

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC JOINT APPLICATION OF	)	
SOUTHEAST DAVIESS COUNTY WATER	)	CASE NO.
DISTRICT AND WEST DAVIESS COUNTY	)	2020-00287
WATER DISTRICT FOR AN ORDER APPROVING	)	
THEIR MERGER AGREEMENT	)	

ORDER

On September 4, 2020, pursuant to KRS 278.020(6), Southeast Daviess County Water District (Southeast Daviess District) and West Daviess County Water District (West Daviess District) (collectively, Joint Applicants) filed an application requesting approval of their merger agreement. The application was accepted for filing on September 4, 2020.

PROCEDURAL

To ensure the orderly review of the application, the Commission found good cause to continue the proceeding for 60 additional days and established a procedural schedule by Order entered October 23, 2020.

The Commission takes administrative notice of the ongoing proceedings in Case No. 2020-00195<sup>1</sup> and Case No. 2020-00196<sup>2</sup> in which each utility here has requested an increase in base rates based upon the alternative rate adjustment process. In the interest of administrative efficiency, the verified information submitted by the Joint Applicants in

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<sup>1</sup> Case No. 2020-00195, *Electronic Application of Southeast Daviess County Water District for an Alternate Rate Adjustment* (filed June 23, 2020).

<sup>2</sup> Case No. 2020-00196, *Electronic Application of West Daviess County Water District for an Alternate Rate Adjustment* (filed June 23, 2020).

this case and in the above-referenced cases was used by the Commission in this matter to determine the financial, technical, and managerial abilities of the Joint Applicants to provide reasonable service should the merger be approved. Additionally, the Joint Applicants requested an expedited review of the merger agreement,<sup>3</sup> and the Commission utilized the materials of record in all three cases to assist in that effort.

### DISCUSSION

Southeast Daviess District was established on July 29, 1964, and is a water district organized under the provisions of KRS Chapter 74.<sup>4</sup> Southeast Daviess District is engaged in the distribution and sale of water in Daviess County, Kentucky. As of December 31, 2019, Southeast Daviess District provided retail water service to approximately 7,603 customers in Daviess County, Kentucky.<sup>5</sup> It has no wastewater customers.

West Daviess District was established on January 11, 1966, and is a water district organized under the provisions of KRS Chapter 74.<sup>6</sup> West Daviess District is engaged in the distribution and sale of water in Daviess County, Kentucky. As of December 31, 2019, West Daviess District provided retail water service to approximately 5,342 customers in Daviess County, Kentucky.<sup>7</sup> It has no wastewater customers.

Both Southeast Daviess District and West Daviess District are wholesale water

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<sup>3</sup> Application at 15.

<sup>4</sup> *Id.* at 4.

<sup>5</sup> *Annual Report of Southeast Daviess County Water District to the Kentucky Public Service Commission for the Year Ending December 31, 2019* at 49.

<sup>6</sup> Application at 4.

<sup>7</sup> *Annual Report of West Daviess County Water District to the Kentucky Public Service Commission for the Year Ending December 31, 2019* at 49.

customers of Owensboro Municipal Utilities (OMU). They each purchase water from OMU pursuant to the provisions of separate long-term water supply contracts with OMU. These contracts are on file with the Commission.

The existing service areas of Southeast Daviess District and West Daviess District are not contiguous.<sup>8</sup> The Joint Applicants each own and operate separate water distribution facilities, and maps identifying the facilities were attached to the application.<sup>9</sup> Southeast Daviess District and West Daviess District have separate governing bodies; however, they have historically shared office space and employees. Both districts have always “shared” the services of a general manager.<sup>10</sup> The Joint Applicants state that:

The first General Manager was Jan Kuegel. He was hired as General Manager by the Southeast Board of Commissioners in 1965. Then, when West was formed, the West Board of Commissioners also hired Jan Kuegel as its General Manager. Mr. Kuegel continued to serve as General Manager of both districts until his death in 2004. Then, the districts hired William G. Higdon to be the General Manager of both Southeast and West. He continues to serve as the General Manager for each district. Hence, the Board of Commissioners of both Southeast and West are very familiar with the operations of the other district.<sup>11</sup>

On August 18, 2020, the Joint Applicants entered into a Merger Agreement (the Merger Agreement) whereby West Daviess District will merge with and into Southeast Daviess District and Southeast Daviess District will be the surviving water district.<sup>12</sup> On

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<sup>8</sup> Application, Exhibits 3, 4, and 5 are maps of the territorial boundaries and the service areas for the Joint Applicants.

<sup>9</sup> Application, Exhibit 6.

<sup>10</sup> *Id.* at 5.

<sup>11</sup> *Id.*

<sup>12</sup> Application at 6, Exhibit 7.

