

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF WHITLEY)	CASE NO.
COUNTY WATER DISTRICT #1 FOR A RATE)	2022-00321
ADJUSTMENT PURSUANT TO 807 KAR 5:076)	

ORDER

On October 3, 2022, Whitley County Water District #1 (Whitley District #1) filed its application with the Commission requesting an adjustment to its water service rates pursuant to 807 KAR 5:076. Whitley District #1 filed this proceeding in compliance with the final Order in Case No. 2021-00157,¹ which required Whitley District #1 to file an application for an adjustment in base rates no later than May 3, 2022.² Whitley District #1 requested an extension to the May 3, 2022 deadline by letter dated June 15, 2022.³ The Commission denied Whitley District #1's request for a 180-day extension and required Whitley District #1 to file an application for an adjustment of its rates as soon as possible.⁴ In effect, Whitley District #1 filed its application approximately five months, or 154 days, after the May 3, 2022 deadline established in Case No. 2021-00157.

¹ Case No. 2021-00157, *Electronic Purchased Water Adjustment Filing of Whitley County Water District #1* (Ky. PSC May 3, 2021), Order at 6, ordering paragraph 5.

² Case No. 2021-00157, May. 3, 2021 Order at 6, ordering paragraph 5.

³ Case No. 2021-00157, Whitley District #1's June 15, 2022 letter.

⁴ Case No. 2021-00157, July 1, 2022 Order at 3.

In its application in this proceeding, Whitley District #1 requested rates that would increase its annual water sale revenues by \$102,118, or a 5.55 percent increase to pro forma present rate water sale revenues.⁵

To ensure the orderly review of the application, the Commission established a procedural schedule by Order dated October 27, 2022, which, among other things, required the Commission Staff to file a report containing its recommendations regarding Whitley District #1's application. Whitley District #1 responded to two requests for information from Commission Staff.

Commission Staff issued its report (Commission Staff's Report) on February 2, 2023, summarizing its findings and recommendations regarding Whitley District #1's requested rate adjustment. In Commission Staff's Report, Commission Staff found that Whitley District #1's adjusted test-year operations support an overall revenue requirement of \$2,237,479, and that an annual revenue increase of \$67,440, or 3.67 percent, is necessary to generate the overall revenue requirement.⁶ In the absence of a cost of service study (COSS), Commission Staff allocated its recommended revenue increase evenly across the board to calculate its recommended water rates. Commission Staff also recommended that Whitley District #1 be allowed to assess a monthly water loss reduction surcharge of \$2.76 per customer per month for a temporary period of 48 months.⁷

⁵ Application, Attachment 2, Reasons for Application.

⁶ Commission Staff's Report (Ky. PSC Feb. 2, 2023) at 26.

⁷ Commission Staff's Report at 5–6, Item 2.

On February 11, 2023, Whitley District #1 filed a letter in response to Commission Staff's Report.⁸ Whitley District #1 stated that although it did not agree with the Commission Staff's lowering of the proposed Water Loss Reduction Surcharge, Whitley District #1 would not contest the lowering of the surcharge in this case.⁹ Whitley District #1 also stated that it did not agree with the Commission Staff's removal of certain labor expenses from nonrecurring charges; however, it would not contest the adjustment in this case.¹⁰ Whitley District #1 conceded that its board of commissioners did not attend the required six additional instructional hours of training during 2022, and requested that the Commission grant an extension to obtain the required training hours.¹¹ In order to receive a salary in excess of \$3,600 in any given year, a commissioner must complete a minimum of six instructional hours of water district management training approved by the Commission.¹² Whitley District #1 concurred with the remaining findings in Commission Staff's Report.¹³ With its response, Whitley District #1 waived its right to request an informal conference and hearing.¹⁴ The case now stands submitted for a decision by the Commission.

⁸ Whitley District #1's Response to PSC Staff Report (filed Feb. 11, 2023).

⁹ Whitley District #1's Response to PSC Staff Report, Item 1.

¹⁰ Whitley District #1's Response to PSC Staff Report, Item 2.

¹¹ Whitley District #1's Response to PSC Staff Report, Item 3.

¹² See KRS 74.020(6).

¹³ Whitley District #1's Response to PSC Staff Report, Item 4.

¹⁴ Whitley District #1's Response to PSC Staff Report, Item 5.

LEGAL STANDARD

Alternative rate adjustment proceedings, such as this one, are governed by Commission regulation 807 KAR 5:076, which establishes a simplified process for small utilities to use to request rate adjustments, with the process designed to be less costly to the utility and the utility ratepayers. The Commission's standard review of a utility's request for a rate increase is well established. In accordance with KRS 278.030 and case law, Whitley District #1 is allowed to charge its customers "only fair, just and reasonable rates."¹⁵ Further, Whitley District #1 bears the burden of proof to show that the proposed rate increase is just and reasonable under KRS 278.190(3).

KRS 74.020(6) provides, in pertinent part:

Each commissioner shall receive an annual salary of not more than thirty-six hundred dollars (\$3,600), which shall be paid out of the water district fund, except that beginning January 1, 1999, and subject to subsection (9) of this section, each commissioner who completes during an educational year a minimum of six (6) instructional hours of water district management training approved by the Public Service Commission may receive an annual salary of not more than six thousand dollars (\$6,000) to be paid out of the water district fund. An educational year shall begin on January 1 and end on the following December 31.

KRS 74.020(9) also states that the "Commission may grant a reasonable extension of time, not to exceed six (6) months, for completing the training requirements of [KRS 74.020(6)] for good cause shown."

