COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF NORTHERN KENTUCKY WATER DISTRICT FOR AN ADJUSTMENT OF RATES, ISSUANCE OF BONDS, AND TARIFF CHANGES	))))	CASE NO. 2010-00094

ORDER

Northern Kentucky Water District ("NKWD") has applied for authority to issue $32,500,000 of water revenue bonds, to adjust its rates for water service to increase normalized revenues from water revenues by $8,256,388, and to revise certain provisions of its tariff. By this Order, we grant the requested relief but establish rates that will produce revenues approximately $83,969 less than the revenues that the requested rates would produce.

BACKGROUND

NKWD, a water district organized pursuant to KRS Chapter 74, is the oldest and largest water district in the Commonwealth. It owns and operates water treatment and distribution facilities that provide retail water service to approximately 80,386 customers in Kenton, Campbell, and Boone counties, Kentucky and wholesale water service to Bullock Pen Water District, Pendleton County Water District, and the city of Walton, Kentucky.[1] Its last general rate adjustment occurred in December 2007.[2]

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[1] *Annual Report of Northern Kentucky Water District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2009* ("*2009 Annual Report*") at 5, 27, and 30.

[2] Case No. 2007-00135, Application of Northern Kentucky Water District for an Adjustment of Rates and Issuance of Bonds (Ky. PSC Dec. 21, 2007).

PROCEDURE

On February 26, 2010, NKWD filed with the Commission a written notice of intent to file an application for an adjustment of rates. On April 15, 2010, it requested a deviation from 807 KAR 5:001 to permit the filing and service of all documents in this proceeding by electronic means only. The Commission granted this request on June 1, 2010.

On June 4, 2010, NKWD tendered its application to the Commission. Because of deficiencies in the application, the Commission did not accept the application for filing until June 24, 2010.[3] In its application, NKWD notified the Commission of its intent to place its proposed rates into effect on August 1, 2010.[4] On July 14, 2010, the Commission suspended the operation of the proposed rates for five months and established a procedural schedule for this proceeding. We subsequently permitted the Attorney General of Kentucky ("AG") and Northern Kentucky Tea Party, Inc., ("Tea Party") to intervene in this proceeding.

The Commission held a public hearing for the purpose of receiving public comment on the proposed rate adjustment in Crestview Hills, Kentucky, on October 14, 2010.[5] We held a public evidentiary hearing on the proposed rate adjustment on

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[3] In its application, NKWD failed to comply with certain provisions of 807 KAR 5:001. The Commission's Executive Director notified NKWD of this failure by letter on June 14, 2010. NKWD made a supplemental filing with the Commission on June 24, 2010 to correct this failure. In its application and its supplemental filing, NKWD requested a deviation from the requirements of 807 KAR 5:001, Section 10(7)(d) and Section 11(2)(a). On July 14, 2010, the Commission authorized a deviation from these requirements and deemed NKWD's application as filed as of June 24, 2010.

[4] NKWD originally proposed to place its proposed rates into effect on July 15, 2010. Due to the deficiencies in its application, NKWD subsequently filed revised proposed tariff sheets that stated an effective date of August 1, 2010 for the proposed rates.

[5] For the video transcript of this hearing, see http://psc.ky.gov/av_broadcast/2010-00094/2010-00094_14Oct10_Inter.asx (last visited Dec. 29, 2010). In addition to this hearing, the Commission accepted written public comment mailed to our offices and submitted through our internet site.

October 27, 2010 at the Commission's offices in Frankfort, Kentucky.[6] On November 30, 2010, this matter stood submitted for decision following the parties' submission of written briefs.

On December 22, 2010, the Commission issued an Interim Order in which we granted NKWD authority to issue $32.5 million in Water District Revenue Bonds, Taxable Build America Bond Series 2010. Contending that the Interim Order lacked essential findings regarding NKWD's proposed rates and that NKWD would be unable to issue the proposed bonds in time to qualify the bonds for "Build America Bonds" designation, NKWD moved for reconsideration of the Order on December 23, 2010 and for specific Commission authorization to issue other types of bonds.[7]

AUTHORIZATION TO ISSUE REVENUE BONDS

In its application, NKWD requested authority to issue $32,500,000 of Water District Revenue Bonds, Taxable Build America Bond Series 2011,[8] that would mature over a 27-year period and have interest rates ranging from 1.4 percent to 5.75 percent

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[6] Testifying at this hearing were Jack Bragg, NKWD Vice President of Finance; Keith Brock, Financial Advisor, Ross, Sinclair and Associates, Inc.; Adam Davey, Certified Public Accountant, Von Lehman Company, Inc.; Richard Harrison, NKWD Vice President of Engineering/Distribution; Paul R. Herbert, President, Valuation and Rate Division, Gannett Fleming, Inc.; Roger L. Peterman, Peck, Shaffer & Williams LLP; and Ronald C. Lovan, NKWD President/CEO. For the video transcript of this hearing, see http://psc.ky.gov/av_broadcast/ 2010-00094/2010-00094_27Oct10_Inter.asx (last visited Dec. 29, 2010).

[7] Motion to Reconsider, Vacate Or Revoke Order at 1-2 (filed Dec. 23, 2010).

[8] In its application, NKWD applied for authority to issue approximately $32,500,000 of revenue bonds. Application at ¶ 7. In his written testimony, NKWD's financial advisor testified that NKWD must issue approximately $32,465,000 of revenue bonds "to cover the cost of financing its current revenue needs." Prefiled Testimony of Keith Brock at 3. NKWD subsequently revised the amount of bonds that it expected to issue to $32,100,000. *See* NKWD's Draft Plan of Finance at 1 (filed Oct. 25, 2010); VR: 10/27/10; 11:35:55-11:36:21. Because the exact cost of issuance, interest rate, and other factors are not known until the sale of the bonds, NKWD requests approval for an approximate range of bonds, not a specific amount. Prefiled Testimony of Keith Brock at 3.

per annum.[9] NKWD sought to take advantage of refundable tax credits for "Build America Bonds" that the American Recovery and Reinvestment Act of 2009 provides.[10] By designating these bonds as "Build America Bonds" and electing the direct payment to issuer option,[11] NKWD was eligible for a refundable tax credit of 35 percent of the total coupon interest paid to bondholders.[12] NKWD estimated that the total payments resulting from these credits, which the federal government will make directly to NKWD shortly after the water district's payment to bondholders, would be $7,916,164 over the life of the proposed bonds.[13]

By an Interim Order issued on December 22, 2010, the Commission authorized NKWD to issue the proposed bonds. We took this action because only bonds issued prior to January 1, 2011 are eligible for the refundable tax credit and in the belief that the water district had adequate time in which to issue the proposed bonds.[14]

On December 23, 2010, NKWD moved for reconsideration of this Order. In its motion, NKWD stated that it lacked sufficient time to issue the proposed bonds before January 1, 2011 and to obtain the benefit of the "Build America Bonds" designation. It further stated that, even if it had sufficient time to issue the bonds, the rating agencies involved in the issuance process would not rate the water district's ability to issue the

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[9] NKWD's Draft Plan of Finance at 2-3 (filed Oct. 25, 2010).

[10] Pub. L. No. 111-5, 123 Stat. 115 (2009).

[11] Application, Exhibit B; Prefiled Testimony of Keith Brock at 3.

[12] 26 U.S.C. § 6431.

[13] NKWD's Draft Plan of Finance at 2-3. This amount assumes that NKWD will issue $32,100,000 of revenue bonds.

[14] *See* Affidavit of Todd Osterloh (filed Dec. 22, 2010).

bonds without a decision on NKWD's proposed rate adjustment.[15] "For this reason," NKWD asserted, "the [O]rder is of no regulatory or legal benefit to the District and does not convey the authority to the District that the Commission intends. Because it provides no basis for the District to proceed with the bond process, it should be vacated."[16] NKWD further argued that, as it could not issue the bonds before January 1, 2011 and the Order authorizes only the issuance of "Build America Bonds," the Order prevents NKWD from obtaining financing through the issuance of other types of general revenue bonds that would not have the "Build America Bonds" designation.[17] No party has responded to NKWD's motion.

