

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PROPOSED ADJUSTMENT OF THE)	
WHOLESALE WATER SERVICE RATE OF THE)	CASE NO. 2006-00182
CITY OF LANCASTER, KENTUCKY)	

ORDER

On April 4, 2006, the city of Lancaster, Kentucky ("Lancaster") filed with the Commission notice of a proposed adjustment of its existing rate for wholesale water service to Garrard County Water Association ("Garrard County"). The proposed adjustment was to implement the terms of a "Water Rate Agreement" between the municipal utility and Garrard County. Subsequently, Lancaster filed a proposed rate schedule that provided for a wholesale water rate of \$1.82 per 1,000 gallons of purchased water.

On May 3, 2006, we suspended the proposed adjustment¹ and initiated this proceeding to review the reasonableness of the proposed adjustment. Our review of the proposed contract and rate schedule indicated certain discrepancies. Lancaster's proposed rate schedule provided for a wholesale rate of \$1.82 per 1,000 gallons of purchased water. The "Water Rate Agreement" provides for a wholesale rate of \$1.78

¹ The Commission suspended the proposed rate for one day and permitted it to become effective thereafter subject to refund. As the principal focus of our investigation was on the discrepancy between the submitted documents and the municipal utility's authority to assess an additional charge to recover Kentucky River Authority withdrawal fees and as Garrard County has not objected to the assessment of the higher rate, we reasoned that such action was reasonable, consistent with the public interest, and would limit any adverse effects of our investigation. The Commission, on its own motion, also directed that Garrard County be made an intervening party to this proceeding.

per 1,000 gallons of purchased water. While Lancaster subsequently advised us that the discrepancy in rates reflected the pass through of water withdrawal fees that the Kentucky River Authority assesses,² we found no provision in either the “Water Rate Agreement” or the proposed rate schedule that supports the assessment of such fees to Garrard County.

Based upon our review of the record, the Commission finds that the parties to the “Water Rate Agreement” intended that, in addition to the wholesale rate set forth in that agreement, Lancaster be permitted to assess a charge to recover the Kentucky River Authority Withdrawal fees incurred to produce the water sold to Garrard County. While the \$0.04 per 1,000 gallon rate will not allow for the complete recovery of these fees, the parties have agreed upon this amount. The Commission further finds that the rate set forth in the original contract should not be revised to reflect the additional costs associated with the Kentucky River Authority Withdrawal Fees, but instead a separate charge should be reflected on Lancaster’s rate schedule and on the bills rendered to Garrard County to reflect this cost.

The Commission will permit Lancaster to retain all proceeds collected from the proposed wholesale rate of \$1.82 per 1,000 gallons, which has been in effect since May 5, 2006. While this rate exceeds the agreed wholesale rate, it allowed recovery of a cost that both parties agreed should be recovered. As the excess amount is equal to the Kentucky River Authority Withdrawal fees that Lancaster incurred to produce the water sold to Garrard County, Lancaster’s retention of these proceeds is neither unjust nor unreasonable.

² See 420 KAR 1:040 and 1:050.

The purpose of the Commission's jurisdiction over a municipal utility's wholesale transactions with a public utility is to ensure that any public utility "consumer/customer that has contracted and become dependent for its supply of water from a city utility is not subject to either excessive rates or inadequate service."³ In the case at bar, this purpose has been served. The affected public utility has reached an agreement with the municipal utility over the municipal utility's rates and certain aspects of its service. As this agreement appears on its face to be neither unreasonable nor unconscionable, the Commission finds no need to conduct further proceedings in this matter.

IT IS THEREFORE ORDERED that:

1. The Water Rate Agreement is approved.
2. A wholesale rate of \$1.78 per 1,000 gallons of water is approved for all water sales to Garrard County on and after the date of this Order.
3. Lancaster is authorized to assess Garrard County as a separate line item on its bills a "Kentucky River Authority Withdrawal Fee" Rate of \$0.04 per 1,000 gallons on and after the date of this Order.
4. Lancaster shall retain all proceeds from the wholesale rate of \$1.82 per 1,000 gallons assessed to Garrard County from May 5, 2006 to the date of this Order and shall not be required to refund any of those proceeds.
5. Within 20 days of the date of this Order, Lancaster shall file with the Commission a revised tariff sheet setting forth the rates that are approved in this Order.

³ Simpson County Water District v. City of Franklin, 872 S.W.2d 460, 465 (Ky. 1994).

Done at Frankfort, Kentucky, this 30th day of August, 2006.

By the Commission

ATTEST:


Executive Director