

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

FOREST CREEK, LLC	)	
	)	
	)	COMPLAINANT
V.	)	
	)	CASE NO.
	)	2011-00297
JESSAMINE-SOUTH ELKHORN WATER	)	
DISTRICT	)	
	)	
	)	DEFENDANT

ORDER

On August 9, 2011, Forest Creek, LLC filed a formal complaint against Jessamine-South Elkhorn Water District (“JSEWD”) regarding a request for a water line extension. On September 19, 2011, JSEWD filed a response to the complaint.<sup>1</sup> On April 25, 2012, JSEWD filed a motion to dismiss complaint and alternatively, motion to suspend proceedings and supplement the record. Forest Creek, LLC filed a memorandum on May 17, 2012, opposing JSEWD’s motions.

Prior to the Commission’s issuing a decision on JSEWD’s April 25, 2012 motion, the parties filed a joint motion on August 24, 2012, to hold the proceeding in abeyance for 30 days. The Commission granted that motion, as well as subsequent motions, holding the proceeding in abeyance through January 8, 2013.

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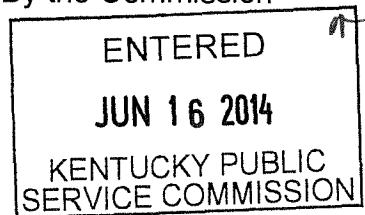
<sup>1</sup> The parties also have a circuit court action regarding the same subject matter. *Jessamine-South Elkhorn Water Dist. v. Forest Creek, LLC*, Civil Action No. 2010-CI-001394 (Jessamine Cir. Ct. Ky filed Dec. 17, 2010). After the Commission intervened in that action, the trial court dismissed the action for lack of subject matter jurisdiction. JSEWD appealed the decision. In an unpublished decision, the Court of Appeals reversed the trial court and found that the subject matter was a contractual issue that does not invoke the Commission’s exclusive jurisdiction over rates and services. 2013 WL 3480344 (Ky. App.).

Since holding the proceeding in abeyance, the parties have been attempting to resolve the issues and Commission Staff has held approximately ten informal conferences with the parties to discuss the status of their negotiations. The most recent informal conference occurred on May 22, 2014. The parties indicated that if they are unable to resolve all issues by June 2, 2014, they want to file supplemental briefs on JSEWD's April 25, 2012 motion to dismiss. As of the date of this Order, the parties have not advised the Commission regarding resolution of any issues.

Having carefully reviewed the status of this proceeding, we find that a procedural schedule should be established to allow the parties an opportunity to file supplemental briefs on JSEWD's April 25, 2012 motion to dismiss.

IT IS THEREFORE ORDERED that the procedural schedule set forth in the Appendix attached hereto and incorporated herein shall be followed in this case.

By the Commission



ATTEST:

  
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Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2011-00297 DATED **JUN 16 2014**

JSEWD may file a supplemental memorandum in support of its  
April 25, 2012 motion to dismiss no later than ..... 07/03/2014

Forest Creek, LLC may file a response to JSEWD's supplemental  
memorandum in support of its April 25, 2012 motion to dismiss  
no later than ..... 07/10/2014

JSEWD may file a reply to Forest Creek, LLC's response to  
JSEWD's supplemental memorandum in support of its April 25, 2012  
motion to dismiss no later than..... 07/17/2014

Diana Clark  
Office Manager  
Jessamine-South Elkhorn Water District  
P. O. Box 731  
Nicholasville, KY 40356

Honorable Robert C Moore  
Attorney At Law  
Hazelrigg & Cox, LLP  
415 West Main Street  
P.O. Box 676  
Frankfort, KENTUCKY 40602

Bruce E Smith  
201 South Main Street  
Nicholasville, KENTUCKY 40356