

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SALT RIVER WATER DISTRICT AND)	
KENTUCKY TURNPIKE WATER DISTRICT)	
JOINT PETITION FOR APPROVAL OF)	CASE NO. 92-169
MERGER AGREEMENT AND RETAIL RATE)	
ADJUSTMENT)	

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FOR APPROVAL OF MERGER AGREEMENT AND)
RETAIL RATE ADJUSTMENT)

O R D E R

On April 15, 1992, Salt River Water District ("Salt River") and Kentucky Turnpike Water District ("Kentucky Turnpike") filed a joint petition for approval of a merger agreement and a retail rate adjustment. Salt River and Kentucky Turnpike are public water utilities organized under the provisions of KRS Chapter 74 and provide water to or for the public for compensation subject to this Commission's jurisdiction under KRS 278.040 and KRS 278.015.

Salt River provides water service to approximately 1,100 customers in Bullitt County, Kentucky, and purchases its water from Kentucky Turnpike. Kentucky Turnpike provides retail water service to approximately 3,300 customers in Bullitt County, Kentucky. Kentucky Turnpike procures its water from the Louisville Water Company ("Louisville Water") pursuant to a lease agreement dated November 15, 1968 subject to modifications and a settlement agreement dated October 21, 1975. This original lease agreement was approved by the Commission in Case No. 4702.¹

¹ Case No. 4702, Application for a Certificate of Public Convenience and Necessity, Order Authorizing Issue of Bonds, and Order Authorizing Rate Tariff.

On April 14, 1992, both districts, pursuant to KRS 74.363,² entered into and executed the merger agreement which is the subject of this proceeding before the Commission. The petitioners seek to merge Salt River into Kentucky Turnpike as an operating division, i.e. Kentucky Turnpike Water District Division No. 2. The existing Kentucky Turnpike would then become operating Division No. 1. The merger document contains the usual legal recitals which provide, in part, that Salt River will convey its assets and legal liabilities to Kentucky Turnpike without charge, with the exception of a water storage tank, a booster pump station, and an access road. Those facilities will be transferred to Kentucky Turnpike at current book value plus interest at 7.9 percent, the rate currently being paid by Salt River on its bonded indebtedness. In lieu of any direct payment to Salt River, the districts agree that Division No. 1

² KRS 74.363 provides that: "Boards of commissioners of any two (2) or more water districts may by concurrent action and by approval of a majority of the membership of the board of each merge their districts into one (1). In case of a merger the members of the boards of commissioners of the merged water districts may serve out the terms for which they were appointed and the merged districts may continue to be governed by a board of commissioners whose total number shall not be greater than three (3) commissioners for each county represented. The resulting district shall take over all the assets and legal liabilities of the water districts joining in the merger. Bonded obligations of any district secured by the right to levy an assessment as provided by KRS 74.130 through 74.230 or secured by the revenue of the systems operated by the district shall continue to be retired or a sinking fund for such purpose created from the tax assessments or revenue from the system operated by the district from funds collected over the same area by the new board of commissioners in accordance with the laws under which the bonds were issued until all bonded obligations of the old district have been retired."

shall assume a portion of Salt River's bonded obligation to the Kentucky Infrastructure Authority equal to the actual book value of the facilities. Kentucky Infrastructure Authority has approved the transfer of these facilities and the assumption of the obligation by Kentucky Turnpike.³ The merger document further provides that after merger, the service territories previously held by the two districts will be known as Kentucky Turnpike Water District and two separate operating divisions will be recognized for rate-making purposes only. The former Salt River customers would be transferred to and become customers of Division No. 2 and the former Kentucky Turnpike customers would become customers of Division No. 1. If the merger is approved, Salt River will retire all outstanding accounts payable and other short-term debts; pay off the outstanding balance, principle, and interest owed under a bonded indebtedness to Farmers Home Administration;⁴ and, transfer its existing employees and their associated benefits to Kentucky Turnpike.

Kentucky Turnpike agrees, if the merger is approved, to establish Kentucky Turnpike Operating Divisions No. 1 and No. 2. Kentucky Turnpike agrees to transfer all its assets and liabilities into Division No. 1, to employ all of Salt River's existing employees at Division No. 2 and, to assign their associated wages

³ Attachment to Prefiled Testimony of James H. Rice, filed July 10, 1992.

⁴ Transcript of Evidence (T.E.), Vol. I at 50; The bonded indebtedness to Farmers Home Administration has since been retired.

and costs on the basis of a 75 percent Division No. 2 and 25 percent Division No. 1 allocation.

