

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION INTO THE)	
FINANCIAL AND OPERATING CAPACITY OF)	
BLACK MOUNTAIN UTILITY DISTRICT AS WELL)	CASE NO.
AS POSSIBLE VACANCIES ON THE BOARD OF)	2023-00235
COMMISSIONERS OF BLACK MOUNTAIN)	
UTILITY DISTRICT)	

ORDER

On October 9, 2023, the Commission established this case to investigate the financial and operating capacity of Black Mountain Utility District (Black Mountain District). Black Mountain District filed a response on November 17, 2023. Black Mountain District responded to three total requests for information.¹ On March 26, 2024, a hearing was held in this matter. Prior to the hearing, Black Mountain District filed a motion to excuse a commissioner, Bill Clem, from the proceeding² and the Commission subsequently denied that motion from the bench.³ On May 24, 2024, Black Mountain District filed its post-hearing brief. On June 14, 2024, the Commission issued an Order finding that all five seats of the Black Mountain District's Board of Commissioners were vacant as all five

¹ Black Mountain District's Response to Commission Staff' First Request for Information (Staff's First Request) (filed Dec. 27, 2023); Black Mountain District's Response to Commission Staff's Second Request for Information (Staff's Second Request) (filed Feb. 2, 2024); Black Mountain District's Response to Commission Staff's Post-Hearing Request for Information (Staff's Post-Hearing Request) (filed Apr. 12, 2024).

² Motion to Excuse Witness (filed Mar. 22, 2024).

³ This ruling was formalized in the post-hearing procedural schedule issued Mar. 28, 2024.

of the commissioners had failed to comply with the requirements of KRS 74.020(8)(b).⁴ However, the Commission went on to reappoint Shawn Miller, Brandon Shepard, and Dwayne Williams to fill their respective vacant seats.⁵ Black Mountain District was ordered to publish notice of the two remaining vacancies.⁶ This matter is now before the Commission for decision.

LEGAL STANDARD

Under KRS 278.250 and KRS 278.260, the Commission is authorized to investigate and examine the condition of any utility subject to the Commission's jurisdiction, including any practice or act relating to the utility service. Under KRS 278.280, if the Commission finds that any practice or act is unjust, unreasonable, unsafe, improper, inadequate, or insufficient, then the Commission has the authority to determine the just, reasonable, safe, proper, adequate, or sufficient practice or method to be observed.

KRS 278.300(1) requires a utility to request authorization from the Commission before issuance of any securities or evidence of indebtedness, or before assumption of any obligation or liability in respect to the securities or evidence of indebtedness of any other person. KRS 278.300(8) contains an exception to that rule,

[t]his section does not apply to notes issued by a utility, for proper purposes and not in violation of law, that are payable at periods of not more than two (2) years from the date thereof, or to like notes, payable at a period of not more than two (2) years from date thereof, that are issued to pay or refund in whole or in part any such notes, or to renewals of such notes from time to time, not exceeding in the aggregate

⁴ Order (Ky. PSC June 14, 2024) at 5.

⁵ Order (Ky. PSC June 14, 2024) at 5-6.

⁶ Order (Ky. PSC June 14, 2024) at 6.

six (6) years from the date of the issue of the original notes so renewed or refunded.

Upon a finding that Black Mountain District, its commissioners, or manager violated any provision of KRS Chapter 278, Commission regulations, or a Commission Order, KRS 278.990 authorizes the Commission to assess civil penalties. These penalties shall not to exceed \$2,500 for each offense against a utility officer, agent, or employee of a utility who willfully violates any provisions of KRS Chapter 278, Commission regulations, or Orders.

BACKGROUND

Line of Credit

Monticello Banking Company issued a line of credit to Black Mountain District in the amount of \$150,000 on June 16, 2015 (June 16, 2015 line of credit).⁷ This line of credit was paid off utilizing proceeds derived from a new line of credit entered into on July 28, 2016 (July 28, 2016 line of credit).⁸ On August 31, 2017, Black Mountain District's July 28, 2016 line of credit was paid off with proceeds from a new line of credit for \$144,000 issued on the same date (August 31, 2017 line of credit).⁹ The August 31, 2017 line of credit was modified on July 27, 2018,¹⁰ and then again on October 22, 2019.¹¹ The August 31, 2017 line of credit was paid off on July 1, 2020, with a new line of credit issued

⁷ Black Mountain District's Response to October 9, 2023 Order (filed Nov. 17, 2023) at 1, and Exhibit A at 1.

