

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In the Matter of:

PETITION OF MOUNTAIN WATER DISTRICT)
FOR MODIFICATION OF ORDER OF) CASE NO. 2016-00062
CASE 2014-00324)

PETITION FOR MODIFICATION OF ORDER

Mountain Water District (MWD), by counsel, pursuant to KRS 278.015 and KRS 278.040, applies for a modification of ordering paragraphs 8 and 9 of the order dated October 9, 2015 in Case No. 2014-00342, the record of which is incorporated by reference, and relief from those requirements:

8. Within 180 days of the date of this Order, Mountain District should obtain the services of an outside independent consultant that has no past history with Mountain District, Mountain District's current or former members of the Board of Commissioners, UMG, or UMG-s owners to perform the following:
 - a. Prepare and issue an RFP to solicit bids from firms interested in providing managerial and operational services to Mountain District; and
 - b. Analyze the bids received based on factors including costs and bidders qualifications, identify the top response, and document the analysis.
9. Within 240 days of the date of this Order, Mountain District should submit to the Commission a written report that discusses the results of the RFP solicitation for the management of its water and sewer divisions. The report shall include a detailed analysis supporting the decision.

JURISDICTION

The order in this case was issued on October 9, 2015. A rehearing was requested on October 28, 2015, which was granted in part and denied in part. No appeal was taken by either MWD or the only intervenor in the case, the Attorney General. The order is now final. However, KRS 278.390 gives the Commission continuing jurisdiction to review and modify its orders:

... Every order entered by the commission shall continue in force until the expiration of the time, if any, named by the commission in the order, or until revoked **or modified** by the commission, unless the order is suspended, or vacated in whole or in part, by order or decree of a court of competent jurisdiction. (Emphasis added).

Because of the circumstances which have developed since the issuance of the order, MWD seeks a modification of one of the provisions of the order.

TIMELINE OF EVENTS

As background for the events leading to this petition, a timeline of events is provided:

October 9, 2015

The PSC Order directed MWD to, within 180 days (April 6, 2016), obtain services of an outside independent consultant, for the purposes of preparing and issuing an RFP to solicit bids from firms interested in providing management services to MWD, and to analyze bids received, identifying top responses in the documentation of the analysis. Within 240 days (June 5, 2016), MWD would submit to the PSC, a written report that discussed the results of the RFP solicitations for the management of its water and sewer divisions, which shall include a detailed analysis supporting the decision.

October 28, 2015

MWD petitioned the PSC for modification, MWD proposed that if the Board did not elect to operate independently, and elected to contract out management services in the future, then it would comply with the PSC's Order for hiring an independent consultant.

November 17, 2015

The PSC declined MWD's rehearing request.

November 25, 2015

MWD formed a committee to conduct a search for a consultant.

December 8, 2015

MWD sent out requests for proposal to six (6) firms based on recommendations from MWD's engineers. They were as follows:

- Appalachian Technical Services
- Barge Waggoner Sumner & Cannon, Inc.
- Hungate Engineering, PC
- J. R. Wauford & Company
- Jacobs Engineering
- Lamar, Dunn & Associates

December 15, 2015

A request was sent to The Prime Group, LLC.

December 15-30, 2015

MWD did not receive a response from Hungate, J.R. Wauford or Jacobs Engineering and received declinations from Barge, Lamar and Appalachian.

MWD received a response from The Prime Group, which was contingent upon the PSC extending its timeline about fifteen (15) days, assuming MWD approved its bid on December 30th, but its estimated cost was between \$65,000 and \$75,000, with a price not to exceed \$90,000.

December 30, 2015

MWD asked for a conference with the Commission staff and Office of Attorney General to determine how to proceed as it is not possible for MWD to meet the current deadlines set forth in the Order.

January 14, 2015

Conference with PSC staff and Attorney General to discuss options for modifying and complying with the order of October 9, 2015.

TERMINATION OF UMG CONTRACT

On January 20, 2016, the MWD board of commissioners voted unanimously to terminate the current contract with Utility Management Group (UMG). The management agreement with UMG expires on December 31, 2016. Action is required by the parties to either terminate or re-negotiate the contract. There is no automatic renewal or termination provision. Notice of

termination requires 180 days' notice, but not before January 1, 2016. Having given notice to UMG on January 20, 2016, the contract will terminate on July 20, 2016. This action by the board of commissioners is final. A copy of the resolution terminating the contract is attached as exhibit 1.

TERMINATION ISSUES

There are several key issues that have led to the termination of the UMG contract. KRS 74.020 empowers the water district board of commissioners to “control and manage the affairs of the district”. As part of its duty to manage the district, the board has reviewed a number of issues related to the current contract with UMG and the potential for self-management.

