

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN ELECTRONIC INVESTIGATION INTO)	
MILBURN WATER DISTRICT TO)	
DETERMINE THE FEASIBILITY OF)	
MERGER WITH A PROXIMATE UTILITY)	CASE NO. 2021-00341
PURSUANT TO KRS 74.361 OR)	
ABANDONMENT PURSUANT TO KRS)	
278.020(6), KRS 278.021)	

JOINT MOTION TO CONTINUE THE STAY OF PROCEEDINGS

Pursuant to 807 KAR 5:001, Section 5(1), Graves County Water District (“Graves District”) and Milburn Water District (“Milburn District”) (collectively “the Districts”), by counsel, jointly move to continue the existing stay of proceedings until November 30, 2025 to permit the Carlisle County Fiscal Court to further develop and execute its plan for expanding and consolidating water service within Carlisle County. In support of their motion, the Districts state:

1. On March 31, 2022, the Public Service Commission (“Commission”) initiated this proceeding to investigate the feasibility of merging Milburn District with “a proximate utility.”¹
2. On August 30, 2022, the Commission identified Graves District as a potential candidate for such merger and ordered that Graves District be made a party to this proceeding to allow the Commission “to more thoroughly investigate the possibility of merging the two districts.”² It further noted its need for “studies, investigations, facts, historical data, and projects as may be required for the Commission to make an informed and proper decision regarding such merger.”³

¹ Order of March 31, 2022 at 1.

² Order of August 30, 2022 at 2.

³ *Id.*

3. While the Commission has provided notice of this proceeding to Carlisle County Fiscal Court and further found that Carlisle County Fiscal Court has a significant interest in this proceeding,⁴ Carlisle County Fiscal Court is not currently a party to this proceeding.

4. On April 27, 2024, Senate Bill 91 became law. This bill contained an appropriation of \$5,000,000 to the Carlisle County Fiscal Court “to support the Carlisle County Water District [sic] in providing water treatment and water lines to schools in the county.”⁵ Carlisle County officials plan to use these funds to support the construction of a water treatment facility and water lines to serve Carlisle County’s schools and, if possible, to eventually serve Milburn District, the City of Arlington, and Cunningham Water District.

5. On May 31, 2024, Commission Staff issued its merger feasibility report in which it recommended that “the Commission initiate the necessary actions to effect a merger of Milburn District into [sic] Graves District.”⁶ The merger feasibility report did not mention or address Senate Bill 91 nor does it discuss the possible use of these funds to develop a county-wide water system.

6. On July 30, 2024, counsel for Graves District and Milburn District⁷ held a videoconference with representatives of Bacon, Farmer, Workman Engineering and Testing, Inc. (“the Engineers”), the engineering firm that Carlisle County Fiscal Court has retained to prepare a plan for serving Carlisle County’s schools and various areas within Carlisle County, to discuss the Fiscal Court’s plans. Carlisle County Judge/Executive Greg Terry authorized the conference.

7. During the videoconference, the Engineers explained that various scenarios to provide water service to the Carlisle County schools, several of which include Milburn District,

⁴ Order of March 31, 2022 at 2.

⁵ 2024 Ky. Acts Ch. 223, § 62.

⁶ Report at 2.

⁷ Mr. Hogancamp, counsel for Milburn District, also participated in the videoconference as counsel for Cunningham Water District.

the City of Arlington, and Cunningham Water District, were under consideration but no definitive plan had yet been developed. The funds to develop such a plan were only released on July 1, 2024. The Engineers stated that a plan that includes connecting Milburn District, the City of Arlington, and Cunningham Water District is possible and may be desirable for water quality reasons. The Engineers stressed, however, that a detailed plan must first be developed and that such a plan would require approximately six months to prepare.

8. On August 7, 2024, the Districts moved to stay this proceeding for 180 days to permit Carlisle County Fiscal Court to develop a comprehensive plan for water service to Carlisle County.

9. On August 15, 2024, the Commission granted the Districts' motion, stayed this proceeding for 180 days, and postponed the time for the Districts' response to the merger feasibility study until further order of the Commission.

