

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| ELECTRONIC INVESTIGATION INTO EXCESSIVE |) | CASE NO. |
| WATER LOSS BY KENTUCKY'S |) | 2019-00041 |
| JURISDICTIONAL WATER UTILITIES |) | |

ORDER

The Commission initiated this investigation to review the excessive water loss by Kentucky's jurisdictional water utilities that report over 35 percent water loss in their annual reports on file with the Commission as of March 12, 2019.¹ Commission Staff (Staff) collected verified information from the 11 water utilities through multiple rounds of discovery.² Formal hearings were held on June 9, 10, 11, 16, 17, and 18, 2019. The Attorney General is the only intervenor in this matter.

The Commission compiled information and findings from its investigations and prepared the report titled, "*Confronting the Problems Plaguing Kentucky's Water Utilities:*

¹ Kentucky's jurisdictional water utilities named in in this proceeding were Big Sandy Water District, Cawood Water District, Estill County Water District #1, Farmdale Water District, Hyden-Leslie Water District, Milburn, Morgan County Water District, Rattlesnake Ridge Water District, Southern Water & Sewer District, and West Carroll Water District along with North Manchester Water Association. Of the 12 water utilities named as parties in the March 12, 2019 Order, one, Kentucky-American Water Company (Kentucky-American), was dismissed as a party by Order entered April 5, 2019. Kentucky-American had been made a party to this proceeding due to excessive water loss only in the area previously served by Eastern Rockcastle Water Association, Inc. (Eastern Rockcastle Association), which was acquired by Kentucky-American early in 2018. Because Kentucky-American's overall water loss is less than 20 percent, which is under the 35 percent threshold the Commission established in identifying water utilities who were made a party to this proceeding, Kentucky-American's motion to dismiss was granted.

² The Commission was investigating the water loss percentages of Cannonsburg Water District in Case No. 2014-00267, *Cannonsburg Water District's Unaccounted-for Water Loss Reduction Plan, Surcharge and Monitoring*, and Martin County Water District in Case No. 2016-00142, *Electronic Investigation of the Operating Capacity of Martin County Water District Pursuant to KRS 278.280*. Those utilities were not made a party to this case. The Commission action required to address water loss will continue in those cases respectively.

An Investigative Report by the Kentucky Public Service Commission November 2019” that was fully incorporated, attached as Appendix L, and filed contemporaneously with the Commission’s November 22, 2019 Order. The 11 water utilities were ordered by the Commission to address water loss through six general orders to all of the utilities (Orders in the appendices of the November 22, 2019 Order) and directed to each system specifically. In addition, the Commission expanded upon its analysis of the causes for many utilities to disregard infrastructure maintenance and repair and made recommendations in its investigative report.

BACKGROUND

Reports of excessive water loss year after year can be indicative of the deteriorating overall financial and operational well-being of a water utility. For this reason, as noted in its Orders in recent years, the Commission has been placing greater emphasis on monitoring utilities that consistently exceed the 15 percent unaccounted-for water loss threshold.³ The Commission has strongly encouraged utilities to continue to pursue reasonable actions to reduce unaccounted-for water loss.⁴ Language in these Orders stated that failure by a water utility to demonstrate significant progress toward reducing

³ See generally Case No. 2017-00176, *Electronic Application of Estill County Water District No. 1 for Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Dec. 20, 2017) at 4. There is not a national water loss standard, thus each state adopts their own standard based on best practice indicators from industry groups, including the American Water Works Association (AWWA) and International Water Association. See AWWA Water Resources and Tools, www.awwa.org.

⁴ See generally Commission’s Final Orders for Rate Applications from 2017 to present for language explaining the greater emphasis on encouraging efforts to reduce water loss and including the approximate amount of money the lost water represented to the utility. Case No. 2017-00176, *Electronic Application of Estill County Water District No. 1 for Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Dec. 20, 2017), Order at 4.

its water loss may cause the Commission to pursue additional action with the utility, including an investigation into the utility's inability to reduce its water loss.

In its March 12, 2019 Order initiating this proceeding, the Commission cited its plenary authority under KRS 278.040 to regulate the rates and services of jurisdictional utilities and to enforce the provisions of KRS Chapter 278.⁵ KRS 278.030 requires every utility to furnish "adequate, efficient and reasonable" service. KRS 278.260 permits the Commission, on its own motion, to investigate any act or practice of a utility that affects or is related to the service provided by a utility. After conducting such an investigation and finding that a practice is unreasonable, unsafe, improper, or inadequate, KRS 278.280(1) further permits the Commission to determine the reasonable, safe, proper, or adequate practice or methods to be observed and to fix same by Order. KRS 278.230 permits the Commission to inspect the books and records of any jurisdictional utility and provides that jurisdictional utilities' books and records shall be available to the Commission. KRS 278.230 also permits the Commission to require jurisdictional utilities to file "reports . . . or other information" the Commission reasonably requires.

