
S T O L L | K E E N O N | & | P A R K | L L P

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C. KENT HATFIELD
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August 22, 2005

Ms. Beth O'Donnell
Executive Director,
Kentucky Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, Kentucky 40602-0615

RECEIVED
AUG 23 2005
PUBLIC SERVICE
COMMISSION

Re: PSC Case No. 2005-00264

Dear Ms. O'Donnell:

Enclosed please find the original and ten (10) copies of East Clark County Water District's Memorandum of Issues in response to the Commission's Order of August 3, 2005. An extra copy is enclosed for your file stamp. Please return the extra copy in the enclosed, self-addressed postage paid envelope.

Your assistance in this matter is greatly appreciated.

Sincerely yours,



C. Kent Hatfield
Deborah T. Eversole

Counsel to East Clark County
Water District

Enclosures

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

AUG 23 2005

PUBLIC SERVICE
COMMISSION

In the Matter of:

EAST CLARK COUNTY)
WATER DISTRICT'S PROPOSED)
REVISIONS TO ITS WHOLESALE) CASE NO. 2005-00264
WATER SERVICE RATE)

**MEMORANDUM OF ISSUES
OF EAST CLARK COUNTY WATER DISTRICT**

East Clark County Water District ("East Clark"), by counsel, for its Memorandum of Issues presented in this case, in response to the Commission's Order of August 3, 2005 concerning its rates charged to the City of Winchester, Acting By and Through Winchester Municipal Utilities Commission ("Winchester"), states as follows:

INTRODUCTION

In this Memorandum, East Clark emphasizes three issues:

First, the law entitles East Clark to rates that will enable it to recover its increased cost of water, *including arrearages from January 1, 2005, when Winchester's rate increase to East Clark became effective.* East Clark urges the Commission to complete its review of this case expeditiously. East Clark, a nonprofit water district, has suffered monthly accumulating financial losses due to Winchester's payment of less than the rate specified in *In the Matter of Purchased Water Adjustment of East Clark County Water District*, PSC Case. No. 2004-00455 – a rate that, as the Commission implicitly concluded in its final orders in that case, is necessary to enable East Clark to recoup its increased cost of water.

Second, on a going-forward basis, the major issue (among many) between East Clark and Winchester is not the rate charged by East Clark to Winchester; it is the rate charged by Winchester to East Clark. *See* Verified Complaint of East Clark, filed August 1, 2005, in *East Clark County Water District v. City of Winchester, Acting By and through Winchester Municipal Utilities Commission*, PSC Case No. 2005-00322. If the Commission grants the rate relief requested by East Clark in Case No. 2005-00322, setting a reasonable wholesale rate to be charged by Winchester to East Clark, the rates at issue in this proceeding will, as a matter of course, be recalculated on a going-forward basis to reflect East Clark's reduced cost of water. At that point, the only issue pending in this case will be East Clark's entitlement to recovery of its losses since January 1, 2005 due to Winchester's failure to pay the reciprocal retail rate charged by East Clark.

Third, East Clark respectfully requests the Commission to reconsider its decision not to immediately enforce the rates to Winchester specified in East Clark's purchased water adjustment case, 2004-00455. Commission Orders in that case, dated December 22, 2004 and January 6, 2005, respectively, approved East Clark's "proposed rates" – which included the new rates to Winchester. The Commission's Orders approved the calculations that included the revised rate to Winchester. The calculations do not work, and East Clark does not recoup the \$143,893 purchased water increase explicitly recognized by the Commission in approving the rates necessary to recover that \$143,893, if the specified rate to Winchester is not charged.

Put another way, the Commission's interim decision in this case not to enforce East Clark's rate to Winchester is not a decision made in a vacuum. Instead, it invalidates Case No. 2004-00455 in its entirety, effectively re-opening that case long

after the 30-day statutory period to set rates other than those proposed by the water district has expired. KRS 278.015.

BACKGROUND

East Clark is a non-profit water district organized pursuant to KRS Chapter 74 that provides water service to customers in Clark County, Kentucky. Pursuant to a Water Purchase Agreement dated July 15, 1999 (the “Water Purchase Agreement”), East Clark purchases water from Winchester to serve its customers. East Clark also sells water to Winchester at certain points on its system for the purpose of improving Winchester’s water pressure.

In its capacity as a provider of water to East Clark, Winchester is subject to Commission jurisdiction pursuant to KRS 278.200. *See Simpson County Water District v. City of Franklin*, 872 S.W.2d 460, 463 (Ky. 1994) (“[W]here contracts have been executed between a utility and a city... KRS 278.200 is applicable and requires that by so contracting the City relinquishes the [KRS 278.010] exemption and is rendered subject to PSC rates and service regulation”). Commission jurisdiction “effectively insures, throughout the Commonwealth, that any water district consumer/customer that has contracted and become dependent for its supply of water from a city utility is not subject to either excessive rates or inadequate service.” *Id.* at 465.

The parties disagree on a number of issues, of which the matter of direct concern in this case is only one. Nevertheless, until the Commission specifies reasonable terms and conditions to govern the parties’ relationship on a going-forward basis, it is crucial

that East Clark be permitted to charge to Winchester a rate that will enable it to recoup its costs.

THE ISSUES

A. East Clark Is Entitled to Charge the Rates Specified in Its Purchased Water Adjustment Case

On November 29, 2004, East Clark applied to the Commission for approval to adjust its rates pursuant to the increase of its water supplier, Winchester [the “Application,” Exhibit 2 to Affidavit of Carryn Lee, Exhibit A hereto]. The case was docketed as Case No. 2004-00455. East Clark made a point of providing explicit notice to the Commission -- on the first page of its filing -- that it was canceling its special wholesale rate to Winchester as a direct result of Winchester’s decision to subject East Clark to its out-of-city, retail, declining block rate. The cover letter to East Clark’s Application states as follows:

In the application please note that the city of Winchester will no longer sell water to the district at a wholesale rate. Therefore, the district can no longer resell water to the city at a wholesale rate. The purchased water adjustment reflects that water resold to the city will be sold at retail rates.

