

**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

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**Witness: Brent E. O'Neill, Kevin N. Rogers**

1. Refer to City of Georgetown Code of Ordinances Section 7-2 (Ordinances No. 99-045 and No. 2015-010).
  - a. Confirm that the City of Georgetown charges a fee for public fire hydrants on all customers within the area of the City of Georgetown served by KAWC.
  - b. Confirm that KAWC includes the Georgetown's fire-hydrant fee on its water bill to customers within the city's boundaries.
  - c. Confirm that KAWC remits to Georgetown all hydrant-fee payments collected through this program.
  - d. State whether KAWC receives any revenue for billing or collections of Georgetown's hydrant fee.
    1. If yes, please state the amounts of revenue received for the base period and projected for the test year.
    2. If yes, please explain how the amount of the revenue is calculated.

**Response:**

- a. Yes. The City of Georgetown charges a fee for public fire hydrants on all customers within the area of the City of Georgetown served by KAW.
- b. Yes. KAW includes Georgetown's hydrant fee on its water bill to customers within the city's boundaries.
- c. Yes. KAW remits all hydrant fees collected through this program.
- d. No. KAW does not receive any revenue for billing and collecting this fee.

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**Witness: Connie D. Heppenstall**

2. Please refer to KAWC's Response to LFUCG 1-8, which indicates that American Water affiliates in Missouri, Tennessee, Iowa, California, West Virginia, and Virginia have public fire protection included in base rates of other customer classes. If KAWC's public fire costs were included within base volumetric rates of other customer classes, what would be the percentage increase for each customer class (based on KAWC's proposed rates in this case)?

**Response:**

If KAWC's Public Fire costs are included within base volumetric rates of the other customer classes rather than being recovered through a Public Fire charge, the increases are shown on the attached schedule. The costs related to Public Fire protection were not allocated to the Sales for Resale class or the Private Fire class.

However, Public Fire costs that are not recovered from Public Fire rates should be recovered through the customer charge rather than the volumetric rate, as the benefit to a property for public fire protection service is not dependent on water consumption. Public Fire protection is a fixed cost, independent of water consumption and should be recovered through the fixed charge.

## KENTUCKY AMERICAN WATER COMPANY

COMPARISON OF COST OF SERVICE WITH REALLOCATION OF PUBLIC FIRE WITH REVENUES UNDER PRESENT AND PROPOSED RATES  
FOR THE TEST YEAR ENDED JUNE 30, 2020

Customer Classification (1)	Cost of Service		Reallocation Of Public Fire (b) (4)	Cost of Service With Reallocated Public Fire (5)		Percentage Difference	Revenues, Present Rates		Revenues, Proposed Rates		Proposed Increase	
	Amount (Schedule B) (2)	Percent (3)		Amount (5)	Percent (6)		Amount (4)	Percent (5)	Amount (6)	Percent (7)	Amount (8)	Percent Increase (9)
Residential	\$ 58,188,215	55.1%	4,063,364	62,251,579	59.0%	7.0%	\$ 47,551,194	55.7%	\$ 62,289,161	59.0%	\$ 14,737,967	31.0%
Commercial	27,129,958	25.8%	624,242	27,754,201	26.3%	2.3%	21,724,229 (a)	25.4%	27,648,706 (a)	26.2%	5,924,477	27.3%
Industrial	3,096,238	2.9%	18,814	3,115,052	3.0%	0.6%	2,515,892	2.9%	3,103,888	2.9%	587,996	23.4%
Public Authority	7,123,804	6.8%	117,709	7,241,513	6.9%	1.7%	5,703,375	6.7%	7,214,839	6.8%	1,511,464	26.5%
Sales for Resale	2,078,616	2.0%	-	2,078,616	2.0%	0.0%	1,711,090	2.0%	2,078,311	2.0%	367,221	21.5%
Private Fire Service	2,905,653	2.8%	-	2,905,653	2.8%	0.0%	2,664,721	3.1%	3,011,136	2.9%	346,415	13.0%
Public Fire Service	4,824,129	4.6%	(4,824,129)	0	0.0%	-100.0%	3,611,110	4.2%	-	0.0%	(3,611,110)	-100.0%
Total Sales	105,346,614	100.0%	-	105,346,614	100.0%		85,481,611	100.0%	105,346,041	99.8%	19,864,430	23.2%
Other Revenues and AFUDC	3,037,241			3,037,241			3,037,241		3,037,241		-	0.0%
Total	\$ 108,383,855		\$ -	\$ 108,383,855			\$ 88,518,852		\$ 108,383,282		\$ 19,864,430	22.4%

(a) Includes Miscellaneous Water Sales.

(b) Reallocation Based on Meter Equivalents, excluding Sales for Resale and Private Fire.

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**Witness: Melissa L. Schwarzell**

3. Please refer to KAWC's Response to LFUCG 1-8. KAWC's response indicates two separate methodologies for recovering costs for public fire protection by American Water's affiliate in West Virginia. Please explain if this is two separate methodologies by two separate utilities in West Virginia. If not, please reconcile this discrepancy.

**Response:**

The response to LFUCG 1-8 related to West Virginia included the following:

“West Virginia – 76% of the public fire cost of service is included in base rates of the other customer classes. The remaining 24% of the cost of service is billed directly to the governmental entity where the public fire hydrants are located.”

The description above is the sole methodology for West Virginia American Water. If public fire charges for a municipality are \$10,000, \$2,400 (24%) is billed directly to the municipality and \$7,600 (76%) is billed to customers in their base rates.

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**Witness: Kevin N. Rogers**

4. Please refer to KAWC's Response to LFUCG 1-4, which confirms that the franchise fee applies to public fire hydrants. State whether KAWC would be opposed to LFUCG proposing a tariff or other mechanism in the future under which the public fire hydrants in Fayette County that are paid for by LFUCG are exempted from paying the LFUCG franchise fee.

**Response:**

Without knowing the exact language of any such proposed tariff, the terms of any such mechanism, or the effect on the existing franchise agreement between the LFUCG and the Company, the Company is unable to state now what its response might be in the future to any such proposal. However, KAW is amenable to any discussions that the LFUCG would like to have concerning franchise fees and public fire hydrants.

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**Witness: Brent E. O'Neill, Melissa L. Schwarzell**

5. Please refer to KAWC's Response to LFUCG 1-10.
- a. Please describe what comprises "normal business development efforts" of KAWC.
  - b. Do the "normal business development efforts" expand beyond "neighboring" utilities?
  - c. Do "normal business development efforts" include purchasing other utilities?
  - d. Please state the names of all utilities that KAWC has had conversations with concerning buying assets or otherwise taking over the utilities in the last five years.

**Response:**

- a. "Normal business development efforts" include efforts towards the expansion of the sale or provision of water to new customers or to any neighboring utilities. In addition, we continue to review growth opportunities whether we initiate the conversation or if interested parties approach us because they recognize the benefit we bring to our overall customer base.
- b.-c. Yes, potentially. Each growth opportunity has unique challenges and idiosyncrasies and is therefore evaluated individually on the potential benefit to all our customers and not to just one segment.
- d. The Company objects to this question on the grounds that "conversations" is vague and therefore responding to it may be both inaccurate and unduly burdensome. Without waiving that objection, please see the response to LFUCG 2-6.

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**Witness: Kevin N. Rogers**

6. Please refer to the KAWC's Response to LFUCG 1-13.
- a. Have any asset purchase agreements been discussed or executed in the last five years other than North Middletown and East Rockcastle.
  - b. If yes, please state the name of the utility system and the status of the discussions or agreements. If an additional purchase agreement has been executed, please attach a copy of same.

**Response:**

- a. Yes.
- b. KAW executed an asset purchase agreement with the City of Millersburg for their water and sewer assets in 2014. KAW also executed an asset purchase agreement with Classic Construction Inc. for the Ridgewood sewer assets in 2016. Aside from those two agreements, none of our discussions reached the point of discussing terms of an asset purchase agreement.

Please refer to the attachment for the asset purchase agreements.

## ASSET PURCHASE AGREEMENT

May This Asset Purchase Agreement ("Agreement") is made and entered into this 7<sup>th</sup> day of May, 2014 ("Effective Date") by and between **Kentucky-American Water Company**, a Kentucky public utility corporation ("Buyer"), and **the City of Millersburg**, ("Seller"). Hereinafter, the Buyer and Seller may be individually referred to as a "party" or jointly as the "parties".

### RECITALS:

A. Seller owns and operates a water and sewer system which provides potable water and sewer services to customers located within its service area (the "Service Area") (collectively referred to as the "Business").

B. Buyer currently provides professional water treatment plant and distribution guidance services to Seller.

C. Buyer desires to acquire and Seller desires to sell the Assets of Seller relating to the Business pursuant to the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the foregoing recitals and the covenants contained herein and in exchange for other consideration the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, agree as follows:

### **ARTICLE 1**

#### **Definitions and Related Matters**

For purposes of this Agreement and all documents executed in connection with this Agreement, the capitalized terms shall have the meanings assigned to them herein or in Schedule 1 and the rules of construction set forth in Schedule 1 shall govern.

### **ARTICLE 2**

#### **Purchase and Sale of Assets; Closing**

**2.1 Transfer and Description of Assets.** Subject to and upon all other terms and conditions of this Agreement, effective as of the Effective Time on the Closing Date, Seller shall sell, convey, transfer, assign and deliver to Buyer free and clear of all Encumbrances, and Buyer shall acquire from Seller, all of Seller's right, title and interest in and to all of Seller's assets, other than the Excluded Assets, regardless of where located, which are, could be, or in the future would be part of the transmission and distribution systems utilized to provide water service to Seller's water customers and the treatment, transmission and distribution systems used to provide sewer service to Seller's sewer's customers, including but not limited to the following:

(a) all Real Property including any easements, rights-of-way or rights granted to the Seller in furtherance of the operation of the Business including but not limited to that described in Schedule 3.4;

(b) all Tangible Personal Property, as defined in Schedule 1 Definitions.

(c) all data and Records related to Seller's operation of the Business, including, but not limited to, the customer list which shall include the service and billing address of all customers of the Seller and, subject to applicable Law, copies of all Records described in Section 2.2(b);

(d) all Permits and all pending applications therefore, renewals thereof or exemptions therefrom which are necessary or advisable in the operation of Seller's Business, including but not limited to those listed in Schedule 3.8; and

(e) all of the intangible rights and property of Seller utilized by Seller in the operation of the Business.



All of the foregoing shall be hereinafter referred to collectively as the "Assets".

**2.2 Excluded Assets.** Notwithstanding anything to the contrary contained in Section 2.1 or elsewhere in this Agreement, the following Assets of Seller are not part of the sale and purchase contemplated hereunder, are excluded from the Assets, and shall remain the property of Seller after the Closing:

- (a) all insurance policies and rights thereunder;
- (b) all personnel Records and other Records that Seller is required by Law to retain in its possession;
- (c) all office furniture and equipment, including computers, used in the operation of the Business;
- (d) all rights in connection with and assets of the employee benefit plans and employment or independent contractor Contracts;
- (e) all rights of Seller under the Transaction Documents;
- (f) cash, cash equivalents and short-term investments;
- (g) all assets related to water production, including dams, intakes, and water treatment equipment and/or facilities;
- (h) all assets required to be relocated in connection with Kentucky Department of Highways Project No. 7-310.20;
- (i) the assets listed on Schedule 2.2;
- (j) accounts receivable arising prior to the Effective Time; and
- (k) Customer Service Connections, which shall remain the property of the customer.

All of the foregoing shall be hereinafter referred to collectively as the "Excluded Assets".

**2.3 Consideration.** The consideration for the Assets (the "Purchase Price") will be the sum of **Five Hundred Twenty Thousand Dollars** (\$520,000.00). The Assets shall be in substantially the same condition, absent normal wear and tear, and fully able to perform the functions they are intended to at the time of Closing. If any of the Assets are not able to perform the function they are intended to, the Buyer, at its option, may request an adjustment to the purchase price to compensate for the deterioration or loss of said Asset. In the event the parties are not able to agree to the amount of the adjustment, the adjustment amount shall be the amount necessary to return the Asset to the condition it was in on the Effective Date of this Agreement.

**2.4 Liabilities.** The Buyer shall not be responsible for any of the Liabilities of Seller, including any that may arise after Closing, and any such Liabilities shall remain the sole responsibility of and shall be retained, paid, performed and discharged solely by Seller.

**2.5 Closing.** The purchase and sale provided for in this Agreement will take place at a location and time of day agreed upon by the parties (the "Closing"). The date of the Closing shall be no later than October 1, 2014 or at such later date as is agreed upon by the parties. Closing shall be effective as of 5:00 pm local time (the "Effective Time") on the actual date of Closing (the "Closing Date").

**2.6 Closing Obligations.**

- (a) At or prior to Closing, Seller shall deliver to Buyer the following documents, duly executed:

(i) a Bill of Sale for all of the Assets that are Tangible Personal Property in a form reasonably acceptable to Buyer;

(ii) an assignment of all of the Assets that are intangible personal property in a form reasonably acceptable to Buyer;

(iii) for each interest in Real Property identified on Schedule 3.4, a recordable warranty deed or such other appropriate document or instrument of transfer or approval, as the case may require, each in form and substance satisfactory to Buyer and its legal counsel. Notwithstanding the fact that the same may not be listed on Schedule 3.4, Seller must provide easements or other transferable property rights to Buyer for all mains used in the Business, which are not located on or in public rights-of-way, and must provide assignments of public rights-of-way Permits with only those conditions acceptable to Buyer for all mains located in municipal, county or state owned public rights-of-way;

(iv) such other deeds, bills of sale, assignments, certificates of title, documents and other instruments of transfer and conveyance as may be reasonably requested by Buyer, each in form and substance satisfactory to Buyer;

(v) a certificate as to the accuracy of Seller's representations and warranties as of the Effective Date of this Agreement and as of Closing in accordance with Section 5.1(a) and as to its compliance with and performance of its covenants and obligations to be performed or complied with at or before Closing in accordance with Section 5.1(b);

(vi) a certificate of the Clerk-Treasurer of Seller, dated as of the Closing, certifying: (A) that attached are true copies of the duly adopted resolutions of the Seller's governing body authorizing the execution of this Agreement and the sale of all Assets; and (B) the incumbency, signatures and authority of the governing body members of Seller executing this Agreement or any agreement contemplated hereby on behalf of Seller;

(vii) a general release in a form reasonably acceptable to Buyer;

(viii) a lease with an option to purchase by Buyer of all Excluded Assets required to be relocated in connection with Kentucky Department of Highways Project No. 7-310.20 for the use of those assets in a form reasonably acceptable to Buyer; and

(ix) a legal opinion of Seller's legal counsel, affirmatively opining to such matters as Buyer or its legal counsel may reasonably request, including but not limited to the due authorization and execution of this Agreement by Seller and the enforceability thereof; and the Seller's compliance with any applicable Kentucky statutes or regulations applicable to its sale of its municipally owned water and sewer utility systems.

(b) At or prior to Closing, Buyer shall deliver to Seller, the following documents, duly executed, or funds:

(i) The Purchase Price, by wire transfer or other immediately available funds, to an account specified by the Seller;

(ii) a certificate as to the accuracy of Buyer's representations and warranties as of the Effective Date of this Agreement and as of Closing in accordance with Section 5.2(a) and as to its compliance with and performance of its covenants and obligations to be performed or complied with at or before Closing in accordance with Section 5.2(b);

(iii) a certificate of the company secretary of Buyer, dated as of the Closing, certifying: (A) that attached are true copies of the duly adopted resolutions of the Buyer's board of directors authorizing this Agreement and the purchase of all Assets; and (B) the incumbency, signatures

and authority of the officer or officers of Buyer executing this Agreement or any agreement contemplated hereby on behalf of Buyer; and

(iv) a certificate of existence issued by the Secretary of State of Kentucky with respect to Buyer, dated not earlier than thirty (30) days prior to Closing.

### **ARTICLE 3 Representations and Warranties of Seller**

Seller hereby makes the following representations and warranties to Buyer:

**3.1 Organization.** Seller is a municipal corporation duly organized and validly existing under the Laws of the State of Kentucky, with full power and authority to conduct the Business as it is now being conducted and to own and operate its Assets.

**3.2 Enforcement; Authority; No Conflict.**

(a) This Agreement constitutes, and the Transaction Documents (when executed and delivered) will constitute, a legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms. Seller has the absolute and unrestricted right, power and authority to execute and deliver this Agreement and the Transaction Documents to which it is a party and to perform its obligations hereunder and thereunder, and such action has been duly authorized by all necessary action by Seller's governing body;

(b) Neither the execution and delivery of this Agreement nor the consummation of the Contemplated Transaction will, directly or indirectly (with or without notice or lapse of time):

(i) contravene, conflict with, or result in a violation of: (A) any ordinance of Seller; or (B) any resolution adopted by the governing body of Seller;

(ii) contravene, conflict with, or result in a violation of or give any Governmental Authority or other Person the right to challenge any of the Contemplated Transaction or to exercise any remedy or obtain any relief under any Laws or any Order to which Seller or any of the Assets may be subject;

(iii) contravene, conflict with or result in a violation of any of the terms or requirements of or give any Governmental Authority the right to revoke, withdraw, suspend, cancel, terminate or modify any Permit or other authorization by a Governmental Authority that is held by Seller or that otherwise relates to the Business or any of the Assets;

(iv) contravene, conflict with or result in a violation or breach of any provision of, require the Consent of any Person, or give any Person the right to declare a default or exercise any remedy under or to accelerate the maturity or performance of or to cancel, terminate or modify any Contract, indenture, mortgage, note, lease, bond, grant, or other instrument or document of which Seller is a party or by which any of the Assets are bound; or

(v) result in the imposition or creation of any Encumbrance upon or with respect to any of the Assets, except as contemplated by this Agreement.

**3.3 Assets.** Seller has good and marketable title to all of the Assets. The Assets are free and clear of any and all Encumbrances whatsoever, including any liens, loans, bonds or grants from any federal or state agency for the purchase or construction of the Assets. None of the Assets are leased or on loan by Seller to any third party. The Assets constitute all property necessary for the operation of the Business in the manner Seller currently operates.

**3.4 Real Property; Easements.** To Seller's best knowledge and belief, Seller has good and marketable title to, or a valid and binding leasehold interest in, those parcels and tracts of land and those

leases, licenses, easements or rights-of-way used in the operation of the Business, together with all fixtures, fittings, buildings, structures and other improvements erected therein or thereon and all appurtenances thereto (the "Real Property"). The Real Property includes but is not necessarily limited to the property described in Schedule 3.4.

**3.5 Tangible Personal Property.** Tangible Personal Property is all such property as defined in Schedule 1, Definition of Tangible Personal Property.

**3.6 Contracts.** Set forth on Schedule 3.6 is a complete and correct list of all Contracts related to the Business to which Seller is a party. Seller has delivered or caused to be delivered to Buyer correct and complete copies of each Contract (including all amendments thereto), a description of the terms of each Contract which is not in writing, and all documents affecting the rights or obligations of any party thereto. The Contracts have not been modified or amended except as disclosed on Schedule 3.6. Each Contract is valid and enforceable against Seller in accordance with its terms and is in full force and effect, and each Contract constitutes a legal, valid and binding obligation of the other parties thereto, enforceable against them in accordance with its terms. No default and no event which, with the giving of notice, lapse of time, or both, would be a default has occurred under any Contract. There are no setoffs, counterclaims or disputes existing or asserted with respect to such Contracts, and Seller has not made any agreement with any other party thereto for any deduction from or increase to any amount payable thereunder. There are no facts, events or occurrences which in any way impair the validity or enforcement of any Contract or tend to reduce or increase the amounts payable thereunder. Seller has not, directly or indirectly, by operation of Law or otherwise, transferred or assigned all or any part of its right, title or interest in and to any Contract to any other Person. There are no Proceedings pending nor threatened against any party to any of the Contracts which relate to the subject matter of the Contracts.

**3.7 Environmental Matters.**

Except as set forth on Schedule 3.7(a):

(a) Seller is and at all times has been in full compliance with and has not been and is not in violation of or liable under any applicable Environmental Law. Seller has no basis to expect nor has it received any actual or threatened Order, notice or other communication from any Governmental Authority or private citizen acting in the public interest of any actual or potential violation or failure to comply with any Environmental Law or of any actual or threatened obligation to undertake or bear the cost of any Environmental, Health and Safety Liabilities with respect to the Assets or any other properties (whether real, personal or mixed) in which Seller has or has had an interest or with respect to the Real Property or any other real property at or to which Hazardous Materials were generated, manufactured, refined, transferred, imported, used or processed by Seller or any other Person for whose conduct it is or may be held responsible, or from which Hazardous Materials have been transported, treated, stored, handled, transferred, disposed, recycled or received.

(b) There are no pending or threatened claims, Encumbrances or other restrictions of any nature, resulting from any Environmental, Health and Safety Liabilities or arising under or pursuant to any Environmental Law with respect to or affecting the Assets or any other properties (whether real, personal or mixed) in which Seller has or had an interest.

(c) Neither Seller nor any other Person for whose conduct it is or may be held to be responsible has received any citation, directive, inquiry, notice, Order, summons, warning or other communication that relates to Hazardous Activity, Hazardous Materials or any alleged, actual or potential violation or failure to comply with any Environmental Law or of any alleged, actual or potential obligation to undertake or bear the cost of any Environmental, Health and Safety Liabilities with respect to the Assets or any other properties (whether real, personal or mixed) in which Seller has or has had an interest or with respect to any other real property to which Hazardous Materials generated, manufactured, refined, transferred, imported, used or processed by Seller or any other Person for whose conduct it is or may be held responsible, have been transported, treated, stored, handled, transferred, disposed, recycled or received.