The Commission has defined "unaccounted for water" at 807 KAR 5:067, Section 1(7):

Unaccounted for water "means the volumetric sum of all water purchased and produced by the utility less the volume of water:

(a) Sold;

⁵ See *Kentucky Public Service Com'n v. Commonwealth Ex Rel. Conway*, 324 S.W.3d 373, 383 (Ky. 2010).

- (b) Provided to customers without charge as authorized by the utility's tariff; and
- (c) Used by the utility to conduct the daily operation and maintenance of its treatment, transmission, and distribution systems.

Unaccounted-for water loss is “the difference of the total amount of water produced and purchased and the sum of water sold, water used for fire protection purposes,⁶ and water used in treatment and distribution operations (e.g., backwashing filters, line flushing).”⁷

Pursuant to KRS 278.280(2), the Commission has prescribed in its regulations that:

Except for purchased water rate adjustments for water districts and water associations, and rate adjustments pursuant to KRS 278.023(4), for rate making purposes a utility's unaccounted-for water loss shall not exceed fifteen (15) percent of total water produced and purchased, excluding water used by a utility in its own operations.⁸

The policy enacted by this regulation is “intended to serve as an incentive to promote efficient management.”⁹ The water utilities named in the March 12, 2019 Order have repeatedly reported an unaccounted-for water loss that exceeds 35 percent of the total water produced and purchased, excluding water used by a utility in operation of its

⁶ A utility may grant free or reduced rate service to fire districts to fight fires or to train firefighters. KRS 278.170 requires fire districts to maintain estimates of the amount of water used for fire protection and training and to report the water usage on a regular basis.

⁷ Case No. 2011-00217, *Application of Cannonsburg Water District for (1) Approval of Emergency Rate Relief and (2) Approval of the Increase in Nonrecurring Charges* (Ky. PSC June 4, 2012), Order at 5, footnote 12.

⁸ 807 KAR 5:066, Section 6(3).

⁹ Case No. 89-075, *In the Matter of the Notice by Lake Village Water Association, Inc., of a Tariff Amendment Adjusting Rates and Imposing Construction Surcharge* (Ky. PSC Jan. 29, 1990), Order at 5.

plant, system flushing, wastewater purposes (e.g., backwashing of filters), and fire department usage.

The Commission recommendations to the parties of this matter based upon the investigation were that:

1. Those water utilities that rely on traditional methods for locating leaks begin installing zone meters to help identify problem areas.

2. Those water utilities that already have zone meters should begin installing bypass meters or dedicated meter pits for use with a portable flowmeter to help isolate leaks into even smaller areas. Distribution systems should also be evaluated to determine the need for more isolation valves.

3. Because all systems should have a dedicated number of personnel devoting specific time to leak detection, water loss prevention, and related tasks, staffing needs should be evaluated immediately and a plan developed that would allow either obtaining additional employees or a more efficient distribution of the workload for current employees. As water loss percentages start declining, there will still be a need for staff and time to maintain the improvements. Utilities should be aware of related tasks that support water loss detection and loss prevention such as meter replacement, valve maintenance, line locating, etc.

4. The water utilities should evaluate their meter replacement/testing schedules and determine if current programs adequately inventory meters by age, location, and accuracy. The number of meters that need to be tested or replaced should be determined before annual budgets are developed to help ensure funding is available for those projects. In addition to the regulatory requirement to test meters and submit

Quarterly Meter Reports, the reports should also be used as a tool to monitor overall meter age and reliability in the systems.

5. Each water utility should evaluate the need for more frequent rate increases.

6. The roles of boards and managers should be more defined regarding water loss and leak detection. Managers need more flexibility and hands-on control of solving water loss as well as more training on administrative responsibilities not covered in operator training.

Required Reporting From All 11 Water Utilities

The Commission ordered that:

1. Each of the 11 water utilities named in this proceeding must provide to the Commission evidence that they have developed a plan to improve the operations and financial health of the utility.

2. Each of the 11 water utilities named in this proceeding must provide to the Commission any new policies and procedures used to address water loss and better business practices, including but not limited to a water loss reduction plan, a leak detection plan, and employee policies and procedures.

