

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF THE CITY OF)	
BURKESVILLE TO INCREASE ITS WHOLESALE)	CASE NO.
RATE TO CUMBERLAND COUNTY WATER)	2024-00075
DISTRICT)	

ORDER

On March 1, 2024, the city of Burkesville (Burkesville) filed with the Commission a revised tariff sheet and contract setting forth a proposed three-phase increase to its existing rates for wholesale water service to Cumberland County Water District (Cumberland District) effective April 15, 2024. By Order dated April 8, 2024, the Commission approved two of the three proposed rates set to be effective April 15, 2024, and April 15, 2025. However, pursuant to KRS 278.190(2), the Commission determined that further proceedings were necessary and suspended the proposed 2026 rate along with the portion of the water purchase contract¹ setting forth the Phase 3 rate, for five months, up to and including September 14, 2024.² Burkesville responded to one request for information from Commission Staff.³ This matter now stands submitted to the Commission for a decision.

¹ Order (Ky. PSC Apr. 8, 2024) at 162–165.

² Order (Ky. PSC Apr. 8, 2024) at 4.

³ Burkesville’s Response to Commission Staff’s First Request for Information (Staff’s First Request) (filed May 13, 2024).

LEGAL STANDARD

Pursuant to KRS 278.200, the Commission has jurisdiction over rates and services that are fixed by contract between a utility subject to the Commission's jurisdiction and a city, such as Burkesville. The Supreme Court's decision in *Simpson County Water District v. City of Franklin* specifically stated that "where contracts have been executed between a utility and a city . . . KRS 278.200 is applicable and requires that by so contracting the City relinquishes the exemption and is rendered subject to the PSC rates and service regulation."⁴ Following the Court's decision in *Simpson County*, the Commission has allowed city-owned utilities to file rate adjustments by a tariff filing. If a hearing is requested or the Commission suspends the proposed rate, the requirements and procedures set forth in KRS Chapter 278, and the Commission's regulations, apply equally to filings by a city-owned utility or a jurisdictional utility.⁵

Burkesville's wholesale water rate charged to Cumberland District is subject to KRS 278.030, which provides that a utility may collect fair, just and reasonable rates. KRS 278.260 explains that the Commission may, on its own motion, investigate whether "any regulation, measurement, practice or act affecting or relating to the service of the utility or any service in connection therewith is unreasonable." Thus, in accordance with KRS 278.030, KRS 278.200, and KRS 278.260, the Commission must determine whether Burkesville's proposed 2026 rate increase is fair, just and reasonable based upon the evidentiary record.

⁴ *Simpson County Water District v. City of Franklin*, 872 S.W.2d 460, 463 (Ky. 1994).

⁵ *Simpson County Water District v. City of Franklin*, 872 S.W.2d 460, 463 (Ky. 1994); *City of Danville v. Public Service Comm'n, et al.*, Civil Action No. 15-CI-00989, Opinion and Order (Franklin Circuit Court Division II, June 14, 2016).

BACKGROUND

Burkesville’s monthly wholesale water rate to Cumberland District, prior to partial approval of its March 1, 2024 tariff submission, was \$2.15 per 1,000 gallons, which became effective September 30, 2019.⁶ In its March 1, 2024, filing, Burkesville requested the wholesale water rate be implemented in three phases as shown in the table below. In support of its proposed rates, Burkesville submitted its “Analysis and Recommendations for Wholesale Water Rate” (Wholesale Water Rate Analysis) document, which was prepared by Kentucky Rural Water Association, with its proposed tariff.⁷ The analysis reflected a \$0.96 increase in the calculated wholesale rate to \$3.11 per 1,000 gallons, or 44.7 percent more than the existing rate of \$2.15.⁸

