

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF MARTIN)	CASE NO.
COUNTY WATER DISTRICT FOR AN)	2021-00154
ALTERNATIVE RATE ADJUSTMENT)	

ORDER

On April 8, 2021, Martin County Water District (Martin District) filed an application with the Commission, pursuant to 807 KAR 5:076, requesting to adjust its rates for water service. In its application, Martin District requested rates that would increase annual water sales revenues by approximately \$272,920, or a 12.04 percent increase to pro forma present rate water sales revenues.¹

PROCEDURAL HISTORY

To ensure the orderly review of the application, the Commission established a procedural schedule by Order dated April 14, 2021, which, among other things, required the Commission Staff to file a report containing its findings regarding Martin District's application. The Commission granted Martin County Concerned Citizens, Inc.'s (MCCC) motion to intervene in an Order entered on April 19, 2021. No other parties moved to intervene. Martin District responded to five sets of data requests from Commission Staff and three sets from MCCC.

In its application, Martin District requested that emergency rates be permitted, pursuant to KRS 278.190(2), while the Commission completed its review. On May 27,

¹ Application, Attachment 5, Billing Analysis with Current Usage & Rates, and Application, Attachment 6, Billing Analysis with Usage & Proposed Rates.

2021, a public hearing was held at the Commission's offices in Frankfort, Kentucky, for the purpose of addressing Martin District's request for interim emergency rate relief. By Order dated July 9, 2021, the emergency rate increase was granted, subject to refund.

On June 14, 2021, Martin District filed a motion for an extension of time to respond to MCCC's second request for information until July 8, 2021. By Order dated July 16, 2021, the Commission granted Martin District's motion and further ordered the procedural schedule be amended to extend the issuance date of the Staff Report to August 5, 2021. Martin District filed additional information requested by Commission Staff on July 27, 2021. By Order dated August 5, 2021, the Commission ordered the procedural schedule be amended to extend the issuance date of the Staff Report to August 12, 2021.

Pursuant to the Procedural Order, on August 11, 2021, Commission Staff issued a report (Staff Report) summarizing its findings regarding Martin District's requested rate adjustment. In the Staff Report, Commission Staff found that Martin District's adjusted test-year operations supported an overall revenue requirement of \$3,031,705. An annual revenue increase of \$550,980, or 24.31 percent, was necessary to generate the overall revenue requirement.² In addition, Commission Staff found that Martin District's proposed method of increasing its service rates was not an appropriate method for ratemaking purposes and recommended increasing Martin District's water service rates evenly across the board.³

On August 25, 2021, Martin District filed, with the Commission, its comments to the Staff Report. Martin District agreed with the rate adjustment recommended by

² Staff Report (Ky. PSC Aug. 11, 2021) at 4.

³ *Id.* at 4–5.

Commission Staff and determined that it would be both detrimental and unsustainable to request less than the amount outlined in the Staff Report.⁴ MCCC filed its objection to the Staff Report on August 25, 2021.⁵ On September 24, 2021, a second public hearing was held at the Commission's offices in Frankfort, Kentucky, for the purpose of taking evidence on this matter. Martin District filed responses on October 14, 2021, to both post-hearing information requests from Commission Staff and MCCC, and amended certain filings on October 19, 2021.⁶ Martin District filed its brief on October 19, 2021,⁷ and MCCC filed its brief on October 21, 2021.⁸ Martin District filed its reply brief to the MCCC's brief on October 28, 2021.⁹ The case is now submitted to the Commission for a decision based upon the evidentiary record.

LEGAL STANDARD

The Commission's standard of reviewing a utility's request for a rate increase is well established. Pursuant to KRS 278.030, every utility may demand, collect, and receive fair, just and reasonable rates for the services it provides. The revenues generated from a utility's rates should be sufficient such that the utility may furnish adequate, efficient, and reasonable service. Martin District bears the burden of proof to

⁴ Martin District's Response to Staff Report (filed Aug. 25, 2021).

⁵ MCCC's Objection to Staff Report (filed Aug. 25, 2021).

⁶ Martin District's Response to Staff's Post-Hearing Request for Information (filed October 14, 2021); Martin District's Response to MCCC's Post-Hearing Request for Information (filed October 14, 2021); and Martin District's Amended Excel Spreadsheets (filed October 19, 2021).

⁷ Martin District's Brief (filed October 19, 2021).

⁸ MCCC's Brief (filed October 21, 2021).

⁹ Martin District's Reply Brief to MCCC's Brief (filed October 28, 2021).

show that its proposed rate increase is just and reasonable.¹⁰ Alternative rate adjustment proceedings are governed by 807 KAR 5:076. This administrative regulation establishes a simplified and less expensive procedure for small utilities to apply to the Commission for rate adjustments to benefit the utility and the utility ratepayers. The Commission must decide whether the rates proposed by Martin District are fair, just and reasonable, or alternatively, order different rates that are fair, just and reasonable.¹¹

DISCUSSION

Martin District is a water district organized pursuant to KRS Chapter 74. It owns and operates a water distribution and sanitation system through which it provides water service to approximately 3,400 customers in Martin County, Kentucky.¹² Martin District produces its water and purchases water from Prestonsburg City Utilities Commission. Martin District's last alternative rate adjustment occurred in Case No. 2018-00017.¹³ The Commission notes that Martin District has had financial and operational deficiencies for decades. As part of Case No. 2018-00017, the Commission ordered Martin District to hire a professional contract management service and put in place a structure of surcharges to address its debt to keep the utility open and able to assist.¹⁴

¹⁰ KRS 278.190(3).

¹¹ *City of Covington v. Public Service Commission*, 313 S.W.2d 391 (Ky. 1958); and *Pub. Serv. Comm'n v. Com. of Kentucky v. Dewitt Water District*, 720 S.W.2d 725 (Ky. 1986).

¹² Application, ARF Form 1 at 3.

¹³ Case No. 2018-00017, *Electronic Application of Martin County Water District for an Alternative Rate Adjustment* (Ky. PSC July 22, 2020).

