

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC ALLEGED FAILURE OF)	
FARMDALE WATER DISTRICT, AND ITS)	
INDIVIDUAL COMMISSIONERS SCOTTIE)	CASE NO.
WOOLRIDGE, JON DAILEY, AND EDDIE)	2022-00347
HARROD TO COMPLY WITH KRS 278.030, 807)	
KAR 5:006, SECTION 4(4), 807 KAR 5:006,)	
SECTION 26 AND 807 KAR 5:066)	

ORDER

On November 7, 2022, the Commission issued an Order initiating this investigation of Farmdale Water District (Farmdale District) for several alleged violations of Commission regulations identified during a periodic inspection conducted on June 10, 2022, by the Commission’s Division of Inspections (DOI).¹ The opening order initially named Farmdale District’s manager, Jamie Roberts, and its three commissioners of record with the Commission. The case style was updated to reflect the current commissioners and to remove Mr. Roberts, whose employment was terminated.² DOI conducted two subsequent inspections of Farmdale District on May 31, 2023 and February 1, 2024, and the reports from these inspections have been filed into the record in this case.³ In the Commission’s Order adding Commissioners Dailey and Harrod, the Commission also incorporated continuing violations as found in the May 31, 2023

¹ See Opening Order, (Ky. PSC Nov. 7, 2022), Appendix B (2022 DOI Report).

² Order (Ky. PSC Oct. 20, 2023); Order (Ky. PSC Jan. 20, 2024).

³ PSC Letter Filing Document into Record (filed Oct. 13, 2023) (2023 DOI Report); PSC Letter Filing Document into Record (filed Feb. 16, 2023) (2024 DOI Report).

inspection.⁴ The Commission took no action to investigate deficiencies found during the 2024 DOI inspection. Farmdale District responded to two sets of data requests from Commission Staff.⁵ A hearing was conducted on March 13, 2024. Farmdale District responded to two sets of post-hearing data requests from Commission Staff.⁶ This matter stands ready for a decision.

LEGAL STANDARD

KRS 278.030(2) requires that a utility provide adequate, efficient and reasonable service to customers. KRS 278.250 provides the Commission with statutory authority to investigate the condition of a utility. Similarly, KRS 278.260 provides the Commission with jurisdiction to investigate a utility's rates and any practice relating to the service of a utility on the Commission's own motion. Farmdale District is a water district created and organized under KRS Chapter 74, and pursuant to KRS 278.040(2), is subject to Commission jurisdiction. Farmdale District and its commissioners Scottie Woolridge, Jon Dailey, and Eddie Harrod, as officers, agents, or employees of a utility, are subject to civil penalties as permitted by KRS 278.990(1).

KRS 278.990(1) states:

Any officer, agent, or employee of a utility, as defined in KRS 278.010, and any other person who willfully violates any of the provisions of this chapter or any regulation promulgated pursuant to this chapter, or fails to obey any order of the commission from which all rights of appeal have been

⁴ Order (Ky. PSC Oct. 20, 2023) at 2–3.

⁵ Farmdale District's Response to Commission Staff's First Request for Information (Staff's First Request) (filed Feb. 17, 2023); Farmdale District's Response to Commission Staff's Second Request for Information (Staff's Second Request) (filed Mar. 17, 2023).

⁶ Farmdale District's Response to Commission Staff's First Post-Hearing Request for Information (Staff's First Post-Hearing Request) (filed Apr. 11, 2024); Farmdale District's Response to Commission Staff's Second Post-Hearing Request for Information (Staff's Second Post-Hearing Request) (filed May 17, 2023).

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. If any utility willfully violates any of the provisions of this chapter or any regulation promulgated pursuant to this chapter, or does any act therein prohibited, or fails to perform any duty imposed upon it under those sections for which no penalty has been provided by law, or fails to obey any order of the commission from which all rights of appeal have been exhausted, the utility shall be subject to a civil penalty to be assessed by the commission for each offense not less than twenty-five dollars (\$25) nor more than two thousand five hundred dollars (\$2,500). Each act, omission, or failure by an officer, agent, or other person acting for or employed by a utility and acting within the scope of his employment shall be deemed to be the act, omission, or failure of the utility.

