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January 18, 2018

Gwen R. Pinson, Executive Director
Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40602-0615

RECEIVED

JAN 18 2018

PUBLIC SERVICE
COMMISSION

RE: Martin County Concerned Citizens Inc.'s
Motion for an Expedited Hearing Regarding the Current Water Crisis
PSC Case No. 2016-142

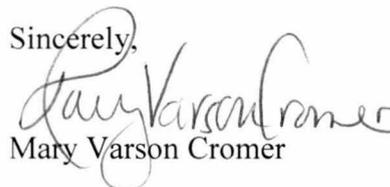
Dear Ms. Pinson,

I enclose here an original and five copies of Martin County Concerned Citizens Inc.'s Motion for an Expedited Hearing Regarding the Current Water Crisis in case number 2016-142.

I also send a copy of this motion to counsel for the Martin County Water District by U.S. mail and electronic mail today.

Please contact me if you have any questions regarding this filing.

Sincerely,



Mary Varson Cromer

cc: Brian Cumbo, Esq.
Counsel for the Martin County Water District

JAN 18 2018

PUBLIC SERVICE
COMMISSIONCOMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**In The Matter Of:****INVESTIGATION OF THE
OPERATING CAPACITY OF
MARTIN COUNTY WATER
DISTRICT PURSUANT TO KRS
278.280****Case No 2016-00142**

**MARTIN COUNTY CONCERNED CITIZENS, INC.'S
MOTION FOR AN EXPEDITED HEARING
REGARING THE CURRENT WATER CRISIS**

Martin County Concerned Citizens, Inc. ("MCCC"), by and through counsel, submits this Motion pursuant to 807 KAR 5:001 Sec. 5. With this Motion, MCCC respectfully requests that an expedited hearing be held as soon as practicable regarding the water crisis in Martin County described in Section I below.

I. A Description of the Current Water Crisis

MCCC respectfully asks that a hearing be held as soon as practicable to allow the Commission to gather facts and assess the gravity of the situation facing the Martin County Water District ("Martin District") today. A crisis has occurred in Martin County. Because of several factors, the Martin District has been unable to provide a consistent supply of water to a significant portion of its customers since January 9, 2018. From that date to the date of this motion, the Martin District has been shutting off water at night to most of the rural portions of the county. As of the date of this Motion, the Martin District has been unable to provide its customers with a statement regarding when the situation will be resolved.

On January 9, 2018 at 3:02 pm, the Martin District posted the following message on its Facebook page:

Due to circumstances beyond our control, we are not able to fill the tanks at this time like we had anticipated. We will be turning the water off in the evenings around 3pm and turning it back on at 5am This will affect all areas from Buck Creek Mountain, Beauty, Elk Creek to OK Coral, Hode, Warfield, Lovely, Rt. 292 to Pike County line, Rt. 1714, Rt. 2032, Pilgrim, Meathouse to Pike County, Pigeon Roost, Wolf Creek and Emily Creek. We apologize for this major inconvenience, but know it is necessary to avoid water outages for the entire county. This will be happening until further notice.

<https://www.facebook.com/Martin-County-Water-District-2001486190140415/>. At 3 pm the following day, January 10, 2018, MCWD posted this:

We will be turning the water off between 6 and 7 p.m. this evening and turning it back on in the morning. This will affect all areas from Buck Creek Mountain, Beauty, Elk Creek to OK Coral, Hode, Warfield, Lovely, Rt. 292 to Pike County line, Rt. 1714, Rt. 2032, Pilgrim, Meathouse to Pike County, Pigeon Roost, Wolf Creek and Emily Creek; as well as from the tank at Tomahawk to Johnson County line, including Rockhouse; also Milo, Old Rt. 3 to Lawrence County line and Buffalo Horn. We apologize for this major inconvenience, but know it is necessary to avoid water outages for the entire county. Low pressure at the pump stations can damage the motors at the station. This is the reason we must turn the pump station off. Please allow time for the pressure to build and lines to fill when the water is turned back on.

