

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF HARDIN COUNTY WATER)
DISTRICT NO. 1 TO ADJUST ITS RATES FOR) CASE NO. 2013-00050
SEWER SERVICE)

ORDER

Hardin County Water District No. 1 ("Hardin District") has requested a deviation from 807 KAR 5:001, Section 16(3)(a), to permit the use of an abbreviated form of notice of its proposed adjustment of sewer service rates in lieu of mailing notice to each of its sewer service customers. For the reasons set forth below, we deny the request.

Hardin District, a water district organized pursuant to KRS Chapter 74, owns and operates facilities that provide sewer service to 8,872 customers in Hardin and Meade counties, Kentucky.¹ For the calendar year ending December 31, 2011, it had total sewage service revenues of \$6,143,337.²

On February 6, 2013, Hardin District advised the Commission in writing of its intent to file an application for an adjustment of its rates for sewer service on or before April 12, 2013.³ It submitted a revised notice on May 1, 2013, in which it advised that an application would be filed no later than June 25, 2013.⁴

¹ *Annual Report of Hardin County Water District No. 1 to the Public Service Commission for the Calendar Year Ending December 31, 2011 (Sewer Operations)* at 1 and 12.

² *Id.* at 8.

³ Letter from David Wilson II, counsel for Hardin County Water District No. 1, to Jeff Derouen, Executive Director, Public Service Commission (Feb. 6, 2013).

⁴ Letter from David Wilson II, counsel for Hardin County Water District No. 1, to Jeff Derouen, Executive Director, Public Service Commission (Apr. 29, 2013). As 60 days had passed since Hardin District's first notice, it was required to file a revised notice of its intent. See 807 KAR 5:001, Section 16 ("A utility with gross annual revenues greater than \$5,000,000 shall notify the commission in writing of intent to file a rate application at least thirty (30) days, but not more than sixty (60) days, prior to filing its application.").

With its revised notice, Hardin District requested⁵ authority to deviate from 807 KAR 5:001, Section 16(3)(a),⁶ which requires a sewer utility to mail notice of a proposed rate adjustment to each of its customers, and permission to use an abbreviated form of notice instead.⁷ Hardin District proposes to publish the abbreviated notice three consecutive weeks in newspapers of general circulation; to include on its website a banner notice of the proposed increase and a link to a complete notice; to post a complete notice at several locations at its main office and at a remote payment drop box; and to place a shortened form of notice in regular mailed customer bills with information on how a complete notice can be accessed. Hardin District argues that this form of alternative method of notice⁸ is less costly, will provide notice more quickly, and is more efficient.

This Commission is without authority to grant the requested deviation. While 807 KAR 5:001, Section 16(3)(a), provides in great detail the nature and the method of the

⁵ Letter from Jim Bruce, General Manager, Hardin County Water District No. 1, to Jeff Derouen, Executive Director, Public Service Commission ("Bruce Letter") (Apr. 29, 2013).

⁶ 807 KAR 5:001, Section 16(3)(a), in pertinent part provides:

If the utility has twenty (20) or fewer customers or is a sewage utility, it shall:

1. Mail written notice to each customer no later than the date on which the application is filed with the commission. The notice shall meet the requirements established in subsection (4) of this section;
2. Post at its place of business no later than the filed date of the application a sheet containing the information provided in the written notice to its customers; and
3. Keep the notice posted until the commission has issued a final decision on the application.

⁷ See 807 KAR 5:001, Section 16(7) ("Upon written request, the commission may grant a utility permission to use an abbreviated form of published notice of the proposed rates, provided the notice includes a coupon that may be used to obtain all of the required information.").

⁸ Hardin District requests relief from using a coupon with its abbreviated notice "as the use of the coupon by the customer would also add cost and require additional customer effort to obtain the notice, compared to other methods proposed." Bruce Letter at 2.

notice that a sewer utility must provide, the actual requirement for written notice to each customer is found in KRS 278.185. In pertinent part, it provides:

- (1) The Public Service Commission shall require that all sewerage corporations under its jurisdiction shall, when submitting an application for a rate change, notify all its customers of the application.
- (2) Notification to the customers of the rate change application shall be in writing and shall include an estimate of the probable financial impact upon the customers.
- (3) The cost of notifying customers of a rate change shall be borne by the sewerage corporation.

KRS 278.185 specifies that written notice, not published notice, be provided to sewer customers.

We note that, while 807 KAR 5:001, Section 16(3)(a), refers to “sewer utility,”⁹ KRS 278.185 refers to “sewerage corporation.” This difference is of no significance in this instance. KRS 278.010(2) defines corporation to include “private, quasipublic, and public corporations, and all boards, agencies, and instrumentalities thereof, associations, joint-stock companies, and business trusts.” Water districts, such as Hardin District, are considered as public corporations.¹⁰ As to those aspects of its operations in which it provides sewage treatment or collection services, Hardin District is a sewerage corporation.

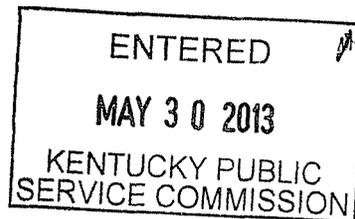
⁹ 807 KAR 5:001, Section 1(11) defines a sewer utility as “a utility that meets the requirements of KRS 278.010(3)(f).”

¹⁰ See *Valla v. Preston St. Road Water Dist. No. 1 of Jefferson County*, 395 S.W.2d 772 (Ky. 1965); *City of Cold Spring v. Campbell County Water Dist.*, 334 S.W.2d 269 (Ky. 1960) overruled by *City of Georgetown v. Public Service Commission*, 516 S.W.2d 842 (Ky. 1974).

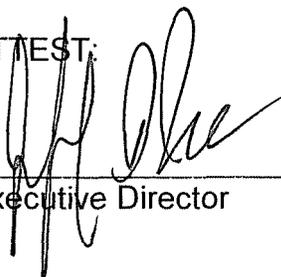
As the Commission has no authority to alter or amend the requirements of KRS 278.185,¹¹ we lack the authority to grant the requested relief and must deny Hardin District's request.

IT IS THEREFORE ORDERED that Hardin District's request to deviate from 807 KAR 5:001, Section 16(3)(a), by publishing an abbreviated notice of its proposed rate adjustment for sewer service in lieu of written notice to each customer is denied.

By the Commission



ATTEST:



Executive Director

¹¹ See *Robertson v. Schein*, 305 Ky. 528, 534, 204 S.W.2d 954, 957 (1947) ("no administrative board may add to the requirements of a statute, nor can it eliminate therefrom any requirement contained in the statute").

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