

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 October 15, 2025, Martin County Water District (Martin District), pursuant to KRS 278.400, filed a motion requesting that the Commission reconsider portions of the October 2, 2025 Order entered in this proceeding. There are no intervenors in this proceeding. This matter stands submitted for a decision.

LEGAL STANDARD

KRS 278.400, which establishes the standard of review for motions for rehearing, limits any new evidence on rehearing to evidence not readily discoverable at the time of the original hearings, to correct any material errors or omissions, or to correct findings that are unreasonable or unlawful. A Commission Order is deemed unreasonable only when “the evidence presented leaves no room for difference of opinion among reasonable minds.”¹ An order can only be unlawful if it violates a state or federal statute or constitutional provision.²

¹ *Energy Regulatory Comm’n v. Kentucky Power Co.*, 605 S.W.2d 46 (Ky. App. 1980).

² *Public Service Comm’n v. Conway*, 324 S.W.3d 373, 377 (Ky. 2010); *Public Service Comm’n v. Jackson County Rural Elec. Coop. Corp.*, 50 S.W.3d 764, 766 (Ky. App. 2000); *National Southwire Aluminum Co. v. Big Rivers Elec. Corp.*, 785 S.W.2d 503, 509 (Ky. App. 1990).

By limiting rehearing to correct material errors or omissions, and findings that are unreasonable or unlawful, or to weigh new evidence not readily discoverable at the time of the original hearings, KRS 278.400 is intended to provide closure to Commission proceedings. Rehearing does not present parties with the opportunity to relitigate a matter fully addressed in the original Order.

Relevant legal standards applicable to the issues raised in Martin District's motion are set forth in KRS 278.300, which 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."³ 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 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 years from the initial issuance date.

³ KRS 278.300(1).

DISCUSSION AND FINDINGS

The Commission's October 2, 2025 Order denied Martin District's request for retroactive approval to assume indebtedness for a lease for five service trucks, and found that Martin District failed to meet the legal standard established in KRS 278.300, which requires Commission approval to occur *prior* (emphasis added) to the issuance of any evidence of indebtedness.⁴ The Commission further provided a financial overview for Martin District and found that, in light of its 2024 performance and given that its last increase was based on a 2020 test year, which is now almost five years old, Martin District may need to make further adjustments in its rates.⁵

In its motion for reconsideration, Martin District discussed its financial situation, and stated it is in the red due to no fault of its own.⁶ Martin District explained that it renegotiated its Joint Operating Agreement with Prestonsburg City Utilities Commission (PCUC) effective March 1, 2025, and as a result of this renegotiation, the District has realized more than sufficient income to pay for the truck lease.⁷ Additionally, Martin District explained it has been awaiting the completion of a raw water intake project at the Tug River, to pump water to its primary water source, the Crum Reservoir.⁸ Martin District claimed it has sustained, and is sustaining, extraordinary unbudgeted expenses due to

⁴ Order (Ky. PSC Oct. 2, 2025). See also 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); Case No. 2021-00465, *Electronic Application of Corinth Water District for Authorization to Enter Into a Financial Obligation* (Ky. PSC Mar. 16, 2022)

⁵ Order (Ky. PSC Oct. 2, 2025) at 3.

⁶ Motion for Reconsideration (Motion) (filed Oct. 15, 2025) at 1.

⁷ Motion at 1.

⁸ Motion at 1.

the lengthy delay in the completion of the project and litigation is ongoing regarding the three-year delay in completion.⁹ Martin District stated that since November of 2023, it has been renting a diesel pump to pump water from the Tug River approximately six miles, over a mountain, to Crum Reservoir, which has cost approximately \$32,623 per month.¹⁰ Martin District further stated that, to date, it has expended \$750,341.48 for pump rental and fuel costs, plus overhead, as a sole result of the delay in the construction of the project, and but for those unbudgeted expenses for the pump, fuel and overhead, Martin District would be in the black.¹¹ Martin District argued it fully believes it will prevail in litigation on the merits, making Martin District whole, and that, but for these unbudgeted expenses, Martin District can well afford the trucks.¹²

Regarding to the lease for five service trucks, Martin District stated that, as a practical matter, prior to the lease, it did not have adequate and reliable service trucks to properly operate and maintain its system.¹³ Martin District argued it is contractually obligated for payments, whether the leased trucks are being utilized or not.¹⁴

Martin District further argued the Commission, or at least Commission Staff, was aware the truck lease was being considered as early as March 25, 2025, as quotes for vehicle leases were included in the Board packets filed with the Commission for its

⁹ Motion at 3.

¹⁰ Motion at 2.

¹¹ Motion at 2.

¹² Motion at 2–3.

¹³ Motion at 3.

¹⁴ Motion at 3.

April 22, 2025, May 6, 2025, and May 27, 2025 meetings.¹⁵ Martin District requested the Commission reconsider its Order denying retroactive approval, or, in the alternative, to offer guidance and inform Martin District as to its correct path forward.¹⁶

Martin District's assertions regarding the Commission, or at least Commission Staff's knowledge of its failure to comply with KRS 278.300 because of its submission of Board materials fails to satisfy any of the elements set forth in KRS 278.400. Moreover, while Commission Staff reviews Martin District's monthly filings, submission of Martin District's Board materials does not relieve the Board of its responsibilities to manage Martin District in accordance with applicable law. The responsibility to comply with Commission regulations, and in this instance, to obtain Commission approval prior to assuming indebtedness pursuant to KRS 278.300, ultimately lies with Martin District, its Board of Commissioners.

The Commission finds that Martin District failed to provide sufficient evidence that the Commission erred, was mistaken or new evidence exists to reconsider its earlier finding, and rehearing on this issue is denied. The Commission urges Martin District and its Board of Commissioners to ensure prior compliance with all Commission regulations and applicable statutes in the future. The Commission, as the impartial trier of fact and decision maker, directs Martin District to consult with counsel on that matter.

In accordance with the Commission's October 2, 2025 Order, the Commission shall initiate a separate show cause proceeding for Martin District, its commissioners,

¹⁵ Motion at 3. The PSC, in its Order of July 22, 2020, In See Case No. 2020-00154, *Electronic Martin County Water District Management and Operation Monitoring Pursuant to KRS 278.250* (Ky. PSC July 22, 2020), in which Martin District files the information packet prepared by Alliance for monthly Board meetings basis with the Commission.

¹⁶ Motion at 3-4.

agents, officers, and employees, to show cause why they should not be assessed a civil penalty for violating KRS 278.300. Further, in accordance with the Commission's October 2, 2025 Order, 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.

IT IS THEREFORE ORDERED that:

1. Martin District's motion for rehearing is denied.
2. This case is closed and removed from the Commission's docket.

PUBLIC SERVICE COMMISSION


Chairman


Commissioner


Commissioner

ATTEST:


Executive Director



*Brian Cumbo
Attorney at Law
P.O. Box 1844
Inez, KY 41224

*Martin County Water District
387 East Main Street, Suite 140
Inez, KY 41224

*Todd Adams
Martin County Water District
c/o Alliance Water Resources, Inc.
1402 East Main Street
Inez, KY 41224

*Timothy Thoma
Martin County Water District
c/o Alliance Water Resources, Inc.
1402 East Main Street
Inez, KY 41224