

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF NIXUTIL SANITATION) CASE NO.
ASSOCIATION, INC. FOR AN ALTERNATIVE) 2019-00024
RATE ADJUSTMENT)

ORDER

On January 14, 2019, Nixutil Sanitation Association, Inc. (Nixutil), tendered an application requesting to adjust its monthly sewage service rates, pursuant to the procedures set forth in 807 KAR 5:076, and to place its proposed rates in effect immediately. Nixutil's application was marked as deficient by a letter dated January 30, 2019, because it did not contain a depreciation schedule of all the utility plant in service or a detailed analysis of its customers' bills. On February 4, 2019, Nixutil requested that it be excused from those filing requirements. The Commission granted Nixutil's request based on its size and plant in service. Nixutil's application was accepted as filed on February 4, 2019. Pursuant to 807 KAR 5:076, Section 7, Nixutil's proposed rates were suspended, until August 3, 2019.

Nixutil operates a small sewage treatment and collection facility that serves 33 homes and 1 small convenience store.¹ It is a non-profit corporation that was formed, in part, to serve the subdivision in which it is located.² It has no paid employees but rather

¹ Nixutil Sanitation Association, Inc. Response to Deficiency Letter (Nixutil Response to Deficiency) (filed Feb. 4, 2019) ("[W]e [Nixutil] are only a subdivision of 33 homes plus 1 fast food In/Out Market. The only plant we have is a treatment plant for our subdivision."); *see also* Application at ARF FORM 1 ATIACHMENT BA-FR - SEPTEMBER 2011 (indicating Nixutil had 34 customers).

² *See* Nixutil Response to Deficiency (indicating Nixutil is an association serving a subdivision).

contracts with third parties for the operation of its facilities.³ Currently, Nixutil has no debt and has been debt free for a number of years.⁴ There is no indication in any of Nixutil's annual reports that it has a line of credit from which it can address shortfalls in revenue.

Nixutil proposed a monthly rate for each of its 34 customers in the amount of \$70.95.⁵ The proposed rate is based on an annual revenue requirement of \$28,095.44.⁶ The revenue requirement is based on a test year beginning on January 1, 2017, and ending on December 31, 2017, as required by 807 KAR 5:076, Section 9. Its revenue requirement was calculated using an operating ratio method consistent with past Commission decisions.⁷

Assuming its annual reports are accurate, Nixutil's operating and maintenance expenses have remained relatively consistent over the past five years.⁸ There is a

³ See Annual Report of Nixutil Sanitation Association, Inc. to the Public Service Commission of Kentucky for the Year Ended December 31, 2017 ("2017 Annual Report") at 10, 27-28 (indicating that Nixutil has no full time employees or part time employees and that it is making payments for sludge hauling and other labor, materials and expenses related to operation of treatment system).

⁴ 2017 Annual Report at 12, 20 (showing that Nixutil had no debts or outstanding notes in 2017); Annual Report of Nixutil Sanitation Association, Inc. to the Public Service Commission of Kentucky for the Year Ended December 31, 2016 ("2016 Annual Report") at 12, 20 (showing that Nixutil had no debts or notes in 2016) ; Annual Report of Nixutil Sanitation Association, Inc. to the Public Service Commission of Kentucky for the Year Ended December 31, 2015 ("2015 Annual Report") at 12, 20 (showing that Nixutil had no debts or notes in 2015); Annual Report of Nixutil Sanitation Association, Inc. to the Public Service Commission of Kentucky for the Year Ended December 31, 2014 ("2014 Annual Report") at 12, 20 (showing that Nixutil had no debts or notes in 2014).

⁵ Application at 7, 16.

⁶ *Id.* at 11, 16.

⁷ See Application at 11 (showing Nixutil's revenue requirement calculation based on pro forma operating expenses and an operating ratio of 0.88); see also *Application of Muhlenberg County Water District No. 3 for Rate Adjustment for Small Utilities pursuant to 807 KAR 5:076*, Case No. 2012-00017 (Ky. PSC July 12, 2012) ("An operating ratio of 88 percent will permit Muhlenberg District to meet its reasonable operating expenses and provide for a reasonable operating margin and should be used to determine Muhlenberg District's total revenue requirement.").

⁸ See 2017 Annual Report at 27-28; 2016 Annual Report at 27-28; 2015 Annual Report at 27-28; 2014 Annual Report at 27-28; 2013 Annual Report at 27-28 (showing the expenses for each year).

notable increase of several thousand dollars in Nixutil's operating and maintenance expenses in certain years, including the proposed test year,⁹ but those increases appear to coincide with Nixutil's obligation to renew its discharge permit with the Division of Water and pay the permit fee in the amount of \$3,200 pursuant to 401 KAR 5:310, Section 1. If the permit fee is amortized over the five years that discharge permits are generally valid, then Nixutil's expenses will show little fluctuation.

The comparison below shows a revised revenue requirement reflecting the \$3,200 paid for a discharge permit being amortized over a period of five years instead of including the full fee.