[Emphasis added.]

On page 6 of the Application filed with the Commission in Case No. 2004-00455 is a sheet entitled “EAST CLARK COUNTY WATER DISTRICT CALCULATION OF PURCHASED WATER ADJUSTMENT REVISED WATER RATES.” On that sheet is a section entitled “SALES TO WINCHESTER.” The declining block rates, from the

“First 2,000” through “Over 50,000” are identical to those specified for “RETAIL CUSTOMERS” on the same sheet. The calculation of the appropriate purchased water adjustment is dependent upon the calculations for the retail rate to Winchester as shown in the application and as approved by the Commission. *See* Affidavit of Carryn Lee, Financial Analyst and preparer of East Clark’s Application in Case No. 2004-00455 [“Affidavit of Carryn Lee,” Exhibit A hereto]. The calculations demonstrate that, if East Clark charges *all* the rates proposed, it will recoup its increased water cost of \$143,893. They also demonstrate that if it does *not* charge all rates proposed, it will *not* recoup its increased water cost of \$143,893 [Affidavit of Carryn Lee, at ¶¶ 4-5]. Finally, attached to, and part of, the Application filed with the Commission in Case No. 2004-00455 is a copy of East Clark’s proposed rates, with the heading “RATES – ALL USERS.” Winchester clearly is a “user” of East Clark water.

Thus, the Commission was clearly placed on notice by East Clark’s November 29, 2004 Application for a purchased water adjustment that East Clark intended to raise its rate to Winchester to the declining block rate applicable to its retail customers. Pursuant to KRS 278.180, a utility may change a rate “upon thirty (30) days’ notice to the commission, stating plainly the changes proposed to be made and the time when the changed rates will go into effect.” Thirty days’ notice was given to the Commission in Case No 2004-00455 of the rates to be charged to Winchester. Thus, East Clark was entitled to charge those rates unless they were suspended by the Commission or other rates were ordered to be charged.

Next, KRS 278.015 provides that, when a water district files for a purchased water adjustment as a result of an increase in rates by a wholesale supplier, the

Commission “*shall approve* the [water purchase adjustment] filing *or establish revised rates* by order *no later than thirty (30) days* after the above documents are filed with it.” (Emphasis added.) No “revised rates” were established. Instead, the Commission found that East Clark’s increased cost was \$143,893 [Order dated December 22, 2004, Case No. 2004-00455, Paragraph 5]; and issued an order stating that the proposed adjustment to cover that increased cost was “fair, just, and reasonable” and that “East Clark’s proposed rates are approved” [PSC Orders in Case No. 2004-00455, attached hereto as Exhibit B].

With all due respect, the Commission’s rationale for its current refusal to enforce its approval of East Clark’s rates in Case No. 2004-00455 – that it did not expressly discuss in its Order the new rates to be charged to Winchester – is not legally cognizable. In fact, in accordance with common Commission practice, *none* of the specific rates to be charged were discussed in the Order. To hold that a specific rate must be discussed in an Order (as opposed to holding that a set of rates may be approved “as proposed,” thereby approving all rates proposed) is to indicate that each utility receiving an order approving its rates must ascertain that each rate has been expressly discussed in the text, lest the Commission conclude later that a blanket approval does not apply to a specific rate.

Moreover, the Commission’s refusal to enforce the rate does more than simply reverse its previous blanket approval of East Clark’s proposed rates: it invalidates East Clark’s entire water purchase adjustment. If the Commission does *not* now give effect to its Order in 2004-00455, it must recalculate East Clark’s rates to all users to enable East Clark to recoup its increased water expense of \$143,893, including the shortfall resulting from Winchester’s refusal to pay the reciprocal retail rate.

**B. East Clark Is Lawfully Entitled To Recoup
Its Total Water Cost Increase Since January 1, 2005**

Whatever the Commission decides with regard to specific rates, East Clark is entitled by law to pass through its increased cost of purchased water, including arrearages. Pursuant to *Kentucky Public Service Comm'n v. Cumberland Falls Highway Water District*, 834 S.W.2d 726 (Ky. App. 1992), the purchased water adjustment statute, KRS 278.015, permits a water district to pass through accumulated arrearages. In *Cumberland Falls Highway Water District*, *id.* at 728, the court not only upheld a water district's right to pass through two years of arrearages through the purchased water adjustment procedure under KRS 278.015; it also rejected the Commission's demand that the water district file separately to obtain recovery of those arrearages, holding that a "separate filing which would necessitate a full-blown rate case cannot be considered an option equal to the utilization of the exception provided in KRS 278.015." Legal fees and costs involved in such a separate filing, the court held, would negate the value of recovering the arrearage.

As the court in *Public Service Comm'n v. DeWitt Water District*, 720 S.W.2d 725, 731 (Ky. 1986) explained, it is vital that the Commission protect the financial integrity of nonprofit, publicly-owned water systems, because they "have no private capital and no corporate investors who must be satisfied as to traditional profits. Their rates do not generate a return on rate base." In *DeWitt*, the Commission was chided for refusing to permit a water district to recover depreciation expense on contributed property. Here, the Commission has called into question the ability of a water district to recover its cost of

water – creating a problem that is at least as damaging as refusal to permit recovery for depreciation, and one whose adverse effects are certainly more immediately felt.