10. As set forth in the Affidavit of Carlisle County Judge Executive Greg Terry, which is attached to this Motion as Exhibit A, Carlisle County Fiscal Court has developed a plan that currently contains the following components:

a. To serve the Carlisle County School District facilities, a water line approximately one and one-half miles in length would be constructed along Highway 1371 from Milburn District's existing water line to the School District's facilities. This water line would be of sufficient diameter to address the water and fire suppression needs of the School District's facilities. To the extent that improvements or repairs are necessary to Milburn District's existing line to ensure adequate water service to the School District's facilities, such improvements would be made.

b. After completion of the proposed water line, water wells would be constructed within Carlisle County near the School District's campus that would be adequate to supply the needs of the School District's facilities, Milburn District, and other water suppliers within Carlisle County.

c. Upon obtaining additional funds, the water distribution systems of Cunningham District and the city of Arlington would also be connected to the water wells. Connecting these water providers would ensure a redundant water supply for each water provider and allow for an extension of water service to areas of Carlisle County that currently do not have potable water service. Upon completion of these connections, these water providers would be interconnected.

d. Upon the interconnection of the three water providers, the consolidation of these systems would be explored.

e. The appropriated funds set forth in Senate Bill 91 will be used to finance the construction of the initial water line and the water wells.

f. Milburn District is expected to own and operate the proposed water line and water wells and to request the enlargement of its existing territory to include the School District's campus and additional areas of Carlisle County not currently served.

g. The construction of the proposed water line to the School District's facilities is not expected to begin until late 2025. The expected start date for construction reflects the time necessary to plan and design the proposed water line, assess the existing Milburn District water line, obtain regulatory review and approval of the proposed water line, and select a contractor to construct the proposed water line.

h. This plan is a work in progress and is subject to revision.

11. In light of these **new developments**, the current stay of proceedings should be continued until November 30, 2025, to allow Carlisle County Fiscal Court, the School District, the Engineers, and Milburn District adequate time to further develop and execute its water supply plans. Only after those plans are fully developed can a complete and fully informed assessment of Milburn District's status and the feasibility of an involuntary merger of the Districts be made. Continuing the current stay of proceedings will prevent the premature and unnecessary expenditure of the resources of the Commission and the Districts on administrative proceedings whose results may be rendered impractical and unnecessary due to Carlisle County Fiscal Court's efforts.

12. The involuntary merger of two water districts can result in significant disruptions to the finances and operations of those water districts and affect not only the water districts, but the customers they serve. For that reason, an involuntary merger is a measure of last resort, employed only after a thorough and complete review of each water district's operations and the consequences of the involuntary merger and after all other alternatives have been exhausted. Moreover, KRS 74.361(2) requires that the Commission thoroughly investigate the feasibility of an involuntary merger prior to holding any hearing on the proposed merger.⁸

13. The Districts respectfully submit that the Commission would not be acting consistent with KRS 74.361 if it continued with its investigation without considering Carlisle County Fiscal Court's proposed water treatment and distribution facilities. Considering that

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Prior to ordering a hearing with reference to the merger of any water district into one (1) or more additional water districts, the Public Service Commission shall cause to be prepared in writing a feasibility report and study regarding the proposed merger, containing such studies, investigations, facts, historical data, and projections as in the circumstances may be required **in order to enable the commission to formulate a proper decision regarding such merger** [emphasis added].

proposal requires that the Commission afford Carlisle County Fiscal Court additional time to fully develop and execute its plan.

14. A stay of these proceedings will not prejudice any party and will not adversely affect the interests of the customers of either District. In its earlier orders in this proceeding, the Commission has suggested that a merger of the Districts is necessary to ensure the provision of adequate service to Milburn District's customers. Currently, Milburn District is providing adequate service to its customers. Milburn District continues to employ a system operator and is continuing to perform normal business functions. In short, staying these proceedings will not adversely affect Milburn District's operations or result in a decline in the current quality of water service. However, should a decline in the quality of that service occur at any time during the stay, the Commission can take appropriate action to address such a decline.

15. The Districts' request for a stay of proceedings is made in good faith, not for purposes of delay.

WHEREFORE, Graves District and Milburn District request that the existing stay of proceedings be continued through November 30, 2025.

Dated: January 27, 2025

Respectfully submitted,

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Counsel for Graves County Water District

CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, and the Commission's Order of July 22, 2021 in Case No. 2020-00085, I certify that this document was submitted electronically to the Public Service Commission on January 27, 2025, and that there are currently no parties that the Public Service Commission has excused from participation by electronic means in this proceeding.

