

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN ELECTRONIC INVESTIGATION INTO)	
FARMDALE WATER DISTRICT TO DETERMINE)	
THE FEASIBILITY OF MERGER WITH)	CASE NO.
APROXIMATE UTILITY PURSUANT TO KRS)	2024-00202
74.361 OR ABANDONMENT PURSUANT TO KRS)	
278.020(6), AND KRS 278.021)	

ORDER

The Commission, on its own motion and pursuant to KRS 74.361, establishes this proceeding to conduct a formal investigation into Farmdale Water District (Farmdale District), and the feasibility of merger with a proximate utility, or in the alternative whether Farmdale District has been effectively abandoned pursuant to KRS 278.020(6) and KRS 278.021. Farmdale District's inability to maintain its regulatory requirements causes the Commission to question its ability to provide adequate and reasonable service and necessitates this investigation.

LEGAL STANDARD

KRS 74.361 provides the Commission with statutory authority to initiate, carry out, and complete investigations necessary to determine whether merger of water districts is in the public interest. In KRS 74.361(1) sets forth the General Assembly's legislative finding of fact the reducing the number of water districts will be in the public interest because water district mergers can eliminate wasteful duplication of resources and result in more businesslike management, greater economies, less cost, and a higher degree of service. KRS 74.361(2) provides that the Commission shall prepare a feasibility report

and study regarding the proposed merger. Pursuant to KRS 74.361(2), the Commission is authorized to conduct such investigations as may be reasonably necessary to determine the advisability as to the merger of water districts.

Before ordering a hearing into the merger of any water district, the Commission shall “shall cause to be prepared in writing a feasibility report and study regarding the proposed merger, containing such studies, investigations, facts, historical data, and projections as in the circumstances may be required in order to enable the commission to formulate a proper decision regarding such merger.”¹ Based upon the written report and study, the Commission “may propose by order that a merger of water districts be accomplished, and, upon the issuance of such order, shall give actual notice to all water districts proposed to be merged.”² If the Commission orders such a merger of water districts, the order shall provide for a formal public hearing to be held before the Commission on the subject of such proposed merger.³

KRS 74.361(3) states that the Commission may propose a merger by order and, upon issuance of an order, shall give actual notice to all water districts proposed to be merged. Then, at the formal hearing, water districts that the Commission seeks to merge shall be afforded the right to appear, to present evidence, to examine all exhibits and testimony, to cross-examine all witnesses, and to submit such memoranda, written evidence, and briefs as may be desired.⁴

¹ KRS 74.361(2).

² KRS 74.361(3).

³ KRS 74.361(3).

⁴ KRS 74.361(4).

BACKGROUND

A hearing was held on March 13, 2024 in Case No. 2022-00347,⁵ an investigation into numerous violations of Commission Orders, applicable law, and administrative regulation found during multiple Division of Inspections (DOI) inspections. In an Order issued concurrently with the present Order,⁶ Farmdale District was found to have committed 65 violations of Commission Orders, KRS Chapter 74, KRS Chapter 75, 807 KAR 5:006 and 807 KAR 5:066. Many of these violations have since been corrected under the management of Christopher Ralph, Farmdale District's new manager.⁷ However, Farmdale District's 42.54 percent unaccounted-for water loss,⁸ far in excess of the 15 percent limit required by 807 KAR 5:066, Section 6(3), and its inability to develop a water loss plan or manage its finances in a way that would allow its water loss to be promptly mitigated, leads the Commission to consider merger with another utility to ensure that Farmdale District's customers are receiving reasonable water rates and service.

DISCUSSION AND FINDINGS

The Commission finds that this proceeding should be established to investigate Farmdale District's ability to provide reasonable and adequate water services to its

⁵ Case No. 2022-00347, *Electronic Alleged Failure of Farmdale Water District, and Its Individual Commissioners Scottie Woolridge, Jon Dailey, and Eddie 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* (Ky. PSC Nov. 7, 2022), opening Order.

⁶ Case No. 2022-00347, (Ky. PSC Sept. 4, 2024), Order at 18.

⁷ Case No. 2022-00347, Sept. 4, 2024 Order at 19.

