

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF ESTILL)	
COUNTY WATER DISTRICT NO. 1 FOR A)	CASE NO.
SURCHARGE TO FINANCE WATER LOSS)	2019-00119
CONTROL EFFORTS)	

ORDER

On November 14, 2025, Estill County Water District No. 1 (Estill District No. 1) filed its motion for authorization to expend surcharge proceeds¹ to replace a deteriorating creek crossing near the intersection of Hargett Road and Kentucky Route 89. Estill District No. 1 further filed a petition for confidential protection,² pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1),³ for the project engineer's opinion of probable project cost for the Hargett Creek Crossing Waterline Replacement (Project Engineer's Opinion), attached as Exhibit C to its Petition for Confidential Protection.

BACKGROUND

On June 13, 2019, Estill District No. 1 tendered an application requesting implementation of a water loss surcharge to fund efforts to reduce unaccounted water loss. Estill District No. 1 sought approval to collect of \$3.54 from each customer.⁴ Estill

¹ Motion for Authorization to Expend Surcharge Proceeds (filed Nov. 14, 2025) (Motion for Authorization).

² Petition for Confidential Protection (filed Nov. 14, 2025) (Petition for Confidential Protection).

³ The Petition for Confidential Protection incorrectly cited to KRS 61.878(1) Section 4. However, the Commission notes that there is no Section 4.

⁴ Application for Authority to Commence Billing Proposed Surcharge (filed Aug. 29, 2019) (Application) at 5.

District No. 1 proposed several conditions to assure the funds are used solely to finance efforts to decrease unaccounted for water loss. These conditions included seeking Commission approval prior to expending surcharge funds, monthly activity reports which include a statement of monthly surcharge billings and collections to be filed with the Commission, and a formal Commission review of performance of the surcharge and Estill District No. 1's water loss control efforts three years after the surcharge is authorized to determine if the surcharge should be terminated or modified.⁵

On July 29, 2019, Estill District No. 1 requested permission to go forward and start collecting the surcharge.⁶ On August 29, 2019, the Commission entered an Order authorizing Estill District No. 1 to start collecting the water loss surcharge as of August 22, 2019, subject to refund.⁷

On August 31, 2023, Estill District No. 1 requested approval for certain expenditures from the water loss surcharge fund and requested that the surcharge be permitted to continue until December 31, 2025.⁸ Estill District No. 1 proposed to use the surcharge proceeds for an intensive 33-month program designed to systematically locate and repair existing leaks, identify and repair or replace sections of the District's distribution system prone to water leaks, and make other systemic improvements to enhance the district's ability to locate and repair leaks quickly.⁹ Estill District No. 1

⁵ Application at 6.

⁶ Motion for Deviation and Request for Authority to Start Billing the Proposed Surcharge (filed July 29, 2019).

⁷ Order (Ky. PSC Aug. 29, 2019) at 4, ordering paragraph 5.

⁸ Estill District No. 1's Motion for Authorization (filed August 31, 2023) at 1.

⁹ Estill District No. 1's August 31, 2023 Motion for Authorization at 8–12.

presented a projection of proposed surcharge expenditures,¹⁰ and stated that, if billing of the surcharge were allowed to end on December 31, 2025, the amount collected to that date would allow the district to implement the second phase of its water loss control plan and allow for sufficient time to assess the plan's effectiveness and to make necessary corrections.¹¹

On December 13, 2023, the Commission entered an Order granting certain expenditures from the surcharge account and stated that the status and continuing need of the water loss surcharge would be reviewed in Case No. 2023-00371.¹² After review of the status of the water loss surcharge in Case No. 2023-00371, the Staff Report did not identify a necessity for the surcharge to be continued after the requested date and recommended that the Commission grant Estill District No. 1's motion to terminate the surcharge.¹³ By Order issued on August 30, 2024, in Case No. 2023-00371, the Commission found that Estill District No. 1's water loss surcharge should terminate on December 31, 2025.¹⁴

DISCUSSION AND FINDINGS

On November 14, 2025, Estill District No. 1 requested approval to expend no more than \$40,000 of surcharge proceeds to replace a creek crossing located near the intersection of Hargett Road and Kentucky Route 89 that was recently washed out,

¹⁰ August 31, 2023 Motion for Authorization, Exhibit 12.

