

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| ELECTRONIC TARIFF FILING OF THE CITY OF | ) | CASE NO.   |
| HARRODSBURG WATER DEPT. REVISING ITS    | ) | 2022-00349 |
| WHOLESALE WATER SERVICE RATES           | ) |            |

ORDER

On October 14, 2022, the city of Harrodsburg Water Department (Harrodsburg) filed with the Commission a revised tariff sheet setting forth a proposed adjustment to its existing rates for wholesale water service to Lake Village Water Association (Lake Village Water) and North Mercer Water District (North Mercer District) effective October 31, 2022. On its own motion, the Commission opened a formal proceeding to investigate the reasonableness of the proposed rate and establish a procedural schedule. The Commission suspended the proposed tariff revisions on October 25, 2022, for five months, up to and including March 30, 2023.

On December 21, 2022, Harrodsburg filed a motion seeking the Commission's acceptance of its filing of its proposed tariff related to a rate case expense surcharge and to incorporate the issue of the reasonableness of that surcharge into the record of this proceeding. The Commission granted Harrodsburg's motion and found that, in proposing the surcharge, Harrodsburg effectively made a motion to amend and filed a revised tariff sheet with an effective date of January 21, 2023. As a result, the Commission issued an Order on January 20, 2023, that suspended the amended proposed tariff revision for five months, up to and including May 21, 2023.

Harrodsburg responded to three requests for information from Commission Staff. There are no intervenors to this matter. On March 31, 2023, Harrodsburg filed a statement waiving a hearing and requesting that this matter be decided on the written record. This matter stands submitted for a decision on the written record.

### LEGAL STANDARD

Pursuant to KRS 278.200, the Commission has jurisdiction over Harrodsburg's rates for wholesale water service to Lake Village Water and North Mercer District. The Supreme Court's decision in *Simpson County Water District v. City of Franklin*, specifically stated that "where contracts have been executed between a utility and a city . . . KRS 278.200 is applicable and requires that by so contracting the City relinquishes the exemption and is rendered subject to the PSC rates and service regulation."<sup>1</sup>

Following the Court's decision in *Simpson County*, the Commission has allowed city-owned utilities to file rate adjustments by a tariff filing, and if a hearing is requested and the Commission suspends the proposed rate, the requirements and procedures set forth in KRS Chapter 278, and the Commission's regulations, apply equally to filings by a city-owned utility or a jurisdictional utility.<sup>2</sup>

Harrodsburg's wholesale water rates charged to Lake Village Water and North Mercer District is subject to KRS 278.030, which provides that a utility may collect fair, just and reasonable rates. KRS 278.190(3) provides that the applicant has the burden of proof to show that an increased rate is just and reasonable.

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<sup>1</sup> *Simpson County Water District v. City of Franklin*, 872 S.W.2d 460, 463 (Ky. 1994).

<sup>2</sup> *Simpson County Water District v. City of Franklin*, 872 S.W.2d 460, 463 (Ky. 1994); *City of Danville v. Public Service Comm'n, et al.*, Civil Action No. 15-CI-00989, Opinion and Order (Franklin Circuit Court Division II, June 14, 2016).

KRS 278.260 explains the Commission on its own motion may investigate whether “any regulation, measurement, practice or act affecting or relating to the service of the utility or any service in connection therewith is unreasonable.”

Harrodsburg presents two issues to the Commission. The first issue is whether Harrodsburg’s proposed rate increases to Lake Village Water and North Mercer District are fair, just and reasonable based upon the evidentiary record and the second issue is whether Harrodsburg's rate case expense and the proposed 36-month surcharge to recover that expense is fair, just and reasonable based upon the evidentiary record. Thus, in accordance with KRS 278.030, 278.200, and KRS 278.260, the Commission must determine whether both Harrodsburg’s proposed rate increases and proposed rate case expense surcharge are fair, just and reasonable based upon the evidentiary record.

### BACKGROUND

Harrodsburg is a city of the fourth class that, through its water and sewer divisions, operates facilities providing water service to 4,902 customers and sanitary sewer service to 4,399 customers located in and near Harrodsburg, Kentucky.<sup>3</sup> Harrodsburg also provides wholesale water service to the North Mercer District and to Lake Village Water.

Lake Village Water, a water association organized pursuant to KRS Chapter 273, provides water service to approximately 2,328 residential and commercial customers in

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<sup>3</sup> Harrodsburg’s Response to Commission Staff’s Third Request for Information (filed Feb. 9, 2023), Item 1.