¹⁴ *Id.*

The Commission's July 9, 2021 Order addressed the background and primary issue of matter, stating:

The record of this case shows that Martin District cannot continue to operate without an emergency rate increase. The evidence of record in this case and the several cases that Martin District has had before this Commission show that the utility's monthly expenses are more than the rates that the utility is charging to keep operating.¹⁵ The application submitted shows for 2020, the operating expenses were \$3,447,865, with depreciation and \$2,661,124 without depreciation. The total operating revenue is \$2,503,432.¹⁶ The utility is operating at a loss, using money from the debt service surcharge to pay operating expenses, and Alliance is fronting the money to keep the utility running. The baseline funds being requested do not include depreciation funds or anything more than the minimum required for the utility to continue operating. Absent additional monies, estimated to be \$55 million¹⁷ over and above the rate increase and the number of grants the utility is currently utilizing, the utility will not be able to repair its crumbling infrastructure created by years of mismanagement and incompetence.¹⁸

The Commission's July 9, 2021 Order also acknowledged the public comments that exhibit the frustration of ratepayers that the process to rehabilitate Martin District involves another rate increase, but that the Commission carefully considered the need and reasonableness of the rate increase.¹⁹ The Commission also acknowledged the fact that the ratepayers cannot possibly afford to sustain the high cost of repairing Martin District going forward. The Commission explained that (1) Martin District is operating at a loss and carries accounts payable balance of \$1,170,012; (2) the ratepayers continue

¹⁵ Hearing Video Transcript (HVT) of the May 27, 2021 Hearing, Sneed at 04:05:53–04:06:34.

¹⁶ Application, Attachment 4, Schedule of Adjusted Operations.

¹⁷ HVT of the May 27, 2021 Hearing, Miller at 01:41:52–01:43:16.

¹⁸ Order (Ky. PSC July 9, 2021) at 5.

¹⁹ *Id.* at 5–6.

to pay for the mismanagement of the past; and (3) the estimated cost of rehabilitating Martin District's System is \$55 million, which does not account for the proposed rate increase, the current grants and loans of the utility, or the cost of a new water treatment plant. The Commission's findings in the July 9, 2021 Order continue to be supported by the record.

The parties provided evidence at a second hearing on September 24, 2021, on the issues addressed by the Commission in its July 9, 2021 Order granting the emergency rate increase as follows:

1. Martin District continues to operate at a loss and carries accounts payable of \$1,170,012, as well as a current monthly deficit.

Martin District's testimony at the hearing on September 24, 2021, reiterated that the current rates for Martin District are insufficient to fulfill its financial obligations.²⁰ Martin District Board Chairman, Jimmy Don Kerr, testified that the utility's finances still require the rate increase requested in this application.²¹ Ann Perkins, with Alliance Water Resources, Inc. (Alliance), testified that the rate increase is needed and stated, "you cannot go month to month not having enough money to pay your bills."²²

Martin District's post-hearing brief affirms that Martin District is behind on its payments to Alliance in the approximate amount of \$354,000 and that the proposed rate increase is necessary for Martin District to become compliant with the legal requirement of a 1.2 debt coverage ratio for its outstanding indebtedness to Kentucky Rural Water

²⁰ HVT of the Sept. 24, 2021 Hearing, Sneed at 01:13:14.

²¹ HVT of the Sept. 24, 2021 Hearing, Kerr at 26:20–26:33.

²² HVT of the Sept. 24, 2021 Hearing, Perkins at 02:57:30–02:57:38.

Finance Corporation (KRWFC).²³ The conclusion of Martin District’s brief requests the rate adjustment as proposed in the application, which would enable Martin District to meet its statutory funding requirements while also recognizing the impact of an additional increase.²⁴

2. Ratepayers continue to pay for the past mismanagement, and Martin County battles communication and perception issues.

Anthony Sneed of Alliance testified to the need for the rate increase and explained that hiring a management company was not the reason for the rate increase. Mr. Sneed explained that the management company saves Martin District money, and Ms. Perkins testified to the cost savings measures introduced to the utility.²⁵ Martin District based its request for a rate increase on an unqualified 2020 audit and improved the integrity of its financial and operational reporting.²⁶ Mr. Kerr testified that the utility has improved since contracting with Alliance and that, among the many improvements, the information the board uses to make its decisions now is reliable data.²⁷

The Commission addressed misperceptions regarding Martin District’s rate case in its July 9, 2021, Order for the purpose of highlighting gaps in the understanding of the ratemaking process. For example, the July 9, 2021 Order referenced editorials from *The Mountain Citizen* that claimed Martin District submitted “sewer district expenses in the

²³ Martin District’s Brief (filed Oct. 19, 2021) at 2.

²⁴ *Id.*

²⁵ HVT of the Sept. 24, 2021 Hearing, Sneed at 01:18:27; and Perkins at 02:55:19.

²⁶ *Id.*, Sneed at 1:32:00; Perkins at 02:55:00.

²⁷ HVT of the Sept. 24, 2021 Hearing, Kerr at 57:39–57:57.

report they presented to the Public Service Commission for use in setting the price of our water.”²⁸ The Commission appreciates the confusion and misunderstanding on this issue. The Commission asked Martin District to provide the Commission with a copy of a PowerPoint presentation that Martin District made to the Governor's Energy and Environment Cabinet Martin County Water District Workgroup (Martin District Workgroup) as a filing in this matter.²⁹ A single page of that presentation discussed a sewer system cost. Although that document in this matter did reference a sewer project, and thus cost, the Commission would like to make clear that Martin District did not submit the information about the sewer system in any way as a basis for its rates in this matter, nor was the information filed in such a way the Commission could consider it in supporting an increase here. Neither Martin District’s application nor the Staff Report included costs associated with Martin District’s sewer operations. Further, the Commission does not regulate the Martin County sewer system.

3. The estimated cost of rehabilitating Martin District's System is \$55 million. The estimate does not account for the proposed rate increase, the current grants, and loans of the utility, or the cost of a new water treatment plant. The process of rehabilitation is ongoing, and affordability and sustainability continue to be a concern.

²⁸ Order (Ky. PSC July 9, 2021) at 16; Editorial, *The Mountain Citizen*, Wednesday, June 2, 2021.