East Clark urges the Commission to reconsider its decision not to enforce the rate to Winchester specified in Case No. 2004-00455, at least until new, cost-based rates to be charged by Winchester to East Clark are approved in Case No. 2005-00322. If the Commission does not reconsider, it should negate the rates charged by Winchester to East Clark in violation of the parties' Water Purchase Agreement for the reasons stated in East Clark's Verified Complaint in Case No. 2005-00322, and order Winchester to refund over-collected amounts. The Commission's third option is to recalculate East Clark's entire rate structure approved in Case No. 2004-00455 and set new rates that will enable East Clark to recover its extensive losses – and to do so before accumulating losses undermine East Clark's financial viability.

The current situation – wherein Winchester charges East Clark a declining block, retail, out-of-county rate that has resulted in an effective rate of \$2.06 per 100 cubic feet (as averaged over the months Winchester has charged the new rates), while East Clark is not permitted to charge reciprocally -- cannot be permitted to continue. The inequitable and unlawful result is accumulating loss to East Clark, which was, and is, entitled to rely upon the Commission's decision in Case No. 2004-00455 expressly approving *all* of East Clark's "proposed rates."

East Clark and its customers are entitled to regulatory treatment that allows for financial stability. Here, pursuant to *DeWitt and Cumberland Falls Highway Water District*, East Clark must receive, without the necessity of protracted, expensive

litigation, an expedited remedy for the current imbalance in rates charged by Winchester to East Clark and paid by Winchester to East Clark, and for accrued arrearages.

C. Winchester's Interpretation of the Parties' Water Purchase Agreement Is Erroneous.

In response to East Clark's filing of its corrected tariff page on June 6, 2005, and as noted in the Commission's Order of August 3, 2005 establishing this case, Winchester objects to East Clark's declining block retail rate to Winchester because it allegedly violates the parties' Water Purchase Agreement. However, Winchester's objection, coupled with its new and convoluted method of calculating the amounts it is willing to pay East Clark, indicates that Winchester considers *itself* entitled by the contract to a volumetric wholesale rate, with a single proportionate increase to reflect East Clark's increased costs.

This contractual argument, coming from Winchester, is the height of irony. Winchester, not East Clark, was the first to begin charging a declining block, retail rate to its wholesale customer -- after having charged a single, volumetric rate since the Water Purchase Agreement was signed in 1999. But in order to observe the contract's alleged provisions entitling *it* to a single rate based on a "proportionate" increase over what it charges East Clark, Winchester must calculate the "effective" rate it has charged based on usage over some period of time (apparently it is up to Winchester to determine what period should be included for purposes of weighting and averaging); then it must calculate the rate it will pay to East Clark based on what it considers to be the contractually-mandated proportional increase over that single "effective" rate.

The practical effect of this bizarre practice is that East Clark is to be paid a rate that is subject to change by the customer every time the customer determines it is time to

re-average the amounts actually paid by East Clark to Winchester. To accept Winchester's method of calculating its payment to East Clark is to prevent East Clark from tariffing its rate at all, since the rate acknowledged by Winchester could change from month to month as the "effective" rate paid by East Clark to Winchester adjusts for usage per meter.

Winchester's calculation of the "rate" paid by East Clark is as illogical as its construction of the contract. Winchester contends, in ¶ 5 of its Answer to Verified Complaint, filed August 15, 2005, in Case No. 2005-00322, that the rate paid by East Clark, apparently based on two years' usage prior to January 2005, is a "single volumetric rate of \$1.71 per 100 cubic feet, assuming that all of the water is purchased through one meter."

All of the water is not, of course, purchased through one meter. It is purchased through *six* meters, each charged at declining block rates beginning at *\$4.37 per 100 cubic feet*. The average that East Clark has *actually* paid since the increase from Winchester is \$2.06 per 100 cubic feet. The \$1.71 figure by which Winchester would calculate the rate it permits East Clark to charge -- allegedly pursuant to the parties' contract -- is simply meaningless.

Winchester's creative calculations have thus created their own problems for East Clark. But the key point here is that Winchester's contractual argument -- that East Clark must charge Winchester a single, "proportionate" increase -- is based on an implicit admission that East Clark itself is entitled to a single, volumetric wholesale rate. Otherwise, a single volumetric rate proportionally greater than Winchester's rate -- the rate to which Winchester claims entitlement -- cannot be set and tariffed. Instead, it is

subject to change based on the weighted average of rates paid by East Clark over six service connections, each charged at declining-block rates.

On a going-forward basis, then, the key to this case is to be found in the result in Case No. 2005-00322, wherein East Clark has asked the Commission to set a reasonable wholesale rate to be charged by Winchester on a going-forward basis. When that rate is set, then a proportional increase over that rate can be set for Winchester using math upon which everyone can agree.

Until the final order in Case No. 2005-00322 is issued, though, interim arrangements must be made to enable East Clark to recover its cost of water dating from Winchester's rate hike in January 2005.

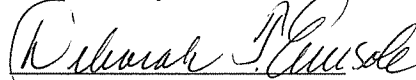
D. East Clark's Response to the Commission's Procedural Inquiry

As its response to the Commission's order requiring the parties to specify discovery they will require to ascertain the rate East Clark may charge Winchester, East Clark's position is that all relevant facts were placed in the record in Case No. 2004-00455, the case in which East Clark applied for, and believes it received, approval for its purchased water adjustment that included reciprocal, declining block retail rates to Winchester. By the same token, East Clark is unaware of any relevant factual disputes that would require a hearing, but reserves the right to request a hearing should any such factual disputes be raised. Accordingly, East Clark requests neither a hearing nor discovery at this time but, in the hope that the issue herein can be resolved expeditiously, East Clark and its attorneys are available for informal conference with Commission Staff and representatives of Winchester.

