

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF)	
PENDLETON COUNTY WATER DISTRICT OF)	CASE NO.
AN AMENDMENT TO A SPECIAL CONTRACT)	2020-00158
WITH THE CITY OF BUTLER)	

ORDER

On May 1, 2020, Pendleton County Water District (Pendleton District) submitted a contract through the Commission’s electronic Tariff Filing System between it and the city of Butler (Butler) entitled *Amendment to Water Purchase Contract* (Amended Contract) that purports to amend a contract for the sale of water between Pendleton District and Butler formed on or about May 20, 2000. The Amended Contract states that since the parties entered into the original contract that Butler has made progress reducing its water consumption; that Butler has a need to reduce its minimum bill; and that Pendleton District has a need to increase the rate it charges Butler. The Amended Contract states that Butler’s minimum bill shall be based on 45,000 gallons per day at a rate of \$4.82 per 1,000 gallons and that the rate shall become effective upon approval by the Commission.

The original contract dated May 20, 2000, that the Amended Contract purports to change, established a minimum bill based on a minimum usage of 55,000 gallons per day at a rate of \$2.00 per 1,000 gallons. However, the original contract was not properly filed with the Commission, and Butler has not been charged the minimum bill or the volumetric rate in that contract since at least August 22, 2002. Rather, on August 22, 2002, pursuant to an Order by the Commission, Pendleton District filed a tariff with rates for Butler that

consisted of a minimum bill of \$3,680.42 per month for Butler's first 1,672,917 gallons of usage and a rate of \$2.20 per 1,000 gallons for usage beyond 1,672,917 gallons per month. Since the tariff was filed on August 22, 2002, Pendleton District has periodically increased its rates, including the rate it charges Butler, but Butler's minimum bill has continued to be based on a minimum monthly usage of 1,672,917, which is consistent, on average, with the minimum usage of 55,000 gallons per day in the contract dated May 20, 2000.

Most recently, in Case No. 2019-00310,¹ Pendleton District requested a rate adjustment pursuant to the alternative rate filing procedures set forth in 807 KAR 5:076. Commission Staff issued a report pursuant to 807 KAR 5:076, Section 11, that found, among other things, that Pendleton District's revenue requirement justified a rate for Butler consisting of a minimum bill in the amount of \$7,503.15 and a rate of \$4.48 per 1,000 gallons for any usage in a month over 1,672,917 gallons.² Butler did not file comments disputing the finding in Commission Staff's report despite receiving notice of the rate proceeding, and the Commission adopted the findings in Commission Staff's report and ordered Pendleton District to file a tariff with rates effective as of March 10, 2020, that were consistent with those found to be reasonable in the Order.³

Based on a reference in the contract, the Commission understands that Pendleton District and Butler entered into the Amended Contract to lower Butler's minimum bill based on a decrease in Butler's normal usage. However, neither Pendleton District nor

¹ *Application of Pendleton County Water District for an Alternative Rate Adjustment*, Case 2019-00310, Order (Ky. PSC Mar. 10, 2020).

² *Id.*

³ *Id.*

Butler filed any documents or analysis justifying the rate change. Further, while this change does not currently affect other customers because Pendleton District is a nonprofit entity, the proposed change could ultimately shift some of the cost of serving Butler to other customers through lost water or future maintenance costs if the reduced rate does not cover the costs, including the depreciation and maintenance costs, Pendleton District incurs to serve Butler. Thus, having reviewed the proposed filing and being otherwise sufficiently advised, the Commission finds that further proceedings will be necessary to determine the reasonableness of the Amended Contract and that such an investigation cannot be completed by May 31, 2020.

In order to investigate the reasonableness of the proposed rate change, the Amended Contract is suspended for five months pursuant to KRS 278.190(2), from May 31, 2020, up to and including October 28, 2020, or until the Commission issues a further order in this matter denying the rate adjustment, amending the rate adjustment, or allowing it to go into effect. Because the rate in the Amended Contract is suspended, the rate established in Case No. 2019-00310 for Butler is the effective rate under which service must currently be provided to Butler pursuant to KRS 278.160(2).

To expedite its review of Pendleton District's proposed change in Butler's rates, the Commission has attached, as an Appendix to this Order, requests for information regarding the basis for the proposed change and the costs to serve Butler that should be answered by Pendleton District within 15 days from the date of this Order. Depending on the responses, the Commission may be able to issue a final order regarding the Amended Contract based on those responses, so the Commission will not enter a procedural schedule to review this matter at this time.

As 807 KAR 5:001, Section 8, permits the Commission to direct the use of electronic filing procedures for proceedings that we initiate on our own motion, the Commission finds that electronic filing procedures should be used. As such, Pendleton District shall follow the procedures set forth in 807 KAR 5:001, Section 8, when filing any document or paper in this matter.

IT IS THEREFORE ORDERED that:

1. This proceeding is established to investigate the reasonableness of Pendleton District's proposed Amended Contract.

2. Pendleton District's proposed Amended Contract is suspended for five months, from May 31, 2020, up to and including October 28, 2020.

3. Pendleton District shall file responses to the request for information attached as an Appendix to this Order within 15 days of the date this Order is entered.

