

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

**ELECTRONIC APPLICATION OF MONROE)
COUNTY WATER DISTRICT FOR RATE) CASE NO. 2017-00070
ADJUSTMENT PURSUANT TO 807 KAR 5:076)**

**MONROE COUNTY WATER DISTRICT’S RESPONSE TO PROPOSED
CHANGE TO DEPRECIATION ACCOUNTING METHODOLOGY
AND COMMENTS AND OBJECTIONS TO FINDINGS AND
RECOMMENDATIONS CONTAINED IN STAFF REPORT**

Pursuant to the Commission’s Order of April 12, 2017, Monroe County Water District (“Monroe District”) submits this response to Commission Staff’s Report of June 30, 2017. Monroe District objects to Commission Staff’s proposal to modify the methodology that Monroe District presently uses to calculate and record depreciation expense on its water transmission and distribution mains and its findings and recommendations regarding depreciation expense for such mains.

Background

On June 30, 2017, Commission Staff issued a report of its findings and recommendations (“Staff Report”) after reviewing Monroe District’s application for rate adjustment. While generally accepting Monroe District’s statement of test period expenses and proposed adjustments to those expenses, Commission Staff disagreed with the useful service lives that Monroe District assigned to its assets and recommend that different useful service lives be used. More specifically, Commission Staff recommended that Monroe District should be required to use a 62.5-year useful service life to calculate depreciation expense for water transmission and distribution main instead of a 50-year useful life. If accepted, the recommendation would result

in a reduction in test-period depreciation expense of \$35,495¹ and reduce Monroe District's revenues by approximately \$355,000 over the next ten years.²

In making its recommendation, Commission Staff relied upon *Depreciation Practices for Small Utilities* – a publication that the National Association of Regulatory Utility Commissioners (“NARUC”) issued in 1979 as a guide to utility regulatory commissions. This publication, which is no longer in print and which was never updated or revised, contains a table setting forth a range of average service lives for water utility assets being used by water utilities in 1979 “by water utilities throughout the country for water facilities designed and installed and maintained in accordance with good works practice.”³ For water transmission and distribution mains, this range is between 50 and 75 years. Finding “no evidence in this proceeding to indicate that Monroe District’s plant in-service should be depreciated using depreciable lives that vary significantly from the NARUC mid-points,” Commission Staff applied the mid-point of the range set forth in the guide.⁴ Commission Staff asserted that Commission precedent mandated its action.

**Objection to Commission Staff’s Proposed Depreciation Methodology
and Recommended Disallowance of Depreciation Expense**

Monroe District objects to Commission Staff’s recommendations that (1) the service life for water transmission and distribution mains be lengthened from 50 years to 62.5 years; (2) Monroe District’s adjusted test period depreciation expense be reduced by \$35,495 to reflect this proposed adjustment; and (3) Monroe District use 62.5 year-service life when calculating and

¹ Monroe District proposed adjusted test period depreciation expense of \$174,234 for water transmission and distribution mains. Commission Staff recommended a depreciation expense for water transmission and distribution mains of \$138,739. Staff Report at 23 and 30.

² As Monroe District is expected to place an additional \$2,957,755 of water transmission and distribution mains into service in early 2018, the reduction in revenue over a ten-year period due to the proposed service life revision may be as great as \$468,760.

³ National Association of Utility Regulatory Commissioners, *Depreciation Practices for Small Utilities* (Aug. 15, 1979 (“NARUC Guide”).

⁴ Staff Report at 30.

reporting depreciation expense on its water transmission and distribution mains for ratemaking and accounting purposes.

1. Commission Staff ignores evidence supporting the use of a 50-year service life for Monroe District’s water transmission and distribution mains.

In its application, Monroe District refers to the Commission’s findings in Case No. 2011-00272⁵ and provides the written testimony in the form of a sworn affidavit from a professional engineer⁶ to support its use of a 50-year service life for its water transmission and distribution mains. Despite this evidence, which expressly contradicts the use of a 62.5-year service life, Commission Staff in its Staff Report found “no evidence in this proceeding to indicate that Monroe District’s plant should be depreciated using depreciable lives that vary significantly from the NARUC mid points.”⁷

In Case No. 2011-00272,⁸ Monroe District proposed as part of its application for rate adjustment the use of a 50-year service life for its water transmission and distribution mains. In its application in that proceeding, Monroe District expressly notes that the proposed 50-year service life is based upon Commission Staff’s recommendation.⁹ (Commission Staff assisted Monroe District in preparing its application.¹⁰) In its report on the Application, Commission Staff recommended an adjustment to Monroe District’s depreciation expense to “reflect depreciation lives recommended by the National Association of Regulatory Commissioners,” including an adjustment based upon a 50-year service life for transmission and distribution

⁵ Application, Exhibit 6 at 1.

⁶ Application, Exhibit 22.

⁷ Staff Report at 30.

⁸ *Application of the Monroe County Water District for the Approval of the Proposed Increase in Rates for Water Service*, Case No. 2011-00272 (Ky. PSC filed Aug. 15, 2011).

⁹ Case No. 2011-00272, Application, Exhibit 4 at Item I (“Depreciation: This adjustment reflects revised depreciation lives recommended by Commission Staff”).

¹⁰ Exhibit A at 3.

mains.¹¹ In its Order of December 1, 2011, the Commission found that the Commission Staff's findings and recommendations "are supported by the evidence of record . . . [and] reasonable"¹² and expressly adopted them.¹³ A certified copy of the Commission Staff Report from Case No. 2011-00272 and the Commission's Order of December 1, 2011 is attached to this Response as Exhibit A.

In the Staff Report in the current proceeding, Commission Staff acknowledges the existence of Case No. 2011-00272 and finds that the findings of the earlier proceeding should be affirmed **with the exception of those related to the service life for water mains.**¹⁴ It offers no explanation for the proposed exception, does not question or distinguish the earlier findings regarding the service life for water mains, or identify any intervening circumstance that renders those early findings inoperative. It simply ignores them.

Commission Staff' applies the same treatment to the testimony of Robert Stigall. Mr. Stigall is licensed as a professional engineer in Kentucky and Tennessee. He holds a bachelor's degree in civil engineering from Vanderbilt University. Since 1983 he has performed engineering services for several water systems in Kentucky and Tennessee. Monroe District has retained Mr. Stigall since 1988 for various engineering services. He has been involved in the design and construction of major portions of Monroe District's water distribution system, has closely observed Monroe District's construction practices, and is very familiar with the materials and equipment used in Monroe District's water distribution system as well as its operational and maintenance practices. Having previously prepared and provided information regarding the service life of typical water system components, he is experienced in estimating service life of

¹¹ Exhibit A at 9.

¹² *Id.* at 3.

¹³ *Id.* at 5.

¹⁴ Staff Report at 29.

water utility assets. Mr. Stigall reviewed Monroe District's service lives and provided a written opinion that the 50-year service life that Monroe District assigned to its water mains was appropriate, reasonable and accurately reflected their probable service life. A copy of Mr. Stigall's affidavit, which was previously provided in Monroe District's Application, is attached to this Response as Exhibit B.

In the Staff Report, Commission Staff notes without comment the existence of Mr. Stigall's affidavit. According to the NARUC Guide, upon which Commission Staff has accorded great weight in its Report, "engineering judgment estimates of service life expectancies" are appropriate where the absence of data prevents the use of other methods.¹⁵ Commission Staff has noted the absence of appropriate data in this case.¹⁶ Although Mr. Stigall provides the only expert testimony in the record and is fully qualified to make an engineering judgment estimate on the water mains' service life, Commission Staff makes no effort to distinguish his testimony or explain why it refuses to accord it any weight. It provides no evidence or authority to directly contradict or refute Mr. Stigall's testimony. It fails to explain why, given Mr. Stigall's familiarity and long history with Monroe District's water facilities and his great familiarity with them, his opinion in Commission Staff's eyes has no evidentiary value.

