

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN ELECTRONIC INVESTIGATION INTO)	
MILBURN WATER DISTRICT TO DETERMINE)	
THE FEASIBILITY OF MERGER WITH A)	CASE NO.
PROXIMATE UTILITY PURSUANT TO KRS 74.361)	2021-00341
OR ABANDONMENT PURSUANT TO KRS)	
278.020(6), KRS 278.021)	

ORDER

The Commission, on its own motion and pursuant to KRS 74.361, establishes this proceeding to conduct a formal investigation into Milburn Water District (Milburn District), and the feasibility of merger with a proximate utility, or in the alternative whether Milburn District has been effectively abandoned pursuant to KRS 278.020(6) and KRS 278.021. During Case No. 2019-00041,¹ the Commission ordered Milburn District to pursue merging with Graves County Water District (Graves District).² Milburn District did not file any response in the record of Case No. 2019-00041. The Commission ordered Milburn District to respond to its July 30, 2021 Order in that case and Milburn District did not respond.³ Milburn District's inability to maintain its regulatory requirements causes the Commission to question its ability to provide adequate and reasonable service and necessitates this investigation.

¹ Case No. 2019-00041, *Electronic Investigation into Excessive Water Loss by Kentucky's Jurisdictional Water Utilities* (Ky. PSC. Nov. 22, 2019), Appendix F.

² *Id.*

³ *Id.* (Ky. PSC July 30, 2021).

The Commission finds that this proceeding should be established to investigate Milburn District's ability to provide reasonable and adequate water services to its customers and finds the record in Case No. 2019-00041 should be incorporated by reference into this case in the interest of administrative efficiency.

The Commission finds that the Carlisle County Fiscal Court has a significant interest in this proceeding and shall be served with a copy of this Order and presented an opportunity to intervene in this proceeding. Further, the Commission finds that a copy of this Order shall be served upon the Carlisle County Attorney, Milburn District's board of commissioners, the Graves County Judge/Executive, the Graves County Fiscal Court, the Graves County Attorney, and Graves District's board of commissioners to notify them of this proceeding. The Commission finds that any interested party should file any motion to intervene, signed by counsel, no later than April 11, 2022.

As 807 KAR 5:001, Section 8, permits the Commission to direct the use of electronic filing procedures for proceedings that are initiated on our own motion, the Commission finds that electronic filing procedures should be used. As such, Milburn District, and any intervening party, should follow the procedures set forth in 807 KAR 5:001, Section 8, when filing any document or paper in this matter. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked. The Commission directs the parties to the Commission's July 22, 2021 Order in Case No. 2020-00085⁴ regarding filings with the Commission.

⁴ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

The Commission further finds that a procedural schedule is established to investigate Milburn District's ability to provide reasonable and adequate water services, including whether the utility has an opportunity to merge with a proximate utility or whether the utility has been effectively abandoned. The procedural schedule is attached as Appendix A to this Order and is incorporated herein.

IT IS THEREFORE ORDERED that:

1. This proceeding is established to investigate whether merger between Milburn District and a proximate utility is feasible or if the utility has effectively abandoned its financial, operational or regulatory responsibilities.

2. Milburn District is made a party to this proceeding.

3. The record in Case No. 2019-00041⁵ shall be incorporated by reference into this matter.

4. Any interested party may, by counsel, file a motion to intervene no later than April 11, 2022.

5. Milburn District shall, by counsel, enter an appearance in this proceeding within seven days of the date of service of this Order. The entry of appearance shall include the name, address, telephone number, fax number, and electronic mail address of counsel.

6. Unless otherwise ordered by the Commission, the procedures set forth in 807 KAR 5:001, Section 8, related to service and electronic filing of papers shall be followed in this proceeding.

⁵ Case No. 2019-00041, *Electronic Investigation into Excessive Water Loss by Kentucky's Jurisdictional Water Utilities* (Ky. PSC. Nov. 22, 2019).

7. Pursuant to 807 KAR 5:011, Section 8(9), within seven days of service of this Order, Milburn District shall file by electronic means a written statement that it waives any right to service of Commission orders by United States mail and that it or its authorized agents possesses the facilities to receive electronic submissions.

8. Unless a party granted leave to intervene states its objection to the use of electronic filing procedures in a motion for intervention, the party shall:

a. Be deemed to have consented to the use of electronic filing procedures and the service of all papers, including Orders of the Commission, by electronic means; and

b. Within seven days of the date of service of an Order of the Commission, granting intervention, file with the Commission a written statement that:

(1) It or its authorized agent possesses the facilities to receive electronic transmissions; and

(2) Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding shall be served.

9. If a party objects to the use of electronic filing procedures and the Commission determines that good cause exists to excuse that party from the use of electronic filing procedures, service of documents on that party and by that party shall be made in accordance with 807 KAR 5:001, Section 4(8).

10. The procedural schedule set forth in Appendix A to this Order shall be followed.

11. On or before the date set forth in the procedural schedule, Milburn District shall file responses to Commission Staff's First Request for Information set forth in Appendix B to this Order.

