

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TARIFF FILING OF WEBSTER COUNTY WATER	)	
DISTRICT TO IMPLEMENT THE SERVLIN LEAK	)	CASE NO.
PROTECTION PROGRAM	)	2019-00048

ORDER

On January 3, 2019, Webster County Water District (Webster District) filed revised tariff pages to implement the ServLine leak protection program (ServLine program). Webster District proposed an effective date of March 1, 2019, for the ServLine program. On January 24, 2019, Webster District filed its proof of notice. On February 6, 2019, Webster District filed a revised Original Sheet No. 39 to reflect a revision requested by the Office of the Attorney General. On February 7, 2019, Webster District filed an informational flyer that was mailed to its customers on February 6, 2019. On February 18, 2019, the Commission found that further proceedings were necessary to determine the reasonableness of the ServLine program and, pursuant to KRS 278.190(2), suspended the proposed program for five months up to and including July 31, 2019, as well as establishing a procedural schedule. Because Webster District failed to adequately respond to Commission Staff's First Request for Information to Webster District (Staff's First Request) filed on March 18, 2019, the Commission filed an Order on April 15, 2019, requiring Webster District's response. Webster District filed its discovery responses on April 25, 2019. On May 21, 2019, Webster District requested that the case be submitted for a decision based on the existing record without a hearing. There are no intervenors

in this proceeding, and the matter is submitted to the Commission for a decision based on the evidentiary record.

### DISCUSSION

Webster District's current tariff on file with the Commission allows customers to request a leak adjustment once per twelve-month period. Customers who are granted leak adjustments pay their average bill plus half of the leak.<sup>1</sup> The ServLine program would replace the current leak adjustment policy.

ServLine is a program developed by Sunbelt Insurance that insures and administers water utility leak protection programs.<sup>2</sup> Under the ServLine program, Webster District residential and commercial customers with a two-inch meter or less would be automatically enrolled in the program and would pay a monthly fee. The fee would be on the customer's bill for service and would be \$1.80 per month for residential customers, \$5.00 per month for Commercial Single Occupancy customers, and \$10.00 per month for Commercial Multiple Occupancy customers. Customers enrolled in the program would be eligible for one leak adjustment per any twelve-month period that covers a maximum of two billing cycles. To qualify for a leak adjustment, the bill resulting from the leak must be at least two times the customer's average bill, and the customer must present proof that the leak has been repaired. The customer would be required to report the leak to ServLine.<sup>3</sup> Customers would be responsible for paying their average bill, and ServLine would pay the remaining portion to Webster District up to \$2,500.

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<sup>1</sup> P.S.C. KY. No. 1, Original Sheet No. 38 and P.S.C. KY. No. 1, Original Sheet No. 39.

<sup>2</sup> Webster District's Response to Staff's First Request, Item 2.

<sup>3</sup> Webster District's Response to Staff's First Request, Item 14.

Customers would have the option of opting out of the ServLine program but would not be eligible for a leak adjustment if they did so. To opt out, customers would need to contact Webster District or ServLine. Customers who elect to opt out but decide later to re-enroll in the ServLine program would have a 30-day waiting period before coverage could start again. Customers with complaints about the program would be able to contact either Webster District or ServLine regarding their issues.<sup>4</sup>

Webster District states that the ServLine program would be beneficial to both the customer and Webster District. Webster District states that under the current leak adjustment program, customers who cannot afford to pay their portion of the leak adjustment are given the option of entering into a partial payment plan and could be at risk of having their water shut off. Under the ServLine program, customers who are granted leak adjustments would only be responsible for their average monthly bill plus any amount over the \$2,500 limit and would not have to worry about any unexpected costs from leaks. Webster District states that it would benefit financially and that their relationships with customers would be improved. Webster District currently reduces customer bills for leaks by approximately \$18,000 a year.<sup>5</sup> Under the ServLine program, Webster District would be paid for all water passing through a customer's meter at Webster District's general service rates.

Webster District's current tariff on file with the Commission states that the utility is responsible for furnishing and installing the service connection from its main to and including the meter and meter box. The tariff also states that the customer is responsible

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<sup>4</sup> Webster District's Response to Staff's First Request, Item 17.

<sup>5</sup> Webster District's Response to Staff's First Request, Item 9.

for furnishing, installing, and maintaining the service line from the point of service to the point of usage.<sup>6</sup>

Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that Webster District's proposed ServLine program is an insurance offering for activities on the customer side of the meter. The Commission does not regulate insurance; therefore, the program would not be an appropriate action for Webster District to take in providing water service to its customers. Further, the record shows that Webster District was not able to clarify how the proposed opt-out provision was fair to the ratepayer. Webster District stated that it felt the opt-out provision was "essential to include everyone at the beginning and give them an option to decline protection."<sup>7</sup> It stated that an opt-in approach would "inadvertently" leave many customers without protection, but there is no justification for the inverse truth that the opt-out approach would inadvertently charge customers for a service they did not request and that ultimately benefits Webster District. Webster District also stated that it "would not be interested in an opt-in approach."<sup>8</sup>

In addition, since customers can contact Webster District regarding questions or complaints about ServLine, Webster District funds would be expended in administering the program. The Attorney General has stated that a water district may only make expenditures that are consistent with its statutory purpose to furnish a water supply. "As a creature of statute, a water district created pursuant to KRS Chapter 74 may expend

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<sup>6</sup> P.S.C. KY. No. 1, Original Sheet No. 36.

<sup>7</sup> Webster District's Response to Commission Order, April 25, 2019, Item 7.

<sup>8</sup> *Id.*

funds only in keeping with its statutory purpose, or express statutory authorization.”<sup>9</sup> “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.”<sup>10</sup> The Commission finds that expenditures related to the ServLine program do not comport with Webster District’s statutory purpose. The Commission finds that it is not appropriate for Webster District to offer such a program to its customers. Therefore, the Commission finds that the proposed tariff revision is not reasonable and should not be approved.

IT IS THEREFORE ORDERED that:

1. The proposed tariff revision is denied.
2. This case is hereby closed and will be removed from the Commission’s docket.

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<sup>9</sup> OAG 92-43 (Mar. 19, 1992).

<sup>10</sup> 1956 OAG 36,219 (Oct. 19, 1956).

By the Commission

ENTERED  
JUL 25 2019  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

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