3. Each of the 11 water utilities named in this proceeding must update their respective water leak detection and water loss prevention manuals. The manuals should include specific procedures that relate to each water utility's methods for leak detection and loss prevention. Key components for water leak detection and water loss prevention should be identified and referenced, such as valves, zone meters, tank meters, and

typical demand for each area. Manuals should indicate the desired number of personnel necessary to carry out the programs and the amount of time that needs to be allotted.

4. Within 12 months of the date of entry of the Order, the board members of the 10 water districts named in this proceeding who had not already attended 12 hours of new commissioner training that complied with KRS 74.020(8) must attend a minimum 6 hours of training at a Commission-sponsored seminar.

Utility-Specific Actions

The Commission also identified utility-specific actions that are necessary to improve the operations and financial health of the subject water utilities and those were attached to the November 22, 2019 Order in Appendices A–M.

DISCUSSION

Despite delays caused by a state of emergency brought on by the pandemic of the novel coronavirus, COVID-19, the parties in this matter continued to make efforts to comply with the Commission's November 22, 2019 Order. The Commission entered an Order on March 11, 2020, ordering each utility to meet with the Commission's Division of Inspections Staff to discuss specific compliance; however, due to restrictions in place due to the state of emergency, the Commission revised that Order regarding meeting with Commission Staff in its Order on April 7, 2020. The April 7, 2020 Order also extended the deadline to comply with the November 22, 2019 Order and ordered that a progress report be filed by each party instead on May 22, 2020, to report on the steps taken by each utility to address the Commission's Orders and recommendations. The final submissions to comply with the November 19, 2019 Order were due September 22, 2020. The April 7, 2020 Order also encouraged the parties to contact Staff for guidance on the

recommendations and Orders set forth in the Commission's November 22, 2019 Order. Several parties requested extensions variously based upon delays due to restrictions in place due to COVID-19, delays due to consultants availability to assist with water audits, and delays due to illness of personnel at the utilities.

The Commission reviewed the actions taken by the parties to comply with the November 22, 2019 Order in this matter in several cases filed separately or subsequently by the parties to address the financial and operational ability to provide safe and reliable water service and, when possible, the parties' efforts to address water loss and improve policies were reviewed, and guidance from the Commission was given, such that those parties were released as parties to this matter. Additionally, the Commission revised several internal policies regarding the review of water utilities for financial and operational viability for any filing made at the Commission and employing its administrative jurisdiction to order utilities to file for rate adjustments for concerning factors like high water loss and indications that the utility has not maintained its base rate sufficiency to address infrastructure maintenance and water loss reduction.

The Commission has also implemented the use of the water loss surcharge. The use of a surcharge is consistent with prior Commission action in cases involving water utilities with excessive unaccounted-for water loss.¹⁰ In establishing water-loss surcharges, the Commission recognized that the adjustments required to be made to

¹⁰ See Case No. 96-126, *An Investigation into the Operations and Management of Mountain Water District* (Ky. PSC Aug. 11, 1997); Case No. 2011-00217, *Application of Cannonsburg Water District for (1) Approval of Emergency Rate Relief and (2) Approval of the Increase in Nonrecurring Charges*, (Ky. PSC June 4, 2012); Case No. 2018-00017, *Application of Martin County Water District for an Alternative Rate Adjustment* (Ky. PSC Nov. 5, 2018); Case No. 2018-00429, *Application of Graves County Water District for an Alternative Rate Adjustment* (Ky. PSC Sept. 30, 2019); and Case No. 2019-00119, *Electronic Application of Estill County Water District No. 1 for a Surcharge to Finance Water Loss Control Efforts* (Ky. PSC Mar. 24, 2010).

comply with the 15 percent line-loss limitation in 807 KAR 5:066, Section 6(3), could severely restrict cash flow and could impair a water district's ability to take the necessary action to focus on its leak detection and repair. Using a surcharge to fund a water utility's water loss reduction efforts allows the Commission to place strict controls governing the surcharge proceeds to ensure their effective use, public acceptance of the surcharge, and public confidence in the water district's use of those funds. In its report entitled, *"Confronting the Problems Plaguing Kentucky's Water Utilities: An Investigative Report by the Kentucky Public Service Commission November 2019"* that was fully incorporated in the November 22, 2019 Order in this proceeding, the Commission recommended more frequent rate cases and pursuing qualified infrastructure improvement surcharges, the proceeds of which will be devoted exclusively to infrastructure improvement and replacement.¹¹

