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November 2, 2009

## PARTIES OF RECORD

Re: Case No. 2009-00373

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 M. Todd Osterloh at 502/564-3940, Extension 439.

Sincerely,

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

Jeff Derouen  
Executive Director

TO/ew

Attachment

**INTRA-AGENCY MEMORANDUM**  
**KENTUCKY PUBLIC SERVICE COMMISSION**

**TO:** Case File

**FROM:** Todd Osterloh, Staff Attorney

**DATE:** November 2, 2009

**RE:** Case No. 2009-00373  
Proposed Adjustment of the Wholesale Service Rates of Hopkinsville  
Water Environment Authority  
Conference of October 29, 2009

On October 29, 2009, the Commission held an informal conference at the request of Hopkinsville Water Environment Authority ("HWEA"). The sign-in sheet attached to this memorandum reflects the participants of the informal conference.

Beginning the conference, Commission Staff stated that it would prepare minutes of the conference for the case record, that a copy of these minutes would be provided to all parties, and that all parties would be given an opportunity to submit written comments upon those minutes. Staff also noted that its statements and opinions are not necessarily binding on the Commission.

Counsel for HWEA discussed the issues raised in the request for an informal conference. It is HWEA's position that the 2005 agreement between HWEA and Christian County Water District ("Christian District") dictates that HWEA's rate for water service to Christian District shall increase by the same percentage as HWEA's rate to its customers. Christian District, however, interpreted the agreement to require rates that were based on the actual cost of producing and distributing water.

The parties discussed issues related to the contractual provision. Commission Staff noted that the Commission's order in Case No. 2005-00174 only adopted the rate schedule set forth in the agreement and did not specifically adopt the parties' agreement. Staff also noted that the Commission has jurisdiction to review the reasonableness of rates regardless of whether the parties agree to a certain rate.

Commission Staff stated that HWEA could request a determination by the Commission on the legal issue it has raised. If HWEA chose not to request a determination, Staff would continue to process the case as it normally does and would request that HWEA file responses to the Commission's initial data request. On questioning by HWEA, Staff stated that it has not determined whether it will perform a Staff Report in this case.

HWEA stated that it would need approximately one week to discuss whether it wanted to request a determination by the Commission as to the legal issue it posed to Staff. Staff stated that, if the Commission were to be presented with the issue, the deadline for responding to the data request could be extended indefinitely. Staff did not believe that the statutory deadline for rate case determination could be suspended, however.

Unrelated to the legal issue that was discussed, HWEA provided a description of its facilities. A copy of HWEA's service territory map is attached to this memorandum. (A single copy of the map was provided. It will be placed in the Commission's case file but will not be circulated to the parties as an attachment to this memorandum.) HWEA stated that it will also provide a copy of the map in response to the Commission's data request.

The conference then adjourned.