There is no evidence in the record to suggest that Commission Staff seriously considered Mr. Stigall's testimony. In rate proceedings involving small utilities brought under 807 KAR 5:076, the Commission has imposed an affirmative duty upon Commission Staff to develop a full and complete record. Unlike other proceedings, Commission Staff is required to prepare a detail report of its findings and recommendations regarding an applicant's proposed rate adjustment. Despite the significant effect that Commission Staff's recommended change in the service life

¹⁵ NARUC Guide at 9

¹⁶ Staff Report at 25.

for water mains would have on Monroe District's revenue requirements¹⁷ or the significance of Mr. Stigall's testimony on this issue, Commission Staff made no effort to contact or interview Mr. Stigall or to otherwise inquire of him as to the basis for his opinion. In contrast, Commission Staff contacted Monroe District's auditor to inquire about a much smaller adjustment to the water district's annual audit fee and provided extensive discussion in the Staff Report to explain why the proposed adjustment was reasonable.

In recent proceedings, the Commission has stated that a water utility must offer evidence to support a service life that differs from the midpoint in the NARUC Guide's range. Monroe District sought in good faith to comply with that directive even though 807 KAR 5:076 does not expressly require the submission of such evidence. It made specific reference in its Application to the Commission's actions in Case No. 2011-00272 and provided the testimony of Mr. Stigall. Commission Staff's failure to conduct any inquiry regarding Mr. Stigall's testimony or to offer any explanation in the Staff Report as to why Mr. Stigall's testimony was inadequate support for the 50-year service life or to address the Commission's findings in Case No. 2011-00272 raises significant concerns as to Commission Staff's willingness to seriously consider any evidence submitted in support of a water main service life that differs from the midpoint in the NARUC Guide's range.

2. Commission Staff has provided no substantial evidence to support its recommendation for the use of a 62.5-year service life for Monroe District's water transmission and distribution mains.

In its Staff Report, Commission Staff proposes that the Commission require Monroe District to use 62.5-year service life for its water transmission and distribution mains rather than a 50-year service life that the Commission approved in Case No. 2011-00272. As the proponent of this change, Commission Staff bears the burden of producing substantial evidence to support

¹⁷ See Footnote 2 and accompanying text.

its proposed revision. It has failed to provide any study or analysis to support an upward revision of the 50-year service life. It contains no estimate of the current age of Monroe District's water main.

The only evidence that Commission Staff provides for its recommendation is the statement of Richard Ross, Monroe District's General Manager, made to one of the Staff Report's authors. These statements are: (1) The plant's overall physical condition was average for its age; (2) No component of the plant exhibits excessive or accelerated decay; (3) Approximately 95 percent of the water district's mains are constructed of polyvinyl chloride; (4) All mains are in satisfactory condition; and (5) No major main replacements are anticipated for many years.¹⁸ Commission Staff offers no explanation as to how these statements support its recommendation.

To clarify the record of this proceeding and to place Mr. Ross's statements in the proper context, Monroe District attaches to this Response as Exhibit C an affidavit from Mr. Ross regarding the water mains. In his affidavit, Mr. Ross states that he had a five minute conversation with one of the Staff Report's authors in which he was questioned about Monroe District's water mains. He estimates that at least 60 percent of Monroe District's water mains are less than 30 years old and that approximately 26 percent are less than 15 years. He notes that given the recent age of these mains, he does not expect any major replacements in the next 10 to 15 years. He further notes, however, that Monroe District's terrain possesses a rugged terrain and unusual soil conditions that may prove harsh on water mains and could potentially reduce their service life. He also notes that in 2003 Monroe District had to replace approximately 8 miles of 8-inch PVC water main in the southwest portion of Monroe County. The water main was approximately 25 to 30 years old, was in very poor condition, and removed from service

¹⁸ Staff Report at 29-30.

long before the end of its expected service life. Finally, Mr. Ross states that he agrees with Mr. Stigall's service life estimate, finds it consistent with his own experience at Monroe District, and is aware of no condition that would render a different service life appropriate. In short, there is nothing in Mr. Ross's earlier statement or his latest statement that supports a revision to the present use of a 50-year service life for Monroe District's water mains.

Not only has Commission Staff failed to produce any evidence to support its own recommendations regarding the appropriate service life for water mains, it has produced no evidence to challenge Mr. Stigall's estimates or his qualifications to make such estimates. There is no evidence in the record that Commission Staff has even engaged in any inquiry of Mr. Stigall to estimate to assess the accuracy of his estimate or gather evidence regarding the underlying basis of his estimates.

As noted earlier, Commission Staff's recommendation regarding the service life assigned to water mains will significantly reduce Monroe District's revenues and thus its ability to provide reasonable and reliable service. Such a significant decision should be based on solid, concrete evidence - hard facts and hard numbers. Commission Staff has produced neither. It has failed to meet its burden as the proponent of the revision and its recommendation should be rejected.

- 3. Absent a showing of a change of circumstances, Commission Staff is estopped by the Commission's Order of December 1, 2011 in Case No. 2011-00272 from asserting that the use of a 50-year service life for water transmission and distribution mains is unreasonable or improper.**

The Commission has previously recognized that the doctrine of collateral estoppel may bar the re-litigation of an issue actually litigated and decided upon in an earlier Commission

proceeding.¹⁹ It bars further litigation when the issues in the two Commission proceedings are the same, a final decision or judgment on the merits was reached in the earlier proceeding, the estopped party had a fair opportunity to litigate the issue, and the issue in the prior proceeding was necessary to the final decision. The Commission has noted that the doctrine will not apply when a significant change of conditions or circumstances has occurred between two successive administrative hearings.²⁰

The doctrine of collateral estoppel bars Commission Staff from relitigating the issue of appropriate service life for Monroe District's water transmission and distribution mains in this proceeding. The issue in the present case is exactly the same issue which the Commission decided in Case No. 2011-00272. The appropriate service life for these mains was critical to the Commission's decision in Case No. 2011-00272 regarding Monroe District's revenue requirement and the rates necessary to produce that revenue level.

Commission Staff has failed to identify any change of conditions or circumstances since Case No. 2011-00272 to justify relitigating the issue. It offers no evidence to support a change in the existing service life for the water mains nor does it offer any explanation as to why the Commission's earlier determination was in error or is no longer valid. In the absence of such change, there is no basis to re-open or re-examine the Commission's earlier determination.

¹⁹ See, e.g., *The Joint Petition of Kentucky-American Water Company, Thames Water Aqua Holdings GmbH, RWE Aktiengesellschaft, Thames Water Aqua US Holdings, Inc., Apollo Acquisition Company and American Water Works Company, Inc. for Approval of a Change of Control of Kentucky-American Water Company*, Case No. 2002-00317 (Ky. PSC Oct. 16, 2002) at 8; *An Adjustment of Rider AMRP of the Union Light, Heat and Power Company*, Case No. 2002-00107 (Ky. PSC Aug. 30, 2002).

²⁰ *Petition of Mountain Water District for Modification of Order in Case No. 2014-00342*, Case No. 2016-00062 (Ky. PSC Apr. 8, 2016) *General Rate Adjustment of the Rates of Kentucky Power Company*, Case No. 9061 (Ky. PSC Dec. 4, 1984).

4. The record contains no evidence to demonstrate that the authors of the Staff Report are qualified to render expert opinion on the appropriate service life for Monroe District’s water transmission and distribution mains.