Phase	Effective Date	Incremental Percent	Requested Amount	Cumulative Dollars	Cumulative Percent
	Sep 30, 2019 (base rate)	n/a	\$ 2.15		
1	April 15, 2024 (proposed rate)	14.7%	\$ 2.47	\$ 0.32	14.9%
2	April 15, 2025 (proposed rate)	15.0%	\$ 2.84	\$ 0.69	32.1%
3	April 15, 2026 (proposed rate)	15.0%	\$ 3.26	\$ 1.11	51.6%
	Cumulative Percent Increase	44.7%	51.6%		

The Commission approved the Phase 1 and Phase 2 rates. The Phase 1 rate, which became effective April 15, 2024, increased the rate by \$0.32 to \$2.47, or 14.9 percent, over the base rate of \$2.15 per 1,000 gallons. The Phase 2 rate, which will become effective April 15, 2025, increases the rate by \$0.69 to \$2.84, or 32.1 percent, over the base rate of \$2.15 per 1,000 gallons. The Phase 3 rate, which was suspended

⁶ P.S.C. Ky. No. 1, Burkesville Tariff (issued Sept. 27, 2019) effective Sept. 21, 2017.

⁷ Order (Ky. PSC Apr. 8, 2024) at 166.

⁸ Order (Ky. PSC Apr. 8, 2024) at 168.

by the Commission, would have increased the rate by \$1.11 to \$3.26, or 51.6 percent, over the base rate of \$2.15 per 1,000 gallons.⁹

Burkesville responded to one data request. In its response, Burkesville explained that after meeting with the Cumberland District board, the two entities decided a phased-in approach would mitigate rate shock to customers. Burkesville further acknowledged that, although the phased-in approach would result in a short-term revenue shortfall, it was committed to absorbing the revenue shortfall "...to minimize the negative impact of the rate increase and ensure a smoother transition...".¹⁰

DISCUSSION

Burkesville's Wholesale Water Rate Analysis was based on 2023 operating costs plus projected average debt service, resulting in a calculated rate of \$3.11 per 1,000 gallons sold. While Burkesville provided its reasons for a phased rate, the proposed Phase 3 rate exceed its calculated rate. It is clear from the calculations in the table above that Burkesville attempted to spread its calculated 44.7 percent increase equally over three years. However, it applied each increment to each prior year's calculated rate rather than applying an accumulated increase against the base rate of \$2.15 for each phase. This approach resulted in a proposed Phase 3 rate that is \$0.15 per 1,000 gallons higher than its rate analysis, and results in an aggregate rate increase of 51.6 percent for Phase 3.

Based on the evidence of record, the Commission finds that Burkesville's wholesale rate calculation of \$3.26 per 1,000 gallons to be effective April 15, 2026, is not

⁹ Burkesville Tariff, 3rd Revised, Effective April 15, 2024.

¹⁰ Burkesville's Response to Staff's First Request at unnumbered page 8 of 8.


reasonable and should therefore be denied because it exceeds the calculated cost provided by Burkesville.¹¹ However, the Commission finds that Burkesville's calculated wholesale rate of \$3.11 per 1,000 gallons to be effective April 15, 2026, is reasonable as it reflects the appropriate mathematical calculation.

IT IS THEREFORE ORDERED that:

1. The wholesale rate of \$3.26 per 1,000 gallons proposed by Burkesville to be effective April 15, 2026, is denied.
2. The wholesale rate of \$3.11 per 1,000 gallons as calculated by Burkesville is fair, just and reasonable and is approved to be effective April 15, 2026.
3. Within 20 days of the date of service of this Order, Burkesville shall file with the Commission, using the Commission's electronic Tariff Filing System, new tariff sheets setting forth the rate and charge approved by this Order and its effective date, and also stating that the rate and charge were authorized by this Order.
4. This case is closed and removed from the Commission's docket.

¹¹ Burkesville's Response to Staff's First Request at unnumbered pages 3-5.

PUBLIC SERVICE COMMISSION



Chairman



Commissioner



Commissioner



ATTEST:



Executive Director

Case No. 2024-00075

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