

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF MARTIN	)	CASE NO.
COUNTY WATER DISTRICT FOR AN	)	2018-00017
ALTERNATIVE RATE ADJUSTMENT	)	

ORDER

On November 5, 2018, the Commission entered a final Order that: (1) approved a rate increase for Martin County Water District (Martin District); (2) revised a \$4.19 per customer per month debt service surcharge (Debt Service Surcharge) that was approved in a March 16, 2018 Order to continue the surcharge in the same amount, but conditioned it upon Martin District contracting with a management company to manage and operate the utility (Management Contract); and (3) created an additional \$3.16 monthly surcharge to be utilized exclusively for retaining a management company and for infrastructure repair, replacement, and maintenance to address Martin County's excessive water loss (Management/Infrastructure Surcharge).<sup>1</sup> The Commission kept this matter open to implement, supplement, and enforce the terms of the Order regarding Martin District's requirement to contract with a management company and implementation of the Management/Infrastructure Surcharge. By this Order, the Commission addresses the outstanding issues regarding the Management Contract and Management/Infrastructure Surcharge.

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<sup>1</sup> Martin District was not authorized to begin collecting the \$3.16 monthly surcharge until the Commission approved an infrastructure improvement plan, and a reasonable contract with a management company was executed.

## PROCEDURAL HISTORY

On January 22, 2018, Martin District requested a 49.46 percent rate adjustment, which would have raised the minimum bill from \$26.50 to \$39.62 per month and the average residential bill from \$39.90 to \$59.66 per month. Martin District requested that the matter be expedited, asserting that it was in dire financial condition. As evidence of its dire financial condition, Martin District explained that it used its depreciation reserve to pay operating expenses, that its aged accounts payable totaled \$816,877.00, and that the current accounts payable exceeded Martin District's operating cash balance.<sup>2</sup>

On February 28, 2018, a joint public hearing was held in this proceeding and Case No. 2016-00142, an investigation into the operation of Martin District.<sup>3</sup> Martin District testified that the aged accounts payable had increased by approximately \$30,000, to \$877,640.34.

On March 16, 2018, the Commission granted Martin District an interim 17.50 percent base rate increase, subject to refund, and a Debt Service Surcharge of \$4.19 per customer per month to pay down the aged accounts payable.<sup>4</sup> Martin District was prohibited from disbursing funds from the surcharge account until it developed a payment plan approved by Commission Order.<sup>5</sup> The Commission also required Martin District to file monthly revenue and expense reports that tracked, among other things, the aged

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<sup>2</sup> Case No. 2018-00017, Jan. 26, 2018 Hearing Video Transcript (HVT) at 9:52.47, and Martin District Hearing Exhibit 1.

<sup>3</sup> Case No. 2016-00142, *Investigation of the Operating Capacity of Martin County Water District Pursuant to KRS 278.280* (KY PSC. Sept. 19, 2018).

<sup>4</sup> Case No. 2018-00017, Interim Order (Ky. PSC Mar. 16, 2018).

<sup>5</sup> *Id.* at 14.

accounts payable and the debt service surcharge collection and disbursement.<sup>6</sup> Additionally, Martin District's commissioners were required to attend the next scheduled Commission water training seminar in April 2018.<sup>7</sup>

On May 22, 2018, Commission Staff issued a report (Staff Report) that found that an annual revenue increase in the amount of \$468,392, or 23.70 percent, was necessary to generate the Overall Revenue Requirement. The average residential customer bill would increase from \$39.90 to \$49.37 under the rates proposed in the Staff Report. The Staff Report also included the additional \$4.19 per customer, per month, Debt Service Surcharge previously ordered by the Commission in the interim Order.<sup>8</sup>

Another hearing was held on August 7, 2018, to take additional evidence on Martin District's operations and business practices. Despite being granted an interim rate increase, Martin District's accounts payable balance rose to over \$1 million, an increase of approximately \$123,000 since February 2018.<sup>9</sup> Martin District also testified that the master meter at the water treatment plant had to be replaced because it was not accurately registering water passing through the meter, which likely resulted in the actual amount of water loss being less than the reported water loss amount.<sup>10</sup> Martin District said that the master meter would be replaced once it had \$16,000 to pay for a new master meter.<sup>11</sup>

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<sup>6</sup> *Id.* at 13.

<sup>7</sup> *Id.* at 12.

<sup>8</sup> Case No. 2018-00017, Staff Report (Ky. PSC May 22, 2018).

<sup>9</sup> Case No. 2018-00017, Aug. 7, 2018 HVT at 10:13:13, 11:26:00.

<sup>10</sup> *Id.* at 3:19:07.

<sup>11</sup> *Id.* at 3:20:07.

The Commission has expressed to Martin County's Commissioners an increasing and ongoing concern regarding the lack of capable management, particularly the inability of Martin District's interim general manager to address both operational and administrative problems, and instructed them to hire a new, permanent, general manager. At an August 29, 2018 hearing in Case No. 2016-00142, Martin District commissioners testified about their search for a general manager. Martin District's then-Board Chairman, John Horn, testified that they received 23 applications and identified three well-qualified candidates.<sup>12</sup> Both Mr. Horn and then-Treasurer, Jimmy Don Kerr, testified that they scheduled candidate interviews on September 1, 2018, but that Martin District's ability to hire a general manager was compromised by its negative cash flow and overall poor financial position.<sup>13</sup> Mr. Kerr testified that Martin District would interview candidates and try to have someone in place, and then come to the Commission to request a rate increase to cover the general manager's salary.<sup>14</sup> Mr. Kerr further testified that Martin District could not afford to pay what he believed the two most qualified candidates would be worth, but that Martin District would be honest with the applicants and would bring the salary amount to the Commission to get a rate increase sufficient to pay the salary.<sup>15</sup> Martin District never discussed a specific candidate's salary with the Commission, never

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<sup>12</sup> *Id.* at 1:41:38.

<sup>13</sup> *Id.* at 1:42:33, 1:47:58.

<sup>14</sup> *Id.* at 2:24:: 51.

<sup>15</sup> *Id.* at 2:25:14.

hired a general manager, and instead continues to operate with a part-time interim general manager who spends the majority of the time in the field and not in the office.<sup>16</sup>

On October 10, 2018, Martin District filed a motion in Case No. 2016-00142 proposing three different plans to pay vendors from the Debt Service Surcharge. On October 16, 2018, the Commission approved a payment schedule from the Debt Service Surcharge to retire the past-due debt, with payments on all but four of the largest past-due accounts, which would retire those debts within nine months, and then apply payments towards the remaining four outstanding balances. Despite the interim rate increase and the Debt Service Surcharge, the aged accounts payable amount increased to \$1,119,672.24, an increase of \$119,000 since August 2018 and \$300,000 since the application was filed in January 2018.

In addition to the rate increase and Management/Infrastructure Surcharge approved in the November 5, 2018 Order, the Commission discussed the ongoing pattern of poor management at Martin District and proposed a “structured path” with Martin District contracting with a third party to manage and operate the utility in order to prevent Martin District’s collapse and return Martin District to solid financial and managerial footing.<sup>17</sup> Martin District was cautioned to comply with the requirements in the Order, including contracting with a management company, or “face receivership or forced merger.”<sup>18</sup>

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<sup>16</sup> Case No. 2018-00117, Oct. 22, 2019 HVT at 2:55:42.

<sup>17</sup> Case No. 2018-00017, Final Order (Ky. PSC Nov. 5, 2018) at 6.

<sup>18</sup> *Id.* at 6.

Subsequent to the November 5, 2018 Order, Martin District solicited bids from management companies as directed by the Order and submitted monthly financial filings that included the aged accounts payable. Alliance Water Resources, Inc. (Alliance), a national provider of water and wastewater contract operations services, was the only company that bid on Martin District's request for proposals. On June 3, 2019, Martin District filed its detailed evaluation of the bid, which included references by other utilities that contract with Alliance for management and operation services. Confidential Formal Conferences regarding negotiations between Martin District and Alliance were held on June 18, 2019, and July 29, 2019.

On October 22, 2019, another hearing was held to take evidence regarding the adequacy of rates, water loss, and the number of unmetered customers. In an earlier telephone conversation with Commission Staff, Martin District's Board Chairman had stated that there were between 1,000 and 2,000 unmetered customers receiving service from Martin District. Martin District's Board Chair subsequently recanted this statement.<sup>19</sup> The hearing also addressed Martin District's continuing failure to complete 2016, 2017, and 2018 financial audits and the negative impact those failed filings have had on Martin District's ability to obtain grant or loan funding; the accuracy, or lack thereof, of financial filings by Martin District; Martin District's impaired financial condition and continued reliance on depreciation reserves to pay operating expenses; and the proposed Management Contract between Martin District and Alliance, which had not been executed.

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<sup>19</sup> Case No. 2018-00017, Oct. 22, 2019 HVT at 7:47:40.

Three motions are pending. On October 16, 2019, Martin District requested to amend two previous Orders to permit it to pay accounts payable incurred between April 1, 2018, and December 31, 2018, from the Debt Service Surcharge. On October 28, 2019, Martin County Concerned Citizens (MCCC) requested that the Commission require Martin District to hire a general manager and use the \$3.16 monthly surcharge to fund the position. On October 31, 2019, Martin District also requested to hire a general manager instead of contracting with Alliance.

### BACKGROUND

A review of Martin District's past management and operation issues, and the Commission's longstanding concerns regarding Martin District's ongoing failure to resolve them, is necessary for understanding the decision we reach in this proceeding.

Due to decades of mismanagement, Martin District made little to no effort to repair and replace aging infrastructure in order to maintain an adequate level of service to its ratepayers. Much of the current system has either totally collapsed or is on the verge of collapse. Customers complain that the water, when it is available, smells and is sometimes dirty. Customers rely on bottled water for drinking, washing dishes, and bathing. Martin District managers and commissioners historically refused to seek sources of revenue, including reasonable rate increases, to fund the periodic replacement of aged infrastructure.

After Martin District reported high water loss amounts in its 1997 Annual Report filed with the Commission, the Commission authorized its financial audit team to review records and make recommendations. In response to Commission Staff's recommendations, Martin District officials pledged to initiate systematic repair and

replacement of lines to remedy the water loss. As evidenced in this proceeding, infrastructure repairs did not take place.

Five years later, in 2002, the Commission opened an investigation into the condition of Martin District's facilities, operations, and management, and the long-term actions that would be necessary to ensure the continuation of service to Martin District customers.<sup>20</sup> The investigation was prompted by an inspection conducted by Commission Staff that described Martin District's facilities as being in a general state of disrepair, with significant operating deficiencies that could render Martin District incapable of providing water to its customers. At the conclusion of the investigation, the Commission approved a settlement agreement that addressed operational issues, and "prescribe[d] a manner in which Martin District may ensure the long-term health and viability of the system."<sup>21</sup> The settlement agreement was signed by Martin District's Chair at the time, Greg Scott, who is currently Martin District's interim general manager. The settlement agreement consisted of the 43 action items Martin District agreed to undertake, including developing and implementing internal controls for accounting and work orders, discontinuing service to customers who failed to pay their bills, attending mandatory water district commissioner training, adopting the Model Procurement Code,<sup>22</sup> and developing

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<sup>20</sup> Case No. 2002-00116, *Investigation of the Operating Capacity of Martin County Water District Pursuant to KRS 278.280*, Final Order (Ky. PSC Nov. 17, 2003) at 1.

<sup>21</sup> Case No. 2002-00116, Final Order at 2.

<sup>22</sup> See Case No. 2018-00017, *Electronic Application of Martin County Water District for an Alternative Rate Adjustment*, Response to Commission Staff's Second Post-October 22, 2019 Hearing Request for Information (filed Nov. 11, 2019) Exhibit D\_2, at 31-34. On April 27, 2009, almost seven years after the settlement agreement, Martin District adopted Model Procurement Policies and Procedures. To this day, Martin District continues to ignore the procedures that were adopted.



written leak detection procedures.<sup>23</sup> The agreed-to action items went largely unimplemented and, as documented in this proceeding, the same inadequate business practices continued unabated.

In 2006, because Martin District had not fully implemented the action items and failed to file required financial and statistical reports, the Commission opened a second investigation into the management and operation of Martin District, retaining a third party to conduct an audit of Martin District's management, engineering, and technical operations.<sup>24</sup> The auditing firm found a number of operational deficiencies and recommended 78 changes to remedy the deficiencies, with a cost-benefit analysis for each recommendation. The recommendations included, *inter alia*, requesting a rate increase because revenue was inadequate to support utility operations, developing a comprehensive water loss reduction plan, implementing a leak detection and repair plan, developing a capital improvement plan, improving procedures to identify theft of service, improving collection of past-due accounts, investigating regionalization, and conducting an external audit on an annual basis.<sup>25</sup> The Commission charged the utility commissioners with individual and collective responsibility for timely implementing the recommendations.<sup>26</sup> Greg Scott, the current interim general manager, was a water district commissioner at the time the order was entered. Mr. Scott and his fellow commissioners did not institute many of the agreed-to recommendations, with the notable exception of

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<sup>23</sup> *Id.* at Appendix A.

<sup>24</sup> Case No. 2006-00303, *An Investigation into the Management and Operation of Martin County Water District* (Ky PSC June 26, 2006).

<sup>25</sup> Case No. 2006-00303, Final Order (Ky. PSC Apr. 2, 2008), Appendix A.

<sup>26</sup> Case No. 2006-00303, Final Order at finding paragraph 4.

commissioning an annual audit and filing a written plan to reduce water loss—over three years after it was due. Compounding the issue, Martin District’s water loss reduction plan was to replace leaking infrastructure “as funds become available . . .”, a phrase that was used repeatedly in responses by Martin District when recommendations required any type of funding.

In 2016, the Commission opened a third investigation into Martin District’s managerial and operating deficiencies, including its failure to fully comply with the recommendations in the management audit, excessive water loss, and quality of service.<sup>27</sup> Finding that issues in that case overlapped with issues in this proceeding, the record of the 2016 investigation, Case No. 2016-00142, which is still pending, was incorporated by reference into this proceeding.

On three occasions, Martin District made commitments to the Commission that it would implement necessary changes to improve the operation and management of the utility. All three times, Martin District failed to carry out those commitments. Martin District’s board of commissioners and managers made no significant effort to increase revenue or obtain funds to replace crumbling infrastructure until it filed this rate adjustment case in January 2018. Martin District failed to seek timely rate increases, failed to use its income-for-capital improvement projects required to maintain operational integrity, did nothing to reduce water loss, and did little to collect from customers who refused to pay their bills or to discontinue their service for persistent non-payment. Theft of water was a known problem, but prosecution for such thefts was not pursued. Adequate operating inventory was not maintained, and while external audits were

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<sup>27</sup> Case No. 2016-00142, Order Initiating Investigation (KY PSC. Sept. 19, 2018).

commissioned, the past three years' audit reports have not been received due to Martin District's unwillingness or inability to pay for professional outside accounting services and provide the records necessary to complete the audit.

