

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

**RE: ELECTRONIC TARIFF FILING OF THE CITY OF
AUGUSTA TO INCREASE THE WHOLESALE
WATER RATE CHARGED TO BRACKEN
COUNTY WATER DISTRICT**

**INTERVENOR, BRACKEN COUNTY WATER DISTRICT'S (BCWD'S) MOTION IN LIMINE
TO STRIKE DOCUMENTS, TESTIMONY AND STATEMENTS SUBMITTED BY THE CITY OF
AUGUSTA AS EVIDENCE IN THE MATTER**

CASE NUMBER 2024-00349

Comes now the intervening party, Bracken County Water District, ("BCWD"), by and through counsel, Mr. Jesse P. Melcher, Esq., and hereby files a Motion in Limine and request to strike requested testimony and documents (as identified herein) filed by the City of Augusta, as evidence in the matter, all pursuant to Kentucky Rules of Evidence ("KRE") 103, 104, 401 and 611.

PROCEEDINGS HEREIN:

1. By Order of The Commission, on December 27, 2024, the City of Augusta was given until March 19, 2025, to submit, rebuttal testimony. *See KY PSC Order herein, 20241227_PSC_ORDER.pdf.*
2. By Supplemental Order of The Commission on April 18, 2025, the City of Augusta was given until May 7, 2025, to submit additional testimony. *See KY PSC Order herein; 20240418_PSC_ORDER.pdf.*

3. BCWD was given in those same orders until February 14, 2025 and June 6, 2025, respectively to file direct testimony. *Id.*
4. BCWD pursuant to the referenced orders in numerical paragraph 1 & 2 herein, filed no direct testimony, as it believes the case is application of submitted evidence with the applicant's tariff to the parties' water purchase contract and amendment thereto. *See. KY PSC, Commission Records, Tariffs, Water Districts, Bracken County Water District, Contracts, City of Augusta, & 2016-04-21-Water Purchase Contract. pdf; 2016-04-21-First Amendment to Water Purchase Contract. pdf.*
5. BCWD did file answers to applicant on two occasions, the first set of questions on March 12, 2025 herein. (*See. Intervenor_BCWDs_Answers_to_Requests_for_Info*), and by second answer filing on June 25, 2025, (*See. Intervenor_BCWDS_Response_to_2nd_set_of_Questions.*
6. BCWD was provided six (6) questions in the first request for info from City of Augusta and objected to the answers outright for questions 1, 3, 4, and 5, and partially to question 2 as it relates to BCWD future water purchases. *See. Intervenor_BCWDs_Answers_to_Requests_for_Info.*
7. BCWD filed objections to its answer in its responses to the City of Augusta's second request for information for answers: 2b; 2c; 2d; 2e; 2f, 2g, 4b, 4c, 4d, 4e, 4g, 5b, 5c, 6b, 6c, 7a, 8a, 9, 10, 12, and 14, on various grounds, primarily relevancy and as stated in those answers. *See. Intervenor_BCWDS_Response_to_2nd_set_of_Questions.*

8. City of Augusta filed on May 30, 2025, to the Intervenor's third set of questions; which on page two (2) second paragraph on same page to page three (3), has the mayor testify to legal arguments and reiterate his requested "rebuttal testimony" that has previously been requested to be stricken herein. *See. Responses to Countys_Third_RFI-2024-00349.pdf*

LAW

- A. Kentucky Rule of Evidence ("KRE") 103, authorizes motions in limine, and preservation of objections as to introduction of evidence and/or testimony.
- B. Kentucky Rule of Evidence ("KRE") 104, authorizes the Court to examine the admissibility of evidence and/or testimony.
- C. The Kentucky Rules of Evidence ("KRE") 401 states, " 'Relevant evidence' means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable that it would be without the evidence." *Id.*
- D. Kentucky Rule of Evidence ("KRE") 611 authorizes the Court the discretion to determine the scope of the testimony and examination of witnesses and presentation of evidence. *Id.*
- E. Black's Law Definition, Fifth Edition, states that "Rebuttal Evidence" 'Evidence given to explain, repeal, counteract, or disprove facts given in evidence by the adverse party.'" *Id.*

ARGUMENT

BCWD requests that the rebuttal testimony and the statements and documents filed by the City of Augusta as “rebuttal testimony”, on March 19, 2025, be stricken from the evidentiary record and which are identified as follows: a) Mayor, John Laycock, for all testimony submitted from page two (2) to page nine (9) line two (2); the request does not include the mayor’s testimony as to the amended rate request, as that testimony goes to the current amended rate request, i.e., page 10, beginning line 3, to page thirteen (13), line ten (10); b) Augusta rate study author, Jack Lawless, for all submitted “rebuttal testimony”; and c) Water Treatment Plant Operator, Doug Padgett, for all submitted “rebuttal testimony”.

