

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

<b>DEXTER-ALMO HEIGHTS WATER</b>	)	
<b>DISTRICT AND ITS INDIVIDUAL</b>	)	
<b>COMMISSIONERS, JOE DAN TAYLOR,</b>	)	
<b>CHARLES BOREN, AND PAT PASCHALL</b>	)	
_____	)	<b>CASE NO. 2017-00468</b>
	)	
<b>ALLEGED FAILURE TO COMPLY WITH</b>	)	
<b>KRS 278.300</b>	)	

**MOTION FOR DECISION ON EXISTING RECORD WITHOUT  
HEARING OR, IN THE ALTERNATIVE, FOR DISCLOSURE OF EVIDENCE  
IN SUPPORT OF ALLEGATIONS OF MISCONDUCT  
AND THE THEORY FOR LIABILITY**

Charles Boren, by counsel, moves the Public Service Commission for a decision on his “Motion for Dismissal As a Party to This Proceeding” on the existing record and without hearing, or in the alternative, for immediate disclosure of the evidence upon which the Public Service Commission relies to form its belief that Mr. Boren aided and abetted Dexter-Almo Heights Water District’s alleged violation and the legal theory upon which a member of a water district’s board of commissioners can be deemed liable for the unauthorized issuances of evidence indebtedness that may have occurred prior to his or her appointment to such board.

In support of his motion, Commissioner Boren states:

1. On January 11, 2018, the Public Service Commission issued an order in this proceeding in which it alleged that Dexter-Almo Heights Water District willfully violated KRS 278.300 by issuing on or about **December 9, 2009** a promissory note in the amount of \$145,988 payable over a 15-year period to Murray Bank of Calloway County, Kentucky (“Promissory Note”).

2. In the same Order, the Public Service Commission found the existence of a *prima facie* case that the present members of Dexter-Almo Heights Water District’s Board of Commissioners,

including Mr. Boren, had aided and abetted the alleged violation based upon the members' statutory duty as set forth in KRS 74.020(1) "to control and manage the affairs of the district."<sup>1</sup> The Public Service Commission, however, made no finding as to whether any of the present members of Dexter-Almo Heights Water District's Board of Commissioners were serving as members of that Board at the time of the alleged violation.

3. The Public Service Commission based its Order of January 11, 2018 upon a report that Commission Staff prepared and filed in the record of Case No. 2017-0191.<sup>2</sup> In that report, Commission Staff stated:

Dexter-Almo provided a copy of the Promissory Note between itself and the Murray Bank of Calloway County, Kentucky, ("Murray Bank") in the principal amount of \$145,988. This Promissory Note has an origination date of December 9, 2009 and a 15-year term. In Case No. 2006-00420 the Commission granted Dexter-Almo a Certificate of Public Convenience and Necessity to construct the "Coles Campground Road Project" and approved the proposed plan of financing, which included a \$47,613 line of credit with the Murray Bank. In its November 23, 2005 letter, the Murray Bank states that Dexter-Almo's total line of credit was for \$150,000 and that the line of credit was renewable on a two-year term.

According to KRS 278.300, no utility shall issue any form of indebtedness unless it has been authorized to do so by an Order of the Commission. Dexter-Almo currently has an outstanding loan that is payable to the Murray Bank for which Dexter-Almo did not obtain Commission approval as required by KRS 278.300. Dexter-Almo has the responsibility to ensure that it follows the Commission's statutes and regulations and that all statutory and regulatory approvals are obtained. Dexter-Almo should be aware that the Commission may initiate a separate proceeding to more thoroughly investigate the possible violations of Commission statutes and regulations. If a determination is made by the Commission that there has been a willful violation of any provision of KRS Chapter 278 and 807 KAR Chapter 5, the members of the Board of Commissioners may be held accountable.<sup>3</sup>

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<sup>1</sup> Order at 2.

<sup>2</sup> *Electronic Application of Dexter-Almo Heights Water District For Alternative Rate Adjustment*, Case No. 2017-00191 (Ky. PSC filed May 15, 2017).

<sup>3</sup> Staff Report on Dexter-Almo Heights Water District (filed Sept. 27, 2017) at 4-6 (footnotes omitted).

4. In its report, Commission Staff did not identify the persons who were serving as members of Dexter-Almo Heights Water District's Board of Commissioners on December 9, 2009 or state the relationship between the Promissory Note's issuance and the present members of the Dexter-Almo Heights Water District's Board of Commissioners. Commission Staff further did not allege that Dexter-Almo Heights Water District took any action to conceal the alleged issuance.

