

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF SOUTHERN WATER AND	)	CASE NO.
SEWER DISTRICT FOR AN ALTERNATIVE	)	2019-00131
RATE ADJUSTMENT	)	

ORDER

On April 19, 2019, Southern Water and Sewer District (Southern District) filed an application (Application) with the Commission requesting to adjust its rates for water service pursuant to the alternative rate adjustment procedure for small utilities, 807 KAR 5:076. In the cover letter accompanying its Application, Southern District requested that emergency rates be permitted, pursuant to KRS 278.190(2), while the Commission completed its review of the rate application.

The Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General) is the only intervenor in this proceeding. A hearing was held on May 9, 2019, to determine whether the request for interim relief met the standard set forth in KRS 278.190(2). That standard requires the Commission to make a determination whether Southern District's credit or operations will be materially impaired or damaged if all or a portion of the proposed rates are not permitted to become effective during the further review of the rate application.

On May 22, 2019, the Attorney General filed comments into the record, which, among other things, recommended the Commission require Southern District to

immediately suspend meter readings and institute a flat rate to its customers.<sup>1</sup> In addition, the Attorney General recommended the Commission require Southern to concentrate on obtaining new AMR meters.<sup>2</sup> Pursuant to the post-hearing procedural schedule, Southern District was permitted to file responses to the Attorney General's comments no later than June 4, 2019, in which Southern District could have objected or suggested an alternative to billing at a flat rate until meters could be replaced. Southern District has not filed a response as of the date of this Order. Southern District will file its responses to post-hearing requests for information no later than June 18, 2019.

### DISCUSSION

Southern District has stated it is currently experiencing a negative cash flow of \$40,000 to \$50,000 per month, has bills it has not been able to pay, and was forced to borrow money from Floyd County government to cover its expenses.<sup>3</sup> Southern District's accountant testified that the utility is in significantly worse financial condition today than it was one year ago.<sup>4</sup> Further, due to its financial condition and negative cash flow, Southern District cannot continue to serve its customers unless its financial condition improves.<sup>5</sup>

Based on the present financial condition of Southern District, as presented in its most recently filed annual report, the testimony of Southern District officials at the May,

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<sup>1</sup> Case No. 2019-000131, *Application of Southern Water and Sewer District for an Alternative Rate Adjustment*, Attorney General's Comments (May 22, 2019) at 2.

<sup>2</sup> *Id.* at 3.

<sup>3</sup> May 9, 2019 Hearing Video Transcript (HVT) at 9:26:37.

<sup>4</sup> *Id.* at HVT 1:38:05.

<sup>5</sup> *Id.* at 3:37:05.

9, 2019 hearing, and the case record developed to date, the Commission finds that an emergency exists and that Southern District's credit or operations will be materially impaired unless an interim rate increase is granted prior to the final Order of the Commission in this proceeding. Further, the Commission, in considering the emergency rate relief request, must act in order to ensure the financial solvency of Southern District.

The Commission concurs with the Attorney General that the rate increase should be in the form of a flat rate, rather than an increase to the volumetric rate. At the May 9, 2019 hearing, representatives of Southern District and Utility Management Group, LLC (UMG), the current managers of Southern District, testified that of the approximately 5,000 meters in Southern District's system, between 700 and 750 meters registered zero usage, despite the fact that water was being consumed by those households. Because Southern District has not tested meters in over ten years and does not have an inventory of reliable meters, the zero read meters cannot be replaced with functioning meters. This means that, until Southern District is financially able to replace its meters, at least 15 percent of Southern District's customers pay only the minimum bill, and thus receive a financial benefit by consuming more water than they are paying for. If the Commission were to approve a volumetric rate, a significant portion of the increase would fall upon those customers with functioning meters who are currently subsidizing at least 15 percent of Southern District's customers with non-functioning meters. Given this reality, there is no equitable way to ensure that Southern District's ratepayers receive fair, just, and reasonable treatment other than to institute a flat rate for the interim period pending a final decision by the Commission. Therefore, based upon the extraordinary circumstances, the Commission finds that a flat rate customer charge be instituted on an

interim basis for Southern District, with the specific conditions set forth in this interim Order.

The Commission notes that this Order should not be interpreted as a final determination that the revenue requirement as a whole, or any expense included therein, is reasonable. Rather, the Commission finds that a report from Commission Staff is necessary in this matter to fully develop the record, and the Commission is only authorizing the interim rates discussed above to go into effect subject to a refund during the pendency of this matter to prevent Southern District's financial impairment during the development of the record. If Commission Staff's report or other evidence later indicates that the rates approved herein, or any portion thereof, were unreasonable then any unreasonable amount will be subject to a refund.

The Commission has considered the Attorney General's proposal that Southern District should temporarily cease all meter reading. The Attorney General raises a valid point that it does not make financial sense to continue to incur the expense of reading meters if the meters do not accurately convey usage. As noted above, Southern District's meters have not been tested for at least ten years, which is a violation of the meter testing regulations. However, the failure to test meters arose from previous management and previous water district commissioners. The poor condition of Southern District's meters, the lack of inventory of reliable replacements, and Southern District's dire financial condition give rise to an extraordinary circumstance and the Commission reluctantly finds that Southern District should temporarily cease both meter reading and testing, and, instead, focus its efforts upon replacing all meters in its system.

