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April 26, 2021

Ms. Linda C. Bridwell, P.E.
Executive Director
Kentucky Public Service Commission
P.O. Box 615
Frankfort, KY 40602-0615

Re: Case No. 2021-00071
Hyden-Leslie County Water District

Dear Ms. Bridwell:

This letter addresses issues that Commission Staff raised at the conference held in the above-reference case on April 12, 2021.

At the Commission Staff's suggestion, Hyden-Leslie County Water District ("Hyden-Leslie District") has prepared and encloses revised tariff sheets that contain the revisions that it proposed in its Response to Commission Staff's First Request for Information. In addition, it has deleted a reference to late payment fees found on Sheet 5 and amended Section 4k to provide that the customer who has executed the Water Service Contract has primary responsibility for service provide to meter connections serving more than one residential or commercial unit.

At the conference, Commission Staff expressed concerned with the request for information regarding an applicant's marital status and the maiden name of the applicant's spouse set forth in the form entitled "Water User Agreement (All Users)." While Hyden-Leslie District believes that the requested information is reasonable and that the Public Service Commission currently permits other utilities to request similar information from applicants,¹ it has revised this form to eliminate references to an applicant's marital status.

¹ The application forms of the following utilities require an applicant to provide similar information: Bullock Pen Water District; Butler County water System, Inc.; Carroll County Water District No. 1; Estill County Water District No. 1; Jonathan Creek Water District; Kirksville Water Association; LaRue County Water District; Northern Kentucky Water District; Southern Madison Water District; and Warren County Water District. The application forms of the following utilities require information regarding the applicant's spouse: Barkley Lake Water District; Farmdale Water District; East Clark Water District; Southeastern Water Association; and Western Fleming County Water District.

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Hyden-Leslie District has further revised this form to request only the number of members of the applicant's household and the names of the adult house members. This information is necessary to prevent households that have previously received water service and failed to pay for such service from obtaining service unless the prior debt for service is paid. Hyden-Leslie District has also revised the form to inquire whether the applicant or any member of the applicant's household is indebted to Hyden-Leslie District for previously-provided water service. This information will aid Hyden-Leslie District in reducing its bad debt expense. Recently, the Public Service Commission in Case No. 2020-00141² expressed concern about Hyden-Leslie District's accrual of bad debt expense.

The revised application form will assist in implementing Section 9d of the proposed tariff (Sheet 13). Section 9d presumes a person residing with a delinquent customer at the premises where service was supplied to the delinquent customer is acting as an agent for the delinquent customer and permits Hyden-Leslie to refuse service to that person until the delinquent customer's debt for service is addressed. Our review of tariffs on file with the Public Service Commission found tariffs that permitted the denial of service to an applicant acting as agent for a delinquent customer,³ as well as those authorizing the refusal of service to any person residing with a delinquent customer at the premises where service was supplied to the delinquent customer.⁴

During the conference, Commission Staff questioned whether the proposed tariff's provisions related to water pressure. These provisions are consistent with the Commission's water service regulations. 807 KAR 5:066, Section 5(1) requires a water utility to maintain pressure at no less than 30 pounds per square inch ("psi") at the delivery point. Reflecting this requirement, Section 11j of the proposed tariff provides: "No meter shall not be located on a Customer's service line at a point that does not deliver a minimum pressure of 30 pounds per square inch at the meter point."

² *Electronic Application of Hyden-Leslie County Water District for An Alternative Rate Adjustment*, Case No. 2020-00141 (Ky. PSC Nov. 6, 2020) at 23.

