

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC EMERGENCY DOCKET RELATED) CASE NO.
TO THE NOVEL CORONAVIRUS COVID-19) 2020-00085

ORDER

On April 20, 2020, McCreary County Water District (McCreary District), pursuant to the procedures established in this docket, by electronic mail, requested a deviation from its tariff provision that prohibits reconnection of service when the customer has a pre-existing debt to the district as well as applicable tariff provisions regarding the payment of reconnection fees and deposits.¹ Pertinent to this request, McCreary District's tariff states:

Where the water supply has been turned off because of customer request or has been discontinued for non-payment of delinquent bills, a charge of \$50.00 will be made for reconnection of water service, but the reconnection will not be made until all delinquent bills and other charges, if any, owed by the customer to the district have been paid.

McCreary District requests these deviations to avoid the constructive eviction of a tenant at a rental property.

As grounds for its request, McCreary District provided the following facts:

(1) McCreary District received a request from the owner of a residence that it provides service to discontinue water service to that residence;

¹ A copy of the email is attached as an Attachment to this Order.

(2) The property owner was listed in McCreary District's records as the account holder;

(3) After discontinuing water service to that location as requested by the account holder, McCreary District learned that the property was a rental property and that a tenant was still residing at that location;

(4) The tenant has asserted that the property owner's request for discontinuance of service was part of an effort to evict the tenant from the property;

(5) After being contacted by the tenant, McCreary District offered to provide water service in the tenant's name;

(6) Because the tenant has an outstanding debt for previous water service, McCreary District's tariff requires that before water service may be restored the tenant must pay any existing debt, a reconnection fee and a deposit; and

(7) The tenant has indicated an inability to pay these amounts.

McCreary District asserts that the disconnection occurred after the Commission established this docket and after the entry of Executive Order No. 2020-257. Executive Order 2020-257, among other things, suspended all evictions for residential premises. McCreary District states that not reconnecting service to the tenant violates the spirit, if not the letter, of the Commission's Orders in this docket as well as Executive Order 2020-257. McCreary District states that, if granted deviation from its tariff, it will reconnect the tenant's service upon execution of a payment plan in which the tenant would agree to pay the pre-existing debt, reconnection fee, and deposit over a reasonable period of time, beginning the first month following the termination of the state of emergency declared in Executive Order 2020-215.

The Commission finds that McCreary District has provided good cause to be granted deviation from its tariff provisions that require payment of pre-existing debt, reconnection fees, and deposits, prior to reconnecting service. The property owner's action leading to disconnection of service is effectively constructive eviction.

In this docket the Commission exhorted utilities to be as flexible as possible to avoid disconnection of service,² and McCreary District, by requesting this deviation, is displaying the flexibility and dedication to the wellbeing of its customers that the Commission expects from all utilities during this time. We commend McCreary District's actions to reconnect service and protect the health of its customers and the public during this unprecedented emergency.

IT IS THEREFORE ORDERED that:

1. McCreary District's request is granted.
2. McCreary District is granted deviation from the tariff provisions that require payment of pre-existing debts, reconnection fees, and deposits prior to service being restored.

² We stated:

Most utilities are provided flexibility in their tariffs to offer payment plans or to waive late fees for non-payment. The Commission expects utilities to use this flexibility given the current circumstances for both residential customers and, when necessary or reasonable, businesses. If utilities believe their tariffs or Commission regulations preclude them from ceasing disconnections, waiving or extending the payment of late fees, or any other action that could relieve the hardship that exists due to COVID-19, this docket is available to provide any and all relief sought by those utilities, should the Commission believe such relief is reasonable and in the public interest. If, due to the current state of emergency, a utility finds it necessary to deviate from its tariff or Commission regulations, the utility should file its request with the Commission in this docket.

March 16, 2020 Order at 4.

By the Commission



ATTEST:

A handwritten signature in blue ink, consisting of stylized, cursive letters. The signature is written over a horizontal line.

Executive Director

ATTACHMENT

ATTACHMENT TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2020-00085 DATED APR 21 2020

TWO PAGES TO FOLLOW

From: [Wuetcher, Gerald](#)
To: [PSC-Executive Director](#)
Cc: [Chandler, Kent \(PSC\)](#); [Pinney, Jeb E \(PSC\)](#); [Stephen Whitaker](#)
Subject: Case No. 2020-00085 - Request for A Deviation From Tariff Provisions
Date: Monday, April 20, 2020 4:54:09 PM
Attachments: [image002.png](#)

Mr. Chandler:

In its Order of March 16, 2020 in Case No. 2020-00085, the Public Service Commission (“PSC”) directed all utilities to cease discontinuing service for nonpayment while a declared state of emergency existed in Kentucky. It further urged all utilities to implement their tariffs and regulations liberally to avoid hardship. At page 4 of its Order, it stated:

Most utilities are provided flexibility in their tariffs to offer payment plans or to waive late fees for non-payment. The Commission expects utilities to use this flexibility given the current circumstances for both residential customers and, when necessary or reasonable, businesses. If utilities believe their tariffs or Commission regulations preclude them from ceasing disconnections, waiving or extending the payment of late fees, or any other action that could relieve the hardship that exists due to COVID-19, this docket is available to provide any and all relief sought by those utilities, should the Commission believe such relief is reasonable and in the public interest. If, due to the current state of emergency, a utility finds it necessary to deviate from its tariff or Commission regulations, the utility should file its request with the Commission in this docket. If a formal request for relief from tariffs or regulations is burdensome, utilities may convey information directly to the Commission's Executive Director by electronic mail.

Pursuant to the PSC’s Order of March 16, 2020, McCreary County Water District requests a deviation from its tariff to address the following circumstances. After the issuance of the PSC’s Order of March 16, 2020 and of Executive Order 2020-257, which among other things suspended evictions, McCreary County Water District received a request from the owner of [REDACTED] [REDACTED] to discontinue water service to that residence ([REDACTED]). The property owner was listed in McCreary County Water District’s records as the account holder. After discontinuing water service to that location as requested by the account holder, McCreary District learned that the property was a rental property and that a tenant was still residing at that location. The tenant has asserted that the property owner’s request for discontinuance of service was part of an effort to evict her from the property. After being contacted by the tenant, McCreary County Water District offered to provide water service in the tenant’s name. Because the tenant has an outstanding debt for previous water service, McCreary County Water District’s tariff requires that before water service may be restored the tenant must pay her existing debt, a reconnection fee and a deposit. The tenant has indicated her inability to pay these amounts.

Because it appears the discontinuance of service is contrary to the spirit and possibly the letter of

the PSC's Order of March 16, 2020 and Executive Order 2020-257, McCreary County Water District requests a deviation from its existing tariff to permit water service to be restored to 661 Wilburn K. Ross Highway without immediate payment of the pre-existing debt, the deposit or reconnection but upon the tenant's execution of a payment plan in which she agrees to pay these amounts over a reasonable period of time, with the first payment beginning the first month following the termination of the state of emergency declared in Executive Order 2020-215.

Because of the urgent need to restore water service, McCreary County Water District requests that the Public Service Commission notify McCreary District of its decision on this request as soon as possible. Please contact me by telephone or e-mail if additional information concerning this request is required.

Respectfully,

Gerald Wuetcher
Counsel for McCreary County Water District



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The following message, and any documents or previous e-mails attached to it, may contain confidential information protected by the attorney-client privilege. If it was sent to you in error, do not read it. Please inform the sender that you received it and then delete it. Thank you.

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*McCreary County Water District
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