COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC ALLEGED FAILURE OF LYON COUNTY WATER DISTRICT AND ITS INDIVIDUAL COMMISSIONERS DON ROBERTSON AND CHARLES MURPHY, AND SUPERINTENDENT, WILLIAM ASHER, TO COMPLY WITH KRS 278.230, 807 KAR 5:006, SEC. 4(2), AND KRS 278.990	)	CASE NO. 2021-00343

RESPONSE OF COMMISSIONER DON ROBERTSON

Comes now Don Robertson, by counsel, and for his response to the above styled case states as follows:

The Lyon County Water District (LCWD) contracts with HDR Engineering, Inc. for services which include filing rate applications with the Public Service Commission (PSC). There have been general discussions of rate adjustment ongoing for several months. The LCWD Board had directed Michael A. "Mike" Hansen, P.E. with HDR Engineering to undertake a comprehensive rate study and to advise the Board so that a rate increase filing could be made to the PSC. The Board was regularly informed on the rate study efforts by HDR Engineering thereafter.

When a general rate case or alternative rate filing within one year was ordered by the PSC on June 15, 2020 it appeared the LCWD was well on its way to complying, in light of the previous efforts undertaken by HDR Engineering at the direction of the LCWD Commissioners.

Attached, and cumulative labeled as Exhibit A, are copies of Lyon County Water District meeting Minutes identifying the Water District's efforts:

- August 13, 2019 – "Mike gave an update on potential improvements and the review of rates."
- September 10, 2019 – "They also discussed a rate increase. The board has requested that Mike do a rate study proposal for the next meeting."
- October 8, 2019 – "Mike gave an update on the infrastructure and new project improvements. He also provided the board with a formal proposal for a water rate study. (See Attached)"
- December 10, 2019 – "Mike gave an update on the new project going into effect. He provided the board with the engineering fees from HDR for the new project." (which included the rate study)

  "A motion was made to approve the engineering fees and to move forward with HDR on the new project. Motion by Charles. Seconded by Chris. Motion Passed."
- May 12, 2020 – "KIA Infrastructure Improvements: Mike gave an update on the rate study. They are needing the finalized number on the Princeton Water Rate Increase. Once this legal issue is settled HDR can finish the rate study."
- June 9, 2020 – "Mike gave an update on the rate study. See Attached. For the new project there has to be at least an 18% by 2022. Mike stated there has not been an increase since 2016. In comparing financial information, he stated expenses has increased on an average of 3.7% per year since 2016. A rate increase of at least

12% per year, with 30% increase in the first year is needed to cover increasing expenses."

- July 14, 2020 – "KIA Infrastructure Improvements: Mike gave an update on the rate study. See Attached. Mike stated after seeing the audited financials for 2019 there has been a 2% increase each year in expenses. he suggested doing a 26% rate increase instead of a 30% increase. He also provided a comparison of other districts rates. See Attached."
- August 11, 2020 – "Mike was unable to attend the meeting. He sent an email to Don to update the board. See Attached."
- October 13, 2020 – "Mike gave an update on the rate study. PSC is wanting to know why we are wanting an increase before the project. Mike is going to request a 2 phase approach, to get an increase on operations now then an increase for the project later."
- November 10, 2020 – "Mike is still working with PSC for the purchase water & rate increase."
- January 12, 2021 – "Mike has tried to get in touch with PSC on the status of the rate increase. He has not heard back from them yet."
- February 7, 2021 – "Doug (another engineer with HDR) gave an update on the rate increase due to water purchase. He said that PSC is requesting more data about the purchased water increase."
- March 9, 2021 – "Doug (another engineer with HDR) gave an update on the rate increase due to water purchase. He had paperwork for Donnie to sign today for PSC. See attached."

"A motion was made to approve the resolution on purchased water rate increase agreement for PSC. Motion by Charles. Second by Chris. Motion passed. See attached."

- April 13, 2021 – "Mike gave an update on the rate study for purchase water rate increase. They should be ready to approve it at anytime. He also mentioned that the tank project is ready to go they are just waiting on PSC approval."
- June 9, 2021 – "PSC passed the increase for .38 per 1,000 gallons. It can go into effect June 1st. A new tariff needs to be signed because .37 was on the tariff submitted to PSC."