³ Schedule of Rates, Classifications, Rules and Regulations for Electric Service of Duke Energy Kentucky, Inc., KY. P.S.C. Electric No. 2, Third Revised Sheet No. 21, Page 1 of 3 (Eff. May 1, 2020); Schedule of Rates, Classifications, Rules and Regulations for Gas Service of Duke Energy Kentucky, Inc., KY. P.S.C. Electric No. 2, Fourth Revised Sheet No. 21, Page 1 of 4 (Eff. May 1, 2020); Schedule of Rates, Classifications, Rules and Regulations for Electric Service of Kentucky Utilities Co., KY. P.S.C. Electric No. 19, Original Sheet No. 105.1 (Eff. May 1, 2019); Schedule of Rates, Classifications, Rules and Regulations for Electric Service of Louisville Gas and Electric Co., KY. P.S.C. Electric No. 12, Original Sheet No. 105.1 (Eff. May 1, 2019).

⁴ See, e.g., Tariff of Blue Grass Energy Cooperative Corp. PSC KY No. 1a, Original Sheet No. 1a (Eff. Sep. 1, 2010); Tariff of Farmers Rural Electric Cooperative Corporation. PSC KY No. 10, Original Sheet No. 10.001 (Eff. Apr. 4, 2018) Tariff of Salt River Electric Cooperative Corporation, P.S.C. No. 12, Original Sheet No. 13 (Eff. Sep. 1, 2010); Tariff of Shelby Energy Cooperative, Inc. PSC KY No. 9, Original Sheet No. 205 (Eff. Oct. 1, 2013). See also *Walter Callihan and Goldie Callihan, His Wife v. Grayson Rural Electric Cooperative Corporation*, Case No.10233 (Ky. PSC May 1, 1989).

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At the conference, L.J. Turner, Hyden-Leslie District's General Manager, stated that Hyden-Leslie District interprets 807 KAR 5:066, Section 5(1) as prohibiting a water utility from providing water service to an applicant if service cannot be provided at a pressure of 30 psi or greater and will refuse service if the minimum pressure requirement cannot be met. He further stated that Hyden-Leslie District will explore every reasonable means to provide service within the standard. If, in its opinion, no reasonable option exists to serve an applicant within the required pressure range, Hyden-Leslie District will deny the applicant's request for service and advise the applicant of its right to file a formal complaint with the Commission.

During the conference, Mr. Turner acknowledged that the water district has a duty to provide service at a pressure of 30 psi or greater to existing customers. If water service pressure falls below 30 psi at the delivery point, the water district must act to bring the service into compliance with Commission regulations. Mr. Turner noted that currently a low-pressure area exists within Hyden-Leslie District's system and the water district has ordered a booster station and will install the booster station upon its delivery. He knew of no other areas within Hyden-Leslie District's distribution system in which service to new applicants could not be provided because of low pressure concerns.

At the conference, Commission Staff asserted that a water district must provide service to all persons in its territory requesting such service and, if it cannot extend service to an applicant for service at the required pressure range, it must make the necessary improvements to do so. Hyden-Leslie District respectfully disagrees with this interpretation of the existing law. KRS Chapter 74 does not require a water district in all instances to serve all persons within its territory.⁵ While KRS 278.280(3) permits the Public Service Commission to compel extensions of service, those extensions must be **reasonable**.⁶ The Public Service Commission has previously noted that a water district "has a legal duty to serve all within its territory **if service can be reasonably extended**."⁷ To the extent that an extension of service to an applicant would be unduly burdensome or require the water district to incur an expense far beyond the revenue generated by the extension, the extension would not be reasonable and the water district would not be legally obligated to make the extension.

⁵ See OAG 75-719 (Dec. 16, 1975).

⁶ See, e.g., *City of Bardstown v. Louisville Gas & Elec. Co.*, 383 S.W.2d 918, 920 (Ky.1964) ("We conceive that the duty of a public utility under the general public utility statutes is to render adequate, efficient and reasonable service . . . within the scope or area of service provided for in its certificate of convenience and necessity It can be compelled to make any reasonable extension of its service facilities within its certificated scope or area of service.").

