

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

**ELECTRONIC INVESTIGATION OF)
EAST CASEY COUNTY WATER)
DISTRICT AND ITS OFFICERS, KEVIN)
ATWOOD, LILY SANDUSKY, RICKY)
CARMAN, TRACY GOSSAGE, JOHN) CASE NO. 2022-00228
MCQUERY, AND ITS MANAGER,)
ANDY GREYNOLDS, TO COMPLY)
WITH A COMMISSION ORDER,)
KRS 278.990)**

RESPONSE TO ORDER OF AUGUST 22, 2022

For their response to the allegations contained in the Public Service Commission’s (“Commission”) Order of August 22, 2022, Kevin Atwood, Lily Sandusky, Ricky Carman, Tracy Gossage, John McQuery, and Andy Greynolds (collectively “Respondent Officers”), in their individual capacity and in their capacity as officers of East Casey County Water District, and East Casey County Water District (“East Casey District”)¹ state as follows:

Background

1. East Casey District is a water district organized pursuant to KRS Chapter 74. It was established by Order of the County Court of Casey County, Kentucky on July 24, 1970 to provide water service to persons residing in Casey

¹ Respondent Officers and East Casey District have executed a joint representation agreement in which they agreed to joint representation of their interests in this matter by Stoll Keenon Ogden PLLC.

County, Kentucky. As of December 31, 2021, East Casey District provided water service to approximately 5,149 customers in Casey and Lincoln Counties, Kentucky. East Casey District also provides water for resale to the City of Russell Springs.

2. East Casey District's business and affairs are managed and directed under the oversight of a five-member board of commissioners. Kevin Atwood, Lily Sandusky, Ricky Carman, Tracy Gossage, and John McQuery ("Respondent Commissioners") currently serve as members of East Casey District's Board of Commissioners ("the Board") and have since on or before October 15, 2021. The Board's members receive no compensation for their service as Board members

3. East Casey District employs a Manager who serves as its chief executive officer. Subject to the Board's supervision, the Manager is responsible for directing, administering, and coordinating East Casey District's operational, engineering, maintenance, construction, and financial activities. He develops and manages East Casey District's annual budgets; responds to emergency situations at all hours; hires, trains, and manages personnel; deals with local, state and federal regulatory agencies, including the Commission; attends all board meetings; and provides regular reports to the Board.

4. Andy Greynolds serves as East Casey District's Manager and has served in that position since 1995. He has been employed by East Casey District for approximately 27 years. Although his formal title is "Manager," Mr. Greynolds

functions as the “General” Manager and chief executive officer of East Casey District.

Application for Rate Adjustment

5. Since 1984 East Casey District has applied for an adjustment of its general rates for water service on twelve (12) occasions. Five (5) of these adjustments were in conjunction with federally-funded construction projects and were approved by the Public Service Commission (“Commission”) pursuant to KRS 278.023. Seven (7) of these adjustments resulted from increases in the rates of East Casey District’s wholesale water suppliers² and were approved by the Commission pursuant to KRS 278.015 and 807 KAR 5:068. East Casey District has never applied to the Commission for a general rate adjustment pursuant to KRS 278.180.

6. In Case No. 2021-00371,³ East Casey District applied, pursuant to 807 KAR 5:068 for a \$0.02 per 1,000 gallons adjustment of its rates for water service to reflect an increase in the wholesale water rates of the city of Campbellsville. The proposed increase would increase East Casey District’s annual revenues from water sales by approximately \$4,515 or 0.25 percent over the previous year’s annual revenues from water sales.

² East Casey District purchases water from the cities of Campbellsville, Eubank, Liberty and Russell Springs.

³ *Electronic Purchased Water Adjustment Filing of East Casey County Water District*, Case No. 2021-00371 (Ky. PSC Oct. 15, 2021).

7. On October 15, 2021, the Commission authorized the requested purchased water adjustment. In the same Order, the Commission also directed East Casey District to apply for a general rate adjustment pursuant to KRS 278.180 within six months. In directing this action, the Commission stated that East Casey District had not applied for a rate adjustment under this statute for 37 years and asserted that the lack of such application had deprived the Commission of the opportunity to perform a “comprehensive review . . . of East Casey District’s financial records and operational structure” and that such application was necessary “to ensure that . . . [East Casey District’s] revenue is sufficient to support adequate and reliable service.”⁴

8. As of this date, East Casey District has not filed with the Commission an application for rate adjustment pursuant to KRS 278.180.

Officer Knowledge and Responsibility

9. Mr. Greynolds was served with a copy of the Commission’s Order of October 15, 2021 by electronic mail but failed to thoroughly review its contents. Assuming the Order was similar to previous Commission orders issued regarding East Casey District’s requests for purchased water adjustments, he reviewed only Appendix B of the Order, which contained the revised rates for water service. As a result of his failure to thoroughly review the Order, he was not aware of the

⁴ *Id.* at 3 and 4.

requirement for East Casey District to apply for a general rate adjustment no later than April 15, 2022.

10. The Respondent Commissioners were serving as Board members when the Commission issued its Order of October 15, 2021. However, none received a copy of that Order. At that time, the Board had no procedures or policy in place requiring East Casey District's Manager to provide a copy of Commission orders issued to the water district. Neither Mr. Greynolds nor the Respondent Commissioners recall any discussion regarding the Order of October 15, 2021. The Respondent Commissioners first learned of the requirement to file a general rate adjustment contained in the Order of October 15, 2021 when the Commission issued its Order of August 22, 2022 in the current proceeding.