### DISCUSSION AND FINDINGS

In the November 5, 2018 Order, the Commission determined that Martin District needed a new manager to avoid a repetition of prior bad management that created a crisis state that impairs Martin District's ability to render safe, adequate, and reliable water to its customers. Because Martin District failed to hire a new general manager during the processing of this case, the Commission found that Martin District should contract with a third-party management company that could provide strong leadership and institute proper business practices.

#### Management Deficiencies

In the November 5, 2018 Order, the Commission stated that Martin District operates in a constant state of emergency and its ratepayers suffer the dire consequences of decades of poor choices made by its management and commissioners. Despite receiving rate increases and the Debt Service Surcharge, Martin District continues to operate in a state of financial and operational emergency, with little to no change in the conditions that prompted Martin District to file for a rate increase in January 2018. Whether they are due to inexperience, communication breakdown, inadvertent mistakes, or intentional misconduct, the evidence of record is replete with examples of an ongoing inability to manage and operate Martin District in an effective and organized business-like manner. Below are examples of continued shortcomings that are indications that Martin District is not operated on a sound business basis.

1. Audits

Financial audits indicate how well water district commissioners and managers are carrying out their fiduciary and legal responsibilities. Martin District is required by law to conduct annual financial audits that, pursuant to 807 KAR 5:006, Section 4(3), are filed with the Commission no later than September 30 of the year following the audit year, and, pursuant to KRS 65A.030(1)(c), are filed with the Kentucky Department of Local Government. Additionally, a financial audit is one of the required documents necessary to receive government funds from federal and state agencies to replace aging infrastructure.

As of the date of this Order, Martin District's audit for 2016 is incomplete, and the audits for 2017 and 2018 have not even been started. Although all three audits are past due, Martin District knew that its failure to have these audits timely conducted and filed, was impairing its ability to obtain both grant and loan funding and highlights the managerial shortcomings, lack of follow through, and poor business practices that adversely impact Martin District's ability to provide safe, reliable, and adequate water service to its ratepayers.

It was also discovered that Martin District's financial records were kept offsite at the office of Linda Sumpter, a CPA that contracted with Martin District to provide accounting services.<sup>28</sup> According to 807 KAR 5:006, Section 24, utility records, such as financial records, must be kept in the utility's office. By allowing the records to be stored offsite, Martin District violated Commission regulations.

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<sup>28</sup> Ms. Sumpter ceased providing accounting services to Martin District in January 2019.

Another concern is that, although it was required to provide necessary information to the auditors, Martin District failed to follow through or take appropriate action to ensure the auditors had the information needed to complete the 2016 audit.<sup>29</sup> The auditors reported that as early as March 2018, Ms. Sumpter was not forthcoming with necessary records.<sup>30</sup> According to the auditors, it typically takes less than one month to complete an audit; however, the audit began in January 2018 and has not yet been completed after almost two years because necessary records, such as invoices and bank statements, have not been provided.<sup>31</sup> As a result, the auditors stated they will have to issue a qualified opinion for the 2016 audit.<sup>32</sup>

Martin District did not treat the lack of an audit or missing records with sufficient importance. Martin District commissioners and the interim general manager failed to take actions that could have been taken to reacquire the missing records, such as obtaining a subpoena or withholding recently re-implemented payment of past-due amounts. In July 2019, the Martin County Chair, Jimmy Don Kerr, informed the Commission that Ms. Sumpter still had the records and that the utility planned to obtain a subpoena to regain custody of the records, but no subpoena was ever issued.<sup>33</sup> During the October 22, 2019 hearing, the former Treasurer, Earnest Hale,<sup>34</sup> testified that he understood Ms. Sumpter

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<sup>29</sup> Case No. 2018-00017, Oct. 22, 2019 HVT at 9:49:37; White & Associates, PSC Response to Commission Staff's First Post-October 22, 2019 Hearing Request for Information (filed Oct. 25, 2019), Items 1-3, Attachments 1-3.

<sup>30</sup> Case No. 2018-00017, Oct. 22, 2019 HVT at 9:39:29.

<sup>31</sup> *Id.* at 9:39:39, 9:47:38, 9:50:39, 10:15:56, 10:18:34, 10:19:35.

<sup>32</sup> *Id.* at 9:59:44.

<sup>33</sup> Case No. 2018-00017, Order (Ky. PSC Sept. 12, 2019) at 2.

<sup>34</sup> Notice of Filing Resignation Letter from Earnest Hale (filed Oct. 21, 2019). Mr. Hale submitted his resignation to the Martin District Board on October 21, 2019.

still has possession of Martin District's records, that he had not acted to obtain the records, and that he could not recall any discussion by commissioners at monthly meetings regarding obtaining records from Ms. Sumpter.<sup>35</sup> Interim Manager Greg Scott had not spoken with Ms. Sumpter regarding the records, but testified that he planned to do so.<sup>36</sup> Commissioner Jaryd Crum agreed that the utility could have taken steps to resolve the issue, such as issuing a subpoena for the records, but stated he does not know why Martin District does not possess the necessary records to complete the 2016 audit.<sup>37</sup> At the same hearing at which other commissioners testified that they understood that Ms. Sumpter still had custody of Martin District records, Mr. Kerr testified that Ms. Sumpter informed him that she had returned all records to the utility; Mr. Kerr concluded that documents were either missing or could not be found.<sup>38</sup>

Martin District's failure to act with a degree of urgency that was required to resolve the missing records issue or complete the 2016 audit jeopardizes Martin District's ability to provide safe, adequate, and reliable water service to its customers. Without a current audit, Martin District is unable to draw upon potential available resources, such as government loans, to make necessary infrastructure investments to replace aging pipes, mains, pumps, and equipment.

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<sup>35</sup> Case No. 2018-00017, Oct. 22, 2019 HVT at 12:56:06, 12:57:40, 1:00:27, and 1:41:05.

<sup>36</sup> *Id.* at 2:58:37.

<sup>37</sup> *Id.* at 6:59:01.

<sup>38</sup> *Id.* at 7:14:50.

2. Filing annual reports

Similar to financial audits, financial reports provide essential information regarding the operation and management of a utility. For this reason, under 807 KAR 5:006, Section 4(2), utilities are required to file annual financial and statistical reports no later than March 31 of each year that include in-depth financial information. Martin District's 2017 Annual Report contained significant errors that require it to file an amended report, which has not been filed as of the date of this Order. Martin District has not filed an Annual Report for 2018, which was due March 31, 2019. Similar to the financial audits, there does not appear to be a sense of urgency from Martin District management to resolve these deficiencies, and no one seems to want to take responsibility for following through to see the issues are successfully resolved.

3. Training

KRS 74.020(8)(b) requires water district commissioners to complete water training within 12 months of their initial appointment or forfeit their right to office. In the Commission's March 16, 2018 Order, Martin District's commissioners were required to attend the next scheduled water training seminar in April 2018. At least one of Martin District commissioners, Mr. Crum, has served for two years without attending the required training.<sup>39</sup> Although this issue will be addressed in a separate proceeding, it, again, highlights the failure of Martin District Board members to comply with statutory and regulatory laws regarding utility management and operation.

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<sup>39</sup> *Id.* at 6:50:00.

#### 4. Water Loss

Water loss above the 15 percent threshold established by Commission regulation is an indicator that a water utility is unable to render safe, adequate, and reliable service; one of the primary causes of water loss is aging infrastructure that has not been properly maintained. In addition to the service concern, high water loss has a financial impact on ratepayers because a utility purchases chemicals to treat the water it produces, purchases electricity to pump water, or purchases water for which the utility never receives revenue to offset the expenses.

Due to its failing aging infrastructure, Martin District's water loss rate is significantly over the 15 percent threshold established by Commission regulation. Between 2012 and 2019, Martin District averaged 60 percent water loss, with a high of 71.1 percent in March 2019. Martin District reported 0.3 percent water loss in June 2019, 0.7 percent water loss in July 2019, 0.4 percent water loss in August 2019, and 9.1 percent water loss in September 2019. Although the reported water loss percentages were clearly wrong, the interim general manager, Mr. Scott, submitted the reports being fully aware they were wrong, but provided no explanation. At the October 22, 2019 hearing, he attributed the discrepancy to a software issue that he asserted is waiting to be resolved, but did not provide a timeline for such resolution.<sup>40</sup>

Additionally, Martin District has known since at least May 2018 that the master meter at the water treatment plant was not reading accurately and needed to be replaced at the cost of \$16,000.<sup>41</sup> The interim general manager testified that the meter would be

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<sup>40</sup> *Id.* at 2:33:45.

<sup>41</sup> Case No. 2018-00017, Martin District Response to Post-Oct. 22 Hearing Request for Information (filed Nov. 11, 2019, at 83 or 104; Aug. 7, 2018 HVT at 3:19:45.



replaced once Martin District found money to do so.<sup>42</sup> As of October 22, 2019, the meter had not been replaced, and, again, the interim general manager testified that he planned to replace the meter once Martin District had money to do so.<sup>43</sup> Given the financial and service impact of failing to replace the meter versus the cost of replacing the meter, Martin District's failure to timely act to address and resolve the issue highlights the lack of business acumen necessary to manage a utility.

5. Water Theft

According to the interim general manager, Mr. Scott, one Martin District employee spends 80 percent of his time investigating water theft.<sup>44</sup> Once water theft is detected, the employee gathers evidence and turns it over to the Martin County Attorney for prosecution.<sup>45</sup> Mr. Scott testified that Martin District finds an average of ten cheater bars (a device used to bypass the meter) per month.<sup>46</sup> Mr. Scott further testified that Martin District does not notify the sheriff of the water theft because the sheriff arrests the alleged water thief on the spot, which Mr. Scott thought was excessive and unnecessary.<sup>47</sup> Mr. Scott also testified that he does not follow up on customers turned over to the Martin County Attorney for prosecution for water theft because he is not worried about that.<sup>48</sup>

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<sup>42</sup> *Id.* at 3:19:56.

<sup>43</sup> Case No. 2018-00017, Oct. 22, 2019 HVT at 3:34:30.

<sup>44</sup> *Id.* at 3:10:27.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.* at 3:11:39.

<sup>47</sup> *Id.* at 3:12:31.

<sup>48</sup> *Id.* at 3:10:44.

Martin District provided evidence that, between January 1, 2019, and October 29, 2019, it referred only six customers to the Martin County Attorney for prosecution for water theft.<sup>49</sup> The evidence of record appears to refute Mr. Scott's testimony that Martin District finds an average of ten cheater bars per month, and with so few instances of cheater bars detected, it raises the question why one employee spends 80 percent of his work time investigating water theft with so little result. Alternatively, if Mr. Scott's testimony is accurate, and ten cheater bars are actually identified per month, then the question remains, when theft has been discovered, why the culprits are not being prosecuted. It is another indication of Martin District's mismanagement of resources that impacts Martin District's ability to provide safe, adequate, and reliable water service.

#### 6. Financial

Despite receiving rate increases in both March 2018 and November 2018, Martin District has been unable to meet its financial obligations to its vendors and continues to operate at a deficit. Through the first seven months of 2019, Martin District operated at a loss of \$292,813.79.<sup>50</sup> Mr. Hale, the former treasurer, admitted that the only reason Martin District operates with positive cash flow is because Martin District uses its depreciation reserves to pay its operating expenses.<sup>51</sup> Martin District's Chairman, Mr. Kerr, estimated that the utility required another \$8 to \$10 per customer monthly rate

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<sup>49</sup> Case No. 2018-00017, Martin District Response to Staff's First Post October 22, 2019 Hearing Request for Information (Post Oct. 22, 2019 Hearing Request), Item 1, Exhibit 1.

<sup>50</sup> Case No. 2018-00017, Oct. 22, 2019 HVT at 2:06:24.

<sup>51</sup> *Id.* at 2:07:18.

increase just to break even before Martin District could pay the costs for necessary new management.<sup>52</sup>

In the March 16, 2018 Order, the Commission directed Martin District to file monthly financial information accounting for every dollar collected and expended. Evaluating Martin District's financial position is difficult because of the inaccuracies, and dearth of explanation and justification for significant changes between successive monthly financial filings. For example, the amount of past-due debt owed to Zip Zone, Inc. increased significantly – by \$20,000 – between April 30, 2019, and May 31, 2019, without any explanation or purchases that could explain the increase.<sup>53</sup> Martin District subsequently stated that the increase in accounts payable was due to invoices that had not previously been entered into the system. In the August 15, 2019 financial filing, Martin District stated that it was in the process of verifying and correcting actual past-due accounts payable amounts. Additionally, Martin District had to refile a corrected income statement and balance sheet because the initial filings had multiple errors. However, the corrected income statement also contained mathematical errors, including a net income negative balance reported to be (\$188,355.77), but the actual sum of the numbers is (\$292,813.79).<sup>54</sup>

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<sup>52</sup> Case No. 2018-00017, July 29, 2019 HVT at 11:57:21.

<sup>53</sup> Case No. 2018-00017, Martin District Monthly Financial Filing (filed May 14, 2019), Exhibit 2; Martin District Monthly Financial Filing (filed June 14, 2019), Exhibit 2.

<sup>54</sup> The incorrect balance was not due to a formula error as the (\$188,355.77) amount was not derived by Excel formula but was entered manually.

In a similar vein, Martin District reported that it had been able to pay current accounts payable due to the November 2018 rate increase.<sup>55</sup> However, the evidence of record refutes that assertion. For example, Martin District claimed that it owed its consultant, BlueWater Kentucky, LLC (BlueWater), \$16,186.15 as of December 31, 2018.<sup>56</sup> The Aged Accounts Payable reports reflect that Martin District owed BlueWater \$1,300.00 as of December 31, 2018.<sup>57</sup> As of March 31, 2019, Martin District owed BlueWater \$6,904.64, with \$3,554.64 past due for 0-30 days and \$3,350.00 past due for 31-60 days, and \$0 past due for 61-90 days, and \$0 over 90 days.<sup>58</sup> As of September 30, 2019, Martin District reported that it owed BlueWater \$14,811.15, with \$1,125.00 past due for 0-30 days, \$3,641.00 past due for 31-60 days, \$2,351.30 past due for 61-90 days, and \$7,693.85 past due for over 90 days. When asked to explain the difference between the amount due on the December 31, 2018 report and later assertions, Martin District provided non-responsive, vague answers that utterly failed to address the discrepancy.<sup>59</sup> This is just one vendor, but the financial filings reflect similar past-due accounts payable accrued after January 1, 2019 that demonstrate that Martin District has not remained current on accounts payable or has not accurately recorded amounts due and amounts paid. Martin District has yet to provide specific justification for the inconsistent amounts,

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<sup>55</sup> Motion to Amend March 16, 2018 and October 10, 2018 Orders Relative to the Debt Service Surcharge (filed Oct. 16, 2019).

