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November 14, 2005

Beth O'Donnell  
Executive Director  
Kentucky Public Service Commission  
P.O. Box 615  
Frankfort, KY 40602

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NOV 14 2005

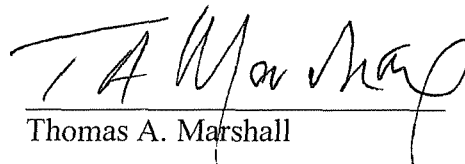
PUBLIC SERVICE  
COMMISSION

Re: Motion To Dismiss  
Case No. 2005-00437

Dear Ms. O'Donnell:

I hereby tender for filing a Motion to Dismiss in Case No. 2005-00437. The original and the usual copies have been provided. This Motion is filed on behalf of Peaks Mill Water District. If you or your staff should need to contact me, my phone number is 223-4723. Your assistance is very much appreciated.

Sincerely,



Thomas A. Marshall

Counsel for Peaks Mill Water District

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

NOV 14 2005

PUBLIC SERVICE  
COMMISSION

JEFFREY CHARLES QUARLES )  
 )  
COMPLAINANT )  
 )  
V. )  
 )  
PEAKS MILL WATER DISTRICT )  
 )  
DEFENDANT )

CASE NO. 2005-00437

**MOTION TO DISMISS**

Peaks Mill Water District (“Peaks Mill”), by counsel, for its Motion to Dismiss in response to the Commission’s Order dated November 3, 2005, and as served via certified mail on November 8, 2005, states as follows:

**INTRODUCTION**

The Complainant in this case has requested that Peaks Mill either [1] provide water service to his property via a nearby water line or, in the alternative [2] “give up” its nearby water line to Kentucky American Water Company, a water utility with facilities in the immediate vicinity. As a matter of law, Complainant is not entitled to either form of relief and the Complaint must be dismissed.

**ARGUMENT**

Peaks Mill is a water district organized pursuant to KRS Chapter 74 and created by the Franklin County Fiscal Court. KRS 74.010. It is a single-county district created and authorized to serve Franklin County pursuant to KRS 74.020. Although it “may,” if requested by two freeholders in an adjacent county, petition that adjacent county’s

County Judge/Executive for addition of the territory, it is not *required* to do so. KRS 74.115. The word “may” is permissive, not mandatory. There is no obligation imposed upon a water district to extend service beyond its county boundary.

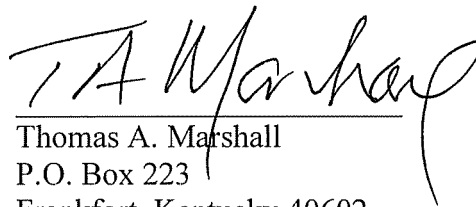
The property for which Complainant demands service is not located in Franklin County, the county Peaks Mill is authorized to serve. It is located in Owen County. Complainant cites no authority whatever to support his contention that Peaks Mill is required to serve his property in the manner he has requested or otherwise.

It is equally clear that Peaks Mill is under no legal obligation to “give up” its water facilities to any other utility.

#### **CONCLUSION**

For the foregoing reasons, Defendant Peaks Mill respectfully requests that the Complaint be dismissed with prejudice.

Respectfully submitted,



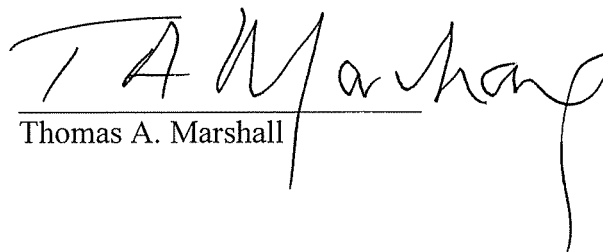
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Counsel to Peaks Mill  
Water District

**CERTIFICATE OF SERVICE**

I hereby certify that, on November 14, 2005, a complete and accurate copy of the foregoing was sent by First Class Mail, postage prepaid, to Jeffrey Charles Quarles, 15480 Owenton Road, Frankfort, Kentucky, 40601.

  
Thomas A. Marshall