

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PROPOSED ADJUSTMENT OF THE)
WHOLESALE WATER SERVICE RATES OF) CASE NO. 2006-00403
THE CITY OF FALMOUTH)

ORDER

On August 24, 2006, the city of Falmouth, Kentucky ("Falmouth") filed a revised rate schedule with the Commission to adjust its wholesale water service rates to Pendleton County Water District and East Pendleton County Water District. After both water districts filed written objections to the proposed adjustment and requested Commission review of the proposed rates, the Commission initiated this proceeding. As of this date, the Commission has yet to render a decision on Falmouth's proposed rate.

When a city contracts with a public utility to provide utility service, it loses its exemption from Commission jurisdiction and becomes a public utility subject to the provisions of KRS Chapter 278.¹ KRS 278.180(1) provides that a utility may not change any rate without 30 days notice to the Commission. KRS 278.190(1) authorizes the Commission to hold a hearing on and otherwise investigate the reasonableness of a proposed rate. KRS 278.190(3) requires that the Commission complete its investigation

¹ See Simpson County Water District v. City of Franklin, 872 S.W.2d 460, 465 (Ky. 1994).

and render a final decision within 10 months of the filing of the proposed rate.² The Commission's failure to render a decision within this period will result in the proposed rates becoming effective.

Because of unusual circumstances in this proceeding,³ the Commission failed to render a decision by June 25, 2007.⁴ On June 26, 2007, Falmouth's proposed rates of \$2.10 per 1,000 gallons to Pendleton District and \$2.02 to East Pendleton District became effective. As the proposed rates have become effective by operation, there exists no reason for this proceeding to remain open.

IT IS THEREFORE ORDERED that this proceeding is closed and shall be removed from the Commission's docket.⁵

² At any hearing involving the rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the utility, and the commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible, and in any event not later than ten (10) months after the filing of such schedules.

³ Although Falmouth bore the burden of proof in this matter, its unfamiliarity with public utility accounting and rate-making practices and the Commission's procedures required the Commission to suspend discovery procedures 5 months into this proceeding and to direct Commission Staff to conduct an examination of Falmouth's financial records and to prepare a report of its findings. Commission Staff filed this report on May 11, 2007. Questions regarding Commission Staff's findings could not be resolved nor could a hearing on the proposed rate be scheduled to allow sufficient time for a decision to be rendered by June 25, 2007 and afford all parties due process.

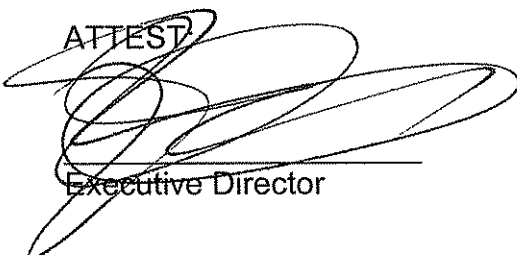
⁴ Although the 10 month period ended on June 23, 2007, KRS 446.030(1)(b) extended the period until June 25, 2007.

⁵ Although the proposed rates have become effective, the Commission retains the authority to investigate the reasonableness of these rates. See KRS 278.260(1). Any decision to adjust these rates upon conclusion of that investigation can be applied only on a prospective basis.

Done at Frankfort, Kentucky, this 27th day of June, 2007.

By the Commission

ATTEST



Executive Director

Case No. 2006-00403