

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF THE CITY	)	
OF EDDYVILLE REVISING ITS WHOLESALE	)	CASE NO.
WATER SERVICE RATES TO LYON COUNTY	)	2022-00138
WATER DISTRICT	)	

ORDER

On May 13, 2022, pursuant to 807 KAR 5:011, the city of Eddyville (Eddyville) filed a revised tariff proposing to increase its existing rate for wholesale water service to Lyon County Water District (Lyon District).<sup>1</sup> On its own motion the Commission opened a formal proceeding to investigate the reasonableness of the proposed rate and establish a procedural schedule. By Order dated June 2, 2022, pursuant to KRS 278.190(2), the Commission determined that further proceedings were necessary and suspended the rates for five months, up to and including November 24, 2022. Eddyville responded to Commission Staff's First Request for Information and Commission Staff's Supplemental Request for Information on July 18, 2022. Eddyville then filed a motion on July 19, 2022, requesting an Order to accept its proposed wholesale rate and close this proceeding.

LEGAL STANDARD

Pursuant to KRS 278.200, the Commission has jurisdiction over Eddyville's rates for wholesale water service to Lyon District. The Supreme Court's decision in *Simpson*

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<sup>1</sup> KRS 278.190(3) requires that the Commission render a final decision on Eddyville's proposed rate no later than ten months after the filing of the schedule. This ten-month period ends on March 13, 2023.

*County Water District v. City of Franklin*<sup>2</sup> specifically stated that “where contracts have been executed between a utility and a city . . . KRS 278.200 is applicable and requires that by so contracting the City relinquishes the exemption and is rendered subject to the PSC rates and service regulation.”<sup>3</sup> Following the Court’s decision in *Simpson County*, the Commission has allowed city-owned utilities to file rate adjustments by a tariff filing, and, if a hearing is requested and the Commission suspends the proposed rate, then the requirements and procedures set forth in KRS Chapter 278 and in Commission regulations in 807 KAR Chapter 5 apply equally to filings by a city-owned utility or a jurisdictional utility.<sup>4</sup>

The Commission must determine whether Eddyville’s proposed rate increase is fair, just and reasonable based upon the evidentiary record. Eddyville’s wholesale water rate charged to Lyon District is subject to KRS 278.030, which provides that a utility may collect fair, just and reasonable rates. KRS 278.260 provides that the Commission, on its own motion, has jurisdiction to determine whether the measurement, practice, or act affecting or relating to the service of the utility is unreasonable.

### BACKGROUND

Eddyville currently charges Lyon District \$4.09 per 1,000 gallons purchased.<sup>5</sup> Eddyville’s proposal increases the wholesale water rate by \$0.12 per 1,000 gallons, or

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<sup>2</sup> *Simpson County Water District v. City of Franklin*, 872 S.W.2d 460, 463 (Ky. 1994).

<sup>3</sup> *Simpson County Water District*, 872 S.W.2d at 463.

<sup>4</sup> *Simpson County Water District*, 872 S.W.2d at 463; *City of Danville v. Public Service Comm’n*, Civil Action No. 15-CI-00989, *Opinion and Order* (Franklin Circuit Court Division II, June 14, 2016).

<sup>5</sup> TFS 2020-00098, *Electronic Proposed Adjustment of the Wholesale Water Service Rates of the City of Eddyville to Lyon District* (accepted July 13, 2020).

3 percent, to \$4.21 per 1,000 gallons. The table below is a comparison of Eddyville’s current and proposed volumetric wholesale rates for Lyon District.

	Existing	Proposed	Increase	
	Rate	Rate	\$	%
Wholesale Rate per Thousand Gallons	\$ 4.09	\$ 4.21	\$0.12	2.93%

Eddyville is a city that owns water treatment and distribution facilities that are operated as a department of the city, pursuant to KRS 96.320. In addition to retail water service, Eddyville provides wholesale water service to Lyon District.<sup>6</sup>

Lyon District is a water district organized pursuant to KRS Chapter 74 that owns and operates a water distribution system through which it provides water service to approximately 2,751 retail customers in Lyon County, Kentucky.<sup>7</sup> Lyon District’s last general rate adjustment occurred in 2021.<sup>8</sup> Eddyville responded to two rounds of requests for information from Commission Staff; in which it provided a copy of the city water ordinance that Eddyville relied upon to increase the wholesale water rate to Lyon District on March 13, 2022.

DISCUSSION

As noted above, Eddyville’s proposed rate increase is not based upon the actual cost of producing water, but instead, is based upon a fixed increase taking place in 2022, 2024, and 2026 that was established in an ordinance passed on February 1, 2016.<sup>9</sup> While

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<sup>6</sup> Eddyville’s Response to Commission Staff’s First Request for Information (Staff’s First Request) (filed July 18, 2022), Item 2a.

<sup>7</sup> *Annual Report of Lyon County Water District to the Public Service Commission for the Calendar Year Ended December 31, 2020* at 12 and 49.

<sup>8</sup> Case No. 2021-00391, *Electronic Application of Lyon County Water District for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Mar.13, 2022).

<sup>9</sup> Eddyville’s Response to Staff’s Request, Item 11.

no concrete mechanism was used to determine the scheduled increase, the Commission reviewed Eddyville’s audited financial statements for the fiscal years ended June 30, 2018, through 2021 to assess the financial health of Eddyville’s Water Fund with respect to its cost to provide wholesale water. The Water Fund reflects a loss each year on an adjusted net income basis as shown in the table below; however, it reflects positive cash flow after adding back depreciation. A 3 percent increase in water rates will generate \$24,404 in additional revenue.<sup>10</sup> The Commission finds that the city could justify fair, just and reasonable rates in excess of a 3 percent increase because the proposed revenue increase will increase the level of net income; however, the Commission notes that it will not offset the current level of adjusted net losses.

Description / Year	2018	2019	2020	2021
Net Income before Contributions	\$ 100,562	\$ 102,692	\$ 104,036	\$ 90,735
Pension / OPEB Non-Cash Adjustments	(10,245)	24,526	37,851	(587)
Subtract: Principal Payments ( )	(181,313)	(186,985)	(191,420)	(195,960)
<b>Adjusted Net Income / (Loss)</b>	<b>\$ (90,996)</b>	<b>\$ (59,767)</b>	<b>\$ (49,533)</b>	<b>\$ (105,812)</b>
Add: Depreciation Expense	251,385	255,184	254,902	260,298
Cash Basis Income	<u>\$ 69,393</u>	<u>\$ 135,650</u>	<u>\$ 155,836</u>	<u>\$ 48,674</u>

For the reasons discussed above, the Commission finds that Eddyville’s proposed rate increase is fair, just and reasonable and based on the city’s cost to provide water.

IT IS THEREFORE ORDERED that:

1. Eddyville’s July 19, 2022 motion is granted.
2. The wholesale rate of \$4.21 per 1,000 gallons proposed by Eddyville is approved.
3. This case is closed and removed from the Commission’s docket.

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<sup>10</sup> City of Eddyville, 2021 Audited Financial Statements, Water Fund Revenue \$813,454 times 3% equals \$24,404.

PUBLIC SERVICE COMMISSION



Chairman

Vice Chairman



Commissioner



ATTEST:



Executive Director

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