COMMONWEALTH OF KENTUCKY BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC ALLEGED FAILURE OF NORTH)	
MANCHESTER WATER ASSOCIATION, INC., ITS)	
OFFICERS, STEVE DAVIS, BILL HURD, CARL)	
GREGORY HOSKINS, BOBBY WOLFE, HENRY) CASE NO.	
SMITH, TED WOODS, CARL DAVID CRAWFORD,)	2021-00339
AND ITS MANAGER, JERRY RICE, TO COMPLY)	
WITH KRS 278.140, KRS 278.230, 807 KAR 5:006,)	
SEC. 4, AND KRS 278.990.)	

ORDER

The Commission on its own motion, establishes this proceeding to investigate, North Manchester Water Association, Inc. (North Manchester Water), its officers, Steve Davis, Bill Hurd, Carl Gregory Hoskins, Bobby Wolfe, Henry Smith, Ted Woods, Carl David Crawford, and its manager, Jerry Rice, for allegedly failing to comply with KRS 278.140, KRS 278.230, 807 KAR 5:006 Section 4and KRS 278.990. The willful failure to comply presents prima facie evidence of incompetency, neglect of duty, gross immorality, or nonfeasance, misfeasance, or malfeasance in office sufficient to make North Manchester Water's officers and manager subject to the penalties of KRS 278.990. The Commission finds that a public hearing should be held on the merits of the allegations set forth herein.

LEGAL STANDARD

Under KRS 278.250 and KRS 278.260, the Commission is authorized to investigate and examine the condition of any utility subject to its jurisdiction, including any practice or act relating to the utility service. Under KRS 278.280, if the Commission finds

that any practice or act is unjust, unreasonable, unsafe, improper, inadequate, or insufficient, then the Commission has the authority to determine the just, reasonable, safe, proper, adequate, or sufficient practice or method to be observed. Upon a finding that North Manchester Water, its officers or manager violated any provision of KRS Chapter 278, Commission regulations, or a Commission Order, KRS 278.990 authorizes the Commission to assess civil penalties not to exceed \$2,500 for each offense against a utility and against any officer, agent, or employee of a utility who willfully violates any provisions of KRS 278, Commission regulations, or Orders.

FINANCIAL CONCERNS

Pursuant to 807 KAR 5:006, Section 4(1), North Manchester Water was required to file its 2020 gross operating revenue report (2020 Gross Report) on or before March 31, 2021. Pursuant to 807 KAR 5:006 Section 4(2)(a), North Manchester Water was required to file its 2020 financial and statistical report (2020 Annual Report) before March 31, 2021. As of April 29, 2021, North Manchester Water had not filed its 2020 Annual Report, nor its 2020 Gross Report. Commission Staff notified North Manchester Water via email of the delinquent status, attached as Appendix B. On May 15, 2021, Commission Staff inquired again regarding North Manchester Water's missing 2020 Annual Report and 2020 Gross Report. On May 18, 2021, Staff received an emailed response that provided North Manchester Water's 2020 Gross Report, and further requested a 30-day extension of time for the filing of the 2020 Annual Report. Commission Staff recommended North Manchester Water file the information that it had for the 2020 Annual Report and that it could always file an amendment, if material changes were discovered and an amendment was necessary. By letter dated July 29,

2021 which is attached as Appendix B, the Commission's Executive Director contacted North Manchester Water via certified mail noting the failure to file the 2020 Annual Report and indicated that if the information was not filed by August 13, 2021, the Commission may open an investigation pursuant to KRS Chapter 278 and 807 KAR 5:006 Section 4. Confirmation of receipt of the certified letter is attached hereto as Appendix B. North Manchester Water submitted for filing its 2020 Annual Report on September 9, 2021.