⁸ Black Mountain District's Response to October 9, 2023 Order at 1.

⁹ Black Mountain District's Response to October 9, 2023 Order at 1 and Exhibit A at 2.

¹⁰ Black Mountain District's Response to October 9, 2023 Order at 1 and Exhibit A at 2-3.

¹¹ Black Mountain District's Response to October 9, 2023 Order at 1 and Exhibit A at 7-8.

on the same date in the amount of \$107,624.43 (July 1, 2020 line of credit).¹² The July 1, 2020 line of credit was extended on August 1, 2021,¹³ September 1, 2022,¹⁴ and October 1, 2023.¹⁵ While July 1, 2020 line of credit line of credit was extended, the note amounts decreased as Black Mountain District paid down its debt obligation.¹⁶ The July 1, 2020 line of credit still is not paid off and has a maturity date of September 1, 2024.¹⁷ At the hearing held in this matter, Black Mountain District Commissioner Shawn Miller acknowledged that the Black Mountain Board of Commissioners (Board) would have to ask the Commission to extend that line of credit.¹⁸ Shawn Miller also confirmed that Black Mountain District never eliminated the debt from its June 16, 2015 line of credit.¹⁹

Black Mountain District argued that, due to the resignation of the entire board in 2020, the current board members were not aware of the line of credit or loan when they were appointed and that the instruments originated prior to the current board being appointed.²⁰ Black Mountain District argued that the principal and interest loan entered into on July 1, 2020 was not initially for more than two years and was not renewed for

¹² Black Mountain District's Response to October 9, 2023 Order at 1 and Exhibit A at 38-41.

¹³ Black Mountain District's Response to October 9, 2023 Order at 1 and Exhibit A at 51-52.

¹⁴ Black Mountain District's Response to October 9, 2023 Order at 1 and Exhibit A at 55-56.

¹⁵ Black Mountain District's Response to October 9, 2023 Order at 1 and Exhibit A at 58-59.

¹⁶ Black Mountain District's Response to October 9, 2023 Order at 1-2.

¹⁷ Black Mountain District's Response at 1-2 and Exhibit A at 59.

¹⁸ Hearing Video Transcript (HVT) of March 26, 2024 Hearing, Testimony of Shawn Miller at 12:28:16–12:28:27.

¹⁹ HVT of March 26, 2024 Hearing, Testimony of Shawn Miller at 12:26:52–12:27:26.

²⁰ Black Mountain District's Post-Hearing Brief (filed May 24, 2024) at 4.

more than six years.²¹ Black Mountain District argued that each line of credit was a new line, not an extension of the original line of credit.²² At the time of the hearing, the amount of the line of credit was still \$85,000.²³ Shawn Miller stated that Black Mountain District is currently paying interest, but there might not be a plan to pay off the line of credit.²⁴

Water Loss

Black Mountain District’s water loss for the years 2019 through 2023 is presented below.

Description / Year	2019	2020	2021	2022	2023
Customer Count	3,372	3,363	3,331	3,352	3,399
Gallons Purchased	272,873,600	281,972,830	233,227,000	254,177,181	248,633,392
Gallons Sold	170,148,542	143,390,697	145,701,000	143,895,140	147,014,607
Gallons Used for Internal Use	9,660,000	3,490,370	2,366,000	3,534,019	6,892,245
Water Loss Gallons	108,226,721	135,091,763	85,160,000	106,748,022	94,726,540
System Use Percentage	3.54%	1.24%	1.01%	1.39%	2.77%
Water Loss Percentage	39.6619%	47.9095%	36.5138%	41.9975%	38.0989%

Black Mountain District’s water loss for calendar year 2023 is 38.0989 percent.²⁵ Previously, Black Mountain District had noted that it has reduce its water loss percentage to 25 percent.²⁶ Black Mountain District stated that a large cause of its water loss was due to 12 leaks that were discovered in the Green Hills area, which it repaired.²⁷ Black Mountain District stated that Green Hills and Wallins are two systems that contribute to

²¹ Black Mountain District’s Post-Hearing Brief at 4.

