

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PROPOSED ADJUSTMENT OF THE WHOLESALE )  
WATER SERVICE RATES OF FRANKFORT ) CASE NO. 2010-00485  
ELECTRIC AND WATER PLANT BOARD )

ORDER

On November 18, 2010, Frankfort Electric and Water Plant Board ("Plant Board") proposed to adjust its existing rates for wholesale water service to public utilities effective on and after December 19, 2010. On December 17, 2010, the Commission suspended the Plant Board's proposed rate, set up this case to investigate the reasonableness of the proposed rate, and granted intervention to Elkhorn Water District ("Elkhorn"), North Shelby Water Company ("North Shelby"), Peaks Mill Water District ("Peaks Mill"), and U.S. 60 Water District ("U.S. 60 District"). The Order of December 17, 2010 also included a procedural schedule and data request from the Commission. The Plant Board responded to that data request on January 7, 2011.

On January 28, 2011, Commission Staff issued a second data request to the Plant Board. Elkhorn and Peaks Mill issued a joint request for information on the same day. On February 10, 2011, the Plant Board filed a motion to suspend the procedural schedule because the parties had reached a settlement in the matter. The Plant Board indicated that all parties agreed to the suspension. On February 15, 2011, Commission Staff held an informal teleconference, in which the parties informed Staff of the proposed settlement and discussed the procedure for filing the settlement. On February

18, 2011, the parties filed a Joint Settlement Stipulation and Recommendation, a copy of which is attached as an Appendix to this Order.

Having considered the Joint Settlement Stipulation and Recommendation, the Commission finds that the agreed rate and other settlement provisions should be approved. The purpose of the Commission's jurisdiction over a municipal utility's wholesale transactions with a public utility is to ensure "that any public utility consumer/customer that has contracted and become dependent for its supply of water from a city utility is not subject to either excessive rates or inadequate service." Simpson County Water District v. City of Franklin, 872 S.W.2d 460, 465 (1994).

In the case at bar, this purpose has been served. The intervenors that purchase water from the Plant Board made clear their objections to the proposed rate adjustment. The Plant Board has apparently addressed the intervenors concerns, and the parties have reached agreement on the appropriate rates for service for future years.

As the Settlement Agreement, on its face, appears neither unreasonable nor unconscionable, the Commission sees no need to conduct further proceedings in this matter.

IT IS THEREFORE ORDERED that:

1. The Plant Board's motion to suspend the procedural schedule is granted.
2. The Joint Settlement Stipulation and Recommendation is approved.
3. The rates for wholesale water service set forth in the Settlement Agreement are approved for service rendered on and after April 1, 2011.

4. The Plant Board shall, within 20 days of the date of this Order, file tariff sheets that reflect the rates approved herein.

By the Commission

ENTERED *P*  
MAR 16 2011  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

*Stephan Bell for [Signature]*  
Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2010-00485 DATED **MAR 16 2011**

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

FEB 18 2011

PUBLIC SERVICE  
COMMISSION

In the Matter of:

PROPOSED ADJUSTMENT OF THE WHOLESAL  
WATER SERVICE RATES OF THE FRANKFORT  
ELECTRIC AND WATER PLANT BOARD )  
CASE NO. 2010-00485 )

**JOINT SETTLEMENT STIPULATION AND RECOMMENDATION**

It is the intent and purpose of the parties to this proceeding, namely the applicant, Frankfort Electric and Water Plant Board (“Frankfort Plant Board” or “FPB”); and the intervenors, Elkhorn Water District, Peaks Mill Water District, North Shelby Water Company and U.S. 60 Water District of Shelby and Franklin Counties, Kentucky (“Intervenors”) to express their agreement on a mutually satisfactory resolution of all of the issues in the instant proceeding which shall hereafter be referred to as the “Stipulation” and/or “Recommendation”.

It is understood by all parties hereto that this Recommendation is not binding upon the Public Service Commission (“Commission”), nor does it represent agreement on any specific theory supporting the appropriateness of any recommended adjustments to FPB’s rates. The parties have expended considerable efforts to reach the stipulation and agreements that form the basis of this Recommendation. The parties, representing diverse interests and divergent viewpoints, agree that this Recommendation, viewed in its entirety, constitutes a reasonable resolution of all issues in this proceeding.