Id. The second shut off notice included not just the eastern half of the county, as the January 9 notice had, but also included the western portions of the county around Tomahawk and Milo.¹

The Martin County Fiscal Court held an emergency meeting at 5:45 pm on January 10, 2018. Undersigned counsel attended that meeting. At that meeting, John Mills, who is currently serving as the Operations Manager for the Martin District acknowledged problems with the water pumps going down over the past couple of months and indicated that the amount of money required to fix the pumps was cost prohibitive. The Martin District representatives were unable to provide assurances as to when full service would be returned, saying only that if the weather remains good, services should be restored in a couple of days.

¹ See MCWD Infrastructure Map, MCWD's Resp. Third Req. Info., at Ex. 2.

As a result of the water shut offs, Martin County Schools were closed on January 11 and 12, 2018.

On January 12, 2018 at 2:57 pm, the newly appointed water board posted a long Facebook message regarding the crisis to “Fellow Citizens of Martin County.”² The water board explained the cause of the current water crisis as follows:

We are now on a cash-only basis with virtually all of our vendors, making it difficult to purchase parts for repairs. As a result, most of our repairs are not permanent fixes, and will most likely be issues again in the future. The current water flow disruption was caused by a broken pump that feeds raw water from the Tug River to the reservoir. These pumps break down often. We do have a replacement pump, however we did not have the funds to pay the vendor, and therefore we could not install the replacement pump. Without a replacement pump, our supply reservoir dropped to a level below where gravity could supply water to the treatment plant where our water is cleaned. Clearly, this is an unacceptable situation.

The water board’s description of the broken intake pump and the district’s lack of money to pay for the replacement pump that it had had serviced is directly in line with the statements John Mills made at the emergency fiscal court meeting. It appears that the inability of the Martin District to fill the water tanks that supply most of the county stemmed from the simple fact that the Martin District could not pay for the repairs on the back up pump that it had had serviced. Unfortunately, the inability to pump enough raw water to keep the system functioning has triggered a number of secondary problems related to the water shut offs, including leaking tanks, broken lines, and broken meters.³ Given that the Martin District is “on a cash-only basis with virtually all of its vendors,” MCCC is concerned that the Martin District will be unable to perform all of the repairs necessary to ensure the continued availability of water service to its

² The entire letter can be found here on Martin County Water District’s Facebook page. Available at https://www.facebook.com/permalink.php?story_fbid=2091294744492892&id=2001486190140415.

³ For general updates on the ongoing problems that are preventing the Martin District from fully restoring service, see the Martin County Water District’s Facebook page. *Id.*

customers.

In the post, the water board also sets forth the “bleak” financial situation of the Martin District as follows:

The water district does not currently collect enough monthly revenue to meet its obligations. Specifically, our monthly expenses exceed revenue by 40 percent. For comparison, consider a household bringing home \$3,000 a month in income but spending \$4,200 a month. We don’t need to explain the devastation that situation would create over time. The primary causes for our current situation are a decrease in customers leading to lost revenue, coupled with an increase in utility costs to repair failing infrastructure. This shortfall has created an accounts payable debt as of November, 2017 of \$831,000. Plainly speaking, we owe \$831,000 in past due bills that we don’t have the funds to pay.⁴

The statement that the “shortfall has created an accounts payable debt as of November 2017 of \$831,000” raises questions. In the Martin District’s November 9 Response, the district provided a statement of its accounts payable. That report showed the total accounts payable to be \$747,378.37 as of October 15, 2017.⁵ The fact that the accounts payable may have increased by \$83,622 between October 16, 2017 and “November 2017” raises concern. What would have caused the accounts payable shortfall to increase so much in such a short time period?

The water board’s statement raises a second significant question. The board states that one of the primary causes of the financial situation is “a decrease in customers leading to lost revenue.” However, the annual reports from 2011 to 2016 do not show a significant decrease in revenues from total metered sales.⁶ While total metered sales decreased 6.2% from 2015 to 2016, there is no clear trend during this six-year period. Rather, the highest sales occurred in 2013 and the lowest sales occurred in 2012.⁷

⁴ *Id.*

⁵ MCWD Resp. to Request for Information. November 9, 2017. Ex. 5.

⁶ *Comparing* Total metered sales as reported in the Annual Reports of the Martin County Water District to the Kentucky Public Service Commission for 2011 through 2016.

