



KIPLEY J. McNALLY, PLC

2525 Nelson Miller Parkway
Suite 206
Louisville, Kentucky 40223

(502) 245.6133
Fax (502) 245-1974
kjm@mcnallylaw.biz

February 23, 2018

RECEIVED

FEB 23 2018

PUBLIC SERVICE
COMMISSION

Kentucky Public Service Commission
ATTN: Gwen R. Pinson, Executive Director
P.O. Box 615
Frankfort, Kentucky 40602

Re: Motion to Intervene
PSC Case No. 2016-00142

Dear Ms. Pinson:

I enclose an original and five copies of Prestonsburg City's Utilities Commission's Motion to Intervene in case number 2016-142.

The next hearing in this investigation has been scheduled for February 28, 2018.

I also sent a copy of this motion to counsel of record for Martin County Water District and Martin County Concerned Citizens, Inc. by electronic and United States mail today.

Very truly yours,

Kipley J. McNally

KJM:jlr
Enclosures

**COMMONWEALTH 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. 2016-0014

RECEIVED

FEB 23 2018

**PUBLIC SERVICE
COMMISSION**

**MOTION OF PRESTONSBURG CITY'S UTILITIES COMMISSION
TO INTERVENE IN THIS MATTER**

Pursuant to KRS §278.310 and 807 KAR 5:001 § 4(11)(a), Prestonsburg City's Utilities Commission ("PCUC") respectfully moves the Commission for leave to intervene in the above-captioned investigation. PCUC seeks full intervention to protect its interests in ensuring that Martin County Water District ("MCWD") provides reasonable, safe, and adequate water services to its customers; to bring to this investigation its specific knowledge regarding the current inadequacies of the MCWD service; and to eliminate a major cross-connection between PCUC and MCWD.

I. Introduction

1. PCUC is a municipally owned utility and is managed by its Board of Commissioners pursuant to KRS 58.010, et. seq. PCUC's Board of Commissioners consists of three (3) members appointed for staggered six (6) year terms by the Mayor of the City of Prestonsburg. Pursuant to Ordinance No. 150.1 adopted October 24, 1956, PCUC has the duty and authority to establish rates and service for its water, sewer and natural gas customers.
2. PCUC obtains its supply of water from the Levisa Fork of the Big Sandy River, and maintains and operates a filter and treatment plant in Prestonsburg, Kentucky.

3. As of February 6, 2017, PCUC served 7,806 residential, commercial, industrial and other accounts potable water, exclusive of the customers acquired from Southern Water and Sewer District.
4. PCUC's water treatment plant is operated by persons certified as the operators of a Class 4 water treatment plant as set out in 401 KAR 8:030, Section 8 (2)(g), and persons certified as Class 3 operators. Prestonsburg's water distribution system is operated by persons certified as operators of a Class 3 D water distribution system as set out in 401 KAR 8:030, Section 8(3)(c).
5. PCUC is financially sound and has adequate operating capital to conduct its operation.
6. Since 2001, PCUC has jointly operated with MCWD certain water distribution facilities, including a one million gallon storage tank at Honey Branch Industrial Park.

II. PCUC Meets the Standards for Intervention Set Forth in 807 KAR 5:001 Sec. 4.(11).

807 KAR 5:001(4)(11)(b) provides, "[t]he commission shall grant a person leave to intervene if the commission finds that he or she has made a timely motion for intervention and that he or she has a special interest in the case that is not otherwise adequately represented or that his or her intervention is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings." More recently, this Commission has found that "any person requesting to intervene in a Commission proceeding must state with specificity the person's special interest in a utility's rates and service that is not otherwise adequately represented, or the issues and facts the person will present that will assist the Commission in fully considering the matter." Jul. 12, 2017 Order, Case No. 2017-179.

As set forth more fully below, this motion to intervene, while filed over almost two years after the Commission initiated its current investigation, is timely in that the proceedings in this matter are ongoing and PCUC's intervention is filed early enough in the overall process of

the lengthy investigation that the Commission will still yet benefit from the testimony provided by PCUC. As a non-regulated municipal utility, PCUC's interests are not adequately represented before the Commission. And finally, PCUC will present testimony addressing misrepresentations made by multiple representatives and authorized agents of MCWD.