North Manchester Water was a party to the proceedings in Case No. 2019-00041.¹ In the Commission's November 22, 2019 Order, the Commission generally ordered each water utility that was a party to the proceeding to develop and file with the Commission within six months of the Order new policies and procedures to address water loss and better business practices, including but not limited to, a water loss reduction plan, a leak detection plan, and improved employee policies and procedures.² In addition, the Commission individually ordered North Manchester Water to file, within six months of the Order:

- 1. A new tariff sheet that sets forth a written policy regarding theft of water service:
 - A meter and valve testing schedule;
 - 3. The results of the tests of all of its meters that are ten years or older;
 - 4. Test all of its meters that are ten years old or older;
 - 5. The results of a comprehensive water audit;

¹ Case No. 2019-00041, Electronic Investigation into Excessive Water Loss by Kentucky's Jurisdictional Water Utilities, (Ky. PSC July 30, 2021).

² Case No. 2019-00041, *Electronic Investigation into Excessive Water Loss by Kentucky's Jurisdictional Water Utilities* (Ky. PSC Nov. 22, 2019) at 9, ordering paragraph 2.

- 6. Documentation of fire department water usage;
- 7. A written policies and procedures manual;
- 8. A written employee vehicle usage policy; and
- 9. A written safety training schedule.

On May 21, 2020, North Manchester Water filed into the post-case record a letter from Michael Maggard of Sisler-Maggard Engineering, PLLC indicating that the comprehensive water audit should be completed within the next 30 days of the letter. On September 23, 2020, North Manchester Water filed information in compliance with the November 22, 2019 Order.

On October 5, 2020, Commission Staff issued a request for information to clarify the information filed into the record on September 23, 2020. As noted in the July 30, 2021 Order in Case No. 2019-00041, the Commission had not received any response or correspondence from North Manchester Water, and again Ordered North Manchester Water to respond within ten days. As of the date of this Order, North Manchester Water has not responded to Staff's October 5, 2020 request in Case No. 2019-00041.

On February 15, 2019, North Manchester Water filed an application with the Commission pursuant to 807 KAR 5:076, requesting to adjust its rates for water service, which was dismissed, without prejudice, by Order dated July 31, 2019.³ The Commission notes that during the pendency of that case, concerns regarding the reliability of financial data being reported by North Manchester Water was cited by Commission Staff. The Commission is extremely concerned that the inability of North Manchester Water to

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³ Case No. 2019-00052, *Application of North Manchester Water Association, Inc. for an Alternative Rate Adjustment,* (Ky. PSC July 31, 2019).

provide complete, accurate financial data in response to Staff inquiries is a symptom of greater financial and operational deficiencies. The fact that North Manchester Water is currently not in compliance with Commission Orders and has been habitually late in filing required reports causes the Commission to question the capability of North Manchester Water's general manager and officers to properly perform their respective duties at the Association.

CONCLUSION

KRS 278.230(3) states that every utility, when required by the Commission, shall file with it any reports, schedules, classifications or other information that the Commission reasonably requires. Additionally, the statute continues that all such reports shall be under oath when required by the Commission. KRS 278.140 requires that each utility shall file a report of its gross earnings or receipts derived from intrastate business for the preceding calendar year, on or before March 31 of each year. The Commission finds that a prima facie case exists that North Manchester Water violated KRS 278.230, KRS 278.140, and 807 KAR 5:006 Section 4by failing to file its 2020 Gross Report and its 2020 Annual Report by March 31, 2021.

The Commission finds that a prima facie case exists in that North Manchester Water's officers: Steve Davis, Bill Hurd, Carl Gregory Hoskins, Bobby Wolfe, Henry Smith, Ted Woods, Carl David Crawford, acting in their respective official and individual capacities as officers of North Manchester Water; and Jerry Rice, in his capacity as general manager of North Manchester Water, an employee of the utility, willfully aided and abetted in the above violations and may be subject to penalties pursuant to KRS 278.990.

