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Mr. Jeff DeRouen
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Kentucky Public Service Commission
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February 27, 2015

**Re: CONSIDERATION OF THE IMPLEMENTATION OF SMART
GRID AND SMART METER TECHNOLOGIES
Case No. 2012-00428**

Dear Mr. DeRouen:

Enclosed please find and accept for filing the original and fourteen copies of the Joint Brief of Atmos Energy Corporation, Big Rivers Electric Corporation, Big Sandy Rural Electric Cooperative Corporation, Blue Grass Energy Cooperative Corporation, Clark Energy Cooperative, Inc., Columbia Gas of Kentucky, Inc., Cumberland Valley Electric, Delta Natural Gas Company, Inc., Duke Energy Kentucky, Inc., East Kentucky Power Cooperative, Inc., Farmers Rural Electric Cooperative Corporation, Fleming-Mason Energy Cooperative, Grayson Rural Electric Cooperative Corporation, Inter-County Energy Cooperative Corporation, Jackson Energy Cooperative Corporation, Jackson Purchase Energy Corporation, Kenergy Corp., Kentucky Power Company, Kentucky Utilities Company, Licking Valley Rural Electric Cooperative Corporation, Louisville Gas and Electric Company, Meade County Rural Electric Cooperative Corporation, Nolin Rural Electric Cooperative Corporation, Owen Electric Cooperative, Inc., Salt River Electric Cooperative Corporation, Shelby Energy Cooperative, Inc., South Kentucky Rural Electric Cooperative Corporation, and Taylor County Rural Electric Cooperative Corporation. The signature pages for each party are attached to the Joint Brief.

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Mr. Jeff DeRouen
February 27, 2015

Should you have any questions, please contact me at your convenience.

Sincerely,

A handwritten signature in blue ink that reads "Rick E. Lovekamp". The signature is written in a cursive style with a large, stylized initial "R".

Rick E. Lovekamp

c: Parties of Record

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

**CONSIDERATION OF THE)
IMPLEMENTATION OF SMART GRID AND) CASE NO. 2012-00428
SMART METER TECHNOLOGIES)**

BRIEF OF THE JOINT UTILITIES:

ATMOS ENERGY CORPORATION, BIG RIVERS ELECTRIC CORPORATION, BIG SANDY RURAL ELECTRIC COOPERATIVE CORPORATION, BLUE GRASS ENERGY COOPERATIVE CORPORATION, CLARK ENERGY COOPERATIVE, INC., COLUMBIA GAS OF KENTUCKY, INC., CUMBERLAND VALLEY ELECTRIC, DELTA NATURAL GAS COMPANY, INC., DUKE ENERGY KENTUCKY, INC., EAST KENTUCKY POWER COOPERATIVE, INC., FARMERS RURAL ELECTRIC COOPERATIVE CORPORATION, FLEMING-MASON ENERGY COOPERATIVE, GRAYSON RURAL ELECTRIC COOPERATIVE CORPORATION, INTER-COUNTY ENERGY COOPERATIVE CORPORATION, JACKSON ENERGY COOPERATIVE CORPORATION, JACKSON PURCHASE ENERGY CORPORATION, KENERGY CORP., KENTUCKY POWER COMPANY, KENTUCKY UTILITIES COMPANY, LICKING VALLEY RURAL ELECTRIC COOPERATIVE CORPORATION, LOUISVILLE GAS AND ELECTRIC COMPANY, MEADE COUNTY RURAL ELECTRIC COOPERATIVE CORPORATION, NOLIN RURAL ELECTRIC COOPERATIVE CORPORATION, OWEN ELECTRIC COOPERATIVE, INC., SALT RIVER ELECTRIC COOPERATIVE CORPORATION, SHELBY ENERGY COOPERATIVE, INC., SOUTH KENTUCKY RURAL ELECTRIC COOPERATIVE CORPORATION, AND TAYLOR COUNTY RURAL ELECTRIC COOPERATIVE CORPORATION