12. As set forth in 807 KAR 5:001, Section 4(11)(a), a person requesting permissive intervention in a Commission proceeding is required to demonstrate either (1) a special interest in the proceeding which is not adequately represented in the case, or (2) that the person requesting permissive intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Further, KRS 278.040(2) requires that a person seeking intervention must have an interest in the rates or service of a utility, as those are the only matters that are subject to the Commission's jurisdiction. Therefore, any person requesting to intervene in a Commission proceeding must state with specificity the person's special interest that is not otherwise adequately represented, or the issues and facts that the person will present that will assist the Commission in fully considering the matter. A mere recitation of the quantity of utility service consumed by the movant or a general statement regarding the potential impact of possible modification of rates will not be deemed sufficient to establish a special interest. In addition, any motion to intervene after the date established in the procedural schedule shall also show good cause for being untimely. If the untimely motion is granted, the movant shall accept and abide by the existing procedural schedule.

13. Milburn District shall give notice of the hearing in accordance with the provisions set forth in 807 KAR 5:001, Section 9(2). In addition, the notice of the hearing shall include the following statements: "This hearing will be streamed live and may be

viewed on the PSC website, psc.ky.gov"; and "Public comments may be made at the beginning of the hearing. Those wishing to make oral public comments may do so by following the instructions listed on the PSC website, psc.ky.gov." At the time publication is requested, Milburn District shall forward a duplicate of the notice and request to the Commission.

14. At any public hearing in this matter, neither opening statements nor summarization of direct testimonies shall be permitted.

15. Pursuant to KRS 278.360 and 807 KAR 5:001, Section 9(9), a digital video recording shall be made of the hearing.

16. The Commission does not look favorably upon motions of continuance. Accordingly, motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

17. The Executive Director shall serve a copy of this Order on Carlisle County Judge/Executive Greg Terry, the Carlisle County Attorney, Milburn District's board of commissioners, the Graves County Judge/Executive, the Graves County Fiscal Court, the Graves County Attorney, and Graves District's board of commissioners.

18. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

PUBLIC SERVICE COMMISSION

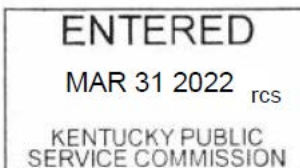


Chairman



Vice Chairman

Commissioner



ATTEST:



Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00341 DATED MAR 31 2022

Last day for intervention requests to be accepted..... 04/11/2022

All initial requests for information to Milburn District
shall be filed no later than 04/15/2022

Milburn District shall file responses to initial requests for
information no later than..... 04/25/2022

All supplemental requests for information to Milburn District
shall be filed no later than 05/12/2022

Milburn District shall file responses to supplemental requests
for information no later than 05/26/2022

Intervenor testimony, if any, in verified prepared
form shall be filed no later than 06/10/2022

All requests for information to Intervenors shall
be filed no later than 06/23/2022

Intervenors shall file responses to requests for
information no later than..... 07/11/2022

Milburn District shall file, in verified form, its rebuttal
testimony no later than 07/27/2022

A Public Hearing shall be held To be scheduled

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2021-00341 DATED MAR 31 2022

COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION TO MILBURN WATER DISTRICT

Milburn Water District (Milburn District), pursuant to 807 KAR 5:001, is to file with the Commission an electronic version of the following information. The information requested is due on April 25, 2022. The Commission directs Milburn District to the Commission's July 22, 2021 Order in Case No. 2020-00085¹ regarding filings with the Commission. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked.

Each response shall include the question to which the response is made and shall include the name of the witness responsible for responding to the questions related to the information provided. 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.

Milburn District shall make timely amendment to any prior response if Milburn District obtains information that indicates the response was incorrect when made or,

¹ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

though correct when made, is now incorrect in any material respect. For any request to which Milburn District fails or refuses to furnish all or part of the requested information, Milburn District shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

Careful attention shall be given to copied material to ensure that it is legible. When the requested information has been previously provided in this proceeding in the requested format, reference may be made to the specific location of that information in responding to this request. When applicable, the requested information shall be separately provided for total company operations and jurisdictional operations. When filing a paper containing personal information, Milburn District shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the paper so that personal information cannot be read.

1. Provide the name of each current Milburn District commissioner and the date on which his or her term expires.
2. Provide the name of each current Milburn District employee and their salary or wages per hour.
3. Provide an equipment inventory for Milburn District, including vehicles, trucks, and machinery and the working condition of each.
4. Provide a map indicating the following:
 - a. Milburn District's territory,
 - b. The location its main and service lines,
 - c. The size of its services lines, and
 - d. The location of its pump stations.

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

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

7. Provide any correspondence between Milburn District and any other entity regarding any proposed merger with Milburn District, including but not limited to electronic mail messages, board minutes, or formal letters.

8. Refer to the Case No. 2019-00041, Appendix C, Item 1. Provide an update for the unaccounted-for water loss for January 2021 through the date of the Order of this case.

*Milburn Water District
7731 State Route 80 East
Arlington, KY 42021

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7731 State Route 80 East
Arlington, KY 42021

*Graves County Water District
P. O. Box 329
301 East Broadway
Mayfield, KY 42066

*Graves County Water District
Graves County Water District
P. O. Box 329
301 East Broadway
Mayfield, KY 42066