

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF ROWAN	)	
WATER, INC. FOR AN ALTERNATIVE RATE	)	
ADJUSTMENT AND AN INVESTIGATION INTO	)	
ROWAN WATER, INC. AND ITS INDIVIDUAL	)	
DIRECTORS, LARRY JOHNSON, DANNY	)	CASE NO.
STEVENS, DANNY COX, MIKE COLLINS,	)	2022-00252
ENOCH BLAIR, AND ITS MANAGER, JERRY	)	
PATRICK, FOR ALLEGEDLY FAILING TO	)	
COMPLY WITH KRS 278.300 AND A	)	
COMMISSION ORDER	)	

ORDER

On February 17, 2023, Rowan Water, Inc. (Rowan Water) filed a motion, pursuant to KRS 278.400, requesting rehearing of the Commission’s February 9, 2023 Order that, among other things, denied confidential treatment for two items, Item 1(e) and Item 2, filed in response to Commission Staff’s First Request for Information (Staff’s First Request). This matter now stands submitted for a decision.

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.”<sup>1</sup>

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

An Order can only be unlawful if it violates a state or federal statute or constitutional provision.<sup>2</sup>

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.

### ROWAN WATER'S MOTION FOR REHEARING

Rowan Water requested rehearing on two items denied confidentiality, Item 1(e) and Item 2.<sup>3</sup> As to Item 1(e), the information provided was personal employee information regarding employee names, titles, wages, and job descriptions. According to the motion, due to the small work force of Rowan Water, public disclosure of any of the information contained in Rowan Water's response to Item 1e would give the public enough information to determine the identity of the employee and will result in the disclosure of personal, confidential information of the employees.<sup>4</sup> Rowan Water did not redact the manager's information based on the February 9, 2023 Order.<sup>5</sup>

As to Item 2, Rowan Water stated that although the document states "Vendor" as well as name, the name is an employee of the utility. On page 6 of Item 2, a list of

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<sup>2</sup> *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).

<sup>3</sup> Rowan Water's Motion for Rehearing (filed on Feb. 17, 2023) at 2.

<sup>4</sup> Rowan Water's Motion for Rehearing at 2.

<sup>5</sup> Rowan Water's Motion for Rehearing at 2.

employees occurs with corresponding insurance payments<sup>6</sup> and Rowan Water restated the same argument as above. Each of the names should be given confidential treatment pursuant to KRS 61.878(1)(a).<sup>7</sup>

### DISCUSSION AND FINDINGS

Although the Commission is not convinced that Rowan Water has met its burden of proof that the February 9, 2023 Order contained a material omission or error, or was unlawful or unreasonable, the Commission will grant rehearing for further consideration of the findings that Item 1(e) and Item 2 do not warrant confidential treatment. The Commission will issue a procedural schedule. The Commission intends to conduct additional discovery on this issue and may ask counsel for additional legal argument to support the basis for the requested rehearing, at a hearing in this proceeding.

IT IS THEREFORE ORDERED that Rowan Water's motion for rehearing is granted.

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<sup>6</sup> Rowan Water's Response to Staff's First Request Item 2.

<sup>7</sup> Rowan Water's Motion for Rehearing at 2-3.

PUBLIC SERVICE COMMISSION

  
Chairman

Vice Chairman

  
Commissioner



ATTEST:

  
Executive Director

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