

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PROPOSED ADJUSTMENT OF THE)
WHOLESALE WATER SERVICE RATES) CASE NO. 2007-00257
OF THE CITY OF FALMOUTH)

O R D E R

The city of Falmouth, Kentucky ("Falmouth"), East Pendleton County Water District ("East Pendleton District"), and Pendleton County Water District ("Pendleton District") have submitted an agreement in which the parties have resolved all issues involving Falmouth's proposed rate adjustment. Based upon this agreement, Falmouth has moved for dismissal of this proceeding. The Commission shall consider this motion as a motion for acceptance and approval of the Agreement and wholesale water service rate set forth in the parties' agreement. We grant this motion and approve the proposed rate.

On June 26, 2007, Falmouth filed with the Commission a proposed revision to its rate for wholesale water service to East Pendleton District and Pendleton District. The proposed revision would reduce the existing wholesale rate for Pendleton District from \$2.10 per 1,000 gallons to \$1.98 per 1,000 gallons and for East Pendleton District from \$2.02 per 1,000 gallons to \$1.98 per 1,000 gallons. We suspended for one day

Falmouth's proposed rates and allowed them to become effective on June 27, 2007 subject to further change as the Commission may order.¹

Following our action, Pendleton District and East Pendleton District filed written objections to the proposed rate and requested that the Commission investigate the proposed rate. They expressly requested that the record of Case No. 2006-00403² be incorporated in the record of this proceeding.

Falmouth and the two water districts subsequently conducted negotiations to resolve the water districts' objections to the proposed rate adjustment. Under the parties' agreement, Falmouth's wholesale rate shall remain at \$1.98 per 1,000 gallons of water. The parties further agree that Falmouth will not "take any steps to increase this rate prior to January 1, 2009." On September 24, 2007, Falmouth moved that the Commission accept and approve the terms of the agreement. On December 28, 2007, Falmouth moved to supplement the record with its audited financial statement for the fiscal year ended June 30, 2006.

¹ The Commission's action followed our failure to render a timely decision on Falmouth's proposed rate adjustment in Case No. 2006-00403. On August 24, 2006, Falmouth filed a revised rate schedule with the Commission to adjust its wholesale water service rate to Pendleton District from \$1.85 per 1,000 gallons to \$2.10 per 1,000 gallons and to East Pendleton District from \$1.85 per 1,000 gallons to \$2.02 per 1,000 gallons. After both water districts filed written objections to the proposed adjustment and requested Commission review of the proposed rates, the Commission initiated this proceeding. Because the Commission failed to complete its review and enter a final Order on the proposed rates by June 25, 2007, the proposed wholesale rates became effective by operation of law. See Case No. 2006-00403, Proposed Adjustment of the Wholesale Water Service Rates of the City of Falmouth (Ky. PSC June 27, 2007).

² Letter from William Jones, Manager, Pendleton County Water District, and Wayne Lonaker, Manager, East Pendleton County Water District, to Beth O'Donnell, Executive Director, Kentucky Public Service Commission (July 2, 2007).

However, it is for the Commission to determine if the proposed rate is reasonable based upon the record in the case. In this case, there is evidence in the Commission Staff's report that tends to contradict the agreed-upon rate. Falmouth's audited financial statements, upon which Staff's report was based, states annual water system operating expenses at \$644,699³ for the fiscal year ended June 30, 2005. Water system operating expenses increased by 11.39 percent to \$718,121 for the fiscal year ended June 30, 2006.⁴

Having considered the motion and being otherwise sufficiently advised, the Commission finds that the motion should be granted and that the proposed wholesale rate adjustment, as revised, should be approved. The purpose of the Commission's jurisdiction over a municipal utility's wholesale transactions with a public utility is to ensure that any public utility "consumer/customer that has contracted and become dependent for its supply of water from a city utility is not subject to either excessive rates or inadequate service."⁵

In the case at bar, this purpose has been served. The affected public utilities made clear their objections to the proposed rate adjustment. Falmouth has addressed these concerns. Pendleton District and East Pendleton District have withdrawn their objections to the proposed adjustment. We further note that the present

³ See Response to Commission's Order of September 22, 2006, Item 2, at 90.

⁴ See Falmouth's Motion to Supplement Record, received by the Commission on December 26, 2007, at 28.

⁵ Simpson County Water District v. City of Franklin, 872 S.W.2d 460, 465 (Ky. 1994).

case record contains evidence to support the reasonableness of the agreed-upon rates.⁶

IT IS THEREFORE ORDERED that:

1. Falmouth's motion to supplement the record is granted.
2. Falmouth's motion to accept the parties' settlement agreement is granted.
3. The proposed settlement agreement is accepted and approved.
4. Falmouth is authorized to assess a rate of \$1.98 per 1,000 gallons for wholesale water service rendered to Pendleton District and East Pendleton District on and after the date of this Order.
5. Absent extraordinary and unforeseen circumstances, Falmouth shall not apply for or otherwise seek an increase in its wholesale water service rate to Pendleton District or East Pendleton District prior to January 1, 2009.
6. Within 20 days of the date of this Order, Falmouth shall file with Commission revised tariff sheets reflecting the rate approved in this Order.
7. 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.

⁶ In Case No. 2006-00403, Commission Staff submitted a report in which it recommended that the Commission approve a wholesale rate of \$1.68 per 1,000 gallons for Pendleton District and \$1.64 per 1,000 gallons for East Pendleton District. Commission Staff based its recommendations upon its review of Falmouth's operations for the fiscal year ended June 30, 2005. Falmouth has submitted information regarding its financial operations for the fiscal year ended June 30, 2006. Based upon Falmouth's operations for this period, the proposed rates appear reasonable.

Done at Frankfort, Kentucky, this 5th day of February, 2008.

By the Commission

ATTEST:



Executive Director