

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF ESTILL COUNTY)	CASE NO.
WATER DISTRICT NO. 1 FOR A SURCHARGE TO)	2019-00119
FINANCE WATER LOSS CONTROL EFFORTS)	

ORDER

On June 13, 2019, Estill County Water District No. 1 (Estill District No. 1) tendered its request to assess a monthly surcharge for at least three years with the surcharge proceeds used to finance water loss reduction projects. Also, on June 13, 2019, Estill District filed a motion to deviate from the filing requirements for applications for general adjustments of existing rates set forth in 807 KAR 5:001, Section 16(4)(g).

On August 29, 2019, the Commission entered an Order in response to Estill District's July 29, 2019 motion for deviation and for authorization to commence billing a proposed surcharge subject to refund (Order). The Order deemed Estill District No. 1's application filed as of August 1, 2019, and deemed the surcharge effective as of August 22, 2019. The Order allowed Estill District No. 1 to collect the surcharge, subject to refund, and to begin accumulating the financial reserves necessary to take appropriate measures to address its water loss issue. The Order also required Estill District No.1 to maintain its records in such a manner to determine the amounts to be refunded, and to whom any refund is due, in the event that a refund of any portion of the surcharge is ordered by the Commission.

The August 29, 2019 Order was entered during the pendency of Case No. 2019-00041¹ and preparation of the corresponding investigative report that the Commission subsequently issued to address water loss issues, like those Estill District No.1 experiences, but on a more comprehensive scale by collecting information from eleven utilities experiencing similar excessive water loss issues. Estill District No. 1 was a party to Case No. 2019-00041.

The August 29, 2019 Order in this case was a final decision that rendered the proposed surcharge effective pursuant to KRS 278.190(3) and subject to refund only pursuant to the terms of Estill District No. 1's tariff.² The Commission clarifies any confusion caused by that Order and language regarding the filed tariff that the surcharge was subject to refund pending the issuance of a further order in this proceeding. The August 29, 2019 Order made the surcharge effective and the Commission ordered the case to remain open to allow for Estill District No.1 to report on its collection of the surcharge and request approval of the expenditures from the Commission so that the Commission could monitor compliance with Estill District No. 1's tariff.

The culminating Order in Case No. 2019-00041³ entered November 22, 2019, incorporated the investigative report and made recommendations for effective solutions to combat water loss and improve the finances and operations of the parties to the case

¹ Case No. 2019-00041, *Electronic Investigation into Excessive Water Loss by Kentucky's Jurisdictional Water Utilities* (Ky. PSC Nov. 22, 2019).

² The Commission, if Estill District No. 1 violated the terms of the surcharge in its tariff, could order a refund. The Commission could also make prospective changes to the surcharge pursuant to KRS 278.270.

³ Case No. 2019-00041, *Electronic Investigation into Excessive Water Loss by Kentucky's Jurisdictional Water Utilities*, (Ky. PSC Nov.22, 2019).

as well as all water utilities experiencing the same issues. The Commission's November 22, 2019 Order stated that any further remedial action regarding the loss prevention or leak detection programs for Estill District No.1 should be documented in this proceeding.⁴ The Commission's March 24, 2020 Order in this proceeding stated that, "[t]his matter should remain open for the Commission to continue to monitor and approve the ongoing efforts by Estill District No. 1 to take appropriate measures to address its water loss issue in accordance with its application herein and in furtherance of the November 22, 2019 Order in Case No. 2019-00041."⁵ The March 24, 2020 Order was an effort to keep the Commission's orders from each case consistent and clarify the procedure the Commission was implementing to utilize the water loss surcharge, as well as to monitor Estill District No. 1's compliance with the surcharge tariff provisions.

The Commission finds that for clarification purposes the August 29, 2019 Order was its final decision to make the proposed surcharge effective, subject to refund pursuant to the terms listed in that Order and incorporated in Estill District No. 1's tariff. As a result of the clarification above, Estill District No.1's Motion for Declaratory Order Regarding the Finality of Proposed Surcharge on June 2, 2020, should be denied as moot. Estill District No.1 remains under the terms of the August 29, 2019 Order, its filed tariff, the terms of the November 22, 2019 Order in Case No. 2019-00041, and the terms of the March 24, 2020 Order in this proceeding, which were all established by the Commission to ensure consistent regulatory oversight.

⁴ *Id.* at Appendix C.

⁵ Case No. 2019-00119, *Electronic Application of Estill County Water District No. 1 for a Surcharge to Finance Water Loss Control Efforts* (Ky. PSC Mar. 24, 2020) Order at 2.

The Commission issued an Order on June 26, 2020 pursuant to 807 KAR 5:001, Section 19(3) serving Estill District No.1's motion for a declaratory order on utilities utilizing a surcharge or requesting a surcharge to combat water loss because they may be affected by the Commission's decision on motion. On July 7, 2020, Estill District No.1 filed a supplement to its motion for declaratory order and objected to the Commission's June 26, 2020 Order. The Commission finds that Estill District No.1's June 26, 2020 objection and request to withdraw the Commission's Order should be denied as moot. Farmdale Water District (Farmdale District) and Cannonsburg Water District (Cannonsburg District) have already filed responses to the Commission's Order and those have been entered into the public record.⁶

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that:

1. Estill District No. 1's Motion for Declaratory Order Regarding the Finality of Proposed Surcharge filed June 2, 2020, should be denied as moot.
2. Estill District No.1's Clarification of Requested Relief and Objection to the Order of June 26, 2020, filed July 7, 2020, should be denied as moot.
3. This matter should remain open for the Commission to continue to monitor and approve the ongoing efforts by Estill District No. 1 to take appropriate measures to address its water loss issue in accordance with its application herein and in furtherance of the November 22, 2019 Order in Case No. 2019-00041.⁷

⁶ Comments of Farmdale District in Response to June 26, 2020 Order, (filed July 16, 2020); Cannonsburg Water District's Comments in Response to June 26, 2020 Order, (filed July 16, 2020).

⁷ *Id.*

IT IS THEREFORE ORDERED that:

1. Estill District No. 1's Motion for Declaratory Order Regarding the Finality of Proposed Surcharge filed June 2, 2020, is denied as moot.

2. Estill District No.1's Clarification of Requested Relief and Objection to the Order of June 26, 2020, filed July 7, 2020, is denied as moot.

3. This matter shall remain open for the Commission to continue to monitor and approve the ongoing efforts by Estill District No. 1 to take appropriate measures to address its water loss issue in accordance with its application herein and in furtherance of the November 22, 2019 Order in Case No. 2019-00041.⁸

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⁸ *Id.*

By the Commission



ATTEST:



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