

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)

ATTORNEY GENERAL’S POST-HEARING BRIEF

Comes now the intervenor, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and hereby submits his post-hearing brief in the above-styled matter.

STATEMENT OF THE CASE

Monroe County Water District (the “District” or “MCWD”) filed an application for Alternative Rate Filing on March 16, 2017, with a revenue request of \$225,312. This equated to an across the board increase of 13.20%. Commission Staff issued its report (“Staff Report”) on June 30, 2017, in which it recommended a revenue increase of \$142,664, equal to an across the board increase of 8.35%. Following the issuance of the Staff Report, the District revised its revenue request to \$194,847.

On July 14, 2017, MCWD filed a Conditional Waiver Request for Hearing, in which it stated that it was willing to waive further proceedings and submit the matter on the record upon the Commission’s acceptance of three conditions.¹ In the event that the Commission did not accept those conditions, the District proposed a hearing limited to the topics of “depreciation expense and

¹ The District sought an Order which “(1) approves the rates, including rates for non-recurring services, that Commission Staff has recommended in its Report of June 30, 2017 []; (2) contains findings that Monroe District requires general service rates that will produce annual revenues from service rates in an amount no less than \$1,939,741, that the Report’s recommended rates will produce such revenues and that they are reasonable; and (3) does not contain any other finding or adopt any other recommendation contained in the Report.”

the appropriate service lives to calculate such expense and to any finding or recommendation contained in the Report to which the Commission is considering modifying.”² The Attorney General objected to a limited hearing, and requested that the Commission consider the matter submitted for decision upon the record, or to hold a full evidentiary hearing in the alternative.³

The Commission found that factual issues needed to be addressed, rejected the District’s Conditional Waiver and request for limited hearing, and instead ordered a full hearing,⁴ which was eventually conducted over the course of two days—September 27 and October 25, 2017.

ARGUMENT

I. DEPRECIATION—THE COMMISSION SHOULD NOT CHANGE ITS APPROACH TO DETERMINING USEFUL LIVES ON THE BASIS OF THIS ONE CASE

The Attorney General would caution the Commission from basing its future approach to depreciation calculation solely upon the facts of this case. The Commission has made it clear in past cases, that such determinations are most accurate when considered individually rather than according to a general rule, specifically stating “the Commission finds that it is in the best interests of the utility customers to not adopt general regulations at this time but to continue resolving these complaints on a case by case basis.”⁵ The Attorney General agrees with this precedent, further

² The District’s Conditional Waiver Of Further Proceedings, Or In The Alternative, Request For An Evidentiary Hearing And The Establishment Of A Procedural Schedule, *Electronic Application of Monroe County Water District For Rate Adjustment Pursuant To 807 KAR 5:076*, Case No. 2017-00070, at 1 (Ky. PSC. July 14, 2017).

³ The Attorney General’s Response To Monroe County Water District’s Conditional Waiver Of Hearing, *Electronic Application of Monroe County Water District For Rate Adjustment Pursuant To 807 KAR 5:076* (Ky. PSC. July 20, 2017).

⁴ PSC Order, *Electronic Application of Monroe County Water District For Rate Adjustment Pursuant To 807 KAR 5:076* (August 18, 2017).

⁵ Final Order, *Joint Liability Of Husband And Wife For Payment Of Utility Bills*, Administrative Case No. 276, at 2 (Ky. P.S.C. September 24, 1984).

noting that bright line rulemaking on this issue would be difficult, and possibly counterproductive, when the particular facts surrounding depreciation in each case can be so different and granular.

If the Commission intends to more fully examine its policy in determining useful lives for depreciation, then the initiation of an administrative case to address this issue in a targeted manner may be the best way forward. The Attorney General would gladly participate in such a case, which would provide a much better opportunity to gather a broad set of data and other relevant evidence regarding depreciation than that which is available in the instant matter.

