

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF)	
BRACKEN COUNTY WATER DISTRICT TO)	CASE NO. 2022-00313
REVISE ITS LEAK ADJUSTMENT POLICY)	

RESPONSE OF BRACKEN COUNTY WATER DISTRICT
TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION

FILED: December 5, 2022

BRACKEN COUNTY WATER DISTRICT

Response to Commission Staff's First Request for Information Case No. 2022-00313

Question No. 1

Responding Witnesses: Diana Moran/Legal Counsel

- Q-1. Refer to the revised proposed leak adjustment policy, Third Revised Sheet No. 21 and Original Sheet No. 21.1**
- a. Explain how Bracken District will verify the existence of leaks and repairs. The response should include each specific step Bracken District will take to verify the existence of leaks and repairs.**
 - b. Explain why plastic pipe for repair of underground water service lines must be certified to withstand a working pressure of 200 pounds per square inch or greater and be CTS pipe.**
 - c. Explain why the use of radiator clamps, King Nipples, or equivalent will not be accepted.**
 - d. Explain why an adjustment shall only cover one billing period.**
 - e. Explain how the provision stating that the customer remains responsible for the full amount of the bill pending review of the customer's request for a leak adjustment complies with 807 KAR 5:006, Section 12.**
- A-1.**
- a. When a completed application form is submitted, Bracken District Staff will review the completed form and attached evidence and exhibits. If the form is incomplete or additional information is required, Bracken District Staff will request additional information while the applicant is at Bracken County Water District's office. If the application was submitted by mail, telephone inquiries will be made to the applicant. The applicant's past usage history will be reviewed to determine if an unusually high level of usage occurred to support the existence of a leak or if the usage fits the customer's historic usage patterns. If a sworn statement from a plumber or contractor is presented, Bracken District Staff may contact that person to obtain additional information regarding the repairs and the nature of the leak. If the applicant performed the repairs, the applicant will be requested to provide proof of the repairs and may be questioned regarding the nature of the repairs. In some cases, an onsite inspection may be performed.
 - b. The service line must meet the minimum accepted standards. Bracken District's Rules and Regulations require that "[a]ll service lines beyond the metering point should be installed of material consisting of copper, PE or PVC pipe with a rating of not less than 160 psi." Revised Sheet No. 24. Repair materials should meet these

standards. Failure to require the same standards increases the risk of additional leaks.

Several water utilities have similar requirements in their filed tariffs. *See, e.g.*, Tariff of Allen County Water District, P.S.C. Ky. No. 1, Original Sheet No. 40; Tariff of Butler County Water System, P.S.C. Ky. No. 2, Original Sheet No. 20a; Tariff of Caldwell County Water District, P.S.C. Ky. No. 1, Original Sheet No. 41; Tariff of Simpson County Water District, P.S.C. Ky. No. 2, Original Sheet No. 29; Tariff of Warren County Water District, P.S.C. Ky. No. 2, Original Sheet No. 25; Tariff of Nicholas County Water District, Leak Adjustment Form.

Bracken District acknowledges that, by requiring the repair materials to have a rating of 200 psi, the standards for repair materials in the proposed leak adjustment policy exceed the present standard of 160 psi for service lines set forth in its Rules and Regulations. It does not object to a revision in the proposed policy that would require repair materials to meet the existing standards for service lines.

- c. The use of these items is less likely to result in a permanent repair of the service line and increases the potential for future leaks.

Several water utilities have similar requirements. *See, e.g.*, Tariff of Estill County Water District, P.S.C. Ky. No. 4, Original Sheet No. 27; Tariff of Henderson County Water District, P.S.C. Ky. No. 4, Original Sheet No. 13; Tariff of Hyden-Leslie Water District, P.S.C. Ky. No. 6, Original Sheet No. 25; Tariff of Bronston Water Association, Leak Adjustment Form; Tariff of Nicholas County Water District, Leak Adjustment Form; Tariff of Western Mason Water District, Leak Adjustment Form.

Should the Public Service Commission have concerns about the reasonableness of this provision, Bracken District does not object to its removal.