Management Issues.

Since MWD hired an administrator and a financial officer several years ago, UMG has shifted more responsibility to them. The administrator role has moved from oversight of the UMG contract to handling more issues that are not directly related to the mechanical operation of the district, such as new project management and water loss prevention plans.

Contract management allows the Board to direct what is done, but not how it is done. In all contracts situations, the Board loses some control. Even the best of contracts cannot cover every contingency, so there are always gaps that need to be addressed. Management of the contract has also proven to take a great deal of time that the Board thought it would save by not having employees. The Board understands that going independent will create more work for its members, but allows it a greater role in management of the operations. Lastly, a contract denies the Board financial flexibility, as the contract fee is ongoing regardless of water sales, revenues or unexpected expenses.

Financial Analysis.

MWD has prepared a current financial analysis comparing the cost of the UMG and

independent operations. This report shows that the independent operation of the district will produce a savings of approximately \$462,000, annually or \$38,500 per month (copy attached as exhibit 2). This analysis confirms similar results of the analysis provided in Case 2014-00342. The Board has sufficient information to make the decision about going independent and fully understands the management and financial risks and benefits of doing so.

UMG Contract Issues.

The UMG contract terminates on December 31, 2016, and the earliest a notice of termination could have been given was January 1, 2016. There is a six-month notice of termination provided for in the contract, which is a necessary transition period to either transfer it over to a new contractor or to go independent. The Board was hopeful that it could have made a decision at the December meeting, but delayed that decision pending the outcome of the January 14th meeting with the Commission staff.

Having given notice of termination, there are a number of issues to be addressed, the most important of which is personnel. It is anticipated that UMG will try to take three to four key employees that MWD would like to keep. MWD anticipates that UMG would let everyone else go, primarily because they will not have a need for them at that time. The last time MWD went through this process in 2009, there was a great concern among the employees about their positions and benefits. MWD is concerned that if it is required to complete the RFP process after it has voted to go independent, the employees will feel uncertainty about the security of their jobs. Key personnel may try to stay with UMG, when they would otherwise have come back to MWD.

If MWD waits until the RFP process is completed before it terminates UMG, it will lose at least six months of time, which would cost an additional \$230,000 that would otherwise be saved on the timely termination. Further, the projected cost of this RFP, currently a price not to exceed \$90,000, would also be saved. Therefore, compliance with the PSC's Order of October 9.

2015, could cost MWD at least \$320,000, which otherwise would be used for direct operations and improvements to service.

RFP ISSUES

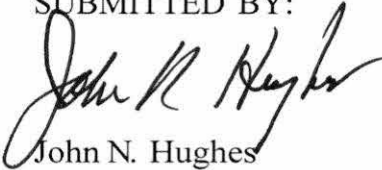
The MWD board has discussed the benefits of the RFP required by the Commission. However, based on the limited response to the initial request, it appears that pursuit of this option will probably be unproductive. The cost of the effort as well as the possibility that there will be only a limited number of contractors that respond to the RFP makes the expense and delay unjustifiable. MWD is aware of only two utility management companies operating in eastern Kentucky – UMG and Veolia, which currently operates the Williamson, WV utility. Given the expectation of limited options for management and the board's strong desire to take back control of the district's operations, the RFP procedures mandated in the order will provide little if any benefit commensurate with the time and expense involved.

RELIEF SOUGHT

MWD asks the PSC to modify the October 9, 2015, order to eliminate the immediate requirement for issuance of an RFP and written report on the options resulting from the RFP. It is willing to comply in full with the RFP requirements should a decision to seek contract operators be made at a future date. As long as the Board remains independent, the need for and benefit of an RFP for contract services is a moot issue.

MWD also asks for expedited review of this petition due to the time constraints of the termination notice.

SUBMITTED BY:



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Water District

Certificate:

I certify that a copy of this petition was mailed to the Attorney General's Office of Rate Intervention on the 28 day of January, 2016


John N. Hughes

Attachment 1

MOUNTAIN WATER DISTRICT

RESOLUTION 16-01-015

AUTHORIZATION TO TERMINATE THE OPERATIONS CONTRACT WITH UTILITY MANAGEMENT GROUP, LLC

WHEREAS, THE BOARD OF COMMISSIONERS of the Mountain Water District agrees to authorize to terminate the operations contract with Utility Management Group, LLC.

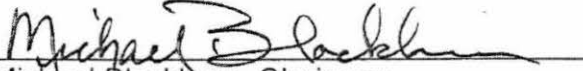
NOW, THEREFORE, BE IT RESOLVED THAT the Board of Commissioners of the Mountain Water District votes to authorize to terminate the operations contract with Utility Management Group, LLC.