/s/Glenn D. Denton

Counsel for Graves County Water District

EXHIBIT A

STATE OF KENTUCKY)

COUNTY OF CARLISLE)

AFFIDAVIT OF GREG TERRY

The affiant, Greg Terry, being first duly sworn, states as follows:

1. I currently serve as Judge Executive of Carlisle County, Kentucky and have personal knowledge of the information contained within this Affidavit.

2. During its 2024 Regular Session, the Kentucky General Assembly enacted Senate Bill 91 which contained an appropriation of five million dollars (\$5,000,000) to the Department of Local Government to be distributed to Carlisle County Fiscal Court for the purpose of providing water treatment and water lines to Carlisle County schools.

3. On July 1, 2024, the appropriated funds became available to Carlisle County Fiscal Court.

4. For the past seven months, Carlisle County Fiscal Court has considered how best to use the appropriated funds to achieve their designated purpose. As part of this review, it has considered several alternatives, including the development of a county-wide water distribution system that would involve the facilities of Milburn Water District ("Milburn District"), Cunningham Water District ("Cunningham District"), and the city of Arlington. It retained Bacon, Farmer, Workman Engineering and Testing, Inc. ("Engineers"), an engineering firm, to review all alternatives and prepare a plan to serve Carlisle County's schools and various areas within Carlisle County.

5. The present plan has the following components:

a. To serve the Carlisle County School District ("School District") facilities, a water line approximately one and one-half mile water line in length would be constructed along

Highway 1371 from Milburn District's existing water line to the School District's campus, which is located on a tract of land at the southwest corner of the intersection of Kentucky Highways 1371 and 1377. This water line would be of sufficient diameter to address the water and fire suppression needs of the School District's facilities. Any improvements to the existing Milburn District water line necessary to support service to the School District facilities would also be made. Initially, the water supplied to the School District facilities will be water purchased from Graves County Water District.

b. Water wells will subsequently be constructed near the School District's campus to supply water to the School District's facilities and Milburn District.

c. Milburn District or a newly formed water district will own and operate the proposed water line and the proposed wells. Milburn District's ownership and operation of the proposed water line currently appears to be the best available option. It avoids the lengthy statutory process for the creation of a new water district. Milburn District ownership and operation of the water line will require the enlargement of its territory to include the School District's campus. Its territory may be further enlarged to enable Milburn District to serve other portions of Carlisle County that currently do not have a water provider.


d. Upon obtaining additional funds, the water distribution systems of Cunningham District and the city of Arlington would also be connected to the water wells. Connecting these water providers would ensure a redundant water supply for each water provider and allow for an extension of water service to areas of Carlisle County that currently do not have potable water service. Upon completion of these connections, these water providers would be interconnected.

e. Once the water distribution systems are interconnect, possible consolidation of these water systems into a single, countywide water district will be explored.

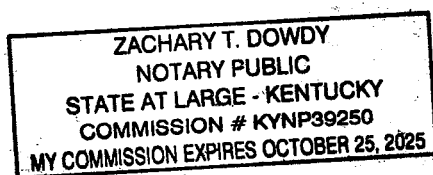
6. The construction of the initial water line and wells is not expected to begin until late 2025. The Engineers estimate that planning and design of the water line and the surveying of its proposed water line route will require three to four months to complete. The plans and specifications for the proposed water line must then be submitted to the Kentucky Division of Water ("KDOW") for its review. A final KDOW decision on those plans and specifications is not expected to be issued for at least 60 days following their submission. Upon receiving KDOW approval of the plans and specifications, a request for bids on the construction contract for the water line must be advertised; the submitted bids must be evaluated; and a contract with the successful bidder executed.


7. The plan set forth in Paragraph 5 is subject to revisions. Should revisions occur, Carlisle County Fiscal Court will promptly inform all stakeholders and the Public Service Commission of these revisions.

Further the affiant sayeth naught.


Greg Terry
Carlisle County Judge Executive

Subscribed, sworn to, and acknowledged before me on this 24th day of January, 2025 by Greg Terry.




Notary Public, State at Large
My commission expires: October 25, 2025
Notary ID No. KYNP39250