

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF HARRISON)	
COUNTY WATER ASSOCIATION, INC. FOR)	CASE NO.
APPROVAL OF DEVIATION FROM WHOLESALE)	2025-00178
WATER CONTRACT)	

ORDER

On June 4, 2025, Harrison County Water Association, Inc. (Harrison County Water) filed an application requesting approval of a “deviation and/or amendment” of its wholesale water contract with the City of Cynthiana (Cynthiana).¹ According to the application, the purpose of the request was to allow Cynthiana to sell water to one of its own proprietary interests, its Department of Parks and Recreation for a splash pad at a rate lower than the wholesale rate currently charged to Harrison County Water.² Specifically, the proposed rate for the Parks Department is \$2.61 per 1,000 gallons, whereas Harrison County Water currently pays \$3.61 per 1,000 gallons.³

BACKGROUND

Harrison County Water and Cynthiana are parties to a wholesale water purchase contract that has been amended multiple times since its inception.⁴ The current

¹ Application and Request KY PSC Approval of Deviation from Wholesale Water Contract (Application) (filed Jun. 4, 2025) at 3.

² Application at 1–2, paragraph C.

³ Application at 2, paragraph D.

⁴ Application, Exhibit A at 1.

wholesale rate charged to Harrison County Water was approved in Case No. 2022-00354.⁵ In this matter, Harrison County Water seeks approval for Cynthiana to deviate or amend the contract rate solely for sales to Cynthiana's own governmental entity for the purpose of operating a community splash pad.⁶ Harrison County Water asserts that both parties consent to the amendment and that the deviation would not affect the rate Harrison County Water pays to Cynthiana.⁷

LEGAL STANDARD

Pursuant to KRS 278.200,⁸ the Commission has jurisdiction to approve changes to contracts between utilities subject to its jurisdiction and municipal utilities, including deviations or amendments. KRS 278.030⁹ requires that rates for utility service be fair, just, and reasonable.

DISCUSSION AND FINDINGS

The Commission has reviewed the history of the Harrison County Water, Cynthiana wholesale contract and determined that the restriction on selling water to a proprietary interest at a lower rate than that charged to Harrison County Water (MFN language) was expressly contained in a version of the contract dated October 21, 1987

⁵ Case No. 2022-00354, *Electronic Purchased Water Adjustment Filing of Harrison County Water Association, Inc.* (Ky. PSC Nov. 22, 2022), Order.

⁶ Application at 2.

⁷ Application at 3.

⁸ KRS 278.200 grants the Commission jurisdiction to regulate "any rate or service standard of any utility that has been or may be fixed by any contract, franchise or agreement between the utility and any city."

⁹ KRS 278.030.

(1987 Agreement).¹⁰ The 1987 Agreement was superseded by the Agreement dated September 29, 2009, and subsequently amended thereafter. The September 29, 2009 Agreement does not contain the same express MFN language included in the 1987 Agreement, and no subsequent amendment filed with or approved by the Commission has restored that provision. Because the proposed amendment references the MFN language, it appears to rely on a term no longer present in the operative contract as approved by the Commission. Accordingly, the proposed amendment does not represent a complete and accurate agreement between the parties and should be rejected. The parties should update the Agreement in accordance with their intentions.

Additionally, upon review of the proposed contract amendment, the Commission finds that the language does not accurately reflect the standard utilized by the Commission to review proposed rates. Specifically, the proposed contract amendment includes the following language:

Further, KY PSC has established, that in a wholesale water rate case, it has the authority to regulate the municipal utility for its production of water to a regulated utility, and said rate must be the lowest rate as possible that allows the entity to provide necessary services at the lowest cost possible, and the rate charged for the same services should be uniform.¹¹

While the Commission does ensure that rates charged to jurisdictional utilities are fair, just and reasonable in accordance with KRS 278.030 and KRS 278.200, this standard does not require that rates be “the lowest rate possible.” To properly represent the

¹⁰ Harrison County Water Association, Inc. Water Purchase Contract with City of Cynthiana (signed Oct. 21, 1987; last changed July 7, 2009).

¹¹ Application, Exhibit A at 1.

Commission's regulatory authority and precedent, the proposed updated amendment should be revised to reflect the statutory standard correctly.

IT IS THEREFORE ORDERED that:

1. The request for a deviation from the wholesale water contract between Harrison County Water and Cynthiana is denied.

2. The proposed contract amendment is accepted for filing; however, Commission approval of the amendment is withheld pending revision of the amendment language to accurately reflect the agreement of the parties as well as the Commission's statutory standards under KRS 278.030 and KRS 278.200.

3. Harrison County Water shall, within 60 days of the date of this Order, file either (a) a corrected version of the proposed contract amendment that removes or revises the language regarding the Commission's role pursuant to KRS 278, consistent with ordering paragraph two; or (b) a notice of withdrawal or other appropriate filing indicating that it does not wish to pursue the proposed amendment.

4. If no filing is made within the allotted time, the Commission will issue an Order closing the case and removing it from the docket. Harrison County Water may refile its proposed amendment at a later date.

PUBLIC SERVICE COMMISSION



Chairman



Commissioner



Commissioner

ATTEST:



Executive Director



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