(d) Neither Seller nor any other Person for whose conduct it is or may be held to be responsible has any Environmental, Health and Safety Liabilities with respect to the Assets or any other properties (whether real, personal or mixed) in which Seller (or any predecessor) has or has had an interest or at any property geologically or hydrologically adjoining the Assets or any other properties (whether real, personal or mixed).

(e) There are no Hazardous Materials present on or in the Environment at the Real Property or at any geologically or hydrologically adjoining property, including any Hazardous Materials contained in barrels, above or underground storage tanks, landfills, land deposits, dumps, equipment (whether moveable or fixed) or other containers, either temporary or permanent and deposited or located in land, water, sumps or any other part of the Real Property or such adjoining property or incorporated into any structure therein or thereon. Neither Seller nor any other Person for whose conduct it is or may be held to be responsible has permitted or conducted, or is aware of, any Hazardous Activity conducted with respect to the Assets or any other properties (whether real, personal or mixed) in which Seller has or has had an interest except in material compliance with all applicable Environmental Laws.

(f) There has been no Release or threat of Release, of any Hazardous Materials at or from the Assets or any other properties (whether real, personal or mixed) in which Seller has or has had an interest, or any geologically or hydrologically adjoining property, whether by Seller or any other Person.

(g) Seller has delivered to Buyer true and complete copies and results of any reports, studies, analyses, tests or monitoring possessed or initiated by Seller pertaining to Hazardous Materials or Hazardous Activities in, on or under the Real Property, or concerning compliance by Seller or any other Person for whose conduct it is or may be held to be responsible, with Environmental Laws, said reports, studies, etc. to include without limitation, any and all Phase I environmental reports now or hereafter in the possession or control of Seller.

**3.8 Permits.** Set forth on Schedule 3.8 is a complete and correct list of all Permits used by Seller in the operation of the Business. Such Permits constitute all Permits necessary for the operation of the Business and all such Permits are valid and subsisting and in full force and effect. There exists no fact or circumstance which is reasonably likely to cause any Permit to be revoked or materially altered after the Closing Date.

**3.9 Insurance.** Seller maintains and has maintained appropriate insurance necessary for the full protection of all of its Assets, Business, operations, products and services. All such policies are in full force and effect and Seller will use commercially reasonable efforts to cause such policies to be outstanding and in full force and effect up to the Effective Time on the Closing Date and the premiums therefor have been paid in full as they become due and payable. There are no pending Proceedings arising out of, based upon or with respect to any of such policies of insurance and no basis for any such Proceedings exists which will result in an Encumbrance against the Assets, Business, operations, products or services. Seller is not in default with respect to any provisions contained in any such insurance policies and no insurance provider is in default with respect to such insurance policies.

**3.10 No Material Adverse Change.** There have been no material adverse changes in the Business or Assets nor has there been any material adverse change in the relationships Seller maintains with its customers, employees and Governmental Authorities nor are there any events, transactions or other facts which exist or have occurred and which are likely to have an adverse effect on the foregoing.

**3.11 Conduct of Business In Ordinary Course.** Seller has operated the Business only in the ordinary course of business. Without limitation of the foregoing, since such date, Seller has not entered into, amended, terminated or received notice of termination of any Contract or Permit.

**3.12 Proceedings.** Other than as set forth on Schedule 3.12, there are no Proceedings pending or threatened against Seller or directly affecting any of the Assets or the Business by or on account of any Person or before any Governmental Authority and there is no valid basis for any such Proceeding. Seller has not been charged with, nor is it under investigation with respect to any charge

which has not been resolved to their favor concerning any violation of any applicable Law with respect to any of the Assets or the Business and there is no valid basis for any such charge or investigation. No judgment, Order, writ, injunction, decree, assessment or other command of any Governmental Authority affecting Seller or any of the Assets or the Business has been entered which is presently in effect. There is no Proceeding pending or threatened which challenges the validity of this Agreement or the Contemplated Transaction or otherwise seeks to prevent, directly or indirectly, the consummation of the Contemplated Transaction, nor is there any valid basis for any such Proceeding.

**3.13 Compliance with Laws.** Seller is in compliance with all Laws applicable to the Assets and the operation of the Business and has not committed any violation of any Law applicable to the Assets and/or operation of the Business. Seller has not received any notice or other communication (whether oral or written) from any Governmental Authority or any other Person regarding (i) any actual, alleged, possible or potential violation of, or failure to comply with, any Law or (ii) any actual, alleged, possible or potential obligation on the part of Seller to undertake, or to bear all or any portion of the cost of, any remedial action of any nature. The Assets, in their current condition, are capable of complying with all Laws.

**3.14 Material Omissions.** Independent of and in addition to the foregoing representations and warranties contained in this Article 3, neither this Agreement nor any written statement, list, certificate or other information furnished by or on behalf of Seller in response to specific written requests made by Buyer or Buyer's representatives or attorneys contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements contained herein or therein not misleading.

#### **ARTICLE 4 Representations and Warranties of Buyer**

Buyer hereby makes the following representations and warranties to Seller:

**4.1 Organization.** Buyer is a duly organized and validly existing public utility corporation under the Laws of the State of Kentucky and at Closing has the power and authority to own, lease and operate its assets and to conduct this Business as it is now being conducted.

**4.2 Enforcement; Authority; No Conflict.**

(a) This Agreement constitutes the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms. Buyer has the absolute and unrestricted right, power and authority to execute and deliver this Agreement and the Transaction Documents to which it is a party and to perform its obligations hereunder and thereunder, and such action has been duly authorized by all necessary action by Buyer's board of directors.

(b) Neither the execution and delivery of this Agreement, nor the consummation of the Contemplated Transaction nor compliance by Buyer with any of the provisions hereof will result in: (i) a violation of or a conflict with any provision of the Organizational Documents of Buyer; (ii) a material breach of or default under any term, condition or provision of any Contract to which Buyer is a party, or an event which, with the giving of notice, lapse of time, or both, would result in any such breach or default; (iii) a material violation of any applicable Law, Order, judgment, writ, injunction, decree or award or any event which, with the giving of notice, lapse of time, or both, would result in any such violation; or (iv) any Person having the right to enjoin, rescind or otherwise prevent or impede the Contemplated Transaction or to obtain Damages from Seller or to obtain any other judicial or administrative relief.

**4.3 Proceedings.** There is no Proceeding pending nor, to the Knowledge of Buyer, threatened which challenges the validity of this Agreement or the Contemplated Transaction or otherwise seeks to prevent, directly or indirectly, the consummation of such transactions, nor, to the Knowledge of Buyer, is there a valid basis for any such Proceeding.

**ARTICLE 5**  
**Conditions Precedent to Closing**

**5.1 Conditions Precedent to the Obligations of Buyer.** Buyer's obligations to consummate the Contemplated Transaction are subject to the satisfaction in full, unless expressly waived in writing by Buyer, of each of the following conditions:

(a) Representations and Warranties. Each of the representations and warranties of Seller contained in Article 3 is true, correct and accurate from the Effective Date of this Agreement and as of the Closing Date shall be true, correct and accurate as though restated on and as of such date (except in the case of any representation and warranty that by its terms is made as of a date specified therein, which shall be accurate as of such date);

(b) Covenants. Seller shall have performed and complied with all covenants required by this Agreement to be performed or complied with by them prior to or at the Closing;

(c) Proceedings. No Order shall be in effect and no Proceeding by any Person shall be threatened or pending before any Governmental Authority, or before any arbitrator, wherein an unfavorable Order would: (i) prevent consummation of the Contemplated Transaction; (ii) have a likelihood of causing the Contemplated Transaction to be rescinded following consummation; (iii) adversely affect the right of Buyer to own any of the Assets; or (iv) adversely affect the Business prospects, value or condition of any of the Assets or the Business;

(d) Approvals. Buyer shall have received prior to Closing; (i) an Order from the Public Service Commission (PSC) allowing the use of Buyer's water tariff rates for the provision of water service to Millersburg customers and allowing the adoption of Seller's wastewater rates existing at the time of Closing for the provision of wastewater service to Millersburg customers, and the encumbrance of the Real Property with the lien of its mortgage indenture; ii) all other regulatory approvals required by any Governmental Authority to operate the Business within the Service Area; and (iii) execution of an interconnection agreement with Paris, Kentucky and approval of that agreement by the PSC.

(e) Closing Deliveries. Seller shall have delivered to Buyer the Closing requirements set forth in Section 2.6(a);

(f) Due Diligence. Buyer shall be satisfied, in its sole and absolute discretion, with the results of its due diligence review of the Business, the Assets and the Seller, including without limitation, satisfaction with the results of any environmental assessment performed with respect to the Assets.

(g) No Adverse Change. Buyer has determined that there has not been any adverse change in the Business, the Assets, financial condition or Business prospects of Seller and that there is no adverse change in the relationships maintained by Seller with its employees, suppliers, customers or Governmental Authorities as of Closing;

(h) Paris Interconnection Project. Buyer shall have completed, in its sole and absolute discretion, all construction of the infrastructure necessary for the interconnection between Buyer's water distribution facilities, the City of Paris' water distribution facilities, and Seller's water distribution facilities such that Buyer can meet its service obligations to Millersburg water customers; and

(i) Board Approval. Buyer shall have obtained approval of the Contemplated Transaction by Buyer's board of directors.

**5.2 Conditions Precedent to Obligations of Seller.** The Seller's obligation to consummate the Contemplated Transaction is subject to the satisfaction in full, unless expressly waived in writing by Seller, of each of the following conditions:

(a) Representations and Warranties. Each of the representations and warranties of Buyer contained in Article 4 is true, correct and accurate as of the date of this Agreement and, as of the Closing Date, shall be true, correct and accurate as though restated on and as of such date (except in the case of any representation and warranty that by its terms is made as of a date specified therein, which shall be accurate as of such date);

(b) Covenants. Buyer shall have performed and complied with all covenants required by this Agreement to be performed and complied with by Buyer prior to or at Closing;

(c) Buyer's Service Obligations. Seller shall be satisfied that, based on: (i) Buyer's tariff on file with the Kentucky Public Service Commission; (ii) Buyer's statutory obligations under Kentucky Revised Statutes Chapter 278; and (iii) Buyer's regulatory obligations under Chapter 5 of Title 807 of the Kentucky Administrative Regulations, that Buyer's service obligations to Millersburg water and wastewater customers, including the continuity, reliability and extension of service, will be satisfactory; and

(d) Closing Deliveries. The Buyer shall have delivered to Seller the Closing requirements set forth in Section 2.6(b).

## **ARTICLE 6 Covenants and Special Agreements**

**6.1 Covenants of Seller Prior to Closing.** Seller covenants and agrees that during the period from the Effective Date hereof until Closing:

(a) Non-Solicitation. Unless and until such time as this Agreement is terminated pursuant to Article 8, Seller shall not, and will cause each employee, officer, governing body, and agent not to, directly or indirectly: (i) submit, solicit, initiate, encourage or discuss any proposal or offer from any Person relating to any sale of all or any portion of the Assets or a sublease or assignment of any lease or any similar transaction involving Seller and the Business or the Assets; (ii) enter into any agreement or commitment related to any such transaction; or (iii) furnish any information with respect to or assist or participate in or facilitate in any other manner any effort or attempt by any Person to do or seek any of the foregoing. Seller shall notify Buyer immediately if any Person makes any proposal, offer, inquiry or contact with respect to any of the foregoing.

(b) Access. Upon reasonable prior notice by Buyer, Seller shall: (i) furnish Buyer and its financial and legal advisors with copies of all such Contracts, books and Records and other existing documents and data as Buyer may reasonably request; (ii) furnish Buyer and its financial and legal advisors with such additional financial, operating and other data and information as Buyer may reasonably request; (iii) permit Buyer or its representatives to conduct such physical inspections and environmental audits of the Real Property, as requested by Buyer; and (iv) permit Buyer or its representatives to conduct interviews of employees of Seller.

(c) Ordinary Course. Seller shall carry on the operation of the Business in the ordinary course of business, consistent with prior practice, not introduce any materially new method of management or operation, and use reasonable efforts to preserve the Business and conserve the goodwill and relationships of Seller's customers, suppliers, Governmental Authorities and others having business relations with it. Seller shall not engage in any activity or transaction which is inconsistent with the terms of this Agreement.

(d) Liens; Encumbrances. Seller shall not enter into or assume any mortgage, pledge, security agreement or other title retention agreement or permit any Encumbrance to attach to any of the Assets, whether now owned or hereafter acquired.

(e) All Reasonable Efforts. Seller will use commercially reasonable efforts to satisfy each of the conditions for Closing of the Buyer set forth in Section 5.1 above.



(f) Further Covenants.

(i) Reports. Seller shall duly and timely file all reports required to be filed with any Governmental Authority and will promptly pay when due all Taxes, assessments and governmental charges including interest and penalties levied or assessed, unless diligently contested in good faith by appropriate Proceedings;

(ii) Condition of Property. Consistent with past practice, Seller shall maintain and keep the Assets in substantially the same condition as of the date hereof, normal wear and tear excepted;

(iii) Insurance. Seller shall maintain in full force and effect all policies of insurance now in effect up and through the Effective Time on the Closing Date, but not thereafter;

(iv) No Breach or Default of Contracts. Seller shall not do any act or omit any act or permit any omission to act which will cause a breach or default by Seller of any Contract;

(v) Supplies. Seller shall keep supplies at a level sufficient to operate the Business in accordance with past practice;

(vi) Contracts. Seller shall not enter into any Contract other than in the ordinary course of business; and

(vii) Related Person Transactions. Seller shall not enter into any transaction with any Related Person.

**6.2 Environmental Assessment.** Buyer, in its sole discretion and at its sole expense, may conduct a Phase I environmental analysis of any or all of the Real Property, and the Seller shall cooperate and provide access for same. In the event that a Phase I study detects any actual or possible violation of any Environmental Law, the Buyer may, in its sole discretion, terminate this Agreement the effect of which is described in Section 8.2 herein.

**6.3 Certain Post-Closing Covenants of Seller.**

(a) Seller:

(i) shall pay in a timely manner all Taxes resulting from or payable in connection with the sale of the Assets pursuant to this Agreement, regardless of the Person on whom such Taxes are imposed.

(ii) shall pay, or make adequate provisions for the payment, in full, of all of the retained Liabilities and other Liabilities of Seller under this Agreement.

(iii) hereby agrees to cooperate with Buyer to ensure a proper transition of all customers with respect to billing and customer service activities.

(iv) hereby acknowledges that Buyer must comply with all provisions of its tariffs as filed with and approved by the PSC.

## ARTICLE 7 Indemnification

**7.1 Survival; Right to Indemnification Not Affected by Knowledge.** All representations, warranties, covenants and obligations of Seller given in this Agreement and/or any Transaction Document delivered pursuant to this Agreement shall survive Closing. The right to indemnification, payment of Damages or other remedy based on such representations, warranties, covenants and obligations will not be affected by any investigation conducted with respect to or any Knowledge acquired (or capable of being acquired) at any time, whether before or after the execution and delivery of this Agreement or the

Closing Date, with respect to the accuracy or inaccuracy of or compliance with, any such representation, warranty, covenant or obligation. The waiver of any condition based on the accuracy of any representation or warranty or on the performance of or compliance with any covenant or obligation will not affect the right to indemnification, payment of Damages or other remedy based on such representations, warranties, covenants and obligations.

**7.2 Indemnification and Payment of Damages by Seller.** Seller hereby unconditionally, irrevocably and absolutely agrees to fully pay, protect, defend, indemnify and hold harmless Buyer and Buyer's past, present and future officers, directors, shareholders, employees, agents, attorneys, representatives, successors and assigns (collectively, the "Indemnified Persons"), from any and all manner of actions, suits, debts, sums of money, interest owed, accounts, controversies, agreements, charges, damages, judgments, executions, and reasonably incurred costs, expenses, fees (including reasonable attorneys' fees and court costs), counterclaims, claims, demands, causes of action, liabilities and losses and award all other Liabilities incurred, paid or sustained by any of the foregoing (hereinafter referred to in this Agreement as "Damages"), in each case, arising out of, or caused by: (i) the misrepresentation, breach of warranty or nonfulfillment of any provision of this Agreement by Seller or; (ii) all Liabilities and/or duties of Seller, whether accruing prior to or after the Effective Time on the Closing Date, and any Encumbrance affecting the Assets; (iii) assessments, charges and other similar claims due or owing, directly or indirectly, by Seller or otherwise as a result of or on account of the Assets or the Business at any time prior to the Effective Time on the Closing Date; (iv) the ownership and/or operation of any of the Assets or the Business prior to the Effective Time on the Closing Date; (v) any claim or Proceeding now existing or hereafter arising and relating to the Assets or the Business of Seller and arising from events or matters occurring prior to the Effective Time on the Closing Date; and (vi) any claim by an employee of Seller for any severance payment or arising out of such employee's employment with Seller or under the Worker Adjustment and Retraining Notification Act, COBRA (Sections 601 through 608 of the Employee Retirement Income Security Act of 1974), or under any employee benefit plan or employment Contract to which Seller is a party.

**7.3 Indemnification and Payment of Damages by Seller - Environmental Matters.** In addition to the provisions of Section 7.2, Seller hereby unconditionally, irrevocably and absolutely agrees to fully pay, protect, defend, indemnify and hold harmless the Indemnified Persons, and will pay to the Indemnified Persons the amount of any Damages (including costs of cleanup, containment or other remediation) arising, directly or indirectly, from or in connection with:

(a) Any Environmental, Health and Safety Liabilities arising out of or relating to: (i) (A) the ownership, operation or condition at any time on or prior to the Effective Time on the Closing Date of the Assets or any other properties (whether real, personal or mixed and whether tangible or intangible) in which Seller has or had an interest; or (B) any Hazardous Materials or other contaminants that were present on or in the Assets or any other properties at any time on or prior to the Effective Time on the Closing Date; or (ii) (A) any Hazardous Materials or other contaminants, wherever located, that were, or were allegedly, generated, transported, stored, treated, Released or otherwise handled by Seller or by any other Person for whose conduct it is or may be held responsible at any time on or prior to the Effective Time on the Closing Date; or (B) any Hazardous Activities that were, or were allegedly, conducted by Seller or by any other Person for whose conduct it is or may be held responsible on or prior to the Effective Time on the Closing Date; or

(b) Any bodily injury (including illness, disability and death), personal injury, property damage (including trespass, nuisance, wrongful eviction and deprivation of the use of real property) or other damage of or to any Person, including any employee or former employee of Seller or any other Person for whose conduct it is or may be held responsible, in any way arising from or allegedly arising from any Hazardous Activity conducted or allegedly conducted with respect to the Assets or the Real Property by Seller prior to the Effective Time on the Closing Date, or from Hazardous Material that was: (i) present or suspected to be present on or before the Effective Time on the Closing Date on or at the Real Property (or present or suspected to be present on any other property, if such Hazardous Material emanated or allegedly emanated from any of the Real Property and was present or suspected to be present on any of the Real Property on or prior to the Effective Time on the Closing Date); or (ii) Released

or allegedly Released by Seller or any other Person for whose conduct it is or may be held responsible, at any time on or prior to the Effective Time on the Closing Date.

Buyer shall control any Cleanup, any related Proceeding and, except as provided in the following sentence, any other Proceeding with respect to which indemnity may be sought under this Section 7.3. The procedure described in Section 7.5 will apply to any claim solely for monetary Damages relating to a matter covered by this Section 7.3.

**7.4 Indemnification By Buyer.** Buyer hereby unconditionally, irrevocably and absolutely agrees to fully pay, protect, defend, indemnify and hold harmless Seller and Seller's past, present and future officers, governing body, employees, agents, attorneys, representatives, successors and assigns from any and all Damages arising out of, or caused by: (i) Buyer's misrepresentation, breach of warranty or nonfulfillment of any provision of this Agreement; (ii) any claim or Proceeding arising after the Effective Time on the Closing Date and relating to events or matters occurring subsequent to the Effective Time on the Closing Date; and (iii) any claim by an employee of Buyer arising out of such employee's employment with Buyer after the Effective Time on the Closing Date.

**7.5 Procedure for Indemnification.** The procedure for indemnification shall be as follows:

(a) The party claiming indemnification (the "Claimant") shall promptly give notice to the party from whom indemnification is claimed (the "Indemnifying Party") of any claim, whether between the parties or brought by a third party, specifying: (i) the factual basis for such claim; and (ii) the amount of the claim. If the claim relates to a Proceeding filed by a third party against Claimant, Claimant shall give such notice within ten (10) Business Days after written notice of such Proceeding was given to Claimant. Claimant's failure to give the Indemnifying Party such notice shall not preclude Claimant from obtaining indemnification from the Indemnifying Party unless Claimant's failure has materially prejudiced the Indemnifying Party's ability to defend the claim or litigation, and then the Indemnifying Party's obligation shall be reduced to the extent of such prejudice.

(b) Following receipt of notice from the Claimant of a claim, the Indemnifying Party shall have thirty (30) days to make such investigation of the claim as the Indemnifying Party deems necessary or desirable. For the purposes of such investigation, the Claimant agrees to make available to the Indemnifying Party and/or its authorized representatives the information relied upon by the Claimant to substantiate the claim. If the Claimant and the Indemnifying Party agree at or prior to the expiration of said thirty (30)-day period (or any mutually agreed upon extension thereof) to the validity and amount of such claim, the Indemnifying Party shall immediately pay to the Claimant the full amount of the claim. If the Claimant and the Indemnifying Party do not agree within said period (or any mutually agreed upon extension thereof), the Claimant may seek appropriate legal remedy.

(c) (i) With respect to any claim by a third party as to which the Claimant asserts it is entitled to indemnification hereunder, the Indemnifying Party shall have the right, at its own expense, to participate in or at its election to assume control of the defense of such claim, with counsel reasonably satisfactory to Claimant, subject to reimbursement of Claimant for actual out-of-pocket expenses incurred by Claimant as the result of request by the Indemnifying Party, subject to the following;

(A) The Claimant may retain separate co-counsel at its sole cost and expense and participate in the defense of any such claim by a third party; and

(B) The Indemnifying Party shall conduct the defense of the third party claim actively and diligently thereafter.

