

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF NORTHERN KENTUCKY)
WATER DISTRICT FOR AN ADJUSTMENT OF RATES;) **CASE NO. 2022-00161**
ISSUANCE OF BONDS; FINANCING; AND TARIFF REVISIONS)

MOTION FOR RECONSIDERATION

Northern Kentucky Water District (“NKWD”), by and through counsel, moves for reconsideration of three findings made in Commission’s February 8, 2023 Order in accordance with KRS 278.400.¹ Those findings are: (1) the allowable level of employee health insurance expense; (2) the implementation date of increased service connection charges; and (3) amend usage rates to the per 100 cubic foot rate. As grounds for each finding NKWD desires reconsideration, NKWD elaborates on each in the following paragraphs.

1. Allowable Level of Employee Health Insurance Expense.

In the February 8, 2023 Order, the Commission decreased NKWD’s health insurance expense by \$549,578 by adjusting employee health insurance contributions to 22 percent for single coverage and 34 percent for family coverage to align the employee contribution rates with the private industry national average.² NKWD’s contributions to health insurance premiums during the test year were 5 percent for single coverage and 14 percent for family coverage.³ NKWD proposed an adjustment moving single coverage to 12 percent but kept, without adjustment, family coverage at 14 percent.⁴ NKWD also

¹ KRS 278.400 allows the parties to request rehearing and the Commission to change, modify, vacate or affirm its former orders. In this instance, NKWD does not intend to introduce any new evidence to the record and as such does not believe a formal hearing is necessary as NKWD only ask for reconsideration of the Commission’s application of the facts to the law.

² Case No. 2022-00161, *Electronic Application of Northern Kentucky Water District for an Adjustment of Rates; Issuance of Bonds; Financing; and Tariff Revisions* (Ky. PSC February 8, 2023) Order at 6-7.

³ Id.; Northern Kentucky District’s Response to Staff’s Second Request, Item 13(a).

⁴ Id.

included a pro forma health insurance increase in the amount of estimated \$11,948 due to increases in staffing levels.⁵ NKWD submits reconsideration should be granted on three basis.

First, the February 8, 2023 Order lacks specific evidentiary facts to support how the \$549,578 was calculated and determined. As an administrative agency, the Commission “is required to set forth sufficient facts to support conclusions that are reached, so the parties understand the decision, and to permit meaningful appellate review.”⁶ In the instant matter, there are no references or footnotes on how the calculation was determined.

Second, NKWD argues it has, in part, met the standard of the PSC’s previously enumerated policy on health insurance contribution rates. Although the Commission did advise during NKWD’s last rate case that the Commission may make an adjustment to health insurance expenses if the actual percentage of employee cost contribution is significantly below the average⁷, the Commission subsequently, in Case 2019-00053, enumerated a policy delineating when a utility’s employees’ insurance contribution levels are sufficient to avoid Commission adjustment of the contributions to the national average.⁸ Specifically, the Commission found that “as long as the employee contribution rate for health

⁵ NKWD Response to Commission Staff’s First Request for Information, Item 42, Exhibit 42-1 (Bates Stamp Page NKWD 001957). Please note the estimate based on NKWD’s averages as it is unclear what, if any, insurance plan a future employee may take.

⁶ 500 Associates, Inc. v. Natural Resources and Environmental Protection Cabinet, 204 S.W.3d 121, 132 (Ky.App. 2006. See also Marshall County v. South Central Bell Telephone Company, 519 S.W.2d 616 (Ky. 1975).

⁷ Order at 6 (citing Case No. 2018-00291, *Electronic Application of Northern Kentucky Water District for an Adjustment of Rates; Issuance of Bonds; Financing; and Tariff Revisions* (Ky. PSC Mar. 26, 2019), Order at 8 (“The Commission encourages Northern Kentucky District to consider increasing the actual percentage. The Commission could make an adjustment in future rate cases if the actual percentage of employee cost participation is significantly below the standard statistical average percent participation.”)