⁷ *Roy G. Cooksey v. Bowling Green Municipal Utilities and Warren County Water District*, Case No. 2009-00190 (Ky. PSC Apr. 16, 2009) at 9, fn. 27 (emphasis added). For a discussion of reasonable extension, see *Wilmer and Pauline Conn v. Fleming County Water Association*, Case No. 2010-00049 (Ky. PSC June 21, 2011) at 12 - 15.

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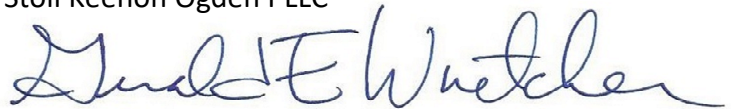
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Hyden-Leslie appreciates the opportunity to discuss its proposed tariff with Commission Staff and hopes that its revisions to the tariff will adequately address the Public Service Commission's concerns.

In accordance with 807 KAR 5:001, Section 8(7), I certified that (1) there are no parties to this proceeding that have been excused from electronic filing procedures; (2) the electronic version of this letter was transmitted to the Commission this day; (3) the electronic version of this letter is a true and accurate copy of the paper version, and (3) within 30 days following the end of the state of emergency first announced in Executive Order 2020-215 this letter in paper medium will be delivered to the Public Service Commission.

Sincerely,

Stoll Keenon Ogden PLLC

A handwritten signature in blue ink that reads "Gerald E. Wuetcher". The signature is written in a cursive style with a large, prominent "G" and "W".

Gerald E. Wuetcher

GEW

Enclosures

AREA Clay, Leslie, Perry Counties, Ky

PSC KY NO. 6

Original SHEET NO. 5

Hyden-Leslie County Water District

CANCELLING PSC KY NO. _____

_____ SHEET NO. _____

RULES AND REGULATIONS

h. The District maintains a night deposit box for the convenience of Customers and retrieves the deposited payments at the start of each business day. A payment deposited in the night deposit box will be considered as received on the business day the District retrieves it. (N)

i. Customers may make payment by credit or debit card in person online, at the District's office, or by telephone. When paying by telephone, customers must have the current month's bill available. If payment by credit or debit card is attempted and declined, the customer's obligation to pay the billed amount on the due date remains unchanged. Credit card payments are subject to a convenience fee assessed by the card processor (not the District). Prior to processing the transaction, the customer will be informed of the fee amount. (N)
(T)
(T)
(T)
(T)
(T)

j. A customer's payment will be applied in the following order of priority: amounts owed for current billing period; unpaid balance for water service provided in prior billing periods; and fees or taxes collected for other entities. (T)
(T)

k. Meter connections serving more than one residential or commercial unit. A single bill will be issued monthly to the Customer who has executed the current Water Service Contract for the service to the meter. The Customer who executed the Water Service Contract has primary responsibility for payment of all charges for service associated with the meter, including all water provided through the meter; (N)
(N)
(N)
(N)

DATE OF ISSUE February 4, 2021
MONTH / DATE / YEAR

DATE EFFECTIVE March 6, 2021
MONTH / DATE / YEAR

ISSUED BY /s/Kevin Cook
SIGNATURE OF OFFICER

TITLE Chairman

BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE
COMMISSION IN CASE NO. _____ DATED _____

AREA Clay, Leslie, Perry Counties, Ky

PSC KY NO. 6

Original SHEET NO. 13

Hyden-Leslie County Water District

CANCELLING PSC KY NO. _____

_____ SHEET NO. _____

RULES AND REGULATIONS

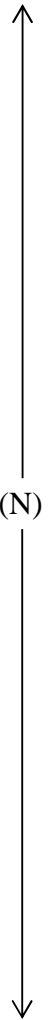
b. Renewal of Water Service After Discontinuance

(1) When water service to a Premises has been terminated for any reason other than temporary vacancy, it will be restored only after the conditions, circumstances or practices which caused its discontinuance are corrected to the District's satisfaction and upon payment of all charges due and payable by the Customer in accordance with these Rules. The District shall reconnect existing service within twenty-four (24) hours or close of the next business day, whichever is later, after correction of the practice or condition giving rise to the discontinuance of service and payment of all charges due and payable.