(ii) If the Indemnifying Party elects to assume control of the defense of any third party claim pursuant to Section 7.5(c)(i), the Indemnifying Party may nevertheless reserve the right to dispute the amount of indemnification claimed or dispute Claimant's right to be indemnified with respect to all or any portion of the claim. Except with the written Consent of the Claimant, the Indemnifying Party shall not, in defending any claim or any litigation resulting therefrom, consent to entry of any judgment or enter into any settlement which does not release the Claimant from all Liability in respect of such claim or

litigation. In the event the Claimant fails to consent to any settlement or compromise which such failure results in Damages in excess of the amount for which Consent was requested, the limitation of the Indemnifying Party's obligations to indemnify the Claimant with respect to the subject matter of the claim shall be the amount of the proposed settlement or compromise rejected by Claimant and the Claimant shall be responsible for, and shall hold harmless the Indemnifying Party from, all Damages (including, without limitation, reasonable attorneys' fees incurred with respect to matters subsequent to the rejection of the settlement by Claimant) in excess of the amount of the proposed settlement or compromise rejected by Claimant.

(d) If a claim, whether between the parties or by a third party, requires immediate action, the parties will make every effort to reach a decision with respect thereto as expeditiously as possible.

**7.6 Means of Indemnification and Right to Setoff.** In addition to any other right or means Buyer may have to enforce the indemnities provided for in Sections 7.2 and 7.3 hereof, Buyer shall be entitled to set off any amount to which it may be entitled under this Agreement or Damages which Buyer may incur as a result of any breach of this Agreement or any covenant, guaranty or other provision contained within this Agreement against any payments of the Purchase Price and/or any indebtedness or obligation owed to Seller whether under this Agreement or any agreement or document related hereto. Buyer's right to setoff or its exercise thereof shall not prejudice the right of Buyer to pursue, in addition or as an alternative to such right, any other right or means Buyer may have to enforce the indemnification provided for in Sections 7.2 and 7.3 hereof and in no event shall the amount actually setoff limit Buyer's right to indemnification under Sections 7.2 and 7.3 hereof.

## ARTICLE 8 Termination

**8.1 Termination and Abandonment.** This Agreement may be terminated and abandoned at any time prior to the Closing Date:

- (a) by mutual written Consent of Buyer and Seller;
- (b) by Buyer, if the PSC does not approve the adoption or approval of water and wastewater rates prior to the Closing Date or such other later date as agreed upon in writing; or
- (c) by Buyer, if the PSC does not approve the interconnection agreement with Paris, Kentucky prior to the Closing Date or such other later date as agreed upon in writing.

**8.2 Effect of Termination.** The right of each party to terminate this Agreement under Section 8.1 is in addition to any other rights such party may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies. If this Agreement is terminated pursuant to Section 8.1, all further obligations of the parties under this Agreement will terminate, except that the obligations set forth in Sections 9.9 ("Legal Fees; Costs") and 9.15 ("Publicity; Announcements"); and all other covenants and agreements which by their terms continue after the termination of this Agreement will survive; provided, however, that if this Agreement is terminated by a party because of the breach of the Agreement by another party or because one (1) or more of the conditions to the terminating party's obligations under this Agreement is not satisfied as a result of the other party's failure to comply with its obligations under this Agreement, the terminating party's right to pursue all legal remedies will survive such termination unimpaired.

## ARTICLE 9 General Provisions

**9.1 Amendment and Modification.** No amendment, modification, supplement, termination, Consent or waiver of any section or provision of this Agreement, nor any Consent for departure therefrom, will in any event be effective unless the same is in writing and is signed by the parties. Any waiver of any provision of this Agreement and any Consent to any departure from the terms of any

provision of this Agreement is to be effective only in the specific instance and for the specific purpose for which given.

**9.2 Assignments.** Seller may not assign or transfer any of its rights or obligations under this Agreement to any other Person without the prior written Consent of Buyer. Buyer may assign its rights and obligations under this Agreement to any Related Person or successor in interest without the Consent of Seller.

**9.3 Captions.** Captions contained in this Agreement and any table of contents preceding this Agreement have been inserted herein only as a matter of convenience and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

**9.4 Counterparts; Electronic Mail.** This Agreement may be executed by the parties hereto on any number of separate counterparts, and all such counterparts so executed constitute one agreement binding on all the parties hereto notwithstanding that all the parties hereto are not signatories to the same counterpart. For purposes of this Agreement, a document (or signature page thereto) signed and transmitted in .pdf format by electronic mail is to be treated as an original document. The signature of any party thereon is to be considered as an original signature, and the document transmitted is to be considered to have the same binding effect as an original signature on an original document. At the request of any party hereto, the .pdf copy is to be re-executed in original form by the parties who executed the .pdf copy. No party hereto may raise the use of a .pdf copy or the fact that any signature was transmitted through the use of electronic mail as a defense to the enforcement of this Agreement or any amendment or other document executed in compliance with this section.

**9.5 Entire Agreement.** This Agreement and the other Transaction Documents constitute the entire agreement among the parties hereto pertaining to the subject matter hereof and supersede all prior agreements, letters of intent, understandings, negotiations and discussions of the parties hereto, whether oral or written.

**9.6 Exhibits and Schedules.** All of the Exhibits and Schedules attached to this Agreement are deemed incorporated herein by reference.

**9.7 Failure or Delay.** Except as otherwise provided by this Agreement, no failure on the part of any party hereto to exercise, and no delay in exercising, any right, power or privilege hereunder operates as a waiver thereof; nor does any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. No notice to or demand on any party hereto in any case entitles such party to any other or further notice or demand in similar or other circumstances.

**9.8 Governing Law.** This Agreement and the rights and obligations of the parties hereunder are to be governed by and construed and interpreted in accordance with the Laws of the State of Kentucky applicable to Contracts made and to be performed wholly within Indiana, without regard to choice or conflict of Laws rules. In the event of any litigation or claim regarding this Agreement, the parties agree that the PSC has jurisdiction to govern all matters involving the Contemplated Transaction and the provision of water service by Buyer to the residents located within the Service Area.

**9.9 Legal Fees, Costs.** All legal, consulting and advisory fees and other costs and expenses incurred in connection with this Agreement and the Contemplated Transaction are to be paid by the party incurring such costs and expenses; provided, however, in the event litigation is instituted by either party to enforce or remedy a breach of any provision of this Agreement, in addition to any other relief therein awarded, the prevailing party shall be entitled to judgment for reasonable attorney's fees and litigation expenses. The term "prevailing party" shall include, but not be limited to, a party who obtains legal counsel or brings an action against the other by reason of the other's breach or default and obtains substantially the relief sought whether by compromise, mediation, settlement, judgment or otherwise.

**9.10 Notices.** All notices, Consents, requests, demands and other communications hereunder are to be in writing and are deemed to have been duly given, made or delivered: (i) when

delivered in person, (ii) three (3) days after deposited in the United States mail, first class postage prepaid, (iii) in the case of telegraph or overnight courier services, one (1) Business Day after delivery to the telegraph company or overnight courier service with payment provided, or (iv) in the case of electronic mail, when sent, verification received, in each case addressed as follows:

if to Seller:

City of Millersburg, KY  
Nathan Zingg, Mayor  
1113 Main Street  
Millersburg, Kentucky 40348

with a copy to (which will not constitute notice):

Attn: Jimmy Brannon, City Attorney  
1113 Main Street  
Millersburg, Kentucky 40348

if to Buyer:

Attn: President  
Kentucky-American Water Company  
2300 Richmond Road  
Lexington, Kentucky 40502

with a copy to (which shall not constitute notice):

Attn: Corporate Counsel  
Kentucky-American Water Company  
2300 Richmond Road  
Lexington, Kentucky 40502

or to such other address as any party hereto may designate by notice to the other parties in accordance with the terms of this Section. For e-mail, a Party shall contact the other Party to receive the then-applicable e-mail for the person in the position stated above.

**9.11 Severability.** Any provision of this Agreement which is prohibited, unenforceable or not authorized in any jurisdiction is, as to such jurisdiction, ineffective to the extent of any such prohibition, unenforceability or nonauthorization without invalidating the remaining provisions hereof, or affecting the validity, enforceability or legality of such provision in any other jurisdiction, unless the ineffectiveness of such provision would result in such a material change as to cause completion of the Contemplated Transaction to be unreasonable.

**9.12 Specific Performance and Injunctive Relief.** The parties hereto recognize that if any or all of them fail to perform, observe or discharge any of their respective obligations under this Agreement, a remedy at Law may not provide adequate relief to the other parties hereto. Therefore, in addition to any other remedy provided for in this Agreement or under applicable Law, any party hereto may demand specific performance of this Agreement, and such party shall be entitled to temporary and permanent injunctive relief, in a court of competent jurisdiction at any time when any of the other parties hereto fail to comply with any of the provisions of this Agreement applicable to such party. To the extent permitted by applicable Law, all parties hereto hereby irrevocably waive any defense based on the adequacy of a remedy at Law which might be asserted as a bar to such party's remedy of specific performance or injunctive relief.

**9.13 Successors and Assigns.** Subject to Section 9.2, all provisions of this Agreement are binding upon, inure to the benefit of and are enforceable by or against the parties hereto and their respective heirs, executors, administrators or other legal representatives and permitted successors and assigns.

**9.14 No Third-Party Beneficiary.** This Agreement is solely for the benefit of the parties hereto and their respective successors and permitted assigns, and no other Person has any right, benefit, priority or interest under, or because of the existence of, this Agreement.

**9.15 Publicity; Announcements.** From the date hereof through and including Closing, no party hereto shall issue, cause or permit the publication by any of their respective Related Persons, agents or representatives, any press release or other public announcement with respect to this Agreement or the Contemplated Transaction except: (i) with the Consent of the other parties hereto (which shall not be unreasonably withheld); or (ii) as required by applicable Law (including, without limitation, any applicable securities Law). Seller will not, without the prior Consent of Buyer, make any announcements to employees of Seller with respect to the Contemplated Transaction and, at such time as an announcement to the employees is made, Buyer shall be allowed to participate in such announcement.

**9.16 Cooperation.** Any notices or certifications given under this Agreement or any related agreement shall be given in good faith without any intention to unfairly impede or delay the other party. Buyer and Seller shall cooperate fully with each other and their respective counsel and accountants in connection with any actions required to be taken as part of their respective obligations under this Agreement including, without limitation, actions required to be taken with respect to obtaining any applicable regulatory approval of the Contemplated Transaction. Buyer and Seller shall execute such other documents as may be necessary and desirable to the implementation and consummation of this Agreement. Each party agrees to use all reasonable efforts to consummate the Contemplated Transaction including, without limitation, doing all things reasonably necessary to obtain the requisite regulatory approval.

**9.17 Professional Services Agreement.** The Agreement for Water Treatment Plant Professional Services between the parties effective October 1, 2013 shall terminate upon Closing.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date first above written.

**Buyer**

KENTUCKY-AMERICAN WATER COMPANY, a  
Kentucky public utility corporation

By: Cheryl A. Norton  
Cheryl Norton, President

**Seller**

CITY OF MILLERSBURG, KY

By: Nathan S. Zingg, Mayor  
Name: Nathan S. Zingg  
Title: Mayor, City of Millersburg

## Schedule 1 Definitions

"Assets" as defined in Section 2.1.

"Agreement" as defined in the introductory paragraph.

"Assignment and Assumption Agreement" as defined in Section 2.7(a)(ii).

"Bill of Sale" as defined in Section 2.7(a)(i).

"Business" as defined in the Recitals.

"Business Days" means any day other than (i) Saturday or Sunday, or (ii) any other day on which governmental offices in the State of Indiana are permitted or required to be closed.

"Buyer" as defined in the introductory paragraph.

"Claimant" as defined in Section 7.5(a).

"Closing" as defined in Section 2.6.

"Closing Date" as defined in Section 2.6.

"Confidential Information" means (i) information not available to the general public concerning the Business and financial affairs with respect to a party hereto, and (ii) analyses, compilations, forecasts, studies and other documents prepared on the basis of such information by the parties or their agents, representatives, any Related Person, employees or consultants.

"Consent" means any approval, consent, ratification, waiver or other authorization.

"Contemplated Transaction" means all of the transactions contemplated by this Agreement and the Transaction Documents.

"Contract" means any agreement, contract, obligation, promise or undertaking (whether written or oral and whether express or implied), whether or not legally binding.

"Customer Premises" means a dwelling, building, structure or parcel of real estate which is supplied with water service through a Service Line.

"Customer Service Connection" means that portion of water pipe extending from the Customer Premises to the curb box containing the curb service stop which Customer Service Connection shall be owned and maintained by the customer.

"Damages" as defined in Section 7.2.

"Effective Time" as defined in Section 2.6.

"Encumbrance" means any charge, claim, community property interest, condition, easement, equitable interest, lien, mortgage, option, pledge, security interest, right of first refusal, right of way, servitude or restriction of any kind, including any restriction on use, transfer, receipt of income or exercise of any other attribute of ownership, or any repayment obligation under any grant.

"Environment" means soil, land surface or subsurface strata, surface waters (including navigable waters, ocean waters, streams, ponds, drainage basins and wetlands), groundwater, drinking water supply, stream sediments, ambient air (including indoor air), plant and animal life and any other environmental medium or natural resource.



"Environmental, Health and Safety Liabilities" means any cost, Damages, expense, Liability, obligation or other responsibility arising from or under Environmental Law or Occupational Safety and Health Law and consisting of or relating to:

(a) Any environmental, health or safety matters or conditions (including on-site or off-site contamination, occupational safety and health and regulation of chemical substances or products);

(b) Fines, penalties, judgments, awards, settlements, legal or administrative proceedings, Damages, losses, claims, demands and response, investigative, remedial or inspection costs and expenses arising under Environmental Law or Occupational Safety and Health Law;

(c) Financial responsibility under Environmental Law or Occupational Safety and Health Law for cleanup costs or corrective action, including any investigation, cleanup, removal, containment or other remediation or response actions ("Cleanup") required by applicable Environmental Law or Occupational Safety and Health Law (whether or not such Cleanup has been required or requested by any Governmental Authority or any other Person) and for any natural resource Damages; or

(d) Any other compliance, corrective, investigative or remedial measures required under Environmental Law or Occupational Safety and Health Law.

The terms "removal," "remedial," and "response action," include the types of activities covered by the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., as amended ("CERCLA").

"Environmental Law" means any Law that requires or relates to:

(a) Advising appropriate authorities, employees and the public of intended or actual Releases of pollutants or hazardous substances or materials, violations of discharge limits or other prohibitions and of the commencements of activities, such as resource extraction or construction, that could have significant impact on the Environment;

(b) Preventing or reducing to acceptable levels the Release of pollutants or hazardous substances or materials into the Environment;

(c) Reducing the quantities, preventing the release or minimizing the hazardous characteristics of wastes that are generated;

(d) Assuring that products are designed, formulated, packaged and used so that they do not present unreasonable risks to human health or the Environment when used or disposed of;

(e) Protecting resources, species or ecological amenities;

(f) Reducing to acceptable levels the risks inherent in the transportation of hazardous substances, pollutants, oil or other potentially harmful substances;

(g) Cleaning up pollutants that have been Released, preventing the threat of Release or paying the costs of such clean up or prevention; or

(h) Making responsible parties pay private parties, or groups of them, for Damages done to their health or the Environment, or permitting self-appointed representatives of the public interest to recover for injuries done to public assets.

"Excluded Assets" as defined in Section 2.2.

"Governmental Authority(ies)" means any:

(a) Nation, state, county, city, town, village, district or other jurisdiction of any nature;

- (b) Federal, state, local, municipal, foreign or other government;
- (c) Governmental or quasi-governmental authority of any nature (including any governmental agency, branch, department, official or entity and any court or other tribunal);
- (d) Multi-national organization or body; or
- (e) Body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power of any nature.

"Hazardous Activity" means the distribution, generation, handling, importing, management, manufacturing, processing, production, refinement, Release, storage, transfer, transportation, treatment or use (including any withdrawal or other use of groundwater) of Hazardous Materials in, on, under, about or from the property or any part thereof into the Environment, and any other act, business, operation or thing that increases the danger or risk of danger, or poses an unreasonable risk of harm to persons or property on or off the property, or that may affect the value of the property or Seller.

"Hazardous Materials" means any waste or other substance that is listed, defined, designated or classified as, or otherwise determined to be, hazardous, radioactive or toxic or a pollutant or a contaminant under or pursuant to any Environmental Law, including any admixture or solution thereof, and specifically including petroleum and all derivatives thereof or synthetic substitutes therefor and asbestos or asbestos-containing materials.

"Indemnifying Party" as defined in Section 7.5(a).

"Knowledge" means an individual will be deemed to have "Knowledge" of a particular fact or other matter if:

- (a) Such individual is actually aware of such fact or other matter; or
- (b) A prudent individual could be expected to discover or otherwise become aware of such fact or other matter in the course of conducting a reasonable investigation concerning the existence of such fact or other matter.

A Person (other than an individual) will be deemed to have "Knowledge" of a particular fact or other matter if any individual who is serving as a director or officer of such Person (or in any similar executive capacity) has, or at any time had, Knowledge of such fact or other matter.

"Law" means any law, rule, regulation or ordinance of any federal, foreign, state or local Governmental Authority.

"Liability" with respect to any Person any liability or obligation of such Person for any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise and whether or not the same is required to be accrued on the financial statements of such Person.

"Occupational Safety and Health Law" means any Law designed to provide safe and healthful working conditions and to reduce occupational safety and health hazards, and any program, whether governmental or private (including those promulgated or sponsored by industry associations and insurance companies), designed to provide safe and healthful working conditions.

"Order" means any award, decision, injunction, judgment, order, ruling, subpoena or verdict entered, issued, made or rendered by any court, administrative agency or other Governmental Authority or by any arbitrator.

"Organizational Documents" means the articles or certificate of incorporation and the bylaws of a corporation and any amendment thereto.

"Permit" means any approval, Consent, license, permit, waiver or other authorization issued, granted, given or otherwise made available by or under the authority of any Governmental Authority or pursuant to any Law.

"Person" means any individual, corporation (including any non-profit corporation), general or limited partnership, limited liability company, joint venture, estate, trust, association, organization, labor union or other entity or Governmental Authority.

"Proceeding" means any action, arbitration, audit, hearing, investigation, litigation or suit (whether civil, criminal, administrative, investigative or informal) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Authority or arbitrator.

"Purchase Price" as defined in Section 2.3.

"Real Property" as defined in Section 3.4.

"Records" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Related Person" with respect to a particular individual, means:

- (a) Each other member of such individual's Family (as hereinafter defined);
- (b) Any Person that is directly or indirectly controlled by such individual or one or more members of such individual's Family;
- (c) Any Person in which such individual or members of such individual's Family hold (individually or in the aggregate) a Material Interest; and
- (d) Any Person with respect to which such individual or one or more members of such individual's Family serves as a director, officer, partner, executor or trustee (or in a similar capacity).

With respect to a specified Person other than an individual:

- (e) Any Person that directly or indirectly controls, is directly or indirectly controlled by, or is directly or indirectly under common control with such specified Person;
- (f) Any Person that holds a Material Interest in such specified Person;
- (g) Each Person that serves as a director, officer, partner, executor or trustee of such specified Person (or in a similar capacity);
- (h) Any Person in which such specified Person holds a Material Interest;
- (i) Any Person with respect to which such specified Person serves as a general partner or a trustee (or in a similar capacity); and
- (j) Any Related Person of any individual described in clause (b) or (c).

For purposes of this definition, (i) the "Family" of an individual includes (A) the individual, (B) the individual's spouse, (C) any other natural person who is related to the individual or the individual's spouse within the second degree, and (D) any other natural person who resides with such individual; and (ii) "Material Interest" means direct or indirect beneficial ownership (as defined in Rule 13d-3 under the Securities Exchange Act of 1934) of voting securities or other voting interests representing at least five percent (5%) of the outstanding equity securities or equity interests in a Person.

"Release" means any spilling, leaking, emitting, discharging, depositing, escaping, leaching, dumping or other releasing into the Environment, whether intentional or unintentional.

“Seller” shall have the meaning given that term in the introductory paragraph.

“Service Area” as defined in the Recitals.

“Service Line” means that portion of water pipe extending from the water main to and including the curb stop and curb box located at or near the property line of a Customer Premises.

“Tangible Personal Property” means all wells, treatment plants, pumps, water transmission and distribution mains, valves and appurtenances, storage tanks, Service Lines, meters, meter installations, hydrants, machinery, equipment, tools, furniture, office equipment, computer hardware, supplies (including chemicals and spare parts), materials, vehicles and other items of tangible personal property of every kind owned or leased by Seller (wherever located and whether or not carried on Seller’s books), which are, could be, or in the future would be part of the production, transmission and distribution system utilized to provide water service to Seller’s water customers, together with any express or implied warranty by the manufacturers or sellers or lessors of any item or component part thereof, and all maintenance Records and other documents relating thereto.

“Tax” means all taxes, charges, withholdings, fees, levies, penalties, additions, interest or other assessments, including, without limitation, income, gross receipts, excise, property, sales, employment, withholding, social security, occupation, use, service, service use, license, payroll, franchise, transfer and recording taxes, fees and charges, windfall profits, severance, customs, import, export, employment or similar taxes, charges, fees, levies or other assessments, imposed by any Governmental Authority, whether computed on a separate, consolidated, unitary, combined or any other basis.