The Kentucky Court of Appeals expressed that willfulness was a prerequisite to assessment of a civil penalty.⁷ "Willfully" clearly applies to utilities and their officers, agents, or employees violating specific statutes or regulations. This interpretation was supported by a recent Commission decision, which stated that "the Commission must also determine whether these violations are willful before any penalties may be assessed under KRS 278.990" and defined willful behavior as follows:

A willful violation has been defined as an act that is committed intentionally, not accidentally or involuntarily. It has also been stated that a willful violation does not necessarily and solely entail an intention to do wrong and inflict injury but may include conduct which reflects an indifference to its natural consequences. For civil and administrative proceedings, a willful violation has been explained as one which is intentional,

⁷ *Public Service Com'n v. Jackson County Rural Elec. Co-op., Inc.*, 50 S.W.3d 764, 769 (Ky. App. 2000).

knowing, voluntary, deliberate or obstinate, although it may be neither malevolent nor with the purpose to violate the law.⁸

DISCUSSION AND FINDINGS

With the exception of two alleged violations, Farmdale District admitted it committed the remaining violations⁹ described in the Commission's opening Order. This Order will summarize the violations, the steps Farmdale District has taken to remediate those violations, and outline the Commission's recommendations, requirements, and penalties for Farmdale District and its commissioners.

Farmdale District failed to timely file its 2022 annual report as required by 807 KAR 5:006, Section 4.¹⁰

Farmdale District provided a letter from the Commission approving an extension to file its 2022 Annual Report.¹¹ Farmdale District timely filed the Annual Report on June 28, 2023.¹² The opening Order incorrectly identified the unfiled report as the Annual Report instead of the Gross Annual Operating Revenue Report required to be filed by 807 KAR 5:006, Section 4(1).¹³ As of the issuance of this Order, no Gross Annual Operating Revenue Report has been filed within at least the past three years.¹⁴ Since

⁸ Case No. 2021-00339, *Electronic Alleged Failure of North Manchester Water Association, Inc., Its Officers, Steve Davis, Bill Hurd, Carl Gregory Hoskins, Bobby Wolfe, Henry Smith, Ted Woods, Carl David Crawford, and Its Manager, Jerry Rice, to Comply with KRS 278.140, KRS 278.230, 807 KAR 5:006, Sec. 4, and KRS 278.990* (Ky. PSC Mar. 7, 2023), Order at 6 (citations omitted).

⁹ Opening Order (Ky. PSC Nov. 7, 2022). The opening Order noted 14 different types of violations. However, the actual number of violations was not established.

¹⁰ Opening Order (Ky. PSC Nov. 7, 2022) at 3; Order (Ky. PSC Oct. 20, 2023) at 2.

¹¹ Farmdale District's Response to Oct. 20, 2023 Order (filed Nov. 9 2023), Exhibit J.

¹² 2022 Annual Report.

¹³ 2022 DOI Report at 3.

¹⁴ 2023 DOI Report at 3; 2024 DOI Report at 3.

Farmdale District was not put on notice of this deficiency in the opening Order, the Commission will not sanction Farmdale District for violating 807 KAR 5:006, Section 4(1). However, the Commission will require Gross Annual Operating Revenue Reports to be filed as set forth in the ordering paragraphs below.

Farmdale District failed to file within 30 days, pursuant to KRS 75.020(10)(a)-(b), written notifications that Farmdale District had two commissioner vacancies due to the departure of Richard Tanner and Donald Morse, that Jon Dailey was appointed commissioner on May 1, 2022, that its chairman, Clifford Toles, passed away on August 20, 2022 creating a vacancy, and that a commissioner vacancy was filled by Eddie Harrod on September 23, 2022.¹⁵

Farmdale District admitted that it failed to comply with this statute on six occasions.¹⁶ On December 22, 2022, Farmdale District filed in the record its December 15, 2022 notice that Richard Tanner had vacated his appointment on or before May 27, 2021, Donald Morse had vacated his appointment on or before April 22, 2022, Clifford Toles passed away on August 20, 2022, and commissioner vacancies had been subsequently filled by Mr. Woolridge, Mr. Dailey, and Mr. Harrod.¹⁷ Farmdale District admitted that it did not notify the Commission of these vacancies and appointments within the 30-day period required by KRS 75.020(10)(a)-(b). The Commission finds that Farmdale District committed six violations¹⁸ of KRS 75.020(10)(a-b) by failing to notify the Commission of three vacancies and three appointments. The Commission further finds that those violations were willful. Although the commissioners may not have been aware

¹⁵ Opening Order (Ky. PSC Nov. 7, 2022) at 3.

