

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF THE CITY)	
OF EDDYVILLE REVISING ITS)	CASE NO.
WHOLESALE WATER SERVICE RATES TO)	2022-00138
LYON COUNTY WATER DISTRICT)	

**MOTION OF CITY OF EDDYVILLE
TO ACCEPT PROPOSED WHOLESALE RATE AND CLOSE PROCEEDING OR,
IN THE ALTERNATIVE, FOR AUTHORIZATION TO ASSESS A SURCHARGE TO
RECOVER RATE CASE EXPENSES**

Pursuant to 807 KAR 5:001, Section 5, the City of Eddyville (“City”) moves for an Order accepting its proposed wholesale water service rate and closing this investigation or, in the alternative, for an Order authorizing the assessment of a surcharge on the monthly bill for wholesale water service to Lyon County Water District (“Lyon District”) to permit the City to recover its expenses incurred as a result of this proceeding.

In support of its Motion, the City states:

1. The City is a city of the home rule class and operates water treatment and distribution facilities and a wastewater treatment facility and collection system. It provides water service to approximately 1,019 retail customers, including the Kentucky State Penitentiary, and wholesale water service to Lyon District and the City of Fredonia.

2. The City provides wholesale water service to Lyon District under the terms of a 1989 Water Purchase Agreement, a copy of which is attached as Exhibit 1, that permits Lyon District to purchase up to 500,000 gallons of water monthly. Water is provided through eight active master meters.

3. For the year ending June 30, 2021, the City had total revenue from water sales of \$813,454. Approximately \$26,551.38 of this amount, or 3.3 percent, represented sales to Lyon District. See Exhibit 2 (reporting the City's Monthly Sales to Lyon District during the period from June 2020 to May 2022).¹

4. Lyon District does not have water production facilities and purchases its water supply from five suppliers (the cities of Eddyville, Kuttawa, and Princeton, Crittenden-Livingston Water District, and Barkley Lake Water District). Of the 124,000,000 gallons of water which it purchased in 2021, Lyon District purchased 5,698,000 gallons, or roughly 4.6 percent of its purchased water from the City.² Of its total water purchases of \$421,655 in 2021, Lyon District's purchases from Eddyville totaled \$23,305, or 5.5 percent.³ Thus, Eddyville's sales to Lyon District represent a very small portion of Lyon District's water supply and its purchased water expense.

5. On January 25, 2022, the City filed notice with the Public Service Commission ("Commission") of a proposed increase in its wholesale water rate to Lyon District from \$4.09 per 1,000 gallons to \$4.21 per 1,000 gallons to take effect on July 11, 2022. The City served notice of the proposed increase on Lyon District four days earlier.

6. Finding that an investigation was necessary to determine the reasonableness of the proposed rate adjustment, the Commission on June 2, 2022 suspended the proposed rate adjustment and initiated this proceeding to review the proposed rate. In its Order, the Commission emphasized the provision of the Water Purchase Contract that requires that "[a]ny increase or

¹ This exhibit has also been filed with the Commission as Attachment 2 to City of Eddyville's Response to Commission Staff's First Request for Information.

² Exhibit 2; *Report of Lyon County Water District to the Kentucky Public Service Commission for the Year Ending December 31, 2021* ("Lyon District Annual Report") at Ref Page 29.

³ Exhibit 2; *Lyon District Annual Report* at Ref Page 28.

decrease in rates shall be based on a demonstrable increase or decrease in the costs of performance hereunder.”⁴

7. In response to the Commission Staff’s First Request for Information, the City has provided more than adequate evidence to demonstrate the reasonableness of the proposed wholesale rate. Using its 2020-21 Fiscal Year as its test period and applying the debt service coverage ratemaking methodology that the Commission has employed for non-profit water districts and non-profit water association, the City has demonstrated it requires not a three percent increase in revenues, **but an across-board increase of at least 13.23 percent.** The calculations supporting this level of increase are shown at Exhibit 3.

8. The proposed rate adjustment is not discriminatory. The City has not attempted to favor its own residents at the expense of non-residents, such as Lyon District’s customers. **All customers** are subject to a three percent increase in rates. The Commission has consistently found that the allocation of a revenue increase evenly across the board to a utility’s rate design is generally appropriate and reasonable.⁵

9. The City’s proposed increase in the wholesale water service rate to Lyon District is consistent with a plan adopted six years earlier to gradually increase its rates for water and sewer service to better reflect the cost of service and to enable the City to meet the obligations of several debt instruments, the proceeds of which had been used to finance improvements to the City’s water and wastewater facilities.

⁴ Water Purchase Agreement at Section C5.