“Transaction Documents” means this Agreement, the Bill of Sale, and all other documents, certificates, assignments and agreements executed and/or delivered in connection with this Agreement in Order to consummate the Contemplated Transaction, as the same may be amended, restated, modified or otherwise replaced by mutual agreement from time to time.

### **Rules of Construction**

For purposes of this Agreement and the other documents executed in connection herewith, the following rules of construction shall apply, unless specifically indicated to the contrary: (i) wherever from the context it appears appropriate, each term stated in either the singular or plural shall include the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, the feminine and the neuter; (ii) the term “or” is not exclusive; (iii) the term “including” (or any form thereof) shall not be limiting or exclusive; (iv) all references to statutes and related regulations shall include any amendments of same and any successor statutes and regulations; (v) all references in this Agreement or in the Schedules to this Agreement to sections, schedules, exhibits and attachments shall refer to the corresponding sections, schedules, exhibits and attachments of or to this Agreement; and (vi) all references to any instruments or agreements, including references to any of the documents executed in connection herewith, shall include any and all modifications or amendments thereto and any and all extensions or renewals thereof.

**Schedule 2.2**  
**Excluded Assets**

This schedule will be completed to Buyer's satisfaction prior to closing.

**Schedule 3.4  
Real Property and Easements**

This schedule will be completed to Buyer's satisfaction prior to closing.

**Real Property**

Sewage Treatment Plant – 302 W. 2<sup>nd</sup> Street, Millersburg, KY

Water Tower Property – Coal Street, Millersburg, KY

**Easements**

Type	Date	Grantor(s)	Grantee(s)	Location	Book & Page Nos.
Deed of Easement	4/1/95	James A. & Sarah Berry Calvert	City of Millersburg		
Deed of Easement	5/11/99	James A. & Sarah Barry Calvert	City of Millersburg		
Deed of Easement	1/30/03	Maxine Avery	City of Millersburg	Bourbon County	B250 P461
Deed of Easement	7/8/63	Lyda Butler	City of Millersburg		
Deed of Easement	11/5/90	City of Millersburg	W.R. Stamler Corporation		
Deed	3/28/62	Kentucky Utilities Company	City of Millersburg	Bourbon County	
Deed of Easement	11/25/94	Alton Banks	City of Millersburg		
Right-of-Way-Easement	5/19/03	John Edward & Patricia A. Smith	City of Millersburg	Bourbon County	B252 P322
Right-of-Way-Easement	5/13/03	Daniel R. & Regina J. Stevens	City of Millersburg	Bourbon County	B252 P320
Right-of-Way-Easement	5/14/03	James Dale & Tammy R. Ritchie	City of Millersburg	Bourbon County	B252 P324
Right-of-Way-Easement	5/11/03	Harry Monroe & Mary Antoinette Wells, Jeffrey Scott Wells, Joshua Monroe Wells, Anna Larissa Wells	City of Millersburg	Bourbon County	B252 P314

Right-of-Way-Easement	5/11/03	Jeffrey Scott Wells	City of Millersburg	Bourbon County	B252 P316
Right-of-Way-Easement	5/16/03	Paul J.R. Moss & Nicole Lynn Patenaude	City of Millersburg	Bourbon County	B252 P326
Right-of-Way-Easement	5/5/03	Edith R. Toy	City of Millersburg	Bourbon County	B252 P318
Right-of-Way-Easement	5/14/03	Robert Earl & Kimberly J. Clark	City of Millersburg	Bourbon County	B252 P307
Right-of-Way-Easement	5/19/03	G.W. & Faye B. Sexton	City of Millersburg	Bourbon County	B252 P305
Right-of-Way-Easement	5/5/03	William Davis Wright	City of Millersburg	Bourbon County	B252 P310
Right-of-Way-Easement	5/16/03	Barbara A. Bland	City of Millersburg	Bourbon County	B252 P312
Right-of-Way-Easement	5/14/03	Licha H. & Rose Marie H. Farah	City of Millersburg	Bourbon County	B252 P308
Right-of-Way-Easement	5/19/03	Ronald L. & Joyce P. Eads	City of Millersburg	Bourbon County	B252 P328
Right of Way Easement (Temporary easement to demolish tower)	11/4/91	Caroline Wood & M.C. Blair, Mattie Wood & R.R. Kirkpatrick	City of Millersburg	Bourbon County	
Right-of-Way-Easement (Construct & maintain a main)	9/18/89	Caroline Wood & M.C. Blair, Mattie Wood & R.R. Kirkpatrick	City of Millersburg		
Right-of-Way-Easement	5/7/03	June Ann Collins	City of Millersburg	Bourbon County	B254 P841
Right-of-Way-Easement	5/19/03	Robert F. Davis	City of Millersburg	Bourbon County	B254 P844
Right-of-Way-Easement	7/24/03	James Todd Davis	City of Millersburg	Bourbon County	B255 P04
Right-of-Way-Easement	5/2/89	Olive Kenney	City of Millersburg		
Right-of-Way-Easement	9/15/88	Ruth W. Layson, Jeff V. & Patty W. Layson	City of Millersburg		
Right-of-Way-Easement	5/16/03	Minnie Wright Davis	City of Millersburg	Bourbon County	B254 P838
Right-of-Way-Easement	5/5/03	Margaret Redmon	City of Millersburg	Bourbon County	B255 P01
License Agreement	2/9/98	Transkentucky Transportation Railroad, Inc.	City of Millersburg		

**Schedule 3.6  
Contracts**

This schedule will be completed to Buyer's satisfaction prior to closing.

Water Purchase Contract between City of Millersburg and Nicholas County Water District dated May 12, 1999.

Water Purchase Contract between City of Millersburg and The Harrison County Water Association dated November 7, 2005.



**Schedule 3.7(a)**  
**Environmental Matters**

This schedule will be completed to Buyer's satisfaction prior to closing.

**Schedule 3.8**  
**Permits**

This schedule will be completed to Buyer's satisfaction prior to closing.

KPDES Permit No. KY0020940 - Authorization to Discharge Under the Kentucky Pollutant Discharge Elimination System

## ASSET PURCHASE AGREEMENT

May This **Asset Purchase Agreement** ("Agreement") is made and entered into this 2<sup>nd</sup> day of May, 2016 ("Effective Date") by and between **Kentucky-American Water Company**, a Kentucky public utility corporation ("Buyer"), and **Classic Construction, Inc., a Kentucky Corporation**, ("Seller"). Hereinafter, the Buyer and Seller may be individually referred to as a "party" or jointly as the "parties".

### RECITALS:

A. Seller owns and operates a sewer system which provides sewer services to customers located within its service area (the "Service Area") (collectively referred to as the "Business").

B. Buyer desires to acquire and Seller desires to sell the Assets of Seller relating to the Business pursuant to the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the foregoing recitals and the covenants contained herein and in exchange for other consideration the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, agree as follows:

### **ARTICLE 1** **Definitions and Related Matters**

For purposes of this Agreement and all documents executed in connection with this Agreement, the capitalized terms shall have the meanings assigned to them herein or in Schedule 1 and the rules of construction set forth in Schedule 1 shall govern.

### **ARTICLE 2** **Purchase and Sale of Assets; Closing**

**2.1 Transfer and Description of Assets.** Subject to and upon all other terms and conditions of this Agreement, effective as of the Effective Time on the Closing Date, Seller shall sell, convey, transfer, assign and deliver to Buyer free and clear of all Encumbrances, and Buyer shall acquire from Seller, all of Seller's right, title and interest in and to all of Seller's assets, other than the Excluded Assets, regardless of where located, which are, could be, or in the future would be part of the treatment and collection systems used to provide sewer service to Seller's sewer's customers, including but not limited to the following:

(a) all Real Property including any easements, rights-of-way or rights granted to the Seller in furtherance of the operation of the Business including but not limited to that described in Schedule 3.4;

(b) all Tangible Personal Property, as defined in Schedule 1 Definitions.

(c) all data and Records related to Seller's operation of the Business, including, but not limited to, the customer list which shall include the service and billing address of all customers of the Seller and, subject to applicable Law, copies of all Records described in Section 2.2(b);

(d) all Permits and all pending applications therefore, renewals thereof or exemptions therefrom which are necessary or advisable in the operation of Seller's Business, including but not limited to those listed in Schedule 3.8; and

(e) all of the intangible rights and property of Seller utilized by Seller in the operation of the Business.

All of the foregoing shall be hereinafter referred to collectively as the "Assets".

**2.2 Excluded Assets.** Notwithstanding anything to the contrary contained in Section 2.1 or elsewhere in this Agreement, the following Assets of Seller are not part of the sale and purchase

contemplated hereunder, are excluded from the Assets, and shall remain the property of Seller after the Closing:

- (a) all insurance policies and rights thereunder;
- (b) all personnel Records and other Records that Seller is required by Law to retain in its possession;
- (c) all office furniture and equipment, including computers, used in the operation of the Business;
- (d) all rights in connection with and assets of the employee benefit plans and employment or independent contractor Contracts;
- (e) all rights of Seller under the Transaction Documents;
- (f) cash, cash equivalents and short-term investments;
- (g) the assets listed on Schedule 2.2;
- (h) accounts receivable arising prior to the Effective Time; and
- (i) Customer Service Connections, which shall remain the property of the customer.

All of the foregoing shall be hereinafter referred to collectively as the "Excluded Assets".

**2.3 Consideration.** The consideration for the Assets (the "Purchase Price") will be the sum of **Fifteen Thousand Dollars** (\$15,000.00). The Assets shall be in substantially the same condition, absent normal wear and tear, and fully able to perform the functions they are intended to at the time of Closing. If any of the Assets are not able to perform the function they are intended to, the Buyer, at its option, may request an adjustment to the purchase price to compensate for the deterioration or loss of said Asset. In the event the parties are not able to agree to the amount of the adjustment, the adjustment amount shall be the amount necessary to return the Asset to the condition it was in on the Effective Date of this Agreement.

**2.4 Liabilities.** The Buyer shall not be responsible for any of the Liabilities of Seller, including any that may arise after Closing, and any such Liabilities shall remain the sole responsibility of and shall be retained, paid, performed and discharged solely by Seller.

**2.5 Closing.** The purchase and sale provided for in this Agreement will take place at a location and time of day agreed upon by the parties (the "Closing"). The date of the Closing shall be no later than thirty days following approval by the Public Service Commission (PSC) or at such later date as is agreed upon by the parties. Closing shall be effective as of 5:00 pm local time (the "Effective Time") on the actual date of Closing (the "Closing Date").

**2.6 Closing Obligations.**

(a) At or prior to Closing, Seller shall deliver to Buyer the following documents, duly executed:

(i) a Bill of Sale for all of the Assets that are Tangible Personal Property in a form reasonably acceptable to Buyer;

(ii) an assignment of all of the Assets that are intangible personal property in a form reasonably acceptable to Buyer;

(iii) for each interest in Real Property identified on Schedule 3.4, a recordable warranty deed or such other appropriate document or instrument of transfer or approval, as

the case may require, each in form and substance satisfactory to Buyer and its legal counsel. Notwithstanding the fact that the same may not be listed on Schedule 3.4, Seller must provide easements or other transferable property rights to Buyer for all mains used in the Business, which are not located on or in public rights-of-way, and must provide assignments of public rights-of-way Permits with only those conditions acceptable to Buyer for all mains located in municipal, county or state owned public rights-of-way;

(iv) such other deeds, bills of sale, assignments, certificates of title, documents and other instruments of transfer and conveyance as may be reasonably requested by Buyer, each in form and substance satisfactory to Buyer;

(v) a certificate as to the accuracy of Seller's representations and warranties as of the Effective Date of this Agreement and as of Closing in accordance with Section 5.1(a) and as to its compliance with and performance of its covenants and obligations to be performed or complied with at or before Closing in accordance with Section 5.1(b);

(vi) a certificate of the Secretary of Seller, dated as of the Closing, certifying: (A) that attached are true copies of the duly adopted resolutions of the Seller's governing body authorizing the execution of this Agreement and the sale of all Assets; and (B) the incumbency, signatures and authority of the governing body members of Seller executing this Agreement or any agreement contemplated hereby on behalf of Seller;

(vii) a general release in a form reasonably acceptable to Buyer;

(viii) a legal opinion of Seller's legal counsel, affirmatively opining to such matters as Buyer or its legal counsel may reasonably request, including but not limited to the due authorization and execution of this Agreement by Seller and the enforceability thereof; and the Seller's compliance with any applicable Kentucky statutes or regulations applicable to its sale of its sewer utility system.

(b) At or prior to Closing, Buyer shall deliver to Seller, the following documents, duly executed, or funds:

(i) The Purchase Price, by wire transfer or other immediately available funds, to an account specified by the Seller;

(ii) a certificate as to the accuracy of Buyer's representations and warranties as of the Effective Date of this Agreement and as of Closing in accordance with Section 5.2(a) and as to its compliance with and performance of its covenants and obligations to be performed or complied with at or before Closing in accordance with Section 5.2(b);

(iii) a certificate of the company secretary of Buyer, dated as of the Closing, certifying: (A) that attached are true copies of the duly adopted resolutions of the Buyer's board of directors authorizing this Agreement and the purchase of all Assets; and (B) the incumbency, signatures and authority of the officer or officers of Buyer executing this Agreement or any agreement contemplated hereby on behalf of Buyer; and

(iv) a certificate of existence issued by the Secretary of State of Kentucky with respect to Buyer, dated not earlier than thirty (30) days prior to Closing.

### **ARTICLE 3**

#### **Representations and Warranties of Seller**

Seller hereby makes the following representations and warranties to Buyer:

**3.1 Organization.** Seller is a corporation duly organized and validly existing under the Laws of the State of Kentucky, with full power and authority to conduct the Business as it is now being conducted and to own and operate its Assets.

### **3.2 Enforcement; Authority; No Conflict.**

(a) This Agreement constitutes, and the Transaction Documents (when executed and delivered) will constitute, a legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms. Seller has the absolute and unrestricted right, power and authority to execute and deliver this Agreement and the Transaction Documents to which it is a party and to perform its obligations hereunder and thereunder, and such action has been duly authorized by all necessary action by Seller's governing body;

(b) Neither the execution and delivery of this Agreement nor the consummation of the Contemplated Transaction will, directly or indirectly (with or without notice or lapse of time):

(i) contravene, conflict with, or result in a violation of: (A) any other agreements of Seller; or (B) any resolution adopted by the governing body of Seller;

(ii) contravene, conflict with, or result in a violation of or give any Governmental Authority or other Person the right to challenge any of the Contemplated Transaction or to exercise any remedy or obtain any relief under any Laws or any Order to which Seller or any of the Assets may be subject;

(iii) contravene, conflict with or result in a violation of any of the terms or requirements of or give any Governmental Authority the right to revoke, withdraw, suspend, cancel, terminate or modify any Permit or other authorization by a Governmental Authority that is held by Seller or that otherwise relates to the Business or any of the Assets;

(iv) contravene, conflict with or result in a violation or breach of any provision of, require the Consent of any Person, or give any Person the right to declare a default or exercise any remedy under or to accelerate the maturity or performance of or to cancel, terminate or modify any Contract, indenture, mortgage, note, lease, bond, grant, or other instrument or document of which Seller is a party or by which any of the Assets are bound; or

(v) result in the imposition or creation of any Encumbrance upon or with respect to any of the Assets, except as contemplated by this Agreement.

**3.3 Assets.** Seller has good and marketable title to all of the Assets. The Assets are free and clear of any and all Encumbrances whatsoever, including any liens, loans, bonds or grants from any federal or state agency for the purchase or construction of the Assets. None of the Assets are leased or on loan by Seller to any third party. The Assets constitute all property necessary for the operation of the Business in the manner Seller currently operates.

**3.4 Real Property; Easements.** To Seller's best knowledge and belief, Seller has good and marketable title to, or a valid and binding leasehold interest in, those parcels and tracts of land and those leases, licenses, easements or rights-of-way used in the operation of the Business, together with all fixtures, fittings, buildings, structures and other improvements erected therein or thereon and all appurtenances thereto (the "Real Property"). The Real Property includes but is not necessarily limited to the property described in Schedule 3.4.

**3.5 Tangible Personal Property.** Tangible Personal Property is all such property as defined in Schedule 1, Definition of Tangible Personal Property.

**3.6 Contracts.** Set forth on Schedule 3.6 is a complete and correct list of all Contracts related to the Business to which Seller is a party. Seller has delivered or caused to be delivered to Buyer correct and complete copies of each Contract (including all amendments thereto), a description of the terms of each Contract which is not in writing, and all documents affecting the rights or obligations of any party thereto. The Contracts have not been modified or amended except as disclosed on Schedule 3.6. Each Contract is valid and enforceable against Seller in accordance with its terms and is in full force and effect, and each Contract constitutes a legal, valid and binding obligation of the other parties thereto,

enforceable against them in accordance with its terms. No default and no event which, with the giving of notice, lapse of time, or both, would be a default has occurred under any Contract. There are no setoffs, counterclaims or disputes existing or asserted with respect to such Contracts, and Seller has not made any agreement with any other party thereto for any deduction from or increase to any amount payable thereunder. There are no facts, events or occurrences which in any way impair the validity or enforcement of any Contract or tend to reduce or increase the amounts payable thereunder. Seller has not, directly or indirectly, by operation of Law or otherwise, transferred or assigned all or any part of its right, title or interest in and to any Contract to any other Person. There are no Proceedings pending nor threatened against any party to any of the Contracts which relate to the subject matter of the Contracts.

### **3.7 Environmental Matters.**

Except as set forth on Schedule 3.7(a):

(a) Seller is and at all times has been in full compliance with and has not been and is not in violation of or liable under any applicable Environmental Law. Seller has no basis to expect nor has it received any actual or threatened Order, notice or other communication from any Governmental Authority or private citizen acting in the public interest of any actual or potential violation or failure to comply with any Environmental Law or of any actual or threatened obligation to undertake or bear the cost of any Environmental, Health and Safety Liabilities with respect to the Assets or any other properties (whether real, personal or mixed) in which Seller has or has had an interest or with respect to the Real Property or any other real property at or to which Hazardous Materials were generated, manufactured, refined, transferred, imported, used or processed by Seller or any other Person for whose conduct it is or may be held responsible, or from which Hazardous Materials have been transported, treated, stored, handled, transferred, disposed, recycled or received.

(b) There are no pending or threatened claims, Encumbrances or other restrictions of any nature, resulting from any Environmental, Health and Safety Liabilities or arising under or pursuant to any Environmental Law with respect to or affecting the Assets or any other properties (whether real, personal or mixed) in which Seller has or had an interest.

(c) Neither Seller nor any other Person for whose conduct it is or may be held to be responsible has received any citation, directive, inquiry, notice, Order, summons, warning or other communication that relates to Hazardous Activity, Hazardous Materials or any alleged, actual or potential violation or failure to comply with any Environmental Law or of any alleged, actual or potential obligation to undertake or bear the cost of any Environmental, Health and Safety Liabilities with respect to the Assets or any other properties (whether real, personal or mixed) in which Seller has or has had an interest or with respect to any other real property to which Hazardous Materials generated, manufactured, refined, transferred, imported, used or processed by Seller or any other Person for whose conduct it is or may be held responsible, have been transported, treated, stored, handled, transferred, disposed, recycled or received.

(d) Neither Seller nor any other Person for whose conduct it is or may be held to be responsible has any Environmental, Health and Safety Liabilities with respect to the Assets or any other properties (whether real, personal or mixed) in which Seller (or any predecessor) has or has had an interest or at any property geologically or hydrologically adjoining the Assets or any other properties (whether real, personal or mixed).

(e) There are no Hazardous Materials present on or in the Environment at the Real Property or at any geologically or hydrologically adjoining property, including any Hazardous Materials contained in barrels, above or underground storage tanks, landfills, land deposits, dumps, equipment (whether moveable or fixed) or other containers, either temporary or permanent and deposited or located in land, water, sumps or any other part of the Real Property or such adjoining property or incorporated into any structure therein or thereon. Neither Seller nor any other Person for whose conduct it is or may be held to be responsible has permitted or conducted, or is aware of, any Hazardous Activity conducted with respect to the Assets or any other properties (whether real, personal or mixed) in which Seller has or has had an interest except in material compliance with all applicable Environmental Laws.

(f) There has been no Release or threat of Release, of any Hazardous Materials at or from the Assets or any other properties (whether real, personal or mixed) in which Seller has or has had an interest, or any geologically or hydrologically adjoining property, whether by Seller or any other Person.

(g) Seller has delivered to Buyer true and complete copies and results of any reports, studies, analyses, tests or monitoring possessed or initiated by Seller pertaining to Hazardous Materials or Hazardous Activities in, on or under the Real Property, or concerning compliance by Seller or any other Person for whose conduct it is or may be held to be responsible, with Environmental Laws, said reports, studies, etc. to include without limitation, any and all Phase I environmental reports now or hereafter in the possession or control of Seller.

**3.8 Permits.** Set forth on Schedule 3.8 is a complete and correct list of all Permits used by Seller in the operation of the Business. Such Permits constitute all Permits necessary for the operation of the Business and all such Permits are valid and subsisting and in full force and effect. There exists no fact or circumstance which is reasonably likely to cause any Permit to be revoked or materially altered after the Closing Date.

**3.9 Insurance.** Seller maintains and has maintained appropriate insurance necessary for the full protection of all of its Assets, Business, operations, products and services. All such policies are in full force and effect and Seller will use commercially reasonable efforts to cause such policies to be outstanding and in full force and effect up to the Effective Time on the Closing Date and the premiums therefor have been paid in full as they become due and payable. There are no pending Proceedings arising out of, based upon or with respect to any of such policies of insurance and no basis for any such Proceedings exists which will result in an Encumbrance against the Assets, Business, operations, products or services. Seller is not in default with respect to any provisions contained in any such insurance policies and no insurance provider is in default with respect to such insurance policies.