5. At the time of the alleged issuance of the Promissory Note, Mr. Boren was not a member of Dexter-Almo Heights Water District's Board of Commissioners. The Calloway County Judge/Executive did not appoint Mr. Boren to the Dexter-Almo Heights Water District's Board of Commissioners until November 2010. The Calloway County Fiscal Court did not approve Mr. Boren's appointment until **November 16, 2010** – approximately eleven months after the alleged issuance. A copy of the minutes of the Calloway County Fiscal Court's Meeting of November 16, 2010 in which this approval occurred is attached as Exhibit A to this Motion.

6. The financial and statistical report for the year ending **December 31, 2009** that Dexter-Almo Heights Water District filed with the Public Service shows that Mr. Boren was not a member of the Board of Commissioners **as of March 31, 2010**. The relevant pages of this report are attached as Exhibit B to this Motion. This document is available on the Public Service Commission's website and was available to the Public Service Commission, Commission Staff and the general public when the Commission Staff issued its Report and the Commission issued its Order to Show Cause.

7. The minutes of the **November 2, 2009** and **December 7, 2009** meetings of Dexter-Almo Heights Water District's Board of Commissioners, which have been part of the

record of this proceeding since **April 3, 2018**, clearly identify the members of Dexter-Almo Heights Water District's Board of Commissioners at the time of the alleged issuance. They **do not list** Mr. Boren as a member of Dexter-Almo Heights Water District's Board of Commissioners. A copy of these minutes is attached as Exhibit C to this Motion.

8. On **January 25, 2018**, Mr. Boren filed with the Public Service Commission a written statement in which he advised that he was not a member of Dexter-Almo Heights Water District's Board of Commissioners at the time of the alleged issuance of the Promissory Note. A copy of this statement is attached as Exhibit D. The Public Service Commission took no action upon its receipt of Mr. Boren's statement.

9. On **March 16, 2018**, Mr. Boren, through counsel, filed a motion with the Public Service Commission for his dismissal as a party to this proceeding as he was not a member of Dexter-Almo Heights Water District's Board of Commissioners as the time of the alleged issuance of the Promissory Note. That motion is incorporated by reference into this Motion.

10. On **March 22, 2018**, the Public Service Commission entered an order in which it declined to rule upon Mr. Boren's motion for dismissal and continued this proceeding generally. In that Order, the Public Service Commission further directed that the Respondents in this proceeding provide certain information. The Respondents provided this information on **April 3, 2018**. None of the Public Service Commission's inquiries concerned Mr. Boren's appointment to Dexter-Almo Heights Water District's Board of Commissioners or his relationship to Dexter-Almo Heights Water District prior to his appointment.

11. The record of this proceeding does not indicate any additional investigation by the Public Service Commission on the alleged unauthorized issuance of evidences of indebtedness or Mr. Boren's alleged role in such issuance since the Order of March 22, 2018.

12. On **January 22, 2019** – approximately ten months after continuing this proceeding generally, the Public Service Commission ordered that a hearing be held in this matter on April 24, 2019, and that no decision on Mr. Boren’s motion for dismissal would be made until testimony was heard on the motion’s merits.

13. Given the absence of any evidence in the record of this proceeding or in Case No. 2017-00191 that Mr. Boren participated in any decision involving the unauthorized issuance of evidences of indebtedness, no grounds existed to make Mr. Boren a subject of the Public Service Commission’s formal investigation. Considering the overwhelming evidence that Mr. Boren was not a member of Dexter-Almo Heights’ Board of Commissioners until eleven months after the alleged violation purportedly occurred, no need exists to conduct a hearing or otherwise defer a decision on Mr. Boren’s Motion for Dismissal As A Party. Under similar circumstances in Case No. 2017-00467,<sup>4</sup> the Public Service Commission without conducting a hearing granted a motion to dismiss two commissioners of Jonathan Creek Water District from a proceeding involving an alleged unauthorized issuance of evidences of indebtedness on the grounds that neither commissioner was a member of the water district’s board of commissioners at the time of the alleged issuance. Less time elapsed between the alleged unauthorized issuance and the appointment of the two water district commissioners in that proceeding than in the present case.<sup>5</sup>

14. The Public Service Commission’s continued inaction causes significant prejudice to Mr. Boren. By its Order of January 11, 2018, the Commission has accused Mr. Boren of committing a criminal offense and impugned his good name and reputation within his

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<sup>4</sup> *Jonathan Creek Water District and Its Individual Commissioners, Jimmy Tubbs, Barry Hill, Josh Medley, Mark Holt, and Kara Wilson*, Case No. 2017-00469 (Ky. PSC Feb. 20, 2018). In that proceeding, the alleged violation occurred on May 3, 2016. A copy of Jonathan Creek Water District’s Motion to Dismiss and the Public Service Commission’s Order granting that motion are attached as Exhibits E and F.