²² Black Mountain District’s Post-Hearing Brief at 4.

²³ HVT of March 26, 2024 Hearing, Testimony of Shawn at 12:27:45–12:27:54

²⁴ HVT of March 26, 2024 Hearing, Testimony of Shawn at 12:27:52–12:28:16.

²⁵ *Annual Report of Black Mountain District for the Year Ended December 31, 2023* at Ref. Page 30. This report has been filed with the Commission but is under review and has not yet been published on the Commission’s website.

²⁶ Black Mountain District’s Response to October 9, 2023 Order at 6.

²⁷ Black Mountain District’s Response to Staff’s First Request, Item 3.

the large water loss and financial issues experienced by Black Mountain District.²⁸ Black Mountain District also hired Grant Cooper as general manager.²⁹ Grant Cooper stated that several sites for telemetry weren't properly working and that this has been repaired.³⁰ Black Mountain District completed a water loss reduction plan, a detailed spending plan for the water loss surcharge, and an infrastructure improvement plan on combatting water loss by improving its infrastructure and equipment.³¹

Water Shortage

Black Mountain District provided its water shortage plan in its response to the Commission's October 9, 2023 Order.³² Black Mountain District utilizes water from the city of Evarts (Evarts), and Black Mountain District stated that its main source of water has deteriorated overtime.³³ Black Mountain District stated that in order for:

Black Mountain to be able to purchase water from Harlan to serve this area, Black Mountain would have to have a tank and a booster pump and Harlan would have to connect to Evarts' system and backflow water to Black Mountain. Harlan could not directly connect to Black Mountain's system. Evarts has been granted an emergency permit from the Division of Water to pump water from the river. Evarts has been working on seeking funding to upgrade its system, but has not been successful to this point. Black Mountain and Evarts will continue to work together to try to remedy this situation. Black

²⁸ Black Mountain District's Post Hearing Brief at 3.

²⁹ Black Mountain District's Post Hearing Brief at 3.

³⁰ Black Mountain District's Response to Staff's First Request, Item 17.

³¹ Case No. 2023-00202, *Electronic Filing of Black Mountain Water District Unaccounted for Water Loss Reduction Plan, Surcharge Monitoring* (filed Feb. 1, 2024) Water Loss Reduction Plan, Infrastructure Improvement Plan, Water Loss Surcharge Spending Plan.

³² Black Mountain District's Response to October 9, 2023 Order, Exhibit B.

³³ Black Mountain District's Response to October 9, 2023 Order at 3.

Mountain has to rely on Evarts for this area since there is no other source to purchase water.³⁴

Black Mountain District stated to address this problem it will keep water tanks filled to maximum levels to be able to continue to provide water service for three to four days if water supply is lost from Evarts.³⁵ Black Mountain District also stated it will work with fire departments to help hand out water.³⁶

Filings

Commission records indicate that Black Mountain District has had several issues filing its audit and annual reports in a timely manner. Black Mountain District stated that its prior commissioners did not have annual audits performed by outside auditing firms.³⁷ In an attempt to address this issue, Black Mountain District went back and conducted audits for 2018-2020 and attached the reports it to its response.³⁸ Black Mountain District stated that it is currently finalizing audit reports for 2021 and 2022 and that they were expected to be completed by December 31, 2023.³⁹ Since that time, Black Mountain District provided the 2020 audit report but the 2021 audit report still has not been filed in the master utility database.⁴⁰ Black Mountain District has also not filed its audit reports for 2022 and 2023. Black Mountain District stated that, due to the failure of the prior commissioners in conducting audits, Black Mountain District has had to spend the time

³⁴ Black Mountain District's Response to October 9, 2023 Order at 3.

³⁵ Black Mountain District's Response to Staff's First Request, Item 12.

³⁶ Black Mountain District's Response to Staff's First Request, Item 12.

