

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF HYDEN-LESLIE COUNTY WATER DISTRICT)	CASE NO.
)	2021-00071

ORDER

On February 4, 2021, Hyden-Leslie County Water District (Hyden-Leslie District) filed with the Commission a completely revised tariff setting forth its rates, rules, and regulations effective March 6, 2021. The Commission suspended the proposed tariff revision on February 25, 2021, for five months, up to and including August 5, 2021. Commission Staff's First Request for Information (Staff's First Request) was issued on March 11, 2021, and Hyden-Leslie District responded on April 2, 2021. An informal conference was held with Commission Staff on April 12, 2021, and in response, Hyden-Leslie District filed a position statement on April 26, 2021.

On May 11, 2021, Hyden-Leslie District filed a motion to substitute tariff sheets to update the billing card to remove a reference to a late payment charge. The Commission finds that the motion should be granted because Hyden-Leslie District does not currently charge a late payment charge.

Hyden-Leslie District's tariff contains a connection/turn-on charge of \$10.44, which was approved in Case No. 2020-00141.¹ However, there is no description of when or how the charge will be assessed. Hyden-Leslie District indicated that the connection/turn-

¹ Case No. 2020-00141, *Electronic Application of Hyden-Leslie County Water District for an Alternative Rate Adjustment* (Ky. PSC Nov. 6, 2020).

on charge would be assessed for a new service turn-on, seasonal turn-on, or temporary service and that it would not be assessed for initial installation of service in cases in which a tap fee is applicable.² The Commission finds that Hyden-Leslie District should add the following to its tariff regarding the connection/turn-on charge: “A connection/turn-on charge will be assessed for a new service turn-on, seasonal turn-on, or temporary service. The charge will not be made for initial installation of service where a meter connection/tap-on charge is applicable.”

Tariff Sheet No. 5:

Hyden-Leslie District made several revisions to its originally filed Tariff Sheet No. 5. The revisions included changes to the language regarding the night deposit box to indicate that payments placed in the night deposit box will be considered received on the business day Hyden-Leslie District retrieves them, instead of on the previous business day as included in the original filing; changes to the section regarding payment by credit cards to remove references to a late payment penalty; and a change to state that the customer who executed the Water Service Contract has primary responsibility, instead of sole responsibility as included in the original filing, for the payment of all charges for service associated with the meter. The Commission finds that the revisions to the night deposit box and credit card payment language should be accepted. For reasons discussed below in this Order in regards to imputed liability language, the Commission finds that the revised statement, that the customer who executed the Water Service Contract has primary responsibility for the payment of all charges instead of sole responsibility as included in the original filing, should be rejected.

² Hyden-Leslie District’s Response to Staff’s First Request (filed Apr. 2, 2021), Item 1.

Tariff Sheet No. 13:

Hyden-Leslie District's Tariff Sheet No. 13, section 9.c., indicates that it will assess a charge to cover the expense of disconnecting service. However, in its responses to Staff's First Request, Hyden-Leslie District later indicates that no charge is assessed for disconnection of service and that the reconnection charge is solely for reconnection costs.³ The Commission finds that the first sentence on Tariff Sheet No. 13, section 9c., should be revised to the following: "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 reconnecting service."

Hyden-Leslie District proposed on Tariff Sheet No. 13, section 9.d., language concerning imputing liability to household members over the age of 18. Hyden-Leslie District later revised the language concerning imputed liability to the following:

9.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 Applicant/Customer under whose name service was originally provided is a member of the household of the person subsequently requesting water service.⁴

³ Hyden-Leslie District's Response to Staff's First Request, Item 2.

⁴ Position Statement at 6.

