

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY

In the Matter of:

Electronic Application of Water Service                    )  
Corporation of Kentucky for a General                    )  
Adjustment in Existing Rates                                    )            Case No. 2018-00208

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**WSCK RESPONSE TO CITY OF CLINTON’S MOTION TO INTERVENE**

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Water Service Corporation of Kentucky (“WSCK”), by counsel, respectfully submits the following Response to the City of Clinton (“Clinton”) and requests that the Public Service Commission deny Clinton’s motion.

On September 28, 2018, Clinton filed a Motion to Intervene with the Public Service Commission. Administrative Regulation 807 KAR 5:001, Section 4(11)(b) states that the Commission

shall grant a person leave to intervene if the commission finds that he or she has made a timely motion for intervention and that he or she has a special interest in the case that is not otherwise adequately represented or that his or her intervention is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.

WSCK objects to Clinton’s motion based on several grounds. First and foremost, Clinton has not filed a timely motion to intervene. By Order dated July 19, 2018, the Commission set a deadline to intervene of July 28, 2018. Persons seeking to intervene after that date must establish good cause for the delayed filing. Clinton has not demonstrated good cause for the motion that is filed two months after the deadline.

In attempt to justify its actions, Clinton states that WSCK's proposed rate increase was not on the agenda for the City Council meeting on July 2, 2018, and that even if the topic was discussed "the motion to intervene could not have been approved until the August 6, 2018 meeting." See Clinton Motion to Intervene at ¶ 9. It appears that the City Council voted to approve the motion to intervene on August 6, 2018. See Minutes of the August Clinton City Council Meeting, attached as Attachment A to the Motion.<sup>1</sup>

There are several flaws with Clinton's argument on this point. First, there is no explanation as to why the City Council could not have approved a motion to intervene until the August 6 meeting. A special meeting could have been convened for this discussion. See KRS 83A.130(11). In addition, the mayor would likely have the authority in his executive authority to authorize such a filing. KRS 83A.130(3), (10). Second, Clinton provides no explanation as to why it waited from the date the City Council approved action on August 6 until September 28 for the motion to be filed.

Clinton also maintains that the publication of the customer notification was around the Fourth of July holiday and went "largely unremarked." See Clinton Motion to Intervene at ¶ 8. The customer notice was published in a newspaper of general circulation (*Hickman County Times*) once a week for three weeks, as required by regulation. See Affidavit of Publication filed on July 26, 2018. In addition, WSCK held a public meeting in Clinton on July 16, 2018, during which the proposed rate increase was discussed. Another newspaper (*The Current*) prepared an article entitled, "Water rates to increase in Clinton," and discussed the proposed increase. In that article published on July 18, 2018, it was reported that "Clinton City Attorney Mary Potter said the city plans to file an intervention with the Public Service Commission. Potter encouraged

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<sup>1</sup> Clinton's statement in paragraph 3 of the Motion that the Council approved the motion to be filed on August 16 appears to be a typographical error.

citizens to submit letters to the Public Service Commission opposing the rate increase.” See Article attached as Exhibit 1 to this Response. Similarly, an online publication entitled the West Kentucky Journal, which is edited by City Attorney Mary Potter,<sup>2</sup> posted information related to the proposed increase on July 17, 2018. See Article attached as Exhibit 2 to this Response. These publications clearly rebut Clinton’s suggestion that WSCK’s proposed increase went “largely unremarked” when the rates were proposed.

The Commission has denied a motion to intervene in similar circumstances. Kentucky League of Cities (“KLC”) filed a motion to intervene on October 17, 2017, in a rate case four days after the Commission’s deadline to intervene had expired on October 13, 2017. KLC maintained that its tardiness in filing was a result of senior management consulting with board members to confirm participation in the rate case and to review KLC’s budget for the case. See Order at 2, Duke Energy Kentucky, Inc., Case No. 2017-00321 (Ky. PSC Oct. 24, 2017). The Commission denied KLC’s motion to intervene, finding that KLC failed to set forth good cause as to why it was unable to meet the deadline, particularly after it had notice from August 2 or September 1, 2017. Id.

