

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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AUG 27 2014

PUBLIC SERVICE
COMMISSION

In the Matter of:

INVESTIGATION OF THE FAILURE OF WATER)
SERVICE CORPORATION OF KENTUCKY TO)
HOLD ANNUAL PUBLIC MEETINGS IN THE)
CITIES OF CLINTON AND MIDDLESBORO)

Case No.
2014-00272

On August 7, 2014, the Commission established this matter to investigate whether Water Service Corporation of Kentucky (“WSCK”) should be subject to penalties of KRS 278.990. WSCK, by counsel, provides the following response.

KRS 278.900 enables the Commission to issue a civil penalty to a utility if the utility willfully fails to obey the order of the Commission. In the final order of Case No. 2012-00133, the Commission directed the utility to “host annual public meetings in Clinton and Middlesboro, Kentucky, at which the senior officers from the regional office of Utilities, Inc. that oversees Water Service Corporation’s operations will attend and participate.”

In order to comply with the Commission’s directive, WSCK planned on holding public meetings in Clinton and Middlesboro in December 2013. Recognizing that the dominant focus of any public meeting at that time would be WSCK’s pending rate case, WSCK contacted Commission Staff to inquire as to the prudence of consolidating the public meeting held in compliance with Case No. 2012-00133 and public meetings that WSCK anticipated the Commission would schedule in the rate case.¹ (WSCK’s anticipation of public meetings in the rate case was reasonable because the Commission scheduled public meetings in the previous two rate cases.)

¹ See Letter from M. Todd Osterloh, counsel for WSCK, to Jeff DeRouen, Executive Director of the Commission (Dec. 3, 2013) (attached hereto as Exhibit 1).

In response to WSCK's request, Commission Staff responded that the issue was being discussed internally and that Commission Staff would respond at a later time.² WSCK did not thereafter receive a response from Commission Staff.

"The word 'wilful' [sic] in its general acceptation means intentionally, not accidentally or involuntarily."³ The correspondence from WSCK to Commission Staff demonstrates that WSCK intended on complying with the Commission's order in Case No. 2012-00133. Moreover, at the very least, Commission Staff's silence created confusion. Silence by the Commission Staff was the basis in Case No. 2004-00103 for the Commission to find that a utility did not "knowingly" fail to obey a previous Commission order.⁴ The Commission has previously equated willfully and knowingly.⁵ Accordingly, WSCK's actions cannot meet the "willful" standard of KRS 278.990.

WSCK is fully committed to holding public meetings in the cities of Clinton and Middlesboro in compliance with the ordering paragraph of Case No. 2012-00133. On June 17 and July 10, 2014, WSCK held public meetings in Clinton and Middlesboro, respectively. UI Regional Vice President Bruce Haas, UI Director of Billing and Regulatory Relations Karen Sasic, and UI Regional Manager James Leonard attended each meeting. WSCK also had several members of the local field operations staff to address any specific service questions that could have been raised at the meetings. In Clinton, only five members of the public attended, including the mayor, a city council member, and the county attorney. In Middlesboro, only one member of the public attended, and she is the spouse of a UI employee.⁶

² See E-mail from James R. Wood, Staff Attorney for the Commission, to M. Todd Osterloh, counsel for WSCK (Dec. 3, 2013) (attached hereto as Exhibit 2).

³ Muncy v. Commonwealth, 97 S.W.2d 606, 609 (Ky. 1936).

⁴ See Kentucky-American Water Co., Case No. 2004-00103, at 24-25 (Ky. PSC Feb. 28, 2005).

⁵ See Kentucky Utils. Co., Case No. 90-172, at 3 (Ky. PSC Dec. 4, 1990).

⁶ Copies of the sign-in sheets for these meetings are attached as Exhibit 3.

The evidence that would be submitted in this matter clearly demonstrates that WSCK did not willfully fail to obey the Commission's order and, therefore, cannot be penalized under KRS 278.990. WSCK requests an informal conference be scheduled prior to the evidentiary hearing so that WSCK can discuss the issues presented in this matter with Commission Staff and the Attorney General, who has intervened in this matter.

Respectfully submitted,

STURGILL, TURNER, BARKER & MOLONEY, PLLC



M. TODD OSTERLOH
CHARLES D. COLE
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Lexington, Kentucky 40507
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ATTORNEYS FOR WATER SERVICE CORPORATION
OF KENTUCKY

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing has been served via U.S. Mail on this the 27 day of August, 2014.

