

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF MONROE )  
COUNTY WATER DISTRICT FOR RATE ) CASE NO. 2017-00070  
ADJUSTMENT PURSUANT TO 807 KAR 5:076 )

**MONROE COUNTY WATER DISTRICT’S REPLY TO  
ATTORNEY GENERAL’S RESPONSE TO MOTION FOR  
RECONSIDERATION AND CLARIFICATION**

Monroe County Water District (“Monroe District”) submits this Reply to the Attorney General’s (“AG”) Response to Motion for Reconsideration and Clarification.

While KRS 278.190 places upon Monroe District the burden of demonstrating the reasonableness of its proposed rates, it does not require Monroe District to surrender its right to procedural due process. Requiring Monroe District to identify its witnesses and exhibits in advance of the hearing while not placing a similar requirement on the AG or Commission Staff squarely places Monroe District at a procedural disadvantage and affords it less of an opportunity to adequately prepare for the scheduled hearing than is afforded the other participants. Monroe District merely requests that it be extended the same privileges extended to Commission Staff and the AG. There is ample and abundant Commission precedent<sup>1</sup> recognizing this point and

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<sup>1</sup> See, e.g., *Proposed Adjustment of The Wholesale Water Service Rates of City of Danville*, Case No. 2014-00392 (Ky. PSC May 15, 2015); *Application of Kentucky-American Water Company For An Adjustment of Its Wastewater Rates Pursuant To 807 KAR 5:076*, Case No. 2014-00390 (Ky. PSC Dec. 23, 2014); *Alternative Rate Filing of Eastern Rockcastle Water Association, Inc.*, Case No. 2014-00385 (Ky. PSC Dec. 9, 2014); *Application of Western Lewis-Rectorville Water & Gas District For Rate Adjustment For Small Utilities Pursuant To 807 KAR 5:076*, Case No. 2014-00266 (Ky. PSC 2014); *Application of Bullitt Utilities, Inc. For A Certificate of Convenience and Necessity and Surcharge For Same*, Case No. 2014-00255 (Ky. PSC May 15, 2015); *Application of Airview Utilities, LLC For Rate Adjustment For Small Utilities Pursuant To 807 KAR 5:076*, Case No. 2014-00215 (Ky. PSC Sep. 11, 2014); *Application of Western Fleming County Water District For Rate Adjustment For Small Utilities Pursuant To 807 KAR 5:076*, Case No. 2014-00048 (Aug. 18, 2014); *Alternative Rate Filing For Bath County Water District*, Case No. 2012-00537 (Ky. PSC Jan. 9, 2013); *Application of Jessamine - South Elkhorn Water District For A Certificate of Public Convenience and Necessity To Construct and Finance A Waterworks Improvements Project Pursuant To KRS 278.020 And 278.300*, Case No. 2012-470 (Ky. PSC Mar. 11, 2013); *Application of Pendleton County Water District For An Adjustment In Rates Pursuant To The Alternative Rate*

reflecting a longstanding Commission practice of treating all participants to a Commission proceeding in a fair and equal manner by requiring **all parties** to provide witness lists, summaries of expected testimony and exhibits. In claiming that “long standing administrative practice” supports his position, the AG has chosen to ignore this precedent.

Limiting the scope of the scheduled hearing to disputed issues and to those for which the Commission has determined further review is necessary does not limit the AG’s representation of consumers, but avoids unnecessary, unproductive and expensive relitigation of resolved issues. Section 11 of 807 KAR 5:076 and the Commission’s Order of April 12, 2017 make clear that a party’s failure to object to a finding or recommendation contained in the Commission Staff Report results in the waiver of any right to later object or question that finding. The administrative regulation and the Commission’s Order require all parties to carefully review and respond to the Commission Staff Report’s findings and recommendations. If no party objects to a finding or recommendation and the Commission finds that finding or recommendation does not require further review, the issue addressed by that finding or recommendation should be considered resolved and outside the scope of any hearing on the proposed rates. Any other interpretation renders Section 11 and the Commission’s Order of April 12, 2017 meaningless and