The merger document provides that the merged District will be governed by a board of commissioners pursuant to KRS Chapter 74 consisting initially of five persons; three shall be existing commissioners of Kentucky Turnpike, and two shall be existing commissioners of Salt River. The merger document provides that the five member board shall operate for a period of at least one, but not more than three years after which the number of commissioners shall be reduced to three as the terms of commissioners in excess of three expire.⁵

The City of Shepherdsville, in whose corporate limits approximately 800 of the Salt River customers reside, and the Concerned Citizens of Salt River ("Concerned Citizens"), a group of ratepayers of Salt River, intervened in this proceeding. Both parties participated fully in discovery and the evidentiary hearing conducted in this proceeding.

The parties acknowledge that the Commission's statutory authority to consider this merger agreement is found at KRS 278.020(4) which provides:

No person under the jurisdiction of the commission shall acquire or transfer ownership of or control, or the right to control any utility, by sale of assets, transfer of stock or otherwise, or abandon the same without prior approval of the commission. The

⁵ This provision appears to conflict with KRS 74.363 which provides the existing Commissioners may serve out their appointed terms until their number is reduced to three.

commission shall grant its approval if the person acquiring the utility has the financial, technical, and managerial abilities to provide reasonable service.

In addition to the merger proposal, other issues were raised by the parties including a proposed retail rate reduction for Salt River and a request for approval of the existing rates for Kentucky Turnpike under KRS 278.190. Although these are the central issues in this proceeding, other issues have been raised which will be dealt with elsewhere in this Order.

After careful consideration of the record in this proceeding, including the testimony at the hearing and the briefs of counsel, and being otherwise sufficiently advised, the Commission finds that financial, managerial and technical expertise to provide reasonable service has been demonstrated and the public interest is best served by approving this merger agreement subject to the conditions and modifications discussed below.

FINANCIAL, MANAGERIAL AND TECHNICAL EXPERTISE

Kentucky Turnpike is operated by Louisville Water pursuant to a lease agreement effective until the year 2008.⁶ Louisville Water is responsible for providing potable water to Kentucky Turnpike's customers and completely operating Kentucky Turnpike's system. The agreement provides that Louisville Water shall be responsible for all maintenance, and repairing and replacing all parts which are required to keep the system in proper operating condition. Louisville Water reads all meters, prepares and distributes all

⁶ T.E., Vol. II at 207.

billings and collects all charges for water service under Louisville Water's polices including a surcharge assessed to all customers within the boundaries of Kentucky Turnpike.

The lease agreement is beneficial to Kentucky Turnpike and its customers. The district incurs only expenses related to professional services and administration.⁷ Kentucky Turnpike customers receive water at retail rates considerably lower than other retail rates in the area.⁸ As Kentucky Turnpike does not currently have the capability to provide full service to its customers, it is imperative that this lease remain in effect.

Kentucky Turnpike is presently in very sound financial condition. Although the rates charged to its customers are among the lowest⁹ in the area, as of December 31, 1991, Kentucky Turnpike had in excess of \$600,000 in reserves.¹⁰ Salt River, however, has been plagued with financial difficulties for a number of years.¹¹ The Commission finds that merger will likely improve Salt River's

⁷ Kentucky Turnpike Audited Financial Statements, December 31, 1991 and 1990 at 3.

⁸ T.E., Vol. III, Intervenor Exhibit No. 9.

⁹ A water bill from Louisville Water based on 5,000 gallons usage is \$9.17. Including the \$6 surcharge from Kentucky Turnpike, a water bill based on 5,000 gallons usage would result in a total charge of \$15.17 to the average residential customer.

¹⁰ Kentucky Turnpike Audited Financial Statements, December 31, 1990 and 1991 at 2.

¹¹ Case No. 90-143, The Application of Salt River Water District of Bullitt County, Kentucky for Approval to Increase Its Rates, Emergency Rate Relief Interim Order dated October 30, 1990. T.E., Vol. I at 37-39.

financial condition through greater flexibility and access to capital markets.¹²

Salt River currently possesses acceptable managerial and technical expertise to operate its system. Salt River reads its own meters, bills and collects for usage and maintains its system. Under the merger proposal, Salt River's employees will be retained by the merged district and will continue to provide their expertise as necessary. Kentucky Turnpike will benefit from Salt River's administrative and maintenance expertise which will be necessary to make a smooth transition when the lease agreement expires. Salt River will benefit from Kentucky Turnpike's financial stability¹³ which will facilitate the restructuring of Salt River's debt. The increased financial stability will also facilitate extending lines to unserved areas and increasing Salt River's customer base.

The Commission is concerned that once the lease expires, Kentucky Turnpike will be unable to assume all the duties currently being performed by Louisville Water. Mr. Burke, Chairman of Kentucky Turnpike, acknowledged at the hearing that even after merger, the utility will not immediately be able to assume all the duties currently performed by Louisville Water.¹⁴ While the Commission agrees that the districts will not be in a position to assume all these duties on the date of closing, the record reflects

¹² T.E., Vol. I at 50-51; T.E., Vol. II at 25-26.

¹³ Id.