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IT IS THEREFORE ORDERED that:

- 1. North Manchester Water; Jerry Rice, in his capacity as general manager; and officers: Steve Davis, Bill Hurd, Carl Gregory Hoskins, Bobby Wolfe, Henry Smith, Ted Woods, Carl David Crawford; individually and in their respective official capacities as officers of North Manchester Water, shall submit to the Commission individual written responses to the allegations contained herein within 20 days of the date of entry of this Order, including but not limited to any and all written testimony or documentation that would dispute the allegations contained herein.
- 2. The information requested in Appendix A to this Order shall be filed within 20 days of the date of entry of this Order.
- 3. The Commission directs North Manchester Water to the Commission's July 22, 2021 Order in Case No. 2020-00085⁴ regarding filings with the Commission. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked.
- 4. Each response shall include the name of the witness responsible for responding to the questions related to the information provided. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or the person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

⁴ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-* 19 (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

- 5. A party filing a paper containing personal information shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the paper so that personal information cannot be read.
- 6. North Manchester Water; Jerry Rice, in his capacity as general manager; and officers: Steve Davis, Bill Hurd, Carl Gregory Hoskins, Bobby Wolfe, Henry Smith, Ted Woods, Carl David Crawford; individually and in their respective official capacities as officers of North Manchester Water; shall appear on January 11, 2022, at 9 a.m. Eastern Standard Time, in the Richard Raff Hearing Room of the Commission's offices at 211 Sower Boulevard in Frankfort, Kentucky, to show cause, if any, why they should not be subject to penalties pursuant to KRS 278.990 for failure to comply with the requirements of KRS 278.140, KRS 278.230, 807 KAR 5:006 Sections: 4(2).
- 7. North Manchester Water shall file with the Commission, no later than December 27, 2021, 15 days prior to the hearing, a list of witnesses and exhibits to be presented at the January 11, 2022 hearing. North Manchester Water shall provide copies of any exhibit it intends to introduce into evidence at the hearing via electronic copy to Commission Staff.
- 8. North Manchester Water shall give notice of the hearing in compliance with 807 KAR 5:001, Section 9(2)(b). In addition, the notice of hearing shall include the following statement: "This hearing will be streamed live and may be viewed on the PSC website, psc.ky.gov." At the time the notice is mailed or publication is requested, North Manchester Water shall forward a duplicate of the notice and request to the Commission.
- 9. Pursuant to KRS 278.360 and 807 KAR 5:001, Section 9(9), a digital video recording shall be made of the hearing.

10. The record of Commission Case No. 2019-00041 is made a part of the record by reference only.

11. Clay County Judge Executive, Joe L. Asher shall be served with a copy of this Order.

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By the Commission

ENTERED

SEP 22 2021 res

KENTUCKY PUBLIC SERVICE GOMMISSION

ATTEST:

Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2021-00339 DATED SEP 22 2021

- 1. Provide all Board Meeting Minutes for North Manchester Water for 2016, 2017, 2018, 2019, 2020, and 2021.
- 2. Provide all Monthly Water Loss Reports for 2017, 2018, 2019, 2020, and 2021.
 - 3. Provide all Quarterly Meter Reports for 2017, 2018, 2019, 2020, and 2021.
- 4. Provide copies of North Manchester Water's 1099 and W-2 IRS Forms for 2017, 2018, 2019, 2020, and 2021.
- 6. Provide any and all bank records for all the bank accounts, and loans issued to North Manchester Water.

