

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF BOONE)	
COUNTY WATER DISTRICT TO REMOVE)	CASE NO.
SUBDISTRICT A & B SURCHARGES FROM ITS)	2022-00101
TARIFF)	

ORDER

On March 8, 2022, Boone County Water District (Boone District) filed, through the Commission’s electronic Tariff Filing System, revised tariffs removing Subdistrict A & B descriptions and respective \$25 surcharges from the tariff. On March 30, 2022, the Commission issued an order approving removal of the Subdistrict A surcharge and establishing this proceeding to investigate whether the \$25 Subdistrict B surcharge should be allowed to be removed from Boone District’s tariff.¹ The proposed removal of the Subdistrict B surcharge was suspended until August 31, 2022.² Two rounds of discovery were completed, and the Commission also granted Boone District’s motion to incorporate records from additional cases.³ On July 20, 2022, Boone District filed a notice

¹ Order (Ky. PSC Mar. 30, 2022) at 5.

² Order (Ky. PSC Mar. 30, 2022) at 6.

³ Case No. 2002-00085, *Application of the County of Boone, Kentucky to the Kentucky Public Service Commission Requesting a Certificate of Convenience and Necessity for the Construction of a Public Water Distribution System in An Unserved Area of Southern Boone County* (filed Mar. 15, 2002), Application; Case No. 2005-00291, *Application of The County of Boone, Kentucky for Approval of Public Convenience and Necessity for the Construction of a Public Water Distribution System in an Unserved Area of Southern and Western Boone County* (filed July 11, 2005), Application; Case No. 2010-00065, *The Application of Boone County Fiscal Court and Boone County Water District for Transfer of Control of Water System; to Terminate an Existing Operation and Maintenance Agreement Between the Applicants; and Approval of Agreements Between the Boone County Fiscal Court and Boone County Water District and*

stating it was waiving its right to a public hearing and was submitting this matter for a decision based upon the existing evidence of record. The Commission has received information sufficient to issue a ruling in this case.

BACKGROUND

In 2002, the Commission approved Boone County Fiscal Court's request to create a water service area referred to as Subdistrict A and the assessment of a \$25 surcharge to this subdistrict to be applied to repayment of the general obligation bonds issued to finance construction of infrastructure extending service to that area.⁴ At the time the Commission approved Boone County Fiscal Court's application, Boone County Fiscal Court contracted with Boone District to operate the water facilities.⁵

In 2006, the Commission approved Boone County Fiscal Court's request to create a water service area referred to as Subdistrict B and another accompanying \$25 surcharge to be applied to repayment of a Kentucky Infrastructure Authority (KIA) loan used to finance construction of infrastructure extending service to the area.⁶ At the time the Commission approved Boone County Fiscal Court's application to create Subdistrict A,⁷ and later to construct Subdistrict B, it was not economically feasible for Boone District to extended service into those areas.⁸

Kentucky Infrastructure Authority and Boone County Water District as Debt Instruments (filed Mar. 23, 2010), Application.

⁴ Case No. 2002-00085, Sept. 27, 2002 Order, Appendix.

⁵ Case No. 2010-00065, Application, Exhibit 3.

⁶ Case No. 2005-00291, Feb. 1, 2006 Order.

⁷ Case No. 2002-00085, Sept. 27, 2002 Order at 2.

⁸ Case No. 2005-00291, Feb. 1, 2006 Order at 2.

In 2010, Boone County Fiscal Court and Boone District filed jointly for approval of transfer of Boone Fiscal Court's Subdistricts A and B water facilities to Boone District in the form of a lease and purchase option for Subdistrict A facilities and the outright sale of Subdistrict B facilities.⁹ The agreement included Boone District assuming both subdistricts' debts.¹⁰ The Commission approved the transfer pursuant to KRS 278.020(5)-(6),¹¹ and also approved the assumption of debts.¹²

The Commission's final Order in Case No. 2010-00065 ordered Boone District to maintain separate records of the collection of all surcharge revenues from Subdistrict A and Subdistrict B to ensure an accurate accounting of surcharge collections.¹³ Additionally, the final Order in Case No. 2010-00064 included an ordering paragraph pertaining to Subdistrict A, and another ordering paragraph pertaining to Subdistrict B, stating that Boone District was authorized to assess a monthly surcharge of \$25 to customers of each subdistrict until complete satisfaction of Boone District's obligations under the Assumption and Supplemental Assistance Agreement, and that upon satisfaction of these obligations, Boone District would cease assessing the surcharge.¹⁴

Boone District has paid the Subdistrict A debt in full.¹⁵ The Subdistrict B debt has yet to be paid in full, with an outstanding balance of approximately \$1.4 million and a

⁹ Case No. 2010-00065, Application at 5.

