

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

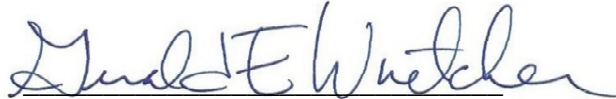
ELECTRONIC APPLICATION OF ESTILL)
COUNTY WATER DISTRICT NO. 1 TO) **CASE NO. 2019-00087**
AMEND THE ORDER OF DECEMBER 21,)
2018 IN CASE NO. 2018-00276)

NOTICE OF FILING

Estill County Water District No. 1 gives notice of it's the filing of its Response to the Commission Staff's First Request for Information.

Dated: April 22, 2019

Respectfully submitted,



Gerald E. Wuetcher
Stoll Keenon Ogden PLLC
300 West Vine Street, Suite 2100
Lexington, Kentucky 40507-1801
Telephone: (859) 231-3017
Fax: (859) 259-3517
gerald.wuetcher@skofirm.com

Counsel for Estill County Water District No. 1

CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, I certify that Estill County Water District No. 1's electronic filing of this Response is a true and accurate copy of the same document being filed in paper medium; that the electronic filing was transmitted to the Public Service Commission on April 22, 2019; that there are currently no parties that the Public Service Commission has excused from participation by electronic means in this proceeding; and that on or before April 24, 2019 this Application in paper medium will be delivered to the Public Service Commission.



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In the Matter of:

ELECTRONIC APPLICATION OF ESTILL)	
COUNTY WATER DISTRICT NO. 1 TO)	CASE NO. 2019-00087
AMEND THE ORDER OF DECEMBER 21,)	
2018 IN CASE NO. 2018-00276)	

RESPONSE OF
ESTILL COUNTY WATER DISTRICT NO. 1
TO
COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION

FILED: April 22, 2019

VERIFICATION

COMMONWEALTH OF KENTUCKY)
) SS:
COUNTY OF ESTILL)

The undersigned, Audrea Miller, being duly sworn, deposes and states that she is the Acting Manager of Estill County Water District No. 1 and that she has personal knowledge of the matters set forth in the responses for which she is identified as the witness, and the answers contained therein are true and correct to the best of her information, knowledge and belief.

Audrea B Miller
Audrea Miller

Subscribed and sworn to before me, a Notary Public in and before said County and State,
this 22 day of April 2019.

Lisa B Puckett (SEAL)
Notary Public

My Commission Expires: JUNE 25 2019

Notary ID: 536649

ESTILL COUNTY WATER DISTRICT NO. 1

Response to Commission Staff's First Request for Information

Case No. 2019-00087

Question No. 1

Responding Witness: Audrea Miller

Q-1. Refer to the Application, Item 12, page 4.

a. With the acceptance of the Rural Development's Director of Water and Waste Disposal Loan and Grant Program (RD), confirm that Estill District No. 1 has kept current with its principal and interest payments to RD.

b. Provide documentation supporting the answer in the above 1 (a) request

A-1. a. Estill County Water District No. 1 ("Estill District") is current in its loan payments to Rural Development ("RD"). On February 1, 2019, it made the first interest payments on the reissued bonds. The first interest and principal payment on the reissued RD bonds is due on August 1, 2019. Estill District is currently depositing \$15,000 in a separate account to provide for interest and principal payments on its RD bonds. As of this date, the balance of this account is approximately \$116,000.

b. See attached electronic mail message from Greg Pridemore, Area Specialist in Rural Development's office in Shelbyville, Kentucky. The Shelbyville office services Estill District's Rural Development loans.