Boyle and Mercer counties, Kentucky.<sup>4</sup> Lake Village Water’s last general rate adjustment occurred in 2022.<sup>5</sup>

North Mercer District is a water district organized pursuant to KRS Chapter 74 that owns and operates a water distribution system through which it provides retail water service to approximately 4,639 customers that reside in the Kentucky counties of Anderson, Boyle, Mercer, and Washington.<sup>6</sup> North Mercer District’s last general rate adjustment occurred in 2016.<sup>7</sup>

## DISCUSSION

### Wholesale Rate Increase

The table below is a comparison of Harrodsburg’s current and proposed volumetric wholesale rates for Lake Village Water and North Mercer District.

|       |        |                | Current<br>Rates | Proposed<br>Rates | \$ Change  | % Change |
|-------|--------|----------------|------------------|-------------------|------------|----------|
| First | 250    | Min. Bill.     | \$ 11.84000      | \$ 13.12000       | \$ 1.28000 | 10.8%    |
| Next  | 750    | Per Cubic Foot | 0.0450           | 0.0498            | 0.00480    | 10.7%    |
| Next  | 3,000  | Per Cubic Foot | 0.0391           | 0.0432            | 0.00410    | 10.5%    |
| Next  | 6,000  | Per Cubic Foot | 0.0332           | 0.0367            | 0.00350    | 10.5%    |
| Next  | 25,000 | Per Cubic Foot | 0.0283           | 0.0313            | 0.00300    | 10.6%    |
| Next  | 25,000 | Per Cubic Foot | 0.0236           | 0.0261            | 0.00250    | 10.6%    |
| Over  | 60,000 | Per Cubic Foot | 0.0190           | 0.0209            | 0.00190    | 10.0%    |

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<sup>4</sup> Annual Report of Lake Village Water Association to the Public Service Commission for the Calendar Year Ended December 31, 2021 at 12 and 49.

<sup>5</sup> Case No. 2016-00068, *Electronic Application of Lake Village Water Association, Inc. for rate Adjustment Made Pursuant to 807 KAR 5:076* (Ky. PSC Oct. 4, 2022).

<sup>6</sup> Annual Report of North Mercer Water District to the Public Service Commission for the Calendar Year Ended December 31, 2021 at 12 and 49.

<sup>7</sup> Case No. 2016-00325, *Electronic Application of North Mercer Water District for rate Adjustment Made Pursuant to 807 KAR 5:076* (Ky. PSC Apr. 19, 2017).

Harrodsburg admitted that it did not use a formal cost-of-service study to calculate the proposed wholesale water rate increase.<sup>8</sup> Harrodsburg's proposed rate increase is not based upon the actual cost of producing water or a cost of service study as the Commission generally requires; it is instead based upon a contractually agreed-upon increase based on a retail water rate increase. According to Harrodsburg, the water contracts with Lake Village Water and North Mercer District state, "[i]n the event the City should increase or decrease its rates of charge to its customers, an equal increase or decrease will be made in its charges to the District."<sup>9</sup> Harrodsburg contends that the proposed 10.5 percent wholesale rate increase is reasonable given that the calculation performed by GRW Engineers shows that Harrodsburg could justify an increase of 53.217 percent.<sup>10</sup>

Harrodsburg explained that its proposed increase to the wholesale water rate of 10.5 percent was necessary to fund its infrastructure projects that were undertaken to expand water lines and to replace outdated service lines.<sup>11</sup> Furthermore, Harrodsburg claims that it was required to borrow money from the General Fund to balance the water and sewer divisions revenue in last year's budget.<sup>12</sup>

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<sup>8</sup> Harrodsburg's Responses to Commission Staff's Second Request for Information (Staff's Second Request) (filed Jan. 12, 2023), Item 1.

<sup>9</sup> Harrodsburg's Response to Commission Staff's First Request for Information (Staff's First Request) (filed Dec. 12, 2022), Item 2.

<sup>10</sup> Harrodsburg's Responses to Staff's First Request (filed Dec. 12, 2022), Item 2. In calculating the Required Revenue Percentage Increase of 34.73%, GRW Engineering mistakenly divided the Required Revenue Increase of \$1,419,839 by the Revenue Requirement – Water Rates of \$4,087,861. The correct calculation:  $\$1,419,839$  (Required Revenue Increase)  $\div$   $\$2,668,022$  (Revenue from Service) = 53.217%.

<sup>11</sup> Harrodsburg's October 14, 2022 Tariff Filing at unnumbered page 1.

<sup>12</sup> Harrodsburg's October 14, 2022 Tariff Filing at unnumbered page 1.