In its position statement, Hyden-Leslie District claims it requires imputed liability in order to effectively collect monies due for service rendered.⁵ Hyden-Leslie District argues that the Commission has permitted this in other instances. However, the cases cited by Hyden-Leslie District all contained provisions requiring proof of agency in order to impute liability.⁶ The revision proposed by Hyden-Leslie District does not require any proof of agency in order to hold a person liable for past-due balances, yet instead intends to hold all members of the household 18 years or older jointly and severally liable for payment of services rendered to a location while they reside there. As each decision by the Commission is based on independent facts, the Commission finds here that Hyden-Leslie District's provision for imputed liability and joint and several liability is too ambiguous and potentially too far-reaching in the ability to deny service to persons who are not acting as an agent for a delinquent customer and the ability to hold those persons responsible for past-due balances. Accordingly, the Commission rejects the imputed liability provision.

Tariff Sheet No. 17

Hyden-Leslie District proposed on Tariff Sheet No. 17, section 11.j., language concerning limiting the provision of service. The language reads:

11.j. No meter shall 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.

⁵ *Id.* at 2.

⁶ *Id.*, citing 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).

In its position statement, Hyden-Leslie District maintains its legal duty is to provide service, if service can be *reasonably* extended.⁷ Hyden-Leslie District provides no example of what would constitute a condition preventing the district from delivering 30 psi that would be unduly burdensome to the district to correct beyond stating that if the expense to provide adequate service was “far beyond the revenue generated by the extension” then the extension would not be reasonable. The Commission recently approved alternate language,⁸ which the Commission finds will better ensure that all customers requesting service from Hyden-Leslie District will reasonably be provided pressure of at least 30 psi. The Commission finds that Hyden-Leslie District’s proposed language should be replaced with the following:

1. Any applicant for water service that meets all conditions of service set forth in the District’s filed rate schedules shall be permitted to connect to the District’s water distribution system so long as the District is able to provide water service at a pressure of at least 30 psig at the point of connection of the customer’s service line and the District’s facilities (“the customer’s meter”).
2. If the District is unable to provide water service to an applicant for service at a pressure of at least 30 psig at the customer’s meter but can do so if an individual pump is installed on the customer’s side of the point of connection, the District shall at its own expense install such a pump and shall be responsible for the pump’s maintenance and repair. If an installed pump fails and such failure is not the result of the customer’s negligence or willful misconduct, the District shall at its own expense replace the failed pump and shall be responsible for the replacement pump’s maintenance and repair.
3. If the District is unable to continue providing water service to an existing customer at a pressure of at least 30 psig at

⁷ *Id.* at 3.

⁸ See Green River Valley Water District Rates & Charges & Rules & Regulations for Furnishing Water Service at Hart, Barren, Larue, Green and Metcalfe Counties Kentucky (revised December 4, 2020).

the meter but can do so if an individual pump is installed on the customer's side of the point of connection, it shall at its own expense install such a pump and shall be responsible for the pump's maintenance and repair. If an installed pump fails and such failure is not the result of the customer's negligence or willful misconduct, the District shall at its own expense replace the failed pump and shall be responsible for the replacement pump's maintenance and repair.

Water User Agreement

Hyden-Leslie District has also filed a revised Water User Agreement (All Users), which removed a question asking for marital status of the applicant, a question asking for the maiden name of the applicant, and a question asking for the spouse's name that was on the original filing, but requests the applicant provide the following information:

- Driver's license number
- Telephone number
- Copy of rental agreement
- Landlord phone number
- Number of people residing at service address
- Names of household members 18 years of age or older
- Do you or any of the adult household members owe the District for water service furnished at the service address or another address?

While the Commission finds that a driver's license number, telephone number, copy of rental agreement and a landlord's phone number are all standard requests for information from potential customers in tariffs on file with the Commission, the questions regarding number of persons residing at an address, names of household members 18 years of age or older, and whether any of the adult household members owe the district for water service furnished at the service address or another address are unnecessary for the provision of service to potential customers and should be stricken from the Water User Agreement (All Users). It should also be noted that Hyden-Leslie District's original filing included a Water Service Agreement (New Service Installation), which asked for the

name of the spouse of the applicant. The Water Service Agreement (New Service Installation) was not revised to remove the name of the spouse of the applicant. The Commission finds that the Water Service Agreement (New Service Installation) should be revised to remove the name of the spouse of the applicant.