³⁷ Black Mountain District's Response to October 9, 2023 Order at 4.

³⁸ Black Mountain District's Response to October 9, 2023 Order at 4.

³⁹ Black Mountain District's Response to October 9, 2023 Order at 4.

⁴⁰ As of August 6, 2024, the Commission has not received a copy of the 2021 Audit Report.

catching up on the prior years that were not completed.⁴¹ Black Mountain District argued that its current management and Commissioners did not willfully fail to provide these audits to the Commission.⁴² Furthermore, Black Mountain District provided the Commission with the Annual Report for 2020 in response to a data request.⁴³ Black Mountain District has filed its 2023 Gross Revenue Report in a timely manner.

Debt Service Surcharge Funds

Black Mountain District's debt service surcharge was established in Case No. 2015-00088.⁴⁴ The Commission ordered that the proceeds from the debt service surcharge be used for no purpose other than the repayment of the Rural Development (RD) bonds and (Kentucky Infrastructure Authority) KIA loans that were outstanding at the time Black Mountain District merged with Green Hills District.⁴⁵ In spite of the Commission's unambiguous Order, Black Mountain District admitted using debt service surcharge funds to pay garbage bills in violation of the debt service covenant.⁴⁶ Black Mountain District stated that it appeared that debt service was paid from a different account, which was the account from which the garbage bills should have been paid.⁴⁷ Black Mountain District stated that it is tracing these amounts back to see what the difference was in the debt service paid from the wrong account and the garbage bills paid

⁴¹ Black Mountain District's Response to October 9, 2023 Order at 4.

⁴² Black Mountain District's Response to October 9, 2023 Order at 4.

⁴³ Black Mountain District's Response to Staff's Second Request, Item 4.

⁴⁴ Case No. 2015-00088, *Alternative Rate Adjustment Filing of Black Mountain Utility District* (Ky. PSC Nov. 9, 2015), Order at 2.

⁴⁵ Case No. 2015-00088, November 9, 2015 Order at 9.

⁴⁶ Black Mountain District's Response to October 9, 2023 Order at 4.

⁴⁷ Black Mountain District's Response to Staff's First Request, Item 20.

from the surcharge account.⁴⁸ Black Mountain District stated that once that difference is determined, Black Mountain will begin to return any amounts needed to the surcharge account.⁴⁹ Shawn Miller testified that they did not ask the accountant how bills were being paid, they just voted and made a motion to pay the bills, but after attending training, they are now asking how the bills are paid.⁵⁰ He also testified that ,when the Board and General Manager came on, following the resignation of the prior commissioners and general manager, “we received a shoe box of the financials and records, and we knew very little about what the debt was, it was a learning process for the entire Board, as well as the new bookkeeper.”⁵¹ At this time, Black Mountain District has not submitted evidence accounting for the misspent funds or that the refunds have been completed.

Vacancies

On June 14, 2024, the Commission determined that all seats of the Black Mountain District’s Board were vacant, but reappointed Shawn Miller, Brandon Shepard, and Dwayne Williams to fill their respective seats.⁵² The Commission ordered that within 20 days of the date of entry of the Order, Black Mountain District shall publish, in a newspaper of general circulation in Harlan County, the notice of the two remaining vacancies on Black Mountain District’s Board and that within 20 days of the date of publication, any person who wishes to apply as a candidate to fill the vacancies on Black Mountain District’s Board shall submit to the Commission, in writing, their name, address,

⁴⁸ Black Mountain District’s Response to Staff’s First Request, Item 20.

⁴⁹ Black Mountain District’s Response to Staff’s First Request, Item 20.

⁵⁰ HVT of March 26, 2024 Hearing, Testimony of Shawn Miller at 12:30:15–12:30:30.

⁵¹ HVT of March 26, 2024 Hearing, Testimony of Shawn Miller at 12:29:20–12:29:56.

