

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PROPOSED ADJUSTMENT OF WHOLESALE)	CASE NO.
WATER SERVICE RATES OF THE CITY OF)	2009-00428
GREENSBURG)	

O R D E R

The City of Greensburg (“Greensburg”) proposes to adjust its wholesale water service rates to Green-Taylor Water District (“Green-Taylor”) by 20 percent and to recover rate case expenses of \$17,000. By this Order, the Commission approves the proposed adjustment to Greensburg’s wholesale rates and authorizes Greensburg to assess a monthly surcharge of \$308.64 for 36 months to recover a reasonable level of rate case expenses.

BACKGROUND

Greensburg owns and operates facilities that provide retail water to the residents of Greensburg and the surrounding areas and provides wholesale water service to Green-Taylor. Green-Taylor, a water district created pursuant to KRS Chapter 74, provides retail water service to approximately 4,792 customers in Adair, Green, Metcalfe, and Taylor counties.¹

¹ Annual Report of Green-Taylor Water District to the Public Service Commission for the Calendar Year Ended December 31, 2009 at 5 and 27.

KRS 278.010(3) exempts municipal utilities from Commission regulation by excluding cities from the definition of "utility."² In *Simpson County Water District v. City of Franklin*, 872 S.W.2d 460 (Ky. 1994), however, the Kentucky Supreme Court held that this exemption did not extend to contracts for utility service between a municipal utility and a public utility. The Commission, therefore, has jurisdiction over Greensburg's rates for wholesale water service to Green-Taylor.

PROCEDURE

On October 9, 2009, Greensburg provided written notice to the Commission and Green-Taylor of its intent to increase its wholesale water service rate to Green-Taylor, effective November 9, 2009, from \$1.838 per 1,000 gallons to \$2.206 per 1,000 gallons. Green-Taylor filed written objections to the proposed adjustment with the Commission and requested an investigation of the proposed adjustment's reasonableness. On November 5, 2009, we established this proceeding, suspended Greensburg's proposed rate adjustment until April 8, 2010,³ and directed Commission Staff to conduct an informal conference with all parties. We further granted Green-Taylor leave to intervene in this proceeding.

On December 11, 2009, the Commission established a procedural schedule in this matter and directed Greensburg to provide certain information. After the

² See *McClellan v. Louisville Water Company*, 351 S.W.2d 197 (Ky. 1961).

³ On March 19, 2010, Greensburg notified the Commission of its intent to place the proposed wholesale rates into effect for service rendered on and after April 10, 2010. By our Order of April 6, 2010, we permitted the proposed rates to become effective subject to refund and directed Greensburg to maintain its records to determine the amount of any refund, should a refund be ordered.

Commission twice extended the time period for Greensburg to submit this information, Greensburg filed its response to the Commission's Order on February 25, 2010.

On March 11, 2010, Commission Staff conducted a teleconference to discuss the results of a cost-of-service study that Greensburg had filed with the Commission. The Commission established a revised procedural schedule on March 19, 2010 and issued a request for information to Green-Taylor on the same day. Green-Taylor responded to this request on March 26, 2010. On April 6, 2010, Commission Staff issued to Greensburg a request for information, to which Greensburg responded on April 21, 2010.

On June 11, 2010, the Commission ordered that a hearing be convened in this matter on July 1, 2010. On June 24, 2010, Greensburg waived its right to a formal hearing and requested reimbursement for its rate case expenses from Green-Taylor. On June 25, 2010, Green-Taylor waived its right to a formal hearing, submitted its objection to Greensburg's request for reimbursement of rate case expenses, and requested an expedited procedural schedule to conduct discovery on Greensburg's request for recovery of rate case expenses.

Based upon the parties' waivers, the Commission cancelled the scheduled evidentiary hearing, authorized Green-Taylor to conduct discovery on the issue of rate case expenses, and directed Greensburg to submit certain information regarding its rate case expenses. On July 8, 2010, Greensburg filed its responses to the Commission's Order and Green-Taylor's requests for information and, on July 22, 2010, Green-Taylor withdrew its objection to the proposed wholesale rate of \$2.206 per 1,000 gallons. This matter then stood submitted for decision.

DISCUSSION

This matter presents two issues: the reasonableness of the proposed adjustment to Greensburg's wholesale rate and the reasonableness of Greensburg's proposed recovery of its rate case expenses.

