

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

WILLIAM C. HILL)	
)	
COMPLAINANT)	
)	
v.)	CASE NO. 2017-00316
)	
MUHLENBERG COUNTY WATER)	
DISTRICT)	
)	
DEFENDANT)	

MOTION TO JOIN PARTY

Muhlenberg County Water District (“Muhlenberg District”), by counsel, hereby moves that the Commission make Todd County Water District (“Todd District”), a utility subject to the Commission’s jurisdiction pursuant to KRS 278.010 and 278.040, a party to this case. Todd District’s participation in this case is necessary to ensure that Mr. Hill can obtain complete and appropriate relief. In support of its Motion, Muhlenberg District states as follows:

1. Complainant, Mr. Hill, owns a 100-acre tract of land in a very remote portion of Muhlenberg County (the “Hill Property”). The Hill Property is located on the south side of Lake Malone near the Muhlenberg and Todd County line. Mr. Hill seeks to develop the Hill Property and requires water service for a 47-lot subdivision.

2. Muhlenberg District's nearest water main to the Hill Property is a 4-inch main located on Kentucky Highway 181 South. This main is nearly four (4) miles from Mr. Hill's driveway.¹ By contrast, a connection to Todd District is located very near the Hill Property. A Todd District 3-inch water main is located along McPherson Road approximately 400 feet southwest from the intersection of Mr. Hill's driveway and McPherson Road.

3. It is not economically feasible for Muhlenberg District to construct approximately four (4) miles of a 4-inch diameter water line and a booster pump station at a cost of nearly \$700,000 to serve Mr. Hill's proposed subdivision. Water supplied by Todd District (either directly to Mr. Hill or through Muhlenberg District as a "middle-man") via its nearby 3-inch water main is the only realistic way to provide water service to Mr. Hill's proposed subdivision.

4. There are many reasons why Todd District's participation in this case is necessary to ensure that Mr. Hill can obtain complete and appropriate relief. Only Todd District knows whether it has adequate capacity, without constructing additional improvements, to provide the volume and pressure of water requested by Mr. Hill to service his proposed 47-lot subdivision. Further, only Todd District knows the quality of its water at the end of its nearby existing water line and whether the water would still meet the applicable water quality standards if the line

¹ If this line were to be extended to the Hill Property, significant infrastructure improvements will need to be made, including water main upgrades and a booster pump station to ensure adequate, reliable, and safe water service to the Hill Property.

is extended more than another mile to serve Mr. Hill's house and proposed subdivision.

5. Regardless of whether Todd District will directly serve the Hill Property or Muhlenberg District will act as the "middle-man," Todd District's participation in this case is also necessary to determine the conditions under which Todd District will provide water service to the Hill Property. For instance, these conditions may include some or all of the following: (a) what restrictions, if any, Todd District will place on the flow rate (gallons per minute); (b) requiring a minimum amount of water to be purchased per month; (c) placing a maximum on the number of gallons to be purchased per month; (d) fixing the price per 1,000 gallons; (e) establishing construction standards and specifications for the master meter; (f) determining the ownership of the master meter; (g) assigning responsibility for the cost of testing and maintaining the master meter; and (h) defining any other conditions.

6. The Commission has in several cases found that a party was an indispensable party and required its participation in a proceeding.² Additionally, although the Commission's regulations are silent on the subject of compulsory

² See, e.g., *Application of BellSouth Mobility, LLC d/b/a Cingular Wireless – Kentucky for Issuance of a Certificate of Public Convenience and Necessity to Construct a Wireless Communications Facility at Rough and Tough Road, Prestonsburg, Kentucky 41653 or, in the Alternative, an Order Requiring Co-Location on Reasonable Terms and Conditions in the Wireless Communications License Area in the Commonwealth of Kentucky in the County of Floyd*, Case No. 2004-00413, Order at 3 (Ky. PSC Oct. 17, 2005); *Rudolph's, Inc. v. BellSouth Telecommunications, Inc.*, Case No. 2004-00001, Order at 1 (Ky. PSC Mar. 4, 2004); *The Application of Oldham County Water District No. 1 to Deviate from Certain Public Service Commission Rules and Regulations*, Case No. 90-228, Order at 1 (Ky. PSC Sept. 20, 1990).

joinder, the Kentucky Rules of Civil Procedure provide that a person shall be joined as a party in an action if, in his absence, complete relief cannot be accorded among those already parties.³ The Commission has stated that it looks to the Kentucky Rules of Civil Procedure for guidance when its rules are silent on a subject.⁴

WHEREFORE, Muhlenberg County Water District moves that the Commission make Todd County Water District a party to this case because Todd County Water District's participation in this case is necessary to ensure that Mr. Hill can obtain complete and appropriate relief.

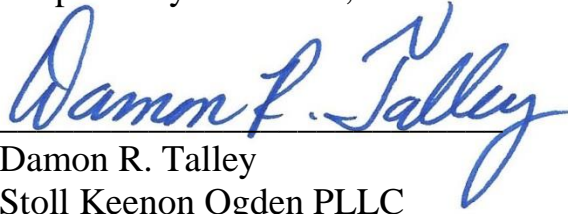
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³ Kentucky Rules of Civil Procedure 19.01.

⁴ *Application of Kentucky Utilities Company for an Adjustment of Base Rates*, Case No 2009-00548, Order at 9 (Ky. PSC July 30, 2010); *Green River Steel Corporation v. Kentucky Utilities Company*, Case No. 10300, Order at 2 (Ky. PSC Jan. 6, 1989) (“As our Rules of Procedures are silent on discovery matters, we look to the Federal and Kentucky Rules of Civil Procedure for guidance.”).

Dated: July 10, 2018

Respectfully submitted,



Damon R. Talley
Stoll Keenon Ogden PLLC
P.O. Box 150
Hodgenville, KY 42748-0150
Telephone: (270) 358-3187
Fax: (270) 358-9560
damon.talley@skofirm.com

Mary Ellen Wimberly
Gerald E. Wuetcher
Stoll Keenon Ogden PLLC
300 West Vine Street, Suite 2100
Lexington, Kentucky 40507-1801
Telephone: (859) 231-3047
Fax: (859) 246-3647
maryellen.wimberly.skofirm.com
gerald.wuetcher@skofirm.com

*Counsel for Muhlenberg County Water
District*

CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, I certify that the electronic filing of this Motion is a true and accurate copy of the same document being filed in paper medium; that the electronic filing was transmitted to the Public Service Commission on July 10, 2018; that there are currently no parties that the Public Service Commission has excused from participation by electronic means in this proceeding; and that an original paper medium of this Motion will be delivered to the Public Service Commission on or before July 12, 2018.



Damon R. Talley