⁸ Case No. 2022-00161, *Electronic Application of Northern Kentucky Water District for an Adjustment of Rates; Issuance of Bonds; Financing; and Tariff Revisions* (Ky. PSC February 8, 2023) Order at 6 (citing Case No. 2018-00291, *Electronic Application of Northern Kentucky Water District for an Adjustment of Rates; Issuance of Bonds; Financing; and Tariff Revisions* (Ky. PSC Mar. 26, 2019), Order at 8); Case 2019-00053; *Electronic Application of Jackson Purchase Energy Corporation for a General Adjustment in Existing Rates* (Ky. PSC June 20, 2019) Order at 9; see also Case No. 2022-00044, *Electronic Application of Big Sandy Water District for an Adjustment of its Water Rates Pursuant to 807 KAR 5:076* (Ky. PSC September 13, 2022) Order at 10 (citing Commission Staff’s Report at 16-19); Case No. 2021-00218, *Electronic Application of Madison County Utilities District for an Alternative Rate Adjustment*, (KY. PSC January 5, 2022) Order at 5 (incorporating December 3, 2021 Staff Report at 10-12); Case No. 2018-00407, *A Review of the Rate Case Procedure for Electric Distribution Cooperatives* (Ky. PSC December 12, 2020) Order at Appendix A, Item E.2. (quoting “If employee health care insurance premium contribution is is zero, then for ratemaking purposes, the pro forma income statement should reflect healthcare insurance premiums adjusted for employee contributions based on the national average for coverage type.”)(emphasis added) (internal citations omitted).

insurance is at least 12 percent, it will not make a further adjustment to the national average.”⁹

Since the increase to employee contribution levels to the national averages are based on single and family rates respectively, the Commission’s safe harbor policy employee contribution rate of 12 percent should be viewed through the same lens. Accordingly, 12 percent for single rate category and 12 percent for family rate category. The only alternative calculation is to do an overall calculation regardless of which plan the employees are on (total employee contribution regardless of plan divided by total insurance rates paid). This would lead to unintentional results and potentially cause regulated entities to engage in discriminatory or other arbitrary and capricious results. For example, if NKWD had employees contribute 15 percent for family rate (instead of 14 percent), NKWD’s total percentage would be above 12 percent but because the single rates would remain in the single digits, it would go against the Commission’s presumed desired outcome to raise the percentages evenly in line with national averages. Moreover, a change in the utility’s employee demographics of those that take insurance could shift the utilities compliance with the Commission’s threshold.

In the instant matter, NKWD admits that the 12 percent rate was not met for single and will accept the adjustment but contest that the standard was met for the family rate and actually exceeded with a family employee contribution rate of 14 percent. Calculating as such, the adjustment would be \$201,616.83 as illustrated in the table below:

Table 1	NKWD Test Year Actual		Total Insurance Cost = (Employer Contribution % divided by 100) multiplied by Employer Expense	Adjustment to Account for Policy enumerated in Case 2019-00053		Proposed Amended Adjustment = Employer Expense from Test Year minus Adjusted Employer Expense
	Employee Contribution Rate (%) ¹⁰	Employer Expense (\$) ¹¹		Employee Contribution Rate (%)	Employer Expense (\$)	
Single	5	\$ 474,911.00	\$ 499,906.32	22	\$ 389,926.93	\$ 84,984.07

⁹ Id. (emphasis added)

¹⁰ Northern Kentucky Water District’s Response to Staff’s Second Request, Item 13, Part a.

¹¹ Northern Kentucky Water District’s Response to Staff’s First Request, Item 13, Part c.

