

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CANNONSBURG WATER)	
DISTRICT FOR (1) APPROVAL OF EMERGENCY)	CASE NO. 2011-00217
RATE RELIEF AND (2) APPROVAL OF THE)	
INCREASE IN NONRECURRING CHARGES)	

ORDER

Cannonsburg Water District (“Cannonsburg District”) has moved for leave to place its proposed rates into effect prior to the end of the suspension period due to its financial condition. At issue is whether the water district’s credit or operations will be materially impaired or damaged unless the proposed rates become effective immediately. Based upon our review of the evidence, we find in the negative and deny the motion.

Cannonsburg District, a water district organized pursuant to KRS Chapter 74, owns and operates facilities that distribute water to approximately 3,733 customers in Boyd and Greenup Counties, Kentucky.¹ It is a utility subject to Commission jurisdiction.²

On August 8, 2011, Cannonsburg District applied for an adjustment of its rates for water service.³ It proposes rates that will reportedly produce additional revenues of

¹ *Annual Report of Cannonsburg Water District to the Kentucky Public Service Commission for the Calendar Year Ended December 31, 2010 at 5 and 27.*

² KRS 278.015.

³ Cannonsburg District tendered its application with the Commission on June 27, 2011. Upon review of the application, the Executive Director refused to accept the application for filing and advised Cannonsburg District of several deficiencies that required corrective action. On July 25, 2011, Cannonsburg District supplemented its application to cure the noted deficiencies and requested a deviation from 807 KAR 5:006, Section 10(6)(b). It renewed and supplemented its request for a deviation on August 8, 2011. On August 10, 2011, the Commission granted Cannonsburg District’s request for a deviation, accepted the application for filing, and directed that it be considered filed as of August 8, 2011.

\$183,330 and total annual revenues of \$2,234,187.⁴ The proposed rates will increase the monthly bill of a customer who uses 5,000 gallons of water from \$36.00 to \$39.50.⁵ Cannonsburg District notified the Commission of its intent to place the rates into effect on August 22, 2011 and requested that the Commission permit the proposed rates to become effective due to the water district's financial condition.⁶

On August 10, 2011, the Commission suspended the operation of the proposed rates for five months until January 22, 2012 to permit a review of the proposed rates. On August 16, 2011, the Commission conducted a hearing to determine whether Cannonsburg District's proposed rates should be permitted to become effective immediately due to the water district's financial condition. Testifying at this hearing were: Danny Clarkson, Cannonsburg District's General Manager, Sharon Hamick, Cannonsburg District's Office Manager, and Carryn Lee, a rate consultant who assisted in the preparation of Cannonsburg District's application.

KRS 278.190(2) authorizes the Commission to suspend the operation of a utility's proposed rates for a period of five months from their proposed effective date to examine the proposed rates. It further provides that the Commission may allow the proposed rates to become effective during the suspension period if we find that "the company's credit or operations will be materially impaired or damaged by the failure to

⁴ Application at 3.

⁵ Since filing its application, Cannonsburg District has twice adjusted its rates to reflect increases in the rates of its wholesale water suppliers. See Case No. 2011-00355, *Purchased Water Adjustment Filing of Cannonsburg Water District* (Ky. PSC Sep. 22, 2011); Case No. 2011-00518, *Purchased Water Adjustment Filing of Cannonsburg Water District* (Ky. PSC Jan. 10, 2012).

⁶ In its Application, Cannonsburg District stated that it would file a motion for emergency rate relief with the Commission. Application at 2. The record does not reflect the filing of such motion. This Order is in response to the statements contained in its Application.

permit the rates to become effective during the period.” The utility bears the burden of demonstrating material impairment or damage.⁷

Cannonsburg District argues that current expenses are exceeding cash inflows and that it lacks sufficient cash reserves to meet this deficit.⁸ It states that it lacks sufficient monies to meet current expenses,⁹ has deferred the planned hiring of an employee,¹⁰ and plans employee layoffs to ensure the water district continues to operate.¹¹ Its General Manager stated that the water district had borrowed funds to meet its current cash needs.¹²

Based upon our review of the record, we are not convinced that failure to immediately implement the proposed rates will result in material impairment to the utility's credit or operations. The water district's most recent audit report shows \$400,000 of unrestricted cash and cash equivalents available for use as of December 31, 2010.¹³ While the water district incurred operating losses of \$82,349 for

⁷ Case No. 2001-211, *The Application of Hardin County Water District No. 1 for (1) Issuance of Certificate of Public Convenience and Necessity; (2) Authorization to Borrow Funds and to Issue Its Evidence of Indebtedness Therefor; (3) Authority to Adjust Rates; and (4) Approval to Revise and Adjust Tariff* (Ky. PSC Jan. 14, 2002) at 3. See also *Energy Regulatory Comm'n v. Kentucky Power Co.*, 605 S.W. 2d 46, 50 (Ky. App. 1980) (“Applicants before an administrative agency have the burden of proof.”).