The Kentucky Rules of Evidence generally prohibit opinion testimony by non-experts.²¹ KRE 702 permits opinion testimony to determine a fact in issue by “a witness qualified as an expert by knowledge, skill, experience, training, or education.”²² While the Commission is not bound by the technical rules of evidence,²³ the Commission has generally required that those seeking to offer opinion testimony in highly technical areas demonstrate some knowledge, training or experience in those areas and, where no such demonstration has been made, has not accepted such testimony or has significantly limited the weight given to such testimony.²⁴

In the Staff Report, its authors express the opinion that the existing 50-year service life used to calculate depreciation expense should be discarded and 62.5-year service life be used instead. The Staff Report, however, discloses no information regarding the authors’ qualifications to render an opinion on the appropriate service life. The record is devoid of any information regarding the authors’ educational background, or work experience. There is nothing in the record to suggest that authors have any training, experience, or special knowledge in the preparation of depreciation studies or in related fields of engineering, construction or water

²¹ KRE 701.

²² See also *Stringer v. Commonwealth*, 956 S.W.2d 883, 891 (Ky. 1997) (“Expert opinion evidence is admissible so long as . . . the witness is qualified to render an opinion on the subject matter”).

²³ KRS 278.310. The Commission, however, has recognized that it may look to the rules of evidence as advisory in nature. *In the Matter of: Petition of Windstream Kentucky East, LLC for Arbitration of an Interconnection Agreement with New Cingular Wireless PCS, LLC d/b/a AT&T Mobility*, Case No. 2009-00246 (Ky. PSC Nov. 24, 2009) at 7.

²⁴ See *The Application of Louisville Gas and Electric Company for Approval of Its 2002 Compliance Plan for Recovery By Environmental Surcharge*, Case No. 2002-00147 (Ky. PSC Feb. 11, 2003); *Investigation Into the Membership of Louisville Gas and Electric Company and Kentucky Utilities Company in the Midwest Independent Transmission System Operator, Inc.*, Case No. 2003-00266 (Ky. PSC Aug. 13, 2003).

facility operations. In the absence of such demonstration, the Commission should afford little, if any, weight to the authors' opinion regarding the appropriate service life.²⁵

5. Requiring a water utility's service lives to be at the mid-point of the NARUC Guide-specified range in the absence of evidence to the contrary violates KRS Chapter 13A unless that requirement is set forth in the Commission's regulations.

As described in the Staff Report, the Commission's policy is very clear: a water utility's service lives must be within the range specified by the NARUC Guide²⁶ and the mid-point of that range must be used unless the water utility produces evidence supporting an alternative point within the range.²⁷ The Commission has previously declared that this policy is applicable to all water utilities.²⁸ In its Report, Commission Staff recommends that this policy be applied to Monroe District.

The Commission's policy, however, is not found in any administrative regulation. Unless set forth in a regulation, it is unlawful and unenforceable. KRS 13A.100(1) provides that an administrative agency authorized to promulgate administrative regulations must place "[e]ach statement of general applicability, policy, procedure, memorandum, or other form of action that implements; interprets; prescribes law or policy; describes the organization, procedure, or

²⁵ Prior to November 2016, the Commission employed engineers to assist in the review to rate case submissions and render opinions regarding the service lives of water utility assets. On November 18, 2016, Governor Bevin ordered the abolishment of the Commission's Division of Engineering. Executive Order 2016-832. The General Assembly subsequently confirmed this reorganization. 2017 Ky. Acts Ch. 56. Engineers assigned at that time to the Commission's Division of Engineering were assigned to other positions within Kentucky State Government.

²⁶ Staff Report at 25. *See also Application of Mountain Water District For An Adjustment of Water and Sewer Rates*, Case No. 2014-00342 (Ky. PSC Oct. 9, 2015) at 23 ("The NARUC Study outlines expected life ranges for asset groups, and an adjustment is made when a water utility is using a depreciation life that falls outside this range.").

²⁷ Staff Report at 26. *See, e.g., Application of Mountain Water District For An Adjustment of Water and Sewer Rates*, Case No. 2014-00342 (Ky. PSC Oct. 9, 2015);

²⁸ *See, e.g., Application of Sandy Hook Water District For Rate Adjustment Pursuant to 807 KAR 5:076*, Case No. 2016-00265 (Ky. PSC Mar. 21, 2017); *Application of Mountain Water District For An Adjustment of Water and Sewer Rates*, Case No. 2014-00342 (Ky. PSC Oct. 9, 2015).

practice requirements of any administrative body” into an administrative regulation. Any Commission order, therefore, that enforces or implements the policy is an unlawful order.²⁹

6. The Commission’s use of the NARUC Guide to determine service lives deprives Monroe District of its right to due process.

The NARUC Guide is intended to “assist state commissions in establishing depreciation rates for small water utilities.”³⁰ Recognizing that “it will be very difficult for staffs of regulatory commissions and small water utilities to make a proper estimate of average service life” for plant assets, the NARUC Subcommittee on Depreciation developed “a range of average service lives currently being used by water utilities through the country for water utilities throughout the country for water facilities designed and installed and maintained in accordance with good practice.”³¹ The Subcommittee “analyzed data from various states and water utilities from which it selected typical average service lives and net salvages by plant accounts.”³²

The Subcommittee did not include in the NARUC Guide or published elsewhere the underlying studies or data upon which it relied to develop the range of service lives. It also failed to provide any information regarding the utilities that were the subject of those studies. There is no known information regarding the size or location of the subject utilities or the topographic, climate, or soil conditions under which they operated. How current the information was at the time of the NARUC Guide’s publication in 1979 is also unclear. As the NARUC Guide has never been revised or updated, it is certain that the underlying studies are at least 38 years old.

²⁹ *Kentucky Utilities Co. v. Public Service Commission of Kentucky*, No. 91-CI-1036 (Franklin Cir. Ct. Ky. Sept. 25, 1992), slip op. at 7 (“the Commission’s Order is unlawful and unreasonable because it imposes a generally applicable burden upon all regulated utilities without adopting new regulations or modifying existing regulations pursuant to the requirements of KRS Chapter 13A”); *Commonwealth ex re. Cowan v. Public Service Commission of Kentucky*, No. 90-CI-00798 (Franklin Cir. Ct. Ky July 10, 1989) (“the Order falls neatly within the statutory definition of a regulation, as it implements the new policy of the PSC of allowing the future test period method and describes the procedures that applicants will need to use to obtain the PSC’s approval.”).

³⁰ NARUC Guide at iii.

³¹ *Id.* at 10

³² *Id.* at iii.

While identities of the subject utilities are unknown, it is also certain that they were not “small utilities.” The Subcommittee implied as much when it stated:

It was assumed that the small water utilities use the same construction techniques, have similar equipment, maintenance standards and accounting practices as those in the selected sample: therefore, the small water utility average service lives and depreciations rates would be similar to those used by the average water utility.³³

Clearly, the utilities that served as the basis for the range of service lives were larger utilities. Their exact size and how they compared in size to Monroe District will likely never be known.

While Commission Staff asserts that the Commission “has historically relied” upon the NARUC Guide, a search of the Commission Orders issued since 1980 indicates few references to it prior to 2006.³⁴ The Commission has never conducted a formal administrative proceeding to review the NARUC Guide, nor has the Commission ever requested evidence or argument on the NARUC Guide’s accuracy, reliability, or relevance or whether the Commission’s reliance upon it is lawful and reasonable. Furthermore, the Commission has never inquired into the underlying data upon which the NARUC Guide is based or considered whether this data, which is almost forty years old, is still reliable in view of changing construction and manufacturing processes.³⁵

The NARUC Guide’s range of service lives cannot be considered competent or trustworthy evidence and should not be consider in determining the service life of Monroe

³³ *Id.* at iii-iv.