CONCLUSION

The instant case concerns only one facet of a broad-based, ongoing set of disputes between East Clark and Winchester that, unfortunately, have not been amenable to negotiated resolution. However, the issue presented in this case requires immediate attention. Winchester's failure to pay its share of East Clark's increased water costs has caused serious financial loss to East Clark. It is urgent that the Commission give expedited treatment to this matter so that East Clark can begin to recoup its losses that have been accruing since January of this year.

Respectfully submitted,



C. Kent Hatfield

Deborah T. Eversole

STOLL, KEENON & PARK, LLP

2650 AEGON Center

400 West Market Street

Louisville, Kentucky 40202

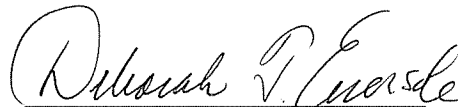
Telephone: (502) 568-9100

Counsel to East Clark County

Water District

CERTIFICATE OF SERVICE

I hereby certify that, on August 22, 2005, a complete and accurate copy of the foregoing Memorandum, with Exhibits, was sent by First Class Mail, postage prepaid, to Vernon Azevedo, General Manager, Winchester Municipal Utilities Commission, 150 N. Main Street, P.O. Box 4177, Winchester, Kentucky, 40392-4177, and John Rompf, Esq., White, McCann & Stewart, PLLC, 125 South Main Street, P.O. Box 578, Winchester, KY 40392-0578.



Deborah T. Eversole

EXHIBIT A

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

EAST CLARK COUNTY)
WATER DISTRICT'S PROPOSED)
REVISIONS TO ITS WHOLESALE) CASE NO. 2005-00264
WATER SERVICE RATE)

AFFIDAVIT OF CARRYN LEE

I, Carryn Lee, Financial Analyst with the Kentucky Rural Water Association, 3251 Spring Hollow Avenue, Post Office Box 1424, Bowling Green, Kentucky 42102-1424, after being first duly sworn, do hereby swear that that the following set forth below is true:

1. I am employed as a Financial Analyst by the Kentucky Rural Water Association. My qualifications and educational background are included on my resume, attached hereto as Exhibit 1.

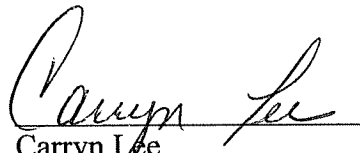
2. In the course of my duties with Kentucky Rural Water Association, I assisted East Clark County Water District ("East Clark") in preparing and filing its application in *In the Matter of Purchased Water Adjustment of East Clark County Water District*, PSC Case No. 2004-00455 (the "Application," attached hereto as Exhibit 2).

3. The purpose of the Application and of my participation therein was to ensure, pursuant to KRS 278.015 and 807 KAR 5:068, that East Clark County Water District's adjustment to its rates would recover the actual increase in the cost of water East Clark purchases from the City of Winchester, Acting By and Through Winchester Municipal Utilities Commission ("Winchester"), subsequent to Winchester's January 2005 increase in its rate to East Clark.

4. I personally performed the calculations included in the Application and concluded that the increased East Clark rates proposed in the Application, including the revised water rates to be charged to Winchester, as stated at page six of the Application, would enable East Clark to recoup its increased water cost of \$143,893.

5. The retail rates proposed to be charged to Winchester, as stated on page six of the Application, were included in the calculations as new rates necessary to enable East Clark to recover Winchester's rate increase to East Clark of \$143,893. Put another way, if East Clark is not permitted to charge Winchester the rates stated on page six of the Application, it will not recoup the cost of Winchester's price increase and will suffer serious financial harm for each month that it is not permitted to charge those rates and is required nonetheless to pay the increased rate charged by Winchester.

6. This concludes my affidavit.



Carryn Lee
Financial Analyst,
Kentucky Rural Water Association

STATE OF KENTUCKY)

COUNTY OF Mercer)

Subscribed and sworn to before me by Carryn Lee on this
17th day of August, 2005.

My Commission Expires: 04-14-2006



NOTARY PUBLIC

EXHIBIT 1

CARRYN LEE
400 Parsons Lane
Harrodsburg, Kentucky 40330
(859) 734-7246
c.lee@krwa.org

EXPERIENCE HIGHLIGHTS

October 1, 2002 to Present

Kentucky Rural Water Association. Financial Analyst. Work with utilities preparing cost of service studies to ensure that the utility's revenue requirement meets expenses and that rates both retail and wholesale recover costs in an equitable manner. Meet with the respective Utility Commission and City Council to discuss findings and recommended rates. Assist with the preparation of press releases to gain customer support for the increase in rates. Assist utilities in filings with the Kentucky Public Service Commission as needed. Work with other KRWA personnel in preparing and presenting informative presentations to utilities either on a one-on-one basis or at training seminars. Attend meetings with other state agencies as requested.

February 16, 2000 to September 30, 2002

Public Service Commission. ASSISTANT DIRECTOR, FINANCIAL ANALYSIS DIVISION. Continued responsibilities for water and sewer rate design and other duties of a manager. Responsible for coordinating water training seminars across the state. Speak before various groups on topics such as cost of service, leak adjustments, system development charges and other water issues on a state and national level. Prepare cost of service studies for municipal utilities as well as regulated utilities. Work as part of a team on Administrative Cases before the Commission. Research new and innovative ways in which the Commission can assist utilities in meeting federal compliance. Assist in drafting revised regulations for Commission review. Member of the Staff Subcommittee on Water of the National Association of Regulatory Utility Commissioners.