²⁹ Order (Ky. PSC July 9, 2021) at 2–3. Martin Work Group, formed February 2020 by Secretary of the Energy and Environment Cabinet (EEC). Martin Work Group participants include representatives from EEC, Martin District, Alliance, Kentucky Rural Water Association, Big Sandy Area Development District, University of Kentucky, MCCC, and Bell Engineering. In addition to the main working group, a Technical Subcommittee meets monthly to discuss any technical/operational issues faced by the system in order to identify trends, issues, resources, and any needed assistance. The Alliance Division Manager also meets with Department for Environment Protection Staff each month following Martin District’s monthly board meeting to keep staff apprised of issues, concerns, and progress. <https://eec.ky.gov/Environmental-Protection/Water/Pages/Martin-County-Water-District-Workgroup.aspx>

MCCC filed its post-hearing brief on October 21, 2021, and requested the Commission consider four proposals. MCCC's post-hearing brief incorporated the August 25, 2021 MCCC filing, which included a report by Roger Colton entitled, "Drop-by-drop: Drowning in Water Unaffordability: Martin County Water District." Mr. Colton also filed direct testimony in the record and testified at the September 24, 2021 hearing. MCCC's four proposals, as supported by Mr. Colton's report, were as follows:

First, MCCC proposed that low-income customers be allowed to opt in to a low-use rate. MCCC provided data in its post-hearing brief to suggest that one-quarter to one-third of Martin District customers are charged the minimum bill for 2,000 gallons each month, but that the mean and median water use for customers billed the minimum charge since June of 2020 has been approximately 1,000 gallons per month. MCCC asserted that this data supports Mr. Colton's recommendation to cut off the minimum monthly charge for low-income customers to 1,000 gallons. The request for the low-income, low-use rate did not specify the criteria that Martin District would employ to determine whether a customer was eligible to receive the rate beyond determining whether a customer received third-party assistance from a state or federal assistance program that provides assistance based on income or economic need. Mr. Colton explained in his testimony at the September 24, 2021, hearing that his proposal was based on the idea that if a customer was having trouble paying, and the customer did not use the minimum amount of water, why make that customer pay for more water than was actually used?³⁰ Mr. Colton explained that he did not give a specific amount or percentage, and he could not

³⁰ HVT of the Sept. 24, 2021 Hearing, Colton at 6:55:59.

calculate the impact his suggestions would have on other ratepayers because he did not have the data to determine that without a collectability study.³¹

Second, MCCC requested the Commission waive Martin District's two debt-service surcharges totaling \$7.25 per month for low-income customers because it would improve bill affordability. Again, MCCC did not detail the criteria that Martin District would use to determine customer eligibility. Mr. Colton explained that his argument was based upon the debt-service surcharge not meeting a “matching” quality because the ratepayers burdened with the surcharge did not cause the debt. However, Mr. Colton agreed that the ratepayers are benefiting from the infrastructure paid for and being used by the system.³² MCCC's post-hearing brief did not explain how the revenue that would no longer be collected from these customers would be reallocated and collected from other customers, or the bill impact that reallocation would cause for remaining customers.

Third, MCCC requested that the Commission require Martin District to establish a customer assistance fund with noncost justified, nonrecurring charges. The Commission requested that MCCC address whether KRS Chapter 278 would explicitly or implicitly allow Martin District to administer a customer assistance fund paid in part through donations. MCCC argued that there is nothing that would explicitly prohibit Martin District from administering such a fund. MCCC cited *Kentucky Public Service Comm'n v. Com. Ex rel. Conway*³³ as the basis for its assertion that the Commission has the plenary authority to approve the establishment of a customer assistance fund. MCCC requested

³¹ *Id.* Colton at 6:13:19.

³² HVT of the Sept. 24, 2021 Hearing, Colton at 6:49:51.

³³ *Kentucky Public Service Comm'n v. Com. Ex rel. Conway*, 324 S.W.3d 373 (Ky. 2010).

the Commission order Martin District to submit a plan for a customer assistance program that would set forth how it would be administered. MCCC also requested that if the Commission finds that such a plan is not feasible, that the Commission order Martin District to engage in talks with Community Action of Kentucky or another organization that could administer a customer assistance fund and report back regarding any discussions.

Fourth and finally, MCCC requested the Commission require Martin District to establish better customer service protocols. In testimony, Martin District explained that it takes issue with customers contacting the Commission before contacting the utility to address service problems.³⁴ MCCC denied that customers contact the Commission before calling Martin District and cited 42 complaints filed with the Commission, and obtained through open records requests that all indicated the customers had previously contacted Martin District.³⁵ MCCC requested the Commission order Martin District to develop and implement a plan for tracking customer complaints and be required to report to the board each month the number of complaints received by type and location.³⁶

Martin District offered no reply to MCCC's first three requests. Still, Mr. Sneed testified on the September 24, 2021, that Martin District is concerned about affordability and not opposed to programs that may benefit its customers with the inability to pay.³⁷ Craig. Miller testified to the assistance the utility gives its customers in filling out

³⁴ HVT Sept. 24, 2021 Hearing, Kerr at 1:03:24.

³⁵ MCCC's Brief (filed October 21, 2021) at 12 and Exhibit 3; HVT Sept. 24, 2021 Hearing, Kerr at 01:03:24.

³⁶ *Id.*; HVT Sept. 24, 2021 Hearing, McCoy at 07:24:35, 07:26:19.

³⁷ HVT of the Sept. 24, 2021 Hearing, Sneed at 01:28:49.

applications to receive aid from state or federal programs like the Healthy at Home fund.³⁸ Martin District stated in response to MCCC's fourth request that it continues to utilize best practices both in the office and in the field to best serve the ratepayers.³⁹ The Commission acknowledges that Martin District's representatives have set customer service as a priority and that improvement in customer service is part of the plan to rehabilitate the system, including improving communication and public perception.⁴⁰ Commission Chairman, Kent Chandler, from the bench, encouraged Martin District to reach out to the Kentucky Rural Water Association (KRWA) for programs or assistance to help the utility improve its communication. Mr. Kerr and Mr. Miller testified that the utility has used KRWA as a resource for customer education, and the utility is improving its communication with customers with a website that is in development.⁴¹

The Commission notes that affordability and improved customer service continue to be issues that must be addressed as part of the rehabilitation of Martin District. This rate increase is part of a larger process to put Martin District in a position to provide better service at more affordable rates, and, as the utility has shown, Martin District's improved processes are producing verifiable data that will serve as a foundation for the longer vision. The Commission expects Martin District to use its data to reassess its approved rates using a full, reliable year of data to determine whether the rates need to be altered, up or down, prior to December 31, 2023.

