

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF BREATHITT)	CASE NO.
COUNTY WATER DISTRICT FOR A RATE)	2022-00136
ADJUSTMENT PURSUANT TO 807 KAR 5:076)	

ORDER

This matter arises from Breathitt County Water District's (Breathitt District) request to deviate from filing requirements to provide customer notice of its application tendered, pursuant to 807 KAR 5:076, seeking an alternative rate adjustment.

Breathitt District requested to deviate from "publishing the Public Notice" of the alternative rate adjustment (ARF) application but did not cite to the specific regulations that are the subject of the utility's request. For that reason, the Commission will address all relevant notice regulations.

LEGAL STANDARD

As a threshold matter, 807 KAR 5:076, Section 17 provides that the Commission may permit deviations from the regulations contained in 807 KR 5:076 upon a showing of good cause.

Commission regulation 807 KAR 5:076, Section 4(1)(g) provides that an ARF application include a copy of the notice of the proposed rate change that was provided to the utility's customers.

Commission regulation 807 KAR 5:076, Section 5 sets forth the manner and content for providing customer notice of an ARF application. Relevant here, 807 KAR

5:076, Section 5(1) states that a utility must post notice of that application at its place of business and on its website, if the utility has a website. Commission regulation 807 KAR 5:076, Section 5(2) states that a utility like Breathitt District must provide customer notice by one of four options: (1) in customer bills; (2) mailing written notice to each customer; (3) publishing notice once a week for three consecutive weeks in a newspaper of general circulation in the utility's service area; and (4) publishing notice in a trade publication or newsletter delivered to all customers. Further, 807 KAR 5:076, Section 5(2)(a)-(b) require that notice be provided to customers on or before the date that the utility submits its ARF application to the Commission.

BACKGROUND

On June 13, 2022, Breathitt District tendered an ARF application that was rejected for filing under 807 KAR 5:076, Section 9, which requires the test year for the proposed rates coincide with the reporting period of the applicant's annual report for the immediate past year. Breathitt District used the 2020 annual report data as the basis of its ARF application, but its most recent annual report filed with the Commission was for the 2021 calendar year. By Order entered on July 25, 2022, the Commission held the case in abeyance to permit Breathitt District to file an ARF application based upon the 2021 calendar year.

Breathitt District tendered an ARF amended application on March 15, 2023, which was based upon its most recent annual report filed with the Commission for the 2021 calendar year. In the amended application, Breathitt District requested to deviate from the requirement to provide customers with notice of the ARF amended application, arguing that the notice was provided when the initial application was filed and, with the

revised revenue requirement based upon the 2021 test year, that Breathitt District requested a rate increase that was less than one percent below what was requested in the initial application for which customers already received notice.

Because Breathitt District requested to deviate from customer notice filing requirements, a determination whether the amended application is accepted for filing and the deemed filed date is predicated on the Commission entering an Order granting the deviation. By letters issued on April 4, 2023, and April 17, 2023, Breathitt District's amended application was rejected for filing for deficiencies other than the customer notice deviation. On April 17, 2023, Breathitt District filed necessary documents to cure those filing deficiencies; however, the amended application cannot be accepted for filing until the customer notice deviation is addressed.

DISCUSSION AND FINDINGS

Having reviewed the request to deviate from customer notice filing requirements and the case record, and being otherwise sufficiently advised, the Commission finds that Breathitt District has not established good cause to grant the deviation and the Commission, and therefore the request to deviate from customer notice filing requirements should be denied. This is because the utility's customers have not received notice of the amended application. That the proposed increase is one percent less than what was requested one year ago is not controlling. Customers must receive timely notice of a proposed rate increase that will be considered by the Commission, especially when the application may be processed one year after the notice was initially provided. Here, the updated revenue requirement using the correct annual reporting

data and the proposed rate increased changed and customers are entitled to receive notice that the proposed rate increase will be evaluated by the Commission.

Because the request to deviate from customer notice is denied, Breathitt District's amended application cannot be accepted for filing until customer notice is provided that complies with 807 KAR 5:076, Section 5. For that reason, Breathitt District is required to provide customer notice of the proposed rate increase and to provide the Commission with evidence of the customer notice.

IT IS THEREFORE ORDERED that:

1. Breathitt District's request for a deviation from customer notice requirements for an ARF application is denied.
2. Breathitt District shall publish notice pursuant to 807 KAR 5:076, Section 5(1) and (2).
3. Breathitt District's amended ARF application is rejected for filing.

PUBLIC SERVICE COMMISSION



Chairman



Vice Chairman



Commissioner



ATTEST:



Executive Director

*Breathitt County Water District
1137 Main Street, Suite 305
Jackson, KY 41339

*Estill McIntosh
Superintendent
Breathitt County Water District
1137 Main Street, Suite 305
Jackson, KY 41339

*David P. Foster
Rural Community Assistance Partnership
101 Burch Court
Frankfort, KENTUCKY 40601