KRS 278.990(1) provides, in pertinent part:

Any officer, agent, or employee of a utility, as defined in KRS 278.010, and any other person who willfully violates [...] any order of the commission from which all rights of appeal have

¹⁵ *City of Covington v. Public Service Commission*, 313 S.W.2d 391 (Ky. 1958); and *Public Service Comm'n v. Dewitt Water District*, 720 S.W.2d 725 (Ky. 1986).

been exhausted, or who procures, aids, or abets a violation by any utility, shall be subject to either a civil penalty to be assessed by the commission not to exceed two thousand five hundred dollars (\$2,500) for each offense or a criminal penalty of imprisonment for not more than six (6) months, or both. If any utility [...] fails to obey any order of the commission from which all rights of appeal have been exhausted, the utility shall be subject to a civil penalty to be assessed by the commission for each offense not less than twenty-five dollars (\$25) nor more than two thousand five hundred dollars (\$2,500). Each act, omission, or failure by an officer, agent, or other person acting for or employed by a utility and acting within the scope of his employment shall be deemed to be the act, omission, or failure of the utility.

BACKGROUND

Whitley District #1 is a water district organized pursuant to KRS Chapter 74. It owns and operates a water distribution system through which it provides water service to approximately 3,546 residential customers, 121 commercial customers, and 6 public authorities in Whitley County, Kentucky.¹⁶ Whitley District #1 does not produce any of its own water; rather, it purchases its water from Corbin City Utilities, the city of Williamsburg, Jellico Utilities, and McCreary County Water District. A review of the Commission's records indicates that this case is Whitley District #1's first alternative rate adjustment since July 18, 2000.¹⁷

UNACCOUNTED-FOR WATER LOSS

Pursuant to 807 KAR 5:066, Section 6(3), water loss is limited to 15 percent for ratemaking purposes. As noted in the Commission Staff's Report, Whitley District #1's

¹⁶ 2021 Annual Report at 12 and 49.

¹⁷ Case No. 2001-00001, *An Adjustment of Rates of The Whitley County Water District*, (Ky. PSC Jul 18, 2000).

test-year water loss was 34.19 percent.¹⁸ Accordingly, Staff reduced test-year expenses by \$142,551 to account for the 19.19 percent excess water loss.¹⁹ At a 34.19 percent water loss, the annual cost of water in excess of 15 percent is \$142,551, and the total cost of water loss to Whitley District #1 is \$253,975 as calculated below.

	Purchased Water	Purchased Power	Chemical & Lab Testing	Total
Test Year Water Purchase and Pumping Costs	\$ 709,832	\$ 32,801	\$ 201	\$ 742,834
Multiplied by: Water Loss in excess of 15 Percent	19.19%	19.19%	19.19%	19.19 %
Cost of Line loss in Excess of the 15% Limit	<u>\$ 136,217</u>	<u>\$ 6,295</u>	<u>\$ 39</u>	<u>\$ 142,551</u>
Test Year Water Purchase and Pumping Costs	\$ 709,832	\$ 32,801	\$ 201	\$ 742,834
Multiplied by: Test Year Water Loss	34.19%	34.19%	34.19%	34.19%
Total Cost of Line Loss	<u>\$ 242,692</u>	<u>\$ 11,215</u>	<u>\$ 69</u>	<u>\$ 253,975</u>

The Commission is placing greater emphasis on monitoring utilities that consistently exceed the 15 percent unaccounted-for water loss threshold and strongly encourages Whitley District #1 to pursue reasonable actions to reduce its water loss. Failure by Whitley District #1 to make significant progress toward reducing unaccounted-for water loss may cause the Commission to pursue additional action with the utility.

TEST PERIOD

The calendar year ended December 31, 2021, was used as the test year to determine the reasonableness of Whitley District #1's existing and proposed water rates as required by 807 KAR 5:076, Section 9.

¹⁸ Commission Staff's Report at 2.

¹⁹ Commission Staff's Report at 2.

SUMMARY OF REVENUE AND EXPENSES

The Commission Staff's Report summarizes Whitley District #1's pro forma income statement as follows²⁰:

	<u>Commission Staff's Report</u>		
	<u>Test-Year Operations</u>	<u>Pro Forma Adjustments</u>	<u>Pro Forma Operations</u>
Operating Revenues	\$ 2,172,225	\$ (9,460)	\$ 2,162,765
Operating Expenses	<u>2,307,503</u>	<u>(447,466)</u>	<u>1,860,037</u>
Net Utility Operating Income	(135,278)	438,006	302,728
Interest and Dividend Income	<u>7,274</u>	<u>-</u>	<u>7,274</u>
Net Utility Operating Income	<u><u>\$(128,004)</u></u>	<u><u>\$ 438,006</u></u>	<u><u>\$ 310,002</u></u>

REVIEW AND MODIFICATIONS TO COMMISSION STAFF'S RECOMMENDATIONS

Whitley District #1 proposed adjustments to its revenues and expenses to reflect current and expected operating conditions. In the Commission Staff's Report, Commission Staff proposed additional adjustments. The Commission accepts the recommendations contained in the Commission Staff's Report and finds additional adjustments are necessary as described below.

²⁰ Commission Staff's Report at 9.

	Test Year	Commission Staff's Proposed Adjustment	Commission Pro Forma Adjustment	Final Pro Forma
Operating Revenues				
Total Metered Water Sales	\$ 1,861,535	\$ 46,965 (45,765) (23,700)		\$ 1,839,035
Other Water Revenues				
Forfeited Discounts		52,511	(6,746)	45,765
Misc. Service Revenues	310,690	(48,135) 8,664		262,555 8,664
Total Operating Revenues	2,172,225	(9,460)	(6,746)	2,156,019
Operating Expenses				
Operation and Maintenance Expenses				
Salaries and Wages - Employees	286,270	(9,750) 10,091 (18,358)		268,253
Salaries and Wages - Officers	10,000	8,000		18,000
Employee Pensions and Benefits	101,440	(6,735) 24,087		118,792
Purchased Water	746,436	(36,604) (136,217)		573,615
Purchased Power		32,801 (6,295)		26,506
Chemicals & Lab Testing	201	(39)		162
Materials and Supplies	33,799	(22,750)		11,049
Contractual Services- Engineering	40,655			40,655
Rental of Equipment	279			279
Transportation Expenses	36,435			36,435
Insurance- Vehicle	3,587			3,587
Insurance- General Liability	18,538			18,538
Insurance- Worker's Compensation	3,450			3,450
Miscellaneous Expense	383,413	(32,801) (399)		350,213
Total Operation and Maintenance Expenses	1,664,503	(194,969)	-	1,469,534
Depreciation	643,000	(132,312) (142,829)		367,859
Taxes Other Than Income		18,358 4,286		22,644
Utility Operating Expenses	2,307,503	(447,466)	-	1,860,037
Net Operating Income	(135,278)	438,006	(6,746)	295,982
Interest and Dividend Income	7,274			7,274
Income Available to Service Debt	\$ (128,004)	\$ 438,006	\$ (6,746)	\$ 303,256