As the deadline for the issuance of "Build America Bonds" has passed and NKWD has not issued the proposed bonds and is thus unable to meet the eligibility requirements for "Build America Bonds," the question arises whether the need for the proposed bond issuance still exists. NKWD proposes to use the proceeds from the proposed bond issuance to retire $29,160,000 of bond anticipation notes ("BAN") that NKWD issued on November 12, 2009 and that mature on November 1, 2011; to pay issuance costs of $757,828; and to make a deposit of $2,425,173 to its Debt Service

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[15] Our review of the record does not reveal, prior to December 22, 2010, any express request or statement from NKWD conditioning the issuance of proposed "Build America Bonds" upon the issuance of a final Order on NKWD's proposed rates. Neither NKWD's application, the written testimony of its witnesses, nor its post-hearing brief mention such a condition. Further, NKWD failed to raise this issue when the parties discussed the time period for filing written briefs in this matter. VR: 10/27/10; 16:22:13-16:23:22. In its response to a request for information made at the evidentiary hearing, NKWD provided the Commission with a letter addressed to the water district from its financial advisor in which the financial advisor states that such authorization would be needed by mid-December 2010. *See* letter from Mr. Keith Brock, Financial Advisor, Ross, Sinclair & Associates, LLC, to Mr. Jack Bragg, Vice President of Finance, NKWD (Nov. 1, 2010). This letter was part of a 272-page response to information requests and was tentative in nature. It was not accompanied by a specific motion or request from NKWD for the issuance of a final Order by mid-December 2010. *See also* Affidavit of Todd Osterloh (filed Dec. 22, 2010).

[16] Motion to Reconsider, Vacate Or Revoke Order at 1-2 (filed Dec. 23, 2010).

[17] *Id.* at 2.

Fund.[18] NKWD's inability to obtain "Build America Bond" designation for its bonds does not affect this obligation or alter the need for a long-term source of funding.[19]

The Tea Party has objected to the proposed bond issuance on the grounds that it is necessary solely to finance system improvements to comply with U.S. Environmental Protection Agency ("EPA") regulations, that the EPA regulations are unconstitutional, and that NKWD's failure to challenge the EPA regulations and to pursue less costly alternatives to comply with these requirements renders the proposed issuances unreasonable.[20]

The record fails to support the Tea Party's assertion that the proposed bond issuance is solely necessary to fund projects to meet new EPA regulatory standards. Of the 55 improvements projects that the proceeds of the 2009 BANs financed, only two involved EPA compliance projects.[21] The remaining projects involved replacement or refurbishment of existing water treatment and distribution facilities and water main extension projects. Of the $27,727,634 of 2009 BAN proceeds[22] that NKWD used for

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[18] NKWD's Response to Commission Staff's Second Request for Information, Item 2 (filed Aug. 17, 2010); VR: 10/27/10; 11:44:30-11:45:00. These amounts are based upon an issuance of $32,100,000 of revenue bonds. Total estimated cost of retiring the 2009 BANs is $29,281,500. Issuance costs include underwriter's discount, cost of issuance, and rounding amount. NKWD also assumes the transfer of $364,000 from other accounts.

[19] As the bonds will not be issued in 2010, a later issuance may affect the interest rate that NKWD must pay. Moreover, as NKWD will receive no tax credit payments from the federal government, a greater level of revenues from water sales will be necessary to meet NKWD's debt service payments.

[20] Tea Party's Brief at 1 (filed Nov. 30, 2010).

[21] For a listing of the 55 improvement projects funded wholly or in part with BAN proceeds, see Application, Exhibit O.

[22] For a detailed accounting of the uses of the proceeds of the 2009 BANs, see NKWD's Response to Commission Staff's Second Request for Information, Item 2 (filed Aug. 17, 2010) and Application, Exhibit O.

improvement projects, only $2,833,000, or 10.2 percent, is allocated to EPA compliance projects.

As to its objections to the use of proceeds for EPA compliance projects, the Tea Party fails to provide any specific legal authority to support its contention that the EPA's Stage 2 Disinfectants and Disinfection Byproducts Rule ("Disinfection Byproducts Rule"),[23] the regulation which led to the two remaining improvement projects, is unconstitutional or otherwise unlawful. More importantly, this Commission lacks the authority to declare a law unconstitutional.[24] To the extent that the Tea Party wishes to challenge the constitutionality of the Disinfection Byproducts Rule or to otherwise revise or amend that regulation, the Federal Government's judicial and legislative branches are the appropriate forums to present its arguments.

As to the Tea Party's contention that NKWD failed to explore less costly compliance alternatives to comply with the Disinfection Byproducts Rule, we addressed this issue when considering NKWD's applications for Certificates of Public Convenience and Necessity for improvements to NKWD's Memorial Parkway and Fort Thomas Water Treatment Plants. After extensively reviewing these applications, we found the proposed improvements were necessary.[25] The Tea Party has presented no evidence in this proceeding to demonstrate that NKWD's compliance plan is unreasonable or is

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[23] Stage 2 Disinfectants and Disinfection Byproducts Rule, 71 Fed. Reg. 388 (Jan. 4, 2006) (codified at 40 C.F.R. §§ 141, 142).

[24] *See Commonwealth v. DLX, Inc.*, 42 S.W.3d 624, 626 (Ky. 2001) ("an administrative agency cannot decide constitutional issues").

[25] *See* Case No. 2010-00093, Application of Northern Kentucky Water District for Approval of the Memorial Parkway Treatment Plant Advanced Treatment Facility Phase III and Issuance of a Certificate of Public Convenience and Necessity (Ky. PSC Apr. 21, 2010); Case No. 2010-00038, Application of Northern Kentucky Water District for Approval of Construction of Pretreatment Building Improvements at Memorial Parkway Treatment Plant and Issuance of a Certificate of Convenience and Necessity (Ky. PSC Apr. 21, 2010).

not cost-effective or that litigation with EPA over the Disinfection Byproducts Rule would likely result in a lower compliance cost.[26] In the absence of such evidence, we find no basis to disturb our earlier decision.

Accordingly, we find that NKWD should be authorized to issue $32.5 million in revenue bonds and should further be permitted to issue the most reasonable and cost-effective type of bonds. We further find that our Order of December 22, 2010 should be modified to the extent necessary to achieve this result.

TEST PERIOD

NKWD proposes to use the 12-month period ending December 31, 2009 as the test period to determine the reasonableness of its proposed rates.[27] The Commission finds the use of this period reasonable. In using a historic test period, we give full consideration to appropriate, known, and measurable changes.

INCOME STATEMENT

For the test period, NKWD reports actual operating revenues and expenses of $41,046,714[28] and $32,388,257,[29] respectively. NKWD proposes several adjustments to revenues and expenses to reflect current and anticipated operating conditions,

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[26] The Tea Party's arguments focus primarily on the cost-effectiveness of the Disinfection Byproduct Rule, not NKWD's compliance plan. They address the reasonableness of the EPA regulation–an issue that is solely within the province of the Federal courts and legislature.

[27] Application at ¶ 35.

[28] *2009 Annual Report*, *supra* note 1, at 27.

[29] *Id.* at 10. $23,563,528 (Operating Expenses) + $8,023,443 (Depreciation Expense) + $201,120 (Amortization Utility Plant Acquisition Adjustment) + $600,166 (Taxes Other Than Income) = $32,388,257.

resulting in pro forma operating revenues of $45,282,670[30] and pro forma operating expenses of $32,703,690.[31] The Commission's review of these proposed adjustments is set forth below.

Operating Revenues from Water Sales

NKWD reports test-period operating revenues from water sales of $39,420,673.[32] The reported revenues from water sales are comprised of revenue from retail water sales of $38,142,977, revenue from bulk sales of $57,659, fire protection revenue of $19,619, and revenue from wholesale water sales of $1,200,418.[33]

To normalize revenues for below-normal water usage that resulted from above-normal rainfall during the test period,[34] NKWD proposes to increase its test-period retail water sales by 308,206 centum cubic feet ("CCF").[35] While this adjustment would increase revenues from retail water sales by $1,019,565,[36] NKWD proposes to adjust the revenue to a final adjusted amount of $1,002,689.[37]

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[30] Valuation and Rate Division, Gannett Fleming, Inc., Cost-of-Service Allocation Study As of December 31, 2009 ("Cost of Service Allocation Study") at 38 (filed as Exhibit N to the Application). $40,359,705 (Total Sales of Water Present Revenues) + $57,659 (Bulk Water Sales) + $4,426,722 (Other Operating/Non-Operating Revenues) + $438,584 (Boone/Florence Reserve) = $45,282,670. For Other Operating/Non-Operating Revenues and Boone/Florence Reserve, see NKWD's Supplemental Information to the Application, Item 6 (filed June 24, 2010).

[31] VonLehman & Company, Northern Kentucky Water District: Pro Forma Financial Statements and Accountants' Report (Dec. 31, 2009) at 2.

[32] *2009 Annual Report*, *supra* note 1, at 27.

[33] *Id.*

[34] NKWD's Response to Commission Staff's Second Information Request, Item 23 (filed Aug. 17, 2010).

[35] Cost of Service Allocation Study, *supra* note 30, at 45.

[36] *Id.*

[37] *Id.* at 38.