Employee + Spouse	10	\$ 393,611.00	\$ 437,345.56	22 ¹²	\$ 341,129.53	\$ 52,481.47
Employee + Dependent	9	\$ 449,059.00	\$ 493,471.43	22 ¹³	\$ 384,907.71	\$ 64,151.29
Family	14	\$ 1,719,367.00	\$ 1,999,263.95	14	\$ 1,719,367.00	\$ -
Total		\$ 3,036,948.00 ¹⁴	\$ 3,429,987.25		\$ 2,835,331.17	\$ 201,616.83

For the convenience of the Commission, a copy of the above table and subsequent table are attached in an unprotected spreadsheet marked as Exhibit A. NKWD submits that this proposed adjustment would meet the requirements of “fair, just and reasonable” while maintaining the Commission’s policy of moving regulated entities insurance contributions to the national averages.¹⁵

Third, it is unreasonable to expect NKWD, a local government entity duly formed as special district under KRS Chapter 74, to have employee health insurance contributions set to the national private-sector average of 22 percent for single and 34 percent for single.¹⁶ **The Bureau of Labor Statistics, in the same report the Commission relies, states unequivocally that “Employee benefits in state and local government should not be directly compared to private industry.”¹⁷** Thus, and at a maximum, employee health insurance contribution rate categories below the Commission’s 12 percent threshold for adjustment as applied to NKWD should only be adjusted to national average

¹² For expediency, clarity and convenience, instead of treating this category as part of family (which as such would be entitled no change as total rate with family, employee and spouse, and employee and child would still be above the threshold at 12.56 percent) as done previously in the June 15, 2020 Commission Order in Case 2019-00444, NKWD has taken the liberty to treat as single category since its rate alone is 10% and adjust up accordingly.

¹³ See footnote 11.

¹⁴ See also Northern Kentucky Water District’s Response to Staff’s First Request, Item 30, Exhibit 30-1 (showing unrounded number of \$3,036,947.75).

¹⁵ Case No. 2022-00161, *Electronic Application of Northern Kentucky Water District for an Adjustment of Rates; Issuance of Bonds; Financing; and Tariff Revisions* (Ky. PSC February 8, 2023) Order at 3 (citing KRS 278.030; Pub. Serv. Comm’n v. Com. ex rel. Conway, 324 S.W.3d 373, 377 (Ky. 2010)).

¹⁶ Case No. 2022-00161, *Electronic Application of Northern Kentucky Water District for an Adjustment of Rates; Issuance of Bonds; Financing; and Tariff Revisions* (Ky. PSC February 8, 2023) Order at 6 (citing U.S. Department of Labor, Bureau of Labor Statistics, *National Compensation Survey: Employee Benefits in the United States*, March 2021, Table 11, Medical care benefits: Share of premiums paid by employer and employee, private industry workers, March 2021 (<https://www.bls.gov/ebs/publications/pdf/employee-benefits-in-the-united-states-march-2021.pdf>))

¹⁷ U.S. Department of Labor, Bureau of Labor Statistics, *National Compensation Survey: Employee Benefits in the United States*, March 2021, Technical Notes (Page 563 of pdf), March 2021 (<https://www.bls.gov/ebs/publications/pdf/employee-benefits-in-the-united-states-march-2021.pdf>) (emphasis added).

for state and local government workers which is 14 percent for single and 29 percent for family.¹⁸ Taking the prior table and correcting to the proper interpretation as illustrated in the table below would result in the proper adjustment of \$87,158.00¹⁹:

Table 2	NKWD Test Year Actual		Total Insurance Cost = (Employer Contribution % divided by 100) multiplied by Employer Expense	Adjustment to Account for Policy enumerated in Case 2019-00053 and Accurate Bureau of Labor Statistics Rates		Proposed Amended Adjustment = Employer Expense from Test Year minus Adjusted Employer Expense
	Employee Contribution Rate (%)	Employer Expense (\$)		Employee Contribution Rate (%)	Employer Expense (\$)	
Single	5	\$474,911.00	\$499,906.32	14	\$429,919.43	\$44,991.57
Employee + Spouse	10	\$393,611.00	\$437,345.56	14	\$376,117.18	\$17,493.82
Employee + Dependent	9	\$449,059.00	\$493,471.43	14	\$424,385.43	\$24,673.57
Family	14	\$1,719,367.00	\$1,999,263.95	14	\$1,719,367.00	\$ -
Total		\$3,036,948.00	\$3,429,987.25		\$2,949,789.04	\$87,158.96

Please note in any calculation, the adjustment amount should also be reduced by \$11,948 due to increases in staffing levels to match NKWD’s pro forma adjustment journal entry and as such in Table 2 above would lower the adjustment to \$75,210.96.