A. Timeliness

In short, despite the fact that this investigation has been going on for almost two years, it is far from over. At this point, the Commission has not been presented with any plan by MCWD for ways in which it will improve its water service or otherwise correct its deficiencies. Therefore, testimony presented by PCUC on the scope of those deficiencies and the impacts those deficiencies have on MCWD's customers are still relevant to the Commission's consideration of the best way to address MCWD's problems. PCUC, in part, has a plan to address a portion of WCWD's need to improve its financial condition and improve service to its customers.

B. Specificity

Movant has filed its Motion to Intervene at this stage of the proceeding in response to MCWD's Response to the Commission Staff's Post Hearing Request for Information dated February 22, 2018 in Case No.: 2018-0017, and to the administrative subpoena issued to Turner E. Campbell in this proceeding on February 20, 2018.

That written response failed to include PCUC's letter to MCWD dated February 15, 2018, demanding payment for past due invoices, establishing a schedule for the phased-in restriction on further water deliveries, and an explanation of issues with the proposed Tank Lease. Exhibit

A.

Based on the invoice attached to that response, Mountain Water District supplied 141,300 gallons of water, and, via e-mail, allegedly Kermit Water Company provided 141,301 gallons, while PCUC supplied 5,782,000. Thus, PCUC supplied approximately ninety-five percent (95%) of the purchased water. Based on the testimony of multiple witnesses at the hearing held on January 26, 2018 in the related case styled Application of Martin County Water District for an Alternative Rate Adjustment Case No.: 2018-00017, while during the same time-period MCWD produced little or no water due to its intake pump having frozen. If MCWD provided an inconsequential quantity of water, then PCUC supplied the substantial portion of the water delivered to the customers of MCWD.

The commission issued an administrative subpoena for the appearance of PCUC's superintendent, Turner E. Campbell on February 20, 2018. By counsel, Mr. Campbell does not object to the subpoena, and will assist and cooperate with the Commission in furtherance of its investigation. If PCUC is made a party to this proceeding, he believes that PCUC can provide more relevant information than may be elicited through routine questioning.

On Tuesday, February 20, 2018, PCUC filed in the Office of the Martin County Clerk a Municipal Utility Lien against a portion of MCWD's water distribution system in the amount of \$51,045.50 for past due amounts. Exhibit B. In addition, MCWD has already received substantial volumes of water during February that are, yet, unbilled. The commissioners of PCUC have been patient, but, now, they have determined it necessary and prudent to pursue aggressive collection efforts to protect its customers/rate payers.

During the testimony given at the January 26, 2018 hearing in Case No.: 2018-00017, considerable blame was directed towards PCUC for the financial problems of MCWD. No one

mentioned that PCUC was the supplier of “last resort,” providing substantially all of the water delivered in January, 2018. Water service provided by PCUC was instrumental in averting a major humanitarian crisis in Martin County.

Movant believes that this Commission’s authority to ensure the delivery of a safe water service to its customers includes the authority to approve the sale or transfer of assets of MCWD to provide operating capital. PCUC strongly desires to eliminate the cross-connection between PCUC and MCWD that results in co-mingling of water produced by separate water systems with differing water purification processes prior to delivery to multiple customers.

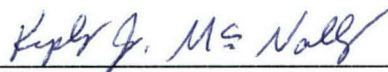
C. PCUC is Likely to Present Issues or Develop Facts That Assist the Commission in Fully Considering the Matter without Unduly Complicating or Disrupting the Proceedings

Since the Commission has issued a subpoena for the appearance of the superintendent, Turner E. Campbell of PCUC, PCUC’s representative will be providing testimony, and PCUC does not intend to call any additional witnesses. PCUC’s intervention will assist the Commission in fully considering the financial options for MCWD’s system. PCUC expects to present factual testimony of MCWD’s failure to pay PCUC when due, and to present its non-binding letter of intent to acquire a portion of MCWD’s water district facilities. Exhibit C.

CONCLUSION

WHEREFORE, PCUC requests that it be granted leave for full intervention and it be certified as a full party in this proceeding, giving it the right to present testimony and exhibits, present witnesses, cross-examine witnesses, and be served with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by the parties or orders of the Commission.

