

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 COMMENTS ON
COMMISSION STAFF REPORT**

Comes now the intervenor, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and pursuant to the Commission’s April 12, 2017 Order tenders the following comments in the above-styled matter. The Attorney General reserves his right to request a hearing pending the Commission’s ruling on Monroe County Water District’s request for a Conditional Waiver, filed on July 14, 2017.

I. Statement of Case

Monroe County Water District (“the District”) is a water district organized pursuant to KRS Chapter 74 and serves approximately 3,476 customers in Monroe County, Kentucky.¹ On March 16, 2016, Nebo District tendered an application with the Public Service Commission of Kentucky (“the Commission”) requesting a revenue increase of 13.2 percent, which would produce \$224,312 in additional revenue, increasing average residential bills by \$4.56 per month.² The District also requested significant increases to its non-recurring charges.³ On April 10, 2017, the Commission granted the Attorney General’s request for intervention. The Attorney General issued

¹ *Electronic Application of Monroe County Water District for Rate Adjustment Pursuant to 807 KAR 5:076*, Case No. 2017-00070, ARF Form-1 July 2014, at 3 (Ky. PSC March 16, 2017).

² *Id.*; Staff Report at 1.

³ *Id.*

requests for information to the District on May 1, 2017. In addition to answering the Attorney General's requests for information, the District filed the First Supplement to its application on May 19, 2017 identifying the actual rate case expense as of that date, providing revised financial exhibits demonstrating the effect of refinancing long-term debt instruments, and revising cost justification worksheets recalculating the average costs of certain non-recurring charges.⁴ The Supplement also included a revised calculation of the required revenue increase as a result of those changes. In its revised calculations, the District reported a needed increase of 11.41 percent.⁵

Staff conducted a limited financial review of the District's 2015 test-year operations to determine the reasonableness of the rates requested.⁶ After its review, Staff concluded that the District's revenue requirement would support an increase in the amount of \$142,664, or 8.35 percent. Staff's recommended rates would increase the average residential bill from \$34.51 to \$37.39, or \$2.88. Staff also approved increases to the District's non-recurring charges at varying levels as requested by the District.⁷

II. Comments

The Attorney General agrees with Staff that the District's application and supporting documentation do not warrant the full revenue increase requested by the District. He also supports Staff's recommendation that any increase be allocated evenly across the board in the absence of a cost of service study. Additionally, the Attorney General supports limiting the District's recovery to actual, reasonable rate case expense. However, the Attorney General wishes to draw the Commission's attention to certain portions of the Staff Report which raise concern if relied upon in the Commission's final Order.

⁴ Staff Report at 3-4.

⁵ First Supplement to Application, Exhibit C, Revised Tab 24.

⁶ Staff Report at 5.

⁷ *Id.* at 6.

A. Non-Recurring Charges

In its application, the District proposed steeply increasing its non-recurring charges with increases of between 60 and 763.6 percent.⁸ In support of its request, the District stated that it had not adjusted the charges in more than 13 years and “the significant increases in the cost of providing these services have resulted in general water service rates subsidizing these non-recurring services.”⁹ The District provided calculations supporting its proposed increases by demonstrating what it considered to be the actual cost of providing each service. According to the District, increased labor expenses contributed to the higher cost of providing service.¹⁰ In his initial requests for information to the District, the Attorney General questioned the inclusion of certain employee expenses in the District’s calculations of labor costs for several non-recurring services.¹¹ In its response to the Attorney General’s requests for information, the District adjusted several of its calculations to reflect lower labor costs needed to perform those services.¹² The District also adjusted the cost of installation equipment in response to the Attorney General’s requests for information.¹³

Staff reviewed the District’s initial and revised cost-justification worksheets, finding that the District’s revised calculations produced reasonable non-recurring charges.¹⁴ The Attorney General agrees with Staff’s recommendation to use the District’s revised cost-justification worksheets to determine the cost of providing non-recurring services. As a result of the District’s long delay between updating its non-recurring charges, customers will experience a significant increase in those costs from what they have come to expect. In the absence of a more gradual

⁸ See, Application, Tab 2, Current and Proposed Rates.

⁹ Application, Tab 1, Reasons for Application.

¹⁰ District’s Response to AG-1.

¹¹ See, AG-3, AG-4, and AG-7.

¹² District’s Response to AG-3, AG-7.

¹³ District’s Response to AG-5.

¹⁴ Staff Report at 6-7.

increase to correct the subsidization from general rates that the District has alleged, the Attorney General urges the Commission to closely examine the necessary cost of providing non-recurring services.

B. Employee Compensation

Labor expense impacts nearly every area of the District's requested increase in both general rates and non-recurring charges, either directly or indirectly. Over the past fourteen years, the District reports that labor expense for field employees has increased 79 percent, while the labor expense for clerical employees has increased 117 percent.¹⁵ The District attributes this increase to inflation, cost of living adjustments, and increased cost in employer health insurance contributions as the District's long-time employees continue to age.¹⁶ In order to support the current salary levels of District employees, the District compared the salary of each employee to the average salary for similar job titles as reported in separate salary surveys conducted by the American Water Works Association and the Kentucky Rural Water Association.¹⁷ Although the surveys showed that the District's salary levels were comparable to the average paid by similar utilities state- and nation-wide, they did not offer an informative comparison for overall compensation to include employee benefits such as the details of insurance and retirement offerings.

