

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF MURRAY WATER DISTRICT)	
#2 FOR AN ORDER APPROVING A TRANSFER)	CASE NO.
OF OWNERSHIP AND CONTROL TO THE CITY)	2019-00413
OF MURRAY)	

ORDER

On November 13, 2019, Murray Water District #2 (Murray District #2) and the City of Murray, Kentucky (Murray) (collectively Joint Applicants) jointly filed an application for approval of the transfer of ownership and control of Murray District #2 to Murray. At issue is whether Murray has the managerial, technical, and financial ability to provide reasonable utility service and whether the proposed transfer of control is in the public interest.

PROCEDURE

On November 25, 2019, by order, the Commission found that an investigation would be necessary and that it could not be completed by January 10, 2020. Pursuant to KRS 278.020(7), the Commission continued the application for 60 additional days, up to and including March 10, 2020. Joint Applicants responded to two rounds of discovery. There are no intervenors. This matter now stands submitted to the Commission for a decision.

DISCUSSION

Murray District #2 is a Kentucky water district formed on January 21, 1969, and is in good standing to operate in Kentucky. It serves approximately 290 customers in an

unincorporated area of Calloway County, with the water being supplied by Murray. Murray is a city of the third class that has complete control, possession, and supervision of the potable water system within Murray and large portions of Calloway County that it has annexed into its service area.

According to the terms of the proposed transaction between Murray District #2 and Murray, dated November 7, 2019, Murray will acquire all of the utility assets and liabilities of Murray District #2. Murray will operate Murray District #2's potable water facilities, will receive all income, will pay all expenses relating to that operation, and will bear all responsibility for the operation and maintenance of the facilities.

Approval Pursuant to KRS 278.020(6)

KRS 278.020(6) provides that:

No person shall acquire or transfer ownership of, or control, or the right to control, any utility under the jurisdiction of the commission by sale of assets, transfer of stock, or otherwise, or abandon the same, without prior approval by the commission. The commission shall grant its approval if the person acquiring the utility has the financial, technical, and managerial abilities to provide reasonable service.

Murray has shown that it has the necessary financial ability to operate the subject utility. Murray provided audited financial statements¹ showing that it possesses the financial capability to provide reasonable service and to fund capital improvements. For the fiscal year ending June 30, 2018, Murray's combined Water and Sewer System reported total operating revenues and expenses of \$11,284,599 and \$6,348,539,

¹ Joint Applicant's responses to Commission Staff's First Request for Information (Staff's First Request), Item 5.

respectively.² This resulted in a net operating income for fiscal year 2018 of \$4,936,060.³ The audited financial statements further showed that as of June 30, 2019, the Murray Water and Sewer System reported Utility Plant in Service of \$116,134,195 and accumulated depreciation of \$33,669,070, for a net Utility Plant in Service of \$82,465,125.⁴

Murray has shown that it has the necessary technical ability to operate the utility. The Murray water system serves the City of Murray, former Murray Water District #1, Water District #2, former Murray Water District #3, Dexter-Almo Water District, and 641 South Water District.⁵ Murray currently provides maintenance service to Murray District #2 on a cost-of-repair basis.⁶ Murray has the equipment, parts on hand, and trained personnel to operate the water district.⁷ Murray's field operations division has four three-to four-man service crews to respond to maintenance or emergency situations.⁸ Murray has a certified operator on call twenty-four hours per day, seven days per week.⁹ Murray's water treatment plant is rated for 7.0 million gallons per day (MGD) and, on average, it treats and pumps approximately 3.5 MGD.¹⁰ The Murray water system has an elevated

² *Id.*, Item 2.c.

³ *Id.*

⁴ *Id.*

⁵ *Id.*, Item 2.a.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

storage capacity of 2.925 million gallons of potable water and 2.0 million gallons of treated potable water before high service pumping.¹¹ Murray has the storage volume required by Murray District #2. Murray currently has 9,250 water customers on the city system.¹² Adding 290 customers should not tax Murray's service to its customers or to Murray District #2's customers.

Murray has shown that it has the necessary managerial ability to operate the utility. Murray's Field Operations Division is managed by a Class III Water Distribution Operator.¹³ Its two main water distribution crews are both led by Class IV Water Distribution Operators.¹⁴ Murray's chief Inspector and line locater is a Class III Water Distribution Operator.¹⁵ Murray also has nine additional certified water distribution operators on staff holding Class I to Class III certifications.¹⁶ Murray's water system, which is part of the City's Public Works & Utilities Department, is led by an individual with a Master's of Science in Environmental Engineering who is also a Class IV-A Water Treatment Operator and a Class IV Wastewater Treatment Operator with 47 years of experience in public utility operation, maintenance, and management.¹⁷ The Department's annual budget is \$23 million dollars and it has a total staff of 60

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*, Item 2.b.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*, Item 2.d.

employees.¹⁸ Murray's water treatment plant staff is led by a Certified Utility Manager who is also Class IV-A certified treatment operator.¹⁹ There are also two other Class IV-A certified operators on the treatment plant staff.²⁰

Based on the above information, Murray has shown that it possesses the "financial, technical, and managerial abilities to provide reasonable service," as required by KRS 278.020(6).

