

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF LYON COUNTY)	CASE NO.
WATER DISTRICT FOR A RATE ADJUSTMENT)	2021-00391
PURSUANT TO 807 KAR 5:076)	

ORDER

On November 22, 2021, Lyon County Water District (Lyon District) filed an application with the Commission, pursuant to 807 KAR 5:076, requesting to adjust its rates for water service. In its application, Lyon District requested rates that would increase annual water sales revenues by \$198,315, a 14.62 percent increase to pro forma present rate water sales revenues.

To ensure the orderly review of the application, the Commission established a procedural schedule by Order dated December 14, 2021, which, among other things, required the Commission Staff to file a report containing its findings regarding Lyon District's application. On January 13, 2022, the Commission issued an order amending the procedural schedule. On February 10, 2022, Lyon District responded to Commission Staff's First Request for Information (Staff's First Request). On March 25, 2022, Lyon District supplemented the information provided initially to Staff's First Request. On March 10, 2022, Lyon District responded to Commission Staff's Second Request for Information.

Pursuant to the procedural Order, on April 6, 2022, Commission Staff issued a report (Commission Staff's Report) summarizing its findings regarding Lyon District's requested rate adjustment. In the Commission Staff's Report, Commission Staff found

that Lyon District's adjusted test-year operations support an overall revenue requirement of \$1,447,421 and that an annual revenue increase of \$88,981, or 6.56 percent, is necessary to generate the overall revenue requirement.

On April 22, 2022, Lyon District filed its comments on Commission Staff's Report accepting the findings. With its comments, Lyon District waived its right to an informal hearing.¹

LEGAL STANDARD

Alternative rate adjustment proceedings, such as this one, are governed by 807 KAR 5:076, which establishes a simplified process for small utilities to use to request rate adjustments, with the process designed to be less costly to the utility and to the utility ratepayers. The Commission's standard of review of a utility's request for a rate increase is well established. In accordance with KRS 278.030 and case law, Lyon District is allowed to charge its customers "only 'fair, just and reasonable rates.'"² Further, Lyon District bears the burden of proof to show that the proposed rate increase is just and reasonable under KRS 278.190(3).

BACKGROUND

Lyon District is a water district organized pursuant to KRS Chapter 74. It owns and operates a water distribution system through which it provides water service to approximately 2,666 customers and 39 commercial customers in Lyon County,

¹ Lyon District's Response regarding the Commission Staff's Report dated April 6, 2022 (filed Apr. 22, 2022).

² *City of Covington v. Public Service Commission*, 313 S.W.2d 391 (Ky. 1958); and *Pub. Serv. Comm'n v. Com. of Kentucky v. Dewit Water District*, 720 S.W.2d 725 (Ky. 1986).

Kentucky.³ Lyon District does not produce any of its own water; rather, it purchases its water from Barkley Lake Water District, Crittenden-Livingston County Water District, the city of Eddyville, the city of Kuttawa, and the city of Princeton. This is Lyon District's first base rate adjustment pursuant to the alternative rate filing procedure or general rate adjustment procedure.

TEST PERIOD

The calendar year ended December 31, 2020, was used as the test year to determine the reasonableness of Lyon District's existing and proposed water rates as required by 807 KAR 5:076, Section 9.

SUMMARY OF REVENUE AND EXPENSES

The Commission Staff's Report summarizes Lyon District's pro forma income statement as follows:

	<u>2020 Test Year</u>	<u>Pro Forma Adjustments</u>	<u>Commission Staff's Report Pro Forma</u>
Operating Revenues	\$ 1,239,508	\$ 118,326	\$ 1,357,834
Operating Expenses	<u>1,331,541</u>	<u>(232,988)</u>	<u>1,098,553</u>
Net Operating Income	(92,033)	351,314	259,281
Nonutility Income	<u>606</u>	<u>-</u>	<u>606</u>
Income Available for Debt Service	<u>\$ (91,427)</u>	<u>\$ 351,314</u>	<u>\$ 259,887</u>

MODIFICATIONS TO STAFF'S FINDINGS

Lyon District proposed adjustments to revenues and expenses to reflect current and expected operating conditions. In Commission Staff's Report, Commission Staff

³ Annual Report of Lyon District Water and Sewer District to the Public Service Commission for the Calendar Year Ended December 31, 2020 (Annual Report) at 12 and 49.

proposed additional adjustments. The Commission accepts the findings contained in Commission Staff's Report.

