

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PRESTONSBURG CITY UTILITIES COMMISSION'S)
EMERGENCY WATER SUPPLY AGREEMENT) CASE NO. 2007-00218
WITH SOUTHERN WATER AND SEWER DISTRICT)

ORDER

Prestonsburg City Utilities Commission ("Prestonsburg") has moved to withdraw or modify certain portions of its Emergency Water Supply Agreement with Southern Water District ("Southern District") and to close this proceeding. We grant the motion.

On July 25, 2005, Prestonsburg entered into a contract with Southern District to provide an emergency supply of water during peak demand periods.¹ This Agreement sets forth an initial rate and provides that "all rates in this Agreement shall be adjusted annually on the anniversary date of this Agreement to correspond with the Consumer Price Index, but no such increase under this provision shall increase rates by more than four percent (4%) per year." Finding that the provisions of the wholesale contract that provide for an automatic adjustment of the wholesale rate based upon the Consumer Price Index represent a methodology that has not been previously approved and should be further reviewed, the Commission, on its own motion, initiated this proceeding.

Prestonsburg has announced its intention to forego the implementation of any rate adjustment pursuant to the automatic rate adjustment provisions of the Agreement.

¹ Prestonsburg and Southern District executed the Emergency Water Supply Agreement on July 25, 2005. Prestonsburg did not file the Agreement with the Commission until April 23, 2007.

Arguing that its action renders moot the purpose of the Commission's investigation, it moves that the Commission close this proceeding.

We interpret Prestonsburg's action as a unilateral revision of the Agreement that effectively removes the automatic adjustment mechanism from the Agreement. In light of this removal, we find that the purpose of this investigation has been rendered moot and that Prestonsburg's motion should be granted.

IT IS THEREFORE ORDERED that:

1. Paragraph 7 of the Emergency Water Supply Agreement between Prestonsburg and Southern District is deemed non-effective and shall be considered void.
2. Prestonsburg's Motion to Dismiss is granted.
3. This case is removed from the Commission's docket.
4. Subject to the filing of timely petition for rehearing pursuant to KRS 278.400, these proceedings are closed. The Executive Director shall place any future filings in the appropriate utility's general correspondence file or shall docket the filing as a new proceeding.

Done at Frankfort, Kentucky, this 11th day of April, 2008.

By the Commission

ATTEST:


for the Executive Director

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