The adoption of this Recommendation will eliminate the need for the Commission and the parties to expend significant resources in litigation of this proceeding, and eliminate the possibility of, and any need for, rehearing or appeals of the Commission’s final order. Therefore, the parties stipulate and recommend the following:

1. FPB should be permitted to adjust its rates to recover more in annual revenue than it is recovering under its current rates, with such rates to be effective for service rendered on and after April 1, 2011. The parties agree to phase in rate increases of six (6) percent per year for the next three (3) years beginning with the current rate of \$1.704 per 1,000 gallons. Under this structure, the rates are as follows:

Year 1 (April 1, 2011 – March 31, 2012) - \$1.81 per 1,000 gallons

Year 2 (April 1, 2012 – March 31, 2013) - \$1.91 per 1,000 gallons

Year 3 (April 1, 2013 – March 31, 2014) - \$2.01 per 1,000 gallons

FPB will not increase the rates charged to the wholesale non-water producers (i.e. water districts) until after March 31, 2014. After March 31, 2014, FPB will continue to charge \$2.01 per 1,000 gallons until it files a revised tariff that is approved by the Commission.

2. FPB and North Shelby Water Company and U.S. 60 Water District of Shelby and Franklin Counties, Kentucky will extend their current wholesale contracts with a term sufficient to qualify for Rural Development financing. FPB will negotiate mutually agreeable extensions or new contracts with Peaks Mill and Elkhorn Water Districts.

3. Each party waives all cross-examination of the witnesses of the other parties unless the Commission disapproves this Recommendation, and each party further stipulates and recommends that the testimony, pleadings and responses to data requests filed in this proceeding be admitted into the record.

4. This Recommendation is submitted for purposes of this case only and is not deemed binding upon the parties in any other proceeding, nor is it to be offered or relied upon in any other proceeding involving FPB or any other utility.

5. If the Commission issues an order adopting this Recommendation in its entirety, each of the parties agrees that it shall file neither an application for rehearing with the Commission, nor an appeal to the Franklin County Circuit Court with respect to that order.

6. If this Recommendation is not adopted in its entirety, each party reserves the right to withdraw from it and require that hearings go forward upon any or all matters involved, and that in such event the terms of this Recommendation shall not be deemed binding upon the parties, nor shall such Recommendation be admitted into evidence, or referred to, or relied upon in any manner by any party, the Commission, or its Staff in any such hearing.

7. The parties agree that the foregoing Recommendation is reasonable and in the best interests of all concerned, and urge the Commission to adopt the Recommendation in its entirety.

**AGREED:** This the 18<sup>th</sup> day of February, 2011.

**FRANKFORT ELECTRIC AND WATER  
PLANT BOARD**

BY:

  
\_\_\_\_\_  
JAMES W. SMITH, ITS GENERAL MANAGER

**ELKHORN AND PEAKS MILL WATER DISTRICTS**

BY: Thomas A. Marshall / by Hans Prie w/ authorization  
THOMAS A. MARSHALL, ESQ, THEIR  
ATTORNEY

**NORTH SHELBY WATER COMPANY AND U.S. 60  
WATER DISTRICT OF SHELBY AND FRANKLIN  
COUNTIES, KENTUCKY**

BY: Donald T. Prather / by Hans Prie w/ authorization  
DONALD T. PRATHER, ESQ, THEIR  
ATTORNEY

Honorable Thomas A Marshall  
Attorney At Law  
212 Washington Street  
P.O. Box 223  
Frankfort, KENTUCKY 40601

Honorable Donald T Prather  
Mathis, Riggs & Prather, P.S.C.  
500 Main Street, Suite 5  
Shelbyville, KENTUCKY 40065

Honorable Hance Price  
Attorney at Law  
Frankfort Electric & Water Plant Board  
317 W. Second Street  
P. O. Box 308  
Frankfort, KY 40602