

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC FILING OF BLACK MOUNTAIN)	
WATER DISTRICT UNACCOUNTED FOR WATER)	CASE NO.
LOSS REDUCTION PLAN, SURCHARGE AND)	2023-00202
MONITORING)	

ORDER

On September 30, 2024, Black Mountain Water District (Black Mountain District) filed a motion for approval to expend water loss surcharge funds, including expenses for leak detection services performed by an employee of Black Mountain District's system in the amount of \$14,428.16. On March 11, 2025, Black Mountain District further moved for approval to expend water loss surcharge funds for various repairs made at six locations to its system following a state of emergency declared on January 25, 2025.

BACKGROUND

By Order issued October 9, 2023, in Case No. 2022-00275¹ the Commission approved an unaccounted-for water loss reduction surcharge for Black Mountain District and ordered Black Mountain District to file a Qualified Infrastructure Improvement Plan (QIIP) with the Commission. The Commission opened this proceeding to monitor Black Mountain District's surcharge billings, collection, deposits, and expenditures.

On February 1, 2024, Black Mountain District filed a proposed QIIP. On April 22, 2024, Black Mountain District filed a motion for approval to expend water loss surcharge

¹ Case No. 2022-00275, *Electronic Application of Black Mountain Utility District for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Oct. 9, 2023), Order.

funds for leak repairs performed at Dayhoit Creek, Camp Creek, and Brooks Street, as well as the purchase of a leak detector. By Order issued May 30, 2024, the Commission approved the purchase of an AQUASCOPE leak detector in the amount of \$2,800. Further, by Order issued June 14, 2024, the Commission approved expenditures from the surcharge account for the repairs at Dayhoit Creek, Camp Creek, and Brooks Street. Black Mountain District filed an additional motion on July 24, 2024, that requested approval for the purchase of an alternate leak detector in the amount of \$5,200, and the Commission granted approval of that purchase by Order issued August 15, 2024.

Black Mountain District's September 30, 2024 motion requested approval for expenditures for leak repairs at Church Street, Dockie Lane, Ligget Street, Brooks Street, Fredrick Street, and Terrys Fork Road, and leak detection services performed by an employee throughout Black Mountain District's system. By Order issued December 16, 2024, the Commission granted approval for expenditures for the referenced leak repairs, but continued for discovery, the expenditure of \$14,428.16 for the leak detection services performed by the Black Mountain District employee from May 1, 2024, to August 30, 2024.

DISCUSSION AND FINDINGS

Black Mountain District's September 30, 2024 motion included a request for approval to expend water loss surcharge funds to pay for leak detection services performed by Black Mountain District employee, Daniel Smith, from May 1, 2024, through August 30, 2024, in the amount of \$14,428.16.² Black Mountain District confirmed through discovery that Mr. Smith was paid his normal wages for these services.³

² Motion to Use Surcharge Funds (filed Sept. 30, 2024).

³ Black Mountain District's response to Commission Staff's Fourth Request for Information, Item 3 (filed Jan. 2, 2025).

While the Commission has granted approval to expend surcharge funds for leak detection services,⁴ expenditures for dedicated personnel specifically assigned leak detection functions, has only been approved in light of clear evidence that all duties being performed and compensated are related to leak detection. In this instance, the request is for reimbursement of normal wages for Mr. Smith, who appears to have been working his normal hours, while being paid his normal wages, and there has been no claim made that these services were outside of Mr. Smith's normal duties. For these reasons, the Commission finds that the request for approval to expend \$14,428.16 from water loss surcharge funds for leak detection services performed by Mr. Smith should be denied.

On March 11, 2025, Black Mountain District filed a motion to expend water loss surcharge funds for various repairs made in six locations to its system following a state of emergency declared by the Harlan County Judge Executive on January 25, 2025.⁵ At that time, Black Mountain District had approximately 1,750 customers without water.⁶ During this state of emergency, it was discovered that the telemetry system was not working throughout the system, which required employees to drive to each tank to check water levels.⁷ While employees were checking the tank levels, Black Mountain District was alerted that the pumps at Daniels Mountain, Dayhoit, Slickey Ridge, Putney Booster Pump Station, and Pine Mountain were either not operational or leaking water from the

⁴ See Case No. 2021-00206, *Electronic Morgan County Water District's Unaccounted-for Water Loss Reduction Plan, Surcharge and Monitoring* (Ky. PSC June 29, 2023) Order; Case No. 2023-00333 *Electronic Henderson County Water District Unaccounted for Water Loss Reduction Plan, Surcharge and Monitoring* (Ky. PSC July 27, 2024), Order.

⁵ Motion to Use Surcharge Funds (filed Mar. 11, 2025).

⁶ Motion to Use Surcharge Funds (filed Mar. 11, 2025) at 2.