MOTION FOR ADOPTION of this resolution was made the 20th day of January, 2016, by Commissioner Tackett and seconded by Commissioner Blackburn. Commissioner voting as follows:

Commissioner Casey	Aye
Commissioner Friend	Aye
Commissioner Blackburn	Aye
Commissioner Hurley	Aye
Commissioner Tackett	Aye

THEREUPON, said motion was declared passed and the resolution adopted.

Dated this the 20th day of January, 2016.


Michael Blackburn, Chairman

Attachment 2

Mountain Water District
Projected Cost Comparison of Assuming Operations of the District
June 30,2014

Mountain Water District
Projected Cost Comparison of
Assumptions
June 30,2014

	UMG Direct Expenses	MWD Additional	MWD Projected Cost	Number
Payroll and Administrative Expenses				
Salary and Wages				1
Regular Pay	\$ 1,609,414		\$ 1,609,414	The district will require Propose the addition of
Overtime	85,925		85,925	
Paid leave	222,271		222,271	2
HR, Safety, AP Clerk	-	34,869 (1)	34,869	The additional Fica is ca related to total payroll
Total Salaries and Wages	<u>\$ 1,917,610</u>		<u>\$ 1,952,479</u>	
Payroll Taxes				3
Fica	141,479	2,667 (2)	144,146	Cost estimated at \$800
Futa	6,993	144 (2)	7,137	4
Suta	<u>17,837</u>	<u>324 (2)</u>	<u>18,161</u>	Pro rata UMG's number
Total Payroll Taxes	166,309		169,445	5
Health Insurance Expense	375,656	9,600 (3)	385,256	Pro rata UMG's number
Life Insurance Expense	7,462	136 (4)	7,598	6
Long Term Disability	6,715	122 (5)	6,837	Total payroll of \$1,952,4
State Retirement System	54,522	310,201 (6)	364,723	7
Training Expense	5,505		5,505	UMG currently uses 7 tr new trucks.
Travel				8
Lodging	4,931		4,931	UMG pays for notes tha contract with UMG. Wt
Meals	5,245		5,245	
Mileage	<u>855</u>		<u>855</u>	
Total Travel	11,031		11,031	
Vehicle Expenses				
Lease Expense	69,306	(69,306) (8)	-	
Gasoline	174,962		174,962	
Diesel	36,469		36,469	
Miscellaneous	<u>2,057</u>		<u>2,057</u>	
Total Vehicle Expense	282,794		213,488	
Office Storage Rental	1,090		1,090	
Office Equipment Lease	7,253		7,253	
Office Supplies	31,930		31,930	
Janatorial Expense	20,092		20,092	
Postage	111,210		111,210	
Professional Fees accounting	749		749	
Professional Fees Other	47,941		47,941	
Insurance				
General Liability	149,073		149,073	
Auto	15,417		15,417	
Workers Compensation	<u>35,706</u>		<u>35,706</u>	
Total Insurance Expense	200,196		200,196	
Telephone				
Office	11,736		11,736	
Mobile	13,848		13,848	
Other	<u>1,910</u>		<u>1,910</u>	
Total Telephone	27,494		27,494	
Security Service	<u>459</u>		<u>459</u>	
	<u>\$ 3,276,018</u>	<u>288,758</u>	<u>\$ 3,564,776</u>	
Direct Operations				
Uniforms	26,497		26,497	
Safety Supplies	16,274		16,274	
Laboratory Supplies	2,979		2,979	
Laboratory Testing	37,171		37,171	
Other Outside Services	2,400		2,400	
Carbon	802		802	
Disinfectants	54,950		54,950	
Fluoride	17,909		17,909	
Polymers	8,313		8,313	
Dechlorination Agents	13,841		13,841	
Nitonox	11,270		11,270	
Other Chemicals	62,977		62,977	
Purchased Water	1,114,659		1,114,659	
Electricity	1,162,650		1,162,650	

Sewage Fees	163,514		163,514	
Solid Waste	<u>6,805</u>		<u>6,805</u>	
		2,703,011		2,703,011
Repair and Maintenance				
Repair and Maintenance	758,439		758,439	
Hand Tools	<u>13,316</u>		<u>13,316</u>	
		<u>771,755</u>		771,755
Cash Expenditures for note payments.				
Note payments for existing vehicles curently paid by UMG.		69,306 (8)	69,306	
Note payments for 5 additional vehicles		<u>30,000 (7)</u>	<u>30,000</u>	
		99,306	<u>99,306</u>	
		<u>\$ 6,750,784</u>		\$ 7,138,848
		<u>388,064</u>		
Amount Paid to UMG			<u>7,600,837</u>	
Projected Saving by Operating the District Internally			<u>\$ 461,989</u>	