<sup>5</sup> The two members of Jonathan Creek Water District’s Board of Commissioner’s seeking dismissal from the proceeding were appointed to the Board on July 1, 2016 (four months later) and on February 7, 2017 (nine months later). Mr. Boren was appointed to Dexter-Almo Heights Water District’s Board more than eleven months after the alleged violation occurred.

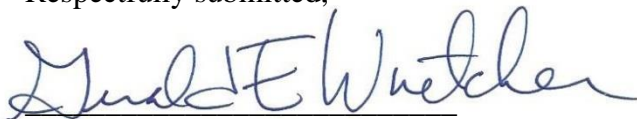
community. By failing to act promptly on his motion for dismissal, the Public Service Commission continues to inflict damage on his reputation. Moreover, by requiring Mr. Boren to appear at a hearing on his motion, it requires him to incur significant expense to travel to Frankfort to respond to an allegation for which the Public Service Commission has yet to identify one shred of supporting evidence.

15. Should the Public Service Commission deny this Motion for Decision, it should disclose the evidence upon which it derives its belief that Mr. Boren aided and abetted Dexter-Almo Heights Water District's alleged violation and the legal theory for holding a member of a water district's board of commissioners responsible for alleged acts of misconduct occurring prior to his or her appointment to such board. Without such disclosures, Mr. Boren will be denied his right to due process under the law as he will not have been provided notice of the factual or legal grounds upon which the Public Service Commission seeks to assess a civil penalty against him.

WHEREFORE, Charles Boren requests that the Public Service Commission issue a decision on his Motion for Dismissal on the existing record and without hearing; promptly grant Mr. Boren's Motion for Dismissal, dismiss him as a party to this proceeding and release him from any obligation to appear at any hearing in this matter; or, in the alternative, immediately disclose the evidence upon which the Public Service Commission relies to form its belief that Mr. Boren aided and abetted the alleged violation and the legal theory upon which a member of a water district's board of commissioners may be held responsible for a water district's alleged misconduct occurring prior to his or her appointment.

Dated: March 11, 2019

Respectfully submitted,



Gerald E. Wuetcher  
Stoll Keenon Ogden PLLC  
300 West Vine Street, Suite 2100  
Lexington, Kentucky 40507-1801  
Telephone: (859) 231-3017  
Fax: (859) 259-3597  
gerald.wuetcher@skofirm.com

*Counsel for Charles Boren*

### **CERTIFICATE OF SERVICE**

In accordance with 807 KAR 5:001, Section 8, I certify that Mr. Charles Boren's March 11, 2019 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 March 11, 2019; 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 Motion will be delivered to the Commission on or before March 13, 2019.



*Counsel for Charles Boren*

# **EXHIBIT A**



**CALLOWAY COUNTY  
FISCAL COURT REGULAR MEETING**

Tuesday, November 16, 2010

5:00 P.M.

*Judicial Building  
312 North 4<sup>th</sup> Street  
District Court Room*

1. Call to order
2. Minutes from October 19<sup>th</sup>, 2010 Regular Session County Clerk
3. Minutes from November 5<sup>th</sup>, 2010 Special Session County Clerk
4. Treasurer's Report Anita Gallimore
5. 1<sup>st</sup> Reading Budget Amendment #1 #10-1116-A
6. Public Hearing and 2<sup>nd</sup> Reading Bond Ordinance for R.T. Vanderbilt Chemical #10-1105-A
7. Consider petition to close Lynch Lane .42
8. Resolution approving refinance for lease on John Deere Road Graders #10-1116-A
9. Resolution Authorizing West Kentucky Rural Telephone right of way use of Calloway County Property for when constructing fiber optic network.
10. Board Appointments
11. Staff/Official Report
12. Public Comment
13. Adjournment

Hale  
Morgan  
Stubblefield  
Gingles  
Judge Elkins

**Calloway County Fiscal Court  
November 16<sup>th</sup>, 2010 – Regular Meeting Minutes**

An adjourned regular meeting of the Calloway County Fiscal Court was held at 5:00pm on Tuesday, November 16<sup>th</sup>, 2010, in the Calloway County Judicial Building. Judge Larry Elkins called the meeting to order. The following duly qualified members of the Court were present: Squire Eddie Clyde Hale, Squire Connie Morgan, Squire Bobby Stubblefield, and Squire Johnny Gingles. Also present were: Assistant Judge Michelle Corum, County Attorney David Harrington, County Treasurer Anita Gallimore, Deputy Clerk Antonia Faulkner, and County Clerk Ray Coursey, Jr.

