

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

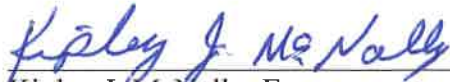
In the Matter of:

ELECTRONIC INVESTIGATION INTO)	
TRANSFER OF OWNERSHIP TO)	
PRESTONSBURG CITY UTILITIES)	CASE NO.
COMMISSION OF THE WASTEWATER)	2020-00228
SYSTEM AND CERTAIN PORTIONS OF THE)	
WATER SYSTEM OF SOUTHERN WATER)	
AND SEWER DISTRICT PURSUANT TO KRS)	
278.250 AND KRS 278.390)	

**RESPONSE OF PRESTONSBURG CITY’S UTILITIES COMMISSION TO THE
COMMISSION’S ORDER DATED SEPTEMBER 2, 2020**

Come the Prestonsburg City’s Utilities Commission (hereinafter “Prestonsburg”),
by counsel, for its Response to the Commission’s Order dated September 2, 2020, and
states on the following pages:

Respectfully submitted,



Kipley J. McNally, Esq.
Kipley J. McNally, PLC
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Louisville, Kentucky 40223
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Counsel for Prestonsburg City’s
Utilities Commission

Date submitted: 9/11/20

1. In response to ordering paragraph 1, the term “Designated Water Assets” is defined in the “WHEREAS” clauses to the Second Amendment to the Asset Purchase Agreement filed herewith as Exhibit “A”.

2. In response to ordering paragraph 2, the City of Prestonsburg has been made a party to the Second Amendment to the Asset Purchase Agreement, and expressly ratifies and approves of the First Amendment to the Asset Purchase Agreement in Section 1 of the Second Amendment to the Asset Purchase Agreement.

3. In response to ordering paragraph 3, Southern Water and Sewer District (“Southern District”) and Prestonsburg acknowledges and agrees in Section 2 of the Second Amendment that Prestonsburg has been operating the water distribution system formerly known as “Sandy Valley” for the required three (3) year period, and, now, customers in the “Sandy Valley” area are subject to Prestonsburg’s “Outside of City” rates.

4. In response to ordering paragraph 4, Southern District and Prestonsburg have entered into the First Amendment to the Financial Management Services Contract to change the application of partial payments and the termination of water service in the event of nonpayment. See Exhibit “B”.

CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, I certify that the Prestonsburg City’s Utilities Commission, and the City of Prestonsburg’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 September __, 2020; that there are currently no parties that the Public Service Commission has

excused from participation by electronic means in this proceeding; and that an original and copy paper medium of this Response will be delivered to the Public Service Commission within thirty (30) days after the lifting of the emergency, as discussed in Case No. 2020-00085.


Kipley J. McNally

LIST OF EXHIBITS

- A. Second Amendment to the Asset Purchase Agreement;
- B. First Amendment to the Financial Management Services Contract.

EXHIBIT A

SECOND AMENDMENT
TO
ASSET PURCHASE AGREEMENT

This Second Amendment effective September 11, 2020, to the Asset Purchase Agreement dated as of the 1st day of January, 2017 ("APA"), by and between the Southern Water and Sewer District, P.O. Box 610, McDowell, Kentucky 41647, hereinafter referred to as ("Southern District"); and Prestonsburg City's Utilities Commission, 2560 South Lake Drive, Prestonsburg, Kentucky 41653, hereinafter referred to as ("PCUC"); and the City of Prestonsburg, 200 N. Lake Drive, #104, Prestonsburg, Kentucky 41653, hereinafter referred to as ("City").

WITNESSETH:

WHEREAS, Southern District and PCUC entered into an Operating Agreement effective July 1, 2016 ("Initial O & M Agreement"), which provided that PCUC would commence the "... managing, operating, repairing, and maintaining Southern's Wastewater System while they negotiate the detailed terms of the Asset Purchase Agreement ..." In exchange for a monthly fee of \$3,000.00. The Initial O & M Agreement was entered into by the parties to forestall enforcement action by the Division of Enforcement of the Kentucky Energy and Environment Cabinet for numerous violations of Kentucky water quality laws. The Initial O & M Agreement was attached as Exhibit 1 to the Joint Application dated February 6, 2017;

WHEREAS, the term of the Initial O & M Agreement was due to expire on the closing of the Assets under an Asset Purchase Agreement yet to be negotiated, but not later than June 30, 2018;

WHEREAS, the parties entered into the Asset Purchase Agreement effective January 1, 2017 ("APA"), but executed on December 20, 2016 by PCUC, pursuant to which Southern District agreed to convey and transfer to PCUC Southern District's wastewater system, and a portion of Southern District's potable water system (collectively, the "Assets");