NKWD witness Paul Herbert testified that the proposed adjustment is not a weather normalization adjustment, but a usage adjustment to reflect a wetter and cooler summer in Kentucky and the eastern United States and lower residential customer usage. Comparing the test-period usage with usage for the four previous years, Mr. Herbert concluded that the test-year usage was not normal. He did not perform any weather pattern studies to support his proposed adjustment[38] nor has NKWD provided any weather pattern studies to confirm that precipitation or temperature levels in Kentucky or the eastern United States during the test period were below normal.[39]

While we have previously accepted the use of weather normalization for establishing a water utility's rates,[40] we have voiced concerned about NKWD's methodology. In a previous rate proceeding, we advised NKWD that any proposed weather normalization would be "closely scrutinized . . . and that the use of precipitation data from areas outside of its service territory will not be considered and may result in rejection of any proposed weather normalization adjustment."[41] As NKWD has failed in the present proceeding to provide any empirical weather data or studies to support its adjustment, we find that NKWD has failed to meet its burden to demonstrate the reasonableness of the proposed adjustment and that the proposed adjustment should be denied.

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[38] VR: 10/27/10; 10:52:57 - 10:53:37.

[39] Voicing his support for the proposed adjustment, the AG, in his post-hearing, brief described it as "a modest upward adjustment within a range of reason supported by the evidence and professional judgment." AG's Brief at 3-4 (filed Nov. 30, 2010).

[40] *See, e.g.,* Case No. 97-034, Application of Kentucky-American Water Company to Increase Its Rates (Ky. PSC Sept. 30, 1997); Case No. 95-554, Application of Kentucky-American Water Company to Increase Its Rates (Ky. PSC Sept. 11, 1996).

[41] Case No. 2005-00148, Application of Northern Kentucky Water District for an Adjustment of Rates, at 5-6 (Ky. PSC Apr. 28, 2006).

Other Operating/Non-Operating Revenues

In its original revenue requirement calculation, NKWD includes other Operating/Non-operating Revenues of $4,426,722, which includes bulk water sales of $146,619 and Subdivision revenue of $1,803,434.

Bulk Water Sales. In its *2009 Annual Report*, NKWD reports test-period bulk water sales of $57,659 as revenue from water sales.[42] In its revenue requirement calculation, NKWD incorrectly includes this revenue in both "Revenue Water Sales" and "Other Operating/Non-operating Revenue."[43] Furthermore, NKWD includes $57,659 of bulk water sales at the existing rate and also includes $88,960 of bulk water sales at the proposed Step-2 rate. To correct these errors, the Commission is reducing "Other Operating/Non-operating Revenue by $146,619.

Main Contributions. In calculating its revenue requirement, NKWD classifies $1,803,434 of water mains that developers donated to the water district during the test period as "Other Operating/Non-operating Revenue."[44] This action conflicts with the Commission's long-held position[45] that water main contributions are a form of cost-free capital to a water utility rather than a source of operating revenue. The Uniform System of Accounts for Class A and B Water Districts and Associations ("USoA") requires contributions to be recorded in Account No. 432 — Proceeds from Capital

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[42] *2009 Annual Report*, *supra* note 1, at 27.

[43] NKWD's Response to Commission Staff's Second Set of Information Requests, Item 11 (filed Aug. 17, 2010).

[44] *Id.*; NKWD's Response to Commission Staff's Third Information Request, Item 11(a) (filed Sept. 14, 2010).

[45] *See, e.g.*, Case No. 2002-00105, Application of Northern Kentucky Water District for (A) An Adjustment of Rates; (B) Certificate of Public Convenience and Necessity For Improvements to Water Facilities If Necessary; and (C) Issuance of Bonds, at 13 (Ky. PSC Apr. 30, 2003). NKWD witness Adam M. Davey has expressed agreement with this position. *See* Letter from Adam M. Davey, Certified Public Accountant, VonLehman & Company, to Public Service Commission (Nov. 9, 2010).

Contributions. This account is transferred at the close of the year to Account No. 215.2 — Donated Capital, a sub-account of unappropriated retained earnings, and is not reflected in the Income Statement. Accordingly, the Commission finds that Other Operating/Non-operating Revenue should be decreased by $1,803,434 to eliminate developer-donated mains.

Boone/Florence Reserve

NKWD proposes to increase non-operating income by $438,594[46] to reflect the amortization over ten years of the reserve fund payment and termination payment received from the city of Florence and Boone County Water District as compensation for the early termination of their purchased water agreement with NKWD.[47] The proposed adjustment is consistent with prior Commission decisions,[48] is reasonable, and should be accepted.

Surcharge Revenues

NKWD's existing rules permit the creation of a subdistrict and the imposition of a rate surcharge upon customers within that subdistrict when NKWD "determines that the cost of a main extension using any other main extension tariff creates an unreasonable financial hardship on potential customers or that an alternative extension method will benefit the public interest by allowing the extension of water facilities into unserved

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[46] Cost of Service Allocation Study, *supra* note 30, at 12; *see also* VonLehman & Company, *supra* note 31, at 10.

[47] *See* Case No. 2000-00206, An Investigation of Boone County Water District's Decision to Change Water Suppliers and of the Amendment of Water Supply Agreements between Northern Kentucky Water Service District and Boone County Water District and the City of Florence, Kentucky (Ky. PSC Nov. 9, 2000).

[48] Case No. 2002-00105, Order of Apr. 30, 2002, at 20-22.

areas that would otherwise be uneconomical to serve or would benefit" the water district.[49] Currently NKWD has eleven subdistricts.

In its original revenue requirement calculation, NKWD failed to include its annual surcharge collections in "Other Operating/Non-operating Revenues," but subsequently revised that calculation to reflect annual surcharge collections.[50] The Commission finds that "Other Operating/Non-operating Revenues" should be increased by $612,696 to reflect current annual surcharge collections.[51]

Salaries and Wages – Employees

NKWD proposes to increase test-period operating expenses by $37,194[52] to reflect employee wage increases awarded in 2010. This adjustment is based upon end-of-period employee level, actual test-period overtime hours worked, and new wage rates and will result in a pro forma Salaries and Wages — Employees expense of

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[49] NKWD Tariff, PSC No. 3, Sheet No. 15B.

[50] NKWD Response to Requests for Information from Informal Conference of Oct. 21, 2010, Item 1 (filed Oct. 25, 2010).

[51] The calculation of annual surcharge revenues is shown below. Annual collections are based on rounded monthly amounts. *See* NKWD's Response to Commission Staff's Second Information Request, Item 19 (filed Aug. 17, 2010).

Subdistrict	Customers	Monthly Surcharge	Surcharge Collections
Subdistrict A	583	$ 8.76	$ 61,284
Subdistrict B	289	$ 18.06	62,628
Subdistrict C	983	$ 18.90	222,948
Subdistrict D	152	$ 30.00	54,720
Subdistrict E	179	$ 30.00	64,440
Subdistrict F	35	$ 30.00	12,600
Subdistrict G	78	$ 30.00	28,080
Subdistrict K	53	$ 12.89	8,196
Subdistrict R	235	$ 18.27	51,516
Subdistrict RF	31	$ 21.61	8,040
Subdistrict RL	88	$ 36.22	38,244
Annual Total			$ 612,696

[52] VonLehman & Company, *supra* note 31, at 3.

$8,432,504.[53] Finding that the proposed adjustment accords with accepted rate-making methodology[54] and is known and measureable, the Commission accepts it and finds that the Wages and Salaries — Employee expense should be increased by $37,194.

Employee Pensions and Benefits

NKWD proposes to increase its test-period Employee Pensions and Benefits expense of $3,496,157[55] to a pro forma level of $3,774,396—an increase of $278,239.[56] NKWD's proposed adjustment reflects (1) the employee insurance premiums effective in 2010; (2) the elimination of health insurance benefits to members of NKWD's Board of Commissioners; (3) the employer retirement contribution rate that was effective for the six-month period from January 2010 through June 2010; and (4) the employer retirement contribution rate that became effective on July 1, 2010.[57]

While we are in general agreement with these adjustments,[58] we find this expense should be adjusted to remove from employee benefits costs the portion that is considered labor overhead and that should have been capitalized as a cost of construction. This adjustment is consistent with NKWD's proposed adjustment to its

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[53] $8,395,310 (Test Period Salaries & Wages - Employees) + $37,194 (Requested Increase) = $8,432,504. For test-period Salaries & Wages – Employees, see *2009 Annual Report*, *supra* note 1, at 28.

[54] *See, e.g.*, Case No. 2003-00224, 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 at 8-10 (Ky. PSC June 14, 2004). While accepting the proposed adjustment, the Commission has concerns regarding the increase in salaries and wages expense in light of present economic conditions, both locally and nationally.

[55] *2009 Annual Report*, *supra* note 1, at 28.

[56] VonLehman & Company, *supra* note 31, at 3. $111,249 (Employee Insurance) + $158,147 (Pension) + $8,842 (401 & 457 Match) = $278,238.

[57] NKWD's Response to Commission Staff's First Information Request, Item 9.

[58] Regarding the elimination of the cost of health insurance for members of NKWD's Board of Commissioners, see Case No. 2005-00148, Application of Northern Kentucky Water District for an Adjustment of Rates, at 11-12 (Ky. PSC Apr. 28, 2006).

