

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

JUN 15 2015

PUBLIC SERVICE
COMMISSION

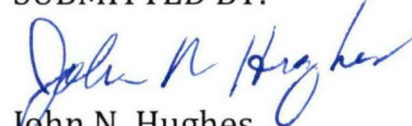
In the Matter of:

APPLICATION OF MOUNTAIN)
WATER DISTRICT FOR)
AN ADJUSTMENT OF WATER AND)
SEWER RATES)

Case No. 2014-000342

BRIEF OF MOUNTAIN WATER DISTRICT

SUBMITTED BY:



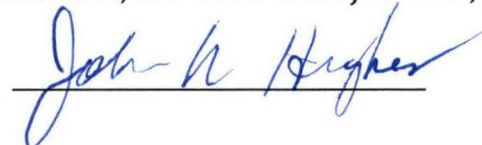
John N. Hughes
124 W. Todd St.
Frankfort, KY 40601
502 227 7270
jnhughes@fewpb.net

and

Daniel P. Stratton
Stratton Law Firm PSC
Post Office Box 1530
Pikeville, Kentucky 41502
Telephone: (606) 437-7800
Facsimile: (606) 437-7569
dpstratton@setel.com

Attorneys for Mountain
Water District

I certify that a copy of this brief was delivered to the Attorney General's Office of Rate intervention, 1024 Capital Center Dr., Frankfort, KY 40601 on June 15, 2015.



COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF MOUNTAIN)
WATER DISTRICT FOR) Case No. 2014-000342
AN ADJUSTMENT OF WATER AND)
SEWER RATES)

BRIEF OF MOUNTAIN WATER DISTRICT

I. INTRODUCTION

On November 20, 2014, Mountain Water District ("MWD") tendered its application for an adjustment of its water and sewer rates pursuant to the procedures set forth in 807 KAR 5:001, Section 16. After filing certain corrections to the application, it was accepted for filing on December 11, 2014. On December 29, 2014, MWD submitted revised tariffs for its water and sewer divisions with a stated effective date of January 11, 2015, to comply with the requirements of KRS 278.180(1) and 807 KAR 5:011, Section 9. The proposed rates were then suspended for five months from that date.

The Attorney General's Office of Rate Intervention intervened in the case on January 9, 2015. No other parties intervened.

After multiple discovery requests from both the Attorney General and the Commission staff and three informal conferences, an evidentiary hearing was held on May 20, 2015.

II. STATEMENT OF THE CASE

Mountain Water District is a non-profit water district organized under KRS Chapter 74. It was created by the merger of Pond Creek Water District, Marrowbone Water District Shelby Valley Water District and Johns Creek Water District on July 1, 1986. MWD is administrated by a five (5) member board of commissioners. It is a combined water and sewer district is currently serving approximately 17,855 (17,004 + 851 multi-users) water customers, 2,355 sewer customers and three wholesale customers. The District is comprised of approximately 1,100 miles of water main, 995,400 ft. of service line, 17,004 meter installations, 27 master meters, 43 pressure regulator stations, 108 water storage tanks ranging in capacity from five thousand (5,000) gallons to one million (1,000,000) gallons with total storage capacity of 8,662,000 gallons, 135 booster pumping stations with a total pumping capacity of 12,917 gallons/minute ranging in size from 10 gallons/minute to 500 gallons/minute, and one (1) three million (3,000,000) gallon per day water treatment plant located on Harless Creek at Marrowbone. In addition, the district purchases

water from the City of Pikeville and the City of Williamson.

It also has two sewage treatment plants, eight package sewage plants and two wholesale agreements for sewage treatment. There are two classes of sewer customers. Traditional sewer customers are those who are provided both water and sewer service by MWD. They are billed based on their total water usage. The non-traditional sewer customers are of two types. One is connected to the MWD sewer system, but has an alternative source of water such as a cistern or well. The other non-traditional customer class is not connected to the MWD water or sewer system, but has a separate septic system maintained and operated by MWD. These customers are not regulated by the Commission as determined in Case No. 2009-00405.

MWD proposes to adjust rates for retail and wholesale water and for sewer services. Water rates were last increased in 2008. Sewer rates were last increased in 2006. These increases were pursuant to loan agreements with Rural Development (RD). Its last general water rate case was in 1997, Case No. 96-126. Rates are being proposed in this case to provide additional revenue for operating expenses, debt service, depreciation and pro forma adjustments. In the test year, MWD had revenue from retail water sales of \$8,081,510. The cost of service study prepared for this case shows that it needs \$10,128,321 annually to meet its current obligations. That is an annual revenue shortfall of

\$2,046,811. For sewer the test year revenue was \$989,823 and the required revenue is \$1,573,322, resulting in a projected revenue requirement of \$2,563,145.

During the test year only two wholesale customers purchased water from MWD – Mingo County Public Service District and Elkhorn City. The total revenue from those two sales was only \$178,916. The proposed revenue for wholesale customers is \$224,234.

III. THE PROPOSED RATES ARE REASONABLE

To determine the rates needed for its operations, MWD engaged the services of Summit Engineering, Inc. to perform a cost of service study for retail, and wholesale water and for sewer customers. Using recognized AWWA methodology, the study resulted in two rate alternates for the MWD board of commissioners to consider. Alternate 1 is an across the board rate increase for the current tariff rates. Rate Alternate 2 is a cost of service based rate. Rate alternate 2 would charge all customers a service fee and a uniform volumetric rate. Both rate alternates recover the required revenue. Both rate alternates apply a uniform cost per thousand gallons of water used to all customers. The only difference between the alternates is that alternate 1 (an across the board increase for the existing rate tariff) relies on the base rate

(minimum bill) concept and charges all customers using less than 2,000 gallons per month a minimum charge while alternate 2 (cost of service) replaces this minimum bill with a service fee. Alternate 1 impacts all customers by the same percentage. Alternate 2 gives very low volume customers a slight rate reduction. The District opted for Alternative 1, as it was the easiest for customers to understand, and for MWD to implement.

The rate alternate chosen by MWD raises the systems total revenue requirement by uniformly adjusting the existing rate tariff by 25% for all water customer classes. The District's existing rate tariff charges water customers by meter size. The existing rate tariff provides for a three tier system that relies on a base rate. All customers consuming less than 2,000 gallons per month pay the base rate (or minimum bill). The base rate generates half of the required revenue regardless of customer consumption (because about 30 percent of system customers are minimum bill customers). Consequently, this rate alternate distributes system revenue more evenly throughout the year.

The present minimum bill for a water customer is \$20.02. The proposed rate is \$25.09. For the average customer, the monthly bill would increase from \$32.05 to 40.17.