Billing Analysis. In Commission Staff's Report, Commission Staff recommended the Commission accept Lyon District's proposed increase of \$116,837 based on Lyon District's current billing analysis.⁴ The Commission finds that this adjustment is reasonable as an examination of Lyon District's billing analysis was completed by Commission Staff and a normalized revenue was based on the information provided.

Nonrecurring Charges. In Commission Staff's Report, Commission Staff discussed Lyon District's Nonrecurring Charges⁵ in which estimated labor costs, previously included in determining the amount of Nonrecurring Charges, are removed. Commission Staff recommended a reduction to Lyon District's test-year Miscellaneous Service Revenue of \$1,489,⁶ to reflect the change in the nonrecurring charges. The Commission finds that this adjustment is a known and measurable change to Miscellaneous Service Revenues, is reasonable, and is accepted.

In Commission Staff's Report, Commission Staff recommended revised nonrecurring charges. The Commission continues to follow its decisions regarding nonrecurring charges in that personnel are paid during normal business hours and estimated labor costs previously included in determining the amount of nonrecurring charges should be eliminated from the charges.⁷ The Commission has reviewed

⁴ Commission Staff's Report at 7–8, Adjustment A.

⁵ Commission Staff's Report at 8, Adjustment B.

⁶ Commission Staff's Report at 8, Adjustment B.

⁷ See Case No. 2020-00141, *Electronic Application of Hyden-Leslie County Water District for an Alternative Rate Adjustment* (Ky. PSC Nov. 6, 2020).

Commission Staff's proposed Nonrecurring Charges and finds these revisions follow precedent and to be appropriate and reasonable.

Salaries and Wages – Employees. In Commission Staff's Report, Commission Staff recommended an increase to Lyon District's Salaries and Wages - Employees of \$4,540⁸ to reflect the increase in the number of full- and part-time employees and changes to salaries and wages. The Commission finds that this adjustment is a known and measurable change to Salaries and Wages – Employees and is accepted.

Salaries and Wages – Officers. In Commission Staff's Report, Commission Staff recommended an increase to Lyon District's Salaries and Wages - Officers of \$7,200⁹ to account for the normalization of the test year to Commissioners' Wages. The Commission finds that this adjustment, which is the total of the Commissioners' Salaries for the test year, is a known and measurable change to Salaries and Wages - Officers Expense, is reasonable, and is accepted.

Employee Pensions and Benefits – Health Insurance. In Commission Staff's Report, Commission Staff recommended a decrease to Lyon District's Employee Pensions and Benefits of \$8,414¹⁰ to reflect the adjustment of Single Health Insurance premiums paid by Lyon District from 100 percent to 78 percent. In addition, Commission Staff made an adjustment to reflect the reduction of Dental and Vision Insurance paid from 100 percent to 40 percent. The Commission finds that this adjustment is a known

⁸ Commission Staff's Report, at 8–9, Adjustment C.

⁹ Commission Staff's Report at 9–10, Adjustment D.

¹⁰ Commission Staff's Report at 10–11, Adjustment E.

and measurable change to Employee Pensions and Benefits, is reasonable, and is accepted.

Employee Pensions and Benefits – Retirement. In Commission Staff’s Report, Commission Staff recommended a decrease to Lyon District’s Employee Pension and Benefits Expense of \$27,883¹¹ to reflect the increase in Salaries and Wages as well as the increase in the CERS contribution rate subsequent to the test year. The Commission finds that this adjustment is a known and measurable change to Employee Pensions and Benefits, is reasonable, and is accepted.