Respectfully Submitted,



Kipley J. McNally, Esq.
Kipley J. McNally, PLC
2527 Nelson Miller Parkway, Suite 104
Louisville, Kentucky 40223
Telephone: 502-245-6133
Facsimile: 502-245-1974
kjm@mcnallylaw.biz
Counsel for PCUC

CERTIFICATE OF SERVICE

^{23RD} Pursuant to 807 KAR 5:001 Sec. 4(8), I, Kipley J. McNally, hereby certify that on February 23RD, 2018, a true and accurate copy of the foregoing MOTION OF PRESTONSBURG CITY'S UTILITIES COMMISSION TO INTERVENE IN THIS MATTER was served via postage-paid U.S. mail and electronic 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

Mary Varson Cromer
Appalachian Citizens' Law Center, Inc.
317 Main Street
Whitesburg, Kentucky 41858
mary@appalachianlawcenter.org
Counsel for MCCC



Counsel for PCUC

Prestonsburg City's Utilities Commission

Water, Waste Water and Natural Gas System
(Municipally Owned)

2560 South Lake Drive

Prestonsburg, Kentucky 41653-1048

Phone (606) 886-6871 • Fax (606) 886-8779

TDD: Ky Relay #711

February 15, 2018

John Horn, Chairman
Martin County Water District
HC 69, Box 875
Inez, Kentucky 41224

Re: Notice of Breach of
Joint Operation Agreement

Dear Mr. Horn:

Pursuant to the Joint Operation Agreement dated July 3, 2000, as amended by the First Amendment dated the 1st day of January, 2017 (collectively, the "Agreements"), the parties agreed to the joint operation of certain waterworks facilities in the Honey Branch Park located in Martin County. In addition, the Agreements provided that Prestonsburg City's Utilities ("PCUC") would provide "... emergency backup water service of a non-recurring nature to the District." PCUC has provided such service on a recurring basis during the term of the Agreements. During the previous three (3) months the District has delivered 1,293,000 gallons to the jointly operated facilities, while PCUC has delivered 32,580,000 gallons. Clearly, the District has not provided fifty percent (50%) of the waterworks facilities' requirements. The District took delivery of 8,336,000 gallons of water for delivery to its customers for which PCUC has not been paid.

The Agreements provide that the District shall make payment within ten (10) working days from the date of PCUC's invoice for backup emergency water service. The following invoices to the District have not been paid and are, now, overdue:

<u>Invoice No.</u>	<u>Invoice Date</u>	<u>Amount</u>
1130 2017	December 1, 2017	\$ 5,603.00
1231 2017	January 1, 2018	13,151.50
0131 2018	February 1, 2018	<u>44,291.00</u>
	TOTAL	<u>\$63,045.50</u>

Since you have not given us the courtesy of a call relating to the status of the above unpaid invoices, we have no choice, but to request full payment in writing. We have gone above and beyond our usual billing/service disruption policies to lessen the suffering of the customers of the District. Without any communication, we do not know when to expect payment for the increasing, outstanding debt owed to PCUC. We are willing to discuss alternatives, please contact me.

If the District does not pay its past due bills and any other amount due, if any, within fourteen (14) calendar days of the date of this letter, PCUC will restrict the water from flowing into the District's eight inch water main located along Kentucky Route 3. The water restriction will be implemented on a phased-in basis by ten percent (10%) per week, during the period of non-payment.

The Commissioners of PCUC are reluctant to enter into the Tank Lease for the following reasons:

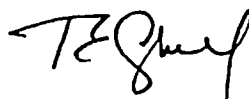
1. The Commissioners of PCUC do not want to enter into an agreement to pay the District a monthly sum, while the District is refusing to pay for water supplied by PCUC.

2. The terms of the Tank Lease as proposed by the District, by and through its attorney, were not acceptable to the Commissioners of PCUC. Of note, is that the District expressly rejected the right of "offset" requested by PCUC.

3. Due to the public comments that were made by the District's representatives that are demeaning, negative, derogatory and false, the Commissioners of PCUC do not want to enter into another long-term agreement with the District that has repeatedly failed to honor its contractual obligations. The fact is that PCUC has continued to provide a substantial portion of the District's immediate and critical need for potable water, and in return PCUC has been publicly criticized.

If you have any questions regarding this letter, please contact me.