The Court reviewed the minutes from the October 19<sup>th</sup> Regular Meeting. Motion made by Squire Morgan, seconded by Squire Stubblefield, to waive the formal reading and approve the minutes as presented. All voted aye and it was so ordered. Antonia Faulkner read the minutes of the November 5<sup>th</sup> Special Meeting. Motion made by Squire Gingles, seconded by Squire Hale, to approve the minutes as read. All voted aye and it was so ordered.

Anita Gallimore presented the treasurer's report. Motion made by Squire Morgan, seconded by Squire Hale, to approve the finance statement. All voted aye and it was so ordered. Motion made by Squire Stubblefield, seconded by Squire Gingles, to pay the bills. All voted aye and it was so ordered. Motion made by Squire Hale, seconded by Squire Morgan, to approve the transfers. All voted aye and it was so ordered.

Ms. Gallimore then presented the first reading of an Ordinance regarding Budget Amendment #1 to the 2010-2011 Budget. Following a discussion, motion made by Squire Gingles, seconded by Squire Stubblefield, to approve the first reading. All voted aye and it was so ordered. (10-1116-A)

Judge Elkins then recessed the meeting and called to order a public hearing concerning Ordinance #10-1105-A (bonds for the R.T. Vanderbilt expansion). No comments were made and Judge Elkins closed the public hearing and called the Regular Meeting back to order.

The Court then considered the second reading of Ordinance #10-1105-A concerning the R.T. Vanderbilt bonds. Attorney Mike Harrington explained that the County would bear no responsibility for the bonds' repayment. Following a discussion, motion made by Squire Hale, seconded by Squire Morgan, to approve the Ordinance. All voted aye on a roll call vote and the Ordinance was approved.

Judge Elkins stated that action on the closing of Lynch Lane would be considered at a later time because the viewers had not had time to present their findings.

The Court then considered a Resolution allowing for the extension of a lease for two John Deere road graders. Following a discussion, motion made by Squire Gingles, seconded by Squire Hale, to approve the Resolution. All voted aye and it was so ordered. (#10-1116-A)

Judge Elkins stated that the matter concerning West Kentucky Rural Telephone's right-of-way usage would be brought up at a later time.

The Court then considered Board Appointments. Motion made by Judge Elkins, seconded by Squire Morgan, to appoint Charles Boren to the Almo-Dexter Water District Board. All voted aye and it was so ordered. Motion made by Judge Elkins, seconded by Squire Stubblefield, to appoint Ken Cromwell to the Transit Authority Board. All voted aye and it was so ordered. Motion made by Judge Elkins, seconded by Squire Gingles, to appoint Greg Anderson to the Transit Authority Board. All voted aye and it was so ordered.

Judge Elkins then asked for Staff/Official Reports. Sheriff Bill Marcum stated that over \$2 million in tax collections had been received. Squire Morgan said he looked forward to another four years of serving on the Court. County Attorney David Harrington congratulated the County Clerk's Office for their work on the recent election. Judge Elkins asked the Court's approval of a resolution honoring Stan Key. Motion made by Squire Hale, seconded by Squire Stubblefield, to approve the Resolution. All voted aye and it was so ordered.

The floor was then opened for public comment. None was heard.

There being no further business before the Court, motion made by Squire Stubblefield, seconded by Squire Morgan, to adjourn. All voted aye and it was so ordered.

\_\_\_\_\_  
Larry Elkins – Judge/Executive  
Approved and entered \_\_\_\_\_

# **EXHIBIT B**

20600 Dexter-Almo Heights Water District 01/01/2009 - 12/31/2009

Title Page

	Name of Respondent	Addr Line 1	Addr Line 2	City	State	Zip
Water Districts/Associations						
Annual Report of						
Respondent	DEXTER-ALMO HEIGHTS WATER DISTRICT	351 ALMO ROAD		ALMO	KY	42020

20600 Dexter-Almo Heights Water District 01/01/2009 - 12/31/2009

Principal Payment and Interest Information

	Amount	Yes/No	PSC Case No.
Amount of Principal Payment During Calendar Year	\$2,900.00		
Is Principal Current?		Y	
Is Interest Current?		Y	
Has all long-term debt been approved by the Public Service Commission?		Y	

