

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)	

RESPONSE OF
MUHLENBERG COUNTY WATER DISTRICT
TO
COMMISSION STAFF'S REQUEST FOR INFORMATION
DATED JULY 9, 2018

FILED: August 17, 2018

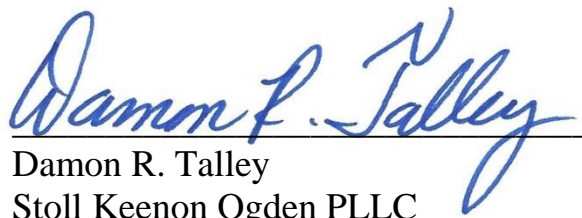
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**RESPONSE OF MUHLENBERG COUNTY WATER DISTRICT TO
COMMISSION STAFF’S REQUEST FOR INFORMATION**

Comes the Muhlenberg County Water District, for its Response to the Commission Staff’s Request for Information, and states as shown on the following pages.



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District*

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**CERTIFICATION OF RESPONSE TO
COMMISSION STAFF'S REQUEST FOR INFORMATION**

This is to certify that I have supervised the preparation of Muhlenberg County Water District's Response to the Commission Staff's Information Request. The response submitted on behalf of Muhlenberg County Water District is true and accurate to the best of my knowledge, information, and belief formed after a reasonable inquiry.

Date: 8/17/2018



Craig Porter, Superintendent
Muhlenberg County Water District

MUHLENBERG COUNTY WATER DISTRICT

CASE NO. 2017-00316

Response to Commission Staff's Request for Information

Question No. 1

Responding Witness: Craig Porter

Q-1. Provide the legal argument and support for a water district not providing water service to a subdivision when one does not exist and include factors to indicate that a subdivision is substantially underway.

A-1. Muhlenberg District interprets the question as requesting Muhlenberg District to define a "proposed real estate subdivision" for purposes of 807 KAR 5:066, Section 11.

The Commission has promulgated 807 KAR 5:066, Section 11 to address extensions of water service. This regulation establishes three types of extension of water service: (1) Normal; (2) Other Extensions; and (3) Extensions to a proposed real estate subdivision.

807 KAR 5:066 does not define "proposed real estate subdivision." Muhlenberg District interprets the phrase "proposed real estate subdivision" as requiring that the property for which service is requested has actually been subdivided and the subdivision plat properly recorded with the county clerk. The recording of the subdivision plat is clear and substantial evidence of the developer's intent. Without the recording of a subdivision plat, there is no assurance that the property for which service is requested will be

subdivided or that the proposed extension should be made under the provisions related to a “proposed real estate subdivision” as opposed to another type of extension.

Several utilities have adopted this position and have required a prospective customer seeking an extension as a “real estate subdivision” to record the subdivision plat as a condition to the extension. *See, e.g.*, Kentucky-American Water Company, PSC Ky. No. 7, 1st Sheet No. 20; Southeastern Water Association, PSC Ky. No. 1, Original Sheet No. 5; Northeast Woodford County Water District, PSC Ky. No. 1, Original Sheet 22.

Deeming a proposed extension as an extension to a “proposed real estate subdivision” imposes certain responsibilities upon the serving water utility. That utility must either construct the proposed water line to the property in question or accept the water line extension constructed by the developer or its contractor. In either event, the utility must assume responsibility for the maintenance and ownership of the extension. Without requiring a recorded subdivision plat, a water utility could be required to assume responsibility for the ownership and maintenance of facilities that are merely a service line providing water to a single, undivided property.

Such a result would effectively shift the cost of operating such facilities from the applicant for service to the water utility and its ratepayers.

Developers are required to provide a recorded subdivision plat to the water utility that will be providing service to the proposed real estate subdivision. In the current case, Mr. Hill asks the Commission to compel the provision of service to his farm as a “proposed real estate subdivision” without Mr. Hill taking any clear and definite action to demonstrate the existence of such subdivision. In effect, Mr. Hill requests that the Commission afford his property more favorable treatment than that afforded others who applied for extensions of service as a “proposed real estate subdivision.” Such a request is contrary to KRS 278.170, which prohibits a utility from giving an unreasonable advantage to any person.

