

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF MOUNTAIN)	CASE NO.
WATER DISTRICT FOR A GENERAL)	2022-00366
ADJUSTMENT OF WATER RATES)	

ORDER

On February 23, 2023, Mountain Water District (Mountain District) filed a motion pursuant to Commission regulation 807 KAR 5:001E, Section 22 requesting deviation from the notice requirements found in Commission regulation 807 KAR 5:001E, Section 17(2)(b)(3) and 807 KAR 5:001E, Section 17(4)(a). Read in conjunction, these Commission regulations require a utility to publish notice of its proposed rates, with the proposed effective date of those rates included, to its customers once per week for three consecutive weeks in a prominent manner in a newspaper of general circulation in the utility's service area.

BACKGROUND

On February 18, 2023, Mountain District tendered an application to adjust its water service rates and to assess a water infrastructure improvement surcharge.¹ On February 22, 2023, the Commission issued a letter to Mountain District, noting two deficiencies. First, certain documents included in Mountain District's application were not search capable and therefore not compliant with 807 KAR 5:001E, Section 8(4)(b). Second, Mountain District's customer notice did not provide the proposed effective date for its

¹ Application.

water service rates to go into effect; and therefore, Mountain District's application did not comply with 807 KAR 5:001E, Section 17(4)(a).

On February 23, 2023, Mountain District filed a revised application, curing the deficiencies with respect to 807 KAR 5:001E, Section 8(4)(b). On that same date, Mountain District also filed a motion, pursuant to 807 KAR 5:001E, Section 22, requesting a deviation from the Commission requirement to publish customer notice of its proposed water service rates once per week for three consecutive weeks in a newspaper of general circulation in Mountain District's service area.

In support of its motion, Mountain District argued that it already published its substantially compliant public notice on February 17, 2023, in the *Appalachian News-Express*, the newspaper of general circulation in Mountain District's service territory.² Mountain District further argued that the only issue with respect to the February 17, 2023 notice was that it did not include the proposed effective date for its water service rates, but it did include a proposed effective date of March 20, 2023, for its water surcharge and sewer service rates. Mountain District stated that the updated notices to be published on February 24, 2023, and March 3, 2023, in the *Appalachian News-Express* would include the proposed effective date of March 20, 2023, for Mountain District's proposed water service rates. Mountain District reasoned that it provided additional notice to its customers by causing an article to be published in the *Appalachian News-Express* on February 17, 2023, notifying Mountain District's customers of the proposed water service rate adjustment, in addition to the notice required by Commission regulation.³

² Motion for Approval to Deviate from 807 KAR 5:001, Section 17(4) (filed Feb. 23, 2023) at 1.

³ Application at 3.

LEGAL STANDARD

Commission regulation 807 KAR 5:001E, Section 22 provides, “[i]n special cases, for good cause shown, the commission may permit deviations from these rules.” Accordingly, the Commission may grant a deviation from the procedural requirements in 807 KAR 5:001E, Section 17(2)(b)(3) and 807 KAR 5:001E, Section 17(4)(a) if Mountain District establishes good cause for deviation.

DISCUSSION AND FINDINGS

Having reviewed the motion and being otherwise sufficiently advised, the Commission finds that Mountain District has provided good cause, as required by Commission regulation 807 KAR 5:001E, Section 22, and Mountain District’s motion for a deviation should be granted.

In Case No. 2017-00349, the Commission granted a deviation from a similar notice regulation, 807 KAR 5:011, Section 8(2)(b)(3), after finding an error in the original notice.⁴ In that case, the Commission allowed the utility to publish the correct, cured notices for two weeks instead of the three weeks required by 807 KAR 5:011, Section 8(2)(b)(3). 807 KAR 5:001, Section 17(2)(b)(3), which is the regulation at issue in this case, is nearly identical to 807 KAR 5:011, Section 8(2)(b)(3).

Mountain District has demonstrated that the notice published on February 17, 2023, in the *Appalachian News-Express* substantially complied with the procedural requirements of 807 KAR 5:001E, Section 17(4)(a). While that notice did not include the proposed effective date of Mountain District’s newly proposed water service rates, the

⁴ Case No. 2017-00349, *Electronic Application of Atmos Energy Corporation for a General Adjustment in Rates* (Ky. PSC Oct. 11, 2017) at unnumbered page 2.

February 17, 2023 notice did provide customers of Mountain District's pending application before the Commission, customers' ability to comment on the pending application, and customers' ability to request intervention.⁵ Mountain District's February 17, 2023 notice complied with every other requirement in 807 KAR 5:001E, Section 17(4) other than the one portion of 807 KAR 5:001E, Section 17(4)(a), which required notice of the proposed effective date of Mountain District's proposed adjusted water service rates. The February 17, 2023 customer notice did provide the proposed effective date of March 20, 2023, for Mountain District's proposed water infrastructure improvement surcharge and sewer service rate. Mountain District has provided an amended customer notice that cures the deficiency noted above and which will be published in the *Appalachian News-Express* on February 24, 2023, and March 3, 2023. Accordingly, the Commission finds that Mountain District's motion for a deviation should be granted because publishing the corrected notices two times, rather than three, is sufficient to inform Mountain District's customers of their right to comment on this proceeding.

The Commission further finds that with the granting of this motion and all other deficiencies in the application having been cured, Mountain District's application should be deemed filed as of February 23, 2023.

IT IS THEREFORE ORDERED that:

1. Mountain District's motion for a deviation from the procedural requirements of 807 KAR 5:001E, Section 17(2)(b)(3) and 807 KAR 5:001E, Section 17(4)(a) is granted.
2. Mountain District's application shall be deemed filed as of February 23, 2023.

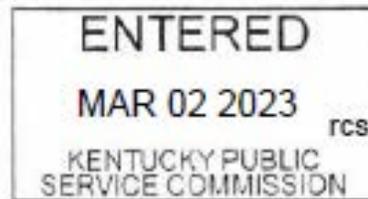
⁵ 807 KAR 5:001E, Section 17(4)(g) and (i).

PUBLIC SERVICE COMMISSION


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