⁸ *Annual Report of Farmdale District to the Public Service Commission for the Year Ending December 31, 2023* (2023 Annual Report) at 57.

customers and finds the records in Cases No. 2019-00041,⁹ 2020-00217,¹⁰ and 2022-00347¹¹ should be incorporated by reference into this case in the interest of administrative efficiency.

The Commission finds that the Franklin County Fiscal Court has a significant interest in this proceeding and shall be served with a copy of this Order and presented an opportunity to intervene in this proceeding. Further, the Commission finds that a copy of this Order shall be served upon Farmdale District's Board of Commissioners (Board), the Franklin County Attorney, and the Franklin County Judge/Executive, to notify them of this proceeding. The Commission finds that any interested party should file any motion to intervene, signed by counsel, no later than September 6, 2024. As 807 KAR 5:001, Section 8, permits the Commission to direct the use of electronic filing procedures for proceedings that are initiated on our own motion, the Commission finds that electronic filing procedures should be used. As such, Farmdale District, and any intervening party, should follow the procedures set forth in 807 KAR 5:001, Section 8, when filing any document or paper in this matter. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked. The

⁹ Case No. 2019-00041, *Electronic Investigation into Excessive Water Loss by Kentucky's Jurisdictional Water Utilities* (Ky. PSC. Mar. 12, 2019), opening Order.

¹⁰ Case No. 202-00217, *Electronic Farmdale Water District's Unaccounted-For Water Loss Reduction Plan, Surcharge and Monitoring* (Ky. PSC July 7, 2020), opening Order.

¹¹ Case No. 2022-00347, Nov. 7, 2022 opening Order.

Commission directs the parties to the Commission's July 22, 2021 Order in Case No. 2020-00085¹² regarding filings with the Commission.

In order to process this case in an effective manner, the Commission establishes a procedural schedule attached as Appendix A. The Commission finds that on or before November 1, 2024, Farmdale District shall file (1) a response to this Order setting forth its position regarding this matter; any recommendations regarding potential merger partners; and (2) a response to the data request attached as Appendix B.

The data requests attached as Appendix B include a list of potential merger or acquisition partners. These entities shall be served with a copy of this Order and presented an opportunity to intervene in this proceeding. The Commission will issue an order joining in this matter any entities that it selects for inclusion in a merger feasibility study.

IT IS THEREFORE ORDERED that:

1. This proceeding is established to investigate whether merger between Farmdale District and a proximate utility is feasible or if the utility has effectively abandoned its financial, operational or regulatory responsibilities.
2. Farmdale District is made a party to this proceeding.

¹² 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).

3. The record in Case Nos. 2019-00041,¹³ 2020-00217,¹⁴ and 2022-00347¹⁵ shall be incorporated by reference into this matter pursuant to 807 KAR 5:001, Section 11(5).

4. Any interested party may, by counsel, file a motion to intervene no later than November 8, 2024.

5. Farmdale District shall, by counsel, enter an appearance in this proceeding within seven days of the date of service of this Order. The entry of appearance shall include the name, address, telephone number, fax number, and electronic mail address of counsel.

6. Farmdale District shall, by counsel, file a response to this Order, including any recommendations regarding potential merger partners, on or before November 1, 2024.

7. Farmdale District shall file a response to the requests for information attached as Appendix B on or before November 1, 2024.

8. Unless otherwise ordered by the Commission, the procedures set forth in 807 KAR 5:001, Section 8, related to service and electronic filing of papers shall be followed in this proceeding.

9. Pursuant to 807 KAR 5:011, Section 8(9), within seven days of service of this Order, Farmdale District shall file by electronic means a written statement that it

¹³ Case No. 2019-00041, Mar. 12, 2019 opening Order.

¹⁴ Case No. 2020-00217, July 7, 2020 opening Order.

¹⁵ Case No. 2022-00347, Nov. 7, 2022 opening Order.

waives any right to service of Commission orders by United States mail and that it or its authorized agents possesses the facilities to receive electronic submissions.

10. Unless a party granted leave to intervene states its objection to the use of electronic filing procedures in a motion for intervention, the party shall:

a. Be deemed to have consented to the use of electronic filing procedures and the service of all papers, including Orders of the Commission, by electronic means; and

b. Within seven days of the date of service of an Order of the Commission, granting intervention, file with the Commission a written statement that: (1) It or its authorized agent possesses the facilities to receive electronic transmissions; and (2) Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding shall be served.