³⁸ HVT of the Sept. 24, 2021 Hearing, Miller at 04:17:10–04:19:57, stating \$69,239.59 was paid in aid for 349 customers.

³⁹ Martin District's Reply to MCCC's Brief (filed October 28, 2021).

⁴⁰ HVT of the Sept. 24, 2021 Hearing, Sneed at 01:45:40, 01:47:48, 01:47:36; Kerr at 46:34.

⁴¹ *Id.*, Kerr at 59:27–01:08:40.; Miller at 04:19:57

While the Commission agrees that the issue of affordability should be considered as part of the larger process to rehabilitate Martin District, the Commission finds that there is insufficient evidence in the case record to support MCCC's proposals. For example, the evidence of record is insufficient to determine which customers qualify as "low-income,"⁴² or how the revenue otherwise recovered from those "low-income" customers in the absence of a reduced rate would be recovered from Martin District's remaining customers in order to permit the utility adequate rates to provide adequate, efficient and reasonable service.⁴³ Funding for the proposed discounted rate would come solely from other customers. Furthermore, no evidence was provided that remaining customers, with their rates increased as a result of the proposed reduced "low-income, low-use" rate, would be able to afford their monthly bills. Additionally, MCCC did not provide sufficient data indicating or proving that "low-income" and "low-use" are synonymous or correlated when it comes to Martin District's customers.

The Commission commends the parties for acknowledging that affordability and customer service are considerations for each party as the utility develops plans to rehabilitate and work its way out a situation caused by decades of abuse and mismanagement. The discussion and findings set forth above should not prevent MCCC or Martin District from continuing to seek programs to assist customers and continuing to improve customer service. Nor should the Commission's findings preclude either party (or both parties, in conjunction with each other or others) from working towards rate design and revenue requirements that improve bill affordability and service. The parties

⁴² As that term is used by MCCC.

⁴³ KRS 278.020(2).

should continue to make progress and continue to work together to seek solutions to any issue impacting the utility. While it is not clear that Martin District has the capacity at this time to develop a customer assistance program such as the one envisioned by MCCC, Alliance has signaled its capacity to assist customers.⁴⁴

Anthony Sneed of Alliance testified that fixing the system is his priority, and in response, MCCC's counsel stated that MCCC has repeatedly stated that customer service is the most important issue.⁴⁵ The Commission would note that these topics are not mutually exclusive. MCCC President Nina McCoy testified that Martin District and MCCC have more common ground than not.⁴⁶ The Commission agrees. As such, the Commission continues to make the entirety of its resources available to Martin District and MCCC to help further the goal of improving water service and bill affordability for Martin Countians. As the Commission previously recounted, following prolonged investigations, Martin District failed to follow through on its commitments in any meaningful way.⁴⁷ Now, the Commission will not shirk its responsibilities to Martin District's customer, nor will we abandon the goal of attaining affordable, adequate service. Regardless of the relatively new composition of this Commission, we maintain the resolve this body has exhibited over the past few years in order to effectuate a positive outcome for this utility and its customers.

⁴⁴ HVT of the Sept. 24, 2021 Hearing, Sneed at 01:47:48; Miller at 04:17:10.

⁴⁵ HVT of the Sept. 24, 2021 Hearing, Sneed at 01:47:48, 01:47:16–01:47:27.

⁴⁶ *Id.*, McCoy 07:49:04, 08:09:38.

⁴⁷ Case No. 2018-00017, *Electronic Application of Martin County Water District for an Alternative Rate Adjustment* (Ky. PSC Nov. 15, 2019).

WATER LOSS

Pursuant to 807 KAR 5:066, Section 6(3), water loss is limited to 15 percent for ratemaking purposes. As noted in the Staff Report, Martin District's test-year water loss was 65.00 percent.⁴⁸ Accordingly, Staff reduced test-year purchased power expenses by \$160,485 and test-year chemical expenses by \$56,788 to account for the 65.00 percent excess water loss.⁴⁹ Martin District's sustained water loss exceeding the 15 percent water loss regulation was one of the original contributing factors that led to the Commission placing greater emphasis on monitoring utilities that consistently exceed the 15 percent unaccounted-for water loss threshold. There appears to be a correlation between other financial and managerial issues and water loss.⁵⁰ The total cost of Martin District's test-year water loss at 65.00 percent is at least \$282,454.⁵¹ A reduction of Martin District's unaccounted-for water loss to 15 percent would result in an approximate \$217,272 decrease to its cost of water.⁵²

The Commission acknowledges the ongoing efforts of Martin District and Alliance to address water loss and utilizing input from the many resources made available through the Martin District Workgroup. The testimony regarding the outages that Martin District repaired over the summer highlighted a gap in procedure that should be addressed as

⁴⁸ Staff Report at 11.

⁴⁹ Staff Report at 11–12.

⁵⁰ See Case No. 2019-00041, *Electronic Investigation into Excessive Water Loss by Kentucky's Jurisdictional Water Utilities* (Ky. PSC. Nov. 22, 2019).

⁵¹ Martin District's test-year purchased power and chemical expense totaled \$434,544; multiply by test-year water loss of 65.00%: $\$434,544 \times 65.00\% = \$282,454$ (rounded).

⁵² Martin District's test-year purchased power and chemical expense totaled \$434,544; multiply by test-year water loss in excess of 15%: $\$434,544 \times (65.00\% - 15.00\%) = \$217,272$ (rounded).

the procedure for notification after an outage is revised.⁵³ Pursuant to 807 KAR 5:006 Section 27, Martin District should alert the Commission if 10 percent or 500 customers are out of service for four or more hours. The utility must report to the Commission within two hours of the incident occurring and follow up with a seven-day summary of the event that explains how the utility fixed the situation.

