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November 1, 2006

Beth O'Donnell
Executive Director
Public Service Commission
211 Sower Blvd.
Frankfort, KY 40601

RECEIVED

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PUBLIC SERVICE
COMMISSION

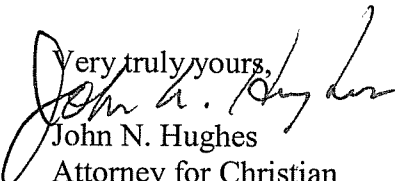
Re: Case No. 2005-00460

Dear Beth:

On March 29, 2006, Christian County Water District received a final order in Case No. 2005-00460 denying the proposed deviation from 807 KAR 5:068(2)(4)(c). A copy of the order is attached. That order directed the District to submit a revised refund plan within 20 days. On April 27, 2006, the District submitted its plan, which is attached.

The District has not received a response to the proposed refund plan. The purpose of this letter is to inquire as to the status of the proposal and to seek guidance on whether there is any mechanism that the District could use to appropriate this money into the purchase of radio read meters. This use of funds was originally requested in the Petition for Deviation filed on November 15, 2005. Given the delay in approving the refund plan, and the benefit to the District and customers from the acquisition and use of the radio read meters, it seems appropriate to consider any alternatives to a direct refund of the overpayments from Hopkinsville that may be available.

If a staff conference would facilitate this matter or if there is any additional information that the District can provide, please let me know.

Very truly yours,

John N. Hughes
Attorney for Christian
County Water District

Attachments

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CHRISTIAN COUNTY WATER)
DISTRICT FOR DEVIATION FROM PURCHASED) CASE NO. 2005-00460
WATER ADJUSTMENT REGULATION)

ORDER

Christian County Water District ("Christian District") has applied for a deviation from Administrative Regulation 807 KAR 5:068, Section 4, to use a refund of \$192,533 from its water supplier to purchase radio read water meters in lieu of refunding these monies to its customers. Christian District's application presents the following issue: May the Commission permit a deviation from the refunding provision of its purchased water adjustment regulation? Finding in the negative, the Commission denies the application.

Christian District, a water district organized pursuant to KRS Chapter 74, owns and operates facilities that distribute water to approximately 4,894 customers in Christian County, Kentucky.¹ It purchases its entire water supply from Hopkinsville Water Environment Authority ("HWEA").

In 2004 Christian District discovered that one of the master meters through which HWEA provides water was over registering water usage. According to the meter's manufacturer, the incorrect type of measuring chamber had been installed in this meter. Christian District estimated that the installation of the incorrect measuring chamber

¹ Annual Report of Christian County Water District to the Public Service Commission for the Calendar Year Ended December 31, 2004 at 27.

caused the meter to measure water at 156 percent of its designed capacity. It further estimated that the incorrect measurement had occurred over a period of 9 years. After Christian District informed HWEA of this discovery, HWEA conducted its own investigation and confirmed that the meter in question was not registering properly. After negotiations, Christian District agreed to accept a payment of \$192,533.70 in 12 equal monthly installments. HWEA began these payments in January 2005. Christian District has placed these payments in its Depreciation Contingency Account.

Christian District has previously used KRS 278.012 and Administrative Regulation 807 KAR 5:068 to adjust expeditiously its rates to reflect increases in the rates of its wholesale water suppliers.² Administrative Regulation 807 KAR 5:068, Section 2(4),³ requires a water district that “receives a refund from its supplier for

² See, e.g., Case No. 2004-00024, Application of Christian County Water District for a Purchased Water Adjustment (Ky. P.S.C. Feb. 19, 2004); Case No. 1993-00215, Application of Christian County Water District for a Rate Adjustment Pursuant to the Purchased Water Rate Adjustment Clause (Ky. P.S.C. June 25, 1993); Case No. 9963, Purchased Water Adjustment of Christian County Water District (Ky. P.S.C. Aug. 6, 1987).

³ In the event a water district or water association receives a refund from its supplier for amounts previously paid, the water district or water association shall immediately apply to the commission for authority to make adjustments on the amounts charged customer's bills under this administrative regulation as follows:

(a) The total refund received by the utility shall be divided by the number of cubic feet or gallons of water the utility estimates it will sell to its customers during the two (2) month period beginning with the first day of the month following receipt of the refund, yielding the refund factor to be applied against each cubic foot or gallon of water sold thereafter.