Sincerely,



Turner E. Campbell, Superintendent

Copy: Les Stapleton, Mayor
PCUC Board of Commissioners

Prestonsburg City Utilities Commission

2560 South Lake Drive

Prestonsburg, KY 41653

INVOICE: 1312018

February 1, 2018

Martin County Water and Sewer District
387 East Main Street
Suite 140
Inez, KY 41224

Water Provided to Martin County December 26, 2017 through January 26, 2018

Total Provided	5,782,000 Gallons
First 112,000 Gallons @ \$348.50 (Minimum)	\$ 348.50
Over 112,000 @ \$7.75/1,000 Gallons	<u>43,942.50</u>
Total <u>due</u> Prestonsburg City's Utilities	<u>\$ 44,291.00</u>

Prestonsburg City Utilities Commission

2560 South Lake Drive

Prestonsburg, KY 41653

INVOICE: 12312017

January 1, 2018

Martin County Water and Sewer District
387 East Main Street
Suite 140
Inez, KY 41224

Water Provided to Martin County November 27, 2017 through December 26, 2017

Total Provided	1,764,000 Gallons
First 112,000 Gallons @ \$348.50 (Minimum)	\$ 348.50
Over 112,000 @ \$7.75/1,000 Gallons	<u>12,803.00</u>
Total <u>due</u> Prestonsburg City's Utilities	<u>\$ 13,151.50</u>

Prestonsburg City Utilities Commission

2560 South Lake Drive

Prestonsburg, KY 41653

INVOICE: 11302017

December 1, 2017

Martin County Water and Sewer District
387 East Main Street
Suite 140
Inez, KY 41224

Water Provided to Martin County October 26, 2017 through November 27, 2017

Total Provided	790,000 Gallons
First 112,000 Gallons @ \$348.50 (Minimum)	\$ 348.50
Over 112,000 @ \$7.75/1,000 Gallons	<u>5,254.50</u>
Total <u>due</u> Prestonsburg City's Utilities	<u>\$ 5,603.00</u>

STATEMENT OF
MUNICIPAL UTILITY LIEN
PURSUANT TO KRS 376.265

The name of the lien claimant is Prestonsburg City's Utilities Commission (Claimant) whose address is 2560 South Lake Drive, Prestonsburg, Kentucky 41653. The Affiant, Turner E. Campbell, states that he is the Superintendent of the Claimant, that he is authorized to make and file the statement on the Claimant's behalf, and that he is its agent for the service of process.

The Affiant states that a lien is hereby asserted against the property owned by the Martin County Water District, which is located off of Kentucky Hwy. 292 and is more particularly described as follows:

A certain tract or parcel of land situated, lying and being in Martin County, Kentucky, and more particularly bounded and described as follows, to-wit:

A permanent easement beginning at a point in the centerline of KY. 292; thence, leaving said centerline crossing the lands of Bowen DB. 95, PG. 454 with the centerline of a 15 foot wide access road easement for 13 calls;

S.02 deg. 40 min. 50 sec. W., 28.81 feet to a point; thence, S.06 deg. 47 min. 35 sec. W., 82.01 feet to a point; thence, S.22 deg. 58 min. 14 sec. W., 54.16 feet to a point; thence, S.43 deg. 57 min. 55 sec. W., 45.89 feet to a point; thence, S.61 deg. 47 min. 10 sec. W., 57.91 feet to a point; thence, S.41 deg. 35 min. 58 sec. W., 80.89 feet to a point; thence, S.31 deg. 32 min. 20 sec. W., 49.45 feet to a point; thence, S.45 deg. 42 min. 23 sec. W., 48.47 feet to a point; thence, S.15 deg. 49 min. 02 sec. E., 14.69 feet to a point; thence, S.23 deg. 20 min. 43 sec. E., 18.73 feet to a point; thence, S.82 deg. 39 min. 54 sec. E., 26.53 feet to a point; thence, S.63 deg. 20 min. 42 sec. E., 57.76 feet to a point; thence, N.66 deg. 41 min. 46 sec. E., 146.26 feet to a point in the south West line of the new tank site the end of this easement and the beginning point for the new tank site herewith;

A fee simple absolute title for the new tank site commencing from the tank site beginning point with 5 new calls to said Bowne, N. 28 deg. 49 min. 03 sec. W., 23.15 feet to a set iron pin with cap marked PLS 2670; thence, N. 61 deg. 10 min. 54 sec. E., 100.00 feet to a set iron pin with cap marked PLS 2670; thence, S.28 deg.

EXHIBIT B

49 min. 03 sec. E. 50.00 feet to a set iron pin with cap marked PLS 2670; thence, S.61 deg. 10 min. 54 sec. W., 100.00 feet to a set iron pin with cap marked PLS 2670; thence, N.28 deg. 49 min. 03 sec. W., 16.85 feet to the point of beginning and containing 0.115 acres as surveyed by PDR Engineers, Inc. 9/05/97.

