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December 12, 2012

RECEIVED

DEC 13 2012

PUBLIC SERVICE
COMMISSION

VIA UPS OVERNIGHT

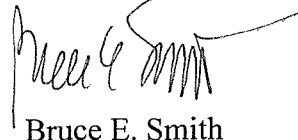
Mr. Jeff R. Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602

Re: **Case No. 2012-00470**

Dear Mr. Derouen:

Enclosed for filing is an original and five (5) copies of my client's **Reply** to the recently filed Response of the Forest Hills Residents' Association, Inc. and William Bates to my client's Motion for Full Disclosure.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce E. Smith", with a long horizontal flourish extending to the right.

Bruce E. Smith

Enclosures

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COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION RECEIVED

In the Matter of:

DEC 13 2012

PUBLIC SERVICE COMMISSION

APPLICATION OF JESSAMINE-SOUTH ELKHORN)
WATER DISTRICT FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY TO)
CONSTRUCT AND FINANCE A WATERWORKS)
IMPROVEMENTS PROJECT PURSUANT TO KRS)
278.020 AND 278.300)

CASE NO 2012-00470

JESSAMINE-SOUTH ELKHORN WATER DISTRICT’S REPLY TO FOREST HILLS RESIDENTS’ ASSOCIATION AND WILLIAM BATES’ RESPONSE TO MOTION FOR FULL DISCLOSURE

Comes now the Jessamine-South Elkhorn Water District (“JSEWD” or “District”), by counsel, and for its Reply to the Response filed by Forest Hills’ Residents Association, Inc. and William Bates (“Intervenors”) to JSEWD’s Motion for Full Disclosure of Intervenors’ Relationship to Kentucky American Water Company (“KAWC”), states as follows.

1. **Intervenors’ Allegation That the Motion is Without Merit and Irrelevant**

The Intervenors allege that JSEWD’s Motion is without merit because it merely involves some informational questions from the Intervenors relating to KAWC that were based on a prior JSEWD filing. They further allege that their relationship or the relationship of their counsel, with KAWC is irrelevant to this proceeding.

Neither allegation is correct. The Motion speaks for itself. As stated therein, KAWC is both a major and continuing client of the Intervenors’ law firm retained for this matter, and the primary water supply source for JSEWD pursuant to a water supply contract on file with the Public Service Commission (“PSC”). Indeed, at least one of the attorneys of record for the

Intervenors in this case is also counsel of record for KAWC in a KAWC Certificate of Public Convenience and Necessity case currently pending before the PSC. PSC Case No. 2012-0096. The relationship between the Intervenors and KAWC is certainly relevant to this proceeding, and is a reasonable target of inquiry even absent the Intervenors' inquiries into a possible relationship between the District and KAWC as an alternative to the proposed storage project. The inquiries made by the Intervenors, however, are strong additional support for the relief sought by JSEWD.

The Intervenors argue that they raised questions about possible storage sharing between JSEWD and KAWC only because of a statement in a prior JSEWD filing with the PSC in Case No. 2006-00156. Attached hereto is the page of that filing to which the Intervenors presumably refer. It should first be noted that the reference was to a time when JSEWD had only minimal in-system storage available (50,000 gallons) and that its reliance on KAWC for "storage" needs ended when JSEWD constructed its first 500,000 gallon in-system storage tank in the 1990's. As is clear from the reference cited by the Intervenors, any reliance by JSEWD on KAWC for storage ended long ago. However, the Information Requests propounded by the Intervenors were not limited to this historical oddity, but requested all communications between JSEWD and KAWC (not in any way time limited) "relating to the provision of storage of water for the District by KAWC".¹

Intervenors state in their Response that they are investigating alternatives to the proposed tank siting and, at least recently², also investigating "alternative" options that they allege that JSEWD "should" have considered. This interrogatory clearly is intended to put KAWC in play

¹ Intervenors' First Information Requests, No. 29.

² A recent discovery reply demonstrates that as of March 9, 2011, both the Residents' Association and Intervenor Mr. Bates agreed that the proposed one million gallon tank was needed. See, Response to JSEWD First Requests No. 2(h), page 8 of 14, attached hereto. This was prior to KAWC's law firm being engaged to represent the Intervenors' interests. For further discussion of the Intervenors' recently expressed concern that the tank is not needed, please see JSEWD's Response to the Intervenors' Motion for a Hearing and Procedural Schedule.

as an alternative. The interrogatory itself is not the only basis for JSEWD's Motion as implied by the Intervenors, but it does crystallize the issue as to relationship between the Intervenors and KAWC, and specifies one of many possible concerns about that relationship.

The relief requested by JSEWD in the Motion is both completely reasonable and relevant to issues before the PSC in this case. If KAWC is not being put forth as a potential alternative supplier, and there has been no contact between the Intervenors or their counsel or representatives and KAWC with respect to this matter, that should be easy enough to state. If on the other hand the Intervenors and KAWC have cooperated, are cooperating, or intend to cooperate in this intervention, JSWED and the PSC are both entitled to know that, and for the details of such cooperation to be put on record.