<sup>56</sup> *Id.* at 2.

<sup>57</sup> Case No. 2018-00017, Martin District Monthly Financial Filing (filed Jan. 15, 2019), Exhibit 3.

<sup>58</sup> Case No. 2018-00017, Martin District Monthly Financial Filing (filed Apr. 11, 2019), Exhibit 2.

<sup>59</sup> Case No. 2018-00017, Martin District Response to the Post Oct. 22, 2019 Hearing Request, Item 7.

making only the generalized statement that there were invoices not entered into the system.

Finally, the aged accounts payable amounts increased from \$816,877.00, when Martin District filed this rate case, increased to a high of \$1,149,674.26 as of October 31, 2018, then gradually declined to \$799,391.50 as of October 31, 2019. Again, Martin District attributed the increase to invoices not previously entered into the system. Given that the Aged Accounts Payable reports should reflect debt incurred prior to April 1, 2018, the explanation that Martin District continued to find invoices not in the system is not credible.

The record demonstrates that even after two rate increases and a Debt Service Surcharge, Martin District is in the same financial position as it was when the proceeding began almost two years ago. Martin District has repeatedly demonstrated that it does not have the capability to analyze its financials, much less how, why, or where it spends money, who ultimately decides to spend it, and what the decision process was to approve purchases. The lack of business acumen negatively impacts Martin District's ability to render safe, adequate, and reliable water service to its customers. Martin District has failed to meet its financial obligations to its suppliers and is either unable or unwilling to take necessary action to correct the failure. Martin District is faced with the same options as presented in the November 5, 2018 Order: either contract with a qualified, experienced management company or face receivership or forced merger.

#### Contracting with Alliance

Almost two years after this proceeding was initiated, Martin District still does not have a full-time general manager responsible for overseeing, organizing, planning,

controlling, and directing Martin District's resources to achieve the objective of rendering safe, adequate, and reliable water service. Martin District operates with a part-time interim general manager who is better described as a field service supervisor because the vast majority of his time is spent in the field; he goes into the office only when the office staff has a problem.<sup>60</sup> He repeatedly displayed ignorance of basic financial knowledge during questioning in the various Martin County hearings. This management gap means that many management activities fall on Martin District's commissioners, who have other employment in addition to serving as water district commissioners, resulting in an adverse impact on the utility.<sup>61</sup> As an example, Mr. Hale testified that he did not review a cost and rate analysis for the proposed management company because he did not have time to devote to reviewing the financial information between when the information was filed on May 31, 2019, and his resignation on October 21, 2019.<sup>62</sup> Given that a water district treasurer is responsible for general financial oversight, and financial planning and budgeting, the failure to review key financial information for a major contract is evidence of a board member failing to carry out the basic duties of his position.

After committing to hire a general manager, and despite a six-month job search process, Martin District never hired a general manager. The job description was developed in March 2018 and advertised in April 2018.<sup>63</sup> The general manager candidate

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<sup>60</sup> Case No. 2018-00017, Oct. 22, 2019 HVT at 2:56:01. According to Mr. Scott, 80 percent of his time is spent in the field.

<sup>61</sup> *Id.* at 2:56:01, 4:44:53.

<sup>62</sup> *Id.* at 1:48:03.

<sup>63</sup> Case No. 2016-00142, Martin District Response to Post-Hearing Request for Information (filed Oct. 19, 2018) at Exhibit 16.

interviews were scheduled for September 1, 2018; Martin District commissioners testified that they would come to the Commission to ask for sufficient rates to cover the general manager's salary once they selected a candidate.<sup>64</sup> According to the September 15, 2018 Martin District Board meeting minutes, Martin District interviewed two candidates, one of whom was no longer interested in the position.<sup>65</sup> Thus, contrary to its testimony just a few weeks earlier, Martin District's commissioners determined that, instead of selecting a general manager and requesting the Commission to approve an appropriate salary, they would not hire a general manager until a rate increase is approved.<sup>66</sup> Despite receiving a rate increase on November 5, 2018, Martin District never discussed a specific candidate's salary with the Commission.

As a representative from the Kentucky Rural Water Association asserted,<sup>67</sup> and as the evidence of record clearly demonstrates, Martin District is in desperate need of the strong leadership and expertise that a management company would bring. Martin District's managerial and operational needs are so great that they cannot be fixed by one person. Southern Water and Sewer District (Southern District) recently was in a similar position. After Southern District hired a management company to operate and manage the utility, the management company brought in multiple staff with managerial oversight

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<sup>64</sup> Case No. 2016-00142, Aug. 29, 2018 HVT at 1:42:33, 1:47:58.

<sup>65</sup> Case No. 2016-00142, Martin District Response to Post-Hearing Request for Information (filed Oct. 19, 2018) at Exhibit 13.

<sup>66</sup> *Id.*

<sup>67</sup> Case No. 2018-00017, Aug. 7, 2018 HVT at 10:02:27.

and differing areas of expertise, with a resulting improvement in financial reporting, financial condition, water loss, and general service.<sup>68</sup>

In the November 5, 2018 Order, we stated:

Martin District's hiring of a competent, qualified, and skilled management company will be a crucial step in the process of restoring trust with the public by demonstrating that Martin District has the wherewithal to make the necessary decisions that ensure safe, reliable drinking water for the ratepayers of Martin County.<sup>69</sup>

Also in the November 5, 2018 Order, we stated that Martin District needed to contract with a utility management company that is qualified to assemble and execute a plan for Martin District. Alliance, the management company currently in negotiations with Martin District, brings a level of sophistication and expertise necessary to turn around Martin District as a business and to ensure that Martin District carries out its mandate to provide safe, adequate, and reliable water to its customers. After a review of the proposal filed pursuant to a RFP, qualifications, references, and responses to questions, the Martin District panel evaluating Alliance's bid found that Alliance had the experience and qualifications to effectively manage, operate, and maintain Martin District's water system. Other utilities that contract with Alliance for management and operation services provided very positive references, noting, among other things, that the utilities did not experience unanticipated expenses that were not included in the annual contract fee.<sup>70</sup> One utility

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<sup>68</sup> Case No. 2019-00131, *Application of Southern Water and Sewer District for an Alternative Rate Adjustment* (Ky. PSC Nov. 7, 2019).

<sup>69</sup> Case No. 2018-00017, Nov. 5, 2018 Order at 9.

<sup>70</sup> Case No. 2018-00017, Martin District Notice of Filing Detailed Evaluation (filed June 3, 2019) at Exhibits 2-4.



stated that its system could not have been turned around without Alliance.<sup>71</sup> Martin District's Chair contacted other utilities and reported receiving similar positive references.<sup>72</sup>

1. Terms of the Management Contract

The proposed contract is attached as an appendix to this Order. According to the terms of the contract, Alliance will perform management, operation, and maintenance services for Martin District, including all customer meter reading, billing, bookkeeping, and collecting services. Alliance will hire a general manager and an operations manager for day-to-day oversight, and, at Martin District's request, Alliance will offer employment to Martin District's other employees, despite the fact that this may increase labor costs. Alliance will prepare monthly and annual management, operations and management, financial and record-keeping reports as required by Martin District's board, auditors, and regulatory agencies, including the Commission. Alliance will develop a management and infrastructure plan to address Martin District's aging infrastructure.

Alliance will be paid an annual base fee that covers the total cost of service, which includes certain direct costs, administrative overhead, and profit. The total cost of service for the first year is \$1,973,346.09,<sup>73</sup> which consists of \$1,532,101.00 in direct costs, including labor, materials, supplies, equipment, subcontractor expense or operating expense; \$275,778.18 in administrative overhead expense, including accounting,

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<sup>71</sup> *Id.* at Exhibit 4.

<sup>72</sup> Case No. 2018-00017, Oct. 22, 2019 HVT at 7:53:20.

<sup>73</sup> The costs of the Management Contract remain confidential until the contract is executed. The Commission will reissue this Order with unredacted information once the information is no longer confidential.

information technology, human resources, insurance, and corporate regulatory and safety programs; and \$165,466.91 in profit. In the second year, the total cost of service is \$2,022,078.91, which consists of \$1,573,400.00 in direct costs; \$283,212.00 in administrative overhead; and profit remains the same as the first year, \$165,466.91.

The base fee is subject to renegotiation if the direct costs decrease or increase by 10 percent from the cost proposal in the contract. The contract also provides for a limit on chemical expenses of \$110,000.00 and a maintenance and repair limit of \$125,000.00 for routine maintenance activities in each of the first and second contract years. If chemical and repair expenses are less than the annual limit, Alliance will refund the difference to Martin District. If the chemical and repair expenses are higher than the annual limit, Martin District will pay the difference. The contract terms are subject to renegotiation at the end of the second year. Martin District remains responsible for certain capital expenditures, changes in the scope of work, flood and fire damage, property damage, liability and directors' liability insurance, utility expenses, legal and design engineering services, extraordinary maintenance and repair services, personal property and other taxes, and compensation for board commissioners.

Given that Martin District cannot obtain a surety bond due to its poor financial condition, Alliance initially proposed an additional surcharge to establish a reserve account to mitigate the risk of nonpayment. After the Commission indicated that such a surcharge would increase rates to an unacceptable level that was not fair, just, and reasonable, the contract was revised so that, in the event of nonpayment, Alliance has first priority on the Debt Service Surcharge balance until the amounts due Alliance are paid in full.

Based upon the Management Contract and the evidence of record, the Commission finds that the Management Contract is fair, just, and reasonable, and should be approved. Proper management is the first requirement for Martin District to put formal policies in place to render safe, adequate, and reliable drinking water for its ratepayers. Alliance has the skills and expertise to manage and operate Martin District so that it fulfills its fundamental duty of rendering safe and reliable service at a reasonable price, and providing for the financial stability of the utility. Because we expect Martin District's financial position to improve significantly due to Alliance's professional expertise and economies of scale, the Commission further finds that, one year after Alliance starts to manage and operate Alliance, Martin District, under Alliance's guidance, should evaluate whether a rate decrease or increase is necessary and that Martin District, with the assistance of Alliance, should file a report with the Commission that provides specific information regarding the evaluation and determination.

2. Martin District's Cost and Rate Impact Analysis

Martin District's consultant, BlueWater, prepared a cost and rate impact analysis of the Management Contract. According to Martin District, there would be a cost premium of \$24.94<sup>74</sup> above current revenues, which necessitates a rate increase or a surcharge higher than the \$3.16 per month per customer Management/Infrastructure Surcharge established by the Commission in the November 5, 2018 Order.<sup>75</sup> However, the cost and rate impact analysis includes numerous items that Martin District has not substantiated it

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<sup>74</sup> Martin District's cost proposal was developed during the negotiations of the contract and will remain confidential until the contract is executed. The Commission will reissue this Order with information unredacted once the information is no longer confidential.

<sup>75</sup> Case No. 2018-00017, Nov. 5, 2018 Order at 22.

will be required to incur beyond the base contract cost and does not provide a like for like comparison of the actual costs. The analysis also included purchased water and purchased power expenses that were based on the amounts deemed recoverable in the November 5, 2018 Order, which incorporated the Staff Report filed in this case.<sup>76</sup> While this was allowable through rates, this does not accurately represent the actual cost to produce water, and greatly differs from information filed into the record. In the response to Commission Staff's Post-Formal Confidential Conference Request for Information (Staff's Post Formal Confidential Conference Request), Exhibit 2, Martin District provided a corrected income statement in Excel spreadsheet format that included the totals for the calendar year ended December 31, 2018, and January 2019 to July 2019.<sup>77</sup> The information contained in the spreadsheet indicates that Martin District in 2019 is selling water rather than purchasing it. Additionally, the actuals for the purchased power costs were \$333,251 for 2018, and for the six months ended 2019, were \$164,462. If the costs for 2019 were extrapolated out to a full year, the purchased power cost would be \$328,824, which is consistent with the expenses from the prior year.

Included in the corrected income statement referenced above, it has also come to the Commission's attention that Martin District has made no adjustment to its depreciable lives as recommended by Commission Staff in its Report<sup>78</sup> which was adopted, with modifications, by the Commission in its November 5, 2018 Order.<sup>79</sup> Because it lacks

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<sup>76</sup> *Id.* at 21.

<sup>77</sup> Case No. 2018-00017, Response to Commission Staff's July 30, 2019 Post Formal Confidential Conference Request for Information (filed Aug. 9, 2019), Exhibit 2.

<sup>78</sup> Case No. 2018-00017, Notice of Filing of Commission Staff Report (filed on May 22, 2018) at 4.

<sup>79</sup> Case No. 2018-00017, Nov. 5, 2018 Order at 21.

capable financial and analytical resources, Martin District is incapable of complying with a Commission directive and is unable to provide its actual costs of operation and an accurate income statement.

The Commission finds that it cannot rely upon the assumptions made in Martin District's cost and rate impact analysis in the final determination of rates, or in the determination of the reasonableness of the pending contract in this case.

#### Rate Increase and Surcharges

In its March 16, 2018 Order, the Commission approved a debt service surcharge in the amount of \$4.19 per customer, per month, for the specific purpose of allowing Martin District to pay down its past-due accounts payable. In the November 5, 2019 Order, the Commission approved continuing the Debt Service Surcharge and approved the \$3.16 Management/Infrastructure Surcharge.

For the reasons stated above, the Commission finds that the Management/Infrastructure Replacement Surcharge should be increased from \$3.16 to \$4.72 per customer, per month, to give Martin District the funds it needs in order to pay for the Management Contract with Alliance. To minimize the rate impact this would have on Martin District's customers, the Commission finds that the debt service surcharge that was approved on March 16, 2018, should be reduced by the same amount, from \$4.19 to \$2.63 per customer per month. The analysis and calculation of the increase to the Management/Infrastructure Surcharge and decrease to the Debt Service Surcharge can be found at Appendix B. The debt service surcharge will continue until Martin District has paid the remaining aged accounts payable approved in its October 16, 2018 Order, and Martin District will then apply those funds to its depreciation reserve account until further

Order of the Commission. At that time, the debt service surcharge will be terminated, and Martin District would continue to build its depreciation reserve account based on collections from its base rates. For ratemaking purposes, current expenses related to depreciation are suspended and the revenue utilized for payment of Alliance Contract services until further Order from the Commission.

#### Pending Motions

1. Motion to Amend Debt Service Surcharge

On October 16, 2019, Martin District filed a motion to amend the March 16, 2018 and October 10, 2018 Orders to permit Martin District to use the Debt Service Surcharge to pay accounts payable incurred between April 1, 2018 and December 31, 2018 (Stub Period). Pursuant to both Orders, the Debt Service Surcharge was to be used solely to pay past-due accounts payable incurred prior to April 1, 2018. In its motion, Martin District explained that the interim rate increase approved in the March 16, 2018 Order prevented insolvency but was not sufficient to pay ongoing accounts payable. Martin District maintained that since the rate increase approved in the November 5, 2018 Order, its finances have stabilized and it is able to pay its current accounts payable.