FINDINGS

Big Sandy Water District

Big Sandy Water District (Big Sandy District) submitted a status report on May 22, 2020, and subsequently filed a water audit on January 28, 2021. Big Sandy District reported that it had hired a general manager, however, reported to Staff that the individual retired unexpectedly. Big Sandy District has not filed an annual report for 2020 and based on the record, its water loss has not improved significantly, having been reported at 41.28 percent for 2019 in its last Staff inspection conducted on February 13, 2020. Additionally,

¹¹ Nov. 22, 2019 Order, *Appendix L, Confronting the Problems Plaguing Kentucky's Water Utilities: An Investigative Report by the Kentucky Public Service Commission November 2019* at 24–25.

a meter/valve testing program has yet to be finalized. During the Staff inspection on February 13, 2020 three deficiencies were identified:

1. Big Sandy was failing to operate its facilities so as to provide adequate and safe service to its customers as required by 807 KAR 5:066, Section 7, due to water loss exceeding 15 percent (2019: 41.28 percent);

2. Big Sandy Water District had 1" and smaller meters and master meters that have been in service without being tested for a period longer than 10 years as specified in 807 KAR 5:066, Section 16(1) (2,443 by end of 2020); and

3. Big Sandy Water District was not in compliance with the Division of Water as required by 807 KAR 5:066, Section 3(1) (out of Compliance with DBP sample testing).

Big Sandy District filed a response to the February 13, 2020 inspection by Commission Staff to indicate the efforts to cure the deficiencies noted. The Commission finds that Big Sandy District's submissions substantially comply with the November 22, 2019 Order; however, the Commission also finds that Big Sandy District should meet with Staff by means of an informal conference to discuss Big Sandy District's water audit and continued efforts to address its water loss. Staff can provide guidance on recommendations to improve policies to address the financial and operational health of the system, in addition to discussing the utility's rate sufficiency and the possibility of a water loss surcharge.

Cawood Water District

Cawood Water District (Cawood District) addressed the Orders and recommendations from the Commission in this matter by filing for a rate adjustment in Case No. 2020-00311, *Electronic Application of Cawood Water District for an Alternate*

Rate Adjustment,¹² and was granted a water loss surcharge to be monitored by Case No. 2021-00150, *Electronic Cawood Water District's Unaccounted-For Water Loss Reduction Plan, Surcharge and Monitoring*.¹³ Additionally, Staff noted in a feasibility study filed in another case, that in response to Case No. 2019-00041, Cawood District made "great strides operationally."¹⁴

On November 2, 2020, Cawood District filed several documents to comply with the Commission's November 22, 2019 Order in this proceeding. Specifically, Cawood District filed a water audit, a complete policies and procedural manual, a spreadsheet to denote the fire department usage, and a leak adjustment sheet and a meter change schedule. Furthermore, Cawood District met with Staff at an informal conference held on March 17, 2021, to discuss the submissions made by the utility. Representatives updated Staff on the timeline in place to purchase leak detection equipment, plans to obtain training for management through Kentucky Rural Water Association (KRWA) and the improvements made to the utility's mapping system.¹⁵ Based upon the record, the Commission finds that Cawood District has complied with the November 22, 2019 Order.

¹² Case No. 2020-00311, *Electronic Application of Cawood Water District for an Alternate Rate Adjustment* (Ky. PSC Apr. 8, 2021).

¹³ Case No. 2021-00150, *Electronic Cawood Water District's Unaccounted-For Water Loss Reduction Plan, Surcharge and Monitoring* (Ky. PSC Apr. 8, 2021).

¹⁴ Case Co. 2018-00068, *An Investigation Into the Feasibility of Proposed Merger of Cawood Water District and Black Mountain Utility District Pursuant to KRS 74.361* (Ky. PSC July 7, 2021), Order (in which the Commission found that merger was not feasible and that Black Mountain Utility District should file for an adjustment in base rates or file for an alternative rate filing pursuant to 807 KAR 5:076).

¹⁵ Post Case Filings, PSC Letter to File IC Memorandum, March 23, 2021.

Estill County Water District #1

Estill County Water District #1 (Estill District #1) filed for a surcharge during the pendency of this matter and was ordered to address further remedial action regarding its loss prevention or leak detection programs in Case No. 2019-00119.¹⁶ Estill District #1 has since filed Case No. 2021-00064¹⁷ and Case No. 2021-00207.¹⁸ Estill District #1 referenced its continued “significant financial problems due to its high level of unaccounted-for water” in its application in Case No. 2021-00064.¹⁹ The Commission finds that Estill District #1 has substantially complied with the November 22, 2019 Order, and the Commission finds that Estill District #1 should meet with Staff by means of an informal conference to discuss its continued efforts to improve its financial and operational capacity, including the possibility of the need for a base rate case or a modification to its water loss surcharge currently in place.

