

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF MUHLENBERG	)	
COUNTY WATER DISTRICT #3 REQUESTING	)	CASE NO.
DEVIATION FROM REQUIREMENTS OF 807 KAR	)	2018-00159
5:066, SECTION 4(4)	)	

ORDER

On May 29, 2018, the Commission received a Water Storage Requirement Deviation Request Application (Application) submitted by Muhlenberg County Water District #3 (Muhlenberg District #3) requesting a deviation from 807 KAR 5:066, Section 4(4), which contains the Commission’s minimum water storage capacity requirements. Muhlenberg District #3 responded on July 2, 2018, to Commission Staff First Request for Information (Staff’s First Request). No party sought intervention into this case. The matter now stands submitted to the Commission for a decision.

BACKGROUND

Muhlenberg District #3, a water district organized pursuant to KRS Chapter 74, owns and operates facilities that distribute water to approximately 2,111 customers in Muhlenberg County, Kentucky, and wholesale water service to one customer: the city of Sacramento, Kentucky.<sup>1</sup>

The Commission’s administrative regulation that addresses continuity of service for water utilities is 807 KAR 5:066, Section 4. With respect to storage requirements, 807

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<sup>1</sup> *Application* at 1–2.

KAR 5:066, Section 4(4), provides, “Storage. The minimum storage capacity for systems shall be equal to the average daily consumption.”

Muhlenberg District #3’s average daily water consumption and storage requirement is 720,000 gallons. Muhlenberg District #3’s current storage capacity is 500,000 gallons contained in two storage tanks, leaving a deficit of 220,000 gallons.<sup>2</sup>

Muhlenberg District #3 purchases all of its water from Central City, Kentucky.<sup>3</sup> In a letter dated November 22, 2016, Central City stated that it had a storage capacity of 4.8 million gallons, only consumes an average of 770,000 gallons daily, and agreed to reserve 700,000 gallons for storage use by Muhlenberg District #3.<sup>4</sup>

Muhlenberg District #3’s wholesale customer, the city of Sacramento, has its own storage facility with a capacity that meets its requirements for the water it purchases from Muhlenberg District #3.

The Commission previously granted Muhlenberg District #3 a deviation from 807 KAR 5:006, Section 4(4), by Order of May 31, 2017, in Case No. 2016-00421.<sup>5</sup> In that case, the Commission requested that Muhlenberg District #3 negotiate a written agreement with Central City to address water storage allocation. This agreement was to be filed with the Commission within 90 days of the date of the Order or by August 31, 2017.

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<sup>2</sup> Application at 3.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*, Exhibit 1.

<sup>5</sup> Case No. 2016-00421 *Electronic Application of Muhlenberg County Water District #3 Requesting Deviation from Requirements of 807 KAR 5:066, Section 4(4)* (Ky. PSC May 31, 2017).

On August 29, 2017, Muhlenberg District #3 filed a letter in Case No. 2016-00421 explaining that it was unable to obtain a written water storage agreement with Central City because Muhlenberg District #3 was currently protesting Central City's rate increase case in Case No. 2017-00199.<sup>6</sup>

Central City withdrew its request for a rate increase in Case No. 2017-00199 on August 30, 2017. In its response to Staff's First Request, Muhlenberg District #3 stated that there has been no meaningful progress towards a water storage agreement with Central City, and that the relationship between Central City and Muhlenberg District #3 has become strained since Muhlenberg District #3 protested Central City's requested rate increase in Case No. 2017-00199.<sup>7</sup> Muhlenberg District #3 states that Central City has indicated it will not consider negotiating a water storage agreement until the conclusion of the next rate case filed by Central City.<sup>8</sup> As of the date of this Order, Central City has not filed a rate case.

#### DISCUSSION

According to 807 KAR 5:066, Section 4(4), a water utility is required to have a minimum storage capacity equal to its average daily consumption, and the intent of this requirement is the protection of the continuity of water service. The Commission finds that Muhlenberg District #3 has storage for 500,000 gallons, and is therefore out of compliance with the regulation.