The District wholesales very little water. There were only two active wholesale customers in the test year: Elkhorn City (\$173,752 annually) and Mingo PSD (\$5,328 annually). The proposed revenue for wholesale customers is \$224,234 or a 25% increase.

Sewer rates are also proposed to increase. Metered sewer customers now pay a \$14.00 minimum bill and \$6.00 for all usage over 2,000 gallons. Those rates change to \$36.35 and \$15.54 respectively or a 159% increase. The flat rate traditional sewer customers' rates increase from \$29.00 to \$75.10, also a 159% increase. The average sewer customer pays \$24.20 now and would pay \$62.67 under the proposed rates. For the non-traditional customers, the flat rate would increase from \$29.00 to \$69.76 or 159%.

The proposed rates are based on test year revenues and expenses. There were only two adjustments for both water and sewer, which were applied the same for both water and sewer. The UMG contract requires a 1% increase in calendar 2015, which is reflected in the agreement attached as Appendix C of Exhibit B in the Application. The adjustment applies to both the UMG base contract and UMG's repair and maintenance (R&M) allowance. A 3% adjustment is also made to account for an anticipated increase in

electric costs, due to the pending application of KY Power Company in Case 2014-00396.

**IV. THE NEED FOR THE RATE INCREASE IS SUPPORTED BY
SUBSTANTIAL EVIDENCE**

Roy Sawyers, District Administrator, stated the reasons for the need for this rate increase:

The primary reason for the water increase is operational expenses. The cost of service has risen to the point that revenues simply do not meet our financial requirements. There is not one factor that has caused the need for the increase, but a general rise in costs and a lack of rate increase to match that rise. Additionally, the District has had no recent customer growth and does not anticipate any...

Sewer rates similarly have not kept up with costs. But, unlike water, the cost of maintenance and replacement of pumps has severely impacted our sewer operations expenses. For example, we are now at the point that many of the pumps are in need of replacement and are out of their warranty period. The cost of maintaining the pumps and replacing them is a significant financial drain...

The District has a service contract with UMG, which provides for the operation and maintenance of the District's water and sewer facilities. That contract requires periodic increases in payments and for the District to fund certain costs in excess of an agreed amount. Those required payments to UMG have reached a level that the District cannot meet without additional revenue.

Sawyers, Prefiled Testimony, p. 3.

Mr. Spears, the District's CPA, emphasized the need for this rate increase

in response to Q. 13 of his Prefiled Testimony:

A. Without immediate rate relief, the District will have to adjust its operations to conserve its inadequate revenue in order to continue to meet its service and financial obligations. It will not have adequate cash flow to pay its obligations. It will also be unable to borrow funds in the future for much needed capital projects. Also, it will be unable to do the routine maintenance and long term maintenance projects that need to be done to continue to provide potable water to the water customers.

In the test year, MWD had a net loss of revenue in water of \$1,145,048 (Application, Exhibit B-2, Schedule W-B, Table 2, p. 3) and a net loss in sewer revenue of \$1,673,406 (Exhibit B-4, Schedule S-B, p. 1. Without additional income, MWD cannot sustain its operations. Mr. Spears testified that the district is not fully funding its bond reserve account, but is making partial payments to try to catch up. (Spears, VT@13:51-53)

Unlike most other utilities, MWD has a contract with UMG to provide all management and operation services. That contract in Section 7.1 requires an annual payment for 2015 and 2016 of \$7,757,660, paid in equal monthly installments of \$640,070.83. (Application, Exhibit B, Appendix C) Pursuant to an amendment of the contract, the annual fee increased by 1% for 2015 and remains flat for 2016. Given the financial losses in the test year, MWD will not have adequate funds to make the contractual payments in 2015.

V. THE UMG MANAGEMENT CONTRACT
IS PRUDENT AND REASONABLE

Since 2005 MWD has had a contract with UMG for the management and operation of its water and sewer facilities. The initial contract with UMG was entered into by the MWD board of commissioners in 2005. The most recent iteration of that contract was executed on March 27, 2014. (Application, Exhibit B, Appendix C) The discretion of MWD's board of commissioners to enter into such a contract is within its statutory powers – KRS 74.070(1). The decision to enter into such a contract is presumed to be reasonable. See Case No. 89-014, 89-029, 89-179: “City of Newport v. Campbell County Water District and Charles Atkins, et al.” Order of January 31, 1990, p. 6.

Hindsight cannot be used to evaluate the prudence of the contract and the management decision to enter into the contract is presumed to be reasonable. For that presumption to be overcome, it must be shown that:

(1) ...the questioned outlays represent ‘inefficiency’ or ‘improvidence’ or (2) managerial discretion has been abused, or (3) the action has been arbitrary or inimical to the public interest, or (4) there has been economic waste, or (5) such outlays were not legitimate operating expenses because they were in excess of just and reasonable charges.

See Case No. 89-014, 89-029, 89-179: “City of Newport v. Campbell County Water District and Charles Atkins, et al.” Order of January 31, 1990, p. 6 and Case No. 2002-00022, “Proposed Adjustment of the Wholesale Water Rate of the

City of Pikeville”, Order dated October 18, 2008, p. 9.

The burden of overcoming the prudence and reasonableness of the contract is on the challenging party. Pikeville, supra, p. 9. The original and current lump sum contract renewal has been questioned by the Attorney General. However, no facts have been presented to overcome the presumption of prudence. Speculation about what might have occurred in 2005 or how the contract might be revised is not sufficient to meet any level of reliable support for his contentions. The contract was negotiated at arms-length. There is no suggestion in the record of otherwise. There is no conflict of interest of any MWD party with any UMG party. No evidence has been presented that supports the notion that the contract was improperly, imprudently or unreasonable entered into.

Although the Auditor of Public Accounts report of 2011 was referenced by the Attorney General, it cannot be used as a basis for a finding in this case. No witness from the Auditor’s office testified about the contents of the report. The lack of cross examination of a witness supporting the information in that document deprived MWD of its ability to discredit the report and to fairly respond to its allegations. It is a fundamental right to a fair hearing that the party relying on evidence be subject to examination by the applicant. See Union Underwear Company, Inc. v. Scarce, 896 S.W. 2d 7 (KY 1995)

Another area of dispute by both the Attorney General and the Commission Staff is the line item adjustments of various expenses included in the UMG accounts. For example, questions about UMG's labor expense, repair and maintenance costs, expense allocations and profit were raised. While UMG and MWD provided uncontested evidence about the reasonableness of those items, they are not relevant to the review of the UMG expenses. The contract provides for a fixed monthly payment for all service provided, except for certain limits on repairs and maintenance. The internal accounting of those items by UMG has no impact on the total annual contract cost or the overall reasonableness of the contract.