**3.10 No Material Adverse Change.** There have been no material adverse changes in the Business or Assets nor has there been any material adverse change in the relationships Seller maintains with its customers, employees and Governmental Authorities nor are there any events, transactions or other facts which exist or have occurred and which are likely to have an adverse effect on the foregoing.

**3.11 Conduct of Business In Ordinary Course.** Seller has operated the Business only in the ordinary course of business. Without limitation of the foregoing, since such date, Seller has not entered into, amended, terminated or received notice of termination of any Contract or Permit.

**3.12 Proceedings.** Other than as set forth on Schedule 3.12, there are no Proceedings pending or threatened against Seller or directly affecting any of the Assets or the Business by or on account of any Person or before any Governmental Authority and there is no valid basis for any such Proceeding. Seller has not been charged with, nor is it under investigation with respect to any charge which has not been resolved to their favor concerning any violation of any applicable Law with respect to any of the Assets or the Business and there is no valid basis for any such charge or investigation. No judgment, Order, writ, injunction, decree, assessment or other command of any Governmental Authority affecting Seller or any of the Assets or the Business has been entered which is presently in effect. There is no Proceeding pending or threatened which challenges the validity of this Agreement or the Contemplated Transaction or otherwise seeks to prevent, directly or indirectly, the consummation of the Contemplated Transaction, nor is there any valid basis for any such Proceeding.

**3.13 Compliance with Laws.** Seller is in compliance with all Laws applicable to the Assets and the operation of the Business and has not committed any violation of any Law applicable to the Assets and/or operation of the Business. Seller has not received any notice or other communication (whether oral or written) from any Governmental Authority or any other Person regarding (i) any actual, alleged, possible or potential violation of, or failure to comply with, any Law or (ii) any actual, alleged, possible or potential obligation on the part of Seller to undertake, or to bear all or any portion of the cost of, any remedial action of any nature. The Assets, in their current condition, are capable of complying with all Laws.



**3.14 Material Omissions.** Independent of and in addition to the foregoing representations and warranties contained in this Article 3, neither this Agreement nor any written statement, list, certificate or other information furnished by or on behalf of Seller in response to specific written requests made by Buyer or Buyer's representatives or attorneys contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements contained herein or therein not misleading.

#### **ARTICLE 4 Representations and Warranties of Buyer**

Buyer hereby makes the following representations and warranties to Seller:

**4.1 Organization.** Buyer is a duly organized and validly existing public utility corporation under the Laws of the State of Kentucky and at Closing has the power and authority to own, lease and operate its assets and to conduct this Business as it is now being conducted.

**4.2 Enforcement; Authority; No Conflict.**

(a) This Agreement constitutes the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms. Buyer has the absolute and unrestricted right, power and authority to execute and deliver this Agreement and the Transaction Documents to which it is a party and to perform its obligations hereunder and thereunder, and such action has been duly authorized by all necessary action by Buyer's board of directors.

(b) Neither the execution and delivery of this Agreement, nor the consummation of the Contemplated Transaction nor compliance by Buyer with any of the provisions hereof will result in: (i) a violation of or a conflict with any provision of the Organizational Documents of Buyer; (ii) a material breach of or default under any term, condition or provision of any Contract to which Buyer is a party, or an event which, with the giving of notice, lapse of time, or both, would result in any such breach or default; (iii) a material violation of any applicable Law, Order, judgment, writ, injunction, decree or award or any event which, with the giving of notice, lapse of time, or both, would result in any such violation; or (iv) any Person having the right to enjoin, rescind or otherwise prevent or impede the Contemplated Transaction or to obtain Damages from Seller or to obtain any other judicial or administrative relief.

**4.3 Proceedings.** There is no Proceeding pending nor, to the Knowledge of Buyer, threatened which challenges the validity of this Agreement or the Contemplated Transaction or otherwise seeks to prevent, directly or indirectly, the consummation of such transactions, nor, to the Knowledge of Buyer, is there a valid basis for any such Proceeding.

#### **ARTICLE 5 Conditions Precedent to Closing**

**5.1 Conditions Precedent to the Obligations of Buyer.** Buyer's obligations to consummate the Contemplated Transaction are subject to the satisfaction in full, unless expressly waived in writing by Buyer, of each of the following conditions:

(a) Representations and Warranties. Each of the representations and warranties of Seller contained in Article 3 is true, correct and accurate from the Effective Date of this Agreement and as of the Closing Date shall be true, correct and accurate as though restated on and as of such date (except in the case of any representation and warranty that by its terms is made as of a date specified therein, which shall be accurate as of such date);

(b) Covenants. Seller shall have performed and complied with all covenants required by this Agreement to be performed or complied with by them prior to or at the Closing;

(c) Proceedings. No Order shall be in effect and no Proceeding by any Person shall be threatened or pending before any Governmental Authority, or before any arbitrator, wherein an unfavorable Order would: (i) prevent consummation of the Contemplated Transaction; (ii) have a

likelihood of causing the Contemplated Transaction to be rescinded following consummation; (iii) adversely affect the right of Buyer to own any of the Assets; or (iv) adversely affect the Business prospects, value or condition of any of the Assets or the Business;

(d) Approvals. Buyer shall have received prior to Closing; (i) an Order from the Public Service Commission (PSC) approving the requested change of control and allowing the use of Seller's sewer tariff rates for the provision of sewer service to Seller's customers and the encumbrance of the Real Property with the lien of its mortgage indenture; and ii) all other regulatory approvals required by any Governmental Authority to operate the Business within the Service Area.

(e) Closing Deliveries. Seller shall have delivered to Buyer the Closing requirements set forth in Section 2.6(a);

(f) Due Diligence. Buyer shall be satisfied, in its sole and absolute discretion, with the results of its due diligence review of the Business, the Assets and the Seller, including without limitation, satisfaction with the results of any environmental assessment performed with respect to the Assets.

(g) No Adverse Change. Buyer has determined that there has not been any adverse change in the Business, the Assets, financial condition or Business prospects of Seller and that there is no adverse change in the relationships maintained by Seller with its employees, suppliers, customers or Governmental Authorities as of Closing;

(h) Peaks Mill Water District. Buyer shall have completed agreements with Peaks Mill Water District for shutting off water service for non-payment of sewer and the provision of water service data for operational purpose.

(i) Board Approval. Buyer shall have obtained approval of the Contemplated Transaction by Buyer's board of directors.

**5.2 Conditions Precedent to Obligations of Seller**. The Seller's obligation to consummate the Contemplated Transaction is subject to the satisfaction in full, unless expressly waived in writing by Seller, of each of the following conditions:

(a) Representations and Warranties. Each of the representations and warranties of Buyer contained in Article 4 is true, correct and accurate as of the date of this Agreement and, as of the Closing Date, shall be true, correct and accurate as though restated on and as of such date (except in the case of any representation and warranty that by its terms is made as of a date specified therein, which shall be accurate as of such date);

(b) Covenants. Buyer shall have performed and complied with all covenants required by this Agreement to be performed and complied with by Buyer prior to or at Closing;

(c) Buyer's Service Obligations. Seller shall be satisfied that, based on: (i) Buyer's tariff on file with the Kentucky Public Service Commission; (ii) Buyer's statutory obligations under Kentucky Revised Statutes Chapter 278; and (iii) Buyer's regulatory obligations under Chapter 5 of Title 807 of the Kentucky Administrative Regulations, Buyer's service obligations to Seller's sewer customers, including the continuity, reliability and extension of service, will be satisfactory; and

(d) Closing Deliveries. The Buyer shall have delivered to Seller the Closing requirements set forth in Section 2.6(b).

## **ARTICLE 6 Covenants and Special Agreements**

**6.1 Covenants of Seller Prior to Closing**. Seller covenants and agrees that during the period from the Effective Date hereof until Closing:

(a) Non-Solicitation. Unless and until such time as this Agreement is terminated pursuant to Article 8, Seller shall not, and will cause each employee, officer, governing body, and agent not to, directly or indirectly: (i) submit, solicit, initiate, encourage or discuss any proposal or offer from any Person relating to any sale of all or any portion of the Assets or a sublease or assignment of any lease or any similar transaction involving Seller and the Business or the Assets; (ii) enter into any agreement or commitment related to any such transaction; or (iii) furnish any information with respect to or assist or participate in or facilitate in any other manner any effort or attempt by any Person to do or seek any of the foregoing. Seller shall notify Buyer immediately if any Person makes any proposal, offer, inquiry or contact with respect to any of the foregoing.

(b) Access. Upon reasonable prior notice by Buyer, Seller shall: (i) furnish Buyer and its financial and legal advisors with copies of all such Contracts, books and Records and other existing documents and data as Buyer may reasonably request; (ii) furnish Buyer and its financial and legal advisors with such additional financial, operating and other data and information as Buyer may reasonably request; (iii) permit Buyer or its representatives to conduct such physical inspections and environmental audits of the Real Property, as requested by Buyer; and (iv) permit Buyer or its representatives to conduct interviews of employees of Seller.

(c) Ordinary Course. Seller shall carry on the operation of the Business in the ordinary course of business, consistent with prior practice, not introduce any materially new method of management or operation, and use reasonable efforts to preserve the Business and conserve the goodwill and relationships of Seller's customers, suppliers, Governmental Authorities and others having business relations with it. Seller shall not engage in any activity or transaction which is inconsistent with the terms of this Agreement.

(d) Liens; Encumbrances. Seller shall not enter into or assume any mortgage, pledge, security agreement or other title retention agreement or permit any Encumbrance to attach to any of the Assets, whether now owned or hereafter acquired.

(e) All Reasonable Efforts. Seller will use commercially reasonable efforts to satisfy each of the conditions for Closing of the Buyer set forth in Section 5.1 above.

(f) Further Covenants.

(i) Reports. Seller shall duly and timely file all reports required to be filed with any Governmental Authority and will promptly pay when due all Taxes, assessments and governmental charges including interest and penalties levied or assessed, unless diligently contested in good faith by appropriate Proceedings;

(ii) Condition of Property. Consistent with past practice, Seller shall maintain and keep the Assets in substantially the same condition as of the date hereof, normal wear and tear excepted;

(iii) Insurance. Seller shall maintain in full force and effect all policies of insurance now in effect up and through the Effective Time on the Closing Date, but not thereafter;

(iv) No Breach or Default of Contracts. Seller shall not do any act or omit any act or permit any omission to act which will cause a breach or default by Seller of any Contract;

(v) Supplies. Seller shall keep supplies at a level sufficient to operate the Business in accordance with past practice;

(vi) Contracts. Seller shall not enter into any Contract other than in the ordinary course of business; and

(vii) Related Person Transactions. Seller shall not enter into any transaction with any Related Person.

**6.2 Environmental Assessment.** Buyer, in its sole discretion and at its sole expense, may conduct a Phase I environmental analysis of any or all of the Real Property, and the Seller shall cooperate and provide access for same. In the event that a Phase I study detects any actual or possible violation of any Environmental Law, the Buyer may, in its sole discretion, terminate this Agreement the effect of which is described in Section 8.2 herein.

**6.3 Certain Post-Closing Covenants of Seller.**

(a) Seller:

(i) shall pay in a timely manner all Taxes resulting from or payable in connection with the sale of the Assets pursuant to this Agreement, regardless of the Person on whom such Taxes are imposed.

(ii) shall pay, or make adequate provisions for the payment, in full, of all of the retained Liabilities and other Liabilities of Seller under this Agreement.

(iii) hereby agrees to cooperate with Buyer to ensure a proper transition of all customers with respect to billing and customer service activities.

(iv) hereby acknowledges that Buyer must comply with all provisions of its tariffs as filed with and approved by the PSC.

**ARTICLE 7  
Indemnification**

**7.1 Survival; Right to Indemnification Not Affected by Knowledge.** All representations, warranties, covenants and obligations of Seller given in this Agreement and/or any Transaction Document delivered pursuant to this Agreement shall survive Closing. The right to indemnification, payment of Damages or other remedy based on such representations, warranties, covenants and obligations will not be affected by any investigation conducted with respect to or any Knowledge acquired (or capable of being acquired) at any time, whether before or after the execution and delivery of this Agreement or the Closing Date, with respect to the accuracy or inaccuracy of or compliance with, any such representation, warranty, covenant or obligation. The waiver of any condition based on the accuracy of any representation or warranty or on the performance of or compliance with any covenant or obligation will not affect the right to indemnification, payment of Damages or other remedy based on such representations, warranties, covenants and obligations.

**7.2 Indemnification and Payment of Damages by Seller.** Seller hereby unconditionally, irrevocably and absolutely agrees to fully pay, protect, defend, indemnify and hold harmless Buyer and Buyer's past, present and future officers, directors, shareholders, employees, agents, attorneys, representatives, successors and assigns (collectively, the "Indemnified Persons"), from any and all manner of actions, suits, debts, sums of money, interest owed, accounts, controversies, agreements, charges, damages, judgments, executions, and reasonably incurred costs, expenses, fees (including reasonable attorneys' fees and court costs), counterclaims, claims, demands, causes of action, liabilities and losses and award all other Liabilities incurred, paid or sustained by any of the foregoing (hereinafter referred to in this Agreement as "Damages"), in each case, arising out of, or caused by: (i) the misrepresentation, breach of warranty or nonfulfillment of any provision of this Agreement by Seller or; (ii) all Liabilities and/or duties of Seller, whether accruing prior to or after the Effective Time on the Closing Date, and any Encumbrance affecting the Assets; (iii) assessments, charges and other similar claims due or owing, directly or indirectly, by Seller or otherwise as a result of or on account of the Assets or the Business at any time prior to the Effective Time on the Closing Date; (iv) the ownership and/or operation of any of the Assets or the Business prior to the Effective Time on the Closing Date; (v) any claim or Proceeding now existing or hereafter arising and relating to the Assets or the Business of Seller and arising from events or matters occurring prior to the Effective Time on the Closing Date; and (vi) any claim by an employee of Seller for any severance payment or arising out of such employee's employment with Seller or under the Worker Adjustment and Retraining Notification Act, COBRA (Sections 601 through

608 of the Employee Retirement Income Security Act of 1974), or under any employee benefit plan or employment Contract to which Seller is a party.

**7.3 Indemnification and Payment of Damages by Seller - Environmental Matters.** In addition to the provisions of Section 7.2, Seller hereby unconditionally, irrevocably and absolutely agrees to fully pay, protect, defend, indemnify and hold harmless the Indemnified Persons, and will pay to the Indemnified Persons the amount of any Damages (including costs of cleanup, containment or other remediation) arising, directly or indirectly, from or in connection with:

(a) Any Environmental, Health and Safety Liabilities arising out of or relating to: (i) (A) the ownership, operation or condition at any time on or prior to the Effective Time on the Closing Date of the Assets or any other properties (whether real, personal or mixed and whether tangible or intangible) in which Seller has or had an interest; or (B) any Hazardous Materials or other contaminants that were present on or in the Assets or any other properties at any time on or prior to the Effective Time on the Closing Date; or (ii) (A) any Hazardous Materials or other contaminants, wherever located, that were, or were allegedly, generated, transported, stored, treated, Released or otherwise handled by Seller or by any other Person for whose conduct it is or may be held responsible at any time on or prior to the Effective Time on the Closing Date; or (B) any Hazardous Activities that were, or were allegedly, conducted by Seller or by any other Person for whose conduct it is or may be held responsible on or prior to the Effective Time on the Closing Date; or

(b) Any bodily injury (including illness, disability and death), personal injury, property damage (including trespass, nuisance, wrongful eviction and deprivation of the use of real property) or other damage of or to any Person, including any employee or former employee of Seller or any other Person for whose conduct it is or may be held responsible, in any way arising from or allegedly arising from any Hazardous Activity conducted or allegedly conducted with respect to the Assets or the Real Property by Seller prior to the Effective Time on the Closing Date, or from Hazardous Material that was: (i) present or suspected to be present on or before the Effective Time on the Closing Date on or at the Real Property (or present or suspected to be present on any other property, if such Hazardous Material emanated or allegedly emanated from any of the Real Property and was present or suspected to be present on any of the Real Property on or prior to the Effective Time on the Closing Date); or (ii) Released or allegedly Released by Seller or any other Person for whose conduct it is or may be held responsible, at any time on or prior to the Effective Time on the Closing Date.

Buyer shall control any Cleanup, any related Proceeding and, except as provided in the following sentence, any other Proceeding with respect to which indemnity may be sought under this Section 7.3. The procedure described in Section 7.5 will apply to any claim solely for monetary Damages relating to a matter covered by this Section 7.3.

**7.4 Indemnification By Buyer.** Buyer hereby unconditionally, irrevocably and absolutely agrees to fully pay, protect, defend, indemnify and hold harmless Seller and Seller's past, present and future officers, governing body, employees, agents, attorneys, representatives, successors and assigns from any and all Damages arising out of, or caused by: (i) Buyer's misrepresentation, breach of warranty or nonfulfillment of any provision of this Agreement; (ii) any claim or Proceeding arising after the Effective Time on the Closing Date and relating to events or matters occurring subsequent to the Effective Time on the Closing Date; and (iii) any claim by an employee of Buyer arising out of such employee's employment with Buyer after the Effective Time on the Closing Date.

**7.5 Procedure for Indemnification.** The procedure for indemnification shall be as follows:

(a) The party claiming indemnification (the "Claimant") shall promptly give notice to the party from whom indemnification is claimed (the "Indemnifying Party") of any claim, whether between the parties or brought by a third party, specifying: (i) the factual basis for such claim; and (ii) the amount of the claim. If the claim relates to a Proceeding filed by a third party against Claimant, Claimant shall give such notice within ten (10) Business Days after written notice of such Proceeding was given to Claimant. Claimant's failure to give the Indemnifying Party such notice shall not preclude Claimant from obtaining indemnification from the Indemnifying Party unless Claimant's failure has materially prejudiced

the Indemnifying Party's ability to defend the claim or litigation, and then the Indemnifying Party's obligation shall be reduced to the extent of such prejudice.

(b) Following receipt of notice from the Claimant of a claim, the Indemnifying Party shall have thirty (30) days to make such investigation of the claim as the Indemnifying Party deems necessary or desirable. For the purposes of such investigation, the Claimant agrees to make available to the Indemnifying Party and/or its authorized representatives the information relied upon by the Claimant to substantiate the claim. If the Claimant and the Indemnifying Party agree at or prior to the expiration of said thirty (30)-day period (or any mutually agreed upon extension thereof) to the validity and amount of such claim, the Indemnifying Party shall immediately pay to the Claimant the full amount of the claim. If the Claimant and the Indemnifying Party do not agree within said period (or any mutually agreed upon extension thereof), the Claimant may seek appropriate legal remedy.

(c) (i) With respect to any claim by a third party as to which the Claimant asserts it is entitled to indemnification hereunder, the Indemnifying Party shall have the right, at its own expense, to participate in or at its election to assume control of the defense of such claim, with counsel reasonably satisfactory to Claimant, subject to reimbursement of Claimant for actual out-of-pocket expenses incurred by Claimant as the result of request by the Indemnifying Party, subject to the following;

(A) The Claimant may retain separate co-counsel at its sole cost and expense and participate in the defense of any such claim by a third party; and

(B) The Indemnifying Party shall conduct the defense of the third party claim actively and diligently thereafter.

(ii) If the Indemnifying Party elects to assume control of the defense of any third party claim pursuant to Section 7.5(c)(i), the Indemnifying Party may nevertheless reserve the right to dispute the amount of indemnification claimed or dispute Claimant's right to be indemnified with respect to all or any portion of the claim. Except with the written Consent of the Claimant, the Indemnifying Party shall not, in defending any claim or any litigation resulting therefrom, consent to entry of any judgment or enter into any settlement which does not release the Claimant from all Liability in respect of such claim or litigation. In the event the Claimant fails to consent to any settlement or compromise which such failure results in Damages in excess of the amount for which Consent was requested, the limitation of the Indemnifying Party's obligations to indemnify the Claimant with respect to the subject matter of the claim shall be the amount of the proposed settlement or compromise rejected by Claimant and the Claimant shall be responsible for, and shall hold harmless the Indemnifying Party from, all Damages (including, without limitation, reasonable attorneys' fees incurred with respect to matters subsequent to the rejection of the settlement by Claimant) in excess of the amount of the proposed settlement or compromise rejected by Claimant.

(d) If a claim, whether between the parties or by a third party, requires immediate action, the parties will make every effort to reach a decision with respect thereto as expeditiously as possible.

**7.6 Means of Indemnification and Right to Setoff.** In addition to any other right or means Buyer may have to enforce the indemnities provided for in Sections 7.2 and 7.3 hereof, Buyer shall be entitled to set off any amount to which it may be entitled under this Agreement or Damages which Buyer may incur as a result of any breach of this Agreement or any covenant, guaranty or other provision contained within this Agreement against any payments of the Purchase Price and/or any indebtedness or obligation owed to Seller whether under this Agreement or any agreement or document related hereto. Buyer's right to setoff or its exercise thereof shall not prejudice the right of Buyer to pursue, in addition or as an alternative to such right, any other right or means Buyer may have to enforce the indemnification provided for in Sections 7.2 and 7.3 hereof and in no event shall the amount actually setoff limit Buyer's right to indemnification under Sections 7.2 and 7.3 hereof.

## **ARTICLE 8 Termination**

**8.1 Termination and Abandonment.** This Agreement may be terminated and abandoned at any time prior to the Closing Date:

- (a) by mutual written Consent of Buyer and Seller; or
- (b) by Buyer, if the PSC does not approve the adoption or approval of sewer rates prior to the Closing Date or such other later date as agreed upon in writing.