¹¹ August 31, 2023 Motion for Authorization at 13.

¹² Order (Ky. PSC Dec. 13, 2023).

¹³ Case No. 2023-00371, *Electronic Application of Estill County Water District No. 1 for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC May 15, 2024), Commission Staff Report at 6.

¹⁴ Case No. 2023-00371, Aug. 30, 2024 Order at 29.

exposing a 6-inch water line.¹⁵ Estill District No. 1 stated a break or rupture in existing water line will result in a loss of 11,000 gallons of water per minute and the disruption of water service to 409 customers.¹⁶ Estill District No. 1 further stated that failure to complete construction before the onset of freezing weather conditions could adversely affect the temporary water line that is currently in place.¹⁷

Estill District No. 1 obtained a project engineer's estimate of constructing the replacement.¹⁸ Estill District No. 1 stated it will invite qualified firms to submit written quotes detailing scope, pricing, and timelines for replacing the creek crossing and will award the contract to construct the replacement crossing based upon its evaluation of submitted quotes; however, the estimated project cost is less than \$40,000, and due to the urgent need for the project, formal advertising and sealed bids will not be required.¹⁹

In Estill District No. 1's Petition for Confidential Protection, it argued the disclosure of the Project Engineer's Opinion prior to the completion of the bidding process would place Estill District No. 1 at a significant disadvantage, as interested firms could use the cost estimate as a benchmark and submit higher quotes than they otherwise would if the Project Engineer's Opinion is not disclosed.²⁰ Estill District No. 1 further argued that a project engineer's opinion of probable project cost is generally recognized as confidential

¹⁵ Motion for Authorization at 2.

¹⁶ Motion for Authorization at 2.

¹⁷ Motion for Authorization at 3.

¹⁸ Motion for Authorization at 2.

¹⁹ Motion for Authorization at 2.

²⁰ Petition for Confidential Treatment at 1-2.

and proprietary prior to the submission and evaluation of bids or price quotes.²¹ Estill District No. 1 requested that the Project Engineer's Opinion be kept confidential for 30 days from the issuance of the final decision on the Motion for Authorization or until the Commission receives written notice from Estill District No. 1 that a contract for the replacement creek crossing has been awarded, whichever occurs first.²²

The Commission finds that the requested expenditure from the surcharge proceeds should be granted, as the proposed creek crossing replacement is in the interest of preventing and reducing water loss. Estill District shall file proof of payment for the Hargett Creek Crossing Waterline Replacement in the record and shall obtain prior Commission approval should any requested expenditures exceed the amount requested.

Having considered Estill District No. 1's Petition for Confidential Treatment and the material at issue, the Commission further finds that the Project Engineer's Opinion, attached as Exhibit C to the Motion for Authorization, was confidentially filed, is generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to vendors bidding on the project by disclosing a third-party's estimation of the possible expense.. Therefore, the records meet the criteria for confidential treatment and should be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. Estill District No. 1's November 14, 2025 Motion for Authorization is granted.

²¹ Petition for Confidential Treatment at 2.

²² Petition for Confidential Treatment at 2.

2. Estill District No. 1 shall file into the record proof of all payments made for the expenditures as referenced herein.

3. Estill District No. 1 shall obtain prior Commission approval for any expenditure of water loss surcharge funds that exceeds the requested amount of \$40,000.

4. Estill District No. 1's Petition for Confidential Treatment is granted.

5. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for 30 days or until the Commission receives written notice from Estill District No. 1 that a contract for the replacement creek crossing has been awarded, whichever occurs first.

6. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).

7. Estill District No. 1 shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.


8. If a nonparty to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, Estill District No. 1 shall have 20 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If Estill District No. 1 is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

9. The Commission shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no

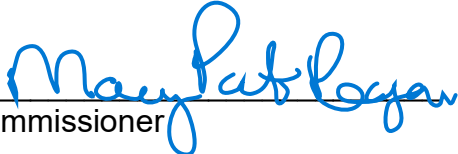
longer qualifies for confidential treatment in order to allow Estill District No. 1 to seek a remedy afforded by law.

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PUBLIC SERVICE COMMISSION


Chairman


Commissioner


Commissioner

ATTEST:

 
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