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Daniel E. Logsdon Jr.
Commissioner

September 30, 2016

PARTIES OF RECORD

Re: Case No. 2016-00310

Attached is a copy of a memorandum which is being filed in the record of the above-referenced case. If you have any comments you would like to make regarding the contents of the memorandum please do so within five days of receipt of this letter.

If you have any questions, please contact Richard Raff, General Counsel, at 502-564-3940.

Sincerely,

A handwritten signature in blue ink that reads "Talina R. Mathews".

Talina R. Mathews
Executive Director

JLF/ph

Attachment

INTRA-AGENCY MEMORANDUM
KENTUCKY PUBLIC SERVICE COMMISSION

TO: Case File No. 2016-00310

FROM: Jennifer Fell, Staff Attorney

DATE: September 29, 2016

RE: Informal Conference of September 29, 2016

Pursuant to an Order entered on September 28, 2016, an informal conference ("IC") was conducted at the Commission's offices in Frankfort, Kentucky, on September 29, 2016. Attached is a copy of the attendance roster.

The purpose of the IC was to clarify issues in North Mercer's motion filed on September 22, 2016, and discuss the next steps. Staff clarified that this IC was held to discuss only Case No. 2016-00310, and would not include any discussion of the merits of the underlying Case No. 2016-00154.

Staff first asked North Mercer to clarify its request for a stay of appeal time. Counsel responded that there is a possibility in the future, if the North Mercer board of directors approves, that an appeal might be filed in the Franklin Circuit Court as a result of any final orders entered in Case 2016-00310 or 2016-00154, but did not define a time period for which the stay is requested.

A discussion was then held regarding the statements contained in the motion that North Mercer has not received adequate notice of the proceedings in 2016-00310, or 2016-00154 due to the Commission's service of Orders in those cases to an outdated and incorrect email address for North Mercer of "nmwd@burginwireless.com". The representative for North Mercer stated that she has received numerous electronic communications at the correct, updated address with various Staff members in other matters, and thus she believed North Mercer had provided written notice to the Commission of its correct email address. Staff explained that there are often different email addresses for utilities on file with the Commission, but the regulatory email address, as required to be provided and updated by utilities, pursuant to 807 KAR 5:006, Section 3, is the email address that would be generated for service of orders upon the Commission's initiation of a show cause action, as well as a Complaint case initiated by a utility customer. The regulatory email address the Commission had on file for North Mercer to date is "nmwd@burginwireless.com". Staff made a request during a telephone conversation with North Mercer on September 13, 2016, that it file in writing, notification of the change in its regulatory email address pursuant to 807 KAR 5:006,

Section 3. At the IC, North Mercer's representative presented a copy of a letter addressed to Staff that provided this notice. North Mercer's representative stated this letter was sent to Staff via certified mail, but Staff has not previously received a copy of the same to be included in the record, and is hereby attaching a copy. Staff explained that this letter will serve to meet the requirement of written notice of the change in email address for North Mercer, and the default regulatory email address will be updated by Staff.

Counsel for North Mercer was provided with copies of the Commission's letter memorializing a May 12, 2016 discussion between him and Staff, at which time Staff had suggested counsel file a motion for an extension of time to file an answer in Case No. 2016-00154. The letter was sent that day to counsel by fax and mail, and contained attachments of the April 12, 2016 Order to Satisfy or Answer and the Complaint. Counsel confirmed that the correct mailing address and fax number were contained therein. However, at the IC, counsel denied having received this letter or its attachments. Staff then stated that subsequent to counsel's Motion for an Extension of Time to File Answer, filed on May 31, 2016, counsel had been added to the Commission's service list in Case No. 2016-00154. He was therefore served electronically with a copy of the June 10, 2016 Order granting his request for an extension of time to file an answer by June 20, 2016. He likewise denied having received this Order. Counsel questioned why he would not have been included on the service list for the Order opening this show cause action, and Staff explained that only North Mercer was named as a party in that action, and it would be the utility's responsibility to inform their counsel of the action. Only then, if counsel filed an entry of appearance or responsive pleading, would they be added to the service list.