⁵² Order (Ky. PSC June 14, 2024) at 5.

telephone number, qualifications, and shall reference Case No. 2023-00235.⁵³ At this time, only one applicant has applied.⁵⁴

DISCUSSION AND FINDINGS

As an initial issue, the Commission finds that Bill Clem and Chad Brock should be dismissed as parties from this matter. Chad Brock resigned from the Board on May 14, 2024, and the Commission has since found his seat vacant.⁵⁵ The Commission further found that Bill Clem had not completed his training within 12 months of his initial appointment, and as a result, his seat was declared vacant as well.⁵⁶

Based on the record and being otherwise sufficiently advised, the Commission finds that the manager and commissioners willfully violated KRS 278.300 by not seeking Commission approval prior to entering into extensions of the line of credit received from Monticello Banking Company. While a willful violation has been defined as an act that is committed intentionally, not accidentally or involuntarily,⁵⁷ 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.⁵⁸ For civil and administrative proceedings, a willful violation has been explained as one which is intentional, knowing, voluntary, deliberate or obstinate,

⁵³ Order (Ky. PSC June 14, 2024) at 7.

⁵⁴ Ronald Z. Williams, Jr.'s Request for Consideration (filed July 2, 2024).

⁵⁵ Black Mountain District's Post-Hearing Brief, Exhibit 1.

⁵⁶ Order (Ky. PSC June 14, 2024) at 5.

⁵⁷ Case No. 1992-00016, *M.A. V.I.S.S., Inc. and Mr. Darby Alleged Failure to Comply with Commission Regulations* (Ky. PSC July 1, 1992).

⁵⁸ Case No. 1993-00044, *Jackson Purchase Electric Cooperative Corporation, Inc. Alleged Failure to Comply with Commission Regulations* (Ky. PSC Aug. 14, 1996), citing *Huddleston v. Hughes*, 843 S.W.2d 901, 905 (Ky. App. 1992).

although it may be neither malevolent nor with the purpose to violate the law.⁵⁹ Black Mountain District's argument about the July 1, 2020, being a new line of credit is unpersuasive, as it was an extension of the August 31, 2017 line of credit and each of those that came before it. Black Mountain District did not provide any evidence that the debt obligation was ever fully satisfied, nor did it provide any evidence a time existed without the debt during this period. KRS 278.300(8) clearly contemplates and prohibits a series of loans that exceed a six-year period, as such a process could render the bar on debt exceeding two years with Commission approval meaningless.

Shawn Miller was appointed by the Fiscal Court on August 5, of 2020,⁶⁰ and was a commissioner at the time the line of credit was renewed on August 1, 2021. Shawn Miller confirmed that he voted yes at the time of the August 1, 2021 renewal.⁶¹ Dwayne Williams was appointed by the Commission on January 5, 2022,⁶² and voted for the line of credit to be renewed on September 1, 2022.⁶³ Brandon Shepard was appointed by the Fiscal Court on March 16, 2021, and voted for the line of credit to be renewed on August 1, 2021.⁶⁴ Grant Cooper stated, in regards to the Monticello bank loan, it was brought to Black Mountain District's attention within the opening Order for this case that it needed

⁵⁹ Case No. 1999-00001, *Bluegrass Gas Sales, Inc., Alleged Violation of KRS 278.300* (Ky. PSC July 8, 1999) at 5, citing *Woods v. Carsey*, 200 P.2d 208 (Cal. App. 1948).

⁶⁰ Black Mountain District's Response to Staff's Second Request, Item 1, Harlan Fiscal Court Minutes from March 16, 2021.

⁶¹ HVT of March 26, 2024 Hearing, Testimony of Shawn Miller at 12:28:35–12:28:44.

⁶² Case No. 2021-00263, *An Electronic Investigation of a Possible Vacancy on the Board of Commissioners of Black Mountain Utility District* (Ky. PSC Jan. 5, 2022), Order.

⁶³ HVT of March 26, 2024 Hearing, Testimony of Dewayne Williams at 12:43:05–12:43:12.

⁶⁴ HVT of March 26, 2024 Hearing, Testimony of Brandon Shepard at 12:59:48–12:59:56.

approval with the Commission, but they did not know at the time.⁶⁵ As all water commissioners and the general manager have voted for the extension of the line of credit, even though all were not appointed when the loan originally went into effect, the Commission finds that each individual commissioner should be fined in the amount of \$100 pursuant to KRS 278.990; the fine may be waived so long as each individual attends 24 hours of training over the next 24 months.