January 1995 to February 16, 2000

Public Service Commission. PUBLIC UTILITY RATES AND TARIFFS MANAGER. Responsible for the rate design for all water and sewer cases filed before the Commission. Supervise and train employees in the preparation of cost of service studies. Prepare information requests, staff reports, questions for hearings and draft orders for Commission consideration. Give testimony in formal hearings before the Commission regarding rate design recommendations. Prepare special reports for the Commission and meet to discuss issues relevant

to water and sewer utilities. Plan, organize and give presentations at water training seminars throughout the state. Give speeches on water issues and draft speeches for Commissioners and /or Executive Director.

January 1981 to January 1995

Public Service Commission. **PUBLIC UTILITY RATE ANALYST.** Work as part of a team of professional employees in public utility rate cases and industry/utility issues. Analyze revenue allocation methods, rate design, tariff filings and issues involving policy decisions for water, sewer, electric and gas utilities. Prepare cross-examination for hearings and present testimony regarding findings and recommendations. Work with the public and utilities with regard to tariff filings. Have an understanding of the regulations regarding each utility in order to process tariffs. Travel throughout the state giving seminars on filing requirements. Maintain the required administrative and technical skills necessary to function in an ever changing environment. These skills are enhanced through graduate courses in Administrative Law, Quantitative Methods, Economics and Research Methods.

January 1988 to 1992

Self-Employment. Compile statistical data from surveys and prepare professional reports for the Governor's Scholars Program. Provided assistance in preparing style of questions in surveys. Studies have been presented to State Legislatures and senior executives including Chief Operation Officers from Ashland Oil and Toyota, in the state as a means of fundraising for the program.

October 1979 to January 1981

Public Service Commission. **PUBLIC UTILITY INSPECTOR.** Made annual inspections of water utilities to ensure compliance with Commission Rules and Regulations and Statutes. Reviewed complaints, conducted statistical analysis and research projects, responded to information requests from utilities, reviewed tariffs, attended hearings, informal conferences and performed special assignments as requested.

EDUCATION

Financial Management: Cost of Service Rate-Making Seminar, San Diego, California, 1996

NARUC Utility Seminar, Ohio State University, 1994

Fourteenth Annual Eastern Utility Rate Seminar, University of Utah, Florida, 1986

Annual Regulatory Studies Program, Michigan State University, 1985

Masters Degree in Public Affairs, Kentucky State University, 1989

Bachelor of Arts, Western Kentucky University, 1978

EXHIBIT 2

East Clark County Water District

P.O. Box 112 Winchester, Kentucky 40392

859-745-1458

November 29, 2004

Executive Director
Kentucky Public Service Commission
PO Box 615
Frankfort, KY 40602

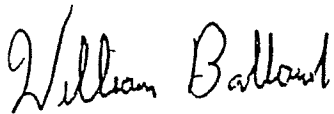
RE: Formal Application for a Purchased Water Adjustment

Enclosed please find an application for a purchased water adjustment. This application is necessary due to an increase from our supplier, Winchester Municipal Utilities.

In the application please note that the city of Winchester will not longer sell water to the district at a wholesale rate. Therefore, the district can no longer resell water to the city at a wholesale rate. The purchased water adjustment reflects that water resold to the city will be sold at retail rates. The district has met with the city regarding this issue and the city does not object to the change in billing.

Winchester has notified the District that it will not place its increased rates into effect until 30 days from the date the District files with the Commission. A copy of the notice to be published is enclosed. The District will publish the notice in accordance with Commission regulations and will provide verification that such notice has been given

Sincerely,



William Ballard
Manager

enclosure

PURCHASED WATER ADJUSTMENT FOR
WATER DISTRICTS AND ASSOCIATIONS
(807 KAR 5:068)

East Clark County Water District
(Name of Utility)

November 29, 2004
(Date)

P.O. Box 112
(Address)

Winchester, KY 40392
(City, State)

859-745-1458
(Telephone Number)

- 1.a. Name of all wholesale suppliers and the base (current) rate and changed rate of each. In the event the water purchased is billed by the supplier on a rate that is not a flat rate schedule, the entire rate schedule must be shown. Attach additional sheets if necessary.

<u>Supplier(s)</u>	<u>Base Rate</u>	<u>Changed Rate</u>
<u>Winchester Municipal Utilities</u>	<u>\$1.18 Per 100 cu ft.</u>	<u>See attachment.</u>

- 1.b. Attached is the notice from the Winchester Municipal Utilities which has been filed with the Public Service Commission.

2. Twelve-month period upon which the purchased water adjustment is based. (This twelve-month period must end within 90 days of this filing).

From November 2003 through October 2004
(month and year) (month and year)

3. Statement of water purchases. Where water is purchased from more than one supplier, purchases from each supplier must be shown separately. If water is purchased through a declining block rate schedule, purchases for each month must be shown. Attach an additional sheet if necessary.

Supplier(s)	Cubic Feet Purchased during 12 month period
<u>Winchester Municipal Utilities</u>	<u>16,994,500</u>

4. Total cubic feet sold for the 12 month period 15,583,960

5. Increased water cost \$143,893

The increased water cost is the cost difference between purchases at base (current rate) and purchases at new rate.

6. Purchased water adjustment factor \$.47 per 1,000 gallons.
See attached worksheet for PWA calculations.

~~Note:~~ The purchased water adjustment factor is added to each thousand gallons sold. If the minimum usage is 2,000 gallons then the purchased water adjustment factor would be added to the minimum bill twice. Revised tariff sheets must be attached showing the rate to be charged by the utility and the effective date of the increased rates.