³⁴ Our search revealed only three Orders in which the NARUC Guide as expressly referenced. *See The Application of Muhlenberg County Water District (A) For A Certificate of Public Convenience and Necessity (1) Approving the Construction of New Plant Facilities; (2) Approving the Issuance of Certain Securities; and (3) Authorizing Adjustment of Water Service Rates And Charges; and (B) For An Order Approving the Merger of Muhlenberg County Water District and Muhlenberg County Water District (Graham) Under the Terms of KRS 74.363 and the Application of Established Rates of Muhlenberg County Water District To the Customers of Muhlenberg County Water District (Graham)*, Case No. 9539 (Ky. PSC Jan. 28, 1987); *The Application of the East Clark County Water Districts of Clark County Kentucky for Approval of Construction, Financing and Increased Water Rates*, Case No. 9512 (Ky. PSC Sept. 30, 1986); *The Application of the Muhlenberg County Water District, a Water District Organized Pursuant to Chapter 74 of the Kentucky Revised Statutes for a General Adjustment of Rates and Revision of Rates*, Case No. 9262 (Ky. PSC Oct. 9, 1985).

³⁵ It also appears that the Commission has not examined how widely accepted the NARUC Guide is among other regulatory commissions.

District's water mains. The ranges are based upon 40-year old data from unknown sources. There is no information on how the Subcommittee chose the underlying studies, the characteristics of the subject utilities, or the topographical and climate conditions under which they operated. There is no custodian of the underlying studies or expert³⁶ proffering this data who can testify to the process used to prepare the range of service lives, the assumptions made in the preparation process, the methodology used to collate, assemble and organize the data from the individual depreciations studies, or the accuracy of the range of service lives. Most importantly, there is no person or information source that can testify how this data and the resulting range of service lives is applicable to Monroe District or its water mains. The NARUC Subcommittee on Depreciation itself noted that the ranges were only "intended as a guide,"³⁷ not an exacting standard.

The NARUC Guide is not the type of information for which the Commission may take administrative notice. The Commission has noted that it was not subject to KRS 13B.090(5), which authorizes administrative agencies to "take official notice of facts which are not in dispute, or of generally-recognized technical or scientific facts within the agency's specialized knowledge."³⁸ However, the Commission has occasionally taken administrative notice of certain basic facts, for example, the identity of the corporate parent of an applicant³⁹ or that a large snowstorm occurred on a certain date and caused outages among utility customers.⁴⁰

The information in NARUC Guide, which is based upon an aggregation of individual depreciation studies, is not of the same character as information which has been previously

³⁶ It is unclear whether any member of the Subcommittee that prepared the NARUC Guide is still living.

³⁷ NARUC Guide at 11.

³⁸ *Joint Application of Kenergy Corp. and Big Rivers Electric Corporation for Approval of Contracts and for a Declaratory Order*, Case No. 2013-00221 (Ky.PSC Aug. 14, 2013) at 25.

³⁹ *Application of Duke Energy Kentucky, Inc. to Amend its Demand-Side Management Programs*, Case No. 2015-00277 (Ky. PSC Feb. 12, 2016) at 1, fn 1.

⁴⁰ *Licking Valley Rural Electric Cooperative Corporation: Alleged Failure to Comply with 807 KAR 5:006, Section 26*, Case No. 2010-00226 (Ky. PSC Jul. 7, 2010) at 2.

recognized by the Commission as subject to administrative notice. The accuracy and reliability of the NARUC Guide is not beyond question, nor is it a matter of generally-recognized fact among the public. Taking administrative notice of the NARUC Guide, therefore, violates Monroe District's right to due process. The Commission recognized this problem in a recent proceeding in which a party requested that administrative notice be taken of testimony in another regulatory proceeding regarding the forecasted price of aluminum.⁴¹ Denying the request, the Commission stated:

KIUC has not shown that those forecasted aluminum prices are accurate and not in dispute. Taking administrative notice as requested by KIUC would violate the procedural due process rights of the other parties to this case by denying them an opportunity to cross-examine the forecast set forth in the proffered testimony.⁴²

In the current case, there is no expert who can lay the foundation for the NARUC Guide's accuracy or its applicability to Monroe District's water mains. As previously noted, nothing is known about the NARUC Guide's informational sources or how the information was compiled and processed to produce the service life ranges. Accordingly, the NARUC Guide's range of service lives are is manifestly reliable and is not appropriately subject to administrative notice.

Finally, consideration of evidence that is not inherently reliable and upon which no party can exercise its right to cross-examine amounts to a denial of due process. This principle is well established under federal and Kentucky law:

A party is entitled, of course, to know the issues on which decision will turn and to be apprised of the factual material on which the agency relies for decision so that he may rebut it. Indeed, the Due Process Clause forbids any agency to use evidence in a way that forecloses an opportunity to offer a contrary presentation.⁴³

⁴¹ Case No. 2013-00221, Order of Aug. 14, 2013 at 25-26.

⁴² *Id.*

⁴³ *Utility Reg. Comm'n v. Kentucky Water Serv. Co.*, 642 S.W.2d 591, 593 (Ky. App. 1982) (quoting *Ohio Bell Telephone Co. v. Pub. Utilities Comm'n*, 301 U.S. 292 (1937)).

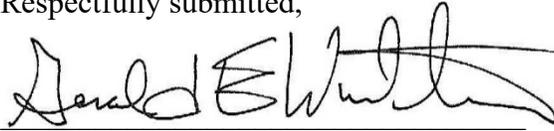
The use of the NARUC Guide as the final authority on the reasonableness of the service life of Monroe District's water mains, with no opportunity to examine or dispute the reliability or applicability of range of service lives to Monroe District or its water mains, amounts to a violation of Monroe District's due process rights. Monroe District has no practical means or opportunity to test the reliability of the NARUC Guide's ranges in this proceeding. Accordingly, the rigid and inflexible application of NARUC Guide's ranges to Monroe District is not only unsupported by the evidence of record, it violates Monroe District's rights under the state and federal constitutions.

Conclusion

For the reasons stated above, the Commission should reject Commission Staff's recommendations that (1) the service life for Monroe District's water transmission and distribution mains be lengthened from 50 years to 62.5 years; (2) Monroe District's adjusted test period depreciation expense be reduced by \$35,495 to reflect this proposed adjustment; and (3) Monroe District use 62.5 year-service life when calculating and reporting depreciation expense on its water transmission and distribution mains for ratemaking and accounting purposes. If the Commission finds that any other finding or recommendation set forth in the Staff Report should be modified or revised, Monroe District requests that a hearing on the proposed modification or revision.

Dated: July 14, 2017

Respectfully submitted,



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CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, I certify that Monroe County Water District's July 14, 2017 electronic filing of this Motion is a true and accurate copy of the same document being filed in paper medium; that the electronic filing has been transmitted to the Commission on July 14, 2017; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original paper medium of this Application will be delivered to the Commission on or before July 18, 2017.



Gerald E. Wuetcher

EXHIBIT A

AFFIDAVIT

I, Talina R. Mathews, Executive Director of the Kentucky Public Service Commission and custodian of the records thereof pursuant to KRS 278.100, after being duly sworn, hereby certify that the pdf documents of Commission Order dated December 1, 2011, Notice of Filing, and PSC Staff Report in Case No. 2011-00272, attached hereto are true and correct copies of official records maintained by the Kentucky Public Service Commission. The pdf documents are bates numbered from 000001 through 000019.

Pursuant to the provisions of KRS 278.240, I have caused the seal of the Kentucky Public Service Commission to be affixed to this my signature to further certify the authenticity of the attached copies of official documents.

Affiant further saith naught.



TALINA R. MATHEWS,
Executive Director



STATE OF KENTUCKY

COUNTY OF FRANKLIN

Subscribed and sworn to before me by Talina R. Mathews, Executive Director, Kentucky Public Service Commission, this 3rd day of July, 2017.

My Commission Expires:

Sept 3, 2017



NOTARY PUBLIC
ID# 495415

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF THE MONROE COUNTY)
WATER DISTRICT FOR THE APPROVAL OF) CASE NO.
THE PROPOSED INCREASE IN RATES FOR) 2011-00272
WATER SERVICE)

NOTICE OF FILING OF COMMISSION STAFF REPORT

Notice is hereby given that, in accordance with the Commission's Order of October 28, 2011, the attached report containing the findings and recommendations of Commission Staff regarding the Applicant's proposed rate adjustment has been filed in the record of the above-styled proceeding.



