

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF MONROE)
COUNTY WATER DISTRICT FOR RATE) CASE NO. 2017-00070
ADJUSTMENT PURSUANT TO 807 KAR 5:076)

MOTION FOR CLARIFICATION AND DEVIATION FROM 807 KAR 5:076

Monroe County Water District (“Monroe District”), by counsel, moves for clarification regarding the Commission’s use of Monroe District’s Post-Hearing Brief and Commission Staff’s Responses to Monroe District’s Post-Hearing Requests for Information and for a deviation from 807 KAR 5:076 to allow the Commission to consider those materials in making its decision.

In support of its Motion, Monroe District states:

1. Monroe District’s Application for Rate Adjustment is filed pursuant to 807 KAR 5:076.
2. 807 KAR 5:076, Section 3 expressly identifies the documents and materials that comprise the record upon which the Commission may make its decision. These documents do not include post-hearing briefs or the responses of Commission Staff to requests for information.
3. On two earlier occasions in this proceeding, the Commission has held that documents and materials other than those listed in Section 3 cannot be made a part of the record of this proceeding and cannot be considered.
4. In its Order of June 29, 2017 in this proceeding, the Commission denied Monroe District’s motion to incorporate the record of Case No. 2011-00272 into the record of the current proceeding because Section 3 “does not include the incorporation of the record from a prior rate case.”

5. In its Order of August 18, 2017 in which it denied Monroe District's request for a procedural schedule permitting discovery upon Commission Staff, the Commission stated:

Monroe District's rate application was filed pursuant to 807 KAR 5:076, the alternative rate adjustment procedures for small utilities. That regulation specifies that the record upon which the Commission's decision is to be made shall be based on: the applicant's annual reports; the applicant's rate application; information provided by the applicant in response to requests for information; written reports filed by Commission Staff; stipulations and agreements between the parties and Commission Staff; written comments and information filed by the parties in response to a written report by the Commission Staff; and the record of the hearing if one is held. The regulation does not provide for a party to conduct discovery upon Commission Staff.

6. In its Order of September 18, 2017, in which the Commission addressed Monroe District's request for reconsideration of the Commission's Order of August 18, 2017, the Commission further stated that "807 KAR 5:076 does not give parties a right to conduct discovery on Commission Staff outside of the hearing."

7. Commission Staff filed the final record of the hearings in this matter on October 31, 2017.

8. In its Order of October 31, 2017, the Commission did not specifically provide that the parties may serve post-hearing requests upon Commission Staff nor did it expressly authorize a deviation from 807 KAR 5:076 to permit the Commission's consideration of any documents submitted after the close of the hearing, such as a post-hearing brief or Commission Staff's responses to post-hearing requests for information.¹

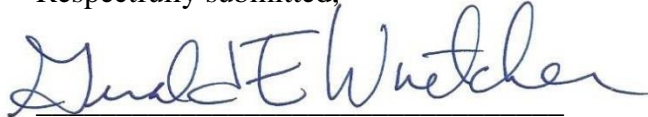
¹ On November 3, 2017, Commission Staff served a second set of post-hearing requests for information on Monroe District. 807 KAR 5:076, Section 3(3), specifically authorizes the Commission to consider Monroe District's responses to these requests in reaching its decision. It provides that the Commission "shall make its decision based on the . . . [i]nformation supplied **by the parties** in response to requests for information[.]" (emphasis added).

9. In light of the Commission's earlier decisions in this proceeding and the strict language of 807 KAR 5:076, clarification of the Commission's Order of October 31, 2017 and a specific grant of a deviation are necessary and appropriate to ensure a clear and complete record.

WHEREFORE, Monroe District requests that the Commission clarify its Order of October 31, 2017 to expressly provide for the parties to serve post-hearing requests for information upon Commission Staff and authorize a deviation from 807 KAR 5:076 to permit the Commission's consideration of Commission Staff's responses to such requests and any post-hearing briefs that the parties may submit.

Dated: November 6, 2017

Respectfully submitted,



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CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, I certify that Monroe County Water District's November 6, 2017 electronic filing of this Motion For Clarification and Deviation From 807 KAR 5:076 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 November 6, 2017; 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 November 8, 2017.



Gerald E. Wuetcher