⁵ See, e.g., *Electronic Application of Christian County Water District For A Rate Adjustment Pursuant To 807 KAR 5:076*, Case No. 2021-00369 (Ky. PSC Mar. 17, 2022) at 14 (“[t] he Commission finds that the allocation of a revenue increase evenly across the board to a utility’s rate design is appropriate when there has been no evidence entered into the record demonstrating that this method is unreasonable and in the absence of a [cost of service study].”).

a. In 2015 the City applied to the Kentucky Infrastructure Authority (“KIA”) for a loan to finance improvements to its sewer operations, KIA performed a limited financial review of the City’s finances. This analysis revealed that expenses from 2012 to 2014 were increasing at a greater rate than revenues and that cash shortfalls in the water and sewer operations were being funded with General Fund revenues. To avoid the rate shock that would result from an immediate and significant increase in rates, the City Council committed to a series of moderate increases in water and sewer rates over the next ten years that would be assessed to all customers. In 2016 the City Council enacted an Ordinance 2016-02-01B (Exhibit 4) that provided for **an across-the-board** ten percent increase in water rates and a 15 percent increase in sewer rates and across-the-board three percent increases in water and sewer rates once each biennium thereafter until 2026. The City regards the Ordinance as a commitment to the KIA to ensure rates that recover the cost of service and provided adequate revenues to service the principal and interest payments on its loans.

b. In 2018 and 2020 the City approved three percent **across-the-board** increases in its water rates consistent with the 2016 Ordinance. These Ordinances are attached as Exhibits 5 and 6.

c. In January 2022 the City filed its notice of proposed rate change with the Commission in preparation of its next **across-the-board** three percent rate increase. On May 2, 2022, the first reading of Ordinance 2022-05-02 occurred. This proposed ordinance, a copy of which is attached as Exhibit 6, raises the City’s current rates for water and sewer service to **all city customers** by three percent. The City has postponed the second reading of the Ordinance in light of the Commission’s Order of June 2, 2022.

10. The City's proposed three percent increase, its first in twenty-four months, is less than half the national average for increases in water and sewer rates that have occurred in the last twenty-four months. According to the U.S. Bureau of Labor Statistics' Consumer Price Index for All Urban Consumers: Water and Sewer and Trash Collection Services in U.S. City Average, the cost of water service has increased 7.8 percent since July 2020.

11. Continuing this investigation will result in an unnecessary and wasteful use of the City's and the Commission's resources. Based upon Lyon District's water purchases for the most recent 12-month period for which billing information is available (June 2021 to May 2022), the proposed rate adjustment will produce just \$623 of additional annual revenue for the City. This modest level of revenue increase does not justify the expenditure of thousands of dollars by the City **and the Commission** for an examination of the proposed wholesale rate adjustment.

12. This investigation is not necessary to protect Lyon District's interests. Since being served with notice of the proposed wholesale rate increase, Lyon District has neither questioned or objected to the proposed increase. It has not requested this proceeding, nor has it made any effort to intervene in this proceeding. Based upon Lyon County Water District's reported purchased water expense of \$421,655 for Calendar Year 2021, the City's proposed wholesale rate will increase Lyon County Water District's purchased water cost by 0.148 percent or about \$0.0072 per 1,000 gallons in the rates currently charged to Lyon County Water District's customers. Lyon District's silence in this matter is clear evidence that it does not regard the proposed wholesale increase as unreasonable or as significantly affecting its customers or as worthy of extensive examination or review.

13. If the Commission finds that this proceeding should continue notwithstanding the evidence already presented, then the Commission should authorize the City to assess Lyon District

a surcharge of sufficient amount to permit the City's recovery of its reasonable expenses in this proceeding within two years of a final decision. The Commission has long recognized that a municipal utility should be permitted to recover its reasonable rate case expenses from its wholesale customers.⁶ If this proceeding is to continue and is conducted solely to benefit the wholesale customer, that customer should bear the rate case expenses associated with the proceeding.

WHEREFORE, the City of Eddyville requests that the Commission enter an order approving the proposed wholesale rate and close this proceeding, or in the alternative, authorize the City's assessment of a surcharge on service to Lyon District to permit the City to recover its reasonable rate case expenses within two years from a final decision in this matter.

Dated: July 19, 2022

Respectfully submitted,



Gerald E. Wuetcher
Stoll Keenon Ogden PLLC
300 West Vine Street, Suite 2100
Lexington, Kentucky 40507-1801
Telephone: (859) 231-3017
Fax: (859) 259-3517
gerald.wuetcher@skofirm.com

Stephen E. Underwood
Law Offices of Stephen E. Underwood
315 West Ninth Street
Post Office Box 999
Hopkinsville, Kentucky 42241-0999
Telephone: (270) 885-5575
Fax: (270) 885-5256
Email: stephen@seunderwoodlaw.com

Counsel for City of Eddyville, Kentucky

⁶ See, e.g., *Proposed Adjustment of the Wholesale Water Service Rates of the City of Owenton, Kentucky*, Case No. 98-283 (Ky. PSC Feb. 22, 1999).

