



JASON E. MUMPOWER
Comptroller

MINUTES
of the
UTILITY MANAGEMENT REVIEW BOARD MEETING
December 8, 2022
10:00 am

Greeting:

Chairman Moody detected a quorum and called to order the meeting of the Utility Management Review Board (“UMRB”) in the Volunteer Conference Center on the 3rd Floor of the Cordell Hull Building in Nashville, TN at 10:00 a.m. (CDT).

Board Members Present and Constituting A Quorum:

Greg Moody, Chair
Tom Moss, Vice-Chair
Phillip Combs
Anthony Pellham
Steve Stone

Board Members Absent:

Rebecca Hunter
Kevin Botts
Bruce Giles
Dan Coley

Staff Present:

Ross Colona, Comptroller’s Office
Meghan Huffstutter, Comptroller’s Office
Nate Fontenot, Comptroller’s Office
Ben Johnson, Comptroller’s Office

Counsel Present:

Seth May, Comptroller’s Office

Others Present & Addressing the Board

Doug Overbey, Attorney at Law, Representing Appalachian Resort LLC.
Kaitlin Tweel, Attorney at Law, Representing East Sevier County Utility District
Jerry Hayes, Customer of East Sevier County Utility District
Patricia Rogers, Customer of East Sevier County Utility District

Heather Fromm, Customer of East Sevier County Utility District

Approximately twenty other customers of the East Sevier County Utility District were present but did not address the board individually.

Conflict of Interest Statement:

Counsel Seth May read the following statement: “The Board was created to act for the public welfare and in furtherance of the legislature’s intent that utility systems be operated as self-sufficient enterprises. Board members are not authorized to participate in the discussion of or to vote on matters involving entities in which the Board member has a financial interest, with which the Board member has a conflict of interest, with which the Board member has a contract of employment, or if there is any appearance of impropriety.”

Chairman Moody asked if anyone needed to recuse themselves. There were no comments made.

Approval of Minutes:

Chairman Moody presented the approval of the April 28, 2022, minutes. Mr. Pellham moved to approve the minutes as written. Mr. Combs seconded the motion. The minutes were approved unanimously.

Comptroller Investigations:

East Sevier County Utility District

Mr. Colona clarified and reminded the Board of what the Board was designed to do. The purpose of the board is to ensure that water, sewer, and gas systems are self-sustaining by first and foremost protecting the ratepayer. Mr. Colona then explained that Board staff had traveled to East Sevier County Utility District (ESCUD) to conduct interviews. There were several findings in the report. Mr. Colona referenced the Boards packet for information and further details, but that there were several main findings from staff’s investigation: Board Training, Contract Issues with Alliance Water Resources, Water Loss, Failure to Seek Funding for Capital Improvements, Customer Complains, Rates, and potential Conflict of Interest. Mr. Colona briefly expounded upon each finding and Chairman Moody opened the discussion to the attending parties who wanted to address the Board.

The first citizen to address the Board was Mr. Jerry Hayes. He lives on English Mountain and stated that the water system is failing. They have gone up to twelve days without water. He would like the commissioners removed and the managers held accountable. He believes the water loss is high due to negligence. He believes that the water is not drinkable as it barely meets minimum sanitary qualifications, and the iron level is the maximum level possible. He thanked the UMRB,

TDEC and the Comptroller's office for all they have done. He asked for the state to call a state of emergency because current management and board have failed.

Patricia Rogers then addressed the Board. She is also a current customer of ESCUD. She thanked the Comptroller and the UMRB for the hearing. She stated that the president of the board for ESCUD told her that they will never get consistent water. She stated that sometimes they do not have water for days at a time, and the water stains clothing. They are provided only 6 gallons of water per week during outages.

Heather Fromm also addressed the Board. Ms. Fromm is a current customer of the District. She brought a bag with several items as evidence of the poor water quality. She had articles of stained clothing and bottles of discolored water she displayed for the board. She stated that she was out of water for 15 days over Christmas in 2020. She would like clean drinkable and consistent water.