Billing Analysis. Whitley District #1 provided usage data by meter size, listing the water usage and water sales revenue for the 12-month test year ended December 31, 2021. Commission Staff calculated the data provided within a normalized billing analysis, which determined that \$1,839,035 for all retail customers is an accurate representation of the normalized test-year revenue from rates. In the Commission Staff's Report, Commission Staff recommended an increase to Whitley District #1's test-year Water Sales Revenue of \$46,965.²¹ The Commission finds that this adjustment is reasonable because an examination of Whitley District #1's billing analysis was completed by Commission Staff and a normalized revenue was based on the information provided.

Late Payment Fees. Whitley District #1 included the test-year late payment revenue in the amount of \$45,765 within the total for metered water sales, which Commission Staff deducted from Meter Water Sales in the Commission Staff's Report.²² Commission Staff also recommended an increase to Whitley District #1's test year Other Water Revenues in the amount of \$52,511²³ to reflect the normalization of Late Payment Fees, in order to account for the moratorium regarding the collection of late payment fees due to the COVID-19 pandemic. The Commission finds that this adjustment, which is the average of the three years of 2017-2019's late-payment fees, no longer serves to normalize the late fee revenues collected by Whitley District #1, since the collection moratorium was not in effect during the test year. The Commission finds that the test year revenue amount of \$45,765 is a more accurate indicator of future late fee revenue.

²¹ Commission Staff's Report at 10–11, Adjustment A.

²² Commission Staff's Report at 11–12, Adjustment B.

²³ Commission Staff's Report at 11–12, Adjustment B.

Therefore, the Forfeited Discounts should be decreased and the Revenue Requirement recommended by Commission Staff increased by \$6,746 as shown below.

Test Year Late Fees	\$45,765
Commission Staff's Adjustment	<u>(52,511)</u>
Final Pro Forma Forfeited Discount Adjustment	<u>(6,746)</u>

Other Misc. Service Charges. In the Commission Staff's Report, Commission Staff recommended reducing Other Water Revenues by \$48,135 to reflect the removal of Tap Fee revenues that were recorded as revenues incorrectly.²⁴ Since the revenue collected from Tap Fees is recorded as a Capital Expense; the Commission finds that this adjustment is a known and measurable change to Other Water Revenues, is reasonable, and should be accepted.

Nonrecurring Charges. In the Commission Staff's Report, Commission Staff recommended reducing Whitley District #1's Total Metered Water Sales by \$23,700 and increasing Other Water Revenues by \$8,664 to reflect the reclassification of Nonrecurring charges and the removal of estimated labor expenses to reflect the changes in the nonrecurring charges.²⁵ In its response to Commission Staff's Report, Whitley District #1 disagreed with the removal of the labor expense from its nonrecurring charges but also indicated that it did not wish to contest those adjustments in this case.²⁶

The Commission agrees with the Commission Staff's Report, which is consistent with recent Commission decisions, that labor expenses resulting from work during normal

²⁴ Commission Staff's Report at 12–13, Adjustment C.

²⁵ Commission Staff's Report at 13, Adjustment D.

²⁶ Whitley District #1's Response to PSC Staff Report, Item 1.

business hours should not be recovered through nonrecurring charges.²⁷ The Commission requires that charges be directly related to the actual cost incurred to provide the service. It is unreasonable to allocate an expense already incurred and recovered in customer rates as a day-to-day cost of maintaining a system, such as the salary of a distribution operator, to a nonrecurring service such as the connection and reconnection of a meter during normal working hours. Only the marginal costs related to the service should be recovered through a special nonrecurring charge for service provided during normal working hours. For the reasons discussed above, the estimated labor expenses previously included in determining the amount of nonrecurring charges should be eliminated from the charges as proposed by Commission Staff and a corresponding reduction to Other Operating Revenues should be made to reflect the changes in the nonrecurring charges. Thus, the Commission finds the revised nonrecurring charges set out in the Appendix and the decrease of \$23,700 to Total Metered Water Sales and an increase of \$8,664 to Other Water Revenues to be known and reasonable.²⁸

Expenses Related to Meter Installation. In the Commission Staff's Report, Commission Staff recommended the Commission accept Whitley District #1's proposed adjustment to decrease test-year Salaries and Wages – Employees by \$9,750, and

²⁷ Case No.2020-00141, *Electronic Application of Hyden-Leslie County Water District for an Alternative Rate Adjustment*, (Ky. PSC Nov. 6, 2020), Order at 19–20.

²⁸ See 807 KAR 5:001E, Section 16.1.(a); Case No. 2001-00211, *The Application of Hardin County Water District No. 1 for (1) Issuance of Certificate of Public Convenience and Necessity; (2) Authorization to Borrow Funds and to Issue Its Evidence of Indebtedness Therefore; (3) Authority to Adjust Rates; and (4) Approval to Revise and Adjust Tariff* (Ky. PSC Mar. 1, 2002); Case No. 2002-00105, *Application of Northern Kentucky Water District for (A) an Adjustment of Rates; (B) a Certificate of Public Convenience and Necessity for Improvements to Water Facilities if Necessary; and (C) Issuance of Bonds* (Ky. PSC June 25, 2003); Case No. 2017-00417, *Electronic Proposed Adjustment of the Wholesale Water Service Rates of Lebanon Water Works* (Ky. PSC July 12, 2018); and Case No. 2019-00080, *Electronic Proposed Adjustment of the Wholesale Water Service Rates of the City of Pikeville to Mountain Water District* (Ky. PSC Dec. 19, 2019).

