing to new 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

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).

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.

MOTION FOR RECONSIDERATION

Allowable level of employee health insurance expense

In the Final Order, the Commission decreased Northern Kentucky District's health insurance expense by \$549,578, by adjusting employee health insurance contributions to 22 percent for single coverage and 34 percent for family coverage to align the employee contribution rates with the private industry national average as reported by the Bureau of Labor Statistics (BLS). Northern Kentucky District argued the Final Order lacks specific evidentiary facts to support how the \$549,578 decrease by the Commission was calculated.

Northern Kentucky District also argued that it has, in part, met the Commission's standard for health insurance contribution rates. Northern Kentucky District contended that the 12 percent threshold created in Case No. 2019-00053³ should apply to each class separately, not the combined total of contributions and rates paid. Under this separation, Northern Kentucky District argued that its adjustment to increase employee contributions for single coverage to 12 percent should satisfy the threshold and no adjustment should

³ Case No. 2019-00053, *Electronic Application of Jackson Purchase Energy Corporation for a General Adjustment in Existing Rates* (Ky. PSC June 20, 2019).

be made. Alternatively, Northern Kentucky District argued that the family coverage should not be adjusted, because it is over the 12 percent threshold.

Lastly, Northern Kentucky District argued it is unreasonable to expect it, as a local government entity duly formed as special district under KRS Chapter 74, to have employee health insurance contributions set to the national private-sector average of 22 percent for single and 34 percent for family. Northern Kentucky District argued that the BLS stated, "Employee benefits in state and local government should not be directly compared to private industry." Northern Kentucky District argued its threshold should be adjusted to the national average for state and local government workers which is 14 percent for single and 29 percent for family, which would result in an adjustment of \$87,158.

Northern Kentucky District further argued that under any calculation, the adjustment amount should also be reduced by \$11,948 due to increases in staffing levels to match Northern Kentucky District's pro forma adjustment journal entry, and requested the Commission amend the adjustment for employee health insurance to \$75,211 accordingly.

Implementation date of increased service connection charges

Northern Kentucky District requested the Commission delay the effective date of the increased service connections charges for 5/8-inch and 1-inch meters until Northern Kentucky District's phase II rates are initiated next year and amend the amounts for administrative convenience from \$1,415.52 to \$1,400 for 5/8-inch service meters and from \$2,271.87 to \$2,250 for 1-inch service meters. Northern Kentucky District noted it did not propose any revisions to the non-recurring charges and only submitted the non-

recurring charge cost justification in response to Commission Staff's requests for information. Northern Kentucky District stated that it regularly informs "prominent local stakeholders," such as the Northern Kentucky Home Builders Association, of changes to service connection charges to allow for comment and input. While it acknowledged the Commission's authority to adjust these charges, Northern Kentucky District requested the delay in the effective date to allow entities the opportunity to be put on proper notice and give stakeholders and the public at large adequate time to prepare for the increased costs and to amend their business practices accordingly. Northern Kentucky District stated that otherwise, implementation will likely cause economic hardship to the construction industry as the industry has not had the opportunity to plan for the substantial change in costs.

Northern Kentucky District requested that the amounts be amended for administrative convenience to \$1,400 for 5/8-inch service meters and \$2,250 for 1-inch service meters as this would substantially decrease internal labor in invoicing and customer confusion as to the specific amounts owed.

Amend usage rates to the per 100 cubic foot rate

Northern Kentucky District requested to amend the usage rates contained in Appendices A and B of the Final Order to match Northern Kentucky District's current billing capabilities, rate conversions of "per 100 cubic feet" and "per 1,000 gallons." Appendices A and B of the Final Order call for billing at a rate of "per cubic foot" and "per gallon." Northern Kentucky District bills retail water sales at a rate of "per 100 cubic feet," wholesale water sales at a rate of "per 1,000 gallons (or) per 100 cubic feet," and bulk sales at water hauling stations at a rate of "per 1,000 gallons." It stated an overwhelming majority of its meters currently read and transmit data at these larger increments, and

while it does replace meters that have exceeded their life span with meters capable of reading per cubic foot, the entire system will not be at that point for several years, and it wishes to not incur that expense to ratepayers otherwise.

DISCUSSION AND FINDINGS

Allowable level of employee health insurance expense

The calculation of the adjustment in the Final Order is as follows:

	<u>Adjusted Test-Year</u>			<u>BLS Average</u>		Adjustment to BLS Average
	Employee Contribution Rate	Employer Expense	Total Insurance Cost	Employee Contribution Rate	Employer Expense	
	(a)	(b)	(c) = (b)/1-(a)	(d)	(e) = (c)*1-(d)	(f) = (b) - (e)
Single	12%	1,317,581	1,497,251	22%	1,167,856	149,725
Family	14%	1,719,367	1,999,264	34%	1,319,514	399,853
		3,036,948	3,496,515		2,487,370	549,578

The relevant part of the Case No. 2019-00053 Final Order states that, “the Commission finds that as long as the employee contribution rate for health insurance is at least 12 percent, it will not make a further adjustment to the national average. If a utility's employees' health insurance contribution is less than 12 percent, the Commission will adjust all contributions to the national average.”⁴ While Northern Kentucky District proposed an adjustment to health insurance expense to bring its single coverage employee contribution rates to 12 percent, the Commission’s finding discusses the actual employee contribution rates, which have remained the same since Northern Kentucky District’s last rate case, Case No. 2018-00291.⁵ The Commission finds it is

⁴ Case No. 2019-00053, June 20, 2019 Order at 9.