Being a portion of the property conveyed by Delsie Bowen, single, to Kermit Bowen and Joan Bowen, his wife, by deed dated July 3, 1984, and recorded in Deed Book 95, Page 454, Martin County Records. Further reference is made to the plat recorded in Plat Book _____, Page _____, Martin County Records

The real estate is more fully described in Deed Book 146 at Page 345, as found in the office of the Martin County Clerk. A true copy of which is attached hereto and incorporated herein by reference.

The Claimant, as a municipal utility, entered into the Joint Operation Agreement dated July 3, 2000 ("Agreement") with the Martin County Water District ("District") to jointly provide potable water and operate the water distribution facilities located at the Honey Branch Industrial Park. Pursuant to that Agreement, the Claimant has delivered water to the District for use by the District's customers for the billing cycles of December, 2017; January, 2018; and February, 2018.

The amount of \$51,045.50 is, now, due and owing to the Claimant after deducting all just credits and set-offs known to it. The Claimant does hereby claim and assert a Municipal Utility Lien pursuant to KRS 376.65, on all of the rights, title, and interest on the real property as described herein and the improvements thereon to secure the Claimant in the payment of said amount, plus interest, and the cost of filing this Statement, and the further cost of the enforcement of this Lien.

Prestonsburg City's Utilities Commission

By: TE Campbell
Turner E. Campbell, Superintendent

COMMONWEALTH OF KENTUCKY)
)
COUNTY OF FLOYD)

I, a Notary Public within the Commonwealth of Kentucky, do hereby certify that on this the 20th day of February, 2018 the foregoing instrument was subscribed and sworn to by Turner E. Campbell for and on behalf of said Claimant.

My Commission Expires: 9/5/2021

Mary K Goble
NOTARY PUBLIC

This Document Prepared By:

Kipley J. McNally

Kipley J. McNally, Esq.

Kipley J. McNally, PLC

2527 Nelson Miller Parkway, Suite 105

Louisville, Kentucky 40223

(502) 245-6133

Deed Book 147
 Page # 315
 Date 05-20-02

DEED

THIS DEED OF CONVEYANCE, made and entered into this the ____ day of May, 2002, by and between **KERMIT BOWEN** and **JOAN BOWEN**, husband and wife, of Buffalo Horn, Inez, Kentucky 41224, parties of the first part; and **MARTIN COUNTY WATER DISTRICT**, Inez, Kentucky, 41224, party of the second part.

WITNESSETH

That for and in consideration of the sum of Six Thousand Dollars (\$6,000.00), cash in hand paid, the receipt of which is hereby acknowledged, this being the full and complete consideration for this conveyance, the parties of the first part do hereby sell and convey unto the party of the second part the following described property, to-wit:

A certain tract or parcel of land situate, lying and being in Martin County, Kentucky, and more particularly bounded and described as follows, to-wit:

A permanent easement beginning at a point in the centerline of KY. 292; thence, leaving said centerline crossing the lands of Bowen DB. 95, PG. 454 with the centerline of a 15 foot wide access road easement for 13 calls;
 S.02 deg. 40 min. 50 sec. W., 28.81 feet to a point; thence, S.08 deg. 47 min. 35 sec. W., 82.01 feet to a point; thence, S.22 deg. 58 min. 14 sec. W., 54.16 feet to a point; thence, S.43 deg. 57 min. 55 sec. W., 45.89 feet to a point; thence, S.61 deg. 47 min. 10 sec. W., 57.91 feet to a point; thence, S.41 deg. 35 min. 58 sec. W., 80.89 feet to a point; thence, S.31 deg. 32 min. 20 sec. W., 49.45 feet to a point; thence, S.45 deg. 42 min. 23 sec. W., 48.47 feet to a point; thence, S.15 deg. 49 min. 02 sec. E., 14.69 feet to a point; thence, S.23 deg. 20 min. 43 sec. E., 18.73 feet to a point; thence, S.82 deg. 39 min. 54 sec. E., 26.53 feet to a point; thence, N.63 deg. 20 min. 42 sec. E., 57.76 feet to a point; thence, N.66 deg. 41 min. 46 sec. E., 146.26 feet to a point in the south west line of the new tank site the end of this easement and the beginning point for the new tank site herewith;

A fee simple absolute title for the new tank site commencing from the tank site beginning point with 5 new calls to said Bowen, N.28 deg. 49 min. 03 sec. W., 23.15 feet to a set iron pin with cap marked PLS 2670; thence, N.61 deg. 10 min. 54 sec. E., 100.00 feet to a set iron pin with cap marked PLS 2670; thence, S.28 deg. 49 min. 03 sec. E., 50.00 feet to a set iron pin with cap marked PLS 2670; thence, S.61 deg. 10 min. 54 sec. W., 100.00 feet to a set iron pin with cap marked PLS 2670; thence, N.28 deg. 49 min. 03 sec. W., 26.85 feet to the point of beginning and containing 0.115 acres as surveyed by PDR Engineers, Inc. 9/05/97.