Based upon the motion, evidence in the record, and being otherwise sufficiently advised, the Commission finds that Martin District failed to provide support for the amounts it claims were accrued during the Stub Period, and therefore the motion should be denied. At the October 22, 2019 hearing, Commission Staff questioned Martin District about the discrepancies in amounts allegedly accrued during the Stub Period and the aged accounts payable amounts that conflict with Martin District's own financial reporting. Martin District was asked to explain the discrepancies and to provide a schedule in Excel

format that documented the amounts listed in the motion in a response to Commission Staff's discovery request. Martin District's response was woefully inadequate and failed to provide evidentiary support for the claimed amounts due. Martin District provided a brief, vague narrative that included no specifics, excusing the discrepancies on invoices or payments that were not timely entered, without any details or pointing to evidence in the case record that would provide the details.<sup>80</sup> Instead of an Excel schedule with supporting calculations for the alleged amounts accrued, Martin District filed a purchase list report in date order between April 1, 2018, and December 31, 2018, that included invoice numbers, paid in full or past-due status, and amounts.<sup>81</sup> Martin District was asked to file a schedule that, at its most basic level, showed the math that supported the alleged amounts due to the vendors. Due to Martin District's failure to provide the requested information and the dearth of information in the motion itself, there is no evidence to support Martin District's motion. Without supporting evidence, the motion must be denied.

## 2. Motions to Require Martin District to Hire a General Manager

On October 28, 2019, MCCC filed a motion requesting that the Commission require Martin District to hire a general manager by the end of the year and allow Martin District to use the \$3.16 monthly surcharge to fund the position. As a basis for the motion, MCCC states that, at the October 22, 2019 hearing, the Commission indicated that it would have ensured funding for the position had Martin District found a qualified applicant for the general manager position. MCCC pointed to testimony from a Martin District Board member that Martin District's board did not hire a general manager because they did not

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<sup>80</sup> Case No. 2018-00117, Martin District Response to Staff's Oct. 22, 2019 Post Hearing Request, Item 6.

<sup>81</sup> *Id.* at Item 7, Exhibit 4.

feel they had funding for the position. MCCC asserted that Martin District ratepayers cannot afford another rate increase and references MCCC's own study to demonstrate a lack of affordability. MCCC argued that a general manager would be able to correct financial and water usage reporting issues. MCCC requested that the general manager position be advertised in specified job boards and that the requirements be those set forth by MCCC in one of its filings. MCCC also requested that Nina McCoy be a voting member of the hiring committee as MCCC's representative.

On October 31, 2019, Martin District also filed a motion to amend the November 5, 2018 Order to use the \$3.16 Management/Infrastructure Surcharge to hire a general manager instead of contracting with a third-party management company. Martin District stated that, at the October 22, 2019 hearing, it learned for the first time that the Commission would have provided the necessary rate adjustment or surcharge to fund the position of general manager had one been hired. Martin District argued that ratepayers would be best served by hiring an experienced and qualified general manager because it would be less than the estimated \$24.94 cost premium required to retain a contract management company, based upon Martin District's calculations. Martin District set a deadline of 90 days to advertise, interview, and hire a general manager. If that deadline is not met, then Martin District would enter into the contract with Alliance. Martin District requested to immediately implement the \$3.16 surcharge, which would be deposited into a separate interest-bearing account, to fund the general manager position or, if it does not meet the deadline, to use as a security deposit for the contract with Alliance.

For the reasons set forth throughout this Order, the Commission finds that Martin District and MCCC have failed to establish good cause to grant their motions, and



therefore the motions to require Martin District to hire a general manager are denied. As discussed above, Martin District testified that it would select a candidate and bring the salary amount to the Commission for approval of a rate increase sufficient to pay the salary.<sup>82</sup> Counsel for MCCC questioned Martin District's then-treasurer, Mr. Kerr, about the timeframe for hiring a general manager and requesting the Commission approve a rate increase request once salary was determined.<sup>83</sup> Thus, all parties understood that Martin District planned to select a general manager and then request a rate increase to cover the salary. Martin District never took an affirmative action to discuss a specific candidate's salary with the Commission. Martin District's failure to carry out those actions resulted in the Commission ordering Martin District to take concrete steps to contract with a management company. The Commission finds no basis in the record to now allow Martin District to hire a general manager instead of contracting with Alliance.

Further, neither Martin District nor MCCC provided evidence for their argument that a general manager alone will improve Martin District's financial and operational position. Throughout this proceeding, MCCC has opposed contracting with an outside management company, asserting that rates would increase by as much as \$25 per month to pay for the Management Contract.<sup>84</sup> Martin District never provided analytically determined documentary support that substantiated such a rate increase or its claim that

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<sup>82</sup> Case No. 2016-00142, Aug. 28, 2018 HVT at 2:24:32.

<sup>83</sup> *Id.* at 2:25:02.

<sup>84</sup> See Case No. 2018-00017, MCCC letter (filed June 4, 2019); MCCC Drinking Water Affordability Crisis (filed Oct. 4, 2019) at 9. Over the course of the negotiations, MCCC has made various unofficial claims about the actual increase in rates required to execute a Management Contract, but in official documentation filed into the record stated that nobody knows what level of rate increase will be needed if the district follows the PSC's order and signs a contract for outside management.

“any contract with an outside for-profit management company would leave the district further in debt and result in another rate increase that Martin County’s citizens simply can’t afford.”<sup>85</sup> Similarly, Martin District’s motion contains mere assertions without evidentiary support to undergird them.

Finally, as discussed above, Martin District’s cost and rate analysis is not reliable, and therefore does not establish the actual cost to contract with Alliance as opposed to hiring a general manager. Even if Martin District’s numerous financial and operational problems could be resolved by hiring only a general manager, and we dispute that, Martin District failed to establish a financial benefit in hiring a general manager as opposed to contracting with Alliance.

#### SUMMARY OF FINDINGS

1. The Management Contract with Alliance is fair, just, and reasonable, will enable Martin District to render safe, adequate, and reliable water service, and will restore financial stability for Martin District, and therefore should be approved.

2. Martin District should execute the Management Contract with Alliance in triplicate no later than November 20, 2019, with the term to begin as of January 1, 2020.

3. Martin District should then send the three originals to Alliance for signatures, who in turn, should return one executed copy to Martin District, and one executed copy, under seal, to the Commission.

4. If Martin District fails to execute the Management Contract with Alliance by November 20, 2019, the Debt Service Surcharge granted to Martin District in this case

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<sup>85</sup> Case No. 2018-00017, MCCC letter (filed June 4, 2019); MCCC Drinking Water Affordability Crisis (filed Oct. 4, 2019) at 2.

shall automatically terminate, become null, void and of no further effect, and all funds remaining in the surcharge account should be returned to customers pro rata.

5. If Martin District fails to execute the Management Contract with Alliance by November 20, 2019, the Management/Infrastructure Surcharge granted to Martin District in this case should automatically terminate, become null, void and of no further effect.

6. The Management/Infrastructure Surcharge and Debt Service Surcharge set forth in Appendix A to this Order should be approved for service rendered by Martin District on and after the date of this Order.

7. The Management/Infrastructure Surcharge should be separately accounted for on Martin District's books of original entry using account 474, Other Water Revenues of the Uniform System of Accounts for Class A/B Water District and Associations. Martin District should use a subaccount of account 474 so that a reader of Martin District's general ledger can clearly identify the revenue generated from the surcharge.

8. Martin District should continue to collect the Debt Service Surcharge until further Order by this Commission.

9. Martin District should continue to collect the Management/Infrastructure Surcharge until a final order is entered in its next rate case or until the Management Contract with Alliance expires, whichever occurs first, or upon further Order by this Commission.

10. On a quarterly basis, beginning January 15, 2020, Martin District should provide quarterly activity reports with the Commission that include a statement of quarterly Debt Service Surcharge billings and collections, the monthly surcharge bank

statements for that quarter, a list of each payment from the account, its payee, and a description of the purpose.

11. Martin District, with the assistance of Alliance, shall develop and file with the Commission an infrastructure replacement plan by April 15, 2020.

12. The November 5, 2018 Order that approved the Debt Service Surcharge should be amended to:

a. Entitle Alliance to draw upon the Debt Service Surcharge account upon Alliance's written notice to the Commission in the event of any non-payment by Martin District of funds due to Alliance pursuant to the terms of the Management Contract or any payment by Martin District in an amount less than the full amount due to Alliance under the Management Contract, as set forth in Section 7.6 of the Management Contract.

b. Entitle Alliance to first-position priority over any other entities who may be entitled or claim to be entitled to draw upon the Debt Service Surcharge account, which requires payment to Alliance from the Debt Service Surcharge account before any payments are made to any other entities who may be entitled or claim to be entitled to draw upon the Debt Service Surcharge account, as set forth in Section 7.6 of the Management Contract.

13. Martin District's motion to amend the debt service surcharge to pay accounts payable incurred between April 1, 2018 and December 31, 2018 in the amounts set forth in the motion is denied.

14. MCCC's motion to require Martin District to hire a general manager is denied.

15. Martin District's motion to amend the November 5, 2018 Order and permit Martin District to hire a general manager is denied.

16. One year after Alliance commences to manage and operate Alliance, Martin District, under Alliance's guidance, should evaluate whether a rate decrease or increase is necessary. Within ten days of completing the evaluation, Martin District, with the assistance of Alliance, should file a report in the post-case file for this proceeding that provides specific information regarding the evaluation and determination.

IT IS THEREFORE ORDERED that:

1. The Management Contract as contained in Appendix B to this Order is approved.

2. Martin District shall execute the Management Contract with Alliance in triplicate no later than November 20, 2019, with the term to begin as of January 1, 2020.

3. Martin District shall then send the three originals to Alliance for signatures, who in turn, should return one executed copy to Martin District, and one executed copy, under seal, to the Commission.

4. Martin District is authorized to place into effect a Management/Infrastructure Surcharge as set forth in Appendix A to this Order.

5. Martin District is authorized to place into effect a Debt Service Surcharge as set forth in Appendix A to this Order.

6. On a quarterly basis, beginning January 15, 2020, Martin District shall provide quarterly activity reports with the Commission that include a statement of quarterly Debt Service Surcharge billings and collections, the monthly surcharge bank

statements for that quarter, a list of each payment from the account, its payee, and a description of the purpose.

7. The November 5, 2018 Order is be amended as follows:

a. Alliance is entitled to draw upon the Debt Service Surcharge account upon Alliance's written notice to the Commission in the event of any non-payment by Martin District of funds due to Alliance pursuant to the terms of the Management Contract or any payment by Martin District in an amount less than the full amount due to Alliance under the Management Contract, as set forth in Section 7.6 of the Management Contract.

b. Alliance has first-position priority over any other entities who may be entitled or claim to be entitled to draw upon the Debt Service Surcharge account, which requires payment to Alliance from the Debt Service Surcharge account before any payments are made to any other entities who may be entitled or claim to be entitled to draw upon the Debt Service Surcharge account, as set forth in Section 7.6 of the Management Contract.

8. Martin District's motion to amend the debt service surcharge to pay accounts payable incurred between April 1, 2018 and December 31, 2018 in the amounts set forth in the motion is denied.

9. MCCC's motion to require Martin District to hire a general manager is denied.

10. Martin District's motion to amend the November 5, 2018 Order and permit Martin District to hire a general manager is denied.

11. One year after Alliance commences to manage and operate Alliance, Martin District, under Alliance's guidance, shall evaluate whether a rate decrease or increase is

necessary. Within ten days of completing the evaluation, Martin District, with the assistance of Alliance, should file a report in the post-case file for this proceeding that provides specific information regarding the evaluation and determination.

12. If Martin District fails to execute the Management Contract with Alliance by November 20, 2019, the Debt Service Surcharge granted to Martin District in this case shall automatically terminate, become null, void and of no further effect, and all funds remaining in the surcharge account shall be returned to customers pro rata.

13. If Martin District fails to execute the Management Contract with Alliance by November 20, 2019, the Management/Infrastructure Surcharge granted to Martin District in this case shall automatically terminate, become null, void, and of no further effect.

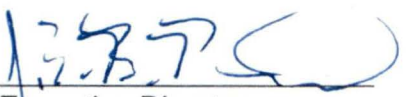
14. This case is closed and removed from the Commission's docket.

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By the Commission

ENTERED  
NOV 15 2019  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director  
for Gretchen R. Trinson

Case No. 2018-00017



APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2018-00017 DATED **NOV 15 2019**

The following rates and charges are prescribed for the customers in the area served by Martin County Water District. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under the authority of the Commission prior to the effective date of this Order.

Monthly Water Rates

Management/Infrastructure Surcharge	\$4.72/ Month
Debt Service Surcharge	\$2.63/ Month

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2018-00017 DATED NOV 15 2019

MANAGEMENT CONTRACT

TWENTY-NINE PAGES TO FOLLOW

**PROFESSIONAL OPERATING  
AND MANAGEMENT AGREEMENT FOR WATER SERVICE**

THIS AGREEMENT made and entered into as of this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ by and between Martin County Water District (hereinafter referred to as "Utility") and ALLIANCE WATER RESOURCES, INC., a Missouri corporation (hereinafter referred to as "Alliance").

WITNESSETH:

WHEREAS, Alliance is engaged in the business of providing management, operation and maintenance services for public water supply, treatment plant and distribution systems; and

WHEREAS, Utility owns a public utility system and is engaged in providing water service in certain areas in Martin County, Kentucky and certain adjacent counties; and

WHEREAS, Utility issued a Request for Proposals (RFP) for Management, Operations and Maintenance in accordance with Kentucky Public Service Commission Order, dated November 5, 2018, Case 2018-00017; and

WHEREAS, Alliance submitted a detailed scope and cost proposal in response to the RFP and Utility has evaluated the proposal and determined that Alliance has the necessary expertise to manage, operate, and maintain the Utility's water system; and

WHEREAS, Alliance has conducted a general on-site inspection of Utility's facilities and assets and general review of the current condition of Utility's facilities; and

WHEREAS, Utility is desirous of retaining Alliance to perform management, operation and maintenance services in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, for and in consideration of the mutual promises herein contained and for other good and valuable consideration, the receipt of which hereby is acknowledged, Utility and Alliance hereby agree as follows:

1. INTRODUCTION

1.1 The foregoing recitals are adopted as part of this Agreement.

- 1.2 This Agreement shall supersede and nullify, as of the effective date hereof, any and all prior agreements, amendments to agreements offers, service fees, quotations, and estimates between the parties with respect to the management, operation and maintenance of Utility's System (as that term is defined herein).
- 1.3 This Agreement, including any and all Exhibits, Appendices, Addenda, and Amendments hereto, constitute the entire Agreement between Utility and Alliance with respect to the management, operation and maintenance of Utility's System.