The lump sum amount, not the individual line items, is the key element in the Commission's review of the contract's reasonableness. In a similar situation, the Commission in the Pikeville order, *supra* at page 12, that Pikeville's lump sum contract was reasonable and such contracts do not necessitate a higher level of scrutiny.

The same issues the Attorney General has raised in this case to support rejection or modification of the UMG contract were considered and rejected in the Pikeville case, *supra*, on page 12:

While the Commission does not find the present management agreement between PSG and Pikeville is unreasonable, we have some concerns. First, the record indicates that Pikeville

failed to solicit or encourage bids from PSG competitors when the initial term of the management services agreement expired. Second, Pikeville has not conducted any study or analysis since 1986 to determine the benefits and costs of the management agreement presently used for its water operations. Third, Pikeville is performing only a limited review of PSG's budget.

These are similar to the arguments raised by the Attorney General in this case. The Commission having previously determined that such issues are not sufficient to reject or modify the agreement, such a finding is warranted in the case at bar.

The Attorney General also questioned UMG's allocations of expenses in the contract budget as being unreasonable. However, the Commission found in the Pikeville case on page 12: "We are unconvinced that the lump sum fee arrangement contained in Pikeville's management services agreement with PSG presents a serious obstacle to the accurate allocation of expenses or threatens our ability to review Pikeville's expenses."

UMG has provided detailed information about its expenses and how those amounts are allocated to MWD operations. Regardless of those allocations, which both the Attorney General and the Commission staff questioned, the contract must be viewed as a lump sum obligation of MWD. Payments are made by MWD based on the total annual contract amount, not on individual allocations within UMG's accounting system. It must be remembered that UMG

is not regulated. It is not required to maintain its accounts in any manner normally required of regulated utilities.

Merely filing the rate application does not place the burden on MWD to justify every item of every account. While it has the burden of establishing the reasonableness of its proposed rates, an accounting of every line item or allocation is unnecessary and improper. Central Maine Power Co. v. Public Utility Commission, Me., 405 A. 2d 153, 185 (1979). “The statutory burden of proof refers not to each individual item of a utility’s evidence in rate proceedings, but to overall duty of utility to show that its rate change or proposed change was just and reasonable.” 38 C.J.S. Public Utilities, §52, p. 279.

A utility requesting a rate increase enjoys a presumption that the expenses reflected in its application were prudently incurred and taken in good faith. Nevada Power Company, Appellant, v. Public Utilities Commission of Nevada; MGM/Mirage; Southern Nevada Water Authority; and Attorney General's Bureau of Consumer Protection, Respondents. Attorney General's Bureau of Consumer Protection, Appellant, v. Nevada Power Company and Public Utilities Commission of Nevada, Respondents. Supreme Court of Nevada, 138 P.3d 486 (Nev. 2006)

The test of reasonableness of the UMG contract is its cost versus the cost of comparable utility operations. The Commission staff requested MWD to provide an analysis of the UMG contract costs compared to the operating costs of similar regulated utilities. That comparison was provided in PSC Clarification,

Item 18(a) and (b) attached as Exhibits 1 and 2. The results of those comparisons unquestionably show that the UMG contract for the management and operations of MWD is reasonable. The comparison is provided to facilitate the review of the relative operating costs of MWD and the other utilities. In reviewing the comparison, it should be noted that MWD has significantly more miles of mains, more storage tanks, far more pump stations than any other utility and a much larger service area. Yet, in spite of the size of MWD compared to the others, its operating costs are in some instances lower and in all instances within the same range as the other utilities expenses.

Likewise, its sewer operations are more complex for the same reasons as the water operations. Most of the sewer operations are on forced mains, instead of a gravity system, which also increases cost, yet their costs of operations are in line with peers.

Given this comparison and the lack of any contrary evidence by the Attorney General, there is no factual basis to conclude that the UMG contract is unreasonable.

The Attorney General and the Commission staff also requested MWD prepare an analysis of operating its water and sewer systems. That was provided in PSC Clarification, Item 18(c). That analysis purports to show that MWD could operate its system at a lower cost than the current UMG contract.

However, as Mr. Spears testified, “that analysis does not include several significant costs, such as debt service, depreciation and the unknown impact of the KERS employee allocation.” (Spears, VT @ 13:39) This analysis provides some comparison of operating costs, but it is only an estimate based on a number of variables. In contrast, the actual operating expenses in the table above, provides comparable data based on actual operating experience. As the U.S. Supreme Court said: “The actual experience of the company is more convincing than tabulations of estimates.” Lindheimer, et al. v. Ill. Bell Tele. Co., 292 U.S. 151, 163; 54 S.Ct. 658 (1934). The review of the actual cost comparison is more valid than the estimated cost of operations based on multiple assumptions.

Even if it is assumed that MWD can operate its water and sewer systems at a lower cost than UMG, given the level of known expenses and revenues, the proposed rate increase is critical to funding the self-managed system.

VI. PROPOSED LINE LOSS ADJUSTMENT IS REASONABLE

MWD has historically had an excessive line loss of approximately 30%. Despite efforts to reduce that loss, it has continued at that level. Mr. Potter, the project manager for UMG, who oversees the day to day operations of MWD and is responsible for the line loss reduction effort, testified that the current funding

allows only repairs of located leaks. There is no money available to implement a capital replacement program, which would allow sections of main to be replaced, rather than simply patched as new leaks occur. (Potter, VT @ 15:20-21).

MWD was established by the combination of four utility districts. The District is unsure of the condition of the facilities it inherited or the previous practice and procedures for installation, repairs, and routine maintenance performed by those districts. There could be a multitude of reasons to factor in regarding water loss or failure of infrastructure; such as climate; soil corrosion; installation and maintenance practices. (PSC Clarification, Item 15b).

MWD operates a complex system with a vast amount of infrastructure due to the following: Pike County in size is the largest county in the state; population density is sparse in nature; the mountainous terrain negatively affects the overall design of its system and facilities by implementation of additional infrastructure and equipment to maintain and operate; the replacement of aging infrastructure; upgrades necessary to meet the ever changing environmental regulations. These issues are a direct reflection of the current conditions of the water loss. (PSC Third Data Request, Item 15a)

MWD has maintained a Water Loss Program since its inception. This program assists in day to day operations to protect the District from major

water loss. This program utilizes a leak detection crew, monitors master meters, performs accuracy testing on residential and commercial meters to be compliant, monitors troubled areas for leaks and has a service line replacement program. The Water Loss Program Manual as Revised; the Master Meter Stations List; and the Meter Testing Results are included in the Attorney General Clarification, Item 7.

UMG has a three person leak detection crew that reads meters and sub meters at least weekly. Those readings are correlated to prior readings to develop a base level usage for each section of the system. Variations in weekly readings trigger an investigation to determine the cause of the problem. (PSC Second Request, Item 21b).

