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COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

DEC 31 2008  
PUBLIC SERVICE  
COMMISSION

In the Matter of:

Alleged Failure of the City of Danville to Comply with  
KRS 278.160 and 278.180 and the Commission's  
Order of August 10, 1994 in Administrative Case  
No. 351

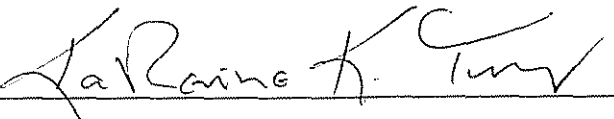
Case No. 2008-00176

**Data Requests to the Commission  
from the City of Danville**

In this proceeding, the City of Danville ("Danville") has sought clarification of the issues and allegations against it so that it might have due notice and an adequate opportunity to be heard in this Commission-initiated investigation. *See, e.g.*, Danville's 5/28/08 Request for Informal Conference and Extension of Time §§ 1-2, 4-5; Danville's 7/18/08 Proposed Agenda for Informal Conference. In furtherance of that effort, and in compliance with the service deadline set in the Commission's Order dated December 19, 2008, Danville hereby submits the attached requests for information, records, and other documents to the Commission.

Respectfully submitted,

ATTORNEYS FOR THE CITY OF DANVILLE

By: 

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CERTIFICATE OF FILING AND SERVICE

I hereby certify that on this the 31st day of December, 2008, the original and ten (10) copies of these data requests were hand delivered for filing with and service on the Commission, and a copy was sent by first-class U.S. mail for service on:

John N. Hughes, Esq.  
124 W. Todd St.  
Frankfort, KY 40601

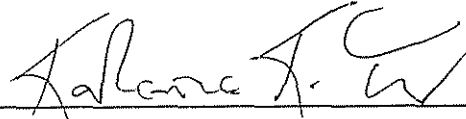
Ronald Russell, Chairman  
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Attorney for the City of Danville

1. Is there any allegation that Danville's charges (present or past) are not permitted by its respective contracts with the other parties? If so, what charge(s) and how does each such charge differ from what is permitted by (or how does it conflict with) the respective contract?
2. The first full paragraph on page 5 of the 5/22/Order begins:

The Commission has examined the billing statement for water service that Danville provided Garrard County for the month of January 2008. Based upon the rate schedule presently on file with the Commission and the amount of water billed, Danville should have billed Garrard County \$9,950.76.

- a. Provide a copy of the referenced billing statement examined and of the referenced "schedule presently on file with the Commission."
  - b. Explain the calculation of \$9,950.76 as the amount that "Danville should have billed Garrard County."
3. At pages 5 and 6 of the 5/22/08 Order, the Commission notes that its records "fail to reflect" or "do not reveal any evidence" of certain matters relating to Danville's contracts, revised rates, or notice thereof.
    - a. What do Commission records reflect or reveal about:
      - i. Danville's wholesale supply contracts with public utilities?
      - ii. notice received, from Danville or the other contracting parties, about wholesale supply contracts or revisions thereto?
      - iii. changes, in rates or otherwise, pursuant to existing provisions in the wholesale supply contracts?
    - b. Provide a copy of documents or entries in the Commission records in the categories listed in subpart a.
    - c. Are there such documents or other information received by the Commission, *e.g.*, in connection with Administrative Case No. 351, which cannot be presently found or which are known to have been lost or destroyed?

4. The 5/22/08 Order alleges that Danville has violated KRS 278.160 and 278.180. With respect to each statute, state:
  - a. what actions or omissions by Danville that have been alleged (or reported as alleged) constitute a violation or violations or failure to comply;
  - b. whether it is applicable when the terms and conditions of service, including rates, are governed by a specific, express contract for wholesale supply of water; and
  - c. identify how it has been made applicable to Danville, a municipal wholesale supplier, including whether through:
    - i. duly-promulgated administrative regulation;
    - ii. declaratory ruling or other adjudicative decision following a duly-conducted administrative hearing;
    - iii. other proceeding in which Danville had prior notice and an opportunity to be heard or otherwise participate; or
    - iv. other means.
5. Clarify what it is alleged that Danville has done (or omitted to do) that the Commission finds is in violation of the 8/11/94 Order in Administrative Case No. 351.
6. State whether the cited 8/11/94 Order in Administrative Case No. 351:
  - a. constitutes a duly-promulgated administrative regulation;
  - b. constitutes a declaratory ruling or other adjudicative decision; and
  - c. made the findings and issued the orders therein without prior notice to, and without any duly-conducted hearing or other proceeding for effective participation by, Danville or any other municipal utility. If prior notice or an opportunity to participate or be heard was provided, produce or describe any such notice or opportunity and list to whom it was given.
7. Identify any administrative regulation promulgated by the Commission since the decision in *Simpsonville*:

7. Identify any administrative regulation promulgated by the Commission since the decision in *Simpsonville*:
- a. that any provision in KRS Chapter 273 or 807 KAR 5 imposing requirements or sanctions on a “utility” was applicable to a municipality like Danville or any aspect of its operations;
  - b. setting out procedural or substantive requirements for municipal wholesale water suppliers to public utilities;
  - c. prescribing procedural or substantive standards for municipal wholesale supply contracts with public utilities; or
  - d. proscribing purchasing power adjustments or other automatic rate adjustments in contracts by which public utilities supply goods or services or procure goods or services.

As to each such regulation, identify any hearings or other proceedings that predated its issuance or effective date and provide the related fiscal note and statements of consideration.

8. Identify any order issued in a Commission proceeding, since the decision in *Simpsonville*, of which Danville had due notice and an opportunity to be heard or otherwise participate which established, ordered, or declared the requirements, standards, or proscriptions listed in subparts a through d of Request #7. As to each such order, identify any hearings or other proceedings that predated its issuance or effective date and provide the related notice provided to Danville.
9. Identify any statement of general applicability, policy, procedure, memorandum, or other form of action by the Commission since the decision in *Simpsonville* that implements, interprets, or prescribes law or policy with respect to the matters listed in subparts a through d of Request #7. As to each such item identified, provide a copy (if in writing) and describe any related public proceedings that predated it, whether and how it was published, and, if Danville was provided prior or subsequent notice of it, describe or provide that notice.

10. Identify whether the Commission has any internal policy, memorandum, or other form of action since the decision in *Simpsonville* that implements, interprets, or prescribes law or policy with respect to the matters listed in subparts a through d of Request #7. As to each such item identified, provide a copy (if in writing).