

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

**ELECTRONIC TARIFF FILING OF)
MUHLENBERG COUNTY WATER)
DISTRICT #3 OF A WATER) CASE NO. 2023-00366
PURCHASE AGREEMENT WITH)
THE CITY OF SACRAMENTO)**

**MUHLENBERG COUNTY WATER DISTRICT #3
MOTION TO WITHDRAW TARIFF FILING
AND TO DISMISS INVESTIGATIVE PROCEEDING**

Muhlenberg County Water District #3 (the “District”) moves to withdraw the Water Purchase Agreement filed in TFS2023-00491 and to dismiss the accompanying investigative proceeding initiated in Case No. 2023-00366 for the reasons stated below.

I. Background

1. On October 25, 2023, through the assistance of Ariel Miller with the Kentucky Rural Water Association (“KRWA”), the District filed a Water Purchase Agreement that was entered into between the District and the City of Sacramento, Kentucky (“Sacramento”) in TFS2023-00491 to establish a wholesale rate by means of a special contract.

2. On November 22, 2023, the Commission suspended the tariff filing and initiated Case No. 2023-00366 to investigate the reasonableness of the proposed Water Purchase Agreement.¹ The Commission also suspended the effective date of the Water Purchase Agreement for five months from November 24, 2024, up to and including April 23, 2024.

3. The tariff filing prompted questions from Commission Staff regarding the circumstances that caused Sacramento to return as a wholesale purchaser of the District, and the District's computation of a wholesale rate charged to Sacramento.²

4. In response to these requests for information, the District promptly provided information to explain that Sacramento returned to the District as a wholesale purchaser because Sacramento could not purchase water from its ordinary provider—the McLean County Regional Water Commission—while Sacramento was rehabilitating its water storage tank.³ Accordingly, the District and Sacramento agreed to enter into a Water Purchase Agreement with a one-year term, where Sacramento became obligated to purchase a minimum amount of water each month from the District.

¹ *Electronic Tariff Filing of Muhlenberg County Water District #3 of a Water Purchase Agreement with the City of Sacramento*, Case No. 2023-00366, Order (Ky. PSC Nov. 22, 2023).

² See Case No. 2023-00366, Order at Appendix B (Ky. PSC Nov. 22, 2023); Case No. 2023-00366, Commission Staff's First Request for Information to Muhlenberg County Water District #3 (Ky. PSC Dec. 4, 2023).

³ See Case No. 2023-00366, Order at Appendix B (Ky. PSC Nov. 22, 2023); Case No. 2023-00366, Muhlenberg County Water District #3's Response to Commission Staff's First Request for Information (filed Dec. 21, 2023).

5. The District further explained how it developed the initial wholesale rate charged to Sacramento. The District used the wholesale rate which was calculated by the KRWA and proposed by the District in its previous Alternative Rate Filing (“ARF”) in Case No. 2018-00346. Then, the District adjusted this wholesale rate to incorporate the Purchased Water Adjustment factor that was approved in Case No. 2022-00231 to offset a wholesale rate increase from Central City.⁴

6. On December 12, 2023, the District filed an ARF Application for Rate Adjustment pursuant to 807 KAR 5:079.⁵ After curing deficiencies, the ARF Application was deemed filed with the Commission as of December 20, 2023.

7. In part, the District’s ARF Application requests an increase in the District’s wholesale water rates from \$4.48 per 1,000 gallons to \$5.35 per 1,000 gallons. If this new wholesale water rate is approved by the Commission, then the District intends to propose an amended Water Purchase Agreement with Sacramento to include the new wholesale rate and to extend the term of the contract.

II. Reasons to Allow for Withdrawal and Dismissal

8. The District requests that the Commission allow it to withdraw the Water Purchase Agreement filed in TFS2023-00491 so that the District can refile an amended Water Purchase Agreement following the conclusion of the ongoing ARF

⁴ *Id.*

⁵ *Electronic Application of Muhlenberg County Water District #3 for an Alternative Rate Adjustment Pursuant to 807 KAR 5:076*, Case No. 2023-00400, Application (filed Dec. 12, 2023).

proceeding to incorporate a new wholesale water rate and a new contract term. If the Commission allows the District to withdraw TFS2023-00491, then the investigation initiated in Case No. 2023-00366 should be dismissed for mootness.

9. The District believes that this request will promote efficiency and aid in preserving the Commission's resources, because the Commission is simultaneously reviewing the reasonableness of the wholesale rate included in the Water Purchase Agreement, and the reasonableness of the higher wholesale rate increase requested in the ARF proceeding.

10. If the District is not able to withdraw TFS2023-00491 and obtain a dismissal of the investigation initiated in Case No. 2023-00366, the Commission's evaluation of the reasonableness of the wholesale rate included in the Water Purchase Agreement will quickly become outdated, because the District wishes to charge Sacramento the wholesale water rate that is proposed in the ongoing ARF proceeding instead of the wholesale water rate that is included in the Water Purchase Agreement filed with TFS2023-00491.

11. The District intends to comply with KRS 278.180(1) by providing at least thirty days' notice of the amended Water Purchase Agreement that it enters with Sacramento to incorporate the increased wholesale water rate if the increase is approved by the Commission in the District's ongoing ARF proceeding.

12. Allowing the District to withdraw its previous filing will not hinder the Commission's ability to oversee the reasonableness of the rates and terms of the sale of wholesale water by the District to Sacramento, because the Commission will have the opportunity to review and approve of wholesale water rates in the District's ongoing ARF case. Furthermore, the Commission will have the opportunity to review and approve the amended Water Purchase Agreement that the District will file after the conclusion of the ongoing ARF case.

III. Conclusion

The District respectfully requests that the Commission grant the relief requested and enter an order: (1) to allow the District to withdraw TFS2023-00491, and (2) to dismiss this proceeding as moot.

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Dated: January 17, 2024

Respectfully,



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CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, I certify that this document was submitted electronically to the Public Service Commission on January 17, 2024, 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