7. Proposed effective date (for service rendered on & after 11-18-04)

William Ballard
William Ballard, Manager

EAST CLARK COUNTY WATER DISTRICT

COST OF PURCHASED WATER

CURRENT RATES

USAGE SHOWN IN CUBIC FEET

	Elkin	Paris	Ky-AM	Flanagan	Two Mile	Ecton	Hughes	Ford
Nov 03	22,000			250,800	7,900	861,600	414,800	
Dec 03	20,400			177,900	1,000	683,400	506,500	
Jan 04	24,600	19,200		320,800	500	889,100	458,100	
Feb 04	28,600	40,100	1,500	201,800	500	738,800	450,300	
Mar 04	26,800	44,700	300	155,000	1,400	690,000	393,300	
Apr 04	25,200	52,700	400	240,500	300	673,200	511,700	
May 04	23,200	49,300	400	174,300	900	819,700	504,400	
June 04	30,000	29,100		213,400	1,200	786,100	620,400	200
July 04	16,800	43,100		133,500	300	579,700	458,100	600
Aug. 04	16,200	70,100		167,300	7,600	572,600	437,000	400
Sept. 04	19,800	59,700		307,400	14,200	563,800	235,000	400
Oct 04	17,700	55,000		322,700	20,500	484,000	202,000	700
Total	271,300	463,000	2,600	2,665,400	56,300	8,342,000	5,191,600	2,300
Total Purchased		16,994,500						
Rate per 100 cubic feet		\$1.18						
Cost		\$ 200,535						

EAST CLARK COUNTY WATER DISTRICT

COST OF PURCHASED WATER

REVISED PURCHASED WATER RATES

USAGE SHOWN IN CUBIC FEET

	Bills	Cu. Ft.	200	200	400	1,400	15,000	333,000	350,000
First 200	1	200							
Next 400	6	1,500	1,200		300				
Next 1,400	6	6,700	1,200		2,400	3,100			
Next 15,000	6	65,300	1,200		2,400	8,400	53,300		
Next 333,000	35	3,824,200	7,000		14,000	49,000	525,000	3,229,200	
Over 350,000	22	13,096,600	4,400		8,800	30,800	330,000	7,326,000	5,396,600
Total	76	16,994,500	15,200		27,900	91,300	908,300	10,555,200	5,396,600

NEW COST OF PURCHASED WATER

	Bills	Cu. Ft.	Rate	Revenue					
First 200	76	15,200	\$ 4.37	\$ 332					
Next 400		27,900	3.24	904					
Next 1,400		91,300	3.03	2,766					
Next 15,000		908,300	2.88	26,159					
Next 333,000		10,555,200	2.19	231,159					
Over 350,000		5,396,600	1.54	83,108					
Total		16,994,500		\$ 344,428					
Cost at Current Rate				200,535					
Increased Cost				\$ 143,893					
Sales in cubic feet		16,994,500							

EAST CLARK COUNTY WATER DISTRICT						
CALCULATION OF PURCHASED WATER ADJUSTMENT						
REVISED WATER RATES						
RETAIL CUSTOMERS						
	Bills	Gallons	2,000	8,000	40,000	50,000
First 2,000	5,685	6,937.1	6,937.1			
Next 8,000	18,417	80,447.8	36,834.0	43,613.8		
Next 40,000	955	15,095.5	1,910.0	7,640.0	5,545.5	
Over 50,000	37	3,107.8	74.0	296.0	1,480.0	1,257.8
Total	25,094	105,588.2	45,755.1	51,549.8	7,025.5	1,257.8
	Bills	Gallons	Rate	Revenue		
First 2,000	25,094	45,755.1	\$ 24.56	\$ 616,309		
Next 8,000		51,549.8	10.03	517,044		
Next 40,000		7,025.5	8.81	61,895		
Over 50,000		1,257.8	7.59	9,547		
Total		105,588.2		\$ 1,204,794		
SALES TO WINCHESTER						
	Bills	Gallons	2,000	8,000	40,000	50,000
First 2,000						
Next 8,000						
Next 40,000						
Over 50,000	24	17,338,000	48,000	192,000	960,000	16,138,000
	Bills	Gallons	Rate	Revenue		
First 2,000	24	48,000	\$ 24.56	589		
Next 8,000		192,000	10.03	1,926		
Next 40,000		960,000	8.81	8,458		
Over 50,000		16,138,000	7.59	122,487		
Total		17,338,000		\$ 133,460		
Loading Stations		4,532.6	\$6.25	28,329		
Total Revenue				\$ 1,366,583		
Revenue Before Increase in Cost				1,222,903		
Purchased Water Cost				\$ 143,680		
Purchased Water Adjustment = \$0.47 per 1,000 gallons						

NOTICE

Due to a rate increase from the Winchester Municipal Utilities, the East Clark County Water District has filed an application with the Public Service Commission to implement the following rate schedule. The proposed change will affect all bills issued on and after _____.

