

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION INTO THE WATER)	
PURCHASE AGREEMENT BETWEEN)	CASE NO.
SOUTH EASTERN WATER ASSOCIATION, INC.)	2007-00414
AND THE CITY OF BURNSIDE)	

O R D E R

On June 7, 2007, South Eastern Water Association, Inc. ("South Eastern") filed with the Commission an incomplete Water Purchase Agreement between the city of Burnside ("Burnside") and South Eastern.¹ The Agreement, executed on December 31, 2002, was to change Burnside from a retail customer to a wholesale customer so that it could provide an adequate supply of water to the Cumberland Heights area. The Commission found that further proceedings were necessary to determine the reasonableness of the Agreement. This case was established in September of 2007.

South Eastern is a non-profit corporation which was organized and established on December 17, 1993,² pursuant to the provisions of KRS Chapter 273. It was created, pursuant to the February 22, 1988 Order of the Commission in Case No.

¹ This incomplete Water Purchase Agreement was dated December 31, 2002 and contained several blank spaces.

² Annual Report of South Eastern to the Kentucky Secretary of State, filed March 5, 2008, for the year 2007: <http://apps.sos.ky.gov/business/obdb/showentity.aspx?id+0324021&ct=09&cs=99999> (last visited November 10, 2008). But see Annual Report of South Eastern to the Public Service Commission of Kentucky for the Year Ended December 31, 2007 at 4, which lists September 9, 1995 as the date of organization.

9967,³ as the result of a merger of the following water associations: Barnesburg, Elihu-Rush Branch, Nelson Valley, and Tatesville. A four-member board of directors controls and manages its affairs.⁴ It owns and operates facilities that provide retail water service to approximately 6,943 residential customers, 115 commercial customers, and 1 wholesale customer, the city of Burnside.⁵ South Eastern had total assets of \$1,665,000.00⁶ and total water operating revenues of \$2,616,013.00.⁷ South Eastern is now, and has been since its inception, regulated by the Commission.⁸

The incomplete Water Purchase Agreement submitted to the Commission on June 7, 2007 was filed approximately four-and-one-half years after it was executed by South Eastern and Burnside with an effective date of the "date the Agreement is approved by the PSC." On April 28, 2008, a Water Purchase Agreement ("Agreement")

³ See Case No. 2006-00371, The Application of South Eastern Water Association, Inc., Pulaski County, Kentucky, (1) For a Certificate of Public Convenience and Necessity Authorizing Construction of Major Additions and Improvements to Its Water Distribution System; (2) Seeking Approval of Revised Water Service Rates and Charges; and (3) Seeking Approval of the Proposed Plan of Financing, Pursuant to the Provisions of KRS 278.023 and 807 KAR 5:069, Application at 2.

⁴ South Eastern's 2007 Annual Report to Secretary of State.

⁵ South Eastern's Annual Report to Commission for the Year Ended December 31, 2007, at 27 and 30.

⁶ Id. at 7.

⁷ Id. at 27.

⁸ KRS 278.012.

was filed, and this time it was complete. In order to fully review the reasonableness of the terms of the Agreement, the Commission opened this case to investigate.⁹

South Eastern purchases potable water from City of Somerset Utilities ("Somerset") on a wholesale basis for \$2.00 per 1,000 gallons¹⁰ and sells water to Burnside on a wholesale basis for \$2.43 per 1,000 gallons.¹¹ The Agreement requires South Eastern to provide up to 2,160,000 gallons of water per month to Burnside, as needed, with no minimum purchase required. Additional purchases, to the extent water is available, require Burnside to pay a 25 percent surcharge, over and above the initial rate of \$2.43 per 1,000 gallons.¹²

The Agreement specifically provides that, if Somerset increases its wholesale rate to South Eastern, the increase will be passed on to Burnside "by the same amount".¹³ Having considered the Agreement and the provision for a wholesale rate increase,¹⁴ the Commission finds that, even though the water sales to Burnside represent a relatively small portion of South Eastern's overall operation, this formula could result in South Eastern under-recovering its full increased cost, such as from line loss. The Commission further finds that this provision should be replaced by a provision

⁹ On April 28, 2008, South Eastern resubmitted the Agreement with dates of approval by each governing body included.

¹⁰ South Eastern 2007 Annual Report to the Commission at 29 and 30.

¹¹ Id. at 30.

¹² Agreement at 3, ¶ 3.

¹³ Agreement at 8, ¶ 12.

¹⁴ Id.

for South Eastern to address any rate increase from Somerset through a purchased water adjustment¹⁵ to ensure that South Eastern's rates are fair, just, and reasonable and designed to recover the actual costs of water purchased.

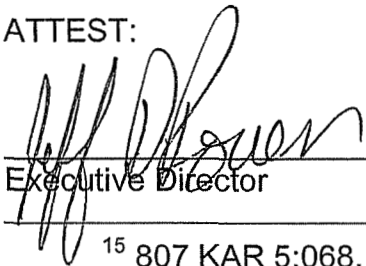
IT IS THEREFORE ORDERED that:

1. The Agreement between South Eastern and Burnside as refiled with the Commission on April 28, 2008 is accepted in part and rejected in part.
2. The provision of the Agreement which provides that, if Somerset increases its wholesale rate to South Eastern, the increase would be passed on to Burnside "by the same amount,"¹⁶ is rejected and should be replaced with language providing for a purchased water adjustment.
3. The remaining provisions of the Agreement are accepted.
4. Within 30 days of the date of this Order, South Eastern shall file an amended Agreement consistent with this Order.

Done at Frankfort, Kentucky, this 11th day of March, 2009.

By the Commission

ATTEST:



Executive Director

¹⁵ 807 KAR 5:068.

¹⁶ Agreement, ¶ 8 at 12.

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