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PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KNOTT COUNTY WATER)
AND SEWER DISTRICT FOR AN) CASE NO. 2019-00268
ALTERNATIVE RATE ADJUSTMENT)

MOTION FOR LEAVE TO INTERVENE

Pursuant to 807 KAR 5:001, Section 4(11), Letcher County Water and Sewer District (“Letcher District”) moves for leave to intervene in the proceeding. In support of its motion, Letcher District states:

1. Letcher District, a water district organized pursuant to KRS Chapter 74, provides water service to approximately 2,990 households in Letcher County, Kentucky.
2. In October 2009 Letcher District executed a Water Purchase Agreement with Knott County Water and Sewer District (“Knott District”) for a supply of purchased water. On April 15, 2010, Knott District filed this Agreement with the Public Service Commission, which allowed the Agreement to become effective on June 1, 2010. This Agreement sets forth the conditions under which Knott District will provide water service to Letcher District and the conditions under which Knott District may adjust its rate for wholesale service to Letcher District.
3. During the year ending December 31, 2018, Letcher District purchased approximately 182,349,000 gallons of water from Knott District, or approximately 35.9 percent of Knott District’s water sales.¹

¹ Report of Knott County Water and Sewer District to the Kentucky Public Service Commission for the Year Ending December 31, 2018 (Water Operations) at Ref Page 30.

4. Knott District's proposed rates, if approved, will significantly affect Letcher District's finances, increasing Letcher District's purchased water expense by approximately \$100,292 - ten percent of its total operating expenses for 2018.

5. Letcher District also has a significant interest in the allocation of the proposed rate increase. Knott District has requested rates to generate additional revenues of \$1,002,382.² It allocates \$371,880, or approximately 37.1 percent, of the proposed revenue increase to its wholesale customers and the remainder to its customers. Any change in the proposed rates to produce a greater level of revenues from wholesale customer rates will significantly affect Letcher District and unfairly and unreasonably subject it to greater financial hardship.

6. No party to this proceeding represents the interests of Knott District's wholesale customers. While the Office of Attorney General has sought intervention in this proceeding and has a statutory right to intervention,³ it has a significant conflict that prevents it from adequately representing the interests of Letcher District or other wholesale customers on how the proposed revenue increase should be allocated between retail and wholesale customers. That issue is a key issue in this proceeding. On that issue, the interests of wholesale customers and retail customers clearly conflict. The Office of Attorney General recently advised the Kentucky Supreme Court that while it has a statutory obligation to represent customers *generally*, it cannot and will not represent the unique interests of selected customers.⁴ Given this position, the Office of Attorney

² Application at ¶ 11.

³ See, e.g., *Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates* (Ky. PSC Nov. 9, 2018) at 3 ("the Commission finds that the only person that has a statutory right to intervene is the Attorney General, pursuant to KRS 367.150(8)(b)").

⁴ As the statute [KRS 367.150] makes clear, the Attorney General represents consumers generally, not a specific subset. . . . [J]ust as the Attorney General cannot ignore his statutory obligation, the Commission cannot foist upon the Attorney General other parties' special interests for him to represent, or in any way limit or alter the direction tasked to him by the General Assembly. Insofar as Appellants' special interests are in conflict with consumers generally, the Attorney General lawfully cannot and will not represent those special interests.

Brief of the Office of Attorney General As *Amicus Curie* at 4 (filed in *Metropolitan Housing Coalition v. Public Service Commission*, No. 2019-SC-000195 (Ky. Notice of Appeal filed May 5, 2019)).

General cannot with regard to the allocation of the proposed revenue increase reasonably be expected to assert a position defending wholesale customers' interests at the expense of those of other customers.

7. Letcher District's intervention is likely to present issues and to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting these proceedings. As a Knott District customer, Letcher District is familiar with Knott District's operations and with the terms of the Water Purchase Agreement that governs Knott District's sales of water to Letcher District. It has retained legal counsel who is familiar with the Public Service Commission ratemaking methodology and procedures.

WHEREFORE, Letcher County Water and Sewer District requests an Order granting its Motion for Leave to Intervene.

Dated: August 20, 2019

Respectfully submitted,



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CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, I certify that on August 20 2019 a true and accurate copy of this Motion was transmitted by electronic mail to the following:

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