Filed: February 27, 2015

**ADMINISTRATIVE CASE NO. 2012-00428
BRIEF OF THE JOINT UTILITIES**

TABLE OF CONTENTS

I.	Introduction	1
II.	The Joint Utilities Unanimously Agree the Commission Should Not Adopt the EISA 2007 Smart Grid Information Standard	2
III.	The Joint Utilities Unanimously Agree the Commission Should Not Adopt the EISA 2007 Smart Grid Investment Standard	4
IV.	Other Issues Addressed in this Proceeding	5
	A. Customer Privacy.....	6
	B. Opt-Out Provisions	6
	C. Customer Education.....	7
	D. Dynamic Pricing	7
	E. Distribution Smart-Grid Components.....	8
	F. Cyber-Security	8
	G. Cost Recovery	9
	H. How Natural Gas Companies Might Participate in the Electric Smart Grid.....	9
V.	Conclusion and Recommendations	10

ADMINISTRATIVE CASE NO. 2012-00428
BRIEF OF THE JOINT UTILITIES

I. Introduction

When the Commission began this proceeding on October 1, 2012, it set the ambitious goal of “address[ing] all aspects of a Smart Grid system from hardware and software issues to reliability improvement, cost recovery issues, and dynamic pricing,” as well as “consider[ing] the adoption of the EISA 2007 [Energy Independence and Security Act of 2007] Smart Grid Investment Standard and the EISA 2007 Smart Grid Information Standard.”¹ Over the course of more than two years of this proceeding, as well as the work and consideration given to the EISA 2007 standards in the predecessor case, Case No. 2008-00408, the Joint Utilities believe the Commission has achieved its goals; all of the topics the Commission sought to be addressed in this proceeding have indeed been addressed.² It is a significant accomplishment.

The Joint Utilities believe it is also significant that over the course of this proceeding and Case No. 2008-00408 they have unanimously and consistently expressed to the Commission their view on every topic: The Commission’s existing authority is sufficient to address all smart-grid related issues, and no additional regulations or other forms of binding requirements are necessary either to ensure that Kentucky’s utilities continue to propose and implement cost-effective smart-technology solutions or to ensure the Commission has adequate oversight of such implementations and their rate and service impacts. Therefore, the Joint Utilities have proposed non-binding conceptual frameworks that utilities and the Commission may consider when proposing, evaluating, or reviewing smart-technology implementations and related topics. As discussed below, it continues to be the Joint Utilities’ unanimous view, consistently held for more than five years across two proceedings, that it is unnecessary, and could be

¹ *In the Matter of: Consideration of the Implementation of Smart Grid and Smart Meter Technologies*, Case No. 2012-00428, Order at 1-2 (Oct. 1, 2012).

² “Joint Utilities” includes all the parties named as Joint Utilities on the cover page of this brief.

ADMINISTRATIVE CASE NO. 2012-00428
BRIEF OF THE JOINT UTILITIES

counterproductive, for the Commission to implement in any form either of the EISA 2007 smart-grid standards or any other smart-technology related standard or other binding requirement concerning any of the issues the Commission has addressed in this proceeding. The Joint Utilities therefore respectfully ask the Commission to issue a final order closing this proceeding without imposing any binding regulation, standard, or other requirement related to any of the issues addressed in this proceeding.

II. The Joint Utilities Unanimously Agree the Commission Should Not Adopt the EISA 2007 Smart Grid Information Standard

The Joint Utilities continue to oppose unanimously any adoption of the EISA 2007 Smart Grid Information Standard because it could require utilities to make uneconomical investments. The standard would require utilities to provide customers direct access to a wide array of data without regard for the costs or benefits of providing the data:

- **Prices:** Purchasers and other interested persons shall be provided with information on time-based electricity prices in the wholesale electricity market, and time-based electricity retail prices or rates that are available to the consumers.
- **Usage:** Purchasers shall be provided with the number of electricity units, expressed in kWh, purchased by them.
- **Intervals and Projections:** Updates of information on prices and usage shall be offered on a daily basis, shall include hourly price and use information, where available, and shall include a day-ahead projection of such price information to the extent available.
- **Sources:** Purchasers and other interested persons shall be provided annually with written information on the sources of the power provided by the utility, to the extent that it can be determined, by type of generation, including greenhouse gas emissions associated with each type of generation, for

ADMINISTRATIVE CASE NO. 2012-00428
BRIEF OF THE JOINT UTILITIES

intervals during which such information is available on a cost-effective basis.