  "Chris made a motion to accept the rate increase approved by PSC and encourages a speedy submission of the full rate study. The rate will go in effect for the June billing. Seconded by Charles. Motion passed unanimously."
- July 13, 2021 – "Mike gave an update on the rate increase to just rediscuss that it will show an increase of revenue of $33,000 per year."
- August 10, 2021 – "Mike was not able to attend to give an update but sent an email. See attached."

  "Rate Study – I have had several calls with the PSC about our rate case over the past month and we are making good progress."

Historically the LCWD has been pro-active to ensure its rates are both affordable by the customers and adequate to meet the financial requirements of the utility. As evidence of historical efforts to maintain that balance LCWD requested HDR Engineering, Inc. to compile information on previous rate adjustments and applications. Attached, and cumulatively labeled Exhibit B are

documents, proceeded by a cover letter summary, which HDR Engineering furnished in response to that request.

HDR Engineering, Inc. was also requested to provide chronological information evidencing the efforts by LCWD to review and evaluate its rate structure. HDR Engineering's response to that request is attached and labeled Exhibit C.

The LCWD Board of Commissioners were keenly aware of the need for data upon which to base the rate adjustment application. The reports given to the Board members supported their belief that the effort was moving forward. Information received by the Board that HDR Engineering, Inc. had been in frequent communication with PSC was relied on to support the sincere belief that the requirements of PSC were being addressed. There was no conscious or willful intent to avoid the rate adjustment case ordered by the PSC.

HDR Engineering, Inc. has assured the Lyon County Water District it will have the rate case filing completed and submitted to the PSC by November 22, 2021.

Thurman Campbell Group, PLC is under contract with the Lyon County Water District to provide accounting and reporting services, and office staff. Elaina Bond is the Thurman Campbell Group employee who is in charge of the accounting and reports. Ryan Martin is in the Thurman Campbell employee present in the water district office on a daily basis. The Board always has a report from Elaina Bond as an agenda item at regular monthly meetings. Ryan Martin is often present at the meeting as well. No mention was made in any of those reports, or at any of the meetings about not receiving water statistics from the Superintendent. The Board was not informed on correspondence with PSC concerning any extensions sought or alternative deadlines having been set. Chairman Don Robertson has no recollection of seeing or having been informed, of the July 29, 2021 letter emailed from the PSC and subsequently delivered by certified mail to

the water district office. The reports received from Mrs. Bond at each month's meeting was that everything was moving along fine. Mr. Robertson nor the Board was informed of the July 29, 2021 letter.

The problems caused by the tardy annual report are addressed by Mr. Chris Johns, CPA, the managing partner at Thurman Campbell Group, PLC in his October 18, 2021 letter attached hereto labeled Exhibit D.

The documents requested by the Public Service Commission APPENDIX A have been delivered electronically to the PSC, with the exception of the Quarterly Meter Reports during the time William Asher was superintendent. Those are not available. The Board has learned he did not file Quarterly Meter Reports. His explanation for not filing Quarterly Reports is contained in his response.

Recognizing the deficiencies that lead up to the delinquent filings, a motion was passed at the October 12, 2021 regular monthly Board meeting which requires copies of all PSC, KIA, Division of Water and any and all other administrative agency reports to be provided to the Board on a timely basis and that the Board receive regular monthly notices of all upcoming reports, and further that all requests for extensions be approved in advance by the Board.

Matthew Blane began employment as Superintendent of the Lyon County Water District on October 1, 2021. Attached and labeled Exhibit E is a copy of his written commitment to comply with all reporting requirements expected of the Water District Superintendent.

RESPECTFULLY SUBMITTED

WILSON LAW FIRM, PLLC

Marvin Lee Wilson
Post Office Box 460
Eddyville, Kentucky 42038
270/388-9951
mwilson@wlflegal.com
Attorney for the Lyon County Water District, Commissioners Don Robertson, and Charles Murphy, and former Superintendent William Asher

VERIFICATION

DON ROBERTSON, states that he is a Commissioner of the Lyon County Water District, that he has read the response, and that the statements contained therein are true and accurate to the best of his knowledge, information and belief formed after reasonable inquiry.

DON ROBERTSON

STATE OF KENTUCKY
COUNTY OF LYON

Subscribed, sworn to and acknowledged before me by DON ROBERTSON, this 19th day of October, 2021.

My commission expires: April 17, 2022
Commission ID#: 599499

Belinda B. Terry, Notary Public