II. HEALTH INSURANCE PREMIUMS

The Commission has rightly placed a recent emphasis on the contributions utility employees make toward their health insurance premiums, and ordered utilities to require contributions from employees who previously paid no contributions for single coverage.⁶ Vice Chairman Cicero noted during the second day of hearing, that when utilities have required their employees to pay a portion of the contribution, the Commission has not ordered those utilities to make further changes to the contribution amount, specifically referencing LG&E/KU.⁷

The Commission has recognized that prevailing market conditions are such that most employees in general are required to make some contribution to the payment of these premiums. Meanwhile, the District continues to pay 100% of the health insurance premiums for each of its employees on single coverage.⁸

⁶ Final Order, *Electronic Application of Licking Valley Rural Electric Cooperative Corporation For a General Rate Increase*, Case No. 2016–00174, at 9–10 (Ky. P.S.C. March 1, 2017); Final Order, *Application of Cumberland Valley Electric, Inc. For a General Adjustment of Rates*, Case No. 2016–00169 (Ky. P.S.C. February 6, 2017).

⁷ Video Transcript Evidence (“VTE”), *Electronic Application of Monroe County Water District For Rate Adjustment Pursuant To 807 KAR 5:076*, at 4:28:19 (October 25, 2017); Final Order, *Electronic Application of Louisville Gas And Electric Company For An Adjustment Of Its Electric And Gas Rates And For Certificates of Public Convenience And Necessity*, (Ky. P.S.C. June 22, 2017).

⁸ VTE at 9:33:52.

In this matter, it is a balancing factor between compensation and non-monetary benefits. Thus, the Commission must determine, on balance, whether contributions toward the premiums should be required in the context of the District employee's entire compensation package, especially taking into account the current market norms. Again, the Attorney General would reference past Commission precedent and recommend that such decisions continue to be decided on a case by case basis absent an administrative case which squarely addresses the appropriate treatment for health insurance premium contributions.

CONCLUSION

Moving forward, the Commission should consider whether to comprehensively address the issues regarding depreciation and the calculation of useful lives. If the Commission chooses to do so, the Attorney General would participate fully in an administrative case to that end. This case, with its unique facts, would not be a proper basis upon which to decide Commission policy.

The issue of requiring employee contributions to health insurance premiums is more straightforward. In keeping with recent precedent,⁹ the Commission must decide how to properly strike the balance between compensation and non-monetary compensation. An administrative case to determine future determinations in this area may also be helpful.

Finally, the Commission prudently requested that the District file monthly reports detailing its current rate case expense with attached invoices from its counsel. As it stands, the District's rate case expense totals \$64,083.01, with \$56,565.38 going toward legal fees.¹⁰ The Attorney General recognizes the right of the District's counsel to be fairly compensated for duly


⁹ *Infra. Licking Valley and Cumberland Valley.*

¹⁰ MCWD's First Supplemental Response to Commission Staff's First Post-Hearing Request for Information, *Electronic Application of Monroe County Water District For Rate Adjustment Pursuant To 807 KAR 5:076*, Case No. 2017-00070, at 3 (Ky. P.S.C. October 2, 2017).

earned fees and notes that lead counsel's hourly fee was discounted throughout the pendency of this case.¹¹ However, the Attorney General would also reiterate that the District's ratepayers will ultimately be responsible for this expense.

Respectfully submitted,

ANDY BESHEAR
ATTORNEY GENERAL



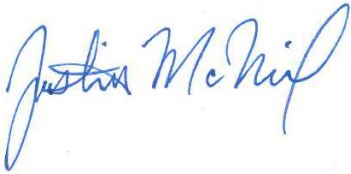
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¹¹ *Id.* at 5.

Certificate of Service and Filing

Counsel certifies that the foregoing is a true and accurate copy of the same document being filed in paper medium with the Commission within two business days; that the electronic filing has been transmitted to the Commission on December 8, 2017; and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

This 8th day of December, 2017.

A handwritten signature in blue ink that reads "Justin McNeil". The signature is written in a cursive style with a large, looped initial "J".

Assistant Attorney General