¹⁴ T.E., Vol. III at 179-180.

that the merged district will possess the expertise necessary to operate the merged utility as the lease agreement is phased out.

The newly merged district should develop and file with the Commission a preliminary plan within one year from the date of this Order setting out the steps necessary to gradually assume operation of the merged system and to phase out the Louisville Water lease agreement. This plan should include but not be limited to provisions for maintenance, administrative services, engineering services, personnel and purchases of equipment necessary to operate the complete system, and should be developed with the assistance of the management of Louisville Water. It should also include steps necessary, including rate case filings, to achieve unified rates for all customers served. This plan, of course, will be subject to modifications as the lease agreement is phased out and as circumstances dictate.

RATES

The districts proposed to maintain separate rates for the merged entities until their outstanding debt prior to merger is retired.¹⁵

Under the lease agreement with Louisville Water, Kentucky Turnpike is required to charge its customers a surcharge based on the size of service connection. The amounts collected under the surcharge are placed in various accounts to fund Kentucky Turnpike's lease and bond obligations and to pay for new projects

¹⁵ Merger Petition at 5.

in Kentucky Turnpike's service area. Under the lease agreement Kentucky Turnpike's customers are charged rates predetermined by Louisville Water's charges for water service plus the surcharge amount which may be revised by Kentucky Turnpike with Commission approval.

The districts have stated that any new reserves accumulated from surcharge revenues would first be used to meet Division No. 1's lease and bond obligations and then be available for use throughout the merged system for various construction and service projects.¹⁶ During the test year, Kentucky Turnpike collected approximately \$227,000 in surcharge revenues. Assuming the surcharge remains the same and allowing for increased debt service coverage as noted on page 16 of this Order, approximately \$110,474 would be available annually for system-wide improvements. The Commission agrees that surcharge revenues above those required to fund Division No. 1's lease and bond obligations should be used throughout the merged district.

The Concerned Citizens propose that the merged district have one rate for all its customers and that the rate should be based on the merged entity's cost of service. They assert that a single rate would end the "unreasonable" difference between the rates of the two utilities.¹⁷

¹⁶ Joint Brief at 18.

¹⁷ Concerned Citizens Brief at 13.

KRS 74.363 requires merged utilities with separate bonded indebtedness to collect revenue only from the customers in the area of the utility which originally incurred the indebtedness. Thus, the Commission cannot lawfully set uniform rates for the merged district until the bonded indebtedness is retired, either through outright repayment or repayment after negotiation of new consolidated debt. To establish one set of rates in this case would result in unreasonable discrimination against Kentucky Turnpike customers in violation of the clear mandate of KRS 74.363.

While there is a significant difference between the rates of the two utilities, this difference does not mean that "unreasonable" discrimination exists. It is only fair and reasonable that those customers who received service for which it was necessary to incur debt should continue to provide revenues to retire that debt. Immediate establishment of uniform rates would be at the expense of Kentucky Turnpike customers and in derogation of the rights of existing bondholders. Nonetheless, the decrease in rates granted to Salt River in this case, combined with future changes in the allocation of costs, will gradually result in a unified rate schedule.

REVENUE REQUIREMENTS

Test Period

For the test period Salt River proposed to use the 1989 test year as adjusted in its most recent rate case, Case No. 90-143. Prior to the hearing, the districts filed a joint statement based on 1991 operations. There was much debate as to which test year

should be used in the determination of Salt River's revenue requirement. The Commission finds that the most recent test year available, the calendar year ended December 31, 1991, most accurately reflects current operations and should be used to determine the fair, just and reasonable rates for Division No. 2.

Revenues and Expenses

Salt River reported test-period income before debt service of \$153,922.¹⁸ Several adjustments were proposed in the application as well as in the joint statement to reflect Salt River's projected operations as a division of the merged district. The adjustments included in the joint statement at page 8 would result in a net reduction in income for Salt River of \$10,550. These adjustments were based on projections and estimates and do not meet the rate-making criteria of being known and measurable. Accordingly, the Commission has disallowed these adjustments.

The adjustments proposed by Salt River in Exhibit 7 of the Petition are discussed in the following sections.

Revenue from Water Sales

Salt River's annual report for 1991 showed operating revenues from water sales of \$500,321 and total operating revenues of \$507,962. A billing analysis prepared by Salt River and filed in response to a Commission Order showed operating revenues from water sales of \$502,601. Because the billing analysis filed by Salt

¹⁸ Statement Prepared in Consideration of the Joint Petition for the Approval of Merger Agreement and Retail Rate Adjustment ("Joint Statement"), November 9, 1992, at 6.

River was not in a format that could be used to make adjustments to its rates, Commission Staff performed a billing analysis covering the entire test year.¹⁹ Staff's billing analysis produced a revenue figure from water sales of \$503,710. This amount will be considered the actual revenue received from water sales.