Taxes Other than Income – FICA. In Commission Staff’s Report, Commission Staff recommended a decrease to Lyon District’s test year for Employee Pensions and Benefits Expense by \$12,378 and an increase to Taxes Other than Income of \$11,781¹² to account for reclassification and increase in Taxes Other than Income. The Commission finds that this adjustment, which is the removal of the payroll tax expense from the Pensions and Benefits expense and reclassification to Taxes Other than Income. In addition, the increased contribution amount of pro forma wage adjustment multiplied by the FICA percentage rate of 7.65 percent is a known and measurable change to Taxes Other than Income, is reasonable, and is accepted.

Purchased Water Adjustment. In Commission Staff’s Report, Commission Staff recommended a decrease to Lyon District’s Purchased Water Expense of \$17,884¹³ to reflect the normalization of the Purchased Water expense to account for a purchased

¹¹ Commission Staff’s Report at 11–12, Adjustment F

¹² Commission Staff’s Report at 12–13, Adjustment G.

¹³ Commission Staff’s Report at 13–14, Adjustment H.

water adjustment in Case 2021-00195.¹⁴ The Commission finds that this adjustment, which is the calculation of test-year gallons purchased multiplied by the current per gallon cost, is a known and measurable change to Purchased Water Expense, is reasonable, and is accepted.

Expenses Attributable to Water Loss. In Commission Staff's Report, Commission Staff recommended a decrease to Lyon District's test-year Purchased Water expense of \$18,926¹⁵ to reflect the costs associated with the production of water in excess of 15 percent water loss. The Commission finds that this adjustment is a known and measurable change to Purchased Water expense and Purchased Power expense, is reasonable, and is accepted.

Contractual Services – Legal. In Commission Staff's Report, Commission Staff recommended a decrease to Lyon District's Contractual Services – Legal Expense of \$64,734¹⁶ to reflect the normalization of test-year Legal expenses at a five-year average of \$3,636.¹⁷ However, the Commission finds it necessary to increase the annual Legal expense to \$6,000 in order to ensure Lyon District has adequate legal assistance. Increasing the annual amount permitted to reflect ordinary legal expenses will allow Lyon District to receive legal advice to ensure compliance with all legal requirements, including but not limited to filings with this Commission. Lyon District must address its water loss and the Commission expects that legal assistance may be necessary in order for the

¹⁴ Case 2021-00195, *Electronic Purchased Water Adjustment Filing of Lyon County Water District* (Ky. PSC June 4, 2021).

¹⁵ Commission Staff's Report at 14–15, Adjustment I.

¹⁶ Commission Staff's Report at 15–16, Adjustment J

¹⁷ Commission Staff's Report at 16.

district to develop a plan to address the issue and prevent financial deterioration and, thus, maintaining Lyon District’s operational health. Therefore, as shown below, the Commission finds that it is necessary to increase the Revenue Requirement by a further \$2,364.

<u>Contractual Services- Legal Fees</u>	
Proposed Annual Legal Consultant Fee	\$ 6,000
Less: 5 year Average Professional Services- Legal	<u>(3,636)</u>
Revenue Requirement Adjustment	<u>\$ 2,364</u>

Contractual Services – Accounting. In Commission Staff’s Report, Commission Staff recommended a decrease to Lyon District’s Contractual Services – Accounting expense of \$2,800¹⁸ to reflect the decrease in Accounting expenses subsequent to the test year. The Commission finds that this adjustment is a known and measurable change to Contractual Service Expense, is reasonable, and is accepted.

Depreciation. In Commission Staff’s Report, Commission Staff recommended a decrease to Lyon District’s Depreciation Expense of \$103,489¹⁹ to reflect the adjustment of the useful life of capital assets to the midpoint of the National Association of Regulatory Utility Commissioners depreciation study. The Commission finds that this adjustment is a known and measurable change to Depreciation expense, is reasonable, and is accepted.

¹⁸ Commission Staff’s Report at 16–17, Adjustment K

¹⁹ Commission Staff’s Report at 17–18, Adjustment L.