¹⁶ Farmdale District's Response to Nov. 7, 2022 Order (filed Jan. 20, 2023) at 3.

¹⁷ Notice of Filing (filed Dec. 22, 2022).

¹⁸ Farmdale District failed to notify the Commission of three vacancies and two appointments.

of their duties under the statute,¹⁹ their indifference to the statutory and regulatory scheme governing their administration of a water district meets the broad standard for willfulness, which does not require intent to violate the law.²⁰ Commissioner Woolridge was commissioner during five violations and therefore committed five violations.²¹ Commissioner Dailey was commissioner for three of the violations, including during the 30 days after his appointment and therefore committed three violations. Commissioner Harrod was commissioner during the 30 days after his appointment and therefore committed one violation.

Farmdale Water District failed to submit Quarterly Meter Reports as required by 807 KAR 5:006, Section 4(4).²²

Farmdale District admitted that it failed to comply with this regulation.²³ Farmdale District filed into the record in this case a copy of its quarterly meter report for the Third Quarter of 2023,²⁴ and had filed its Fourth Quarter of 2023 report prior to the 2024 inspection.²⁵

The scope of the investigation was limited to the period encompassed by DOI's 2022 inspection, which covers the period from the previous inspection on March 13, 2020,

¹⁹ Farmdale District's Response to Nov. 7, 2022 Order at 4.

²⁰ See Case No. 2021-00339, Mar. 7, 2023 Order at 6

²¹ Notice of Filing at 1. Scott Woolridge was appointed on May 27, 2021. Jon Dailey was appointed April 22, 2022. Eddie Harrod was appointed September 23, 2022.

²² Opening Order (Ky. PSC Nov. 7, 2022) at 2; Order (Ky. PSC Oct. 20, 2023) at 2.

²³ Farmdale District's Response to Nov. 7, 2022 Order at 4.

²⁴ Farmdale District's Response to Oct. 20, 2023 Order, Exhibit D.

²⁵ 2024 DOI Report at 3.

to June 10, 2022,²⁶ and the 2023 inspection covering June 10, 2022, to May 31, 2023.²⁷ Thirteen quarterly reports would have been required to be filed during these periods. Therefore, the Commission finds that 13 violations occurred during the scope of this investigation. The Commission finds that these violations were willful because Farmdale District's commissioners were indifferent to their duties under the regulation. Commissioner Woolridge was commissioner during eight violations and therefore committed eight violations.²⁸ Commissioner Dailey was commissioner during four violations and therefore committed four violations.²⁹ Commissioner Harrod was commissioner during two violations and therefore committed two violations.³⁰

Farmdale District failed to maintain annual written inspection records as required by 807 KAR 5:006, Section 26(6)(a)-(b).³¹

Farmdale District admitted that it failed to comply with this regulation.³² Farmdale District stated that it had been performing the inspections described in 807 KAR 5:006,

²⁶ 2022 DOI Report at 1.

²⁷ 2023 DOI Report at 1.

²⁸ Scott Woolridge was appointed on May 27, 2021. See Farmdale District's Response to Nov. 7, 2022 Order at 3.

²⁹ Jon Dailey was appointed on April 22, 2022. See Farmdale District's Response to Nov. 7, 2022 Order at 3.

³⁰ Eddie Harrod was appointed on Sept. 23, 2022. See Farmdale District's Response to Nov. 7, 2022 Order at 3.

³¹ Opening Order (Ky. PSC Nov. 7, 2022) at 2; Order (Ky. PSC Oct. 20, 2023) at 2.

³² Farmdale District's Response to Nov. 7, 2022 Order at 4; Farmdale District Response to Oct. 20, 2023 Order at 3.