(b) Effective with meter readings taken on and after the first day of the second month following receipt of the refund, the utility will reduce by the refund factor any purchased water adjustment that would otherwise be applicable during the period. The period of reduced purchased water adjustments shall be adjusted, if necessary, in order to most nearly approximate the total amount to be refunded. The water utility shall make full distribution of the refund within two (2) months.

(c) In the event a water utility receives a large or unusual refund, the utility may apply to the commission for a deviation from the procedure for distribution of refunds specified herein.

amounts previously paid . . . [to] immediately apply to the commission for authority to make adjustments on the amounts charged customer's bills" under the purchased water adjustment procedure. It further prescribes the methodology for making these adjustments to pass through this refund to the water district's customers.

Notwithstanding Administrative Regulation 807 KAR 5:068, Section 2(4), Christian District requests Commission authorization to retain the refund from HWEA and use it toward the purchase of radio read water meters. In support of its request, it refers to Administrative Regulation 807 KAR 5:068, Section 2(4)(c), which provides that "[i]n the event a water utility receives a large or unusual refund, the utility may apply to the commission for a deviation from the procedure for distribution of refunds specified herein." Christian District argues that, because the refund is relatively small and is based on a meter error, a refund is neither required nor appropriate. It further argues that the proposed use of the refund proceeds would benefit all water district customers as the radio read meters would eliminate the task of customers reading their own meters and assist the water district in monitoring and controlling its water loss.

While the Commission's interpretation of its own regulations is entitled to substantial deference, its interpretation must comply with the actual language of the regulation.⁴ The clear language of Administrative Regulation 807 KAR 5:068, Section 2(4), allows a deviation from the "manner" in which a refund is distributed to a water district's customers, not "whether" the refund is distributed to customers. To hold

⁴ Fluor Constructors, Inc. v. Occupational Safety and Health Review Com'n, 861 F.2d 936, 939 (6th Cir. 1988).

otherwise would add a provision to the purchased water adjustment regulation that does not currently exist.⁵

The Commission notes that, unlike other Commission regulations, 807 KAR 5:068 does not include a provision for blanket deviations.⁶ It contains only a provision that permits deviations to the methodology by which adjustments are made to customers' bills to pass through a wholesale water supplier's refund.

In its present form, Administrative Regulation 807 KAR 5:068, Section 2(4), limits a water district's discretion in the handling of refunds from water suppliers. It may, with prior Commission approval, deviate from the procedure used to make adjustments on the amounts charged customer's bills, but is not permitted to apply those refunds to any purpose but refunding to its customers.

IT IS THEREFORE ORDERED that:

1. Christian District's application for a deviation from Administrative Regulation 807 KAR 5:068 is denied.
2. Christian District's application for authority to apply the refund received from HWEA to the purchase of radio read water meters is denied.
3. Within 20 days of the date of this Order, Christian District shall apply the refund from HWEA to make adjustments on customer's bills in accordance with Administrative Regulation 807 KAR 5:068, Section 2(4)(a)-(b).

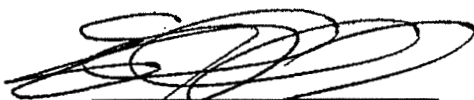
⁵ Id. ("An agency is bound by the regulations it promulgates and may not attempt to circumvent the amendment process through changes in interpretation unsupported by the language of the regulation.").

⁶ See, e.g., 807 KAR 5:001, Section 14 ("Deviation from Rules. In special cases, for good cause shown, the commission may permit deviations from these rules."). See also 807 KAR 5:006, Section 27; 807 KAR 5:022, Section 18; 807 KAR 5:026, Section 10.

Done at Frankfort, Kentucky, this 29th day of March, 2006.

By the Commission

ATTEST:

A handwritten signature in black ink, consisting of several overlapping loops and a horizontal line at the bottom.

