

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF MORGAN)	CASE NO.
COUNTY WATER DISTRICT FOR A RATE)	2024-00010
ADJUSTMENT PURSUANT TO 807 KAR 5:076)	

ORDER

This matter arises out of Morgan County Water District’s (Morgan District) motion for an emergency interim rate increase¹ during the six-month suspension² of rates proposed in its application for a rate adjustment. The Commission’s findings in this Order apply only to Morgan District’s request for emergency interim rate relief. The Commission will continue to process Morgan District’s request to adjust its rates for water service in accordance with the procedural schedule adopted in the Appendix to the May 8, 2024 Order.

PROCEDURE

On March 22, 2024,³ Morgan District filed an application requesting to adjust its rates for water service pursuant to the alternative rate adjustment procedure for small utilities as set out in 807 KAR 5:076. On March 22, 2024, Morgan District also filed a motion requesting an emergency hearing to allow it to present evidence to show the need

¹ KRS 278.190(2).

² 807 KAR 5:076, Section 7(1).

³ Morgan District tendered its application on March 15, 2024. By letter dated March 20, 2024, the Commission rejected the application for filing deficiencies. The deficiencies were subsequently cured, and the application was deemed filed on March 22, 2024.

for an emergency interim rate increase and for the Commission to grant a deviation from the notice requirements of 807 KAR 5:076, Section 12(3). On March 27, 2024, Morgan District filed supplemental profit-loss statements for the months of January, February, and March 2024. The Commission granted Morgan District's motion for an emergency hearing but denied its motion for a deviation of the notice requirements of 807 KAR 5:076, Section 12(3), on April 8, 2024.⁴ On May 2, 2024, a hearing was held for the purpose of taking evidence to determine whether Morgan District's request for interim emergency rate relief met the standard set forth in KRS 278.190(2). Commission Staff issued two additional rounds of requests for information on May 10, 2024,⁵ and June 6, 2024.⁶ Morgan District responded to both requests on May 24, 2024,⁷ and June 20, 2024,⁸ respectively. On May 17, 2024, Morgan District filed a post hearing brief.⁹

LEGAL STANDARD

The statutory basis for interim rate relief is set forth in KRS 278.190(2). It states, in relevant part, that:

[I]f the commission, at any time, during the suspension period, finds that the company's credit or operations will be materially impaired or damaged by the failure to permit the rates to become effective during the [suspension] period, the commission may, after any hearing or hearings, permit all or

⁴ Order (Ky. PSC Apr. 8, 2024) at 4.

⁵ Commission Staff's Second Request for Information (Ky. PSC May 10, 2024).

⁶ Commission Staff's Third Request for Information (Ky. PSC Jun. 6, 2024).

⁷ Morgan District's Response to Commission Staff's Second Request for Information (filed May 24, 2024).

⁸ Morgan District's Response to Commission Staff's Third Request for Information (filed Jun. 20, 2024).

⁹ Morgan District's Post-hearing brief (Post-hearing brief) (filed May 17, 2024).

a portion of the rates to become effective under terms and conditions as the commission may, by order, prescribe.

Morgan District has the burden to demonstrate that its credit or operations would be materially impaired or damaged in the absence of interim rate relief.

DISCUSSION

Morgan District's motion requested to implement a 25.3 percent increase of rates at the earliest date possible, subject to refund, to meet the debt service requirements of its lenders.¹⁰ Morgan District asserted that it needed to implement an interim rate increase to "break-even," and meet its debt service requirements.¹¹ At the May 2, 2024 hearing, Morgan District's Board of Commissioners' Chairman, Brian Wells; Morgan District's General Manager, Shannon Elam; and Financial Officer, Alexis Franklin; and Robert Miller from Straightline Kentucky LLC. testified on behalf of Morgan District.

Robert Miller Testimony

Robert Miller provided testimony that Morgan District would be materially impaired or damaged if it was not granted an emergency rate increase because it would not be able to keep current on invoices and payroll. Mr. Miller stated this would create a significant risk to not making debt service payments.¹² Mr. Miller testified that he was informed at the March 11, 2024 Morgan District Board of Commissioners (Board) meeting that Morgan District's cash expenses had exceeded its cash receipts by approximately

¹⁰ Morgan District's Verified Motion for Emergency Interim Rate Increase (Interim Rate Increase Motion) (filed Mar. 22, 2024) at unnumbered page 1.