¹⁰ Case No. 2010-00065, Application at 5.

¹¹ Now KRS 278.020(6)-(7).

¹² Case No. 2010-00065, May 11, 2010 Order at 11.

¹³ Case No. 2010-00065, May 11, 2010 Order at 11, ordering paragraph 7.

¹⁴ Case No. 2010-00065, May 11, 2010 Order at 12, ordering paragraphs 8 and 9.

¹⁵ Order (Ky. PSC Mar. 30, 2022) at 2.

scheduled repayment date in 2037.¹⁶ Boone District filed a tariff revision removing both subdistrict surcharges. Boone District indicated that it would use its general funds to pay the remaining debt service for the Subdistrict B KIA loan, stating that it had adequate revenues to pay the remaining debt service without any effect on existing rates.¹⁷ In making its tariff filing Boone District is effectively asking the Commission to modify the terms of its final Order in Case No. 2010-00065 and permit Boone District to cease assessing a monthly \$25 surcharge to customers of Subdistrict B before Boone District has satisfied the obligations it assumed on behalf of Subdistrict B under the Assumption and Supplemental Assistance Agreement.

LEGAL STANDARD

The Commission may revoke or modify any of its previous orders. Specifically, KRS 278.390 in relevant part states, “Every order entered by the commission shall continue in force until the expiration of the time, if any, named by the commission in the order, or until revoked or modified by the commission, unless the order is suspended, or vacated in whole or in part, by order or decree of a court of competent jurisdiction.” Pursuant to KRS 278.030(1), every utility may demand, collect and receive fair, just and reasonable rates for services rendered.

DISCUSSION

In support of its tariff filing Boone District stated that the removal of the Subdistrict B surcharge is fair, just and reasonable because the surcharge never covered the full

¹⁶ Order (Ky. PSC Mar. 30, 2022) at 2.

¹⁷ Order (Ky. PSC Mar. 30, 2022) at 2.

cost of the debt incurred to finance Subdistrict B,¹⁸ removal of the surcharge would not cause a rate increase because debt payments will be made from its general funds,¹⁹ and other Boone District customers have benefited from the systems extended to Subdistrict B.²⁰ Boone District stated that the reason for the removal of the surcharge was that removal of both subdistrict surcharges simultaneously would facilitate Boone District's ability to obtain public funding from Boone County Fiscal Court for system expansion to additional areas.²¹ Boone District cited instances in which the Commission approved extensions of service and permitted subsidization of these extensions by all ratepayers.²²

¹⁸ Boone District's Response to Commission Staff's First Request for Information (Staff's First Request) (filed May 19, 2022), Item 1.

¹⁹ Boone District's Response to Staff's First Request, Item 1.

²⁰ Boone District's Response to Staff's First Request, Item 1.

²¹ Boone District's Response to Staff's First Request, Item 1 at 5-6.

²² Boone District's Response to Staff's First Request, Item 1, at 3, *citing* Case No. 2020-00399, *Electronic Application of McCreary County Water District for Authorization to Execute an Assistance Agreement with the Kentucky Infrastructure Authority and for a Certificate of Public Convenience and Necessity to Construct the Sanitary Sewer Collection System Expansion Phase 1 Project* (Ky. PSC Mar. 11, 2021), Order; Case No. 2021-00452, *Electronic Application of McCreary County Water District for Authorization to Enter an Assistance Agreement with the Kentucky Infrastructure Authority to Borrow \$270,000 to Finance the Construction of the Catron/Needle Road Water Line Project and a Declaration That Project Does Not Require a Certificate of Public Convenience and Necessity* (Ky. PSC Feb. 1, 2022), Order; Case No. 2017-00068, *Application of Whitley County Water District No. 1 For Approval of Financing and Issuance of A Certificate of Convenience and Necessity* (Ky. PSC Mar. 8, 2017), Order; Case No. 2017-00268, *Application of Cumberland Falls Highway Water District No. 1 for Approval of Financing and Issuance of a Certificate of Convenience and Necessity* (Ky. PSC Aug. 14, 2017), Order; Case No. 2018-00247, *Electronic Application of Cannonsburg Water District to Issue Securities Pursuant to KRS 278.300* (Ky. PSC Aug. 15, 2018), Order; Case No. 2018-00351, *Electronic Application of the Northeast Woodford County Water District for a Certificate of Public Convenience and Necessity for Proposed Waterworks Improvements and for Authorization to Execute an Assistance Agreement with the Kentucky Infrastructure Authority to Finance Those Improvements* (Ky. PSC Nov. 6, 2018), Order; Case No. 2018-00368, *Application of the Green-Taylor Water District for the Issuance of a Certificate of Public Convenience and Necessity to Construct and Finance a Water System Improvements Project Pursuant to the Provisions of KRS 278.020, KRS 278.300 and 807 KAR 5:001* (Ky. PSC Dec. 18, 2018), Order.

