

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE FEASIBILITY	)	CASE NO.
OF PROPOSED MERGER OF CAWOOD	)	2018-00068
WATER DISTRICT AND BLACK MOUNTAIN	)	
UTILITY DISTRICT PURSUANT TO KRS 74.361	)	

ORDER

The Commission, pursuant to KRS 74.361, establishes this proceeding to investigate the feasibility of merger between Cawood Water District (“Cawood District”) and Black Mountain Utility District (“Black Mountain”). As discussed herein, Cawood District’s apparent inability to provide adequate and reasonable service necessitates this investigation.

BACKGROUND

On July 21, 2017, Cawood District tendered an application (“Application”) for an adjustment of its rates for service pursuant to the procedures set forth in 807 KAR 5:076. The Commission accepted the Application for filing on August 18, 2017. On November 14, 2017, Commission Staff issued a report summarizing its findings (“Staff Report”) on the Application, and Cawood District filed a response on November 29, 2017, accepting the findings in the Staff Report. On December 14, 2017, the Commission issued a final Order accepting the findings in the Staff Report.<sup>1</sup>

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<sup>1</sup> Case No. 2017-00309, *Application of Cawood Water District for an Alternative Rate Adjustment*, (Ky. PSC Dec. 14, 2017)

During the course of the proceedings in Case No. 2017-00309, a water outage occurred in Cawood District from November 13, 2017, through November 15, 2017. Additionally, Dan Mosley, Harlan County Judge/Executive, informed the Commission of a letter written by Brent D. Roark, Superintendent of Harlan County Board of Education, expressing concern for the “continued disruption of service provided by the Cawood Water District.”<sup>2</sup> In the December 6, 2017 letter, attached as Appendix A, Mr. Roark described a “serious pattern of problems” and multiple instances of dismissing school early or closing schools due to water outages or health hazards created by water services provided by Cawood District.<sup>3</sup>

#### DISCUSSION

Based upon a review of the record in Case No. 2017-00309, information provided by the Harlan County Judge/Executive, and the Superintendent of Harlan County Board of Education, and being otherwise sufficiently advised, the Commission finds that there is sufficient evidence to question Cawood District’s ability to provide reasonable and adequate water services to its customers. Therefore, the Commission finds that it should conduct a formal investigation into Cawood District’s ability to provide reasonable and adequate service.

KRS 278.040 grants the Commission exclusive jurisdiction over the regulation of utility rates and service. Specifically, pursuant to KRS 278.040(3), the Commission may investigate the methods and practices of utilities in order to bring about conformance to

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<sup>2</sup> Letter from Brent D. Roark, Superintendent Harlan County Board of Education, December 6, 2017.

<sup>3</sup> *Id.*

the laws of this state. Moreover, KRS 74.361 grants the Commission broad powers to investigate the feasibility of the merger of water districts.

Upon review of Cawood District's procedures in Case No. 2017-00309, Commission inspections, Commission Staff interviews, and other publicly available information, it appears that Cawood District is not providing reasonable and adequate water service. The Harlan County Superintendent's letter of December 6, 2017, advised the Harlan County Judge/Executive that there was a pattern of serious problems with Cawood District's water service. Likewise, WYMT Mountain News ("WYMT") reported on July 22, 2017, that customers have complained about their water service provided by Cawood District, and that some residents have had as many as 33 outages and interruptions in their water supply.<sup>4</sup> WYMT further reported that the Harlan County Fiscal Court had voted to merge Cawood District with Black Mountain in an attempt to address Cawood District's service and maintenance issues.<sup>5</sup> Based upon the foregoing, the Commission has reason to believe that Cawood District is currently unable to provide reasonable and adequate water service.

Accordingly, pursuant to KRS 74.361, the Commission finds that this proceeding should be initiated to determine whether a merger between Cawood District and Black Mountain is feasible, and whether such merger would restore the service provided by Cawood District to an acceptable level. Cawood District should be a party to this case and shall provide certain information as set forth in Appendix B. Further, Black Mountain should be made a party to this case.

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<sup>4</sup> "Fiscal Court Votes for Water Districts to Merge", WYMT Mountain News, <http://www.wymt.com/content/news/Fiscal-Court-votes-for-water-districts-to-merge--436021253.html>, July 22, 2017.