In addition to the recording of a subdivision plat, other factors that may support the finding of the existence of a “proposed real estate subdivision” are: the dedication of roads within the property to public use and the execution of a contract for the construction of the internal water distribution system to serve the subdivided property.

KRS 100.111(22) defines a “subdivision” as “the division of a parcel of land into three (3) or more lots or parcels. . . .” Therefore, Mr. Hill’s farm

is not yet a subdivision. By definition, the subdivision cannot be “substantially underway” since it is not yet a subdivision.

Also, KRS 100.277(1) states as follows: “All subdivision of land shall require commission¹ approval.” KRS 100.277(2) further provides:

No person or his agent shall subdivide any land before securing the approval of the planning commission of a plat designating the areas to be subdivided, and no plat of a subdivision of land within the planning unit jurisdiction shall be recorded by the county clerk until the plat has been approved by the commission and the approval entered thereon in writing by the chairman, secretary, or other duly authorized officer of the commission.

After approval by the planning commission, KRS 100.283 also requires that the subdivision plat be recorded in the office of the county clerk. Mr. Hill has **not** prepared a formal plat; he has **not** received planning commission approval; and he has **not** recorded the subdivision plat with the county clerk. Thus, Muhlenberg District does not believe the subdivision is “substantially underway.” Indeed, Mr. Hill’s property is simply an undeveloped and undivided farm.

¹ KRS 100.111(5) defines “commission” as the planning commission.

MUHLENBERG COUNTY WATER DISTRICT

CASE NO. 2017-00316

Response to Commission Staff's Request for Information

Question No. 2

Responding Witness: Craig Porter

Q-2. Provide the legal argument and support for charging Mr. Hill flushing costs.

A-2. Until such time as Mr. Hill actually creates a subdivision by recording the plat, dedicating the access road to public use, and selling lots, the proposed water line is really a private service line approximately 1.2 miles in length. The proposed service line will "dead-end" on the north side of Mr. Hill's farm near Lake Malone. Because of geography, it cannot be extended to serve other potential customers. Its initial purpose will be to provide water service to Mr. Hill's house located on an undeveloped farm.

Muhlenberg District should not be responsible for line loss or water quality issues on the 1.2 miles of service line between McPherson Road and Mr. Hill's house until the farm becomes a subdivision. To require otherwise, means that all other Muhlenberg District customers will be subsidizing Mr. Hill.

MUHLENBERG COUNTY WATER DISTRICT

CASE NO. 2017-00316

Response to Commission Staff's Request for Information

Question No. 3

Responding Witnesses: Craig Porter

Q-3. Provide its flushing records and schedules for the past two years. Indicate whether it has ever charged a customer for flushing costs in the past.

A-3. Muhlenberg District has **never** charged a customer for flushing costs in the past.

Muhlenberg District follows “best practices” and flushes its entire distribution system twice per calendar year. It utilizes existing flush hydrants, which are located throughout its distribution system, including at the termination point of all water distribution lines (“dead-end” of lines).

Attached as **Exhibit 3-1**, is a typical Hydrant Test Report. It shows, among other things, the hydrant location, size, pressure, flow rate, length of flushing time, and the approximate gallons of water flushed. Each time Muhlenberg District employees flush a hydrant, they create a Hydrant Test Report similar to **Exhibit 3-1**.