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2021-00339 DATED SEP 22 2021

SEVEN PAGE TO FOLLOW

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
 Complete items 1, 2, and 3. Brint your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	A Signature Agent Addressee B. Received by (Printed Name) C. Date of Delivery	
1. Article Addressed to:	D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
Rose Lewis Office Manager North Manchester Water Association, Inc. 7362 N Highway 421 Manchester, KY 40962		
9590 9402 5628 9308 7027 63	3. Service Type □ Adult Signature □ Adult Signature Restricted Delivery □ Certified Mail® □ Collect on Delivery □ Collect on Delivery □ Collect on Delivery	
2. Article Number (Transfer from service label) ☐ Collect on Delivery Restricted Delivery ☐ Signatur ☐ Insured Mail ☐ Signatur		
7019 1150 0001 6835 6803	Mail Restricted Delivery (i) Restricted Delivery	
PS Form 3811, July 2015 PSN 7530-02-000-9053	Domestic Return Receipt	

 From:
 PSC Reports

 To:
 nmwa@prtcnet.org

 Bcc:
 PSC Reports

 Subject:
 Past Due Reporting

Date: Thursday, July 29, 2021 2:17:00 PM

Attachments: Notice to North Manchester Water Association, Inc. for Failure to File 2020 Annual Financial and Statistical

Report.pdf

Please refer to the attached PDF for a copy of a letter issued today by the Public Service Commission in regards to past due reporting.

Andy Beshear Governor

Rebecca W. Goodman Secretary Energy and Environment Cabinet



Commonwealth of Kentucky **Public Service Commission**211 Sower Blvd.

P.O. Box 615

P.O. Box 615 Frankfort, Kentucky 40602-0615 Telephone: (502) 564-3940 Fax: (502) 564-3460 psc.ky.gov Michael J. Schmitt Chairman

Kent A. Chandler Vice Chairman

Talina R. Mathews Commissioner

July 29, 2021

TRANSMITTED VIA EMAIL AND CERTIFIED MAIL

Rose Lewis Office Manager North Manchester Water Association, Inc. 7362 N Highway 421 Manchester, KY 40962

Re: Failure to File Annual Financial and Statistical Report

Dear Ms. Lewis:

Pursuant to KRS 278.230(3) and 807 KAR 5:006, Section 4, utilities are required to file an annual financial and statistical report of its utility operations. This report is to cover the preceding year's activities and is due by March 31 annually. As of this date, North Manchester Water Association, Inc. has not filed their 2020 report.

This letter serves as notice that if the utility fails to file its annual report for the calendar year 2020 by August 13, 2021, the Commission may open an investigation to show cause why the utility should not be penalized for failing to file the report in violation of KRS Chapter 278 and 807 KAR 5:006, Section 4. This could result in a civil penalty in the amount of \$2,500 for each offense, pursuant to KRS 278.990.

Questions concerning this letter should be directed to PSCED@ky.gov.

Sincerely,

Linda C. Bridwell Executive Director



From: <u>PSC Reports</u> on behalf of <u>PSC - Reports</u>

 To:
 "cpa5140@yahoo.com"

 Cc:
 "nmwa@prtcnet.org"

Bcc: PSC Reports; Bruner, Brandon S (PSC)

Subject: FW: North Manchester Water Association, Inc.-2020 Gross Operating Revenues Report

Date: Tuesday, May 18, 2021 3:15:00 PM

Attachments: North Manchester Water Assoc., Inc.-2020 Report of Gross Operating Revenues.pdf

Good afternoon.

I'd suspect your safest option at the moment may be to submit and amend later, if needed. Otherwise, you can always request additional time but I've not yet received feedback from Staff relating to any extension beyond May 31. Sorry, that's all the information I have at the moment.

Regards,

Jeff D. Cline Kentucky Public Service Commission Division of General Administration 211 Sower Blvd P. O. Box 615 Frankfort, KY 40602

www.psc.ky.gov

From: Teddy Woods <cpa5140@yahoo.com>

Sent: Tuesday, May 18, 2021 2:47 PM **To:** PSC Reports < PSC.Reports@ky.gov>

Subject: North Manchester Water Association, Inc.-2020 Gross Operating Revenues Report

Attn: Jeff D. Cline

Sorry for the delay it has been some more year here in Clay County. Historical flooding, Ice Storm, and Covid and here come the locusts. I would like to request a 30 day extension for the 2020 Annual Report but I am attaching the 2020 Gross Report. If you have any questions feel free to contact me.