Chairman Moody thanked the public and then invited Mr. Doug Overbey to address the board. Mr. Overbey represents the Reserve at English Mountain. He informed the Board that Senator Sutherland had tried to attend that day, but he was sick. But he agrees with staff conclusions and recommendations that the Board should pursue ouster proceedings for the ECUD board. He noted that this is a first step, an important one but only the first. He requested the Board to continue oversight.

Ms. Kaitlin Tweel then addressed the Board. Ms. Tweel represents ESCUD. She did not agree with the ousting recommendation. She informed the Board that ESCUD Board President, Mr. Ron Ivey, would be resigning that evening. She noted that the other two commissioners have spent a considerable amount about time serving and they want to help solve the issues with the systems. Ms. Tweel said that ESCUD is very aware of an aging system but that they are a remote area. She noted that the board has overseen improvements with rates in mind, and they have done what they could.

Chairman Moody noted that the Board has read the staff recommendation. Mr. Colona clarified that if the Board were to continue with this proceeding the board is not ousted today, but that there is a process. Mr. Seth May explained the process of the contested case hearing.

Mr. Pellham asked if the current board for ESCUD had served during the Alliance Water Services contract and through the water loss stated in staff's report. Mr. Colona confirmed that the current board served over those years. Mr. Pellham asked how ESCUD board members would be replaced. Mr. Colona explained the process by which the County Mayor makes appointments. Mr. Pellham confirmed that the customers that addressed the Board today were current, and Mr. Colona confirmed they are.

Mr. Moss noted that in dealing with water systems for over 30 years, he had had no other district have the chronic water shortage that they have.

Board staff recommendations:

1. The Board should order Board staff to initiate a contested case to determine whether the current Board of Commissioners of the East Sevier County Utility District should be

removed from their positions.

Board staff are authorized to nonsuit or otherwise seek dismissal of this contested case should the members seated as of the date of this order resign or otherwise be removed from office.

2. ESCUD shall have the Tennessee Association of Utility Districts, or another qualified expert as approved by Board staff, perform a rate study that includes the following:
 - a. a review of the capitalization policy, including any recommended modifications;
 - b. a review of the debt management policy, including any recommended modifications;
 - c. the creation of a five-year capital asset budget, to be taken from the current capital asset list and to include future anticipated needs;
 - d. a review of relevant utility fees including but not limited to connection or tap fees, including any recommended modifications;
 - e. and a review of the leak adjustment policy, including any recommended modifications or adoption of such policy should one not exist.

Mr. Moss moved to accept staff recommendations. Mr. Stone seconded the motion. The motion carried.

Tarpley Shop Utility District

Mr. Colona informed the Board that the District failed to file their annual information report with the Comptroller's office. He shared that Board staff reviewed the District's audit and saw a finding of the District contractor also being an employee of the district for over a decade. Communicating and receiving information from the District has been difficult. Board staff would like to open an investigation to get more information.

Staff recommendations:

1. Board staff shall investigate the Entity to address the financial, technical and managerial capacity of the Entity to comply with the requirements of any applicable federal and state laws or regulations.
2. Board staff shall, with the full authority of the Board, issue subpoenas for the Entity's manager, governing body, or any other necessary staff, to appear in-person before the Board at its first meeting of 2023 if the Entity does not comply fully with the Boards. Investigation.
3. Board staff shall update the Board as to the status of this investigation at its first meeting of 2023.

Mr. Pellham moved to accept staff recommendations. Mr. Stone seconded the motion. The motion carried.