11. Had Mr. Greynolds known of the filing deadline, he would have informed the Board and would have taken all necessary actions to cause an application for rate adjustment to be prepared within the specified time or to request an extension of time to prepare such application.

12. Had Respondent Commissioners been informed or otherwise learned of the filing deadline, they would have directed Mr. Greynolds to take all necessary actions to prepare an application for rate adjustment within specified time or to request an extension of time to prepare such application.

13. Mr. Greynolds acknowledges that he was negligent in this matter by failing to thoroughly review the Order of October 15, 2021; and his failure represents a breach of the generally accepted standards for a water district manager. He further acknowledges that he aided and abetted East Casey District's failure to comply with the Order of October 15, 2021 by failing to thoroughly review that Order and report its contents to the Board.

14. Respondent Commissioners acknowledge that Mr. Greynolds' failure does not excuse or relieve them from responsibility for East Casey District's failure to comply with the Order of October 15, 2021. They recognize that they have ultimate responsibility for ensuring East Casey District's compliance with all Commission Orders and should have required Mr. Greynolds to report on all orders received from the Commission and to provide each commissioner a copy of such orders. They further acknowledge that their failure to do so contributed to East Casey District's failure to comply with the Order of October 15, 2021.

15. Respondent Commissioners acknowledge that their conduct represents a departure from generally accepted standards and a failure on their part to meet their legal responsibilities as water district commissioners to properly control and manage the water district's affairs.

16. Respondent Commissioners acknowledge that they aided and abetted East Casey District's failure to comply with the Order of October 15, 2021 by failing

to implement procedures and policies to ensure that they were made aware of all Commission orders involving East Casey District.

17. Respondent Officers deeply regret that their actions have failed to meet generally accepted standards, have caused the Commission to expend resources to enforce its Order of October 15, 2022, and have damaged the reputation and standing of East Casey District.

18. Respondent Officers and East Casey District deny that East Casey District **willfully** violated the Commission's Order of October 15, 2021 or that the Respondent Officers **willfully** aided or abetted the failure to comply with that Order.

Compliance Efforts

19. East Casey District and Respondent Officers commit to the prompt preparation and submission of an application for rate adjustment. To that end on September 9, 2022, East Casey District obtained the commitment of Rural Community Assistance Program ("RCAP") to prepare an application for general rate adjustment under the Commission's alternative rate filing procedures.

20. In determining the time period in which East Casey District has to submit its application for rate adjustment, the Commission should consider several extenuating circumstances. First, the preparation of an application for rate adjustment will be difficult and time consuming for East Casey District. It has not previously applied for general rate adjustment under the Commission's alternative

rate filing procedures and is therefore not familiar with the Commission's Alternative Rate Filing procedures. Second, RCAP's rate consultant has a significant workload and will be unable to commence work on the application until late October. Third, using the indicators that the Commission referenced in its Order of October 15, 2021 and that reflected the Commission's concerns about East Casey District's financial condition, the water district's financial condition improved in the year ending December 31, 2021.⁵

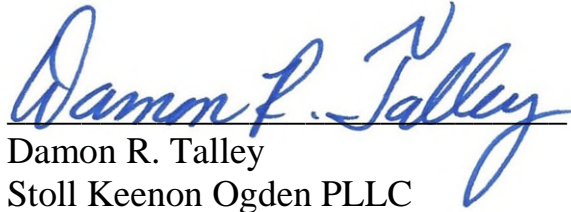
21. East Casey District has taken several actions to ensure that its Board members are fully informed and to prevent a recurrence of the events that are the subject of this proceeding. For example, the Board's Chairman has implemented a procedure requiring that a copy of all Commission orders served upon the water district be promptly forwarded to each Board member. The Board plans to make this procedure a formal policy in the very near future.

WHEREFORE, East Casey District and Respondent Officers request that the Commission (1) accept this Response; (2) establish a new time period for East Casey District's submission of an application for rate adjustment that will afford adequate time for the preparation of the application, and that will allow for a meaningful, efficient and economical review of East Casey District's financial operations; and (3) close this proceeding.

⁵ See Order of October 15, 2021 at 3-4. In 2021, East Casey District's Cash Basis Income increased from \$(17,929) to \$162,154 and East Casey District experienced a net increase of cash of \$30,685.

Dated: September 9, 2022

Respectfully submitted,

A handwritten signature in blue ink that reads "Damon R. Talley". The signature is written in a cursive style and is positioned above a horizontal line.

Damon R. Talley
Stoll Keenon Ogden PLLC
P.O. Box 150
Hodgenville, Kentucky 42748-0150
Telephone: (270) 358-3187
Fax: (270) 358-9560
damon.talley@skofirm.com

Gerald E. Wuetcher
Stoll Keenon Ogden PLLC
300 West Vine Street, Suite 2100
Lexington, Kentucky 40507-1801
Telephone: (859) 231-3017
Fax: (859) 259-3597
gerald.wuetcher@skofirm.com

*Counsel for East Casey County Water
District and Respondent Officers*

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 September 9, 2022 and that there are currently no parties that the Public Service Commission has excused from participation by electronic means in this proceeding.



*Counsel for East Casey County Water
District and Respondent Officers*