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January 31, 2017

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

RECEIVED

JAN 31 2018

PUBLIC SERVICE  
COMMISSION

**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:

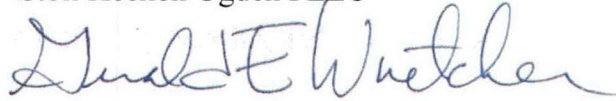
- Estill County Water District No. 1's Response to The Commission's Order of January 11, 2018 and Waiver of Right to Hearing
- Commissioner Greg Wright's Response to The Commission's Order of January 11, 2018 and Waiver of Right to Hearing
- Commissioner William Beard's Response to The Commission's Order 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

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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>	)	
_____	)	<b>CASE NO. 2017-00467</b>
	)	
<b>ALLEGED FAILURE TO COMPLY WITH</b>	)	
<b>KRS 278.300</b>	)	

**ESTILL COUNTY WATER DISTRICT'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, Estill County Water District No. 1 ("Estill District") responds to the allegations set forth in that Order as follows:

1. On October 31, 2013, 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. The Commission has previously recognized that, as a water district has no shareholders, ratepayers ultimately bear all costs incurred by a water district.<sup>2</sup> The assessment of any penalty against Estill District will ultimately be borne its ratepayers as it diverts funds necessary to improve the quality of service to the Commonwealth's treasury. Rather than impose additional hardship on Estill District's ratepayer through the immediate imposition of a civil penalties, the Commission should either refrain from assessing a civil penalty, or immediately 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 laws and regulations during the suspension period.

13. Estill District waives its 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 the members of Estill District's Board of Commissioners and management 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

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<sup>2</sup> See, e.g., *Purchased Water Adjustment Filing of White Hall Water District*, Case No. 9314 (Ky. PSC June 27, 1984) at 4 ("considering the nature of a water district, the costs ultimately must be borne by the ratepayers as there are no shareholders").

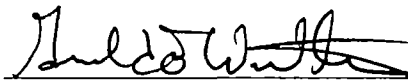
hearings on the subject are unnecessary and are not a productive use of either the Commission's or Estill District's resources.

WHEREFORE, Estill County Water District No. 1 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 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,



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