Noting the Commission's recent emphasis on reasonable employee-benefit packages, Staff conducted a review of the District's employee compensation package in its totality.¹⁸ Staff concluded that, while the District pays 100 percent of each employee's single health insurance benefit and 75 percent of each employee's single dental insurance benefit, no family coverage for health or dental insurance is provided. The District also provides one pension plan to its employees,

¹⁵ District's Response to AG-1.

¹⁶ *Id.*

¹⁷ Application, Tab 24, Comparison of Water District Wages.

¹⁸ Staff Report at 15.

life insurance, and an 8 percent retirement contribution rate.¹⁹ Staff calculated the average cost of the District's compensation package on a per-employee basis to be \$51,654, which includes wages, retirement contribution, and health, dental and life insurance costs.²⁰ Staff compared the District's average compensation per employee to the average compensation of North Mercer Water District and Nolin Rural Electric Cooperative Corporation. The Commission has recently reduced the levels of both utilities' compensation packages due to unreasonable benefits packages.²¹ Compared to the approved average compensation of North Mercer and Nolin, Staff concluded that the District's overall compensation package is reasonable.²²

The Attorney General agrees that employee expenses are best considered as a total package per employee. Even if individual salaries appear to be reasonable based on the available surveys of similarly situated utilities, less easily measurable benefits such as employer contributions to insurance and retirement can render overall employee expenses unreasonable. Staff's comparison method also appears to be a relatively straightforward way of comparing overall spending on compensation packages. Comparing similarly situated utilities demonstrates compensation norms within the industry and provides a context for determining the reasonableness of employee expenses without the extraordinary rate case expense of hiring experts for small utilities.

However, the Attorney General encourages the Commission to take care in selecting the comparison utilities. In this case, North Mercer serves as a similarly situated utility to the District. Both are water districts organized under Chapter 74, both have between 3,000-5,000 customers, and both have 10 or fewer employees.²³ The use of Nolin RECC for comparison, however, raises

¹⁹ *Id.*

²⁰ *Id.* at 15-16.

²¹ Staff Report at 13-16.

²² *Id.* at 16.

²³ *See*, Case No. 2016-00325, *Electronic Application of North Mercer Water District for Rate Adjustment made Pursuant to 807 KAR 5:076* (Ky. PSC May 19, 2017) at 2.

significant concerns. Aside from providing a different type of utility service, Nolin's case differed from the District's in a number of respects. Nolin and the District have a significantly different number of employees whose job descriptions and duties vary widely. Even after adjustment by the Commission, Nolin's approved benefit package is much higher than the District's.²⁴ A straightforward comparison of average compensation per employee cannot appropriately account for those discrepancies. In this case, Nolin and the District are not similarly situated utilities and comparing the two does not establish the reasonableness of the District's compensation package. The appropriate comparison in this case is between the District and North Mercer. In the event that the Commission adopts Staff's comparison, the Attorney General urges the Commission to exclude Nolin RECC in its decision-making.

C. Calculation of Depreciable Lives

In its application, the District proposed to adjust its depreciable lives to the short end of the NARUC range generally used for small utilities. In support, the District provided an affidavit from a professional engineer, Robert D. Stigall, who has performed engineering services for the District since 1988.²⁵ Mr. Stigall stated familiarity with the construction practice, materials, and equipment used in the District's system, the District's operational and maintenance practices, and work for nearby water systems as the basis for his opinion on reasonable service lives for the District's utility plant.²⁶ These lives included a service life of 50 years for Transmission and Distribution Mains.²⁷

After conducting its review, Staff concluded that the District's Transmission and Distribution Mains should be depreciated using the NARUC midpoint of 62.5 years. To support

²⁴ Staff Report at 16.

²⁵ Application, Tab 22, Affidavit.

²⁶ *Id.*

²⁷ *Id.*

its findings, Staff cited a discussion with the District's General Manager in which the General Manager stated that the plant's overall condition was average for its age.²⁸ Staff does not further address Mr. Stigall's affidavit or what Staff clearly considers to be a discrepancy between Mr. Stigall's professional opinion and the General Manager's. The Staff Report also contains no information that Staff sought to contact Mr. Stigall to address this discrepancy.

The Attorney General supports the appropriate assignment of depreciable lives as high as can be reasonably supported within the NARUC range. However, the Commission's final Order must be supported by substantial evidence in the record with no room for a difference of opinion among reasonable minds.²⁹ The Commission is also bound to make its final decision based upon the contents of the record as designated by 807 KAR 5:076(3). The Attorney General is concerned that the record currently does not support Staff's findings regarding depreciable lives in light of Mr. Stigall's affidavit. The Staff Report does not provide sufficient information to determine why a professional engineer's report is not credible. The Attorney General encourages Commission Staff to supplement the record so that the Commission may assign an appropriate service life to the District's Transmission and Distribution Mains.

III. Conclusion

WHEREFORE, the Attorney General requests the Commission consider his Comments when reviewing the evidentiary record in order to set a fair, just, and reasonable rate for the customers of Monroe County Water District. The Attorney General concurs with the Staff Report's recommendation to lower the proposed revenue increase and to use the District's revised cost-justifications to mitigate the impact of steep increases in non-recurring charges. The Attorney

²⁸ Staff Report at 29-30.

²⁹ *National-Southwire Aluminum v. Big Rivers Elec. Corp.*, 785 S.W.2d at 510.

General reserves the right to respond to the District's proposal of a conditional waiver and to request a hearing subsequent to the Commission's ruling on that request.

Respectfully submitted,

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