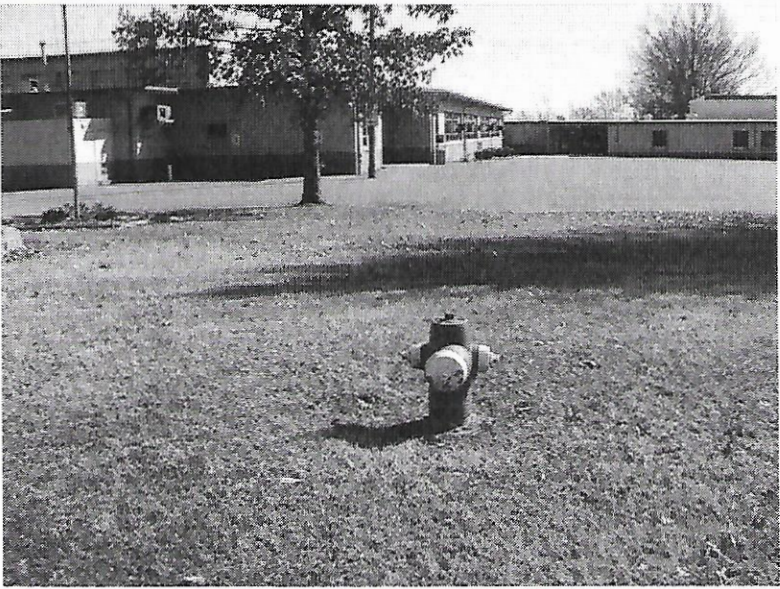
Muhlenberg District has nearly 300 hydrants in its distribution system. It creates two (2) Hydrant Test Reports each year for each hydrant. To provide its flushing records for the past two (2) years to the

Commission, Muhlenberg District will need to produce approximately 600 Hydrant Test Reports for each year or a total of approximately 1,200 Hydrant Test Reports. These Hydrant Test Reports are not maintained in electronic format. Therefore, producing these voluminous documents requires substantial time and expense. In light of the executed Offer and Acceptance of Satisfaction filed with the Commission on August 17, 2018, Muhlenberg District has elected not to copy approximately 1,200 pages of documents and file them with the Commission. If the Commission deems it necessary, however, Muhlenberg District will copy and file these Hydrant Test Reports as soon as possible.

In addition, Muhlenberg District also does additional flushing when customers complain of taste or odor issues. Work orders are created for these specific flushes. Muhlenberg District has not yet determined the number of work orders that are associated with “taste and odor” flushes.

EXHIBIT 3-1

HYDRANT TEST REPORT

Place:	POWDERLY				
Number:	42				
Location:	LONGEST ELEMENTARY				
Manufacturer:	DRESSER 300				
Size:	4 1/2				
Route # :	1				
Date:	3-29-18				
Shutoff Valve:	YES	NO	X		
Color:	BLUE	YELLOW	RED	X	
Need Painted:	YES	NO			
SERVICE HISTORY: (Mark x next to item)			DATE: 3-29-18		
Painted	Bonnet Greased	Caps Greased	Hydrant Exercised	✓	
REPAIR HISTORY:					
<u>Items Repaired</u>			<u>Cost</u>		
TEST RESULTS					
Date	Pressure		Flow GPM	Min. Flushed	Gallons Flushed
	<i>Stat</i>	<i>Flow</i>			
3-29-18	95	43	1180	5 min	5,900
Comments:					
Tested By: MS, cm					

MUHLENBERG COUNTY WATER DISTRICT

CASE NO. 2017-00316

Response to Commission Staff's Request for Information

Question No. 4

Responding Witness: Craig Porter

Q-4. Provide the legal argument and support or dissent for placing the meter at the "main road" or McPherson Road.

A-4. Mr. Hill's undeveloped farm does not have any road frontage on a public road (federal, state, or county road). Access to his farm is achieved via Mr. Hill's long, private driveway which leads from McPherson Road through at least two (2) other farms before it reaches Mr. Hill's farm.

807 KAR 5:066, Section 12(b) provides:

In areas where the distribution system follows well-defined streets and roads, **the customer's point of service shall be located at that point on or near the street right-of-way** or property line most accessible to the utility from its distribution system. In areas where the distribution system does not follow streets and roads, the point of service shall be located as near the customer's property line as practicable. Prior to installation of the meter the utility shall consult with the customer as to the most practical location. (emphasis added).