The same rationale applies to Clinton. It has not set forth good cause as to why it did not meet the deadline for intervention. Both KLC and Clinton missed the deadline to intervene. But unlike KLC, whose motion was filed four days (and one business day) after the deadline, Clinton waited nine weeks after the deadline to file its motion to intervene. In the present case, written discovery of WSCK has already been completed, and the deadline for intervenor testimony has lapsed. Accordingly, Clinton has not (and cannot) show good cause for its late filing.

In addition to not being filed on time, Clinton is simply wrong in its statement that it has been an “active participant” in every rate case filed by WSCK since 2008. See Clinton Motion

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<sup>2</sup> See <http://www.westkyjournal.com/news.php?viewStory=5275> (last visited Sept. 26, 2018).

to Intervene at ¶ 7. Clinton did not seek intervention in Case No. 2008-00563. It was denied intervention in Case No. 2010-00476. See Order at 4, Water Service Corp. of Kentucky, Case No. 2010-00476 (Ky. PSC July 13, 2011). Clinton was granted intervention in both Case Nos. 2013-00237 and 2015-00382, but its participation cannot be considered “active.”

As this Commission recently stated, it “expects that persons requesting to intervene will fully participate throughout the entire course of a proceeding by taking affirmative steps to present the issues and facts that will assist the Commission in considering the matter.” Order at 4, Louisville Gas & Elec. Co. and Kentucky Utils. Co., Case No. 2018-00005 (Ky. PSC Aug. 30, 2018). In that Order, the Commission criticized an intervening party because it did not seek any information from the applicant utilities, did not provide any testimony, and did not file a post-hearing brief. Id. In previous cases, Clinton has never submitted a written request for information to WSCK, filed testimony, or submitted a post-hearing brief in WSCK rate cases. In addition, it appears that Clinton even failed to comply with Commission orders in both Case Nos. 2013-00237 and 2015-00382 that required Clinton to file a written statement that it waives any right to service of Commission orders by mail and that it or its authorized agent possesses the facilities to receive electronic transmissions. These facts demonstrate that Clinton has not been a participant in every WSCK rate case since 2008, nor an “active” participant in any rate case, as is required.

As discussed above, Clinton has not shown good cause to justify its motion to intervene that was filed two months after the deadline set by the Commission. In addition, both prior history and the current procedural schedules indicate that Clinton will not take affirmative steps to present the issues and facts that will assist the Commission in considering the matter. Accordingly, Clinton’s motion should be denied.

Respectfully submitted,



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ATTORNEYS FOR WATER SERVICE CORPORATION  
OF KENTUCKY

### **CERTIFICATE OF COMPLIANCE**

In accordance with 807 KAR 5:001, Section 8(7), this is to certify that WSCK's October 2, 2018, electronic filing is a true and accurate copy of the documents being filed in paper medium; that the electronic filing has been transmitted to the Commission on October 2, 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 a copy of the filing are being delivered to the Commission within two (2) business days.



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Counsel for WSCK

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**WSCK RESPONSE TO CITY OF CLINTON'S MOTION TO INTERVENE**

**EXHIBIT 1**

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(1)

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## Water rates to increase in Clinton

by Becky Meadows

July 18, 2018

Water Service Corporation of Kentucky held a public meeting at the Hickman County Seniors Center July 16 where the company announced it intends to adopt an increase in its water rates.

The utility has requested an increase in annual revenue totaling \$852,743, which would be a total increase of 35.29% to the utility. The rate increase is proposed to be effective Aug. 4.



Water Service Corporation of Kentucky Vice President of Operations Justin Kersey announced a proposed rate increase to customers in Clinton July 16. (Photo by Becky Meadows)

([https://s3.amazonaws.com/lewiscountypress-pictures-production/fc/production/pictures/249/senior\\_citizens\\_original.jpg?1531876155](https://s3.amazonaws.com/lewiscountypress-pictures-production/fc/production/pictures/249/senior_citizens_original.jpg?1531876155))

Representatives of Water Service Corporation of Kentucky present at the meeting were Vice President of Operations Justin Kersey, Regional Manager Mike Miller, Area Manager Stephen Vaughn, Operator in Responsible Charge John Turner, and Field Technician I Ronnie Rushing.

In Clinton, the current fixed charge for 5/8" and 3/4" meters is \$10 with a rate of \$4.62 per 1,000 gallons. The proposed rate change will set the fixed charge for 5/8" and 3/4" meters at \$12.50 with a rate of \$5.57 per 1,000 gallons for the first 100,000 gallons.