Section 26(6)(a)-(c), but failed to document such inspections.³³ The current manager, Christopher Ralph, performed an annual inspection prior to the 2024 DOI inspection.³⁴

The opening Order only references annual inspection records, so the Commission will make no finding regarding whether Farmdale District violated semiannual and monthly requirements found in 807 KAR 5:006, Section 26(6)(a)-(c). From March 13, 2020, to May 31, 2023, Farmdale District would have been required to generate at least two annual sets of inspection records. Therefore, the Commission finds that two violations occurred during the scope of this investigation. The Commission finds that these violations were willful because Farmdale District's commissioners were indifferent to their duties under the regulation. Although the duties under this regulation were likely delegated or should have been delegated to the manager, Mr. Roberts, he was ultimately answerable to the commissioners. Commissioners Woolridge and Dailey were commissioners at the end of 2021 and 2022 and, therefore, committed two violations. Commissioner Harrod was commissioner at the end of 2022 and therefore committed one violation.

Farmdale District failed to maintain pressure charts that showed a continuous 24- hour pressure recording for one week per month as required by 807 KAR 5:066 Section 5(2).³⁵

Farmdale District admitted that it failed to comply with administrative regulation 807 KAR 5:066 Section 5(2).³⁶ Farmdale District stated that it purchased a new pressure

³³ Farmdale District's Response to Nov. 7, 2022 Order at 4.

³⁴ 2024 DOI Inspection Report at 9–11.

³⁵ Opening Order (Ky. PSC Nov. 7, 2022) at 2; Order (Ky. PSC Oct. 20, 2023) at 2.

³⁶ Farmdale District's Response to Nov. 7, 2022 Order at 4; Farmdale District Response to Oct. 20, 2023 Order at 3–4.

gauge in 2023 and has been performing the required monthly pressure readings and generating the resulting charts since Mr. Ralph became manager in July 2023.³⁷

From March 13, 2020, to May 31, 2023, Farmdale District would have been required to generate at least 37 pressure charts. Therefore, the Commission finds that 37 violations occurred during the scope of this investigation. The Commission finds that these violations were willful because Farmdale District's commissioners were indifferent to their duties under the regulation and failed to compel Mr. Roberts to complete the required tasks. Commissioner Woolridge was commissioner during 24 violations and therefore committed 24 violations.³⁸ Commissioner Dailey was commissioner during 13 violations and therefore committed 13 violations.³⁹ Commissioner Harrod was commissioner during eight violations and therefore committed eight violations.⁴⁰

Farmdale District failed to maintain records of interruptions, including the time, duration, remedy and steps taken to prevent recurrence as required by 807 KAR 5:066, Section 4(5).⁴¹

Farmdale District admitted that it failed to comply with this regulation.⁴² Farmdale District stated that Mr. Ralph began keeping interruption records as of September 2023.⁴³

³⁷ Farmdale District's Response to Oct. 20, 2023 Order at 2, 4.

³⁸ Scott Woolridge was appointed on May 27, 2021. See Farmdale District's Response to Nov. 7, 2022 Order at 3.

³⁹ Jon Dailey was appointed on April 22, 2022. See Farmdale District's Response to Nov. 7, 2022 Order at 3.

⁴⁰ Eddie Harrod was appointed on Sept. 23, 2022. See Farmdale District's Response to Nov. 7, 2022 Order at 3.

⁴¹ Opening Order (Ky. PSC Nov. 7, 2022) at 2; Order (Ky. PSC Oct. 20, 2023) at 2.

⁴² Farmdale District's Response to Nov. 7, 2022 Order at 4.

⁴³ Farmdale District's Response to Oct. 20, 2023 Order at 4, Exhibit E.

Since the number of interruptions during the investigation period is unknown, the Commission shall treat this deficiency as a single violation. The Commission finds that this violation was willful because Farmdale District's commissioners were indifferent to their duties under the regulation and failed to compel former manager Mr. Roberts to complete the required tasks. However, since dates of interruptions are unknown, the Commission finds that none of the current commissioners shall be found in violation of the regulation.

Farmdale District failed to instruct its employees who in the course of their work, are subject to the hazard of electrical shock, asphyxiation, or drowning, in accepted methods of artificial respiration as required by 807 KAR 5:066, Section 25(3).⁴⁴

Farmdale District admitted that it failed to comply with this regulation.⁴⁵ Farmdale District stated that four employees have since become certified in the use of cardiopulmonary resuscitation (CPR) and automated external defibrillator (AED) and provided copies of their certificates.⁴⁶ Two of Farmdale District's employees are office employees that would not be expected to be subject to the hazard of electrical shock, asphyxiation, or drowning under 807 KAR 5:066, Section 25(3).⁴⁷

The Commission finds that four violations occurred. The Commission finds that these violations were willful because Farmdale District's commissioners were indifferent to their duties under the regulation and endangered employee safety as a result. All three current commissioners were serving during the period during which the violation occurred.