	<u>Commission Staff's Report Pro Forma</u>	<u>Commission Adjustments</u>	<u>Final Pro Forma</u>
Total Operating Revenues	\$ 1,357,834	\$ -	\$1,357,834
Utility Operating Expenses	<u>1,098,553</u>	<u>2,364</u>	<u>1,100,917</u>
Net Operating Income	259,281	(2,364)	256,917
Nonutility Income	<u>606</u>	<u></u>	<u>606</u>
Income Available for Debt Service	<u>\$ 259,887</u>	<u>\$ (2,364)</u>	<u>\$ 257,523</u>

REVENUE REQUIREMENTS

Based upon the Commission's findings and determinations herein, Lyon District requires an increase in revenues of \$91,345, or 6.73 percent, above pro forma present rate revenues as shown below:

Pro Forma Operating Expenses	\$ 1,100,917
Plus: Avg. Annual Principal and Interest Payments	290,723
Additional Working Capital	<u>58,145</u>
Total Revenues Requirement	1,449,785
Less: Other Operating Revenue	(1,489)
Interest and Dividend Income	<u>(606)</u>
Revenue Required From Water Sales	\$ 1,447,690
Revenue from Sales at Present Rates	<u>\$ (1,356,345)</u>
Required Revenue Increase	<u>91,345</u>
Percentage Increase	<u>6.73%</u>

RATE DESIGN

Lyon District proposed to increase all of its monthly retail water service rates by percentage across the board. Lyon District has not performed a cost of service study (COSS).

The Commission has previously found that the allocation of a revenue increase evenly across the board to a utility's rate design is appropriate when there has been no evidence entered into the record demonstrating that this method is unreasonable and in the absence of a COSS. The Commission finds that in the absence of a cost of service study, the proposed across-the-board method is an appropriate and equitable method to allocate the increased cost to Lyon District's customers.

The monthly bill of a typical residential customer using 4,000 gallons of water will increase from \$47.76 to \$50.98, an increase of \$3.22, or 6.74 percent.

WATER LOSS

Pursuant to 807 KAR 5:066, Section (6)3, water loss is limited to 15 percent for ratemaking purposes. As noted in the Commission Staff's Report, Lyon District's test-year water loss was 19.82 percent. Accordingly, Staff reduced test-year expenses by \$18,926 to account for the 4.82 percent in excess water loss.²⁰

Recently, Lyon District has consistently exceeded 15 percent water loss. In 2017, Lyon District had 13.00 percent water loss.²¹ In 2018, Lyon District had 16.41 percent water loss,²² and in 2019, Lyon District had 17.71 percent water loss.²³ The percent of water loss appears to be consistently worsening.

The Commission is placing greater emphasis on monitoring utilities that consistently exceed the 15 percent unaccounted for water loss threshold and strongly encourages Lyon District to pursue reasonable actions to reduce its water loss. The

²⁰ Commission Staff's Report at 2.

²¹ 2017 *Annual Report* at 56.

²² 2018 *Annual Report* at 57.

²³ 2019 *Annual Report* at 57.

Commission has noted that “excessive water loss year after year can be indicative of the deteriorating overall financial and operational well-being of a water utility.”²⁴ Adequate rates are a key factor in assuring the financial and operational health of a water utility. As a water system ages, it is important to demonstrate an investment into infrastructure and continuing to provide safe water for the community.

The Commission is concerned that Lyon District’s water loss is increasing, going from 13.00 percent to 17.71 percent over approximately four years. The Commission can help the district, but that process involves communication and transparency. There are also other organizations, such as the Kentucky Rural Water Association, that can assist smaller water districts in attaining grants and loans or technical help related to system improvements.

Willful failure by Lyon District to make significant progress towards reducing unaccounted-for water loss may cause the Commission to pursue additional action with the utility.

SUMMARY

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

1. The findings contained in the Commission Staff’s Report, as modified herein, are supported by the evidence of record and are reasonable.
2. The Commission has historically used a Debt Service Coverage (DSC) method to calculate the revenue requirement for water districts or associations with outstanding, long-term debt. Application of the Commission’s DSC method to Lyon

²⁴ Case No. 2019-00041, *Investigation into Excessive Water Loss by Kentucky's Jurisdictional Water Utilities* (Ky. PSC Nov. 11, 2019), Order at 2

District's pro forma operations result in an Overall Revenue Requirement of \$1,449,785. A revenue increase of \$91,345 from water service rates is necessary to generate the overall revenue requirement.