Approval Pursuant to KRS 278.020(7)

KRS 278.020(7) provides, in relevant part, that the Commission shall approve a proposed acquisition of control upon a finding that the proposed transaction is "made in accordance with law, for a proper purpose and is consistent with the public interest."

Here, the Joint Applicants contend that the proposed transaction has received all necessary government approvals, and therefore will be made in accordance with the law. The proposed transaction has been approved by Murray District #2's board of directors and by the Calloway County Fiscal Court. The Commission's regulatory approval is required for the closing. There are no other regulatory approvals necessary for the closing of the transaction.

The purpose of the proposed transaction is for Murray to assume responsibility for providing service to customers in Murray District #2's service area.²¹ Murray District #2's intent is to cease providing utility service.²²

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ Application at 4.

²² *Id.*

Murray avers that the proposed transaction is consistent with the public interest and will not adversely affect Murray District #2's customers. The transaction will result in the transfer of control of Murray District #2 to a new owner that has asserted that it will continue to focus on maintaining safe and reliable water distribution. It will be a locally owned utility that has the knowledge of, and an interest in, the communities it serves. Because of its local connections, Murray should be responsive to the needs of Murray District #2's customers.

The Commission has held that the public interest standard of KRS 278.020(7) requires that either the transfer will not adversely affect the existing level of utility service or rates or that any potentially adverse effects can be avoided through the Commission's imposition of reasonable conditions on the acquiring party.²³ The acquiring party should also demonstrate that the proposed transfer is likely to benefit the public through improved service quality, enhanced service reliability, the availability of additional services, lower rates, or a reduction in utility expenses to provide present services.²⁴ Such benefits, however, need not be immediate or readily quantifiable.²⁵

Murray states that customers of Murray District #2 will benefit from the transfer by having full-time staff available to serve the customers and by having improved financial and record-keeping systems in place.²⁶ It states that it has sufficient revenues to respond

²³ Case No. 2002-00018, *Application for Approval of the Transfer of Control of Kentucky American Water Company to RWE Aktiengesellschaft and Thames Water Aqua Holdings GmbH* (Ky. PSC May 30, 2002), at 7.

²⁴ *Id.*

²⁵ *Id.*

²⁶ Joint Applicant's responses to Staff's First Request, Item 3.

to any potential emergencies whereas Murray District #2 only has a small amount of cash on hand and no reserves to deal with emergencies.²⁷

The customers of Murray District #2 will experience a rate increase as a result of the proposed transaction. The Joint Applicants state that the current rates are insufficient to cover ongoing costs and could not cover any unusual costs or breakdowns.²⁸ The new rates are the required rates set by ordinance for all customers outside the city limits of Murray.²⁹ Because Murray is a municipal utility, its rates are not subject to review by the Commission. The customers of Murray District #2 were notified by mail of the transfer negotiations with the Murray and the proposed rate changes.³⁰ No complaints were received in response to this mailed notice.³¹

The current monthly rate for Murray District #2 for a residential customer using 2000 gallons is \$11.67.³² The Murray rate for an outside-the-city residential customer for using 2000 gallons is \$20.54 per month.³³ The increase on a 2000-gallon residential water bill is approximately \$9.00 per month, plus applicable state and local taxes.³⁴

FINDINGS

²⁷ *Id.*

²⁸ Joint Applicant's responses to Commission Staff's Second Request for Information, Item 1.a.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² Application, Attachment 12.

³³ *Id.*

³⁴ *Id.*

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that the proposed transfer should be approved. Based on the evidence of record, and as discussed above, we find that Murray has the financial ability to provide reasonable service to Murray District #2's customers, and has the managerial and technical abilities necessary to provide reasonable service. We find that both the level and quality of service currently received by Murray District #2's customers will be maintained. We further find that the proposed transaction will be made in accordance with the law, does not violate any statutory prohibition, and is consistent with the public interest.

IT IS THEREFORE ORDERED that:

1. The proposed transfer of Murray District #2 to Murray as set forth in the application is approved.
2. Within five days of the consummation of the approved transfer, Joint Applicants shall file written notice setting forth the date that the acquisition was completed.
3. By March 31, 2020, Murray District #2 shall file a financial and statistical report as required by 807 KRS 5:006, Section 4, for the calendar year ending December 31, 2019.
4. Within 60 days of the date of entry of this Order, Murray District #2 shall file a financial and statistical report as required by 807 KRS 5:006, Section 4, for the reporting period from January 1, 2020, to the date of closing.
5. This case is closed and removed from the Commission's docket.

By the Commission

ENTERED
FEB 27 2020
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2019-00413

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