- Customer data: Customers shall be able to access their own information at any time through the internet and by other means of communication elected by the electric utility for smart grid applications. Other interested persons shall be able to access information not specific to any customer through the Internet. Customer-specific information shall be provided solely to that customer.³

The current offering of residential time-based or time-of-use pricing options is limited to voluntary programs, and such pricing options have not yet been widely adopted in Kentucky. Therefore, there is no need to require utilities to provide the extensive pricing, interval, and projection information the EISA 2007 Smart Grid Information Standard requires. Moreover, the EISA 2007 Smart Grid Information Standard takes no account of the economics of serving the different customers and service territories in Kentucky; rather, it would impose a one-size-fits-all requirement that all utilities provide their customers the same kinds of information in presumably similar, if not identical, ways. Such a standard could require utilities to make currently uneconomical investments in customer-facing information technology.

Instead, the Commission should continue to use its existing review processes and authority to ensure utilities are providing customers the information they need in economical ways. That will allow the Commission's review of information provision to customers to recognize each utility's unique characteristics, including the unique costs and benefits of providing certain kinds of information in certain ways to each utility's customers.

³ *In the Matter of: Consideration of the Implementation of Smart Grid and Smart Meter Technologies*, Case No. 2012-00428, Order at 5 (Oct. 1, 2012).

ADMINISTRATIVE CASE NO. 2012-00428
BRIEF OF THE JOINT UTILITIES

III. The Joint Utilities Unanimously Agree the Commission Should Not Adopt the EISA 2007 Smart Grid Investment Standard

The Joint Utilities continue to oppose unanimously any adoption of the EISA 2007 Smart Grid Investment Standard because it would be largely redundant while potentially stifling useful innovation in smart-technology proposals, including potential cost-recovery methods. The standard would require as follows:

Each State shall consider requiring that, prior to undertaking investments in nonadvanced grid technologies, an electric utility of the State demonstrate to the State that the electric utility considered an investment in a qualified Smart Grid system based on appropriate factors, including:

- total costs;
- cost-effectiveness;
- improved reliability;
- security;
- system performance; and
- societal benefit.

The EISA 2007 Smart Grid Investment Standard also requires each state to consider rate recovery of Smart Grid capital expenditures, operating expenses, and other costs related to the deployment of smart grid technology, including a reasonable return on the capital expenditures. As part of the rate recovery consideration, each state is to also consider recovery of the remaining book-value of obsolete equipment associated with smart grid deployment.⁴

Because the Commission already has the ability and duty to review the costs and benefits of utility proposals, the proposed standard is unnecessary; moreover, intervention by advocates such as the Attorney General (“AG”) already helps ensure the thorough review of utility proposals. In addition to being largely redundant, the proposed standard may inhibit useful innovation to the extent it introduces constraints on what can be considered when utilities make

⁴ *Id.* at 4.

ADMINISTRATIVE CASE NO. 2012-00428
BRIEF OF THE JOINT UTILITIES

smart-grid-related proposals, including constraints on costs and benefits to consider, as well as cost-recovery methods. Therefore, the Commission should decline to adopt the EISA 2007 Smart Grid Investment Standard in favor of continuing to use its existing authority to review utility proposals to ensure they are cost-effective and that each utility's means of cost recovery is appropriate on a case-by-case basis.

The Joint Utilities do not oppose the economical use of smart technologies. But the Joint Utilities do oppose mandatory standards that could stifle innovation or otherwise curtail each utility's ability to implement what is most economical and sensible for its customers and service territory; that is why the Joint Utilities oppose the EISA 2007 Smart Grid Investment Standard.

IV. Other Issues Addressed in this Proceeding

On July 17, 2013, the Commission issued an order directing the Joint Utilities, the AG, and the Community Action Council for Lexington-Fayette, Bourbon, Harrison and Nicholas Counties, Inc. ("CAC") to examine collaboratively nine topics related to smart technologies and their deployment in Kentucky: customer privacy, opt-out provisions, customer education (including health-related education), dynamic pricing, Automated Meter Reading ("AMR") and Advanced Metering Infrastructure ("AMI") deployment (including prepaid meters and remote disconnections),⁵ cyber-security, cost recovery for smart-technology deployments and obsolete equipment, how natural gas companies might participate in the electric smart grid, and whether the Commission should adopt the Smart Grid Investment and Information Standards proposed in EISA 2007.⁶ On June 30, 2014, the Joint Utilities submitted to the Commission their report to

⁵ The Joint Utilities have renamed this section "Distribution Smart-Grid Components."