Salaries and Wages — Employee expense to remove the capitalized labor[59] and with the USoA.[60]

Using the 2010 insurance premiums that NKWD provided, eliminating all commissioners' insurance benefits, and using the July 1, 2010 employer retirement contribution rate of 16.93 percent, the Commission calculates a pro forma level of employee pensions and benefits expense of $3,710,454, which is $214,297 greater than the test-period level. Therefore, we find that NKWD's proposed adjustment should be denied and that employee pensions and benefits expense should be increased by $214,297.

Contractual Services -- Engineering

NKWD reports a test-period level of $180,947 for Contractual Services — Engineering expense.[61] Included in this amount are engineering fees of $126,833 that were billed and paid after the completion of a construction project and the closing of the project for accounting purposes.[62] Because NKWD had transferred for accounting purposes the cost of this construction project from the Construction Work In Progress account to the utility plant account, NKWD's only option available was to record the engineering fees as an operating expense.[63] The Commission finds that the fees in

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[59] *See* NKWD's Response to Commission Staff's First Information Request, Item 9.

[60] *See Uniform System of Accounts for Class A/B Water Districts and Associations*, at 20 (2002), *available at* http://psc.ky.gov/agencies/psc/forms/usoa/0700ab02.pdf ("The cost of construction properly includible in the utility plant accounts shall include, where applicable, the direct and overhead costs as listed and defined hereunder: . . . 'Labor' includes the pay and expense of employees of the utility engaged on construction work, and related workers' compensation insurance, payroll taxes and similar items of expense.").

[61] *2009 Annual Report*, *supra* note 1, at 28.

[62] NKWD Response to Requests for Information from Informal Conference of Oct. 21, 2010, Item 2 (filed Oct. 25, 2010).

[63] *Id.*

question are construction overhead costs and should be removed from test-period operating expenses and capitalized with the appropriate capital project. Accordingly, we have reduced pro forma operating expenses by $126,833.

Contractual Services -- Legal

NKWD reports a test-period level of Contractual Services – Legal expense of $166,055.[64] In reviewing these legal services,[65] the Commission has identified $137,130 of legal fees that are either nonrecurring or are associated with capital projects.[66] The Commission finds that legal fees should be reduced by $137,130 to remove those legal fees that were inappropriately expensed.

Miscellaneous Expenses

During and following the evidentiary hearing in this matter, the Commission identified several expenditures that occurred in the test period and requested that NKWD describe each expenditure, state its purpose, and explain why its recovery through rates was appropriate.[67] Based upon NKWD's response, the Commission finds that several of these expenses are inappropriate for recovery through rates.

Prior Period Expenses. In test-period expenses, NKWD included payment of $18,608 for its 2008 membership dues in the American Water Works Research Foundation. As the services provided to NKWD occurred prior to the test period and as NKWD also included in test-period expenses its 2009 membership dues for this

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[64] *2009 Annual Report*, *supra* note 1, at 28.

[65] NKWD's Responses to Commission Staff's Second Information Request, Item 18 (filed Aug. 17, 2010).

[66] These fees are listed in Appendix C to this Order.

[67] Letter from Gerald Wuetcher, Executive Advisor, Public Service Commission, to John N. Hughes, Counsel, NKWD (Nov. 4, 2010).

organization, the Commission finds that test-period operating expenses should be reduced by $18,608 to eliminate the prior period expenditure.

Inappropriate Expenditures. The Commission has identified $83,969 of test-period expenses that have long been considered unreasonable or inappropriate for recovery through rates. These expenses may be grouped into three categories: customer relations, promotional, and employee-employer relations.[68] These expenses include donations to community service organizations and events such as Senior Services of Northern Kentucky, Bluegrass Domestic Violence Program, Hopebox Derby, and Strides for Stars 5K Run/Walk; membership dues in local civic and community groups such as Municipal Government League of Northern Kentucky, Covington Rotary Club, Northern Kentucky Chamber of Commerce; promotional items such as bottled water and toys; and employee recognition awards, gifts, and dinners. They also include the water district's membership fees in a local dining club.

The Commission finds no relationship between these expenses and the delivery of utility service. They provide limited, if any, benefit to ratepayers. In previous rate proceedings, recovery of such expenses through utility rates has been denied.[69] In a period of economic hardship when the public expects governmental officials to manage public funds frugally, these expenditures have the potential to engender public

[68] These expenses are listed at Appendix D of this Order.

[69] *See, e.g.,* Case No. 97-034, Application of Kentucky-American Water Company to Increase Its Rates, at 41-42 (Ky. PSC Sept. 30, 1997); Case No. 91-046, Application and Notice of Kenton County Water District No. 1: (A) To Issue Revenue Bonds in the Approximate Principal Amount of $16,160,000 A Portion For Refunding Bond Anticipation Notes); (B) To Construct Additional Plant Facilities of Approximately $8,317,000; (C) Notice of Adjustment of Rates Effective May 1, 1991; and (D) Approval, If Necessary, of Continuing Miscellaneous Long-Term Debt, at 12-13 (Ky. PSC Nov. 8, 1991).

cynicism and distrust, to erode public support for the water district, and to create a more difficult environment for the governmental body to perform its mission.

NKWD expenditures related to donations to civic organizations directly conflict with a long line of formal AG opinions. The AG has expressly opined that the use of a water district's fund is tightly prescribed,[70] that a water district may expend funds only in keeping with its statutory purpose or express statutory obligation, and that donations to civic organizations are not within that purpose.[71]

In light of the AG's long-held position and long-standing Commission precedent, we have reduced test-period operating expense by $83,969 and we strongly caution NKWD to refrain from such expenditures in the future.

Rate Case Amortization

NKWD incurred expenses of $97,177 to prepare and pursue its request for rate adjustment.[72] Although NKWD did not specifically request an allowance for the recovery of these costs, it is a well-settled principle of utility law that rate case expenses "must be included among the costs of operation in the computation of a fair return."[73]

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[70] The water services rendered to each citizen constitutes [sic] a public function, and the amount of the fee charged to each citizen is in the nature of a tax necessary to pay the expense of the governmental function of serving water to such citizen. To expend any part of the funds arising from fees for water services for any purpose other than those for which the district was created is to contravene the provisions contained in sections 171 and 180, State Constitution, and to do so, is illegal. The officer making such illegal expenditure subjects himself to the obligation upon the demand of any citizen who pays fees for water services to either recover form the person to whom the illegal sum was donated or to reimburse the district for the amount of the illegal donation.

1956 OAG 36,219.

[71] OAG 92-43 (Mar. 19, 1992); *see also* Letter from David E. Spenard, Assistant Attorney General, to Frank Hampton Moore, Jr., Legal Counsel, Warren County Water District (Jan. 2, 2007).

[72] NKWD's Response to Hearing Information Requests at 223 (filed Nov. 10, 2010).

[73] *W. Ohio Gas Co. v. Pub. Utils. Comm'n*, 294 U.S. 63, 74 (1935).

The Commission finds that test-period expenses should be increased by $32,392[74] to reflect the three-year amortization of this expense.

Payroll Taxes

NKWD reports a test-period level of payroll tax expense of $600,166.[75] Based on the pro forma salaries and wages[76] and capitalizing 2.55 percent of these salaries and wages, the Commission calculates a pro forma FICA expense of $598,084 and finds that NKWD's payroll taxes should be reduced by $2,082.

Summary – Income Statement

Table 1 summarizes of NKWD's pro forma operations and the Commission's pro forma adjustments.

Table 1: Income Statement Summary

	NKWD	Commission	
	Pro Forma	Pro Forma	Pro Forma
Revenues:	Operations	Adjustments	Operations
Revenues Water Sales	$ 40,417,364	$ (732,808)	$ 39,684,556
Other Operating/Non-Operating Rev.	4,426,722	(1,337,357)	3,089,365
Boone & Florence - Reserve	438,584	0	438,584
Total Revenues	$ 45,282,670	$ (2,070,165)	$ 43,212,505
Operating Expenses:			
Operation and Maintenance	$ 23,815,186	$ (398,089)	$ 23,417,097
Depreciation	8,023,443	0	8,023,443
Utility Plant Acquisition Adj.	201,120	0	201,120
Taxes Other Than Income	663,941	(2,082)	661,859
Total Operating Expenses	$ 32,703,690	$ (400,171)	$ 32,303,519
Net Income Available for Operations	$ 12,578,980	$ (1,669,994)	$ 10,908,986

[74] $97,177 (Rate Case Cost) ÷ 3 Years = $32,392.

[75] *2009 Annual Report*, *supra* note 1, at 28.

[76] *See supra* text accompanying notes 53-54.