Jeff Derouen
Executive Director
Public Service Commission
P.O. Box 615
Frankfort, KY 40602

DATED: NOV 03 2011

cc: Parties of Record

000001

STAFF REPORT
ON
MONROE COUNTY WATER DISTRICT
CASE NO. 2011-00272

Pursuant to a request by Monroe County Water District ("Monroe County") for assistance with the preparation of a rate application, Commission Staff ("Staff") performed a limited financial review of Monroe County's test-period operations, for the calendar year ending December 31, 2010. The scope of Staff's review was limited to obtaining information as to whether the test-period operating revenues and expenses were representative of normal operations. Insignificant or immaterial discrepancies were not pursued and are not addressed.

Mark Frost and Sam Reid of the Commission's Division of Financial Analysis performed the limited review. This report summarizes Staff's review and recommendations. Mr. Reid is responsible for the pro forma revenue adjustment, the Cost-of-Service Study, and the calculation of the recommended rates. Mr. Frost is responsible for all pro forma expense adjustments, the revenue requirement determination, and cash flow calculations.

Upon completion of its limited review, Staff assisted Monroe County in the preparation of its rate application, which Monroe County filed with the Commission on August 15, 2011. Staff finds that Monroe County accurately reports its test-period operations in its application and that the proposed pro forma adjustments meet the ratemaking criteria of known and measurable. Appendix A is Monroe County's pro

forma operating income statement. Appendix B contains an explanation of each pro forma adjustment accepted by Staff.

As shown in Table 1, Monroe County's requested pro forma operations supports a revenue requirement from rates of \$1,504,411, an increase of \$314,606, or 26.4 percent, above the normalized revenue from rates of \$1,189,805.

Table 1: Revenue Requirement				
	Average			
	Debt Service	Coverage		Requirement
Debt Service Coverage	\$ 215,446	x 0.2	=	\$ 43,089
Debt Service				215,446
Add: Pro Forma Operating Expenses				1,005,753
Depreciation				290,670
Taxes Other Than Income			+	24,416
Total Revenue Requirement				\$ 1,579,374
Less: Other Income & Deductions			-	15,270
Revenue Requirement from Operations				\$ 1,564,104
Less: Other Operating Revenues			-	59,693
Revenue Requirement from Water Sales				\$ 1,504,411
Less: Pro Forma Revenue - Water Sales			-	1,189,805
Requested Increase				\$ 314,606
Percentage Increase				26.442%

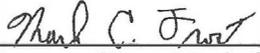
Monroe County proposes to phase-in its requested increase over two years to lessen the proposed rate adjustment's effect on ratepayers. Under its proposal, Monroe County will immediately adjust its rates to increase annual revenues \$157,541, or approximately 11.69 percent. One year later it will adjust its rates again to generate additional annual revenues of \$158,413.¹ As shown in Table 2, the total revenues generated from the first phase of the proposed rate adjustment is sufficient to meet annual pro forma "cash" expenses and the debt-service coverage requirement of Monroe County's bond ordinances in 2012. Similarly, the total revenues generated from the latter phase of the proposed rate adjustment will meet such requirements in 2013.

¹ Application at 3.

Table 2: Annual Cash Flows and Debt Service Requirements		
	2012	2013
Normalized Revenue - Water Sales 2010	\$ 1,189,805	\$ 1,189,805
Add: Requested Increase	+ 157,541	+ 314,606
Revenues - Water Sales	\$ 1,347,346	\$ 1,504,411
Add: Other Income & Deductions	15,270	15,270
Other Operating Revenues	+ 59,693	+ 59,693
Total Revenues Available for Operating Exp. and Debt Service	\$ 1,422,309	\$ 1,579,374
Less: Operating Expenses	- 1,320,839	- 1,320,839
Net Operating Income	\$ 101,470	\$ 258,535
Add: Depreciation & Amortization	+ 290,670	+ 290,670
Income Available for Debt Service	\$ 392,140	\$ 549,205
Less: Annual Debt Service	- 216,550	- 214,851
Net Cash Flow	\$ 175,590	\$ 334,354
Income Available for Debt Service	\$ 392,140	\$ 549,205
Divided by: Annual Debt Service	÷ 175,590	÷ 214,851
Debt Service Coverage	2.23	2.56

Commission Staff finds that Monroe County's proposed rates, which are set forth in Appendix C, will produce the recommended revenue requirements and reasonably reflect the water district's cost to furnish service within each water usage block. Commission Staff further finds that Monroe County's cost-of-service study, which is an exhibit to the water district's application, was prepared in accordance with accepted ratemaking standards and that its results fully support the proposed rates.

Signatures


 Prepared by: Mark C. Frost
 Financial Analyst, Water and Sewer
 Revenue Requirements Branch
 Division of Financial Analysis


 Prepared by: Sam Reid
 Rate Analyst, Communications, Water
 and Sewer Rate Design Branch
 Division of Financial Analysis

APPENDIX A
STAFF REPORT CASE NO. 2011-00272
PRO FORMA OPERATIONS

	2009 Annual Report	Pro Forma Adjustments	Adj. Ref.	Pro Forma Operations
Operating Revenues:				
Revenue – Metered Water Sales	\$ 1,134,222	\$ 55,583	(a)	\$ 1,189,805
Other Operating Revenues:				
Forfeited Discounts	23,297	0		23,297
Misc. Service Revenues	36,396	0		36,396
Total Other Operating Rev.	\$ 59,693	\$ 0		\$ 59,693
Total Operating Rev.	\$ 1,193,915	\$ 55,583		\$ 1,249,498
Operating Expenses:				
Operation & Maintenance:				
Salaries & Wages – Emp.	\$ 259,424	\$ 29,618	(b)	\$ 289,042
Salaries & Wages – Com.	6,000	0		6,000
Emp. Pension & Benefits	20,683	44,552	(c)	65,235
Purchased Water	356,768	31,740	(d)	388,508
Purchased Power	48,122	0		48,122
Materials & Supplies	62,072	29,543	(e)	91,615
Cont. Services – Acct.	8,000	0		8,000
Cont. Services – Mgt.	14,278	(13,850)	(f)	428
Cont. Services – Water Testing	6,992	0		6,992
Cont. Services – Other	40,093	0		40,093
Transportation	19,757	0		19,757
Ins. – Gen. Liability	16,987	(1,507)	(g)	15,480
Ins. – Workers Comp.	5,673	948	(g)	6,621
Insurance – Other	45,256	(44,200)	(g)	1,056
Bad Debt Expense	5,273	0		5,273
Miscellaneous	22,626	(9,095)	(h)	13,531
Total Operation & Maint.	\$ 938,004	\$ 67,749		\$ 1,005,753
Depreciation	238,082	52,588	(i)	290,670
Taxes Other Than Income:				
Payroll Taxes	20,628	1,483	(j)	22,111
Other Tax & License	2,305	0		2,305
Utility Operating Exp.	\$ 1,199,019	\$ 121,820		\$ 1,320,839
Net Utility Operating Income	\$ (5,104)	\$ (66,237)		\$ (71,341)
Other Income & Deductions:				
Interest Income	15,270	0		15,270
Net Income Available for Debt Service	\$ 10,166	\$ (66,237)		\$ (56,071)

APPENDIX B
STAFF REPORT CASE NO. 2011-00272
PRO FORMA ADJUSTMENTS

(a) Revenue from Water Sales: This adjustment reflects the current rates applied to Commission Staff's billing Analysis.

	Bills	Gallons	Amount
Normalized Revenue from Water Sales - Existing	3,363	208,787,540	\$ 1,189,805
Less: Reported Revenue from Water Sales			- 1,134,222
Pro Forma Adjustment			\$ 55,583

(b) Salaries & Wages: Staff is applying the 2011 wages to the hours worked during the 2009 test period.