Tariff Sheet No. 3:

Hyden-Leslie District included a provision on Tariff Sheet No. 3, section 3.b., that a change in identity shall require a new contract for service. The language reads:

3.b. Any change in the identity of the Customer at a Premises requires a new contract for water service. The District may, after reasonable notice, discontinue water service until a new contract for service has been executed.

The Commission likewise finds that this provision should be rejected as unnecessary for the continued provision of service to its customers. Customers are obligated pursuant to the tariff to continue payments for service, regardless of any change in identity.⁹ While the Commission agrees that customers are still held accountable for payments for service upon any change in identity pursuant to the tariff, a new contract should not be required, or discontinuation of service allowed, due only to this circumstance.

Bill Allocation:

⁹ Other provisions in Hyden-Leslie District's tariff obligate customers to pay for services regardless of any change in identity. See Hyden-Leslie County Water District Rates, Charges, Rules, Regulations (filed Feb. 4, 2021), Original Sheet No. 3, 3.c. ("A Customer contracting for water service with the District, is responsible for payment of all water service furnished to the Premises until such time as the Customer properly notifies the District to discontinue the service for his/her account at the Premises"); and Sheet 4, 4.b. ("All bills for water and service are due and payable when rendered and are considered delinquent if not paid in accordance with this Tariff and the Commission's regulations. Failure to pay will render the Customer subject to disconnection and subject to payment of reconnection fee in Tariff. If any bill for water service is not paid in accordance with this Tariff, the District may discontinue service in accordance with these Rules and Regulations.").

Hyden-Leslie District further proposed language in its tariff regarding customers being able to allocate bills to others as long as the sum of such allocations do not exceed the total amount billed. The Commission recently rejected similar language from Duke Energy Kentucky, Inc. (Duke Kentucky) proposed in Case No. 2018-00261.¹⁰ The Commission noted therein that, “[a]bsent monitoring of the allocation process . . . those residing in condominiums and apartments with master meters would have no assurance that their allocated share of the gas bill is accurate and does not represent a resale of service at a profit.”¹¹ The Commission later approved a special contract proposed by Duke Kentucky in Case No. 2020-00375,¹² with the condition that allocations would be monitored three times per year, twice during the peak season and once during the summer.¹³

Hyden-Leslie District indicates that it does not currently monitor such allocations as its tariff does not currently include a prohibition against resale of water. While the revised tariff does prohibit resale of water except for water sold to a water utility for resale, Hyden-Leslie District indicates that it does not plan to monitor such allocations. In order to maintain consistency and in order to address its concerns expressed in previous

¹⁰ Case No. 2018-00261, *Electronic Application of Duke Energy Kentucky, Inc. for Authority to 1) Adjust Natural Gas Rates 2) Approval of a Decoupling Mechanism 3) Approval of New Tariffs 4) and for All Other Required Approvals, Waiver, and Relief* (Ky. PSC Mar. 27, 2019).

¹¹ *Id.* at 17.

¹² Case No. 2020-00375, *Electronic Tariff Filing of Duke Energy Kentucky, Inc. of a Written Consent of Sub-Metering with Skypoint Condominium Owners Association, Inc.* (Ky. PSC Feb. 25, 2021).

¹³ Duke Kentucky ultimately rejected this requirement, and therefore, the Commission’s direction still stands that, if they were unwilling to commit to such monitoring, the language regarding allocation of bills is unreasonable and must be removed from the tariff.

cases,¹⁴ the Commission finds that Hyden-Leslie District shall be required to perform the same monitoring of allocating bills three times per year, twice during the peak season, or summer, and once during the winter. If Hyden-Leslie District is unwilling to commit to such monitoring, the Commission finds that the language regarding allocation of bills to others is unreasonable and that it should be removed from Hyden-Leslie District's tariff. Such language expressly authorizes the allocation of bills by master-metered customers to others without any monitoring of the allocation process by Hyden-Leslie District. Absent monitoring of the allocation process, those being allocated such bills would have no assurance that their allocated share of the bill is accurate and does not represent a resale of service at a profit.