Materials and Supplies by \$22,750²⁹ to reflect the capitalization of costs incurred in installation of 50 new water connections. The Commission finds that this adjustment is a known and measurable change to Salaries and Wages – Employees, is reasonable, and should be accepted.

Salaries and Wages – Employees. In the Commission Staff's Report, Commission Staff recommended an increase to Whitley District #1's Salaries and Wages – Employees of \$10,091³⁰ to reflect an increase in employee wages, the two employees leaving employment, and three new Employees hired. The Commission finds that this adjustment is a known and measurable change to Salaries and Wages – Employees, is reasonable, and should be accepted.

Payroll Taxes Reclassification. In the Commission Staff's Report, Commission Staff recommended a decrease to Salaries and Wages – Employees and an increase to Taxes other than Income of \$18,358³¹ to reflect reclassification of Payroll Taxes that were included in Salaries and Wages expense incorrectly. The Commission finds that this adjustment is a known and measurable change to Salaries and Wages – Employees and Taxes other than Income, is reasonable, and should be accepted.

Salaries and Wages – Officers. After Commission Staff's Report was filed, Whitley District #1 notified the Commission that the utility commissioners did not obtain the training required by KRS 74.020(6) that would permit the commissioners to obtain an annual salary in excess of the \$3,600 statutory amount. The statute provides that

²⁹ Commission Staff's Report at 13–14, Adjustment E.

³⁰ Commission Staff's Report at 14-15, Adjustment F.

³¹ Commission Staff's Report at 15, Adjustment G.

commissioners who attend a minimum of six instructional hours of water district management training approved by the Commission, in addition to the mandatory training required under KRS 74.020(8), may receive an annual salary not to exceed \$6,000. The Whitley County Fiscal Court authorized the board commissioners to collect up to \$6,000 going forward, effective January 1, 2022; it is projected the commissioners will collect the full \$6,000 in 2023. Whitley District #1 provided its general ledger for 2022 through September 1, 2022.³² The general ledger reflects that each commissioner received in excess of \$3,600 as of September 1, 2022. In its response to Commission Staff's Report, Whitley District #1 made a motion to extend the deadline for board commissioners to receive the required training. The Motion to extend the time period is addressed in a section below.

While Whitley District #1 requested \$10,000 for Salaries and Wages – Officers³³ Whitley District #1's records reflect payments to its commissioners greater than \$10,000. The Commission is including an adjustment to increase of \$8,000 to Salaries and Wages – Officers, which brings the total to \$18,000 for Salaries and Wages – Officers, which represents a \$6,000 salary for three utility commissioners. The Commission makes this adjustment to incentivize the three commissioners to attend a minimum of six instructional hours of Commission-approved water district management training in 2023. The ability for each Whitley District #1's commissioner to collect up to an additional \$2,400 annually is conditioned upon attending the required training. Should any commissioner not attend

³² Whitley District #1's Response to Commission's Staff's First Request for Information (filed Nov. 18, 2022), Item 1a.

³³ Application, Attachment 4, Schedule of Adjusted Operations.

and complete at least six hours of Commission-approved water district management training in 2023, then that commissioner is not entitled to receive an annual salary in excess of \$3,600 in 2023. As explained in Commission Staff's Report, the \$8,000 adjustment was made to annualize the three commissioner's salaries at \$6,000 per commissioner.

In the Commission Staff's Report, Commission Staff recommended an increase to Whitley District #1's Salaries and Wages – Officers of \$8,000³⁴ to reflect the normalization of the test-year commissioner's salaries. The Commission finds that this adjustment is a known and measurable change to Salaries and Wages – Officers, is reasonable, and should be accepted.

Employee Pensions and Benefits – Insurance. In Commission Staff's Report, Commission Staff recommended a decrease to Whitley District #1's Employee Pensions and Benefits of \$6,735³⁵ to reflect the adjustment of single insurance premiums paid by Whitley District #1 from 100 percent to 78 percent; and the reduction of dental insurance paid from 100 percent to 40 percent to be consistent Commission precedent regarding premiums paid for health and dental benefits. The Commission finds that this adjustment is a known and measurable change to Employee Pensions and Benefits, is reasonable, and should be accepted.

Employee Pensions and Benefits – County Employee Retirement System (CERS). In Commission Staff's Report, Commission Staff recommended an increase to Whitley

³⁴ Commission Staff's Report at 16, Adjustment H.

³⁵ Commission Staff's Report at 17–18, Adjustment I.

District #1's Employee Pensions and Benefits Expense of \$24,087³⁶ to account for the increased contribution amount of pro forma wage adjustment multiplied by the CERS contribution percentage rate of 26.79 percent. The Commission finds that this adjustment, is a known and measurable change to Employee Pensions and Benefits, is reasonable, and should be accepted.

Purchased Water Expense. In Commission Staff's Report, Commission Staff recommended a decrease to Whitley District #1's Purchased Water Expense of \$36,604³⁷ to reflect the normalization of Purchased Water Expenses. The Commission finds that this adjustment is a known and measurable change to Purchased Water, is reasonable, and should be accepted.

Excess Water Loss. Whitley District #1's test-year water loss was 34.19 percent. Commission regulation 807 KAR 5:066, Section 6(3), limits water loss to 15 percent for ratemaking purposes, unless the Commission finds an alternative level is reasonable. In the Commission Staff's Report, Commission Staff recommended a decrease to Whitley District #1's Purchased Water Expense by \$136,243, Purchased Power Expense by \$6,296, and Chemical & Lab Testing by \$39³⁸ to reflect the costs associated with the production of water in excess of 15 percent water loss. The Commission finds that this adjustment is a known and measurable change to Purchased Water Expense, Purchased Power Expense, and Chemical & Lab Testing, is reasonable, and should be accepted.