Employee Salaries & Benefits

Salt River proposed to decrease 1989 employee salary and benefits expense by \$22,421 in order to allow for the transfer of 25 percent of this expense to Division No. 1 of the merged utility. No basis for this percentage of allocation was included in the initial merger agreement although it was stated that it would be used until such time as a different percentage could be established through future observation and experience.²⁰ The record reflects that the 25:75 allocation was chosen because current Salt River employees will begin immediately performing limited services for and on behalf of Division No. 1.

The best allocation cannot be determined until the merged utility has actually operated as such and actual expenses can be traced to the separate divisions. The Commission acknowledges that current Salt River employees will be required to perform services for Division No. 1. Such services will include implementation of the merger itself as well as the administrative duties required to

¹⁹ Billing Analysis, filed November 4, 1992.

²⁰ T.E., Vol. II at 67.

bring Division No. 1 into compliance with Public Service Commission regulations.

Based on the aforementioned factors, the Commission finds the 25:75 allocation to be reasonable. The actual adjustment included for rate-making purposes is based on 25 percent of the 1991 salary expense of \$66,020 or a decrease to Division No. 2's test-period expenses of \$16,505.

In the event additional personnel are required to be employed by the merged entity, the cost of those personnel should be allocated to each division in accordance with the number of customers of each division which is currently a ratio of 3:1.²¹ The Commission finds this methodology to be appropriate until such time as actual allocations can be determined.

Salaries - Officers

During the test year Salt River had only one commissioner who received annual compensation of \$1,800. Under the terms of the proposed merger agreement Division No. 2 would be represented by two commissioners. Accordingly, an adjustment was proposed to increase this expense by \$1,800 for an additional commissioner. This adjustment is reasonable and the increase is reflected in adjusted operations.

Materials and Supplies

An adjustment was proposed to decrease materials and supplies expense by \$4,000. This adjustment was included for the sole

²¹ Id. at 69.

purpose of correcting an error in the adjusted 1989 operations used as the basis for Exhibit 7. Since 1989 is not being used as the test year in this filing, the \$4,000 adjustment is not required.

Contractual Services - Legal

For the test period Salt River reported legal expenses of \$1,000. Salt River indicated that this expense was for a one-time retainer fee paid to Wallace Spalding and that it would be a non-recurring expense. Accordingly, the Commission has included an adjustment to decrease test-year expenses by \$1,000.

Depreciation

An adjustment was included in the Joint Statement to transfer \$5,000 of Salt River's annual depreciation expense to Division No. 1. This expense reflects the depreciation related to the water tower, booster pump station and access road which would be transferred from Division No. 2 to Division No. 1 under the merger agreement. Based on an estimated book value of these assets of \$200,000, the Commission finds this level of depreciation expense to be reasonable and, therefore, has included the proposed decrease of \$5,000 in the calculation of Division No. 2's revenue requirement.

Purchased Water

For the test year Salt River reported purchased water expense of \$145,285. Based on billing records provided by Louisville Water the total amount paid to Kentucky Turnpike for water purchases and surcharge expense was \$125,349. However, the difference of \$19,936 cannot be reconciled from the evidence presented. An adjustment

has been included to decrease test-year expense by this amount. The Commission can find no justification for allowing the monthly surcharge expense of \$864 to be included in normalized operations; therefore, purchased water expense has been decreased by an additional \$10,368, infra.

Summary

Based on the aforementioned adjustments, Division No. 2's test-year operations would appear as follows:

	<u>Test Year</u>	<u>Commission Adjustments</u>	<u>Test Year Adjusted</u>
Operating Revenues	\$ 507,962	\$ 3,389	\$ 511,351
Operating Expenses	<u>364,036</u>	<u>(51,009)</u>	<u>313,027</u>
Operating Income	\$ 143,926	\$ 54,398	\$ 198,324
Other Income	<u>9,996</u>	<u></u>	<u>9,996</u>
Income Available for Debt Service	<u>\$ 153,922</u>	<u>\$ 54,398</u>	<u>\$ 208,320</u>

REASSIGNMENT OF DEBT

As a component of the application for approval of merger, Salt River proposed to convey to Division No. 1 a water tank, a booster pump station, and an access road, along with the associated principal indebtedness owed to the Kentucky Infrastructure Authority. Although the Concerned Citizens did not specifically object to transferring these facilities and the associated debt, they did argue that Kentucky Turnpike should assume a greater portion of the costs of the North Project. However, Concerned Citizens' evidence does not reflect what amount is to be allocated to Kentucky Turnpike. The record reflects an estimate of between

47 and 60 percent benefit derived by Kentucky Turnpike from construction of this project.²² But as an "estimate" does not meet rate-making criteria of known and measurable, the Commission must reject the Concerned Citizens' argument that a greater portion of this debt should be allocated to Kentucky Turnpike. It is in the best interest of the merged district to reassign only these assets and the associated debt to District No. 1. As a result, the debt service requirement included as a component of Division No. 2's revenue requirement has been calculated to reflect the reduced principal indebtedness.