20600 Dexter-Almo Heights Water District 01/01/2009 - 12/31/2009

Services Performed by Independent CPA

	Yes/No	A/C/R
Are your financial statements examined by a Certified Public Accountant?		
Enter Y for Yes or N for No	Y	
If yes, which service is performed?		
Enter an X on each appropriate line		
Audit		X
Compilation		
Review		

20600 Dexter-Almo Heights Water District 01/01/2009 - 12/31/2009

Additional Requested Information

	Name	Electronic Info
Name of Utility and Web Address	DEXTER-ALMO HEIGHTS WATER DISTRICT	
Contact Name and Email Address	KATHY WYATT, OFFICE MANAGER	DAWD351@NETZERO.NET
	JULIE HOFFMAN, CPA-PIERCE & ASSOCIATES, PLLC	JULIE@PIERCECPA.COM

20600 Dexter-Almo Heights Water District 01/01/2009 - 12/31/2009  
Additional Information Required

Case Num	Date	Explain
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**20600 Dexter-Almo Heights Water District 01/01/2009 - 12/31/2009**

**Major Water Projects**

Provide details about each major water project which is planned but has not yet been submitted for approval to the Public Service commission.

For the limited purpose of this report, a "Major Project" is defined as one which is not in the ordinary course of business, and will increase your current utilityplant by at least 20 percent.

Brief Project Description: (Improvement, replacement,building construction, expansion. If expansion, provide the estimated number of new customers):

Projected Costs and Funding Sources/Amounts:

Approval Status: (Application for financial assistance filed, but not approved; or application approved, but have not advertised for construction bids)

Location: (community, area or nearby roads)

20600 Dexter-Almo Heights Water District 01/01/2009 - 12/31/2009

History-Legal Name (Ref Page: 4)

1. Exact name of utility making this report.

(Use the words "The", "Company" or "Incorporated" only when part of the corporate name.)

DEXTER-ALMO HEIGHTS WATER DISTRICT

20600 Dexter-Almo Heights Water District 01/01/2009 - 12/31/2009

History-Location (Ref Page: 4)

Name	Address	City	State	Zip	Phone
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Give the location, including street and number, and TELEPHONE NUMBER of the principal office in KY.

principal office in KY	DEXTER-ALMO HEIGHTS WATER DISTRICT	351 ALMO ROAD	ALMO	KY	42020	2707539104
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Give name, title, address and TELEPHONE NUMBER of the officer

to whom correspondence concerning this report should be addressed.	JOE DAN TAYLOR, COMMISSIONER	351 ALMO ROAD	ALMO	KY	42020	2707539104
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Location where books are located	DEXTER-ALMO HEIGHTS WATER DISTRICT	351 ALMO ROAD	ALMO	KY		2707539104
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20600 Dexter-Almo Heights Water District 01/01/2009 - 12/31/2009  
History-Date Organized (Ref Page: 4)

Date of Organization	Date
04/24/1964	

**20600 Dexter-Almo Heights Water District 01/01/2009 - 12/31/2009**

**History-Laws of Organization (Ref Page: 4)**

List

If a consolidated or merger company, name all contingent and all merged companies. Give reference to charters or general laws governing each, and all amendments of same

Date and Authority for each consolidation and each merger.

20600 Dexter-Almo Heights Water District 01/01/2009 - 12/31/2009

History-Departments (Ref Page: 4)

List

State whether respondent is a water district or association	Name all operating departments other than water
WATER DISTRICT	NONE

**Calloway**

**20600 Dexter-Almo Heights Water District 01/01/2009 - 12/31/2009**

**History - Counties (Ref Page: 5)**

20600 Dexter-Almo Heights Water District 01/01/2009 - 12/31/2009

History - Number of Employees (Ref Page: 5)

	Count
Number of Full-time employees	
Number of Part-time employees	3



20600 Dexter-Almo Heights Water District 01/01/2009 - 12/31/2009

Contacts (Ref Page: 6)

	Title	Last Name	First Name	Bus. Addr.	Salary	Term Expires
Person to send correspondence:	OFFICE MANAGER	WYATT	KATHY	351 ALMO ROAD, ALMO, KY 42020		
Person who prepared this report	CPA	HOFFMAN	JULIE	310 MAIN STREET, MURRAY, KY 42071		
Officers and Managers						
	COMMISSIONER	TAYLOR	JOE DAN	351 ALMO ROAD, ALMO, KY 42020	\$1,800.00	2010
	COMMISSIONER	OUTLAND	GENE	351 ALMO ROAD, ALMO, KY 42020	\$1,800.00	2010
	COMMISSIONER	PASCHALL	PAT	351 ALMO ROAD, ALMO, KY 42020	\$1,800.00	2010

# **EXHIBIT C**

**DEXTER-ALMO WATER DISTRICT**  
**November 2, 2009 6:00PM**

The Dexter-Almo Water Dist. met 11-02-09 at 6pm with following present, Joe Dan Taylor, Gene Outland, and Pat Paschall, Commissioners, Kathy Wyatt & Jay Wyatt, employees of the the Dist.