Executive Director

Case No. 2005-00460

JOHN N. HUGHES
ATTORNEY AT LAW
PROFESSIONAL SERVICE CORPORATION
124 WEST TODD STREET
FRANKFORT, KENTUCKY 40601

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April 27, 2006

Beth O'Donnell
Executive Director
Public Service Commission
211 Sower Blvd
Frankfort, KY 40601

RECEIVED

APR 27 2006

PUBLIC SERVICE
COMMISSION

Re: Case 2005-00460

Dear Beth:

Christian County Water District requests approval of its plan pursuant to 807 KAR 5:068 and its filed tariff to refund overpayments from the city of Hopkinsville. The District proposes to refund the total amount within two billing months beginning with bills issued for the billing period May-June, 2006 and ending with the bills for the billing period June-July, 2006. The calculation of the amount of the refund is attached.

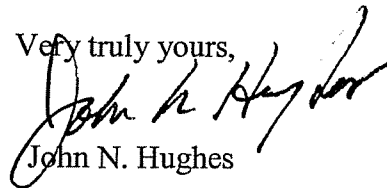
The District requests a deviation from the regulation and the filed tariff to use the proposed billing period due to the nature of the meter reading system used by the District and the time required to calculate and prepare the bills. The District is a customer read system. After the customers provide the reading, the staff must verify, check and calculate the bill. If no reading is provided, a calculated bill amount must be made.

The District proposes to proportionally reduce the customer's rate by the amount of the monthly refund. If the calculated refund amount is deducted directly from each of the fifteen (15) computerized billing classifications, all deductions will be calculated and credited at the same rate for each customer in that classification by the billing software. An example would be that for May's water usage a customer would be billed \$1.72 per thousand rather than \$4.75 per thousand. Each bill would contain a notation on the statement that this was due to a refund by the wholesale supplier. If this method is not used, then approximately 5200 bills must be hand calculated. Hand calculation of each bill opens the process up for more human error, adding additional labor expenses and provides less efficient use of staff time.

The District also proposes to include an insert in its consumer confidence report mailed to all customers prior to the refund period so that they will be informed of the refund.

For these reasons, the District requests a deviation from the regulation and from its filed tariff to implement the proposed refund plan.

Very truly yours,

A handwritten signature in black ink, appearing to read "John N. Hughes", written over the typed name.

John N. Hughes

Attorney for Christian County Water District

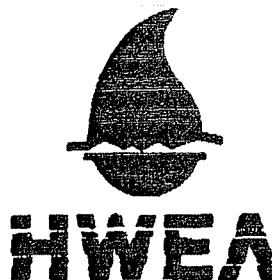
Cc: Attorney General

ATTACHMENTS:

1. calculation of refund amount
2. copy of city's refund letter
3. tariff sheets

Hopkinsville Water Environment Authority
401 East 9th Street • P.O. Box 828 • Hopkinsville, Kentucky 42241-0628

Len F. Hale
General Manager



Phone (270) 887-4246
Fax (270) 887-4244

November 1, 2004

Mr. Ashbel Brunson III, Chairman
Christian County Water District
P.O. Box 7
Hopkinsville, KY. 42241

Subject: KY 272 Master Meter

Dear Ash:

In response to your letter of September 10, 2004, the HWEA Board voted unanimously to approve your request that the repayment of \$192,533.70 be made in twelve equal monthly payments. These payments will begin in December 2004 and will be in the amount of \$16,044.47. The last payment to be made in November 2005 will be \$16,044.53.

If you have any questions, please contact us.

Sincerely,


Robert Carter,
Chairman

Hopkinsville Water Environment Authority
401 East 9th Street • P.O. Box 828 • Hopkinsville, Kentucky 42241-0828

Len F. Hale
General Manager



Phone (270) 887-4248
Fax (270) 887-4244

HWEA

August 19, 2004

Mr. Ashbel Brunson, Chairman
Christian County Water District
P.O. Box 7
Hopkinsville, KY. 42241-007

Subject: KY 272 Master Meter Billing

Dear Ash:

Upon notification by the Christian County Water District (CCWD) on June 7, 2004 that the KY 272 Master Meter was improper, HWEA began an investigation to determine the facts regarding the claim contained in the subject letter. Our investigation revealed that the KY 272 master meter did contain a register that was inconsistent with the meter assembly, which would cause erroneous readings. Immediately HWEA replaced the register with the proper unit on June 10, 2004.