Farmdale Water District

Farmdale Water District (Farmdale District) moved quickly to address its rate insufficiency by filing Case No. 2020-00021²⁰ on January 22, 2020. A water loss

¹⁶ Case No. 2019-00119, *Electronic Application of Estill County Water District No. 1 for a Surcharge to Finance Water Loss Control Efforts*.

¹⁷ Case No. 2021-00064, *Electronic Application of Estill County Water District No. 1 for Authorization to Enter into an Assistance Agreement with the Kentucky Infrastructure Authority, for a Certificate of Public Convenience to Construct Certain Water Improvements and Authorization to use Water Loss Control Program Surcharge Proceeds* (Ky. PSC Apr. 8, 2021).

¹⁸ Case No. 2021-00207, *Electronic Application of Estill County Water District No. 1 for a Certificate of Public Convenience and Necessity for the Purchase and Installation of Metering Equipment and Authorization to use Loan Proceeds for Proposed Purpose* (Ky. PSC July 2, 2021).

¹⁹ Case No. 2021-00064, *Electronic Application of Estill County Water District No. 1 for Authorization to Enter into an Assistance Agreement with the Kentucky Infrastructure Authority, for a Certificate of Public Convenience to Construct Certain Water Improvements and Authorization to use Water Loss Control Program Surcharge Proceeds* (Ky. PSC Apr. 8, 2021), Application at 4.

²⁰ Case No. 2020-00021, *Electronic Alternative Rate Adjustment Filing of Farmdale Water District* (Ky. PSC July 7, 2020).

surcharge created in that rate case continues to be monitored in Case No. 2020-00217.²¹ Additionally, Case No. 2020-00217 required Farmdale to file a Qualified Infrastructure Improvement Plan (QIIP). This plan has yet to be submitted as Farmdale District has requested extensions based upon delays as its consultant, KRWA is also working on a comprehensive water audit ordered by the November 22, 2019 Order in this matter. Farmdale District filed a motion for extension to file its QIIP in Case No.2020-00217 on June 21, 2021, amending its previous request for an extension to finalize its comprehensive water audit and report in Case No. 2019-00041 filed on June 3, 2021, to request until August 30, 2021 within which to comply with the requirement to enter a QIIP to comply with the requirements of Case No. 2020-00217.²² Farmdale District cited delays due to COVID-19, KRWA's workload, and that the QIIP was dependent upon the comprehensive water audit.²³ The Commission finds good cause for both motions to be granted and would note the importance that the QIIP is submitted after the comprehensive water audit is completed. The Commission finds that Farmdale District has substantially complied with November 22, 2019 Order and that Farmdale District should meet with Staff by means of an informal conference to discuss its continued efforts to improve its financial and operational capacity.

²¹ Case No. 2020-00217, *Electronic Farmdale Water District's Unaccounted-For Water Loss Reduction Plan, Surcharge and Monitoring* (Ky PSC Dec. 23, 2020).

²² *Id.* (filed June 21, 2021).

²³ *Id.*

Hyden-Leslie County Water District

Hyden-Leslie County Water District (Hyden-Leslie District), on September 22, 2020, filed its Final Report on Compliance with the November 22, 2019 Order.²⁴ Additionally, L.J. Turner, general manager, testified to the progress that Hyden-Leslie District has made since the start of Case No. 2019-00041, and the utility has addressed the general and specific concerns the Commission expressed in the November 22, 2019 Order²⁵ and the Commission's Order of January 17, 2020, in Case No. 2019-00412.²⁶ Hyden-Leslie District filed two cases subsequent to the November 22, 2019 Order, Case No. 2019-00412²⁷ and Case No. 2020-00141,²⁸ through which a water loss surcharge was created and is monitored in Case No. 2020-00340.²⁹ Mr. Turner testified that Hyden-Leslie District has implemented written policies required by the Commission's November 22, 2019

²⁴ Hyden-Leslie District's Final Report on Compliance with Order of November 22, 2019 (filed Sept. 22, 2020).

²⁵ Nov. 22, 2019 Order at 6–8, recommendations and orders for all parties; and Appendix E, specific orders. Case No. 2020-00141, *Electronic Application of Hyden-Leslie County Water District for an Alternative Rate Adjustment* (Ky. PSC Nov. 6, 2020) hearing video transcript (HVT) at 20:15–21:15.

