

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST PENDLETON COUNTY)
WATER DISTRICT FOR AN ALTERNATIVE RATE) CASE NO. 2013-00103
ADJUSTMENT)

ORDER

On March 14, 2013, East Pendleton County Water District (“East Pendleton District”) tendered its application for rate adjustment pursuant to 807 KAR 5:076. After review, the Commission on March 26, 2013, rejected the application for filing purposes because of errors in East Pendleton District’s billing analysis. On May 3, 2013, East Pendleton District submitted a revised billing analysis that conforms to 807 KAR 5:076.

East Pendleton District’s recent actions present a dilemma for the Commission. At the time it tendered its application, East Pendleton District had not yet filed its annual report for the year ending December 31, 2012.¹ Accordingly, East Pendleton District correctly based its application and its proposed rates upon a test period ending December 31, 2011.² Its originally tendered billing analysis is based upon sales for the same period. East Pendleton District’s revised billing analysis, however, is based upon sales in calendar year ending December 31, 2012. We interpret 807 KAR 5:076 as requiring an applicant to use the same test period for all parts of its application.

¹ 807 KAR 5:006, Section 4(2), requires each utility to file with the Commission a financial and statistical report on its operations for the preceding calendar year on or before March 31 of each year.

² See 807 KAR 5:076, Section 8.

Therefore, East Pendleton District's revised application fails to meet the requirements of 807 KAR 5:076.

Were East Pendleton District to submit a revised billing analysis for the calendar year ending December 31, 2011 to comply with 807 KAR 5:076, its application would still not be in compliance. An application is deemed filed on the date that it meets all requirements.³ Since first tendering its application, East Pendleton District has filed its annual report for the year ending December 31, 2012. As 807 KAR 5:076, Section 8 requires that an applicant use a test period that "coincides with the reporting period of the applicant's annual report for the immediate past year," and as "annual report for the immediate past year" means "[t]he most recent calendar year period that 807 KAR 5:006, Section 4(1), requires the applicant to have on file with the [C]ommission as of the date of the filing of its application for rate adjustment,"⁴ East Pendleton District's application must be based upon its operations for the calendar year ending December 31, 2012.

The Commission, therefore, has two options: reject the application or authorize a deviation from the requirements of 807 KAR 5:076. Because this situation is unique and unlikely to recur, and because the purpose of 807 KAR 5:076 is to establish a "simplified and less expensive procedure for small utilities," we find a deviation should be granted in this instance only to permit the acceptance of East Pendleton District's application for filing purposes and to provide for immediate review. We further find that the calendar year ending December 31, 2012 should be used as the test period to review East Pendleton District's application.

³ 807 KAR 5:001, Section 4(5).

⁴ 807 KAR 5:076, Section 1(2)(6).

IT IS THEREFORE ORDERED that:

1. East Pendleton District is permitted to deviate from 807 KAR 5:076, Section 4.
2. East Pendleton District's application is accepted for filing as of the date of this Order.
3. The reasonableness of East Pendleton District's proposed rates shall be determined using the calendar year ending December 31, 2012.
4. No later than June 28, 2013, Commission Staff shall file with the Commission and serve upon all parties of record a written report containing its findings and recommendations regarding East Pendleton District's requested rate adjustment.
5. No later than July 12, 2013, or 14 days after the date of the filing of the Commission Staff Report, whichever occurs earlier, each party of record shall file with the Commission:
 - a. Its written comments on and any objections to the findings and recommendations contained in the Commission Staff Report;
 - b. Any additional evidence for the Commission's consideration; and,
 - c. Written notice as to whether this matter may be submitted for decision based upon the existing record without hearing.
6. If Commission Staff finds that East Pendleton District's financial condition supports a higher rate than East Pendleton District proposed or the assessment of an additional rate or charge not proposed in East Pendleton District's application, East Pendleton District in its response to the Commission Staff Report shall also state its

position in writing on whether the Commission should authorize the assessment of the higher rate or the recommended additional rate or charge.

7. If Commission Staff recommends changes in the manner in which East Pendleton District accounts for the depreciation of East Pendleton District's assets, East Pendleton District in its response to the Commission Staff Report shall also state its position in writing on whether the Commission should require East Pendleton District to implement the proposed change for accounting purposes.

8. A party's failure to file written objections to a finding or recommendation contained in the Commission Staff Report by July 12, 2013, or 14 days after the date of the filing of the Commission Staff Report, whichever occurs earlier, shall be deemed as agreement with that finding or recommendation.

9. Unless all parties request that this matter be submitted for decision upon the existing record, an informal conference shall be held in this matter on July 25, 2013 at 1:00 p.m., Eastern Daylight Time, at the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky.

10. Unless all parties request that this matter be submitted for decision upon the existing record, a formal hearing in this matter shall be held in the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, on August 8, 2013, beginning at 10:00 a.m. Eastern Daylight Time.

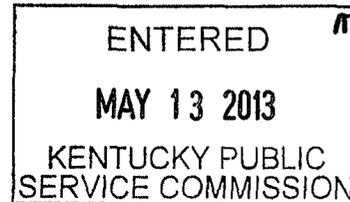
11. Each party shall file with the Commission, no later than August 2, 2013, a list of the persons it intends to call as witnesses at the scheduled hearing and a summary of each witness's expected testimony.

12. East Pendleton District shall publish notice of the scheduled hearing in accordance with 807 KAR 5:076, Section 11, no more than 21 days and no less than seven days before the day of the scheduled hearing.

13. Pursuant to KRS 278.360, the record on the formal hearing in this matter shall be by videotape.

14. Commission Staff shall prepare a written list of all exhibits presented at the hearing and shall file this list with the Commission with all hearing exhibits and a copy of the video transcript of the hearing.

By the Commission



ATTEST:


Executive Director

Wayne Lonaker
Manager
East Pendleton Water District
601 Woodson Road
Falmouth, KY 41040