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PUBLIC SERVICE  
COMMISSION



RALEIGH P. SHEPHERD  
ATTORNEY AT LAW  
305 MAIN STREET  
MANCHESTER, KENTUCKY 40962

TELEPHONE: (606) 599-0311

FAX: (606) 599-0344

September 11, 2020

Kentucky Public Service Commission (PSC)  
Post Office Box 615  
211 Sower Boulevard  
Frankfort, KY 40602-0615  
via e-mail [psced@ky.gov](mailto:psced@ky.gov)

**Re: Filing of Response of North Manchester Water Association (NMWA) to Order  
entered September 8, 2020  
Case No. 2019-00457**

To Whom It May Concern:

Attached please find the Response of NMWA to Order entered September 8, 2020.

Sincerely,

*Raleigh P. Shepherd*  
Raleigh P. Shepherd, Esq.

RPS/es

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BRANDON AND TABITHA SWAFFORD	)	
	)	CASE NO.
COMPLAINANT	)	2019-00457
V.	)	
	)	
NORTH MANCHESTER WATER ASSOCIATION, INC.	)	
	)	
DEFENDANT	)	

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**RESPONSE OF NORTH MANCHESTER WATER ASSOCIATION (NMWA) TO  
ORDER DATED SEPTEMBER 8, 2020**

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Comes NMWA, by and through its legal counsel, and pursuant to the Commission's Order dated September 8, 2020, and for its response states as follows:

On **January 14, 2020**, NMWA filed a Response to Commission's Order dated January 2, 2020, attaching a letter, dated January 13, 2020, prepared by Michael K. Maggard, Project Engineer, of Sisler-Maggard Engineering, PLLC, setting forth that on January 7, 2020, Mr. Maggard responded to a complaint made by complainants, Brandon and Tabitha Swafford, which was addressed at the regular board meeting of the NMWA on January 6, 2020.

After review of the hydraulics and water tank overflows, the engineer concluded that 20 psi at the water meter is most likely the best pressure to be attained at that site *due to the elevation at the meter*. (emphasis added)

The project engineer recommended that NMWA install a separate 2" water line approximately 700 linear feet with a duplex water booster station to be operated and maintained by the NMWA. This will boost the pressure to over 40 psi at the meter. The project engineer discussed his recommendations with the Kentucky Division of Water and it concurred with his proposed

recommendations given the circumstances.

On **February 11, 2020**, NMWA provided an Engineers Cost Estimate for construction and installation of approximately 800 linear feet of 2" water line and a hydropneumatic water booster station at an estimated cost of \$35,500 to NMWA to accommodate two (2) residences<sup>1</sup>. The estimated time to complete the project was six (6) to eight (8) weeks *depending upon the production of the pump station*. During the project, NMWA must approve a preliminary design, final design, consult with its engineer (Sisler-Maggard Engineering, PLLC), coordinate with other utility companies (i.e., Jackson Energy Cooperative), obtain easements for right-of-way, and inspections during and upon completion of the construction and installation of the new pump station.

It is important to note that the complainants formerly resided in the mobile home now occupied by Mrs. Swafford's elderly mother located at 2885 Upper Rader Road in Manchester, Kentucky, *prior* to building their new home which is at a higher elevation than the NMWA tanks. Further, the complainants never contacted NMWA or attended a board meeting to discuss whether NMWA could provide adequate water pressure to the new construction *and* the mobile home prior to the new home being built even with the installation of the additional pump. There was no issue with water pressure at the mobile home *prior* to the construction of complainants' new home. In fact, the NMWA board agreed to pay \$500 toward a pump for the complainants' new home so it would have the required 30 psi water pressure. NMWA maintains that the pump going to complainants' home is pulling pressure away from the mother-in-law's mobile home<sup>2</sup>.

The Commission issued Orders on March 16, 2020 and March 24, 2020, that temporarily suspended the filing of physical documents with the Commission and to allow sufficient time for the

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<sup>1</sup> See Response of NMWA to Commission Staff's First Request for Information (filed February 11, 2020)

<sup>2</sup> See electronic mail dated October 14, 2019 attached to the Complaint filed by Brandon and Tabitha Swafford (filed December 19, 2019)

construction project to be completed during the public health state of emergency<sup>3</sup>.

**Response to Paragraph Number 1 of the Commission's Order entered September 8, 2020**

NMWA did not receive approval from the Energy and Environment Cabinet, Department for Environmental Protection, Water Infrastructure Branch, Division of Water (DOW) until **May 8, 2020**. On May 12, 2020, Michael K. Maggard, Project Engineer, sent out drawings and bid forms for the proposed water line and water booster station to the utility contractors. The deadline for receiving bids from the utility contractors was May 29, 2020. **On May 20, 2020**, Mr. Maggard advised that the project had been approved by the Kentucky DOW; pipe material, appurtenances and pump station skid had been delivered to the site. The "site" to which he referred is the NMWA garage. Due to the high instance of theft, these materials were delivered to the NMWA garage until they were needed at the Upper Rader Road project site. Mr. Maggard's letter states the quotes will be *reviewed* and acted upon at the next scheduled board meeting on Monday, **June 1, 2020**<sup>4</sup>. **The project was never scheduled to begin on June 1, 2020**. Sisler-Maggard only received one (1) bid for this project, which was submitted by Wooton Construction.

