

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

ELECTRONIC APPLICATION OF ROWAN WATER, INC. FOR AN ALTERNATIVE RATE ADJUSTMENT AND AN INVESTIGATION INTO ROWAN WATER, INC. AND ITS INDIVIDUAL DIRECTORS, LARRY JOHNSON, DANNY STEVENS, DANNY COX, MIKE COLLINS, ENOCH BLAIR, AND ITS MANAGER, JERRY PATRICK, FOR ALLEGEDLY FAILING TO COMPLY WITH KRS 278.300 AND A COMMISSION ORDER))))))))
							CASE NO.	
							2022-00252	

VERIFIED RESPONSE OF ROWAN WATER, INC. AND
JERRY PATRICK, IN HIS INDIVIDUAL AND OFFICIAL
CAPACITY TO THE COMMISSION'S FEBRUARY 16, 2023 ORDER

Come now Rowan Water, Inc., (“Rowan Water”) and its general manager, Jerry Patrick in his official and individual capacities (collectively, “Respondents”), by counsel, pursuant to the Commission’s February 16, 2023 Order (“Order”) in the above-styled docket, and do hereby tender their collective verified response to the averments set forth in the Commission’s Order, respectfully stating as follows:

1. Rowan Water states that board member, Danny Stevens, who was named in the investigation case has passed away. Mr. Stevens was replaced on the board by Duane Dehart. The Board voted to accept Duane Dehart as a board member at its February 8, 2023 board meeting.
2. Respondents admit that on or about April 19, 2021, the Commission entered an Order in Case No. 2021-00042, a case filed by Rowan Water to refinance certain loans. (“the Refinancing Order”).

3. Respondents further Admit that the Refinancing Order directed Rowan Water to submit an application for an adjustment of its retail rates within one year from the date of the Order.

4. Respondents further state that the Refinancing Order was received and reviewed by Jerry Patrick, the General Manager of Rowan Water.

5. Mr. Patrick further states that during his review of the Refinancing Order, he inadvertently overlooked that portion of the Refinancing Order directing Rowan Water to file an application for an adjustment of its retail rates or a statement that no adjustment was needed within one year from the date of the Order.

6. Mr. Patrick further states that he did not provide a copy of the Refinancing Order to any of the other individual board members named in this proceeding. Mr. Patrick believed this to be a routine order similar to prior orders received regarding USDA projects and simply overlooked the requirement contained in the Order.

7. Respondents further state that they did not realize that Rowan Water had failed to file the adjustment of retail rates until Mr. Patrick received an email from Commission Staff, Travis Leach, on May 2, 2022 informing Rowan Water of same.

8. Respondents further state that once Rowan Water was notified on the missed deadline, Mr. Patrick contacted the law firm of Goss Samford, PLLC to seek assistance with preparing a rate application.

9. Counsel was officially retained on May 17, 2022 and emailed Commission Staff on May 18, 2022 to inform the Commission that Goss Samford, PLLC had been retained to assist Rowan Water for the rate filing and that it would take some time for the filing to be made.

10. Rowan Water began to get all of the documents gathered to assist in preparing the application and continued to work with counsel to get the filing ready for filing.

11. During the preparation of this proceeding, Goss Samford, PLLC dissolved and Rowan Water's current counsel started her own law practice. Rowan Water and counsel continued

to prepare the rate filing during this transition and discussed questions on the filing with Commission Staff.

12. Rowan Water learned during the preparation of the case that it had been approved for a USDA project and that a filing to adjust rates for that project would likely occur before the rate case it was preparing was complete and a final order was issued by the Commission.

13. Counsel informed Commission Staff of the issue and sought guidance on how to handle the possibility of the two rate proceedings overlapping. Commission Staff advised Rowan Water to go ahead and make the rate filing and address the possible issue in its cover letter to the Commission.

14. Rowan Water completed the rate case application and filed same on September 2, 2022 and deficiencies were cured on September 6, 2022.

15. Rowan Water did not willfully violate the Commission's Financing Order and as soon as Rowan Water was aware it had missed this deadline, it immediately began to seek counsel and began preparing the necessary documents for filing.

16. If not for the Commission's Financing Order, Rowan Water would not have filed the current rate proceeding. Rowan Water would have waited for the USDA project rates to go into effect and would have evaluated its financials at that time to determine if any further rate increase was necessary. However, at the time of reviewing the information to provide to the Commission for a rate increase, the analysis showed that a rate increase was needed at that time. Rowan Water did not know at the time what the amount of the increase would be for the USDA project, or the exact timing for filing the USDA information with the Commission. After conversations with Commission Staff, Rowan Water did not believe it could file a statement that a rate increase was not needed.

17. Respondents further state that any violation of the Commission's CPCN Order was not willful on the part of any of the Respondents. This type of condition had never been placed in similar orders received by Rowan Water and Mr. Patrick inadvertently overlooked this requirement.

18. Respondents further state that, it has filed its annual reports each year and these reports have not shown that Rowan Water was in a poor financial condition.