Furthermore, the Commission finds that Black Mountain District is in willful violation of 807 KAR 5:006 Section 4 (1) and (3) for failing to provide the Audit Reports for 2021 and 2022 and for untimely filing both for the audit reports and annual reports. As of the date of this Order, Black Mountain District has not provided the Audit Reports for 2021 or 2022, despite telling the Commission it would do so by December 31, 2023. The Commission finds that each individual commissioner and the general manager, Grant Cooper, should be fined in the amount of \$100 pursuant to KRS 278.990 concurrent with all other fines levied in this Order, with the ability for it to be waived should Black Mountain District file all remaining audit reports and finishes editing its 2020 Annual Report within three months of this Order.

The Commission also finds Black Mountain District, the manager and the commissioners, in violation of the Order in Case No. 2015-00088⁶⁶ by using the debt surcharge funds to pay garbage bills. Black Mountain District admitted to the violation.⁶⁷ Black Mountain District should provide refunds within 180 days of the Order and notify

⁶⁵HVT of March 26, 2024 Hearing, Testimony of Grant Cooper at 10:35:49–10:36:11.

⁶⁶ Case No. 2015-00088, November 9, 2015 Order at 9.

⁶⁷ Black Mountain District's Response to October 9, 2023 Order at 5.

the Commission with the accounting for these refunds and the date when completed. The Commission finds that the district, each individual commissioner, and the general manager, Grant Cooper, should be fined in the amount of \$100 pursuant to KRS 278.990 concurrent with all other fines levied in this Order, but the fine may be waived if the manager and the commissioners fully comply with all elements of this Order.

The Commission notes that Black Mountain District has been found to have committed two willful violations of KRS Chapter 278 and 807 KAR 5:006 Section 4 as well as it failed to obey an Order of the Commission. The Commission recognizes that the ratepayers of Black Mountain District would be responsible for any fine levied on the district. The Commission's investigation was not to punish the ratepayers but to instead highlight issues that the utility had to address in order to improve both its water loss rate and its financial health. The Commission expects Black Mountain District to comply with these Orders and does not levy a fine to Black Mountain District itself.

As a separate matter, the Commission encourages Black Mountain District to explore alternatives to water supply for Evarts and evaluate whether more is needed to ensure that it is providing reliable service to its customers. The Commission encourages Black Mountain District to seek assistance from the Cumberland Valley Area Development District regarding potential funding that may be available for technical assistance. Furthermore, the Commission encourages Black Mountain District to seek legal advice in terms of its contract with Evarts.

The Commission recognizes the difficulties that Black Mountain District has had following the resignation of all Board members on July 31, 2020,⁶⁸ and acknowledges the efforts that Black Mountain District has made to improve its system. The Commission encourages Black Mountain District to continue to make such efforts to improve its system. The Commission also suggests that Black Mountain District consider whether compensating its commissioners might improve stability and reliability, which will benefit its customers in the long-term.

Furthermore, while Black Mountain District has shown efforts in improvements to its water loss, Black Mountain District still has further to go. The Commission encourages Black Mountain District to continue to seek sources of funding to make continuous system improvements. To help facilitate the continuation of improvements to Black Mountain District and to ensure that customers are receiving reliable service, the Commission finds that Black Mountain District should file an application for a general rate case or an application pursuant to 807 KAR 5:076 by no later than July 1, 2025, using a 2024 test year. If Black Mountain District reviews its finances and finds that an application should be filed sooner, the Commission reminds the district that the filing needs to comply with the regulations related to the test year.

Due to only one person applying for two vacancies on the Black Mountain District Board, the Commission also finds that Black Mountain District should republish the notice of vacancy in the Appendix of the June 14, 2024 Order in a newspaper of general circulation in Harlan County. The one applicant will still be considered when the

⁶⁸ Case No. 2020-00042, *Black Mountain Utility District and Its Individual Commissioners, Raymond Cox, Charles Hyde, Robert Simpson, Steve Sargent, Ralph Turner, and General Manager, Raymond Metcalf Alleged Failure to Comply* (Ky. PSC Aug. 9, 2020), Order, Attachment.

