

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION INTO	)	
CANNONSBURG WATER DISTRICT AND ITS	)	
INDIVIDUAL COMMISSIONERS (TIM SMITH, SAM	)	CASE NO.
HAMPTON, ROBERT MCGUIRE, PAM	)	2024-00396
VANHOOSE, MARTIN BAYS) AND GENERAL	)	
MANAGER, TIM WEBB FOR ALLEGED FAILURE	)	
TO COMPLY WITH KRS 278.300.	)	

ORDER

On April 8, 2025, the Commission initiated this investigation into the alleged failure to comply with KRS 278.300 and this matter arises upon an offer of settlement that was filed by Cannonsburg Water District (Cannonsburg District) on May 29, 2025.

BACKGROUND

In Case No. 2024-00155,<sup>1</sup> Cannonsburg District provided an invoice that showed vehicles leased from Enterprise with terms of 60 or 72 months, which exceeded the two-year exemption provided in KRS 278.300(8).<sup>2</sup> In response to Commission Staff's Report, Cannonsburg District state that the vehicle leases/purchases were open-ended and not term contracts and were originally entered into on May 24, 2016.<sup>3</sup>

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<sup>1</sup> Case No. 2024-00155, *Electronic Application of Cannonsburg Water District for a Rate Adjustment Pursuant to 807 KAR 5:076*.

<sup>2</sup> Case No. 2024-00155, Aug. 15, 2025 Cannonsburg District's Response to Commission Staff's Second Request for Information, Item 5a.

<sup>3</sup> Case No. 2024-00155, Oct. 30, 2024 Cannonsburg District's Response to Commission Staff's Report, paragraph 4.

On April 8, 2025, the Commission initiated the investigation and originally named Tim Webb, Sam Hampton, Robert McGuire, Pam Vanhooose, Martin Bayes, and Mark Kazee as parties to this matter. Subsequently, the Commission issued an Order on June 2, 2025, dismissing Mark Kazee as he no longer served on the board, clarified that Tim Webb was the general manager, added Tim Smith to the proceeding, and corrected the spelling of Mr. McGuire's last name.<sup>4</sup>

On April 25, 2025, Cannonsburg District and all named individuals filed responses to the allegations,<sup>5</sup> and the response was supplemented on June 9, 2025, after Tim Smith was added to the proceeding.<sup>6</sup> Cannonsburg District filed an offer of settlement on May 29, 2025, which included terms discussed below.<sup>7</sup>

#### PROPOSED SETTLEMENT

In its offer of settlement, Cannonsburg proposed the following:

1. The Public Service Commission shall assess each Respondent a penalty of \$250, which shall be suspended for a period of two years and be vacated at the end of the two-year period if the Respondent does not engage in any conduct that is a violation of KRS Chapter 278, a Commission regulation, or a Commission Order, and the Respondent attends training as set forth below.<sup>8</sup>

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<sup>4</sup> Order (Ky. PSC June 2, 2025).

<sup>5</sup> Cannonsburg District's Response to the Allegations (filed Apr. 25, 2025).

<sup>6</sup> Tim Smith's Response to the Allegations (filed June 9, 2025).

<sup>7</sup> Cannonsburg District's Offer of Settlement (Settlement Offer) (filed May 29, 2025).

<sup>8</sup> Settlement Offer at 1-2.

2. If, during the suspension period, a Respondent fails to comply with a Commission Order, a provision of KRS Chapter 278, or a Commission regulation, the penalty assessed against such Respondent shall become immediately due and payable.<sup>9</sup>

3. If, during the suspension period, a Respondent ceases to hold office of water district commissioner or General Manager, whichever is applicable, as a result of resignation, failure to obtain reappointment, or other reason, the suspended penalty assessed against the Respondent shall be vacated immediately upon the Respondent's departure from office.<sup>10</sup>

4. No penalty shall be assessed against Cannonsburg Water District.

5. No penalty shall be assessed against Mark Kazee who no longer serves on the Board of Commissioners of Cannonsburg District.

6. The Commission will not enter any Order in this proceeding finding that any Respondent willfully violated KRS 278.300 or willfully aided and abetted a violation of KRS 278.300.

7. Each respondent will attend 12 hours of certified water management training for calendar years 2025 and 2026 provided that he or she continues to hold office. Failure to attend will result in the penalty assessed against the Respondent to become immediately due and payable.<sup>11</sup>

8. Cannonsburg District will file with the Commission evidence that it has ceased operating under the terms of the Enterprise Management Agreement executed in

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<sup>9</sup> Settlement Offer at 2.

<sup>10</sup> Settlement Offer at 2.

<sup>11</sup> Settlement Offer at 2-3.