SURCHARGES

In Case No. 2018-00017, the Commission established a debt-service surcharge, so the utility would have the ability to pay its vendors and continue to operate.⁵⁴ While the amount of debt the utility carries still threatens impact its ability to provide service, the debt-service surcharge was intended to allow the utility to maintain services while it pays down its debt, all while management addresses water loss.⁵⁵ Martin District testified that it is currently operating at a deficit and has not been able to pay Alliance,⁵⁶ and as a result, the debt-service surcharge has not been able to function as it was intended.⁵⁷ Despite a management-infrastructure surcharge set-up to pay for Alliance to manage the utility, the debt-service surcharge was approved as a secondary resource to pay Alliance should the utility require those funds for that purpose.⁵⁸

⁵³ HVT of the Sept. 24, 2021 Hearing, Miller at 04:20:36–04:23:50.

⁵⁴ Case No. 2018-00017, *Electronic Application of Martin County Water District for an Alternative Rate Adjustment* (Ky. PSC Nov. 15, 2019).

⁵⁵ HVT of the Sept. 24, 2021 Hearing, Kerr at 34:46.

⁵⁶ *Id.*, Kerr at 27:16.

⁵⁷ *Id.*, Kerr at 30:30:38–30:30:47.

⁵⁸ Case No. 2018-00017, *Electronic Application of Martin County Water District for an Alternative Rate Adjustment* (Ky. PSC Nov. 15, 2019).

Anthony Sneed testified that the length of time required for the rate case coupled with the projected budget left Martin District in arrears to Alliance.⁵⁹ The Commission did not intend for Alliance to become another creditor of Martin District. Mr. Sneed explained that the Martin District's board wants to keep the rate increase to the bare minimum necessary for the utility to function. However, Mr. Sneed also explained that this rate increase is essentially the same increase as what was requested four years ago, and the Commission would not grant the full increase without the structure of the debt-service surcharge and reliability of audited data and verifiable reporting.⁶⁰ The Commission will continue to monitor Martin District through Case No. 2020-00154 to ensure transparency of Martin District's finances.⁶¹

The Commission emphasizes that Martin District should request approval prior to making any payment from the surcharge funds that have not been approved as part of a payment plan.⁶² Anthony Sneed testified that he thought the utility was approved to make a payment to Xylem, Inc. from the debt-service surcharge because a plan to pay creditors from that surcharge had been approved in Case No. 2018-00017.⁶³ For clarification,

⁵⁹ *Id.*, Sneed at 01:17:11; 01:19:10.

⁶⁰ *Id.*, Sneed at 01:16:12.

⁶¹ Case No. 2020-00154, *Electronic Martin County Water District Management and Operation Monitoring pursuant to KRS 278.250* (Ky. PSC Nov. 11, 2020).

⁶² Case No. 2020-00154, *Electronic Martin County Water District Management and Operation Monitoring pursuant to KRS 278.250* (Ky. PSC Nov. 11, 2020).

⁶³ HVT of the Sept. 24, Hearing, Sneed 01:23:10.

Xylem, Inc. was not on the list of creditors included with the payment plan that was approved.⁶⁴

TEST PERIOD

The calendar year ended December 31, 2020, was used as the test year to determine the reasonableness of Martin District's existing and proposed water rates, as required by 807 KAR 5:076, Section 9.

SUMMARY OF REVENUE AND EXPENSES

The Staff Report summarizes Martin District's pro forma income statement as follows:

	<u>2020 Test Year</u>	<u>Pro Forma Adjustments</u>	<u>Staff Report Pro Forma</u>
Operating Revenues	\$ 2,517,743	\$ (37,404)	\$ 2,480,339
Operating Expenses	<u>3,208,463</u>	<u>(423,808)</u>	<u>2,784,655</u>
Net Operating Income	(690,720)	386,404	(304,316)
Interest Income	<u>386</u>	<u> </u>	<u>386</u>
Income Available for Debt Service	<u>\$ (690,334)</u>	<u>\$ 386,404</u>	<u>\$ (303,930)</u>

MODIFICATIONS TO STAFF'S FINDINGS

Martin District proposed adjustments to revenues and expenses to reflect current and expected operating conditions. In the Staff Report, Commission Staff proposed additional adjustments. The Commission accepts the findings contained in the Staff Report as discussed below.

Billing Analysis Adjustment. In the Staff Report, Commission Staff recommended the Commission accept Martin District's proposal to use six months of billing data from

⁶⁴ Case No. 2018-00017, *Electronic Application of Martin County Water District for an Alternative Rate Adjustment* (Ky. PSC Nov. 15, 2019).

their new Incode billing software program and then annualize the data to generate 12 months of customer usage. Commission Staff additionally recommended the Commission accept Martin District's proposal to increase its test-year revenues from metered water sales of \$2,146,384 by \$288,184 by applying the water service rates that were in effect during the test-year to the water sales shown in the billing analysis, as well as an adjustment of (\$168,105) due to billing adjustments that were made during the test-year. The Commission finds these adjustments are reasonable and should be accepted.

Debt Service Surcharge. In the Staff Report, Commission Staff recommended the Commission exclude amounts collected for the Debt Service Surcharge from the calculation of the revenue requirement from base rates of \$107,436.⁶⁵ The Commission finds that the proceeds of the surcharge are not intended to pay for current operating expenses and therefore should be excluded from the calculation.

Tap Fees. In the Staff Report, Commission Staff recommended the removal of \$22,872 from Other Water Revenues for amounts collected to install customer taps.⁶⁶ The Commission finds this adjustment is necessary, reasonable, and should be accepted, as customer taps should properly be included as contributed capital rather than revenues.

Vacation Payment Liability. In the Staff Report, Commission Staff recommended the removal of \$14,311 of Other Operating Revenue related to reimbursement from Alliance Water Resources for outstanding vacation balances held by Martin District.⁶⁷

⁶⁵ Staff Report at 8, Adjustment B.

⁶⁶ *Id.* at 8–9, Adjustment C.

⁶⁷ *Id.* at 9, Adjustment D.

The Commission finds this adjustment is known and measurable, is reasonable, and should be accepted.