⁷ *See* Annual Reports. 2011 – p. 48; 2012 – p. 48; 2013 – p. 55; 2014 – p. 53; 2015 – p. 53; and 2016 – p. 48.

As of the date of this filing, the Martin District is still working to stabilize the situation. General updates on the water district's work have been posted on the Martin County Water District Facebook page. To provide water to its customers, MCWD has purchased water from adjoining water districts, Mountain Water District, Prestonsburg City Utilities, and Kermit, West Virginia. As the water service began to be restored to areas in the county that had not had consistent service in a week, the water district reported multiple line breaks, problems with leaking tanks, and significant water losses that were impeding the district's ability to restore service to its customers. As of this writing, MCWD was still shutting off water to significant portions of its customers at night.

The situation is dire. MCCC is very concerned that the Martin District may be unable to fully restore the system because of the district's financial situation. MCCC is further concerned that the situation may recur or worsen as freezing weather puts additional stresses on the system's pumps, lines, and tanks. MCCC hopes that a hearing will be held as soon as practicable to gather facts regarding what happened, what needs to be done to assure the continued availability of water service to the Martin District's customers, and determine whether the Martin District is in a position to take the steps necessary to correct the situation.

II. A Suggested Format for an Expedited Hearing

Rather than rely on data requests, MCCC requests that the expedited hearing focus on updated testimony from Joe Hammond, John Mills, Kelly Callahan, and Linda Sumpter, all of whom have testified previously before the Commission in this Investigation. Testimony from one of the newly appointed water board members may also be useful. Those individuals should be able to testify from personal knowledge regarding the events that led to the current water

crisis; the Martin District's efforts to stabilize the situation, when full service is expected to be restored, and the likelihood that the problems could recur; and the financial status of the Martin District and the extent to which the financial problems could threaten the continued availability of water service to its customers.

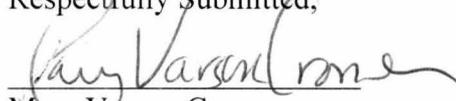
Additional information that may be relevant to the hearing has already been provided. The Commission's Order of January 11, 2018 postponing the January 17, 2018 hearing was based on concern that the Martin District be given sufficient time to respond to data requests and provide the recommendations of BlueWater Kentucky. The Martin District has responded to MCCC's data requests. The Martin District has also provided the recommendations of BlueWater Kentucky. Those recommendations were presented by Gregory Heitzman of BlueWater Kentucky to the Martin County Water District Board of Commissioners ("water board") at a special meeting of the water board on January 4, 2018. The water board formally adopted those recommendations at its regular meeting on January 9, 2018. The Martin District's responses to MCCC's data requests and the BlueWater Kentucky recommendations are now in the record, as are the Martin District's witness list and exhibits.

CONCLUSION

MCCC reluctantly moves for an expedited hearing because of concern that the situation may be rapidly deteriorating such that there may be an imminent threat to the continued availability of water service to Martin District's customers. MCCC recognizes that the Martin District is facing a very difficult situation. Those who repair the system have been working tirelessly in frigid temperatures to try to get water service restored to all Martin District's customers. However, given the hardship that Martin District's customers have already faced and

given the uncertainty as to whether the Martin District has the financial ability to make the repairs necessary to be able to provide consistent service to all of its customers, an expedited hearing is necessary to allow the Commission to gather facts regarding what happened, what needs to be done to assure the continued availability of water service to the Martin District's customers, and to determine whether the Martin District is in a position to take the steps necessary to correct the situation

Respectfully Submitted,



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Counsel for MCCC

DATED: Jan. 18, 2018

CERTIFICATE OF SERVICE

Pursuant to 807 KAR 5:001 Sec. 6, I, Mary Varson Cromer, hereby certify that on January 18, 2018, a true and accurate copy of the foregoing Motion for an Expedited Hearing Regarding the Current Water Crisis was served via electronic mail and postage-paid U.S. mail to the following:

Brian Cumbo
86 W. Main St., STE 100
P.O. Box 1844
Inez, KY 41224
cumbolaw@cumbolaw.com
Counsel for Martin County Water District



Counsel for the MCCC