4. Unless otherwise ordered by the Commission, the procedures set forth in 807 KAR 5:001, Section 8, related to service and electronic filing of papers shall be followed in this proceeding.

5. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of this Order, Pendleton District shall file by electronic means a written statement that it waives any right to service of Commission Orders by United States mail and that it or its authorized agent possesses the facilities to receive electronic submissions. The paper original shall be filed within 30 days of the ending of the current state of emergency caused by COVID- 19.

6. Unless a party granted leave to intervene states its objection to the use of electronic filing procedures in a motion for intervention, the party shall:

a. Be deemed to have consented to the use of electronic filing procedures and the service of all papers, including Orders of the Commission, by electronic means; and

b. Within seven days of the date of an Order of the Commission granting its intervention, file with the Commission a written statement that:

(1) It, or its authorized agent, possesses the facilities to receive electronic transmissions; and

(2) Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding should be served.

7. If a party objects to the use of electronic filing procedures and the Commission determines that good cause exists to excuse that party from the use of electronic filing procedures, service of documents on that party and by that party shall be made in accordance with 807 KAR 5:001, Section 4(8).

8. a. Responses to requests for information in paper medium shall be appropriately bound, tabbed, and indexed. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked. The paper original shall be filed within 30 days of the ending of the current state of emergency caused by COVID-19.

b. Each response shall include the name of the witness responsible for responding to the questions related to the information provided and shall be answered under oath or, for representatives of a public or private corporation or a partnership or an association or a governmental agency, be accompanied by a signed certification of the preparer or person supervising the preparation of the response on behalf of the entity that

the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

c. A party shall make timely amendment to any prior response if it obtains information which indicates that the response was incorrect when made or, though correct when made, is now incorrect in any material respect.

d. For any request to which a party fails or refuses to furnish all or part of the requested information, that party shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

e. Careful attention should be given to copied material to ensure that it is legible. When the requested information has been previously provided in this proceeding in the requested format, reference may be made to the specific location of that information in responding to this request.

f. Any party filing a paper containing personal information shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the paper so that the personal information cannot be read.

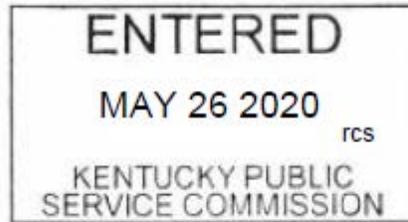
9. As set forth in 807 KAR 5:001, Section 4(11)(a), a person requesting permissive intervention in a Commission proceeding is required to demonstrate either (1) a special interest in the proceeding which is not adequately represented in the case, or (2) that the person requesting permissive intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Therefore, any person requesting to intervene in a Commission proceeding must state with specificity the person's special interest that is not otherwise adequately represented, or the issues and facts that the

person will present that will assist the Commission in fully considering the matter. A mere recitation of the quantity of utility service consumed by the movant or a general statement regarding the potential impact of possible modification of rates will not be deemed sufficient to establish a special interest. If the untimely motion is granted, the movant shall accept and abide by the existing procedural schedule.

10. The Commission does not look favorably upon motions of continuance. Accordingly, motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

11. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

By the Commission



ATTEST:

A handwritten signature in blue ink, consisting of stylized initials and a surname, positioned above a horizontal line.

Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2020-00158 DATED MAY 26 2020

1. Explain in detail each basis for Pendleton District's proposal to adjust Butler's rate as proposed in the Amended Contract.

2. State whether Pendleton District contends that the proposed rate will cover its costs associated with serving Butler, and explain each basis for Pendleton District's response. If Pendleton District does not contend that the proposed rate will cover its costs associated with serving Butler, explain why Pendleton District contends that the rate is justified despite not covering the costs associated with serving Butler.

3. State whether, pursuant to the Amended Contract, Pendleton District contends that Butler's usage above the minimum bill based on 45,000 gallons per day will be determined based on Butler's actual usage each day—such that Butler would be charged the volumetric rate for 1,000 gallons if it used 46,000 gallons in one day despite using less than 44,000 gallons every other day of the billing period—or the usage above the minimum bill based on 45,000 gallons per day will be based on the average daily usage within a billing period—such that Pendleton District would only be charged above the minimum bill, for example, if its usage exceeded 1,350,000 gallons in a billing period that had 30 days.

4. Describe how Pendleton District reads Butler's meter and how often it does so.

5. State whether, pursuant to the Amended Contract, Pendleton District contends that Butler will be charged \$4.82 per 1,000 gallons for usage above the minimum

bill or that Butler will be charged the tariffed rate of \$4.48 per 1,000 gallons for usage above the minimum bill.

6. Identify each of Butler's last 24 billing periods by providing the dates for which service was billed for each period, and provide Butler's usage during each of those billing periods.

7. If Pendleton District contends that Butler's minimum bill will be based on Butler's actual usage each day—such that Butler would be charged the volumetric rate for 1,000 gallons if it used 46,000 gallons in one day despite using less than 44,000 gallons every other day of the billing period—provide Butler's daily usage for the last 24 billing periods.

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