**8.2 Effect of Termination.** The right of each party to terminate this Agreement under Section 8.1 is in addition to any other rights such party may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies. If this Agreement is terminated pursuant to Section 8.1, all further obligations of the parties under this Agreement will terminate, except that the obligations set forth in Sections 9.9 ("Legal Fees; Costs") and 9.15 ("Publicity; Announcements"); and all other covenants and agreements which by their terms continue after the termination of this Agreement will survive; provided, however, that if this Agreement is terminated by a party because of the breach of the Agreement by another party or because one (1) or more of the conditions to the terminating party's obligations under this Agreement is not satisfied as a result of the other party's failure to comply with its obligations under this Agreement, the terminating party's right to pursue all legal remedies will survive such termination unimpaired.

## **ARTICLE 9 General Provisions**

**9.1 Amendment and Modification.** No amendment, modification, supplement, termination, Consent or waiver of any section or provision of this Agreement, nor any Consent for departure therefrom, will in any event be effective unless the same is in writing and is signed by the parties. Any waiver of any provision of this Agreement and any Consent to any departure from the terms of any provision of this Agreement is to be effective only in the specific instance and for the specific purpose for which given.

**9.2 Assignments.** Seller may not assign or transfer any of its rights or obligations under this Agreement to any other Person without the prior written Consent of Buyer. Buyer may assign its rights and obligations under this Agreement to any Related Person or successor in interest without the Consent of Seller.

**9.3 Captions.** Captions contained in this Agreement and any table of contents preceding this Agreement have been inserted herein only as a matter of convenience and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

**9.4 Counterparts; Electronic Mail.** This Agreement may be executed by the parties hereto on any number of separate counterparts, and all such counterparts so executed constitute one agreement binding on all the parties hereto notwithstanding that all the parties hereto are not signatories to the same counterpart. For purposes of this Agreement, a document (or signature page thereto) signed and transmitted in .pdf format by electronic mail is to be treated as an original document. The signature of any party thereon is to be considered as an original signature, and the document transmitted is to be considered to have the same binding effect as an original signature on an original document. At the request of any party hereto, the .pdf copy is to be re-executed in original form by the parties who executed the .pdf copy. No party hereto may raise the use of a .pdf copy or the fact that any signature was transmitted through the use of electronic mail as a defense to the enforcement of this Agreement or any amendment or other document executed in compliance with this section.

**9.5 Entire Agreement.** This Agreement and the other Transaction Documents constitute the entire agreement among the parties hereto pertaining to the subject matter hereof and supersede all prior agreements, letters of intent, understandings, negotiations and discussions of the parties hereto, whether oral or written.

**9.6 Exhibits and Schedules.** All of the Exhibits and Schedules attached to this Agreement are deemed incorporated herein by reference.

**9.7 Failure or Delay.** Except as otherwise provided by this Agreement, no failure on the part of any party hereto to exercise, and no delay in exercising, any right, power or privilege hereunder operates as a waiver thereof; nor does any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. No notice to or demand on any party hereto in any case entitles such party to any other or further notice or demand in similar or other circumstances.

**9.8 Governing Law.** This Agreement and the rights and obligations of the parties hereunder are to be governed by and construed and interpreted in accordance with the Laws of the State of Kentucky applicable to Contracts made and to be performed wholly within Kentucky, without regard to choice or conflict of Laws rules. In the event of any litigation or claim regarding this Agreement, the parties agree that the PSC has jurisdiction to govern all matters involving the Contemplated Transaction and the provision of sewer service by Buyer to the residents located within the Service Area.

**9.9 Legal Fees, Costs.** All legal, consulting and advisory fees and other costs and expenses incurred in connection with this Agreement and the Contemplated Transaction are to be paid by the party incurring such costs and expenses; provided, however, in the event litigation is instituted by either party to enforce or remedy a breach of any provision of this Agreement, in addition to any other relief therein awarded, the prevailing party shall be entitled to judgment for reasonable attorney's fees and litigation expenses. The term "prevailing party" shall include, but not be limited to, a party who obtains legal counsel or brings an action against the other by reason of the other's breach or default and obtains substantially the relief sought whether by compromise, mediation, settlement, judgment or otherwise.

**9.10 Notices.** All notices, Consents, requests, demands and other communications hereunder are to be in writing and are deemed to have been duly given, made or delivered: (i) when delivered in person, (ii) three (3) days after deposited in the United States mail, first class postage prepaid, (iii) in the case of telegraph or overnight courier services, one (1) Business Day after delivery to the telegraph company or overnight courier service with payment provided, or (iv) in the case of electronic mail, when sent, verification received, in each case addressed as follows:

if to Seller:

Classic Construction, Inc.  
Attn: Russell Givens, President  
P.O. Box 4113  
Frankfort, KY 40604

if to Buyer:

Attn: President  
Kentucky-American Water Company  
2300 Richmond Road  
Lexington, Kentucky 40502



with a copy to (which shall not constitute notice):

Attn: Corporate Counsel  
Kentucky-American Water Company  
2300 Richmond Road  
Lexington, Kentucky 40502

or to such other address as any party hereto may designate by notice to the other parties in accordance with the terms of this Section. For e-mail, a Party shall contact the other Party to receive the then-applicable e-mail for the person in the position stated above.

**9.11 Severability.** Any provision of this Agreement which is prohibited, unenforceable or not authorized in any jurisdiction is, as to such jurisdiction, ineffective to the extent of any such prohibition, unenforceability or nonauthorization without invalidating the remaining provisions hereof, or affecting the validity, enforceability or legality of such provision in any other jurisdiction, unless the ineffectiveness of such provision would result in such a material change as to cause completion of the Contemplated Transaction to be unreasonable.

**9.12 Specific Performance and Injunctive Relief.** The parties hereto recognize that if any or all of them fail to perform, observe or discharge any of their respective obligations under this Agreement, a remedy at Law may not provide adequate relief to the other parties hereto. Therefore, in addition to any other remedy provided for in this Agreement or under applicable Law, any party hereto may demand specific performance of this Agreement, and such party shall be entitled to temporary and permanent injunctive relief, in a court of competent jurisdiction at any time when any of the other parties hereto fail to comply with any of the provisions of this Agreement applicable to such party. To the extent permitted by applicable Law, all parties hereto hereby irrevocably waive any defense based on the adequacy of a remedy at Law which might be asserted as a bar to such party's remedy of specific performance or injunctive relief.

**9.13 Successors and Assigns.** Subject to Section 9.2, all provisions of this Agreement are binding upon, inure to the benefit of and are enforceable by or against the parties hereto and their respective heirs, executors, administrators or other legal representatives and permitted successors and assigns.

**9.14 No Third-Party Beneficiary.** This Agreement is solely for the benefit of the parties hereto and their respective successors and permitted assigns, and no other Person has any right, benefit, priority or interest under, or because of the existence of, this Agreement.

**9.15 Publicity; Announcements.** From the date hereof through and including Closing, no party hereto shall issue, cause or permit the publication by any of their respective Related Persons, agents or representatives, any press release or other public announcement with respect to this Agreement or the Contemplated Transaction except: (i) with the Consent of the other parties hereto (which shall not be unreasonably withheld); or (ii) as required by applicable Law (including, without limitation, any applicable securities Law). Seller will not, without the prior Consent of Buyer, make any announcements to employees of Seller with respect to the Contemplated Transaction and, at such time as an announcement to the employees is made, Buyer shall be allowed to participate in such announcement.

**9.16 Cooperation.** Any notices or certifications given under this Agreement or any related agreement shall be given in good faith without any intention to unfairly impede or delay the other party. Buyer and Seller shall cooperate fully with each other and their respective counsel and accountants in connection with any actions required to be taken as part of their respective obligations under this Agreement including, without limitation, actions required to be taken with respect to obtaining any applicable regulatory approval of the Contemplated Transaction. Buyer and Seller shall execute such other documents as may be necessary and desirable to the implementation and consummation of this Agreement. Each party agrees to use all reasonable efforts to consummate the Contemplated

Transaction including, without limitation, doing all things reasonably necessary to obtain the requisite regulatory approval.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date first above written.

**Buyer**

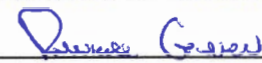
KENTUCKY-AMERICAN WATER COMPANY, a  
Kentucky public utility corporation


By:   
\_\_\_\_\_  
Nick Rowe, President

**Seller**

CLASSIC CONSTRUCTION, INC., a Kentucky  
corporation

By:   
\_\_\_\_\_  
President Russell Gracie

Name:   
\_\_\_\_\_

Title:   
\_\_\_\_\_

## Schedule 1 Definitions

"Assets" as defined in Section 2.1.

"Agreement" as defined in the introductory paragraph.

"Assignment and Assumption Agreement" as defined in Section 2.7(a)(ii).

"Bill of Sale" as defined in Section 2.7(a)(i).

"Business" as defined in the Recitals.

"Business Days" means any day other than (i) Saturday or Sunday, or (ii) any other day on which governmental offices in the State of Indiana are permitted or required to be closed.

"Buyer" as defined in the introductory paragraph.

"Claimant" as defined in Section 7.5(a).

"Closing" as defined in Section 2.6.

"Closing Date" as defined in Section 2.6.

"Confidential Information" means (i) information not available to the general public concerning the Business and financial affairs with respect to a party hereto, and (ii) analyses, compilations, forecasts, studies and other documents prepared on the basis of such information by the parties or their agents, representatives, any Related Person, employees or consultants.

"Consent" means any approval, consent, ratification, waiver or other authorization.

"Contemplated Transaction" means all of the transactions contemplated by this Agreement and the Transaction Documents.

"Contract" means any agreement, contract, obligation, promise or undertaking (whether written or oral and whether express or implied), whether or not legally binding.

"Customer Premises" means a dwelling, building, structure or parcel of real estate which sewer service is provided.

"Customer Service Connection" means that portion of sewer pipe extending from the Customer Premises to the company owned collection system which Customer Service Connection shall be owned and maintained by the customer.

"Damages" as defined in Section 7.2.

"Effective Time" as defined in Section 2.6.

"Encumbrance" means any charge, claim, community property interest, condition, easement, equitable interest, lien, mortgage, option, pledge, security interest, right of first refusal, right of way, servitude or restriction of any kind, including any restriction on use, transfer, receipt of income or exercise of any other attribute of ownership, or any repayment obligation under any grant.

"Environment" means soil, land surface or subsurface strata, surface waters (including navigable waters, ocean waters, streams, ponds, drainage basins and wetlands), groundwater, drinking water supply, stream sediments, ambient air (including indoor air), plant and animal life and any other environmental medium or natural resource.

"Environmental, Health and Safety Liabilities" means any cost, Damages, expense, Liability, obligation or other responsibility arising from or under Environmental Law or Occupational Safety and Health Law and consisting of or relating to:

(a) Any environmental, health or safety matters or conditions (including on-site or off-site contamination, occupational safety and health and regulation of chemical substances or products);

(b) Fines, penalties, judgments, awards, settlements, legal or administrative proceedings, Damages, losses, claims, demands and response, investigative, remedial or inspection costs and expenses arising under Environmental Law or Occupational Safety and Health Law;

(c) Financial responsibility under Environmental Law or Occupational Safety and Health Law for cleanup costs or corrective action, including any investigation, cleanup, removal, containment or other remediation or response actions ("Cleanup") required by applicable Environmental Law or Occupational Safety and Health Law (whether or not such Cleanup has been required or requested by any Governmental Authority or any other Person) and for any natural resource Damages; or

(d) Any other compliance, corrective, investigative or remedial measures required under Environmental Law or Occupational Safety and Health Law.

The terms "removal," "remedial," and "response action," include the types of activities covered by the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., as amended ("CERCLA").

"Environmental Law" means any Law that requires or relates to:

(a) Advising appropriate authorities, employees and the public of intended or actual Releases of pollutants or hazardous substances or materials, violations of discharge limits or other prohibitions and of the commencements of activities, such as resource extraction or construction, that could have significant impact on the Environment;

(b) Preventing or reducing to acceptable levels the Release of pollutants or hazardous substances or materials into the Environment;

(c) Reducing the quantities, preventing the release or minimizing the hazardous characteristics of wastes that are generated;

(d) Assuring that products are designed, formulated, packaged and used so that they do not present unreasonable risks to human health or the Environment when used or disposed of;

(e) Protecting resources, species or ecological amenities;

(f) Reducing to acceptable levels the risks inherent in the transportation of hazardous substances, pollutants, oil or other potentially harmful substances;

(g) Cleaning up pollutants that have been Released, preventing the threat of Release or paying the costs of such clean up or prevention; or

(h) Making responsible parties pay private parties, or groups of them, for Damages done to their health or the Environment, or permitting self-appointed representatives of the public interest to recover for injuries done to public assets.

"Excluded Assets" as defined in Section 2.2.

"Governmental Authority(ies)" means any:

(a) Nation, state, county, city, town, village, district or other jurisdiction of any nature;

- (b) Federal, state, local, municipal, foreign or other government;
- (c) Governmental or quasi-governmental authority of any nature (including any governmental agency, branch, department, official or entity and any court or other tribunal);
- (d) Multi-national organization or body; or
- (e) Body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power of any nature.

"Hazardous Activity" means the distribution, generation, handling, importing, management, manufacturing, processing, production, refinement, Release, storage, transfer, transportation, treatment or use (including any withdrawal or other use of groundwater) of Hazardous Materials in, on, under, about or from the property or any part thereof into the Environment, and any other act, business, operation or thing that increases the danger or risk of danger, or poses an unreasonable risk of harm to persons or property on or off the property, or that may affect the value of the property or Seller.

"Hazardous Materials" means any waste or other substance that is listed, defined, designated or classified as, or otherwise determined to be, hazardous, radioactive or toxic or a pollutant or a contaminant under or pursuant to any Environmental Law, including any admixture or solution thereof, and specifically including petroleum and all derivatives thereof or synthetic substitutes therefor and asbestos or asbestos-containing materials.

"Indemnifying Party" as defined in Section 7.5(a).

"Knowledge" means an individual will be deemed to have "Knowledge" of a particular fact or other matter if:

- (a) Such individual is actually aware of such fact or other matter; or
- (b) A prudent individual could be expected to discover or otherwise become aware of such fact or other matter in the course of conducting a reasonable investigation concerning the existence of such fact or other matter.

A Person (other than an individual) will be deemed to have "Knowledge" of a particular fact or other matter if any individual who is serving as a director or officer of such Person (or in any similar executive capacity) has, or at any time had, Knowledge of such fact or other matter.

"Law" means any law, rule, regulation or ordinance of any federal, foreign, state or local Governmental Authority.

"Liability" with respect to any Person any liability or obligation of such Person for any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise and whether or not the same is required to be accrued on the financial statements of such Person.

"Occupational Safety and Health Law" means any Law designed to provide safe and healthful working conditions and to reduce occupational safety and health hazards, and any program, whether governmental or private (including those promulgated or sponsored by industry associations and insurance companies), designed to provide safe and healthful working conditions.

"Order" means any award, decision, injunction, judgment, order, ruling, subpoena or verdict entered, issued, made or rendered by any court, administrative agency or other Governmental Authority or by any arbitrator.

"Organizational Documents" means the articles or certificate of incorporation and the bylaws of a corporation and any amendment thereto.

"Permit" means any approval, Consent, license, permit, waiver or other authorization issued, granted, given or otherwise made available by or under the authority of any Governmental Authority or pursuant to any Law.

"Person" means any individual, corporation (including any non-profit corporation), general or limited partnership, limited liability company, joint venture, estate, trust, association, organization, labor union or other entity or Governmental Authority.

"Proceeding" means any action, arbitration, audit, hearing, investigation, litigation or suit (whether civil, criminal, administrative, investigative or informal) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Authority or arbitrator.

"Purchase Price" as defined in Section 2.3.

"Real Property" as defined in Section 3.4.

"Records" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Related Person" with respect to a particular individual, means:

- (a) Each other member of such individual's Family (as hereinafter defined);
- (b) Any Person that is directly or indirectly controlled by such individual or one or more members of such individual's Family;
- (c) Any Person in which such individual or members of such individual's Family hold (individually or in the aggregate) a Material Interest; and
- (d) Any Person with respect to which such individual or one or more members of such individual's Family serves as a director, officer, partner, executor or trustee (or in a similar capacity).

With respect to a specified Person other than an individual:

- (e) Any Person that directly or indirectly controls, is directly or indirectly controlled by, or is directly or indirectly under common control with such specified Person;
- (f) Any Person that holds a Material Interest in such specified Person;
- (g) Each Person that serves as a director, officer, partner, executor or trustee of such specified Person (or in a similar capacity);
- (h) Any Person in which such specified Person holds a Material Interest;
- (i) Any Person with respect to which such specified Person serves as a general partner or a trustee (or in a similar capacity); and
- (j) Any Related Person of any individual described in clause (b) or (c).

For purposes of this definition, (i) the "Family" of an individual includes (A) the individual, (B) the individual's spouse, (C) any other natural person who is related to the individual or the individual's spouse within the second degree, and (D) any other natural person who resides with such individual; and (ii) "Material Interest" means direct or indirect beneficial ownership (as defined in Rule 13d-3 under the Securities Exchange Act of 1934) of voting securities or other voting interests representing at least five percent (5%) of the outstanding equity securities or equity interests in a Person.

"Release" means any spilling, leaking, emitting, discharging, depositing, escaping, leaching, dumping or other releasing into the Environment, whether intentional or unintentional.

"Seller" shall have the meaning given that term in the introductory paragraph.

"Service Area" as defined in the Recitals.

"Service Line" means that portion of water pipe extending from the water main to and including the curb stop and curb box located at or near the property line of a Customer Premises.

"Tangible Personal Property" means all wells, treatment plants, pumps, water transmission and distribution mains, valves and appurtenances, storage tanks, Service Lines, meters, meter installations, hydrants, machinery, equipment, tools, furniture, office equipment, computer hardware, supplies (including chemicals and spare parts), materials, vehicles and other items of tangible personal property of every kind owned or leased by Seller (wherever located and whether or not carried on Seller's books), which are, could be, or in the future would be part of the production, transmission and distribution system utilized to provide water service to Seller's water customers, together with any express or implied warranty by the manufacturers or sellers or lessors of any item or component part thereof, and all maintenance Records and other documents relating thereto.

"Tax" means all taxes, charges, withholdings, fees, levies, penalties, additions, interest or other assessments, including, without limitation, income, gross receipts, excise, property, sales, employment, withholding, social security, occupation, use, service, service use, license, payroll, franchise, transfer and recording taxes, fees and charges, windfall profits, severance, customs, import, export, employment or similar taxes, charges, fees, levies or other assessments, imposed by any Governmental Authority, whether computed on a separate, consolidated, unitary, combined or any other basis.

"Transaction Documents" means this Agreement, the Bill of Sale, and all other documents, certificates, assignments and agreements executed and/or delivered in connection with this Agreement in Order to consummate the Contemplated Transaction, as the same may be amended, restated, modified or otherwise replaced by mutual agreement from time to time.

### **Rules of Construction**

For purposes of this Agreement and the other documents executed in connection herewith, the following rules of construction shall apply, unless specifically indicated to the contrary: (i) wherever from the context it appears appropriate, each term stated in either the singular or plural shall include the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, the feminine and the neuter; (ii) the term "or" is not exclusive; (iii) the term "including" (or any form thereof) shall not be limiting or exclusive; (iv) all references to statutes and related regulations shall include any amendments of same and any successor statutes and regulations; (v) all references in this Agreement or in the Schedules to this Agreement to sections, schedules, exhibits and attachments shall refer to the corresponding sections, schedules, exhibits and attachments of or to this Agreement; and (vi) all references to any instruments or agreements, including references to any of the documents executed in connection herewith, shall include any and all modifications or amendments thereto and any and all extensions or renewals thereof.

**Schedule 2.2**  
**Excluded Assets**

This schedule will be completed to Buyer's satisfaction prior to closing.



**Schedule 3.4  
Real Property and Easements**

This schedule will be completed to Buyer's satisfaction prior to closing.

**Real Property**

**Easements**

**Schedule 3.6**  
**Contracts**

This schedule will be completed to Buyer's satisfaction prior to closing.

**Schedule 3.7(a)**  
**Environmental Matters**

This schedule will be completed to Buyer's satisfaction prior to closing.

**Schedule 3.8**  
**Permits**

This schedule will be completed to Buyer's satisfaction prior to closing.

**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

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**Witness: Melissa L. Schwarzell**

7. Please refer to the KAWC's Response to LFUCG 1-14. Please list all Kentucky-based employees of the American Water Service Corporation or other KAWC affiliates (such as the Southeast Division) by position and name.

**Response:**

Please see the below list for the AWWSC employees that are Kentucky-based.

Last name	First name	Position
Boland	Charles	National/Major Accounts Mgr
Chambers	Elaine	Director Rates and Regulatory
Dean	Christina	Exec Asst (N)
Kogler	Kurt	Dir HR Business Partner
Langfels	Michael	Sr Analyst Client Technology I
Money*	Mary	Manager I Accounting
O'Neill	Brent	Dir Engineering (Large2)
Rowe	Nick	SVP Southeast Division
Yuan	Peter	Principal - BIRS
Queen	Brian	Divisional CFO

\*Ms. Money will not be a Kentucky-based employee in the forecasted test year. She is still with American Water Works Service Company but will be based elsewhere.

**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

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**Witness: Brent E. O'Neill**

- 8.** Please refer to KAWC's Response to LFUCG 1-23.
- a. For each of the last 5 calendar years (2014-2018), identify the net increase of hydrants that were installed in the Central Division.
  - b. Describe the development activity that KAWC anticipates in its Central Division service territory between 2019 and 2023. Include within your response any data or materials on which the Company supports its position.