⁵ Case No. 2018-00291, *Electronic Application of Northern Kentucky Water District for an Adjustment of Rates; Issuance of Bonds; Financing; and Tariff Revisions* (Ky. PSC Mar. 26, 2019).

counterproductive to establish a threshold for this adjustment to the average but allow utilities to circumvent the threshold by proposing a smaller adjustment. The Commission clarifies that the 12 percent threshold applies to each class individually, and that all classes are to be adjusted if any class's contribution is below 12 percent.

The Commission has used the private industry average for all adjustments to health insurance contributions under this methodology, including many utilities which are districts, associations, or cooperatives. Northern Kentucky District had ample notice that any adjustment would use the private sector averages but did not address this in the case. The BLS language that Northern Kentucky District referenced, which stated that private sector should not be compared to governmental entities, fails here. The BLS technical note stated that the type and nature of private sector jobs does not align with government jobs, noting specifically that the majority of private sector jobs are manufacturing and sales, and that the majority of government jobs are teaching positions, with more general office work. However, Northern Kentucky District's jobs involve the production and distribution of water, which is the same whether the water utility is private sector or public sector. Thus, the BLS reasoning for the distinction is inapplicable.

Regarding Northern Kentucky District's adjustment to health insurance expense related to increases in staffing levels, the Commission finds that Northern Kentucky District has provided no evidence that this increase was included in the total health insurance expense used in the Commission's adjustment nor that the increase was based on employee contribution rates that satisfy the 12 percent threshold.

Having provided the calculation and clarification requested, the Commission finds that rehearing should be denied regarding the adjustment to employee health insurance expense.

Implementation date of increased service connection charges

Northern Kentucky District's customer notice included the standard language "The Public Service Commission may order rates to be charged that differ from the proposed rates contained in this notice. Such action may result in rates that are higher or lower than those proposed by Northern Kentucky Water District." Additionally, the Commission has ordered changes to rates not proposed by the utility in various cases and is not limited by the proposal of the utility. In the Final Order, both meter connection charges were increased by roughly 50 percent, which suggests the current rates are significantly lower than necessary to fully recover the associated costs.

The Commission finds that rehearing should be denied regarding the effective date and amounts of the connection charge increases. Northern Kentucky District did not provide any compelling reason to toll the rate changes for an additional year, given that its rate case was active for approximately six months and rates are explicitly subject to change from those noticed, such that all customers are subject to rates that differ from those noticed under normal circumstances. Northern Kentucky District, as always, has the right to file for changes to any of its rates and may seek a rate change to round the connection charges if it so chooses.

Amend usage rates to the per 100 cubic foot rate

The Commission has consistently included usage rates "per gallon" and "per cubic feet" in the appendices to Orders of recent general rate cases, alternative rate filings, and

purchase water adjustments.⁶ The Commission generally adopted these usage rates because a “per gallon” or “per cubic foot” rate relays a more easily comprehensible message to consumers on the cost of their water, rather than the “per 1,000 gallons” or “per 100 cubic feet” rate previously stated. The Commission has also required the tariffs filed in response to final Orders be filed using the “per gallon” rate or the “per cubic foot” rate. The Commission has required a number of water districts, companies, and associations to correct their usage rates to “per gallon” or “per cubic foot” when they have filed a tariff that states the charges as “per 1,000 gallons” or “per 100 cubic feet” rate.

The Commission finds that rehearing should be denied regarding the tariffed rates of “per 1,000 gallons” or “per 100 cubic feet.” The Commission has recently been consistent in the use of rates “per gallon” or “per cubic foot” in the appendices to its Orders. Northern Kentucky District should have no issue charging its customers appropriately, as the other small water districts, companies and associations have adapted to the tariff revisions without any concerns.

IT IS THEREFORE ORDERED that:

1. Northern Kentucky District’s motion for rehearing is denied.
2. This case is closed and removed from the Commission’s docket.

⁶ Case No. 2022-00142, *Electronic Application of Daviess County Water District for an Adjustment of Rates*, (Ky. PSC Feb. 10, 2023.); Case No. 2022-00276, *Electronic Application of Garrard County Water Association, Inc. for a Certificate of Public Convenience and Necessity to Construct a Water System Improvements Project, Finance, and Increase in Rates Pursuant to the Provisions of KRS 278.023*, (Ky. PSC Sep. 27, 2022); Case No. 2021-00425, *Electronic Application of Corinth Water District for a Rate Adjustment Pursuant to 807 KAR 5:076*, (Ky. PSC May 25, 2022); and Case No. 2022-00346, *Electronic Purchased Water Adjustment Filing of Marion County Water District* (Ky. PSC Nov. 9, 2022).

PUBLIC SERVICE COMMISSION

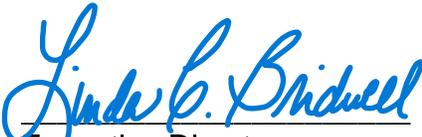

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