

July 8, 1998

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PURCHASED WATER ADJUSTMENT OF)
SANDY VALLEY WATER DISTRICT) CASE NO. 98-217

O R D E R

On June 10, 1998, Sandy Valley Water District ("Sandy Valley") applied for a rate adjustment pursuant to KRS 278.015 and Administrative Regulation 807 KAR 5:068 to reflect increases in the wholesale water service rates of Prestonsburg City's Utilities Commission ("Prestonsburg") and for a temporary surcharge to recover an arrearage owed to Prestonsburg. Mountain Water District ("Mountain"), a wholesale customer of Sandy Valley, has intervened in this matter and requests that Sandy Valley's wholesale service rate not be adjusted.¹

Having reviewed the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. Sandy Valley purchases its water supply from Prestonsburg and the City of Pikeville, Kentucky ("Pikeville").

¹ Sandy Valley submitted its application to the Commission on April 24, 1998 and moved for a deviation from certain filing requirements. By Order of May 28, 1998, the Commission denied Sandy Valley's motion. On June 10, 1998, Sandy Valley cured the deficiencies in its application and the application was accepted for filing. On June 15, 1998, the Commission ordered Sandy Valley and Mountain to submit memoranda on certain legal issues. These memoranda were filed with the Commission on June 25, 1998.

2. During the 12 months ending March 1998, Sandy Valley purchased 164,393,000 gallons of water from Pikeville and 62,805,000 gallons of water from Prestonsburg and sold a total of 151,443,300 gallons of water.

3. Sandy Valley's current rate for water service reflects a rate of \$1.75 per 1,000 gallons for water purchased from Prestonsburg.²

4. On June 1, 1993, Prestonsburg increased its rate for water service to Sandy Valley to \$2.12 per 1,000 gallons of water.³ Sandy Valley refused to pay the increased rate and paid \$1.77 per 1,000 gallons of water.

5. Sandy Valley subsequently brought a formal complaint against Prestonsburg in which it alleged that Prestonsburg's rate adjustment was in violation of the parties' Wholesale Water Purchase Contract and unlawful and unreasonable.⁴

² Case No. 91-308, Purchased Water Adjustment of Sandy Valley Water District (Nov. 15, 1991).

³ This rate represents the overall rate charged to Sandy Valley. The actual rate was:

0-2000 gallons	\$6.97
Next 98,000 gallons	\$3.03 per 1,000 gallons
All over 100,000 gallons	\$2.02 per 1,000 gallons

Prestonburg also assesses a \$.10 per 1,000 gallons charge for booster pump service.

⁴ Case No. 96-161, Sandy Valley Water District v. City of Prestonsburg and Prstonsburg City's Utilities Commission (complaint filed Aug. 1, 1996).

6. Sandy Valley and Prestonsburg executed a Settlement Agreement that resolved the dispute.⁵ Under the terms of this agreement, Sandy Valley agreed to pay Prestonsburg's existing water service for all service rendered on and after October 1, 1997. Prestonsburg agreed to release Sandy Valley from any claims related to amounts owed for service prior to October 1, 1997. The Commission approved this Agreement on April 9, 1998.⁶

7. As a result of the Agreement, Sandy Valley's purchased water cost will increase by \$23,237 on an annual basis and will require a purchased water adjustment of \$.15 per 1,000 gallons of water sold.⁷ Based on an average customer's monthly water usage of 5,000 gallons, the monthly bill of an average Sandy Valley customer will increase \$.75, from \$19.24 to \$19.99 or 3.75 percent.

8. Between October 1, 1997 and the date of this Order, Sandy Valley's rates for water service failed to reflect \$16,839 of the cost for water purchased from Prestonsburg. A temporary surcharge of \$.11 per 1,000 gallons for water sales during the next 12 months will achieve recovery of this amount.

9. Mountain is a wholesale customer of Sandy Valley.

⁵ The date of this agreement is not clear from the record of this proceeding. While the Agreement states that the parties entered the Agreement on October 1, 1997, it was not filed with the Commission until March 17, 1998. Moreover, the parties advised the Commission in January 1998 that an agreement had yet to be executed.