316

Being a portion of the property conveyed by Delsie Bowen, single, to Kermit Bowen and Joan Bowen, his wife, by deed dated July 3, 1984, and recorded in Deed Book 95, Page 454, Martin County Records. Further reference is made to the plat recorded in Plat Book _____, Page _____, Martin County Records.

TO HAVE AND TO HOLD the same together with all appurtenances thereunto belonging unto the party of the second part and their successors in office. And the said parties of the first part hereby covenant with the party of the second part that they will warrant generally the title to the property hereby conveyed unto the said party of the second part and their successors in office.

The parties acknowledge that the consideration reflected in this deed is the full consideration for the property and that the party of the second part joins this deed for the sole purpose of certifying the consideration pursuant to KRS Chapter 382.

IN TESTIMONY WHEREOF, the parties hereto have subscribed their name the day and year aforesaid.

Kermit Bowen
KERMIT BOWEN
Joan Bowen
JOAN BOWEN

PARTY OF THE FIRST PART

MARTIN COUNTY WATER DISTRICT
BY: John R. Triplett
JOHN R. TRIPLETT, CHAIRMAN

PARTY OF THE SECOND PART

THIS INSTRUMENT PREPARED BY:

Eldred E. Adams, Jr.
HON. ELDRED E. ADAMS, JR.
P.O. BOX 606
LOUISA, KENTUCKY 41230

STATE OF KENTUCKY

COUNTY OF MARTIN

I, Jeanette Kobb, a Notary Public, in and for the county and state aforesaid, do hereby certify that the foregoing Deed and Consideration Certificate was

this day produced to me in my said county and state and acknowledged by KERMIT BOWEN and JOAN BOWEN, husband and wife, parties of the first part, to be their free act and deed.

This the 18th day of May, 2002.

Jenette Dobb

NOTARY PUBLIC

(SEAL)

MY COMMISSION EXPIRES 100805

STATE OF KENTUCKY
COUNTY OF MARTIN

I, Tommy L. Nelson, a notary public in and for the county and state aforesaid, do certify that the above Deed and Consideration Certificate was this day produced to me in my said county and state an acknowledged and subscribed and sworn to before me by JOHN R. TRIPLETT, CHAIRMAN, that he acknowledges same on behalf of said Martin County Water District.

This the 20th day of May, 2002.

Jerry Deaton

NOTARY PUBLIC

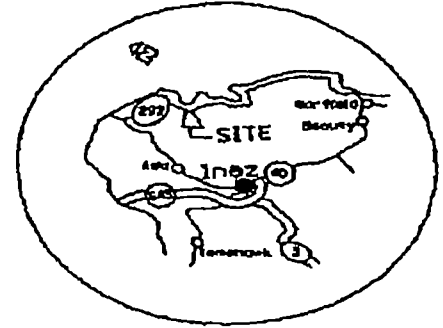
(SEAL)

MY COMMISSION EXPIRES 929-03

348

SARAH & FLOYD SMITH
DB. 72, PG. 107
KY. 292
TO KY. 3

KERMIT & JOAN BOWEN
DB. 95, PG. 454



NOTE:
1/2" X 18" I.P.
W/CAP MARKED
PLS 2670, UNLESS
OTHERWISE NOTED

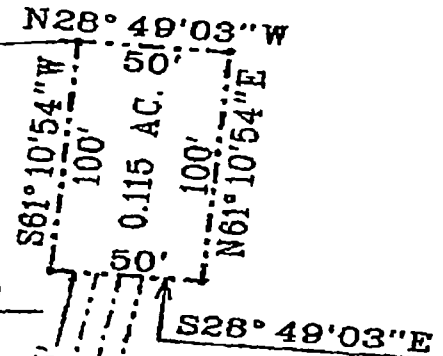


ACCESS ROAD

CENTERLINE CALLS

- A: S08° 40'50"W, 28.81'
- B: S08° 47'36"W, 62.01'
- C: S22° 58'14"W, 54.18'
- D: S43° 57'55"W, 46.89'
- E: S61° 47'10"W, 67.91'
- F: S41° 35'58"W, 80.89'
- G: S31° 32'20"W, 49.45'
- H: E45° 42'23"W, 46.47'
- I: S15° 49'02"E, 14.89'
- J: S23° 20'43"E, 18.73'
- K: S22° 09'54"E, 26.53'
- L: N63° 20'42"E, 7.73'
- M: N68° 41'46"E, 11.46'

