

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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|--|---|------------|
| ELECTRONIC INVESTIGATION INTO WOOD |) | |
| CREEK WATER DISTRICT'S TERMINATION OF |) | CASE NO. |
| WHOLESALE WATER SERVICE TO THE CITY OF |) | 2024-00359 |
| LIVINGSTON FOR NONPAYMENT OF BILLS |) | |

ORDER

The Commission, on its own motion, establishes this proceeding to investigate Wood Creek Water District's (Wood Creek District) termination of water service to the city of Livingston (Livingston), and to investigate the adequacy and reliability of Livingston's water service supplied to Kentucky-American Water Company (Kentucky-American), pursuant to KRS 278.260(1), KRS 278.160, and Section 15 of 807 KAR 5:006. The Commission became aware this issue when Wood Creek District provided notice of the termination after it occurred.¹

Wood Creek District, a water district organized pursuant to KRS Chapter 74, owns, and operates facilities that distribute and furnish water to 5,037 customers in Laurel County,² and provides wholesale water to Livingston. Livingston owns and operates

¹ See Appendix.

² *Annual Report of Wood Creek Water District to the Public Service Commission for the Year Ending December 31, 2023* at 27.

water distribution facilities that provide water service to customers including Kentucky-American.³

BACKGROUND

On November 5, 2024, the Commission received an email notice filed by Wood Creek District that indicated it had terminated water service to Livingston on November 5, 2024, due to an arrears totaling \$114,465.40, including \$95,233.35 for water and \$19,232.05 for other services provided. A similar situation has occurred at least two previous times where Wood Creek District has either terminated water service to the city of Livingston or notified the Commission of proposed termination of water service.⁴

LEGAL STANDARD

The Commission has jurisdiction over Wood Creek District's rates and services pursuant to KRS 278.040(2), and KRS 278.015. Pursuant to KRS 278.200, the Commission has jurisdiction over Livingston's rates and services for wholesale water service to Kentucky-American. The Supreme Court's decision in *Simpson County Water District* specifically stated that "where contracts have been executed between 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."⁵

³ Case No. 2017-00383, *Electronic Verified Joint Application of Eastern Rockcastle Water Association, Inc. and Kentucky-American Water Company for the Transfer of Control and Assets* (Ky. PSC Jan. 19, 2018), final Order, the ownership of Eastern Rockcastle system was transferred to Kentucky-American; and *Annual Report of Kentucky-American Water Company to the Public Service Commission for the Year Ending December 31, 2023* at 32.

⁴ Case No. 2006-00184, *An Investigation into Wood Creek Water District's Proposed Termination of Wholesale Water Service to the City of Livingston for Nonpayment of Bills* .

⁵ *Simpson County Water District v. City of Franklin*, 875 S.W.2d 460,463 (Ky. 1994).

KRS 278.160(1) requires each utility to file with the Commission a schedule showing all rates and conditions for service established by it and collected or enforced.

Commission regulation 807 KAR 5:006, Section 15 establishes the requirements for refusal or termination of service, including termination for nonpayment of bills, and associated notice requirements.

DISCUSSION AND FINDINGS

Based upon the above, the Commission finds that an investigation should be initiated to consider the reasonableness of Wood Creek District's termination of water service.

The Commission further finds that, as the disconnection raises serious questions about the adequacy and reliability of Livingston's supply of water to Kentucky-American and Livingston's management of this supply, this proceeding should also investigate those subjects.

In order to provide notice of this investigation to additional interested parties, the Commission finds that the Executive Director should provide a copy of this Order to the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), the Kentucky Energy and Environment Cabinet's Division of Water, and Kentucky-American.

The Commission directs all entities to the Commission's July 22, 2021 Order in Case No. 2020-00085⁶ regarding filings with the Commission. All parties should be required to follow the procedures for filing outlined in this Order.

IT IS THEREFORE ORDERED that:

1. An investigation into the reasonableness of Wood Creek District's termination of water service to Livingston, and Livingston's alleged failure to manage and maintain an adequate and reliable supply of water to Kentucky-American is hereby established.