IT IS THEREFORE ORDERED that:

1. Hyden-Leslie District's motion to substitute tariff sheets to update its billing card to remove reference to the late payment charge is granted.
2. Hyden-Leslie District's revision to its original filing regarding the night deposit box and credit card payment language is approved.
3. Hyden-Leslie District's revision to its original filing regarding the customer having primary responsibility, instead of sole responsibility as included in the original filing, for payment of all charges is denied.
4. Hyden-Leslie District shall add the following to its tariff regarding the connection/turn-on charge: "A connection/turn-on charge will be assessed for a new

¹⁴ See also Case No. 2020-00349, *Electronic Application of Kentucky Utilities Company for an Adjustment of its Electric Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit* (Ky. PSC June 30, 2021); Case No. 2020-00350, *Electronic Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit* (Ky. PSC June 30, 2021).

service turn-on, seasonal turn-on, or temporary service. The charge will not be made for initial installation of service where a meter connection/tap-on charge is applicable.”

5. Hyden-Leslie District shall revise the first sentence of Tariff Sheet No. 13, section 9.c., to the following: “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 reconnecting service.”

6. Hyden Leslie District shall strike from its Tariff Sheet No. 13, section 9.d., language regarding imputed liability.

7. Hyden-Leslie District’s Tariff Sheet No. 17, section 11.j., language concerning limiting the provision of service shall be replaced with the following language:

1. Any applicant for water service that meets all conditions of service set forth in the District’s filed rate schedules shall be permitted to connect to the District’s water distribution system so long as the District is able to provide water service at a pressure of at least 30 psig at the point of connection of the customer’s service line and the District’s facilities (“the customer’s meter”).
2. If the District is unable to provide water service to an applicant for service at a pressure of at least 30 psig at the customer’s meter but can do so if an individual pump is installed on the customer’s side of the point of connection, the District shall at its own expense install such a pump and shall be responsible for the pump’s maintenance and repair. If an installed pump fails and such failure is not the result of the customer’s negligence or willful misconduct, the District shall at its own expense replace the failed pump and shall be responsible for the replacement pump’s maintenance and repair.
3. If the District is unable to continue providing water service to an existing customer at a pressure of at least 30 psig at the meter but can do so if an individual pump is installed on the customer’s side of the point of connection, it shall at its own expense install such a pump and shall be responsible for the pump’s maintenance and repair. If an

installed pump fails and such failure is not the result of the customer's negligence or willful misconduct, the District shall at its own expense replace the failed pump and shall be responsible for the replacement pump's maintenance and repair.

8. Hyden-Leslie District shall strike from its Water User Agreement (All Users) the requests for number of persons residing at an address, names of household members 18 years of age or older, and whether any of the adult household members owe the District for water service furnished at the service address or another address.

9. Hyden-Leslie District shall strike from its Water User Agreement (New Service Installation) the request for the name of the spouse of the applicant.

10. Hyden-Leslie District shall strike from its Tariff Sheet No. 3, section 3 b., the requirement of a new contract upon the change of identity of a customer.

11. Hyden-Leslie District shall be required to perform monitoring of allocating bills three times per year, twice during the summer and once during the winter. If Hyden-Leslie District is unwilling to commit to such monitoring, the language regarding allocation of bills shall be removed from Hyden-Leslie District's tariff.

12. Within 20 days of the date of entry of this Order, Hyden-Leslie District shall file a written statement as to whether it will agree to monitor allocations three times per year, twice during the peak summer season and once during the winter.

13. Except for the provisions that have been modified or denied herein, Hyden-Leslie District's proposed tariff is approved as filed.


14. Within 20 days of the date of this Order, Hyden-Leslie District shall file with the Commission, using the Commission's electronic Tariff Filing System, its revised tariffs as set forth in this Order reflecting that they were approved pursuant to this Order.

15. This case is hereby closed and removed from the Commission's Docket.

By the Commission

ENTERED
AUG 04 2021
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KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



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