⁷ Motion to Use Surcharge Funds (filed Mar. 11, 2025) at 2.

pumps in large volumes; and therefore, water that was being acquired from the city of Harlan was not making it into the tanks to serve customers.⁸

Black Mountain District further stated its manager had previously given his notice of resignation, which was effective the same day that the state of emergency was declared.⁹ That same week, two other Black Mountain District employees resigned, which essentially cut Black Mountain District's field staff from six employees down to three.¹⁰ As a result, the Harlan County Judge Executive requested that additional personnel be dispatched from several regional water districts to help.¹¹ Black Mountain District received assistance from Cumberland Falls Highway Water District, Wood Creek Water District, City of Middlesboro, Water Service Corps of Kentucky, and Caywood Water District over a 5-day period to restore water to its customers and prevent water loss.¹² Black Mountain District provided invoices for these repairs, in the total amount of \$75,736.25.¹³

⁸ Motion to Use Surcharge Funds (filed Mar. 11, 2025) at 2.

⁹ Motion to Use Surcharge Funds (filed Mar. 11, 2025) at 2.

¹⁰ Motion to Use Surcharge Funds (filed Mar. 11, 2025) at 2.

¹¹ Motion to Use Surcharge Funds (filed Mar. 11, 2025) at 2.

¹² Motion to Use Surcharge Funds (filed Mar. 11, 2025) at 2.

¹³ Motion to Use Surcharge Funds (filed Mar. 11, 2025), Attachment A, Invoices for Reimbursement: Putney Community Louellen Community Line Repairs Leak Detection 1.23.25; Daniels Mtn Main Repair 1.22.25; Green Hills Leak Detection Services 1.20.25; Laden Oaks Leak Detection Services 1.24.25; Putney Community Louellen Community Line Repairs Leak Detection 1.23.25; Wallins Leak Detection Services 1.21.25; Coldiron Wallins Leak Detection Services 1.15.25; Daniels Mtn Leak Detection Services Line Repair 1.19.25; Happy Top Leak Detection Services 1.16.25; Kenvir Leak Detection Services 1.18.25; Leggett Street Flow Meter Leak Detection Services 1.17.25; Banner Fork Community Leak Detection Services and Line Flushing 1.28.25; Bledsoe Woodward Branch Community Leak Detection 1.31.25; Coldiron Master Meter Leak 1.14.25; Daniels Mtn Pump Station Pump Repairs 2.23.25; Nolansburg Community Line Repair 1.30.25; Putney, Daniels Mtn, Sukey Ridge Pump Station Pump Repairs 2.20.25; Putney, Wallins, Daniels Mtn Community Leak Detection 1.29.25; Putney Community Leak Detection and Line Repair 1.26.25; Putney Pump Station – Pump Repairs 2.22.25; Sawbriar Community Leak Detection and Line Repair 1.27.25; Sukey Ridge Pump Station – Pump Repairs 2.24.25; Wallins Community Leak Detection and Line Repair 1.25.25; Wallins Fire Department Leak

The Commission finds that the expenses included in Black Mountain District's March 11, 2025, motion were necessitated due to massive leaks or failures in the system which required repairs in order to prevent further water loss, and the request for approval to expend surcharge funds in the amount of \$75,736.25 should be approved.

IT IS THEREFORE ORDERED that:

1. The expenditure of \$14,428.16 for leak detection performed by Black Mountain District employee at various points in Black Mountain District's system from May 1, 2024, to August 30, 2024, is denied.

2. The expenditure of \$75,736.25 for repairs to the six locations following the January 25, 2025 state of emergency in Harlan County, Kentucky, from the water loss surcharge funds is approved.

1.13.25; Woodward Branch Leak Detection Line Repair 1.24.25; Baxter Seargent Road Reservoir Repair 1.28.25; Dayhoit Meter Repair 1.26.25; Gabes Branch Community Leak Detection 2.1.25; Wallins Kentenia Trailer Park PRV Repair 1.26.25.

PUBLIC SERVICE COMMISSION

Chairman

Vice Chairman

Commissioner

ATTEST:


Executive Director



Case No. 2023-00202

*L. Allyson Honaker
Honaker Law Office, PLLC
1795 Alysheba Way
Suite 1203
Lexington, KY 40509

*Shawn Miller
Commissioner
Black Mountain Utility District
609 Four Mile Road
Baxter, KY 40806-8437

*Black Mountain Utility District
609 Four Mile Road
Baxter, KY 40806-8437

*Chad Brock
Chairman
Black Mountain Utility District
609 Four Mile Road
Baxter, KY 40806-8437

*Black Mountain Utility District
609 Four Mile Road
Baxter, KY 40806-8437

*Brandon Shepherd
Commissioner
Black Mountain Utility District
609 Four Mile Road
Baxter, KY 40806-8437

*Bill Clem
Commissioner
Black Mountain Utility District
609 Four Mile Road
Baxter, KY 40806-8437

*Dwayne Williams
Commissioner
Black Mountain Utility District
609 Four Mile Road
Baxter, KY 40806-8437

*Grant Cooper
Manager
Black Mountain Utility District
609 Four Mile Road
Baxter, KY 40806-8437