Likewise, Division No. 1's annual debt service requirement has been increased to reflect the proposed indebtedness related to the assets to be acquired. Based on the amortization schedules, Division No. 1 will incur annual principal and interest payments of approximately \$23,922. The existing indebtedness of Kentucky Turnpike requires an average annual debt service payment of \$92,604.²³ Therefore, the total average annual debt service requirement of Division No. 1 would be \$116,526.

DEBT SERVICE COVERAGE &
CALCULATION OF REVENUE REDUCTION

After consideration of the \$200,000 reduction in principal indebtedness, Division No. 2's average annual debt service would be

²² T.E., Vol. II at 268-270.

²³ Kentucky Turnpike Audited Financial Statements, December 31, 1991 and 1990, at 8.

\$101,060.²⁴ The Commission has determined that a debt service coverage ("DSC") of 1.2x is necessary to allow Division No. 2 to meet its reasonable expenses and service its debt. Therefore, an allowance for a 20 percent DSC of \$20,212 has been included in the determination of Division No. 2's revenue requirement.

In summary, Division No. 2's rates should be adjusted to produce annual revenues from water sales of \$416,661, a decrease of 17.3 percent from normalized test-year revenues from water sales of \$503,710.

Salt River has proposed that any reduction in revenues granted be made retroactively effective as of April 1, 1992. No evidence, however, was presented to demonstrate that Salt River had sufficient reserves from which to refund monies under its proposal. To allow this utility, which has been plagued for years with financial problems, to place itself in a more precarious financial condition is not in the best interest of Salt River or its customers. Inasmuch as the revenue reduction granted is based upon an allocation of costs between two districts which will occur prospectively, any rate reduction should also be approved prospectively.

RATE DESIGN

Salt River's current rate design consists of five increments ranging from a 2,000 gallon minimum to an over 25,000 gallon

²⁴ Salt River Response to Order dated July 22, 1992, Item 7.

increment. Salt River proposed to change its rate design by increasing the minimum usage allowance from 2,000 to 3,000 gallons.

Concerned Citizens argued that this change in rate design would provide a significant decrease to the customers who use 3,000 to 5,000 gallons but would have an adverse impact on large volume users and those customers who use between 0 and 2,000 gallons.²⁵

Using Salt River's proposed rate design, and allocating the decrease on an even percentage basis, each rate step would be decreased by approximately 7 percent, while using Salt River's current rate design each rate will decrease approximately 17 percent, based on the determined revenue requirement. A customer who used 2,000 gallons or less would receive a decrease of 7 percent, while a customer who used 3,000 gallons would receive a decrease of 29 percent. Since customers who use 3,000 gallons were moved to the minimum usage increment, the 3,000 gallon usage level would receive the greatest decrease. As usage increases, the percentage amount of the decrease is less. For example, a customer who used 20,000 gallons would receive a decrease of 12 percent while a customer who used 100,000 gallons would only receive a decrease of 8 percent.

We find that Salt River's proposal to change its rate design should be denied. No cost-of-service study was performed in this case; thus, there is no basis for decreasing certain usage levels by a greater amount than other levels. Each rate has been

²⁵ T.E., Vol. I at 180-183; Joint Brief at 9.

decreased by approximately 17 percent which is the decrease granted in this case. An adjustment of 4 cents per 1,000 gallons has been added to the rates granted to reflect a purchased water adjustment granted in Case No. 93-023.²⁶ Based on this adjustment and the decrease granted, the average bill based on 5,000 gallons will decrease from \$31.20 to \$26.02 or 16.6 percent. The minimum bill for 2,000 gallons or less will decrease from \$16.38 to \$13.63.

SUBSEQUENT REPORTING

The districts represent that the operating expenses of the merged entity would be maintained in one set of books.²⁷ The Commission agrees that records should be maintained as one entity with the ultimate goal being that of a unified rate structure. However, the Commission emphasizes that both revenues and expenses should be recorded in such a manner that it can be readily determined with which division they are associated. In addition, when shared expenses are allocated, the amounts and method of allocation to each division should be clearly indicated.

To ensure that the records are being maintained in accordance with the above requirements, the Commission will informally review the merged district's records in approximately 6 months for compliance. After the merged district has operated for a year or more, the Commission will initiate a formal investigation to determine if any further adjustment in rates is necessary.

²⁶ Case No. 93-023, The Purchased Water Adjustment of Salt River Water District.

²⁷ Joint Brief at 15-17.

FUTURE CONSTRUCTION & FINANCING

Upon filing its first construction, financing, or rate case, the merged district shall file a comprehensive plan for refinancing and consolidating all outstanding debt. Consideration should be given to exercising the option to purchase agreed to as a modification of the lease agreement, if Division No. 1 has retained funds sufficient to do so and if, in the opinion of the Commissioners, it is prudent to do so.²⁸ The consolidation of outstanding bonded indebtedness is a major step toward unified rates for the merged district and every effort should be made to achieve this goal as soon as possible.