Since Mr. Hill has not yet recorded any subdivision plat or taken other substantial steps to demonstrate that a proposed real estate subdivision will occur, the extension should **not** be considered as an extension to a proposed real estate subdivision but as a normal extension to serve Mr. Hill. In such

case, 807 KAR 5:066, Section 12(b) directs that the meter be placed at McPherson Road at the beginning of Mr. Hill's private driveway.

MUHLENBERG COUNTY WATER DISTRICT

CASE NO. 2017-00316

Response to Commission Staff's Request for Information

Question No. 5

Responding Witness: Craig Porter

Q-5. Provide its records, including maps and locations of providing meters on private and county roads for its serviced territory.

A-5. Unfortunately, Muhlenberg District does not have a map (either as a paper copy or in a digital format) which shows the location of all its meters. It does have a collection of maps which shows the location of all its water lines. The roads on these maps are not designated as county roads or private roads. Some roads begin as county roads but, at some point, become private roads. Muhlenberg District does not know where this demarcation point is located except on a few of the roads. The maps do not make this distinction either.

Muhlenberg District acknowledges, however, that it has numerous water meters located on roads that are not federal, state, or county roads. Some of these roads have been dedicated to the public use, but have not been accepted by Muhlenberg Fiscal Court into the County Road System. Some of these roads are located in subdivisions. Some of the roads

are truly “private” roads accessed by only those people who live on these private roads or their invitees.

MUHLENBERG COUNTY WATER DISTRICT

CASE NO. 2017-00316

Response to Commission Staff's Request for Information

Question No. 6

Responding Witness: Robert L. Pickerill

- Q-6. Provide the cost estimate for the materials needed to install the water line proposed at the formal conference and indicate the difference in price between installing a 2-inch line versus a 3-inch line.
- A-6. The difference in installing a 2-inch diameter water line versus a 3-inch diameter water line is approximately \$1.00 per linear foot. This difference is in the cost of the pipe and some of the fittings.

Because of the nature of the terrain where the proposed water line will be installed along Forest Hills Drive to Mr. Hill's proposed subdivision, the estimated construction cost, including materials and installation, is \$13.00 per linear foot for a 2-inch diameter water line and \$14.00 per linear foot for a 3-inch diameter water line. In addition, add approximately \$7,000 for either diameter water line to include tie-in, valves, flush hydrant, and line markers.

The chart shown below provides a summary of the total construction costs for each size water line:

SIZE	COST
2-inch	\$89,400
3-inch	\$95,700

Notes: The construction costs shown above assume the following:

1. The total length of the water line is 1.2 miles.
2. No solid rock is encountered. If solid rock is encountered and must be excavated, the price will increase.

Diameter of Water Line. It is contemplated that the water line will serve a proposed subdivision and that Muhlenberg District will eventually acquire ownership of the water line. Therefore, it will need to be a 3-inch diameter water line. 807 KAR 5:066, Section 10(2)(a) provides that the maximum length of a 2-inch diameter, non-circulating (dead-end) water line cannot exceed **250 feet**.

MUHLENBERG COUNTY WATER DISTRICT

CASE NO. 2017-00316

Response to Commission Staff's Request for Information

Question No. 7

Responding Witness: Craig Porter

- Q-7. Provide the legal argument and support or dissent for installing a 3-inch line and a meter at McPherson Road to utilize for providing water service to Mr. Hill's existing home with the intention of moving the meter closer to the subdivision as homes are built on the lots in the subdivision.
- A. Discuss the exact location of the meter, the cost of installing and alternatives.
 - B. Discuss what factors would be used to determine when the meter would be moved and specifically, how many homes would need to be built before moving the meter.
 - C. Discuss whether Muhlenberg District or Todd District would install the meter.
- A-7.
- A. Pursuant to the executed Offer and Acceptance of Satisfaction that was filed with the Commission on August 17, 2018, Muhlenberg District will install, at its own expense, a meter pit, vault, meter, and other appurtenances at the intersection of McPherson Road and Forest Hills Drive (Point B) or at such other point along McPherson Road as may be mutually agreeable to Muhlenberg District and Todd District. This meter shall serve as the master meter to measure the volume of water supplied by Todd District to Muhlenberg District.