15' TANK
ACCESS ROAD



Carol Sue Mills, Clerk of the County and
 I, Carol Sue Mills, Clerk of the County and
 do hereby certify that on the
 day of May 28 at 7:45 AM
 the foregoing Deed was lodged in my
 office for record, and that I truly have
 recorded it, together with this and the
 foregoing certificate, thereon endorsed.
 Witness my hand this the 28 day of
May 1997

CAROL SUE MILLS, Martin County Clerk
BY [Signature]

OWNER'S CERTIFICATION

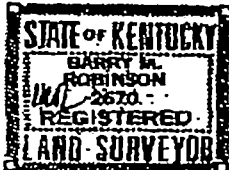
I HEREBY CERTIFY I AM (ARE) THE OWNER(S)
OF THE PROPERTY SHOWN HEREON AND THAT
I HEREBY ADOPT THIS PLAT OF MINOR
SUBDIVISION WITH MY (OUR) FREE CONSENT.
THIS DIVISION DOES NOT VIOLATE ANY
PRIVATE SUBDIVISION RESTRICTIONS.

OWNER / OWNERS _____ Date _____

SURVEYOR'S CERTIFICATION

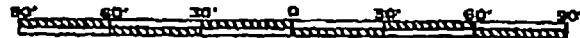
I HEREBY CERTIFY THAT THIS PLAT WAS
MADE UNDER MY SUPERVISION AND IS
CORRECT TO THE BEST OF MY KNOWLEDGE
AND BELIEF. DISTANCES AND BEARINGS AS
SHOWN ON THIS PLAT HAVE NOT BEEN
ADJUSTED FOR CLOSURE. THIS PLAT AND
EASEMENT MEETS OR EXCEEDS THE MINIMUM
STANDARDS OF GOVERNING AUTHORITIES.

[Signature] 10/31/97
Barry L. Robinson, PLS 2670 Date



SCALE 1" = 60'

GRAPHIC SCALE



BEING A PART OF THE SAME PROPERTY CONVEYED TO THE
GRANTOR BY DEED DATED JULY 3, 1984
RECORDED IN DEED BOOK 95 PAGE 454
IN THE OFFICE OF THE CLERK OF THE MARTIN COUNTY COURT.



TANK SITE AND ACCESS ROAD EASEMENT
PROPERTY OF: KERMIT & JOAN BOWEN
Rt. 5, Box 270
LOUISA, KY.

Prestonsburg City's Utilities Commission

Water, Waste Water and Natural Gas System

(Municipally Owned)

2560 South Lake Drive

Prestonsburg, Kentucky 41653-1048

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TDD: Ky Relay #711

February 22, 2018

Mr. John Horn, Chairman
Martin County Water District
387 Main Street, Suite 140
Roy F. Collier Community Center Building
Inez, Kentucky 41224

Re: Letter of Intent

Dear Mr. Horn:

This letter memorializes and restates our previous discussion regarding the transfer of certain water facilities located on or near the Honey Branch Industrial Park ("Honey Branch").

This letter, which sets forth our proposal, when executed and returned by both parties, will constitute the expression of the intent of Prestonsburg City's Utilities Commission (the "PCUC"), to acquire the water tank and related facilities, water distribution system and customers, including deposits (hereinafter, the "Assets") located in and near the Honey Branch along each side of Airport Road in Martin County, and the intent of Martin County Water District (the "District") to sell, transfer and assign to the PCUC the assets of the District based upon the following general terms and conditions.

With business operations at the following locations:

1. 387 Main Street, Suite 140
Roy F. Collier Community Center Building
Inez, Kentucky 41224

I. Purchase Price; Closing

1.1 Purchase Price.

(a) **Purchase Price.** The amount of the Purchase Price will be Nine Hundred Twenty-Five Thousand Dollars (\$925,000.00).

(b) Payment Terms. The Purchase Price will be paid, in part, in cash (via certified funds), and in part, the assumption of debt, applicable to the assets sufficient to obtain a release, if required, from the applicable lender(s) to the District at the time of closing.