Tuckaleechee Utility District

Mr. Colona informed the Board that this District is not out of compliance with water loss requirements based on its reporting. But that Tuckaleechee Utility District (TUD) has engaged Rye Engineering. Rye Engineering will work with the District to improve its water infrastructure Board staff is confident in this decision. They need a rate study and cost of service study. Board staff does not believe that TUA should do this work and that TUD should contract with someone by March 31, 2023. He provided an update on the investigation and Board staff recommends the following:

1. a review of the capitalization policy, including any recommended modifications;
2. a review of the debt management policy, including any recommended modifications;
3. the creation of a five-year capital asset budget, to be taken from the current capital asset list and to include future anticipated needs;
4. a review of relevant utility fees including but not limited to connection or tap fees, including any recommended modifications;
5. and a review of the leak adjustment policy, including any recommended modifications or adoption of such policy should one not exist.

Mr. Combs moved to accept staff recommendations. Mr. Pellham seconded the motion. The motion carried.

Financial Distress:

Bedford County Utility District

Mr. Colona informed the board that this was a case of deficit net position due to it being a new system. He stated that they were a strong utility and recommended to the Board to release them and close the case.

Staff recommendations:

1. The Entity is officially released from the Boards oversight;
2. Board staff shall close the Entity's case for financial distress.

Mr. Pellham moved to accept staff recommendations. Mr. Stone seconded the motion. The motion carried.

Blountville Utility District

Mr. Colona stated that this was a case of financial distress due to the District joining TCRS and there was an increase in salaries and benefits. Furthermore, they completed their rate study with TAUD. Once board staff receive those final minutes that provide proof of implementation, board staff recommends:

1. By March 31, 2023, the entity shall provide Board staff with proof of implementation of the recommendations.
2. The Entity shall send financial updates to Board staff by March 1st and September 1st of each year beginning September 1, 2023, until the Board releases the Entity from its oversight.

Mr. Moss moved to accept staff recommendations. Mr. Combs seconded the motion which passed unanimously.

Bristol Bluff City Utility District

Mr. Colona informed the Board that Board staff is confident with the progress that the Entity will make with TAUD. Board staff believes that a merger between Bristol Bluff City UD and South Fork Utility District could be an option in the best interest of both parties. Mr. Colona informed the Board that he was unsure of the best option for South Fork at this time. He also let the Board know that staff was asking for proforma financial statements and hope to receive those by April 2023.

Mr. Colona explained the staff recommendations:

1. The Entity shall have the TAUD or another qualified expert as approved by Board staff, perform a cost of service study that includes the creation of pro forma statements that evaluate a merger between the Entity and South Fork Utility District.

Mr. Pellham moved to accept staff recommendations. Mr. Combs seconded the motion which passed unanimously.

Clearfork Utility District

Mr. Colona explained that the District is very unresponsive. He read the following staff recommendation:

1. The Entity shall have the Tennessee Association of Utility Districts, or another qualified expert as approved by Board staff, perform a rate study that includes the following:
 - a. a review of the capitalization policy, including any recommended modifications;
 - b. a review of the debt management policy, including any recommended modifications;

- c. the creation of a five-year capital asset budget, to be taken from the current capital asset list and to include future anticipated needs;
 - d. a review of relevant utility fees including but not limited to connection or tap fees, including any recommended modifications;
 - e. verification that all governing body members of the utility are in compliance with all relevant training requirements;
 - f. a review of the leak adjustment policy, including any recommended modifications or adoption of such policy should one not exist;
 - g. and a review of any possible mergers with surrounding utilities including a preliminary judgment on whether any merger options are feasible and should be explored further.
2. By March 31, 2023, the Entity shall send Board staff a copy of the contract between the Entity and the qualified expert who is to perform the tasks in paragraph 1.
 3. By July 31, 2023 the Entity shall provide Board staff with the completed rate study and either proof of implementation of the resulting recommendations or a proposed plan of implementation.
 4. Board staff is given the authority to grant one extension of up to six months of the foregoing deadlines upon a showing of good cause by the Entity.
 5. If the Entity does not comply with any provision of this order Board staff shall, with full authority of the Board, subpoena the Entity's utility manager and all governing board members to compel their attendance at the next Board meeting.

Mr. Moss moved to accept staff recommendations. Mr. Stone seconded the motion which passed unanimously.

