

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BEECH GROVE WATER) CASE NO.
SYSTEM, INC. REQUESTING DEVIATION FROM) 2014-00306
REQUIREMENTS OF 807 KAR 5:066, SECTION 4(4))

ORDER

On August 28, 2014, Beech Grove Water System, Inc. (“Beech Grove”) filed with the Commission a request for a deviation from 807 KAR 5:066, Section 4(4), which requires a water utility to maintain a minimum storage capacity equal to its average daily consumption. Beech Grove seeks additional time of four to five years to attain minimum storage capacity equal to its average daily consumption.¹ Beech Grove has on three prior occasions applied for and received a deviation from the Commission’s storage requirement, and the deviation under which Beech Grove currently operates expired on November 30, 2014.²

Beech Grove provides retail water service in parts of Daviess and McLean counties in Kentucky to approximately 567 customers and also through one bulk loading

¹ Beech Grove Water Storage Requirement Deviation Request Application (“Application”), Section III, Item 10.

² Case No. 2009-00468, *Application of Beech Grove Water System, Inc., for Water Storage Requirement Deviation* (Ky. PSC Feb. 22, 2010). See also Case No. 2005-00432, *Request for Deviation from the Requirements of 807 KAR 5:066, Section 4(4), and for Permission to Either Maintain Less Water Storage Capacity than the Average Daily Consumption or to Obtain an Additional Time to Attain Minimum Storage Capacity Equal to the Average Daily Consumption from Beech Grove Water Systems, Inc.* (Ky. PSC Apr. 24, 2006) (granting Beech Grove a deviation through Jan. 1, 2012); and Case No. 2000-472, *The Application of Beech Grove Water System for Deviation* (Ky. PSC Nov. 30, 2000) (granting Beech Grove a deviation through July 1, 2002).

station.³ Beech Grove purchases water from the Water and Sewer Commission of the city of Henderson (“Henderson”) and the West Daviess County Water District (“West Daviess”).⁴ The Beech Grove system has a 100,000-gallon reservoir at ground level,⁵ and this facility provides Beech Grove with 100,000 gallons of water storage capacity.⁶ Beech Grove states that its average daily consumption is 154,133 gallons.⁷

Discussion

807 KAR 5:066, Section 4(4), states:

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

Beech Grove’s average daily consumption is 154,133 gallons, and the total amount of water storage available to Beech Grove through its existing water facilities is 100,000 gallons. Therefore, by reference to the water storage that is available through Beech Grove’s own facilities, Beech Grove has a 54,133-gallon water storage deficit. Beech Grove has been out of compliance with the Commission’s minimum storage capacity requirements since at least November 30, 2000.⁸

In support of its request for a deviation, Beech Grove states that it has recently entered into a new, long-term water purchase agreement with Henderson through which Beech Grove has obtained an allocation of storage in a water tank that is part of the

³ *Annual Report of Beech Grove Water System, Inc. for Year Ended December 31, 2013* (“*Annual Report for 2013*”) at pages 12 and 53 of 71.

⁴ *Id.* at page 58 of 71.

⁵ Beech Grove’s Response to Staff’s First Request for Information, Item 6(a).

⁶ Case No. 2009-00468, Final Order (Ky. PSC Feb. 22, 2010) at page 1.

⁷ Application, Section III, Item 2.

⁸ Case No. 2000-472, Final Order (Ky. PSC Nov. 30, 2010) at page 2.

Henderson system.⁹ Beech Grove also states that West Daviess has constructed a 500,000-gallon storage tank and that West Daviess has allocated 100,000 gallons of this tank to Beech Grove.¹⁰

The written Agreement with Henderson was executed on October 14, 2014, and it provides for a term of 25 years. Henderson agrees to reserve 100,000 gallons of water storage in Henderson's "Four Star Tank for the exclusive use of Beech Grove in the event of an emergency."¹¹ Per the Agreement, Henderson will "use reasonable diligence and care to provide a regular and uninterrupted supply of water to Beech Grove and to avoid any shortage or interruption of delivery, and shortage thereof."¹²

By a letter dated August 25, 2014, West Daviess stated that it has allocated to Beech Grove 100,000 gallons of storage in a 500,000-gallon storage tank, which is located approximately 2 miles from its master meter with Beech Grove.¹³ Unlike Beech Grove's allocation of storage in the Henderson system, the allocation of storage by West Daviess is not through a written agreement that specifies the duration of the allocation or rights and obligations of the parties during an emergency.

⁹ Application, Transmittal Letter from Sheila Murphy to Jeff Derouen, dated Aug. 25, 2014. This contract was filed with the Commission on Oct. 24, 2014.

¹⁰ *Id.*

¹¹ Beech Grove's Response to Staff's First Request for Information, Attachment A, pages 3 and 7 of 9. At the end of the initial 25-year term, the Agreement automatically renews for an additional term of five years, with no limit on the number of automatic renewals unless terminated by written notice of either party.

¹² *Id.*, Attachment A, page 2 of 9.

¹³ Application, Letter from William Higdon, Manager, West Daviess County Water District, to Beech Grove Water System, dated Aug. 25, 2014.