REVENUE REQUIREMENT DETERMINATION

Debt Service

NKWD proposes a debt service for bonded debt of $17,314,762 to reflect a three-year average of its principal and interest payments for the calendar years 2010 through 2012.[77] The first debt service payment for the proposed general revenue bonds will be made in the calendar year 2011 and the five-month suspension period for the proposed rates ends on December 31, 2010. The Commission finds that the use of a three-year range of 2011 through 2013 to calculate NKWD's average debt service is more appropriate and more reflective of NKWD's financial operations. Using the principal and interest payments for the calendar years 2011 through 2013 and the amortization schedule for the proposed bond issuance that reflects the market conditions as of the hearing date, the Commission calculates a debt service of $18,377,463.[78]

As previously noted,[79] the Tea Party objects to the inclusion of any debt service payments related to construction projects to comply with EPA's Disinfection Byproducts Rule. The proposed rate adjustment includes debt service payments for approximately $50.5 million of long-term debt issued since NKWD's last general rate adjustment

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[77] NKWD's Response to Commission Staff's Second Request for Information, Item 9 (filed Aug. 17, 2010).

[78] $17,508,312 (2011 Debt Service) + $18,807,666 (2012 Debt Service) + $18,816,411 (2013 Debt Service) = $55,132,389 ÷ 3 Years = $18,377,463. Our calculation does not take into account any tax credit payments resulting from the issuance of "Build America Bonds."

[79] *See supra* text accompanying note 20.

proceeding.[80] Approximately $45,627,634 of the proceeds of this debt will be used for water improvement projects.[81] Of this amount, only $10,833,000, or 23.7 percent, involves improvements or new facilities to comply with the Disinfection Byproducts Rule.[82] The remaining amount involves the addition of automated meter reading equipment, water main extension and replacements, and the replacement of aging and obsolete treatment facilities.

In terms of the debt service payments, the long-term debt issued since NKWD's last general rate case proceeding will increase NKWD's debt service by $3,393,467 and constitute 18.46 percent of NKWD's total annual debt service. Debt service related to NKWD's Disinfection Byproducts Rule compliance projects will be $926,416 or 5.04 percent of total annual debt service. Based upon actual test-year sales, the cost of these compliance projects is approximately 11.5 cents per 1,000 gallons of water sold.[83]

For the reasons previously stated,[84] the Commission declines the Tea Party's request to remove debt service related to NKWD's Disinfection Byproducts Rule

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[80] These long-term debt instruments and their respective amounts are:

2010-KIA Loan A	$ 4,000,000
2010-KIA Loan B	$ 8,000,000
2010-AMR Loan	$ 6,000,000
Proposed Bonds	$32,500,000
Total	$50,500,000

[81] Application, Exhibit O. The remaining proceeds have been or will be used for issuance costs and for payments to debt service reserves.

[82] The percentage of proceeds from post-2007 long-term debt used for EPA compliance projects (23.7 percent) is larger than the percentage of proceeds from the proposed bond issuance used for EPA compliance projects (10.2 percent) because total long-term debt includes $18 million in long-term loans from the Kentucky Infrastructure Authority ("KIA") of which $8 million is devoted to EPA compliance projects. *See* Application, Exhibit O.

[83] $926,416 ÷ 8,064,581,000 gallons sold = $0.11513 per 1,000 gallons sold.

[84] *See supra* text accompanying notes 20-26.

compliance projects. The Commission has previously reviewed the reasonableness of and need for these projects and has further authorized the issuance of the long-term debt instruments that fund the construction of these projects.[85] In the absence of compelling evidence, we must give full legal effect to our Orders authorizing the projects. The Tea Party has failed to provide such evidence.

Revenue Requirement

Table 2 compares the revenue requirement from water sales as requested by NKWD of $48,616,098 to the revenue requirement from water sales calculated by this Commission of $51,355,998.

Table 2: Revenue Requirement Comparison

Description		NKWD		Commission
Average Debt Service - Bonded Debt	$	17,314,762	$	18,817,023
Multiplied by: Debt Service Coverage	x	0.2	x	0.2
Coverage	$	3,462,952	$	3,763,405
Add: Average Debt Service - Bonded Debt		17,314,762		18,817,023
Pro Forma Operating Expenses		23,815,186		23,417,097
Depreciation		8,023,443		8,023,443
Amortization of Acquisition Adjustment		201,120		201,120
Taxes Other Than Income	+	663,941	+	661,859
Total Revenue Requirement	$	53,481,404	$	54,883,947
Less: Other Operating/Non Operating Rev.		4,426,722		3,089,365
Boone/Florence Reserve	-	438,584	-	438,584
Revenue Requirement - Water Sales	$	48,616,098	$	51,355,998
Less: Normalized Revenues - Water Sales	-	40,417,364	-	39,684,556
Requested/Recommended Increase	**$**	**8,198,734**	**$**	**11,671,442**
Percentage Increase		**20.285%**		**29.411%**

[85] *See* Case No. 2010-00093, Application of Northern Kentucky Water District for Approval of the Memorial Parkway Treatment Plant Advanced Treatment Facility Phase III and Issuance of a Certificate of Public Convenience and Necessity (Ky. PSC Apr. 21, 2010); Case No. 2010-00038, Application of Northern Kentucky Water District for Approval of Construction of Pretreatment Building Improvements at Memorial Parkway Treatment Plant and Issuance of a Certificate of Convenience and Necessity (Ky. PSC Apr. 21, 2010); Case No. 2009-00361, Application of Northern Kentucky Water District for Approval of Construction of Water Main and Issuance of a Certificate of Public Convenience and Necessity (Ky. PSC Nov. 5, 2009); Case No. 2009-00255, Application of Northern Kentucky Water District for Approval of Construction of Filters and Building Improvements at Fort Thomas Treatment Plant and Issuance of a Certificate of Convenience and Necessity (Ky. PSC Sept. 9, 2009); Case No. 2008-00188, Application of Northern Kentucky Water District for Approval of Construction of Pretreatment Building Improvements at Fort Thomas Treatment Plant and Issuance of a Certificate of Convenience and Necessity (Ky. PSC Aug. 13, 2008).

NKWD states that its proposed rates will generate a revenue requirement of $48,616,098, an increase of $8,198,734 or 20.285 percent above its normalized revenues from current rates of $40,417,364.[86] However, if the usage normalization adjustment is eliminated from the test-period billing analysis,[87] NKWD's proposed rates will only produce a revenue requirement of $47,835,271, which is $8,150,715 or 20.5 percent above the unadjusted revenues from existing rates of $39,684,556.

During the course of this proceeding, Commission Staff indicated to NKWD that the rate-making methodology that the Commission has generally used would produce a revenue requirement in excess of that produced from the proposed rates.[88] It further questioned NKWD witnesses regarding the water district's intent to revise its proposed rates to reflect a higher revenue requirement.[89] Despite NKWD's representations that it intended to request rates to produce a higher revenue requirement than originally requested[90] and NKWD's submission of a revised revenue requirements summary that indicates a higher revenue requirement is necessary,[91] NKWD has not submitted such a request.[92] In the absence of such request, the Commission addresses only the proposed rates placed before us.

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[86] NKWD's Supplemental Information to the Application, Item 6 (filed June 24, 2010).

[87] *See supra* text accompanying notes 34-41.

[88] *See* Memorandum from Todd Osterloh, Commission Staff counsel, to Case Record (filed Nov. 3, 2010) (regarding Informal Conference conducted on October 25, 2010).

[89] VR: 10/27/10; 16:13:30-16:14:35.

[90] VR: 10/27/10; 16:14:59-16:15:05.

[91] NKWD Response to Requests for Information from Informal Conference of Oct. 21, 2010, Item 3 (filed Oct. 25, 2010).

NKWD proposes to phase in its requested increase over two years to lessen the proposed rate adjustment's effect on ratepayers. Under its proposal, NKWD will defer 50 percent of the requested increase until January 1, 2012. No party to this proceeding has voiced an objection to the phase-in approach. As shown in Table 3, the proposed rates will allow NKWD to meet the debt service requirements contained in the bond ordinance and will produce a positive cash flow in both 2011 and 2012.

As shown in Table 3, the requested phase-in of the $47,835,271 revenue requirement, adjusted to eliminate $83,969 of unreasonable and unlawful miscellaneous expenses,[93] is sufficient to pay the pro forma "cash" expenses and to meet the 1.2 times debt service requirement of NKWD's 1985 General Bond Ordinance in years 2011 and 2012. Therefore, the Commission finds that NKWD should be allowed to increase its rates to generate revenues from water sales of $47,751,302 and that the Commission should approve NKWD's proposed phase-in of this increase over the two-year period of 2011 and 2012.

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[92] NKWD refers to a revised revenue requirement in its brief, but has filed no formal motion to amend its Application or request rates that differ from those in its application. *See* NKWD Brief at 7, 15 (filed Nov. 30, 2010).

[93] *See supra* text accompanying notes 68-71.