³⁶ Commission Staff's Report at 18–19, adjustment J.

³⁷ Commission Staff's Report at 19–20, adjustment K.

³⁸ Commission Staff's Report at 20–21, Adjustment L.

Purchased Power Reclassification. In the Commission Staff's Report, Commission Staff recommended the Commission accept Whitley District #1's proposed adjustment to decrease test-year Miscellaneous Expense by, and increase Purchased Power by, \$32,801³⁹ to reflect the reclassification of purchased power expenses that were incorrectly recorded in miscellaneous expense. The Commission finds that this adjustment is a known and measurable change to Miscellaneous Expense and Purchased Power Expense, is reasonable, and should be accepted.

Miscellaneous Expense. In the Commission Staff's Report, Commission Staff recommended a decrease to Whitley District #1's Miscellaneous Expense of \$399⁴⁰ to reflect a review of the Miscellaneous Expense including the adjustments mentioned above. The Commission finds that this adjustment is a known and measurable change to Miscellaneous Expense, is reasonable, and should be accepted.

Reconciliation of Depreciation Expense. In the Commission Staff's Report, Commission Staff recommended the Commission accept Whitley District #1's proposed adjustment to decrease test-year depreciation expense of \$132,312⁴¹ to reflect the reconciliation between the 2021 Annual Report of \$643,000 and the test-year Fixed Assets Register of \$510,688. The Commission finds that this adjustment is a known and measurable change to Depreciation Expense, is reasonable, and should be accepted.

Depreciation. In the Commission Staff's Report, Commission Staff recommended a decrease to Whitley District #1's Depreciation Expense of \$142,829⁴² to reflect the

³⁹ Commission Staff's Report at 21, Adjustment M.

⁴⁰ Commission Staff's Report at 22, Adjustment N.

⁴¹ Commission Staff's Report at 23, Adjustment O.

⁴² Commission Staff's Report at 23–24, Adjustment P.

adjustment of the useful life of capital assets to the midpoint of the National Association of Regulatory Utility Commissioners' (NARUC) depreciation study titled *Depreciation Practices for Small Water Utilities* (NARUC Study). The Commission finds that this adjustment is a known and measurable change to Depreciation Expense, is reasonable, and should be accepted.

Taxes Other than Income – FICA. In Commission Staff's Report, Commission Staff recommended an increase to Whitley District #1's Taxes Other than Income Expense by \$4,286⁴³ to account for the increased contribution amount of pro forma wage adjustment multiplied by the FICA percentage rate of 7.65 percent. The Commission finds that this adjustment is a known and measurable change to Taxes Other than Income, is reasonable, and should be accepted.

Based upon the Commission's findings discussed above, the following table summarizes Whitley District #1's adjusted pro forma:

	<u>Commission Staff Report Pro Forma</u>	<u>Commission Adjustments</u>	<u>Final Pro Forma</u>
Total Operating Revenues	\$ 2,162,765	\$ (6,746)	\$ 2,156,019
Utility Operating Expenses	<u>(1,860,037)</u>	<u>-</u>	<u>(1,860,037)</u>
Net Utility Operating Income	302,728	(6,746)	295,982
Interest and Dividend Income	<u>7,274</u>	<u>-</u>	<u>7,274</u>
Total Utility Operating Income	<u>\$ 310,002</u>	<u>\$ (6,746)</u>	<u>\$ 303,256</u>

⁴³ Commission Staff's Report at 24–25, Adjustment Q.

OVERALL REVENUE REQUIREMENT

Commission Staff's Report recommended using the Debt Service Coverage (DSC) method to calculate the Overall Revenue Requirement. This method allows for recovery of (1) cash-related pro forma operating expenses; (2) recovery of depreciation expense, a non-cash item, to provide working capital; (3) the average annual principal and interest payments on all long-term debts; and (4) working capital that is in addition to depreciation expense. The Commission agrees with using the DCS methodology since Whitley District #1 has four long-term debts. Based upon the Commission's findings and determinations herein, Whitley District #1 requires an increase in revenues from water sales of \$74,186, or 4.03 percent above pro forma present water rate revenues as shown below. This increase is required for Whitley District #1 to remain operationally and financially sound while providing adequate, efficient and reasonable service to its customers.

Pro Forma Operating Expenses	\$ 1,860,037
Plus: Average Annual Principal and Interest Payments	314,535
Additional Working Capital	<u>62,907</u>
Overall Revenue Requirement	2,237,479
Less: Other Operating Revenue	(316,984)
Interest Income	<u>(7,274)</u>
Revenue Required from Water Sales	1,913,221
Revenue from Sales at Present Rates	<u>(1,839,035)</u>
Required Revenue Increase/(Decrease)	<u>\$ 74,186</u>
Percentage Increase	<u>4.03%</u>

WATER LOSS REDUCTION SURCHARGE

In the Commission Staff Report, the Commission Staff recommended that the Commission approve Whitley District #1's Water Loss Reduction Surcharge at the

recalculated amount of \$2.76 per customer per month for 48 months to help lower system losses to more acceptable levels.⁴⁴ The surcharge would produce \$142,571 per year for total collections over the four-year period of \$570,282.⁴⁵ The annual surcharge collection reflects the amount disallowed for excessive water loss pursuant to 807 KAR 5:066, Section 6(3).

The use of a surcharge is consistent with prior Commission action in cases involving water districts with excessive unaccounted-for water loss.⁴⁶ In establishing water-loss surcharges, the Commission recognized that the adjustments required to be made to 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.⁴⁷ Using a surcharge to fund a water district's water loss reduction project 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.⁴⁸ In its report

⁴⁴ Commission Staff's Report at 5–6.

⁴⁵ \$2.76 (Monthly Water Loss Reduction Surcharge) x 51,656 (Annual Number of Bills) = \$142,570.56 (Annual Water Loss Reduction Surcharge Collections) x 4 (Four Year Collection Period) = \$570,282.24.

⁴⁶ 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, 2020).

