

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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|---------------------------------------|---|------------|
| ELECTRONIC INVESTIGATION INTO CITY OF |) | |
| ALBANY FOR ALLEGED ASSESSMENT OF AN |) | CASE NO. |
| UNAPPROVED RATE FOR CUMBERLAND |) | 2025-00390 |
| COUNTY WATER DISTRICT |) | |

ORDER

The Commission, on its own motion, pursuant to KRS 278.040, KRS 278.200, KRS 278.260(1), and KRS 278.990, initiates this proceeding to investigate the alleged failure of the city of Albany (Albany) to comply with KRS 278.160(2).

BACKGROUND

This case arises out Case No. 2025-00226,¹ a recent Alternative Rate Filing (ARF) of Cumberland County Water District (Cumberland District). Cumberland District is a water district created pursuant to KRS Chapter 74 and subject to Commission jurisdiction under KRS 278.040 and KRS 278.010(3). Cumberland District purchases water from the city of Albany (Albany) pursuant to a contract. Under KRS 278.160(2):

No utility shall charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules.

¹ Case No. 2025-00226, *Electronic Application of Cumberland County Water District for an Adjustment of Rates Pursuant to 807 KAR 5:076* (filed June 26, 2025), Application.

Although Albany is a city and cities are exempt from PSC jurisdiction in many cases, the PSC “. . . shall have exclusive jurisdiction over the regulation of rates and service of utilities, but with that exception nothing in this chapter is intended to limit or restrict the police jurisdiction, contract rights or powers of cities or political subdivisions.” KRS 278.040(2). When coupled with KRS 278.200, the Commission maintains jurisdiction over contracts between a city and a regulated utility.²

Albany last filed its rates pursuant to contract with Cumberland District on September 3, 2009, indicating a rate of \$2.10 per 1,000 gallons for usage over 1.5 million gallons.³ However, according to Cumberland District, Albany increased the wholesale rate it billed Cumberland District to \$2.92 per 1,000 gallons for usage over 1.5 million gallons at an indeterminate time since 2009.⁴

LEGAL STANDARD

The Commission has exclusive jurisdiction over the rates and service of utilities and is charged with enforcing the provisions of KRS Chapter 278.⁵ Pursuant to KRS 278.200, the Commission maintains jurisdiction over contracts between a city and a regulated utility.⁶ KRS 278.260 provides that the Commission, on its own motion or after receiving a complaint, may investigate whether “any regulation, measurement, practice or act affecting or relating to the service of the utility or any service in connection therewith

² See *Simpson County Water Dist. v. City of Franklin*, 872 S.W.2d 460, 462-463 (Ky. 1994).

³ P.S.C. KY. NO. 1, Sheet 1, (issued Sept. 3, 2009), effective Oct. 15, 2009.

⁴ Case No 2025-00226, (filed Oct. 2, 2025), Cumberland District’s Amended Response to Commission Staff’s Second Request for Information, Item 2(b), Albany Billing System Wholesale Rates.

⁵ See KRS 278.040(1)-(2).

⁶ See *Simpson County Water Dist. v. City of Franklin*, 872 S.W.2d 460, 462 (Ky. 1994).

is unreasonable.” KRS 278.990(1) allows the Commission to assess a civil penalty of up to \$2,500 for each offense against any utility that willfully violates the provisions of KRS Chapter 278, Commission regulations, or any order of the Commission from which all rights of appeal have been exhausted.

Under KRS 278.160(2) a “utility may not charge, demand, collect, or receive from any person greater or less compensation than what is filed in that utility’s applicable tariff.”

DISCUSSION

The Commission finds that an investigation is necessary to determine to what extent Albany has charged Cumberland District wholesale water rates that were greater than what was filed in its tariff and, if improper rates were charged, whether Albany should provide a refund to Cumberland District. Furthermore, the Commission finds that Albany should be required to show cause why it should not be sanctioned pursuant to KRS 278.990 for violating KRS 278.160(2) and for any other violations discovered in this investigation. The Commission further finds that a procedural schedule should be established to ensure the orderly processing of this case. Finally, the Commission finds that all documents, records, and Orders included in the record of Case No. 2025-00226 should be incorporated by reference into the record of this proceeding.

IT IS THEREFORE ORDERED that:

1. This case is opened to investigate the alleged failure of Albany to comply with KRS 278.160(2).
2. On or before January 14, 2026, Albany shall, by counsel, submit to the Commission a written response to this Order identifying and providing, subject to 807 KAR 5:001, Section 3(10) rules for redaction of personal information:

a. Any and all factual or legal defenses to the allegations set forth in this Order;

b. Denial or confirmation of all factual allegations set forth in this Order;

c. All invoices sent to Cumberland District since October 15, 2009.

3. The procedural schedule set forth in the Appendix to this Order shall be followed. The schedule may be amended as necessary to accommodate any intervenor testimony and data requests upon intervenors.

4. All documents, records, and Orders included in the record of Case No. 2025-00226 are incorporated by reference into the record of this proceeding.

5. Any party filing a paper with the Commission shall file an electronic copy in accordance with the electronic filing procedures set forth in 807 KAR 5:001, Section 8. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked. The Commission directs the parties to the Commission's July 22, 2021 Order in Case No. 2020-00085⁷ regarding filings with the Commission.

6. 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

⁷ 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).

complicating or disrupting the proceedings. 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 a potential impact of possible modification of rates will not be deemed sufficient to establish a special interest. In addition, any motion to intervene filed 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.

7. Albany shall give notice of any scheduled hearing in accordance with the provisions set forth in 807 KAR 5:001, Section 9(2). In addition, the notice of hearing shall include the following statement: "This hearing will be streamed live and may be viewed by connecting to the YouTube link posted on the PSC website, psc.ky.gov" the day of the hearing; and "Public comments may be made at the beginning of the hearing. Those wishing to provide public comments may do so by arriving at 211 Sower Boulevard, Frankfort, Kentucky, before the start of the hearing. At the time the notice is mailed or publication is requested, Albany shall forward a duplicate of the notice and request to the Commission.

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

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


10. The Commission does not look favorably upon motions for 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.

11. The Commission does not look favorably upon motions to excuse witnesses from testifying at Commission hearings. Accordingly, motions to excuse a witness from testifying at a Commission hearing or from testifying in person at a Commission hearing shall be made in writing and will be granted only upon a showing of good cause.

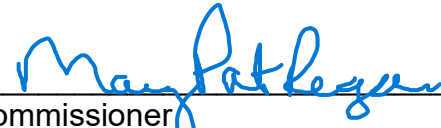
12. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

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PUBLIC SERVICE COMMISSION


Chairman


Commissioner


Commissioner

ATTEST:


Executive Director



APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2025-00390 DATED DEC 23 2025

Albany shall file responses to numerical ordering
paragraph 2. of this Order 01/14/2026

Last day for intervention requests to be accepted..... 01/23/2026

All initial requests for information to Albany
shall be filed no later than 01/30/2026

Albany shall file responses to initial requests for
information no later than..... 02/13/2026

All supplemental requests for information to Albany
shall be filed no later than 02/27/2026

Albany shall file responses to supplemental requests
for information no later than 03/13/2026

Last day for Parties to request a Public Hearing or submit a
request for the matter be decided based upon the written record.....03/20/2026

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