Table 3: Debt Service – 1985 General Bond Ordinance Requirements				
Description		2011		2012
Normalized Revenue - Water Sales 2009	$	39,684,556	$	39,684,556
Add: Requested Increase Minus Miscellaneous Expense	+	3,998,700	+	8,066,746
Revenues - Water Sales	$	43,683,256	$	47,751,302
Add: Boone/Florence Reserve		438,584		438,584
Other Operating Revenues[94]	+	3,089,365	+	3,089,365
Revenue Available for Operating Exp. And Debt	$	47,211,205	$	51,279,251
Pro Forma Operating Expenses	$	32,303,519	$	32,785,098
Less: Depreciation		(8,023,443)		(8,023,443)
Amortization	-	(201,120)	-	(201,120)
Pro Forma Cash Operating Expenses	$	24,078,956	$	24,560,535
Multiplied by: 2% Escalation Factor	x	102.00%	x	102.00%
Adjusted Operating Expenses	$	24,560,535	$	25,051,746
Revenue Available for Operating Exp. And Debt Service	$	47,211,205	$	51,279,251
Less: Adjusted Operating Expenses	-	24,560,535	-	25,051,746
Income Available for Debt Service	$	22,650,670	$	26,227,505
Less: Debt Service	-	17,840,619	-	19,303,676
Net Cash Flow	$	4,810,051	$	6,923,829
Income Available for Debt Service	$	22,650,670	$	26,227,505
Divided by: Annual Debt Service	÷	17,840,619	÷	19,303,676
Debt Service Coverage		1.27		1.36

COST-OF-SERVICE STUDY

NKWD included with its application a cost-of-service allocation study[95] that is based upon the base-extra capacity method. This methodology is widely recognized within the water industry as an acceptable methodology for allocating costs.[96] This

[94] In calculating Other Operating Revenues, the Commission has expressly excluded revenues for tap-on charges. According to KRS 278.0152(2), a tap-on fee is established by a water utility to recover the costs for service tap, meter, meter vault, and installation. According to 807 KAR 5:001, Section 10, nonrecurring charges, such as tap-on fees, are intended to be limited in nature and to recover the specific cost of the activity. As we noted in an earlier proceeding, "[i]f tap-on fees are listed as a revenue in the debt service calculation, than [sic] the corresponding costs should likewise be included. Since Northern District's fees are cost based, the costs would offset the fees and there would be nothing available to apply to debt service." *See* Case No. 2002-00105, Application of Northern Kentucky Water District for (A) An Adjustment of Rates; (B) Certificate of Public Convenience and Necessity For Improvements to Water Facilities If Necessary; and (C) Issuance of Bonds, at 13 (Ky. PSC Apr. 30, 2003).

[95] Cost of Service Allocation Study, *supra* note 30.

[96] American Water Works Ass'n, *Principles of Water Rates, Fees and Charges* 50 (5th Ed. 2000).

Commission has also accepted the use of this methodology for cost allocation and development of water service rates. No party has objected to the findings of the cost-of-service study. We accept the study's findings.

RATE DESIGN

Requested Rates

NKWD's proposed rates are based on the rate design currently applied to NKWD's retail customers. The proposed rates consist of a service charge by meter size that has no volumetric allowance and a three-step declining-block commodity charge. Under the proposed rate structure, NKWD will continue to charge wholesale customers a flat per-CCF commodity charge. The Commission accepts NKWD's proposed rate design and its proposal to phase in its rate adjustment.[97]

Monthly Billing

NKWD has historically billed its residential customers quarterly and, with limited exceptions, continues to bill most of its customers on a quarterly basis. The Commission has recently issued a Certificate of Public Convenience and Necessity to NKWD for the system-wide installation of automated meter-reading technology.[98] We found, *inter alia*, that the proposed installation would enable the utility to begin monthly

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[97] NKWD proposes to retain a declining block rate design. The recent trend within the water industry has been to move away from declining block rates to other types of rate design that more effectively encourage water conservation. *See, e.g.*, Scott J. Rubin, *What Does Water Really Cost? Rate Design Principles for an Era of Supply Shortages, Infrastructure Upgrades, and Enhanced Conservation* 7-8 (NRRI July 2010). We place NKWD on notice that, should NKWD propose a declining block rate design in its next application for general rate adjustment, it will be required to explain why such rate design is appropriate and to provide a cost-of-service study that expressly supports that rate design in lieu of other alternatives.

[98] Case No. 2008-00119, Application of Northern Kentucky Water District For Approval of Construction and Issuance of a Certificate of Convenience and Necessity For the Purchase and Installation of Automated Meter Reading Equipment (Ky. PSC July 29, 2008).

billing of all customers and expand its ability to perform consumption analysis, peaking trends, and distribution modeling.[99]

The Commission has historically encouraged utilities to bill monthly. We have found that monthly billing allows customers to monitor individual usage and detect leaks earlier, provides better pricing signals, and assists customers with monthly budgeting, which should reduce billing disputes, late payments, and disconnections for non-payment. Accordingly, the Commission directs NKWD to provide quarterly reports on its transition to monthly billing and expressly address in its next general rate application why it cannot issue bills to all customers on a monthly basis.

NONRECURRING CHARGES

In its application, NKWD proposes the establishment of an Overtime Charge. NKWD represents that the charge will be assessed only when a customer requests the establishment or discontinuance of water service outside of normal business hours. Prior to establishing or discontinuing service during non-business hours, NKWD represents that it will fully inform the customer of the overtime charge and that the charge will be assessed only if the customer requests water service be turned off or on after normal business hours. NKWD has provided adequate evidence of the individual expenses incurred to provide the services to support the proposed charge of $60. Accordingly, we find that the proposed charge should be approved.

TARIFF REVISIONS

In its application, NKWD proposed several minor revisions to its existing rules and regulations. We find these revisions are reasonable and grant our approval.

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[99] *Id.* at 3.

SUMMARY

Having considered the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. NKWD's Motion to Reconsider, Vacate or Revoke Order should be granted.[100]

2. NKWD requests authority to issue $32,500,000 of general revenue bonds.

3. As originally proposed in NKWD's application, the proposed bonds will mature over a 27-year period and have interest rates ranging from 1.4 percent to 5.75 percent per annum.[101]

4. NKWD will use the proceeds from the proposed bond issuance to retire $29,160,000 of BANs that NKWD issued on November 12, 2009 and that mature on November 1, 2011; to pay issuance costs of $757,828; and to make a deposit of $2,425,173 to its Debt Service Fund.[102]

5. NKWD used $27,727,634 of the proceeds of the 2009 BAN issuance to fund improvements to its water treatment plants and water distribution system.

6. The proposed issuance is for a lawful object within NKWD's corporate purposes, is necessary and appropriate for and consistent with the proper performance by NKWD of its service to the public, will not impair its ability to perform that service, and is reasonably necessary and appropriate for such purpose.

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[100] See *supra* text accompanying notes 14-26.

[101] NKWD's Draft Plan of Finance at 2-3 (filed Oct. 25, 2010).

[102] NKWD's Response to Commission Staff's Second Request for Information, Item 2 (filed Aug. 17, 2010); VR: 10/27/10; 11:44:30-11:45:00. These amounts are based upon an issuance of $32,100,000 of revenue bonds. Total estimated cost of retiring the 2009 BANs is $29,281,500. Issuance costs include underwriter's discount, cost of issuance, and rounding amount. NKWD also assumes the transfer of $364,000 from Prior Issue Funds.

7. Based upon its adjusted test-period operations, the rates that NKWD proposed to place in effect on January 1, 2011, will generate revenues from water service of $43,767,225.

8. Based upon its adjusted test-period operations, the rates that NKWD proposes to place in effect on January 1, 2012, will generate revenues from water service of $47,835,271.

9. To meet its reasonable operating expenses and depreciation expense and service its bonded debt within the requirements of its bond ordinances, NKWD requires rates that will produce revenues from water sales of $51,355,998 based upon its adjusted test-period operations.

10. NKWD's proposed rates will generate sufficient revenues for NKWD to meet its adjusted test-period expenses and the debt service requirements of its bond ordinances.

11. NKWD's proposed rates should be reduced to prevent the recovery of unreasonable and unlawful miscellaneous expenditures of $83,969.

12. Based upon NKWD's adjusted test-period operations, the rates set forth in Appendix A will generate revenues from water service of $43,683,256.

13. Based upon NKWD's adjusted test-period operations, the rates set forth in Appendix B will generate revenues from water service of $47,751,302.

14. The rates set forth in Appendices A and B will generate sufficient revenues for NKWD to meet its adjusted test-period expenses and the debt service requirements of its bond ordinances.

IT IS THEREFORE ORDERED that:

1. NKWD's Motion to Reconsider, Revoke or Vacate Order is granted.

2. NKWD is authorized to issue no more than $32,500,000 of water district general revenue bonds within the interest rate range and payment period set forth in its application.

3. The proceeds of the issuance authorized herein shall be used only for the purposes set forth in NKWD's application.

4. Within 30 days of the sale of the proposed bonds, NKWD shall file with the Commission a final version of its Plan of Finance in the same format as found in Exhibit A of NKWD's Application.