Exhibit 7-1, which is attached hereto and incorporated herein by reference, depicts the location of Point B and the proposed water line. The master meter will cost between \$5,000 and \$7,500 to install, depending upon the size and type of meter that is selected. As water usage increases in the proposed subdivision, the master meter size shall be increased accordingly.

- B. Pursuant to the Offer and Acceptance of Satisfaction, an individual meter will be installed at Mr. Hill's house. Mr. Hill will pay Muhlenberg District the standard tap fee set forth in its tariff. Thus, it will not be necessary to move Mr. Hill's individual meter.
- C. Pursuant to the Wholesale Water Purchase Agreement between Todd District and Muhlenberg District, Muhlenberg District will install, at its own expense, a meter pit, vault, meter, and other appurtenances. Upon completion, this master meter will be owned and maintained by Todd District.

EXHIBIT 7-1



POINT C:
END PROPOSED
3" WATER LINE

EXISTING
HOUSE

LAKE MALONE

FOREST HILL DRIVE

PROPOSED 3"
WATER LINE

POINT "A"
CONNECT PROPOSED
WATER LINE TO
EXISTING WATER LINE

POINT "B"

EXISTING 3" PVC WATERLINE TODD
COUNTY WATER DISTRICT PER
KENTUCKY INFRASTRUCTURE
AUTHORITY WATER RESOURCES
INFORMATION (WRIS) MAPPING

MCPHERSON
ROAD

MUHLENBERG COUNTY WATER DISTRICT

CASE NO. 2017-00316

Response to Commission Staff's Request for Information

Question No. 8

Responding Witness: Craig Porter

Q-8. Provide information from Todd District as to whether they can provide water service to Mr. Hill.

- A. Provide the price of purchasing water from Todd District. Specifically, clarify any variance between prices quoted to Muhlenberg District in the past.
- B. Provide whether Todd District has the correct water pressure to provide water to Mr. Hill and indicate if any infrastructure changes would need to be made to provide water to Mr. Hill's house versus a potential subdivision.
- C. Provide whether Todd District will need to do a hydraulic analysis study to determine whether they can provide Mr. Hill's house water service and whether a study is needed to provide a potential subdivision water service. Indicate the cost involved.

A-8.


- A. The wholesale rate to be charged by Todd District to Muhlenberg District is currently \$5.87 per 1,000 gallons. Muhlenberg District previously informed Mr. Hill that Todd District would be charging it \$6.69 per 1,000 gallons. The higher volumetric rate was based on information provided by Todd District to Muhlenberg District in 2016. During recent negotiations and correspondence with Todd

District's counsel over the past few weeks, Todd District has confirmed that the volumetric rate will be **\$5.87** per 1,000 gallons.

- B. As stated in the executed Offer and Acceptance of Satisfaction, Todd District and Muhlenberg District will enter into a Wholesale Water Purchase Agreement, which contains a provision that Todd District has the ability to provide adequate and dependable water service for up to 19 individual houses within Mr. Hill's proposed subdivision. Todd District does not anticipate having to make any infrastructure changes in order to serve up to 19 individual houses.
- C. Todd District does not believe it will need to perform a hydraulic analysis to determine whether it can provide adequate service to Mr. Hill's proposed subdivision. If such a study is required, however, it will cost approximately \$2,500 to \$3,000.

CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, I certify that Muhlenberg County Water District's August 17, 2018 electronic filing of this Response 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 August 17, 2018; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original and one copy in paper medium of this Response will be delivered to the Commission within two business days.


Damon R. Talley