(2) No Customer whose service has been turned off shall turn on service, or have same done by anyone other than the District.

c. **Reconnection Charge.** When water service to a Premises is discontinued because of a violation of these Rules or failure to pay any bill, the District will assess a charge to cover the expense of disconnecting service. This charge, together with any unpaid fees or charges for service must be paid before water service is reconnected.

d. **Imputed Liability of Adults Residing with Customer.** Applicant/Customer and all members of Applicant/Customer's family who are 18 years or older, reside at the Applicant/Customer's premises, and directly benefit from the provision of water service to that premise are jointly and severally liable for payment of services rendered to that location while they reside there. Should a delinquency in payment for water service to the premises occur, each member of the household who is 18 years or older when the water service was rendered and the delinquency for such service arose is responsible for the delinquency and is indebted to the District for the delinquency. The District may deny any application or request for water service from any of those persons until such indebtedness is paid if the original Applicant/Customer under whose name service was originally provided is a member of the household of the person subsequently requesting water service.



DATE OF ISSUE February 4, 2021
MONTH / DATE / YEAR

DATE EFFECTIVE March 6, 2021
MONTH / DATE / YEAR

ISSUED BY /s/Kevin Cook
SIGNATURE OF OFFICER

TITLE Chairman

BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE
COMMISSION IN CASE NO. _____ DATED _____



**WATER USER AGREEMENT
(ALL USERS)**

I hereby make application and authorize Hyden-Leslie County Water District (“the District”) to turn on the water at the address listed below. I agree to **pay the bill for service** by the due date specified on the bill for water furnished to any address where I either have an interest in the ownership of the property, directly or indirectly, or have requested service, and I hereby agree to continue to be responsible for the same until I notify the District in writing to the contrary.

I agree to take the necessary measures to protect the meter box, meter setting and service. I agree to maintain at my own expense the service line beginning at the meter setting and extending to my dwelling or place of use. The service line will be maintained at a sufficient depth (a minimum of 24 inches) to prevent freezing during the coldest weather normally experienced. I will maintain a shut-off valve, one-way check valve, and pressure reducing valve on the outlet side of the meter. I will be responsible for damages to the District caused by me, my contractor and/or sub-contractor during any on-site construction.

I agree to abide by and comply with the District’s rules, regulations and rates as approved by the Public Service Commission of the Commonwealth of Kentucky and as changed from time to time.

If, at any time, any bill owed by me to the District, whether collectible under this Contract or otherwise, is not paid when due or payable, then the District shall have the right to discontinue the supply of water to the location.

All applicants for water service will be required to have a copy of photo identification on file and pay a security deposit as of \$74.00.

Customer Signature _____

Authorized Utility Representative Signature _____ **Date** _____

Please complete the following information

Service Address _____ Apt # _____

City/State _____ Zip Code _____

Billing Address (if different from service address):

Street _____

City/State _____ Zip Code _____

Account Holder: First _____ Middle _____ Last _____

DL# _____

Account Holder's Telephone number:

Home _____

Cell _____

Please Circle primary use of building: Residential Commercial

How many residing at service address? _____

Names of household members 18 years of age or older: _____

Do you own or rent service address? Own _____ Rent _____

If rent, Name of Landlord/Owner _____

Landlord/Owner Phone # _____

Do you have rental agreement? Yes _____ No _____

If so, please provide a copy of rental agreement with this contract.

Do you or any of the adult household members owe the District for water service furnished at the service address or another address? Yes _____ No _____

May the District contact you by text message to your cell phone to provide you with alerts or other information? Yes _____ No _____

OFFICE USE ONLY	
RECEIPT #	_____
DEPOSIT AMOUNT	_____
CASH	CHECK# _____
C/C	MONEY ORDER _____