However HWEA was concerned with how this problem could have happened and existed for almost 9 years. All HWEA meters are Neptune meters supplied by Neptune Equipment Company (although other suppliers also represent Neptune). Most of the meters are TT type and read in cubic feet consumption. Our investigation revealed that Neptune Equipment had no records of supplying the KY 272 meter to us. This meant that the meter was supplied by someone else. Also our records showed that the original meter installed read in gallons rather than cubic feet. At that time in April 1995 we contacted Neptune and requested that the meter be changed out and they recommended that HWEA just change out the register. Neptune sent us a TT register since their records indicated that most of HWEA meters are of the TT type.

A further check of our records in 1995 indicated that the contractor for your contract to install mains on KY 272 and KY 164 also installed this master meter. Our work records show that HWEA extended the existing KY 272 main to the master meter and constructed the meter box around the meter. This explains why an HPT meter and one that read in gallons was originally installed. Unfortunately TT registers can fit into an HPT meter and actually work, although the readings will be inaccurate.

Mr. Ashbel Brunson
August 19, 2004
Page 2

The HWEA Board considered all of the facts at our monthly meeting on August 18, 2004 and at the recommendation of our general manager voted to reimburse the CCWD. Although HWEA was not entirely at fault for this situation, the fact is that the CCWD was over charged for water used through this master meter.

In his July 16, 2004 letter, Mr. James Owen stated that he would try and convince the CCWD Board to accept back payment of the amount overcharged for the last four years as fair and equitable. We trust this offer is still available. HWEA would also request that the reimbursement occur as a credit to the KY 272 meter consumption until the balance owed CCWD has been paid.

If you need additional information from us or would like to meet to discuss this matter further, please contact us. Otherwise the Board has authorized the payment of the overage based on the conditions listed above.

Sincerely,


Robert Carter,
Chairman

c: HWEA Board of Commissioners
Len Hale, General Manager
Andrew Self, HWEA Attorney
James Owen, CCWD Manager

FOR _____
Community, Town or City

P.S.C. KY. NO. _____

SHEET NO. _____

CANCELLING P.S.C. KY. NO. _____

SHEET NO. _____

(Name of Utility)

RATES AND CHARGES

Refund Plan CASE NO. 2005-00460

In the event that a refund is received from the supplier for amounts previously paid, the following tabulations will be made:

- 1. Total refund received \$ 192,533.70
- 2. Total amount of water estimated to be sold during a two (2) month period 63,542,460 gallons
- 3. Refund factor per unit of water sold (Item 1. divided by Item 2.) \$ 3.03
- 4. The refunded factor may be adjusted in the final month to more accurately reflect the amount to be refunded.
- 5. This refund will appear on the ratepayers billing statement due on or after July 5, 2006.
- 6. Billing usage rates to all ratepayers will be adjusted to reflect this refund.

DATE OF ISSUE 4/27/06
Month / Date / Year

DATE EFFECTIVE 6/5/06
Month / Date / Year

ISSUED BY Ashbel Brunson
(Signature of Officer)

TITLE Chairman

BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE COMMISSION
IN CASE NO. _____ DATED _____

FOR FIRE SERVICE AREA

Community, Town or City

P.S.C. KY. NO.

11th. Revision SHEET NO. 13

CHRISTIAN COUNTY WATER DISTRICT

(Name of Utility)

CANCELLING P.S.C. KY. NO. 2004-00024

10th. Revised SHEET NO. 12

RATES AND CHARGES

5/8 " Meter:

First 0 gallons \$ 15.00 Minimum bill
All over 0 gallons \$ 5.11 per 1,000 gallons

1" Meter:

First 5,000 gallons \$ 40.55 Minimum bill
All over 5,000 gallons \$ 5.11 per 1,000 gallons

1 1/2 Inch Meter

First 10,000 gallons \$ 66.10 Minimum bill
All Over 10,000 gallons \$ 5.11 per 1,000 gallons

2 Inch Meter

First 50,000 gallons \$ 270.50 Minimum bill
All over 50,000 gallons \$ 5.11 per thousand gallons

4 Inch Meter

First 100,000 gallons \$ 526.00 Minimum bill
All Over 100,000 gallons \$ 5.11 per thousand gallons

DATE OF ISSUE 4/27/06
Month / Date / Year

DATE EFFECTIVE 6-05-2006
Month / Date / Year

ISSUED BY Ashbel Brunson III
(Signature of Officer)

TITLE CHAIRMAN

BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE COMMISSION
IN CASE NO. DATED