WHEREAS, on May 2, 2017, the Public Service Commission (hereinafter the "Commission") entered an Order ("Order") approving the transfer of the Assets by Southern District to PCUC;

WHEREAS, the parties entered into a second Operating & Maintenance Agreement effective July 1, 2017 ("Water O & M Agreement") filed with the Commission as Exhibit C to PCUC Response in Case 2020-00228, but executed after the date of the Commission's Order in December of 2017 to provide that PCUC would manage, operate, repair, and maintain Southern District's Designated Water Assets as described in paragraph 3 of the APA;

WHEREAS, on June 28, 2018, Southern District transferred only the wastewater assets to PCUC;

WHEREAS, on July 1, 2017, PCUC began to operate and maintain a portion of the water distribution system of Southern District's known as the "Pyramid" and "Sandy Valley" distribution system. See Staff Exhibit 1 to hearing on September 1, 2020 (hereinafter "Designated Water Assets");

WHEREAS, the term "Designated Water Assets" was first used in the Water O & M Agreement to reference the detailed description of the water system assets being transferred to PCUC in paragraph 3 of the APA;

WHEREAS, Southern District and PCUC have been unable to consummate the transfer of the Designated Water Assets and Southern District has retained ownership of the Designated Water Assets, while PCUC has been operating and maintaining the Designated Water Assets;

WHEREAS, Rural Development has agreed to give its consent upon payment of \$1,600,000.00 by PCUC, the forgiveness of \$137,500.00 debt owing by Southern to PCUC and the return of the Pyramid water distribution system to Southern.

WHEREAS, the parties desire to modify certain provisions of the APA and the First Amendment to the APA to obtain the approval of the Kentucky Public Service Commission.

NOW, THEREFORE, in consideration of the covenants and agreements set forth in this Second Amendment, and for other good and reasonable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. The City, a formal party to the APA, enters into the Second Amendment to ratify, confirm and approve of the terms and conditions of the First Amendment to the APA.
2. Southern District and PCUC acknowledges and states that PCUC has been operating the Designated Water Assets, charging the water customers the same tariff rate as Southern District as of July 1, 2017, and in excess of the three year period required by paragraph 11 of the APA. Southern District and PCUC agree that the transferred customers located in the area known as Sandy Valley, now are subject to PCUC tariff rates, as amended from time-to-time, applicable to customers located outside of the city limits of the City of Prestonsburg.
3. Southern District has caused this Contract to be executed in its name and on its behalf by the Chairman of its Commission, and has caused its seal to be affixed, attested by the

Secretary of its Commission, and represents that due authority has been vested in the Chairman by a Resolution of the Commission of the District, now in full force and effect.

4. PCUC has caused this Contract to be executed in its name and on its behalf by its Superintendent, attested by the Chairman of its Commission, and represents that due authority has been vested in such Superintendent by a Resolution of its Commission, now in full force and effect.

5. The City has caused this Contract to be executed by its Mayor, and represents that said Mayor is vested with full authority in law to execute the same.

6. This Second Amendment shall be filed by Southern District, and/or PCUC with the Public Service Commission ("PSC"), and shall become effective on the date of such approval.

7. The closing shall occur within thirty (30) days after PSC approval is received.

8. In all other respects, the parties hereto approve, confirm and ratify the terms and conditions of the APA, except as modified by a separate agreement for operation and billing for the water customers located in Wayland and Eastern served by the sewer facilities located there (the, "Financial Management Services Contract").

9. The Parties covenant and agree that, subsequent to the execution and delivery of this Agreement and without any additional consideration, each of the Parties will execute and deliver any further legal instruments and perform any acts which are or may become reasonably necessary to effectuate this Agreement.

IN TESTIMONY WHEREOF, this Agreement has been executed in multiple counterparts, each of which is deemed to be an original, by the duly authorized officers of the Parties, as of the effective date of this Agreement.