19. Respondents admits that it entered into the specified leases without first obtaining permission from the Commission.

20. Respondents state that they did not willfully violate KRS 278.300 by entering into the leases in question. Rowan Water had never financed any of its vehicles prior to entering into the lease agreements. Rowan Water had always purchased its vehicles outright with no financing required.

21. Rowan Water was unaware that it would have to seek prior Commission approval before entering into the leases in question.

22. Rowan Water has put policies into place to make sure that these incidents do not reoccur in the future. Rowan Water has implemented a financing policy that sets forth the procedures that the general manager and the board will follow when any financing would be necessary for any purchases. In addition, each board member and the general manager have been provided copies of KRS 278.300 and will receive copies of KRS 278.300 and any amendments on an annual basis. The policy also allows the board to consult legal counsel with any questions or concerns that may arise on a case-by-case basis. Rowan Water has also implemented a policy regarding the review of Commission orders received by Rowan Water.

23. Rowan Water and Mr. Patrick believe that the policies that have been implemented will prevent these types of situations from occurring in the future.

24. Respondents further state that Rowan Water and each of the named individuals in the Commission's Order would like to resolve this dispute in a manner that is in the best interest of Rowan Water and its customers.

25. Respondents reserve the right to file further pleadings as necessary in this proceeding.

WHEREFORE, on the basis of the foregoing, the Respondents respectfully request the Commission to not fine Rowan Water or any of the named individuals and to find that Rowan

Water nor any of the named individuals did not willfully violate a Commission Order or KRS 278.300 and to dismiss Danny Stevens as a party to this proceeding.

Done this 8th day of March, 2023.

Respectfully submitted,



L. Allyson Honaker
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*Counsel for Rowan Water, Inc. and Jerry Patrick in
his Official and Individual Capacity*

CERTIFICATE OF SERVICE

This is to certify that foregoing was submitted electronically to the Commission on March 8, 2023 and that there are no parties that have been excused from electronic filing. Pursuant to prior Commission orders, no paper copies of this filing will be submitted.



*Counsel for Rowan Water, Inc. and Jerry Patrick in
his individual and official capacity.*

AFFIDAVIT

COMMONWEALTH OF KENTUCKY)
COUNTY OF ROWAN)

Comes now, Jerry Patrick, individually and in his official capacity as the General Manager of Rowan Water, Inc., and after first being duly sworn, does hereby swear and affirm that the statements set forth in the Verified Response are true and correct to the best of his knowledge and belief.



Jerry Patrick

The foregoing Affidavit was sworn to, subscribed and acknowledged before me, the Notary Public, by Jerry Patrick, individually and in his official capacity as the General Manager of Rowan Water, Inc., on this the 9th day of March, 2023.

NOTARY PUBLIC
Commission #: _____
Commission Expires: _____

AFFIDAVIT

COMMONWEALTH OF KENTUCKY)
COUNTY OF ROWAN)

Comes now, Jerry Patrick, individually and in his official capacity as the General Manager of Rowan Water, Inc., and after first being duly sworn, does hereby swear and affirm that the statements set forth in the Verified Response are true and correct to the best of his knowledge and belief.



Jerry Patrick

The foregoing Affidavit was sworn to, subscribed and acknowledged before me, the Notary Public, by Jerry Patrick, individually and in his official capacity as the General Manager of Rowan Water, Inc., on this the 7 day of March, 2023.



NOTARY PUBLIC

Commission #: KY NP 14003

Commission Expires: 9/5/24

Rowan Water

110 S. HARGIS AVE.
MOREHEAD, KY 40351
PHONE 606-784-9818
FAX 606-783-1644

February 28, 2023

RE: PSC Investigation

- 1) **Enterprise Vehicle Lease:** This was a decision that the Board made due to the failing fleet that we had at the time. We had several trucks that the maintenance on each month was costly. Rowan Water did not realize that we needed to ask PSC for their approval. This was not done to purposely avoid the PSC. We have always tried to be up front in all loans and major projects but just didn't realize that the leasing would be a part of that. We will in the future contact our attorney with any agreements to have an opinion if we need to go to PSC.
- 2) **Rate Study:** This is something that was just totally overlooked in the order with the re-financing of rates. Once I received the email that we were out of compliance I got on the phone to get someone to do this for us. This took a few days due to everyone being tied up with other rate cases. Once we hired someone they immediately contacted the PSC to let them know they were hired by us to do the ARF.

Equal opportunity employer

I have been Manager for 23 years at Rowan Water, Inc. and have always tried to the best of my ability to serve our customers to the best of my ability. I have also tried to follow all laws and regulations while performing my job. It is true that we did overlook the rate study and did lease the trucks, but this was just a mistake and one I will learn from. Our attorney from now on will look over any agreement that we consider.

Sincerely yours,

A handwritten signature in black ink that reads "Jerry Patrick". The signature is written in a cursive style with a large initial "J" and "P".

Jerry Patrick, Manager