**Response:**

- a. The net increase for each of the last 5 calendar years (2014-2018) is as follows:

<b>Year</b>	<b>Net Increase in Hydrants</b>
2014	39
2015	34
2016	77
2017	53
2018	109

- b. As indicated in response to LFUCG 1-23, Kentucky American Water projects the number of hydrants to be installed in the system based on historical trends and an estimate of the amount of development activity that may occur. The major factor in determining the number of hydrants is the historical trends. The reference to "an estimate of the amount of development activity" refers to a review of the level of development that has occurred in the recent past and making a projection if that level of development will continue or will change. It is based on the local knowledge of area and an understanding of the cyclical manner of development. In the case of the 5-year projection of new hydrants between 2019 and 2023, Kentucky American utilized the 3-year average of hydrants added to system during the period of 2015 and 2017, which was 54 hydrants and projecting that the amount of development activity will be consist over the next 5 years.

**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

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**Witness: Kevin N. Rogers**

- 9.** Please refer to KAWC's Response to LFUCG 1-28. Does KAWC capitalize salary expense for inspection, maintenance, or testing of hydrants?

**Response:**

No.

**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

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**Witness: Kevin N. Rogers**

- 10.** Please provide a copy of any and all KAWC's policies or procedures regarding when and how KAWC will capitalize employees time and salary expense. If no written policies or procedures exist, please describe the Company's internal policy.

**Response:**

Please refer to KAW\_R\_LFUCGDR2\_NUM010\_030119\_Attachment\_Confidential for the Capitalization Practice which is being provided pursuant to a Petition for Confidential Treatment.



**ATTACHMENT TO KAW\_R\_LFUCGDR2\_NUM010\_030119  
FILED UNDER SEAL PURSUANT TO THE PETITION FOR  
CONFIDENTIAL TREATMENT FILED ON  
MARCH 1, 2019**

**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

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**Witness: Kevin N. Rogers**

- 11.** Please refer to the KAWC's Response to LFUCG 1-41. Does KAWC have any commitments to acquire additional water or wastewater facilities? If the answer is "Yes," please state the utility and the terms of its commitment.

**Response:**

No.

**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

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**Witness: Brent E. O'Neill, Kevin N. Rogers**

12. Please refer to KAWC's Response to LFUCG DR 1-42, which states in part: "KAW's entire system of treatment plants, mains and storage tanks is designed and constructed for a capacity to meet KAW's current population and future increases within the area that KAW currently serves through the year 2030." Does "future increases within the area that KAW currently serves" include only population increases within KAWC's current service area, or does it include increases the acquisition of other systems or assets.

**Response:**

At the time that treatment plants, mains and storage tanks are designed and constructed an assessment is made to insure that adequate capacity and an appropriate level of reliability are present for domestic, commercial, industrial usage, and fire protection needs of the current service area. This assessment utilizes projections of the total number of customers and their associated demands that may occur over a defined planning horizon. Projections are developed based on a review of population trends, historic customer and demand data, and local planning commission forecasts for the service area that the facility or improvement will serve. Following the construction of the facilities, the Company continues to assess the capacities and resiliency of the system and its components at regular intervals using projections of the total number of customers and their associated demands that may occur within its current service area.

While we do not plan and design for acquired customers, we do independently examine each potential acquisition for compatibility with our existing operations and infrastructure.

**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

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**Witness: Melissa L. Schwarzell**

- 13.** Please refer to KAWC's Response to LFUCG 1-52. Please provide the source(s) of "Publicly reported utility financial data" with specificity so the data in the chart can be compared to its source.

**Response:**

The data came from Bloomberg. Please see the attached file.

**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

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**Witness: Brent E. O'Neill**

- 14.** Please refer to the Response to the Capital Investment Table from page 9 of the testimony of Brent E. O'Neill.
- a. What are "Central Sponsored Projects?"
  - b. Please state the amount to monies expended on these projects by year for 2012-2018.

**Response:**

- a. Central Sponsored Projects are information technology projects that are leveraged and utilized by all of American Water and provide benefits to Kentucky American Water. An example of these types of projects is the implementation of MapCall that Mr. Kevin Rogers described in his direct testimony.
- b. See below for the Kentucky American Water portions of Central Sponsored Projects for the years of 2012-2018.

Year	Kentucky American Portion of Central Sponsored Projects
2012	\$4,397,752
2013	\$2,501,592
2014	\$1,336,514
2015	\$1,461,679
2016	\$1,538,570
2017	\$2,442,056
2018	\$4,014,157

**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

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**Witness: Nick O. Rowe**

- 15.** Please refer to KAWC's Response to LFUCG 1-54. Please state the names and position of all employees of KAWC and American Water Works Service Company whose compensation is "indirectly tied" to the approval of the QIP. For each such employee, please state by what compensation mechanism the compensation "indirectly tied" to the approval of QIP.

**Response:**

Compensation is not tied to the Commission's approval of the QIP.

**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

---

**Witness: Brent E. O'Neill, Melissa L. Schwarzell**

- 16.** Please refer to KAWC's Response to LFUCG 1-57.
- a. Please provide how the "average forecasted UPIS" for each rate case was computed by categories. For example, does it include net or depreciated Plant in Service plus the forecasted expenditures of Recurring Projects, acquisitions, centrally sponsored projects and investment projects? Please provide a breakdown of the UPIS by categories mentioned above for each case.
  - b. Please provide how much of the UPIS would have not been included if QIP had been in place?

**Response:**

- a. The average forecasted UPIS for each rate case was taken directly from Exhibit 37, Schedule B-1 of each case as originally filed, and represents the thirteen month average forecasted amount of UPIS. Consequently, it includes all original cost plant per books plus all expenditures forecasted in the rate case, to the extent they influence the 13 Month Average. LFUCG may consult the filings in those rate cases for details related to UPIS amounts.
- b. All of the UPIS would still have been included in each case, regardless of whether a QIP had been in place. What would have been different is how much present rate revenue the utility had, and thus how much rate relief had been requested through a general rate case, had a general rate case still been required at these times.

**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

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**Witness: Melissa L. Schwarzell**

- 17.** Please refer to KAWC's Response to LFUCG 1-72. Please state the name of all the entities that take service under "Public Authority."

**Response:**

Please see attached.



**KY American Water OPA Customers List  
As of January 31, 2019**

<b>Division</b>	<b>Account Class</b>	<b>Entity</b>
Water Service	OPA	12th St Hope VI Development
Water Service	OPA	Arlington Elementary 1-UD, FCPS
Water Service	OPA	Armed Forces Reserve Center
Water Service	OPA	Ashland Elementary 5-UD, FCPS
Water Service	OPA	Athens-Chilesburg Elem 76-UD
Water Service	OPA	Beaumont Middle Schl 38-UD, FCPS
Water Service	OPA	Blackburn Correctional Complex
Water Service	OPA	Bluegrass Com & Technical College
Water Service	OPA	Bluegrass Station Division
Water Service	OPA	Booker T Washington Int 62-UD
Water Service	OPA	Booker T Washington Pri 19-UD
Water Service	OPA	Breckenridge Elementary 29-UD, FCPS
Water Service	OPA	Bryan Station High Schl 61-UD
Water Service	OPA	Bryan Station High Schl 61-UD, FCPS
Water Service	OPA	Bryan Station Middle Schl 7-UD
Water Service	OPA	Bryan Station Middle Schl 7-UD, FCP
Water Service	OPA	Cabinet For Families & Children
Water Service	OPA	Cardinal Vall Elementary 8-UD, FCPS
Water Service	OPA	Cassidy Elementary 41-UD
Water Service	OPA	Cassidy Elementary 41-UD, FCPS
Water Service	OPA	Child Devlpmt Ctr of Bluegrass
Water Service	OPA	Children & Family Ctr For Woman
Water Service	OPA	City of Georgetown
Water Service	OPA	City of Sadieville
Water Service	OPA	Clays Mill Elementary 23-UD, FCPS
Water Service	OPA	Clintonville Vol Fire Dept
Water Service	OPA	Council Of State Govt
Water Service	OPA	Crawford Middle School 16-UD, FCPS
Water Service	OPA	Ctr Of Applied Energy Research
Water Service	OPA	Deep Springs Elementary 4-UD, FCPS
Water Service	OPA	Dept Facilities Support Servic
Water Service	OPA	Dept of Military Affairs
Water Service	OPA	Divine Providence Inc
Water Service	OPA	Dixie Elementary 18-UD, FCPS
Water Service	OPA	Dress For Success Lexington
Water Service	OPA	Eastside Tech 33-UD
Water Service	OPA	Edythe J Hayes Mid Schl 75-UD, FCPS
Water Service	OPA	Fayette Co Atty Drivers Ed Prg
Water Service	OPA	Fayette County Extension Office
Water Service	OPA	Fayette County Health Dept
Water Service	OPA	Fayette County Public Schools
Water Service	OPA	Federal Government VA Hospital
Water Service	OPA	Federal Medical Center

**KY American Water OPA Customers List**  
**As of January 31, 2019**

<b>Division</b>	<b>Account Class</b>	<b>Entity</b>
Water Service	OPA	Friends of Gratz Recovery Grou
Water Service	OPA	Garden Springs Elementary 12-UD, FC
Water Service	OPA	Georgetown Water & Sewer Serv
Water Service	OPA	German House
Water Service	OPA	Glencoe Fire Dept
Water Service	OPA	Glendover Elementary 51-UD, FCPS
Water Service	OPA	Gluck Equine Research Center
Water Service	OPA	GP Russell School Apartments
Water Service	OPA	GSA
Water Service	OPA	Harrison Co Water Association
Water Service	OPA	Harrison Elementary 21-UD, FCPS
Water Service	OPA	Henry Clay Baseball 54-UD
Water Service	OPA	Henry Clay High School 14-UD, FCPS
Water Service	OPA	Henry Clay Softball 66-UD
Water Service	OPA	Historic Courthouse LLLP
Water Service	OPA	Hutchison Station VFD
Water Service	OPA	IAK Student Support Ctr 11-UD
Water Service	OPA	James L Allen Elementary 50-UD, FCP
Water Service	OPA	James Lane Allen Elementary, FCPS
Water Service	OPA	Jessie M Clark MS 44-UD
Water Service	OPA	Joe E White 55-UD
Water Service	OPA	Johnson Elementary 31-UD, FCPS
Water Service	OPA	Jonesville Fire Dept
Water Service	OPA	Julius Marks Elementary 40-UD, FCPS
Water Service	OPA	Kentucky Career Center Georget
Water Service	OPA	Kentucky Department of Parks
Water Service	OPA	Kentucky Geological Survery
Water Service	OPA	Kentucky Horse Park
Water Service	OPA	Kentucky Horse Park #1
Water Service	OPA	Kentucky Horse Park #10
Water Service	OPA	Kentucky Horse Park #11
Water Service	OPA	Kentucky Horse Park #12
Water Service	OPA	Kentucky Horse Park #13
Water Service	OPA	Kentucky Horse Park #14
Water Service	OPA	Kentucky Horse Park #15
Water Service	OPA	Kentucky Horse Park #16
Water Service	OPA	Kentucky Horse Park #17
Water Service	OPA	Kentucky Horse Park #18
Water Service	OPA	Kentucky Horse Park #19
Water Service	OPA	Kentucky Horse Park #2
Water Service	OPA	Kentucky Horse Park #20
Water Service	OPA	Kentucky Horse Park #21
Water Service	OPA	Kentucky Horse Park #22

**KY American Water OPA Customers List  
As of January 31, 2019**

<b>Division</b>	<b>Account Class</b>	<b>Entity</b>
Water Service	OPA	Kentucky Horse Park #23
Water Service	OPA	Kentucky Horse Park #24
Water Service	OPA	Kentucky Horse Park #25
Water Service	OPA	Kentucky Horse Park #27
Water Service	OPA	Kentucky Horse Park #3
Water Service	OPA	Kentucky Horse Park #4
Water Service	OPA	Kentucky Horse Park #5
Water Service	OPA	Kentucky Horse Park #6
Water Service	OPA	Kentucky Horse Park #7
Water Service	OPA	Kentucky Horse Park #8
Water Service	OPA	Kentucky Theatre Group Inc
Water Service	OPA	Kentucky Utilities Co
Water Service	OPA	Kentucky Vehicle Enforcement
Water Service	OPA	KY Dept of Highways
Water Service	OPA	Lafayette Football 45-UD
Water Service	OPA	Lafayette High School 15-UD
Water Service	OPA	Lafayette Softball 65-UD
Water Service	OPA	Lansdowne Elementary 26-UD
Water Service	OPA	Leestown Middle School 49-UD
Water Service	OPA	Lex Speech & Hearing Ctr
Water Service	OPA	Lexington Center Corp
Water Service	OPA	Lexington Fire Department
Water Service	OPA	Lexington GXA LLC
Water Service	OPA	Lexington Housing Authority
Water Service	OPA	Lexington Parking Authority
Water Service	OPA	Lexington Public Library
Water Service	OPA	Lexington Traditional Magnet MS
Water Service	OPA	Lexington Traditional MS 30-UD
Water Service	OPA	LFUCAB_Blue Grass Airport
Water Service	OPA	LFUCG
Water Service	OPA	LFUCG Art Center
Water Service	OPA	LFUCG Charles Young Center
Water Service	OPA	LFUCG Circuit & District Courts
Water Service	OPA	LFUCG City Hall
Water Service	OPA	LFUCG Dept of General Svcs
Water Service	OPA	LFUCG Detention Center
Water Service	OPA	LFUCG Div of Accounting
Water Service	OPA	LFUCG Dogwood Park
Water Service	OPA	LFUCG Family Care Center
Water Service	OPA	LFUCG Fire Station #22
Water Service	OPA	LFUCG Lakeside Golf
Water Service	OPA	LFUCG Parks Department
Water Service	OPA	LFUCG Police Tech Services

**KY American Water OPA Customers List**  
**As of January 31, 2019**

<b>Division</b>	<b>Account Class</b>	<b>Entity</b>
Water Service	OPA	LFUCG Pool
Water Service	OPA	LFUCG W Hickman Creek
Water Service	OPA	Liberty Elementary 78-UD
Water Service	OPA	Liberty Elementary 79-UD
Water Service	OPA	Liberty Rd Bus Complex 34-UD
Water Service	OPA	Linlee Elementary 59-UD
Water Service	OPA	Locust Trace Agri Science
Water Service	OPA	Maintenance 56-UD
Water Service	OPA	Martin Luther King 60-UD
Water Service	OPA	Mary Todd Elementary 10-UD
Water Service	OPA	Maxwell Elementary 27-UD
Water Service	OPA	Meadowthorpe Elementary 47-UD
Water Service	OPA	Miles Point Way 82-UD
Water Service	OPA	Millcreek Elementary 52-UD
Water Service	OPA	MONTEREY FIRE DEPT
Water Service	OPA	Morton Middle School 28-UD
Water Service	OPA	Northern Elementary 9-UD
Water Service	OPA	Owen Cnty Maintenance Barn
Water Service	OPA	Owen Co Ambulance/Co Barn
Water Service	OPA	Owen Co Bowling Middle School
Water Service	OPA	Owen Co Football Field
Water Service	OPA	Owen Co High School
Water Service	OPA	Owen Co Public Transit
Water Service	OPA	Owen Co Upper Elem School
Water Service	OPA	Owen County Animal Shelter
Water Service	OPA	Owen County Clerks Office
Water Service	OPA	Owen County Court House
Water Service	OPA	Owen County Fiscal Court
Water Service	OPA	Owen County Park Board
Water Service	OPA	Owen County Public Library
Water Service	OPA	Owen County Sheriff Office
Water Service	OPA	Owenton City Hall
Water Service	OPA	Pain Management Medicine
Water Service	OPA	Picadome Elementary School-UD
Water Service	OPA	PL Dunbar High School 36-UD
Water Service	OPA	Rosa Parks Elementary 35-UD
Water Service	OPA	Russell Cave Elementary 53-UD
Water Service	OPA	Russell Cave Rd Warehouse 83-UD
Water Service	OPA	Sandersville Elementary 80-UD
Water Service	OPA	SCAPA 20-UD
Water Service	OPA	Scott Co Bd of Education
Water Service	OPA	Scott County Fiscal Court
Water Service	OPA	Southern Elementary 13-UD

**KY American Water OPA Customers List  
As of January 31, 2019**

<b>Division</b>	<b>Account Class</b>	<b>Entity</b>
Water Service	OPA	Southern Middle School 37-UD
Water Service	OPA	Southside Tech 22-UD
Water Service	OPA	Squires Elementary 32-UD
Water Service	OPA	State Fire Rescue Training Are
Water Service	OPA	Stonewall Elemenatary School
Water Service	OPA	Tates Creek Elementary 58-UD
Water Service	OPA	Tates Creek High School 46-UD
Water Service	OPA	Tates Creek Middle Schl 43-UD
Water Service	OPA	UK Coldstream Farm
Water Service	OPA	UK Entomology Dept
Water Service	OPA	UK Horticulture Management Op
Water Service	OPA	UK Nutter Football Facility
Water Service	OPA	UK Pavillion Patient Care Facility
Water Service	OPA	UK Spindletop Farm
Water Service	OPA	UK Spindletop Hall Inc
Water Service	OPA	UK Varsity Association
Water Service	OPA	University KY Federal Cr Union
Water Service	OPA	University of Kentucky
Water Service	OPA	University of Kentucky Arboretum
Water Service	OPA	University of Kentucky PPD
Water Service	OPA	University of KY Livestock Disease
Water Service	OPA	US Army Reserve
Water Service	OPA	US Hunter Jumper Association
Water Service	OPA	US Postal Service
Water Service	OPA	Veterans Park Elementary 42-UD
Water Service	OPA	Wellington Elementary
Water Service	OPA	William Wells Brown Elem 78-UD
Water Service	OPA	Williams Wells Brown Elem78-UD
Water Service	OPA	Winburn Middle School 17-UD
Water Service	OPA	Yates Elementary 39-UD

**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

---

**Witness: Melissa L. Schwarzell**

- 18.** Please refer to KAWC's Response to LFUCG 1-89(c), which states: "KAW will assume the rates that are currently in place upon closing of the transaction."
- a. Please confirm that KAWC intends to assume the current water rates for sales to Judy Water Association set by North Middletown and on file with the Public Service Commission at the time of closing (as opposed to assume the current KAWC water rates for resale for service to Judy Water Association at the time of closing).
  - b. Presuming that the closing of the North Middletown agreement occurs prior to the conclusion of this rate case, confirm that KAWC proposes in this case that the rates for water service in the North Middletown service area will merge with all other KAWC rates at the conclusion of this case.

**Response:**

- a. KAW plans to assume the current water rates for sales to Judy Water Association set by North Middletown and on file with the Public Service Commission at the time of closing and will continue using those rates unless and until those rates are modified.
- b. Yes. With the exception of Judy Water Association described above, KAW proposes in this case that the rates for water service in the North Middletown service area will merge with all other KAW rates at the conclusion of this case.

**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

---

**Witness: Melissa L. Schwarzell**

- 19.** Article 5.1(d) of the Asset Purchase Agreement with North Middletown indicates that, prior to closing, the Buyer (KAWC) shall receive approval from the Public Service Commission allowing adoption of the Seller's (North Middletown's) rates at the time of closing.
- a. State whether KAWC has filed an application or other document seeking approval from the Public Service Commission requesting approval of rates to be charged North Middletown's by KAWC following the closing.
  - b. If KAWC has not, state when KAWC anticipates filing such an application or formal request.

**Response:**

- a. Yes, KAWC has. See PSC Tariff Case TFS 2018-00566.
- b. Not applicable.

**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

---

**Witness: Melissa L. Schwarzell**

- 20.** Please refer to KAWC's Response to PSC 2-12 stating: "Those pages reflect the rates provided in the North Middletown adoption notice filed December 21, 2018." Provide copies of the adoption notice and any other correspondence related to the adoption notice between KAWC and Public Service Commission.

**Response:**

Please see PSC Tariff Case TFS 2018-00566.



**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

---

**Witness: Melissa L. Schwarzell**

- 21.** Please refer to KAWC's Response to LFUCG 1-89(d). Please provide the attached report in Excel format.

**Response:**

Please see attachments.

**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

---

**Witness: Kevin N. Rogers**

- 22.** Please refer to KAWC's Response to LFUCG 1-93. Please describe the process by which KAWC installed new meters in the Eastern Rockcastle system. Include within your answer the percentage of customers that received a new meter and the number of meters replaced in each month.

**Response:**

Accounts having known metering issues or meters that were manually read by customers for billing purposes were identified as a priority. A meter changing contractor was utilized to make the initial changes. Those meters can now be read by our AMR drive-by reading system. Subsequent meter-related issues requiring change outs were addressed by KAW personnel.

69% of the Eastern Rockcastle customers received a new meter. Meter changes occurred by month are as follows:

Month	Number Changed
March	62
April	171
May	95
June	29
July	27
August	27
September	6
October	15
November	1
December	1

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**KENTUCKY-AMERICAN WATER COMPANY****CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

---

**Witness: Kevin N. Rogers**

23. In Case No. 2017-00383, Item 5 of Intervenor's Second Request for Information requested information on what improvements KAWC believed could be made to address water loss in the Eastern Rockcastle system. KAWC responded, in part: "Kentucky American Water is aware there are several meters in the system that are not registering properly or have failed. Our initial plan of action includes changing out all of the meters to ensure accurate tracking of NRW and accurate billing." In response to LFUCG 1-92 in the present case, KAWC provided data showing that the Eastern Rockcastle system's water loss percentages for July to December 2017 was 46.9% (8,343,000 ÷ 17,804,000) and for July to December 2018 was 51.7% (10,133,000 ÷ 19,614,000). Given that the water loss percentage was higher in a six-month period following KAWC's installation of new meters, does KAWC agree that Eastern Rockcastle's water loss is not attributable to meters that were underreporting usage?

**Response:**

KAW believes a portion of the Eastern Rockcastle water loss was attributable to meters that were underreporting usage. To solve this problem, the Company replaced approximately 71% of the Eastern Rockcastle meters in 2018 and now has more accurate data for billing and tracking NRW. For the period from July through December 2018 the NRW percentage increased over the same period from 2017. The Company believes the new meters reduced NRW and that there are other factors that are causing NRW to increase.