<u>Monthly Rates</u>	<u>Current Rates</u>		<u>Proposed Rates</u>
<u>5/8" x 3/4" Meter</u>			
First 2,000 gallons	\$23.62	Minimum Bill	\$24.56 Minimum Bill
Next 8,000 gallons	9.56	per 1,000 gallons	10.03 per 1,000 gallons
Next 40,000 gallons	8.34	per 1,000 gallons	8.81 per 1,000 gallons
Over 50,000 gallons	7.12	per 1,000 gallons	7.59 per 1,000 gallons
<u>1" Meter</u>			
First 5,000 gallons	\$52.30	Minimum Bill	\$54.65 Minimum Bill
Next 5,000 gallons	9.56	per 1,000 gallons	10.03 per 1,000 gallons
Next 40,000 gallons	8.34	per 1,000 gallons	8.81 per 1,000 gallons
Over 50,000 gallons	7.12	per 1,000 gallons	7.59 per 1,000 gallons
<u>1 1/2" Meter</u>			
First 10,000 gallons	\$100.10	Minimum Bill	\$104.80 Minimum Bill
Next 40,000 gallons	8.34	per 1,000 gallons	8.81 per 1,000 gallons
Over 50,000 gallons	7.12	per 1,000 gallons	7.59 per 1,000 gallons
<u>2" Meter</u>			
First 20,000 gallons	\$183.50	Minimum Bill	\$1922.90 Minimum Bill
Next 30,000 gallons	8.34	per 1,000 gallons	8.81 per 1,000 gallons
Over 50,000 gallons	7.12	per 1,000 gallons	7.59 per 1,000 gallons
<u>3" Meter</u>			
First 30,000 gallons	\$275.00	Minimum Bill	\$289.10 Minimum Bill
Next 20,000 gallons	8.34	per 1,000 gallons	8.81 per 1,000 gallons
Over 50,000 gallons	7.12	per 1,000 gallons	7.59 per 1,000 gallons
<u>4" Meter</u>			
First 50,000 gallons	\$441.80	Minimum Bill	\$465.30 Minimum Bill
Over 50,000 gallons	7.12	per 1,000 gallons	7.59 per 1,000 gallons

The bill for an average customer using 5,000 gallons each month would increase from \$52.30 to \$54.65, a monthly increase of \$2.35 or 4 percent.

The rates contained in this notice are the rates proposed by the East Clark County Water District. However, the Public Service Commission may order rates to be charged that differ from these proposed rates. Such action may result in rates for consumers other than the rates in this notice.

East Clark County Water District has available for inspection at its office the application submitted to the Public Service Commission. You may contact the office at (859) 745-1458

FOR Clark County
Community, Town or City

P.S.C. KY. NO. _____

Revised _____ SHEET NO. _____

CANCELLING P.S.C. KY. NO. _____

Original _____ SHEET NO. _____

East Clark County Water District
(Name of Utility)

RATES - ALL USERS

Rates: Monthly

5/8" x 3/4" Meter

First	2,000 gallons	\$24.56	Minimum Bill
Next	8,000 gallons	10.03	per 1,000 gallons
Next	40,000 gallons	8.81	per 1,000 gallons
Over	50,000 gallons	7.59	per 1,000 gallons

1" Meter

First	5,000 gallons	\$54.65	Minimum Bill
Next	5,000 gallons	10.03	per 1,000 gallons
Next	40,000 gallons	8.81	per 1,000 gallons
Over	50,000 gallons	7.59	per 1,000 gallons

1 1/2" Meter

First	10,000 gallons	\$104.80	Minimum Bill
Next	40,000 gallons	8.81	per 1,000 gallons
Over	50,000 gallons	7.59	per 1,000 gallons

2" Meter

First	20,000 gallons	\$192.90	Minimum Bill
Next	30,000 gallons	8.81	per 1,000 gallons
Over	50,000 gallons	7.59	per 1,000 gallons

3" Meter

First	30,000 gallons	\$289.10	Minimum Bill
Next	20,000 gallons	8.81	per 1,000 gallons
Over	50,000 gallons	7.59	per 1,000 gallons

4" Meter

First	50,000 gallons	\$465.30	Minimum Bill
Over	50,000 gallons	7.59	per 1,000 gallons

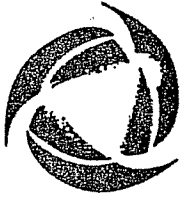
DATE OF ISSUE _____
Month / Date / Year

DATE EFFECTIVE _____
Month / Date / Year

ISSUED BY Ked Ferris
(Signature of Officer)

TITLE Chairman

BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE COMMISSION
IN CASE NO. _____ DATED _____



Winchester
Municipal
Utilities

P.O. Box 4177, 150 N. Main Street
Winchester, KY 40392-4177
Phone: 859 744-5434
Fax: 859 745-4146

July 9, 2004

William Ballard
East Clark County Water District
118 Hopkins Lane
P.O. Box 112
Winchester, KY 40392

Re: Rate Change

Dear Mr. Ballard:

Per Vernon Azevedo's request, this letter is in regard to the agreement entered into on July 15, 1999 between Winchester Municipal Utilities and East Clark County Water District. The Agreement directs that after five years the rate will be adjusted to the current cost of service volumetric rate. The ordained rate is a schedule based upon the amount of water used as follows:

Block 1 – Usage 0-100	\$4.37
Block 2 – Usage 200-500	3.24
Block 3 – Usage 600-2000	3.03
Block 4 – Usage 2100-17000	2.88
Block 5 – Usage 17100-350000	2.19
Block 6 – Usage greater than 350000	1.54

Cubic feet

This rate schedule when applied to East Clark Water District's usage should result in approximately \$150,000 increase on East Clark Water District's yearly total bill. For your reference, this is the same schedule by which Kentucky American is presently being charged.

Should you have any questions, please call.

Sincerely,

Jennifer Sparks
Supervisor of Accounting and Finance

cc: V. Azevedo
File

JUL 1

EXHIBIT B

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PURCHASED WATER ADJUSTMENT OF EAST) CASE NO. 2004-00455
CLARK COUNTY WATER DISTRICT)

O R D E R

Finding that our Order of December 22, 2004 failed to consider the rate revisions that we approved in Case No. 2004-00378,¹ which authorized the assessment of a minimum bill for 4-inch meters, the Commission HEREBY ORDERS, on its own motion, that:

1. The Order of December 22, 2004 is amended as follows:
 - a. Finding Paragraph 6 is deleted.
 - b. Finding Paragraph 7 shall read: "6. East Clark's proposed rates should be granted."
 - c. Finding Paragraph 8 shall read: "7. A purchased water adjustment of \$0.47 per 1,000 gallons is fair, just, and reasonable and should be approved."
 - d. Ordering Paragraph 1 shall read: "1. East Clark's proposed rates are approved."
 - e. The Appendix to the Order of December 22, 2004 is stricken and replaced with the Appendix to this Order.
2. All provisions of the Order of December 22, 2004 that do not conflict with the terms of this Order remain in full force and effect.