FINDINGS

Having considered the evidence of record, and being otherwise sufficiently advised, the Commission finds that the May 11, 2010 final Order in Case No. 2010-00065 shall be amended to authorize Boone District to cease assessment of the monthly \$25 surcharge to Subdistrict B customers as of September 1, 2022.

The Commission supports merger, consolidation, or transfer of water systems when those transactions are intended to improve the rates, service, financial stability, and management of those systems.²³ The Commission does not seek to discourage improving the governance of these systems or extending service to new areas by refusing to modify the conditions imposed by its final Order in Case No. 2010-00065. Although the Commission often approves rates intending to assign costs only to customers receiving the benefits of these costs,²⁴ the Commission also has also supported unified rate structures allowing the costs of extending service to new customers to be paid uniformly across the customer base.²⁵ In the present case, due to the fact the surcharge

²³ See Case No. 2019-00041, *Investigation into Excessive Water Loss by Kentucky's Jurisdictional Water Utilities*, Appendix L, *Confronting the problems Plaguing Kentucky's Water Utilities: An Investigative Report by the Kentucky Public Service Commission November 2019* (Ky. PSC Nov. 22, 2019).

²⁴ See Case No. 2020-00195, *Electronic Application of Southeast Daviess County Water District for an Alternative Rate Adjustment* (Ky. PSC Dec. 30, 2020), Order at 5; Case No. 2020-00238, *Electronic Application of North Mclean County Water District for an Alternative Rate Adjustment* (Ky PSC Dec. 30, 2020), Order at 5; Case No. 2020-00296, *Electronic Application of Allen County Water District for an Alternative Rate Adjustment* (Ky. PSC Feb. 3, 2021), Order at 5; Case No. 2021-00094, *Electronic Application of Garrison Quincy-Ky-O-Heights Water District For A Rate Adjustment Pursuant To 807 KAR 5:076* (Ky. PSC Nov. 24, 2021), Order at 8.

²⁵ See Case No. 2012-00520, *Application of Kentucky-American Water Company for an Adjustment of Rates Supported by a Fully Forecasted Test Year* (Ky. PSC Oct.25, 2013) at 68-71; Case No. 2018-00358, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates* (Ky. PSC June 27, 2019) at 70-72; Case No. 2010-00128, *Application of Sharpsburg Water District for an Adjustment of Water Rates* (Ky. PSC May 6, 2010) at 2.

revenue has fallen short of the debt service each year since its implementation,²⁶ the Subdistrict B debt is already being paid in part by the general funds of Boone District.²⁷ Rates will not be increased as a result of this change. Non-Subdistrict B average customers' share of the cost will increase from approximately \$0.05 to \$0.23 per month.²⁸ Subdistrict B customers will receive a \$25 per 1,000-gallon rate decrease. The Commission finds that this change supports the improvement and expansion of water service by merger and results in rates that are fair, just and reasonable under KRS 278.030(1).

IT IS THEREFORE ORDERED that:

1. The condition imposed by ordering paragraph 9 of the Commission's May 11, 2010 final Order in Case No. 2010-00065 is void on September 1, 2022.
2. Boone District's proposal to remove the \$25 Subdistrict B surcharge from its tariff is approved for service rendered on and after September 1, 2022.
3. Within 20 days of the date of service of this Order, Boone District shall file with the Commission, using the Commission's electronic Tariff Filing System, revised tariff

²⁶

Year	Surcharge Revenue	Debt Service	Disparity
2010	\$ 34,625	\$ 346,700	\$ (312,075)
2011	66,400	240,700	(174,300)
2012	73,900	136,380	(62,480)
2013	78,850	136,380	(57,530)
2014	78,350	136,380	(58,030)
2015	79,450	136,380	(56,930)
2016	82,435	136,380	(53,945)
2017	84,475	136,380	(51,905)
2018	86,211	136,380	(50,169)
2019	88,725	136,380	(47,655)
2020	91,350	136,380	(45,030)
2021	95,275	136,380	(41,105)

²⁷ Boone District's Response to Staff's First Request, Item 1.

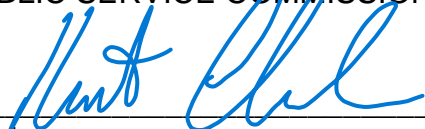
²⁸ Boone District's Response to Staff's First Request, Item 1 at 4.

sheets reflecting the removal of the \$25 Subdistrict B surcharge and reflecting their effective date and that they were authorized by this Order.

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

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PUBLIC SERVICE COMMISSION



Chairman

Vice Chairman



Commissioner

ENTERED
AUG 31 2022
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SERVICE COMMISSION

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