

**COMMONWEALTH OF KENTUCKY**

**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

**ELECTRONIC APPLICATION OF )  
WOOD CREEK WATER DISTRICT ) CASE NO. 2021-00427  
FOR AN ADJUSTMENT OF ITS )  
WATER RATES PURSUANT TO 807 )  
KAR 5:076 )**

**MOTION FOR DEVIATION**

Pursuant to 807 KAR 5:076, Section 17, Wood Creek Water District (“Wood Creek District” or “Applicant”) moves for a deviation from 807 KAR 5:076, Section 2(1) to permit its filing of an application for rate adjustment using the procedures set forth in 807 KAR 5:076.

In support of its motion, Wood Creek District states:

1. Wood Creek District is a water district organized pursuant to KRS Chapter 74. It provides retail water service to approximately 5,307 customers in Laurel County, Kentucky. It also provides wholesale water service to West Laurel Water Association, East Laurel Water District, and the city of Livingston, Kentucky.
2. In its Order of December 2, 2020 in Case No. 2020-00352,<sup>1</sup> the Public Service Commission directed Wood Creek District to “file an application for a

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<sup>1</sup> *Electronic Application of Wood Creek Water District for A Certificate of Public Convenience and Necessity to Construct A System Improvements Project and An Order Authorizing the Issuance of Securities Pursuant to KRS 278.023, Case No. 2020-00352 (Ky. PSC Dec. 2, 2020).*

general rate adjustment pursuant to 807 KAR 5:001, Section 16 (“General Rate Adjustment”), or an application for an alternative rate adjustment pursuant to 807 KAR 5:076 within one year.”<sup>2</sup>

3. 807 KAR 5:076 “establishes a simplified and less expensive procedure for small utilities to use to apply to the [Public Service C]ommission for rate adjustments.” The Commission refers to this procedure as the Alternative Rate Filing (“ARF”) procedure.

4. 807 KAR 5:076, Section 2 provides that a utility may apply for an adjustment of rates using the procedures set forth in 807 KAR 5:076 if it had gross annual revenue in the immediate past calendar year of \$5,000,000 or less.”

5. During calendar year 2020, Wood Creek District reported operating revenues of \$5,953,326.<sup>3</sup>

6. Without the requested deviation, Wood Creek will be required to use the more expensive and time-consuming procedures set forth in 807 KAR 5:001, Section 16.

7. The requested deviation is appropriate for the following reasons:

a. The size of Wood Creek District’s operating revenues is deceptive and masks the relative small size of its operations. During 2020 Wood

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<sup>2</sup> *Id.* at 9.

<sup>3</sup> Report of Wood Creek Water District to the Kentucky Public Service Commission for the Calendar Year ending December 31, 2020, Ref Page 11.

Creek District had total water sales of 1,207,133,000 gallons.<sup>4</sup> Approximately 864,915,000 gallons, or approximately 71.66 percent, of these sales were wholesale transactions.<sup>5</sup> Less than 29 percent of Wood Creek District's sales were retail sales. In terms of revenue, **\$2,958,011**, or approximately 50 percent of its water sales revenue, was derived from wholesale transactions and a similar amount from retail sales.<sup>6</sup>

b. Wood Creek District has an office staff of six (6) persons. This staff is responsible for all of Wood Creek District's administrative functions, as well as the billing and collection functions of East Laurel Water District and West Laurel Water Association. (When considered collectively, these persons are responsible for the billing and collection for more than 16,000 customer accounts.) Wood Creek's small office staff also serves as Customer Service Representatives for all 16,000 customers, opens new accounts, fields inquiries and complaints, and answers billing questions. This staff has limited resources to prepare and assemble the documents necessary for an application filed pursuant to 807 KAR 5:001, Section 16.

c. Wood Creek District has no experience in preparing an application pursuant to 807 KAR 5:001, Section 16. While it has applied for three rate adjustments in the last ten years using the ARF procedures, it has never filed for

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<sup>4</sup> *Id.* at Ref Page 30.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at Ref Page 27.