Nonrecurring Charges. In the Staff Report, Commission Staff discussed Martin District's Nonrecurring Charges in which estimated labor costs, previously included in determining the number of nonrecurring charges, are removed. Commission Staff recommended a reduction to Martin District's test-year Other Operating Revenues of \$12,864 to reflect the change in the nonrecurring charges.⁶⁸ The Commission finds that this adjustment is a known and measurable change to Other Operating Revenues, is reasonable, and should be accepted.

Net Pension Liability. In the Staff Report, Commission Staff recommended an increase to pro forma operating expenses of \$119,701 to reverse a one-time audit adjustment to reduce Martin District's net pension liability to the County Employee Retirement System.⁶⁹ The Commission finds that because this is a nonrecurring item, the adjustment is a known and measurable change to Martin District's Employee Pensions and Benefits Expense, is reasonable, and should be accepted.

Water Loss (Purchased Power and Chemical Costs). In the Staff Report, Commission Staff recommended a reduction to Purchased Power and Contractual Services billed for chemical costs of \$160,485 and \$56,788, respectively, to comply with Commission regulation 807 KAR 5:066, Section 6(3), which limits water loss to 15 percent for ratemaking purposes unless the Commission finds an alternative level to be

⁶⁸ *Id.* at 9–10, Adjustment E.

⁶⁹ *Id.* at 10–11, Adjustment F.

reasonable.⁷⁰ The Commission finds that in the absence of an acceptable alternative level of water loss, the adjustments are known and measurable, are reasonable, and should be accepted.

Expenses to Perform Prior Year Audits. In the Staff Report, Commission Staff recommended a reduction of \$17,500 to remove costs expended in the test period to perform prior year audits.⁷¹ The Commission finds that this adjustment is known and measurable, is reasonable, and should be accepted.

Capitalization of Meter Installations. In the Staff Report, Commission Staff recommended a reduction in operating expenses of \$26,000 and a corresponding increase to Depreciation Expense of \$743 to capitalize meter installations performed during the test year.⁷² The Commission finds this adjustment is known and measurable, is reasonable, and should be accepted. The Commission notes, however, that the amounts recommended by Commission Staff were calculated using the tariffed rate that is billed to the customer in order to install a new tap. The Commission is concerned that Martin District is unable to separate the actual costs incurred to install customer taps and, therefore, finds that Martin District should be required to keep detailed records sufficient to calculate the actual cost to install customer taps going forward so that it may be used in a future rate proceeding.

Office Rent. In the Staff Report, Commission Staff recommended office rent be increased by \$260 to reflect an increase to Martin District's rental agreement for its billing

⁷⁰ *Id.* at 11–12, Adjustment G.

⁷¹ *Id.* at 12, Adjustment H.

⁷² *Id.* at 12–13, Adjustment I.

office.⁷³ The Commission finds this adjustment is known and measurable, is reasonable, and should be accepted.

Bad Debt Expense. In the Staff Report, Commission Staff recommended a reduction to Bad Debt Expense of \$55,749 to reflect the five-year historical average of bad debt expense recorded by Martin District.⁷⁴ The Commission finds this adjustment is known and measurable, is reasonable, and should be accepted.

Depreciation. In the Staff Report, Commission Staff recommended a reduction to Depreciation Expense of \$102,991 to reflect depreciation expense approved in Case No. 2018-00017, which were based on the ranges recommended by the National Association of Regulatory Utility Commissioners (NARUC) in its report published in 1979 titled *Depreciation Practices for Small Water Utilities* (NARUC Study).⁷⁵ The Commission finds that there is no evidence in the record to support specific lives outside the NARUC Study ranges that were approved in Case No. 2018-00017 and that the adjustment proposed by Commission Staff is, therefore, reasonable and should be accepted.

Alliance Contract Repair Limit. In the Staff Report, Commission Staff recommended a further reduction of Depreciation Expense of \$125,000 to reflect the contracted repair limit in the Alliance Contract.⁷⁶ The Commission finds this adjustment is known and measurable, is reasonable, and should be accepted.

⁷³ *Id.* at 13–14, Adjustment J.

⁷⁴ *Id.* at 14, Adjustment K.

⁷⁵ *Id.* at 15, Adjustment L.

⁷⁶ *Id.* at 15–16, Adjustment M.

Loss on Sale of Assets. In the Staff Report, Commission Staff recommended the removal of \$5,237, which was recorded as a loss on the sale of assets.⁷⁷ The recognition of the loss was a nonrecurring balancing entry to remove assets from Martin District's asset ledger and is not an actual expense to Martin District. The Commission finds this adjustment to be known and measurable, is reasonable, and should be accepted.

Based on the Commission's findings discussed above, the following table summarizes Martin District's adjusted Pro forma operations:⁷⁸

	<u>Staff Report Pro Forma</u>	<u>Commission Adjustments</u>	<u>Final Pro Forma</u>
Operating Revenues	\$ 2,480,339		\$ 2,480,339
Operating Expenses	<u>2,784,655</u>		<u>2,784,655</u>
Net Operating Income	(304,316)	-	(304,316)
Interest Income	<u>386</u>		<u>386</u>
Income Available for Debt Service	<u>\$ (303,930)</u>	<u>\$ -</u>	<u>\$ (303,930)</u>

REVENUE REQUIREMENTS

Neither party objected to the revenue requirement calculated in Staff's report, but Alliance, on behalf of Martin District, stated that it would be detrimental and unsustainable to request less than the amount outlined in Staff's report. However, Alliance staff members' agreement to the recommendations of Commission Staff were pending the approval of Martin District's board. At the September 24, 2021 hearing, Martin District's board chairman stated that the board did not vote to approve the Staff Report because it was not prepared to approve any higher rate than what was asked in the application.⁷⁹

⁷⁷ *Id.* at 16, Adjustment N.

⁷⁸ See Appendix A for a complete Pro Forma.

⁷⁹ HVT of the Sept. 24, 2021 Hearing, Kerr at 43:03-43:54.