Griffith Creek Utility District

Mr. Colona informed the board that this District had contracted with Big Creek Utility District to do a lot of work and that they were financially doing much better. Board staff recommends the following:

1. The Entity is officially released from the Board's oversight for financial distress. Board staff will close the Entity's financial distress case.
2. The Entity remains under Board oversight for excess water loss.

Mr. Combs moved to accept staff recommendations. Mr. Pellham seconded the motion which passed unanimously.

Iron City Utility District

Mr. Colona informed the Board that the District should be added to the update cycle and that they have implemented all requirements.

The Board should order the following:

1. The Entity shall send financial updates to Board staff by March 1st and September 1st of each year beginning March 1st, 2023, until the Board releases the Entity from its oversight.

Mr. Pellham moved to accept staff recommendations. Mr. Moss seconded the motion which passed unanimously.

Mooreburg Utility District

Mr. Colona informed the board that the previous order was not complied with. But we did not find that out until the last UMRB meeting. Board staff requested the following:

1. The Entity shall have the Tennessee Association of Utility Districts, or another qualified expert as approved by Board staff, perform a rate study that includes the following:
 - a. a review of the capitalization policy, including any recommended modifications;
 - b. a review of the debt management policy, including any recommended modifications;
 - c. the creation of a five-year capital asset budget, to be taken from the current capital asset list and to include future anticipated needs;
 - d. a review of relevant utility fees including but not limited to connection or tap fees, including any recommended modifications;
 - e. verification that all governing body members of the utility are in compliance with all relevant training requirements;
 - f. a review of the leak adjustment policy, including any recommended modifications or adoption of such policy should one not exist;
 - g. and a review of any possible mergers with surrounding utilities including a preliminary judgment on whether any merger options are feasible and should be explored further.
2. By May 1 2023, the Entity shall send Board staff a copy of the contract between the Entity and the qualified expert who is to perform the tasks in paragraph 1.
3. By May 1, 2023, the Entity shall complete its 2023 Annual Information Report.
4. By September 1, 2023, the Entity shall provide Board staff with the completed rate study and either proof of implementation of the resulting recommendations or a proposed plan of implementation.

5. The Commissioners of the Mooresburg Utility District, along with the District's general manager (or other employee(s) who perform the duties traditionally assigned to a general manager), will attend the first regularly-scheduled UMRB meeting in 2023. Board staff, acting with the Board's authority, will issue subpoenas to ensure these individuals' attendance. Board staff are further authorized to pursue this matter in Chancery court if necessary to secure attendance.

Mr. Pellham asked if the District explained why they did not implement. Mr. Colona said that the office employee has another fulltime job, but that was not an excuse.

Mr. Pellham moved to accept staff recommendations. Mr. Stone seconded the motion which passed unanimously.

Utility Revitalization Fund

Mr. May explained the grant and how it can be used. He explained to the Board that part of the legislation includes the Board drafting rules. Mr. May said the rules had been red lined and clarified. There were no comments at the hearing. Board staff will then submit to the Attorney General's office and the Secretary of State's office.

Mr. Moss moved to accept the redlined rules. Mr. Stone seconded the motion which passed unanimously.

Meeting Dates for 2023

Mr. Colona stated the three dates for the upcoming year:

April 20, 2023
 August 31, 2023
 December 7, 2023

Mr. Combs had a conflict on the April 20th date, and Mr. Colona said they would keep that date.

Mr. Stone moved to accept 2023 dates. Mr. Pellham seconded the motion which passed unanimously.

Board Discussion:

None

Adjournment:

Mr. Pellham moved to adjourn the meeting; Mr. Combs seconded. Chairman Moody adjourned the meeting at 11: 23 am.

Financial Distress Release

The following entities have complied with Board directives to remedy financial distress. Board staff recommends the following entities be released from Board oversight.

