

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF MORGAN	)	CASE NO.
COUNTY WATER DISTRICT FOR A	)	2025-00006
DECLARATORY ORDER	)	

ORDER

On January 13, 2025, Morgan County Water District (Morgan District) filed an application for a declaratory order pursuant to 807 KAR 5:001 to declare that a contract between Morgan District and Payment Services Network, Inc. (PSN) does not require approval pursuant to KRS 278.300. Alternatively, Morgan District requested that the Commission grant Morgan District the authority to enter into the contract. This matter now stands before the Commission for decision.

BACKGROUND

Morgan District stated that it seeks the declaratory order from the Commission that entering into a contract with PSN to provide eServices for payment processing, billing, and customer communication does not need approval pursuant to KRS 278.300.<sup>1</sup> Morgan District stated that it is in the process of reorganizing how its business office operates, and, as part of this process, has contacted PSN to provide support for processing payments to customers.<sup>2</sup> This agreement would also include a customer mobile app, call center for customers, email notifications for Morgan District, and other

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<sup>1</sup> Application at 2.

<sup>2</sup> Application at 2.

benefits.<sup>3</sup> As part of the application, Morgan District provided the pricing proposal and contract.<sup>4</sup>

Morgan District stated that per the agreement with PSN, Morgan District would not pay any money for the service provided, and that all service, support, and security fees would be waived for the contract term of five years and the successive three year renewal terms.<sup>5</sup> Morgan District confirmed that it is unaware of any circumstances where the waiver of fees from PSN would be revoked.<sup>6</sup> Morgan District stated that customers would pay transaction fees to cover the cost of processing payments.<sup>7</sup> Morgan District stated that PSN would be able to accept online/mobile/virtual payments with a \$0.95 transaction fee for checking/savings or a 2.95 percent fee for credit cards. PSN would be able to accept automated phone payments with a \$1.90 transaction fee for checking/savings or a 2.95 percent plus \$0.95 transaction fee for credit cards.<sup>8</sup> Morgan District further explained that PSN would be able to accept live call center payments with a \$3.90 transaction fee for checking/savings or a 2.95 percent plus \$0.95 transaction fee for credit cards.<sup>9</sup> Interactive voice response (IVR) is an automated call system where you can pay

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<sup>3</sup> Application at 2.

<sup>4</sup> Application, Exhibit A.

<sup>5</sup> Application at 2.

<sup>6</sup> Morgan District's Response to Commission Staff's First Request for Information (Staff's First Request) (filed Feb. 3, 2025), Item 1.

<sup>7</sup> Application at 2.

<sup>8</sup> Application at 3.

<sup>9</sup> Application at 3.

anytime.<sup>10</sup> Morgan District can disable this if it so chooses.<sup>11</sup> Customers will be charged \$0.95 monthly for an ACH-Bank Draft/Automatic withdraw policy.<sup>12</sup>

Morgan District explained that:

PSN will act as the facilitator for credit cards, ACH, Venmo and PayPal payments. PSN will be integrated with Morgan District's CIS system, Ampstun to apply the credit to the customer accounts immediately. Morgan District will know immediately when a customer has made payment through one of these avenues so that late fees or disconnects will not be applied. Morgan District will designate the Morgan District bank account for these amounts to be deposited by PSN. However, the deposit of the money into Morgan District's bank account could take up to three to five banking days.<sup>13</sup>

Morgan District argued that approval of the contract pursuant to KRS 278.300 is not necessary because Morgan District is not required to pay any fees or take on any debt to use PSN for its payment processing services.<sup>14</sup> Morgan District confirmed that it will still accept payments at its offices for customers who want to avoid the fees.<sup>15</sup> Morgan District offers payment by cash in the office, or payment by check in the office or by mail for those who want to avoid these fees.<sup>16</sup>

Morgan District stated that it plans to revise its tariff once it enters into the PSN Service Agreement.<sup>17</sup>

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<sup>10</sup> Morgan District's Response to Staff's First Request, Item 8.

<sup>11</sup> Morgan District's Response to Staff's First Request, Item 8.

<sup>12</sup> Morgan District's Response to Staff's First Request, Item 6.

<sup>13</sup> Morgan District's Response to Staff's First Request, Item 3.

