

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ALLEGED FAILURE OF THE CITY OF NORTH)
MIDDLETOWN TO COMPLY WITH KRS 278.160)
AND 278.180 AND THE COMMISSION'S ORDER) CASE NO. 2006-00072
OF AUGUST 10, 1994 IN ADMINISTRATIVE)
CASE NO. 351)

ORDER

Judy Water Association, a non-profit corporation organized under the provisions of KRS Chapter 273, owns and operates facilities that are used in the distribution of water to the public for compensation to approximately 1,671 customers in Bath, Bourbon, Clark, Montgomery, and Nicholas counties, Kentucky. It is a utility subject to Commission jurisdiction.

City of North Middletown ("North Middletown"), a city of the fifth class, is located in Bourbon County, Kentucky. KRS 81.010(5). It owns and operates a water treatment and distribution system that provides water service to residents of North Middletown and wholesale water service to Judy Water Association. According to Commission records, North Middletown began providing water service to Judy Water Association in 2001.¹

KRS 278.010(3) effectively exempts municipal utilities from Commission regulation by excluding cities from the definition of utility.² In Simpson County Water

¹ Annual Report of Judy Water Association, Inc. to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2001, at 31.

² See McClellan v. Louisville Water Company, 351 S.W.2d 197 (Ky. 1961).

District v. City of Franklin, Ky., 872 S.W.2d 460 (1994), however, the Kentucky Supreme Court held this exemption did not extend to contracts for utility service between a municipal utility and a public utility. The Court ruled that "where contracts have been executed between a utility and a city . . . , KRS 278.200 is applicable and requires that by so contracting the [c]ity relinquishes the exemption and is rendered subject to . . . [Commission] rates and service regulation."³

KRS 278.200 provides:

The commission may, under the provisions of this chapter, originate, establish, change, promulgate and enforce any rate or service standard of any utility that has been or may be fixed by any contract, franchise or agreement between the utility and any city, and all rights, privileges and obligations arising out of any such contract, franchise or agreement, regulating any such rate or service standard, shall be subject to the jurisdiction and supervision of the commission, but no such rate or service standard shall be changed, nor any contract, franchise or agreement affecting it abrogated or changed, until a hearing has been had before the commission in the manner prescribed in this chapter [emphasis added].

Simpson County Water District effectively subjects all contracts between municipal utilities and public utilities to the Commission's jurisdiction, requires all municipal utility transactions with a public utility to comply with the provisions of KRS Chapter 278, and makes Commission approval a prerequisite to any change in a rate that a municipal utility assesses a public utility for wholesale utility service.

Pursuant to the Simpson County decision, the Commission in Administrative Case No. 351 directed that all municipal utilities that provide wholesale utility service to a public utility "file with the Commission a copy of their contracts with the public utility

³ 872 S.W.2d at 463.

and a schedule of their rates for wholesale service.”⁴ It further directed that “[a]ny municipal utility wishing to change or revise a contract or rate for wholesale utility service to a public utility shall, no later than 30 days prior to the effective date of the revision, file with the Commission the revised contract and rate schedule.”⁵ KRS 278.160(1) and (2) and KRS 278.180(1) supported and required this directive.

KRS 278.160 provides:

(1) Under rules prescribed by the commission, each utility shall file with the commission, within such time and in such form as the commission designates, schedules showing all rates and conditions for service established by it and collected or enforced. The utility shall keep copies of its schedules open to public inspection under such rules as the commission prescribes.

(2) No utility shall charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules.

KRS 278.180(1) provides:

[N]o change shall be made by any utility in any rate except upon thirty (30) days' notice to the commission, stating plainly the changes proposed to be made and the time when the changed rates will go into effect. However, the commission may, in its discretion, based upon a showing of good cause in any case, shorten the notice period from thirty (30) days to a period of not less than twenty (20) days. The commission may order a rate change only after giving an identical notice to the utility. The commission may order the utility to give notice of its proposed rate increase to that utility's customers in the manner set forth in its regulations.

⁴ Administrative Case No. 351, Submission of Contracts and Rates of Municipal Utilities Providing Wholesale Service to Public Utilities (Ky. PSC Aug. 10, 1994) at 1 – 2.

⁵ Id. at 2.

On November 29, 2005, Judy Water Association applied to the Commission for adjustment in its rates for water service to reflect increases in the wholesale rates of its suppliers.⁶ In support of its application, Judy Water Association stated that North Middletown had increased its wholesale water service rate in January 2004.⁷ Commission records fail to reflect that North Middletown has filed any rate schedule to reflect its current wholesale service rate or its wholesale rate prior to January 1, 2004.