VERIFICATION OF BILLED AMOUNTS

In reviewing the usage of Kentucky Turnpike's customers and billed amounts by Louisville Water, questions arose as to whether Kentucky Turnpike's customers were being billed correctly and whether each meter was assessed the correct surcharge. The service size shown on the billing register did not always correspond to the surcharge billed to that connection. It was determined that at least part of the surcharge amounts in question were correct and the service size was shown incorrectly.²⁹

Concern was also raised regarding the actual billed amounts. Louisville Water bills Kentucky Turnpike customers on a bimonthly basis and the amount calculated by subtracting the prior meter

²⁸ Supplemental Response of Kentucky Turnpike to Commission Order dated September 10, 1992, Response filed September 24, 1992.

²⁹ T.E., Vol. II at 200-204.

reading from the current meter reading did not always correspond to the current usage shown and billed. Mr. Heitzman of Louisville Water could not explain this discrepancy at the hearing.³⁰ Louisville Water provided a corrected billing register for the same time period after the hearing.

The Kentucky Turnpike Chairman, Mr. Burke, stated that Kentucky Turnpike Commissioners did not review Louisville Water billing registers to verify usage and amounts billed to each customer.³¹ After reviewing the registers, Mr. Burke agreed that discrepancies did in fact exist and that an explanation was in order.³² The Commission has reviewed the corrected billing registers submitted by Louisville Water and has determined that discrepancies still exist.³³ The Commission advises Mr. Burke that it is the responsibility of Kentucky Turnpike to review all billing registers provided by Louisville Water to verify that its customers are correctly billed. Kentucky Turnpike should immediately request from Louisville Water all future billing registers reflecting consumption and amounts billed to its customers and verify that customers are being charged correctly.

³⁰ Id.

³¹ T.E., Vol. III at 199.

³² T.E., Vol. III at 207.

³³ Acct.Nos. 248 01 through 568 01 on the register submitted October 5, 1992, reflects consumption of 1,211; however, the corrected register submitted December 28, 1992, reflects consumption of 921, a difference of 290. In addition, Salt River is not reflected on the revised billing registers.

FUTURE EXTENSIONS

Kentucky Turnpike's long range, or "20 year," operational plan was discussed. Mr. Burke testified that the plan is in the process of being updated by including the entire unserved portion of the district in the plan for system expansion.³⁴ The districts maintain that areas currently without water service will be served more quickly and expeditiously as a result of the merger.³⁵ There will be construction and maintenance costs associated with serving new customers not covered under the Louisville Water lease agreement. These costs should be borne by both divisions subject to review and approval by the Commission. No evidence has been presented that Louisville Water will maintain new extensions outside existing Kentucky Turnpike boundaries once the merger occurs. As Louisville Water is not regulated by this Commission and the terms of the lease agreement received our prior approval, the Commission is without authority to require Louisville Water to make or service extensions. It would be unfair to the customers outside the area presently served by Louisville Water to pay Division No. 1 rates while the maintenance and other expenses related to that service are borne by Division No. 2. Each new customer should be charged rates depending upon the division in which the customer resides as opposed to rates of the division from which service is received.

³⁴ T.E., Vol. III at 154.

³⁵ T.E., Vol. I at 50-51; Vol. II at 13, 70-71.

SURCHARGE

In Case No. 90-143, the Commission approved a water purchase agreement between Salt River and Kentucky Turnpike wherein Kentucky Turnpike would transport water supplied by Louisville Water to Salt River. Salt River constructed and paid most of the costs to build the line used to connect its system to Louisville Water facilities. However, because the lines connecting Salt River to Louisville Water are within the boundaries of Kentucky Turnpike's service area, a surcharge of \$864 per month is currently being charged to Salt River by Kentucky Turnpike.

Mr. Burke stated that Kentucky Turnpike had made cross connections on the line for the purpose of increasing volume, stabilizing lines and decreasing water handled.³⁶ Due to the merger of the two entities, we will no longer consider Salt River a customer of Kentucky Turnpike. Accordingly, Division No. 2 should not be required to pay Division No. 1 the \$864 monthly surcharge and the water purchase contract between them should be modified to that extent.

KENTUCKY TURNPIKE TARIFF FILING

Kentucky Turnpike does not have a current tariff on file with the Commission. Mr. Burke testified that he thought Kentucky Turnpike had complied with Commission regulations but now realizes that required filings have not been made.³⁷ The districts state

³⁶ T.E., Vol. III at 225-226.

