

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF NORTH)	CASE NO.
MERCER WATER DISTRICT FOR A RATE)	2023-00185
ADJUSTMENT PURSUANT TO 807 KAR 5:076)	

ORDER

This matter arises from North Mercer Water District's (North Mercer District) letter requesting to deviate from filing requirements regarding the test year upon which proposed rates are determined in an alternative rate adjustment (ARF) proceeding pursuant to 807 KAR 5:076, or, in the alternative, to be granted an extension of time to file an ARF application that complies with regulatory requirements.

LEGAL STANDARD

Commission regulation 807 KAR 5:076, Section 9 requires an ARF application to be based upon a test period that coincides with the reporting period of the applicant's annual report for the immediate past year. Pursuant to 807 KAR 5:006, Section 4(2)(a), utilities must file an annual financial and statistical report on or about March 31 each year.

Commission regulation 807 KAR 5:076, Section 17 authorizes the Commission to permit deviations from the regulations in 807 KAR 5:076 upon a showing of good cause. Additionally, 807 KAR 5:076, Section 17 provides that requests for deviation must be submitted in writing by letter to the Commission.

BACKGROUND

North Mercer District was ordered to file an ARF application by October 6, 2022, in Case No. 2021-00317,¹ because it had not sought a general rate increase since 2016 and financial data suggested that North Mercer District's financial condition and rates were not sufficient to provide adequate, efficient and reasonable service. North Mercer District filed an untimely motion on October 27, 2022, requesting an extension of time to file an ARF application because the utility failed to include depreciation in its initial rate study or proposed rates. On November 11, 2022, the request for an extension of time was denied and the utility was ordered to file its ARF as soon as possible.

On June 12, 2023, North Mercer District tendered an ARF application that was rejected for filing under 807 KAR 5:076, Section 9 because the application used a 2021 test period but, because the utility's annual report for 2022 was filed before the ARF application,² the application for a rate increase should have been based upon a 2022 test period.

REQUEST FOR DEVIATION

In a July 20, 2023, letter, North Mercer District request to deviate from the regulatory requirement to use a 2021 test period for its proposed rate increase, or in the alternative, receive an extension of time to allow North Mercer District additional time to gather its 2022 data and resubmit its application. North Mercer District did not request a specific time period for its request to be granted additional time to resubmit its application.

¹ Case No. 2021-00317, *Electronic Application of North Mercer Water District for a Certificate of Public Convenience and Necessity to Construct a System Improvements Project and an Order Approving a Change in Rates and Authorizing the Issuance of Securities Pursuant to KRS 278.023* (Ky. PSC Oct. 6, 2021).

² North Mercer District's annual report was filed on March 31, 2023.

As a basis for its request, North Mercer District stated that it used 2021 data to comply with the Commission's Order to file an ARF as soon as possible. North Mercer District further stated that it has limited personnel and is undergoing a 3.4-million-dollar infrastructure project that has strained its resources. North Mercer District maintained that, due to the limited personnel and strained resources, it sought assistance on its ARF filing from Kentucky Rural Water Association (KRWA) and was placed on a waitlist for assistance from KRWA. North Mercer District asserted that, once it came off the waitlist, the necessary data was with an auditor and could not be accessed by the district or by KRWA, and the decision to utilize the 2021 data was made to complete the application in a timely manner.

DISCUSSION AND FINDINGS

Having considered the request and issues presented, the Commission finds that North Mercer District has not established good cause deviate from the ARF filing requirements, and therefore North Mercer District's request is denied. First, North Mercer District is required by 807 KAR 5:006, Section 24 to maintain its financial records in the office of the utility and to make those records available to representatives, agents, or staff of the Commission upon reasonable notice. Thus, North Mercer District had an obligation to ensure that its records were available to KRWA to prepare the ARF application. Second, the utility has been on notice since October 2021 that it was required to file an ARF application; North Mercer District could and should have timely sought assistance from KRWA. Third, utilizing the 2021 data in this rate proceeding is inappropriate because that information is stale. The most recent data provides a clearer picture of the utility's current circumstances, as we are now a year and a half out from COVID and any of its

effects on the utility's finances. The 2021 data will not present the most accurate picture. Furthermore, had North Mercer District acted timely in addressing its issues in October 2022, by merely adding depreciation expense to its rate study, it could have negated the need for its motion. Instead, North Mercer District took more than six months to update its rate study to include depreciation expense before it tendered its application here.

As discussed above, the Commission ordered this rate case in Case No. 2021-00317 due to questions regarding the utility's financial condition. North Mercer District's reference to limited personnel and strained resources arising from the \$3.4 million project reinforces the Commission's concern regarding the financial stability of the district, as well as the time it took North Mercer District to update a rate study for a single expense item.

For the above reasons, the Commission concludes that North Mercer District's proposed rate increase application should be based on the most recent financial data to ensure the sufficiency of rates to provide adequate, efficient, and reasonable service. For this reason, the Commission finds that North Mercer District's request for additional time to resubmit an ARF application based upon a 2022 time period should be granted, and that North Mercer District should file an amended application based upon a 2022 test period within 120 days from the date of service of this Order. The Commission further finds that North Mercer District must provide customers with notice of the amended application, with the revised proposed rate increase, consistent with 807 KAR 5:076, Section 5. Requiring North Mercer District to file an amended application within 120 days of service of this Order allows sufficient time to update the application and provide updated customer notice.

IT IS THEREFORE ORDERED that:

1. North Mercer District's request for deviation from 807 KAR 5:076 is denied.
2. North Mercer District's request for additional time to amend its application using the 2022 data is granted to the limited extent that an amended application shall be filed with the Commission within 120 days of service of this Order.
3. North Mercer District shall file an amended ARF application based upon a 2022 test year within 120 days of service of this Order.
4. North Mercer District shall provide customer notice of the proposed rates in its amended ARF application pursuant to 807 KAR 5:076, Section 5.

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PUBLIC SERVICE COMMISSION



Vice Chairman



Commissioner



ENTERED
SEP 12 2023 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



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