The District currently identifies and ranks locations that have the most issues regarding water loss. The District will evaluate and prioritize those areas and begin replacement of its infrastructure to achieve the proposed water loss percentages; however until the District is able to locate additional funding resources, the inability to repair and replace failing or aging infrastructure will continue being the contributing factor for water loss. A list of high priority areas for leak control is attached as Water Line Replacement List as Exhibit 7(3) Attorney General Clarification, Item 7.

The District has proposed a goal to trim the current amount of water

loss to twenty five percent (25%) in five (5) years; and twenty percent (20%) in five (5) years thereafter. (PSC Clarification, Item 15b; (Potter VT @ 15:20) The District anticipates achieving this goal by proposing an infrastructure replacement program. See PSC Clarification Data Response 15b. However, as Mr. Potter testified, replacement of mains, which is essential to reducing water loss is dependent on obtaining financing. (Potter, VT @ 15:20-21). Reducing the revenue request that MWD has proposed in this case will make its efforts to secure critical financing more difficult. Without adequate cash flow and debt coverage, even the most favorable sources of funds, U.S. Rural Development and Kentucky Infrastructure Authority, will not be able to justify additional debt for the district.

VII. THE EVIDENCE SUPPORTS THE EXISTING DEPRECIATION SCHEDULE

One of the key reasons for the continued line loss is the lack of reinvestment of funds for main replacement. As pointed out in a letter dated December 11, 2013, the Kentucky Division of Water noted that MWD only reinvests 5.67% in asset replacement. That level should be 100% of depreciation. (PSC Third Data Response, Item 15). However, spending to replace depreciated assets has not kept pace with the need for replacement of high maintenance areas, which contribute disproportionately to water loss

due to a shortage of cash flow. The importance of depreciation to water districts was discussed in depth in Public Service Commission of Kentucky, Appellant, v. Dewitt Water District, Appellee and East Clark Water District and Warren County Water District, Appellant, v. Public Service Commission and David L. Armstrong, Attorney General, Division of Consumer Protection, Appellee, 720 S.W.2d 725 (Ky. 1986). At pages 729- 30, the Supreme Court engaged in a detailed review and discussion of depreciation and the importance to water districts:

Depreciation is a concern to most enterprises, but it is of particular importance to water and sewer utilities because of the relatively large investment in utility plants required to produce each dollar of annual revenue. Water districts are capital intensive, asset-wasting enterprises. The structure of a water plant, comprised of innumerable components, demands allocation of proper depreciation to ensure financial stability. Adequate depreciation allowance is critical in order to allot to the district sufficient revenue to provide for a replacement fund for all its plant property, contributed or noncontributed...

KRS 74.480 requires the Commission to establish such rates and charges for water as will be sufficient at all times to provide an adequate fund for renewals, replacement and reserves. This statute indicates the legislative intent that water operations must have sufficient revenues to provide for depreciation...

Depreciation is uniformly recognized as an operating expense and it is important that the amounts set aside to cover depreciation of public utility property. Water lines are indivisible and not identifiable as to the source of funds

used to purchase them. The elements causing depreciation indiscriminately take their toll over time on the service life of all plant facilities. The districts are responsible for making replacements and are obliged by statute to make provisions for future replacements. The purpose of depreciation expense as applied to nonprofit water districts does not relate to a recoument of investment. The overriding statutory concept is renewal and replacement. ..

The Commission is required by statute to treat depreciation as an operating expense to provide an adequate fund for renewals, replacement and reserves.

Yet, even with MWD's disparity of depreciation funds relative to deteriorating assets, the issue of decreasing depreciation recovery has been raised. In the its Third Data Request, Q. 20, the Commission staff suggested that the current depreciable life for water mains be increased from the previously recognized 40 years useful life to 62.5 years useful life. There are several problems with this suggestion. First, the 62.5 life has no correlation to the actual life history of the MWD system. That number is only the mid-point of the NARUC useful life scale of 50 to 75 years useful life. It is an arbitrarily selected number without any factual support related to the actual experience of MWD. Nothing in the record provides any justification for using that or any other number. Without knowing the basis of the staff's proposed use of that number, MWD has not had the opportunity to question its applicability to its system or to question any witness supporting that number.

MWD provided testimony that the formation of the district included four existing water systems that had facilities with unknown conditions and operating histories. MWD inherited those systems with their existing construction, installation, maintenance and repair flaws. Additionally, given the terrain of Pike County, the soil conditions, creek crossings, geological conditions, installation practices and other uncontrollable issues, the life of a main is limited. (PSC Clarification, Item 24d).

Included with that response is a list of water main replacement projects that are proposed for the next three years. Note that of the fifteen projects, eight were installed in the 1990's, three in the 1980's and the remainder in the 1970's. None of these projects meets the Staff's proposed 62.5 year useful life. The revenue effect of this change in current depreciation rates would be an annual reduction of revenue of approximately \$603,763. That is a 22.4% reduction in annual depreciation for water lines. That amount of loss would have a negative impact on an already inadequate depreciation fund to replace high water loss sections of the water system.

Another problem with changing the historical depreciable lives of water assets is the consistent use by an acceptance of those depreciation rates by the Commission. In Case No. 96-126, a Staff Report prepared during late 1996 and early 1997 reviewed MWD's operating revenues and expenses. See PSC

Second Data Request, Item 27. That Report on page 12 references adjustments to some of MWD's depreciable assets. It makes no mention of water mains or changing the useful life reflected on MWD's books of 40 years.

Again in 2007, the Commission Staff conducted an accounting inspection of MWD, which the Commission can take administrative notice. (Exhibit 3) That report stated that its purpose was to "... review Mountain's accounting, recordkeeping, and internal control procedures". That report does not mention any issue with the depreciable life assignments for water mains.

It is a violation of MWD's due process right of notice of issues to be addressed in this case by raising an issue that has been relied upon by MWD for many years in a data request months into the hearing process. "A party is entitled, of course, to know the issues on which decision will turn and to be apprised of the factual material on which the agency relies for decision so that he may rebut it. Indeed, the Due Process Clause forbids any agency to use evidence in a way that forecloses an opportunity to offer a contrary presentation." Utility Regulatory Commission v. Kentucky Water Service Co., Inc., Ky. App., 642 S.W.2d 591, 593 (1982). By only requesting a revision to the existing depreciation rates in a data request (Third Data Request, Q. 20), the Commission has failed to present the evidence that it intends to use to

modify the depreciation adjustment and justification for modifying its long standing approval or MWD's depreciation rates. The lack of factual support for this apparent intent to adopt an unexplained mid-point useful life for water mains has precluded the opportunity for the district to refute the Commission's assumptions supporting its presumed finding reducing the depreciation adjustment proposed by MWD.

