

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF MARTIN)	CASE NO.
COUNTY WATER DISTRICT TO ENTER INTO A)	2025-00249
LEASE FOR SERVICE TRUCKS)	

ORDER

On August 4, 2025,¹ Martin County Water District (Martin District) filed an application, pursuant to KRS 278.300, requesting retroactive approval to assume indebtedness for a lease for five service trucks. On August 19, 2025, an Order was issued establishing a procedural schedule, with Commission Staff's First Request for Information (Staff's First Request) attached. Martin District filed its response to Staff's First Request on August 28, 2025. There are no intervenors in this case, and the matter is now submitted to the Commission for a decision based upon the evidentiary record.

LEGAL STANDARD

KRS 278.300 requires Commission approval before a utility may "issue any securities or evidences of indebtedness, or assume any obligation or liability in respect to the securities or evidences of indebtedness of any other person."² The legal standard contained in KRS 278.300(3) establishes the purview of Commission review, stating:

The commission shall not approve any issue or assumption
unless, after investigation of the purposes and uses of the
proposed issue and the proceeds thereof, or of the proposed

¹ Martin District tendered its application on July 17, 2025. A deficiency letter was issued July 24, 2025. Martin District filed its response to deficiency, on August 4, 2025, and the application was deemed filed as of that date.

² KRS 278.300(1).

assumption of obligation or liability, the commission finds that the issue or assumption is for some lawful object within the corporate purposes of the utility, is necessary or appropriate for or consistent with the proper performance by the utility of its service to the public and will not impair its ability to perform that service, and is reasonably necessary and appropriate for such purpose.

Additionally, KRS 278.300(8) establishes that it does not apply if the proposed issuance of securities or indebtedness is payable at periods of not more than two years from the issuance date and any renewals of such notes do not exceed six (6) years from the initial issuance date.

FINANCIAL OVERVIEW

Martin District has a history of significant water loss, which can both reflect and cause financial distress to a utility. The Commission has recommended that Martin District and other water utilities with excessive water loss not only pursue reasonable actions to reduce unaccounted-for water loss, but also evaluate the need for more frequent rate increases.³ Based on a review of Commission records, Martin District's most recent rate case, Case No. 2021-00154, increased revenue by \$550,980, or 24.31 percent, effective February 2, 2022.⁴ A summary of Martin District's financial snapshot for 2020 through 2024 is presented below.⁵ As documented in Martin District's

³ Case No. 2019-00041, *Electronic Investigation into Excessive Water Loss by Kentucky's Jurisdictional Water Utilities* (Ky. PSC July 30, 2021).

⁴ Case No. 2021-00154, *Electronic Application of Martin County Water District for an Alternative Rate Adjustment*.

⁵ *Audit Report of Martin District to the Public Service Commission for the Year Ended December 31, 2020. Audit Report of Martin District to the Public Service Commission for the Year Ended December 31, 2021. Audit Report of Martin District to the Public Service Commission for the Year Ended December 31, 2022. Audit Report of Martin District to the Public Service Commission for the Year Ended December 31, 2023. Audit Report of Martin District to the Public Service Commission for the Year Ended December 31, 2024.*

audit reports for 2020 through 2024 filed with the Commission, Martin District has operated with not only a loss in Rate Based Income, but a loss in Cash Basis Income each of the last five years despite increased revenues from its last rate increase.

In general, the Commission recommends that utilities file rate cases every three to five years depending on financial performance. In view of Martin District's 2024 performance and given that its last increase was based on a 2020 test year, which is now almost five years old, the Commission concludes that Martin District may need to make further adjustments in its rates. Therefore, on or before August 31, 2026, Martin District should file an application for a general rate adjustment pursuant to Section 16 of 807 KAR 5:001, an application for an alternative rate adjustment pursuant to 807 KAR 5:076, or in the alternative, file a formal motion with a detailed analysis of its rates and revenues explaining the reasons why no modifications are necessary.

Description / Year	2020	2021	2022	2023	2024
<i>Adjusted Net Income</i>					
Net Income / (Loss) before Contributions	\$ (776,238)	\$ (808,526)	\$ (204,215)	\$ (386,583)	\$ (754,785)
Non-Cash Pension and OPEB Expense / (Income)	(119,701)	0	(527,446)	(350,428)	(22,451)
Adjusted Net Income / (Loss) before Contributions	\$ (895,939)	\$ (808,526)	\$ (731,661)	\$ (737,011)	\$ (777,236)
Subtract: Principal Payments ()	(125,000)	(131,281)	(141,688)	(134,757)	(132,589)
Rate Based Income	(1,020,939)	(939,807)	(873,349)	(871,768)	(909,825)
Add: Depreciation Expense	786,741	773,206	796,613	790,096	754,171
Cash Basis Income	\$ (234,198)	\$ (166,601)	\$ (76,736)	\$ (81,672)	\$ (155,654)

DISCUSSION

Pursuant to KRS 278.300, Martin District requested retroactive approval to assume indebtedness for entry into a lease for five service trucks. The lease has a 60-month duration, with monthly payments of \$4,690.43 beginning July 20, 2025, and terminating June 30, 2030 (Lease).⁶ Martin District maintained the Lease was secured and would be payable from its gross revenues, and that its satisfaction would not require an increase in

⁶ Application at 2.

customers' rates.⁷ The Lease was approved by Martin District's Board of Commissioners at its meeting on May 27, 2025.⁸