Commission Staff has contacted officials of North Middletown and Judy Water Association regarding North Middletown's provision of water service to Judy Water Association. Based upon its discussion with these officials and its review of Commission records, Commission Staff has advised the Commission of the following:⁸

1. North Middletown executed a water purchase agreement with Judy Water Association in 1999 that provided for North Middletown to provide wholesale water service at a rate of \$1.95 per 1,000 gallons.
2. North Middletown began providing water to Judy Water Association in December 2001. North Middletown provided this service at a monthly rate of \$2.14 per 1,000 gallons for the first 2,000,000 and \$2.44 per 1,000 gallons for all purchases in excess of 2,000,000 gallons.
3. In January 2005 North Middletown increased its rate to Judy Water Association to reflect an increase from its wholesale supplier, Kentucky-American Water Company. North Middletown currently provides water service to Judy Water Association at a monthly rate of \$2.33 per 1,000 gallons for the first 2,000,000 and \$2.65 per 1,000 gallons for all purchases in excess of 2,000,000 gallons.

⁶ Case No. 2005-00480, Purchased Water Adjustment of Judy Water Association (Ky. PSC Dec. 21, 2005).

⁷ Letter from Billy Ray Fawns, Manager, Judy Water Association, to Beth O'Donnell, Executive Director, Public Service Commission (Nov. 18, 2005). Mr. Fawns advised Commission Staff in a telephone conversation that the increase did not occur until January 2005. See Appendix A.

⁸ Commission Staff's report to the Commission is set forth in the affidavit found at Appendix A to this Order.

4. North Middletown has not formally filed its water purchase contract with the Commission.

5. Commission records do not reflect that North Middletown has provided to the Commission written notice of the adjustments in the rates that it assesses Judy Water Association.

Based upon the foregoing and being otherwise sufficiently advised, the Commission finds that prima facie evidence exists that North Middletown has violated KRS 278.160, KRS 278.180, and the Commission's Order of August 10, 1994 in Administrative Case No. 351 by failing to file its contract to provide wholesale water service to Judy Water Association with the Commission on or before commencing such service and by failing to notify the Commission of its proposed increase in its wholesale water service rate prior to implementing such increase.

Wherefore, the Commission HEREBY ORDERS that:

1. North Middletown shall show cause in writing within 20 days of the date of this Order:

a. why it should not be subject to the penalties prescribed in KRS 278.990(1) for its alleged failure to comply with the provisions of KRS Chapter 278 and of the Commission's Order of August 10, 1994 in Administrative Case No. 351; and,

b. why it should not be required to refund all monies collected from Judy Water Association that are in excess of the rate set forth in its water purchase contract with Judy Water Association.

2. In its written response to this Order, North Middletown shall respond to the allegations in this Order regarding its failure to comply with the provisions of KRS

Chapter 278 and of the Commission's Order of August 10, 1994 in Administrative Case No. 351.

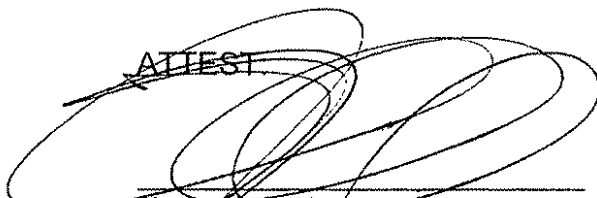
3. North Middletown shall immediately cease charging Judy Water Association the rates that differ from those set forth in its water purchase contract with Judy Water Association.

4. Any motion requesting any informal conference with Commission Staff to consider any matter that may aid in the handling or disposition of this proceeding shall be filed with the Commission no later than 20 days from the date of this Order.

5. The record of Case No. 2005-00480 is incorporated by reference into the record of this proceeding.

Done at Frankfort, Kentucky, this 24th day of February, 2006.

By the Commission

ATTEST

Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2006-00072 DATED February 24, 2006.

AFFIDAVIT

Gerald E. Wuetcher, being duly sworn, states:

1. I am the Assistant General Counsel of the Public Service Commission of Kentucky. I have served in that position since April 2000. I have been employed as an attorney for the Public Service Commission since July 16, 1987.


