



Steven L. Beshear
Governor

Leonard K. Peters
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

David L. Armstrong
Chairman

James W. Gardner
Vice Chairman

John W. Clay
Commissioner

January 15, 2009

PARTIES OF RECORD

Re: Case No. 2008-00443

Attached is a copy of the memorandum which is being filed in the record of the above-referenced case. If you have any comments you would like to make regarding the contents of the informal conference memorandum, please do so within five days of receipt of this letter. If you have any questions, please contact Virginia Gregg at 502/564-3940, Extension 407.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Derouen".

Jeff Derouen
Executive Director

Attachment

INTRA-AGENCY MEMORANDUM

KENTUCKY PUBLIC SERVICE COMMISSION

TO: Case File

FROM: Virginia W. Gregg
Staff Attorney

DATE: January 15, 2009

SUBJECT: Case No. 2008-00443
Magoffin County Water District

On January 8, 2009, Commission Staff conducted a telephone conference call in this proceeding. Participating were:

Mary Stevens	-	Energy and Environment Cabinet
Julie Roney	-	Division of Water
David Spenard	-	Attorney General
Billy J. Rowe, Sr.	-	Pro Se
David Blankenship	-	Paintsville Utilities Commission
Jack Collins	-	Salyersville Water Works
Stanley Howard	-	Salyersville Water Works
Thomas Howard	-	Salyersville Water Works
Paul Howard	-	Salyersville Water Works
Greg Allen	-	Magoffin County Water District
James Hoskins	-	Magoffin County Water District
Reggie Chaney	-	Commission Staff
Virginia Gregg	-	Commission Staff
Sam Reid	-	Commission Staff
James Rice	-	Commission Staff
Bob Robards	-	Commission Staff
Gerald Wuetcher	-	Commission Staff
George Wakim	-	Commission Staff

Commission Staff had convened the conference to clarify and discuss procedural issues related to the scheduled hearing. It provided an agenda for the conference call, a copy of which is attached, prior to the previous day. Mr. Wuetcher first conducted a roll call of the participants. He then advised all participants that Commission Staff would prepare a written summary of the conference call discussions and file it in the case record. Mr. Wuetcher further noted that all participants would be provided with a copy of this summary and afforded an opportunity to submit written comments and corrections.

Commission Staff briefly reviewed the history and the purpose of the proceeding. Mr. Blankenship inquired about the status of Paintsville Utilities Commission's ("PUC") motion to withdraw from the case. Commission Staff advised that the motion is still pending.

The participants then identified and discussed several procedural issues. Mr. Collins and Mr. Allen agreed to file notices of appearance as counsel for Salyersville Water Works ("Salyersville") and Magoffin County Water District ("Magoffin District"), respectively. They further stated that the witness lists and written testimony for both parties would be submitted no later than January 23, 2009. Commission Staff agreed to provide an electronic copy of the Commission's Order of November 24, 2008 and an electronic copy of the Division of Water's testimony to Salyersville and Magoffin District.

The participants reviewed procedures for the hearing. Salyersville and Magoffin District reserved the opportunity to present opening and closing statements. Commission Staff indicated that the Commission has generally placed time limits on such statements. The participants generally agreed to the following order for presentation of opening and closing statements, presentation of evidence, and cross-examination of witnesses:

Salyersville
Magoffin District
Division of Water
Mr. Rowe
Attorney General
Commission Staff

Neither Mr. Rowe nor the Attorney General indicated that they would present any testimony.

Commission Staff reviewed Commission hearing procedures. Mr. Wuetcher stated that, in addition to examination from Commission Staff, the Commission may question witnesses at the hearing. Mr. Wuetcher noted that direct examination of witnesses in Commission proceedings is generally limited to the witness adopting his or her written testimony and supplementing or revising that testimony. Upon adoption and supplementing of the written testimony, the witness is tendered for cross-examination.

Commission Staff reviewed the substantive issues listed in the conference agenda and inquired whether any of the parties had questions regarding these issues. Ms. Stephens stated that the Division of Water assumed that the focus of the Commission's investigation was on the adequacy of Salyersville's and Magoffin District's present water supply. Mr. Wuetcher advised that, while the adequacy of the present supply was an issue, the Commission intended to examine the circumstances surrounding the water shortage that existed in October 2008 and the actions necessary

to avoid such shortage in the future. The utilities' short-term and long-term plans for acquiring additional sources of supply would also be reviewed.

Mr. Spenard questioned the Division of Water's regulatory authority over each utility's source of supply. Ms. Stephens responded that the Division of Water will address this issue in its filed testimony. She suggested that another conference call be scheduled closer to the scheduled hearing to identify, discuss, and resolve issues related to the water utilities' sources of supply.

