

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF THE CITY OF)	
FALMOUTH TO INCREASE THE WHOLESALE)	CASE NO.
WATER RATES CHARGED TO EAST)	2024-00244
PENDLETON WATER DISTRICT AND)	
PENDLETON COUNTY WATER DISTRICT)	

MOTION TO DISMISS CASE OR
HOLD AN INFORMAL CONFERENCE

Comes now East Pendleton Water District and Pendleton County Water District (collectively referred to as “Districts”) to request that the Commission either dismiss the City of Falmouth’s proposed tariff adjustment without prejudice or schedule an informal conference to discuss other reasonable conclusion to the case.

BACKGROUND

The Commission last reviewed Falmouth’s wholesale tariffs in Case No. 2006-00403¹ and Case No. 2007-00257.² Pursuant to KRS 278.190, the Commission opened Case No. 2006-00403 by Order dated September 22, 2006, to investigate the reasonableness of Falmouth’s proposed wholesale water service rates. At that time, Falmouth charged the Districts \$1.98 per 1,000 gallons. It proposed to increase that rate to \$2.10 per 1,000 gallons for Pendleton County Water District and to \$2.02 per 1,000 gallons for East Pendleton Water District.

¹ In the Matter of Proposed Adjustment of the Wholesale Water Service Rates of the City of Falmouth.

² In the Matter of Proposed Adjustment of the Wholesale Water Service Rates of the City of Falmouth.

The Commission's Order opening Case No. 2006-00403 included a procedural schedule as well as the Commission's Initial Request for Information to Falmouth. The procedural schedule allowed for two additional rounds of Data Requests to be submitted to Falmouth. It did not provide for the preparation and submittal of a Staff Report. The Commission's initial data request was extensive containing 33 separately numbered requests for information with many of those requests having multiple subparts.

During execution of the Procedural Schedule, informal conferences were held to allow all parties to the case the opportunity to discuss Falmouth's continued inability to provide meaningful information through written responses to data requests. Ultimately, the Commission abandoned the Procedural Schedule and instructed Staff to perform a field audit and summarize its findings in a report. Staff issued a report on May 11, 2007, finding Falmouth could justify rates of \$1.68 per 1,000 gallons and \$1.64 per 1,000 gallons to be charged to Pendleton County Water District and East Pendleton Water District, respectively.

Recognizing that KRS 278.190(3) requires the Commission to complete its investigation and render a final decision within 10 months of the filing of a proposed tariff, the Commission by Order dated June 27, 2007, closed the proceedings of Case No. 2006-00403 finding that Falmouth's:

"unfamiliarity with public utility accounting and rate-making practices and the Commission's procedures required the Commission to suspend discovery procedures 5 months into this proceeding and to direct Commission Staff to conduct an examination of Falmouth's financial records and to prepare a report of its findings. Commission Staff filed this report on May 11, 2007. Questions regarding Commission Staff's findings could not be resolved nor could a hearing on the proposed rate be scheduled to allow sufficient time for a decision to be rendered by June 25, 2007 and afford all parties due process"

Immediately after closing Case No. 2006-00403, the Commission opened Case No. 2007-00257 to continue its investigation into Falmouth's proposed wholesale water service tariffs. In that proceeding, the Commission accepted and approved a Settlement Agreement jointly submitted by Falmouth and the Districts pursuant to which Falmouth would continue charging the current rate of \$1.98 per 1,000 gallons to the Districts.

In the case at bar, the Commission by Order dated August 12, 2024, issued a procedural schedule that included the Commission Staff's First Request for Information. Staff's First Information Request was abbreviated including only 8 items compared to the 33 items included in the First Request for Information in Case No. 2006-0043. The procedural schedule required Falmouth to file responses to Staff's Request for information on or before August 30, 2024 and it required the Districts to submit Initial Requests for Information to Falmouth on or before September 13, 2024.

On August 20, 2024, the Districts filed: 1) a Motion to Intervene and 2) a Motion to Amend the Procedural Schedule to include a Staff Audit and Report of Audit Findings and to Expand the Scope of Staff's Initial Request for Information. The Commission granted the District's motion to intervene, but denied the other motions.

Falmouth did not meet the requirements of the Commission's Procedural Schedule. It did not respond to Commission's Staff's Initial Request for Information on or before August 30, 2024, and it did not respond to the Districts' Initial Requests for Information on or before September 27, 2024.