2. On November 19, 2005, Judy Water Association applied for a purchase water adjustment pursuant to Administrative Regulation 807 KAR 5:068. Judy Water Association's application was docketed as Case No. 2005-00480. Judy Water Association applied for the purchase water adjustment to reflect increases in wholesale water service rate from the City of Mount Sterling, Kentucky and the city of North Middletown ("North Middletown"). On December 21, 2005, the Commission authorized a purchase water adjustment for Judy Water Association, but did not consider the increased costs related to the purchase of water from North Middletown. The Commission held that "[a]s North Middletown has not provided the Commission with notice of any rate change that KRS 278.780 requires, its rate adjustment is not effective or lawful, may not be assessed, and may not serve as the basis for a purchased water adjustment."

3. On February 17, 2006, I telephoned North Middletown and spoke with Ms. Betsy Frasier. Ms. Frasier identified herself as North Middletown's City Clerk. Ms. Frasier advised me that North Middletown had entered a purchase water agreement with Judy Water Association on 19 October 1999. (Ms. Frasier subsequently sent by facsimile a copy of this Agreement. This copy is attached as Exhibit A.) She stated that North Middletown did not begin providing water service to Judy Water Association until late 2000. North Middletown issued its first bill to Judy Water Association in December 2000. It issued its first large bill to Judy Water Association in March 2001. Ms. Frasier did not provide the specific rates that North Middletown is currently charging, but did state that these rates were increased in January 2005 to reflect an increase in the rates of North Middletown's water supplier – Kentucky-American Water.

4. On February 20, 2006 I spoke by telephone with Billy Ray Fawns, Judy Water Association's general manager. Mr. Fawns stated that Judy Water Association had been receiving wholesale water service from North Middletown in late 2000. He stated that Judy Water Association originally paid \$2.14 per 1,000 for the first 2,000,000 gallons of monthly usage and \$2.44 per 1,000 gallons for all water in excess of that amount. In January 2005 North Middletown adjusted the rates to \$2.33 per 1,000 for the first 2,000,000 gallons of monthly usage and \$2.65 per 1,000 gallons for all water in excess of that amount. He further stated that Judy Water Association did not receive any advanced notice of the adjustment.

5. I requested Brent Kirtley, Manager of the Public Service Commission's Tariff Branch, search the Commission's files for any contract or rate schedule or notice related to North Middletown's purchase water agreement or its wholesale water service rate. Mr. Kirtley conducted a search and advised me on February 20, 2006 that his search failed to reveal any record of a contract or rate schedule or notice of rate adjustment.

AFFIANT STATES NOTHING FURTHER.



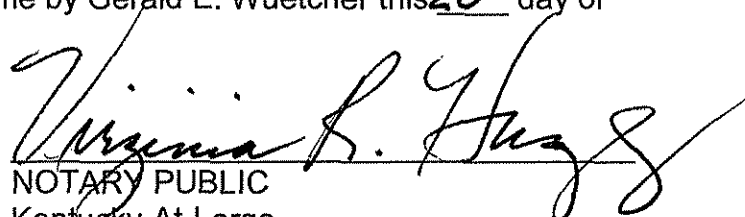
Gerald E. Wuetcher

COMMONWEALTH OF KENTUCKY)

) SS

COUNTY OF FRANKLIN)

SUBSCRIBED and sworn to before me by Gerald E. Wuetcher this 20th day of February, 2006.



NOTARY PUBLIC
Kentucky-At-Large

My Commission expires 7/19/06

WATER PURCHASE CONTRACT

This contract for the sale and purchase of water is entered into as of the _____ day of October, 1999, between the

City of North Middletown, 223 Church Street, P.O. Box 69
North Middletown, Kentucky 40357, a municipal corporation of the Commonwealth of Kentucky of
the Fifth Class of Bourbon County

Hereinafter referred to as the "Seller" and the Judy Water Association, Inc, 5031 Mayville Road
Mt. Sterling, Kentucky 40353

Hereinafter referred to as the "Purchaser".

WITNESSETH:

Whereas, the Purchaser is organized and established under the provisions of Chapter 273 of the Code of Kentucky Revised Statutes, for the purpose of constructing and operating a water supply distribution system serving water users within the area described in plans now on file in the office of the Purchaser and to accomplish this purpose, the Purchaser will require a supply of treated water, and

Whereas, the Seller owns and operates a water supply distribution system with a capacity capable of serving the present customers of the Seller's system and the estimated number of water users to be served by the said Purchaser as shown in the plans of the system now on file in the office of the Purchaser, and

Whereas, by a Resolution of the Seller enacted on the 17th day of August, 1999, by the Seller, which (1) approved the sale of water to the purchaser in accordance with the provisions of this contract and (2) authorized the execution of this contract by the Mayor, and attested by the City Clerk.