Mr. Allen inquired whether Magoffin District should publish notice of the new hearing date. Mr. Wuetcher could not provide a definite answer but suggested that publication of the new hearing date is likely. Mr. Rowe stated that, if Paintsville Utilities Commission is permitted to withdraw as a party to the case, it should still be required to be present at the hearing to be available to present evidence. Mr. Wuetcher noted that the Commission may compel persons to testify through the issuance of subpoenas. He questioned whether Paintsville Utilities Commission had objections to appearing at the Commission hearing if subpoenaed. Mr. Blankenship stated that he was not presently aware of any objections. Ms. Stephens inquired whether the parties could request the issuance of subpoenas. Mr. Wuetcher responded affirmatively and recommended that a party that required the issuance of a subpoena should either submit a written request for the issuance of a subpoena to the Commission's Executive Director or make a formal motion for such action. Once the Commission issues a subpoena, the requesting party is responsible for service of the subpoena.

Mr. Wuetcher stated that Commission Staff was available to answer procedural questions. He noted that if a party communicates with Commission Staff through e-mail, it should copy all parties on its message. Any response from Commission Staff would be transmitted to all parties.

With no further items for consideration, the teleconference was adjourned.

Attachment

AGENDA FOR TELECONFERENCE – 8 JANUARY 2008

- I. Roll Call
- II. Review of Case History/Purpose of Proceeding
- III. Procedural Issues
 - A. Appearance of Counsel/Service List
 - B. Failure to Submit
 - C. Failure to Submit Written Testimony
 - D. Motion to Withdraw – City of Paintsville
 - E. Additional Discovery Requests/Depositions
 - F. Supplemental Testimony
 - G. Hearing Procedure
 - 1. Opening Statements
 - 2. Order of Opening Statements
 - 3. Order of Presentation of Witnesses
 - 4. Order of Cross-Examination
 - 5. Closing Statements
 - 6. Briefs
- IV. Substantive Issues to Be Explored During the Hearing
 - A. Salyersville Existing Water Treatment and Distribution Facilities
 - 1. General Description/Overview of Operation
 - 2. Present Capacity
 - 3. Planned Capacity Expansions/Status of Such Expansions
 - B. Salyersville's Present/Expected Demand (Retail and Wholesale)

C. Magoffin District's Existing Distribution Facilities: General Description/Overview of Operation

D. Magoffin District's Present/Expected Demand

E. Salyersville: Past Water Quality Problems/Present Status of Those Problems

F. Magoffin District: Past Water Quality Problems/Present Status of Those Problems

G. Water Emergency: October 2008

1. Summary of Events

2. Actions Taken to Prevent Recurrence

3. Likelihood of Recurrence

4. Connection with other Water Sources: Status at Time of Emergency/Present Status

H. Salyersville's Alternate Sources of Supply

1. Paintsville Utilities Commission

a. Past Negotiations/Dealings

b. History of Water Connection

c. Present Contract(s) with PUC

d. Arrangements for Emergency Backup Supply

e. Present Status of Connection

f. Circumstances Under Which Salyersville Will Begin Purchasing Water (i.e., What circumstances constitute an emergency?)

g. Factors That Inhibit Salyersville from Purchasing Water from PUC

2. Other Area Suppliers

a. Identification of Possible Suppliers

b. Efforts to Obtain Water from Other Suppliers: Past History/Present Efforts

c. Feasibility of These Possible Sources

I. Magoffin District's Alternate Sources of Supply

1. Paintsville Utilities Commission

a. Past Negotiations/Dealings

b. History of Water Connection

c. Present Contract(s) with PUC

d. Arrangements for Emergency Backup Supply

e. Present Status of Connection

f. Circumstances Under Which Magoffin District Will Begin Purchasing Water (i.e., What circumstances constitute an emergency?)

g. Factors That Inhibit Magoffin District from Purchasing Water from PUC

2. Other Area Suppliers

a. Identification of Possible Suppliers

b. Efforts to Obtain Water from Other Suppliers: Past History/Present Efforts

c. Feasibility of These Possible Sources

J. Compliance with Water Quality Standards

1. Salyersville's Compliance with Drinking Water Standards/Division of Water Regulations – History/Present Status

2. Magoffin District's Compliance with Drinking Water Standards/Division of Water Regulations – History/Present Status

3. Required Facility/Operational Changes for Compliance

K. Magoffin District – Salyersville Contract

1. Salyersville's Contractual Obligation to Provide Adequate Water Service

2. Restrictions upon Magoffin District Obtaining Alternate Sources of Supply

L. Emergency Planning

1. Adequacy of Existing Water Shortage Response Plans
2. Additional Regulatory/Administrative Actions Needed for Successful Contingency Planning in the Event of Similar Emergency

M. Jurisdictional Issues

1. Division of Water's Authority to Direct Changes/Modifications in Salyersville/Magoffin District's Operations
2. Public Service Commission's Authority to Direct Changes/Modifications in Salyersville/Magoffin District's Operations

N. Remediation: What actions, if any, should the Commission require Salyersville or Magoffin District to undertake to ensure the adequacy and reliability of water service?