

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF SOUTHERN	)	CASE NO.
WATER AND SEWER DISTRICT FOR AN	)	2018-00230
ALTERNATIVE RATE ADJUSTMENT	)	

ORDER

On July 12, 2018, Southern Water and Sewer District (Southern District) filed an application (Application) with the Commission, pursuant to 807 KAR 5:076, requesting to adjust its rates for water service.<sup>1</sup> Southern District requested rates that would increase annual water sales revenues by approximately \$953,409, a 33.12 percent increase to pro forma present rate water sales revenues. The Attorney General is the only intervenor in this proceeding.

Commission Staff (Staff), on October 25, 2018, issued a report (Report) summarizing its findings regarding Southern District's requested rate adjustment. According to information available to the Staff at that time, Southern District's adjusted test-year operations supported an overall revenue requirement in the amount of \$4,201,262; an annual revenue increase in the amount of \$1,110,415, or 37.87 percent, was necessary to generate the overall revenue requirement. Subsequent to the issuance of the Staff Report a robust record was developed, bringing into evidence new facts for the Commission to consider, as discussed below.

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<sup>1</sup> Southern District tendered its Application on July 3, 2018. It was rejected due to filing deficiencies. Southern District subsequently cured the filing deficiencies and the Application was deemed filed on July 12, 2018.

On October 30, 2018, Southern District filed comments on Staff's Report accepting Staff's findings; Southern District did not request a conference or hearing.<sup>2</sup> On November 7, 2018, the Attorney General filed comments and objections to Staff's Report, asserting that the Commission should not grant the entirety of the recommended increase due to Southern District's poor management decisions. The Attorney General further argued that the Commission should: 1) impose reporting requirements on Southern District's water loss; 2) open an investigative case into the loans taken out without Commission approval; 3) require Southern District to file its wholesale water contracts into its tariff; and 4) require Southern District to perform a feasibility and cost-benefit analysis on merging with Prestonsburg City's Utilities Commission (PCUC). Despite those comments, the Attorney General did not request a hearing or informal conference and requested that the case be submitted upon the record.

On the Commission's own motion, a hearing was scheduled for January 8, 2019.<sup>3</sup> At the January 8, 2019 hearing, evidence was taken on the transfer of assets to PCUC previously approved by the Commission; Southern District's excessive water loss; unauthorized indebtedness taken by Southern District; and on Southern District's operations and business practices. The hearing was continued until January 24, 2019, to take evidence from Terry Fyffe, president of The Fyffe Jones Group, who performed an appraisal of the assets transferred from Southern District to PCUC. In addition to the two hearings held in this case, Southern District and the Attorney General filed post-hearing

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<sup>2</sup> Letter from Paula Johnson, Chairman, Southern Water and Sewer District, to Gwen R. Pinson Executive Director, Public Service Commission (October 30, 2018).

<sup>3</sup> The hearing originally scheduled on December 18, 2018, was rescheduled at the request of Southern District due to witness and counsel unavailability. In the December 17, 2018 Order rescheduling the hearing to January 8, 2019, Southern District was directed not to implement the rates requested subject to refund before February 1, 2019.

briefs, and Southern District responded to three rounds of post-hearing data requests. By a separate Order, the Commission denied the Attorney General's request for leave to supplement the post-hearing brief to address issues raised in a public comment filed by the Floyd County Treasurer. The case is now complete and stands submitted on the record.

### DISCUSSION

As noted in the Staff Report, Southern District provided a billing analysis that did not specifically state the number of bills for its retail or wholesale customers. Southern District was notified that its filing was deficient due to the incomplete billing analysis. On July 12, 2018, Southern District's chairperson, Paula Johnson, filed a letter that stated in pertinent part that Southern District had changed billing systems and that Southern District failed to electronically archive the records prior to the switch, making it impossible to obtain exact usage records. In its Report, Staff accepted the billing analysis provided in the application and any adjustments to test year sales, but noted that the accuracy of the billing analysis was representative only of Southern District's assumptions and estimates.<sup>4</sup> Subsequent to issuing the Staff Report, Holly Nicholas of Kentucky Engineering Group, who prepared the Application, testified that the amount of lost annual sales stated in the billing analysis had not been verified.<sup>5</sup>

Based upon the evidence of record and being otherwise sufficiently advised, the Commission finds that Southern District failed to provide sufficient evidence to support its request, and therefore its request is denied. A utility requesting a rate increase has the

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<sup>4</sup> Staff Report, at 7.

<sup>5</sup> Jan. 8, 2019 H.V.T. at 7:05:22.

burden of proof to show that the rates it seeks are just and reasonable.<sup>6</sup> In reaching a decision whether rates are fair, just, and reasonable, there must be sufficient evidence of record for the Commission, as trier of fact, to weigh. The Commission finds that it cannot reasonably rely on the information contained in the billing analysis that was provided by Southern District and therefore cannot accept the revenue adjustments as stated in the Staff Report.

In its response to the deficiency letter and in subsequent attempts by Staff to obtain reliable information required to complete the analysis, Southern District has demonstrated a lack of candor and a failure to properly provide documentation.<sup>7</sup> On the whole, Southern District has been unable to explain the exact methodology used to obtain its estimate of the billing analysis information and the preparer of the billing analysis has stated that the amounts stated had not been verified.<sup>8</sup>

The information contained in the billing analysis is an indispensable component in the calculation of the revenue requirement, and as such, cannot be estimated relying solely on what appears to be one month of unverified actual test-year revenue billed that was subsequently annualized. Without information reflecting an entire test year of base revenue, a reasonable percentage increase cannot be calculated.

Although the Commission shares the Attorney General's concerns regarding Southern District's management practices, contrary to the Attorney General's assertion

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<sup>6</sup> "[T]he burden of proof of showing that an increase of rate or charge is just and reasonable [is] upon the applicant utility." *Kentucky American Water Co. v. Commonwealth ex rel. Cowan*, 847 S.W.2d 737, 741 (Ky. 1993)

<sup>7</sup> Response to Notice of Filing Deficiency (filed Jul. 12, 2018).

<sup>8</sup> Jan. 8, 2019 H.V.T. at 7:05:22.

the Commission does not have statutory authority to penalize Southern District for its management practices by arbitrarily reducing rates as a penalty.<sup>9</sup>

The Commission further finds that this matter should be dismissed without prejudice, which permits Southern District leave to submit a new alternative rate adjustment filing when Southern District has the requisite base revenue data for a complete (12 months) historical test year, accompanied by all other information required by 807 KAR 5:076.

### SUMMARY

The Commission, after consideration of the evidence of record and being otherwise sufficiently advised, finds that:

1. Based on the foregoing, test-year revenues as calculated by Southern District and subsequently accepted by Commission Staff in its Report cannot be reasonably relied upon and should not be accepted.
2. The water service rates proposed by Southern District should be denied.
3. The water service rates and percentage calculated by Staff in its Report should not be accepted.

IT IS THEREFORE ORDERED that:

1. The rates proposed by Southern District are denied.
2. The rates proposed in the Commission Staff Report are denied.
3. This case is dismissed without prejudice and removed from the Commission's docket.

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<sup>9</sup> See *South Central Bell Telephone Co. v. Utility Regulatory Com'n*, 637 S.W.2d 649 (Ky. 1982).

By the Commission

ENTERED  
JAN 31 2019  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:



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