## 2. DEFINITIONS

- 2.1 "Benefit Plans" shall mean employee benefit programs such as health insurance, group life insurance, and paid vacation periods normally included as part of Alliance's employees' overall compensation package. A summary of the current Benefit Plan is included as Exhibit A of this Agreement.
- 2.2 "Duly Authorized Representative" shall mean such person, designated by either party by written notice to the other, as specific representative of the designating party in connection with performance of this Agreement.
- 2.3 "Certified Operators" shall mean water systems operation personnel who have met the applicable licensing requirements of the Commonwealth of Kentucky.
- 2.4 "Capital Expenses" shall mean any expenditure above \$2,500.00 for new plant or equipment items, the installation of which materially extends service life, or for replacement equipment or items, or which are considered capital expenditures in accordance with generally accepted accounting principles, or which are non-routine types of expenditures on an annual basis, or expenditures which the Utility has planned or budgeted as capital expenditures. "Emergency Capital Expenses" shall mean capital expenditures needed during emergencies such as the actual or the potential for imminent water service interruptions or the actual or the potential for imminent major equipment failures.

- 2.5 "Operating Expenses" shall mean costs of every kind and nature that Alliance shall determine necessary to pay or to become obligated to pay because of, or in connection with, the management, operation and maintenance of the Utility System.
- 2.6 "Maintenance Expenses" shall mean costs incurred by Alliance to perform routine or repetitive maintenance activities required or recommended by the equipment or plant item manufacturer, or Alliance, to maximize the service life of the equipment or plant item.
- 2.7 "Equipment, Vehicle or Facility Repair Expenses" shall mean labor, materials, and subcontractor costs for equipment, vehicle or facility repairs incurred by Alliance to perform those non-routine or non-repetitive activities required for operational continuity, safety and performance and which generally arise upon failure of equipment, a vehicle, or the facility, or some component thereof.
- 2.8 "Base Fee" shall mean direct cost plus administrative overhead expense and Management Expense where direct cost shall include labor, materials, supplies, equipment, subcontractor expense or operating expense of any kind necessary to operate and maintain the Utility System in accordance with the Scope of Services as defined in this Agreement. Administrative overhead expense shall include but is not limited to Alliance's costs for corporate management, human resources, information technology, accounting, corporate regulatory and safety programs, insurance, and other expenses related to the company's corporate management and offices.
- 2.9 "Extraordinary Expenses" shall be defined as costs in excess of the maximum annual Repair Limit and Chemical Limit as specified herein. In addition, the full cost of any unbudgeted individual repair costs in excess of \$2,500, such as third-party vehicle or equipment repairs, shall be considered extraordinary.
- 2.10 "Subcontracting Expenses" shall mean costs of every kind and nature that Alliance shall determine necessary to pay or to become obligated to pay to outside contractors because of, or in connection with, the management, operation and maintenance of the Utility System.

- 2.11 "Management Expense" shall mean the same as "Profit" listed on the Cost Proposal.
- 2.12 "Repair Limit" is defined as the total dollar amount that Alliance will be responsible for in an annual twelve-month period relating to Maintenance Expenditures and Equipment, Vehicle or Facility Repair Expenditures. Utility is responsible for all such expenditures that exceed the Repair Limit. If annual repair costs are less than the annual Repair Limit, Alliance will refund to the Utility the difference.
- 2.13 "Chemical Limit" is defined as the total dollar amount that Alliance will be responsible for in an annual twelve-month period relating to Chemical Expenditures. Utility is responsible for all such expenditures that exceed the Chemical Limit. If annual chemical costs are less than the annual Chemical Limit, Alliance will refund to the Utility the difference.
- 2.14 "Utility System" shall mean the water facilities owned by Utility including additions, replacements and improvements to such systems as described in Section 3 Utility System of this Agreement and subject to Section 6.3.
- 2.15 "Customer" is defined as any person, persons, household, firm, corporation or partnership using or allowing the use of water service(s) provided by Utility.
- 2.16 "Utility Services" means the provision by Utility of water services to its customers.
- 2.17 "Lien" means any mortgage, trust deed, pledge, security interest, claim, charge or encumbrance of any kind.

### 3. UTILITY SYSTEM

- 3.1 The Utility System to be managed, operated and maintained by Alliance shall consist of the water treatment and water distribution facilities owned by the Utility. It shall include additions, replacements and improvements to such systems subject to Section 6.3. The Utility System shall include the Utility-owned portions of water service lines, subject to Utility providing property access per Section 3.2.

3.2 The Utility System shall include all physical property, whether real, personal or mixed, comprising such systems, as well as the land thereunder owned or leased by Utility or other city or municipal owned water system contracting with Utility for services and easements and rights of way.

3.3 The Utility System also includes the Utility-owned fleet.

4. OWNERSHIP

4.1 Utility System shall remain the property of Utility.

4.2 All additions, replacements and improvements to Utility System, and extensions thereof, shall be and remain the property of Utility as installed.

4.3 Except as expressly provided in this Agreement, Alliance shall not assume any debts, amounts owed, liabilities or obligations of Utility ("Obligations"), whether known or unknown, fixed or contingent, certain or uncertain, and regardless of when they are or were asserted, and Utility shall remain responsible for any and all such Obligations.

4.4 All vehicles equipment, tools, phones, computers, software, and items of personal property owned or purchased by Alliance and used for the management, operation, maintenance, and/or repair of the Utility, shall be and remain the property of Alliance.

4.5 All vehicles, equipment, tools, phones, computers, software and items of personal property purchased by the Utility and used for the management, operation, maintenance and/or repair of the Utility, shall be and remain the property of the Utility. Exhibit B includes a list of all vehicles, equipment, and software owned by Utility at the time of the execution of this Agreement.

5. SCOPE OF SERVICES

5.1 Subject to the terms and conditions of this Agreement, Alliance shall provide all management, operation and maintenance services and shall bear the cost of such operating services as necessary to enable Utility to provide adequate Utility Services to its customers, to bill and

collect its charges for such service, to provide for general bookkeeping, record maintenance and reporting, to operate the Utility System, and to conduct the general business of Utility.

- 5.2 Within the design capacity and capability of the Utility System, Alliance shall operate and maintain the Utility System to meet the requirements of the Kentucky Department for Environmental Protection, Division of Water, and any other governmental entity or agency having regulatory control over the Utility System.
- 5.3 All services provided by Alliance hereunder shall be in accordance with sound management, accounting and engineering principles and the law.
- 5.4 Alliance shall not be responsible for payment of Extraordinary Expenses of the utility system, including equipment maintenance, repair or replacement.

In the event that any Extraordinary Expenses should occur, Utility shall be promptly notified and shall be provided with an accounting of such expenses. Payment for any extraordinary expenses shall be the responsibility of Utility. Alliance will document the Extraordinary Expense and submit invoice to Utility for payment.

- 5.5 Alliance shall maintain documentation of routine maintenance as to how such maintenance was performed in accordance with Alliance's professional judgment. A duly authorized representative of Utility shall have the right to inspect these records during regular business hours. Maintenance shall not include repair resulting from flood, fire or other extraordinary occurrences customarily not encountered in the operation and maintenance of the Utility System.
- 5.6 Except as stated in Section 5.7, Capital Expenses are not included in the scope of Alliance's services under this Agreement. All Capital Expenses shall be the responsibility of Utility, and if to be performed by Alliance, shall be the subject of a separate agreement and paid for by Utility.
- 5.7 Notwithstanding Section 5.6, Alliance shall make emergency Capital Expenses if such expenditures are necessary to continue operation of the Utility System so as to provide adequate service, and prior



approval of Utility reasonably cannot be obtained. Alliance will document the emergency Capital Expenses and submit invoice to Utility for payment.

- 5.8 Alliance shall not be responsible for payment of any directors' compensation.
- 5.9 The following expenses are specifically excluded from Alliance's scope of work and payment obligations and are the responsibility of the Utility:
  - a. Capital Expenditures, except those described in Section 5.7
  - b. Changes in scope of work which would have the effect of increasing Alliance's payment obligations, except as otherwise mutually agreed upon by Alliance and Utility.
  - c. Flood and fire damages.
  - d. Property damage, liability and directors' liability insurance.
  - e. Utility expenses including electric, gas, telephone, water and sewer, SCADA communications, circuit communications and alarm expenses. (Cell phone and internet expenses excluding those related to SCADA are included in Alliance's Base Fee. Cell phones to be provided by Alliance to Alliance's managers, supervisors and members of its staff that Alliance determines are responsible for responding to emergencies.)
  - f. Hauling and disposal of biosolids.
  - g. Professional services including but not limited to legal, accounting and design engineering services.
  - h. Extraordinary maintenance and repair services necessary to restore newly acquired facilities to reasonable operating condition.
  - i. Personal property or other taxes.

- j. Extraordinary expense as specified in Section 5.4 or as otherwise provided for in the annual utility budget.
- k. Wholesale wastewater treatment charges or water purchase expenses.
- l. All office and field services building expense including but not limited to rent and utilities.
- m. Alliance will provide management and administrative services for expense items included in Section 5.9. Alliance will provide a monthly report to the Utility governing board of the services and recommendation for payment. Alliance will manage these expense items in an efficient manner to optimize the total cost of operations and maintenance of the Utility.

5.10 Alliance shall provide all customer meter reading, billing, bookkeeping and collection services required by Utility in the ordinary course of the Utility's business.

5.11 Alliance will provide sufficient staffing to maintain and operate the Utility, which staffing shall including a General Manager (Tony Sneed, or a person of equivalent qualification and competence on an initial, interim basis), to be hired within six (6) months of the date of this Agreement, and an Operations Manager, whose duties shall include the general day-to-day oversight of the Utility System and its operation and maintenance. Alliance reserves the right to make such changes to its staffing and policies as it deems necessary and in keeping with the sound management and operation of the Utility System, however, Alliance will staff Utility System with sufficient numbers of water Certified Operators to meet regulatory requirements.

Alliance will offer "at will" employment to the Utility's current employees, as listed in Exhibit C, at an hourly rate of pay not less than that listed in Exhibit C if they meet Alliance's employment eligibility requirements including the passing of a pre-employment drug screen, criminal background check and motor vehicle record check (for those employees driving Alliance or Utility's vehicles). Alliance's Benefit Plan will be available to those hired employees on the first day of employment by Alliance.

- 5.12 Alliance has the right to use subcontractors and consultants to satisfy its obligations under this Agreement and will notify Utility of any subcontractors or consultants used to provide services for Alliance on the Utility System
- 5.13 Utility at any time may request Alliance to perform additional services which are outside the Scope of Services under this Agreement. Alliance shall invoice such services to Utility at actual cost plus 10%. Utility shall pay such invoices in accordance with Section 7.
- 5.14 Alliance shall prepare and provide financial and record keeping reports for an annual Utility audit, meet and discuss such reports with the Auditors for the purposes of streamlining and cooperating with the Auditor's work. Alliance will take appropriate corrective action to address items identified in the annual Utility audit that are the responsibility of Alliance in the management, operations and maintenance of the Utility.
- 5.15 Alliance shall prepare and provide reports to the Utility's Financial Advisor, Public Service Commission and/or Bond Counsel as needed by the Utility for proposed debt issuance, regulatory compliance and/or grant applications, including customer information and other reports as required.
- 5.16 Alliance shall develop, prepare and distribute Consumer Confidence Reports to customers in accordance with regulations.
- 5.17 Alliance shall work cooperatively with and provide Utility records and information to Utility's Legal Counsel.
- 5.18 Alliance shall assist the work of any of the Utility's real estate and easement acquisition agents, work cooperatively with the Utility's consulting engineering firm(s) and Legal Counsel for the purposes of obtaining water easements, property acquisitions and other real estate needs as determined necessary by Utility.
- 5.19 Alliance shall develop and prepare monthly and annual management, operations and maintenance reports to the Utility governing body, including expenses compared to budget and Alliance Cost Proposal. Alliance shall prepare an annual operating

and maintenance budget and preset to the Utility's governing Board by December 15 of each year. Alliance shall also provide recommendations for capital improvements.

- 5.20 Alliance shall prepare or assist in the preparation of governmental, official and customer correspondence including monthly, quarterly or annual reports, press releases, and educational materials as deemed necessary or appropriate to help perform Utility's public purpose.
- 5.21 Alliance will maintain a staffed administrative office for customer service and/or water bill payment to be located at the following address, or at an address subject to the consent of both Utility and Alliance, such consent not to be unreasonably withheld: Roy Collier Community Center, 387 East Main Street, Inez, KY 31124.
- 5.22 Alliance shall, on behalf of Utility, collect applicable taxes authorized by law on water services and remit said taxes collected on behalf of the Utility to the appropriate governmental authority.
- 5.23 Alliance shall, on behalf of Utility, accept and review proposals for computer software programs (e.g., GIS software, billing and customer information software, work management software) in order to provide a recommendation to Utility for the Utility's purchase of any such software and payment of related software fees as Utility deems appropriate.

## 6. COMPENSATION

- 6.1.1 Utility shall pay Alliance an initial monthly Base Fee of \$164,445.50 for services rendered as described in the Agreement from \_\_\_\_\_, 2019 to December 31, 2019. The monthly Base Fee includes a Repair Limit of \$10,416.67 per month and a Chemical Limit of \$9,166.67 per month as described in this Agreement.
- 6.1.2 Utility shall pay Alliance a Base Fee of \$ 1,973,346.00 (\$ 164,445.50\_per month for up to 12 months) for services rendered as described in the Agreement during the first full year of water service (January 1, 2020 to December 31, 2020). This Base Fee is a fixed Base Fee during the first year

of service and includes a \$125,000.00 12-month Repair Limit and a \$110,000.00 12-month Chemical Limit as described in this agreement.

6.1.3 Utility shall pay Alliance a Base Fee of \$ 2,022,078.91 (\$168,506.58 per month) for services rendered as described in the Agreement for the second year of water service (January 1, 2021 to December 31, 2021). This Base Fee is a fixed Base Fee for the second year of service and includes a \$125,000.00 12-month Repair Limit and a \$110,000.00 12-month Chemical Limit as described in this agreement.