2. Intervenors' Allegation That the Requested Relief "Subverts" the Established Schedule

The Intervenors further allege that JSEWD's Motion "subverts" the current procedural schedule. The current procedural schedule does not eliminate necessary Motions. Indeed, the PSC has stated that any objections **or motions** with respect to discovery should be made prior to the submission of responses. If this Motion were purely a discovery Motion within the current procedural schedule, it has been timely made and is perfectly consistent with the PSC's requirements. However, this Motion is in fact not merely a standard discovery Motion, because the issue it raises is particular, if not unique, to this case. The Motion is precipitated by, but not limited to, the District's reasonable concern that through discovery, the Intervenors' counsel are at the very least contemplating putting forward another client, who also contractually supplies water to the District, as an alternative to the proposed storage tank. Under these circumstances,

the District respectfully submits that it is most reasonable for the relationship between the entities, both to this point and as planned in further proceedings in this case, be put on the record in the manner set forth in the Motion.

The Intervenors further object to any follow-up on the information provided should the Motion be granted. While JSEWD believes that a provision for follow-up on this information is reasonable, the District also is keenly interested in having this matter proceed within the confines of the schedule established by the Commission. Therefore, the District will not object if any request for follow-up is contingent upon filing a motion for supplemental inquiry, with the basis for such a request stated in the Motion.

Respectfully Submitted,

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CO-COUNSEL FOR JSEWD

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing has been served on the following by email and U.S. Mail, First Class on December 12, 2012.

Robert M. Watt, III, Esq.
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Bruce E. Smith

JSEWD/Forest Hills/Reply to Response 121212

in a currently in-place infrastructure that is capable of delivering more than adequate flows and pressures to all areas of the District. It was in the late 1980's that the District also embarked on an aggressive construction program to extend water mains to the southern portion of the Northwest Service Area that up until this time had never had available potable water. Presently, there are only isolated, extremely small pockets within this Northwest Service Area that do not have direct access to a distribution main.

In the 1990's in conjunction with expansion of the District into unserved areas, the District constructed a 0.5 million gallon elevated storage tank to augment the existing 50,000 gallon storage that was constructed during the initial development of the District. Prior too this time, the District had relied on the available storage of its supplier, Kentucky American Water Company, and had found it adequate. However with increased growth and demands on the deliver from the interconnect between the District and its supplier, it was determined that in-system storage would be preferable to relying on storage capacity from their supplier. This position was also supported in the 1980's during a period of high drought where the demand within the District was far in excess of the delivery capability at the interconnection, and demonstrated that in-system storage was not only desirable, but required, if the District was to maintain its self-imposed criteria of service delivery.

Southeast Service Area

The Southeast Service Area was created in 1996 and subsequently funding was obtained with construction initiated in the late 1990's and service began to this area in the year 2000. The southeast area of the County is a more rural and rugged portion of the County, and the fact that it is one of the last

FHNA Spring Meeting

March 9, 2011

The spring 2011 meeting of the Forest Hills Neighborhood Association (FHNA) was held on Wednesday, March 9, 2011 at the home of Pat and Sonny Bates 704 Chinkapin Drive.

The meeting was called to order by President Sonny Bates at 7:10 p.m.

All members present introduced themselves. A list of attendees was captured on a sign-in sheet.

President Bates provided an overview of the one million gallon water tower proposed for construction within the FH community. A map showing the various locations of property, easements, community green space and the proposed as well as potential water tower sites was available for perusal.

The overview included the following:

- The decision to construct the water tower at the proposed site (at the end of Chinkapin) was made years earlier before Forest Hills was fully developed.
- Barry Mangold, the developer of Forest Hills was aware years earlier of the location for the proposed water tower.
- The South Elkhorn Water Board has funding available to construct the water tower that must be expended by April 2012.
- Their is agreement that the water tower is needed as currently water is turning over too quickly.
- Several meetings of the water board have been attended by FHNA reps. These representatives have made numerous contacts, had a multitude of conversations with key individuals and proposed several options regarding the water tower placement.
- Bob Douglass contacted the Public Service Commission (PSC)—the PSC is not placing pressure on South Elkhorn to complete this project.
- Logan Davis reported on the most recent water board meeting where it appeared all previously discussed options were no longer under consideration and the discussion seemed to suggest South Elkhorn intended to move ahead with the original plan.
- Lloyd McMillan on whose property the water tower is proposed is willing to offer a different parcel for a price and some future development considerations (access to Chinkapin).
- Ron Brown, the owner of the farm within FH is willing to sell 1 acre for \$65K.
- Attempts have been made to discuss Issue with Sue Switzer—further attempts needed.