Whereas, by Resolution of the Purchaser, enacted on the 19 day of October, 1999, by the Purchaser which (1) approved the purchase of water from the seller in accordance with the provisions of this contract and (2) authorized the execution of this contract by the Chairman of the Board of Judy Water Association, Inc. and attestation by the Secretary;

Now, therefore, in consideration of the foregoing and the mutual agreements hereinafter set forth,

A. The Seller Agrees:

1. (Quality and Quantity) To furnish the Purchaser at the point of delivery hereinafter specified, during the term of this contract or any renewal or extension thereof, potable treated water meeting applicable purity standards of the Division of Water, Kentucky Cabinet for Natural Resources and Environmental Protection in such quantity as may be required by the Purchaser not to exceed 2,100,000 gallons per month, at the rate of seventy thousand (70,000) gallons per day, as set forth in the attached Addendum A to Water Purchase Contract, incorporated herein by reference.

2. (Point of Delivery and Pressure) That water will be furnished at a reasonably constant pressure calculated at approximately thirty (30) psi from existing eight (8") inch and six (6") inch main supplies at points located as set forth in the attached Addendum A to Water Purchase Contract incorporated herein by reference.

If a greater pressure than that normally available at the point of delivery is required by the Purchaser, the cost of providing such greater pressure shall be borne by the Purchaser. Emergency failures of pressure or supply due to main supply line breaks, power

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failure, flood, fire and use of water to fight fire, earthquake or other catastrophe shall excuse the Seller from this provision for such reasonable period of time as may be necessary to restore service.

3. (Meter Reading) Seller is responsible for reading metering devices. The metering equipment shall be read on a monthly basis. An appropriate official of the Purchaser at all reasonable times shall have access to its meters for the purpose of verifying their reading.

4. (Billing Procedure) To furnish the Purchaser at the above address not later than the 10th day of each month, with an itemized statement of the amount of water furnished to the Purchaser during the preceding month.

B. The Purchaser Agrees:

1. (Rates and Payment Date) To pay the Seller, not later than the 20th day of each month, for water delivered at the rate of One Dollar and Ninety Five Cents (\$1.95) per 1,000 gallons.

2. (Connection Costs) To be responsible for all costs incurred in making all of the connections between the water distribution system of the purchaser and the seller.

3. (Metering Equipment) To be responsible for the obtaining of all real property and easements for purposes of installation, operation and maintenance of its equipment as contained herein. To furnish, install, operate, and maintain at its own expense at point of delivery, the necessary metering equipment, including a meter house or pit, and required devices of standard type for properly measuring the quantity of water delivered to the Purchaser and to calibrate such metering equipment whenever requested by the Seller but not more frequently than once every twelve (12) months. A meter registering not more than two percent (2%) above or below the test result shall be deemed to be accurate.

The previous readings of any meter disclosed by test to be inaccurate shall be corrected for the last twelve (12) months previous to such test in accordance with the percentage of inaccuracy found by such tests. If any meter fails to register for any period, the amount of water furnished during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless Seller and Purchaser shall agree upon a different amount.

C. It is further mutually agreed between the Seller and the Purchaser as follows:

1. (Term of Contract) That this contract shall extend for a term of 45 years from the date of the initial delivery of any water as shown by the first bill submitted by the Seller to the Purchaser and, thereafter may be renewed or extended for such term, or terms, as may be agreed upon by the Seller and Purchaser.

2. (Delivery of Water) That 30 days prior to the estimated date of completion of construction of the Purchaser's water supply distribution system, the Purchaser will notify the Seller in writing the date for the initial delivery of water.

3. (Water for Testing) When requested by the Purchaser, the Seller will make available to the contractor at the point of delivery, or other point reasonably close thereto, water sufficient for testing, flushing, and trench filling the system of the Purchaser during construction.

4. (Failure to Deliver) That the Seller will, at all times, operate and maintain its system in an efficient manner and will take such action as may be necessary to furnish the Purchaser with quantities of water required by the Purchaser. Temporary or partial failures to deliver water shall be remedied with all possible dispatch. In the event of an extended shortage of water, or the supply of water available to the Seller is otherwise diminished over an extended period of time, the supply of water to Purchaser's

consumers shall be reduced or diminished in the same ratio or proportion as the supply to Seller's consumers is reduced or diminished.