May 2016 and has negotiated another Fleet Management Agreement that complies with KRS 278.300(8).<sup>12</sup>

9. If this Offer of Settlement is accepted, Respondents individually and jointly waive their right to a hearing in this matter and will not petition the Commission for rehearing or bring action for review of any Order accepting this Offer of Settlement.<sup>13</sup>

10. Should the Commission issue an Order accepting this Offer of Settlement and any Respondent fails to comply with the terms of this Offer of Settlement, such Respondent's failure shall be deemed a failure to comply with a lawful order of the Commission and such Respondent may be subject to additional penalties pursuant to KRS 278.990(1).<sup>14</sup>

#### LEGAL STANDARD

Pursuant to KRS 278.040(1), the Commission is required to regulate utilities and enforce the provisions of KRS Chapter 278. Pursuant to KRS 278.250 and KRS 278.260, the Commission is authorized to investigate and examine the condition of any utility subject to its jurisdiction, including any practice or act relating to the utility service. If the Commission finds that any practice or act is unjust, unreasonable, unsafe, improper, inadequate, or insufficient, then the Commission, pursuant to KRS 278.280, has the authority to determine the just, reasonable, safe, proper, adequate, or sufficient practice or method to be observed.

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<sup>12</sup> Settlement Offer at 3.

<sup>13</sup> Settlement Offer at 3.

<sup>14</sup> Settlement Offer at 3.

Under KRS 278.990, the Commission has the authority to assess civil penalties, not to exceed \$2,500 for each offense, against a utility and against any officer, agent, or employee of a utility who willfully violates any provisions of KRS Chapter 278, Commission regulations, or Orders. Pursuant to KRS 74.025, the Commission can utilize certain removal procedures to remove any water commissioner of a water district from office for good cause, including incompetency, neglect of duty, gross immorality, or nonfeasance, misfeasance, or malfeasance.

As required by KRS 278.300, before a utility issues any securities or evidence of indebtedness or assumes any obligation or liability in respect to the securities or evidence of indebtedness, the utility must first receive authorization from the Commission.<sup>15</sup> An exception is provided in KRS 278.300(8) that applies to

[N]otes issued by a utility, for proper purposes and not in violation of law, that are payable at period of not more than two (2) years from the date thereof, or to like notes, payable at a period of not more than two (2) years from the date thereof, that are issued to pay or refund in whole or in part any such notes, or to renewables of such notes from time to time, not exceeding in aggregate six (6) years from the date of the issue of the original notes so renewed or refunded.

### DISCUSSION AND FINDINGS

Having considered the proposed settlement and case record being otherwise sufficiently advised, the Commission finds that the proposed settlement, as modified in this Order, provides for a reasonable resolution to this matter and takes steps to ensure that Cannonsburg District's commissioners and manager will not violate KRS Chapter 278, or Commission regulations or orders when entering into evidences of indebtedness.

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<sup>15</sup> See KRS 278.300.

The Commission finds a modification of the settlement offer is needed pertaining to whether a willful violation of KRS 278.300 occurred. While a willful violation has been defined as an act that is committed intentionally, not accidentally or involuntarily,<sup>16</sup> it has also been stated that a willful violation does not necessarily and solely entail an intention to do wrong and inflict injury but may include conduct which reflects an indifference to its natural consequences.<sup>17</sup> Although the Commission does not believe Cannonsburg District's commissioners nor its general manager acted with an intent to violate KRS 278.300, their actions resulted in a violation of KRS 278.300 and indicated an indifference to compliance with that statute such that a penalty is justified pursuant to KRS 278.990.

However, the Commission appreciates Cannonsburg District's willingness to resolve the issue, and to take steps to ensure future compliance with Commission statutes, regulations, and orders. These steps indicate a desire to prevent future violations and support the Commission's decisions to accept the proposed settlement, except as modified herein.

To carry out the settlement, the Commission concludes that Cannonsburg District should cease its current agreement with Enterprise in order to propose and enter into a new fleet agreement. The Commission also concludes that Cannonsburg District commissioners and the general manager should attend 12 hours of certified water training no later than December 31, 2026.

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<sup>16</sup> Case No. 1992-00016, *M.A. V.I.S.S., Inc. and Mr. Darby Alleged Failure to Comply with Commission Regulations* (Ky. PSC July 1, 1992).

<sup>17</sup> Case No. 1993-00044, *Jackson Purchase Electric Cooperative Corporation, Inc. Alleged Failure to Comply with Commission Regulations* (Ky. PSC Aug. 14, 1996), citing *Huddleston v. Hughes*, 843 S.W.2d 901, 905 (Ky. App. 1992).

IT IS THEREFORE ORDERED that:

1. The settlement proposed by Cannonsburg District, as modified in this Order, is accepted.
2. Each named individual shall be assessed a \$250 fee that will be suspended for a two-year period.
3. Within 30 days of the date of the entry of this Order, Cannonsburg District shall tender a notice of filing of its new vehicle fleet lease agreement, or, in the alternative, an update of the status of the new agreement. If Cannonsburg District is unable to file its new fleet vehicle lease agreement within 30 days of the date of the entry of this Order, it shall file the lease agreement within 30 days of the agreement's final execution date.
4. Cannonsburg District commissioners and general manager shall attend 12 hours of certified water training for both 2025 and 2026 and shall file written notice within 30 days of attendance.
5. All filings made pursuant to ordering paragraphs 2-4 shall be made in the post-case correspondence file in this proceeding and shall include the case number.
6. This case shall remain open for a two-year period from the issue date of this Order.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Commissioner

  
Commissioner

ATTEST:

  
Executive Director



Case No. 2024-00396



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