¹¹ Morgan District's Interim Rate Increase Motion at unnumbered page 2.

¹² Hearing Video Transcript (HVT) of the May 2, 2024 Hearing, Miller at 9:15:39.

\$30,000 per month over the previous two-to-three-month period.¹³ Mr. Miller further testified that the 25.3 percent increase is the lowest amount that could be put in place for Morgan District to continue operations and avoid default on outstanding debt.¹⁴ Mr. Miller stated that Morgan District would not be able to fulfill its responsibilities in the next fiscal year.¹⁵

Alexis Franklin Testimony

Alexis Franklin testified that Morgan District was six to seven months behind on payments to Cave Run Water District from whom it purchases a portion of its water supply.¹⁶ Ms. Franklin also testified that as of April 15, 2024, Morgan District had a negative cash balance in its general ledger account and still had a negative cash balance as of April 30, 2024.¹⁷ When questioned about how Morgan District works to ensure that all checks are cleared by the bank, Ms. Franklin stated that the bank sends notice of insufficient funds to Morgan District before processing a check, which allows money to be added to the account to keep from being charged a fee. Ms. Franklin said that Morgan District will then move funds from another account to keep from being charged a fee.¹⁸ Ms. Franklin stated that Morgan District does not send out checks without first having funds and that if the funds are not in the bank account its due to those funds being in a

¹³ HVT of the May 2, 2024 Hearing, Miller at 9:18:35.

¹⁴ HVT of the May 2, 2024 Hearing, Miller at 9:36:27.

¹⁵ HVT of the May 2, 2024 Hearing, Miller at 9:43:39.

¹⁶ HVT of the May 2, 2024 Hearing, Franklin at 11:09:17.

¹⁷ HVT of the May 2, 2024 Hearing, Franklin at 11:16:43.

¹⁸ HVT of the May 2, 2024 Hearing, Franklin at 11:16:54.

different account.¹⁹ Ms. Franklin further testified that each month Morgan District reviews all the bills that need to be paid and gives priority to the bills that are past due 30 days or more. Once payroll is paid, Morgan District pays as many of its bills as it is financially able to pay.²⁰ Ms. Franklin also testified that when Morgan District has a negative payroll account, it allocates funds monthly, to transfer into the payroll account.²¹

Brian Wells Testimony

Brian Wells testified that the Board was not fully aware of the extent of Morgan District's finances were until March 2024.²² Mr. Wells stated that the Board had previously been presented with the bank balance information instead of the reconciled books and it wasn't until the Board inquired as to how much cash Morgan District had on hand that the Board became aware of the problem.²³ Mr. Wells also testified that Morgan District hired five employees even though it could not afford it so it could reflect them as employees during the test year and to comply with Commission regulations.²⁴

Shannon Elam Testimony

Shannon Elam testified that after Morgan District laid off a couple of employees it started to fall behind.²⁵ To prevent Morgan District from losing compliance,²⁶ Mr. Elam

¹⁹ HVT of the May 2, 2024 Hearing, Franklin at 11:17:30.

²⁰ HVT of the May 2, 2024 Hearing, Franklin at 11:03:55.

²¹ HVT of the May 2, 2024 Hearing, Franklin 11:19:05.

²² HVT of the May 2, 2024 Hearing, Wells at 12:10:30

²³ HVT of the May 2, 2024 Hearing, Wells at 11:53:08.

²⁴ HVT of the May 2, 2024 Hearing, Wells at 1:20:19.

²⁵ HVT of the May 2, 2024 Hearing, Elam at 2:00:03.

