

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF SOUTH)	CASE NO.
WOODFORD WATER DISTRICT FOR A RATE)	2022-00035
ADJUSTMENT PURSUANT TO 807 KAR 5:076)	

ORDER

On January 10, 2024, South Woodford Water District (South Woodford District) filed a letter requesting for the Commission to cancel its yet to be initiated water loss surcharge.¹

BACKGROUND

On March 17, 2022, South Woodford District filed an application for an alternative rate adjustment (ARF) pursuant to 807 KAR 5:076, which included a request for a water loss surcharge. As part of the January 17, 2023 final Order (January 17, 2023 Order) granting new rates, the Commission ordered South Woodford District to obtain the services of an outside independent consultant to identify potential firms interested in providing distribution system maintenance to South Woodford District, assist in preparing an request for proposals (RFP), issue the RFP's to solicit bids from identified firms, and analyze the bids received.² The Order also directed South Woodford District to identify the top responses to the RFP.³ The Commission ordered that within six months from the

¹ South Woodford District's Response to Request for Information (filed Jan. 10, 2024).

² Order (Ky. PSC Jan. 17, 2023) at 15.

³ Order (Ky. PSC Jan. 17, 2023) at 21.

date of service of the Order, South Woodford District shall submit to the Commission a written report that discusses the results of the RFP solicitation for the contract distribution maintenance and shall include a detailed analysis support the decision.⁴ In Appendix A of that same Order, a water loss surcharge recovery was authorized but held in abeyance until the revised manager contract had been submitted, approved by the Commission.⁵

Additionally, the Commission's January 17, 2023 Order determined that the implementation of a water loss reduction surcharge would be reasonable for South Woodford District.⁶ However, the Commission noted that it was unable to approve such a surcharge until South Woodford District provided additional information regarding its contract with its new manager, including steps mandated to identify and address water loss.

On February 3, 2023, South Woodford District filed a letter asking whether a contract the utility entered into with Gatewood Water Service met the requirements from the January 17, 2023 Order.⁷ South Woodford District stated that other districts in the area had issued RFPs; however, they were not successful in lowering the expenses as few responses were received. As such, South Woodford District entered into a contract with Gatewood Water Service.⁸ On February 23, 2023, the Commission entered an Order finding that the contract with Gatewood Water Service did not meet the requirements of

⁴ Order (Ky. PSC Jan. 17, 2023) at 21.

⁵ Order (Ky. PSC Jan. 17, 2023), Appendix A.

⁶ Order (Ky. PSC Jan. 17, 2023) at 17–20.

⁷ South Woodford District Request for Clarification (filed Feb. 3, 2023).

⁸ South Woodford District Request for Clarification.

the January 17, 2023 Order.⁹ The February 23, 2023 Order also found that the January 17, 2023 Order was still in effect and failure to comply may lead to civil penalties pursuant to KRS 278.990.¹⁰

On May 17, 2023, South Woodford District filed a letter in the record which appeared to request authority to use water loss surcharge funds for certain purchases.¹¹ On May 26, 2023, the Commission entered an Order requiring South Woodford District to respond within 15 days of service clarifying the intent of the letter and to state if South Woodford District was already collecting the water loss surcharge.¹² On June 29, 2023, South Woodford District filed the responsive letter, stating that it had not started collecting the surcharge but was requesting permission to start collecting it and outlining what it intended to use the surcharge funds for.¹³

On August 3, 2023, the Commission denied South Woodford District's request to start collecting the surcharge and ordered that the case would remain open until South Woodford District complied with the January 17, 2023 Order and the Commission issued an order addressing South Woodford District's Water Loss Reduction Surcharge.¹⁴ This Order also described step by step what the January 17, 2023 Order required from South Woodford District.¹⁵

⁹ Order (Ky. PSC Feb. 23, 2023) at 3.

¹⁰ Order (Ky. PSC Feb. 23, 2023) at 3.

¹¹ Letter Requesting Permission for Use of Rate Increase Surcharge Money (filed May 17, 2024).

¹² Order (Ky. PSC May 26, 2023) at 3.

¹³ Response Letter (filed June 29, 2023).

¹⁴ Order (Ky. PSC Aug. 3, 2023) at 2.

¹⁵ Order (Ky. PSC Aug. 3, 2023) at 1–2.

On October 30, 2023, a request for information was entered which requested the status of South Woodford District's compliance with the January 17, 2023 Order.¹⁶ Instead of filing a timely response, South Woodford District filed a letter on January 10, 2024 that did not directly respond to the request for information.

LEGAL STANDARD

Commission regulation 807 KAR 5:001, Section 9(3): states that the Commission may, on its own motion, conduct investigations and order hearings into any act or thing done or omitted to be done by a utility, which the commission believes is in violation of an order of the commission or KRS Chapters 74 or 278 or 807 KAR Chapter 5. KRS 278.990 lays out the penalties for these types of violations:

[A]n officer, agent, or employee of a utility who fails to obey any order of the commission from which all rights of appeal have been exhausted, or who procures, aids, or abets a violation by any utility, shall be subject to either a civil penalty to be assessed by the commission not to exceed two thousand five hundred dollars (\$2,500) for each offense or a criminal penalty of imprisonment for not more than six (6) months, or both.

DISCUSSION AND FINDINGS

In its January 10, 2024 letter, South Woodford District stated that the chairman of South Woodford District's Board of Commissioners (Board) had resigned, and another commissioner has not been appointed¹⁷ as of the date of the letter, December 29, 2023.¹⁸ Notably, South Woodford District's letter neither provided the date that the Chairman of

¹⁶ Commission Staff's Fourth Request for Information to South Woodford District (issued Oct. 30, 2023).

¹⁷ The letter referenced "elected".