On **July 6, 2020**, Mr. Maggard advised NMWA that there would be a meeting with the contractor on Friday, July 10, 2020, to finalize construction cost and schedule<sup>5</sup>. On **July 16, 2020**, Mr. Maggard provided a letter setting forth the proposed construction schedule for the Upper Rader waterline and pump station project. The contractor advised the engineer that it would mobilize on the site Monday, July 27, 2020 and *anticipated* the duration of the construction to be three (3) weeks. Therefore, the contractor *anticipated* the construction to be completed by August 14, 2020<sup>6</sup>.

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<sup>3</sup> See Order entered April 15, 2020

<sup>4</sup> See Notice of Filing of Status Report of NMWA (filed May 21, 2020)

<sup>5</sup> See Notice of Filing of Status Report of NMWA and Response to Commission's Order entered July 7, 2020 (filed July 8, 2020)

<sup>6</sup> See Notice of Filing of Construction Schedule for Upper Rader Road Waterline and Pump Station Project by NMWA (filed July 20, 2020)

**Response to Paragraph Numbers 2 and 3 of the Commission's  
Order entered September 8, 2020**

On July 30, 2020, NMWA requested an update on the project from the engineer. NMWA was advised that the contractor started working on July 27, 2020 and was expected to be done by August 14, 2020<sup>7</sup>. Therefore, NMWA reported to its legal counsel the information that was relayed to its office manager, Rose Lewis, from the engineer when it filed its status report. A copy of the electronic mail is attached hereto as **Exhibit A**. However, unbeknownst to NMWA at the time, the contractor, Wooton Construction, had been held up on another job and was unable to begin the Upper Rader Road Project until September 4, 2020.

**Response to Paragraph Number 5 of the Commission's Order entered September 8, 2020**

When NMWA filed its updated monthly status report for September, 2020, it erroneously stated that the contractor would begin and complete the project on September 25, 2020, due to a clerical error<sup>8</sup>. The project obviously could not be completed in one (1) day. NMWA reported to its legal counsel the information provided to it by its engineer, Sisler-Maggard Engineering, PLLC, who relied on information provided by the contractor that it would begin this project on **September 8, 2020**, and expected to be completed by September 25, 2020. A copy of the electronic mail is attached hereto as **Exhibit B**.

**Response to Paragraph Number 6 of the Commission's Order entered September 8, 2020**

On September 10, 2020, the project manager, Michael Maggard of Sisler-Maggard Engineering, PLLC, advised NMWA that the materials have been purchased for the project. The NMWA has the financial resources to pay the contractor for his labor upon completion. The contractor has mobilized equipment on the job site. The engineer has gone over the layout of the

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<sup>7</sup> See Notice of Filing of Status Report of NMWA for August, 2020 (filed July 31, 2020)

<sup>8</sup> See Notice of Filing of Status Report of NMWA for September, 2020 (filed September 1, 2020)

entire project on site September 8, 2020, with the construction foreman and two (2) laborers of Wooton Construction, a copy the electronic mail is attached hereto as **Exhibit C**.

**Response to Paragraph Number 7 of the Commission's Order entered September 8, 2020**

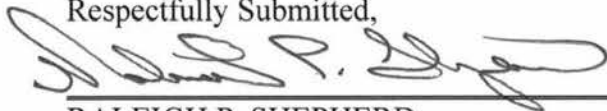
The contractor has stated that it will take him approximately five construction days to complete the project. The contractor notified B.U.D. on September 9, 2020, and is awaiting underground utility clearance and then construction can begin most likely on September 10, 2020. The power to the pump station has been requested as of September 9, 2020, from Jackson Energy (*see Exhibit C*).

**Response to Paragraph Number 8 of the Commission's Order entered September 8, 2020**

NMWA President, Steve Davis, and Michael K. Maggard, Project Engineer, of Sisler-Maggard Engineering, PLLC, are directly responsible for coordinating and monitoring the progress of this project.

ALL on this 11<sup>th</sup> day of September, 2020.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'R. P. Shepherd', is written over a horizontal line.

RALEIGH P. SHEPHERD  
ATTORNEY AT LAW  
305 MAIN STREET  
MANCHESTER, KENTUCKY 40962  
TELEPHONE: (606) 599-0311  
FACSIMILE: (606) 599-0344  
E-MAIL: [shepherdlawoffice@icloud.com](mailto:shepherdlawoffice@icloud.com)  
ATTORNEY FOR NMWA

VERIFICATION

Steve Davis, President and Board Chairman of North Manchester Water Association, being duly sworn upon his oath deposes and states:

I have read the foregoing response and requests for production of documents served upon me by the Kentucky Public Service Commission; and the foregoing response to same is a true and accurate according to the best of my knowledge, information and belief.