⁶ *In the Matter of: Consideration of the Implementation of Smart Grid and Smart Meter Technologies*, Case No. 2012-00428, Order at 7-8 (July 17, 2013).

ADMINISTRATIVE CASE NO. 2012-00428
BRIEF OF THE JOINT UTILITIES

the Commission on these topics (“Joint Report”), which included comments from the AG and CAC.

The Joint Utilities continue to support the views they expressed in the Joint Report, which are summarized below (with the exception of the Joint Utilities’ views on the EISA 2007 standards, which are addressed at length above).

A. Customer Privacy

Customer privacy is an important issue independent of smart-technology considerations. But there are already federal and state legal protections in place concerning customer information in utilities’ possession, and government and industry groups are working to develop even more robust voluntary standards for utilities to consider. Moreover, Kentucky’s utilities have already gone beyond the legal requirements in place today to ensure that only appropriate use is made of customer information. Therefore, Joint Utilities conclude that a new mandatory customer-privacy standard is not necessary at this time, including the customer data provisions of the EISA 2007 Smart-Grid Information Standard. Instead, the Joint Utilities proposed in the Joint Report a voluntary, non-binding list of terms to define and substantive items for utilities to consider when reviewing customer-privacy policies and practices, which the Commission may find useful when addressing smart-grid or other customer-privacy-related utility proposals.

B. Opt-Out Provisions

Customer concerns over purported health and privacy impacts of smart meters have caused some states to require utilities to offer opt-out provisions from smart-meter deployments. But requiring utilities to offer opt-outs from smart-meter deployments has potentially significant cost and operational impacts for utilities and customers, both those who choose to opt out and those who do not. Determining how to allocate the direct and indirect costs of opt-out provisions

ADMINISTRATIVE CASE NO. 2012-00428
BRIEF OF THE JOINT UTILITIES

among customers who opt out and those who do not is also a challenging issue. Therefore, the Joint Utilities agree the cost impacts and reduced operational capabilities (to both opting-out customers and all other customers) of requiring opt-out arrangements are not generally beneficial on the whole. Instead, a case-by-case approach using some or all of the non-binding analytical framework presented in the Joint Report may be an appropriate approach to evaluate opt-outs.

C. Customer Education

Customer education is likely to increase the success of any smart-meter deployment. By ensuring customers understand the benefits and features of the smart technology being deployed, a deploying utility can help minimize customer concerns and objections while increasing the likelihood that projected benefits will be realized as customers engage with the technology and use it to improve their energy consumption. Therefore, the Joint Utilities recommend on a voluntary, non-binding basis that each utility deploying smart meters consider using some of the customer-education topics (e.g., privacy issues) and channels (e.g., mass media) addressed in the Joint Report.

D. Dynamic Pricing

The Joint Utilities' collective experience is that dynamic pricing for residential customers tends to have low participation, and the dynamic rates that have been implemented sometimes produced net energy-consumption increases. Based on those experiences, the Joint Utilities agree that a utility should consider some or all of the issues discussed in the Joint Report (e.g., rate structures and contract terms) before offering a dynamic-pricing rate to customers interested in participating in such rate programs. The Joint Utilities further agree that utilities should not have an obligation to create dynamic-rate offerings, but rather should have the option to do so subject to Commission approval.

ADMINISTRATIVE CASE NO. 2012-00428
BRIEF OF THE JOINT UTILITIES

E. Distribution Smart-Grid Components

Although distribution smart-grid components can provide benefits to customers and add value to utilities' distribution systems, there are a number of items utilities might consider before investing in such systems, including items related to technological obsolescence, prepaid metering, and remote connection and disconnection of utility service, all of which can impact customers. But adding another layer of regulation, i.e., the EISA 2007 Smart-Grid Investment Standard, to the Commission's already robust oversight authority is not necessary to ensure utilities make only prudent investments; rather, the Commission's existing authority concerning base rates, Certificates of Public Convenience and Necessity and Construction Work Plans (collectively "CPCNs"), and non-base-rate recovery mechanisms is sufficient to protect customers while maintaining regulatory efficiency.