⁴⁴ Opening Order (Ky. PSC Nov. 7, 2022) at 2; Order (Ky. PSC Oct. 20, 2023) at 2.

⁴⁵ Farmdale District's Response to Nov. 7, 2022 Order at 5.

⁴⁶ Farmdale District's Response to Oct. 20, 2023 Order at 5, Exhibit G.

⁴⁷ 2022 DOI Inspection Report at 2.

Therefore, the Commission finds that the three current commissioners each committed four violations.

Farmdale District did not adopt and execute a safety program appropriate to the size and type of its operations as required by 807 KAR 5:066, Section 25.⁴⁸

Farmdale District denied that it failed to comply with this regulation, stating that its safety program was a chapter in its 2018 Operation & Maintenance Manual, and provided a copy of the Manual.⁴⁹ Farmdale District also supplied an updated version of its Safety Manual in 2023.⁵⁰ The Commission finds that Farmdale District did not violate 807 KAR 5:066, Section 25.

Farmdale District failed to test meters one inch and smaller that had been in service for ten years as required by 807 KAR 5:066, Section 16(1).⁵¹

Farmdale District admitted that it failed to comply with this regulation.⁵² Farmdale District stated that it began conducting periodic meter tests with the assistance of Frankfort Plant Board starting in July 2023.⁵³ The Commission concludes that Farmdale District does not have a plan for periodic testing of meters. Farmdale District is still deficient with regards to this regulation.⁵⁴

Since the record does not include a sum certain of meters in service which require periodic testing and have not been tested, the Commission finds that this deficiency

⁴⁸ Opening Order (Ky. PSC Nov. 7, 2022) at 2; Order (Ky. PSC Oct. 20, 2023) at 2.

⁴⁹ Farmdale District's Response to Nov. 7, 2022 Order at 5–6, Exhibit F.

⁵⁰ Farmdale District's Response to Oct. 20, 2023 Order, Exhibit H.

⁵¹ Opening Order (Ky. PSC Nov. 7, 2022) at 2; Order (Ky. PSC Oct. 20, 2023) at 2.

⁵² Farmdale District's Response to Nov. 7, 2022 Order at 4–5.

⁵³ Farmdale District's Response to Oct. 20, 2023 Order at 4–5.

⁵⁴ 2024 DOI Inspection Report at 17.

constitutes one violation. The Commission finds that this violation was willful because Farmdale District's commissioners were indifferent to their duties under the regulation. The commission finds that all three commissioners committed a violation. As this deficiency is ongoing, all three current Commissioners are found to be in violation of this requirement.

The Commission shall require Farmdale District to complete all required periodic meter testing prior to August 31, 2025. The Commission recommends Farmdale District take the following two actions. First, the Commission recommends that Farmdale District file a motion in Case No. 2020-00217,⁵⁵ Farmdale District's water loss surcharge case, to release funds for use to purchase new meters. Farmdale District suggested using surcharge funds for this purpose in its Qualified Infrastructure Improvement Plan (QIIP),⁵⁶ but to date has not filed a motion to release surcharge funds for this purpose. Second, the Commission recommends issuing a Request for Proposals (RFP) to meter testing companies to receive bids for testing any meters that require periodic testing before they can be replaced. Having an established, reliable, and prompt method for meter testing will be beneficial to Farmdale District for future meter testing for future periodic, removal, and complaint testing.

⁵⁵ Case No. 2020-00217, *Electronic Farmdale Water District's Unaccounted-For Water Loss Reduction Plan, Surcharge and Monitoring*.

⁵⁶ QIIP at 11.

Farmdale District failed to timely file a Qualified Infrastructure Improvement program (QIIP), including an unaccounted-for water loss reduction plan, and progress reports, all required by Commission order in Case No. 2020-00217.⁵⁷

Farmdale District filed a purported QIIP⁵⁸ on February 21, 2023, in Case No. 2020-00217 after receiving multiple time extensions through February 22, 2023.⁵⁹ This document was a two-and-a-half-page outline that contained no cost estimates or discussion of funding, and minimal plans for leak detection or repair. Farmdale District filed a more substantial QIIP on February 29, 2024,⁶⁰ which included its priority list of water line replacement projects and meter replacement plan. It also included estimated costs and referred to a pending Rural Development (RD) loan funding the water line replacement and water loss surcharge monies funding meter replacement.

