

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF MOUNTAIN)
WATER DISTRICT FOR A DECLARATORY ORDER) Case No. 2020-00394

**MOTION FOR EXTENSION OF TIME
AND FOR A SCHEDULING ORDER**

The City of Pikeville (“Pikeville”), by counsel, hereby petitions the Kentucky Public Service Commission (“Commission”) pursuant to 807 KAR 5:001, Section 19(8) for an extension of time in which to file a response to the Application for declaratory order filed by Mountain Water District (“MWD”) and a corresponding scheduling order. In support of its motion, Pikeville states the following:

On December 15, 2020, MWD filed an Application for declaratory order, in which MWD seeks to effectively nullify a provision in the Wholesale Water Purchase Contract between Pikeville and MWD. On January 4, 2021, Pikeville sought intervention in this matter.

Section 19(4) sets a default for a response to an application for declaratory judgment as 21 days after the application, but that subsection specifically indicates that the Commission may order otherwise. In addition, subsection (8) states, “The commission may take any action necessary to ensure a complete record, to include holding oral arguments on the application and requiring the production of additional documents and materials, and *may extend the time for the filing of a reply or response under this section.*” (Emphasis added.)

Pikeville has had insufficient time to prepare a comprehensive response, in part due to the default timeline spanning over the holidays and prior work commitments of counsel. A response will require addressing how the Commission’s prior order did not abrogate the minimum-

purchase requirement in the Contract, but also contractual interpretation and the legal limitations of the Commission to eliminate the contractual provision.

Moreover, the Commission has not indicated how it would like to proceed in this specific case. For example, in *Electronic Application of Kenegy Corp. for a Declaratory Order*, Case No. 2020-00095 (Ky. PSC Apr. 13, 2020), sought clarification on what the applicant proposed. Accordingly, the Commission issued a request for information and required the intervening parties to file their responses after the applicant's answers to information requests were filed.

The Commission has granted extensions for other responses to applications for declaratory orders, as well. In *Petition of Kentucky Gas Frontier, LLC for a Declaratory Order*, Case No. 2016-00287 (Ky. PSC Sept. 28, 2016), the impacted entity filed a motion to intervene and request for extension to file a reply approximately 35 days after the application was filed and outside the 21-day default period to file a response. The Commission granted that motion for extension.

Based on the foregoing information, Pikeville respectfully requests an extension of time by which to file a response to MWD's Application for declaratory order. Pikeville recommends that a procedural schedule be entered by the Commission if it seeks any clarification from MWD as it did in the *Kenegy* case or, alternatively, an order permitting Pikeville to file a response to the application by January 15, which is a 10-day extension.

Respectfully submitted,



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CERTIFICATE OF COMPLIANCE

In accordance with 807 KAR 5:001, Section 8(7), this is to certify that the January 5, 2021, electronic filing is a true and accurate copy of the documents being filed in paper medium; that the electronic filing has been transmitted to the Commission on January 5, 2021; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original and a copy of the filing are being delivered to the Commission within 30 days after the lifting of the state of emergency.



Counsel for City of Pikeville.