⁸ Video Transcript: 8/16/2011, 10:18:25.

⁹ Video Transcript: 8/16/2011, 10:16:05 – 10:16:30.

¹⁰ Video Transcript: 8/16/2011, 10:48:10 – 10:48:40.

¹¹ Video Transcript: 8/16/2011, 10:55:45 – 10:56:52.

¹² Video Transcript: 8/16/2011, 10:54:00 – 10:55:00.

¹³ John T. Lane and Associates, LLC, *Report on Examination of Financial Statements and Supplemental Information for the year ended December 31, 2010* (Apr. 27, 2011) at 3.

five of the first six months of 2011,¹⁴ it should still have substantial cash reserves available to operate pending completion of the Commission's review.¹⁵

The record also indicates that Cannonsburg District is experiencing customer growth and increased revenues. For the calendar year ending December 31, 2010, it gained 203 customers, an increase of approximately 5.76 percent.¹⁶ In mid-2010, Cannonsburg District began providing wholesale water service to the city of Greenup. Cannonsburg District's General Manager testified that monthly revenue from sales to this customer is approximately \$13,000.¹⁷

Cannonsburg District does not appear in any danger of defaulting on its bonded debt. The water district's office manager testified that the sinking and interest account mandated by water district's bond ordinance is fully funded.¹⁸ She further testified that this account contained \$106,817 as of December 31, 2010 and that the water district's monthly debt service payment was \$2,700.¹⁹ Given the level of the account, Cannonsburg District is fully able to meet its debt service requirements well beyond the statutory review period.

Moreover, the absence of any cost containment actions on the water district's part weakens its claim of material financial hardship. While Cannonsburg District has

¹⁴ Video Transcript: 8/16/2011, 10:39:25 – 10:40:20. Cannonsburg District's witnesses did not have the operating results for January 2011. They testified that in June 2011 the water district's operating revenues exceeded operating expenses.

¹⁵ Cannonsburg District's General Manager testified that the water district has also been able to borrow monies to meet its cash flow needs. Video Transcript: 8/16/2011, 10:55:45 – 10:56:52.

¹⁶ *Annual Report* at 27.

¹⁷ Video Transcript: 8/16/2011, 10:52:10 – 10:53:31. In 2010, Cannonsburg District's revenues from waters sales actually increased by \$312,953. *2010 Annual Report* at 11.

¹⁸ Video Transcript: 8/16/2011, 10:28:30 – 10:28:45.

¹⁹ Video Transcript: 8/16/2011, 10:29:55 – 10:30:24.

stated its intention to lay off employees, it has not notified the Commission of any actual layoffs. It provides extensive benefits, such as health, vision, and dental insurance, to its employees and commissioners.²⁰ Cannonsburg District officials gave no indication at the hearing on its motion, however, that its present financial condition would result in a review of or reduction in such benefits.

Moreover, the water district has taken no action to address its non-revenue water problem. In 2010, Cannonsburg District sold only 71.9 percent of the water that it purchased.²¹ The remaining 28.1 percent, or approximately 151,088,000 gallons of water, was non-revenue water – water that failed to generate any revenue for the water district. Given that Cannonsburg District's average cost of water in 2010 was \$1.9073 per 1,000 gallons, non-revenue water represented a cost of \$286,263.²² Despite this significant cost – it is 13.9 percent of Cannonsburg District's operating expenses in 2010 and is greater than the additional revenues that the proposed rates are expect to produce – Cannonsburg District's officials appeared at the time of the hearing on the water district's motion to have paid little attention to the problem or to have recognized its significance.²³

Finding that Cannonsburg District has failed to demonstrate that the immediate implementation of the proposed rates is necessary to avoid material impairment to the its credit or operations, the Commission HEREBY ORDERS that Cannonsburg District's request to place its rates in effect prior to the end of the suspension period is denied.

²⁰ See Application, Exhibit 4.

²¹ *Annual Report* at 30. Cannonsburg District purchased 538,431,000 gallons of water in 2010 and sold 387,343,000 gallons. $387,000,000 \div 537,431,000 = .719$.

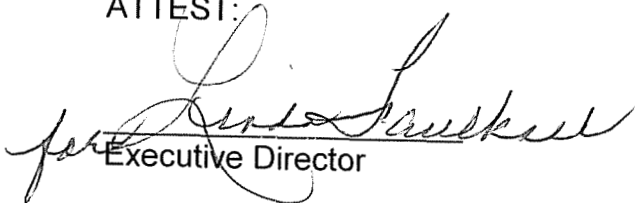
²² *Annual Report* at 28. $\$1,025,068 \div 537,431,000 = \1.9073 per 1,000 gallons. $(538,431,000 - 387,343,000)$ gallons \times $\$1.9073$ per 1,000 gallons = $\$286,263$.

²³ Video Transcript: 8/16/2011, 11:05:20 – 11:05:50.

By the Commission

ENTERED 24
FEB 27 2012
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2011-00217

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