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August 22, 2005

RECEIVED

AUG 24 2005

PUBLIC SERVICE  
COMMISSION

Ms. Beth O'Donnell  
Executive Director  
Kentucky Public Service Commission  
P. O. Box 615  
Frankfort, KY 40602

Re: East Clark County Water District and Winchester Municipal  
Utilities, Case No. 2005-00264

Dear Ms. O'Donnell:

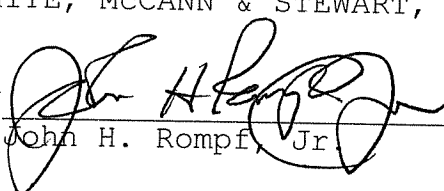
Enclosed for filing is an original and eleven copies of a  
brief for Winchester Municipal Utilities pursuant to the  
Commission's Order of August 3, 2005. Please file the brief and  
return a "file stamped" copy to me in the enclosed, self  
addressed, stamped envelope.

Thanks for your cooperation.

Very truly yours,

WHITE, McCANN & STEWART, PLLC

BY

  
John H. Rompf, Jr.

Enclosures  
Cc: Mr. Vernon Azevedo

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COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION **RECEIVED**

AUG 24 2005

IN THE MATTER OF:

PUBLIC SERVICE  
COMMISSION

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

BRIEF ON BEHALF OF  
WINCHESTER MUNICIPAL UTILITIES

Comes Winchester Municipal Utilities ("WMU") pursuant to the Commission's Order dated August 3, 2005 and submits the following written memorandum:

FACTUAL CIRCUMSTANCES

This case arises from an attempt by East Clark County Water District ("East Clark") to revise its published rate schedule and tariff for wholesale water service to WMU retroactive to January 1, 2005. WMU, by letter dated June 16, 2005, objected to this unilateral attempt by East Clark. The Commission then established this case and directed the filing of memoranda.

Service between WMU and East Clark arises from a certain water purchase agreement dated July 15, 1999 (the

"1999 Agreement"). Under the 1999 Agreement WMU sells water to East Clark but also repurchases some of that water from East Clark in order to provide adequate pressure and service to customers in a portion of WMU's service area. This case involves only the rate which WMU pays to East Clark for the repurchase of water from East Clark. Case No. 2005-00322 concerns other matters relating to the 1999 Agreement.

Pursuant to the 1999 Agreement, the rate which East Clark is required to pay WMU for water purchased was to increase, in July 2004, to the then cost of service volumetric rate. In early 2004 WMU began to discuss implementation of the new rate with East Clark and because East Clark had not anticipated the rate adjustment and had not taken the necessary action to file for a purchased water adjustment to its rates in order to absorb the increased cost of water, WMU agreed not to implement its new rate until January, 2005 to give East Clark the opportunity to seek an increase of its rates.

In Case No. 2004-00455 East Clark filed a purchased water adjustment case and by Order entered December 22, 2004 the Commission approved the new rates to East Clark's retail customers. No change was proposed by East Clark to eliminate its wholesale water service rate to WMU.

In Case No. 2004-00506, on December 17, 2004, the Commission approved a revised rate schedule for East Clark to pay WMU. East Clark received notice of the filing of such schedule and stated in writing that it had no objection to the rate.

Regarding compensation by WMU to East Clark for repurchase of water, the 1999 Agreement provides at paragraph 14 as follows:

The price to be paid for water repurchased by WMU pursuant to this paragraph shall initially be one and 24/100 dollars (\$1.24) per hundred cubic feet, and shall be increased or decreased at the same time and in the same proportion that the price paid by ECCWD to WMU for water under Paragraph 6 of this Agreement is increased or decreased.

Historically, East Clark has charged WMU a 29% markup over the price it pays WMU for the water which WMU repurchases from East Clark. This markup rate was determined by taking the \$1.24 initial contract rate for water repurchased by WMU from East Clark and dividing it by the 96 cents per 100 cubic feet rate for water which East Clark pays WMU for water purchased.

In 2000 the parties applied the 29% markup over WMU's increased rates and WMU's rate payable increased to \$1.42; in 2001 the rate increased to \$1.50 per 100 cubic feet; in 2002 the rate increased to \$1.51 and in 2003 the rate

increased to \$1.52 per 100 cubic feet. Each of these increases were in conjunction the increased cost of water purchased by East Clark in conjunction with the rate increases imposed on WMU customer's system wide.

ISSUES PRESENTED:

(1) Are the parties bound by the terms of the 1999 Agreement regarding the rate which WMU pays to East Clark for repurchased water?

(2) What is a reasonable wholesale water service rate for East Clark to charge to WMU given the terms and conditions of the parties' 1999 Agreement?

(3) Should this case be consolidated with Case No. 2005-00322?

WMU submits that discovery in this case is necessary in order to ascertain the basis for East Clark's proposed elimination of the wholesale water rate and/or to ascertain the basis for East Clark's position that certain agreements have been made.

REQUEST FOR HEARING

WMU would request a hearing on the reasonable rate it should pay for water repurchased under the 1999 Agreement.

WHITE, MCCANN & STEWART, PLLC

By: 

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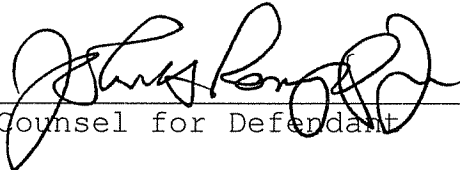
CERTIFICATE OF SERVICE

I certify that the foregoing has been served by mailing true copies of same on this 22<sup>nd</sup> day of August, 2005, to the following:

Ms. Beth O'Donnell  
Executive Director  
Kentucky Public Service Commission  
P. O. Box 615  
Frankfort, KY 40602

Mr. William Ballard, Manager  
East Clark County Water District  
P. O. Box 1125  
Winchester, KY 40392-0112

Hon. C. Kent Hatfield  
Hon. Deborah T. Eversole  
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Counsel for East Clark County  
Water District

  
Of Counsel for Defendant

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