Therefore, NKWD respectfully request that the Commission reconsider and amend the adjustment for employee health insurance to \$75,210.96 as outlined herein and adjust rates accordingly as just and reasonable as required by KRS 278.190(3).²⁰

¹⁸ Id. at Table 11. Medical care benefits: Share of premiums paid by employer and employee, state and local government workers, (Page 411 of PDF) March 2021.

¹⁹ This adjustment would take NKWD’s employer contribution to \$2,949,789 which would only be \$10,568 more than the amount recovery was authorized for in NKWD’s last rate case although NKWD had 11 less budgeted employees at the time. Compare Case No. 2018-00291, *Electronic Application of Northern Kentucky Water District for an Adjustment of Rates; Issuance of Bonds; Financing; and Tariff Revisions* (Ky. PSC Mar. 26, 2019), Order at 8); Case 2019-00053; *Electronic Application of Jackson Purchase Energy Corporation for a General Adjustment in Existing Rates* (Ky. PSC June 20, 2019) Order at 7 (authorizing adjustment of \$128,884 and NKWD response to Staff’s Second Request, Item 20 (total health insurance \$2,810,336.78); See also NKWD Response to Staff’s Second Request, Item 12 (showing 11 budgeted employees added).

²⁰ In complete candor with the Commission, NKWD would note that while it did not increase employee contribution rates since the Commission’s last rate case order in 2019, NKWD has been hesitant to increase contribution rates to this point in light of COVID-19 Pandemic and subsequent supply shortages, and a tightening labor market. This has not only been a concern to NKWD management but also our employees as NKWD’s HR Director noted in her on page 3 of her prefiled testimony which was included Exhibit Q2 to the Application, “[d]uring exit interviews, employees have indicated

2. Delay Effective Date of Increased Service Connection Charges.

NKWD respectfully request that the Commission amend and delay the effective date of the increased service connections charges for 5/8 inch and 1 inch meters until NKWD's phase II rates are initiated next year. NKWD would further request that the amounts be amended for administrative convenience to \$1,400 for 5/8 inch service meters and \$2,250 for 1 inch service meters.

In the instant matter, NKWD in its application for a rate adjustment did not propose any revisions to the non-recurring charges.²¹ NKWD submitted the non-recurring charge sheets in response to the Commission's Staff requests for information but did not request any changes from its current nonrecurring charge rates.²² In the February 8, 2023 Order, the Commission *sua sponte* amended NKWD's non-recurring charges increasing 5/8 inch meter connections \$415.52 from \$1,000 to \$1,415.52 and increasing 1 inch meter connections \$771.87 from \$1,500 to \$2,271.87.²³

NKWD acknowledges to the Commission's plenary authority adjust the non-recurring charges for service connections but requests a delay in the effective date of these increased charges as no notice was provided to the public that the non-recurring charges for the service connection would change. Typically, a legal advertisement would notify the public at large of items were a change proposed²⁴ and NKWD would typically go further to notify prominent local stakeholders of changes to the service

that salary and the District's ability to keep up with inflation along with uncertainty of change in benefits is a deciding factor in choosing to leave the District."

²¹ See generally Application.

²² Case No. 2022-00161, *Electronic Application of Northern Kentucky Water District for an Adjustment of Rates; Issuance of Bonds; Financing; and Tariff Revisions* (Ky. PSC February 8, 2023) Order at 14-15; Order at 14-15; Northern Kentucky Water District Response to Staff's First Requests, Item 44, Exhibit 44-1; Northern Kentucky Water District Response to Staff's Second Request, Item 13, Exhibit 13-1.

²³ See Order at 15. Please note that Appendix A, page 2 to the Order list the 5/8 inch meter at a rate of \$1,403.83 which appears to be an unintentional Scrivener's error resulting from a cost justification sheet that a subsequent corrected sheet was submitted.