In reviewing the case record, the Commission concludes that Harrodsburg correctly limited its wholesale water rate increase to the level of the retail water rate increase, and the proposed increase is in accordance with its wholesale water service contracts with Lake Village Water and North Mercer District. Harrodsburg also presented an analysis prepared by GRW Engineering that it could justify an increase in the wholesale water rate substantially in excess of the requested 10.5 percent increase. Based upon the fact that Harrodsburg's requested increase is limited to the level of its retail water increase, is in compliance with the contracts between the parties, and an analysis evidencing support for the increase was provided, the Commission finds that Harrodsburg's proposed wholesale rate increase is fair, just and reasonable and should be approved.

#### Rate Case Expense Surcharge

A utility may properly recover reasonable rate case expenses as a cost of doing business.<sup>13</sup> The Commission has generally permitted rate recovery of a reasonable level of rate case expenses but has disallowed such expenses when a utility has failed to provide adequate documentary evidence of the incurrence of the expense.<sup>14</sup> The Commission has also disallowed such expenses as unreasonable when related to a

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<sup>13</sup> See *Driscoll v. Edison Light & Power Co.*, 307 U.S. 104, 120 (1939).

<sup>14</sup> Case No. 2008-00250, *Proposed Adjustment of the Wholesale Water Service Rates of Frankfort Electric and Water Plant Board* (Ky. PSC Apr. 6, 2009).

poorly or improperly prepared rate application<sup>15</sup> and in cases where the utility failed to justify the high level of expenses for relatively simple alternative rate filings.<sup>16</sup>

On December 21, 2022, Harrodsburg filed its request that the Commission accept into the record its proposed rate case expense surcharge tariff and incorporate the issue of the reasonableness of its requested surcharge into the case record. Harrodsburg proposed to assess a monthly rate case surcharge of \$694.44 over 36 months, which according to Harrodsburg is consistent with prior Commission decisions, to recover any rate case expenses incurred to participate in and defend its proposed wholesale water rates. In the tariff filing, Harrodsburg's proposed rate case surcharge was based on estimated rate case expenses of \$50,000.<sup>17</sup> Harrodsburg also requested permission to deviate from the procedures identified in 807 KAR 5:011 pertaining to the filing of tariffs. In its January 20, 2023 Order the Commission accepted Harrodsburg's proposed rate case expense surcharge tariff, allowed the issue of reasonableness of the surcharges to be included into the case record and granted Harrodsburg's motion for a deviation from the filing requirements of 807 KAR 5:011, Section 2.

The Commission evaluates the prudence of rate case expense on a case-by-case basis.<sup>18</sup> Harrodsburg initially estimated rate expenses of \$50,000. However, the invoices

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<sup>15</sup> Case No. 8783, *Application of Third Street Sanitation, Inc. for an Adjustment of Rates Pursuant to the Alternative Procedural for Small Utilities* (Ky. PSC Nov. 14, 1983).

<sup>16</sup> Case No. 9127, *Application of Sargent and Sturgeon Builders, Inc., Gardenside Subdivision Sewer Division, for a Rate Adjustment Pursuant to the Alternative Rate Filing for Small Utilities* (Ky. PSC Mar. 25, 1985).

<sup>17</sup> Harrodsburg's Response to Commission Staff's Third Request for Information (Staff's Third Request) (filed Feb. 9, 2023), Item 8, Excel Workbook: DR\_3-8\_Harrodsburg\_Rate\_Case\_Expense.xlsx.

<sup>18</sup> Case No.2009-00373, *Proposed Adjustment of the Wholesale service Rates of Hopkinsville Water Environment Authority* (Ky. PSC July 2, 2010)

submitted by Harrodsburg evidence actual rate case expense in the amount of \$14,181. The invoices submitted provide only for attorneys' fees for preparation of the rate application and subsequent motions and pleadings to the Commission, and these legal services encompass the entirety of the rate case expense for which Harrodsburg requests recovery. Based upon its review of the record, the Commission finds that Harrodsburg has provided documentary evidence to support reasonable rate case expense, encompassing only attorney's fees, in an actual amount of \$14,181 that is a fraction of the initial estimated cost.<sup>19</sup> The Commission further concludes that the amount of the actual rate case expense does not appear excessive, is equally split between Harrodsburg's two wholesale customers, and appears reasonable in relation to the complexity of issues presented in this case. For these reasons, the Commission finds that Harrodsburg should be authorized to recover the cost of this rate case expense from its two wholesale water customers, North Mercer District and Lake Village Water.

