

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|-------------------------------------|---|------------|
| ELECTRONIC APPLICATION OF BREATHITT |) | CASE NO. |
| COUNTY WATER DISTRICT FOR EMERGENCY |) | 2022-00330 |
| RELIEF PURSUANT TO KRS 278.170 |) | |

ORDER

On September 27, 2022, Breathitt County Water District (Breathitt District) filed a letter requesting Commission approval to (1) waive the \$50 reconnection fees for customers who requested to temporarily terminate service due to damage from recent severe flooding; and (2) charge a \$29.95 minimum bill amount for service rendered between July 15, 2022, through August 15, 2022, to customers affected by the recent severe flooding. The letter is attached as an Appendix to this Order. The Commission will treat the letter as an application for emergency relief arising from the July 2022 flooding event that occurred in Eastern Kentucky.

In its request, Breathitt District explained that its customers have experienced significant property damage and that water lines were damaged, with some completely destroyed, in the flooding, and that many customers were without water. Breathitt District requested to temporarily waive reconnection fees on a prospective basis and charge the minimum bill to provide financial relief to affected customers.

LEGAL STANDARD

Pursuant to KRS 278.040(1), the Commission regulates jurisdictional utilities and has the authority to enforce the provisions of KRS Chapter 278. KRS 278.180(1) requires a utility to provide the Commission with a minimum of 20 days' notice prior to a change in

a tariffed rate. However, KRS 278.180(2) allows the Commission to prescribe a shorter period to provide notice if there is a reduction in rates.

The notice period for any tariff changes is also controlled by KRS 278.170(2), which allows a utility to “grant free or reduced rate service for the purpose of providing relief in case of flood, epidemic, pestilence, or other calamity.” KRS 278.170(2) further provides that, in case of an emergency, a utility may notify the Commission of the reduced rate service at least five days after the service is rendered.

DISCUSSION AND FINDINGS

Pursuant to Executive Order 2022-457, a state of emergency was declared in Kentucky resulting from a “severe weather system generating multiple rounds of heavy torrential rain, creating flooding, flash flooding, mudslides, and landslides” that began on July 26, 2022.¹ The Executive Order noted that the conditions arising from the severe weather resulted in damage to public infrastructure and utility distribution systems.

The Commission notes that there is no statutory mandate that requires Breathitt District to charge a reconnection fee. Reduced rates arising from the waiver of reconnection fees, as well as other requests made by Breathitt District, would represent a change in tariff rates and are subject to statutory notice requirements.

Based on Breathitt District’s filing and being otherwise sufficiently advised, the Commission finds that Breathitt District’s request should be granted. This is because a severe flooding event is the type of event cited in KRS 278.170 for which a utility may grant free or reduced service to provide relief for affected customers. Breathitt District’s

¹ Executive Order 2022-457 (effective July 28, 2022).

request to grant free or reduced rates to provide financial relief to customers impacted by the several flooding event falls within the statutory provisions of KRS 278.170(2).

Because Breathitt District's request results in a reduced rate service under KRS 278.170(2), the Commission finds that Breathitt District should file a tariff that includes the provision that Breathitt District's reconnection fees are temporarily suspended until Breathitt District files a subsequent tariff reinstating them. This is because, in accordance with KRS 278.160, a utility must file with the Commission a tariff with a schedule of rates charged to customers and that the utility must strictly adhere to the tariff rates. This also provides customers with notice of the waiver and subsequent reinstatement of reconnection fees.

Finally, the Commission finds that the notice provision in KRS 278.170(2) applies under the facts presented and that Breathitt District provided notice of the reduced rate service within the statutory timeframe and as of the date of the letter. The Commission finds good cause exists to allow the prospective waiver of the reconnection fee and minimum billing amount to be charged to affected customers for service rendered between July 15, 2022, and August 15, 2022, to go into effect upon the Commission's acceptance of filing.

Because this matter arises from a state of emergency due to severe flooding, the Commission, on its own motion, further finds that, pursuant to 807 KAR 5:001, Section 22, good cause exists to allow Breathitt District to deviate from the electronic filing requirement in 807 KAR 5:001, Section 8(1), which requires a utility to file notice of its intent to use electronic filing procedures prior to filing its application.

Nothing in this Order should be construed as relieving customers from the obligation to pay for service rendered. The Commission is taking this measure to ensure

that customers are provided necessary services required to maintain health and safety. The Commission expects Breathitt District to file notice with the Commission in this proceeding when reconnection fees are reinstated and for Breathitt District to use its best efforts to provide notice to its customers when the reconnection fee is reinstated.

IT IS THEREFORE ORDERED that:

1. Breathitt District is granted a deviation from the electronic filing requirement in 807 KAR 5:001, Section 8(1) to file notice of its intent to use electronic filing procedures prior to filing its application.

2. Breathitt District's request to provide temporary relief to customers affected by severe flooding by temporarily waiving the reconnection fee on a prospective basis and to charge customers a minimum bill for service rendered between July 15, 2022, and August 15, 2022 is granted.

3. Within 20 days of the date of service of this Order, Breathitt District shall file with the Commission, using the Commission's electronic Tariff Filing System, new tariff sheets setting forth the modification of the reconnection fee as discussed in this Order and reflecting the effective date of September 27, 2022.

4. Five days prior to the reinstatement of reconnection fees, Breathitt District shall file with the Commission, using the Commission's electronic Tariff Filing System, new tariff sheets setting forth the reconnection fee.

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

PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2022-00330 DATED OCT 03 2022

ONE PAGE TO FOLLOW



Breathitt County

Making Breathitt County

Water District

A Better Place One Drop at a Time.

September 27, 2022

Public Service Commission
ATTN: Linda C. Bridwell, PE
Executive Director
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615

RE: Request for reduced rate services

Dear Ms. Bridwell,

Please accept this letter written on behalf of the Breathitt County Water District as a request, pursuant to K.R.S. 278.170(2), for permission from the P.S.C. to grant temporary relief to certain customers affected by the recent severe flooding in Breathitt County in the form of waiver of reconnection fees for customers who requested to temporarily terminate service due to damage from the flooding, and to adjust the bills of affected customers to the minimum bill for service from the dates of July 15, 2022 to August 15, 2022, to the minimum bill amount.

This request is made due to the historic flooding that took place in Breathitt County on July 29, 2022. Waterlines were damaged and, in many places, completely destroyed in the flooding and some customers were without water for a period of time. It was unavoidable. All service has been restored by great effort. The members of the Breathitt County Water District board have voted to approve these actions and we await the P.S.C.'s decision on the matter.

If you have any questions or need further information, do not hesitate to contact me.

Sincerely, 

Estill McIntosh
Superintendent of the Breathitt County Water District

*Breathitt County Water District
1137 Main Street, Suite 305
Jackson, KY 41339

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Superintendent
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