6.1.4 Costs listed by cost category are included in Exhibit D.

- 6.2 The Base Fee, Repair Limit, and Chemical Limit shall be subject to renegotiation at the end of the second year (December 31, 2021) of service and annually thereafter and thus may be revised with the written consent of both parties. In the event that the parties fail to agree, the Base Fee, Repair Limit, and Chemical Limit shall be adjusted in proportion to the change in the Consumer Price Index for all urban consumers (U.S. City Average) in the most recent twelve (12) month period prior to the time of renegotiation as published by the U.S. Department of Labor. Such increase shall not be less than three percent (3%) and not more than six percent (6%) unless otherwise agreed upon.
- 6.3 The Base Fee, Repair Limit, and Chemical Limit shall be subject to renegotiation (up or down) due to any substantial change in the costs of Utility System operation and maintenance, including but not limited to changes in flow, customer accounts, monitoring or reporting requirements, personnel or staffing requirements, or increased costs due to Force Majeure occurrences. Substantial change in the cost of the Utility System operations and maintenance will be defined as any change (up or down) of Line Item #14 (Sub-Total Cost of Services) in the Alliance Cost Proposal exceeding ten percent (10%).
- 6.4 In the event that a change in the Scope of Service provided by Alliance occurs, and is mutually agreed upon with Utility, Alliance and Utility will negotiate a commensurate adjustment in compensation. All compensation adjustments resulting from changes in the Scope

of Services provided by Alliance shall be retroactive to the date the new or increased level of service is first provided.

7. PAYMENT OF COMPENSATION

- 7.1 The Base Fee compensation described in Section 6 and included in Exhibit D, shall be payable semimonthly. Half of the monthly amount shall be due and payable on the fifteenth of the month services are being rendered and the remaining half shall be due and payable on the first of the month following the month for which services were rendered (by way of example only, half of the Base Fee compensation for service provided in January shall be due and payable on January 15<sup>th</sup> and the remaining half shall be due and payable on February 1<sup>st</sup>).
- 7.2 All other compensation due Alliance from Utility shall be due upon receipt of Alliance's invoice and payable within thirty (30) days including an annual adjustment for the Repair Limit and Chemical Limit.
- 7.3 Utility shall pay interest at the maximum rate allowed under Kentucky law on compensation not paid when due, or payments of invoices not paid within thirty (30) calendar days. Interest shall commence on the due date.
- 7.4 In the event of any dispute, whether contractual or non-contractual, between Utility and Alliance, Utility shall continue to pay Alliance invoices in the normal course and shall not withhold any request for payment or attempt to offset any amounts due and payable due to Alliance.
- 7.5 Alliance shall have a lien on the Utility System for any amounts due from Utility under this Agreement.
- 7.6 Utility shall deliver to Alliance an order from the Kentucky Public Service Commission ("PSC Order") amending the March 16, 2018 order in PSC Case No. 2018-00017 (March 16, 2018 Order) establishing a Debt Service Surcharge Account to provide that, in the event of any non-payment by Utility or any payment by Utility in an amount less than the full amount due to Alliance under this Agreement, and upon Utility's failure to cure the same within any

applicable cure period, Alliance shall be entitled to draw upon said Debt Service Surcharge Account by the issuance of Alliance's written notice to the Kentucky Public Service Commission. All other provisions in the March 16, 2018 Order not in conflict with the provision to prioritize payment to Alliance shall remain in full force and effect. As part of the modified March 16, 2018 Order, Alliance shall be given first-position priority over any other entities who may be entitled, or who may claim to be entitled, to draw upon the Debt Service Surcharge Account and which shall require payment to Alliance from the Debt Service Surcharge Account before any payments are made to any other entities who have or may have a claim upon the Debt Service Surcharge Account. Upon Alliance's written notice to the Kentucky Public Service Commission, Utility shall disburse funds from the Debt Service Surcharge only to Alliance in an amount necessary to cure the default in question and to compensate Alliance for any Compensation owed to it and/or interest incurred as a result of the default, as determined by Alliance in its sole discretion. If such amount cannot readily be determined by Alliance, then Alliance shall be entitled to draw an amount equal to a fair estimate of the amount of non-payment or underpayment plus interest, pending the determination of said amount. Notwithstanding the foregoing, while the amount of any such draw shall be determined in Alliance's sole and absolute discretion, if the amount of any such draw(s) shall ultimately exceed the amount of Compensation and interest owed to Alliance as a result of Utility's default, then Alliance shall refund any such excess to Utility within sixty (60) days after the amount of such excess can be determined. Any such draw shall be without waiver of any rights Alliance may have under this Agreement or at law or in equity. The March 16, 2018 Order shall have such other modifications to it as necessary to effectuate the terms of this provision and ensure prompt payment to Alliance in the event a claim upon the Debt Service Surcharge Account becomes necessary.

- 7.7 Alliance Performance and Payment Bond: In addition to the other obligations set forth in this Agreement, within thirty (30) days of the execution of the Agreement, Alliance shall deliver to Utility a performance and payment bond ("Performance/Payment Bond") in the amount of Three Hundred Thirty Thousand Dollars and no cents (\$330,000.00), issued by a surety or other financial institution acceptable to Alliance. The Payment Bond shall name "Martin

County Water Utilities Board” as obligee, securing a financial guarantee for Alliance’s obligations to Utility under this Agreement. The Payment Bond shall either: (A) be issued with a fixed expiration term of December 31, 2024; or (B) shall provide for automatic annual renewals through that date which is sixty (60) days after the expiration date of this Agreement. In the event of a renewal of this Agreement, the Payment Bond shall also be renewed and issued according to the same terms as it was issued during the initial Term period. In the event the Payment Bond is issued with an annual renewal obligation and the Payment Bond is not renewed by the financial institution or surety on or before twenty (20) days prior to the then-scheduled expiration date of the Payment Bond, Utility then shall have the right to execute upon the full amount of such Payment Bond and to hold such amount as security for any amounts owed to Utility, as determined in its sole discretion, including amounts for any damages or compensation owed, whether or not then due.

## 8. INDEMNITY, LIABILITY AND INSURANCE

8.1 Subject to the insurance coverages required by each of the parties in Exhibit E, Alliance shall indemnify, save harmless and defend Utility and the governing board of the Utility from any and all claims, liabilities, penalties, fines, forfeitures, suits and costs and expenses incident thereto, including reasonable attorneys’ fees, which Utility may incur, pay in settlement, or become responsible for as result of death or bodily injury to any person, damage to any property, adverse effects on the environment, or violation of any law arising out of or relating to Alliance’s material breach of any term of this Agreement, or any negligent or willful act or omission of Alliance, its employees, or subcontractors in the performance of this Agreement.

Utility shall indemnify, save harmless and defend Alliance from any and all claims, liabilities, penalties, fines, forfeitures, suits and costs and expenses incident thereto, including reasonable attorney’s fees, which Alliance may incur, pay in settlement, or becoming responsible for as a result of death or bodily injury to any person, damage to any property, adverse effects on the environment, or violation of any law arising out of or relating to Utility’s material breach of any term of this Agreement, or any negligent or willful act or omission of Utility, its employees, or subcontractors in the performance of this Agreement.



Utility and Alliance shall each provide the other with prompt and timely written notice of any event or proceeding of which either acquires knowledge and for which indemnification may be sought so that each shall have any opportunity which exists to take such actions as may be desirable to contain or minimize the consequences of any such event or proceeding and to defend or settle at such party's expense any such proceeding.

- 8.2 Alliance shall be liable for fines or civil penalties imposed by regulatory agencies for violation of the regulations of the Kentucky Department for Environmental Protection, Division of Water, or the United States Environmental Protection Agency which occur during the term of this Agreement and which were caused by Alliance gross negligence or willful conduct. Alliance shall be given full authority to contest such violations and Utility shall assist Alliance in such proceedings. Except to the extent caused by Alliance's negligence, willful conduct, or breach of its obligations under this Agreement, Alliance shall not be responsible for fines or penalties or any other liability if source water contains non-treatable substances or the water treatment facility (Facility) is inoperable due to circumstances beyond Alliance's control (See Exhibit F).
- 8.3 Alliance's liability under this Agreement specifically excludes any and all indirect or consequential damages arising from the operation, maintenance, and management of the Utility System. Alliance shall not be responsible for damages caused by any defects or flaws inherent in the Utility System as it exists prior to Alliance beginning operations. Additionally, Alliance shall not be responsible for such damages in the event that Alliance has notified Utility of any defects and Utility fails to authorize appropriate corrective action. Alliance and the Utility agree that throughout the life of this Agreement any and all damage claims related to the Utility System shall continue to be processed and resolved in accord with current Utility practice.
- 8.4 Each party shall obtain and maintain insurance coverage of a type and in amounts described in Exhibit E. Each party, to the extent permitted by law, shall name the other party as an additional insured on all insurance policies covering the Utility System and shall provide the other party with satisfactory proof of insurance upon written request.

9. TERM AND TERMINATION

- 9.1 This Agreement shall become effective on the first (1<sup>st</sup>) day of \_\_\_\_\_ 2019, and shall remain in effect through the thirty-first (31<sup>st</sup>) day of December, 2024, subject to annual appropriation of funds by Utility. If Utility appropriates funds for operation and/or maintenance of the Utility System this Agreement shall remain in force and effect.
- 9.2 This Agreement may be renewed for successive terms of five (5) years upon written agreement of the parties.
- 9.3 This Agreement may be terminated by either party for breach of contract terms by the other. Such right of termination shall be in addition to any other claims or remedies either party may have against the other at law or in equity.
- 9.4 Such termination shall be effected as follows: The party declaring a breach shall give the other written notice of the breach and thirty (30) days from the date of notice to cure. In the event the other party fails to cure within that period, the party serving notice may elect to terminate and shall give written notice of its election to terminate effective not more than ninety (90) days after the date of the notice of election to terminate.

10. LABOR DISPUTES

- 10.1 In the event labor stoppages by employee groups or unions (i.e., picketing) cause a disruption in Alliance's employees entering and working on the Utility System, Alliance, at its own option, may seek appropriate injunctive court orders or temporary, additional, qualified personnel. During the labor dispute, Alliance shall operate the Utility System on a best efforts basis until labor relations are normalized.

11. NO JOINT EMPLOYER RELATIONSHIP

- 11.1 Nothing in this Agreement shall operate or be construed as making Utility and Alliance joint employers of any person. The relationship between Utility and Alliance shall be that of an independent contractor relationship. Neither Utility nor Alliance shall have any right, power, or authority, express or implied, to bind the other.

12. EXTRAORDINARY CIRCUMSTANCES

- 12.1 Neither party shall be liable for its failure to perform its obligations under this Agreement if performance is made extraordinarily difficult, or costly, due to any unforeseeable occurrences beyond its reasonable control, including, but not limited to, fire, abnormal flooding, riot, war, sabotage, inability to obtain electricity or other type of power, cessation of transportation, and other similar contingencies. Alliance will be responsible for failure to perform as a result of governmental action based on Alliance's failure to comply with rules, regulations and laws pertaining to the Utility System.
- 12.2 The party claiming inability to perform hereunder shall notify the other party immediately by verbal communication and in writing by certified mail, return receipt requested, of the nature and extent of the contingency within fourteen (14) days after its occurrence.
- 12.3 A declaration of inability to perform under this contract by either party does not relieve the parties from obligations not affected by the conditions claiming inability under this provision of the Agreement.

13. MANAGEMENT AND INFRASTRUCTURE PLAN; 10-YEAR CAPITAL IMPROVEMENT PLAN

- 13.1 Utility shall complete a Management & Infrastructure Plan (hereafter, "M&I Plan") as defined in the RFP for the purposes of reducing water loss at Utility and submit to the Utility for review and approval by \_\_\_\_\_. Utility shall submit the M&I Plan to the Kentucky Public Service Commission no later than the deadline set by the Kentucky Public Service Commission.
- 13.2 Utility, with the assistance of its outside consulting engineering firm(s), shall complete a 10-Year Capital Improvement Plan (hereafter, "10-Year CIP") which shall identify projects and/or particular items at Utility's facilities in need of improvement. Utility shall be responsible for securing capital funds for the 10-Year CIP.
- 13.3. In putting together the M&I Plan and 10-Year CIP, Utility shall consult with Alliance as reasonable and necessary and Alliance shall work cooperatively with Utility and/or Utility's consulting engineering

firm(s) for purposes of providing input on the M&I Plan and 10-Year CIP.

- 13.4 Utility has applied for and received approval for various grant funded projects to improve existing infrastructure. These grant funded projects are included in Exhibit G. Alliance agrees to provide assistance to consulting engineering firms(s) and contractors in planning, coordinating and operating facilities for current and future grant funded projects.

#### 14. FUTURE CONSTRUCTION

- 14.1 Alliance, along with Utility and Utility's designated consulting engineering firm(s), will work together to maintain accessibility and minimize disruption and outages to the existing Utility System when future improvements are under construction.
- 14.2 Alliance will work with Utility and Utility's designated consulting engineer firm(s) and contractor(s) to coordinate activities. In the event a critical piece of equipment or plant must be taken out of service, a plan shall be developed and approved by all parties ten (10) working days prior to the scheduled outage, and addressing the impact on plant operations, length of outage, and methods of removing and reactivating the equipment to full service. Utility shall pay all extra costs associated with said equipment outage. Alliance shall not be responsible for regulatory violations due to such interruptions.
- 14.3 In the event Utility's contractor or subcontractor causes damage to the Utility System, Alliance shall immediately notify Utility's duly authorized representative and shall take all actions necessary to minimize further damage.
- 14.4 Utility, or Alliance on behalf of Utility, shall direct the contractor to complete all repairs within a reasonable time. In the event that contractor does not make the repairs in a timely and reasonable manner, Alliance shall notify contractor and Utility of such failure to repair, and if work is not initiated immediately to effectuate such repair, within forty-eight (48) hours of such notice, Alliance shall, with

Utility's consent, make or contract for said repairs, and recover costs of the repairs from Utility.

15. AMENDMENTS

15.1 This Agreement may be modified only by written amendment signed by both parties.

16. WAIVER

16.1 A waiver on the part of either party of any term, provision, or condition of this Agreement shall not constitute precedent, nor bind either party to a waiver of any succeeding breach of the same or any other term, provision, or condition of this Agreement.

17. APPLICABLE LAW, DISPUTE RESOLUTION, VENUE

17.1 This Agreement shall be governed by and interpreted in accordance with the laws of the State of Kentucky.

17.2 In signing this Agreement, the Parties agree that any dispute or claims arising out of or related to the Agreement shall be subject to mediation as a condition precedent to the initiation of legal proceedings as set forth in Section 17.3 of this Agreement.

17.2.1 The parties shall endeavor to resolve any dispute or claims arising out this Agreement by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its procedures and policies. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. Unless otherwise agreed to by the parties, such mediation shall be held in Fayette County, Kentucky. Unless otherwise agreed to by the parties, mediation shall be completed within sixty (60) days after written demand for mediation is served upon the other party. If mediation has not been completed in this time frame, either party may proceed as set forth in paragraph 17.3, without further delay.

17.2.2 The parties agree to share the mediator's fee equally. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

17.3 Upon completion or exhaustion of the mediation procedures set forth above, any dispute or claim arising out of this Agreement shall be filed as a lawsuit in the Circuit Court of Fayette County, Kentucky.

18. ASSIGNMENT

18.1 This Agreement shall be binding upon and endure to the benefit of the respective successors and assigns of each of the parties hereof.

