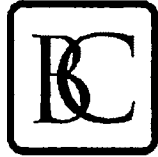


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PUBLIC SERVICE
COMMISSION



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ADMITTED IN KY AND WV

February 7, 2018

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

RE: Martin County Water District
PSC Case No. 2016-00142

Dear Sir or Madam:

Enclosed please find original and five (5) copies of Response to MCCC's Motion to Incorporate ARF Proceedings and Motion for Leave to Depose Joe Hammond regarding the above captioned matter.

Thank you for your attention to this matter.

Very truly yours,

BRIAN CUMBO

BC/ld
Enclosure

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION OF THE OPERATING)	
CAPACITY OF MARTIN COUNTY WATER)	CASE NO. 2016-00142
DISTRICT PURSUANT TO KRS 278.280)	

RESPONSE TO MCCC’S MOTION TO INCORPORATE ARF PROCEEDINGS & MOTION FOR LEAVE TO DEPOSE JOE HAMMOND

Comes the Martin County Water District (District), by counsel, and for its response to the Motions of Martin County Concerned Citizens, Inc. (MCCC), and states as follows:

The Commission has moved to incorporate the proceedings in case number 2018-0017 into this record, as well as seeking an order permitting them leave to take the deposition of Joe Hammond.

The District objects to both motions, and as grounds therefore, states as follows:

That the motion to incorporate the proceedings in the rate case into this case, is simply an attempt by MCCC to expand the scope of the inquiry in this matter, and further create a burden on the District when it can least be afforded.

It dovetails nicely with the motion to take the deposition of Joe Hammond, and permit the MCCC to question Mr. Hammond without quasi-judicial oversight or limitation. To correct one misrepresentation, Mr. Hammond is not the District’s general manager. He is the business manager, as he has testified in prior hearings before the Commission.

As the Commission is aware, it permitted, over the District's objection, the MCCC to submit requests for information to the District. The Commission struck a number of requests for information as being unduly burdensome to the District.

To take the deposition of Joe Hammond would magnify the burden to the District to an even greater degree.

As the Commission is well aware, the District is operating under a set of extraordinary circumstances and the services of the District's business manager are desperately needed to address the ongoing issues facing the District on a daily and constant basis.

To pull Mr. Hammond away from his work at this time would create a hardship on the District that cannot be remedied.


Counsel would further remind the Commission that a hearing is scheduled before the Commission on February 28, 2018. Should the Commission consider granting the request of MCCC, it is quite simply impractical and impossible to consider accomplishing that deposition prior to the Commission's hearing of February 28, 2018, due to the circumstance of the District, and the busy calendar of its' attorney. Counsel would further remind the Commission of the financial burden placed upon a cash strapped water district by (1) taking Joe Hammond away from the business of the District while it is most desperately needed; (2) increasing the financial burden to the District by business matters being seen to in a less timely fashion; and (3) the expense and attorney fees and litigation costs to the District should the deposition be permitted.

"The [Commission] acts as a quasi-judicial agency utilizing its authority to conduct hearings, render findings of fact and conclusions of law, and utilizing its expertise in the area and to the merits of rates and service issues." *Simpson City Water Dist. v. City of Franklin*, 872 S.W. 2d 460 (Ky. 1994). The legislature, by Statute, (KRS 278.340), granted the Commission authority

to take depositions, or grant deposition rights at its discretion to any party in a proceeding before the Commission. The wise utilization of the Commission's discretion is requested by the District in this matter. Mr. Hammond has testified before this Commission on several occasions, has been cross examined by the Commission's attorneys, as well as members of the Commission, and what more could be added by his deposition at this stage in the proceedings is questionable at best.

Further, these proceedings should not be unnecessarily prolonged. "Public policy dictates that these actions not be unnecessarily prolonged." *Stephens v. Kentucky Utilities Company*, 569 S.W. 2d 155 (Ky. 1978).

Wherefore, the District requests the motions of MCCC be overruled.



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CERTIFICATE OF SERVICE

This will certify that a true and correct copy of the foregoing was mailed, overnight mail, postage paid, on this the 7 day of February, 2018, to the following:

Public Service Commission
ATTN: Jeb Pinney
P.O. Box 615
Frankfort, KY 40602

Hon. Mary Varson Cromer
Appalachian Citizens' Law Center, Inc.
317 Main Street
Whitesburg, KY 41858



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