²⁴ See Case No. 2018-00291, *Electronic Application of Northern Kentucky Water District for an Adjustment of Rates; Issuance of Bonds; Financing; and Tariff Revisions* (Ky. PSC October 29, 2018), Legal Ads and Affidavits (showing amendment for increase in service connection fee).

connection charges, particularly the Northern Kentucky Home Builders Association (“Home Builders Association”) in order to allow for comment and input. As there was no notice, an opportunity for public input or comment was not exercised. Nevertheless, NKWD would request the delayed effective date for the increased service connection charges to allow entities such as the Home Builders Association the opportunity to be put on proper notice and plan accordingly. By delaying until the phase II rates effective date of February 8, 2024, it would give stakeholders and the public at large adequate time to prepare for the increased costs and to amend their business practices accordingly. Otherwise, implementation will likely cause economic hardship to the construction industry as the industry has not had the opportunity to plan for the substantial change in costs.

NKWD would further request that the amounts be amended for administrative convenience to \$1,400 for 5/8 inch service meters and \$2,250 for 1 inch service meters as this would substantially decrease internal labor in invoicing and customer confusion as to the specific amounts owed.

For the reasons mentioned herein, NKWD request that the Commission delay effective date of the increased service connection charges until the date the phase II rates become applicable and amend the service connection charges to \$1,400 for 5/8 inch meters and \$2,250 for 1 inch meters.

3. Amend Usage Rate to Per 100 Cubic Feet

NKWD respectfully request that the Commission amend the usage rates contained in Appendix A and B of the Commission’s February 8, 2023 Order to match the NKWD’s current billing capabilities. NKWD would further ask that rate amounts be as the Commission has done for other utilities.²⁵ Specifically, Appendix A and B of the Order call for billing at a rate of “per cubic foot” and “per gallon.”²⁶

²⁵ See generally, Case 2022-00145, *Electronic Application of Wood Creek Water District for a General Adjustment of Rates*, (KY. PSC December 20, 2022) Order at Appendix A (showing rates at “per 1,000 gallons”); Case 2020-00236, *Electric Purchased Water Adjustment Filing of East Clark County Water District* (Ky. PSC August 13, 2020) Order at Appendix B (same); Case 2020-00178, *Electronic Purchased Water Adjustment Filing of Madison County Utility District* (KY. PSC June 23, 2020) Order at Appendix A (showing rates at “per 100 cubic ft”).

²⁶ Case No. 2022-00161, *Electronic Application of Northern Kentucky Water District for an Adjustment of Rates; Issuance of Bonds; Financing; and Tariff Revisions* (Ky. PSC February 8, 2023) Order at Appendix A and B.

Currently, NKWD bills retail water sales at a rate of “per 100 cubic feet”, wholesale water sales at a rate of “per 1,000 gallons (or) per 100 cubic feet” and bulk at water hauling stations at a rate of “per 1,000 gallons.”²⁷ NKWD requests this change as a overwhelming majority of NKWD’s meters currently read and transmit data at these larger increments. As meters fail or exceed their lifespan, NKWD does replace with new meters capable of readings to the cubic foot but it is expected that entire system will not be to that point for several years as NKWD does not desire to unnecessarily incur the expense to ratepayers otherwise. Moreover, such a change is likely to confuse customers as customers who are acclimated to the current billing usage rate conversions. Therefore, in order to properly calculate usage for customers and minimize customer confusion in switching to new usage calculation method, NKWD requests usage rate conversions are amended to match NKWD’s current rate conversions of “per 100 cubic feet” and “per 1,000 gallons.” Moreover, as part of the adjustment, amend the actual rates to the nearest whole cent as the Commission has done for other water utilities.

For the aforementioned reason, NKWD respectfully request the Commission reconsider and amend the Commission’s February 8, 2023 Order to account for the three issues raised herein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

²⁷ See Northern Kentucky Water District Tariff Sheets 8-9 (Section II-Retail Water Rates).

In accordance with 807 KAR 5:001, Section 8, I certify that this document was submitted electronically to the Public Service Commission on February 24, 2023 and that there are currently no parties that the Public Service Commission has excused from participation by electronic means in this proceeding.

Tom Edge, Esq. (KBA #95534)