²⁶ See Case No. 2019-00412, *Electronic Application of Hyden-Leslie County Water District for Authorization to Enter a Short-Term Assistance Agreement with Kentucky Rural Water Finance Corporation to Refund an Existing Loan and to Subsequently enter a Long-Term Assistance Agreement with the Kentucky Infrastructure Authority* (Ky. PSC Jan. 17, 2020), Order at 13 (discussing Hyden-Leslie District's historical practice of executing financing agreements payable at periods of not more than two years and using financing that requires approval through KRS 278.023, effectively avoided the Commission's review and examination of its rate structure and funding of basic operations).

²⁷ See Case No. 2019-00412, *Electronic Application of Hyden-Leslie County Water District for Authorization to Enter a Short-Term Assistance Agreement with Kentucky Rural Water Finance Corporation to Refund an Existing Loan and to Subsequently enter a Long-Term Assistance Agreement with the Kentucky Infrastructure Authority* (Ky. PSC Nov. 6, 2020).

²⁸ Case No. 2020-00141, *Electronic Application of Hyden-Leslie County Water District for an Alternative Rate Adjustment* (Ky. PSC Nov. 6, 2020).

²⁹ Case No. 2020-00340, *Electronic Hyden-Leslie County Water District's Unaccounted-For Water Loss Reduction Plan, Surcharge and Monitoring* (Ky. PSC Nov. 6, 2020).

Order and reduced its water loss without receiving additional funding.³⁰ Based upon the record, the Commission finds that Hyden-Leslie District has complied with the November 22, 2019 Order and it was dismissed from this matter in the November 6, 2020 Order of Case No. 2020-00141.³¹

Milburn Water District

Milburn Water District (Milburn District) was ordered to pursue merger or consolidation with Graves County Water District (Graves District). Milburn District has not filed any notice of its status in the record. Staff has contacted the utility through the Division of Inspections and the Office of General Counsel and the informal communication indicated that merger discussions were not successful with Graves District. The utility contact reportedly attempted to discuss merger with Fancy Farm Water District that was unsuccessful as well. The Commission is aware of the dire circumstances that Milburn District seems to be experiencing based upon informal communications with Staff to inquire about the possibility of the utility seeking loans to help the utility maintain services. The Commission finds that Milburn District is in violation of the November 22, 2019 Order and should file a response in the record to indicate why the Commission should not open an investigation due to the violation of the Commission's Order. The Commission recognizes the difficulty Milburn faces; however, it cannot proceed without obtaining information from the utility to determine the best course of action.

Morgan County Water District

³⁰ Case No. 2020-00141, *Electronic Application of Hyden-Leslie County Water District for an Alternative Rate Adjustment* (Ky. PSC Nov. 6, 2020) HVT at 21:21–22:29.

³¹ *Id.*

Morgan County Water District (Morgan District) was ordered to file an application for alternative rate adjustment, pursuant to 807 KAR 5:076, with the Commission noting that in Case No. 2016-00068, Staff calculated higher rates than those that Morgan District requested and that Morgan District opted to charge the lower rates.³²

Morgan District included a revision to its leak adjustment policy and attached new policies to its filing on May 22, 2020.³³ Morgan District filed a motion for an extension of time on September 18, 2020, in which it requested additional time to comply with the requirement to file an alternative rate adjustment from the November 22, 2019 Order.³⁴ The Commission denied Morgan District's motion, reiterating the issue pointed out in the investigative report that a base rate increase and increasing rates as a part of obtaining a USDA/RD loan is different. The Commission can provide much more assistance to a utility through a base rate case because the Commission's review of records in a USDA/RD financing case is limited and different from the comprehensive review of a utility's total financial stability and operational viability that takes place in a traditional rate adjustment case or an alternative rate adjustment. Morgan District's financial predicament caused by its mistakes in failing to accept the rate recommendation of the Commission in Case No. 2016-0068, and failing to include depreciation as part of a prior USDA/RD loan is an example of the poor financial planning discussed in the investigative

³² Case No. 2016-00068, *Application of Morgan County Water District for Rate Adjustment* (Ky. PSC Aug. 17, 2017).

³³ Morgan County Water District's Response Report to PSC Order of April 7, 2020 (filed May 22, 2020).