Based upon the Commission's findings and determinations herein, Martin District requires an increase in revenues of \$550,980, or 24.31 percent above pro forma present rate revenues, as shown below:

Pro Forma Operating Expenses	\$ 2,784,655
Plus: Average Annual Principal and Interest Payments	205,875
Additional Working Capital	<u>41,175</u>
Overall Revenue Requirement	3,031,705
Less: Interest Income	(386)
Other Operating Revenue	(20,696)
Surcharge Income	<u>(193,180)</u>
Revenue Required from Rates	\$ 2,817,443
Less: Pro Forma Present Rate Service Revenues	<u>(2,266,463)</u>
Required Revenue Increase	<u>\$ 550,980</u>
Percentage Increase	<u>24.31%</u>

RATE DESIGN

In its application, after performing several “what-if” scenarios, Martin District proposed (1) an 11 percent across-the-board increase to usage-based rates and (2) a percentage increase to minimum bills proportionally increasing with meter size and the per-month gallon allotment. Commission Staff, as explained in the Staff Report, determined that a 24.31 percent increase was warranted and recommended an increase to Martin District’s water service rates evenly across the board by allocating the \$550,980 revenue increase to Martin District's monthly base and per-gallon usage rates. The 24.31 percent increase will produce additional revenues sufficient for Martin District to meet the Debt Service Coverage (DSC) ratio requirement of KRWFC and Kentucky Infrastructure Authority (KIA), Martin District’s lenders.

The Commission finds that in the absence of a cost of service study (COSS), the proposed across-the-board method is an appropriate and equitable method to allocate

the increased cost to Martin District's customers. The monthly bill of a typical residential customer using 4,000 gallons of water will increase from \$57.53 to \$69.73, an increase of \$12.20, or 21.21 percent.

To correctly calculate a customer charge and volumetric rate, a detailed breakdown of all of Martin District's expenses, including a breakdown of the contracted services performed by Alliance, is required. If that information were available in sufficient detail to perform a COSS, at this time, the study would not be accurate because the test year only includes six months of actual customer usage. The last COSS was completed in 2017 and was reviewed by the Commission as part of Case No. 2018-00017. Given material changes to the utility, including the arrival of Alliance, the change in metering and meter reading, the increases in rates over the past two cases, and the expected leveling (and hopefully decreasing) of overall costs, a new COSS based upon 12 months of actual customer usage and a detailed breakdown of the expenses from Alliance should be used to calculate a more accurate and reasonable rate for each class. This COSS would also permit the Commission to seriously consider the removal of minimum bills for Martin District's customers, and transition to a different rate design, such as the customer charge and volumetric charge customers are familiar with in their electric bills. Additionally, a COSS may also provide the opportunity for particular surcharges to be included in ordinary rates, as long as they are allocated in a reasonable manner. Between the rates of Martin District and Kentucky Power Company, the Commission can appreciate Martin Countians' disdain for surcharges. Therefore, based upon the earlier Commission finding that Martin District shall apply for an examination of rates no later than December 31, 2023, the examination of rates shall be based upon a test year using

the 2022 calendar year (and annual report) and include a full COSS so that the Commission will have a basis upon which to analyze rate design. Martin District should seek recovery of the costs associated with filing its next rate case as rate case expenses by submitting a detailed accounting of those expenses with its application.

SUMMARY

After consideration of the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. The findings contained in the Staff Report are supported by the evidence of record and are reasonable.

2. The Commission has historically used a DSC method to calculate the revenue requirement for water districts or associations with outstanding long-term debt. Application of the Commission's DSC method to Martin District's pro forma operations results in an Overall Revenue Requirement of \$3,031,705. A revenue increase of \$550,980 from water service rates is necessary to generate the overall revenue requirement.

3. The water service rates proposed by Martin District should be denied.

4. The water service rates set forth in Appendix B to this Order are fair, just and reasonable and should be approved.

IT IS THEREFORE ORDERED that:

1. The findings contained in the Staff Report are adopted and incorporated by reference into this Order as if fully set out herein.

2. The water service rates proposed by Martin District are denied.

3. The rates outlined in Appendix B to this Order are approved for services rendered by Martin District on and after the date of this Order.

4. Within 20 days of the date of entry of this Order, Martin District shall file with this Commission, using the Commission's electronic Tariff Filing System, new tariff sheets setting forth the rates and charges approved herein and their effective date, and stating that the rates and charges were authorized by this Order.

5. Martin District shall use the midpoint of the depreciable lives of the NARUC ranges, as proposed in the application and agreed upon by Staff, to depreciate water plant assets for accounting purposes in all future reporting periods. No adjustment to accumulated depreciation or retained earnings should be made to account for this change in the accounting estimate.

6. Martin District shall keep detailed records sufficient to calculate the actual cost to install customer taps going forward so that it may be used in a future rate proceeding.

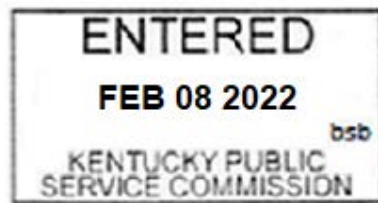
7. Martin District shall prioritize, by whatever means practical and reasonable, replacing its meters with compliant and accurate meters.

8. Martin District shall, by December 31, 2023, perform and file with the Commission a full cost of service rate study based upon the data collected in 2022.

9. Martin District shall, by December 31, 2023, file with the Commission an examination of its rates based upon 2022 as a test year.

10. This case is closed and removed from the Commission's docket.

By the Commission



ATTEST:

A handwritten signature in blue ink that reads "Linda C. Bridwell". The signature is written in a cursive style and is positioned above a horizontal line.

Executive Director

Case No. 2021-00154

ELECTRONIC APPLICATION OF MARTIN COUNTY WATER DISTRICT FOR AN
ALTERNATIVE RATE ADJUSTMENT

I write separately to further address a proposal by Martin County Concerned Citizens, Inc. (MCCC) to create a “low-income low use” rate and to further the discussion regarding regionalization started by former Chairman Michael J. Schmitt in his concurring opinion to the July 9, 2021 Order granting an interim rate increase.

I share MCCC’s concerns about the ability of many Martin Countians to pay their ever-increasing water bills. I feel confident in stating that members of this Commission past and present share that concern. Unfortunately, as noted in this Order, we are constrained by KRS 278.170(1) to deny any rate structure which is differentiated based on ability to pay as opposed to the type of service rendered based on this evidence. That is not to say that an income-based rate structure could not be viable given the right evidence.

