

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF MORGAN)	CASE NO.
COUNTY WATER DISTRICT FOR A RATE)	2024-00010
ADJUSTMENT PURSUANT TO 807 KAR 5:076)	

ORDER

This matter arises on Morgan County Water District's (Morgan District) motion for emergency interim rate increase. Morgan District requested an emergency hearing, pursuant to KRS 278.190(2), to show the need for an emergency interim rate increase and requested a deviation from the notice requirement required by 807 KAR 5:076, Section 12(3), pursuant to 807 KAR 5:076, Section 17.

LEGAL STANDARD

KRS 278.190(2) states, in relevant part,

[P]rovided, however, if the commission, at any time, during the suspension period, finds that the company's credit or operations will be materially impaired or damaged by the failure to permit the rates to become effective during the period, the commission may, after any hearing or hearings, permit all or a portion of the rates to become effective under terms and conditions as the commission may, by order, prescribe.

Commission regulation 807 KAR 5:076 Section 12 - Notice of Hearing states:

- (1) If the commission orders a hearing, the applicant shall publish in a newspaper or mail to the applicant's customers notice of the hearing.
- (2) The notice shall state the purpose, time, place, and date of the hearing.
- (3) Newspaper notice shall be published once in a newspaper of general circulation in the applicant's service area no fewer

than seven (7) and no more than twenty-one (21) days prior to the hearing.

(4) Mailed notices shall be mailed at least fourteen (14) days prior to the date of the hearing.

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

BACKGROUND

On March 15, 2024, Morgan District tendered an application requesting to adjust its rates for water service pursuant to the alternative rate adjustment procedure for small utilities as set out in 807 KAR 5:076. By letter dated March 20, 2024, the Commission rejected the application for filing deficiencies. The deficiencies were subsequently cured, and the application was deemed filed on March 22, 2024.

On March 22, 2024, Morgan District filed a motion requesting an emergency hearing to allow it to present evidence to show the need for an emergency interim rate increase and for the Commission to grant a deviation from the notice requirements of 807 KAR 5:076, Section 12(3). Morgan District requested to implement a 25.3 percent increase of rates at the earliest date possible, subject to refund, to meet the debt service requirements of its lenders.¹ Morgan District asserted that it needs to implement an interim rate increase to “break-even”, and that would allow Morgan District to meet its debt service requirements.² On March 27, 2024, Morgan District filed supplemental profit-loss statements for the months of January, February, and March 2024.

¹ Morgan District’s Verified Motion for Emergency Interim Rate Increase (Interim Rate Increase Motion) (filed Mar. 22, 2024) at unnumbered page 1.

² Morgan District’s Interim Rate Increase Motion at unnumbered page 2.

Morgan District also requested the Commission grant a deviation from the notice requirement of 807 KAR 5:076, Section 12(3)³ and find that the publishing of a hearing notice on its website, posting on its social media account, and posting at its office satisfies the hearing notice. As a basis for the request, Morgan District stated there is good cause to deviate from 807 KAR 5:076, Section 12(3) due to the emergency nature of the request for interim rates.⁴ It additionally stated that the large number of public comments in this matter and the public awareness noted in newspapers and at the Morgan District Board meeting on March 11, 2024, indicate the effectiveness of the February 2024 customer notice related to the rate increase as a basis to grant the deviation.⁵

DISCUSSION

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that Morgan District's motion for an emergency hearing pursuant to KRS 278.190(2) should be granted. Pursuant to KRS 278.190(2), the Commission can only make a finding whether Morgan District's credit or operations will be materially impaired or damaged by the failure to permit rates once a hearing is held. Morgan District requested to implement emergency interim rates; therefore, a hearing must be held for the Commission to determine whether the emergency interim rates should be placed into effect. The Commission finds that an emergency hearing should be held to determine whether to permit Morgan District to implement a 25.3 percent interim rate increase and

³ The motion also cited to 807 KAR 5:001 Section 9(2)(b) which contains the hearing notice requirements generally but for these purposes the applicable regulation is 807 KAR 5:076 Section 12(3).

⁴ Morgan District's Interim Rate Increase Motion at unnumbered page 4-5.

⁵ Morgan District's Interim Rate Increase Motion at unnumbered page 5.

to determine whether its credit or operations will be materially impaired or damaged by the failure to permit the rates to become effective during suspension period.

Additionally, the Commission finds that Morgan District failed to provide good cause as to why it should be granted a deviation of 807 KAR 5:076, Section 12(3). The Commission notes that it has previously found good cause to deviate from the publication frequency requirements of 807 KAR 5:076, Section 12(3) due to the nature of an emergency hearing.⁶ However, as pointed out by Morgan District, there has been plenty of publicity and numerous public comments on this matter. However, the Commission is not persuaded by Morgan District's argument that the effectiveness of the February 2024 customer notice is a basis to grant a deviation. Customers are entitled to notice of a hearing, not providing notice by means provided for in 807 KAR 5:076, Section 12 can create concerns of lack of transparency, especially in a case that has already garnered significant local attention and comment. The Commission, therefore, finds that Morgan District's motion for a deviation of 807 KAR 5:076, Section 12(3) should be denied due to the publicity of this matter in the local area, the need for transparency, and to allow for public comments on the requested interim rate increase.

IT IS THEREFORE ORDERED that:

1. Morgan District's motion for an emergency hearing is granted.
2. Morgan District's motion for a deviation from notice requirements set forth in 807 KAR 5:076 Section (3) is denied.

⁶ Case No. 2018-00017, *Electronic Application of Martin County Water District for an Alternative Rate Adjustment* (Ky. PSC Apr. 16, 2019), Order at 2-3.

3. A hearing in this matter shall be held on May 2, 2024, at 9 a.m. Eastern Daylight Time and will continue until called from the bench by the presiding officer, in the Richard Raff Hearing Room at the offices of the Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky.

4. Pursuant to 807 KAR 5:001, Section 2, if the hearing is not concluded on the designated day, the hearing may be continued upon verbal announcement by the presiding officer. A verbal announcement made by the presiding officer shall be proper notice of the continued hearing.


5. Morgan District, including its Manager, Chairman and Treasurer of its Board of Commissioners shall participate in person at the May 2, 2024 hearing.

6. Morgan District shall file a witness list at least seven days prior to May 2, 2024.

7. Morgan District shall give notice of the hearing in compliance with 807 KAR 5:076, Section 12. In addition, the notice of hearing shall include the following statements: "This hearing will be streamed live and may be viewed on the PSC website, psc.ky.gov" and "Public comments may be made at the beginning of the hearing. Those wishing to make oral public comments may do so by following the instructions listed on the PSC website, psc.ky.gov." At the time the notice is mailed, or publication is requested, Morgan District shall forward a duplicate of the notice and request to the Commission.

8. Pursuant to KRS 278.360 and 807 KAR 5:001, Section 9(9), a digital video transcript shall be made of the hearing.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ENTERED
APR 08 2024
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KENTUCKY PUBLIC
SERVICE COMMISSION

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