Reasonableness of the Proposed Wholesale Rate

A recently conducted wholesale rate study indicates that Greensburg's existing wholesale rates do not produce sufficient revenues to recover the cost of providing wholesale water service to Green-Taylor. According to the report, during the fiscal year ending June 30, 2009, Greensburg incurred adjusted expenses of \$526,078 to provide wholesale water service to Green-Taylor⁴ but received revenues of approximately \$397,365.⁵ To eliminate this deficit, the study determined that wholesale rates should be increased by approximately 32.2 percent to generate additional revenues of \$128,713. In contrast, the proposed adjustment will increase Greensburg's wholesale rate by only 20 percent and generate additional revenues of \$79,559.

Our review of the evidence of record indicates that Greensburg's proposed adjustment to its wholesale rate is reasonable. The results of the wholesale rate study demonstrate that the proposed wholesale rate will not generate revenues that exceed Greensburg's reasonable expenses to provide wholesale service and a reasonable

⁴ Greensburg's Response to Second Data Request of Public Service Commission Staff (Apr. 21, 2010).

⁵ Calculation of approximate revenues was as follows:
216,194,200 gallons purchased
x \$1.838 per thousand gallons = \$397,365.

debt-service coverage requirement.⁶ We note that, after its initial objection to the proposed adjustment, Green-Taylor withdrew its objection to the proposed wholesale water rate of \$2.206 per 1,000 gallons on July 22, 2010.

Rate Case Expenses

A utility may properly recover reasonable rate case expenses as a cost of doing business.⁷ The Commission has generally permitted the recovery of rate case expenses in rates, but has disallowed such expenses when a utility failed to provide adequate documentary evidence of the incurrence of the expense,⁸ when the expenses were related to a poorly or improperly prepared rate application,⁹ and when the utility failed to justify the high level of expenses for a relatively simple alternate rate filing.¹⁰

Greensburg requests recovery of \$17,000 in rate case expenses. These expenses include the costs related to the preparation of the wholesale rate study and fees related to its accountant's assistance in preparation of the wholesale rate study and responses to requests for information. While Green-Taylor has objected to

⁶ To the extent that the proposed wholesale rates may not generate sufficient revenues to cover all expenses involved in the provision of wholesale service, the Commission is not required to establish a higher rate if no request for such a rate is made. See *Utilities Operating Co. v. King*, 143 So.2d 854, 858 (Fla. 1982) (finding that "if the rates requested by a utility are less than those which would provide a fair return the Commission must approve the rates unless it be shown that approval of such rates would cause the service rendered the public to suffer").

⁷ See *Driscoll v. Edison Light & Power Co.*, 307 U.S. 104, 120 (1939).

⁸ Case No. 2008-00250, *Frankfort Plant Board*, at 7 (Ky. PSC Apr. 6, 2009).

⁹ Case No. 8783, *Third Street Sanitation, Inc.*, at 7 (Ky. PSC Nov. 14, 1983).

¹⁰ Case No. 9127, *Sergent & Sturgeon Builders, Inc., Gardenside Subdivision Sewer Division*, at 14 (Ky. PSC Mar. 25, 1985).

recovery of these costs, it has provided no basis for its objection nor has it explained why any portion of the costs are unreasonable or otherwise inappropriate for recovery from Green-Taylor.

A rate study is a valuable tool to develop fair, just, and reasonable rates. Cost-of-service studies provide a thorough analysis of a utility's expenses and revenues and serve as a starting point for rate-making. Although Greensburg's wholesale rate study was not undertaken until after Greensburg proposed its rate adjustment, it provides crucial information for assessing the reasonableness of the proposed rate adjustment. From Greensburg's perspective, the wholesale rate study is viewed as substantial evidence that the proposed rate adjustment is not unreasonable or excessive.

The usefulness of any rate study is not limited to a particular customer class. Because the wholesale rate study identifies the costs and revenues derived from each class of Greensburg's customers, it is also a useful tool in reviewing existing retail rates and developing new rates that may better reflect the cost of service. Accordingly, the Commission finds that only a portion of the expenses of the wholesale rate study should be allocated to Green-Taylor and that the remaining portion should be allocated to Greensburg's retail customers. In determining the portion of the expenses related to the wholesale rate study, the Commission has previously used an allocation factor that is based upon each class's percentage of the city's total revenue requirement.¹¹

Using such an allocation factor in this case, we find that 61.0 percent of the expenses related to the wholesale rate study should be allocated to Green-Taylor. We

¹¹ See Case No. 2009-00373, *Hopkinsville Water Environment Authority*, at 8 (Ky. PSC Jul. 2, 2010); Case No. 2008-00250, *Frankfort Plant Board*, at 13 (Ky. PSC Apr. 6, 2009).