⁴⁷ See Case No. 2018-00311, *Electronic Application of Cawood Water District for an Alternative Rate Adjustment* (Ky. PSC Apr. 8, 2021), Order at 3.

⁴⁸ See Case No. 2018-00429, *Application of Graves County Water District for an Alternative Rate Adjustment* (Ky. PSC Sept. 30, 2019), Order at 3.

titled, *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 final Order in Case No. 2019-00041, Appendix L, the Commission recommended more frequent rate cases and pursuing qualified infrastructure improvement surcharges,⁴⁹ the proceeds of which will be devoted exclusively to infrastructure improvement and replacement.

Therefore, the Commission finds that a monthly surcharge is a reasonable means for Whitley District #1 to recover the cost of its efforts in water leak detection and repair in order to reduce the increased expense and lost revenue from unaccounted-for water loss.⁵⁰ The Commission finds that a monthly water loss reduction surcharge of \$2.76 per active meter over 48 months should be approved. Whitley District #1 should be restricted to expending the funds collected under the surcharge subject to authorization by the Commission. Whitley District #1 should file a qualified infrastructure improvement plan, including a comprehensive unaccounted-for water loss reduction plan that establishes priorities, a time schedule for eliminating each source of unaccounted-for water loss, and provides a detailed spending plan for the proceeds of the requested surcharge. The proceeds from the surcharge shall be kept in a separate, interest-bearing account. The proceeds of Whitley District #1 's Water Loss Reduction Surcharge should be used solely

⁴⁹ Case No. 2019-00041, *Electronic Investigation into Excessive Water Loss by Kentucky's Jurisdictional Water Utilities* (Ky. PSC Nov. 22, 2019), Appendix L, *Confronting the Problems Plaguing Kentucky's Water Utilities: An Investigative Report by the Kentucky Public Service Commission November 2019* at 24–25.

⁵⁰ Case No. 2019-00041, 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.

to fund Whitley District #1's unaccounted-for water loss reduction efforts as recommended in the Commission Staff's Report.

RATE DESIGN

Whitley District #1 proposed to increase all of its monthly retail water service rates evenly across the board by approximately 5.55 percent. Whitley District #1 has not performed a cost of service study (COSS). Whitley District #1 stated that it did not complete a COSS because there have not been any material changes in customer usage patterns to warrant a COSS.

The Commission has previously found that the allocation of a revenue increase evenly across the board to a utility's rate design is appropriate when there has been no evidence entered into the record demonstrating that this method is unreasonable and in the absence of a COSS. In the Commission Staff Report, Commission Staff followed the method previously accepted by Whitley District #1 and allocated Commission Staff's calculated revenue increase across the board to Whitley District #1's monthly retail water service rates. Whitley District #1 accepted Commission Staff's findings and requested approval of the recommended rates and charges listed in the Commission Staff's Report.⁵¹

The Commission Staff's Report determined a 3.67% increase to monthly retail water service rates to meet the revenue required from rates of \$1,906,475. The Commission has determined based on the adjustments discussed above, that a 4.03 percent increase will meet the revenue required from rates of \$1,913,221, which is a required revenue increase of \$74,186. The 4.03 percent increase will produce

⁵¹ Whitley District #1's Response to Commission Staff's Report, paragraph 4.

additional revenues sufficient for Whitley District #1 to meet the Debt Service Coverage (DSC) requirement of Whitley District #1's lenders. Therefore, the Commission finds a 4.03 percent increase in rates is appropriate.

The rates set forth in the Appendix to this Order are based upon the revenue requirement the Commission has found to be fair, just and reasonable, and will produce sufficient revenues from water sales to recover the \$1,913,221 Revenue Required from Water Sales, an approximate 4.03 percent over normalized test-year water sales of \$1,839,035. The monthly bill of a typical residential customer using 4,000 gallons of water will increase from \$41.26 to \$45.57, an increase of \$4.31, or approximately 10.46 percent, which includes the water loss recovery surcharge of 2.76.⁵²

RATE CASE FREQUENCY

In Case No. 2019-00041 and the resulting investigative report, the Commission discussed the problems that can occur when utilities avoid a review of their financial records.⁵³ A key recommendation from that investigative report was that water districts should monitor the sufficiency of their base rates closely and, in general, apply for base rate adjustments on a more frequent basis.⁵⁴ In light of its findings in Case No. 2021-00157, the Commission noted that Whitley District #1 had not sought a general base rate adjustment since 2000.⁵⁵

⁵² $\$45.57 [\$42.81 \text{ (Average Bill New Water Rates)} + \$2.76 \text{ (Water Loss Reduction Surcharge)}] - \$41.26 \text{ (Average Bill Current Water Rates)} = \$4.31 \text{ (Total Difference in Customer Bill)} \div \$41.26 \text{ (Average Bill Current Water Rates)} = 10.46\%$

⁵³ Case No. 2019-00041, Nov. 22, 2019 Order.

⁵⁴ Case No. 2019-00041, Nov. 22, 2019 Order.

⁵⁵ Case No. 2021-00157, July 18, 2000 Order at 2.

The Commission recommends that Whitley District #1 conduct internal financial reviews on an annual basis to ensure that its water rates are sufficient. The Commission also recommends that Whitley District #1's board of commissioners consider filing periodic rate cases with the Commission every three to five years and implement a written policy to that effect to maintain a regular review of the utility's finances. These are good practices to ensure that there is not a 22-year gap between base rate cases in the future. If Whitley District #1 needs assistance in conducting its annual internal rate reviews to ensure the sufficiency of its rates, Whitley District #1 can request that the Commission allow its Financial Analysis Staff to provide its assistance with the annual rate analysis.

RECOUPMENT OF COMMISSIONER SALARIES FROM 2022

As noted above, KRS 74.020(6) provides for water district commissioners to be paid up to \$2,400 more in salary if they complete a minimum of six instructional hours of water district management training that is approved by the Commission. Additionally, KRS 74.020(9) provides that the Commission may grant a reasonable extension of time not to exceed six months to complete said training if good cause is shown.