The Commission initially required Farmdale District file a QIIP in a July 7, 2020 Order in Case No. 2020-00021,⁶¹ requiring that the QIIP include “a comprehensive unaccounted-for water loss reduction plan that establishes priorities and a time schedule for eliminating each source of unaccounted-for water loss and provides a detailed spending plan for the proceeds of a surcharge.” The outline QIIP filed February 21, 2023, did not include priorities, time schedules, or spending estimates. Therefore, the Commission finds that Farmdale District failed to comply with the Order in Cases No. 2020-00021 and 2020-00217. The Commission finds that this violation was willful

⁵⁷ Opening Order (Ky. PSC Nov. 7, 2022) at 2.

⁵⁸ Case No. 2020-00217, (filed Feb. 21, 2023), Qualified Infrastructure Improvement Plan.

⁵⁹ Case No. 2020-00217, Feb. 10, 2023 Order.

⁶⁰ Case No. 2020-00217, Qualified Infrastructure Improvement Plan.

⁶¹ Case No. 2020-00021, *Electronic Alternative Rate Adjustment Filing of Farmdale Water District* (Ky. PSC July 7, 2020), Order at 10.

because Farmdale District was aware that they were required to comply with the Orders, having sought extensions, but failed to meet the Order requirements.

Although the QIIP filed in Case No. 2020-00217 on February 29, 2024, is more useful as a plan for correcting water loss, it did not include a timeline. Commissioner Woolridge also testified that Farmdale District's ability to replace its leaking water main was limited by currently expected funding, and that as a result, it would not be able to complete replacement of the entire main.⁶² The Commission shall require Farmdale District to file an updated QIIP that provides a timeline for completion of water loss reduction projects, including any projects not listed in the existing QIIP, and provide a plan for funding the remaining cost of replacing the 34,600-foot asbestos cement water main not covered by the pending RD loan as well as any other necessary projects. The QIIP should also include a seven-year capital plan that identifies appropriate sources of that capital. The Commission recommends that Farmdale District consult with the Bluegrass Area Development District to identify available sources of funding. Farmdale District will be required to file its updated QIIP by December 31, 2024.

Farmdale District failed to operate its facilities so as to provide adequate and safe service to its customers as required by 807 KAR 5:066, Section 7, due to water loss exceeding 15 percent.⁶³

Farmdale District admitted that it failed to comply with this regulation.⁶⁴ This violation is ongoing, as the annual unaccounted-for water loss for 2023 was 42.54

⁶² Hearing Video Transcript (HVT) of the March 13, 2024 Hearing, Testimony of Scottie Woolridge, at 11:32:37.

⁶³ Opening Order (Ky. PSC Nov. 7, 2022) at 2; Order (Ky. PSC Oct. 20, 2023) at 2.

⁶⁴ Farmdale District's Response to Nov. 7, 2022 Order at 4; Farmdale District's Response to Oct. 20, 2023 Order at 2-3.

percent.⁶⁵ The Commission finds that this deficiency constitutes one violation. The Commission finds that this violation was willful because Farmdale District's commissioners were indifferent to their duties under the regulation. The Commission finds that all three commissioners are also responsible for this violation—unaccounted-for water loss has increased every year between 2018 and 2022 despite the creation of the water loss surcharge,⁶⁶ and the commissioners have taken minimal steps to address the financial and planning necessities for making significant improvements regarding water loss. As a result, Farmdale District's ratepayers are faced with paying for ever-increasing amounts of water that they do not receive. The Commission's recommendations are above regarding funding for QIIP projects to water loss reduction projects.

Civil penalties and other requirements

The Commission finds that Farmdale District has committed 65 violations of statute, regulation, or Commission order. Commissioner Woolridge committed 45 violations. Commissioner Dailey committed 28 violations. Commissioner Harrod committed 19 violations. Each violation carries a potential civil penalty of up to \$2,500 pursuant to KRS 278.990(1). The Commission finds that the maximum civil penalty of \$160,000 should be assessed to Farmdale District, but that payment of this sum shall be suspended, pending compliance with the requirements set forth in the ordering

⁶⁵ Farmdale District's Response to Staff's First Post-Hearing Request, Item 10, Attachment at unnumbered 1.