find that this factor should be applied to the \$6,000 invoiced amount from Bell Engineering and the \$9,100 invoiced amount from Greensburg's accountant for her work while assisting in the preparation of the wholesale rate study. We further find that the expenses totaling \$1,900 for Greensburg's accountant to respond to the information requests are reasonable and should be allocated in their entirety to Green-Taylor because these fees were generated directly in the context of this case and have no applicability to Greensburg's retail customers. Accordingly, Greensburg should be permitted to recover \$11,111 of the costs related to the rate case expenses from Green-Taylor. We also find that Greensburg should be allowed to recover this amount over a three-year period in equal monthly installments.¹²

In a recent municipal wholesale rate adjustment proceeding, the Commission noted that the city's failure to prepare a rate study prior to filing the proposed rate likely resulted in increased litigation costs for all parties.¹³ We ultimately stated:

We find that the better practice in municipal adjustment proceedings is for the applicant to undertake and complete its cost-of-service study prior to the filing of the notice of its proposed wholesale adjustment.¹⁴ Regardless of whether the municipal utility chooses to strictly adhere to the study's results, the study provides critical information regarding costs for the wholesale supplier and customer that, if widely known, is likely to result in agreement on prospective rate adjustments. We place . . . all municipals on notice that, in future proceedings where a municipal utility has failed to

¹² $\$11,111 \div 36 \text{ months} = \$308.64 \text{ per month.}$

¹³ See Case No. 2009-00373, *Hopkinsville Water Environment Authority*, at 8 (Ky. PSC Jul. 2, 2010).

¹⁴ We recognize that, in some instances, especially those involving smaller municipal utilities, performing a wholesale rate study is not cost-effective and will not result in any savings. Our discussion above is limited to larger municipal utilities that have a significant level of sales to wholesale customers.

conduct such studies prior to the filing of its proposed rate adjustments, the additional litigation costs incurred by all parties will be a factor that will be considered in assessing the reasonableness of the costs related to an “after-filing cost-of-service study.”¹⁵

Given the circumstances of this case, we find the earlier preparation of a cost-of-service study is unlikely to have reduced litigation costs. Nevertheless, if Greensburg had prepared its wholesale rate study prior to proposing its rate increase and provided the results to Green-Taylor, Green-Taylor may not have objected to the rate or requested an investigation of the proposed rate. Although a city must still weigh the costs prior to commissioning the preparation of a rate study, it should recognize that a study may result in swifter implementation of a proposed rate.

SUMMARY

After reviewing the evidence of the record and being otherwise sufficiently advised, the Commission finds that:

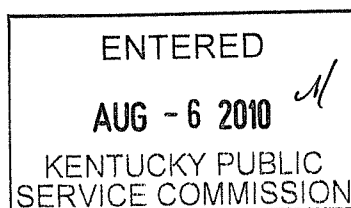
1. Greensburg’s proposed wholesale rate represents a 20 percent increase in rates that will generate \$79,559 in additional annual revenue.
2. Greensburg’s proposed wholesale rate is fair, just, and reasonable and should be approved.
3. Greensburg should be permitted to recover \$11,111 in rate case expenses separate from its rate for wholesale water service.
4. Greensburg should be authorized to assess a monthly surcharge in the amount of \$308.64 for the next 36 months in order to recover reasonable rate case expenses.

¹⁵ Case No. 2009-00373, *Hopkinsville Water Environment Authority*, at 9.

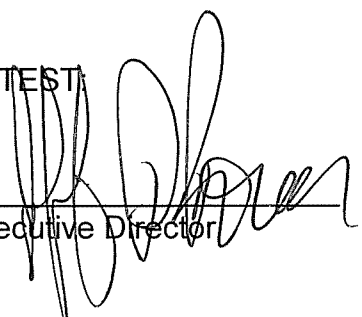
IT IS THEREFORE ORDERED that:

1. Greensburg is authorized to assess Green-Taylor a rate of \$2.206 per 1,000 gallons for wholesale water service rendered on and after April 10, 2010.
2. Greensburg's request to recover rate case expenses of \$17,000 from Green-Taylor is denied.
3. Greensburg is authorized to assess Green-Taylor a monthly surcharge of \$308.64 for a period of 36 months, beginning on the date of this Order, to recover its reasonable rate case expenses.
4. Within 20 days of the date of this Order, Greensburg shall file revised tariff sheets reflecting the rates approved herein.

By the Commission



ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2009-00428 DATED **AUG - 6 2010**

The following rates and charges are prescribed for the wholesale customers under the Commission's jurisdiction that are served by the City of Greensburg. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of the Commission prior to the effective date of this Order.

WHOLESALE WATER RATE \$2.206 per 1,000 gallons

Monthly Rate Case Expense Surcharge (August 2010 through July 2013)

Green-Taylor Water District \$308.64 per month

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