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October 3, 2022

Ms. Linda C. Bridwell, P.E.
Executive Director
Kentucky Public Service Commission
P.O. Box 615
Frankfort, KY 40602-0615

Re: Case No. 2022-00044
Big Sandy Water District

Dear Ms. Bridwell:

Big Sandy Water District ("Big Sandy") submits this response to the e-mail message of September 29, 2022 from the Commission's General Counsel, a copy of which is enclosed.

Since receiving the Commission's Order of September 28, 2022 ("the Amended Order") in the above-referenced case, Big Sandy has attempted in good faith to comply with its provisions. The Amended Order, however, contains conflicting provisions that led Big Sandy to interpret the Order as denying its request to amend the effective date of the charges for nonrecurring services approved in the Order of September 13, 2022 ("the Final Order") and requiring Big Sandy to assess those charges immediately.

In its Motion to Amend, filed on September 16, 2022, Big Sandy requested that the effective date for **all Phase I rates** approved in the Final Order, except the water loss reduction surcharge, be applied to **meter readings made on and after October 31, 2022**. It also requested the effective date of the approved nonrecurring charges be postponed.

While the Amended Order states that "Big Sandy District's motion is granted," it does not grant the requested relief. Instead it directs that:

1. The monthly water rates for Phase 1 set forth in Appendix B of the September 13, 2022 Order [are] approved **for services rendered by Big Sandy District on and after October 31, 2022**.
2. The monthly water rates for Phase 2 rates set forth in Appendix B of the September 13, 2022 Order are approved **for**

services rendered by Big Sandy District on and after October 31, 2023.

3. All other provision[s] of the Commission's September 13, 2022 Order not in conflict with this Order **shall remain in effect.**

Order at 3-4. The Amended Order does not order the rates to be applied to meter readings taken after October 31, 2022, which would have made the rates effective for service rendered on or about October 3 and 4, but instead postpones the effective date of monthly water rates to October 31. (Big Sandy reads its meters on the first two workdays of the month. Meter readings for service beginning on October 3 and 4 will occur on November 1 and 2.) In effect, the Amended Order postpones the effective date of the approved rates by approximately 27 more days than requested.

While the Amended Order restates Big Sandy's request to amend the effective date of the nonrecurring charges (Order at 3), none of its ordering paragraphs expressly address that request or refer to nonrecurring charges. The absence of any reference to nonrecurring charges raised significant concern since Appendix B of the Final Order distinguishes nonrecurring charges from the monthly water rates. The Final Order does not identify charges for nonrecurring services as "Monthly Water Rates" but expressly identifies them as "Nonrecurring Charges." The ordering paragraphs of the Amended Order refer only to "monthly water rates."

The absence of any reference to "nonrecurring charges" takes on greater significance as ordering paragraph 3 of the Amended Order specifically provides that any provision in the Final Order not in conflict with the current order remains in effect. As the Amending Order contains no expressed provision directing a change in the effective date of the nonrecurring charges, the effective date stated in the Final Order would appear to remain unchanged.

The ordering paragraphs of the Amended Order also do not refer to the water loss reduction surcharge. In Appendix B of the Final Order, the surcharge is listed as a "monthly water rate." If ordering paragraph 1 of the Amended Order is given its plain meaning, the surcharge's effective has been postponed to October 31. That result also appears contrary to Big Sandy's requested relief and with the Amending Order's statement "Big Sandy District's motion is granted."

Considering these inconsistencies, Big Sandy reasonably believed that compliance with the Amending Order required strict compliance with its ordering paragraphs. Strict compliance meant that no rate listed in Appendix B as "Monthly Water Rates," including the water loss reduction surcharge, could be assessed for service rendered prior to October 31, 2022. As the Nonrecurring Charges were not identified as "Monthly Water Rates" in the Final Order, as no ordering paragraph in the Amending Order expressly authorized a different effective date for those charges, and as the Amending Order expressly affirmed all provisions in the Final Order

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that did not conflict with the Final Order's expressed terms, Big Sandy reasonably concluded that the Commission had denied its requests to postpone the implementation of the approved nonrecurring charges and to proceed with the immediate assessment of the water loss reduction surcharge. It therefore began charging the nonrecurring charges set forth in Appendix B for nonrecurring services and made no attempt to place the water loss reduction surcharge on its bills.

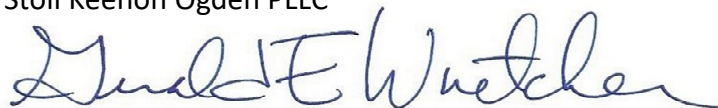
In response to the e-mail message of September 29, 2022 and the informal complaints made to the Commission's Consumer Services Branch that same day, I requested a videoconference call with you and the Commission's General Counsel to discuss Big Sandy's and Commission Staff's interpretations of the Amended Order. This call was held on September 30, 2022. During the conference call, you and the General Counsel stated that, based upon the totality of the contents of the Amending Order, the Commission had clearly and unmistakably postponed the effective date of **all rates and charges** set forth in Appendix B of the Final Order, including the nonrecurring charges, and that Big Sandy's assessment of the approved nonrecurring charges was contrary to the Amending Order's terms. Big Sandy was advised that, if it interpreted the Amended Order differently, it should request clarification from the Commission.

I have conveyed your position to Big Sandy. In reliance upon the statements made in e-mail message of September 29, 2022 and during the videoconference call on September 30, 2022, Big Sandy has cease assessing the nonrecurring charges approved in the Final Order. It will contact those persons were quoted the approved rates and inform them that those charges have not yet become effective. To the extent that it has billed any customer an approved rate, it will refund or collect any difference between the assessed charge and the presently effective charge or rate.

Big Sandy intends to withdraw the Motion to Amend the Order of September 28, 2022, and to file a new motion that will seek clarification of the effective date of all rates and charges set forth in the Final Order.

Sincerely,

Stoll Keenon Ogden PLLC



Gerald E. Wuetcher

Enclosure

Cc: Nancy Vinsel, Esq.