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NEWS RELEASE

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Magoffin County Water Ordered to Upgrade Supply Sources *District commissioners have not fulfilled their responsibilities, PSC says*

FRANKFORT, Ky. (Dec. 1, 2010) – The Kentucky Public Service Commission (PSC) has ordered the Magoffin County Water District to take steps to prevent a recurrence of the situation that left its customers without an adequate water supply in the fall of 2008.

In an order issued today, the PSC found that Magoffin Water lacks a sufficient water supply to deal with a drought or heavy water usage and that the district's commissioners have not fulfilled their statutory duty to provide their customers adequate service. The PSC put the district's commissioners on notice that they could be removed if service is inadequate in the future.

Magoffin Water serves nearly 3,500 customers. It does not operate its own treatment facilities and instead purchases its water from the Salyersville Water Works, which draws its supply primarily from the Licking River.

A severe drought in late summer of 2008 left Salyersville and Magoffin Water without an adequate water supply. At the request of Salyersville Mayor Stanley Howard and Magoffin County Judge/Executive Charles Hardin, Gov. Steve Beshear on Oct. 9, 2008, declared a state of emergency, stating that the water shortage was a threat to public health and safety and declaring a need to prevent future shortages by developing new sources of supply.

Shortly thereafter, the PSC initiated an investigation into the adequacy of Magoffin Water's sources of supply. The investigation included a hearing in 2009 and information requests from the PSC, with the final responses coming in June 2010.

Based on the information developed during the investigation, the PSC today ordered Magoffin Water to take steps to enable it to obtain water as needed from the city of Paintsville, including making an unused pipeline fully functional; and from the Morgan County Water District; and releases to do so from Salyersville. Magoffin Water already has arranged for an emergency water supply from the city of Prestonsburg.

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The PSC expressed concern over the actions of Magoffin Water officials both prior to the water emergency and after the start of the PSC's investigation.

Less than three weeks after the declaration of an emergency, Howard, Hardin and other local officials were denying that any problem had existed. The PSC questioned this abrupt reversal of position.

"If Salyersville had always provided adequate water to Magoffin District, as they claimed, there would have been no need to send the joint letter to the governor," the PSC said.

When the issue was raised during the PSC hearing, both Salyersville and Magoffin District officials said the shortage was solved by restrictions on water use and donations of bottled water. They also took the position that as long as any water continued to flow from the city to the district, the supply was adequate.

"This position persisted despite the fact that the quantity of water available was insufficient and the quality of the water was poor," the PSC said.

Also troubling to the PSC was Magoffin Water's handling of a \$900,000 state appropriation that was intended to pay for a connection to the Paintsville water system. According to testimony before the PSC, Magoffin Water's board of commissioners halted construction of the eight-mile-long line in late 2007, when it was just 48 feet short of completion.

The action by the Magoffin Water board meant the project could not be used to help alleviate the water shortage in 2008. Magoffin Water went on to spend leftover funds from the project for other purposes after telling state officials the project was completed.

Magoffin Water stopped the project, according to witnesses at the PSC hearing, because district officials could not work out a deal with Paintsville and deemed the water from Paintsville too expensive. Local officials claimed that they did not realize that an increase in Magoffin Water's cost to purchase water, even if only on a temporary basis in an emergency, could be passed on to customers.

"A decision was made that any increase in the cost to provide water to Magoffin District customers was unacceptable to the Magoffin District Board, regardless of the consequences," the PSC said.

Although Magoffin Water subsequently completed the connection, it has not yet been tested or made fully functional and thus would not be immediately available in an emergency, the PSC said.

Other problems identified by the PSC include the failure of Magoffin Water's commissioners to take any actions to address the 2008 shortage or to review the district's water shortage plan, the lack of any standard to determine when a water emergency has triggered the need to call on additional suppliers and the lack of a drought mitigation plan.

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The PSC noted that the water shortage that occurred in 2008 was not entirely surprising, given the history of water supply problems in the region, and particularly in Magoffin County. The PSC cited a 2005 report issued by the Big Sandy Area Development District, which stated that cooperation between water providers in the region has been hampered by local politics.

In today's order, the PSC found that Magoffin Water commissioners "apparently do not understand or appreciate what it means to furnish 'adequate, efficient and reasonable service' to its customers, regardless of the circumstances involved," as required by Kentucky law.

The PSC ordered Magoffin Water to take several steps to address the water supply situation.

Even the arrangements with Paintsville, Prestonsburg and Morgan County Water may not be sufficient to provide an adequate water supply during a severe drought, the PSC said. It directed Magoffin County to attempt to obtain additional backup sources of supply.

Magoffin Water also was ordered to define specific standards for determining when it needs to purchase water from sources other than Salyersville, to review its water shortage response plan and to develop a drought mitigation plan. The documents are to be submitted to the PSC by Jan. 14, 2011.

Magoffin Water also was ordered to make the Paintsville interconnection functional for use in an emergency.

The PSC concluded the order by placing Magoffin Water on notice that any future failures to provide adequate service could result in further action by the PSC.

If the district does not meet its legal obligations or comply with PSC orders, the PSC could take action not just against Magoffin Water, but also against individual commissioners, officers and employees, the PSC said. Those actions could include fines and removal of commissioners from office.

Today's orders, videotapes of the hearings and other case records are available on the PSC website, psc.ky.gov. The case number in the water supply case is 2008-00443.

The PSC is an independent agency attached for administrative purposes to the Energy and Environment Cabinet. It regulates more than 1,500 gas, water, sewer, electric and telecommunication utilities operating in Kentucky and has approximately 100 employees.