5. If NKWD has not sold the proposed bonds within 180 days of this Order, it shall so advise the Commission in writing and shall further advise the Commission of the reasons for the delay in the sale and the expected date of sale.

6. Any provision of the Commission's Order of December 22, 2010 in this proceeding that conflicts with the provisions of this Order is revoked and rescinded.

7. NKWD's proposed rates are denied.

8. The rates as set forth in Appendix A to this Order are approved for service rendered by NKWD on and after the date of this Order.

9. The rates as set forth in Appendix B to this Order are approved for service rendered by NKWD on and after January 1, 2012.

10. NKWD's proposed revisions to its rules and regulations are approved.

11. Within 20 days of the date of this Order, NKWD shall file with the Commission revised tariff sheets that reflect the approved rates and tariff revisions.

12. Beginning March 31, 2011, and every quarter thereafter, NKWD shall file a written report with the Commission on the status of its efforts to implement monthly billing for its residential customers.

13. Any documents filed pursuant to ordering paragraphs 5, 6, and 11 of this Order shall reference the number of this case and shall be retained in the utility's general correspondence file.

Nothing contained herein shall be deemed a warranty or finding of value of securities or financing authorized herein on the part of the Commonwealth of Kentucky or any agency thereof.

By the Commission

ENTERED
JAN 07 2011
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2010-00094 DATED JAN 07 2011

The following rates and charges are prescribed for the customers in the area served by Northern Kentucky Water District for service rendered on and after the date of this Order. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of this Commission prior to the effective date of this Order.

Meter Size	Per Month	Per Quarter
5/8-inch	$12.77	$22.49
3/4-inch	13.20	23.70
1-inch	14.41	27.24
1 1/2-inch	16.22	32.10
2-inch	20.50	45.13
3-inch	49.50	140.40
4-inch	62.01	175.96
6-inch	91.82	260.10
8-inch	123.99	355.34
10-inch	164.88	464.01

Consumption Charges

Monthly

First 1,500 cubic feet	$3.67 Per 100 cubic feet
Next 163,500 cubic feet	3.08 Per 100 cubic feet
Over 165,000 cubic feet	2.57 Per 100 cubic feet

Quarterly

First 4,500 cubic feet	$3.67 Per 100 cubic feet
Next 490,500 cubic feet	3.08 Per 100 cubic feet
Over 495,000 cubic feet	2.57 Per 100 cubic feet

Wholesale Water Rates	$3.05 Per 1,000 gallons	$2.28 Per 100 cubic feet
Bulk Sales	$4.90 Per 1,000 gallons	
Overtime Charge		$60.00

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2010-00094 DATED JAN 07 2011

The following rates and charges are prescribed for the customers in the area served by Northern Kentucky Water District for service rendered on and after January 1, 2012.

Meter Size	Per Month	Per Quarter
5/8-inch	$13.00	$26.00
3/4-inch	13.44	27.40
1-inch	14.67	31.50
1 1/2-inch	16.51	37.12
2-inch	20.87	52.18
3-inch	50.39	162.35
4-inch	63.12	203.46
6-inch	93.47	300.76
8-inch	126.22	410.89
10-inch	167.85	536.54

Consumption Charges

Monthly

First 1,500 cubic feet	$4.02 Per 100 cubic feet
Next 163,500 cubic feet	3.27 Per 100 cubic feet
Over 165,000 cubic feet	2.58 Per 100 cubic feet

Quarterly

First 4,500 cubic feet	$4.02 Per 100 cubic feet
Next 490,500 cubic feet	3.27 Per 100 cubic feet
Over 495,000 cubic feet	2.58 Per 100 cubic feet

Wholesale Water Rates	$3.13 Per 1,000 gallons	$2.34 Per 100 cubic feet
Bulk Sales	$5.40 Per 1,000 gallons	
Overtime Charge		$60.00

APPENDIX C

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2010-00094 DATED JAN 07 2011

DISALLOWED OR RECLASSIFIED LEGAL FEES

Vendor	Description	Amount
Hemmer Pangburn DeFrank PLLC	Easements, Assessments, KIA Documents	$ 1,729
Hemmer Pangburn DeFrank PLLC	Easement, Spider line Agreements, Right of Entry Agreement	1,254
Hemmer Pangburn DeFrank PLLC	Review Agreements, KIA Assistance, Eminent Domain Rights	2,033
Hemmer Pangburn DeFrank PLLC	Easements, Land Purchase, FTTP Filter Renovations	2,508
Hughes, PSC John	Service Line Tariff, Cross Connection Issues, Ice Storm Response	6,229
Hughes, PSC John	Cross Connection Application and Sub-district F Issues	1,229
Hughes, PSC John	Preparing of Application for Sub-districts	1,145
Hemmer Pangburn DeFrank PLLC	Review KY Law regarding Lateral Lines, Sanitation Issues	1,132
Hemmer Pangburn DeFrank PLLC	Employee Issue/Investigation	13,114
Hemmer Pangburn DeFrank PLLC	Card Services, Easements, Sale of Property	3,506
Hemmer Pangburn DeFrank PLLC	Closing of Property, 2009 Revenue Bonds	5,396
Hemmer Pangburn DeFrank PLLC	AMR Bidding Documents, KIA Loan Documents	1,889
Hemmer Pangburn DeFrank PLLC	Credit Card Services, Sales Tax Audit, Auditors Letter	3,500
Travels	Deductible for Council in Employee Matter	10,000
Hemmer Pangburn DeFrank PLLC	Bidding Documents, Easements, Banking Services	3,500
Hemmer Pangburn DeFrank PLLC	Auditor's Documents, Banking Resolutions	1,577
Greenebaum Doll & McDonald	GCWW Issue, Filter Backwash Discharge	1,662
Hughes, PSC John	Cross Connection Appeal Issues & Briefings, Tapping Fees	13,188
Hemmer Pangburn DeFrank PLLC	Emp. Issues, Conferences Regarding Cases, Bids & Agreements	3,500
Hemmer Pangburn DeFrank PLLC	Sales Tax Case, Easements	1,041
Hemmer Pangburn DeFrank PLLC	Employee Issues, Meter Bids, Easements, Meetings	3,500
Hemmer Pangburn DeFrank PLLC	Land Purchase, Board Minutes/Issues, Bid Documents	3,500
Hemmer Pangburn DeFrank PLLC	Research Condemnation Action, Refund Application Data	3,372
Hemmer Pangburn DeFrank PLLC	Requirements for Title Issue, Employee Issue	3,477
Hemmer Pangburn DeFrank PLLC	Correspondence for Dixie Hwy Office, Lab HVAC Issues, Bids	3,500
Hemmer Pangburn DeFrank PLLC	Review Tax Data, Condemnation Case	2,477
Hemmer Pangburn DeFrank PLLC	Zoning Issues, Mortgage Payoffs, Closing Properties	2,356
Hemmer Pangburn DeFrank PLLC	Easements, Sales Tax Issue, Sale of Property, Sanitation Issue	3,405
Hemmer Pangburn DeFrank PLLC	Restoration & Easement Agreements, KY Tax Bill Case	4,451
Hughes, PSC John	Preliminary Rate Case Conferences, AMR Financing Documents	1,708
Hemmer Pangburn DeFrank PLLC	RFP for Sale of Property, Closing Agreements	2,745
Hemmer Pangburn DeFrank PLLC	Review Bids, Closing on Properties, Review Contracts for Projects	3,513
Hemmer Pangburn DeFrank PLLC	KY Tax Bill Case, Appraisal on Condemnation Case	1,123
Frost Brown Todd LLC	Environmental Escrow Agreement	3,500
Frost Brown Todd LLC	Environmental Escrow Agreement	3,500
Hughes, PSC John	Preliminary Rate Case Conferences, Plant Inspection Plan	2,772
Hemmer Pangburn DeFrank PLLC	GAC Specs, Review BAN Documents, Easement	3,500
Frost Brown Todd LLC	Environmental Issues & Reports	5,599
Legal Fees - Nonrecurring or Capital		**$137,130**

APPENDIX D

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2010-00094 DATED JAN 07 2011

