

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

ORDER

This matter is before the Commission upon an application for rehearing filed by Hyden-Leslie County Water District (Hyden-Leslie District) on August 27, 2021, in which Hyden-Leslie District requests rehearing of the Commission's final Order issued on August 4, 2021.¹ The Commission's August 4, 2021 Order, among other things ordered Hyden-Leslie District to strike from its proposed Tariff Sheet No. 13, Rule 9.d, which imputed joint and several liability for payment of water services to all adult members of a household, and permitted Hyden-Leslie District to deny a request for water service to any adult applicant who had lived in a household with a delinquent customer, if the delinquent customer was to reside with the applicant for water service.² Additionally, the Commission's August 4, 2021 Order required Hyden-Leslie District to (1) replace its Tariff Sheet No. 17, Rule 11.j governing meter placement with language that the Commission recently approved regarding meter placement;³ (2) strike from its Tariff Sheet No. 3, Rule

¹ KRS 278.400 permits any party to a proceeding to apply to the Commission for rehearing with respect to the issues determined within 20 days of the service of the Commission's order. Service of a Commission Order is complete three days after the date the order is mailed. Hyden-Leslie District's application for rehearing was timely filed.

² Order (Ky. PSC Aug. 4, 2021) at 10.

³ *Id.*

3.b, which required a new contract for water service upon the change of identity of a customer;⁴ and (3) strike from its Water User Agreement the request for the number of persons residing at an address, names of household members 18 years of age or older, and whether the adult household members owe Hyden-Leslie District for water service furnished at the service address or another address.⁵

Hyden-Leslie District seeks rehearing to request that the Commission (1) consider a revision, which Hyden-Leslie District proposes, to the language of Rule 9.d;⁶ (2) rescind its Order imposing substitute language for Rule 11.j, and approve Rule 11.j as originally proposed;⁷ (3) reverse its decision to strike Rule 3.b.;⁸ and (4) modify its Order to permit Hyden-Leslie District to include on its Water User Agreement a request that an applicant for service identify any adult household members who are indebted to Hyden-Leslie District for water service at any address.⁹

In support of its application, as it relates to the proposed revision of Rule 9.d, Hyden-Leslie District maintains that the revision it is now proposing permits Hyden-Leslie to refuse service only if an applicant is acting as an agent for a delinquent customer.¹⁰ Hyden-Leslie District also argues that in order to ascertain whether an applicant is acting as an agent for a delinquent customer, to meet its fiscal responsibility to collect unpaid

⁴ *Id.* at 11.

⁵ *Id.*

⁶ Application for Rehearing at 2–4.

⁷ *Id.* at 4–9.

⁸ *Id.* at 10–11.

⁹ *Id.* at 9–10.

¹⁰ *Id.* at 3.

debts, and to ensure that no customer is given an unreasonable preference or advantage, it must be permitted to request that an applicant for service identify, on the Water User Agreement, any adult household members who are indebted to the District for water service.¹¹

Further, in regards to the Commission's Order as it relates to Rule 11.j, Hyden-Leslie District states that the language the Commission ordered it to substitute for Rule 11.j would subject Hyden-Leslie District to administrative action from the Department of Environmental Protection, and appears to conflict with Kentucky Division of Water regulations.¹² Hyden-Leslie District also argues that the Commission exceeded its legal authority by striking Rule 11.j without finding the proposed rule was unjust, unreasonable, unsafe, improper, inadequate, or insufficient.¹³ Hyden-Leslie District claims that by providing substitute language for Rule 11.j, the Commission was modifying Hyden-Leslie District's existing methods and ordering a substitute method without holding a hearing, which is in contravention to KRS 278.280(1) and the District's right to due process.¹⁴

Hyden-Leslie District states that the Commission misinterpreted the phrase "change in identity" that appeared in the proposed Rule 3.b.¹⁵ Hyden-Leslie District maintains that the phrase was intended to convey the idea that an existing customer vacated or departed the premises and was then replaced by another person.¹⁶ Hyden-

¹¹ *Id.*, at 9–10.

¹² *Id.*, at 4, and 8.

¹³ *Id.* at 6–9.

¹⁴ *Id.*

¹⁵ *Id.* at 10–11.

¹⁶ *Id.*

Leslie District states that Rule 3.b was intended to address a change in possession or legal ownership of the premises to which water service is provided.¹⁷ Hyden-Leslie District maintains that it must know the identity of its customers for billing and collection purposes, and that this information is obtained through the Water User Agreement.¹⁸

The Commission notes that Hyden-Leslie District participated in an Informal Conference with Staff on April 12, 2021, and that a memorandum discussing the purpose of that conference and the issues that the conference addressed was filed into the record of this proceeding on April 15, 2021. The informal conference memorandum, as well as the position statement filed by Hyden-Leslie District on April 26, 2021, indicate that Hyden-Leslie District was aware of the issues upon which the Commission would base its decision concerning Hyden-Leslie District's proposed tariff.¹⁹ On May 11, 2021, Hyden-Leslie District filed a motion requesting the Commission to close this proceeding, declare the matter submitted for decision, and proceed to make a decision on the proposed tariff.

Having considered the application and being otherwise sufficiently advised, the Commission finds that Hyden-Leslie District has established good cause to permit rehearing for the purpose of investigating the merits of the issues raised in Hyden-Leslie District's motion.

IT IS THEREFORE ORDERED that:

¹⁷ *Id.*

¹⁸ *Id.* at 11.

¹⁹ The four-page position statement filed by Hyden-Leslie District on April 26, 2021, acknowledges Commission Staff discussed the proposed tariff with Hyden-Leslie District in regards to imputed liability and refusal of service based on Hyden-Leslie District's inability to provide 30 psi to a potential customer within its territory, which is evidence Hyden-Leslie District was aware of the issues of concern to the Commission.

1. Hyden-Leslie District's application for rehearing is granted.
2. The procedural schedule set forth in the Appendix to this Order shall be followed for the processing of this matter on rehearing.
3. All other provisions of the final Order not in conflict with this Order shall remain in full force and effect.

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By the Commission



ATTEST:


Executive Director

Case No. 2021-00071

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00071 DATED SEP 15 2021

Initial requests for information to Hyden-Leslie
shall be filed no later than.....09/23/2021

Hyden-Leslie District shall file responses
to initial requests for information no later than.....10/07/2021

Any supplemental requests for information to
Hyden-Leslie District shall be filed no later than.....10/21/2021

Hyden-Leslie District shall file responses
to supplemental requests for information no later than.....11/04/2021

Hyden-Leslie District shall request a hearing or that
the case be submitted for a decision based on the record no later than.....11/09/2021

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