Teddy G. Woods, CPA 606-598-1488 Office

"Casting all your cares on him, because he cares about you." 1 Peter 5:7

From: <u>PSC Reports</u> on behalf of <u>PSC - Reports</u>

To: "nmwa@prtcnet.org"

Cc: <u>"shepherdlawoffice@icloud.com"</u>

Bcc: PSC Reports

Subject: RE: North Manchester Water Association, Inc. - 2020 Gross and Annual Reports Past Due

Date: Saturday, May 15, 2021 10:08:00 AM

The below issue has not been resolved is considered highly delinquent. Please provide feedback and bring the utility back into compliance.

Regards,

Jeff D. Cline Kentucky Public Service Commission Division of General Administration 211 Sower Blvd P. O. Box 615 Frankfort, KY 40602

www.psc.ky.gov

From: PSC Reports

Sent: Thursday, April 29, 2021 3:39 PM

To: nmwa@prtcnet.org

Subject: North Manchester Water Association, Inc. - 2020 Gross and Annual Reports Past Due

Good afternoon,

Please be advised the 2020 Report of Gross Operating Revenues (Gross Report) and Annual Financial and Statistical Report (Annual Report) were required to be submitted by March 31, 2021 and are now considered past due. Swift action to comply with the reporting requirement may prevent a show cause action and penalties. Any officer, agent, or employee of a utility failing to comply with reporting requirements may be subject to a civil penalty assessed by the commission up to the amount of two thousand five hundred dollars (\$2,500) for each offense or a criminal penalty of imprisonment for up to six (6) months, or both, as provided under KRS 278.990.

To bring the company back into compliance for 2020 reporting requirements pursuant to 807 KAR 5:006, Section 4, KRS 278.140 and KRS 278.230, it is essential to submit the **2020 Gross Report** via email to PSC.Reports@ky.gov, in lieu of sending a hard copy, and electronically submit the **2020 Annual Report** via PSC Web Portal, **no later than May 7, 2021**. A 30-day extension may be possible for good cause shown via email request to PSC.Reports@ky.gov for the Annual Report after submission of the Gross Report.

Please contact me in direct reply to this message if you have any questions.

Regards,

Jeff D. Cline Kentucky Public Service Commission Division of General Administration 211 Sower Blvd P. O. Box 615 Frankfort, KY 40602

www.psc.ky.gov

From: Cline, Jeff D (PSC)

To: "nmwa@prtcnet.org"

Subject: Water Utility"s 2020 Annual and Gross Reports Due March 31, 2021

Date: Friday, January 15, 2021 3:08:00 PM

This correspondence is to serve as a reminder for **North Manchester Water Association**, **Inc. (ID 35300)** that the 2020 **Water Association** Report of Gross Operating Revenues ("Gross Report") and the Annual Financial and Statistical Report ("Annual Report") are required to be filed with the Kentucky Public Service Commission ("KPSC") <u>no later than March 31, 2021</u>. **Each report may be submitted entirely electronically and no hard copies are required.**

Please note: If your company provides more than one service type, separate notices will be issued for each service type to the default regulatory email on file with the KPSC.

Any officer, agent, or employee of a utility failing to comply with reporting requirements may be subject to a civil penalty assessed by the commission up to the amount of two thousand five hundred dollars (\$2,500) for each offense or a criminal penalty of imprisonment for up to six (6) months, or both, as provided under KRS 278.990.

If you are not the individual that completes Gross and Annual Reporting to the KPSC on behalf of North Manchester Water Association, Inc., please forward to your designated staff as this notice contains pertinent required and time-sensitive information.