19. HEADINGS

19.1 Section headings used in this Agreement are inserted for convenience of reference only and shall not affect the content of its various provisions.

20. SEVERABILITY

20.1 If any provision of this Agreement shall be prohibited or held invalid, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or any provisions of this Agreement.

21. NOTICE

21.1 All notices shall be in writing and delivered in person or transmitted by certified mail, return receipt requested, postage prepaid, as follows:

On Utility: Chair, Martin County Water District  
C/O Martin County Judge Executive  
Martin County Fiscal Court Building  
32 East Main Street  
Inez, KY 41224

&

Brian Cumbo, Attorney  
86 West Main Street, Suite 100  
Inez, KY 41224

On Alliance:

President, Alliance Water Resources, Inc.  
206 South Keene Street  
Columbia, MO 65201

&

Michael Tolles, Attorney  
Husch Blackwell, LLP  
190 Carondelet Plaza, Suite 600  
St. Louis, MO 63105

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective officers thereunto duly authorized and their respective corporate seals to be herewith affixed and attested by their respective officers having custody thereof the day and year first above written.

UTILITY:

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

(SEAL)

ATTEST:

\_\_\_\_\_  
Clerk

ALLIANCE WATER RESOURCES, INC.

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

(SEAL)

ATTEST:

\_\_\_\_\_  
Secretary



# EXHIBIT A

## ALLIANCE CORPORATE BENEFITS

### Alliance Water Resources Summary of Employee Benefits

PAID TIME - OFF	TIME OFF BENEFITS	DETAILS												
PAID TIME - OFF	<b>Vacation</b>	<table border="1"> <tr> <td>1-3 years 4 days</td> <td>4-5 years 10 days</td> <td>6 years 7 days</td> <td>7 years 11 days</td> <td>8-11 years 13 days</td> <td>12-14 years 14 days</td> <td>15-16 years 17 days</td> <td>17-18 years 20 days</td> <td>19-20 years 22 days</td> <td>21-22 years 23 days</td> <td>23-24 years 24 days</td> <td>25 or more years 25 days</td> </tr> </table>	1-3 years 4 days	4-5 years 10 days	6 years 7 days	7 years 11 days	8-11 years 13 days	12-14 years 14 days	15-16 years 17 days	17-18 years 20 days	19-20 years 22 days	21-22 years 23 days	23-24 years 24 days	25 or more years 25 days
	1-3 years 4 days	4-5 years 10 days	6 years 7 days	7 years 11 days	8-11 years 13 days	12-14 years 14 days	15-16 years 17 days	17-18 years 20 days	19-20 years 22 days	21-22 years 23 days	23-24 years 24 days	25 or more years 25 days		
	<b>Sick Leave</b>	<ul style="list-style-type: none"> <li>- 1/2 day per month (6 days per year)</li> <li>- Quarterly conversion of sick to vacation at 1:1 for accruals over 250 hours</li> <li>- May be used for immediate family</li> <li>- Maximum accrual of 250 hours</li> </ul>												
	<b>Personal Days</b>	<ul style="list-style-type: none"> <li>- Up to 3 days per year (16 hours)</li> <li>- To be used by December 31st of each year</li> </ul>												
	<b>Holidays</b>	<ul style="list-style-type: none"> <li>- New Year's Eve (1/2 day) - Martin Luther King, Jr. Birthday - Independence Day</li> <li>- New Year's Day - Memorial Day - Labor Day</li> <li>- Thanksgiving Day</li> <li>- Day after Thanksgiving</li> <li>- Christmas Eve (1/2 day)</li> <li>- Christmas Day</li> </ul>												
<b>Jury Duty</b>	<ul style="list-style-type: none"> <li>- Up to 10 days per year</li> </ul>													
DEVELOPMENT	<b>Bereavement Leave</b>	<ul style="list-style-type: none"> <li>- Up to 3 days</li> </ul>												
	<b>Employee Certification</b>	<p>All employees are eligible. Employees are provided with training resources, including on-the-job experiences, to prepare them for the certification requirements. All employees who obtain certification of competency or who upgrade the level of an existing certification receive a bonus for each new or upgraded certification as follows:</p> <table border="1"> <tr> <td>Level Bonus</td> <td>A / IV \$250</td> <td>B / III \$300</td> <td>C / II \$350</td> <td>D / I and Certified Office Professional \$100</td> </tr> </table>	Level Bonus	A / IV \$250	B / III \$300	C / II \$350	D / I and Certified Office Professional \$100							
	Level Bonus	A / IV \$250	B / III \$300	C / II \$350	D / I and Certified Office Professional \$100									
<b>Employee Training Program</b>	<p>Supervisors: Supervisors receive training on company policies and a wide range of supervisor skills including performance management, coaching, and interviewing and hiring.</p> <p>Technical: Employees receive job-related training on industry topics of water and wastewater operations and maintenance, including certification test preparation, electrical classes, Confined Space, Trenching/Shoring, and OSHA. Classes are designed as support operator certification and re-certification.</p>													
DIRECT DEPOSIT	<b>Direct Deposit</b>	<ul style="list-style-type: none"> <li>- Deposit of paycheck automatically into designated checking or savings account</li> <li>- Allow at least two pay periods for direct deposit to activate</li> <li>- More than one account may be used</li> </ul>												

This overview describes some of the highlights of our benefit plans. Most benefits are available to employees after completing the 90-day orientation period. The details of the benefits are contained in official plan documents. If there are any differences between this overview and the terms of an official plan document, the plan document will govern. Alliance Water Resources, Inc. reserves the right to increase or change the benefit plans in any way, at any time.

Revised 02/17



INSURANCE	BENEFIT	EMPLOYEE CONTRIBUTION	EMPLOYER CONTRIBUTION	DETAIL INFORMATION OF BENEFIT										
	<b>Health Insurance</b>	Employee: 95% Dependents: 50%	5% (Basic) 50%		<ul style="list-style-type: none"> <li>- Base, Buy Up and Health Savings Account options available</li> <li>- Plan year = Jan. 1 - Dec. 31</li> <li>- Prescription Benefits</li> <li>- Maternity Benefits</li> </ul>									
<b>Dental Insurance</b>	Employee: 100% Dependents: 50%	0% 50%		<ul style="list-style-type: none"> <li>- Preventative, Basic and Major services coverage</li> <li>- In-Network and Out-of-Network benefits</li> </ul>										
<b>Vision Insurance</b>	Voluntary benefit	0%	100%	<ul style="list-style-type: none"> <li>- Exam and Contact Lens</li> </ul>										
<b>Disability Insurance</b>	Short-Term: 100% Long-Term: 100% Voluntary Long-Term: 0%	0% 0% 100%		<ul style="list-style-type: none"> <li>- 60% of weekly salary, maximum \$750/week for up to 11 weeks</li> <li>- 60% of monthly salary, maximum \$6,000/month for up to 2 years</li> <li>- Additional benefits until age 65 or SSI eligible</li> <li>- Pays on 13th day for illness or injury</li> </ul>										
<b>Life Insurance</b>	Employee: 100% Dependents: 100% Voluntary Term-Life: 0%	0% 0% 100%		<ul style="list-style-type: none"> <li>- Employee coverage, 1 x annual salary up to \$50,000</li> <li>- Spouse coverage = \$2,000 / Child coverage = \$1,000</li> <li>- Up to \$500,00 for employee, \$250,000 for spouse, \$10,000 for child</li> </ul>										
<b>AD&amp;D</b>	Employee: 100% Voluntary AD&D: 0%	0% 100%		<ul style="list-style-type: none"> <li>- Benefit maximum, 1 x annual salary up to \$50,000</li> <li>- Up to \$500,000 for employee, \$250,000 for spouse, \$10,000 for child</li> </ul>										
<b>Flexible Spending Account</b>	Admin Fees		100%	<ul style="list-style-type: none"> <li>- Unreimbursed medical expenses and dependent care expenses</li> <li>- Contributions are pre-tax</li> </ul>										
<b>Workers' Compensation</b>		100%	0%	<ul style="list-style-type: none"> <li>- Pays state mandated benefits for work-related accidents/injuries for employees</li> </ul>										
<b>EAP</b>		100%	0%	<ul style="list-style-type: none"> <li>- Professional, confidential counseling services for employees and immediate family</li> </ul>										
RETIREMENT	<b>401(k)</b>	Tiered Matching and Admin Fees	Up to 60% of wages	<ul style="list-style-type: none"> <li>- Entry date is the first of the month following 90-day orientation period</li> <li>- Contribution is pre-tax</li> <li>- Tiered Matching (by % of wages):  <table border="1"> <tr> <td>EE Contribution:</td> <td>1%</td> <td>2%</td> <td>3%</td> <td>4% and up</td> </tr> <tr> <td>Company Match:</td> <td>2%</td> <td>4%</td> <td>5%</td> <td>6%</td> </tr> </table> </li> <li>- Employer contributions subject to vesting</li> <li>- <b>Employee Contribution Limiting Schedule:</b>  <ul style="list-style-type: none"> <li>- 20% after 1 year of employment</li> <li>- 20% each year until fully vested (3 years)</li> </ul> </li> </ul>	EE Contribution:	1%	2%	3%	4% and up	Company Match:	2%	4%	5%	6%
	EE Contribution:	1%	2%	3%	4% and up									
Company Match:	2%	4%	5%	6%										

This overview describes some of the highlights of our benefit plans. Most benefits are available to employees after completing the 90-day orientation period. The details of the benefits are contained in official plan documents. If there are any differences between this overview and the terms of an official plan document, the plan document will govern. Alliance Water Resources, Inc. reserves the right to terminate or change the benefit plans in any way, at any time.

Revised 02/17

**EXHIBIT B**

**UTILITY OWNED VEHICLES, EQUIPMENT AND SOFTWARE**

<b>Martin County Water District</b>						
<b>Vehicle and Equipment Inventory</b>						
<b>As of August 1, 2019</b>						
<b>Vehicle ID #</b>	<b>Type</b>	<b>Assigned To</b>	<b>Make</b>	<b>Model</b>	<b>Year</b>	<b>VIN</b>
4W	Pickup Truck	Water	Chevrolet	Silverado	2005	1GCEK19Z55Z196835
6	Utility Vehicle	Water	Chevrolet	Blazer	2004	1GNDT13X84K165304
8	Pickup Truck	Water	Ford	F-150	2013	1FTFW1EF9DKE05425
9	Pickup Truck	Water	Ford	Ranger	2008	1FTZR15E58PA93057
10	Bucket Truck	Water	Ford	CB	1988	1FDPK84A8JVA17073

## EXHIBIT C

### WATER UTILITY EMPLOYEES, JOB, PAY RATE, BENEFITS

Martin County Water District Employees As of 9/1/2019									
MARTIN COUNTY WATER DISTRICT									
Employee	Job Description	Rate of Pay Hourly	Hire Date	Life	Health Anthem	Dental	Vision	Status	
<b>Treatment</b>									
Tom Alley	Lead Plant Operator	\$19.27	3/1/1991	Yes	Yes	Yes	Yes	Full Time	
Mike Sartin	Plant Operator	\$17.86	9/1/1993	Yes	Yes	Yes	Yes	Full Time	
Cameron Justice	Plant Operator	\$16.00	3/9/2015	Yes	Yes	Yes	Yes	Full Time	
Elbert Osborne	Plant Operator- Part Time	\$15.00	8/14/2013	No	No	No	No	Part Time	
<b>Distribution</b>									
Ryan Smith	Electrician	\$18.00	11/1/2017	Yes	Yes	Yes	Yes	Full Time	
Larry Gartin	Laborer	\$11.38	2/14/2019	Yes	No	No	No	Full Time	
John Horn	B-Crew Leader	\$14.38	3/20/2018	Yes	Yes	Yes	Yes	Full Time	
Steven Jude	Laborer	\$11.38	11/1/2018	No	No	No	No	Full Time - Will be insured 8/1/19	
Billy Patrick	Leak Detection	\$11.38	9/19/2018	No	No	No	No	Full Time - Will be insured 8/1/19	
Troy Horn	Pump Technician	\$13.00	1/24/2014	Yes	Yes	Yes	Yes	Full Time	
Justin Staton	Laborer	\$10.38	4/30/2019	Yes	Yes	Yes	Yes	Full Time	
Joshua Horn	Laborer	\$10.38	6/12/2019	No	No	No	No	Full Time - Will be insured after 90 days of employment	
Amos Fitch	Laborer	\$10.38	7/8/2019	No	No	No	No	Full Time - Will be insured after 90 days of employment	
<b>Office Staff</b>									
Katrina Sansom	Accounting Clerk	\$15.38	12/1/2010	Yes	Yes	Yes	Yes	Full Time	
Marcie Dials	Billing	\$12.38	9/4/2007	Yes	Yes	Yes	Yes	Full Time	
Debbie Osborne	Clerk-Part Time	\$7.25	12/6/2018	No	No	No	No	Part Time	
<b>MCWD CONTRACTORS</b>									
			Bi Monthly						
Kathery Carter	Meter Reader	\$843.60	8/13/2004	No	No	No	No	Contract	
Lisa Wilson	Meter Reader	\$521.73	5/8/2019	No	No	No	No	Contract	

**EXHIBIT D**  
**ALLIANCE COST PROPOSAL**

ATTACHMENT A1 (revised) - MARTIN COUNTY WATER DISTRICT					
COST PROPOSAL					
Contractor:	Alliance Water Resources, Inc.				
Date:	6-Nov-19				
Submitted By:	Tim Geraghty, President				
Signature Line:					
Category:	Contract Year ==>	Year 1	Year 2	Year 3	Total
Annual Services	based on 12 months				
1. Labor Costs		\$ 633,527.00	\$ 649,365.18		\$ 1,282,892.18
2. Labor Related Overhead		\$ 322,599.00	\$ 339,535.45		\$ 662,134.45
3. Purchased Water		not bid	not bid		not bid
4. Power (Treatment and Pumping only)		N/A	N/A		N/A
5. Chemicals (Treatment only)		\$ 110,000.00	\$ 110,000.00		\$ 220,000.00
6. Maintenance and Repair		\$ 125,000.00	\$ 125,000.00		\$ 250,000.00
7. Equipment		\$ 13,800.00	\$ 14,145.00		\$ 27,945.00
8. Materials and Supplies		\$ 108,400.00	\$ 111,110.00		\$ 219,510.00
9. Utilities, Rental, Leases		\$ 5,500.00	\$ 5,637.50		\$ 11,137.50
10. Professional Contract Services		included	included		included
11. Miscellaneous Contract Services		\$ 11,500.00	\$ 11,787.50		\$ 23,287.50
12. Insurance and Bonds		\$ 72,775.00	\$ 74,594.38		\$ 147,369.38
13. Other (Contractor to specify)	postage	\$ 30,000.00	\$ 30,750.00		\$ 60,750.00
14. Other (Contractor to specify)	fuel & travel expense	\$ 87,500.00	\$ 89,687.50		\$ 177,187.50
15. Other (Contractor to specify)	misc, dues, advertising	\$ 11,500.00	\$ 11,787.50		\$ 23,287.50
14. Sub-Total Cost of Services		\$ 1,532,101.00	\$ 1,573,400.00		\$ 3,105,501.00
15. Overhead Percentage (insert %)		\$ 275,778.18	\$ 283,212.00		\$ 558,990.18
16. Profit Percentage (insert %)		\$ 165,466.91	\$ 165,466.91		\$ 330,933.82
17. Total Annual Cost of Service		\$ 1,973,346.09	\$ 2,022,078.91		\$ 3,995,425.00
Other Services:					
18. Management and Infrastructure Plan		included	N/A		included
19. Capital Improvement Plan		N/A	N/A		N/A
20. Water Rate Study		N/A	N/A		N/A
21. Total Other Services Cost		included	N/A		included
NOTES:					
1. Contractor should fill in each yellow cell. The green cells will automatically calculate the sum.					
2. Year 1 begins at contract start; Year 2 (FY 2021) begins Jan 1, 2021.					
3. Year 2 (FY 2022) and Year 3 (FY 2023) entries must include any increase in annual costs from prior year.					
4. Other Services Cost (Items 18,19,20) are a one time total cost to provide the services requested and includes overhead, markup and profit.					
5. The Contract Year will begin on the operations start date identified in the Contract.					
6. Addendum #1 removes the cost of power for water operations from the Scope of Work. MCWD will pay the power costs directly.					
7. Addendum #1 removes the Capital Improvement Plan (line 19) and the Water Rate Study (line 20) from the scope of work.					
8. Addendum #1 notifies Contractor that Year 4 and 5 costs will be adjusted using the CPI-U for Water and Wastewater Services.					