The rates contained in the notice were proposed by Water Service Corporation of Kentucky on July 5, 2018. The Public Service Commission may order rates to be charged that differ from the proposed rates by the utility company.

If a written request to intervene is not submitted to the Public Service Commission within 30 days of the initial publication of the proposed rate changes by the utility, the Commission may take final action on the application.

Clinton City Attorney Mary Potter said the city plans to file an intervention with the Public Service Commission. Potter encouraged to citizens to submit letters to the Public Service Commission opposing the rate increase. Letters can be mailed to Public Service Commission, 211 Sower Boulevard, P.O. Box 615, Frankfort, Kentucky 40602 or submitted on the Public Service Commission's website at <http://psc.ky.gov/> (<http://psc.ky.gov/>).

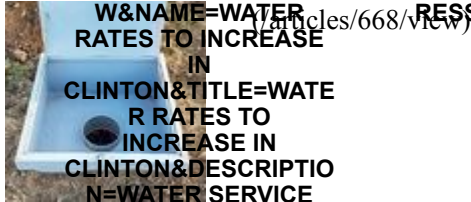
A copy of the proposed rate filing is available at the offices of Water Service Corporation of Kentucky located at 100 East Jackson St. in Clinton, as well as on the Public Service Commission website.

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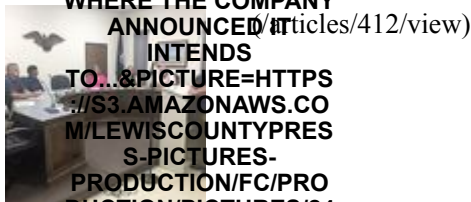
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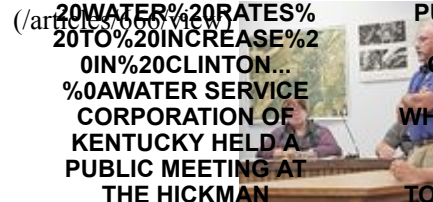


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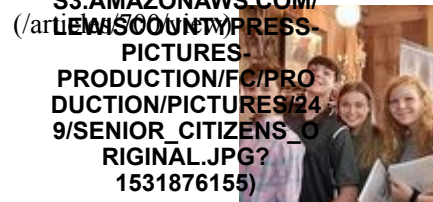


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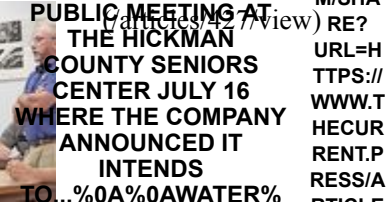
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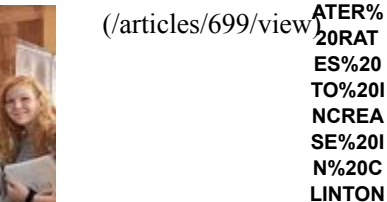
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**WSCK RESPONSE TO CITY OF CLINTON'S MOTION TO INTERVENE**

**EXHIBIT 2**

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**MONEY**  
Mary Potter

## They're back - WSCK asking for 35% water rate increase

July 17, 2018

### ATTENTION WATER SERVICE COMPANY OF CUSTOMERS!

\*\*\*\*\*

The Company formerly known as UTILITIES INC., now Water Service Company of Kentucky, that serves Clinton and Middlesboro is asking the Kentucky Public Service Commission for a **35.29%** rate increase.

**THIS IS NOT A DONE DEAL!**  
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**The more of us who protest, the louder our voices will be.**

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**We need YOU to write a letter or send an email  
to:  
KENTUCKY PUBLIC SERVICE COMMISSION  
P.O. BOX 615  
FRANKFORT, KY 40602  
Email: [psc.info@ky.gov](mailto:psc.info@ky.gov)**

Here are a few suggestions:

1. Use your own words to tell why this increase should not be allowed. No fancy legal language is needed!
2. Write the name of the case on your letter -Water Service Corp., Case No. 2018-00208.  
For emails, write the case name and number in the subject line.
3. Ask the Commission to come to Clinton to have a public hearing. Tell them why you can't go to Frankfort - or why you think they should come here - or both.
4. Encourage your friends and neighbors to write letters, emails.



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