³⁴ Morgan County Water District's Motion for Extension of Time (filed Sept. 18, 2020).

report.³⁵ Morgan District filed Case No. 2020-00386,³⁶ a base rate case on December 10, 2020, to comply with the Commission's November 22, 2019 and October 13, 2020 Orders.³⁷ Morgan District participated in an informal conference with Staff to discuss its compliance with the November 22, 2019 Order, as well as received guidance from the Commission in its final Order in Case No. 2020-00386, in which the Commission found that Morgan District should employ the use of water loss surcharge and Case No. 2021-00206³⁸ was opened to monitor its use. In addition, the Commission found that Morgan District had complied with the November 22, 2019 Order and should be dismissed as a party to this matter.³⁹

North Manchester Water Association, Inc.

North Manchester Water Association, Inc. (North Manchester Water) submitted an update on May 21, 2020, and a response to the November 22, 2019 Order on September 23, 2020. Commission Staff issued a request for information to clarify and review its responses to the Order on October 5, 2020, to be answered within 14 days of the request, and the utility failed to respond. The Commission notes the submissions made by the utility and finds that North Manchester Water has substantially complied with the November 22, 2019 Order; however, North Manchester Water should respond to

³⁵ Order (Ky. PSC Oct.13, 2020) at 2.

³⁶ Case No. 2020-00386, *Electronic Application of Morgan County Water District for Rate Adjustment Pursuant to 807 KAR 5:076*, (Ky. PSC Mar. 17, 2021).

³⁷ *Id.*, final Order (Ky. PSC Nov.22, 2019).

³⁸ Case No. 2021-00206, *Electronic Morgan County Water District's Unaccounted-For Water Loss Reduction Plan, Surcharge and Monitoring* (Ky. PSC June 9, 2021).

³⁹ Case No. 2020-00386, *Electronic Application of Morgan County Water District for Rate Adjustment Pursuant to 807 KAR 5:076*, (Ky. PSC June 9, 2021).

Commission Staff's Request for Information issued October 5, 2020, and should meet with Staff by means of an informal conference to discuss its continued efforts to improve its financial and operational capacity.

Rattlesnake Ridge Water District

Rattlesnake Ridge Water District (Rattlesnake District) filed its response to the November 22, 2019 Order on June 26, 2020. The Commission notes the submissions made by the utility and finds that Rattlesnake District has substantially complied with the November 22, 2019 Order; however, Rattlesnake District should meet with Staff by means of an informal conference to discuss its continued efforts to improve its financial and operational capacity. Rattlesnake District filed a refinancing case subsequent to the investigation case, Case No. 2020-00086; however, the refinancing has not been finalized and is still pending nor has contacted Staff regarding the delays. The Division of Inspections learned that the Phase 12 project (WX21043047) was supposed to be bid within a month to replace 4,000 meters, 700 service lines, and add 14 zone meters. During the Commission inspection on March 20, 2019, a deficiency was identified, noting that Rattlesnake District is failing to operate its facilities in a manner necessary to provide adequate and safe service to its customers as required by 807 KAR 5:066, Section 7, due to water loss exceeding 15 percent. The monthly water loss reports to the Division of Inspections indicate water loss continues to be a problem for Rattlesnake District with a range over the past few years from 50 to 65 percent. The Commission finds that Rattlesnake District substantially complied with the November 22, 2019 Order, but should also meet with Staff by means of an informal conference to discuss its submissions and continued efforts to improve its financial and operational capacity.

Southern Water & Sewer District

Southern Water & Sewer District's (Southern District) was ordered to address the Orders and recommendations by the Commission in Case No. 2019-00131.⁴⁰ Five recent cases addressed the need for Southern District to upgrade its water system infrastructure to reduce its excessive water loss. In Case No. 2019-00131, the Commission, among other things, authorized Southern District to collect a \$5.25 per month surcharge from its customers to fund the cost of customer meter replacements to address 47.52 percent water loss and to replace aged, malfunctioning meters. The meter project has been completed and the utility began reporting water loss again in October 2020. During the Commission inspection on February 26, 2020, two deficiencies were identified:

1. Southern District is failing to operate its facilities so as to provide adequate and safe service to its customers as required by 807 KAR 5:066, Section 7, due to water loss exceeding 15 percent.
2. Southern District has 5/8- x 3/4-inch meters and master meters that have been in service without being tested, contrary to the testing table in 807 KAR 5:066, Section 16(1).

The Commission notes the progress made by Southern District and finds that Southern District has complied with the November 22, 2019 Order.

West Carroll Water District

West Carroll Water District (West Carroll District) was ordered to undertake discussions with Carrollton Utilities regarding a possible merger or consolidation in the November 22, 2019 Order. Finding that the merger would further the public policy of the

⁴⁰ Case No, 2019-00131, *Application of Southern Water and Sewer District for an Alternative Rate Adjustment* (Ky. PSC Nov. 7, 2019).