11. If a party objects to the use of electronic filing procedures and the Commission determines that good cause exists to excuse that party from the use of electronic filing procedures, service of documents on that party and by that party shall be made in accordance with 807 KAR 5:001, Section 4(8).

12. The procedural schedule set forth in Appendix A to this Order shall be followed.

13. As set forth in 807 KAR 5:001, Section 4(11)(a), a person requesting permissive intervention in a Commission proceeding is required to demonstrate either (1) a special interest in the proceeding which is not adequately represented in the case, or (2) that the person requesting permissive intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly

complicating or disrupting the proceedings. Further, KRS 278.040(2) requires that a person seeking intervention must have an interest in the rates or service of a utility, as those are the only matters that are subject to the Commission's jurisdiction. Therefore, any person requesting to intervene in a Commission proceeding must state with specificity the person's special interest that is not otherwise adequately represented, or the issues and facts that the person will present that will assist the Commission in fully considering the matter. A mere recitation of the quantity of utility service consumed by the movant or a general statement regarding the potential impact of possible modification of rates will not be deemed sufficient to establish a special interest. In addition, any motion to intervene after the date established in the procedural schedule shall also show good cause for being untimely. If the untimely motion is granted, the movant shall accept and abide by the existing procedural schedule.

14. Farmdale District shall give notice of the hearing in accordance with the provisions set forth in 807 KAR 5:001, Section 9(2). In addition, the notice of the hearing shall include the following statements: "This hearing will be streamed live and may be viewed on the PSC website, psc.ky.gov"; and "Public comments may be made at the beginning of the hearing. Those wishing to make oral public comments may do so by following the instructions listed on the PSC website, psc.ky.gov." At the time publication is requested, Farmdale District shall forward a duplicate of the notice and request to the Commission.

15. At any public hearing in this matter, neither opening statements nor summarization of direct testimonies shall be permitted.

16. Any party seeking to introduce witness testimony at any public hearing shall file of record a witness list no less than 10 business days prior to hearing.

17. Pursuant to KRS 278.360 and 807 KAR 5:001, Section 9(9), a digital video recording shall be made of the hearing.

18. The Commission does not look favorably upon motions of continuance. Accordingly, motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

19. The Executive Director shall serve a copy of this Order on

a. Franklin County Judge/Executive Michael Mueller, 321 West Main Street, Frankfort, Kentucky 40601;

b. Franklin County Attorney, Max Comley, 222 St. Clair Street, Suite 2007, P.O. Box 73, Frankfort, Kentucky 40602;

c. Franklin District's Commissioners, Scottie Woolridge, Jon Dailey, and Eddie Harrod, individually, 100 Highwood Drive, Route 8, Frankfort, Kentucky 40601.

d. Frankfort Electric & Water Plant Board,¹⁶ 151 Flynn Ave, P.O. Box 308, Frankfort, Kentucky 40601;

e. North Shelby Water Company, 4596 Bagdad Road, P.O. Box 97, Bagdad, Kentucky 40003;

f. U.S. 60 Water District of Shelby and Franklin Counties, 4596 Bagdad Road, P.O. Box 97, Bagdad, Kentucky 40003;

¹⁶ The Commission notes that Frankfort Electric & Water Plant Board is not under the jurisdiction of the Commission for purposes of compelling a merger or acquisition. KRS 278.020(6) would govern acquisition of Farmdale District.

g. South Anderson Water District, 142 South Main Street, P.O. Box 17, Lawrenceburg, Kentucky 40342;

h. Kentucky-American Water Company,¹⁷ 2300 Richmond Road, Lexington, Kentucky 40502.

i. Peaks Mill Water District, 7165 US 127 North, Frankfort, Kentucky 40601;

j. Elkhorn Water District, 7165 US 127 North, P.O. Box 67, Frankfort, Kentucky 40602;

k. Northeast Woodford Water District, 225A South Main Street, Versailles, Kentucky 40383; and

l. South Woodford Water District, 117-D Crossfield Drive, Versailles, Kentucky 40383.

20. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

¹⁷ The Commission notes that since Kentucky-American Water Company is not a Water District or Association formed under KRS Chapter 74, KRS 278.020(6) would govern acquisition of Farmdale District.

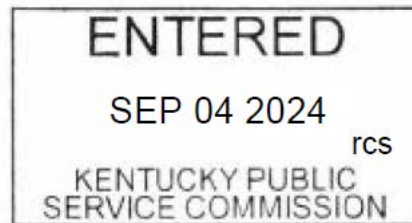
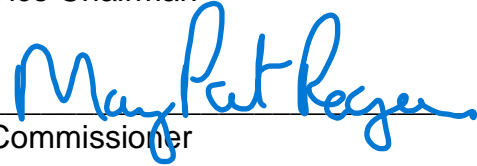
PUBLIC SERVICE COMMISSION

Chair



Vice Chairman

Commissioner



ATTEST:



Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2024-00202 DATED SEP 04 2024

Farmdale District shall file responses to initial requests for
Information and a response to this Order no later than..... 11/01/2024

Last day for intervention requests to be accepted..... 11/08/2024

All supplemental requests or intervenor initial requests for
information to Farmdale District shall be filed no later than 12/02/2024

Farmdale District shall file responses to supplemental requests
or intervenor initial requests for information no later than 12/16/2024

Final supplemental requests for information to Farmdale District
shall be filed no later than 01/03/2025

Farmdale District shall file responses to final supplemental requests
for information no later than 01/17/2025

Intervenor testimony, if any, in verified prepared
form shall be filed no later than 01/31/2025

All requests for information to Intervenors shall
be filed no later than 02/14/2025

Intervenors shall file responses to requests for
information no later than..... 02/28/2025

Farmdale District shall file, in verified form, its rebuttal
testimony no later than 03/14/2025

Feasibility Report Due 04/14/2025

A public hearing shall be held To be scheduled

Post-Hearing Briefs, if any To be scheduled

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2024-00202 DATED SEP 04 2024

COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION TO FARMDALE WATER DISTRICT

Farmdale Water District (Farmdale 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 November 1, 2024. The Commission directs Farmdale 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.

Farmdale District shall make timely amendment to any prior response if Farmdale District obtains information that indicates the response was incorrect or incomplete when

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).

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

For any request to which Farmdale District fails or refuses to furnish all or part of the requested information, Farmdale 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, Farmdale District shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the paper so that personal information cannot be read.

As used herein, the phrase “potential merger partners” includes, but is not limited to, the following:

- A. Frankfort Electric & Water Plant Board;²
- B. North Shelby Water Company;
- C. U.S. 60 Water District of Shelby and Franklin Counties;
- D. South Anderson Water District;
- E. Kentucky-American Water Company;³

² The Commission notes that Frankfort Electric & Water Plant Board is not under the jurisdiction of the Commission for purposes of compelling a merger or acquisition. KRS 278.020(6) would govern acquisition of Farmdale District.

³ The Commission notes that since Kentucky-American Water Company is not a Water District or Association formed under KRS Chapter 74, KRS 278.020(6) would govern acquisition of Farmdale District.

- F. Peaks Mill Water District;
- G. Elkhorn Water District;
- H. Northeast Woodford Water District; and
- I. South Woodford Water District.

1. Provide any perceived advantages or disadvantages Farmdale District would experience by partnering with any specific potential merger partners.

2. Provide any perceived advantages or disadvantages Farmdale District would experience in general by partnering with a potential merger partner.

3. State a potential merger partner Farmdale District believes would be the optimal choice for merger and explain why.

4. State whether Farmdale District has discussed merger with any potential merger partners. Provide any documents referencing such discussions.

5. State whether the Farmdale District board of commissioners has discussed merger internally. Provide any documents referencing such discussions.

*Honorable Damon R Talley
Attorney at Law
STOLL KEENON OGDEN PLLC
300 West Vine Street
Suite 2100
Lexington, KENTUCKY 40507-1801

*Farmdale Water District
100 Highwood Drive, Route 8
Frankfort, KY 40601

*Farmdale Water District
Farmdale Water District
100 Highwood Drive, Route 8
Frankfort, KY 40601