

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF CUMBERLAND)	CASE NO.
FALLS HIGHWAY WATER DISTRICT FOR A)	2022-00437
DEVIATION)	

ORDER

On December 29, 2022, Cumberland Falls Highway Water District (Cumberland Falls Highway District) filed its application for approval to deviate from its tariff and reimburse a developer of a local subdivision for up to 50 feet of line extension, despite the fact that construction of the project commenced prior to the execution of the contract.

Although Cumberland Falls Highway District did not cite to a particular statute or regulation on which its request for a deviation is based, Commission regulation 807 KAR 5:066, Section 11 sets forth the procedure for a water district to use when a customer or other applicant desires an extension of a water utility's distribution main. Specifically, 807 KAR 5:066, Section 11(4) permits the Commission to approve water main extension arrangements that differ from those found in the remainder of the regulation.

Having reviewed Cumberland Falls Highway District's application, the Commission finds that an investigation is necessary to determine the reasonableness of the proposed deviation. Further, the Commission finds that Cumberland Falls Highway District shall respond to Commission Staff's Request for Information attached to this Order as an Appendix by the date set forth on the request, and shall respond to any future requests

for information propounded by Commission Staff by the date or dates set forth on any such requests.

Additionally, any hearing scheduled in this matter shall be held on the designated day or days and continued until called from the bench by the presiding officer. Pursuant to 807 KAR 5:001E, Section 2, if the hearing is not concluded on the designated day, the hearing may be continued upon verbal announcement by the presiding officer. A verbal announcement made by the presiding officer shall be proper notice of the continued hearing. Hearings are held in the Richard Raff Hearing Room at the offices of the Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky. Witnesses who sponsor schedules, testimony, or responses to data requests are expected to participate in person at a hearing.

IT IS THEREFORE ORDERED that:

1. Cumberland Falls Highway District shall respond to Commission Staff's Request for Information as provided on the Appendix attached to this Order.
2. Cumberland Falls Highway District shall respond to any additional requests for information propounded by Commission Staff, as provided in those requests.
3. Nothing contained in this Order shall prevent the Commission from entering further Orders in this matter.

PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2022-00437 DATED JAN 23 2023

COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION TO CUMBERLAND FALLS HIGHWAY WATER DISTRICT

Cumberland Falls Highway Water District (Cumberland Falls Highway District), pursuant to 807 KAR 5:001E, is to file with the Commission an electronic version of the following information. The information requested is due on February 10, 2023. The Commission directs Cumberland Falls Highway District to the Commission's July 22, 2021 Order in Case No. 2020-00085¹ regarding filings with the Commission. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked.

Each response shall include the question to which the response is made and shall include the name of the witness responsible for responding to the questions related to the information provided. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or the person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

¹ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

Cumberland Falls Highway District shall make timely amendment to any prior response if Cumberland Falls Highway District obtains information that indicates the response was incorrect when made or, though correct when made, is now incorrect in any material respect. For any request to which Cumberland Falls Highway District fails or refuses to furnish all or part of the requested information, Cumberland Falls Highway District shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

Careful attention shall be given to copied and scanned material to ensure that it is legible. When the requested information has been previously provided in this proceeding in the requested format, reference may be made to the specific location of that information in responding to this request. When applicable, the requested information shall be separately provided for total company operations and jurisdictional operations. When filing a paper containing personal information, Cumberland Falls Highway District shall, in accordance with 807 KAR 5:001E, Section 4(10), encrypt or redact the paper so that personal information cannot be read.

1. Provide the Cumberland Falls Highway District's Board of Commissioners' (Board) meeting minutes from November 2022, December 2022, and January 2023.
2. Provide the Fiscal Court minutes for the appointment of each current member of the Cumberland Falls Highway District's Board.
3. Provide the name of the current utility manager, his/her hire date, and list any prior service with the utility, including but not limited to service on the Board, as well as relevant dates.