¹⁸ Note that this letter was filed on January 10, 2024, but that December 29, 2023, was the date of the letter.

the Board resigned nor the date when his unexpired term will end. South Woodford District also stated that Bob Miller was no longer working on this project.¹⁹

Moreover, South Woodford District's January 10, 2024 letter argued that what the Commission is ordering the South Woodford District to do, presumably a reference to reducing the district's excessive water loss, is very expensive.²⁰ South Woodford District then notified the Commission that its Board felt the surcharge was not worth the expense; and therefore, had decided not to pursue the surcharge until the new management finds all the meters and replaces the non-working ones.²¹ South Woodford District stated that it believes that most of the water loss can be found when all meters have been expected and accounted for.²² Therefore, South Woodford District asked for the Commission to "cancel" its request for the surcharge.²³

Having considered the record and being otherwise sufficiently advised, the Commission finds that South Woodford District's request to "cancel" the water loss surcharge should be denied. South Woodford District did not provide the Commission with any evidence to support its claims that either the water loss surcharge is too expensive, or that reducing water loss was not worth the expense.

¹⁹ South Woodford District's Response to Commission Staff's Fourth Request for Information (Staff's Fourth Request) (filed Jan. 10, 2024).

²⁰ South Woodford District's Response to Staff's Fourth Request.

²¹ South Woodford District's Response to Staff's Fourth Request.

²² South Woodford District's Response to Staff's Fourth Request.

²³ South Woodford District's Response to Staff's Fourth Request.

Furthermore, at the time of the Commission's January 17, 2023 Order, the water loss for South Woodford District was 29.63 percent.²⁴ Although, pursuant to its 2023 Annual Report,²⁵ South Woodford District's water loss percentage has dropped approximately 7 percent, it provided no evidence to support a conclusion that its reduced water loss was either sustainable or would continue to drop. Accordingly, the Commission finds that a water loss surcharge remains necessary for South Woodford District to make improvements to its system to address its excess water loss.

Finally, the Commission finds it troubling that as of the date of this Order, South Woodford District continues its failure to comply with the January 17, 2023 Order. The Commission puts South Woodford District on notice that failure to comply with its Orders may lead to an investigation and could result in the penalties as laid out in KRS 278.990. South Woodford District is required to comply with all Commission Orders previously issued in the case. The Commission further finds that an additional data request is necessary to address these concerns and is attached as an Appendix to this Order.

IT IS THEREFORE ORDERED that:

1. South Woodford District's request to cancel the water loss surcharge is denied.
2. South Woodford District shall file its responses by September 6, 2024, to the Commission Staff's Fifth Request for Information, attached to this Order as an Appendix.

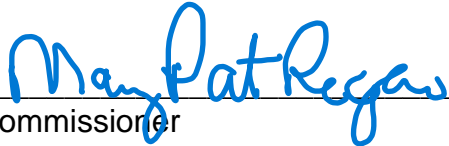
²⁴ Order (Ky. PSC Jan. 17, 2023) at 3.

²⁵ Currently being internally reviewed by the Commission.

PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner

ENTERED
AUG 15 2024
rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2022-00035 DATED AUG 15 2024

COMMISSION STAFF'S FIFTH REQUEST FOR INFORMATION TO SOUTH WOODFORD WATER DISTRICT

South Woodford Water District (South Woodford District), pursuant to 807 KAR 5:001, shall file with the Commission an electronic version of the following information. The information requested is due on September 6, 2024. The Commission directs South Woodford District to the Commission's July 22, 2021 Order in Case No. 2020-00085¹ regarding filings with the Commission. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked.

Each response shall include the question to which the response is made and shall include the name of the witness responsible for responding to the questions related to the information provided. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or the person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

South Woodford District shall make timely amendment to any prior response if South Woodford District obtains information that indicates the response was incorrect or

¹ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

incomplete when made or, though correct or complete when made, is now incorrect or incomplete in any material respect.

For any request to which South Woodford District fails or refuses to furnish all or part of the requested information, South Woodford District shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

Careful attention shall be given to copied and scanned material to ensure that it is legible. When the requested information has been previously provided in this proceeding in the requested format, reference may be made to the specific location of that information in responding to this request. When applicable, the requested information shall be separately provided for total company operations and jurisdictional operations. When filing a paper containing personal information, South Woodford District shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the paper so that personal information cannot be read.

1. Refer to the January 17, 2023 Order, ordering paragraph 6 and Commission Staff's Fourth Request for Information (Staff's Fourth Request), Item 1. State what steps South Woodford District has taken to comply with ordering paragraph 6.

2. Refer to the January 17, 2023 Order, ordering paragraph 6 and Staff's Fourth Request, Item 2. State the name of the outside independent consultant hired to assist in preparing and issuing requests for proposals (RFP) to potential firms that provide distribution system maintenance, and the date of hire of the outside independent consultant. If the outside independent consultant has not yet been hired, provide the reason for the delay in complying with the January 17, 2023 Order, ordering paragraph

6, and the expected date that South Woodford District will comply with the January 17, 2023 Order, ordering paragraph 6.

3. Referring to the January 17, 2023 Order, ordering paragraph 7 and Staff's Fourth Request, Item 3. State what steps have been taken to comply with ordering paragraph 7 and, if this has been delayed, the reason for the delay and expected date that South Woodford District will comply with the January 17, 2023 Order, ordering paragraph 7.

4. Refer to South Woodford District's response to Staff's Fourth Request filed January 10, 2024. Provide the date that Barry Drury resigned from the South Woodford District Board of Commissioners. Include in this response proof of Mr. Drury's resignation.

5. Provide the fiscal court appointment information, including the fiscal court minutes, for any commissioner appointed to fill Mr. Drury's seat.

6. Explain Gatewood Water Service's involvement with South Woodford District.

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