<sup>5</sup> *Id.*

If the Commission finds that merger is feasible and will benefit the ratepayers of Cawood District, we will then propose by Order that a merger of water districts be accomplished, provide notice of said merger, and proceed with a formal hearing on the matter. The Commission finds that a copy of this Order should be served upon the Harlan County Judge/Executive, the Harlan County Fiscal Court, the Harlan County Attorney, Cawood District's Board of Commissioners, and Black Mountain Utility District to notify them of this proceeding.

IT IS THEREFORE ORDERED that:

1. This proceeding is initiated, pursuant to KRS 74.361, to determine whether merger between Cawood District and Black Mountain Utility District is feasible.
2. Cawood District is made a party to this proceeding.
3. Black Mountain Utility District is made a party to this proceeding.
4. Any party filing documents with the Commission shall serve a copy of those documents upon all other parties.
5. a. Cawood District shall file the information requested in Appendix B to this Order within 14 days of the entry of this Order. Responses to requests for information shall be appropriately bound, tabbed, and indexed and shall include the name of the witness responsible for responding to the questions related to the information provided, with copies to all parties of record, and the original and six copies to the Commission.

b. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or the person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information and belief formed after a reasonable inquiry.

c. A party shall make timely amendment to any prior response if it obtains information which indicates that the response was incorrect when made or, though correct when made, is now incorrect in any material respect.

d. For any request to which a party refuses to furnish all or part of the requested information that party shall provide a written explanation of the specific ground for its failure to completely and precisely respond.

e. When filing a paper containing personal information, a party shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the paper so that personal information cannot be read.

f. Service of all documents shall be made in accordance with 807 KAR 5:001, Section 4(8).

g. The Executive Director shall serve a copy of this Order upon the Harlan County Judge/Executive, Harlan County Fiscal Court, Harlan County Attorney, Cawood District's Board of Commissioners, and Black Mountain Utility District's Board of Commissioners.

By the Commission

ENTERED  
FEB 19 2018  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

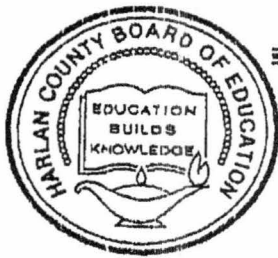
  
Executive Director

Case No. 2018-00068

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN  
CASE NO. 2018-00068 DATED

**FEB 19 2018**



*Brent D. Roark, Superintendent*

251 Ball Park Road  
Harlan, Kentucky 40831-1753  
Phone (606) 573-4330  
Fax (606) 573-5767

December 6, 2017

Mr. Dan Mosley  
Harlan County Judge Executive  
P.O. Box 956  
Harlan, KY 40831

Dear Judge Mosley:

I am writing this letter out of concern for the continued disruption of service provided by the Cawood Water District. The severity of the most recent problems forced our school district to cancel classes at Cawood Elementary School for three days while the problems were identified and repairs made. Those dates were November 13, 14, and 15, 2017.

There has been a serious pattern of problems forcing us to dismiss school early or cancel all together in recent years. This has served as a serious interruption of the educational process and a true safety and health hazard for all customers, not just our school building, served by the water district.

Please let me know of any action we might take as a school district to assist in avoiding outages in the future. It is imperative that students have regular, uninterrupted instruction to meet their educational needs.

Sincerely,

Brent D. Roark  
Superintendent

Cc: Mr. Johnnie Turner, Director of Maintenance  
Mr. Jody Gilliam, Finance Director



## APPENDIX B

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2018-00068 DATED **FEB 19 2018**

1. Provide the name of each current Cawood District commissioner and the date on which his or her term expires.

2. Provide the name of each current Cawood District employee and their salary or wages per hour.

3. Provide an equipment inventory for Cawood District, including vehicles, trucks, and machinery, and the working condition of each.

4. Provide a map of Cawood District's territory.

5. Provide the ordinances and resolutions of Harlan County Fiscal Court that establish Cawood District's territorial boundaries.

6. Provide the Harlan County Fiscal Court meeting minutes that contain the 2017 votes on the proposed merger between Cawood District and Black Mountain, and explain in full detail why Cawood District did not merge with Black Mountain.

7. Provide any correspondence between Cawood District and Black Mountain regarding any proposed merger of the two systems, including but not limited to, electronic mail messages, board minutes, or formal letters.

\*Black Mountain Utility District  
Black Mountain Utility District  
609 Four Mile Road  
Baxter, KY 40806-8437

\*Cawood Water District  
54 Plant Road  
P. O. Box 429  
Cawood, KY 40815

\*Cawood Water District  
Cawood Water District  
54 Plant Road  
P. O. Box 429  
Cawood, KY 40815