

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION INTO	)	CASE NO.
EXCESSIVE WATER LOSS BY KENTUCKY'S	)	2019-00041
JURISDICTIONAL WATER UTILITIES	)	

ORDER

On September 18, 2020, Morgan County Water District (Morgan District) filed its Motion for Extension of Time (Motion) requesting an extension from the deadline of September 22, 2020, to November 22, 2020, in which to comply with the requirements of the November 22, 2019 Order issued in this proceeding. Morgan District stated that prior to the entry of the final Order dated November 22, 2019 (November 22, 2019 Order), Morgan District had begun the process of planning and obtaining funding for a water loss project. Morgan District planned on and is now in the process of applying for a United States Department of Agriculture Rural Development (USDA/RD) loan, “[u]pon the advice and direction of the Kentucky Rural Water Association (KRWA), MCWD planned to include the required rate increase in the USDA loan to simplify the processing of the rate increase.”<sup>1</sup> Morgan District stated that it did not anticipate that obtaining the USDA/RD loan would take as long as it has, but believes the process has been prolonged due to COVID-19, and extending the time to comply with the requirements of the November 22, 2019 Order in this matter will allow Morgan District to complete the process of obtaining the USDA/RD loan.

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<sup>1</sup> Motion at 1.

Morgan District was ordered in the November 22, 2019 Order to file an alternative rate adjustment, pursuant to 807 KAR 5:076. The Commission's Order stated:

Despite being increased in August 2017,<sup>2</sup> Morgan District's current rates fail to ensure sufficient revenue to pay operating expenses, adversely affecting Morgan District's financial condition. Morgan District should file an application for alternative rate adjustment, pursuant to 807 KAR 5:076, within six months of the date of entry of this Order.<sup>3</sup>

To the detriment of Morgan District's ratepayers, Morgan District's Motion ignores the clear directives of the November 22, 2019 Order and the attached investigative report at Appendix L, which describes at length the difference between a base rate increase and increasing rates as a part of obtaining a USDA/RD loan. Morgan District's financial predicament based upon its mistakes in failing to accept the rate recommendation of the Commission in Case No. 2016-0068, and failing to include depreciation as part of a prior USDA/RD loan is an example of the poor financial planning discussed in the report.<sup>4</sup>

The problem with water utilities relying on increasing rates through the process of applying for approval of loans that incorporate rate increases to fund specific projects is specifically criticized as a practice that allows water utilities to avoid oversight and review of its financial and operational fitness.<sup>5</sup> Moreover, Morgan District contacted Commission Staff by telephone and was advised that its plan to use its USDA/RD loan to raise its rates was not a substitute to filing a base rate increase. Morgan District's financial problems

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<sup>2</sup> Case No. 2016-00068, *Application of Morgan County Water District for Rate Adjustment*, (Ky. PSC Aug. 17, 2017).

<sup>3</sup> We note that in Case No. 2016-00068, Commission Staff calculated higher rates than those that Morgan District requested, and that Morgan District opted to charge lower rates.

<sup>4</sup> November 22, 2019 Order, Appendix L at 14.

<sup>5</sup> *Id.* at 19, *Rate Increases through Other Means*. See also, Appendix G.

have been identified and well documented in this case, however, after it refused Commission Staff's recommended rates in Case No. 2016-00068, and continued to fail financially, now its Board members have chosen to disregard the Order of the Commission by erroneously equating a rate increase pursuant to 807 KAR 5:076 with a rate increase as part of a loan approval pursuant to KRS 278.023.

Morgan District is no stranger to what an alternative rate adjustment pursuant to 807 KAR 5:076 is, as that is the application it filed in Case No. 2016-00068. Unless Morgan District failed to read the Commission's Order of November 22, 2019 and attached investigative report where the Commission discussed the problems that can occur when utilities intentionally avoid a review of their financial records by relying solely on financing cases to increase rates,<sup>6</sup> Morgan District's Motion is a blatant attempt to defy a direct order from the Commission by pursuing a rate increase via a USDA/RD loan instead of filing an alternative rate adjustment pursuant to 807 KAR 5:076. Morgan District chose not to address the fact that a request to raise its rates as part of a loan approval pursuant to KRS 278.023 is not the same as filing an alternative rate adjustment pursuant to 807 KAR 5:076 by requesting a deviation from the Commission's Order, and instead, merely stated that it had been advised to include the rate increase in the USDA/RD loan to "simplify" the process.<sup>7</sup> Morgan District did not address the fact that it was ordered to file an alternative rate adjustment pursuant to 807 KAR 5:076, but it is attempting to do something different by filing a rate increase as part of a KRS 278.023 filing. An alternative rate adjustment, as opposed to a request for construction and

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<sup>6</sup> November 22, 2019 Order, Appendix L.

<sup>7</sup> Motion at 1.

financing pursuant to KRS 278.023 or KRS 278.300, would allow Commission Staff and the Commission a full review of Morgan District's financial and operational records ensuring that its rates will be sufficient to support its operations and address its water loss problems and failing infrastructure.

As discussed in the investigative report at Appendix L of the November 22, 2019 Order, prior to 2016, Morgan District had not sought a general adjustment in base rates by any other means than through a financing approval or in conjunction with an application for a Certificate of Public Convenience and Necessity since its formation in 1992. While Morgan District has increased its rates as part of financing cases through the USDA/RD, the Commission's review of records in an USDA/RD financing case is limited and very different from the comprehensive review of a utility's total financial stability and operational viability that takes place in a traditional rate adjustment case or an alternative rate adjustment.<sup>8</sup>

The Commission finds there is not good cause to grant Morgan District's Motion, as it states that Morgan District would not comply with the November 22, 2019 Order, but ignore the Order and the investigative report and waste the opportunity it has been given to address its financial and operational failings. The Commission finds there is good cause to grant an extension of the deadline for Morgan District to comply with the requirements of the November 22, 2019 Order from September 22, 2020, to 60 days after this Order has been entered in the record in order to file an alternative rate adjustment pursuant to 807 KAR 5:076 and further comply with the specific orders contained in

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<sup>8</sup> November 22, 2019 Order, Appendix L at 14.

Appendix G, and the Orders and recommendations on pages six through eight of the November 22, 2019 Order.

IT IS THEREFORE ORDERED that:

1. Morgan District's Motion filed September 18, 2020, is denied.
2. Morgan District shall comply with the requirements of the November 22, 2019 Order by filing an alternative rate adjustment pursuant to 807 KAR 5:076, no later than 60 days after this Order has been entered.

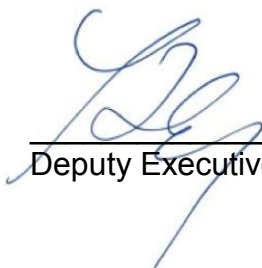
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By the Commission

Vice Chairman Kent A. Chandler did not participate in the deliberations or decision concerning this case.



ATTEST:



Deputy Executive Director

Case No. 2019-00041

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