⁶ Case No. 96-161, Sandy Valley Water District v. City of Prestonsburg and Prestonsburg City's Utilities Commission (April 9, 1998).

⁷ See Appendix B to this Order.

10. Given the configuration of Sandy Valley's distribution system, Pikeville exclusively provides the water that Sandy Valley resells to Mountain. None of the water that Sandy Valley resells to Mountain is purchased from Prestonsburg.

The Commission makes the following conclusions of law:

1. KRS 278.015 requires the Commission, upon the application of a water district, to increase the water district's rates for service to reflect a commensurate increase in the rates of the water district's wholesale supplier.

2. KRS 278.015 and Administrative Regulation 807 KAR 5:068 permit a water district to automatically pass through to its ratepayers sums agreed to in settlement when those sums represent arrearages in water costs preceding the water district's filing with the Commission. See Kentucky Public Service Comm'n v. Cumberland Falls Water District, Ky.App., 834 S.W.2d 726 (1992).

3. Administrative Regulation 807 KAR 5:068, Section 2(2) requires that any adjustment in rates due solely to a change in a wholesale water supplier's cost "be added to all the utility's rate schedules on a per unit basis regardless of the customer class."

4. Administrative Regulation 807 KAR 5:068 does not permit deviations from its provisions. In the absence of such provision, the Commission lacks the authority to grant Mountain's requested relief.

IT IS THEREFORE ORDERED that:

1. The record of Case No. 96-161 is incorporated by reference into the record of this proceeding.

2. A purchased water adjustment of \$.15 per 1,000 gallons of water is granted for water services rendered on and after the date of this order.

3. Sandy Valley is authorized to assess a surcharge of \$.11 per 1,000 gallons for the 12 months following the date of this Order or until \$16,839 is collected in surcharge revenue, whichever occurs first.

4. The rates set forth in Appendix A are approved for water services rendered on and after the date of this Order.

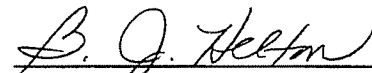
5. Within 30 days after the termination of the surcharge, Sandy Valley shall file with the Commission a report on the amount of revenue collected from the surcharge.

6. Sandy Valley shall notify its customers of the increase in rates approved herein no later than the rendering of the first bill at the increased rates.

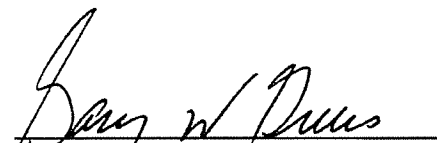
7. Within 30 days of the date of this Order, Sandy Valley shall file revised tariff sheets setting out the rates approved herein, a copy of the notice to its customers, and verification that such notice has been given.

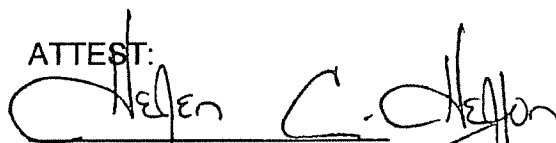
Done at Frankfort, Kentucky, this 8th day of July, 1998.

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. 98-217 DATED JULY 8, 1998

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

MONTHLY RATES

5/8 Inch X 3/4 Inch Meter

First	2,000 Gallons	\$9.19	Minimum Bill
Next	3,000 Gallons	3.60	Per 1,000 Gallons
Next	15,000 Gallons	3.25	Per 1,000 Gallons
Next	30,000 Gallons	2.77	Per 1,000 Gallons
Next	50,000 Gallons	2.54	Per 1,000 Gallons
Over	100,000 Gallons	2.37	Per 1,000 Gallons

1 Inch Meter

First	5,000 Gallons	\$19.99	Minimum Bill
Next	15,000 Gallons	3.25	Per 1,000 Gallons
Next	30,000 Gallons	2.77	Per 1,000 Gallons
Next	50,000 Gallons	2.54	Per 1,000 Gallons
Over	100,000 Gallons	2.37	Per 1,000 Gallons

1 1/2 Inch Meter

First	10,000 Gallons	\$36.24	Minimum Bill
Next	10,000 Gallons	3.25	Per 1,000 Gallons
Next	30,000 Gallons	2.77	Per 1,000 Gallons
Next	50,000 Gallons	2.54	Per 1,000 Gallons
Over	100,000 Gallons	2.37	Per 1,000 Gallons