In its February 11, 2023 letter responding to Commission Staff's Report, Whitley District #1 conceded that its three water district commissioners did not complete six instructional hours of Commission-approved water management training in the 2022 calendar year.⁵⁶ However, the Whitley Fiscal Court approved increasing each water district commissioner's annual salary to \$6,000 effective January 1, 2022.⁵⁷ In order to

⁵⁶ Whitley District #1's Response to Commission Staff's Report (filed Feb. 11, 2023), Item 3.

⁵⁷ Whitley District #1's Response to Commission Staff's Second Request for Information (filed Jan. 3, 2023), Item 1.

receive an annual salary of more than \$3,600, Whitley District #1's commissioners were required to complete, between January 1, 2022, and December 31, 2022, a minimum of six instructional hours of water district management training approved by the Commission.⁵⁸ Alternatively, Whitley District could request an extension of time to complete the training.⁵⁹

In its February 11, 2023, response letter, Whitley District #1 requested an extension of time to complete the training, citing KRS 74.020(9). Whitley District #1 asserted that its board chairman had medical issues, that 2022 was a hectic year with project-related activities, and that the required training was overlooked.

After consideration of Whitley District #1's request for an extension, the Commission finds that Whitley District #1 failed to establish good cause for an extension of time, and therefore Whitley District #1's request should be denied. While Whitley District #1 stated that its board chairman had medical issues in 2022, Whitley District #1 did not provide any evidence that his failure to attend water district management training in 2022 was the result of medical issues. Further, by the utility's own admission, it overlooked the training. Overlooking a statutory requirement does not establish good cause. Commission-approved water management trainings are offered throughout the calendar year. Further, the Commission has offered remote water management trainings that would have allowed the commissioners to attend and complete training without the need to travel.

⁵⁸ KRS 74.020(6).

⁵⁹ KRS 74.020(9).

Based on Whitley District #1's commissioners' failure to complete any training in the 2022 calendar year, the Commission finds that Whitley District #1 should take steps to recoup any amounts paid to each water district commissioner in excess of \$3,600 for the 2022 calendar year. In Case No. 2006-00465, the Commission required a utility to take action to obtain the necessary authorization for its commissioners' salaries or take action to recoup the amounts that were improperly paid to its commissioners.⁶⁰ As the Commission stated in that case, "[t]o obtain a salary in excess of \$3,600, [a commissioner] must have attended at least [six] hours of certified water district management training."⁶¹ The Commission further finds that Whitley District #1 should advise the Commission in writing within 30 days of the entry of this Order of the actions Whitley District #1 has taken to recoup the amounts overpaid to its commissioners in 2022. The Commission is making an adjustment to the revenue requirement to incentivize Whitley District #1's commissioners to complete the water district management training during the 2023 calendar year as detailed above.

WHITLEY DISTRICT #1'S LATE APPLICATION

In Case No. 2021-00157, the Commission required Whitley District #1 to file an application for an adjustment of its base rates no later than May 3, 2022.⁶² Whitley District #1 was on notice that it was required to file such an application within one year. Despite having a year's notice, Whitley District #1 filed an untimely motion in Case No. 2021-00157 on June 15, 2022, requesting an extension to November 3, 2022, in which to file

⁶⁰ Case No. 2006-00465, *Investigation into Transactions between Southern Madison Water District and Commissioner Jerry Combs* (Ky. PSC Feb. 15, 2008), Order at 12.

⁶¹ Case No. 2006-00465, Feb. 15, 2008 Order at 11.

⁶² Case No. 2021-00157, May. 3, 2021 Order at 6, ordering paragraph 5.

an application to adjust its base rates. Whitley District #1 stated that its failure to comply with the Commission's May 3, 2021 Order in Case No. 2021-00157 was due to the utility's oversight, but it had then retained Kentucky Rural Water Association to assist it with preparation of an alternative rate filing case.⁶³ The Commission denied Whitley District #1's June 15, 2022 motion for an extension of time on July 1, 2022, and ordered Whitley District #1 to file an alternative rate filing case as soon as possible.⁶⁴ The Commission further found that Whitley District #1 had violated the terms of the Commission's May 3, 2021 Order and that it could be subject to penalties and sanctions pursuant to KRS 278.990(1).⁶⁵

KRS 278.990(1) allows the Commission to impose a civil penalty of not less than \$25 and not more than \$2,500 if a utility violates the terms of any Commission Order. The Commission reiterates that Whitley District #1 has violated the terms of the Commission's May 3, 2021 Order in Case No. 2021-00157. Whitley District #1 filed its application in this case approximately five months after the original May 3, 2022 deadline.

However, the Commission finds that it will not impose any penalties on Whitley District #1 for its violation of the May 3, 2021 Order in Case No. 2021-00157. In light of the issues referenced above with Whitley District #1's commissioners receiving compensation exceeding the amount authorized in KRS 74.020(6), Whitley District #1 is cautioned that any future violations of Commission Orders, statutes, or regulations may result in penalties or removal of Whitley District #1's commissioners.⁶⁶

⁶³ Case No. 2021-00157, Whitley District #1's June 15, 2022 motion for extension.

⁶⁴ Case No. 2021-00157, July 1, 2022 Order at 3.

⁶⁵ Case No. 2021-00157, July 1, 2022 Order at 2.

⁶⁶ See KRS 74.025(1) and KRS 278.990(1).

SUMMARY

After consideration of the evidence of record and being otherwise sufficiently advised, the Commission finds that the recommendations in Commission Staff's Report, as modified in this Order, are supported by the evidence of record and are reasonable. The Commission has historically used a DSC method to calculate the revenue requirement for water districts or associations with outstanding long-term debt. Therefore, applying the DSC method to Whitley District #1's pro forma operations results in an Overall Revenue Requirement of \$2,237,479, a required revenue from water sales of \$1,913,221, and an increase in revenue from water sales of \$74,186, or 4.03 percent.

