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February 6, 2015

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VIA HAND DELIVERY

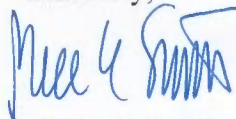
Mr. Jeff R. Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40601

Re: Case No. 2014-00084
Jessamine-South Elkhorn Water District CPCN Application

Dear Mr. Derouen:

Delivered under cover of this letter is an original and ten (10) copies of the Applicant's Reply to Forest Hills Residents' Association, Inc.'s Response to Applicant's Motion to Incorporate Documents.

Sincerely,



Bruce E. Smith

Enclosures

cc: Robert M. Watt, III, Esq.
Monica H. Braun, Esq.
Jennifer Black Hans, Esq.
Gregory T. Dutton, Esq.
Stefanie Kingsley, Esq.
Ann Ramser, Esq.
Anthony G. Martin, Esq.

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

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PUBLIC SERVICE
COMMISSION

CASE NO 2014 -00084

**APPLICANT’S REPLY TO FOREST HILLS RESIDENTS’ ASSOCIATION, INC.’S
RESPONSE TO APPLICANT’S MOTION TO INCORPORATE DOCUMENTS**

Applicant Jessamine-South Elkhorn Water District (“JSEWD” or “the District”) respectfully submits this Reply to the Response filed by the Forest Hills Residents’ Association, Inc. (“Association” or “Intervenor”) to the District’s Motion to incorporate certain documents into the record of this proceeding. As part of this Reply, a brief history of how this issue arose and why it is part of this case is necessary.

On March 13, 2013, at a hearing in Case No. 2012-00470¹, the Association in questioning a JSEWD witness for the first time made a claim that JSEWD had failed to adequately investigate whether its storage needs could be met by Kentucky American Water Company (“KAW”). In its Order in that case, the PSC found as follows:

¹ The record in Case No. 2012-00470 has been incorporated by reference into this proceeding by PSC Order.

We agree with the Intervenors that JSEWD should have investigated the availability of obtaining water storage capacity from Kentucky American. At a minimum, JSEWD should have demonstrated that such capacity was unavailable or insufficient to address the water district's requirements.²

In its Order on Rehearing, the PSC reiterated this finding that the District had the obligation to demonstrate that KAW capacity was “unavailable or insufficient to address the water district’s requirements”.³

The District was twice been instructed by the Commission, at the instigation of the Association, to address KAW’s storage availability and sufficiency. When it filed its Application in this proceeding, the District did just that. Its Application⁴ included a Summary of Exhibit “A”, in which the District discussed in detail how and why KAW’s storage capacity was insufficient to meet JSEWD’s needs. As part of that discussion, the District referred to KAW’s water storage capacity analyses previously filed with this PSC, and dated November 15, 2002 and December 21, 2005. The District moved within the Summary to Exhibit “A” that these documents be incorporated by reference into this proceeding:

JSEWD moves that these studies be incorporated herein by reference, since the District has been instructed to address the feasibility of a KAW “alternative”.⁵

The District again cited the relevance and importance of these two studies in its Exhibit “A” addendum, and again requested that the December 21, 2005 analysis be incorporated into this proceeding:

² Case No. 2012-00470, Order of April 30, 2013 at page 11, n.41 [in relevant part]

³ *Ibid*, Order of January 3, 2014 at page 22.

⁴ Received by the PSC on March 4, 2014

⁵ Application, Summary of Exhibit “A” at page 3, n.5

JSEWD requests that this Application and Study be incorporated by reference into this proceeding. As JSEWD is required to address the availability and sufficiency of KAW's storage capacity, reference to this Study is required.⁶

The Storage Capacity Analysis itself that is part of group Exhibit "A" also refers to these studies on numerous occasions, as part of the requirement imposed by the PSC at the Association's insistence that JSEWD address KAW's storage capacity.