On September 27, 2024, the Commission Ordered Falmouth 'to show cause as to why its proposed wholesale rate adjustment should not be denied and dismissed for failure to provide

information necessary to support that its proposed wholesale rate is fair, just and reasonable.’ On September 30, 2024, Falmouth filed a response to Commission Staff’s First Request for Information without addressing the Commission’s Show Cause Order.

On October 1, 2024, the Districts requested that the Commission amend the procedural schedule to allow the Districts sufficient time to issue Supplemental Requests for information after Falmouth provided responses to the Districts’ First Request for Information. On October 10, 2024, the Commission amended the Procedural Schedule to allow Falmouth until October 18, 2024, to respond to the District’s First Request for Information and to allow the Districts until November 1, 2024, to submit Supplemental Requests for Information. Falmouth again failed to provide responses to the Districts’ First Request for Information in accordance with the Procedural Schedule.

MOTION FOR THE COMMISSION TO
DISMISS FALMOUTH’S PROPOSED WHOLESale TARIFF

Falmouth has demonstrated in this proceeding that it remains unfamiliar with the Commission’s procedures and public utility accounting and rate-making practices. Falmouth did not timely file responses to Commission Staff’s Initial Request for Information. In Falmouth’s late filed response, it did not follow the Commission’s instruction to “include the question to which the response is made and shall include the name of the witness responsible for responding to the questions related to the information provided.” Falmouth simply uploaded documents to the Commission’s website in an unorganized fashion with no explanation or description of how the documents are responsive to Commission Staff’s requests.

Further, Falmouth’s late filed responses do not directly address some of the Commission Staff’s First Request for Information. Most notably, Falmouth did not provide a reconciliation of

the differences between the amounts used in the rate calculation and the 2023 Audited Financial Statements as requested in Item 3 of Commission Staff's Request.

Additionally, Falmouth's late filed responses include false information. In the document filed by Falmouth titled "PSC_Statement_.pdf," Mayor Luke Price states that Falmouth has increased retail rates 9 times since 1985 without adjusting the wholesale rates. This statement is not accurate. Since 1985, Falmouth has increased its wholesale rates as follows: 1) July 1985 from \$.94 to \$1.40 per thousand gallons; 2) June 1987 from \$1.40 to \$1.47 per thousand gallons; 3) July 1991 from \$1.47 to \$1.76 per thousand gallons; 4) August 2000 from \$1.76 to \$1.85; 5) March 2004 from \$1.85 to \$1.98 per thousand gallons.

Finally, Falmouth has not timely responded to the Districts' Initial Request for Information. The Districts' Initial Request for Information is not extraordinary or overreaching. It is very similar to the Commission's First Request for Information to Falmouth in Case No. 2006-00403 and it is typical of the Commission's standard initial request for information in rate case proceedings of other not-for-profit and for profit utilities when formal discover is performed through written interrogatories. The Commission requires this information to be submitted in all rate proceedings because it is essential to the Commission's determination of the reasonableness of a proposed rate adjustment.

In Case No. 2006-00403, Falmouth's inability to respond to written interrogatories resulted in Falmouth's proposed tariff going into effect as allowed by KRS 278.190 (3) without the Commission completing its review of the proposed tariff. Given Falmouth's actions in the present proceeding, it appears that Falmouth does not possess the ability or desire to provide the Commission with the detailed and accurate information necessary for the Commission to

properly review Falmouth's proposed tariff before it goes into effect pursuant to KRS 270.190. Therefore, the Districts' request that the Commission dismiss this case without prejudice and open a separate case to investigate the reasonableness of Falmouth's current wholesale tariff.

The statutory requirements of KRS 270.190 would not apply to the investigative case opened by the Commission to review Falmouth's current wholesale rate so there would be no threat of a wholesale rate increase going into effect prior to completion of the Commission's review. The Districts request that, as part of the Commission's investigative case, Commission Staff examine Falmouth's books and records as authorized by KRS 278.230 and issue a report summarizing its findings. The Districts further request that the Districts' representatives be allowed to participate in Commission Staff's audit field work and submit a summary report of findings to the Commission for consideration.

MOTION TO HOLD AN INFORMATION CONFERENCE

If the Commission finds that Falmouth's proposed wholesale tariff should not be dismissed at this time, the Districts' request that the Commission schedule an informal conference to discuss with all parties to this proceeding steps that can and will be taken to

ensure that the case is properly adjudicated in conformity with all applicable Statutes and Regulations.

Respectfully submitted,

/s/ Joseph P. Cottingham

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by electronic mail this 21th day of October 2024, to the parties of record listed below.

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