Commission reviews the applications. In addition, the Commission will also consider any applications submitted within 20 days after the publication of notice, and each such application should be made in writing and should include the applicant's name, address, telephone number, and qualifications and shall reference this case number. The Commission will consider recommendations and letters from references submitted in writing and received within a reasonable time, though such letters should reference this case number to ensure they are placed in the proper file. After receiving the applications, the Commission will determine whether each candidate meets the constitutional and statutory requirements for the office of water district commissioner and, of those candidates that meet these requirements, which is best suited to sit on Black Mountain District's Board.

IT IS THEREFORE ORDERED that:

1. Bill Clem and Chad Brock are dismissed as parties from this case.
2. Shawn Miller, Brandon Shepard, and Dwayne Williams and Manager, Grant Cooper, are each assessed a civil penalty of \$100 to be paid within two years of the service of this Order for their violations of KRS 278.300; 807 KAR 5:006 Section 4 (1) and (3) and the Commission's November 9, 2015 Order in Case No. 2015-00088.
3. Payment pursuant to ordering paragraph 2 shall be made by cashier's check or money order payable to the Kentucky State Treasurer and mailed or delivered to the Office of the General Counsel, Kentucky Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.
4. The Commission shall waive the civil penalty of \$100 for each individual, Shawn Miller, Brandon Shepard, Dwayne Williams, and Grant Cooper who attends a total

of 24 hours of Commission approved training within twenty-four months of this Order, in addition to any other required yearly training and any other Commission ordered training. The commissioners shall provide written notice of their presence at the training within 30 days of attendance; and follow all other requirements contained in this Order.

5. Black Mountain District shall file all remaining audit reports and annual report, and finish editing its 2020 Annual Report within three months of this Order.

6. Black Mountain District shall provide refunds related to the unapproved use of the debt surcharge funds within 180 days of the Order and notify the Commission with the accounting for these refunds and when completed.

7. Black Mountain District shall file an application for a general rate case or an application pursuant to 807 KAR 5:076 by no later than July 1, 2025, using a 2024 test year or provide a statement with an explanation that such an application is unnecessary.

8. Within 20 days of the date of entry of this Order, Black Mountain District shall publish, in a newspaper of general circulation in Harlan County, the notice of the vacancies on Black Mountain District's Board as provided in the Appendix to the Order dated June 14, 2024.

9. Within five days of publication, Black Mountain District shall supply proof of publication to the Commission.

10. Within 20 days of the date of publication, any person who wishes to apply as a candidate to fill the vacancies on Black Mountain District's Board shall submit to the Commission, in writing, their name, address, telephone number, qualifications, and shall reference Case No. 2023-00235.

11. The term of the commissioners appointed shall be four years pursuant to KRS 74.020.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

PUBLIC SERVICE COMMISSION

Archie Hutton
Chairman

*Signed on
behalf of the
Chair w/
Deputy on*

Vice Chairman

May Pat Regan
Commissioner

ENTERED
AUG 20 2024
rCS
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

[Signature] for
Executive Director

*L. Allyson Honaker
Honaker Law Office, PLLC
1795 Alysheba Way
Suite 1203
Lexington, KENTUCKY 40509

*Shawn Miller
Commissioner
Black Mountain Utility District
609 Four Mile Road
Baxter, KY 40806-8437

*Dan Mosley
Harlan County Judge Executive
PO Box 956
Harlan, KENTUCKY 40831

*Chad Brock
Chairman
Black Mountain Utility District
609 Four Mile Road
Baxter, KY 40806-8437

*Black Mountain Utility District
609 Four Mile Road
Baxter, KY 40806-8437

*Brandon Shepherd
Commissioner
Black Mountain Utility District
609 Four Mile Road
Baxter, KY 40806-8437

*Bill Clem
Commissioner
Black Mountain Utility District
609 Four Mile Road
Baxter, KY 40806-8437

*Dwayne Williams
Commissioner
Black Mountain Utility District
609 Four Mile Road
Baxter, KY 40806-8437

*Grant Cooper
Manager
Black Mountain Utility District
609 Four Mile Road
Baxter, KY 40806-8437