SOUTHERN WATER & SEWER DISTRICT

BY: Jeff Prater
ITS CHAIRMAN, JEFF PRATER
DATE: 9/9/2020

ATTEST: [Signature]
SECRETARY

PRESTONSBURG CITY'S UTILITIES COMMISSION

BY: [Signature]
BRIAN MUSIC, SUPERINTENDENT/CEO
DATE: 9-10-2020

ATTEST: [Signature]
JIMMY A. CALHOUN, CHAIRMAN OF
THE PRESTONSBURG CITY'S
UTILITIES COMMISSION

CITY OF PRESTONSBURG

BY: [Signature]
LES STAPLETON, MAYOR
DATE: 09/09/2020

ATTEST: [Signature]
SHARON SETSER, CITY CLERK

PCUC Service Rate APRIL 2019

Prestonsburg City's Utilities Commission
2560 South Lake Drive
Prestonsburg, KY 41653

Phone (606) 886-6871

IN CITY RATE						
Meter Size	Meter Service Fee	Water Rate	Sewer Rate	Natural Gas	Trash	
5/8" - 3/4"	\$ 10.52	\$.8311 / 100 Gal	\$.8701 / 100 Gal	Minimum Fee \$13.45	Residential \$13.50	
1"	\$ 17.54	\$.8311 / 100 Gal	\$.8701 / 100 Gal			
1 1/2"	\$ 26.06	\$.8311 / 100 Gal	\$.8701 / 100 Gal			
2" T-10	\$ 43.83	\$.8311 / 100 Gal	\$.8701 / 100 Gal			
2" HP Turbine	\$ 50.34	\$.8311 / 100 Gal	\$.8701 / 100 Gal	\$12.81 M.C.F	Residential with cart \$15.50	
3" HP Turbine	\$ 112.69	\$.8311 / 100 Gal	\$.8701 / 100 Gal			
3" T/F Compound	\$ 136.95	\$.8311 / 100 Gal	\$.8701 / 100 Gal			
4" HP Turbine	\$ 260.79	\$.8311 / 100 Gal	\$.8701 / 100 Gal			
4" T/F Compound	\$ 269.27	\$.8311 / 100 Gal	\$.8701 / 100 Gal		Senior Rate \$10.00	
6" HP Turbine	\$ 563.89	\$.8311 / 100 Gal	\$.8701 / 100 Gal			
6" T/F Compound	\$ 591.23	\$.8311 / 100 Gal	\$.8701 / 100 Gal			
6" HP Protectus III	\$ 658.98	\$.8311 / 100 Gal	\$.8701 / 100 Gal			
8" HP Protectus III	\$ 981.12	\$.8311 / 100 Gal	\$.8701 / 100 Gal		Commercial Rates available in office	
OUT CITY RATE						
Meter Size	Meter Service Fee	Water Rate	Sewer Rate	Natural Gas	Trash	
5/8" - 3/4"	\$ 10.52	\$ 1.0629 / 100 Gal	\$ 1.0903 / 100 Gal	Minimum Fee \$16.17	Residential \$14.09	
1"	\$ 17.54	\$ 1.0629 / 100 Gal	\$ 1.0903 / 100 Gal			
1 1/2"	\$ 26.06	\$ 1.0629 / 100 Gal	\$ 1.0903 / 100 Gal			
2" T-10	\$ 43.83	\$ 1.0629 / 100 Gal	\$ 1.0903 / 100 Gal			
2" HP Turbine	\$ 50.34	\$ 1.0629 / 100 Gal	\$ 1.0903 / 100 Gal	\$13.62 M.C.F	Senior Rate \$10.25	
3" HP Turbine	\$ 112.69	\$ 1.0629 / 100 Gal	\$ 1.0903 / 100 Gal			
3" T/F Compound	\$ 136.95	\$ 1.0629 / 100 Gal	\$ 1.0903 / 100 Gal			
4" HP Turbine	\$ 260.79	\$ 1.0629 / 100 Gal	\$ 1.0903 / 100 Gal			
4" T/F Compound	\$ 269.27	\$ 1.0629 / 100 Gal	\$ 1.0903 / 100 Gal		Commercial Rates available in office	
6" HP Turbine	\$ 563.89	\$ 1.0629 / 100 Gal	\$ 1.0903 / 100 Gal			
6" T/F Compound	\$ 591.23	\$ 1.0629 / 100 Gal	\$ 1.0903 / 100 Gal			
6" HP Protectus III	\$ 658.98	\$ 1.0629 / 100 Gal	\$ 1.0903 / 100 Gal			
8" HP Protectus III	\$ 981.12	\$ 1.0629 / 100 Gal	\$ 1.0903 / 100 Gal			
ALLEN - DWALE RATE						
Meter Size	Meter Service Fee	Water Rate	Sewer Service Fee	Sewer Rate	Natural Gas	Trash
5/8" - 3/4"	\$9.15	\$.8503 / 100 Gal	\$26.46	\$.3433 / 100 Gal	Not Available	Residential \$14.09
1"	\$15.25	\$.8503 / 100 Gal	\$26.46	\$.3433 / 100 Gal		
2" T-10	\$38.11	\$.8503 / 100 Gal	\$26.46	\$.3433 / 100 Gal		
2" HP Turbine	43.77	\$.8503 / 100 Gal	\$26.46	\$.3433 / 100 Gal		
WATER TAP FEE		SEWER TAP FEE		NATURAL GAS TAP FEE		
5/8" - 3/4"	\$600.00	4"	\$400.00	1" Residential	\$300.00	
1"	\$650.00	6"	\$600.00			
1 1/2"	\$1600.00	8"	\$800.00			
2"	\$2500.00					
3"	\$5500.00					
4"	\$7000.00					
6"	\$9500.00					
8"	Price to be determined					
SOUTHERN WATER RATE						
		Minimum Rate		Rate / 1,000 gallons		
Southern Water Rate		0-2,000	\$24.60	\$8.40 / 1,000		
Southern Sewer Rate		0-2,000	\$28.38	\$9.52 / 1,000		