2. Wood Creek District and Livingston shall file a response to this Order and the allegations contained herein no less than 20 days after the date of service of this Order.

3. Any interested party may, by counsel, file a motion to intervene within 14 days of the date of service of this Order or, if not served the Order, within 30 days of the issuance date of the Order.

4. 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 that 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. Therefore, any person requesting to

⁶ 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).

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 a potential impact of possible modification of rates will not be deemed sufficient to establish a special interest.

5. Wood Creek District, Livingston, and Kentucky American are made parties to this proceeding.

6. The parties 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.

7. 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 following in this proceeding.

8. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of services of this Order, all named parties shall file a written statement with the Commission that:

a. Certifies that it, or its agent, possess the facilities to receive electronic transmissions; and

b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding shall be served.

9. 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.

10. 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).

11. All parties shall follow the procedures for filing outlined in the Commission's July 22, 2021 Order in Case No. 2020-00085.

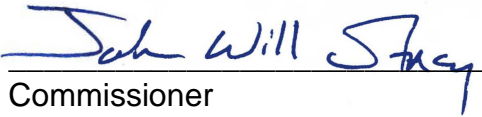
12. All named parties shall respond to any request for information propounded by Commission Staff, as provided in those requests, whether listed on a procedural schedule or not.


13. The Attorney General, the Kentucky Energy and Environment Cabinet's Division of Water, Laurel County Judge Executive, David Westerfield, and Rockcastle Judge Executive, Howell Holbrook, Jr., shall each be served with a copy of this Order.

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

PUBLIC SERVICE COMMISSION


Chairman


Commissioner


Commissioner

ENTERED
NOV 19 2024 AH
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2024-00359 DATED NOV 19 2024

TWO PAGES TO FOLLOW

From: [PSC Utility Electric Notifications](#)
To: [EEC PSC Electric Notifications](#)
Subject: FW: Notice of disconnection of water service to Livingston Municipal Water Works (KY1020253)
Date: Tuesday, November 5, 2024 5:04:36 PM
Attachments: [image001.png](#)

From: Teton Juh-Rawn Napier <juhrawn@woodcreekwater.org>
Sent: Tuesday, November 5, 2024 5:04:12 PM (UTC-05:00) Eastern Time (US & Canada)
To: PSC Utility Electric Notifications <PSC.Electric.Notice@ky.gov>
Cc: 'Donta Evans' <dontaevans@woodcreekwater.org>; 'Dewayne Lewis' <dewaynelewis@woodcreekwater.org>
Subject: Notice of disconnection of water service to Livingston Municipal Water Works (KY1020253)

This Message Originated from Outside the Organization

This Message Is From an External Sender.

[Report Suspicious](#)

To Whom it may concern,

This is to notify you that Wood Creek Water District (KY0630477) disconnected water service to Livingston Municipal Water Works (KY1020253)

on November 5th, 2024 @ 1525 hrs. due to arrears of, \$95,233.35 for water and \$19,232.05 for other services provided.

If you have any questions you may contact Donta Evans, Superintendent at (606) 309-6115 or myself.

Thank You,

Teton Juh-Rawn Napier

Wood Creek Water District

1670 E Hal Rogers Pkwy

London, KY 40741

JuhRawn@woodcreekwater.org

Office: (800) 551-7965 Ext. 203

Cell: (606) 682-3593



NOTICE:

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*City of Livingston Water Works
City of Livingston Water Works
P. O. Box 654
Livingston, KY 40445

*Wood Creek Water District
1670 Hal Rogers Parkway
P. O. Box 726
London, KY 40743

*Wood Creek Water District
Wood Creek Water District
1670 Hal Rogers Parkway
P. O. Box 726
London, KY 40743

*Kentucky-American Water Company
Kentucky-American Water Company
2300 Richmond Road
Lexington, KY 40502

*John Horne
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Sarah Gaddis
Director
Kentucky Division of Water
300 Sower Boulevard, 3rd Floor
Frankfort, KENTUCKY 40601