Wuetcher, Gerald

From: Pridemore, Greg - RD, Shelbyville, KY <greg.pridemore@usda.gov>
Sent: Tuesday, April 16, 2019 10:48 AM
To: Wuetcher, Gerald
Cc: Hollinsworth, Anthony - RD, Lexington, KY; Lewis, Vanessa - RD, Shelbyville, KY
Subject: Estill County Water District #1

Mr. Wuetcher:

As of April 16, 2019, Estill County Water District #1 is current with its payments and in good standing on all their loans issued through USDA Rural Development.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Greg Pridemore | Area Specialist
Rural Development
U.S. Department of Agriculture
65 Brighton Blvd | Shelbyville, KY 40065
Phone: 502-633-3294 | Fax: 855-784-0871

Website: <http://www.rd.usda.gov>.
<http://www.rd.usda.gov/ky>

"Committed to the future of rural communities"
"Estamos dedicados al futuro de las comunidades rurales"

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ESTILL COUNTY WATER DISTRICT NO. 1

Response to Commission Staff's First Request for Information

Case No. 2019-00087

Question No. 2

Responding Witness: Gerald E. Wuetcher

- Q-2. Refer to Case No. 2018-00276, Requested Relief, Item 4, page 16, in which Estill District No. 1 requested the Commission to issue an Order by December 27, 2018. This requested relief was based upon Estill County No. 1's stated need to execute the restructuring of the Citizens Guaranty Bank loans no later than December 31, 2018.**
- a. Explain why Estill District has waited until March 2019, to seek an amendment to the Order in Case No. 2018-00276.**
 - b. Explain why Estill District No. 1 did not immediately notify the Commission of the request by Citizen Guaranty Bank to alter the terms of the consolidation.**
 - c. Provide the date Citizens Guaranty Bank notified Estill District No. 1 of their its revised plan concerning the promissory notes consolidating the debt held by Citizens Guaranty Bank.**
 - d. Provide any correspondence or notifications from Citizens Guaranty Bank relating to the revised plan concerning the promissory notes consolidating the debt held by Citizens Guaranty Bank.**
- A-2.** Estill County Water District No. 1 ("Estill District") respectfully disagrees with the characterization of its application in Case No. 2018-00276. In its application, Estill District stated that *Commission approval* of the proposed restructuring of the Citizen Guaranty Bank loans prior to January 1, 2019 was necessary if the restructuring of *Rural Development loans* was to occur before January 1, 2018. Rural Development had conditioned its restructuring arrangement upon *Commission approval* of the proposed restructuring of the Citizen Guaranty Bank loans. The Rural Development restructuring plan provided for an interest rate based upon the poverty level interest rate. When it filed its application in December 2018, this rate was 2.375 percent per annum. This rate is revised quarterly and was expected to be revised upward on January 1, 2019. (Rural Development did adjust the rate to 2.5 percent per annum as of January 1, 2019.) To obtain the most favorable interest rate, Estill District had to meet Rural Development's conditions and reissue its bonds before January 1, 2019. State Rural Development officials had advised Estill District that the actual consolidation of the Citizen Guaranty Bank loans was not required before the

reissuance of the RD bonds, but Public Service Commission's authorization of that consolidation was necessary.

Estill District stated as much in its Application:

Estill District respectfully requests that a decision on its application be made no later than December 27, 2018. Unless the Commission acts promptly on this application, Estill District may receive a less favorable interest rate on the proposed reamortization and rescheduling of the RD loans. The current RD poverty lending rate of 2.375 percent per annum will remain in effect only until December 31, 2018. RD is required to reevaluate its poverty lending rate quarterly and to revise it to reflect current market conditions. *Final action on the proposed reamortization and rescheduling will not occur until a decision on the proposed restructuring of the Citizens Guaranty Bank loans is issued.*

Application at ¶ 38 (italics added).

- a. An application was not filed until March 2019 because (1) the problems with the original proposal were not recognized or understood until mid-January 2019; (2) Citizens Guaranty Bank required time to prepare an alternative proposal and to document the reasons for the alternative proposal; and (3) additional time was necessary to prepare the application.