August 11, 2020, Southeast Daviess District adopted Resolution No. 2020-08-01 authorizing the merger of Southeast Daviess District and West Daviess District, approving the Merger Agreement, and authorizing the chairman to execute the Merger Agreement and to file an application for approval of the merger with the Commission.<sup>13</sup> On August 18, 2020, West Daviess District adopted Resolution No. 2020-08-01 authorizing the merger of Southeast Daviess District and West Daviess District, approving the Merger Agreement, and authorizing the chairman to execute the Merger Agreement and file an application for approval of the merger with the Commission.<sup>14</sup>

The Merger Agreement provides that West Daviess District will merge with and into Southeast Daviess District and the separate existence of West Daviess District shall cease. The title to all property, whether real, personal, or intangible, owned by West Daviess District will automatically be vested in Southeast Daviess District by operation of law. All investment accounts maintained by West Daviess District will become Southeast Daviess District's investment accounts. Southeast Daviess District will also assume all the liabilities of West Daviess District.<sup>15</sup>

As of the effective date of the merger, Southeast Daviess District's name shall be changed to the "Daviess County Water District." Also, the territorial boundaries of Southeast Daviess District shall be expanded to include the entire existing territorial boundaries of West Daviess District. In accordance with KRS 74.363(2), the current members of Southeast Daviess District's board of commissioners and the current

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<sup>13</sup> *Id.* at 6, Exhibit 8.

<sup>14</sup> *Id.* at 6, Exhibit 9.

<sup>15</sup> *Id.* at 6–7.

members of West Daviess District's board of commissioners will serve as members of the Daviess County Water District Board of Commissioners until one year after approval of the merger by the Commission. Thereafter, the board of commissioners of the Daviess County Water District will be composed of six members. The Daviess County Judge/Executive, with approval of the Daviess County Fiscal Court, will appoint two commissioners to serve a two-year term, two commissioners to serve a three-year term, and two commissioners to serve a four-year term. Thereafter, all commissioners of the Daviess County Water District will be appointed for a term of four years.<sup>16</sup>

Southeast Daviess District and West Daviess District already share office space and employees. The merged district, Daviess County Water District, will maintain the same office and will retain all the current employees. No new employees will be added.<sup>17</sup>

Based upon the evidence in this proceeding, as well as the evidence of the case records incorporated herein, the Commission finds that:

1. KRS 278.020(6) and (7) state that the Commission must authorize the transfer of ownership or control of any entity under its jurisdiction prior to the transaction taking place. KRS 278.020(6) further states that the Commission shall grant its approval if the acquiring entity has the "financial, technical, and managerial abilities to provide reasonable service."

2. The Joint Applicants have provided the financial documents to prove the consolidated utility has the financial abilities to provide reasonable service to its

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<sup>16</sup> Application at 7.

<sup>17</sup> *Id.*

customers.<sup>18</sup>

3. The Joint Applicants have certified water distribution system operators who hold valid water certification licenses issued by the Kentucky Board of Certification of Water System Operators to prove that Southeast Daviess District has the technical ability to provide reasonable service to West Daviess District's customers in addition to continuing to provide adequate service to its own customers.<sup>19</sup>

4. The Joint Applicants have shown that the combined district will have approximately 13,000 water customers and have proven that managing a single district with one board of commissioners will be much simpler for the general manager and other management staff so that the combined utility will have sufficient managerial ability to provide reasonable service to all of its customers.<sup>20</sup>

5. The merger would benefit the Joint Applicants and create efficiencies and shared resources that will ultimately benefit the ratepayers.

6. The merger would further the public policy of the Commonwealth of Kentucky, "to encourage regionalization, consolidation, and merger of water districts wherever feasible."<sup>21</sup>

7. The Joint Applicants' application for merger should be approved and rates decided upon for each applicant in Case No. 2020-00195 and Case No. 2020-00196, should be used for approximately a year, until the consolidated utility formed should file an application with the Commission to adjust its rates to a uniform schedule.

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<sup>18</sup> Application at 9.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

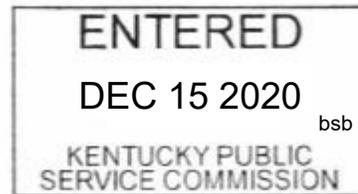
<sup>21</sup> *Id.* at 10, citing KRS 224A.300(1) and KRS 74.361(1).

IT IS THEREFORE ORDERED that:

1. The application for merger is approved.
2. The consolidated utility shall file for an adjustment in rates one year from the date of the final Orders in Case No. 2020-00195 and Case No. 2020-00196.
3. This case is closed and removed from the Commission's docket.

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By the Commission



ATTEST:

A handwritten signature in blue ink that reads "Linda C. Bidwell". The signature is written in a cursive style.

Executive Director

Case No. 2020-00287

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