

3. The notice of the proposed adjustment that Augusta provided to Bracken District was also silent as to the recovery of any rate case expenses.¹

4. On February 10, 2015, the PSC suspended operation of the proposed rate schedule and initiated this proceeding to investigate the reasonableness of the proposed rate schedule. As of August 28, 2015, Augusta had not placed the proposed rate of \$1.95 per 1,000 gallons into effect.

5. On August 28, 2015, Augusta filed its “Motion to Amend to Include Rate Case Expense.” In its motion, Augusta requests authority to assess a surcharge of \$1,111.11 for 36 months or to assess a wholesale rate of \$2.02 per 1,000 gallons and submits a new tariff sheet reflecting a wholesale rate of \$1.95 per 1,000 gallons and a monthly surcharge rate of \$1,111.11 for 36 months and stating an effective date of September 27, 2015.

6. By its actions, Augusta has withdrawn and replaced its initially proposed rate schedule. Based upon the PSC’s historic application of KRS 278.180 and KRS 278.190 to municipal utility wholesale rate filings, all rates contained in Augusta’s recently submitted rate schedule that are not currently in effect are subject to suspension. Augusta’s actions further have reset the statutory time period for the issuance of a final decision in this proceeding. The effective date of all rates set forth in the rate schedule that have not previously been placed into effect is reset to the rate found on the new proposed rate schedule.

7. The proposed cash operation and maintenance expense charge of \$1.95 per 1,000 gallons (“volumetric rate”) and the proposed surcharge are inextricably linked and should be

¹ The contents of Augusta’s notice to Bracken District also failed to meet several requirements set forth in 807 KAR 5:011, Section 8(4). More specifically the notice lacked the date the proposed rates were to be filed with the PSC, the present and proposed rates, the amount of change in both dollar amounts and percentage change; and statements regarding the right to intervention and examination of the proposed filing. Despite these failures, the PSC accepted Augusta’s filing.

considered jointly, not separately. The surcharge is based solely on the costs of the review of the proposed volumetric rate and cannot be determined until the review of the volumetric rate is completed. The final result of the proposed amendment is that the new rate schedule will result in the assessment of a different and greater total charge to Bracken District for monthly wholesale water service than the rate schedule that Augusta originally filed with the PSC. Augusta's alternative proposal to the \$1.95 per 1,000 gallon volumetric rate to \$2.02 per 1,000 gallons in lieu of a separate surcharge charge clearly demonstrates that the charges are connected and that Augusta has merely revised its earlier proposed volumetric rate charge.

8. PSC regulation 807 KAR 5:011 supports this interpretation. Section 6(2)(b) of that regulation provides: "A new tariff or **revised sheet of an existing tariff** shall be issued and placed into effect by . . . [i]ssuing and filing with the commission a new tariff or **revised sheet of an existing tariff** and providing notice to the public in accordance with Section 8 of this administrative regulation and statutory notice to the commission." Section 9(1) further provides:

The **proposed rates on a new tariff or revised sheet of an existing tariff** shall become effective on the date stated on the tariff sheet if: (a) Proper notice was provided to the public in accordance with Section 8 of this administrative regulation; (b) Statutory notice was provided; and (c) The commission does not suspend the proposed rates pursuant to KRS 278.190.

The regulation does not provide for different effective dates for the proposed rates or allow for the proposed rates to be considered individually. To the extent that the proposed surcharge and revised volumetric charge are on the same revised tariff sheet, they must be considered a single filing.

9. To the extent that the PSC finds that KRS 278.180 and KRS 278.190 apply to Augusta's filings, Bracken District requests that the PSC suspend the operation of the proposed rates and modify the existing procedural schedule to ensure adequate time for a review of

Augusta's newly proposed charges. It appears that PSC is unlikely to issue a final order in this proceeding prior to September 27, 2015 and therefore suspension of the proposed rates would be necessary under any circumstances.

10. Suspension of the proposed rate schedule and a modification of the existing procedural schedule will ensure the rights of all parties to due process under the law are observed. Under the current procedural schedule, which PSC Staff has conceded is compressed to ensure the issuance of a final order no later than November 10, 2015,² the PSC allowed the parties only 14 days to prepare written testimony and provided only 25 days from the date of reestablishing a procedural schedule to the hearing date. It required Bracken District to file its testimony simultaneously with Augusta's filing of testimony, thus depriving Bracken District of the opportunity to discover the issues and evidence that Augusta would present in its prepared testimony or to offer rebuttal argument and evidence to that testimony.³

11. Suspending the newly proposed rate schedule and eliminating the non-artificial deadline of November 10, 2015 will allow the parties to more fully develop their cases and afford the PSC additional time to fully consider the evidence and all arguments. It does not mean that a lengthy extension of the proceeding. Bracken District proposes that with the suspension of the newly proposed rates, a hearing in this matter could still be held in October and the matter submitted for final decision no later than November 2015.

² Memorandum of David Spenard, PSC Staff Attorney to Case File No. 2015-00039 (filed Aug. 14, 2015) at 2-3.

³ Augusta is partially responsible for this result. On February 10, 2015, the PSC ordered Augusta to file witness testimony. It again ordered Augusta to file such testimony on April 13, 2015. In each instance, Augusta failed to submit such testimony and was not compelled to produce it.

WHEREFORE, Bracken District moves for an Order that:

1. Declares that

a. By its filing of August 28, 2015, Augusta has withdrawn the rate schedule filed on January 8, 2015 and replaced it with that schedule contained in its August 28, 2015 filing; and,

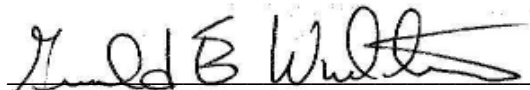
b. All of the rates set forth in the August 28, 2015 filing that are not currently effective are subject to suspension pursuant to KRS 278.190.

2. Suspend for a period of five months from September 27, 2015 the rates set forth in the August 28, 2015 filing that are not currently in effect.

3. Modify the procedural schedule to allow for additional time for review of the newly proposed rates, for Bracken District to amend and supplement its testimony to respond to arguments and evidence set forth in Augusta's prepared direct testimony, and for any rebuttal testimony.

Dated: August 31, 2015

Respectfully submitted,

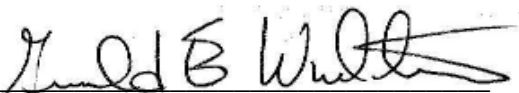


Gerald E. Wuetcher
Stoll Keenon Ogden PLLC
300 West Vine Street, Suite 2100
Lexington, Kentucky 40507-1801
gerald.wuetcher@skofirm.com
Telephone: (859) 231-3017
Fax: (859) 259-3517

Counsel for Bracken County Water District

CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, I certify that Bracken District's August 31, 2015 electronic filing of this Motion is a true and accurate copy of the same document being filed in paper medium; that the electronic filing has been transmitted to the Commission on August 31, 2015; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original paper medium of this Motion will be delivered to the Commission on or before September 2, 2015.

A handwritten signature in black ink, appearing to read "Gerald E. Wuetcher", written over a horizontal line.

Gerald E. Wuetcher