On December 31, 2018, a Citizens Guaranty Bank loan officer presented the members of Estill District's Board of Commissioners with a promissory note for their signatures. This action occurred at the same meeting in which Estill District's commissioners executed the documents for the Rural Development bond reissuance. Both the loan officer and Estill District's commissioners believed that the note complied with the terms of the Commission's Order of December 21, 2018. Mistakenly believing that Citizens Guaranty Bank note had also been reviewed by Estill District's legal counsel for general matters, the Commissioners executed the note without closely reviewing it. (While Estill District's bond counsel was present at the December 31, 2019 meeting, its legal counsel for general matters was not. Bond counsel was not involved in the proceedings regarding the Citizens Guaranty Bank notes.)

Estill District's legal counsel for general matters had not been provided with a copy of the note for his review prior to its execution. He was not aware of the note's execution and did not receive a copy of the note to review until January 18, 2019. Upon reviewing the note, he advised Estill District and Citizens Guaranty Bank that the note's terms were not consistent with the terms approved in the Order of December 21, 2018 and should not be given any legal effect. Estill District and Citizens Guaranty Bank agreed that: the Note should be considered void, the prior notes continue in effect, and Estill District is legally obligated to

comply with the terms of the prior notes. Citizens Guaranty Bank indicated that it will not take any action to enforce the four notes' terms if Estill District makes payments consistent with the 10-year amortization schedule to which both entities have agreed. (Since January 2019, Estill District has made monthly payments to Citizens Guaranty Bank based upon this amortization schedule.)

In late January 2019, Estill District's legal counsel met with Citizens Guaranty Bank officials to discuss the loan. At that time, the Bank's officials reviewed the Bank's loan writing processes to determine if a note consistent with the originally proposed terms could be issued. When they determined it could not, the Bank made an alternative proposal. Estill District's legal counsel then consulted with Rural Development to determine if this proposal would be acceptable. Upon obtaining Rural Development's concurrence with the alternative proposal, Estill District requested that Citizens Guaranty Bank explain in a letter the reasons why a note with the original terms was not feasible and state the new terms. While Citizens Guaranty Bank was preparing this letter, Estill District's Board of Commissioners adopted a resolution authorizing its Chairman to execute and file with the Public Service Commission an application for authorization to issue a note containing the alternative terms. Once Estill District received Citizen Guaranty Bank's formal proposal, it proceeded to prepare and file its application.

- b. Estill District did not believe it was appropriate to formally approach the Commission until it had alternative terms with Citizens Guarantee Bank, obtained Rural Development's concurrence with those alternative terms, fully documented the reasons for the proposed change, and prepared an application for an amendment to the December 21, 2018 Order. Moreover, there did not appear to be any law, regulation or Commission order requiring immediate notification to the Public Service Commission

Notwithstanding the absence of such requirement, legal counsel for Estill District spoke by telephone with the Commission's Acting General Counsel Jeb Pinney on January 25, 2019. Counsel informed Mr. Pinney that Citizens Guaranty Bank had presented a note with terms that differed from those that the Commission had authorized and that Estill District was working with Citizens Guaranty Bank to resolve the matter. He and Mr. Pinney agreed that any note containing terms that differed from those in the Order of December 21, 2018 would require prior Commission authorization. Mr. Pinney warned that failure to obtain such authorization would likely subject Estill District and its commissioners to adverse Commission action.

On March 5, 2019, Estill District's counsel again spoke with Mr. Pinney to inquire as to whether a motion to amend the Order of December 21, 2018 could be filed in Case No. 2018-00276 to amend the Order of December 21, 2018 in lieu of an application in a new proceeding. Mr. Pinney recommended filing an application in a new proceeding.

- c. Citizens Guaranty Bank made its alternative proposal by electronic mail on January 31, 2019. A formal proposal was submitted to Estill District on February 26, 2019 in a letter that also explained why the alternative proposal was necessary.
- d. See attachments to this response.