**The board approved the November's Treasurer's Report and the minutes from the October meeting.**

The board also approved to pay the following bills:

1. FICA Card	204.87
2. Howard D Happy	13.60
3. Printing Services	89.00
4. West KY RECC	71.15
5. Freddie O'Bryan	100.00
6. Calloway Co, Tax	429.79
7. Murray Bank (payroll)	600.48
8. G&C	165.08
9. Murray Bank (interest)	681.71
10. Dialog	102.00
11. Micobac	64.50
12. KWRA (dues)	300.00

Jay Wyatt told the board he would need a 10" coupling to be able to repair the waterline incase of a break. The board approved the purchase. Jay also needs a small vise to be able to cinch small water lines incase of a break or meter changeouts. The board said to get quotes from 3 different places and go with the best price and purchase the vise. The board voted to allow Jay to purchase needed items for the district within reason. Any major purchase will need the board's approval.

Jay also reported that the truck will need servicing and prep work fro winter. The board said to get done to the truck what needed to be done.

The board discussed the line of credit note at The Murray Bank that is set to mature December 9, 2009. The board discussed several options as to how long to go on the note. The board chose to go for a longer time frame so the district can build up funds in case of a major break, a hard to find leak or a major purchase should arise. The board also discussed that when possible we would make extra payments and pay the loan off quicker. Gene Outland made a motion that the district set the note up for 15years making semi-annual payments. Pat Paschall seconded, the motion passed.

Pat Paschall made a motion to authorize Joe Dan Taylor, Chairman to sign any documents concerning the loan. Gene Outland seconded, motion carried.

The board voted to write-off the following accounts due to non-payment

1. Keith Bass	37.07
2. Tammy Merrell	38.38
3. Jill Patterson	13.71

The meeting adjourned at 8:00p.m.

Pat Paschall  
Secretary

**DEXTER-ALMO WATER DISTRICT  
December 7, 2009 6:00PM**

The Dexter-Almo Water Dist. met 12-07-09 at 6pm with following present, Joe Dan Taylor, Gene Outland, and Pat Paschall, Commissioners, Kathy Wyatt & Jay Wyatt, employees of the the Dist.

**The board approved the December s Treasurer's Report and the minutes from the November meeting.**

The board also approved to pay the following bills:

1. FICA Card	202.53
2. Howard D Happy	10.00
3. Dickson	47.00
4. West KY RECC	79.65
5. Freddie O'Bryan	140.00
6. Calloway Co, Tax	511.60
7. Murray Bank (payroll)	503.32
8. G&C	950.35
9. Murray Bank (interest)	681.71
10. Dialog	102.00
11. Micobac	64.50
12. Hach	75.79
13. Murray Supply	115.21
14. Overbey Farms (lost bean crop)	950.00
15. Donnie Overbey (storage)	700.00
16. Howard Brandon (lost bean crop)	50.00

Jay Wyatt told the board he would be leaving around the 15<sup>th</sup> of the month to accept a job in Eddyville with a surveying company. Jay offered to stay on at an hourly wage for when he might be available in case of an emergency at night or weekends and to assist in the running of the district. The board voted to pay \$12/perhour when he works.

The board voted to offer the job to Michael Birdsong on a salary bases. The board will try to meet with him the next couple of days to discuss this with him.

The board also discussed hiring another part-time employee to help with reading meters and any other problems (leaks, breaks, etc) that may occur.

Jay also informed the board that the Brinn Rd project is done except for setting a master meter (the city will be doing this) and the yard work to be done by Revell Construction in the spring.

The board voted to set the note up at the Murray Bank on a 5 year fixed rate of 5.95 with semi-annual payments of 7375.00 Joe Dan Taylor will sign paperwork this week.

The meeting adjourned at 8:45p.m.

Pat Paschall  
Secretary

**Addendum to meeting**

The board met with Michael about the position and he made the decision not to accept, he will stay on as an hourly employee. Freddie O'Bryan will continue to be the Operator and Jay will be available when possible.