Harrodsburg argued to recover its rate case cost over a period of 36-months, which it claimed, conforms to past Commission precedent.<sup>20</sup> When there is no evidence to support an alternative amortization period, the Commission amortizes an intangible regulatory asset or liability identified in a rate proceeding over the anticipated life of the utility rates approved in that proceeding.<sup>21</sup> The life is generally based on the frequency

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<sup>19</sup> Harrodsburg's Supplemental Response to Staff's Third Request (filed Mar. 31, 2023), Item 8, Excel Workbook: Supplemental\_DR\_3-8\_Harrodsburg\_Rate\_Case\_Expense.xlsx.

<sup>20</sup> See Case No. 2017-00417, *Electronic Proposed Adjustment of the Wholesale Water Service Rates of Lebanon Water Works* (Ky. PSC Jul. 12, 2018), at Appendix B; and Case No. 2019-00444, *Electronic Proposed Adjustment of the Wholesale Water Service Rates of Princeton Water and Wastewater* (KY. PSC Jun. 15, 2020) at 32–36.

<sup>21</sup> Case No. 2013-00314, *Alternative Rate Adjustment Filing of Par-Tee LLC Oba Perry Park Resort Sewer Utility* (Ky. PSC Staff Report issued Dec. 6, 2013; Final Order issued Feb. 19, 2014) Staff's finding



of the utility's historic rate filings.<sup>22</sup> Harrodsburg's last increase in wholesale rates occurred in January 2020.<sup>23</sup> Harrodsburg subsequently sought a rate increase to North Mercer District and Lake Village Water again in 2020, following the rate study by GRW, but Harrodsburg agreed to withdraw the request at that time because the proposed increase did not justify the expense required to litigate a rate case.<sup>24</sup> Harrodsburg stated that it has raised rates to its current retail customers three times since the last rate increase for wholesale customers and the GRW study suggested that Harrodsburg use the Consumer Price Index increase each year to prevent a substantial rate increase in the future.<sup>25</sup>

It is the Commission's opinion that the rates approved in this proceeding will become obsolete within several years due to changes that will likely occur to Harrodsburg's cost of providing wholesale water service. Accordingly, absent a more reasonable amortization period and given the frequency of Harrodsburg's historic rate filings, the Commission is allowing Harrodsburg to recover its allowable rate case expense of \$14,181 over 36-months. Using Harrodsburg's actual legal fees of \$14,181 amortized over 36-months and divided between the two wholesale customers, the

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at 13–14 of its report (ordering that “[t]he findings contained in the Staff Report are adopted and incorporated by reference into this Order as if fully set out herein.”).

<sup>22</sup> 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) at 35.

<sup>23</sup> TFS 2019-00624 Increases wholesale water rate to Lake Village Water Association (effective Jan. 1, 2020), and TFS 2019-00626 Increases wholesale water rate to North Mercer Water District (effective Jan. 1, 2020).

<sup>24</sup> Harrodsburg's Response to Staff's First Request (filed Dec. 12, 2022), Item 1 at 3.

<sup>25</sup> Harrodsburg's Response to Staff's First Request, Item 1 at 3.

Commission calculated a temporary monthly rate case expense surcharge \$196.96 per wholesale customer.<sup>26</sup>

IT IS THEREFORE ORDERED that:


1. The wholesale rate proposed by Harrodsburg is granted.
2. Harrodsburg shall recover \$14,181 for rate case expenses related to legal fees through a monthly rate case expense surcharge over a period of 36-months of \$196.96 per wholesale customer per month.
3. The rates set forth in the Appendix to this Order are fair, just and reasonable and should be approved for the provision of wholesale water service to Lake Village Water and North Mercer District for services rendered on and after service of this Order.
4. This case is closed and removed from the Commission's docket.

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<sup>26</sup> \$14,181 (Actual Legal Fees) ÷ 36-Months = \$393.92 ÷ 2 (Wholesale Customers) = \$196.96.

PUBLIC SERVICE COMMISSION

  
Chairman

*MRR signing w/ permission*  
  
Vice Chairman

  
Commissioner



ATTEST:

  
Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2022-00349 DATED MAY 16 2023

The following rates and charges are prescribed for the customers in the area served by the city of Harrodsburg Water Department. 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 | 250 Cubic Feet    | \$13.12 | Minimum Bill   |
| Next  | 750 Cubic Feet    | 0.0498  | Per Cubic Foot |
| Next  | 3,000 Cubic Feet  | 0.0432  | Per Cubic Foot |
| Next  | 6,000 Cubic Feet  | 0.0367  | Per Cubic Foot |
| Next  | 25,000 Cubic Feet | 0.0313  | Per Cubic Foot |
| Next  | 25,000 Cubic Feet | 0.0261  | Per Cubic Foot |
| Over  | 60,000 Cubic Feet | 0.0209  | Per Cubic Foot |

Rate Case Expense Surcharge \$196.96 Per Month

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