5. (Modification of Contract) That the provisions of this contract pertaining to the schedule of rates to be paid by the Purchaser for water delivered are subject to modification from time to time. Any increase or decrease in rates shall be based on a demonstrable increase or decrease in the costs of performance by the seller as indicated by a cost of service study utilizing any methodology generally acceptable in the potable water industry. No increase or decrease shall be effective unless agreed to by the parties hereto or approved by the Public Service Commission of the Commonwealth of Kentucky.

6. (Regulatory Agencies) That this contract is subject to such rules, regulations, or laws as may be applicable to similar agreements in the Commonwealth of Kentucky and the Seller and Purchaser will collaborate in obtaining such permits, certificates, or the like, as may be required to comply therewith.

7. (Miscellaneous) That the construction of the water supply distribution system by the Purchaser is being financed by a loan made or insured by, and/or a grant from, the United States of America, acting through Rural Development of the United States Department of Agriculture, and the provisions hereof pertaining to the undertakings of the Purchaser are conditioned upon the approval, in writing, of the State Director of Rural Development.

8. (Successor to the Purchaser) That in the event of any occurrence rendering the Purchaser incapable of performing under this contract, any successor of the Purchaser, whether the result of legal process, assignment, or otherwise, shall succeed to the rights and obligations of the Purchaser hereunder.

9. (Non-Discrimination) Without Regard to any other provision of this Water Purchase Contract, for the purpose of avoiding any aspect of illegal discrimination, it is mutually agreed by the Seller and the Purchaser that the Purchaser, in any event, shall not be charged a water rate lower than the water rate charged any other independent water district supplied by the City of North Middletown, Kentucky.

10. (Pledge) This contract is pledged to the Rural Utility Service as part of the security for a loan or loans that may be made to the Purchaser.

11. (Sale) The parties hereto are aware of, recognize, and have taken into account the potential sale of the Water Distribution System of Seller to Kentucky American Water Company, a Kentucky Corporation, which is a utility regulated by the Commonwealth of Kentucky Public Service Commission. Purchaser agrees to abide by all rules, regulations, tariffs, and other conditions relating to Seller's purchase of water from Kentucky American Water Company, and to agree to same if and when the Water Distribution System of Seller is transferred to Kentucky American Water Company.

12. (Successors in Interest) In the event that all or any part of the water works plant and facilities of Seller which are used in meeting its obligations under this Agreement are acquired by any other entity, then and in that event Seller shall be relieved of all its obligations hereunder and, in such event, this agreement shall be binding upon the successor entity making such acquisition.

13. (Disclaimer) It is understood and agreed between Purchaser and Seller that Seller does not, by this Agreement, undertake or contract to provide fire protection for those individuals, partnerships and corporations to whom Purchaser is going to sell water furnished by Seller. Purchaser acknowledges that it is fully aware that if its customers desire fire protection or sufficient quantities of water for fire extinguishment, that it must provide the same by the construction and maintenance of appropriate facilities to render such a service and protection.

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to U.S. Department of Agriculture, Clearance Officer, STOP 7602, 1400 Independence Avenue, S.W., Washington, D.C. 20250-7602. Please DO NOT RETURN this form to this address. Forward to the local USDA office only. You are not required to respond to this collection of information unless it displays a currently valid OMB control number.

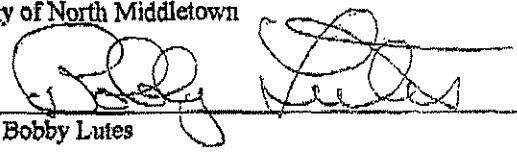
14. (Check Valves) Purchaser will install, at its sole expense, appropriately approved check valves which Purchaser must certify to Seller as approved, and which must be inspected by a certified plumber annually and certified in writing to Seller as then currently approved and properly working, all at the cost of Purchaser.

15. (Pressure) Seller shall endeavor to maintain a minimal water pressure of thirty (30) PSI at the metered connections for the maximum delivery rates specified under this agreement; however, Seller's obligation to supply water pursuant to this agreement is solely an obligation that it shall undertake to use reasonable care and diligence in order to prevent and avoid interruptions and fluctuations in the supply of water agreed to herein. Seller can not and does not guarantee, covenant or warrant that interruptions or fluctuations will not occur, or that because of emergencies due to breaks, leaks, defects, construction or necessary repair in its facilities, or caused by fires, strikes, acts of God, or other causes, there may not be periods during which the supply of water may be curtailed or interrupted. In the event of such interruptions or fluctuations, no liability of any nature shall be imposed upon Seller.