# **EXHIBIT D**

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DEXTER-ALMO HEIGHTS WATER	)	
DISTRICT AND ITS INDIVIDUAL	)	
COMMISSIONERS, JOE DAN TAYLOR,	)	
CHARLES BOREN, AND PAT PASCHALL	)	CASE NO.
_____	)	2017-00468
	)	
ALLEGED FAILURE TO COMPLY WITH	)	
KRS 278.300	)	

\*\*\*  
RESPONSE

Pursuant to Paragraph 1 of the Order entered January 11, 2018, I submit the following individual response:

1. I was not a commissioner for the Dexter-Almo Heights Water District at the time of the alleged violation. I was appointed as a commissioner and treasurer on November 16, 2010.
2. I work part-time in construction. I am retired from full time work.
3. I have attended all required training sessions and seminars sponsored by the Public Service Commission and Division of Water pursuant to KRS 74.020 (8).
4. I try to operate within all laws and regulations of the State of Kentucky and the Public Service Commission. I did not know that we needed to seek approval of the Public Service Commission in order to issue indebtedness. I relied upon our engineers to get all certificates and approvals needed. I had no reason to try to get around or avoid any of my obligations to the Public Service Commission. I am very sorry that this has occurred, and will be careful in the future to never let it happen again.
5. I respectfully request that the hearing take place by a telephone conference rather than in person due to the work schedule of two of our individual commissioners.

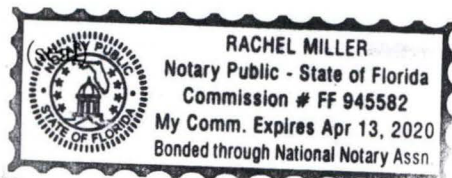
6. I respectfully request a 30 day extension for the date of the hearing because I will be out of town and unavailable to attend a hearing until March 5, 2018.

Respectfully submitted,

Charles Boren  
CHARLES BOREN

STATE OF FLORIDA )  
COUNTY OF Lee )

I, the undersigned Notary Public, do hereby certify that the foregoing instrument was duly subscribed, acknowledged and sworn to before me by **Charles Boren**, who is personally known to me (or proved to me on the basis of satisfactory evidence), as his free act, on this the 23<sup>rd</sup> day of January, 2018.



Rachel Miller  
NOTARY PUBLIC  
MY COMMISSION EXPIRES: 4/13/20

THIS INSTRUMENT PREPARED BY:

Warren K Hopkins  
WARREN K HOPKINS

Attorney at Law  
405 Maple Street, Suite B  
Murray, KY 42071

Telephone: (270) 759-9504  
Facsimile: (270) 759-9821

# **EXHIBIT E**



RECEIVED

FEB 14 2018

PUBLIC SERVICE  
COMMISSION

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JONATHAN CREEK WATER DISTRICT )  
AND ITS INDIVIDUAL COMMISSIONERS, )  
JIMMY TUBBS, BARRY HILL, JOSH )  
MEDLEY, MARK HOLT, AND KARA )  
WILSON )

CASE NO.  
2017-00469

\_\_\_\_\_  
ALLEGED FAILURE TO COMPLY WITH )  
KRS 278.300 )

**MOTION TO DISMISS KARA WILSON AND JOSH MEDLEY**  
**AS PARTIES TO THIS PROCEEDING**

Respondents Kara Wilson and Josh Medley (collectively “Respondents”) by and through counsel, individually and jointly move for an Order dismissing each as a party to this proceeding on the grounds that they were not commissioners of the Jonathan Creek Water District (“District”) on the date of the alleged violation of KRS 278.300 set forth in the Commission’s Order dated January 11, 2018 (“Commission’s Order”).

The Commission joined the Respondents in this proceeding because it found that a *prima facie* case existed against Respondents “acting in their respective individual capacities as members of Jonathan Creek’s Board of Commissioners, willfully aided and abetted in the above violation.”<sup>1</sup> However, the Respondents were not members of the District’s Board of Commissioner’s on the date of the violation. Therefore, they could not have willfully aided and abetted in the violation alleged in the Commission’s Order as commissioners of the District.

\_\_\_\_\_  
<sup>1</sup> (Commission’s Order, p. 2).

Under KRS 278.300, no utility shall issue evidences of indebtedness until it has been authorized to do so by order of the commission. The Commission's Order alleges that the District violated KRS 278.300 by issuing a promissory note to Community Financial Services Bank on May 3, 2016, without the Commission's authorization.