Carderview Utility District
Jackson County Utility District
Lone Oak Utility District
Minor Hill Utility District
Sneedville Utility District
Webb Creek Utility District

Staff Recommendation:

The Board should order the following to the above referenced entities:

1. The Entity is officially released from the Board's oversight.
2. Staff and Counsel shall close the case.

Financial Distress Release, Retain Water Loss

The following entities have complied with Board directives to remedy financial distress, but these utilities have still demonstrated non-compliance with water loss standards. Board staff recommends the following entities be released from Board oversight for financial distress.

Jackson County Utility District
Roan Mountain Utility District

Staff Recommendation:

The Board should order the following to the above referenced entities:

1. The Entity's financial distress case is officially released from the Board's oversight.
2. Staff and Counsel shall close the financial distress case.
3. The Entity's water loss case shall remain open under the Board's oversight.

Water Loss Violations

The following entities have been referred to the Board for excessive water loss. These entities have not completed the AWWA 6.0 Water Loss Tool through the confirmation of a third party.

Mooresburg Utility District

Staff Recommendation:

The Board should order the following to the above referenced entities:

1. By June 30, 2023, the Entity shall have the Tennessee Association of Utility Districts, or another qualified expert as approved by Board staff, complete the AWWA Free Audit Software version 6.0.
2. By April 28, 2023, the Entity shall send Board staff proof of engagement between the Entity and the qualified expert who is to perform the tasks in paragraph 1.
3. By July 15, 2023, the Entity shall send Board staff the completed report from the tasks in paragraph 1.

Water Loss Plan

The following entities have been referred to the Board for excessive water loss. These entities have since completed the AWWA 6.0 Water Loss Tool through the confirmation of a third party.

Arthur-Shawnee Utility District
Bean Station Utility District
Bon de Croft Utility District
Copper Basin Utility District
County Wide Utility District
Cross Anchor Utility District
Dyersburg-Suburban Utility District
East Sevier County Utility District
First Utility District of Carter County
First Utility District of Hawkins County
Gibson County Water District
Griffith Creek Utility District
Iron City Utility District
Roan Mountain Utility District
North West Utility District
Northwest Dyersburg Utility District
Northwest Henry Utility District
South Elizabethton Utility District
Surgoinville Utility District

Staff Recommendation:

The Board should order the following to the above referenced entities:

1. The Entity shall send Board staff an update by June 30, 2023, that details their plan to improve their non-revenue water and validity score. This plan should include any capital improvements that are to be made.
2. The Entity shall remain under Board supervision until the Board releases the Entity from its oversight.

Training Violations

The following entities have been referred to the Board for non-compliance with applicable governing body member training requirements.

Calhoun-Charleston Utility District
Lone Oak Utility District
Mooresburg Utility District

Staff Recommendation:

The Board should order the following to the above referenced entities:

1. By June 30, 2023, the Entity shall send Board staff proof that all members of the utility system's governing body have complied with the applicable training requirements.
2. Should the Entity fail to comply with any directive in this order, Board staff and Counsel shall issue subpoenas for the Entity's governing body to appear in-person before the Board during its next meeting following non-compliance with this order.
3. If the Entity shows that all governing body members are compliant with training requirements and Board staff are unaware of any reason for which the Entity should remain under Board supervision, Board staff may close the Entity's case without further action by the Board.

Annual Information Report

The following entities have not complied with completing the Annual Information Report which is filed with the Comptroller of the Treasury.

Brownlow Utility District
Clearfork Utility District
Grandview Utility District
Minor Hill Utility District
Samburg Utility District
Siam Utility District
West Point Utility District

Staff Recommendation:

1. The entity shall complete the Annual Information Report by May 31, 2023.
2. Should the Entity fail to comply with any directive in this order, Board staff and Counsel shall issue subpoenas for the Entity's governing body to appear in-person before the Board during its next meeting following non-compliance with this order.
3. If the Entity shows compliance with completing the Annual Information Report and Board staff are unaware of any reason for which the Entity should remain under Board supervision, Board staff may close the Entity's case without further action by the Board.