F. Cyber-Security

Utilities should work diligently to take reasonable measures to prevent and defeat cyber-attacks; on the issue of cyber-security, all stakeholders' interests and incentives are aligned. But existing mandatory and voluntary cyber-security standards, frameworks, and guidelines are sufficient; adding such regulations or rules at the state level may serve to weaken rather than strengthen utilities' ability to thwart cyber-attacks by slowing their ability to adapt to the ever-changing threat. The cyber-security focus should be on a utility's ability to evolve with emerging threats, not on its compliance with cyber-security standards based on legacy threat profiles. A mature, effective cyber-security process is one that is continuously evolving based on emerging threat intelligence and threat vectors or actions. Therefore, additional regulations or requirements at the state level are not necessary or advisable.

ADMINISTRATIVE CASE NO. 2012-00428
BRIEF OF THE JOINT UTILITIES

G. Cost Recovery

Because utilities may and are deploying smart technologies under different circumstances, in different ways, at different paces, and to different extents, there cannot be a one-size-fits-all approach to cost recovery for, or review of, smart-technology deployments. Instead, to encourage the most economically rational yet innovative uses and deployments of smart technologies, the Joint Utilities believe: (1) all forms of cost recovery should be available for utilities to consider and propose to the Commission, including traditional base rates, existing cost-recovery mechanisms (e.g., demand-side management (“DSM”) riders), and new riders or surcharge mechanisms; (2) utilities proposing smart-technology deployments that will necessitate retiring existing utility assets with unrecovered book life should take the cost of those retirements into account in their cost-benefit analyses and be able to recover that cost if the deployment is prudent; and (3) additional smart-grid-specific review proceedings or criteria are unnecessary for smart-grid deployments because existing cost-recovery and other review proceedings and mechanisms are sufficient, including CPCN proceedings and various kinds of rate proceedings. The Joint Utilities therefore continue to oppose the imposition of the EISA 2007 Smart-Grid Investment Standard or any derivative thereof.

H. How Natural Gas Companies Might Participate in the Electric Smart Grid

Kentucky’s natural-gas local distribution companies (“LDCs”) have in some ways pioneered deploying automated and smart technologies among utility operations, having deployed Supervisory Control and Data Acquisition (“SCADA”) in their distribution systems and AMR in meter reading for many years. Having already achieved the efficiencies associated with those technologies, though, means that LDCs and their customers may have less to gain from further smart-technology deployments. Also, there are a number of benefits or efficiencies

ADMINISTRATIVE CASE NO. 2012-00428
BRIEF OF THE JOINT UTILITIES

that electric smart technologies might provide or enable that would not benefit LDCs, such as time-of-use or dynamic pricing and remote-reconnection capabilities. Nonetheless, the LDCs among the Joint Utilities remain committed to seeking economical means of participating in the electric smart grid or developing an independent gas smart grid.

V. Conclusion and Recommendations

The Joint Utilities have appreciated the opportunity to explore with the Commission, AG, CAC, and each other the various smart-technology-related topics that have been the focus of this proceeding and its predecessor, Case No. 2008-00408. Much useful information has entered the record of the proceeding, and each of the Joint Utilities has learned from the other participants. Collectively, the Joint Utilities believe they have produced useful guides for the Commission and others to use when considering these topics. In particular, the voluntary, non-binding analytical tools and frameworks provided in the Joint Report are the culmination of over five and a half years of examination of smart-grid related issues by the Joint Utilities. These tools and frameworks, operating as voluntary guidelines, may assist utilities when considering smart-technology investments and deployments.

But it remains the well- and long-examined view of all of the Joint Utilities that the Commission should not impose any mandatory, uniform guideline or rule for utilities' use of smart technologies. Instead, the Commission should continue to rely on time-tested and proven review processes to review the prudence of utility smart-technology investments and deployments. Notably, the Joint Utilities have made additional investments in smart and advanced technologies during the pendency of this proceeding and its predecessor, investments that have been subject to the Commission's existing rate and other review processes; the Joint Utilities believe these reviews have provided adequate opportunities to review such investments

ADMINISTRATIVE CASE NO. 2012-00428
BRIEF OF THE JOINT UTILITIES

for the parties desiring to seek such review and approval. The Joint Utilities therefore unanimously recommend that the Commission issue a final order closing this case without further proceedings and declining to impose the EISA 2007 Smart Grid Information Standard, the EISA 2007 Smart Grid Investment Standard, or any other smart-technology-related standard.