1.2 Closing. The closing of the transactions contemplated by this letter (the "Closing") will take place on or before June 30, 2018, unless another date is determined to be more convenient to be mutually agreed upon between the parties upon the satisfaction of the conditions to closing contained in this letter and the Purchase and Sale Agreement (the "Closing Date").

1.3 Conditions to Closing. The following items will be resolved to the full and complete satisfaction of the PCUC (and the District) as a condition to any obligation to close the transactions contemplated by this letter, along with the other conditions customary for a transaction of this nature.

(a) The PCUC shall have completed its due diligence investigation. Such due diligence investigation shall be conducted at reasonable times and shall include but not be limited to, the detailed review of financial, legal and other business records, and inspection of assets. The District shall agree to provide reasonable access to records and people to facilitate the timely completion of the due diligence investigation.

(b) The parties will have executed the Purchase and Sale Agreement and will have reviewed and agreed upon all schedules and exhibits that are to be attached thereto, and executed all agreements incidental thereto.

(c) No material adverse changes in the business from the date of this letter to the date of closing

II. Transfer of Interest.

2.1 Transfer of Interest.

(a) Interest Transferred. This transaction is subject to the consent and approval of the Kentucky Public Service Commission and the Kentucky Rural Water Finance Corporation.

III. Miscellaneous

3.1 Exclusivity/Good Faith. From and after the date of this letter through the Closing Date (or any other date mutually agreed upon by the parties in writing), the

District will neither discuss nor negotiate with any corporation, firm or other person, nor entertain nor consider any inquiries or proposals related to the possible acquisition of interest in the Assets, provided that PCUC and the District continue to proceed in good faith and use their best efforts to close the transaction in accordance with the terms contemplated by this letter.

3.2 Expenses. Each of the parties hereto will pay its own expenses in connection with this letter and the transactions contemplated herein, including, without limitation, any legal and accounting fees, whether or not the transactions contemplated herein are consummated.

3.3 Due Diligence. The PCUC will commence its due diligence investigation upon the receipt of an executed copy of this letter. Such due diligence investigation will be conducted at reasonable times and will include the detailed review of financial, legal and other business records related to the Assets. The District will agree to provide reasonable access to records and key employees to facilitate the timely completion of the due diligence investigation. PCUC shall not disclose such due-diligence or the terms of any Purchase and Sale Agreement and/or any other agreement incidental thereto to any third party without the prior written consent of the District. The PCUC shall not contact any current employee of the District prior to obtaining the approval of the District.

3.4 Purchase and Sale Agreement. The PCUC will prepare a draft of the Purchase and Sale Agreement for review by the District within fifteen (15) days of having received an executed copy of this letter. It will be the intent of the parties hereto to negotiate and sign the Purchase and Sale Agreement at the time of Closing.

3.5 Governing Law. The transaction will be governed by and construed in accordance with the laws of the Commonwealth of Kentucky.

3.6 Ordinary Course. The PCUC and the District will, from the date of this letter through the time of Closing, continue to conduct the operation of the Assets in a normal manner and will exercise every reasonable effort to preserve the Assets and the relationships with its customers, employees and suppliers. District shall notify PCUC of any action taken or occurrence that is unusual and/or not in the ordinary course of business from the date of this letter through the time of closing and District shall also notify PCUC prior to entering into any material commitment made by the District during the same period.

3.7 Intent; Non-Binding. It will be the intent of the parties to execute a Purchase and Sale Agreement, which agreement will incorporate the terms and conditions of this letter, as soon as is practicable. While this letter does not constitute a legally enforceable offer to purchase, nor obligation to sell the Assets or otherwise bind the parties (except for the provisions of Article III, which shall be binding upon the parties),

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this letter does evidence the good faith intentions of the parties to proceed to negotiate the transactions contemplated herein. The obligations in Sections 3.2, 3.3, 3.4, 3.6 and 3.7 will remain in effect in the event the transaction does not close by June 30, 2018.

IV. Offsets

4.1 On or before the Closing Date, each party shall satisfy any outstanding invoices for water purchased.

Approved by the parties as set forth below.

MARTIN COUNTY WATER DISTRICT

PRESTONSBURG CITY'S UTILITIES
COMMISSION

By: _____

Name:

Date: _____

By: TE Campbell
Name: Turner E. Campbell, Superintendent
Date: 2/22/2018