²⁶ Mr. Elam did not clarify what exactly they would be losing compliance from or of.

spoke with Mark Frost on how to add more positions.²⁷ Mr. Elam stated that Mr. Frost told him that to add positions for the rate case, they needed to be on the payroll.²⁸ Mr. Elam stated that Morgan District could not afford the five new positions so he spoke with Gateway Area Development District (Gateway ADD).²⁹ Mr. Elam further testified that he requested additional employees at the September 2023 Board meeting so the positions could be included in the cost of the rate case and that he was not aware whether Morgan District could afford the additional employees before the rate increase went into effect, but the Morgan District Board tabled that discussion until the next meeting.³⁰ Morgan District hired all five positions in October 2023.³¹ Gateway ADD paid for the first 480 hours of the five employees through a workforce development grant.³² Mr. Elam stated that Morgan District needed the five positions.³³

Mr. Elam testified that the “Shannon to reimburse” listings in the general ledger resulted from the Amazon Prime business account getting linked up with his own personal account, and he would just reimburse Morgan District.³⁴ Mr. Elam also testified that

²⁷ HVT of the May 2, 2024 Hearing, Elam at 2:00:24.

²⁸ HVT of the May 2, 2024 Hearing, Elam at 2:00:46.

²⁹ HVT of the May 2, 2024 Hearing, Elam at 2:00:51. Gateway ADD is a regional organization that assists in the formulation and implementation of human resource and infrastructure related plans. Gateway ADD received a workforce development grant which paid for the first 480 hours of each of the five employees hired by Morgan District.

³⁰ HVT of the May 2, 2024 Hearing, Elam at 2:48:05

³¹ HVT of the May 2, 2024 Hearing, Elam at 2:51:23.

³² HVT of the May 2, 2024 Hearing, Elam at 2:01:01.

³³ HVT of the May 2, 2024 Hearing, Elam at 2:03:25.

³⁴ HVT of the May 2, 2024 Hearing, Elam at 2:05:15.

Morgan District is out of compliance with minimum reserve accounts of loan covenants.³⁵

Mr. Elam further testified that if Morgan District had to refund money from an interim rate increase then it would, but it would result in a hold on payments to a vendor.³⁶

In Morgan District's post-hearing brief, it admitted to the poor state of its financial records.³⁷ Morgan District further acknowledged that its general ledger was not in a condition in which the consulting professionals could utilize the records, and the rate study consultant could not reconcile the general ledger or trial balance to the annual report.³⁸ Additionally, Morgan District stated that there were expenses included in the rate study that should not have been included in allowable expenses eligible for recovery through rates.³⁹ In the post-hearing brief, Morgan District explained that the five additional positions that were added in October 2023 were needed to combat water loss.⁴⁰ Morgan District also explained that its current billing system software expires or becomes obsolete in December 2024, and that while it has inquired about upgrades or a change in billing software, it has put off addressing the billing software due to its cash deficit.⁴¹ Morgan District argued that the testimony from its representatives and its independent consultant at the May 2, 2024 hearing, in addition to information filed in the record shows that Morgan

³⁵ HVT of the May 2, 2024 Hearing, Elam at 2:10:09.

³⁶ HVT of the May 2, 2024 Hearing, Elam at 2:32:33.

³⁷ Post-hearing brief at 4.

³⁸ Post-hearing brief at 4.

³⁹ Post-hearing brief at 4. Morgan District removed the golf tournament expenses, river clean up expenses, dinners for employee appreciation, and items purchased for bereavement have been removed from the revenue requirement.

⁴⁰ Post-hearing brief at 7.

⁴¹ Post-hearing brief at 9.

District would be materially impaired or damaged if the Commission does not permit a 25.3 percent increase in its current rates subject to refund.⁴² Morgan District also filed two revised Schedule of Adjusted Operations with the post-hearing brief.⁴³

FINDINGS

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that Morgan District should be granted an interim rate increase, subject to refund. Morgan District owes approximately \$154,000 to vendors.⁴⁴ Morgan District has an obligation to pay its vendors and principal payments. Based on the reports filed by Mr. Miller, Morgan District will not have enough money to meet its debt service requirements by the time the final order issued in this case.

Morgan District has an obligation to its debt holders to pay its principal payments and interest for the year 2024 of \$249,350.⁴⁵ If Morgan District fails to make its principal payments, Morgan District's credit will be compromised and negatively impact future access to debt. If Morgan District does not pay Cave Run Water, Morgan District could face having its supply shut off and damage to its credit. Morgan District provided profit and loss statements for January and February of 2024.⁴⁶ Morgan District had a net income of (\$58,278) for January and (\$38,680) for February. If Morgan District is operating at tens of thousands of dollars in the negative for months, it is not fully funding

⁴² Post hearing brief at 9-10.

