

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF)	
ESTILL COUNTY WATER DISTRICT)	
NO. 1 FOR A SURCHARGE TO)	CASE NO. 2019-00119
FINANCE WATER LOSS CONTROL)	
EFFORTS)	

**CANNONSBURG WATER DISTRICT’S
COMMENTS IN RESPONSE TO
JUNE 26, 2020 ORDER**

Cannonsburg Water District (“Cannonsburg District”), by counsel, submits the following Comments in response to the Kentucky Public Service Commission’s (“Commission”) June 26, 2020 Order.

1. **Cannonsburg District’s Current Surcharge.** On May 13, 2019 the Commission authorized Cannonsburg District to assess a surcharge to continue to fund its unaccounted-for water loss reduction efforts, which include its Phase 1 Zone Metering Project that will replace certain zone meters and install new zone meters.¹ In its Order, the Commission imposed several reporting requirements and other conditions on Cannonsburg District.

¹ *Application of Cannonsburg Water District for Rate Adjustment for Small Utilities Pursuant to 807 KAR 5:076, Case No. 2018-00376, Order (Ky. PSC May 13, 2019).*

2. **Commission's Plenary Power.** Cannonsburg District acknowledges the Commission's plenary power over utility rates and service pursuant to KRS 278.040 and other applicable statutes, including the power to authorize a utility to assess surcharges and to oversee the utility's receipt and expenditure of the surcharge proceeds.

3. **Restricted Purpose.** The Commission's Order authorizing Cannonsburg District to assess a monthly surcharge limits the use of the surcharge proceeds to funding unaccounted-for water loss reduction efforts. The funds must be held in a separate interest-bearing account. The surcharge receipts cannot be commingled with other utility funds. The Order required Cannonsburg District to continue to comply with the reporting requirements enumerated in Case No. 2011-00217 and 2014-00267. Cannonsburg District understands and agrees that these strict controls are necessary to ensure accountability and to build public confidence in the use of the surcharge proceeds.

4. **Prior Approval.** Cannonsburg District acknowledges that it cannot withdraw any of the surcharge proceeds from the interest-bearing account without first obtaining Commission approval. Cannonsburg District believes that obtaining prior Commission approval is a reasonable and appropriate restriction to ensure that the surcharge proceeds are expended for the intended purpose of reducing unaccounted-for water loss.

5. **Refunds.** Cannonsburg District acknowledges that it is collecting funds from its customers in advance of spending these funds on Commission approved projects. In essence, it is holding these surcharge funds in a constructive trust for the benefit of its customers. Cannonsburg District readily acknowledges that the Commission has the inherent authority to order Cannonsburg District to refund any or all surcharge funds that are not appropriately spent. Furthermore, the Commission has the authority to terminate the collection of future surcharges if Cannonsburg District does not strictly comply with the Commission's Order. Without this authority, the Commission cannot properly exercise its oversight role.

6. **Reporting Requirements are Appropriate.** Cannonsburg District believes the monthly reporting requirements imposed by the Commission for its water loss reduction surcharge, including the billing activity and request for disbursement report, the activity report on operations to reduce water loss, and the water loss report, are reasonably necessary and appropriate methods of Commission oversight. Cannonsburg District understands these reporting requirements are in place to closely monitor the surcharge proceeds earmarked for water loss reduction projects that are meant to reverse Cannonsburg District's history of water loss. Cannonsburg District has complied, and will continue to comply, with these reporting requirements.

7. **Construction Has Begun.** In a recent case,² the Commission granted Cannonsburg District’s request for a CPCN for its Phase 1 Zone Metering Project and the Commission authorized disbursement of some of its surcharge proceeds for this Project. Construction on the Project commenced on June 22, 2020.

8. **Procedural Application.** The Commission uses the phrase “provide a brief on the issues concerning the procedural application of the surcharge...” in Ordering paragraph 1 of its June 26, 2020 Order. Cannonsburg District is uncertain of the meaning of the phrase “procedural application of the surcharge.” Suffice it to say, however, that the procedural method by which the Cannonsburg District surcharge was approved by the Commission is clearly distinguishable from the method the surcharge was “approved” for Estill District. For Cannonsburg District, the Commission issued a combined Order in its ARF case³ and surcharge monitoring case⁴ authorizing Cannonsburg District to assess the monthly surcharge. This approval is in sharp contrast to the “approval” that occurred for Estill District. In Estill District’s case, the Commission has **never** issued a final decision approving the proposed surcharge. The “approval” for Estill District occurred by operation of

² *Electronic Application of Cannonsburg Water District for a Certificate of Public Convenience and Necessity to Install a Zone Metering System and Other System Improvements, Authorization to Execute an Assistance Agreement with the Kentucky Infrastructure Authority, and Authorization to Disburse Surcharge Proceeds*, Case No. 2020-00118 (Ky. PSC June 4, 2020).

³ *Application of Cannonsburg Water District for Rate Adjustment for Small Utilities Pursuant to 807 KAR 5:076*, Case No. 2018-00376, Order (Ky. PSC May 13, 2019).

⁴ *Cannonsburg Water District’s Unaccounted-For Water Loss Reduction Plan, Surcharge and Monitoring*, Case No. 2014-00267, Order (Ky. PSC May 13, 2019).

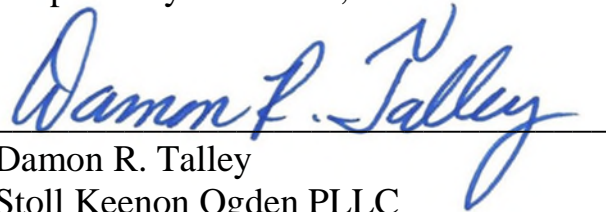
law pursuant to KRS 278.190(3) because more than ten (10) months elapsed after the filing of the proposed surcharge rate without the Commission having rendered a final decision. Because of these procedural differences, Cannonsburg District does not see the need to “weigh-in” or “take sides” on whether the Commission should grant the declaratory relief sought by Estill District.

9. **Conclusion.** Cannonsburg District urges the Commission to continue authorizing water districts and associations to assess water loss reduction surcharges. The surcharge funds provide a dedicated revenue stream that can be “leveraged” to borrow funds, if necessary, to construct major water loss reduction projects. For example, Cannonsburg District recently obtained a low interest loan from the Kentucky Infrastructure Authority (“KIA”) in the principal amount of \$622,000. The term of the loan is four (4) years – the same length of time that the surcharge funds will be collected. The monthly surcharge receipts are adequate to pay the principal and interest payments on the KIA loan. The proceeds from this loan will enable Cannonsburg District to construct its Phase I Zone Metering Project in just a few months. Valuable information will be available to Cannonsburg District so it can determine the areas where transmission or service lines need to be replaced. This will allow Cannonsburg to continue its work to reduce its unaccounted-for water.

WHEREFORE, Cannonsburg District respectfully requests that the Commission accept these Comments in response to the Commission's June 26, 2020 Order.

Dated: July 16, 2020

Respectfully submitted,



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CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8 and the Commission's March 16, 2020 and March 24, 2020 Orders in Case No. 2020-00085 regarding electronic filings, I certify that Cannonsburg Water District's filing was electronically transmitted to the Public Service Commission on July 16, 2020; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and Cannonsburg Water District will file original paper copies of this filing within 30 days of the lifting of the state of emergency.



Damon R. Talley