

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF WHITLEY COUNTY WATER )  
DISTRICT #1 FOR DEVIATION FROM WATER ) CASE NO.  
STORAGE REQUIREMENTS ) 2018-00362

ORDER

On October 29, 2018, Whitley County Water District #1 (Whitley District #1) submitted an application (Application) requesting a deviation from 807 KAR 5:066, Section 4(4), which sets forth the Commission's minimum water storage capacity requirements. No party has sought intervention in this case. The matter now stands submitted to the Commission for a decision.

The Commission, as an initial matter, notes that Whitley District #1, in its 2017 Annual Report, reported a water loss of 23.8095 percent. Commission regulation 807 KAR 5:066(6)(3) states that for ratemaking purposes a utility's unaccounted-for water loss shall not exceed 15 percent of the total water produced and purchased, excluding water consumed by a utility in its own operations. The Commission is placing greater emphasis on monitoring utilities that consistently exceed the 15 percent unaccounted-for water loss threshold and strongly encourages Whitley District #1 to pursue reasonable actions to reduce its unaccounted-for water loss. Failure by Whitley District #1 to make significant progress towards reducing unaccounted-for water loss may cause the Commission to pursue additional action with the utility.

Whitley District #1, a water district organized pursuant to KRS Chapter 74, owns and operates facilities that distribute water to approximately 3,650 customers in Whitley County, Kentucky.<sup>1</sup> Whitley District #1 purchases water from the City Utilities Commission in Corbin, Kentucky (City Utilities Commission), the city of Williamsburg, Kentucky, the city of Jellico, Tennessee, and the McCreary County Water District.<sup>2</sup> According to its Application, Whitley District #1's average daily consumption is 653,773 gallons.<sup>3</sup> Whitley District #1 currently has storage capacity for 593,000 gallons.<sup>4</sup>

807 KAR 5:066, Section 4, is the Commission's administrative regulation addressing continuity of service for water utilities. With respect to storage requirements, 807 KAR 5:066, Section 4(4), provides:

Storage. The minimum storage capacity for systems shall be equal to the average daily consumption.

Whitley District #1 currently has a storage deficit of 60,773 gallons.

In requesting a deviation, Whitley District #1 stated that one of its water suppliers, the City Utilities Commission, has reserved 245,000 gallons of storage for the use of Whitley District #1. Whitley District #1 attached a letter to its application dated October 15, 2018, and signed by the head of the City Utilities Commission that states:

Acceptance: The City Utilities Commission hereby agrees to maintain 245,000 gallons of storage in its 1,000,000 gallon storage tank on the southwest side Corbin for the use of the Whitley County Water District. Should the Commission be unable to maintain the storage for the District's use at some point in the future it will endeavor to notify the District in ample

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<sup>1</sup> *Annual Report of Whitley County Water District #1 to the Public Service Commission for the Calendar Year Ended December 31, 2017* ("Annual Report") at 12 and 48.

<sup>2</sup> Application at paragraph III (5).

<sup>3</sup> *Id.* at paragraph III (1).

<sup>4</sup> *Id.* at paragraph III (2).

time to allow the District to construct the needed storage facilities.

In its Application, Whitley District #1 states that although it does have a storage deficit, it has no plans to build additional storage. It asserts that it has chosen to put its resources towards addressing its unacceptably high water loss and that due to these efforts, average daily consumption for the district has come down over 100,000 gallons per day from 2010.<sup>5</sup>

807 KAR 5:066, Section 4(4), requires a water utility to have a minimum storage capacity equal to its average daily consumption, and the intent of this requirement is for the protection of the continuity of water service. The Commission finds that Whitley District #1 has a storage deficit, and therefore we find that Whitley District #1 is out of compliance with regulatory water storage requirements.

In support of its request for a deviation, Whitley District #1 relies upon the 245,000 gallons of storage capacity provided by the City Utilities Commission. The Commission has, in several instances, permitted a water utility to rely upon the storage capacity of an interconnected water utility as a means of addressing its own storage requirements.

Previously, the Commission also has permitted reliance on the storage capacity of an interconnected water utility as a means of demonstrating good cause for permitting a deviation from 807 KAR 5:066, Section 4(4). In Case No. 2016-00114, Dexter-Almo Heights Water District (Dexter-Almo) had no storage capacity and average daily consumption of 125,000 gallons of water.<sup>6</sup> Dexter-Almo purchased all of its water from

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<sup>5</sup> *Id.* at paragraph III (8).

<sup>6</sup> *Application of Dexter-Almo Heights Water District Requesting Deviation from Requirements of 807 KAR 5:066, Section 4(4)*, Order (Ky. PSC June 6, 2016) at 1 and 2.

the city of Murray, which had 2.925 million gallons of storage in its own system.<sup>7</sup> While Dexter-Almo and the city of Murray had a three-year agreement regarding the city of Murray's provision of water, the agreement did not mention an allocation of storage by the city of Murray on behalf of Dexter-Almo.<sup>8</sup> Per the facts of that case, the Commission determined that the city of Murray's ability to provide Dexter-Almo with storage capacity permits the approval of a deviation from the water storage requirements of 807 KAR 5:066, Section 4(4), through the end of the three-year agreement between Dexter-Almo and the city of Murray.<sup>9</sup>

Whitley District #1 requires additional water storage capacity of approximately 60,773 gallons in order to comply with 807 KAR 5:066, Section 4(4). The City Utilities Commission has sufficient storage capacity to provide Whitley District #1 with access to at least 60,773 gallons of storage capacity. Based on these findings, it is reasonable to grant Whitley District #1 a deviation from 807 KAR 5:066, Section 4(4), through January 31, 2023, provided certain conditions are met.

While the Commission is willing to grant conditionally the deviation at this time on the basis of the October 15, 2018 letter attached to the Application, the Commission does not consider this to be a sufficient written agreement on which to base a deviation. Therefore, Whitley District #1 should negotiate with the City Utilities Commission to obtain a more detailed written agreement regarding the allocation of storage, and file the negotiated agreement with the Commission. The agreement should address, at a

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 2.

<sup>9</sup> *Id.* at 4 and 5.

minimum, the amount of the allocation, the duration of the agreement, including any renewal periods, and the rights and obligations of the parties concerning the allocation, including during an emergency.

Finally, Whitley District #1 should advise the Commission in writing if any changes occur in either system that could cause the City Utilities Commission to have insufficient storage to meet the storage requirements for Whitley District #1.

IT IS THEREFORE ORDERED that:

1. Whitley District #1's request to deviate from the water storage requirements of 807 KAR 5:066, Section 4(4), is granted and approved through January 31, 2023, provided that a written water storage agreement is filed with the Commission on or before July 31, 2019. The agreement must address, at a minimum, the amount of the allocation, the duration of the agreement, including any renewal periods, and the rights and obligations of the parties concerning the allocation, including during an emergency.

2. Whitley District #1 shall inform the Commission in writing if changes occur in either system that would cause the City Utilities Commission to have insufficient storage for Whitley District #1.

3. In the event that Whitley District #1 has not filed a written agreement with the City Utilities Commission by July 31, 2019, the deviation granted in this order shall expire on August 1, 2019.

4. Any documents filed in the future pursuant to ordering paragraphs 1 or 2, shall reference this case number and shall be retained in the post-case correspondence file.

5. The Executive Director is delegated authority to grant reasonable extensions of time for the filing of any documents required by this Order upon Whitley District #1's showing of good cause for such extension.

6. This case is hereby closed and will be removed from the Commission's docket.

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By the Commission



ATTEST:

  
Executive Director

Case No. 2018-00362

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