Martin District represented that the Lease is in the public interest and is intended to accomplish the purpose of strengthening the ability of Martin District to service its ratepayers and the system.⁹ Martin District stated its service truck fleet was aged and the general use, wear and tear had rendered the current fleet impractical and unreliable.¹⁰ Martin District explained its vehicles had excessive mileage, were breaking down frequently, and there were times that attention to water leaks was delayed because the trucks were down and repairs were necessary.¹¹ Martin District further explained that one truck was damaged and could not be repaired;¹² another truck had over 200,000 miles on it when the transmission failed, and that repair would have been over \$8,000;¹³ a third truck was taken out of service because of transmission issues, with estimated repair costs that exceeded the value of that truck;¹⁴ and that Martin District had spent \$23,000 from January of 2025 to May of 2025 in an attempt to keep the service fleet operable.¹⁵ Martin District stated that it had no operational service trucks before the acquisition of the five

⁷ Application at 4.

⁸ Application at 2; Martin District's Response to Commission Staff's First Request for Information (Staff's First Request) (filed Aug. 28, 2025).

⁹ Application at 2.

¹⁰ Affidavit of Brian Cumbo (Cumbo Affidavit) (filed July 17, 2025).

¹¹ Affidavit of Todd Adams (Adams Affidavit) (filed July 17, 2025).

¹² Adams Affidavit, Item 5.

¹³ Adams Affidavit, Item 5.

¹⁴ Adams Affidavit, Item 6.

¹⁵ Adams Affidavit, Item 7.

trucks pursuant to the Lease, and to continue operations without replacement service trucks was untenable.¹⁶

Martin District asserted it seeks retroactive approval due to its attorney having failed to remember that it was necessary to request authorization from the Commission prior to entering into the lease agreements.¹⁷ Counsel for Martin District acknowledged that it began discussions relative to the leasing of service trucks several months prior, and stated that it should have come to his attention that application to the Commission was necessary for Martin District to incur an obligation to lease new service vehicles, but it escaped his attention.¹⁸ Counsel further stated this matter was brought to his attention by Martin District's Board Chairman, Timothy Thoma, after the Chairman attended the mandatory training for new Commissioners administered by the Commission, where he received that instruction.¹⁹

Martin District's Board of Commissioners consists of Chairman Timothy Thoma, appointed for a four year term in September of 2024; Nina McCoy, appointed for a four-year term in April of 2022; John Hensley, appointed for a four-year term in March of 2022; and Colby Kirk, appointed in October of 2024 to fill Greg Crum's unexpired term (Greg Crum was appointed in March of 2022 for a four-year term).²⁰ Commissioners Thoma, Kirk, and Robinson attended Commission training in June 2025; Nina McCoy attended

¹⁶ Martin District's Response to Staff's First Request (filed Aug. 28, 2025) at 2; Adams Affidavit (filed July 17, 2025).

¹⁷ Application at 1.

¹⁸ Cumbo Affidavit.

¹⁹ Cumbo Affidavit.

²⁰ Martin District's Response to Staff's First Request at 1.

Commission training in December 2022; and John Hensley attended training either in 2017 or 2018.²¹ Board minutes provided in response to Staff's First Request show that Martin District's Board of Commissioners approved the lease of five service trucks on May 27, 2025.²²

The Commission finds that, although the lease of the service trucks may have been necessary to continue its operations, the legal standard established in KRS 278.300 to approve the property acquisition have not been met. KRS 278.300(1) requires Commission approval to occur *prior* (emphasis added) to the issuance of any evidence of indebtedness.²³ Martin District has placed blame for its failure to seek Commission approval for the assumption of indebtedness for the lease with its counsel. However, the responsibility to comply with Commission regulations ultimately rests with Martin District and its Board of Commissioners, not counsel. The Commission finds that Martin District seeks retroactive approval for an action the utility and its Board of Commissioners approved months prior to its application for Commission approval, and the application should be rejected.

The Commission, on its own motion, will establish a docket for an investigation for failure to comply with KRS 278.300, finding that *prima facie* evidence exists for both the utility and the Board of Commissioners in their individual capacities to be named in that investigation.

²¹ Martin District's Response to Staff's First Request at 1-2.

²² Martin District's Response to Staff's First Request, Exhibit C.


²³ See Case No. 2022-00076, *Electronic Application of Kirksville Water Association, Inc. for Permission to Issue Indebtedness Pursuant to KRS 278.300* (Ky. PSC June 20, 2022).


IT IS THEREFORE ORDERED that:

1. Martin District's request for approval to assume indebtedness is denied.
2. The Commission shall establish a docket to investigate Martin District, its manager, and its Board of Commissioners for alleged violation of KRS 278.300.
3. On or before August 31, 2026, Martin District shall file an application for a general rate adjustment pursuant to Section 16 of 807 KAR 5:001, an application for an alternative rate adjustment pursuant to 807 KAR 5:076, or in the alternative, a formal motion with a detailed analysis of its rates and revenues explaining the reasons why no modifications are necessary. Any filing for a rate adjustment filed under KRS 278.023 does not relieve Martin District from this requirement.
4. This case is closed and removed from the Commission's docket.

PUBLIC SERVICE COMMISSION


Chairman


Commissioner


Commissioner

ATTEST:

 *RP*
Executive Director



Case No. 2025-00249

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