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<sup>6</sup> Case No. 2016-00421, Letter dated Aug. 29, 2017. Case No. 2017-00199 *Electronic Proposed Adjustment of the Wholesale Water Service Rates of Central City Municipal Water & Sewer* (Ky. PSC Sept. 12, 2017).

<sup>7</sup> Response to Staff's First Request for Information, Items 1, 2 and 3.

<sup>8</sup> *Id.* at Item 3.

In support of its request for a deviation, Muhlenberg District #3 relies upon storage for 700,000 gallons reserved for its use by Central City.<sup>9</sup> The Commission finds that the November 22, 2016 letter referenced in the application is not specific enough to rely on for a long-term deviation from water storage requirements. The letter does not address the duration of any agreement, any renewal periods, or the rights and obligations of the parties that includes times of emergency. For these reasons, the Commission cannot consider any storage in the Central City system to be part of the storage capacity of Muhlenberg District #3. Therefore, Muhlenberg District #3 cannot rely upon water storage in the Central City system for meeting the water storage requirements of 807 KAR 5:066, Section 4(4).

Muhlenberg District #3 requires additional water storage capacity of approximately 220,000 gallons in order to comply with 807 KAR 5:066, Section 4(4). Based on these findings, it is reasonable to grant Muhlenberg District #3 a deviation from 807 KAR 5:066, Section 4(4), through February 28, 2019.

While the Commission will grant a short-term deviation based on the November 22, 2016 letter, we are concerned by Muhlenberg District #3's and Central City's inability to reach a written storage agreement that would support a request for a longer deviation period. Therefore, Muhlenberg District #3 should work with Central City to obtain a written agreement regarding the allocation of storage and then file the agreement with the Commission. At a minimum, the agreement should address the amount of the allocation, the duration of the agreement that includes any renewal periods, and the rights and obligations of the parties concerning the allocation, including during an emergency. This

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<sup>9</sup> Application at Exhibit 1.

agreement should be filed with the Commission on or before the expiration of the present deviation.

In the event that Muhlenberg District #3 is unable to secure a written agreement with Central City, Muhlenberg District #3 will need to file another application for a deviation from 807 KAR 5:066, Section 4(4). This request for deviation should include detailed plans and cost estimates for adding an additional 222,000-gallon tank to its storage facilities, as well as detailed support for its efforts to negotiate a written storage agreement with Central City, including but not limited to all emails, letters, and notes from any meetings that have taken place.

IT IS THEREFORE ORDERED that:

1. Muhlenberg District #3's request to deviate from the water storage requirements of 807 KAR 5:066, Section 4(4), is granted and approved through February 28, 2019.

2. Muhlenberg District #3 shall inform the Commission in writing if changes occur in either system that would cause Central City to have insufficient storage for Muhlenberg District #3, or if Central City gives notice that it is revoking the November 22, 2016 letter.

3. In the event that Muhlenberg District #3 has neither secured a written agreement with, nor been acquired by Central City; Muhlenberg District #3 shall file an application for a deviation from 807 KAR 5:066, Section 4(4), on or before February 28, 2019. This request for deviation shall include detailed plans and cost estimates for adding an additional 222,000-gallon tank to its storage facilities as well as detailed support for its

efforts to negotiate a written storage agreement with Central City, including but not limited to all emails, letters, and notes from any meeting that have taken place.

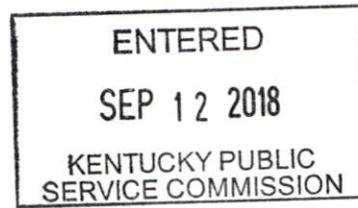
4. The Executive Director is the delegated authority to grant reasonable extensions of time for the filing of any documents required by this Order upon Muhlenberg District #3's showing of good cause for such extension.

5. Any documents filed in the future pursuant to ordering paragraph 2 shall reference this case number and shall be retained in the post-case correspondence file.

6. This case is closed and removed from the Commission's Docket.

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By the Commission



ATTEST:

  
Executive Director

Case No. 2018-00159

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