Based on the only facts in the record supporting the depreciation schedule adjustment and the long standing acceptance of the depreciable lives of the water mains, it would be a violation of MWD's due process rights to modify the schedule. Just as importantly, it will be a severe financial loss for the district that will impact its ability to replace its deteriorating water system.

VIII. THE UMG \$500,000 "LOAN" DOES NOT REQUIRE

KRS 278.300 APPROVAL

In the contract among MWD and UMG dated April 29, 2009 (PSC First Data Request, Item 3c), there is a provision that makes \$500,000 available to MWD from UMG for a period of five years. There are no conditions to the use of those funds. However, if the contract had been terminated prior to the end of the five year contract period, MWD would have owed UMG repayment of a portion of those funds, depending on the termination date. The five year term

has expired. Thus, the condition precedent to repay the executory provision of the bi-lateral contract did not occur. None of the funds ever were included in MWD rates. The amount of the payment shows as a line item on both UMG's and MWD's accounts. The final result of the "loan" is merely a contribution by UMG to MWD. Yet, a question has been raised that this contractual provision included in the service agreement is a loan that needed Commission approval. It is not indebtedness subject to prior Commission approval.

KRS 278.3 00(1) provides: "No utility shall issue any securities or evidences of indebtedness, or assume any obligation or liability in respect to the securities or evidences of indebtedness of any other person until it has been authorized so to do by order of the commission." In Case No. 2013-251, "Application of Hardin County Water District No. 1 and Louisville Water Company", dated September 12, 2014, p. 4, the Commission distinguished between issuance of debt and a simple contract for services:

KRS Chapter 278 does not define the term "*issue*." Entering into a contract to purchase water or any other product is not generally considered an issuance by either the seller or purchaser. Black's Law Dictionary contains several definitions for the term *issue*, including "[a] class or series of securities that are simultaneously offered for sale" and "[t]o send out or distribute officially." Under commercial law, *issue* is defined as "[t]he first delivery of a negotiable instrument by its maker or holder." **None of the**

definitions indicate that an *issuance* occurs when parties enter into a contract for the purchase of a product not involving a document of title. The Contract at hand involves the supply and purchase of water, not the issuance of securities or delivery of a negotiable instrument.

The agreement among UMG and MWD for the services associated with the operation of the water and sewer services does not involve any document of title associated with any debt or security that warrants Commission approval.

IX. CONCLUSION

The focus of this case has been the prudence and reasonableness of the UMG contract. Given the legal standard of review and the facts presented, the uncontroverted facts support the reasonableness of the contract and its associated service and rates. While questions about particular line items in the accounting of the lump sum contract payment have been questioned, the overall service provided by UMG has not. The customers of MWD are being provided quality water and reasonable service.

The cost of operating MWD by UMG is comparable to other similarly situated regulated water utilities. However, the rates do not provide adequate revenue to continue that level of service. Given the actual revenue loss for the test year, the lack of any projected customer growth and the inability to borrow funds for necessary capital repair and replacement projects, the

proposed rates are critical to the continued financial viability of the district.

EXHIBIT 1

REGION. WATER DISTRICT
 OPERATIONAL COMPARISON DATA
 AS OF YEAR END, DECEMBER 31, 2013

	MOUNTAIN WATER DISTRICT	MARTIN CO WATER DISTRICT	SOUTHERN WATER DISTRICT	KNOTT COUNTY WATER DISTRICT	HARDIN CO #1	HARDIN CO #2	MUHLENBERG COUNTY WATER DISTRICT #1
CUSTOMER COUNT	17,145	3,635	7,004	2,460	9,988	17,137	5938
WATER REVENUE	\$8,330,750.00	\$2,367,900.00	\$3,734,645.00	\$1,678,241.00	\$8,123,186.00	\$8,531,494.00	\$3,731,184.00
TOTAL PLANT	\$104,619,711.00	\$33,288,246.00	\$35,351,799.00	\$44,746,976.00	\$53,884,887.00	\$74,089,285.00	\$14,688,237.00
OPERATING EXPENSES	\$6,404,461.00	\$2,221,519.00	\$2,860,025.00	\$1,493,736.00	\$4,811,929.00	\$4,410,420.00	\$3,059,825.00
LINE LOSS %	30%	61%	41%	23%	42%	12%	20%
MILES OF MAIN	1010	200	154	90	438	656	72
# PUMP STATIONS	135	11	18	0	4	7	2
# TANKS	108	12	26	N/A ***	13	11	4
EXPENSE PER CUSTOMER	\$374	\$611	\$408	\$607	\$482	\$257	\$515
EXPENSE PER MILE OF LINE	\$6,341	\$11,108	\$18,572	\$16,690	\$10,986	\$6,723	\$42,498
REVENUE PER CUSTOMER	\$486	\$651	\$533	\$682	\$813	\$498	\$628
OP. EXP. AS % OF PLANT	6.12%	6.67%	8.09%	3.34%	8.93%	5.95%	21.00%

* Please note: Miles of main and line loss % have been rounded to the nearest whole number.

** All information was obtained from the PSC Annual Report for each system for the year ended December 31, 2013.

*** No tank information listed on PSC Annual Report

EXHIBIT 2

REGIONAL WATER DISTRICT
 OPERATIONAL COMPARISON DATA - SEWER
 AS OF YEAR END, DECEMBER 31, 2013

	MOUNTAIN WATER DISTRICT	SOUTHERN WATER DISTRICT	HARDIN CO #1	KNOTT COUNTY WATER DISTRICT	POWELL'S VALLEY WATER DISTRICT	TROUBLESOME CREEK ENV. AUTHORITY
CUSTOMER COUNT	2,372	342	8,817	131	108	28
SEWER REVENUE	\$917,414.00	\$162,868.00	\$6,139,781.00	\$63,639.20	\$84,449.00	\$3,393.06
TOTAL PLANT	\$28,179,798.00	\$7,844,514.00	\$117,088,563.00	\$340,489.02	\$971,923.00	\$4,838,561.35
OPERATING EXPENSES	\$1,241,268.00	\$128,835.00	\$4,719,597.00	\$46,929.36	\$54,882.00	\$103,248.92
# WWTPs	10	4	95	1	3	1
MILES OF SEWER LINE	50.77	7.3	227.25	3.88	N/A ***	6.08
EXPENSE PER MILE OF LINE	\$ 24,448.85	\$ 17,648.63	\$ 20,768.30	\$ 12,095.20	***	\$ 16,981.73
EXPENSE PER CUSTOMER	\$523	\$377	\$535	\$358	\$508	\$3,687
REVENUE PER CUSTOMER	\$387	\$476	\$696	\$486	\$782	\$121
OP. EXP. AS % OF PLANT	4.40%	1.64%	4.03%	13.78%	5.65%	2.13%