**EXHIBIT E**

**INSURANCE REQUIREMENTS**

Alliance shall maintain:

1. Statutory Worker's Compensation Insurance for all Alliance employees at the Utility as required by law.
2. Comprehensive or commercial general liability insurance for bodily injury and/or property damage as follows:

General Aggregate	\$3,000,000
Each Occurrence Limit	\$1,000,000
Umbrella Aggregate	\$4,000,000

Alliance will assist the Utility to provide information and documentation to support or deny the settlement of claims by the Utility's insurance carrier.

Each Party:

1. Shall maintain adequate property insurance for its equipment and real and personal property, including but not limited to extended coverage.
2. Shall provide, with respect to its owned/leased vehicles, primary Commercial Automobile Liability Insurance for bodily injury and/or property damage with \$1,000,000 per occurrence. Utility's auto insurance shall be primary on its owned/leased vehicles, and Alliance's auto insurance shall be primary on its owned/leased vehicles, regardless of the vehicle's driver.

## **EXHIBIT F**

### **FACILITY CHARACTERISTICS**

#### **WATER TREATMENT FACILITY**

- 1 Alliance shall not be responsible for fines or penalties or any other liability if there are limitations with the water treatment facility which limit adequate treatment, or the Utility System is inoperable due to circumstances beyond Alliance's control.
  
- 2 In the event that water quality requirements are revised in the future, Alliance shall have the right to renegotiate the terms of Sections 6 and 7 in the Agreement by giving notice to the Utility of the revised water quality requirements.

## EXHIBIT G

### GRANT FUNDED CAPITAL PROJECTS

Martin County Water District Grants Awarded as of 9-1-19								
Project Name	Project Description	Grant Value (\$)	Grant Source or Agency	Award Date (Month/Year)	Grant Administrator	Engineer	Status	Completion Target
Beauty/Lovely Main Replacement	Replace water mains and service lines in Beauty and Lovely area	\$1,200,000	Appalachian Regional Commission (ARC)	8/24/2018	Big Sandy ADD	Bell Engineering	In design	2020
Water Treatment Plant Upgrades	Replace source water pumps, upgrade raw water transmission, upgrade treatment plant clarifier, and replace water mains (pending fund availability). Project includes developing hydraulic model and 10-Year Capital Improvement Plan	\$3,450,000	Abandon Mine Lands (AML)	1/26/2018	Big Sandy ADD	Bell Engineering	Phase I bid, Phase II in design.	2021
Water Treatment Plant Upgrades	Upgrade raw water intake, pumps and treatment plant, including clarifiers. Project combined with \$3.4 million AML Project	\$1,869,718	Corps of Engineers (COE)	9/6/2019	Big Sandy ADD	Bell Engineering	Approved	2021
Devella Pump Station and Storage Tank	Replace Devella Pump station and install new pump station and 500,000 gallon storage tank.	\$2,000,000	Abandon Mine Lands (AML)	9/6/2019	Big Sandy ADD	Bell Engineering	Approved	2021
<b>Total</b>		<b>\$8,519,718</b>						

APPENDIX C

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2018-00017 DATED **NOV 20 2019**

RATE ANALYSIS SCHEDULE

TWO PAGES TO FOLLOW



Martin County Water District  
 Analysis of Alliance Contract  
 Updated on: 11/05/2019 jrc

	2018 PSC Final Order on 2016	2018	6 Months YTD 2019	6 Months Extrapolated 2019		Alliance Contract 7/28/2019	Proforma 2018	Difference	Proforma 2019	Difference
<b>Revenues - Numbers remain constant</b>					<b>Revenues</b>					
Sales of Water	\$ 1,976,037	\$ 1,976,037	\$ 1,976,037	\$ 1,976,037	Sales of Water	\$ 1,976,037	\$ 1,976,037	\$ -	\$ 1,976,037	\$ -
Other Water Revenues	106,066	106,066	106,066	106,066	Other Water Revenues	106,066	106,066	-	106,066	-
Less: Wholesale Sales Revenue	(62,792)	(62,792)	(62,792)	(62,792)	Less: Wholesale Sales Revenue	(62,792)	(62,792)	-	(62,792)	-
Total Pro Forma Revenue	2,019,311	2,019,311	2,019,311	2,019,311	Total Pro Forma Revenue	2,019,311	2,019,311	-	2,019,311	-
Add: Revenue Generated from Increase 2018	492,074	492,074	492,074	492,074	Add: Revenue Generated from Increase	492,074	492,074	-	492,074	-
Total Operating Revenue	2,511,385	2,511,385	1,255,693	2,511,385	Total Operating Revenue	2,511,385	2,511,385	-	2,511,385	-
2019 Actual Operating Revenue			1,257,589	2,515,178						
<b>Expenses</b>					<b>Expenses</b>					
Salaries and Wages - Employees	485,824	583,782	383,191	766,382	Labor Costs	633,527	583,782	49,745	766,382	(132,855)
Employee Pensions and Benefits	185,557	95,221	105,435	210,870	Labor Related Overhead	322,599	95,221	227,378	210,870	111,729
Purchased Water	12,456	128,397	(12,878)	(25,756)	Taxes other than Income		45,556	(45,556)	59,902	(59,902)
Purchased Power	189,029	333,251	164,412	328,824	Postage	30,000	30,000	-	30,000	-
Expenses Related to Wholesale Revenue	(62,792)	-	-	-	Chemical Limit	110,000	161,898	(51,898)	177,214	(67,214)
Chemicals	58,241	161,898	88,607	177,214	Materials and Supplies	108,400	249,473	(141,073)	98,916	9,484
Materials and Supplies	138,429	286,553	67,998	135,996	Equipment	13,800	13,800	-	13,800	-
Contractual Services	214,221	258,115	97,680	195,360	Utilities, Rental, Leases	5,500	117,343	(111,843)	101,419	(95,919)
Rent	59,212	125,866	54,971	109,942	Maintenance and Repair	125,000	125,000	-	125,000	-
Transportation Expense	75,334	61,880	51,811	103,622	Insurance and Bonds	72,775	52,685	20,090	49,036	23,739
Insurance	69,115	88,529	42,440	84,880	Fuel and Travel Expense	87,500	61,880	25,620	103,622	(16,122)
Regulatory Commission Expense	3,000	4,071	-	4,071	Miscellaneous Dues and Advertising	11,500	8,453	3,047	13,700	(2,200)
Bad Debt Expense	67,543	-	-	-	Miscellaneous Contract Services	11,500	64,494	(52,994)	1,739	9,761
Miscellaneous Expense	40,341	38,453	21,850	43,700						
Total Operation and Maintenance Expenses	1,535,510	2,166,016	1,065,517	2,131,034	Total Operation and Maintenance Expenses	1,532,101	1,609,585	(77,484)	1,751,600	(219,499)
Add: Taxes Other Than Income	43,598	45,556	29,951	59,902	Add: Overhead	275,778		275,778		275,778
Depreciation	683,750	773,303	386,652	773,304	Profit	165,467		165,467		165,467
Total Operating Expenses	2,262,858	2,984,875	1,482,120	2,964,240	Total Alliance Contract	1,973,346	1,609,585	363,761	1,751,600	221,746
Net Operating Income	248,527	(473,490)	(226,428)	(452,855)	Add: Purchased Water	12,456	128,397	(115,941)	(25,756)	38,212
Interest Income	293	362	-	-	Purchased Power	189,029	333,251	(144,222)	328,824	(139,795)
Income Available to Service Debt	248,820	(473,128)	(226,428)	(452,855)	Contractual Services: Acct and Legal	44,844	44,844	-	44,844	-
Average Annual Principal and Interest Payments	(209,998)	(209,998)	(104,999)	(209,998)	Bad Debt Expense	67,543	-	67,543	-	67,543
Additional Working Capital	(38,822)	(38,822)	(19,411)	(38,822)	Depreciation Expense	683,750	773,303	(89,553)	773,303	(89,553)
Net Margin	\$ -	\$ (721,948)	\$ (350,838)	\$ (701,675)	Operational Reserve For Repairs	37,080	37,080	-	37,080	-
					State Utility and Board Fees	4,071	4,071	-	4,071	-
					Office Rental	8,523	8,523	-	8,523	-
					Water/Sewer Service	891	891	-	891	-
					Trash Disposal	2,100	2,100	-	2,100	-
					Website Hosting	329	329	-	329	-
					Phone and Internet Service	6,657	6,657	-	6,657	-
					Property, Crime, Marine, Auto, Liability Insurance	35,844	35,844	-	35,844	-
					Total Martin County Responsibility	1,093,117	1,375,290	(282,173)	1,216,710	(123,593)
					Total Expected Expenses	3,066,463	2,984,875	81,588	2,968,310	98,153
					Depreciation Adjusted to Staff Report	-	(89,553)	89,553	(89,554)	89,554
					Net Operating Income	(555,078)	(383,937)	(171,141)	(367,371)	(187,707)
					Interest Income	293	362	(69)	-	293
					Add: Wholesale Sales Revenue	62,792	62,792	-	62,792	-
					Income Available to Service Debt	(491,993)	(320,783)	(171,210)	(304,579)	(187,414)
					Average Principal and Interest Payments	(209,998)	(209,998)	-	(209,998)	-
					Additional Working Capital	(38,822)	(38,822)	-	(38,822)	-
					Net Margin	\$ (740,813)	\$ (569,603)	\$ (171,210)	\$ (553,399)	\$ (187,414)
					Bills - 3477 customers x 12	41,986	41,986	41,986	41,986	41,986
					Unadjusted Rate Increase	17.64	13.57	4.08	13.18	4.46

64.37%  
15.00%  
49.37%

Purchased Water - additional revenue for actual 2019 selling water not included - removed \$12,456 in the contract	(12,456)	(128,397)	115,941	25,756	(38,212)
Purchased Power Over 15%	(20,304)	(164,526)	144,222	(162,340)	142,036
Purchased Chemicals Over 15%	(28,031)	(79,929)	51,898	(87,491)	59,460
Bad Debt reduced to 1.5%	(29,872)	37,671	(67,543)	37,671	(67,543)
Other Water Revenue	12,847	12,847	-	12,847	-
GM @ \$100k/benefits	-	150,000	(150,000)	150,000	(150,000)
Total Adjustments	(103,510)	(198,028)	94,518	(49,251)	(54,259)
Potential Rate Adjustments	(2.47)	(4.72)	2.25	(1.17)	(1.29)
Additional Revenue Required	637,303	371,575	265,728	504,148	133,155
Surcharge	15.18	8.85	-	12.01	-
Infrastructure Surcharge	-	-	-	-	-
Purchased Power Over 15%	164,526	164,526	-	162,340	2,186
Purchased Chemicals Over 15%	79,929	79,929	-	87,491	(7,562)
Disallowed over 15% Water Loss	244,455	244,455	-	249,831	(5,376)
Related to Water Loss Over 15%	5.82	5.82	-	5.95	(0.13)
Surcharge	21.00	14.67	-	17.96	-
Approved Infrastructure Surcharge	3.16	3.16	-	3.16	-
Add Exp Over Initial Infrastructure Sur	2.66	2.66	-	2.79	(0.13)
Adjusted Expenses / Additional Rev	881,758	616,030	265,728	753,979	138,531
Unadjusted Rate Increase	17.64	13.57	4.08	13.18	4.46
Contract Adjustments	(2.47)	(4.72)	2.25	(1.17)	(1.29)
Potential Rate Increase	15.18	8.85	6.33	12.01	3.17
Approved Infrastructure Surcharge	3.16	3.16	-	3.16	-
Rate Increase Less Additional 15%	18.34	12.01	6.33	15.17	3.17
Add Exp Over Initial Infrastructure Sur	2.66	2.66	-	2.79	(0.13)
Total Potential New Rate Increase	21.00	14.67	6.33	17.96	3.04
Approved Infrastructure Surcharge	3.16	3.16	-	3.16	-
Net New Increase	17.84	11.51	6.33	14.80	3.04
Adjusted Expenses / Additional Rev	881,758	616,030	265,728	753,979	138,531
Exclude Depreciation	683,750	683,750	-	683,749	1
Net Additional Revenue Required	198,008	(67,720)	265,728	70,230	138,530
Net Rate Increase Without Depreciation	4.72	(1.61)	6.33	1.67	3.04
Approved Infrastructure Surcharge	3.16	3.16	-	3.16	-
New Rate Increase Without Depreciation	1.56	(4.77)	6.33	(1.49)	3.04

\*Brian Cumbo  
Attorney at Law  
P.O. Box 1844  
Inez, KENTUCKY 41224

\*Martin County Water District  
387 East Main Street, Suite 140  
Inez, KY 41224

\*Greg Scott  
General Manager  
Martin County Water District  
387 East Main Street, Suite 140  
Inez, KY 41224

\*Mary Cromer  
Appalachian Citizens' Law Center, Inc.  
317 Main Street  
Whitesburg, KENTUCKY 41858

\*M. Todd Osterloh  
Sturgill, Turner, Barker & Moloney, PLLC  
333 West Vine Street  
Suite 1400  
Lexington, KENTUCKY 40507