4. List the following and for each response provide the party, the relationship and the total benefit exchanged for both monetary and in-kind value:

a. Brandon Creekmore: Any financial relationship with Diamond Acres LLC or its subcontractors or Marmic Meadows LLC or its subcontractors within the last 24 months.

b. Johnny Collett: Any financial relationship with Diamond Acres LLC or its subcontractors or Marmic Meadows LLC or its subcontractors within the last 24 months

c. Ronald Canada: Any financial relationship with Diamond Acres LLC or its subcontractors or Marmic Meadows or its subcontractors within the last 24 months.

d. Teddy Prewitt: Any financial relationship with Diamond Acres LLC or its subcontractors or Marmic Meadows or its subcontractors within the last 24 months.

e. Mike Baird: Any financial relationship with Diamond Acres LLC or its subcontractors or Marmic Meadows or its subcontractors within the last 24 months.

f. Everett Angel: Any financial relationship with Diamond Acres LLC or its subcontractors or Marmic Meadows or its subcontractors within the last 24 months.

5. State whether any board member of Cumberland Falls Highway District benefited financially from the construction project described in the application. Financial benefit includes any gain from investment or employment. If so, explain.

6. Explain the vote approving the reimbursement for Diamond Acres, LLC as 3-1, if, as noted, the Chairman Mr. Collette abstained. Please list the Board members who voted on this reimbursement.

7. According to Commission records, there are four Board members. Confirm this is correct. If this is not correct, please provide an accurate list of the current Board members if not having done so in response to Item 2.

8. Refer to Exhibit C, Part 1 and Part 2, receipts from Jordan York or York's Excavating.

a. Provide all current business information for Jordan York as well as York's Excavating including but not limited address, phone and whether or not the company is bonded and insured.

b. List all business relationships the utility or its Board members as individuals have had with York's Excavating or Jordan York in the past 24 months and provide all contracts related to those activities.

c. For each receipt from York's Excavating, provide a detailed breakdown of "water line install" as contained on each receipt from York's Excavating, including but not limited to the work performed, as well as a lot description for each receipt.

d. State whether Jordan York is related to a current or previous Board member or the utility manager and if so, to whom he is related and in what capacity.

9. Refer to Exhibit C, Part 1, receipts for Rains Hauling, Randy Rains:

a. Provide all current business information for Randy Rains as well as Rains Hauling including but not limited address, phone and whether or not the company is bonded and insured.

b. Please list all business relationships the utility or its Board members have had with Rains Hauling or Randy Rains in the past twenty-four months and provide all contracts related to those activities.

c. For each receipt from Rains Hauling, provide a detailed breakdown of “water line” as contained on PDF page 11 and PDF page 12 from Rains Hauling, including but not limited to the work performed, as well as a lot description for each receipt.

10. Refer to the Board minutes from June 2020 submitted in Case No. 2022-00365. Acting manager Mike Baird (with Judge Executive and an attorney present) moved to name Johnny Collette Chair. Provide the name of each person voting on the motion to make Mr. Collette Chairman of the Board.

11. Refer to the Board minutes from June 2020 submitted in Case No. 2022-00365.² The Chairman, Mr. Collette, then nominates Mr. Mike Baird to become utility manager. Provide the name of each person participating in that vote.

12. Confirm that the position of utility manager was not advertised or selected from a pool of candidates. If not, please explain.

13. Refer to the Board minutes from September 2020 submitted in Case No. 2022-00365. Confirm that a customer was granted a second leak adjustment at this meeting.

14. Refer to the Cumberland Falls Highway District’s tariff currently on file with the Commission, cite to the leak adjustment policy allowing a second or subsequent leak adjustment for an individual customer.

15. Since January 2020, provide the number of customers who have been granted a leak adjustment to their bill.

a. Of those customers, provide the number of adjustments that were a second or subsequent adjustment.

b. Provide the corresponding approval from the Board for each adjustment that was a second or subsequent leak adjustment.

16. Since January 2020, provide the number of leak adjustment requests that have been denied. Of those requests, provide a corresponding reason for each denial.

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