	<u>Proposed</u>	<u>Adjusted</u>
Operating Expenses Before Income Taxes	\$ 27,565	\$ 25,005
Divided by: Operating Ratio	<u>88%</u>	<u>88%</u>
Overall Revenue Requirement	31,323	28,414
Less: Other Operating Revenue	<u>(3,228)</u>	<u>(3,228)</u>
Revenue Requirement - Sewer Rates	<u>\$ 28,095</u>	<u>\$ 25,186</u>

Nixutil's current tariff rates would generate revenue significantly below its proposed revenue requirement even with the adjustment discussed above. While revenue shortfalls can be problematic under any circumstances, it is likely that revenue shortfalls for Nixutil would be more of a problem because of its size and the absence of liquidity. Thus, the evidence currently before the Commission indicates that Nixutil's credit and operations will be materially impaired if Nixutil is not authorized to increase its rates while this matter is pending.

⁹ See *supra* note 8.

While the record justifies allowing Nixutil to increase its rates during the pendency of this matter, the Commission finds that it would be unreasonable to base the rates on a revenue requirement that included the increase in expense related to the payment of a fee to the Division of Water, since that expense is not incurred every year. Using the recalculated revenue requirement with the amount of that fee amortized over a 5 year period, the Commission finds that a flat monthly rate of \$61.73 would generate the adjusted revenue requirement as shown below. Thus, the Commission will permit Nixutil an interim increase in its tariffed rate to a flat monthly fee of \$61.73, subject to refund, for each of its 34 customers to be charged on a monthly basis.¹⁰

	<u>Proposed</u>	<u>Adjusted</u>
Number of Customers	34	34
Flat Monthly Rate	\$ 71	\$ 61.73
Monthly Revenue	2,412	2,099
Number of Months	12	12
Annual Revenue	<u>\$ 28,948</u>	<u>\$ 25,186</u>

The Commission notes that this Order should not be interpreted as a final determination that the revenue requirement as a whole, or any expense included therein, is reasonable.¹¹ Rather, the Commission finds that a report from Commission Staff is necessary in this matter to fully develop the record, and the Commission is only authorizing the interim rates discussed above to go into effect subject to a refund during the pendency of this matter to prevent Nixutil's financial impairment during the

¹⁰ Although Nixutil's customers include 33 residences and 1 small convenience store, there is insufficient evidence in the record at this time to distinguish between customers based on usage.

¹¹ Similarly, this order should not be interpreted as a final determination that the fee discussed above must be amortized over 5 years or that the rate structure established herein is the most reasonable.

development of the record. The Commission is also establishing the procedural schedule below to facilitate the orderly review of this matter. If Commission Staff's report or other evidence later indicates that the rates approved herein, or any portion thereof, were unreasonable then any unreasonable amount will be subject to a refund.¹²

IT IS THEREFORE ORDERED that:

1. The rates proposed by Nixutil in its application are suspended until August 3, 2019, or until further order by the Commission.
2. Nixutil is authorized to place into effect the interim base rates, subject to refund, set forth in Appendix A to this Order for service rendered on and after April 1, 2019.
3. Nixutil shall maintain its records in such a manner as will enable it, or the Commission, to determine the amounts to be refunded and to whom any refund is due in the event that a refund of any portion of the interim base rate increase is ordered by the Commission.
4. Within 20 days of the date of this Order, Nixutil shall file with the Commission, using the Commission's electronic Tariff Filing System, Nixutil's revised tariff with its interim rates as set forth in this Order, subject to refund, reflecting that it was approved pursuant to this Order.

¹² While the interim rate might seem high to some of Nixutil's customers, it is important to ensure Nixutil's financial integrity. Another utility could voluntarily agree to operate Nixutil's facilities if it became insolvent, but the Commission could not require the nearby county sewer districts to take over Nixutil or to otherwise provide service to Nixutil's customers. Thus, ensuring the financial viability of Nixutil is in the interest of its customers.

5. No later than May 13, 2019, Commission Staff shall file with the Commission and serve upon all parties of record a written report containing its findings regarding Nixutil's requested rate adjustment (Commission Staff Report).

6. No later than 14 days after the date of the filing of the Commission Staff Report, each party of record shall file with the Commission:

a. Its written comments on, and any objections to, the findings and recommendations contained in the Commission Staff Report; and

b. Any additional evidence for the Commission to consider.

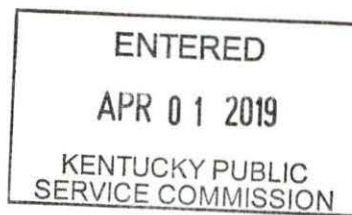
7. A party's failure to file written objections to a finding or recommendation contained in the Commission Staff Report within 14 days after the date of the filing of the Commission Staff Report shall be deemed as an agreement with that finding or recommendation.

8. A party's failure to request a hearing or informal conference in the party's written response shall be deemed a waiver of all rights to a hearing on the application and a request that the case stand submitted for a final decision.

9. Any motion to intervene shall be filed no later than April 5, 2019.

10. Any motion to intervene filed after April 5, 2019, shall show a basis for intervention and good cause for being untimely. If the untimely motion is granted, the movant shall accept and abide by the existing procedural schedule unless the Commission orders otherwise.

By the Commission



ATTEST:

A handwritten signature in blue ink that reads "Steven R. Purson". The signature is written in a cursive style and is positioned above a horizontal line.

Executive Director

Case No. 2019-00024

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00024 DATED **APR 01 2019**

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

Monthly Sewer Rate

Monthly Flat Rate

\$61.73 per Month

*Nixutil Sanitation Association, Inc.
2048 Lincoln Drive
Independence, KY 41051

*Donna Brautigan
Nixutil Sanitation Association, Inc.
11961 Catalina Drive
Independence, KY 41051