- d. Neither KRS Chapter 278 nor Public Service Commission regulations require a water utility to provide for leak adjustment adjustments. In the absence of a leak adjustment policy, KRS 278.160(2) requires a utility to bill the customer for all water usage, even if a portion of that usage is due to a leak. 807 KAR 5:066, Section 12(2) provides that a customer “shall furnish and lay the necessary pipe to make the connection from the point of service to the place of consumption and **shall keep the service line in good repair.**” If a customer fails to keep his or her service line in good repair or the customer’s internal pumping fails, the customer is generally responsible for the water usage resulting from that failure. Accordingly, how often a customer may apply for a leak adjustment and the period to which a leak adjustment will apply is a matter largely within a water utility’s discretion. Several Commission-regulated water utilities have filed tariffs that make no provision of leak adjustments in their tariffs. *See, e.g.*, Tariff of Beech Grove Water System, Inc.; Tariff of Blue Grass Water Utility Operating Company; Tariff of Columbia-Adair County Water District; Tariff of Cumberland Falls Water District.

Bracken District has determined that limiting the adjustment period to one billing period encourages a customer to act promptly to determine the source of the leak and make repairs. Bracken District's billing system allows it to promptly identify customers who are experiencing unusually high usage after meter readings occur. Bracken District employees promptly notify these customers of the high usage and place them on notice of a potential leak. It is the customer's responsibility to act promptly to discover the source of the high usage and take remedial action. To the extent possible, Bracken District will assist the customer in locating the source of the high usage. Permitting the adjustment to cover more than one period, however, shifts some of the cost of a customer's failure to act promptly to the utility and its ratepayers.

Limiting the adjustment period to one billing period is not unreasonable. Bracken District's review of other water utility tariffs shows that the leak adjustment policies of most water utilities contain a similar restriction. Bracken District's current leak adjustment policy permits **only one bill adjustment in a twelve-month period**. When a customer has a leak spanning two billing periods, Bracken District will assist the customer in ascertaining the billing period that is most advantageous to the customer for the adjustment.

- e. While a water utility's refusal to grant a request for leak adjustment may trigger 807 KAR 5:006, Section 12, that regulation is not applicable to a customer's initial request for leak adjustment. The regulation provides: "With respect to a **billing dispute** to which Section 11 of this administrative regulation does not apply, a customer account shall be considered to be current while **the dispute is pending** if the customer continues to make undisputed payments and stays current on subsequent bills." Under the proposed leak adjustment policy, **there is no billing dispute** when the customer makes his or her initial request for leak adjustment. The customer concedes that he or she received the volume of water billed and owes the billed amount but asserts that his or her situation meets the requirements for relief under the proposed leak adjustment policy. Bracken District must determine if the customer meets the requirements for relief. Only if Bracken District denies the requested relief and the customer asserts that the denial was contrary to the policy's terms does a billing dispute exist.

While 807 KAR 5:006, Section 12 does not apply to an application for a leak adjustment, the proposed leak adjustment policy uses a similar framework to protect the customer **and** comply with KRS 278.160(2). Consistent with KRS 278.160(2), the policy states that the customer remains responsible for the volume of water billed at the rate set forth in Bracken District's filed rate schedule pending final review of the customer's application for leak adjustment. While the application is under review, however, the obligation to pay the billed amount is suspended. The policy expressly prohibits any discontinuance of or interference with the customer's service until a final adverse determination is made on the customer's application. If an adverse determination is made, Bracken District issues a bill reflecting that determination and the customer must pay the bill or face

potential termination of service for nonpayment upon proper notice. If the customer disagrees with the determination, he or she may appeal by filing a formal complaint with the Public Service Commission. If such a complaint is filed, a billing dispute exists, and Bracken District must continue to provide service so long as the customer remains current on subsequent bills.

The proposed policy affords the same protections to a customer that 807 KAR 5:006, Section 12 provides. Under the proposed policy, Bracken District can take no action that would terminate a customer's service for nonpayment after the customer has submitted his or her application for leak adjustment until Bracken District issues a final adverse determination on the application. If the customer fails to pay the bill reflecting the final determination, then Bracken District may terminate service if the conditions in 807 KAR 5:006, Section 15(f) are met, and no formal complaint is made to the Public Service Commission. During the time the application is being reviewed, Bracken District may not assess any late payment fees related to the bill for which an adjustment is sought. If an adverse determination is made, Bracken District may not assess any late payment fee on the amount owed unless the customer fails to timely pay the bill reflecting the final determination on the request for leak adjustment.