⁴³ Post-hearing brief, Exhibits 1-A and 1-B. Exhibit 1-A adjusts for the removal of the five new employees. Exhibit 1-B adjusts for the removal of three new employees.

⁴⁴ This amount would change daily based on the passage of time. The amount stated is based on the information in the record at the time this Order was drafted.

⁴⁵ Application, Debt Service Schedule, 8_Bond_and_Loan_Amortization_Schedules.pdf.

⁴⁶ Commission Staff's First Request for Information (Ky. PSC May 10, 2024).

depreciation or fully paying its vendors. If there was an emergency, Morgan District would not have adequate funds to cover such an expense and continue to operate at capacity. For the above-stated reasons, the Commission finds that Morgan District should be granted an interim rate increase of 25.3 percent, subject to refund.

The Commission also notes several concerns regarding Morgan District. First, the Commission has serious concern regarding Morgan District hiring five new employees when it did not have the funds to pay the employees. Morgan District also stated that it hired the five employees so it could be a known and measurable change in the rate case. The Commission does not look favorably on any utility who adds positions that it cannot afford during a test-year period for the sole purpose of recovering the costs of those positions. Instead, Morgan District should consider coming in for more frequent rate cases and gradually adding employees as needed. Secondly, the Commission has serious concern over Shannon Elam's use of Morgan District's funds for personal reasons. The Commission does not and will not look favorably on the continued use and reimbursement of Morgan District funds for personal reason by any employee or commissioner of Morgan District.

IT IS THEREFORE ORDERED that:

1. Morgan District is authorized to place into effect the interim base rate increase, subject to refund, set forth in the Appendix to this Order, for service rendered on and after the date of this Order.

2. Morgan District shall maintain its records in such a manner as will enable it, or the Commission, or any of Morgan District's customers, to determine the amounts to

be refunded and to whom any refund is due in the event that a refund of any portion of the interim base rate increase is ordered by the Commission.

3. Should Morgan District fail to comply with the terms and conditions of this Order, any and all amounts collected as a result of the interim base rate increase granted hereunder shall be subject to refund, and both Morgan District and its Board shall be subject to all applicable penalties under KRS 2780.99.

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PUBLIC SERVICE COMMISSION

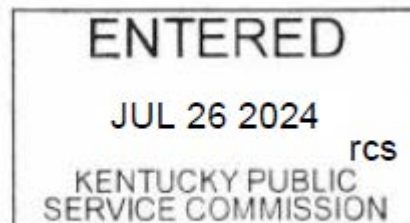
Chairman



Vice Chairman



Commissioner



ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2024-00010 DATED JUL 26 2024

Monthly Water Rates

5/8- x 3/4-Inch Meter

First	2,000	gallons	\$ 39.97	Minimum bill
Next	3,000	gallons	0.01481	per gallon
Next	5,000	gallons	0.01374	per gallon
Next	5,000	gallons	0.01267	per gallon
All Over	15,000	gallons	0.01160	per gallon

1-Inch Meter

First	5,000	gallons	\$ 84.72	Minimum bill
Next	5,000	gallons	0.01374	per gallon
Next	5,000	gallons	0.01267	per gallon
All Over	15,000	gallons	0.01160	per gallon

2-Inch Meter

First	15,000	gallons	\$ 215.37	Minimum bill
All Over	15,000	gallons	0.01160	per gallon

6-Inch Meter

First	100,000	gallons	\$1,206.23	Minimum bill
All Over	100,000	gallons	0.01160	per gallon

4-Inch Meter Wholesale \$0.00566 per gallon

*Morgan County Water District
1009 Hwy 172
West Liberty, KY 41472

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

*Robert K. Miller
Straightline Kentucky LLC
113 North Birchwood Ave.
Louisville, KENTUCKY 40206

*Brittany H. Koenig
Honaker Law Office, PLLC
1795 Alysheba Way
Suite 1203
Lexington, KENTUCKY 40509

*Heather Temple
Honaker Law Office, PLLC
1795 Alysheba Way
Suite 1203
Lexington, KENTUCKY 40509

*Mark Frost
Montgomery County Water District #1
4412 Camargo Road
Mt. Sterling, KY 40353

*Shannon Elam
General Manager
Morgan County Water District
1009 Hwy 172
West Liberty, KY 41472