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Dressman Benzinger LaVelle psc

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AUG 11 2010

**PUBLIC SERVICE
COMMISSION**

To: Jeff DeRouen **Fax:** 502-564-3460
Public Service Commission of
Kentucky

From: Kevin Hoskins

Date: August 11, 2010 **Pages:** 11

Re: Boone County Water District Tapping Fee

**Originals will be sent
by:**

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of delivery

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Reply to Ohio Office

August 11, 2010

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PUBLIC SERVICE
COMMISSION

VIA FAX AND OVERNIGHT DELIVERY

Jeff Derouen
Executive Director
Public Service Commission of Kentucky
P.O. Box 615
211 Sower Blvd.
Frankfort, Kentucky 40602-0615

Re: Boone County Water District Tapping Fee

Dear Mr. Derouen:

Enclosed please find 10 copies of Home Builders Association of Northern Kentucky's Responses to the Commission Staff's First Information Request. We will send the Verification page for these discovery requests in the next day or so.

If you have any questions or need additional information, please feel free to give me a call.

Very truly yours,

Kevin F. Hoskins

243179v1

Dressman Benzinger LaVelle psc
Attorneys at Law

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

**APPLICATION OF BOONE COUNTY WATER)
DISTRICT FOR APPROVAL OF AN INCREASE) CASE NO. 2010-00019
IN CERTAIN NONRECURRING CHARGES)**

**HOME BUILDERS ASSOCIATION OF NORTHERN KENTUCKY'S
RESPONSES TO COMMISSION STAFF'S FIRST INFORMATION
REQUESTS**

1. List all Kentucky counties where HBA members do work relevant to the issues in this case.

RESPONSE: Boone County, Kentucky.

2. In addition to Boone County Water District ("Boone District"), what other jurisdictional water companies (investor-owned, water districts, or water associations) provide water service to any HBA members?

RESPONSE: Northern Kentucky Water District, Florence Water District, Williamstown Water Department, Dry Ridge Water/Sewer Department, Bullock Pen Water District, Corinth Water District, Western Lewis-Rectorville Water and Gas District, Carroll County Water District, Gallatin County Water District, Pendleton County Water District, Mt. Olivet Water Department, Bracken County Water District, Western Fleming County Water District and Nicholas County Water District.

3. List separately, for each calendar year from 2007 through 2009 and from January 1, 2010 through June 30, 2010, the number of members belonging to HBA.

RESPONSE: 2007 – 1,251 members; 2008 – 1,350 members; 2009 – 1,136 members; January 1 to June 30, 2010 – 1,125 members.

4. What are HBA's requirements for membership?

RESPONSE: The requirements depend upon the member's classification. For associate members (i.e. suppliers, subcontractors, service providers, affiliates, Land Development Council, and Sales and Marketing Council), the only requirement is the payment of annual dues. Members who are Registered Builders, Remodelers or Commercial Developers must satisfy the following requirements:

- Pay annual dues,
- Provide acceptable credit references,
- Must have built and sold a minimum of three residential/commercial dwelling units in the Northern Kentucky area, in which they supervised all phases of construction, within the last two years.
- A Registered Builder applicant's principal income must be derived from the building of new dwelling units and/or related real estate activities for a period of no less than two years.
- A Registered Remodeler applicant must have been in the remodeling business for a period of two years and supervised or participated in all phases of the projects, as well as completed a

minimum of six projects during the most recent two year period.

- A Registered Remodeler applicant must have derived principal income from remodeling for two years.
- Registered Builder/Remodelers applicants must submit names of a minimum of three three non-related customers within a two year period. They also must submit the names of a minimum of five supplier references in which business was conducted, within a two year period, for purposes of favorable references. One of the references shall be from a financial institution.
- Registered Builder/Remodeler applicants must agree to provide the addresses of two projects, within the Northern Kentucky jurisdiction, for the purpose of onsite inspections to verify workmanship.
- Registered Builder/Remodeler applicants must provide a copy of the written contract that they currently utilize or plan to utilize in their business transactions. The written contract shall contain the following provisions: a) names and addresses of parties to the contract; b) date of the contract execution; c) description of the work to be performed; and d) simple and clear terms of payment.
- Registered Builders/Remodelers must agree to provide an express written warranty on the work performed, for a period

of no less than one year, which describes the scope and the extent of the warranty. Applicants may indicate that they plan to utilize the HBA's standard warranty to meet this requirement.

- Registered Builders/Remodelers must agree to abide by the construction standards stipulated in the most recent version of the HBA of Northern Kentucky Performance Standards Manual.
- Registered Builders/Remodelers must carry Kentucky Workers' Compensation Insurance with a minimum of \$250,000 in liability insurance and submit a valid written copy of effective policy to the HBA of Northern Kentucky in each calendar year.
- Registered Builders/Remodelers must agree to participate in the HBA's dispute conciliation process to resolve disagreements between the Registered Builder/Remodeler member and the customer. If conciliation fails, the Registered Builder/Remodeler member agrees to submit the dispute to binding arbitration.
- A principal owner or territory manager of a Registered Builder applicant company must appear before the Registered Builder/Remodeler Committee for a personal interview prior to an Applicant's approval.
- New Registered Builders/Remodelers must attend an Orientation Meeting within sixty days of approval.
- Registered Builders/Remodelers must also:

- **Sign an agreement to abide by the rules and regulations of the Registered Builder/Remodeler Program.**
- **Agree to abide by the current Kentucky Residential Building Code and the Kentucky Building Code, and to obtain the required permits, inspections and certificates of occupancy stipulated by the enforcement agency.**

If an Applicant does not meet the qualifications as stated above, they may be considered for application as an Associate Builder or Associate Remodeler member for a period of one year. Associate Builders or Remodelers must meet the following requirements:

- **Must have acceptable credit references.**
- **Must have one Registered Builder/Remodeler reference that has personal knowledge of the Applicant's business integrity and construction activity.**

5. **What is the organizational purpose of HBA?**

RESPONSE: To promote and enhance the integrity and visibility of the construction industry and the members of the organization through advocacy, communication, education and political action.