As set forth in their respective Responses to the Commission's Order herein, which are incorporated by reference, Respondents were not members of the District's Board of Commissioners on the date of the alleged violation. Kara Wilson did not join the District's Board of Commissioners until February 7, 2017.<sup>2</sup> Josh Medley did not join the District's Board of Commissioners until July 1, 2016.<sup>3</sup> Accordingly, the Respondents could not have willfully aided and abetted in the violation of KRS 278.300 as alleged in the Commission's Order.

WHEREFORE, the Respondents Kara Wilson, respectfully request that they be dismissed as parties to this proceeding.

Respectfully submitted,



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*Counsel for Respondents, Kara Wilson and  
Josh Medley – Current Commissioners*

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<sup>2</sup> See, Minutes of the Marshall County Fiscal Court dated February 7, 2017, attached as Exhibit B to Kara Wilson's Response to the Commission's Order herein.

<sup>3</sup> See, Minutes of the Marshall County Fiscal Court dated June 21, 2016, attached as Exhibit B to Josh Medley's Response to the Commission's Order herein.

**CERTIFICATE OF MAILING**

I certify that the original and ten copies of the foregoing were sent to the following for filing by U.S. first class mail, postage prepaid, on this 12<sup>th</sup> day of February, 2018:

Gwen R. Pinson, Executive Director  
Kentucky Public Service Commission  
211 Sower Blvd.  
Frankfort, KY 40602-0615

  
\_\_\_\_\_  
MARTIN W. JOHNSON  
KIP C. MATHIS

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served upon the following on this 12<sup>th</sup> day of February, 2018:

*By U.S. first class mail, postage prepaid to:*

Mark Holt  
415 Nelson Ln.  
Benton, KY 42025

*By Email to:*

Jonathan Creek Water District  
P.O. Box 414  
Benton, KY 42025  
joncrkwater@wk.net

Jimmie Tubbs  
510 Green Acres  
Benton, KY 42025  
Jimmiee.tubbs@gmail.com

Barry Hill  
281 Wildwood Ln.  
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Joshua Medley  
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Benton, KY 42025  
Josh\_medley@wk.net

Kara Wilson  
586 Forest Rd.  
Benton, KY 42025  
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\_\_\_\_\_  
MARTIN W. JOHNSON  
KIP C. MATHIS

# **EXHIBIT F**

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JONATHAN CREEK WATER DISTRICT AND )  
ITS INDIVIDUAL COMMISSIONERS, JIMMY )  
TUBBS, BARRY HILL, JOSH MEDLEY, MARK )  
HOLT, AND KARA WILSON )  
\_\_\_\_\_)  
ALLEGED FAILURE TO COMPLY WITH KRS )  
278.300 )

CASE NO.  
2017-00469

ORDER

On January 31, 2018, Jonathan Creek Water District (“Jonathan Creek”), and Commissioners Jimmy Tubbs, Barry Hill, Josh Medley, Mark Holt, and Kara Wilson, tendered individual responses to the January 11, 2018 Commission Order, requesting that the Commission dismiss the proceeding with prejudice and cancel the February 27, 2018, hearing. On February 1, 2018, Jonathan Creek filed a joint motion, with the Jonathan Creek Commissioners, requesting a telephonic conference with Commission Staff to discuss the possibility of settlement. On February 14, 2018, Commissioners Josh Medley and Kara Wilson filed a joint motion requesting to be dismissed from the proceeding on the grounds that they were not commissioners on the date of the alleged violation of KRS 278.300.

The Commission, having considered the responses and motions, denies Jonathan Creek’s and the Commissioners’ request to dismiss the proceeding and to cancel the hearing. The Commission further denies the joint motion requesting a telephonic conference to discuss settlement. However, the Commission finds good cause to grant

Commissioners Josh Medley's and Kara Wilson's joint motion to be dismissed from the proceeding.

IT IS HEREBY ORDERED that:

1. Jonathan Creek's and the Commissioners' request to dismiss the proceeding with prejudice and to cancel the February 27, 2018 hearing is denied.

2. Jonathan Creek's and the Commissioners' joint motion for a telephonic conference is denied.

3. Commissioners Josh Medley's and Kara Wilson's joint motion to be dismissed from the proceeding is granted, and they are excused from the February 27, 2018, hearing.

4. Jonathan Creek and Commissioners Jimmy Tubbs, Barry Hill, and Mark Holt shall attend the February 27, 2018 hearing.

5. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

By the Commission



ATTEST:

  
Executive Director

Case No. 2017-00469

Mark Holt  
Commissioner  
Jonathan Creek Water District  
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Jimmy Tubbs  
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Josh Medley  
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