16. (Purchased Water Adjustment) Seller shall be allowed to "pass through" to Purchaser, all increases in price from its supplier, Kentucky American Water Company, and the parties agree that the provisions of 807 KAR 5:068, as now or may be in effect. (and if repealed, the most recent regulation governing the subject matter, unless replaced by another regulatory scheme, which shall then apply), "Purchased Water Adjustment for Water Districts and Water Associations" shall apply to this clause of this Agreement, and that Seller and any successor as set forth herein shall be determined to be, for purposes of that regulation, the Water District or Water Association as set forth therein.


In witness whereof, the parties hereto, acting under authority of their respective bodies, have caused this contract to be duly executed in two (2) counterparts, each of which shall constitute an original.

Seller:
City of North Middletown

By 
Bobby Lutes

Title: Mayor

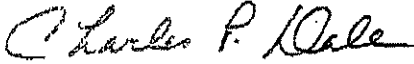
Attest:


Betsy Frazier, City Clerk

Purchaser:
Judy Water Association

By 
President

Attest:


Secretary

ADDENDUM A

TO WATER PURCHASE CONTRACT BETWEEN
CITY OF NORTH MIDDLETOWN (HEREIN THE "SELLER") AND
JUDY WATER ASSOCIATION, INC. (HEREIN THE "PURCHASER")

DATED THE ___ DAY OF OCTOBER, 1999

A. Delivery of Water. The quantity of water to not be exceeded, Two Million One Hundred Thousand (2,100,000) gallons per month, shall be delivered by Seller at the rate of Seventy Thousand (70,000) gallons per day, which per day figure shall be the agreed upon quantity of delivery subject to the provisions of subsection B hereunder, rather than the monthly figure.

B. Exceeding Maximum Quantity of Water. If the maximum quantity of water per day or per month to be furnished hereunder is exceeded in any twenty four (24) hour period, or calendar month, respectively, the Seller shall have the option of:

- (1) Terminating the supply of water to the Purchaser at all delivery points for the remainder of the day or month in which the excess occurs; or
- (2) Purchaser shall be charged an "excess usage fee" equal to four (4x) times the current minimum (dollar amount on maximum quantity usage) per thousand gallon charge under the general water rate schedule of Seller in effect at the time.

C. Delivery Points. The points of delivery shall be at the following locations:

- (1) Master meter No. 1 shall be located approximately 2,500 feet north of the intersection of KY 627 and KY 57 on Highland Farms Property, and connect to an eight (8") inch line.
- (2) Master meter No. 2 shall be located approximately 2,000 feet southwest of the intersection of US 460 and Stoney Point Road on the Douglas Witt property, and connect to a six (6") inch line.
- (3) Master member No. 3 shall be located inside of the pump station, located on the North Middletown Elementary School property on KY 3364, and connect to a six (6") inch line.

The difference in the two (2) readings of master meter No. 1 and master meter No. 2 shall be added to the reading of master meter No. 3 for the total monthly bill. These readings must take place consecutively.

- (4) A conventional below grade concrete master meter vault will contain a compound meter, strainer, swing check valve, gate valves, and a bypass line for emergencies.

D. Water Pressure at Delivery Points. The water pressure at the delivery points shall be a minimum pressure of thirty (30) pounds per square inch (30 PSI) provided, however, that the obligation of the Seller to maintain this minimum pressure shall be specifically conditioned and contingent on the Purchaser having in existence, and maintaining at all times, a "finished" water storage capacity equal to at least twenty four (24) hours current consumption, in the aggregate, of the Purchaser.

E. Geographic Boundary of Service Area. The geographic boundary or area in which any water sold and supplied to the Purchaser by the Seller may be resold and/or furnished by the Purchaser to its customers, or anyone else, is specifically limited to only water users located on property which is adjacent to the Purchaser's waterline or across public roads in Montgomery and Bourbon Counties, Kentucky; this provision shall except those customers served by the City of North Middletown, or on property adjacent to or across public roads from the City of North Middletown lines in Bourbon County, Kentucky, which property shall have the option of service by the City of North Middletown or Judy Water.

Purchaser shall not sell or supply water supplied by Seller to users located anywhere outside of the above-described geographic area.