** All information was obtained from the PSC Annual Report for each system for the year ended December 31, 2013.

** No length of line was included in PSC Annual Report for this utility.

EXHIBIT 3

Mountain Water District Accounting Inspection

Introduction

Mountain Water District ("Mountain District") is a water district formed in 1986 as a result of the merger of Marrowbone Creek Water District, Shelby Valley Water District, Pond Creek Water District, and John's Creek Water District. It provides water service to approximately 16,000 customers in Pike County, Kentucky, and wastewater service to approximately 2,000 customers in Pike County, Kentucky. Its operations are directed by a five member board of commissioners. In 2005, Mountain Water District entered into an Agreement for Operations, Maintenance and Management Services with Utility Management Group, LLC.¹

Scope

On October 29-30, 2007, Daniel Hinton and Daryl Parks of the Commission's Financial Audit Branch performed an accounting inspection of Mountain District's records. The purpose of this inspection was to review Mountain District's accounting, recordkeeping, and internal control procedures. The inspection tested compliance with Mountain District's filed tariff and certain statutes and regulations and involved a limited review of Mountain District's procurement practices and procedures.

Statutes and Regulations

Mountain District's accounting records and procedures are subject to the Kentucky Revised Statutes ("KRS") and the Kentucky Administrative Regulations ("KAR"). The following deviations were noted:

1. Monitoring Customer Usage. Mountain District's tariff does not contain procedures for monitoring customers' water usage. 807 KAR 5:006, Section 10(3), provides that "[t]he procedures shall be designed to draw the utility's attention to unusual deviations in a customer's usage and shall provide for reasonable means by

¹ The initial term of this contract is five (5) years commencing on July 1, 2005. Under the contract, UMG manages the daily operations, water facilities, and wastewater facilities of Mountain District, with oversight from the Board of Commissioners.

which the utility can determine the reasons for the unusual deviation" and should be included in Mountain District's tariff. Mountain District shall include in its water tariff its procedures for monitoring customer usage.

2. Utility Gross Receipts License Tax. KRS 160.6131 defines utility service as "the furnishing of communications services, electric power, water, and natural, artificial, and mixed gas." Although wastewater service is not included in this definition, Mountain District is charging utility gross receipts license tax on wastewater service. Mountain District is advised to contact the Department of Revenue to ascertain if the utility gross receipts license tax should be assessed on wastewater service.

It was noted that Mountain District was not charging utility gross receipts license tax on water service to the Pike County Board of Education and a hospital. KRS 160.613 does not exempt school boards or hospitals from the tax. Mountain District is advised to contact the Department of Revenue to determine if it should be charging utility gross receipts license tax on water sales to school boards and hospitals.

3. Customer Deposit Amount. 807 KAR 5:006, Section 7(7)(c), requires utilities to list the deposit amount for each customer class in its tariff. Although Mountain District currently collects a \$50 deposit from residential customers and a \$100 deposit from non-residential customers, these amounts are not set forth in its tariff. Mountain District is advised to revise its tariff to list the deposit amounts for each class of customer.

4. Interest on Customer Deposits. Mountain District refunds a deposit after 12 months if a customer establishes a good payment record. However, a customer who does not establish a good payment record does not have its deposit refunded after 12 months and does not receive interest on the deposit until it is refunded. 807 KAR 5:006, Section 7(6), requires interest to be paid annually. Mountain District is advised to pay annual interest on all customer deposits. If Mountain District needs assistance, it should contact Commission Staff.

In addition, Mountain District is paying a higher interest rate (3%) on customer deposits than the rate (1%) that it currently earns on its deposits. KRS 278.460(2) requires water districts to pay interest at the rate it receives, not to exceed six percent (6%). Mountain District is advised to pay interest at the rate it receives.

5. Unauthorized Rates. KRS 278.160(2) states: "No utility shall charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules..." Mountain District is charging the following rates that are not set forth in its tariff:

- Mountain District is charging a 10% late payment penalty on its wastewater bills. Its wastewater rate schedules do not contain a provision for a late payment penalty. Mountain District is advised to cease collecting a late payment penalty on its wastewater bills until obtaining Commission authorization to assess such a charge.
- Mountain District is charging a flat rate to numerous wastewater customers. Mountain District's current tariff on file with the Commission does not include a flat rate for wastewater service. Mountain District is advised to charge only the rates included in its filed tariff until it has received Commission approval to charge other rates.
- For multi-unit services, Mountain District's tariff states "[t]he monthly charge for customers who have requested water service through a master meter for multi-unit service shall be the larger of: (A) The number of housing units times the minimum water charge per unit, based on the District's standard service meter minimum charge, or; (B) The amount based on the average gallons used per housing unit at the current rate schedule times the number of housing units in the multiple unit facility." When Mountain District calculates a bill for such customers, it appears to multiply the first rate step gallons by the number of customers with the remaining usage being charged under the remaining regular rate schedule. This method results in slightly lower bills than using the method in the tariff. Mountain is advised to bill multi-unit services in accordance with the methodology set forth in its tariff.

In addition, the tariff states that multi-unit bills will be based on the District's standard service meter rate schedule, which is the 5/8" x 3/4" meter rate schedule. However, there were two multi-unit rate schedules that were based on the rate schedules for different meter sizes, which resulted in some customers being charged more during some months than the method set forth in the tariff.

The District has since changed these rate schedules to base them on the 5/8" x 3/4" meter rate schedule.

Mountain District's wastewater tariff does not address how Mountain District will bill for wastewater multi-unit service. Some customers appear to be charged under the regular rate schedule while some appear to be charged using the same method to charge water multi-unit services. Mountain District should bill all customers under the regular rate schedule until its tariff addresses how it will bill for wastewater multi-unit service.

- Mountain District is charging a fee to customers who pay their bills with debit/credit cards; however, this fee has not been approved by the Commission. Mountain District is advised to cease charging this fee until it is approved by the Commission.
- Mountain District is charging a \$2,600 wastewater tap fee. While Mountain District's tariff provides for a \$700 wastewater tap fee, the Commission approved a \$750 wastewater tap fee in Case No. 1997-00112 after inadvertently approving a \$700 tap fee in that same case. Mountain District is advised to cease collecting the \$2,600 wastewater tap fee until it obtains Commission approval for such charge. Mountain District should also revise its tariff to include the correct wastewater tap fee (\$750) and begin collecting that amount.
- Mountain District has charged a commercial customer a rate of \$5.24 per 1,000 gallons for water withdrawn from a hydrant for construction work. This charge was not in Mountain District's tariff. This customer is no longer a customer of Mountain District.