The Commission finds that allocating the calculated revenue increase across the board to Whitley District #1's monthly water service rates to be fair, just and reasonable.

IT IS THEREFORE ORDERED that:

1. The recommendations contained in the Commission Staff's Report are adopted as modified and incorporated by reference into this Order as if fully set out in this Order.
2. The general service rates proposed by Whitley District #1 are denied.
3. The Connection Fees and Nonrecurring Charges set forth in the Appendix to this Order are approved for service rendered by Whitley District #1 on or after the date of this Order.
4. The rates set forth in the Appendix to this Order are approved for services rendered by Whitley District #1 on and after the date of this Order.
5. Within 20 days of the date of service of this Order, Whitley District #1 shall file with this Commission, using the Commission's electronic Tariff Filing System, new

tariff sheets setting forth the rates and charges approved herein and their effective date, and stating that the rates and charges were authorized by this Order.

6. Whitley District #1 shall use the midpoint of the depreciable lives of the National Association of Regulatory Utility Commissioners ranges, as proposed in the application and agreed upon by Staff, to depreciate water plant assets for accounting purposes in all future reporting periods. No adjustment to accumulated depreciation or retained earnings should be made to account for this change in the accounting estimate.

7. Whitley District #1 is authorized to assess a monthly Water Loss Reduction Surcharge of \$2.76 per meter per month for 48 months, or until \$570,282 has been assessed, whichever comes first, to fund its unaccounted-for water loss reduction efforts as set forth in the Commission Staff's Report, subject to the conditions set forth in ordering paragraph number 9.

8. Within 30 days of the date of entry of this Order, Whitley District #1 shall advise the Commission in writing of the actions that it has taken to recoup the amounts that were improperly paid to the members of its board of commissioners in 2022.

9. The Commission shall open a separate proceeding, Case No. 2023-00083⁶⁷ to monitor the surcharge proceeds collection and expenses, subject to the following conditions:

a. Within 120 days of the date of service of this Order, Whitley District #1 shall file with the Commission a qualified infrastructure improvement plan, including a comprehensive unaccounted-for water loss reduction plan that establishes priorities and

⁶⁷ Case No. 2023-00083, *Electronic Whitley County Water District #1 Unaccounted-For Water Loss Reduction Plan, Surcharge and Monitoring*.

a time schedule for eliminating each source of unaccounted-for water loss and provides a detailed spending plan for the proceeds of a surcharge.

b. Whitley District #1 shall deposit surcharge collections in a separate interest-bearing account. On the 15th day of each month for 48 months from the date of this Order or until all surcharge proceeds are expended, Whitley District #1 shall file with the Commission a monthly activity report that includes a statement of monthly surcharge billings and collections; a monthly surcharge bank statement; a list of each payment from the account, its payee, a description of the purpose; and invoices supporting each payment.

c. On the 15th day of each month for 48 months from the date of service of this Order or until all surcharge proceeds are expended, Whitley District #1 shall file a monthly water loss report with the Commission.⁶⁸

d. Whitley District #1 shall not use any surcharge proceeds for reimbursement of unaccounted-for water loss reduction expenses without prior Commission authorization.

e. Whitley District #1 shall consider all surcharge collections as contributions and shall account for them in the manner that the Uniform System of Accounts for Class A and B Water Districts and Associations prescribes.

f. Whitley District #1 shall debit monthly billings for the surcharge to customers' accounts receivable and credit the contribution account.

g. When Whitley District #1 collects the surcharge from the customers, it shall debit special funds and credit the customer account.

⁶⁸ The report format is found at <https://psc.ky.gov/Home/UtilForms> under "Water Use & Loss Calculations (Excel format)."

h. One year after the date of service of this Order and annually thereafter, Whitley District #1 shall file in Case No. 2023-00083 a schedule of the estimated and actual progress of the water loss detection and repair program and estimated and actual expenditures made with the surcharge proceeds, for the purpose of evaluating whether adjustments to the program or to the surcharge amount are required.

10. Whitley District #1's failure to comply with the conditions set forth in ordering paragraph 9 shall result in termination of the surcharge and the refund of collected surcharge proceeds disbursed on expenses or projects outside the scope of expenses and projects approved by the Commission.

11. Whitley District #1 will be not be assessed a civil penalty despite violating the terms of the Commission's May 3, 2021 Order in Case No. 2021-00157, but Whitley District #1 is placed on notice that any future violations of Commission Orders, statutes, or regulations may subject Whitley District #1 to civil penalties or removal of Whitley District #1's commissioners.

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

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ENTERED
MAR 30 2023
rca
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2022-00321 DATED MAR 30 2023

The following rates and charges are prescribed for the customers in the area served by Whitley County Water District #1. 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 Water Rates

First	1,000 Gallons	\$20.49	Minimum Bill
Next	4,000 Gallons	\$0.00744	Per Gallon
Next	95,000 Gallons	\$0.00698	Per Gallon
Over	100,000 Gallons	\$0.00640	Per Gallon

Water Loss Reduction Surcharge; limited to 48 months	\$2.76 Per Month
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Nonrecurring Charges

5/8- x 3/4-Inch Meter Tap On	\$843.00
All Meters Larger than 5/8- x 3/4-Inch	Actual Cost
Late Payment Charge	10%
Meter Turn-On Charge	\$8.00
Meter Relocation Charge	Actual
Meter Re-Read Charge	\$8.00
Meter Resetting Charge	\$8.00
Meter Test Charge	Actual
Service Call/Investigation	\$8.00
Service Line Inspection	\$8.00
Service Disconnection	\$8.00
Service Reconnection	\$8.00
Service Termination Field Collection	\$8.00
Returned Check Charge	\$11.00

*Robert K. Miller
Straightline Kentucky LLC
113 North Birchwood Ave.
Louisville, KENTUCKY 40206

*Sandra Smith
Manager
Whitley County Water District #1
19 S Highway 25W
Williamsburg, KY 40769

*Whitley County Water District #1
19 S Highway 25W
Williamsburg, KY 40769