The Commission further finds that Southern District should immediately obtain and evaluate proposals to replace all meters for the retail customers within its system. Southern District must file for Commission approval of the meter replacements prior to executing any contracts with meter vendors. To ensure that Southern District timely acts to replace its meters, the Commission finds that Southern District should issue a request for bids for new meters no later than July 15, 2019, and that Southern District should file with the Commission a copy of its request for bids no later than July 20, 2019. If Southern District fails to comply with these dates, the Commission will evaluate rescission of our approval of the interim rates.

Southern District entered into a short-term loan with Floyd County Fiscal Court and a management agreement with UMG. Southern District representatives testified to the possibility of obtaining a two-year loan with balloon payments. Given Southern District's financial condition, the Commission finds that Southern District should not enter into any formal contract for management, finance, or otherwise for longer than 30 days without obtaining prior Commission approval.

Finally, the Commission strongly encourages Southern District to evaluate consolidation with or acquisition by another water utility. Southern District representatives testified that they wanted to work to improve Southern District's financial position before exploring such options. However, given the significant financial issues, such as poor or nonexistent internal controls; management issues, such as allowing a significant portion of its customers pay for less water than actually used; and infrastructure issues, such as non-functioning meters and significant water loss from leaks, it is in the best interest of

Southern District's ratepayers that the Board seriously consider the financial and service benefits of being acquired by a financially-stable water utility.

### FINDINGS

After consideration of the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. Southern District should be granted flat interim rates sufficient to generate total revenues from rates of approximately \$3,809,234.

2. The approved rates will increase a typical residential customer's<sup>6</sup> bill from \$41.40 to a flat rate of \$58.82, an increase of \$17.42, or 42.07 percent.

3. The interim base rate increase shall be subject to refund pending final determination of Southern District's request for permanent rate relief.

4. The interim base rate is conditioned upon Southern District obtaining proposals from meter vendors to replace the system's meters. By July 15, 2019, Southern District must issue a request for bids. By July 20, 2019, Southern District must file a copy of the request for bids with the Commission.

5. Southern District should file a monthly report, beginning August 1, 2019, and on a continuing basis, no later than the first day of each month reporting on the status of obtaining replacement meters.

IT IS THEREFORE ORDERED that:

1. Southern District is authorized to place into effect the interim base rate increase, subject to refund, set forth in the Appendix to this Order, for service rendered on and after the date of this Order.

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<sup>6</sup> A typical residential customer purchases 4,000 gallons of water per month through a 5/8-inch x 3/4-inch meter.

2. Southern District shall maintain its records in such a manner as will enable it, or the Commission, or any of Southern District's customers, to determine the amounts to be refunded and to whom any refund is due in the event that a refund of any portion of the interim base rate increase is ordered by the Commission.

3. Southern District shall issue a request for bids for the replacement of its meters no later than July 15, 2019.

4. Southern District shall file the request for bids with the Commission no later than July 20, 2019.

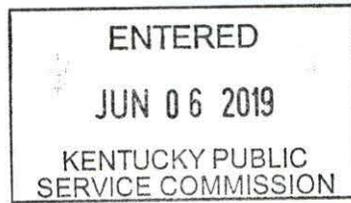
5. Southern District shall file a written report with the Commission, beginning August 1, 2019, and continuing on the first day of each subsequent month for the next six months, providing the status of Southern District's progress in obtaining replacement meters.

6. Southern District shall cease both the reading and testing of its meters until further Order of the Commission.

7. During the pendency of this case, Southern shall not enter into any contract for management, finance, or otherwise for a period longer than 30 days without the prior written consent of the Commission.

8. Within 20 days of the date of this Order, Southern District shall file with this Commission, using the Commission's electronic Tariff Filing System, new tariff sheets setting forth the rates and charges approved herein and their effective date, and stating that the rates and charges were authorized by this Order.

By the Commission



ATTEST:

  
Executive Director

Case No. 2019-00131

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2019-00131 DATED **JUN 06 2019**

The following rates and charges are prescribed on an interim basis, subject to refund, for the customers in the area served by Southern Water and Sewer District. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under the authority of the Commission prior to the effective date of this Order.

Monthly Water Rates

All Retail Customers (FLAT RATE) \$58.82 per month

Wholesale Rates

City of Hindman	3.97 per 1,000 Gallons
Knott County Water District	4.05 per 1,000 Gallons
City of Wheelwright	3.94 per 1,000 Gallons

\*Steven P. Bailey  
Attorney  
Bailey Law Office, P.S.C.  
181 East Court Street  
Prestonsburg, KENTUCKY 41653

\*Southern Water & Sewer District  
245 Kentucky Route 680  
P. O. Box 610  
McDowell, KY 41647

\*Jeff Prater  
Chairman  
Southern Water & Sewer District  
245 Kentucky Route 680  
P. O. Box 610  
McDowell, KY 41647

\*Justin M. McNeil  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204

\*Kent Chandler  
Assistant Attorney General  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204

\*Larry Cook  
Assistant Attorney General  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204

\*Rebecca W Goodman  
Assistant Attorney General  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204