Position Title	2011 Wages	2009 Hours		Total
		Regular	Overtime	
Office Manager	\$ 17.40	2,080.00	63.00	\$ 37,836
Distribution Crew Supervisor	\$ 16.55	2,080.00	141.00	37,925
Accounts Receivable III	\$ 11.61	2,080.00	12.50	24,367
Customer Service Rep. Sup.	\$ 14.70	2,080.00	284.50	36,849
General Manager	\$ 21.63	2,080.00	54.00	46,742
Accounts Receivable III	\$ 11.15	2,080.00	44.00	23,928
Meter Tester/Equip. Operator II	\$ 14.70	2,080.00	144.50	33,762
Laborer II	\$ 11.39	2,080.00	42.50	24,417
Laborer	\$ 9.44	2,080.00	38.00	20,173
Accounts Receivable I	\$ 8.50	358.00	0.00	3,043
Pro Forma Salaries & Wages - Employees				\$ 289,042
Less: Reported 2009 Salaries & Wages - Employees				- 259,424
Pro Forma Adjustment				\$ 29,618

(c) Employee Pension and Benefits: Commission Staff's adjustment is based upon the current employer retirement contribution rate, the pro forma salaries and wages, and the current employee insurance premiums.

Position Title	Employee Benefits			Totals
	Health Ins.	Dental & Life	Retirement 8%	
Office Manager	\$ 4,912	\$ 353	\$ 3,027	\$ 8,292
Distribution Crew Supervisor	2,838	54	3,034	5,926
Accounts Receivable III	0	119	1,949	2,068
Customer Service Rep. Sup.	6,177	479	2,948	9,604
General Manager	6,291	590	3,739	10,620
Accounts Receivable III	6,291	470	1,914	8,675
Meter Tester/Equip. Operator II	4,650	180	2,701	7,531
Laborer II	6,178	590	1,953	8,721
Laborer	1,851	333	1,614	3,798
Accounts Receivable I	0	0	0	0
Pro Forma Emp. Pension and Benefits	\$ 39,188	\$ 3,168	\$ 22,879	\$ 65,235
Less: Reported 2009 Salaries & Wages - Employees				- 20,683
Pro Forma Adjustment				\$ 44,552

(d) Purchased Water: Commission Staff applied the purchased water rate that became effective on January 1, 2011 to the test-period water purchases.

Test-Period Purchased Water - Gallons	253,926.50
Purchased Water Rate Effective 01/01/2011	\$ 1.53
Pro Forma Purchased Water Expense	\$ 388,508
Less: Reported Purchased Water Expense	- 356,768
Pro Forma Adjustment	<u>\$ 31,740</u>

(e) Materials & Supplies: Commission Staff is correcting the amount reported in the annual report to reflect the results of its limited financial review.

Account		
No.	Title	
05250-0000	Uniforms	\$ 7,980
05300-0000	Supplies (Gen)	7,215
05310-0000	Supplies (In ground)	10,615
05350-0000	Utility Repairs - Maint	18,134
05360-0000	Equip Repairs - Maint	12,307
05400-0000	Office Expense	30,710
05410-0000	Office Maint - Repair	4,654
Materials & Supplies		\$ 91,615
Less: Materials & Supplies - 2009 Annual Report		- 62,072
Difference		<u>\$ 29,543</u>

(f) Contractual Services - Management: Upon its review of the general ledger and test-period invoices, Commission Staff determined that the listed capital expenditures had been incorrectly expensed.

Transaction		
Date	Description	
01/14/09	Administrative Fee - WRIS ID: WX21171027 Grant: 324N-2008	\$ (6,250)
04/14/09	Engineer R Hammer/Rhoton Water Line Extensions	(2,400)
05/12/09	Engineer Water Line Extensions	(4,000)
08/07/09	Engineering Roach Rd Water Line Extensions	+ (1,200)
Total Capital Expenditures		<u>\$ (13,850)</u>

(g) Insurance: Commission Staff is adjusting insurance expense to reflect the current premiums for general liability, workers' compensation, and bond coverage.

Insurance Type/Account	Current Premiums	Test-Period Premiums	Pro Forma Adjustment
KACO - General Liability	\$ 15,480	\$ 16,987	\$ (1,507)
KACO - Workers Compensation	6,621	5,673	948
Other - Bonds	1,056	45,256	+ (44,200)
Totals	<u>\$ 23,157</u>	<u>\$ 67,916</u>	<u>\$ (44,759)</u>

(h) Miscellaneous: Commission Staff is correcting the amount reported in the annual report to reflect the results of its limited financial review.

Account No.	Title		
05210-0000	Telephone	\$	4,961
05800-0000	Dues & Subs		6,494
05850-0000	Meetings & Educational		2,026
05900-0000	Miscellaneous Expense	+	50
Miscellaneous		\$	13,531
Less: Miscellaneous - 2009 Annual Report		-	22,626
Difference		\$	<u>(9,095)</u>

(i) Depreciation: Commission Staff is proposing to adjust test-period depreciation expense to reflect depreciation lives recommended by the National Association of Regulatory Utility Commissions.

		Staff Depreciation	
		Lives	Expense
Structures & Improvements	\$ 126,842	38	\$ 3,338
Pumping Equipment	413,988	20	20,699
Distribution Reservoirs	208,835	45	4,641
Transmission & Distribution Mains	1,292,182	50	25,844
Services	7,479,795	40	186,995
Meters & Installations	120,774	40	3,019
Other Plant	672,572	35	19,216
Furniture & Equipment	32,370	23	1,407
Transportation Equipment	85,363	7	12,195
Power Operated Equipment	173,102	13	13,316
CWIP	220,260	N/A	+
Totals	<u>\$ 10,826,083</u>		\$ 290,670
Less: Reported Depreciation Expense			- 238,082
Pro Forma Adjustment			<u>\$ 52,588</u>

(j) Payroll Taxes: Commission Staff is applying the payroll tax rate to the normalized salaries and wages expense.

Position Title	Pro Forma Payroll	FICA
		\$76,000 7.65%
Office Manager	\$ 37,836	\$ 2,894
Distribution Crew Supervisor	\$ 37,925	2,901
Accounts Receivable III	\$ 24,367	1,864
Customer Service Rep. Sup.	\$ 36,849	2,819
General Manager	\$ 46,742	3,576
Accounts Receivable III	\$ 23,928	1,830
Meter Tester/Equip. Operator II	\$ 33,762	2,583
Laborer II	\$ 24,417	1,868
Laborer	\$ 20,173	1,543
Accounts Receivable I	\$ 3,043	+
Pro Forma Payroll Tax		\$ 22,111
Less: Test Period Payroll Taxes		- 20,628
Pro Forma Adjustment		<u>\$ 1,483</u>

APPENDIX C
STAFF REPORT CASE NO. 2011-00272
STAFF'S RECOMMENDED
RATES

Monthly Rates – Phase I:

5/8" x 3/4" Meter

First	2,000 gallons	\$ 15.96	Minimum Bill
Next	3,000 gallons	\$ 5.85	per 1,000 gallons
Next	5,000 gallons	\$ 4.97	per 1,000 gallons
Over	10,000 gallons	\$ 4.21	per 1,000 gallons

1" Meter

First	5,000 gallons	\$ 33.51	Minimum Bill
Next	5,000 gallons	\$ 4.97	per 1,000 gallons
Over	10,000 gallons	\$ 4.21	per 1,000 gallons

2" Meter

First	20,000 gallons	\$ 100.46	Minimum Bill
Over	20,000 gallons	\$ 4.21	per 1,000 gallons

WHOLESALE WATER RATE: \$ 2.11 per 1,000 gallons

Monthly Rates – Phase II:

5/8" x 3/4" Meter

First	2,000 gallons	\$ 17.15	Minimum Bill
Next	3,000 gallons	\$ 6.90	per 1,000 gallons
Next	5,000 gallons	\$ 5.70	per 1,000 gallons
Over	10,000 gallons	\$ 4.80	per 1,000 gallons

1" Meter

First	5,000 gallons	\$ 37.85	Minimum Bill
Next	5,000 gallons	\$ 5.70	per 1,000 gallons
Over	10,000 gallons	\$ 4.80	per 1,000 gallons

2" Meter

First	20,000 gallons	\$ 114.35	Minimum Bill
Over	20,000 gallons	\$ 4.80	per 1,000 gallons

WHOLESALE WATER RATE: \$ 2.11 per 1,000 gallons

Richard O Ross
General Manager
Monroe County Water District
205 Capp Harlan Road
Tompkinsville, KY 42167

EXHIBIT A
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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF THE MONROE COUNTY)
WATER DISTRICT FOR THE APPROVAL OF THE) CASE NO. 2011-00272
PROPOSED INCREASE IN RATES FOR WATER)
SERVICE)

ORDER

Monroe County Water District ("Monroe District") has applied for authority to increase its water rates. By this Order, we establish rates that will produce annual revenues from water sales of \$1,504,411, an increase of \$314,606, or 26.4 percent, over normalized revenue from rates of \$1,189,805. The approved rates will increase the average monthly residential bill for 5,000 gallons of water from \$29.42 to \$37.85, an increase of \$8.43, or 28.65 percent. This increase will be implemented in two phases over a one-year period.

Monroe District, a water district organized pursuant to KRS Chapter 74, owns and operates facilities that distribute and furnish water to approximately 3,341 customers in Monroe County, Kentucky.¹ It is a utility subject to Commission jurisdiction.² This proceeding represents Monroe District's first application for a general

¹ *Annual Report of Monroe County Water District to the Public Service Commission For the Calendar Year Ended December 31, 2010* at 5 and 27.

² KRS 278.010(3)(d); KRS 278.015.

rate adjustment since 1998.³ Its most recent rate adjustment occurred in January 2011 pursuant to the purchased water adjustment procedures.⁴

Monroe District filed its application for a general rate adjustment with the Commission on August 15, 2011. Its proposed rates would increase the average monthly residential bill of 5,000 gallons from \$29.42 to \$37.85, an increase of \$8.43, or 28.65 percent, and would generate annual revenues from water sales of \$1,504,411. Seeking a gradual increase in rates to meet its proposed revenue requirements, Monroe District proposed to adjust its rates approximately 11.69 percent immediately to generate additional revenues of \$157,541 and to adjust its rates again one year later to generate additional revenues of \$158,143. Finding that further investigation of the proposed rates was necessary, we initiated this proceeding and directed Commission Staff to perform a limited financial review of Monroe District's test-period operations.

On November 3, 2011, Commission Staff issued a report containing its findings and recommendations in which it found that Monroe District's pro forma operations supported the proposed revenue requirement and that the proposed rates would generate sufficient revenues to cover its reasonable expenses and its existing debt service obligations. Commission Staff recommended that the Commission approve the proposed rates.

Pursuant to the provisions of the Commission's Order of October 28, 2011, Monroe District was required to submit its objections to Commission Staff's findings and

³ Case No. 98-258, *The Application of Monroe County Water District of Monroe County, Kentucky, For a Certificate of Public Convenience and Necessity To Construct, Finance and Increase Rates Pursuant To KRS 278.023* (Ky. PSC May 27, 1998).

⁴ Case No. 2010-00480, *Purchased Water Adjustment Filing of Monroe County Water District* (Ky. PSC Jan. 3, 2011).

recommendations no later than November 17, 2011 or be deemed as accepting those findings and recommendations. Monroe District did not submit any objections to those findings and recommendations. On November 14, 2011, it wrote to advise the Commission that this matter should be submitted for decision based upon the existing record.

Having considered the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. The findings and recommendations contained in the Commission Staff's report are supported by the evidence of record, are reasonable, and should be adopted.
2. The calendar year ending December 31, 2009 should be used as the test period to determine the reasonableness of Monroe District's existing and proposed rates.⁵
3. Based upon pro forma test-period operations, Monroe District's pro forma annual revenues are \$1,249,498. Approximately \$1,189,805 of these revenues resulted from water sales.
4. Based upon pro forma test-period operations, Monroe District's pro forma total operating expenses, after adjusting for known and measurable changes, are \$1,320,839.
5. Given that Monroe District is a water district, the use of debt service coverage methodology to determine its total revenue requirement is appropriate.

⁵ At page 1 of its report, Commission Staff states that it performed a limited review of Monroe District's test period operations for the calendar year ending December 31, 2010. This statement appears to be in error. Commission Staff's extensive work papers and Monroe District's application clearly indicate that the test period used was the calendar year ending December 31, 2009.

6. The debt service coverage provisions in Monroe District's long-term debt agreements with Rural Development ("RD") should be used to determine Monroe District's total revenue requirement.

7. Applying the debt service coverage of 1.2x, Monroe District's average debt service requirement with required coverage for the period from 2012 to 2014 is \$215,446.⁶

8. Based upon adjusted test-period operations, Monroe District requires revenues of \$1,504,411 from water sales, or \$314,606 more than its current rates produce, to meet its reasonable operating expenses and meet the debt service coverage provisions of its bonded debt.

9. Monroe District proposes to place into effect immediately the rates set forth in Appendix A and to place into effect one year later the rates set forth in Appendix B.

10. Based upon test-period normalized sales, the rates set forth in Appendix A will produce revenues from water sales of \$1,347,346.

11. Based upon test-period normalized sales, the rates set forth in Appendix B will produce revenues from water sales of \$1,504,411.

12. Monroe District's proposed rates that are set forth in Appendix A will generate sufficient revenues for Monroe District to meet its adjusted test-period expenses and the debt service requirements of its bonded debt.

13. "[I]n the absence of some showing that the service to the public will suffer by allowing . . . [a] utility to charge rates which will not produce a fair return, the utility

⁶ Staff Report at 2; *But see* Campbell, Myers & Rutledge, PLLC, *Independent Auditor's Report on Monroe County Water District* (Mar. 16, 2011) at 16 (reporting average debt for same period as \$219,676).

and not the Commission has the right of decision as to the rates it will charge so long as they do not exceed those which would produce a fair return as determined by the Commission.”⁷

14. Permitting Monroe District to charge the rates set forth in Appendix A will not result in a degradation of the quality of Monroe District's service.

IT IS THEREFORE ORDERED that:

1. The findings and recommendations contained in the Commission Staff's report are adopted and incorporated by reference into this Order as if fully set out herein.

2. The informal conference scheduled in this matter for November 28, 2011 is cancelled.

3. The hearing scheduled in this matter for December 8, 2011 is cancelled.

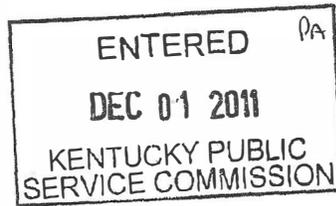
4. The rates set forth in Appendix A to this Order are approved for water service that Monroe District renders on and after the date of this Order.

5. The rates set forth in Appendix B to this Order are approved for water service that Monroe District renders on and after one year from the date of this Order.

6. Within 20 days of the date of this Order, Monroe District shall file revised tariff sheets with the Commission setting forth the rates approved in this Order.

⁷ *Utilities Operating Co. v. King*, 143 So.2d 854, 858, 45 PUR3d 439, 443 (Fla. 1962); see also Case No. 2006-00410, Application of Hardin County Water District No. 1 for a General Rate Adjustment Effective on and after December 2, 2006 (Ky. PSC Aug. 2, 2007); Case No. 98-398, Adjustment of Rates of the Kentucky Turnpike Water District and the Imposition of an Impact Fee (Ky. PSC June 30, 1999).