6. Commissioner Salaries. KRS 74.020(6) requires water district commissioner salaries to be set by the county judge executive with the approval of fiscal court. Mountain District provided a resolution from its board of commissioners and a letter from the Pike County Judge Executive approving the current level of commissioner salaries. However, Mountain District failed to provide any evidence that Pike County Fiscal Court had approved the current salary level. Mountain District is advised to request and maintain a copy of the minutes of the fiscal court meeting in which Pike County Fiscal Court approved the current level of commissioner salaries.

7. Unauthorized Debt. KRS 278.300 requires a water utility to obtain prior Commission approval to issue a debt instrument whose term exceeds two years. Commission approval is not required for debt which is payable in less than two years so long as it is not renewed for a period that exceeds, in the aggregate, six years from the issuance date of the original note. It was noted that Mountain District entered into numerous debt agreements and refinanced debt without Commission approval. For debt still outstanding at December 31, 2006, the original issue amount totaled \$23,386,736. Of that amount, \$23,357,233 required Commission approval and \$29,503 did not require Commission approval. Mountain District only sought and received approval to finance \$19,643,579 of the \$23,357,233 required. Of the debt Mountain District did not seek approval for, \$812,080 was to finance the purchase of vehicles/miscellaneous equipment with terms of three (3) to five (5) years, \$1,616,574 was to finance construction projects with terms of over 20 years, and \$1,285,000 were lines of credit for construction which were later rolled over to a five (5) year note. Mountain District is advised to explain why it failed to seek Commission approval of these loans. In the future, the district is advised to request Commission approval prior to the issuance of debt.

8. Bidding Requirements. KRS 424.260 states that "no city, county, or district, or board or commission of a city or county, or sheriff or county clerk, may make a contract, lease, or other agreement for materials, supplies except perishable meat, fish, and vegetables, equipment, or for contractual services other than professional, involving an expenditure of more than twenty thousand dollars (\$20,000) without first making newspaper advertisement for bids." It was noted that contractors were hired on an as needed basis on several projects that Mountain District completed "in-house". Mountain District paid one contractor, US Rentals & Construction, over \$20,000 on two of the projects reviewed for excavating work without making newspaper advertisement for bids. Mountain District is advised to comply with the requirements of KRS 424.260.

Accounting and Internal Controls

Mountain District's accounting records and procedures are subject to the provisions of the Uniform System of Accounts for Water Districts and Associations ("USoA"), as well as those prescribed by the Kentucky Public Service Commission.

9. Misclassifications. Mountain District misclassified several items on its 2006 annual report. The following misclassifications are noteworthy:

Water Division

<u>Item</u>	<u>Proper Account</u>	<u>Account Charged</u>
Liability for Employee's Portion of Payroll Taxes Withheld	241 – Tax Collections Payable	236 – Accrued Taxes
Reimbursement for Damage Caused By Others	Reduction to the Appropriate Expense Account	471 - Miscellaneous Service Revenues
Service Connection/ Reconnection Fees	471 – Miscellaneous Service Revenues	474 – Other Water Revenues
Meter Sales – Multi-Family Units	461.1 – Metered Sales - Residential	461.2 – Metered Sales to Commercial Customers
Metered Sales – Industrial	461.3 – Metered Sales to Industrial Customers	461.2 – Metered Sales to Commercial Customers
Meter Sales – Public Authorities	461.4 – Metered Sales to Public Authorities	461.2 – Metered Sales to Commercial Customers

Mountain District should exercise greater care when recording transactions and completing its annual report. When uncertain as to how to account for a transaction, it should consult the USoA.

In addition, Mountain District records grants received for construction in Account 252, Advances for Construction. Once the construction is completed, Mountain District

transfers the amounts to Account 215.2, Donated Capital (Water) or Account 271, Contributions in Aid of Construction (Sewer). The USoA for Water Districts and Sewer Utilities states that Account 252 is to be used for advances which are to be refunded either wholly or in part. As grants are not considered liabilities, Mountain District should record grants received in Water Account 432, Proceeds from Capital Contributions, which is closed out at year-end to Account 215.2, Donated Capital, or Sewer Account 271, Contributions in Aid of Construction.

10. Wastewater Annual Report. Other than depreciation and interest expense, Mountain District did not record any wastewater expenses on its wastewater annual report. Mountain District should allocate common costs between its water and wastewater division to prevent any subsidization between divisions. Mountain District is advised to appropriately allocate expenses between its water and wastewater operations. If Mountain District needs assistance, it should contact Commission Staff.

Other

11. Compliance with Commission Order. In its final order in Case No. 2006-00123, the Commission required Mountain to: (1) notify the Commission in writing of the completion of the transfer of assets to the City of Pikeville within 10 days of completion of the proposed transfer of assets, and (2) file with the Commission the journal entry to record the asset transfer within 10 days of the completion of the transfer. According to Mountain District's audit report, the transfer was completed on June 30, 2007; however, Mountain has not filed the required information regarding the transfer. Mountain is advised to file the required information regarding the transfer.

12. Tariff Citations. There are several references in the water and wastewater tariff that are not correct. They are as follows:

- In the wastewater tariff, the last sentence in the first paragraph on Sheet No. 6 should state: "until the affected resident can make other living arrangements or until thirty (30) days elapse from the time of the District's notification." 807 KAR 5:006, Section 14(2)(c).

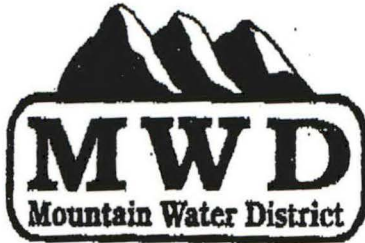
- In the water tariff, the last sentence in the second paragraph on Sheet No. 18 should state: "until the affected resident can make other living arrangements or until thirty (30) days elapse..." 807 KAR 5:006, Section 14(2)(c).
- In the water tariff, on Sheet No. 24 under 18, Failure of Water Meter, the regulation cited should be 807 KAR 5:006, Section 10.
- In the water tariff, on Sheet No. 28 under 28, Distribution Extensions Option I, the regulation cited should be 807 KAR 5:066, Section 11.
- In the water tariff, on Sheet No. 29 under 29, Complaints, the regulation cited should just be 807 KAR 5:001, Section 12.

Mountain District should revise its tariffs to reflect the correct citations.

13. Financial Position. Mountain District reported a net loss of approximately \$1.7 million in 2006. From 2003 to 2005, Mountain District consistently reported net losses of approximately \$1 million. In addition, in 2006, Mountain District reported a cash overdraft in its financial statements. Mountain District should review its financial situation on a regular basis and take steps to improve its situation when necessary.

Conclusion

The utility is advised to correct all deficiencies and implement the recommendations set forth in this report. Failure to correct these deficiencies may lead to formal action against the utility, its management and commissioners, to include the assessment of civil penalties and removal from office. The Financial Audit Branch is available to assist the utility in correcting the deficiencies. A written response to each item is due within 30 days. The utility's response should include whether the recommendations have been implemented or the utility's plan to implement the recommendations.



