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February 29, 2008

PARTIES OF RECORD  
Case No. 2007-00488  
Auxier Water Company

Attached is a copy of the City of Prestonsburg's comments to Commission Staff Attorney Todd Osterloh's Memorandum regarding the conference of February 21, 2008. These comments are filed in the record of the above-referenced case.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Beth O'Donnell".

Beth O'Donnell  
Executive Director

cc: Main Case File

## Osterloh, Todd (PSC)

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**From:** Kipley J. McNally [kjm@mcnallylaw.biz]  
**Sent:** Wednesday, February 27, 2008 4:35 PM  
**To:** Osterloh, Todd (PSC)  
**Subject:** Case File No. 2007-00488--Response to Memorandum of Informal Conference

Todd,

I am writing in response to the Memorandum of the Informal Conference held on February 21, 2008. I need to clarify a few points as follows:

### I. RATE STRUCTURE:

Prestonsburg expressed a preference for the rate structure for the former customers of Auxier Water Co. Prestonsburg has a strong preference for ALTERNATIVE II as described in Prestonsburg's Response to the Commission's Staff's Second Data Request on page 6. In the EXPLANATION FOR ALTERNATIVE II, which immediately followed the description of ALTERNATIVE II, Prestonsburg listed seven (7) reasons why ALTERNATIVE II is preferable.

For your ready reference, ALTERNATIVE II and the Explanations are re-printed below:

ALTERNATIVE II. Without waiver of the foregoing objections, Prestonsburg is amendable to the following alternative:

Prestonsburg will charge all of Auxier's former customers its outside of city rates, as adjusted from time to time, including the rate increases previously approved by Prestonsburg's Commission; provided that no limitation or restrictions are imposed on Prestonsburg's rates or ability to recover costs.

EXPLANATION of ALTERNATIVE II. As Exhibit G, please find attached the new rate schedules that were initially effective April 1, 2007, including the rate increase to be effective April 1, 2008 ("2008 Rates"). Once the 2008 Rates are implemented, Prestonsburg's rates will be comparable to Auxier's rates. Under Prestonsburg Outside of City 2008 Rates, residential customers of Auxier's system would still have a somewhat lower average bill and the large commercial users would have a somewhat larger bill. For a comparison, see Exhibit H for a Proforma of Auxier's Customer Demand Utilizing PCUC 04-01-08 Rates. If the Commission's Staff recommends this alternative to the Commission, Prestonsburg requests that the Order expressly authorize the 2008 Rates, so that these customers can be integrated into Prestonsburg's system on the same basis as it's other outside of city customers. There are several advantages to this alternative, as follows:

- A. Residential customers should have a lower average monthly bill compared to Auxier's rates;
- B. Prestonsburg will not have to determine if it's outside of city "rates" are "higher" than Auxier's rates;
- C. Prestonsburg will not have to maintain separate accounting for the former Auxier customers;
- D. Prestonsburg will not have to separately calculate and dedicate certain revenue streams to debt reduction under a Spears Water type of restriction;
- E. Prestonsburg will not have to re-evaluate compliance with its various debt covenants;
- F. Prestonsburg will not have to obtain supplemental consents from its lenders;
- G. It may be possible to complete the closing on or before March 31, 2008.

### II. DEPOSITS:

The contract between the parties provides for the transfer of all deposits. The purpose of the transfer was to avoid having Auxier write checks to approximately 1,000 customers.

This would avoid Prestonsburg having to collect deposits from each tenant.

If the Commission orders that Auxier refund all deposits, all parties involved will incur substantial costs and an increased burden. Auxier would have to prepare individual checks at substantial cost and inconvenience.

Prestonsburg has had a long-standing policy of regarding commercial and residential tenants to provide a deposit before providing service. Regarding Prestonsburg to accept the obligation for service without a corresponding deposit violates Prestonsburg's deposit policy, is contrary to the Acquisitions Contract and is unfair to the utilities involved.

During the next six months, Prestonsburg will attempt to identify owner occupied properties and will credit to their accounts their deposits. In otherwords, Prestonsburg plans to only retain deposits from tenants.

If you have any questions, please do not hesitate to contact me, or if a formal pleading is appropriate, please advise. Thank you.

Kip McNally

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