

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF ESTILL	)	
COUNTY WATER DISTRICT NO. 1 FOR A	)	CASE NO.
SURCHARGE TO FINANCE WATER LOSS	)	2019-00119
CONTROL EFFORTS	)	

ORDER

On January 5, 2024, Estill County Water District No. 1 (Estill District No. 1) tendered a motion, pursuant to KRS 278.400, requesting rehearing of the Commission’s Order entered on December 13, 2023, in this matter, which denied Estill District No. 1 authorization to use water loss surcharge funds to hire two employees for leak detection and repair purposes for 33 months and purchase equipment for those employees, to purchase three trucks.

LEGAL STANDARD

KRS 278.400, which establishes the standard of review for motions for rehearing, limits rehearing to new evidence not readily discoverable at the time of the original hearings, to correct any material errors or omissions, or to correct findings that are unreasonable or unlawful. A Commission Order is deemed unreasonable only when “the evidence presented leaves no room for difference of opinion among reasonable minds.”<sup>1</sup>

---

<sup>1</sup> *Energy Regulatory Comm’n v. Kentucky Power Co.*, 605 S.W.2d 46 (Ky. App. 1980).

An order can only be unlawful if it violates a state or federal statute or constitutional provision.<sup>2</sup>

### DISCUSSION AND FINDINGS

On August 31, 2023, Estill District No. 1 filed a motion for authorization to Use Surcharge Proceeds. That motion sought Commission authorization to, among other things, hire two new employees for the sole purpose of leak detection and repair, to be paid from the water loss surcharge fund for 33 months, to purchase and provide each of the two employees with computer equipment for leak detection and a digital listening device, and to use water loss surcharge funds to purchase three trucks.

The Commission approved Estill District No. 1's August 31, 2023 motion in part and denied it in part by the December 13, 2023 Order. The Commission specifically denied the use of water loss surcharge funds to hire the two new employees, purchase the associated equipment, and the purchase of the three pickup trucks. On January 5, 2024, Estill District No. 1 filed a motion for rehearing requesting the Commission reconsider the denial of those items.

In its motion for rehearing, Estill District No. 1 argued, among other things, that its approved tariff provides that the water loss surcharge funds may be used for "water loss control activities."<sup>3</sup> Estill District No. 1 also noted that it filed a comprehensive corrective action plan with its application initially seeking the water loss surcharge and that the

---

<sup>2</sup> *Public Service Comm'n v. Conway*, 324 S.W.3d 373, 377 (Ky. 2010); *Public Service Comm'n v. Jackson County Rural Elec. Coop. Corp.*, 50 S.W.3d 764, 766 (Ky. App. 2000); *National Southwire Aluminum Co. v. Big Rivers Elec. Corp.*, 785 S.W.2d 503, 509 (Ky. App. 1990).

<sup>3</sup> Estill District No. 1's Motion For Rehearing (filed on Jan. 5, 2024) at 6.

corrective action plan contemplated retaining dedicated loss reduction staff and purchasing additional leak detection equipment as needed in the first 2 years.<sup>4</sup>

Estill District No. 1 explained that due to a limited number of field personnel it has been limited in its efforts to expand its leak detection activities and has been unable to assign any field employee solely to leak detection and repair duties. Estill District No. 1 stated that the new employees will be guided by the new telemetry systems and will search for leaks in areas that show considerable evidence of water loss, and will perform system mapping, valve exercising, and other line loss functions.<sup>5</sup> Estill District No. 1 indicated that two of the trucks it requested to purchase with surcharge funds will be used by the new employees whereas the third truck will be used to haul equipment approved in the December 13, 2023 Order.<sup>6</sup>

Having reviewed the motion for rehearing and record and being otherwise sufficiently advised, the Commission finds that the proposed expenditures regarding which Estill District No. 1 requests rehearing are consistent with its corrective active plan, which was prepared by a third-party engineering firm, and will otherwise serve the purpose of reducing unaccounted for water loss. Thus, the Commission finds that Estill District No. 1's motion for rehearing should be granted and that the December 13, 2023 Order should be modified to authorize the use of water loss surcharge funds to hire and pay two new employees for the 33 months, purchase computer equipment for leak

---

<sup>4</sup> Estill District No. 1's Motion For Rehearing (filed on Jan. 5, 2024) at 6.

<sup>5</sup> Estill District No. 1's Verified Motion for Authorization to Expend Surcharge Proceeds and to Continue Billing Surcharge Until December 31, 2025 (filed on Sept. 31, 2023) at 9, 10.

<sup>6</sup> Estill District No. 1's Verified Motion for Authorization to Expend Surcharge Proceeds and to Continue Billing Surcharge Until December 31, 2025 (filed on Sept. 31, 2023) at 11.

detection and a digital listening device for each of the employees and purchase the three proposed trucks.

IT IS HEREBY ORDERED that:

1. Estill District No. 1's motion for rehearing is granted.
2. Ordering paragraph 4 of the December 13, 2023 Order is struck and

replaced with the following:

Estill District No. 1 is authorized to use funds from the water loss surcharge to purchase three pickup trucks for a total cost of \$150,000.

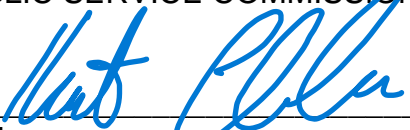
3. Ordering paragraph 5 of the December 13, 2023 Order is struck and

replaced with the following:

Estill District No. 1 is authorized to use funds from the water loss surcharge funds to hire and pay two new employees for the sole purpose of leak detection and repair for 33 months, to purchase each employee computer equipment for leak detection, and a digital listening device for a total cost of \$366.036.

4. All provisions of the Commission's December 13, 2023 Order that are not in conflict with the terms of this Order shall remain in effect.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ENTERED  
JAN 25 2024 rcs  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

\*Estill County Water District #1  
76 Cedar Grove Road  
Irvine, KY 40336

\*Audrea Miller  
Office Manager  
Estill County Water District #1  
76 Cedar Grove Road  
Irvine, KY 40336

\*Gerald E Wuetcher  
Attorney at Law  
STOLL KEENON OGDEN PLLC  
300 West Vine Street  
Suite 2100  
Lexington, KENTUCKY 40507-1801