EXHIBIT B

FIRST AMENDMENT
TO
FINANCIAL MANAGEMENT SERVICES CONTRACT

This First Amendment to the Financial Management Services Contract effective as of the 1st day of August, 2020 ("Management Contract"), by and between the Southern Water and Sewer District, P.O. Box 610, McDowell, Kentucky 41647, hereinafter referred to as "Southern District"; and Prestonsburg City's Utilities Commission, 2560 South Lake Drive, Prestonsburg, Kentucky 41653, hereinafter referred to as "PCUC".

WITNESSETH:

WHEREAS, KRS 96.940 authorizes a sewer body and a water supplier to enter into a contract related to the provisions of KRS 96.930 to 96.943;

WHEREAS, the parties desire to enter into a contract in compliance with KRS 96.940 to authorize Southern District to provide billing and collection services for the Agency, including termination of the water service of a sewer customer for non-payment of the customer's sewer bill pursuant to KRS 96.934;

WHEREAS, the parties desire to modify certain provisions of the Management Contract to obtain the approval of the Public Service Commission ("Commission").

NOW, THEREFORE, in consideration of the covenants and agreements set forth in this First Amendment, and for other good and reasonable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

FIRST

Sections 6 and 7 are hereby deleted in their entirety, and the following is substituted therefore:

6) The District shall charge each Sewer Customer in accordance with the sewer tariff schedules established by the Agency, as amended from time to time. The Agency shall give the District notice of its initial, or amended tariff sheet at least thirty (30) days prior to the date of the District's billing date. The initial tariff sheet is attached hereto as Exhibit A and is hereby incorporated by reference as if fully set forth herein. The District shall perform the Financial Services in accordance with the District's established billing and collection procedures, as may be amended from time to time. The District shall terminate a customer's water service for non-payment of the customer's sewer bill in accordance with applicable Public Service Commission regulations, including notice requirements.

7) Any partial payments received from a customer shall be first applied to any amount due, including applicable fees and penalties, for sewer utility services rendered by the Agency and the remaining portion of the payment, if any, shall be applied to amounts charged by the District. If the District's customer does not pay the Agency's sewer bill, in full, the District shall terminate the customer's water service in accordance with the Commission's regulations, and in accordance with KRS 96.934.

SECOND

In all other respects, the parties hereby approve, confirm and ratify the terms and conditions of the Management Contract.

AUTHORIZATIONS

Southern District has caused this Contract to be executed in its name and on its behalf by the Chairman of its Commission, and has caused its seal to be affixed, attested by the

Secretary of its Commission, and represents that due authority has been vested in the Chairman by a Resolution of the Commission of the District, now in full force and effect.

PCUC has caused this Contract to be executed in its name and on its behalf by its Superintendent, attested by the Chairman of its Commission, and represents that due authority has been vested in such Superintendent by a Resolution of its Commission, now in full force and effect.

IN TESTIMONY WHEREOF, this Agreement has been executed in multiple counterparts, each of which is deemed to be an original, by the duly authorized officers of the Parties, as of the effective date of this Agreement.

SOUTHERN WATER & SEWER DISTRICT

BY: Jeff Leato
ITS: CHAIRMAN
DATE: 9/9/2020

ATTEST: [Signature]
SECRETARY

PRESTONSBURG CITY'S UTILITIES COMMISSION
BY: [Signature]
BRIAN MUSIC, SUPERINTENDENT/CEO

DATE: 9-10-2020

ATTEST: [Signature]
JIMMY A. CALHOUN, CHAIRMAN OF
THE PRESTONSBURG CITY'S
UTILITIES COMMISSION