Wuetcher, Gerald

From: Mike Wilson <mwilson@mycgb.com>
Sent: Thursday, January 31, 2019 12:40 PM
To: Wuetcher, Gerald
Subject: FW: Water District terms

Gerald,

We have figured out how to do it with prime. Please see below. If ok please provide me with a sample letter to send to you.

Thanks,

Mike

Michael Wilson
President



My Money. My Bank. My CGB.

MWilson@MyCGB.com | www.MyCGB.com

Direct 606-726-2029 | Mobile 859-396-3011
Fax 606-723-2142

NMLO#657932
NMLS#402957

From: Sheila Travis
Sent: Thursday, January 31, 2019 11:59 AM
To: Mike Wilson <mwilson@mycgb.com>
Cc: Shannon Chaney <schaney@mycgb.com>
Subject: Water District terms

Prime (5.50) minus 2.50 changing every 3 years.

Maximum increase/decrease at each rate change is 2%

Floor – 3% Ceiling – 8%

Thanks,

Sheila Travis
Loan Operations Supervisor



My Money. My Bank. My CGB.

stravis@MyCGB.com | www.MyCGB.com

Direct 606-726-2016 | Fax 606-723-2142

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P.O. Box 630 • 25 River Drive
Irvine, Kentucky 40336
606-723-2139

West Irvine Plaza
Irvine, Kentucky 40336
606-723-2138



www.MyCGB.com • Member FDIC

February 26, 2019

Attention: Gerald E. Wuetcher
Attorney f/b/o Estill County Water District #1
Stoll, Keenon, and Ogden PLLC
300 W. Vine Street, Ste. 2100
Lexington, Kentucky 40507-1801

Dear Mr. Wuetcher:

Citizens Guaranty Bank (“CGB”) has previously offered to consolidate Estill County Water District No. 1’s (“Estill District”) outstanding loans into one loan amortized over ten years at an initial interest rate of three percent per annum, with the interest rate adjusted to the current market interest rate at the end of the third and seventh years of the loan. The adjusted interest rate could not be lower than three percent or greater than the most recent rate for two-year federal treasury notes plus 1.5 percent. Estill District would not be subject to any penalty if it elected to prepay the note.

To implement this proposal, CGB intended to split the consolidated loan into three notes. The first note would be executed immediately and have a term of three years. It would have a monthly payment based upon the total amount amortized over ten years with an interest rate of three percent per annum. The last payment on this note would be for the note’s remaining balance. A new note at the adjusted interest rate and with a term of four years would then be executed. The monthly payment of the second note would reflect the principal amount of the consolidated loans amortized over a ten year period at the adjusted interest rate. At the end of four years, a new note for a term of three years would be executed reflecting the market rate at that time for the remaining principal amount. At the end of this note, the present-day balance on Estill District’s loans would have been repaid.

You have advised that this arrangement is not consistent with the terms that the Public Service Commission approved in its Order of December 21, 2018 and that a 10-year note was required. CGB’s computer software is not designed to write and process a loan with the agreed terms. Accordingly, it proposes to substitute the following terms for the original proposal:



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P.O. Box 630 • 25 River Drive
Irvine, Kentucky 40336
606-723-2139

West Irvine Plaza
Irvine, Kentucky 40336
606-723-2138

The existing loans will be consolidated into one note payable over ten years at an initial interest rate of three percent per annum, with the interest rate adjusted to the current federal prime interest rate minus 2.5 percent every three years. The adjusted interest rate may not decrease or increase more than two percent over the existing interest rate. At no time may the note's interest rate be less than three percent or greater than eight percent. Estill District will not be subject to any penalty if it elects to prepay the note.

I believe that these terms are comparable to those to which we originally agreed and will accomplish Estill District's objectives.

Please advise if the substituted terms are acceptable. If they are acceptable, CGB will prepare the required loan documents and will execute them upon receiving evidence that the Kentucky Public Service Commission has authorized Estill District to issue a promissory note containing those terms.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael D. Wilson".

Michael D. Wilson
President