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January 31, 2017

RECEIVED

JAN 31 2018

PUBLIC SERVICE  
COMMISSION

Ms. Gwen R. Pinson, Esq.  
Executive Director  
Kentucky Public Service Commission  
P.O. Box 615  
Frankfort, KY 40602-0615

**Re: *Estill County Water District No. 1 and Its Individual Commissioners Greg Wright, William Beard, and Jerry Arnold – Alleged Failure to Comply with KRS 278.300***  
***Case No. 2017-00467***

Dear Ms. Pinson:

Enclosed for filing in the above-referenced matter are the original and ten copies of the following documents:

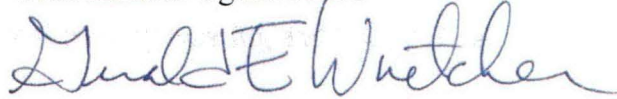
- Estill County Water District No. 1's Response to The Commission's Order of January 11, 2018 and Waiver of Right to Hearing
- Commissioner Greg Wright's Response to The Commission's Order of January 11, 2018 and Waiver of Right to Hearing
- Commissioner William Beard's Response to The Commission's Order of January 11, 2018 and Waiver of Right to Hearing
- Commissioner Jerry Arnold's Response to The Commission's Order of January 11, 2018 and Waiver of Right to Hearing
- Motion to Dismiss Respondent Commissioners As Parties to Proceeding
- Motion to Dispense with Evidentiary Hearing and Submit Case for Decision
- Witness and Exhibit List

Gwen R. Pinson, Esq.  
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If Commission Staff has any questions regarding these documents, please contact me.

Very truly yours,

Stoll Keenon Ogden PLLC

A handwritten signature in blue ink, appearing to read "Gerald Wuetcher". The signature is fluid and cursive, with the first name "Gerald" and last name "Wuetcher" clearly distinguishable.

Gerald Wuetcher

GEW  
Enclosures

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

**In the Matter of:**

<b>ESTILL COUNTY WATER DISTRICT NO. 1</b>	)	
<b>AND ITS INDIVIDUAL COMMISSIONERS,</b>	)	
<b>GREG WRIGHT, WILLIAM BEARD, AND</b>	)	
<b>JERRY ARNOLD</b>	)	
<hr style="width:50%; margin-left:0"/>	)	<b>CASE NO. 2017-00467</b>
	)	
<b>ALLEGED FAILURE TO COMPLY WITH</b>	)	
<b>KRS 278.300</b>	)	

**COMMISSIONER JERRY ARNOLD'S RESPONSE TO**  
**THE COMMISSION'S ORDER OF JANUARY 11, 2018**  
**AND WAIVER OF RIGHT TO HEARING**

In accordance with the Public Service Commission's Order of January 11, 2018, Commissioner Jerry Arnold, by counsel, responds to the allegations set forth in that Order as follows:

1. On October 31, 2013, Estill County Water District No. 1 ("Estill District") issued a promissory note in the amount of \$200,305 to Citizens Guaranty Bank of Irvine, Kentucky. The promissory note was payable on or before October 30, 2017.
2. On January 29, 2015, Estill District issued a promissory note in the amount of \$100,305 to Citizens Guaranty Bank of Irvine, Kentucky. The promissory note is payable on or before January 28, 2019.
3. On January 24, 2017, Estill District issued a promissory note in the amount of \$110,330 to Citizens Guaranty Bank of Irvine, Kentucky. The promissory note is payable on or before February 10, 2021.
4. Estill District issued each of the promissory notes without obtaining prior authorization for such action from the Public Service Commission.

5. In issuing each promissory note without prior authorization from the Public Service Commission, Estill District violated KRS 278.300(1).

6. Estill District used the proceeds of each of these promissory notes to pay its proper operating expenses and debt service when its cash flow was inadequate to meet these payments.

7. Without issuing the promissory notes in question, Estill District would have been unable to meet pending debt service payments and likely have defaulted on its outstanding debt obligations.

8. Estill District's issuance of these promissory notes was for a lawful object within Estill District's corporate purposes, was necessary and appropriate for the proper performance of Estill District's service to the public, did not impair its ability to perform that service, and was reasonably necessary and appropriate for such purpose.

9. The Estill District's failure to obtain prior Commission authorization of these promissory notes was due to a lack of knowledge of KRS 278.300 and not to any intent to violate that statute. When each promissory note was issued, Estill District lacked legal counsel and, to the extent that it relied upon the expertise of Citizens Guaranty Bank to ensure that all legal requirements were met, it was unaware of the Bank's lack of knowledge of the requirement for prior Commission authorization.

10. Estill District has not concealed the issuance of these promissory notes. It reported the issuance of these notes in its annual reports to the Commission, its audit reports, and its application for rate adjustment in Case No. 2017-00176.<sup>1</sup>

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<sup>1</sup> *Electronic Application of Estill County Water District No. 1 For Rate Adjustment Pursuant To 807 KAR 5:076, Case No. 2017-00176 (Ky. PSC filed May 10, 2017).*

11. Estill District is presently in precarious financial condition. It is unable to meet its upcoming debt service obligations and is attempting to restructure its debt obligations. If it is unsuccessful in these efforts, it will default on most of its outstanding loans and be forced to seek relief under the bankruptcy laws or face forced receivership. The assessment of penalties will only exacerbate Estill District's financial problems.

12. During the time period in which the promissory notes in question were issued, Commissioner Arnold served as Secretary of Estill District's Board of Commissioners and participated in the decisions to issue those notes. When considering whether to issue those notes, neither I nor any other member of Estill District's Board of Commissioners knew that KRS 278.300 required prior Commission authorization of the issuance. Had Commissioner Arnold or the other commissioners been aware of this requirement, they would have ensured that these issuances fully complied with KRS 278.300 in all respects. Any violation of KRS 278.300 was not willful but the result of ignorance of the requirements of KRS 278.300.

13. Commissioner Arnold waives his right to a hearing in this matter. In Case No. 2017-00176, the Commission conducted a lengthy hearing on the issuance of the promissory notes in question and extensively examined Commissioner Arnold, the other members of Estill District's Board of Commissioners, and Estill District's staff on the circumstances surrounding the issuance of these notes. The Commission has incorporated by reference the record of that proceeding into this matter. Further hearings on this subject are unnecessary.

WHEREFORE, Commissioner Jerry Arnold respectfully requests that:

1. The Commission dispense with a hearing in this matter.
2. The Commission enter a final order this matter concluding this proceeding without assessing a civil penalty against Estill District or its Commissioners, or in the alternative,

suspend the operation of any assessed penalty for a reasonable period and vacate such penalty at the end of that period if Estill District operates in accordance with all applicable laws and regulations and without any violation of those regulations and laws during the suspension period.

Dated: January 31, 2018

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gerald E. Wuetcher", written over a horizontal line.

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*Counsel for Respondent Jerry Arnold*