2 Inch Meter

First	25,000 Gallons	\$82.59	Minimum Bill
Next	25,000 Gallons	2.77	Per 1,000 Gallons
Next	50,000 Gallons	2.54	Per 1,000 Gallons
Over	100,000 Gallons	2.37	Per 1,000 Gallons

3 Inch Meter

First	50,000 Gallons	\$175.74	Minimum Bill
Next	50,000 Gallons	2.54	Per 1,000 Gallons
Over	100,000 Gallons	2.37	Per 1,000 Gallons

4 Inch Meter

First	100,000 Gallons	\$298.84	Minimum Bill
Over	100,000 Gallons	2.37	Per 1,000 Gallons

Wholesale Water Service

Mountain Water District	\$2.05	Per 1,000 Gallons
All other Usage	\$2.37	Per 1,000 Gallons

Arrearage Surcharge

An arrearage surcharge of \$.11 per 1,000 gallons shall be charged for the 12 months following the date of this Order or until \$16,839 is collected in surcharge revenue, whichever occurs first.

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE 98-217 DATED JULY 8, 1998

Purchased Water Adjustment Calculation

Water Purchased from City of Prestonsburg	62,805,000
Total Gallons Sold by Sandy Valley	151,443,300
Cost of Water at Changed Rate	\$134,441
Cost of Water at Base Rate	\$111,204
Increase in Cost of Water	\$23,237
$\$23,237 \text{ divided by } 151,443,300 = \$0.15 \text{ per } 1,000 \text{ Gallons}$	

Arrearage Surcharge Calculation

Average Monthly Arrearage	\$1,871
Months in Arrears (October 1997 through June 1998)	9
Total Arrearage	\$16,839
Annual Gallons Sold	151,443,300
$\$16,839 \text{ divided by } 151,443,300 = \$0.11 \text{ per } 1,000 \text{ Gallons}$	

Arrearage Surcharge shall be charged for the 12 months following the date of this Order or until \$16,839 has been collected in surcharge revenue, whichever occurs first.

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PURCHASED WATER ADJUSTMENT OF) CASE NO.
SANDY VALLEY WATER DISTRICT) 98-217

O R D E R

IT IS HEREBY ORDERED that:

1. The parties shall, within 10 days of the date of this Order, submit written memoranda on the following issues:

a. Where a water district seeks to adjust its rates, pursuant to KRS 278.015, to reflect increases in the rate charged by its wholesale water supplier, must the Commission apportion the increase to all customers?

b. (1) Where a water district seeks to adjust its rates, pursuant to KRS 278.015, to reflect increases in the rate charged by its wholesale water supplier, may the Commission discriminate in its allocation of the increase to customer classes?

(2) If yes, what bases may the Commission reasonably discriminate in its allocation of the increase?

c. Where a water district which is supplied by more than one water supplier seeks to adjust its rates, pursuant to KRS 278.015, to recover increases in the rate charged by one of its wholesale suppliers, may the Commission take into account the source of water used to supply a particular customer in determining whether the rates charged to that customer should be adjusted to reflect the wholesale supplier's change in rates?

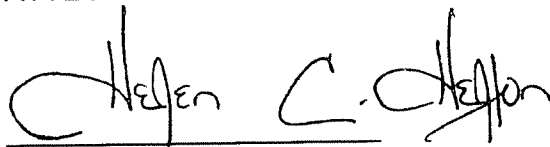
2. Upon submission of the parties' memoranda or 10 days from the date of this Order, whichever occurs first, this case shall stand submitted for decision.

Done at Frankfort, Kentucky, this 15th day of June, 1998.

PUBLIC SERVICE COMMISSION


For the Commission

ATTEST:


Executive Director

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PURCHASED WATER ADJUSTMENT OF) CASE NO.
SANDY VALLEY WATER DISTRICT) 98-217

O R D E R

This matter arising upon the motion of Mountain Water District ("Mountain"), filed May 12, 1998, for full intervention, and it appearing to the Commission that Mountain has a special interest which is not otherwise adequately represented, and that such intervention is likely to present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings, and this Commission being otherwise sufficiently advised,

IT IS HEREBY ORDERED that:

1. The motion of Mountain to intervene is granted.
2. Mountain shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.
3. Should Mountain file documents of any kind with the Commission in the course of these proceedings, it shall also serve a copy of said documents on all other parties of record.