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*Filing Procedure For Small Utilities*, Case No. 2012-00413 (Ky. PSC Oct. 3, 2012); *Application of Southern Water and Sewer District For An Adjustment In Rates Pursuant To The Alternative Rate Filing Procedure For Small Utilities*, Case No. 2012-00309 (Ky. PSC Oct. 5, 2012); *Application of Big Sandy Water District For An Adjustment In Rates Pursuant To The Alternative Rate Filing Procedure For Small Utilities*, Case No. 2012-00152 (Ky. PSC June 7, 2012); *Application of Gallatin County Water District For The Approval of Increased Monthly Rates and For Approval of An Increase In Its Meter Connection Fee*, Case No. 2011-00378 (Ky. PSC Oct. 21, 2011); *Application of The Monroe County Water District For The Approval of The Proposed Increase In Rates For Water Service*, Case No. 2011-00272 (Ky. PSC Oct. 28, 2011); *Application of Wood Creek Water District For Approval of A Proposed Increase In Rates For Water Service*, Case No. 2011-00209 (Ky. PSC Sept. 6, 2011); *Application of Center Ridge Water District, Inc. For An Adjustment of Rates Pursuant To The Alternative Rate Filing Procedure For Small Utilities*, Case No. 2010-00397 (Ky. PSC June 24, 2011); *Application of Big Bear Wastewater, Inc. For An Adjustment of Rates*, Case No. 2009-00171 (Ky. PSC Jan. 2010); *Application of East Kentucky Network Limited Liability Company For The Issuance of A Certificate of Public Convenience and Necessity To Construct A Tower In Letcher County, Kentucky*, Case No. 2009-00064 (Ky. PSC Aug. 14, 2009); *Application of Powertel/Memphis, Inc. D/B/A T-Mobile For Issuance of A Certificate of Public Convenience and Necessity To Construct An Additional Cell Facility At Leo Bowlds Road, Hardinsburg, Breckinridge County, Kentucky*, Case No. 2009-00006 (Aug. 12, 2009).

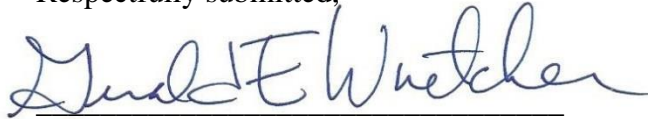
makes the process required by that regulation and Commission Order a useless exercise. Such an interpretation only encourages unnecessary litigation by allowing a party to again raise issues for which it and all other parties have already accepted the Commission Staff's determination.

Monroe District's request to limit the scope of the hearing neither impairs nor limits the AG's rights. The AG conducted discovery prior to the issuance of the Commission Staff Report and had adequate opportunity to review and respond to its findings and recommendations. The AG asserts that he has expressed reservations regarding two aspects of the Commission Staff Report: the determination of service lives to calculate depreciation expense and the reasonableness of the methodology used to determine the reasonableness of employee compensation. Monroe District specifically objected to the former; the Commission has identified the latter as an area requiring further review. Limiting the scope of the hearing to those issues will not affect the AG's ability to present evidence on those issues or to cross-examine Staff or utility witnesses or to further advance its concerns. Monroe District's requested relief merely prevents the AG from relitigating issues that he has already admitted.

Wherefore, Monroe District requests that the Commission reconsider its Order of August 18, 2017 and (1) establish a procedural schedule that permits discovery to be conducted upon Commission Staff; (2) require all parties and Commission to file a list of its witnesses and exhibits with the Commission at least seven days prior to the scheduled hearing; and (3) identify more specifically the factual issues that are in dispute and upon which evidence will be taken at the scheduled hearing and limit the evidence taken to those issues.

Dated: September 6, 2017

Respectfully submitted,

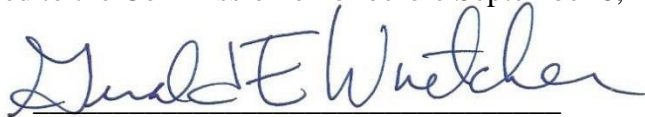


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CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, I certify that Monroe County Water District's September 6, 2017 electronic filing of this 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 September 6, 2017; 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 this Application will be delivered to the Commission on or before September 8, 2017.



Gerald E. Wuetcher