**P. O. BOX 3157
PIKEVILLE, KY 41502
PHONE: (606) 631-9162
FAX: (606) 631-3087
TDD: (606) 631-3711**

November 26, 2008

Daniel Hinton, CPA
Public Service Commission
P.O. Box 615
Frankfort, KY 40602-0615

Dear Mr. Hinton

Please find enclosed Mountain Water District's responses to the issues noted in the Commission Staff's Accounting Inspection Report.

Please be assured that the District has reviewed the issues carefully and is taking the necessary measures to comply with PSC regulatory and statutory requirements.

The District is committed to and will exercise due diligence in complying with regulatory, statutory, and other requirements that are applicable to water districts.

The District will submit changes in its rules, rates, and tariff the week of December 1, 2008.

Should you have any questions regarding these responses, you may contact our office at (606) 631-9162.

Sincerely,

Toni Akers, Chairperson
Mountain Water District

Enclosure(s)

Cc: PSC Inspection Report 2008
File

**Mountain Water District
Accounting Inspection
Responses**

Mountain Water District has taken, or is in the process of taking, the necessary steps to correct any deficiencies listed in the accounting inspection. Each of these steps are listed below in the order they were presented and any items that need to be included in our tariff are in the process of being added. These items will be presented to the Public Service Commission for approval.

1. Monitoring Customer Usage

The District is filing changes in its water terms and rates, which will include a procedure for monitoring customer usage. See attachments.

2. Utility Gross Receipts License Tax

The DISTRICT has contacted the Kentucky Department of Revenue regarding this issue. The DISTRICT shall cease charging the Utility Gross Receipts License Tax (School Tax) on wastewater service effective immediately. The DISTRICT will charge the Utility Gross Receipts License Tax (School Tax) to school boards and hospitals. See attached letter from the Kentucky Department of Revenue.

3. Customer Deposit Amount

The District is filing changes in its water terms and rates to include the deposit amount for both residential and commercial accounts. See attachments.

4. Interest on Customer Deposits

The District will be paying interest on customer deposits annually. The District will pay interest at a rate it receives from the financial institution on the Customer Deposit account, not to exceed six (6) percent.

5. Unauthorized Rates

The District is filing changes in its water and sewer terms and rates. See attachment.

6. Commissioner Salaries

The District has requested a copy of the minutes of the Pike County Fiscal Court's meeting in which the Board of Commissioner's salaries were approved.

7. Unauthorized Debt

The DISTRICT was unaware of the statutory requirements for notifying the Commission for purchasing vehicles and equipment for terms of more than 2 years. The \$1,285,000 line of credit that was rolled over to a 5 year loan is believed to be in compliance with statutory requirements in that the 1 year line of credit was rolled over to a 5 year loan, which we believe is within the 6 year time frame allowed by KRS 278.300. For other debt, see case # 2005-00436 and 2006-00438 (enclosed).

The DISTRICT now understands the requirements of KRS 278.300 and the DISTRICT'S attorney will review any/all future loans/debt to determine if it needs to be filed with the Commission for approval.

8. Bidding Requirements

Contractors were not hired to perform individual services that exceeded \$20,000. On services provided that cost less than \$20,000, the District solicited unit or hourly rates by phone and the contractor with the lowest rate was employed. In the case cited, the contractor performed more than one (1) type of service (i.e. rockhammer, road bore, excavator, trencher) and the individual services performed were paid by one (1) check, which exceeded \$20,000.

The District adopted Kentucky's Model Procurement Code, KRS 45A, in March 2006. All current and future construction contracts are/will be reviewed by the District's legal counsel prior to award by the Board of Commissioners in accordance with KRS 424.260. The District currently does not have or plan any future in house construction.

Accounting and Internal Controls

9. Misclassifications

In the future the DISTRICT'S accountant will monitor coding of accounts to ensure compliance with USOA and the Kentucky Public Service Commission.

10. Wastewater Annual Report

In the future the DISTRICT'S accountant will allocate cost between water and wastewater to properly reflect the expenses of each. The DISTRICT'S accountant may contact the Commission's staff for assistance.

11. Compliance with Commission Order

See enclosed journal entry of the transfer of asset from Mountain Water District to the City of Pikeville.

12. Tariff Citations

The District is filing changes in its water and sewer terms and rates. See attachments.

13. Financial Position

The District filed for and received approval of a rate increase in March 2008. (Case No. 2008-00052) This should improve the DISTRICT'S financial position. The County Judge Executive appointed and the Pike County Fiscal Court approved a Board member that is a CPA in August 2008. That commissioner's financial expertise should improve the Board's financial oversight of the DISTRICT. The DISTRICT has also terminated its operations and management agreement with Utility Management Group effective April 2009.

2. Update District Rules, Regulations, Tariff -

Manager Brown stated that the District's rules, regulations and tariff hadn't been updated in about five (5) years and there was some language, especially regarding sewer, that needed to be included. A summary of the requested changes were presented to the Board for review. Manager Brown reviewed the list with the Board which included but not limited to, (for water) a change to the procedure for billing multi user accounts, the convenience fee for paying by credit/debit card, an additional charge for customers who wish to be reconnected after hours, an amendment to the interest paid on security deposits, the change of the length of time that a customer's account can be held with a medical doctor's note to thirty (30) days, and the increase of deposits for new customers to bring us more in line with the amount that the PSC recommends. For the sewer rules, regulations and tariff, currently there is no late charge for customers who do not pay their sewer bill on time and that is being amended to a ten percent (10%) penalty, it will also set the rate for those customers who have sewer but are not water customers, and formally sets the cost for a pressure sewer connection to be twenty-six hundred dollars (\$2,600). It will also clarify that the District's service area is all of Pike County except for the service area of Elkhorn City and the service area of the City of Pikeville. If the Board approves all changes, the whole tariff will be submitted to the Public Service Commission for approval. The existing water and sewer rate is not being changed. Chairperson Akers requested a motion to approve the changes to the water and sewer rules, regulations and tariffs as presented. Commissioner Litafik made the motion, Commissioner Collins seconded the motion. Commissioner voting as follows:

Chairperson Toni Akers	Aye
Commissioner Mike Litafik	Aye
Commissioner Earl Sullivan	Aye
Commissioner John Collins	Aye
Commissioner Rhonda James	Aye

Upon Commissioner voting, the motion was carried and passed.
Resolution No. 08-11-008

Nov 26, 2008

2. **Update District Rules, Regulations, Tariff –**
Manager Brown stated that it has been submitted but we have not heard back from the Public Service Commission as of yet on the approval.

*Dec 31, 2008
meeting*