By email dated January 30, 2015, PSC staff counsel advised the District that she did not believe that a proper motion had been filed to incorporate these documents by reference. She further advised that the District should either file a proper motion to incorporate these documents by reference in this proceeding, or in the alternative make a verbal motion that they be incorporated at the hearing. JSEWD's Motion to Incorporate Documents followed.

The Association now objects to the incorporation of these documents by reference, stating at page 1 of its Response that such the documents are not relevant to the current case and that incorporating the documents "would unduly complicate the case to the prejudice of Forest Hills."

The Association's claim that the documents are irrelevant to this proceeding is without merit. The District is required at a minimum to address KAW's storage capacity and availability. The Association was not only a party to Case No. 2012-00470, but is the very party that initiated this issue. To now claim that evidence directly on point to the issue that the Association itself raised is irrelevant is simply ridiculous. The Association does point out that the District erroneously referred to Case No. 2005-00546 as a CPCN application in its Motion (although the District's Application and Exhibits do not make this inadvertent error). However, the actual nature of Case No. 2005-00546 is that KAW filed an application to approve its storage plans

⁶ Application, Exhibit "A" Addendum at page 1.

through 2020. The December 21, 2005 capacity analysis was filed with this Application to support this claim through 2020. This analysis is KAW's blueprint through 2020. The information is timely for at least the period between 2005 and 2020. The Commission will ultimately determine the weight to be given to any testimony or evidence that relies on these documents, as it will ultimately determine the weight to be given to any evidence presented in this case.

The Association is not prejudiced by this Motion. It has had the District's filing since March 7, 2014. It has known about these references for over 10 months. It has the right to question the District's witnesses at the hearing that it requested on this or any other part of the Application that is relevant to their testimony and exhibits. It said nothing with respect to these references until it filed this Response on February 6, 2015, two business days prior to the hearing.

It is also important to note that the Board Chair for the District and the President of KAW met on or about March 7, 2014 to discuss whether KAW could actually fulfill the Association's plans for it to provide storage to the District. Both parties concluded that this was not a possibility. The President of KAW, Cheryl Norton, submitted a letter directly to the PSC that stated that KAW had met with the Board Chair of the District, and that KAW would not be able to supply JSEWD's emergency storage requirements⁷ In Response to the Association's 1st Information Requests No. 21, the District again advised it of KAW's letter. Similarly, the District in Response to No. 20 that the City of Nicholasville utility manager had strongly disavowed any ability on the part of the city to provide needed storage for the District. This was necessary because the Association had specifically asked – apparently intending to loose yet

⁷ Letter from Cheryl Norton received by the PSC on March 20, 2014 and filed into the record of Case No. 2014-00084.

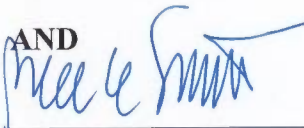
another red herring in this case.

The documents to be incorporated are clearly relevant and clearly timely as they represent KAW's storage capacity plan through 2020. Prohibiting any reference to KAW studies of storage capacity through 2020 would severely prejudice the District if the Association continues to pursue these ultimately meritless arguments.

In its Motion, the District also seeks a ruling that KAW's letter is part of the record in this case, as well as the letter from the City of Nicholasville provided by the District in its Response to the Association's 1st Request, No. 20. This letter has been provided in response to an equally meritless effort by the Association to "investigate" the availability of the District acquiring storage from Nicholasville. The Association does not address these letters at all in its Response. The District has acted responsibly in addressing all issues that the PSC has stated that it must address, including non-existent "alternatives" such as KAW and Nicholasville.

The District respectfully requests that the Commission grant all of the relief requested by JSEWD in its Motion.

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AND


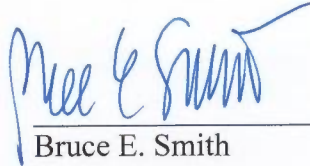
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CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing Reply was emailed and mailed to the following individuals, postage prepaid, on February 6, 2015.

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