

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In re: the matter of:

ELECTRONIC APPLICATION OF CUMBERLAND)	CASE NUMBER
FALLS HIGHWAY WATER DISTRICT FOR A)	2022-00437
DEVIATION)	

CUMBERLAND FALLS HIGHWAY WATER DEPARTMENT'S
APPLICATION FOR DEVIATION

Comes now the Cumberland Falls Highway Water Department, by and through counsel, and for its Application for Deviation, states as follows:

- (1) Cumberland Falls Highway Water Department is a water utility company providing services in rural Whitley County, Kentucky.
- (2) Cumberland Falls Highway Water Department is requesting approval to deviate from its tariff. Specifically, Cumberland Falls Highway Water Department is requesting approval to reimburse a developer of a local subdivision for up to 50 feet of line extension.
- (3) Cumberland Falls Highway Water Department has a pending case before the Commission in Case Number 2022-00365. The same issue is being presented in both cases.
- (4) Cumberland Falls Highway Water Department has in place a tariff pertaining to reimbursement to developers for up to 50 feet of waterline extension. Attached hereto and labeled as Exhibit A is a copy of the applicable tariffs.
- (5) In or around November of 2021, Jeffrey Sparks, on behalf of Diamond Acres, LLC, began working with Cumberland Falls Highway Water Department on a “luxury recreational vehicle resort” that he was in the process of developing.

(6) An unsigned Contract for Extension of Water Main was sent to Mr. Sparks by email. Mr. Sparks does not dispute that the Contract was sent to him; however, he denies receiving it and informed the Board that he further did not understand the urgency of executing the contract. Therefore, he did not sign it before the commencement of work on the project. Mr. Sparks attributes the error to a “miscommunication.” Mr. Sparks ultimately executed the contract on December 31, 2021. A copy of the contract is attached hereto and labeled as Exhibit B.

(7) Work on the project commenced prior to the execution of the contract. Per the third paragraph set forth in the District’s contract/tariff, “The new customer must sign this contract with the District before installing a new water line.”

(8) As the project was ongoing, both Mr. Sparks, and Cumberland Falls Highway Water Department acted under the assumption that everything was being done correctly, and in accordance with the applicable tariff. Mr. Sparks was working with Cumberland Falls Highway Water Department during this entire period of time, and attending many, if not most, of the monthly Board meetings.

(9) At the Board meeting held on November 21, 2022, after reviewing Mr. Sparks’ invoices and proof of payment information, the Board, 3-1¹, voted to reimburse Mr. Sparks for up to 50 feet of the waterline extension, in the amount of \$9.63 per foot, contingent upon the Commission granting Cumberland Falls Highway Water Department permission to deviate from its tariff. Attached hereto, and labeled as Exhibit C, are copies of Mr. Sparks’ invoices and proof of payments, along with his summary of expenses.

¹The Chairman of the Board recused himself from voting due to a conflict of interest. The Chairman of the Board was involved in the project/development. Thus only four board members voted on the issue.

(10) Cumberland Falls Highway Water Department believes that although the tariff was not followed to the exact letter, there has been substantial compliance with the tariff. Further, Cumberland Falls Highway Water Department would like to foster a relationship with local contractors and developers so as to encourage more development in its district and thus more revenue. The Board is satisfied that it has ascertained the “true and actual costs” of the project. The Board is satisfied that although the contract was not signed before work commenced, there has been substantial compliance with the tariff and therefore the Board wishes to reimburse Mr. Sparks for up to 50 feet of the cost of the extension of the waterlines.

(11) Also, it should be noted that Paragraph 5 of the tariff, “Cumberland Falls Highway Water District Requirements for Line Extension Contract,” on file with the PSC dated November 17, 2000 states that the tap on fee is \$578.00 and the usage deposit is \$69.00. Tap on fees were amended to \$800.00 *via* tariff effective 1-1-2015. The deposit fee was amended to \$110.00 *via* tariff effective 1-1-2016.

RESPECTFULLY SUBMITTED,

/s/ Amanda Hill

HON. AMANDA HILL
400 SOUTH MAIN STREET
P.O. BOX 1605
CORBIN, KENTUCKY 40702
TELEPHONE: (606) 528-7181
FACSIMILE: (606) 528-7183
ELECTRONIC MAIL: amanda@hill.legal