6. **What services or products does HBA provide its members?**

RESPONSE: The HBA provides the following services and products to its members, among others:

- Hosts consumer trade shows including the Home Products Expo, Kentucky Cavalcade of Homes, HomeFEST, Parade of Homes, CitiFest, and Tour of Remodled Homes;
- Provides training, continuing education seminars, and apprenticeship programs;
- Offers networking events for members;
- Offers a workmen's compensation insurance program;
- Provides contracts and forms for builders and remodelers; and
- Provides publications and meeting space to members.

7. Describe the impact the proposed increases in Boone District's tapping fees would have on HBA's members for both 5/8-inch x 3/4-inch meter connections and 1-inch meter connections.

RESPONSE: The proposed tapping fee will increase the existing tapping fee by approximately 35% with no change in the actual services or goods provided by Boone District. This additional cost will either be forced upon the buyer, or more likely, forced upon the builder in the form of reduced profit margins. If the increased fee is approved, the HBA anticipates that the cost to either its members or home buyers will be approximately \$1,750,000 over the next five years. Further, the HBA anticipates that this increase will cause Boone County home builders to lose an additional 20 jobs over the next five years.

8. List separately, for each calendar year from 2007 through 2009 and from January 1, 2010 through June 30, 2010:

a. The number of new 5/8-inch x 3/4-inch meter connections that Boone District installed for HBA's members and how many of these were for short-side installation and how many were for long-side installation (installed under a roadway).

RESPONSE: The HBA does not possess this information. Boone District should possess information responsive to this request. If needed, the HBA will provide Boone District with a list of members as a cross reference for answering this request.

b. The number of new 1-inch meter connections that Boone District installed for HBA's members and how many of these were for short-side installation and how many were for long-side installation.

RESPONSE: The HBA does not possess this information. Boone District should possess information responsive to this request. If needed, the HBA will provide Boone District with a list of members as a cross reference for answering this request.

9. Do HBA members pay Boone District directly for the installation of 5/8-inch x 3 1/4-inch meter connections? If not, explain.

RESPONSE: Yes.

10. Do HBA members pay Boone District directly for the installation of 1-inch meter connections? If not, explain.

RESPONSE: Yes.

11. What percentage of the cost of meter connection installations does the purchaser of new construction pay? If this percentage is not consistent among HBA's members, describe the range.

RESPONSE: Typically, 100%. However, given the market, the builders will likely have to reduce their profit margins to account for the tapping fee increase.

12. For the calendar years 2007 through 2009 and from January through June of 2010, what is the average price of new construction sold in Boone County where a 5/8-inch x 3/4-inch meter connection is required? Where a 1-inch meter connection is required?

RESPONSE: The HBA does not possess this information.

13. In HBA's motion to intervene in this matter, it states that, if allowed full intervention, it will present issues and develop facts that assist the Commission in fully considering this matter without unduly complicating or disrupting the proceedings. Identify those issues and expand upon any facts that may assist the Commission in this matter.

RESPONSE: The HBA will show how this significant increase to the tapping fee will affect its members. The HBA will also present evidence on

the reasonableness of the charges that make-up Boone District's tapping fee, as well as the reasonableness of Boone District's total overhead. The HBA contends that Boone District's charges for its tapping fee and overhead are not reasonable in light of what is charged by comparable water districts for the same. The HBA's members should not have to bear unreasonable charges, especially given the current market for new construction.

The attached letter to Phil Trzop, General Manager of the Water District, addresses the reasonableness of the proposed tapping rate compared to rates charged by similar water districts.

14. In HBA's motion for suspension of the proposed rate, HBA states that Boone District's application does not satisfy the technical requirements of 807 KAR 5:00(10) [sic]. State the technical requirement that Boone District has not met in its application.

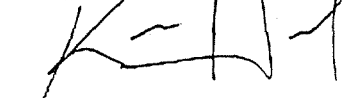
RESPONSE: Boone District failed to provide an affidavit from the newspaper publishing the notice.

15. In HBA's motion for suspension of the proposed rate, HBA states that Boone District's proposed increases are not fair, just or reasonable, given the goods and services provided by Boone District. Explain.

RESPONSE: The itemized charges that make up the tapping fee are not reasonable in light of the charges by comparable water districts for similar goods and services. Further, with this increased tapping fee, Boone District seeks to pass on the cost of transponders to the builder or home owner. A

transponder is a relatively new device that allows meter readers to check a meter electronically from his or her car without actually walking up to a unit. These devices, which create efficiencies for water districts in terms of costs and manpower, should not be passed on as an expense of a tapping fee, but instead should be paid by the water district or the rate payers.

Respectfully submitted



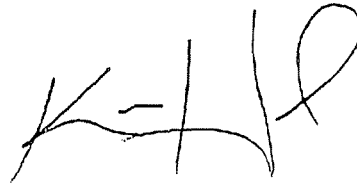
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*Counsel for Home Builders Association
of Northern Kentucky*

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served via ordinary mail, postage prepaid, this 11th day of August, 2010, upon the following:

David A. Koenig, Esq.
223 Main Street
P.O. Box 6205
Florence, KY 41042-6205



Kevin F. Hoskins