Obtaining an allocation of storage capacity from an interconnected water utility is one method of obtaining compliance with 807 KAR 5:066, Section 4(4).¹⁴ In Case No. 10416, the Commission found that Rowan Water, Inc. (“Rowan”), had a storage capacity of 585,000 gallons and an average daily usage of 651,304 gallons.¹⁵ The Commission found that the city of Morehead (“Morehead”) had allocated 180,000 gallons of a 600,000-gallon tank in the Morehead system to Rowan.¹⁶ The Commission found that when the 585,000 gallons of storage in the Rowan system were combined with the 180,000 gallons of storage allocated by Morehead, Rowan had an available amount of water storage sufficient to meet the Commission’s storage requirements.¹⁷

The allocation of 100,000 gallons of storage by Henderson for the benefit of Beech Grove is comparable to the allocation of storage described in Case No. 10416; therefore, the Commission will consider this allocation by Henderson as part of the storage capacity of Beech Grove, as long as the Agreement with Henderson remains in effect. The Commission finds, therefore, that Beech Grove has 100,000 gallons of storage capacity within its own system and 100,000 gallons of storage capacity in an allocation from Henderson pursuant to a written agreement for a total storage capacity of 200,000 gallons, which is in excess of its average daily consumption of 154,133 gallons and therefore in compliance with 807 KAR 5:066, Section 4(4). Since Beech

¹⁴ See Case No. 10416, *The Application of Rowan Water, Inc., for a Deviation from the Minimum Water Storage Requirement of 807 KAR 5:066, Section 5(4)* (Ky. PSC Jan. 16, 1989). Note: The administrative regulation containing the storage requirement was formerly numbered as 807 KAR 5:066, Section 5(4).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

Grove has water storage sufficient to meet the requirements of 807 KAR 5:066, Section 4(4), no deviation is required.¹⁸

The allocation of 100,000 gallons of storage by West Daviess for the benefit of Beech Grove is also comparable to the allocation of storage described in Case No. 10416. The Commission is concerned, however, that the allocation by West Daviess is not supported by a written agreement that indicates the duration of the arrangement or that West Daviess will use reasonable diligence and care to provide a regular and uninterrupted supply of water to Beech Grove and to avoid any shortage or interruption of delivery, and shortage thereof.¹⁹

The Commission finds that Beech Grove should file with the Commission a written agreement between Beech Grove and West Daviess regarding the allocation of 100,000 gallons of storage by West Daviess on behalf of Beech Grove. The written agreement should address, at a minimum, the duration of the agreement and the rights and obligations of the parties concerning the allocation. In the event that Beech Grove is unable to secure a written agreement with West Daviess, Beech Grove is to advise the Commission of that fact.

In response to Item 2 in Staff's First Request for Information, Beech Grove stated:

¹⁸ *Id.*

¹⁹ See, for comparison, Case No. 90-213, *The Application of West Oldham Utilities, Inc. for a Deviation from the Minimum Water Storage Requirements of 807 KAR 5:066, Section 5(4), from the Meter Test Cards of 807 KAR 5:006, Section 15(1), and from Pressure Gauges of 807 KAR 5:066, Section 6(2)* (Ky. PSC Feb. 13, 2004) at page 3 (statement from Louisville Water Company to West Oldham Utilities, Inc. indicating 17-year commitment and access to stored water in the same manner and for the same purpose as all other customers of LWC sufficient to support deviation from the Commission's water storage requirements).

There are 5 meters that [are] within 800 yards of the storage tank that never have 30 PSI. Three (3) of the meters were installed before the storage tank was built. The other two (2) meters has booster pumps that the customers installed when homes were built. The remainder of the water system has no problem with water pressure that we are aware of.²⁰

807 KAR 5:066, Section 5(1), states, in pertinent part, “[i]n no event, however shall the pressure at the customer’s service pipe under normal conditions fall below thirty (30) psig nor shall the static pressure exceed 150 psig.” The statement by Beech Grove presents an issue as to whether Beech Grove is in compliance with 807 KAR 5:066, Section 5(1); however, the Commission finds that the review of this issue should be handled separately and apart from this proceeding.

IT IS THEREFORE ORDERED that:

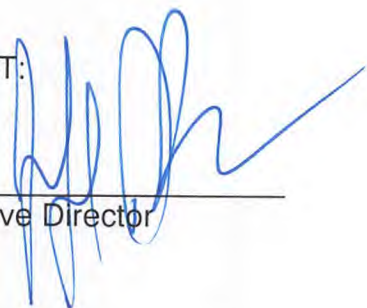
1. Beech Grove Water System, Inc.’s request for a deviation from 807 KAR 5:066, Section 4(4), is denied as moot.
2. Beech Grove Water System, Inc. shall file with the Commission no later than 90 days from the date of this Order a written agreement with West Daviess Water District which addresses, at a minimum, the duration of West Daviess Water District’s allocation of 100,000 gallons of water storage to Beech Grove and the rights and obligations of the parties concerning the allocation. In the event that Beech Grove is unable to secure a written agreement with West Daviess within 90 days of the date of this Order, Beech Grove is to advise the Commission in writing of that fact.

²⁰ Beech Grove’s Supplemental Response to Staff’s First Request for Information, Item 2, filed Nov. 18, 2014.

By the Commission

ENTERED
DEC 05 2014
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2014-00306

Sheila Murphy
Beech Grove Water System, Inc.
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Calhoun, KY 42327