¹ Case No. 2004-00378, Application of East Clark County Water District for an Increase in Non-Recurring Charges and Tariff Revisions (Ky.PSC Dec. 22, 2004).

Done at Frankfort, Kentucky, this 6th day of January, 2005.

By the Commission

ATTEST:

A handwritten signature in black ink, consisting of several overlapping loops and flourishes, positioned above a horizontal line.

Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2004-00455 DATED January 6, 2005

The following rates and charges are prescribed for the customers in the area served by East Clark County Water District. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of the Commission prior to the effective date of this Order.

Monthly Water Rates

<u>5/8" x 3/4" Meter</u>	<u>Rate</u>
First 2,000	\$24.56 Minimum Bill
Next 8,000	10.03 per 1,000 gallons
Next 40,000	8.81 per 1,000 gallons
Over 50,000	7.59 per 1,000 gallons
<u>1" Meter</u>	
First 5,000	\$54.65 Minimum Bill
Next 5,000	10.03 per 1,000 gallons
Next 40,000	8.81 per 1,000 gallons
Over 50,000	7.59 per 1,000 gallons
<u>1 1/2" Meter</u>	
First 10,000	\$104.80 Minimum Bill
Next 40,000	8.81 per 1,000 gallons
Over 50,000	7.59 per 1,000 gallons
<u>2" Meter</u>	
First 20,000	\$192.90 Minimum Bill
Next 30,000	8.81 per 1,000 gallons
Over 50,000	7.59 per 1,000 gallons
<u>3" Meter</u>	
First 30,000	\$281.00 Minimum Bill
Next 20,000	8.81 per 1,000 gallons
Over 50,000	7.59 per 1,000 gallons
<u>4" Meter</u>	
First 50,000	\$457.20 Minimum Bill
Over 50,000	7.59 per 1,000 gallons

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PURCHASED WATER ADJUSTMENT OF EAST) CASE NO. 2004-00455
CLARK COUNTY WATER DISTRICT)

O R D E R

On November 23, 2004, East Clark County Water District ("East Clark") applied for approval to adjust its rates pursuant to the purchased water adjustment procedure. KRS 278.015 and 807 KAR 5:068.

The Commission, having reviewed the record and being sufficiently advised, finds that:

1. East Clark purchases water from Winchester Municipal Utilities ("Winchester").
2. On November 29, 2004, East Clark filed an amended customer notice and tariff sheet that contained revisions to the proposed minimum bill amounts for 3-inch and 4-inch meters.
3. On December 1, 2004, Winchester filed notice of a proposed revision to its wholesale water service rate schedule that would revise the schedule of rates currently charged to East Clark from a flat rate of \$1.18 per 100 cubic feet to a six-step declining rate design. Winchester proposed to place this revised rate schedule in effect for all bills rendered on and after January 1, 2005. East Clark proposes to increase the water rates to its customers effective with the January 1, 2005 billing.

4. On December 17, 2004, the Commission approved Winchester's proposed wholesale rate revision for service rendered on and after January 1, 2005.¹ Pursuant to KRS 278.015, East Clark may not adjust its rates to reflect this change for service rendered before January 1, 2005.

5. During the 12 months ending October 31, 2004, East Clark purchased 16,994,500 cubic feet of water from Winchester and sold 15,583,960 cubic feet. The increase in the cost of purchased water is \$143,893, resulting in a purchased water adjustment of \$0.47 per 1,000 gallons.

6. While East Clark's amended application contains a proposed rate for service provided through a 4-inch meter, East Clark's present rate schedules do not contain a rate for service provided through a 4-inch meter. As KRS 278.015 and Administrative Regulation 807 KAR 5:068 permit only an adjustment of existing rates and not revisions to a water district's rate design or additions to a water district's existing rate schedule, East Clark's proposed rate for service received through a 4-inch meter is unlawful. If East Clark desires to add a rate for water service received through a 4-inch meter, it should follow the procedures set forth in KRS 278.180 and Administrative Regulation 807 KAR 5:011.

7. East Clark's proposed rates should be denied.

8. A purchased water adjustment of \$0.47 per 1,000 gallons is fair, just, and reasonable and should be approved.

IT IS THEREFORE ORDERED that:

1. East Clark's proposed rates are denied.

¹ Case No. 2004-00506, Proposed Adjustment of Wholesale Water Service Rate of Winchester Municipal Utilities (Ky.PSC Dec. 17, 2004).

2. The purchased water adjustment of \$0.47 per 1,000 gallons and the rates in Appendix A, attached hereto and incorporated herein, are fair, just, and reasonable and are approved for service rendered on and after January 1, 2005.

3. Within 20 days of the date of this Order, East Clark shall file with the Commission revised tariff sheets showing the rates approved herein.

Done at Frankfort, Kentucky, this 22nd day of December, 2004.

By the Commission

ATTEST:



Executive Director

Case No. 2004-00455

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2004-00455 DATED December 22, 2004

The following rates and charges are prescribed for the customers in the area served by East Clark County Water District. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of the Commission prior to the effective date of this Order.

Monthly Water Rates

<u>5/8" x 3/4" Meter</u>	<u>Rate</u>
First 2,000	\$24.56 Minimum Bill
Next 8,000	10.03 per 1,000 gallons
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