³⁷ T.E., Vol. III at 49-51.

that one benefit of the merger accruing to Division No. 1 will be Salt River's knowledge of Commission regulations and the steps necessary to make filings and otherwise comply with Commission regulations.³⁸ The Commission places Division No. 1 on notice that it will not tolerate such noncompliance in the future and that it will be required to maintain a current tariff and make all other necessary filings with the Commission as set out in the Commission's rules and regulations. Within 30 days from the date of this Order, Kentucky Turnpike should file a revised tariff with the Commission. The tariff should reflect all regulations and charges of Kentucky Turnpike as well as all regulations and charges of Louisville Water. At such time as Louisville Water increases any charge to Division No. 1. customers, the change should be reflected in an updated tariff filing.

The Concerned Citizens set out differences between Commission regulations and Louisville Water regulations and the fact that Kentucky Turnpike had not filed a tariff with the Commission each time Louisville Water increased the rates charged to Kentucky Turnpike customers.³⁹ While there are noticeable differences in Louisville Water regulations and the Commission's regulations, the Commission has not received a complaint from any Kentucky Turnpike customer based on these differences. In most cases, the technical requirements under Louisville Water standards are higher than those

³⁸ T.E., Vol. II at 91.

³⁹ Concerned Citizens Brief at 4-7.

set by the American Water Works Association and adopted by this Commission. Therefore, technical requirements for constructing and operating a water distribution system are more than being met through the requirements of the Louisville Water lease agreement. To the extent other Louisville Water "policies" are not consistent with existing regulations, Kentucky Turnpike is required by law to comply with the Commission's existing regulations.

TARIFF REVISIONS

Salt River proposed to revise its current tariff⁴⁰ to require any new water main extension to use tracer tape. The use of tracer tape is encouraged as the most expedient means to locate water lines. Salt River also proposes that "in the event a major water main extension is funded in part by contributions of Salt River Water District customers, any future customers seeking service from that extension shall pay a pro-rata portion of the initial investment."⁴¹

Upon review of the proposed tariff language, the Commission finds that the revisions should be approved. Division No. 1's tariff should also provide that any extensions and subsequent reimbursements or payments shall be made in compliance with 807 KAR 5:066, Section 12, Extension of Service.

⁴⁰ Petitioners Witness List and Exhibits at 2.

⁴¹ Id.

CONCERNED CITIZENS

Concerned Citizens maintain that it is not in the public interest for Mr. Burke to serve as a commissioner because he is mayor of Hebron Estates.⁴² The Commission does not have the statutory authority to remove Mr. Burke from either office, if in fact the office of water district commissioner and mayor are incompatible. Concerned Citizens first asserted that the Commission could remove Mr. Burke as a water district commissioner pursuant to KRS 74.020(2) and KRS 65.007.⁴³ KRS 74.020(2) provides that water district commissioners may be removed from office as provided by KRS 65.007. KRS 65.007 provides that water district commissioners may be removed by the "appointing authority." The Commission is not statutorily empowered to appoint water district commissioners in the first instance and, thus, this statute is inapplicable.

Concerned Citizens further argue that the statutes supra authorize the Commission to remove Mr. Burke from office because Kentucky Turnpike rents office space in a facility owned by Mr. Burke.⁴⁴ While the Commission will closely scrutinize any less-than-arms-length transactions, Mr. Burke's removal is still inappropriate under the cited authority. This question may well be

⁴² Concerned Citizens Brief at 10. T.E., Vol. III at 59-62.

⁴³ Concerned Citizens Brief at 10.

⁴⁴ T.E., Vol. III at 64-69.

moot as the record reflects that the merged district will seek other office space.⁴⁵

Concerned Citizens argued, apparently in the alternative, that if the Commission lacked the statutory authority to remove Mr. Burke from office, the Commission should instead deny the merger if Mr. Burke remains as a commissioner of the newly merged district.⁴⁶ Concerned Citizens' assertions are based in part upon the fact that Mr. Burke has "dominated politics" in Bullitt County for a number of years. If ever there was an argument seeking to sacrifice the public interest upon the altar of politics, this surely is it.

Concerned Citizens presented two witnesses who advocated that Kentucky Turnpike should pay a greater portion of the Kentucky Infrastructure Authority debt related to construction of the North Project. This debt was approved and a Certificate of Public Convenience and Necessity was issued for this project in Case No. 10181.⁴⁷ No concrete evidence was presented to demonstrate that circumstances have changed warranting a reversal of past Commission findings and Orders relating to this project. The Commission

⁴⁵ T.E., Vol. II at 92-93.

⁴⁶ Concerned Citizens Brief at 9-10.

⁴⁷ Case No. 10181, The Application of Salt River Water District, of Bullitt County, Kentucky, for Approval of Construction, Financing and Increased Rates. The North Project involved construction of a water main from Salt River's service territory to a point of connection with Louisville Water facilities. The water main ran through Kentucky Turnpike's service territory and Kentucky Turnpike contributed approximately \$326,000 toward construction of the line.

should not reallocate any portion of that debt to the detriment of the ratepayers who did not incur it. Furthermore, Concerned Citizens presented no legal basis or authority upon which the Commission could rely and abrogate the contractual obligations between the district and its current bondholders. The Commission therefore lacks any basis upon which to undertake reallocation of the original debt for the North Project.