Done at Frankfort, Kentucky, this 28th day of May, 1998.

PUBLIC SERVICE COMMISSION

B. J. Helton
For the Commission

ATTEST:

Heleen C. Helton

Executive Director

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PURCHASED WATER ADJUSTMENT OF
SANDY VALLEY WATER DISTRICT

) CASE NO.
) 98-217

O R D E R

On April 24, 1998, Sandy Valley Water District ("Sandy Valley") applied for authority to adjust its rates pursuant to KRS 278.015 and Administrative Regulation 807 KAR 5:068. Sandy Valley further requested a deviation from the filing requirements of 807 KAR 5:068, Section 2(2),¹ which requires any purchased water adjustment to be based upon the applicant's water purchases for the 12-month period ending 90 days prior to the effective date of the applicant's proposed adjustment.

After review of the application, the Commission finds that Sandy Valley has not shown good cause for the requested deviation. Sandy Valley fails to explain why it cannot provide the required information. While it maintains its records on a calendar

¹

In the event there is an increase in the supplier's base rate, the water district or water association shall determine the increased cost of water purchased based on the twelve (12) month period ending within ninety (90) days immediately prior to the effective date of its rate adjustment to its customers. The cost of purchased water shall be calculated at the supplier's base rate and changed rate, as defined in Sections 1 and 2 of this administrative regulation. The difference in costs shall then be divided by the actual number of cubic feet or gallons sold during the same twelve (12) month period, yielding the purchased water adjustment in cents per cubic foot or gallon unit. This adjustment amount shall be added to all the utility's rate schedules on a per unit basis regardless of the customer class.

year basis, Sandy Valley does not assert that the required information is unavailable. On the contrary, such information can be gleaned from the monthly bills which Sandy Valley receives from its water suppliers. Equally important, the required information is more likely to reflect Sandy Valley's current purchasing patterns than the more dated information.

Assuming arguendo that good cause had been shown, the Commission finds that it has no legal authority to grant the requested deviation. Unlike other Commission regulations, Administrative Regulation 807 KAR 5:068 does not authorize the Commission to permit deviations from its requirements. In the absence of such provision, the Commission cannot grant the requested relief.²

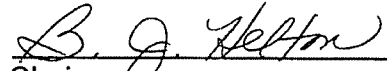
IT IS THEREFORE ORDERED that:

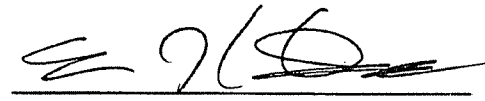
1. Sandy Valley's request to deviate from Administrative Regulation 807 KAR 5:068, Section 2(2), is denied.
2. No later than 15 days from the date of this Order, Sandy Valley shall file the total gallons of water purchased from each of its suppliers during the 12-month period ending within 90 days of the effective date of the proposed rate adjustment and the total gallons which it sold during this 12-month period. If Sandy Valley fails to file this information with the Commission within the specified time, its application shall be dismissed.

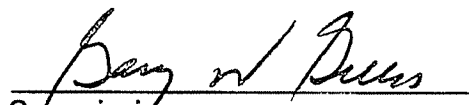
² In support of its application, Sandy Valley refers to Administrative Regulation 807 KAR 5:011, Section 14. This section governs only deviations from the requirements of Administrative Regulation 807 KAR 5:011 and does not apply to other administrative regulations.

Done at Frankfort, Kentucky, this 28th day of May, 1998.

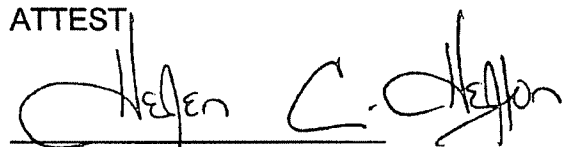
PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST


Executive Director