⁶⁶ *Annual Report of Farmdale Water District to the Public Service Commission for the Year Ending (Annual Report) December 31, 2022* (43.36% water loss) at 57; 2021 Annual Report (38.72% water loss) at 57; 2020 Annual Report (36.41% water loss) at 57; 2019 Annual Report (30.56% water loss); 2018 Annual Report (30.17% water loss) at 57.

paragraphs below. If Farmdale District fails to comply with any of the requirements, the Commission may require payment of any or all civil penalties. The Commission also finds that civil penalties should be assessed upon the current commissioners as follows: Commissioner Woolridge shall be assessed a \$5,000 penalty. Commissioner Dailey shall be assessed a \$2,500 penalty. Commissioner Harrod shall be assessed a \$1,250 penalty. These penalties shall also be suspended pending compliance with the requirements set forth in the ordering paragraphs below. The Commission bases these sums on the commissioners' inaction with regards to violations of the water loss and meter testing regulations and Commission Order in Case No. 2020-00217 requiring filing of a QIIP that met the standards set forth in Case No. 2020-00021. The commissioners were the only individuals with the power to address these issues and their indifference has negatively affected Farmdale District's ratepayers' rates and service. The Commission also considered the duration of each commissioners' tenure and resultant level of involvement in determining the amount.

The Commission chose to assess the maximum penalty as a result of years of indifference and mismanagement of the utility. The violations discussed above demonstrate a near complete lack of attention to maintaining reasonable rates and services for ratepayers as required by KRS 278.030(1). After initially, partially complying with the requirements set forth in Case No. 2019-00041,⁶⁷ which addressed the problem of water loss for the Commonwealth's most wasteful water districts, Farmdale District essentially ignored the issues highlighted in that case, including filing a QIIP. As a result,

⁶⁷ Case No. 2019-00041, *Investigation into Excessive Water Loss by Kentucky's Jurisdictional Water Utilities* (Ky. PSC July 30, 2021), final Order at 12–13.

ratepayers have borne the costs of both water loss and the water loss surcharge, which has not been used for any projects because Farmdale District has delayed development of an actionable, comprehensive water-loss plan for years.⁶⁸ The lack of planning meter replacement and testing has led to widespread existence of “dead” meters, meaning that customers with working meters are subsidizing customers with non-functional meters. This violates the prohibition on unreasonable advantage to certain ratepayers and unreasonable disadvantage to others, as set forth in KRS 278.170(1). The violations found herein regarding pressure testing, responding to interruptions, inspecting equipment, and testing meters negatively affect the service to Farmdale District’s customers.

The Commission decided to suspend the civil penalties for multiple reasons. The majority of the penalties are attributable to Mr. Roberts’ dereliction of his basic duties as manager.⁶⁹ His employment has since been terminated and his replacement, Mr. Ralph, has brought Farmdale District into compliance with all regulations that are within his duty to comply. The suspension of penalties also incentivizes Farmdale District and its commissioners to take the required steps to make the significant changes necessary to optimize the financial condition of the utility, minimize rate burden, and improve service for ratepayers.

⁶⁸ The Commission notes that Farmdale District filed a motion in Case No. 2020-00217 on September 2, 2022, seeking to use surcharge funds to pay for line locator equipment and a completed construction project known as the South Benson Project. However, the Commission has not ruled on this motion because Farmdale District had not filed a QIIP indicating the priority of the expenditures described in the motion. The expenditures listed in the motion are different than those in the QIIP, and therefore, the Commission is uncertain whether the information in the motion remains applicable.

⁶⁹ HVT of the March 13, 2024 Hearing, Testimony of Christopher Ralph at 13:37:32; 13:43:00; 13:47:50.

Upon the closing of this case, this investigation will be concluded, and any new violations of statute, regulation, or Commission order shall be treated as new violations, punishable by additional civil penalties under KRS 278.990 and imposition of existing penalties. Periodic meter testing, water loss, and QIIP update filing requirements will be enforced as indicated in the ordering paragraphs below.

