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Commissioner

February 4, 2003

Mr. C.K. Hanks
East Logan Water District, Inc.
Post Office Box 715
Auburn, Kentucky 40226

Dear Mr. Hanks:

This letter is in response to the failure of East Logan Water District, Inc. ("East Logan") to take actions required by Administrative Regulation 807 KAR 5:068.

East Logan purchases its water requirements from the city of Russellville, Kentucky. On or after March 20, 2001, Russellville increased its rate for wholesale water service to East Logan to \$2.45 per 1,000 gallons. Alleging that the adjustment was unlawful, East Logan filed with the Commission a formal complaint against Russellville.¹ While its complaint was pending, East Logan applied pursuant to Administrative Regulation 807 KAR 5:068 for a purchase water rate adjustment of \$1.03 per 1,000 gallons to reflect increases in the cost of its purchased water from Russellville. The Commission authorized this adjustment on September 25, 2001.²

On July 3, 2002, the Commission entered a final ruling on East Logan's complaint against Russellville. Finding that Russellville's rate of \$2.45 was unlawful because Russellville's legislative body had not approved the rate and that Russellville had failed to comply with the procedures set forth in Administrative Regulation 807 KAR 5:011, it directed Russellville to refund all monies collected in excess of the rate that existed as of March 20, 2001. Russellville subsequently sought judicial review of the Commission's Order.³ On October 7, 2002, Franklin Circuit Court denied Russellville's

¹ East Logan Water District and North Logan Water District v. City of Russellville, Ky., Case No. 2001-00212 (Ky.PSC July 3, 2002).

² East Logan Water District, Case No. 2001-00280 (Ky.PSC Sept. 25, 2001).

³ City of Russellville, Ky. v. Public Service Commission, No. 2002-CI-001177 (Franklin Cir. Ct. filed Sept. 8, 2002).



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request to stay any refund of the excess rates. Commission Staff has been advised that Russellville has made the required refund to East Logan.

In December 2001, Russellville filed revised tariff sheets with the Commission to adjust its wholesale rate to \$2.45. The Commission initially suspended the proposed adjustment, but subsequently allowed the proposed rate to become effective subject to refund. On October 21, 2002, the Commission denied Russellville's proposed rate and approved a wholesale rate of \$2.24 per 1,000 gallons.⁴ The Commission further directed Russellville to refund all amounts charged in excess of \$2.24 since July 3, 2002.

Administrative Regulation 807 KAR 5:068 permits a water district or water association to apply for a purchased water adjustment ("PWA") to adjust its rates to reflect changes in the cost of water purchased from a water supplier. Section 2(3) and Section 3 of this regulation require that a water district or water association that uses the PWA process must apply for a rate reduction to reflect any decrease in a supplier's rate within 20 days of the supplier's reduced rate.

Administrative Regulation 807 KAR 5:068, Section 2(4), further provides:

In the event a water district or water association receives a refund from its supplier for amounts previously paid, the water district or water **association shall immediately apply to the commission for authority to make adjustments** on the amounts charged customer's bills under this administrative regulation as follows:

(a) The total refund received by the utility shall be divided by the number of cubic feet or gallons of water the utility estimates it will sell to its customers during the two (2) month period beginning with the first day of the month following receipt of the refund, yielding the refund factor to be applied against each cubic foot or gallon of water sold thereafter.

(b) Effective with meter readings taken on and after the first day of the second month following receipt of the refund, the utility will reduce by the refund factor any purchased water adjustment that would otherwise be applicable during the period. The period of reduced purchased water adjustments shall be adjusted, if necessary, in order to most nearly approximate the total amount to be refunded. **The water**

⁴ Case No. 2002-00023, Proposed Adjustment of the Wholesale Water Service Rate of Russellville, Kentucky (Ky.PSC Oct. 21, 2002). When the Commission entered its Order of October 21, 2002, it was silent on the issue of refunds. On November 4, 2002, the Commission amended its Order to require refunds.

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utility shall make full distribution of the refund within two (2) months.

Commission records do not indicate that East Logan has complied with either requirement. As of this date, East Logan has not filed any application to adjust its rates to reflect the reductions in Russellville's wholesale rate. It has also failed to file any notice that refunds from Russellville have been distributed to East Logan's customers.

Commission Staff requests that, within 20 days of the date of this letter, East Logan take all appropriate actions to comply with Administrative Regulation 807 KAR 5:068 and advise the Commission in writing of these actions. Commission Staff stands ready to assist East Logan in this matter. If East Logan has any questions regarding the calculation of the required refund or the preparation and filing of a PWA application, it should contact Beverly Davis at (502) 564-3940, Extension 273. If East Logan fails to comply with the regulation within the stated time period, Commission Staff will bring this matter to the Commission's attention.

Any questions regarding this letter should be directed Gerald Wuetcher, Assistant General Counsel, at (502) 564-3940, Extension 259.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas M. Dorman", with a long horizontal flourish extending to the right.

Thomas M. Dorman
Executive Director