

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF)	
SOUTHERN WATER AND SEWER)	CASE NO.
DISTRICT FOR AN ALTERNATIVE RATE)	2018-00230
ADJUSTMENT)	

ORDER

This matter arises upon a motion of the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General). On January 28, 2019, Floyd County, Kentucky, Treasurer David Layne filed a 67-page public comment purporting to demonstrate that Southern Water and Sewer District (Southern District) owes Floyd County Fiscal Court for bond anticipation notes, and a subsequent revenue bond, issued in 2001 by Floyd County for Southern District's infrastructure projects. Also, on January 28, 2019, the Attorney General requested leave to either supplement his post-hearing brief or, in the alternative, for the Commission to initiate an investigation into the management and operation of Southern District. As a basis for the motion, the Attorney General asserted that Treasurer Layne's filing might have a direct impact upon ratepayers' interests in this matter.

As an initial matter, in a final decision reached on the merits, the Commission found that no legal obligation existed for Southern District to reimburse Floyd County Fiscal Court for the \$2,000,000 note, and later bond, that Floyd County Fiscal Court entered into

to provide for its contribution toward Southern District's \$6,000,000 infrastructure projects.¹

Southern District did not request to recover any alleged payments made to Floyd County Fiscal Court in this proceeding. Nor could they, based upon the Commission's previous decision on the merits that such payments, aside from not being approved by the Commission, were not in keeping with Southern District's statutory purpose, and therefore could be considered malfeasance and constitute grounds for removing Southern District's commissioners from office. Because the documents filed by Treasurer Layne are related to a matter finally decided on the merits and because Southern District did not request to recover the alleged payments in the rate case, they are not directly relevant to this rate adjustment proceeding.

Based upon the evidence of record and being otherwise sufficiently advised, the Commission finds that the Attorney General failed to establish good cause to supplement his post-hearing brief, and therefore the motion should be denied. The Commission shares the Attorney General's concerns regarding the operation and management of Southern District. As indicated at the January 24, 2019 hearing in this proceeding, the Commission is reviewing the evidence of record developed in this matter and may initiate an investigation, or several investigations, into the operation and management of Southern District by its board and manager.²

IT IS THEREFORE ORDERED that the Attorney General's motion is denied.

¹ Case No. 2012-00309, *Application of Southern Water and Sewer District for an Adjustment in Rates Pursuant to the Alternative Rate Filing Procedure for Small Utilities* (Ky. PSC July 12, 2013) at 4–10.

² January 24, 2019 Hearing Video Transcript at 12:24:40.

By the Commission

ENTERED
JAN 30 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2018-00230

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