By the Commission



ATTEST:

Stephane Bell for *JW* *Dun*
Executive Director

Case No. 2011-00272

000016

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2011-00272 DATED **DEC 01 2011**

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

5/8-Inch x 3/4-Inch

First 2,000 gallons	\$ 15.96 Minimum bill
Next 3,000 gallons	\$ 5.85 per 1,000 gallons
Next 5,000 gallons	\$ 4.97 per 1,000 gallons
Over 10,000 gallons	\$ 4.21 per 1,000 gallons

1-Inch Meter

First 5,000 gallons	\$ 33.51 Minimum bill
Next 5,000 gallons	\$ 4.97 per 1,000 gallons
Over 10,000 gallons	\$ 4.21 per 1,000 gallons

2-Inch Meter

First 20,000 gallons	\$100.46 Minimum bill
Over 20,000 gallons	\$ 4.21 per 1,000 gallons

Wholesale Water Rate	\$ 2.11 per 1,000 gallons
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APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2011-00272 DATED **DEC 01 2011**

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

5/8-Inch x 3/4-Inch

First 2,000 gallons	\$ 17.15 Minimum bill
Next 3,000 gallons	\$ 6.90 per 1,000 gallons
Next 5,000 gallons	\$ 5.70 per 1,000 gallons
Over 10,000 gallons	\$ 4.80 per 1,000 gallons

1-Inch Meter

First 5,000 gallons	\$ 37.85 Minimum bill
Next 5,000 gallons	\$ 5.70 per 1,000 gallons
Over 10,000 gallons	\$ 4.80 per 1,000 gallons

2-Inch Meter

First 20,000 gallons	\$114.35 Minimum bill
Over 20,000 gallons	\$ 4.80 per 1,000 gallons

Wholesale Water Rate	\$ 2.11 per 1,000 gallons
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Richard O Ross
General Manager
Monroe County Water District
205 Capp Harlan Road
Tompkinsville, KY 42167

EXHIBIT A
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EXHIBIT B

AFFIDAVIT OF ROBERT D. STIGALL
STIGALL ENGINEERING ASSOCIATES, INC.

Robert D. Stigall, being duly sworn, states:

1. My name is Robert D. Stigall. I am President of Stigall Engineering Associates, Inc., a consulting engineering firm. My business address is 4117 Hillsboro Pike, Suite 206, Nashville, Tennessee.

2. I hold a bachelor's degree in civil engineering from Vanderbilt University. I am licensed as a professional engineer in the states of Tennessee and Kentucky. I am an active member of the Tennessee Association of Utility Districts, Tennessee Society of Professional Engineers, Tennessee Gas Association and the National Society of Professional Engineers. A professional resume, which contains a more complete list of my memberships, my work experience, and my professional recognitions, is attached to this Affidavit as Exhibit RDS-1.

3. I have previously submitted written testimony in proceedings before the Kentucky Public Service Commission regarding the design and construction of water treatment and distribution facilities.¹

4. I have performed performed engineering services for Monroe County Water District ("Monroe District") since 1988. I have designed thousands of feet of water distribution line, pump stations and ground level and elevated water storage facilities for the Monroe District. My engineering firm has designed and is currently overseeing for Monroe District the

¹ See, e.g., *Application of Crittenden-Livingston County Water District For Authorization To Enter An Assistance Agreement With the Kentucky Infrastructure Authority and For a Certificate of Public Convenience and Necessity To Construct a Water Storage Facility*, Case No. 2016-00092 (Ky. PSC filed Aug. 19, 2016); *The Application of Monroe County Water District For Authorization To Enter An Assistance Agreement With the Kentucky Infrastructure Authority and For a Certificate of Public Convenience To Construct a Water Treatment Facility, Elevated Storage Tank, and Water Transmission And Distribution Mains*, Case No. 2015-003215 (Ky. PSC filed Mar. 11, 2016).

construction of water treatment and distribution facilities that the Kentucky Public Service Commission granted a certificate of public convenience and necessity in Case No. 2015-00315.

5. Since 1983, I have provided engineering consulting services for several water systems in the general vicinity of Monroe District. These include the water systems of Crittenden-Livingston Water District, the Town of Linden, the City of Pikeville, the City of Crossville, O'Connor Utility District, the City of Bolivar, and the Town of Wartrace.

6. As a consulting engineer for Monroe County Water District for nearly 30 years, I have been involved in the design and construction of major portions of its water distribution, have closely observed Monroe District's construction practices, and am very familiar with the materials and equipment used in its water distribution system. I am also familiar with Monroe County Water District's operational and maintenance practices.

7. I have previously prepared and provided information regarding the service life of typical water system components. I have performed this work for the Crittenden – Livingston County Water District and the City of Bolivar in conjunction with a rate study.

8. Monroe District uses the following service lives for its utility plant:

	Service Life (years)	Depreciation Rate (%)
Structures and Improvements	35	2.90
Pumping Equipment	20	5.00
District Reservoirs	27	3.75
Transmission and Distribution Mains	50	2.01
Services	30	3.30
Meters and Installations	36.5	2.74
Other Plant	30	3.30
Furniture and Equipment	23	4.34
Transportation Equipment	7	14.29
Power Operated Equipment	10	10.00

EXHIBIT RDS-1

ROBERT D. STIGALL

4117 Hillsboro Pike, Suite 206 · Nashville, Tennessee 37215 · Telephone: 615.460.7515

Personal Resumé

Education:

Bachelor Degree Civil Engineering
Vanderbilt University - 1981

Professional Registrations:

- Tennessee Registration No. 18,048
- Kentucky Registration No. 15,006

Active Member of the following Associations:

- Tennessee Association of Utility Districts
- Tennessee Society of Professional Engineers
- National Society of Professional Engineers
- Tennessee Gas Association

Professional Recognition:

Started own Consulting Engineering firm and currently works with over 25 Municipalities, Utility Districts and Water Districts.

Nashville Chapter Director of National "MATHCOUNTS" program from 1988 – 1993.

Received the Nashville Chapter of the Tennessee Society of Professional Engineers *Young Engineer of the Year* award (1993)

State Director of National "MATHCOUNTS" program from 1994 – 1997.

Served on the Tennessee Gas Association Distribution Committee (1994)

President of the Nashville Chapter of the Tennessee Society of Professional Engineers (1997-1998)

Served as "Expert Witness" in Texas Eastern Pipeline versus Wright & Lopez lawsuit.

EXHIBIT C

AFFIDAVIT OF RICHARD O. ROSS
MONROE COUNTY WATER DISTRICT

Richard O. Ross, being duly sworn, states:

1. I am the General Manager of Monroe County Water District (“Monroe District”) and have served in that position since 2002.

2. As Monroe District’s General Manager, I am responsible for its day-to-day operations.

3. On April 25, 2017, I spoke with Scott Lawless of the Public Service Commission Staff for approximately five minutes in Monroe County Water District’s office in Tompkinsville, Kentucky. Mr. Lawless questioned me specifically about the age and condition of Monroe County Water District’s water mains.

4. Monroe County Water District has limited records regarding its utility plant. To the best of my knowledge and belief, at least 60 percent of the water district’s mains have been constructed since 1986 and are less than 30 years old. Approximately 26 percent of the water mains are less than 15 years old. I estimate that approximately 95 percent of the water district’s mains are polyvinyl chloride pipe.

5. Monroe District has limited experience with water main replacements. In 2003, it replaced approximately 8 miles of 8-inch PVC water main in the southwest portion of Monroe County. This water main was approximately 25 to 30 years old, was in very poor condition, and had to be removed from service before the end of its expected service life.

6. Given the present age of Monroe District’s water mains and assuming a service life of 50 years for water mains, I believe it is reasonable to assume few major water main replacements in the next 10 to 15 years.