CITY OF SHEPHERDSVILLE

Throughout this proceeding the City of Shepherdsville and Concerned Citizens have expressed a desire for the Commission to split the customer base of Salt River into those customers who reside within the city limits of Shepherdsville and those who do not. Concerned Citizens and the City requested the Commission "allow" Shepherdsville to acquire the 800 or so Salt River customers who reside in the city limits.⁴⁸ Shepherdsville has cited no legal authority which would allow the Commission to dissolve a water district and allocate the customers in the manner suggested.

Throughout this proceeding the Commissioners of both districts have exhibited a cooperative attitude and have expressed their desire to work together to provide water service in Bullitt County. In light of past differences, litigation and personality conflicts this is an enormous step toward achieving a viable county-wide water system. We applaud their efforts. In order to completely

⁴⁸ T.E., Vol. II at 327-328.

merge the two districts into one operating unit, it is imperative that these parties continue to work together for the benefit of the residents of Bullitt County.

IT IS THEREFORE ORDERED that:

1. The financial, managerial and technical expertise to continue to provide reasonable service to the customers of Bullitt County having been demonstrated by the districts, the merger as proposed by them is in the public interest and is hereby approved, subject to the modifications contained in this Order. All closing documents prepared and executed by the parties to effectuate this merger shall be filed with this Commission within 30 days of the date of closing.

2. The rates proposed by Division No. 2 are hereby denied. The rates contained in the Appendix to this Order, which is attached hereto and incorporated herein, are the fair, just and reasonable rates to be charged by Division No. 2 for service rendered on and after the date of closing.

3. Within 30 days from the date of closing, Division No. 2 shall file its revised tariff setting out the rates approved herein.

4. The surcharge assessed to customers of Division No. 1 and the agreement to charge rates set by Louisville Water received Commission approval in Case No. 4702 and no change is made herein. However, within 30 days from the date of this Order, Division No. 1 shall file a revised tariff with the Commission reflecting the

rates, regulations and conditions of service of Division No. 1 as well as all applicable rates and regulations of Louisville Water.

5. The Water Purchase Contract between Division No. 1 and Division No. 2 be and it hereby is modified to the extent that Division No. 1 shall cease charging the \$864 surcharge to Division No. 2 on and after the date of closing.

6. The assumption and creation of a \$200,000 liability on the books of Division No. 1 is for a legitimate purpose, is necessary and appropriate for the proper performance of its service to the public and will not impair its ability to perform that service and is, accordingly, approved.

7. Within 7 months of the date of closing, Divisions No. 1 and No. 2 shall file with the Commission a combined operating statement reflecting revenues collected and expenses allocated for the first six months of operation.

8. Within 12 months of the date of closing, Divisions No. 1 and No. 2 shall file with the Commission a preliminary plan to gradually effectuate operation as a merged unit and phasing out the lease agreement with Louisville Water. Said plan shall include those items delineated in this Order and may at the option of Divisions No. 1 and No. 2 include an application for a retail rate adjustment.

9. The tariff revisions proposed by Division No. 2 be and they hereby are approved effective with service rendered on and after the date of this Order. Division No. 2 shall within 30 days

from the date of this Order file its revised tariff setting out the revisions approved herein.

Done at Frankfort, Kentucky, this 10th day of February, 1993.

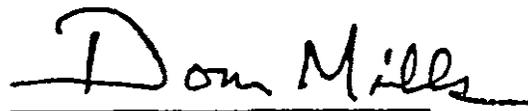
PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 92-169 DATED February 10, 1993.

The following rates and charges are prescribed for the customers in the area served by Salt River Water District. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of this Commission prior to the effective date of this Order.

Rates: Monthly

5/8 x 3/4 Inch Connection

First 2,000 gallons	\$13.63 Minimum Bill
Next 3,000 gallons	4.13 per 1,000 gallons
Next 5,000 gallons	3.71 per 1,000 gallons
Next 15,000 gallons	3.51 per 1,000 gallons
Over 25,000 gallons	3.09 per 1,000 gallons

1 Inch Connection

First 5,000 gallons	\$26.02 Minimum Bill
Next 5,000 gallons	3.71 per 1,000 gallons
Next 15,000 gallons	3.51 per 1,000 gallons
Over 25,000 gallons	3.09 per 1,000 gallons

1 1/2 to 4 Inch Connections

First 10,000 gallons	\$44.57 Minimum bill
Next 15,000 gallons	3.51 per 1,000 gallons
Over 25,000 gallons	3.09 per 1,000 gallons

Bernheim Forest	\$100 per month
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