Gross Report

One signed and notarized Gross Report for calendar year 2020 is required to be filed pursuant to KRS 278.140 and 807 KAR 5:006, Section 4(1). A blank copy of a Gross Report may be filled out, signed/notarized and submitted via email to PSC.Reports@ky.gov. If you submit via email, no hard copy is required. Ensure that the Gross Report complete, including utility's default regulatory email address, pursuant to 807 KAR 5:006, Section 3(2). Please do not upload a copy of the Gross Report with the e-filed Annual Report.

Refer to the following links for printing the Gross Report in the format of your choice:

PDF version: http://psc.ky.gov/agencies/psc/forms/gor01.pdf
Word version: http://psc.ky.gov/agencies/psc/forms/gor01.pdf

Annual Report

The <u>Annual Report should be completed in the KPSC's e-filing system</u> for calendar year 2020 pursuant to 807 KAR 5:006, Section 4(2). A hard copy is not required.

An <u>Oath Page</u> should accompany your Annual Report which can be created at the <u>Create and Upload Page</u> located at last schedule on the left side of the screen of the Annual Report e-filing system. After your Annual Report Oath Page is printed, signed and notarized, simply scan and upload it back into the system under this same schedule. If you do not have scanning capabilities, you may mail a hard copy Oath Page to the address provided at the bottom of this email and we will upload on your behalf.

Further, there is an <u>Upload Supporting Documents</u> page to allow you a method to upload additional pages related to your Annual Report, if necessary. This page is the 2nd to last schedule shown on the left side of the screen, directly above the Create and Upload Oath Page schedule. In the event you had an Audit performed and the <u>Audit Report</u> is ready at the time of your Annual Report submission, a PDF copy of the report should be uploaded to be included with the Annual Report submission under this

schedule. If you have an Audit performed but the Audit Report is not yet available, you may go ahead and submit your Annual Report. When the Audit Report is available, simply request for the Supporting Documents schedule to be placed back into edit mode by generating an email to PSC.Reports@ky.gov. We will then open up the schedule to allow you to upload the Audit Report.

Refer to the following link to log into the KPSC e-filing system for submitting the Annual Report:

KPSC E-Filing System: https://psc.ky.gov/Security/account/login.aspx

Annual Report Tips and Problem Solving

Making use of the **checklist** located at the 3rd to last schedule shown on the left side of the screen, just above the Upload Supporting Documents schedule, will help you eliminate cross-reference issues found in your report prior to submission. Also, be sure to click the **Save button** on each page when completing your Annual Report prior to moving on to the next page. After you save each page of your Annual Report, we recommend scrolling back to the top of each individual page and look for any description shown in red indicating errors that should be corrected prior to final submission.

Other helpful tips and instructions are available on our web site at: http://psc.ky.gov/agencies/psc/AnnualReport/AnnRptInstructions.pdf

Extension Requests

Requests for an extension of time for submitting the Gross Report will be denied as the KPSC does not have the statutory authority to grant such an extension, and prompt filing is essential. For good cause shown, however, the KPSC may occasionally allow an extension of time for filing the Annual Report. The written request must provide a reasonable explanation and be submitted prior to the March 31 deadline. Requests for extension of time to file an Annual Report should be submitted electronically by generating an email to PSC.Reports@ky.gov after submission of the Gross Report. Hard copy extension requests for filing an Annual Report are not necessary and may delay response.

Should you have any questions regarding reporting requirements, please do not hesitate contacting us at PSC.Reports@ky.gov.

Sincerely,

Jeff D. Cline Kentucky Public Service Commission Division of General Administration 211 Sower Blvd P. O. Box 615 Frankfort, KY 40602

www.psc.ky.gov

Steve Davis Registered Agent 193 Isaiah Seth Drive Manchester, KENTUCKY 40962

Joe L Asher Clay County Judge Executive 102 Richmond Road, Suite 201 Manchester, KENTUCKY 40962

*North Manchester Water Association, Inc. 7362 N Highway 421 Manchester, KY 40962

*Jerry Rice Manager North Manchester Water Association, Inc. 7362 N Highway 421 Manchester, KY 40962