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December 3, 2013

VIA MAIL & EMAIL

Jeff DeRouen, Executive Director
Public Service Commission
P.O. Box 615
Frankfort, KY 40602-0615

RE: Utility Hosted Public Meeting in Middlesboro and Clinton

Dear Mr. DeRouen:

As you will remember, the Commission approved the indirect transfer of control of Water Service Corporation of Kentucky ("WSCK"), in Case No. 2012-00133. As a condition of the transfer, WSCK and its corporate affiliates, Corix Utilities (Illinois) LLC and Utilities, Inc., agreed to host annual public meetings in the cities of Middlesboro and Clinton, Kentucky to provide a forum for customers to communicate with utility management.

WSCK has a rate case pending before the Commission (Case No. 2013-00237). Based on the current procedural schedule, an evidentiary hearing has been set for March 18, 2014, and it may be moved to April. Although there has been no indication whether the Commission will hold local public meetings related to the rate case, the Commission has held public meetings in Middlesboro and Clinton in WSCK's last two rate cases. If public meetings were to be held, we would anticipate that they would be held in March or early-April before the evidentiary hearing.

In contemplating the scheduling of a public forum as envisioned by the agreement in the transfer case, it occurred to WSCK that the dominant focus of any meeting held by WSCK in Middlesboro and Clinton December 2013 would be the current rate case. In order to avoid the economic inefficiency of holding two sets of meetings less than three months apart in which the focus of the meetings is the same, WSCK proposes to consolidate the meetings and hold one set of meetings. This would also allow other interested individuals, such as Commission Staff and representatives of the Attorney General's office, to hear the input from the customers without having to make a second trip from Frankfort.





December 3, 2013
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Please advise as to whether this proposal is acceptable to the Commission and Commission Staff. As always, if you have any questions, do not hesitate to contact me.

Sincerely,
STURGILL, TURNER, BARKER & MOLONEY, PLLC

M. Todd Osterloh

MTO/mlm

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Todd Osterloh

From: Todd Osterloh
Sent: Tuesday, December 03, 2013 3:02 PM
To: 'Wood, James R (PSC)'
Cc: DeRouen, Jeff (PSC) (Jeff.DeRouen@ky.gov)
Subject: RE: Date for meeting

Thanks, Jim.
Todd

M. Todd Osterloh

Attorney

tosterloh@sturgillturner.com



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From: Wood, James R (PSC) [mailto:JamesR.Wood@ky.gov]
Sent: Tuesday, December 03, 2013 2:53 PM
To: Todd Osterloh
Cc: DeRouen, Jeff (PSC)
Subject: Date for meeting

Todd:
Looks like we will set a date for the meeting after the rate case has concluded. It will probably be a month or two after the conclusion of the rate case. Your other question about public meetings is being discussed. I will get back with you later on that issue.

Jim

James R. Wood

Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, KY 40602





PUBLIC MEETING - SIGN-IN SHEET
Water Service Corporation of Kentucky
Clinton Kentucky — June 17, 2014

PLEASE PRINT LEGIBLY

Name	Address
1. Tommy Kimbro	524 Elm St. Clinton Ky 42031
2. Bruce T. Haas	Water Service Corp. of KY
3. James Leonard	Water Service Corp of KY
4. Phyllis Campbell	103 Cunningham Dr. Clinton Ky 42031
5. Alex Dan Rame	636 Huddsman Road
6. Debbie Norris	212 N. Washington Clinton
7. John Alexander	216 N. Washington Clinton
8. John R Turner	WSCK
9. Ronnie Rushing	WSCK
10. Todd Osterholt	WSCK
11) Karen Sasrc	WSCK





PUBLIC MEETING - SIGN-IN SHEET

Water Service Corporation of Kentucky

Middlesboro, Kentucky — July 10, 2014

PLEASE PRINT LEGIBLY

	Name	Address
1.	James Leonard	WSCK
2.	STEVE VAUGHN	WSCK
3.	Bruce T. Haas	WSCK/Utilities, Inc.
4.	Karen Sasic	WSCK/Utilities, Inc.
5.	Greg Bott	WSCK/Utilities, Inc.
6.	Mike Partin	WSCK / Utilities, Inc
7.	Joseph Johnston	WSCK / Utilities, Inc
8.	Jensen Duda	WSCK
9.	Henry John	WSCK
10.	Hana Dughn	104 Brentwood Circle M'boro Ky 40965
11.		
12.		

a Utilities, Inc. company Water Service Corp. of Kentucky

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