  
STEVE DAVIS

COMMONWEALTH OF KENTUCKY,  
  
COUNTY OF CLAY,

SUBSCRIBED, sworn to and acknowledged before me by STEVE DAVIS, President and Board Chairman of North Manchester Water Association on this 10<sup>th</sup> day of September, 2020.

  
NOTARY PUBLIC, STATE AT LARGE  
ID#584571

My Commission Expires: 09/13/2021.

CERTIFICATE OF SERVICE

I hereby certify and attest that on this 11<sup>th</sup> day of SEPTEMBER, 2020, a true and accurate copy of the foregoing response was served via electronic mail to the Kentucky Public Service Commission, at [psced@ky.gov](mailto:psced@ky.gov) and first class mail to:

Brandon and Tabitha Swafford  
2885 Upper Rader Road  
Manchester, KY 40962

Steve Davis, President of NMWA  
7362 North Highway 421  
Manchester, KY 40962

  
RALEIGH P. SHEPHERD, ESQ.

From: NMWA nmwa@prtcnet.org  
Subject: RE: Brandon and Tabitha Swafford  
Date: July 30, 2020 at 2:23 PM  
To: Ebby Office shepherdlawoffice@icloud.com

N

I'm having trouble with my emails for some reason, so that's probably why you didn't get it I apologize, reply back and let me know if you get this one or not please. They started working on Monday July 27<sup>th</sup>, and its expected to be done by Aug 14.

Rose Lewis  
Office Manager  
North Manchester Water Assn.  
6065985403

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**From:** Ebby Office  
**Sent:** Thursday, July 30, 2020 2:13 PM  
**To:** nmwa@prtcnet.org  
**Subject:** Brandon and Tabitha Swafford

Hi, Rose,

Just wanted to touch base regarding Brandon and Tabitha Swafford. I need a status update because we have a Status Report that must be filed with the KY Public Service Commission no later than August 1, 2020.

Thank you,

Ebby Smith  
Raleigh Shepherd  
Attorney at Law  
305 Main Street  
Manchester, KY 40962  
Telephone: (606) 599-0311  
Facsimile: (606) 599-0344  
shepherdlawoffice@icloud.com

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**EXHIBIT**

A



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**From:** NMWA nmwa@prtcnet.org  
**Subject:** RE: REMINDER! Status Report DUE TODAY Re Brandon and Tabitha Swafford  
**Date:** September 1, 2020 at 12:00 PM  
**To:** Ebby Office shepherdlawoffice@icloud.com

N

Contractor is mobilizing on site September 4, 2020

Scheduled to begin construction September 8, 2020

Scheduled completion is September 25, 2020

That is the latest construction schedule from Wooton Construction from Hazard, KY

Thanks

Rose Lewis  
Office Manager  
North Manchester Water Assn.  
6065985403

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**From:** Ebby Office  
**Sent:** Tuesday, September 1, 2020 10:09 AM  
**To:** nmwa@prtcnet.org  
**Subject:** REMINDER! Status Report DUE TODAY Re Brandon and Tabitha Swafford  
**Importance:** High

Rose,

Just a reminder that I must file the monthly status report with the Kentucky Public Service Commission regarding the complaint filed by Brandon and Tabitha Swafford.

Thank you,

Ebby Smith  
Raleigh Shepherd  
Attorney at Law  
305 Main Street  
Manchester, KY 40962  
Telephone: (606) 599-0311  
Facsimile: (606) 599-0344  
[shepherdlawoffice@icloud.com](mailto:shepherdlawoffice@icloud.com)

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**From:** NMWA nmwa@prtcnet.org  
**Subject:** FW: Swafford case questions  
**Date:** September 10, 2020 at 7:59 AM  
**To:** Ebby Office shepherdlawoffice@icloud.com

N

Let me know what else I need to send you. Thank you 😊

Rose Lewis  
Office Manager  
North Manchester Water Assn.  
6065985403

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**From:** [mike@sislermaggard.com](mailto:mike@sislermaggard.com)  
**Sent:** Wednesday, September 9, 2020 4:09 PM  
**To:** NMWA  
**Subject:** Swafford case questions

Rose

Please find attached responses to the two questions requested by Steve

6. The materials have been purchased for the project. The NMWA has the financial resources to pay the contractor for his labor upon completion. The contractor has mobilized equipment on the job site. The engineer has went over the layout of the entire project on site September 8, 2020. It was conducted with the Construction foreman and two laborers of Wooton Construction.

7. The contractor has stated that it will take him approximately five construction days to complete the project. The contractor notified B.U.D. today and is awaiting underground utility clearance and then construction can begin most likely tomorrow 9/10/2020. The power to the pump station has been requested as of today from Jackson energy.

Michael K. Maggard  
Vice – President  
Sisler – Maggard Engineering, PLLC  
220 East Reynolds Road Suite A3  
Lexington, KY 40517  
859-271-2978  
859-509-5497 Cell



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**EXHIBIT**

C