Further, given additional evidence, the Commission could approve a rate structure which more accurately reflects the true usage of customers in the lower use range, which could benefit lower income customers. As MCCC’s expert Roger Colton testified, there appears to be some evidence that some lower income customers may use quantities of water far lower than accounted for in the minimum charge of 2,000 gallons.¹ In the last year on average approximately 25 percent of Martin District’s customers paid the minimum charge, and of those, the mean and median usage of customers paying the minimum charge of 2,000 gallons were both approximately 1,000 gallons.² Unfortunately,

¹ See Order at 10.

² Martin District’s Response to Post-Hearing Data Requests (amended) (filed Oct. 19, 2021) at Spreadsheets 1 and 3.

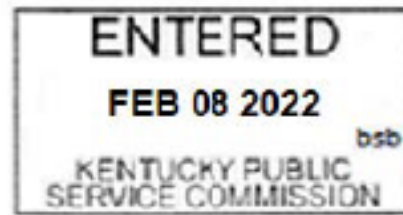
while this information is important and tells us a significant percentage of customers are paying for gallons of water they never use, without a proper cost of service study (COSS) it is impossible to fully assess the viability of reducing the minimum charge to 1,000 gallons. Thus, it is imperative that Martin District timely file the full COSS by December 31, 2023, as ordered here so that the Commission will have the evidentiary support to consider whether a lower minimum charge is viable. If it is, then that rate structure change could provide substantial relief to some low-income Martin Countians.

Finally, I wish to reiterate what Chairman Schmitt stated in his concurrence at 7-9 regarding regionalization. Martin District – like many other small districts – is not viable long term in its present configuration. Many similar districts appear to be viewing the once-in-a-lifetime grant opportunities presented by the currently available federal infrastructure funds as a way to avoid the hard conversations about viability in the face of dwindling rate bases, with ratepayers who are disproportionately low income, and subject to the same political pressure that led to more than 20 years of rates insufficient to keep Martin District operational. These grants, however, come at a cost – all infrastructure improvements constructed via grant money will need to be maintained, and the cost of maintenance is borne by the ratepayers. Grants will not cover the ongoing operations and maintenance of these systems. With the influx of these dollars, Martin District and others need to take a hard look at whether the best use of this historic investment in our water infrastructure is to continue the status quo, with even higher future rates required to support ongoing operations for the new capital improvements, or to use this as an opportunity to invest in regional facilities that could serve a larger population more efficiently. I cannot sum up any more succinctly than Chairman Schmitt in his concurrence at 9:

The General Assembly should consider legislation that would at least make such regionalization of water utility resources possible. Absent consolidation into larger more efficient utility outside the scope of purely local political influence, the act of simply pouring vast sums of money into small non-viable waters systems will likely prove in the end to be a costly failure.

I join Chairman Schmitt's call for the General Assembly to consider regionalization legislation so that these resources are not wasted. Such legislation is long overdue, but it is not too late.

Vice Chairman Amy D. Cabbage
Concurring



ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00154 DATED FEB 08 2022

	Test Year	Adjustment	Commission Adjustments	Pro Forma
Operating Revenues				
Sales of Water	\$ 2,146,384	\$ 288,184		\$ 2,266,463
		(168,105)		
Surcharge Revenue	300,616			193,180
		(107,436)		
Other Operating Revenue	70,743	(22,872)		
		(14,311)		
		(12,864)		20,696
Total Operating Revenues	<u>2,517,743</u>	<u>(37,404)</u>		<u>2,480,339</u>
Operating Expenses				
Operation and Maintenance Expenses				
Salaries and Wages - Employees	-			-
Salaries and Wages - Commissioners	-			-
Employee Pensions and Benefits	(119,701)	119,701		-
Purchased Water	-			-
Purchased Power for Pumping	320,969	(160,485)		160,485
Chemicals	-			-
Materials and Supplies	6,511			6,511
Contractual Services	2,017,014	(17,500)		
		(56,788)		
		(26,000)		1,916,727
Water Testing	6,831			6,831
Rent	9,053	260		9,313
Insurance	48,400			48,400
Regulatory Commission Expense	5,983			5,983
Bad Debt Expense	118,530	(55,749)		62,781
Miscellaneous Expense	8,132			8,132
Total Operation and Maintenance Expenses	2,421,722	(196,560)		2,225,162
Taxes Other Than Income	-			-
	786,741	743		
		(102,991)		
Depreciation		(125,000)		559,493
Total Operating Expenses	<u>3,208,463</u>	<u>(423,808)</u>		<u>2,784,655</u>
Net Operating Income	(690,720)	386,404		(304,316)
Interest Income	386			386
Loss on Sale of Assets	(5,237)	5,237		-
Income Available to Service Debt	<u>\$ (695,571)</u>	<u>\$ 391,641</u>		<u>\$ (303,930)</u>

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00154 DATED FEB 08 2022

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

Monthly Water Rates

5/8- x 3/4-Inch Meter

First	2,000 Gallons	\$41.42	Minimum Bill
Over	2,000 Gallons	0.01049	per Gallon

1-Inch Meter

First	5,000 Gallons	\$72.83	Minimum Bill
Over	5,000 Gallons	0.01049	per Gallon

1 1/2-Inch Meter

First	10,000 Gallons	\$125.18	Minimum Bill
Over	10,000 Gallons	0.01049	per Gallon

2-Inch Meter

First	20,000 Gallons	\$229.89	Minimum Bill
Over	20,000 Gallons	0.01049	per Gallon

3-Inch Meter

First	30,000 Gallons	\$334.61	Minimum Bill
Over	30,000 Gallons	0.01049	per Gallon

4-Inch Meter

First	50,000 Gallons	\$544.02	Minimum Bill
Over	50,000 Gallons	0.01049	per Gallon

Nonrecurring Charges

Meter Disconnection Charge	\$20.00
Meter Re-read Charge	\$20.00
Meter Test Charge	\$53.00
Meter Turn-On Charge	\$20.00
Meter Turn-On Charge (After Hours)	\$55.00
Meter Reconnection Charge	\$20.00
Meter Reconnection Charge (After Hours)	\$55.00
Returned Check Charge	\$25.00
Service Call/Investigation	\$20.00
Service Call/Investigation (After Hours)	\$55.00

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