Both counsel and the representative for North Mercer stated there had been no intentional refusal to respond to the Commission's orders, rather they had not received the orders and therefore did not know that any further action was required. Staff questioned why counsel would not follow-up on the motion he filed with the Commission for an extension, and counsel stated that he did not think he was able to file an Answer because he had not received an order granting him the extension.

Staff explained that the show cause action, Case No. 2016-00310, was initiated as a result of North Mercer's failure to respond to the Commission's orders from April 21, 2016, and June 10, 2016. Staff then discussed the next procedural steps. Staff explained that if North Mercer refutes the Complaint in 2016-00154 and is unable to satisfy the matter with the Complainant, an Answer needs to be filed on behalf of North Mercer. Staff also explained that North Mercer may propose a stipulated settlement offer to the Commission in relation to the show cause action Case No. 2016-00310, or it can appear at the hearing currently set for October 13, 2016, to present its defense. Counsel for North Mercer indicated he would speak with its board of directors and inform the Commission how North Mercer would proceed.

There being no further discussion, the IC was then adjourned.
Attachment

North Mercer Water District #2016-310

9/29/16

RICHARD RAFF

PSC - LEGAL

David N. Kosty

PSC - FA

Eddie Beavers

PSC - FA

Mischell Lee

North Mercer Water District

Thomas M. Jones

North Mercer Water District

Jennifer Fell

PSC - Legal

Jennifer Fell
Public Service Commission
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Sept.12, 2016

Dear Ms. Fell,

This letter is in regards to case filing 2016-00310. During a phone conversation between you and I on Sept.13, 2016, you requested that I send a request in writing and reference 807 KAR 5:006, section 3 regarding utility contact information. The correct e-mail address for North Mercer Water District is: mlee@northmercerwater.org . As the representative for North Mercer Water District, I maintain that the Public Service Commission has been notified of this e-mail address since 2008. In May 2016 the PSC received the District's PSC report. Page 4 lists in writing the District's e-mail address. Also, the District just filed an alternative rate case with the PSC. I received notice that you had received that filing and all documentation would be sent electronically to the above mentioned e-mail address. The PSC received that filing from the District on Sept.8, 2016. The Show Cause action was filed on Sept.9, 2016 and notification was again sent to the wrong e-mail address.

I am aware of the PSC's filing of the SHOW CAUSE action only because I received an e-mail from Atty. Damon Talley, asking me if I was aware that a case had been filed. The District is now aware of the contents of this filing after going to the PSC's website and finding the information there. The District's attorney, Tom Jones, has also not been notified and does not appear to be on the notification list.

North Mercer Water District has always shown due diligence in responding to any matter with the PSC. We have worked with the PSC on many issues and our lack of communication in regards to case No. 2016-00310 and any action before that was not intended, but simply a matter of not knowing.

In regards to the McGinnis case, the District strongly disagrees with the customer's outline of events and the facts that he laid out. As I told Virginia Smith, the meter was pulled at the McGinnis location because the lock on the meter had been broken and water had been stolen. It is the District's position that once a lock is broken, we pull the meter. We will not re-install the meter until the stolen water and any fees due are paid. Mr. McGinnis was told that he would be required to pay \$240.29 for water and taxes, \$10.50 for the broken lock and a \$30.00 service fee, a total of \$280.79. Mr. McGinnis contends in his complaint that the District wanted \$250.17 and \$702.00 for new deposit and re-connect fee. That statement is simply false. The District documents our work orders and keeps them on file. The District contends that Mr. McGinnis knew that his renters were still there and that they were using the water. In his own writing he told us he knew they were there until past November of 2015. We know that he knew the water meter was pulled on 3/10/2016 because he called the office the following day and asked us to re-install the meter. He was told that we would reinstall the meter as soon as he paid the bill due, \$280.79. As the property owner and as the Water Customer it is his responsibility. The District has turned this case over to our county attorney for prosecution, as we have others in the past.

North Mercer prides itself on treating all customers equally and fairly. Mr. McGinnis was no exception. We strive to collect payment and restitution for stolen water because it impacts all the other customers in the District.

The North Mercer Water District would like to request an informal conference to discuss the show cause filing and the miscommunication.

Sincerely,

Mischell Lee

General Manager/ North Mercer Water District

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Salvisa, KY 40372

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