<sup>14</sup> Application at 3.

<sup>15</sup> Application at 3.

<sup>16</sup> Morgan District's Response to Staff's First Request, Item 2.

<sup>17</sup> Morgan District's Response to Staff's First Request, Item 6a.

## LEGAL STANDARD

Morgan District filed its application pursuant to Section 19 of 807 KAR 5:001. The regulation provides in pertinent part:

- (1) The commission may, upon application by a person substantially affected, issue a declaratory order with respect to the jurisdiction of the commission, the applicability to a person, property, or state of facts of an order or administrative regulation of the commission or provision of KRS Chapter 278, or with respect to the meaning and scope of an order or administrative regulation of the commission or provision of KRS Chapter 278.
- (2) An application for declaratory order shall:
  - (b) Contain a complete, accurate, and concise statement of the facts upon which the application is based;
  - (d) Identify all statutes, administrative regulations, and orders to which the application relates; The issuance of a declaratory order is permissive and at the discretion of the Commission

The issuance of a declaratory order is permissive and at the discretion of the Commission.<sup>18</sup>

KRS 278.300(1) requires Commission authorization before a utility may “issue any securities or evidences of indebtedness, or assume any obligation or liability in respect to the securities or evidences of indebtedness of any other person.”

KRS 278.300(3) establishes the legal standard and clarifies the scope of Commission review, stating:

The Commission shall not approve any issue or assumption unless, after investigation of the purposes and uses of the proposed issue and proceeds thereof, or of the proposed

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<sup>18</sup> See Case No. 2023-00308, *Electronic Petition of Kenergy Corp. for a Declaratory Order* (Ky. PSC Aug. 6, 2024), Order.

assumption of obligation or liability, the commission finds that the issue or assumption is for some lawful object within the corporate purposes of the utility, is necessary or appropriate for or consistent with the proper performance by the utility of its service to the public and will not impair its ability to perform that service, and is reasonably necessary and appropriate for such purpose.

### DISCUSSION AND FINDINGS

Having considered the record and being otherwise sufficiently advised, the Commission finds that Morgan District's contract with PSN does not require approval from the Commission pursuant to KRS 278.300. In a previous case, the Commission stated that a service agreement for technology process management, which obligated the utility to pay \$1,200 per month for 60 months (five years), and can only terminate this obligation if the service provider fails to perform, required review under KRS 278.300.<sup>19</sup> The Commission cited the obligation to pay and the length of the term, as reasons the service contract was evidence of indebtedness subject to Commission review.<sup>20</sup> In the present case, while the term of the contract would be for a period of five years, with successive three-year renewal terms, Morgan District has confirmed that there is no financial obligation for Morgan District related to this contract.

However, if any contract terms change that result in the district incurring a financial obligation or being subject to financial penalties, Morgan District should seek a declaratory order or further approval of the contract under KRS 278.300. Furthermore, the Commission expects Morgan District to follow through in a timely fashion with revising

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<sup>19</sup> Case No. 2022-00002, Electronic Application of Southern Water and Sewer District for Approval of An I.T. Security Contract with Technology Process Management Pursuant to KRS 278.300 (Ky. PSC March 3, 2022), Order at 2.

<sup>20</sup> Case No. 2022-00002, March 3, 2022 Order at 2.

its tariff once it enters into the PSN Service Agreement since the tariff changes are still subject to the regulations set out in 807 KAR 5:011.


IT IS THEREFORE ORDERED that:

1. Morgan District's application for a declaratory order is granted.
2. The contract does not require further approval pursuant to KRS 278.300.
3. Within five business days of the execution of the contract with PSN, Morgan District shall file with the Commission, using the Commission's electronic Tariff Filing System, new tariff sheets reflecting any revisions necessary as a result of entering into the contract with PSN.
4. This case is closed and removed from the Commission's docket.

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PUBLIC SERVICE COMMISSION

  
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Chairman

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Commissioner  
  
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Commissioner

Commissioner John Stacy did not participate in the deliberations or decision concerning this case.

ATTEST:

  
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Executive Director

ENTERED  
FEB 11 2025 AH  
KENTUCKY PUBLIC  
SERVICE COMMISSION

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