Commonwealth of Kentucky “to encourage regionalization, consolidation, and merger of water districts wherever feasible,”⁴¹ the Commission approved the merger of West Carroll District and the city of Carrollton on behalf of Carrollton Utilities (Carrollton Utilities) in order to improve its financial and operational ability to provide safe and reliable water service.⁴² The Commission found that West Carroll complied with the November 22, 2019 Order and ordered it be dismissed as a party to this case in its Order entered on April 28, 2021.⁴³

CONCLUSION

The Commission remains committed to finding solutions to the problems plaguing Kentucky’s water utilities. The Commission initiated this investigation and developed its report with the intention to create a record of evidence to share with all relevant stakeholders to improve water quality and service for all Kentuckians. The record shows the progress that can be made by some of the parties and the lessons to be learned by others. The Commission has implemented internal changes as a result of this investigation to better serve its jurisdictional utilities, and it has reached out to other relevant regulatory entities to create partnerships moving forward. The information collected as a result of this investigation relates to non-jurisdictional water systems as well. Cannonsburg District and Martin District were two utilities used for reference in the investigative report. The Commission continues to monitor Cannonsburg District’s

⁴¹ KRS 224A.300(1) and KRS 74.361(1).

⁴² See Case No. 2021-00155, *Joint Application of West Carroll Water District and the City of Carrollton on Behalf of Carrollton Utilities for (1) An Approval of the Proposed Asset Acquisition and Transfer of Control of West Carroll Water District to the City of Carrollton on Behalf of Carrollton Utilities Pursuant to KRS 278.218, KRS 278.020(6) and KRS 278.020(7), and (2) All Other Required Approvals and Relief* (Ky. PSC Apr. 28, 2021).

⁴³ *Id.*

surcharge in Case No. 2014-00267, and the utility continues to implement a viable plan to combat water loss.⁴⁴ Martin District filed Case No. 2021-00154 recently, and the Commission's Order entered July 9, 2021 granted an emergency rate increase while explaining that Martin District "cannot survive and provide adequate service as a standalone entity."⁴⁵ The stories of the 11 utilities that are a party to this case, Cannonsburg District, and Martin District are not unique across Kentucky or across the nation. The record makes the case that many could be helped by merger and regionalization. The Commission is one part of the solution to the infrastructure problems facing Kentucky water systems and encourages its regulatory partners and the General Assembly to act to implement new and enhanced statutory and regulatory requirements for improved management, better oversight, planning, and to promote merger and regionalization as recommended in the investigative report. The Commission is committed to exercising its jurisdiction to its fullest to continue to create solutions for these struggling utilities and to help prevent other Kentucky water systems from experiencing similar issues.

IT IS THEREFORE ORDERED that:

1. Big Sandy District, Cawood District, Estill District #1, Farmdale District, North Manchester Water, Rattlesnake Ridge, and Southern District shall be deemed to have complied with the November 22, 2019 Order.

⁴⁴ Case No. 2014-00267, *Cannonsburg Water District's Unaccounted-for Water Loss Reduction Plan, Surcharge and Monitoring* (Ky. PSC Aug. 7, 2014).

⁴⁵ Case No. 2021-00154, *Electronic Application of Martin County Water District for an Alternative Rate Adjustment* (Ky. PSC July 9, 2021) at 25.

2. Within six months of the date of entry of this Order, Big Sandy District, Estill District #1, Farmdale District, North Manchester Water, and Rattlesnake Ridge shall meet with Commission Staff by way of scheduling an informal conference to discuss continued efforts to improve the operations and financial health of the utilities.

3. Farmdale District's motion for extension filed June 3, 2021, in this matter is granted, and any further action shall be continued in Case No. 2020-00217.⁴⁶

4. Within ten days of the date of entry of this Order, Milburn District shall file a written response in the record to indicate why the Commission should not open an investigation due to the violation of the November 22, 2019 Order.

5. Within ten days of the date of entry of this Order, North Manchester Water shall respond to Staff's Request for Information entered October 5, 2020, in this matter.

6. Hyden-Leslie District, Morgan District, and West Carroll District were dismissed as parties to this matter in other cases.

7. This case is closed and removed from the Commission's docket.

⁴⁶ Case No. 2020-00217, *Electronic Farmdale Water District's Unaccounted-For Water Loss Reduction Plan, Surcharge and Monitoring* (Ky. PSC Dec. 23, 2020).

By the Commission

Vice Chairman Kent A. Chandler did not participate in the deliberations or decision concerning this case.



ATTEST:


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