While Farmdale District attempts to improve the financial and operation health of its system, the Commission shall open an investigation into merging Farmdale District with another regulated water utility. During this merger investigation, the Commission shall require Farmdale District to make an Alternative Rate Filing (ARF) under 807 KAR 5:076 on or before August 31, 2025, using a 2024 historical test year. Farmdale District operated at a loss of \$90,827.58 in 2023.⁷⁰ In 2022, it operated at a loss of \$140,475.⁷¹ The Commission recommends including an adjustment for the hiring of an additional field employee. Farmdale District indicated it needed to add at least one full-time employee to ensure adequate leak detection and water loss reduction tasks.⁷² Commissioner Harrod testified that he had worked in the field assisting with water line repairs.⁷³ The commissioners' time is better spent attending to the management tasks that have gone unattended and could raise liability issues if untrained commissioners are attempting to complete field tasks.

⁷⁰ Farmdale District's Response to Staff's First Post-Hearing Request, Item 5, Attachment.

⁷¹ 2022 Annual Report at 64.

⁷² Farmdale District's Response to Staff's Second Post-Hearing Request, Item 4(c).

⁷³ HVT of the March 13, 2024 Hearing, Testimony of Eddie Harrod at 13:23:03.

IT IS THEREFORE ORDERED that:

1. Farmdale District is found to have committed 65 violations of Commission Orders, KRS Chapter 74, KRS Chapter 75, 807 KAR 5:006 and 807 KAR 5:066.

2. Farmdale District shall be assessed \$160,000 in civil penalties. These penalties shall be suspended upon the condition that Farmdale District comply with the requirements set forth in the ordering paragraphs below.

3. Commissioner Scottie Woolridge is found to have committed 45 violations KRS Chapter 74, 807 KAR 5:006 and 807 KAR 5:066.

4. Commissioner Scottie Woolridge shall be assessed \$5,000 in civil penalties. These penalties shall be suspended upon the condition that Farmdale District comply with the requirements set forth in the ordering paragraphs below.

5. Commissioner Jon Dailey is found to have committed 28 violations KRS Chapter 74, 807 KAR 5:006 and 807 KAR 5:066.

6. Commissioner Jon Dailey shall be assessed \$2,500 in civil penalties. These penalties shall be suspended upon the condition that Farmdale District comply with the requirements set forth in the ordering paragraphs below.

7. Commissioner Eddie Harrod is found to have committed 19 violations KRS Chapter 74, 807 KAR 5:006 and 807 KAR 5:066.

8. Commissioner Eddie Harrod shall be assessed \$1,250 in civil penalties. These penalties shall be suspended upon the condition that Farmdale District comply with the requirements set forth in the ordering paragraphs below.

9. None of the penalties assessed upon Farmdale District shall be applied to any utility that acquires or merges with Farmdale District.

10. Farmdale District shall comply with all requirements found in KRS Chapters 74 and 278; administrative regulations 807 KAR 5:006 and 807 KAR 5:066 and all Commission Orders.

11. Farmdale District has failed to file Gross Annual Operating Revenue Reports as required by 807 KAR 5:006, Section 4(1) for years 2021, 2022, and 2023. Farmdale District shall file Gross Annual Operating Revenue Reports for years 2021, 2022, and 2023 by December 31, 2024. Farmdale District shall file its Gross Annual Operating Revenue Report for 2024 and all future years by March 31 of the following year.

12. Farmdale District shall complete all periodic meter testing required by 807 KAR 5:066, Section 16(1) or replace all meters for which such testing is required prior to August 31, 2025.

13. By December 31, 2024, Farmdale District shall file an updated QIIP providing an estimated timeline for completion of water loss reduction projects, including any projects necessary to comply with 807 KAR 5:066, Section 7, that are not listed in the existing QIIP, provide a plan for funding the remaining cost of replacing the 34,600-foot asbestos cement water main not covered by the pending RD loan as well as any other necessary projects, and provide a seven-year capital plan identifying available sources of capital necessary to meet Farmdale District's needs.

14. On or before August 31, 2025, Farmdale District shall make an Alternative Rate Filing (ARF) under 807 KAR 5:076, using a 2024 historical test year. The ARF shall be filed as its own proceeding.

15. Any filing requirements set forth in these ordering paragraphs should be filed in the method required by regulation, and not filed in the present case.

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

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PUBLIC SERVICE COMMISSION

Chairman



Vice Chairman

Commissioner



ATTEST:



Executive Director



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