DISALLOWED MISCELLANEOUS EXPENSES

Promotional Expenditures

Check No.	Payee	Purpose	Amount
58059	Covington Catholic High School	One Ticket for Northern Kentuckian of the Year	$ 125.00
58091	Covington Rotary Club	Semi-Annual Dues	300.50
58172	Covington Rotary Club	Membership Dues Jan 09-June09	300.50
59293	Covington Rotary Club	Dues, July 1-December 31, 2009	300.50
59376	Covington Rotary Club	Membership Dues July-December	300.50
58374	Home Builders Association	Membership Dues	425.00
58920	Info-Tech Research Group	Membership	495.00
58198	Legacy	Annual Dues for Legacy	75.00
59622	Legacy	Legacy Dues	75.00
56785	Metropolitan Club	Monthly Charges	267.45
57643	Metropolitan Club	Monthly Dues	118.00
58687	Metropolitan Club	Monthly Charges	246.00
59470	Metropolitan Club	September Dues	115.00
59709	Metropolitan Club	Membership Dues	170.02
60020	Metropolitan Club	Membership Dues	169.98
60405	Metropolitan Club	Dues	172.47
60782	Metropolitan Club	Membership Dues	394.85
57265	Municipal Government League of Northern Ky.	Membership Renewal	125.00
57876	No. Ky. Chamber of Commerce	Government Forum March - Fred Macke	25.00
58806	No. Ky. Chamber of Commerce	Sponsorship for Campaign	200.00
59177	No. Ky. Chamber of Commerce	Reservation for Eggs N Issues	15.00
59475	No. Ky. Chamber of Commerce	Executive Roundtable Annual Dues	375.00
60408	No. Ky. Chamber of Commerce	Subscription Renewal	160.00
58541	No. Ky. Public Works	2009 Rodeo	120.00
58857	No. Ky. Public Works	Lunch on 06/11/09	24.00
59628	No. Ky Chamber of Commerce	2010 Washington Fly-in	1,500.00
56963	No. Ky. Chamber of Commerce	Government Forum Subscription	250.00
57090	No. Ky. Chamber of Commerce	2009 Taking Care of Business Campaign Sponsor	200.00
57557	No. Ky. Chamber of Commerce	Night of Potential Event	50.00
57558	No. Ky. Leadership Foundation	Annual Dues for Two	120.00
59011	No. Ky. Leadership Foundation	Leadership Training	1,900.00
Total Promotional			**$ 9,114.77**

Employee-Employer Relations

Check No.	Payee	Purpose	Amount
59279	Be Creative Catering	Catering for F. Robinson Retirement Dinner	$ 1,105.00
59971	Be Creative Catering	Breakfast at FTTP	330.00
60530	Be Creative Catering	Catering for Thanksgiving Lunch	805.00
59753	Bluegrass Domestic Violence Program	Donation in Memory of Amanda Ross	100.00
57119	Buhrlage, Robert W.	Distinguished Service Awards 09	2,890.00
57055	Case's Goldenleaf Florist	Floral Arrangements for January	191.40
57520	Case's Goldenleaf Florist	Floral Deliveries for January	297.30
57919	Case's Goldenleaf Florist	Floral Arrangements for March	149.45
58241	Case's Goldenleaf Florist	April Flowers	314.85
58580	Case's Goldenleaf Florist	May Deliveries	215.85
59061	Case's Goldenleaf Florist	Flower Arrangements	64.95
59144	Case's Goldenleaf Florist	Arrangements for June	95.95
59289	Case's Goldenleaf Florist	Arrangements for July	156.35
59677	Case's Goldenleaf Florist	Flower Arrangements for August	180.40
59976	Case's Goldenleaf Florist	September Flower Arrangements	284.85
60292	Case's Goldenleaf Florist	October Flower Arrangements	261.30
60211	Chef Barrone Catering	Lunch	136.50
60294	Chef Barrone Catering	Catering	176.95
60455	Coney Island	Company Picnic	7,540.00
57239	Everywhere Promotions	Aluminum Sports Bottles	947.88
57802	Jane Proctor LMT	Chair Massage at Central Facility and FTTP	350.00
58212	Jane Proctor LMT	Massage FTTP	100.00
58862	Jane Proctor LMT	Chair Massage-FTTP & Central Facility	350.00
59245	Jane Proctor LMT	Massages at the Central Facility	250.00
59563	Jane Proctor LMT	Massage	250.00
59636	Jane Proctor LMT	Massages-FTTP	100.00
60173	Jane Proctor LMT	Massages for Central Facility & FTTP	350.00
56954	McHale's Catering, LLC	Catering for Winterfest	3,986.40
56792	NKWD Vending Account	Soft drinks, Coffee, & Snacks for Detainees - December	481.75
57267	NKWD Vending Account	Soft drinks for Board Room Kitchen	96.00
57651	NKWD Vending Account	Soft drinks for Board Room Kitchen	58.00
57795	NKWD Vending Account	Soft drinks for Board Room/Soft drinks, Coffee, & Snacks for Detainees	586.00
57875	NKWD Vending Account	Soft drinks for Boardroom Kitchen	136.00
58348	NKWD Vending Account	Soft drinks for Boardroom	136.00
58856	NKWD Vending Account	Supplies for Board Room	72.00
59328	NKWD Vending Account	Retirement Party Soft drinks	95.00
59399	NKWD Vending Account	Detainees Soft Drinks, & FTTP	602.00
59474	NKWD Vending Account	Soft drinks for Board Room	144.00
59865	NKWD Vending Account	FTTP 3 Cases of Coke	72.00
60332	NKWD Vending Account	Board Kitchen & Detainees	1,020.50
60789	NKWD Vending Account	Supplies for Board Room Kitchen, & Christmas Party	112.00
60416	Sandwich Block Deli	Lunch	119.66
59640	Senior Services of N. Ky. Remembrance Fund	Memorial Contribution for Anna Mae Eger	75.00
60562	Snappy Tents, Inc.	Health Fair Booths	597.30

57051	The Bank of Kentucky	Service Award Gift Cards	3,425.00
59198	The Bank of Kentucky	Retirement Gift Card	328.00
59651	Trophy Awards Mfg, Inc.	Recognition Award	55.00
58700	University of Kentucky	Civil Engineering Banquet	450.00
56724	Wallingford Coffee	Coffee Orders	102.10
56902	Wallingford Coffee	Coffee Orders	188.69
56979	Wallingford Coffee	Tea	4.13
57117	Wallingford Coffee	Tea, Coffee, Swiss Miss, Splenda	112.94
57216	Wallingford Coffee	Coffee Orders	110.53
57581	Wallingford Coffee	Coffee Orders	156.24
57895	Wallingford Coffee	Coffee Orders	323.02
58046	Wallingford Coffee	Coffee Orders	120.48
58222	Wallingford Coffee	Coffee Orders	63.79
58401	Wallingford Coffee	Coffee Supplies	332.27
58702	Wallingford Coffee	Coffee Orders	91.50
58876	Wallingford Coffee	Coffee Orders	129.80
59194	Wallingford Coffee	Coffee Orders	127.26
59360	Wallingford Coffee	Coffee Orders	252.07
59740	Wallingford Coffee	Coffee Orders	269.23
59801	Wallingford Coffee	Coffee Orders	97.50
59883	Wallingford Coffee	Coffee Orders	96.13
60099	Wallingford Coffee	Coffee Orders	165.60
60266	Wallingford Coffee	Coffee Orders	144.68
60567	Wallingford Coffee	Coffee Orders	234.37
60740	Wallingford Coffee	Coffee Orders	141.13
60874	Wallingford Coffee	Coffee Orders	107.22
Total Employee-Employer Relations			**$ 34,012.27**

Customer Relations

Check No.	Payee	Purpose	Amount
56924	Aynie's Catering	NKWD's portion of Catering for Lou Noll Symposium Held at SD1	$ 388.25
58083	Busken Bakery	25 Dozen Cookies	298.75
58287	Cahill, Jill	Services for June	1,110.00
58579	Cahill, Jill	Public Relations 05/09	610.00
59439	Cahill, Jill	Monthly Services for July	740.00
58368	Dixie Novelty	Popcorn Machine Rental	95.00
57244	Grimes Promotional Products, LLC	Lollipops for Counter	232.68
57621	Grimes Promotional Products, LLC	Water Bottles for Bottling	17,765.60
58604	Grimes Promotional Products, LLC	Crayons	208.30
59450	Grimes Promotional Products, LLC	Water Bottles	17,765.60
59767	Grimes Promotional Products, LLC	Lollipops, Frisbee Fliers	578.17
60002	HealthPoint Family Care	Sponsorship of Soapbox Derby	500.00
60407	NKSPE	Christmas Party Reservations	50.00
58522	STARS	Strides for STARS Sponsorship 5K Run/Walk	500.00
Total Customer Relations			**$ 40,842.35**

Jack Bragg
Northern Kentucky Water District
2835 Crescent Springs Road
P. O. Box 18640
Erlanger, KY 41018-0640

Honorable John N Hughes
Attorney at Law
124 West Todd Street
Frankfort, KY 40601

Heather Kash
Office of the Attorney General Utility & Rate
1024 Capital Center Drive
Suite 200
Frankfort, KY 40601-8204

Hon. Duane R Skavdahl
300 Buttermilk Pike
Suite 324
Ft. Mitchell, KY 41017

Honorable David Edward Spenard
Assistant Attorney General
Office of the Attorney General Utility & Rate
1024 Capital Center Drive
Suite 200
Frankfort, KY 40601-8204