

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF LEVEE ROAD	)	CASE NO.
WATER ASSOCIATION, INC. FOR A RATE	)	2024-00067
ADJUSTMENT PURSUANT TO 807 KAR 5:076	)	

ORDER

On April 11, 2024,<sup>1</sup> Levee Road Water Association, Inc. (Levee Road Water) tendered an application with the Commission requesting an adjustment to its water rates pursuant to 807 KAR 5:076. In its application, Levee Road Water used the calendar year ended December 31, 2022, as a basis for the application. Levee Road Water has not filed its 2023 Annual Report with the Commission and has a pending request for an extension to file its annual report.<sup>2</sup> No motion was filed requesting a deviation to 807 KAR 5:076, Section 9.

LEGAL STANDARD

Commission regulation 807 KAR 5:076, Section 9 states that, “[t]he reasonableness of the proposed rates shall be determined using a twelve (12) month historical test period, adjusted for known and measurable changes, that coincides with the reporting period of the applicant’s annual report for the immediate past year.”

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<sup>1</sup> Levee Road Water’s application was not deemed filed on April 11, 2024, due to other deficiencies noted in the letter dated Apr. 18, 2024.

<sup>2</sup> 807 KAR 5:006, Section 4 requires annual reports to be filed by March 31<sup>st</sup> of the preceding year.

Commission regulation 807 KAR 5:076, Section 17 provides the Commission with the authority to permit deviations from the regulations in 807 KAR 5:076 upon a showing of good cause.

### DISCUSSION

The Commission, on its own motion, finds that Levee Road Water should be granted a deviation from 807 KAR 5:076, Section 9. Levee Road Water has not had a rate case since 1992.<sup>3</sup> Levee Road Water has only increased rates through Certificates of Public Convenience and Necessity and Purchase Water Agreements since its last rate case.<sup>4</sup> As a result, Levee Road Water has had a negative net income for the past five years and depreciation has not been fully funded during the same period.<sup>5</sup>

Commission regulation 807 KAR 5:076, Section 9 requires a utility to use a 12-month historical test year that coincides with the applicant's annual report for the

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<sup>3</sup> See Case No. 1992-00007, *The Application of Levee Road Water Association, Inc. for a Rate Adjustment pursuant to the Alternative Rate Filing Procedure for Small Utilities* (Ky. PSC Jan. 2, 1992).

<sup>4</sup> See Case No. 1995-00457, *The Application of Levee Road Water Association for a Purchased Water Adjustment* (Ky. PSC Oct. 16, 1995); Case No. 2006-00088, *Purchased Water Adjustment of Levee Road Water Association* (Ky. PSC Mar. 24, 2006); Case No. 2011-00278, *Purchased Water Adjustment of Levee Road Water Association* (Ky. PSC Jul. 19, 2011); Case No. 2013-00254, *Purchased Water Adjustment Filing of Levee Road Water Association* (Ky. PSC Jul. 1, 2013); Case No. 2015-00345, *Purchased Water Adjustment Filing of Levee Road Water Association* (Ky. PSC Oct. 21, 2015); Case No. 2016-00364, *Purchased Water Adjustment Filing of Levee Road Water Association* (Ky. PSC Oct. 13, 2016); Case No. 2018-00099, *Purchased Water Adjustment Filing of Levee Road Water Association, Inc.* (Ky. PSC Mar. 9, 2018); Case No. 2018-00184, *Purchased Water Adjustment Filing of Levee Road Water Association, Inc.* (Ky. PSC Jun. 4, 2018); Case No. 2019-00209, *Electronic Purchased Water Adjustment Filing of Levee Road Water Association, Inc.* (Ky. PSC Jun. 21, 2019); and Case No. 2021-00015, *Electronic Application of Levee Road Water Association, Inc for a Certificate of Public Convenience and necessity to Construct a System Improvements Project and an Order Approving a Change in Rates and Authorizing the Issuance of Securities pursuant to KRS 278.0239* (Ky. PSC Jan. 25, 2021).

<sup>5</sup> *Annual Report of Levee Road Water to the Public Service Commission for the Year Ending December 31, 2018* at 20-21; *Annual Report of Levee Road Water to the Public Service Commission for the Year Ending December 31, 2019* at 20-21; *Annual Report of Levee Road Water to the Public Service Commission for the Year Ending December 31, 2020* at 20-21; *Annual Report of Levee Road Water to the Public Service Commission for the Year Ending December 31, 2021* at 18; *Annual Report of Levee Road Water to the Public Service Commission for the Year Ending December 31, 2022* at 20-21.

immediate past year. To comply with 807 KAR 5:076, Section 9, Levee Road Water would be required to use its 2023 annual report, however, that report has not been filed. Annual reports are required to be filed with the Commission by March 31 of each year, unless an extension is granted.<sup>6</sup> Levee Road Water requested an extension for filing its 2023 annual report. Since the request for an extension is currently pending, it is unknown when the 2023 annual report will be required to be filed. Requiring Levee Road Water to file an amended application once it has filed its 2023 annual report would result in a delay to the case and potentially put Levee Road Water in a worse financial situation.

For these reasons, the Commission finds there is good cause to grant Levee Road Water a deviation to 807 KAR 5:076, Section 9 and allow it to proceed with its application using the 2022 annual report as a basis for its historical test year.

The Commission notes that Levee Road Water has filed all required documentation to cure all other filing deficiencies.<sup>7</sup>

IT IS THEREFORE ORDERED that:

1. Levee Road Water is granted a deviation of 807 KAR 5:076, Section 9 and shall use the 2022 annual report for its historical test year period.
2. Levee Road Water has cured all filing deficiencies, and its application is deemed filed as of the date of this Order.
3. Nothing in this Order shall prevent the Commission from entering further Orders in this matter.

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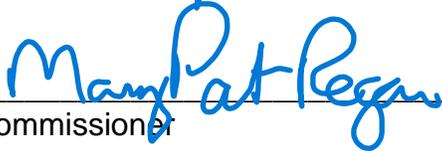
<sup>6</sup> 807 KAR 5:006, Section 4.

<sup>7</sup> On April 18, 2024, a deficiency letter was issued to Levee Road Water citing one deficiency, a failure to provide all the ARF Form 3s as required pursuant to 807 KAR 5:076 Section 4(1)(h). On April 25, 2024, Levee Road Water filed the necessary ARF Form 3s. Staff informed the Commission that the additional information cured the application deficiency.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ENTERED  
MAY 01 2024 bsb  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

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