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Angie Hatton
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Commissioner

February 27, 2025

PARTIES OF RECORD

Re: Case No. 2024-00403

Notice is given to all parties that the attached Pendleton County Water IC Memorandum and attendance list has been filed into the record of this proceeding.

If you have any comments you would like to make regarding the contents of the document, please do so within five days of receipt of this letter. If you have any questions, please contact Michael Crum, Staff Attorney at michael.crum@ky.gov.

Sincerely,

A handwritten signature in blue ink that reads "Linda C. Bridwell" followed by the initials "PP".

Linda C. Bridwell, PE
Executive Director

Attachment

INTRA-AGENCY MEMORANDUM

KENTUCKY PUBLIC SERVICE COMMISSION

TO: Case File No. 2024-00403

FROM: Michael Crum, Staff Attorney

DATE: February 24, 2025 at 10:00 a.m.

RE: Informal Conference (IC) (held virtually on Microsoft Teams)

Pursuant to a Notice of Informal Conference issued on February 20, 2025, a virtual informal conference (IC) was conducted on February 24, 2025. Attached is a copy of the attendance roster.

The purpose of the IC was to discuss the status of the future proposed rate adjustment tariff filing regarding the City of Falmouth's (Falmouth) rates for wholesale water sales to East Pendleton Water District (East Pendleton District) and Pendleton County Water District (Pendleton District) (collectively, "the parties") and for Kentucky Public Service Commission Staff (PSC Staff) to answer questions the parties may have in terms of the rate adjustment process.

PSC Staff Attorney, Michael Crum, started the meeting with introductions, explaining the goals and process of the IC, and stating that PSC Staff could not speak on behalf of the Commission.

PSC Staff recounted the procedural history of the matter up to the date of the IC. PSC Staff then explained that the parties request for the Commission to sign the tendered Joint Agreement was inconsistent with the statutes and regulation relevant to the process of utility rate making and portions of the proposed agreement violate the rules prohibiting retroactive ratemaking. Staff noted that ratemaking, by statute relevant to this matter, is accomplished through the filing of tariffs. However, PSC Staff explained the tariff filing process, provided expected timelines, and offered multiple avenues for the parties to achieve their goals via means other than the Joint Agreement.

PSC Staff confirmed with the parties that a Cost of Service Study (COSS) is planned to be completed by Kentucky Rural Water Association, but the study has not started. The parties indicated that the COSS had not begun because they were waiting on the Commission to sign the Joint Agreement. PSC Staff encouraged the parties to begin the COSS as soon as possible because the study typically takes several months to complete.

Counsel for Falmouth, Mr. Voelker, who asked that it be noted in the record that Falmouth participated in the IC as a courtesy, as Falmouth does not recognize the jurisdiction of the Kentucky Public Service Commission in this instance as he believes the

contracts between the parties are void based on an Attorney General Opinion and an unpublished opinion of the Kentucky Supreme Court. He also voiced numerous other concerns regarding the issues relevant to the matter.

Mr. Voelker stated that shutting off the water to the water districts was still on the table. Mr. Voelker also stated he is in contact with Senators about how the Kentucky Public Service Commission is interfering with progress between the parties and Mr. Voelker restated that he believes all prior contracts between the parties are null and void, and thus, the Kentucky Public Service Commission does not have any jurisdiction in this matter.

Mr. Voelker stated that without the Joint Agreement in place, he felt his client could not move forward with working with the other parties. Mr. Voelker stated the Joint Agreement must be put into place before any further movement can happen and that he wished he could argue in front of the Commission. PSC Staff responded that the Kentucky Public Service Commission is an administrative body that has its own rules and regulations it has to follow and that everything the parties wish to accomplish can be done through the tariff filing process. Staff also noted that Falmouth can tender any requests to the Commission by motion.

Mr. Monroe from Pendleton District voiced his concerns regarding the accuracy of Falmouth's water meter, and said he believed the COSS could not be completed until the accuracy of the water meter is verified or the current water meter replaced.

Mr. Gunkel from East Pendleton District asked about the other avenues the parties could take to still accomplish their goals without the need for a signed Joint Agreement. PSC Staff responded to Mr. Gunkel's question by informing the participants that because Kentucky Rural Water Association was conducting the COSS, they should be able to provide guidance for filing tariffs and how to design rates that accomplish the parties' goals. Additionally, PSC Staff sent the participants several wholesale tariff cases of similarly situated parties as an example to follow. Lastly, PSC Staff went over the tariff filing procedures, statutes, regulations, and expected timeline of completion, and informed the participants that they may file as many tariffs as they wish, whenever they wish, but each tariff filing will need to be reviewed and comply with statutes and regulations.

Both Mr. Brewer of East Pendleton District and Mr. Cottingham, counsel for East Pendleton District and Pendleton District, expressed their optimism for a path forward and stated they would review other similar wholesale water tariff filings and utilize Kentucky Rural Water Association as a guide through the process.

Lastly, PSC Staff reiterated that in its belief, nothing had changed between the parties, it is just that their goals will need to be accomplished through the tariff filing process and follow established procedures, statutes, and regulations. PSC Staff offered to meet again in a couple of weeks with the parties to check on the progress of the matter and PSC Staff let the participants know they can reach out at any time with any questions they may have.

Mr. Voelker stated he believed he could only accomplish what his client wants through Circuit Court.

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

cc: Parties of Record

PSC INFORMAL CONFERENCE SIGN IN SHEET

CASE NUMBER: Informal Conference for Case No. 2024-00403,
City of Falmouth, East Pendleton Water District, Pendleton
County Water District

LOCATION: Microsoft Teams

DATE: Monday, February 24, 2025 10:00am – 11:00am

NAME	COMPANY/ENTITY
Michael Crum	PSC – Staff Attorney
Moriah Tussey	PSC – Assistant General Counsel
Daniel Hinton	PSC – Financial Analysis Division
Brandon Voelker	Counsel for City of Falmouth
Austin Monroe	Pendleton County Water District - General Manager
Joby Brewer	East Pendleton Water District – Manager
Keith Gunkel	East Pendleton Water District - Secretary
Joseph P. Cottingham	Counsel for East Pendleton Water District and Pendleton County Water District

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