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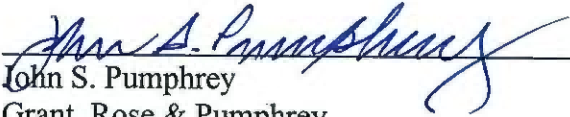
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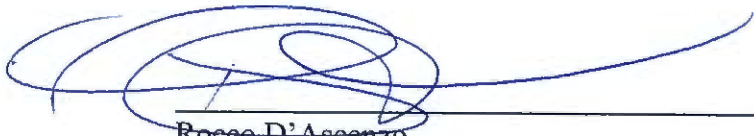
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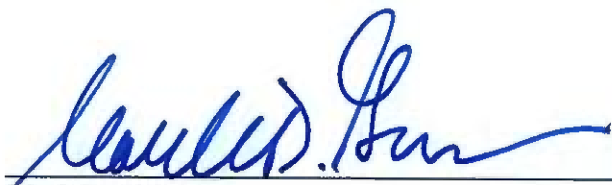
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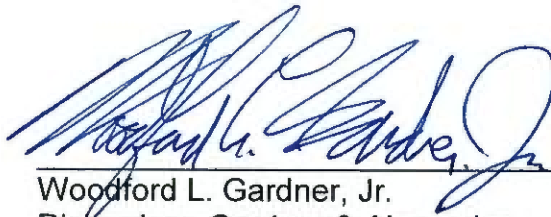
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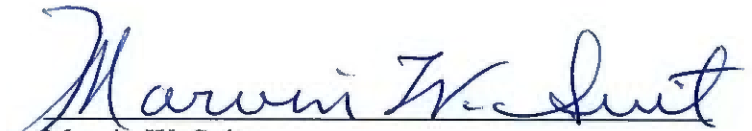
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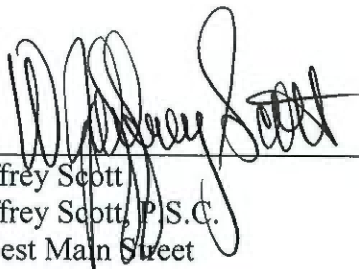
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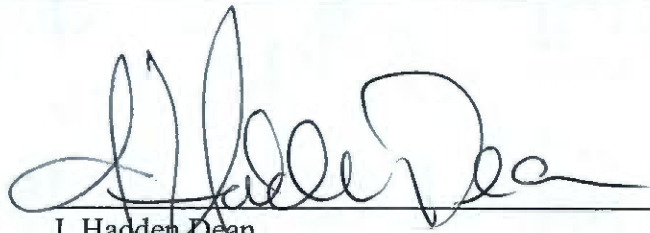
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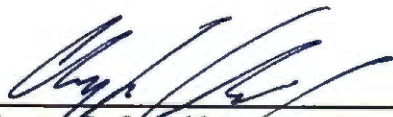
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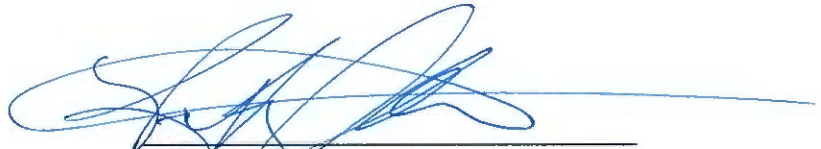
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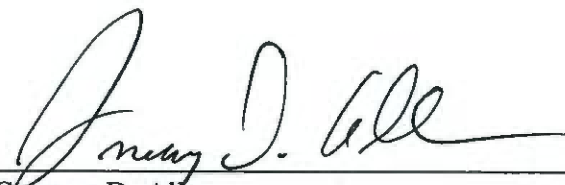
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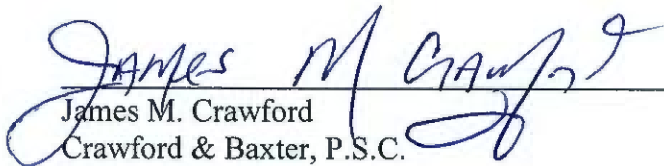
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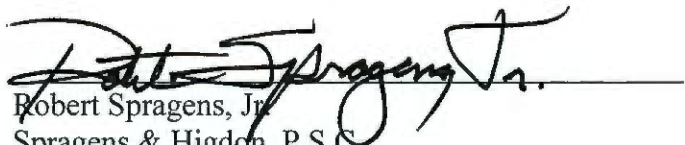
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