a General Rate Adjustment using the procedures set forth in 807 KAR 5:001, Section 16. The procedures in 807 KAR 5:001, Section 16 are more complex and require greater documentary evidence. To comply with those procedures requires a significantly greater amount of expertise, time, and labor. Wood Creek District's inexperience in filing a General Rate Adjustment will increase the likelihood of errors and require additional time on the part of the utility and the Commission Staff assigned to review Wood Creek's application

d. In addition, use of the procedures set forth in 807 KAR 5:001, Section 16 will significantly increase rate case expense. If 807 KAR 5:076 procedures are used, Wood Creek District may use the services of Kentucky Rural Water Association ("KRWA") to prepare its application for a flat fee of \$5,000. (KRWA's fee for preparing the ARF Application is \$10,000, but \$5,000 of the fee is being paid through an Appalachian Regional Commission ("ARC") Grant of \$5,000, which is only available for "small" utilities located in the ARC Region).

e. If Wood Creek District is required to file a General Rate Adjustment rather than permitted to file an application for a rate adjustment using the ARF procedures, it must retain the services of a rate consultant to prepare a rate study and testimony. This will cost a minimum of \$25,000. In addition, Wood Creek District, will be required to engage the services of an attorney. Legal fees in General Rate Adjustments typically range from \$50,000 to \$100,000 or more.

Although these rate case expenses are recoverable through rates, Wood Creek District's ratepayers will ultimately bear the higher costs of using the more complicated and expensive procedures.

f. If the Commission denies this Motion and requires Wood Creek District to prepare and file a General Rate Adjustment, then Wood Creek District's rate case expense will range from \$75,000 on the low side and \$125,000 on the high side. This will cost each customer of Wood Creek District a minimum of \$14 and as much as \$24 ( $\$75,000 \div 5,300 \text{ customers} \approx \$14$ ;  $\$125,000 \div 5,300 \text{ customers} \approx \$24$ ). On the other hand, if ARF procedures are followed, Wood Creek's rate case expense will only be \$5,000 or less than one dollar per customer.

g. Several months ago, Wood Creek District engaged the services of KRWA to perform a water rate study and prepare the rate adjustment Application utilizing the ARF procedures. Earlier today, Wood Creek filed its ARF Application prepared by KRWA. It is seeking a rate increase of approximately \$300,000. Wood Creek District does not believe it is a wise use of its limited resources to spend from \$75,000 to \$125,000 in rate case expenses when it is only seeking increased revenues of \$300,000.

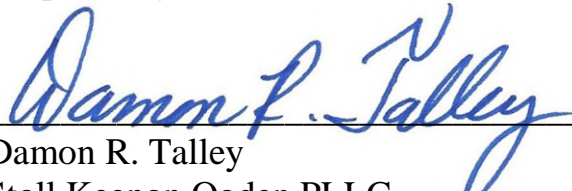
h. Use of the ARF procedures will allow the Commission to effectively conduct its review of the reasonableness of the proposed rates in a more cost-effective and expedient manner and at a much lower cost to Wood Creek.

8. Wood Creek District represents to the Commission that it is truly a “small” utility within the intent and purpose of 807 KAR 5:076. It respectfully submits that utilizing the ARF procedures will not impede the Commission’s ability to perform its statutory duties and will be in the public interest. Therefore, Wood Creek District respectfully requests the Commission to grant this Motion for a Deviation.

WHEREFORE, Wood Creek District requests that the Public Service Commission grant a deviation from 807 KAR 5:076, Section 2, and permit Wood Creek District to file its application under the ARF procedures set forth in 807 KAR 5:076.

Dated: November 30, 2021

Respectfully submitted,



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Damon R. Talley  
Stoll Keenon Ogden PLLC  
P.O. Box 150  
Hodgenville, KY 42748-0150  
Telephone: (270) 358-3187  
Fax: (270) 358-9560  
damon.talley@skofirm.com

*Counsel for Wood Creek Water District*

**CERTIFICATE OF SERVICE**

In accordance with 807 KAR 5:001, Section 8, and the Public Service Commission's Order of July 22, 2021 in Case No. 2020-00085, I certify that this document was transmitted to the Public Service Commission on November 30, 2021 and that there are currently no parties that the Public Service Commission has excused from participation by electronic means in this proceeding.

  
Damon R. Talley