While we do not know all the causes of NRW, the main driver is continued leakage on aging infrastructure and unidentified leaks. Despite KAW's current efforts on this issue, more work needs to be done. The proposed QIP mechanism will support an increased level of infrastructure investment that will help reduce the amount of water lost due to aging infrastructure throughout KAWC's service territory.

**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

---

**Witness: Melissa L. Schwarzell**

- 24.** Please refer to KAWC's Response to LFUCG 1-93. Please provide an Excel version of the workpapers that are attached to that response.

**Response:**

See attached.

**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

---

**Witness: Melissa L. Schwarzell**

- 25.** Please provide a stand-alone revenue requirement for the North Middletown system, similar to the analysis generated by KAWC produced related to the Eastern Rockcastle system in LFUCG 1-93. Include within your response the following:
- a. What is the amount of the increase to the revenue requirement to KAWC customers living outside of the North Middletown system resulting from the unification of rates with the former Eastern Rockcastle Water Association?
  - b. Please explain how that increase was determined by providing workpapers.
  - c. Please provide the total amount of the increase to each customer class, the increase in rates to each customer class, and the effect on the average bill for each customer class.

**Response:**

- (a) The amount of the increase in the revenue requirement to KAWC customers living outside of the North Middletown system resulting from the unification of rates with the former North Middletown is \$15,912, as shown in response to Commission Staff's Second Request for Information, Item 72.
- (b) The increase identified in part (a) above was calculated by preparing a revenue requirement for the North Middletown water system for the projected test year. This calculation produced a revenue requirement of \$307,775 or \$15,912 over the present rate revenues of North Middletown. The analysis did not take into consideration at this time any benefits that over time may be realized from having the additional customer base from the acquisition of the North Middletown system. Refer to the attached for the workpapers related to the calculation of the North Middletown revenue requirement.
- (c) Shown below is the impact in each customer class and on the average bill:

<b>Customer Class</b>	<b>Incr in Rev Req</b>	<b>% Impact</b>
Residential	\$8,824	0.02%
Commercial	\$4,109	0.02%
Industrial	\$471	0.02%
Other Public Authority	\$1,082	0.02%
Sale for Resale	\$285	0.02%
Private Fire Service:	\$458	0.02%
Public Fire Service	\$673	0.02%
Miscellaneous	\$9	0.01%
	<u>\$15,912</u>	

<b>Customer Class</b>	<b>Average Use</b>	<b>Current Proposed Rates</b>	<b>After Adjusting for NM Impact</b>	<b>Difference</b>	<b>% Difference</b>
Residential	3.869	\$39.62	\$39.62	\$0.00	0.00%
Commercial	34.257	\$210.67	\$210.64	\$0.03	0.01%
Industrial	971.266	\$4,733.01	\$4,732.29	\$0.72	0.02%
Other Public Authority	120.541	\$745.23	\$745.11	\$0.12	0.02%
Sale for Resale	1,804.415	\$9,335.72	\$9,334.30	\$1.42	0.02%
<b>Private Fire</b>					
Private Fire Hydrant		\$80.12	\$80.11	\$0.01	0.02%
2"		\$9.16	\$9.16	\$0.00	0.02%
4"		\$36.92	\$36.91	\$0.01	0.02%
6"		\$83.04	\$83.03	\$0.01	0.02%
8"		\$147.62	\$147.60	\$0.02	0.02%
10"		\$230.72	\$230.68	\$0.04	0.02%
12"		\$332.71	\$332.66	\$0.05	0.02%
14"		\$479.07	\$479.00	\$0.07	0.02%
16"		\$590.78	\$590.69	\$0.09	0.02%
<b>Public Fire</b>					
Public Fire Hydrant		\$49.16	\$49.15	\$0.01	0.02%

**Kentucky American Water  
Change in Revenue Requirement  
North Middletown**

Revenue Requirement - Total Company		\$108,383,855
N. Middletown Revenue Requirement		307,775
Reserved		<u>0</u>
Total Acquisitions		<u>307,775</u>
Total Rev Req Less Acquisitions		\$108,076,080
Present Rate Revenues KAWC	87,179,059	
E Rockcastle Revenues	324,131	
AFUDC	554,026	
NM Sales for Resale	<u>169,773</u>	
Adjusted Present Rate Revenues		\$88,226,989
Revenue Increase KAWC Stand Alone		\$19,849,091
Revenue Increase Proposed		\$19,865,003
Change in Revenue Increase		(\$15,912)
KAWC Water Revenues Proposed Rates		\$104,693,429
Revenue Incr (Decr)		(\$15,912)
Percent Change		-0.02%

Kentucky American Water  
 Cost of Service - Income Statement  
 N Middletown

**APPROXIMATE REVENUE REQUIREMENT CALCULATION FOR NORTH MIDDLETOWN**

Description	Present Rates	Adjustment	Proposed Rates
Revenues	\$291,863	\$15,912	\$307,775
Operation and Maintenance	106,509	145	106,655
Depreciation and Amortization	76,914		76,914
Taxes Other Than Income	15,571	32	15,603
Income Taxes	15,157	3,926	19,083
Operating Expenses	214,152	4,103	218,255
Utility Operating Income	\$77,711	\$11,809	\$89,520
Rate Base	1,085,088		1,085,088
Return on Rate Base	7.16%		8.25%

Income Tax Calculation		
Income before Taxes/Interest	92,868	108,602
Interest Expense	32,119	32,119
State Taxable Income	60,749	76,484
KY State Tax Rate	5.00%	5.00%
State Income Taxes	3,037	3,824
Federal Taxable Income	57,712	72,660
Federal Tax Rate	21.00%	21.00%
Federal Income Taxes	12,119	15,259
Total Income Taxes	15,157	19,083

Revenue Conversion	
Rate Base	1,085,088
Rate of Return	8.25%
Required UOI	89,520
UOI at Present Rates	77,711
UOI Deficiency(Excess)	11,809
Revenue Conversion	134.746%
Required Revenue Change	15,912

**COMPARISON OF STAND-ALONE RATES AND SINGLE TARIFF RATES FOR NORTH MIDDLETOWN AND CURRENT SINGLE TARIFF CUSTOMERS**

	Current Single Tariff Group & East		Proposed Rates With N. Middletown Stand Alone	Change	
	N. Middletown (Present Rates)	Rockcastle (Proposed Rates)			
Total Revenue	\$291,863	\$107,419,128			
Other Revenues	0	2,483,214			
Revenues Subject to Incr (Decr)	291,863	104,935,914			
Revenue Adjustment	\$15,912	(\$15,912)			
Percent Incr (Decr)	5.45%	-0.02%			
	1000 Gallons	Present Rates Stand-Alone	Proposed Rates Single Tariff	Proposed Rates With N. Middletown Stand Alone	Change
<b>N Middletown</b>					
Average RES Use	3.790	\$53.59	\$39.12	\$56.51	\$17.39
Bill Change Vs Present Rates			(14.47)	2.92	\$17.39
Percent Change			-27.0%	5.45%	
	1000 Gallons	Present Rates Stand-Alone	Proposed Rates Single Tariff*	Proposed Rates With N. Middletown Stand Alone*	Change
<b>Kentucky American</b>					
Average RES Use	3.869	\$32.06	\$39.62	\$39.62	\$0.00
Bill Change Vs Present Rates			7.56	7.56	\$0.00
Percent Change			23.57%	23.55%	

\*If the Company billed in fractions of a penny, there variance between rates would be 6/10 of a penny. But the average bills are the same when billed in pennies.



**Kentucky American Water  
Case No. 2018-00358  
North Middletown**

<b>Customer Class</b>	<b>Incr in Rev</b>	
	<b>Req</b>	<b>% Impact</b>
Residential	\$8,824	0.02%
Commercial	\$4,110	0.02%
Industrial	\$471	0.02%
Other Public Authority	\$1,082	0.02%
Sale for Resale	\$285	0.02%
Private Fire Service:	\$458	0.02%
Public Fire Service	\$673	0.02%
Miscellaneous	\$9	0.01%
	<u>\$15,912</u>	

Assumption: Based on an across the board change in rates from the proposed rates

<b>Customer Class</b>	<b>Average Use</b>	<b>Current Proposed Rates</b>	<b>After Adjusting for NM Impact</b>	<b>Difference</b>	<b>% Difference</b>
Residential	3.869	39.62	\$39.62	\$0.01	0.02%
Commercial	34.257	210.67	\$210.64	\$0.03	0.01%
Industrial	971.266	4,733.01	\$4,732.29	\$0.72	0.02%
Other Public Authority	120.541	745.23	\$745.11	\$0.12	0.02%
Sale for Resale	1,804.415	9,335.72	\$9,334.30	\$1.42	0.02%
<b><u>Private Fire</u></b>					
Private Fire Hydrant		\$80.12	\$80.11	\$0.01	0.02%
2"		\$9.16	\$9.16	\$0.00	0.02%
4"		\$36.92	\$36.91	\$0.01	0.02%
6"		\$83.04	\$83.03	\$0.01	0.02%
8"		\$147.62	\$147.60	\$0.02	0.02%
10"		\$230.72	\$230.68	\$0.04	0.02%
12"		\$332.71	\$332.66	\$0.05	0.02%
14"		\$479.07	\$479.00	\$0.07	0.02%
16"		\$590.78	\$590.69	\$0.09	0.02%
<b><u>Public Fire</u></b>					
Public Fire Hydrant		\$49.16	\$49.15	\$0.01	0.02%

**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

---

**Witness: Melissa L. Schwarzell**

- 26.** In February 2019, KAWC announced the appointment of Elaine Chambers as director, rates and regulatory for American Water's Southeast Division, which includes KAWC.
- a. Identify what position, if any, she held with the Company or its affiliates prior to this position, and explain whether the Company will seek to fill that position.
  - b. Identify the individual, if any, who held this position prior to Ms. Chambers.
  - c. Identify any appropriate changes to the forecasted test-year expenses for this transition.

**Response:**

- a. Elaine Chambers did not previously hold a position with the Company or its affiliates.
- b. The position is new. It was previously held on an interim basis by Melissa Schwarzell.
- c. The Company is not proposing any change to forecasted test year expenses for this transition.

**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

---

**Witness: Melissa L. Schwarzell, James S. Pellock**

- 27.** On January 25, 2019, the Kentucky Infrastructure Authority named Linda Bridwell as its new Deputy Executive Director.
- a. Confirm that Ms. Bridwell is no longer employed by KAWC or its affiliates.
  - b. Identify what position she held with the Company or its affiliates prior to her departure.
  - c. Explain whether her position has or will be filled by another individual.
  - d. Identify any appropriate changes to the forecasted test-year expenses for this transition.

**Response:**

- a. Confirmed.
- b. Ms. Bridwell held the position of Senior Manager Rates for Regulatory for Kentucky and Tennessee.
- c. The Company has not filled, and does not currently plan to fill, a position for Senior Manager Rates and Regulatory for Kentucky and Tennessee. Instead, a Director of Rates and Regulatory position has been filled for Kentucky and Tennessee. The employee in that position is Elaine Chambers.
- d. The Company is not proposing any changes to the forecasted test year expenses for this transition.

**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

---

**Witness: James S. Pellock**

- 28.** In January 2019, KAWC announced the appointment of Jasmine Mungo as manager of customer accounts.
- a. Identify what position, if any, she held with the Company or its affiliates prior to this position, and explain whether the Company will seek to fill that position.
  - b. Identify the individual, if any, who held this position prior to Ms. Mungo.
  - c. Identify any appropriate changes to the forecasted test-year expenses for this transition.

**Response:**

- a. Jasmine Mungo held the position of Senior Superintendent in Field Operations. The Company plans to fill the position.
- b. Ms. Mungo is replacing Amy Caudill. The position that Ms. Caudill held was Superintendent of Operations. The job title has since changed to Manager of Customer Accounts to better describe the duties of customer advocacy and major accounts management.
- c. The Company is not proposing any changes to the forecasted test-year expenses for this transition.

**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

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**Witness: Melissa L. Schwarzell, James S. Pellock**

- 29.** Identify all KAWC employees and employees of American Water affiliates (such as the American Water's Southeast Division) whose salary expenses were wholly or partially allocated to KAWC that were employed by the Company on November 28, 2018 and are no longer employed by the Company. For each of those employees, please state:
- a. The employee's name;
  - b. The employee's title;
  - c. The end date of employment;
  - d. Whether KAWC will seek to fill the vacancy, and if so, the progress of filling the vacancy.

**Response:**

**Kentucky American Water Company  
Separations After November 28, 2018**

<b>Last Name</b>	<b>First Name</b>	<b>Title</b>	<b>End Date</b>	<b>Non-Lexington Based</b>	<b>Recruitment Status</b>
Brown	Charles	Treatment Plt Opr	12/31/2018		Filled - External Hire
Fraley	Debra	Operations Specialist	12/31/2018		Filled - Internal
McKenzie	Jerry	Operations Technician	01/03/2019	Y	Filled - External Hire
Allen	Kary	Field Service Rep	01/22/2019		In union bidding process

**American Water Service Company Employees  
Applicable Separations After November**

<b>Last name</b>	<b>First name</b>	<b>Position</b>	<b>End Date</b>	<b>Lexington Based</b>
Fleming	Tawanna	CSR-1 Call Handling Rep U640	11/28/2018	
Baker	Gregory	Mgr Inventory and Investment Recovery	11/30/2018	
Bryda	Matthew	Senior Systems Administrator ITS	12/7/2018	
Foote	Tajsha	CSR-1 Call Handling Rep U640	12/13/2018	
Brand	Douglas	Sr. Director Customer Experience	12/16/2018	
Blum	Alberta	HR Recruiter	12/17/2018	
Sweetsir	Mark	Accountant IV	12/19/2018	
Hoerr	William	Senior Systems Administrator ITS	12/21/2018	
Reichwein	Richard	Lead Database Analyst ITS	12/21/2018	
Buck	Thomas	Sr Application Security Analyst ITS	12/21/2018	
Harrison	Charleisa	CSR-3 Billing Specialist U640	12/31/2018	
Romberger	Kenneth	Senior Technologist	12/31/2018	
Mcmichael	Carol	Senior Product Manager	12/31/2018	
Bhimasenachar	Naveen	Principal Technologist	12/31/2018	
Hardy	Andrew	Senior Technologist	12/31/2018	
Couch	Dennis	Senior Systems Administrator ITS	12/31/2018	
Welcomer	D. Andrew	Senior Technologist	12/31/20108	
Kuntala	Subhashini	Senior Technologist	12/31/2018	
Sullivan	Scarlotte	CSR-1 Call Handling Rep U640	1/2/2019	
Hinkson	David	Dir Corp Counsel	1/2/2019	Y
Ash	Heide	HR Systems Admin	1/4/2019	
Reinke	Debi	CSR-3 Call Handling Rep U640	1/9/2019	
Rush	Monica	CSR-3 Call Handling Rep U640	1/9/2019	
Markwardt	Andrew	Director Compensation	1/10/2019	
Halcom	Melissa	CSR-2 Call Handling Rep U640	1/16/2019	
Pidliskey	Janet	Exec Asst (N)	1/16/2019	
Stewart	Mia	CSR-3 Speciality Desk Rep U640	1/18/2019	
Wolfe	Bryan	HR Recruiter	1/25/2019	
Lopez	Joseph	CSR-1 Call Handling Rep (P) U640	1/25/2019	
Willard	Thomas	Internal Auditor III	1/28/2019	
Hightower	Charlotte	CSR-3 Billing Specialist U640	1/31/2019	
Kelley	Stephanie	CSR-3 Call Handling Rep U640	2/8/2019	
Lockhart	Dawn	CSR-2 Call Handling Rep U640	2/18/2019	
Jackson	Lamonica	CSR-1 Call Handling Rep U640	2/18/2019	
Bavas	Janet	Multimedia Specialist	2/19/2019	
Dixon	Kia	CSR-1 Call Handling Rep U640	2/22/2019	
Bridwell	Linda	Sr Mgr Rates & Regulatory	2/28/2019	Y

**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

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**Witness: Melissa L. Schwarzell, James S. Pellock**

- 30.** Identify all current KAWC employees and employees of American Water affiliates (such as the American Water's Southeast Division) whose salary expenses are wholly or /partially allocated to KAWC that were not employed by the Company on November 28, 2018 but have been hired by the Company after that date. For each of those employees, please state:
- a. The employee's name;
  - b. The employee's title;
  - c. The start date of employment.

**Response:**

**Kentucky American Water Company  
Employees Hired After November 28, 2018**

<b>Last Name</b>	<b>First Name</b>	<b>Hire Date</b>	<b>Position</b>	<b>Non-Lexington Based</b>
Perkins	Lonnie	12/17/2018	Operations Generalist	Y
Taylor	Sean	12/17/2018	Utility	
Matt	Cody	12/31/2018	Operations Generalist	Y
Conner	Cameron	02/11/2019	Utility	
Riddle	Norman	02/25/2019	Operations Technician	Y
Dillon	Curtis	02/25/2019	Mgr Health and Safety Pgrms	
Howard	Richard	02/25/2019	Treatment Plt Oper Relief	
Ratchford	Patrick	02/25/2019	Utility	

**American Water Service Company  
Applicable Hires After November 28, 2018**

<b>Last name</b>	<b>First name</b>	<b>Position</b>	<b>Hire Date</b>	<b>Lexington Based</b>
Pubal	Ronald	Tech Client Technology ITS	12/3/2018	
Riley	Asianek	CSR-1 Call Handling	12/10/2018	
Dalton	Shereen	CSR-1	12/10/2018	
Charles	Danielle	CSR-1 Call Handling Rep	12/10/2018	
Rowe	Karen	CSR1	12/10/2018	
Wilson	Deana	CSR1	12/10/2018	
Whiting	Martha	CSR1	12/10/2018	
Mills	Veronica	CSR1	12/10/2018	
Green	Dy'Mia	CSR1	12/10/2018	
Stoy	Robert	Director Corp Business Dev	12/10/2018	
Kendrick	Kenya	CSR-1	12/10/2018	
Runkles	Mary	CSR1	12/10/2018	
Holley	Linda	CSR1	12/10/2018	
Xu	Zhenggang	Senior Software Engineer	12/10/2018	
Milstead	Alana	CSR1	12/10/2018	
Sukte	HauThanDim	Sr Bus Process Consul	12/10/2018	
Athamnah	Malek	Senior Technologist	12/17/2018	
Hunt	William	Admin Assistant - Staff Support	12/17/2018	
Jalloh	Ibrahima	Technologist	1/2/2019	
Colaiacovo	Denise	Exec Asst to EMT (N)	1/2/2019	
Campbell	Brandon	Software Engineer	1/2/2019	
Golicz	Joy	Mgr Payroll	1/2/2019	
Saha	Tarun	Software Engineer	1/2/2019	
Shaw	Leonard	Software Engineer	1/2/2019	
Solomon	Anthony	Supervisor - Tax	1/7/2019	
Earle	Denise	CSR1	1/7/2019	
Elliott	Kristi	CSR1	1/7/2019	
Smith	Zy'kiraya	CSR1	1/7/2019	
Mack	Akasha	CSR1	1/7/2019	
Davidson	Shelithia	CSR1	1/7/2019	
Crawford	Na'Teia	CSR1	1/7/2019	
Leifheit	Emily	CSR-1 Call Handling Rep	1/7/2019	
Henderson	Autumn	CSR-1 Call Handling Rep	1/7/2019	
Losignore	Laura	Accountant II	1/7/2019	
Smith	Chloe	CSR1	1/7/2019	
Devalla	Mahesh	Software Engineer	1/7/2019	
Koratamaddi Narsimha Sai	Aneesh	Software Engineer	1/7/2019	
Genov	Stanimir	Software Engineer	1/7/2019	
Chambers	Elaine	Director Rates and Regulatory	1/14/2019	Y
Queen	Brian	Divisional CFO	2/18/2019	Y



**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

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**Witness: Melissa L. Schwarzell**

- 31.** Please refer to KAWC's Response to PSC Staff 2-18, in which KAWC states: the proposed [tariff] language allows the Company to recover the tax expense associated with tapping fees from the cost causers." If KAWC is not able to recover the applicable gross-up amount to recover state or federal taxes it must pay on tap or connection fees, how would KAWC propose to recover those tax expenses in rates?

**Response:**

If tap fees are not grossed up for tax, then it would be appropriate to recover the tax costs through general rates for water and fire service.

**KENTUCKY-AMERICAN WATER COMPANY  
CASE NO. 2018-00358  
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S  
SECOND REQUEST FOR INFORMATION**

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**Witness: Constance E. Heppenstall/Kevin N. Rogers**

- 32.** Please refer to KAWC's Response to PSC Staff 2-76 and the Burgess and Nipple Water Demand Study contained therein.
- a. Explain all efforts taken by Ms. Heppenstall to verify the relevancy and present-day accuracy of data contained in that study containing data from 1999 as it relates to a cost-of-service study prepared nearly 20 years later.
  - b. On page 8 of the Study, it states: "Little Joe's Mobile Home is a more typical commercial customer than Patchen Village Car Wash is." Identify the number of individual connections within Little Joe's Mobile Homes that have received individual residential accounts since 1999 that are no longer served by a commercial master meter.
  - c. Confirm that Spears Water Company is no longer a public utility.

**Response:**

- a. Ms. Heppenstall was not charged to verify the data contained in the Burgess and Nipple Water Demand Study. See Response to PSC 3-19 for a comparison of the Burgess and Nipple Water Demand Study with more recent demand studies which indicate that the results of the Burgess and Niple Water Demand Study are not dissimilar to other water demand studies in other service areas.
- b. There are 59 individual connections.
- c. Spears Water Company is no longer a public utility.