3. The water service rates proposed by Lyon District are denied.

4. The water service rates and nonrecurring charges set forth in Appendix B to this Order are fair, just and reasonable, and approved for service rendered on or after the date of this Order.

IT IS THEREFORE ORDERED that:

1. The findings contained in the Commission Staff's Report are adopted as modified herein and incorporated by reference into this Order as if fully set out herein.

2. The general service rates proposed by Lyon District are denied.

3. The rates set forth in Appendix B to this Order are approved for services rendered by Lyon District on and after the date of this Order.

4. Within 20 days of the date of entry of this Order, Lyon District shall file with this Commission, using the Commission's electronic Tariff Filing System, new tariff sheets setting forth the rates and charges approved herein and their effective date, and stating that the rates and charges were authorized by this Order.

5. Lyon District shall use the midpoint of the depreciable lives of the National Association of Regulatory Utility Commissioners ranges, as proposed in the application and agreed upon by Commission Staff, to depreciate water plant assets for accounting purposes in all future reporting periods. No adjustment to accumulated depreciation or retained earnings should be made to account for this change in the accounting estimate.

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

PUBLIC SERVICE COMMISSION



Chairman

Vice Chairman

Commissioner



ATTEST:



Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00391 DATED MAY 13 2022

	Test Year	Staff Report Adjustment	Commission Adjustments	Final Pro- Forma
Operating Revenues				
Total Metered Sales	\$ 1,239,508	\$ 116,837		\$ 1,356,345
Other Water Revenues				
Misc. Service Revenues		1,489		1,489
Other Water Revenues				-
Total Operating Revenues	\$ 1,239,508	\$ 118,326	\$ -	\$ 1,357,834
Operating Expenses				
Operation and Maintenance Expenses				
Salaries and Wages - Employees	149,462	4,540		154,002
Salaries and Wages - Officers	10,800	7,200		18,000
Employee Pensions and Benefits	109,357	(8,414)		
		(27,883)		
		(12,378)		60,682
Purchased Water	410,230	(17,884)		
		(18,926)		373,420
Purchased Power				
Materials and Supplies	73,657			73,657
Contractual Services	162,172	(64,734)		
		(2,800)	2,364	97,002
Insurance	24,569			24,569
Miscellaneous Expense	71,680			71,680
Total Operation and Maintenance Expenses	1,011,927	(141,280)	2,364	873,011
Depreciation	317,163	(103,489)		213,674
Amortization				
Taxes Other Than Income	2,451	11,781		14,232
Utility Operating Expenses	1,331,541	(232,988)	2,364	1,100,917
Utility Operating Income	(92,033)	351,314	(2,364)	256,917
Interest and Dividend Income	606			606
Income Available to Service Debt	\$ (91,427)	\$ 351,314	\$ (2,364)	\$ 257,523

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00391 DATED MAY 13 2022

Monthly Water Rates

5/8- x 3/4-Inch Meter

First	2 ,000 Gallons	\$	27.50	Minimum Bill
Next	3 ,000 Gallons		0.01174	Per Gallon
Next	5 ,000 Gallons		0.00841	Per Gallon
Next	10 ,000 Gallons		0.00708	Per Gallon
Over	20 ,000 Gallons		0.00628	Per Gallon

1-Inch Meter

First	15 ,000 Gallons	\$	130.16	Minimum Bill
Next	5 ,000 Gallons		0.00708	Per Gallon
Over	20 ,000 Gallons		0.00628	Per Gallon

1 1/2-Inch Meter

First	25 ,000 Gallons	\$	176.91	Minimum Bill
Over	25 ,000 Gallons		0.00628	Per Gallon

2-Inch Meter

First	45 ,000 Gallons	\$	318.43	Minimum Bill
Over	45 ,000 Gallons		0.00628	Per Gallon

Nonrecurring Charges

Field Collection Charge	\$7.00
Meter Read-Out Charge	7.00
Meter Reconnection Charge	10.00
Meter Re-Read Charge	7.00
Meter Test Charge	37.00
Return Check Charge	31.00
5/8- x 3/4-Inch Meter Tap Fee	1,022.00
1-Inch Meter Tap Fee	1,382.00

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