

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF THE)
CUMBERLAND COUNTY WATER)
DISTRICT FOR THE APPROVAL OF) CASE NO. 2002-00477
THE PROPOSED INCREASE IN)
RATES FOR WATER SERVICE)

ORDER

On December 20, 2002, Cumberland County Water District (Cumberland District) submitted its application requesting the Commission to approve its proposed increase in water rates and the implementation of several non-recurring charges. Cumberland District's proposed water rates will increase the average residential water bill¹ from \$27.25 to \$35.82, approximately 31.45 percent and would generate annual revenues of \$811,281, \$206,003 above Commission Staff's normalized operating revenues from water rates of \$605,278.

The sole intervenor in this proceeding is the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention (Attorney General). On January 27, 2003, the Attorney General filed his motion requesting that the Commission establish a procedural schedule and that Cumberland District submit written responses to his information request. By its Order of March 21, 2003, the Commission directed Cumberland District to file the information requested by the

¹ 3/4-inch meter with average residential usage of 5,000 gallons.

Attorney General by March 26, 2003. Cumberland District complied with the Commission's Order and filed the information on the required date.

The Commission issued a report on March 28, 2003, in which Staff adopted the contents of Cumberland District's application, with the exception of pro forma purchased water expense and revenue requirement. Cumberland District's water supplier, the city of Burkesville (Burkesville), increased its wholesale water rates on March 15, 2003. Staff adjusted Cumberland District's test-period purchased water expense and revenue requirement by \$4,288 to reflect Burkesville's increase in its wholesale water rates. This results in a revised revenue requirement from water rates of \$815,396, an increase of \$210,118 or 34.7 percent over normalized test-period revenue from rates of \$605,278.

All parties were directed to file written comments upon Staff's findings and recommendations or to request a conference or hearing no later than April 7, 2003. On April 8, 2003, the Attorney General filed his written comments to the Staff's findings and recommendations.

During the test period, the Natural Resources and Environmental Protection Cabinet (Division of Water) cited Cumberland District for numerous alleged violations of KRS Chapter 224 and the associated Administrative Regulations. In its review of the test-period invoices, Staff discovered that Cumberland District had recorded legal fees of \$1,461 in the expense account contractual services other. The legal fees pertained to the alleged Division of Water violations.

Recognizing that Cumberland District's legal fees represent non-recurring expenditures, Staff recommended that they be amortized over 3 years. Therefore, Staff recommended contractual service other expense be reduced by \$1,461 and

amortization expense increased by \$487 for a net decrease to Cumberland District's operating expenses of \$974.

The Attorney General requests the Commission to remove the amortization of the legal fees from Cumberland District's revenue requirement. According to the Attorney General, the amortization of the legal fees is a non-recurring expense and, for this reason alone, should be removed. The Attorney General then argues that because the legal fees relate to a civil penalty assessment process stemming from a variety of violations of the provisions of KRS Chapter 224, the Commission should decline to establish rates to permit recovery for this type of spending. The Attorney General likens this to the disincentive for excessive later loss: the Commission does not allow a water utility to recover line loss in excess of 15 percent for rate-making purposes.²

Cumberland District explains that it does not anticipate regularly incurring violations, and therefore, it proposes to amortize the attorney fees over 3 years. Cumberland District claims that a yearly expense of \$487, whether included or excluded, would have little impact upon its revenue requirement. Therefore, Cumberland District does not request a hearing on this issue.³

Cumberland District and the Division of Water entered into an Agreed Order requiring Cumberland District to perform numerous remedial measures and to pay a civil penalty of \$20,000. However, if Cumberland District completed the supplemental

² Written Comments of the Attorney General at 1 and 2.

³ Cumberland District's Response to Item 1 of the Attorney General's Request for Information filed March 27, 2003.

environmental project by the May 1, 2002 due date, the Division of Water agreed to waive \$15,000 of the civil penalty.⁴

Disallowing the recovery of the attorney fees would act as a disincentive to Cumberland District to obtain legal representation when cited for alleged violations. Without legal representation Cumberland District would be unable to defend itself against false allegations. Unlike for-profit utilities, Cumberland District has no stockholders that can be held accountable and made to bear this cost. Moreover, in this instance, Cumberland District and the Division of Water entered into an agreed Order and Cumberland District ultimately paid a fine of \$5,000 for its violations. The fine paid by Cumberland District was not included in Staff's recommendations. Accordingly, the Commission denies the Attorney General's proposal.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that:

1. The recommendations and findings contained in the Staff Report are supported by the evidence of record and are reasonable.
2. The water rates proposed by Cumberland District and contained in Appendix A will produce Staff's recommended revenue requirement of \$815,396.

IT IS THEREFORE ORDERED that:

1. The recommendations and findings contained in the Staff Report are adopted and incorporated by reference into this Order as if fully set out herein.

⁴ Response of Cumberland District to the Attorney General's Request for Information filed March 27, 2003, Agreed Order.

2. The water rates and non-recurring charges proposed by Cumberland District and contained in Appendix A are approved for service rendered by Cumberland District on and after the date of this Order.

3. Within 30 days of the date of this Order, Cumberland District shall file with the Commission its revised tariff setting the rates approved herein.

4. Three years from the date of this Order, Cumberland District shall file an income statement, along with any pro forma adjustments, in sufficient detail to demonstrate that the rates approved herein are sufficient to meet its operating expenses and annual debt service.

Done at Frankfort, Kentucky, this 6th day of May, 2003.

By the Commission

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2002-00477 DATED May 6, 2003

The following rates are prescribed for the customers in the area served by the Cumberland County Water District. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of the Commission prior to the effective date of this Order.

MONTHLY RATES

3/4 Meter

First	2,000	Gallons	\$	15.48	Minimum Bill
Next	3,000	Gallons	\$	6.80	per 1,000 Gallons
Next	5,000	Gallons	\$	5.60	per 1,000 Gallons
Over	10,000	Gallons	\$	4.50	per 1,000 Gallons

1 Meter

First	5,000	Gallons	\$	35.88	Minimum Bill
Next	5,000	Gallons	\$	5.60	per 1,000 Gallons
Over	10,000	Gallons	\$	4.50	per 1,000 Gallons

1 1/2 Meter

First	12,500	Gallons	\$	75.13	Minimum Bill
Over	12,500	Gallons	\$	4.50	per 1,000 Gallons

2 Meter

First	25,500	Gallons	\$	133.63	Minimum Bill
Over	25,500	Gallons	\$	4.50	per 1,000 Gallons

NON-RECURRING CHARGES

Field Collection Charge	\$	15.00
Meter Re-read Charge	\$	15.00
Meter Re-read Charge (After Hours)	\$	20.00
Meter Test Charge	\$	15.00
Meter Test Charge (After Hours)	\$	20.00
New Service Charge	\$	15.00

Re-connection Charge	\$ 15.00
Re-connection Charge (After Hours)	\$ 20.00
Service Call/Investigation	\$ 15.00
Service Call/Investigation (After Hours)	\$ 20.00
Returned Check Charge	\$ 20.00