

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PROPOSED ADJUSTMENT OF THE)	
WHOLESALE WATER SERVICE RATES OF)	CASE NO. 2015-00039
THE CITY OF AUGUSTA)	

**NOTICE OF FILING AND MOTION FOR AN ORDER DECLARING
AMENDED WATER PURCHASE CONTRACT EFFECTIVE
AS OF DATE OF FILING OR, IN THE ALTERNATIVE, APPROVING
AMENDED WATER PURCHASE CONTRACT**

The City of Augusta (“Augusta”) and Bracken County Water District (“Bracken District”) (collectively “Movants” or “Parties”) give notice of their filing of “First Amendment to Water Purchase Contract” in accordance with the Commission’s Order of April 15, 2016. Movants jointly move for an Order declaring that their Water Purchase Agreement, as amended, is effective as of the date of this filing, or in the alternative, an Order approving the Water Purchase Contract, as amended. In support of their motion, the Movants state:

1. On February 6, 2016, the Parties executed a new Water Purchase Contract to replace their previous agreements regarding Augusta’s provision of water service to Bracken District.

2. On February 9, 2016, the Parties submitted this Water Purchase Contract to the Commission for its review and approval

3. On April 15, 2016, the Commission entered an Order in which it approved the Water Purchase Contract on the condition that the Parties amend Paragraph 21 of the Water Purchase Contract to eliminate Bracken District’s right to permanently withhold monies for any failure on Augusta’s part to timely submit reports or documents required by Paragraph 20 of the Water Purchase Contract.

4. On April 20, 2016, the Parties executed “First Amendment to Water Purchase Contract,” a copy of which is attached, that amends their Water Purchase Contract to eliminate Bracken District’s right to permanently withhold monies for any failure on Augusta’s part to timely submit reports or documents.

5. The execution of the First Amendment and its submission to the Commission satisfies the condition set forth in the Commission’s Order of April 15, 2016. Accordingly, the Water Purchase Contract, as amended, should be considered effective upon its filing with the Commission.

6. Should the Commission find that the First Amendment does not strictly comply with the condition set forth in the Commission’s Order of April 15, 2016, then the Parties in the alternative request that the Commission approve the Water Purchase Contract as amended.

WHEREFORE, the Movants request that the Commission:

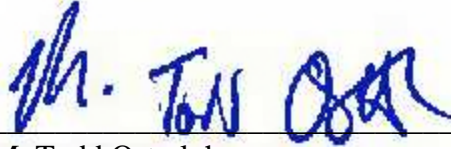
1. Accept for filing the attached First Amendment to Water Purchase Contract.

2. Enter an Order declaring that the Water Purchase Contract, as amended, meets the condition set forth in the Order of April 15, 2016 and became effective upon its filing to the Commission.

3. If the Commission finds that the execution of the First Amendment does not strictly comply with the condition set forth in the Commission’s Order of April 15, 2016, enter an Order approving the Water Purchase Contract as amended.

Dated: April 21, 2016

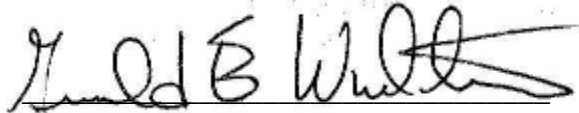
Respectfully submitted,



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Counsel for City of Augusta, Kentucky

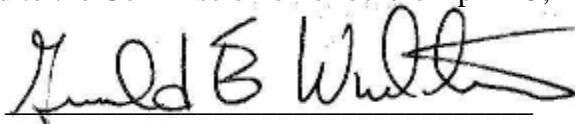


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Counsel for Bracken County Water District

CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, I certify that Movants' April 21, 2016 electronic filing of Notice of Filing and Motion is a true and accurate copy of the same document being filed in paper medium; that the electronic filing has been transmitted to the Commission on April 21, 2016; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original paper medium of the Notice of Filing and Motion will be delivered to the Commission on or before April 25, 2016.

A handwritten signature in black ink, appearing to read "Gerald E. Wuetcher", written over a horizontal line.

Gerald E. Wuetcher

**FIRST AMENDMENT TO
WATER PURCHASE CONTRACT**

This **First Amendment to Water Purchase Contract** is made and entered into this 20th day of April, 2016 by and between the City of Augusta, Kentucky (“Augusta”) and Bracken County Water District (“Bracken District”) (collectively “the Parties”).

WITNESSETH:

WHEREAS, the Parties executed the Water Purchase Contract on February 6, 2016 to replace their previous agreements regarding Augusta’s provision of water service to Bracken District;

WHEREAS, the Parties submitted the Water Purchase Contract to the Kentucky Public Service Commission on February 9, 2016 for its review and approval; and,

WHEREAS, on April 15, 2016, the Kentucky Public Service Commission entered an Order in which it approved the Water Purchase Contract on the condition that the Parties amend Paragraph 21 of the Water Purchase Contract to eliminate Bracken District’s right to permanently withhold monies for any failure on Augusta’s part to timely submit reports or documents required by Paragraph 20 of the Water Purchase Contract;

NOW THEREFORE, the Parties agree as follows:

1. Paragraph 21 of the Water Purchase Contract, which the Parties executed on February 6, 2016, is amended to read as follows:

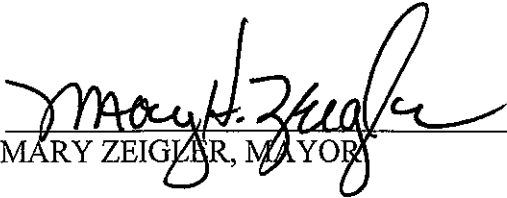
21. **Failure to Timely Provide Required Reports.** If Augusta fails to make timely submission of any of the reports or documents as required by Paragraph 20 of this Agreement, Bracken District may withhold ten percent of the total invoiced cost of water for the monthly period in which Augusta’s failure occurred. Bracken District shall notify Augusta in writing of its action and the reason for such action. Bracken District may retain the withheld amount until Augusta has submitted the required report or document. Upon receipt of the required report or document, Bracken District shall pay the withheld amount to Augusta within 10 days. Augusta shall be excused from compliance of the requirements of Paragraph 20 if it suffers temporary or permanent loss of information through damage to or failure of its informational technology (“IT”) systems. Augusta shall inform Bracken District about the loss of data within the proscribed time period identified in Paragraph 20 and produce to Bracken District all responsive information available to it. If information is restored at a later time, Augusta shall provide responsive information not previously produced to Bracken District. Upon notification of the loss of data due to damage to or failure of Augusta’s IT systems, Bracken District may not withhold any amount of the invoiced cost of water pursuant to the terms of this Paragraph.

2. All other provisions of the Water Purchase Contract not specifically addressed in this First Amendment are ratified and affirmed.

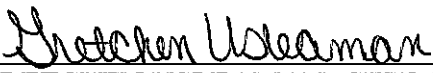
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SIGNATURE PAGE FOLLOWS**

IN WITNESS WHEREOF, the Parties acting under the authority of their respective governing bodies, have caused this First Amendment to Water Purchase Contract to be duly executed in multiple counterparts, each of which shall constitute an original.

CITY OF AUGUSTA, KENTUCKY

By: 
MARY ZEIGLER, MAYOR

ATTEST:


GRETCHEN USLEAMAN, CITY CLERK

BRACKEN COUNTY WATER DISTRICT

By: _____
ANTHONY HABERMEHL, CHAIRMAN

ATTEST:

TIMOTHY SWEENEY, SECRETARY

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CITY OF AUGUSTA, KENTUCKY

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