BCWD asserts that the testimony filed as rebuttal testimony for water treatment plant operator, Doug Padgett, provides testimony not provided or addressed in his direct testimony and/or is supplemental to his direct testimony. *See. Augusta_Rebuttal_Testimony_Padgett.pdf.*

BCWD asserts the testimony filed as rebuttal testimony for water rate study author, Scott Lawless, goes into testimony not provided or addressed in his direct testimony and/or is supplemental to his direct testimony. *See. Augusta_Rebuttal_Testimony_Lawless.pdf.*

BCWD asserts the testimony filed as rebuttal testimony for mayor John Laycock, from page two (2) to page ten (10) line two (2), provides testimony not provided or addressed in his direct testimony and/or is supplemental to his direct testimony. *See. Augusta_Rebuttal_Testimony_Laycock.pdf.*

BCWD is requesting that all testimony and documents filed as “rebuttal testimony” on March 19, 2025, for water plant manager operator, Douglas Padgett, be stricken as evidence in the matter herein, as bolstering direct testimony and/or for having no relationship to intervenor’s filed testimony, as the intervenor filed no direct testimony. BCWD is requesting that all testimony and documents for rate study author Scott Lawless, submitted as “rebuttal testimony” filed on March 19, 2025, be stricken as evidence in the matter herein, as bolstering direct testimony and/or addressing issues not raised in his direct testimony.

BCWD is requesting that all of the testimony for the mayor, John Laycock, filed as “rebuttal testimony” on March 19, 2025, from page two (2) line one (1) to page ten (10) line two (2), as bolstering direct testimony and/or addressing issues not raised in his direct testimony. *See. Responses to Countys_Third_RFI-2024-00349.pdf*

Further, BCWD requests that the Commission rule on the objections raised by BCWD to answers submitted to BCWD as first set of questions from the City of Augusta; specifically, outright objections for questions 1, 3, 4, and 5, and partially to question 2, as it relates to BCWD future water purchases; and if sustained, be stricken from the evidentiary record. Additionally, BCWD requests that the Commission rule on the objections raised by BCWD to answers submitted by BCWD for the second set of questions from the City of Augusta, for answers to questions 2b; 2c; 2d; 2e; 2f, 2g, 4b, 4c, 4d, 4e, 4g, 5b, 5c, 6b, 6c, 7a, 8a, 9, 10, 12, and 14 (*See. Intervenor_BCWDS_Response_to_2nd_set_of_Questions., filed June 28, 2025*); objections are based upon various grounds, primarily relevancy and as stated in those answers; and

if the objections are sustained, BCWD requests said questions and answers be stricken from the evidentiary record.

Lastly, BCWD requests that the answer by Mayor, John Laycock, which on page two (2), beginning at second paragraph on same page to page three (3), has the mayor testify to legal arguments and reiterate his requested “rebuttal testimony”, which has previously been requested to be stricken herein, also be stricken from the evidentiary record. *See. Responses to Countys_Third_RFI-2024-00349.pdf*

REQUEST FOR RELIEF OF MOTION

This motion and evidentiary objections are being filed to request a ruling by the Commission, prior to hearing testimony beginning, and to preserve the objections.

BCWD requests that all testimony and documents filed by the City of Augusta as rebuttal testimony for expert, Scott Lawless, and water plant operator, Doug Padgett, be stricken from the evidentiary record as non-relevant testimony and/or documents, and or excludable testimony and/or documents, due to the fact that the testimony was presented as rebuttal testimony, however, no direct testimony was given by BCWD herein. BCWD is requesting that all of the testimony for the mayor, John Laycock, filed as “rebuttal testimony” on March 9, 2025, from page two (2) line one (1) to page ten (10) line two (2), be stricken from the evidentiary record, as bolstering direct testimony and/or addressing issues not raised in his direct testimony.

Additionally, BCWD, requests the objections filed in its answers to questions presented to it by City of Augusta, and identified as follows, be ruled on and if sustained, stricken from the evidentiary record:

- 1) The objections to answers to questions 1, 3, 4, and 5, and partially to question 2 as it relates to BCWD future water purchases, of BCWD's first response to information submitted from the City of Augusta.
- 2) The objections to answers to questions, of BCWD's second response to information submitted from the City of Augusta 2b; 2c; 2d; 2e; 2f, 2g, 4b, 4c, 4d, 4e, 4g, 5b, 5c, 6b, 6c, 7a, 8a, 9, 10, 12, and 14. *See.*

Intervenor_BCWDS_Response_to_2nd_set_of_Questions., filed June 28, 2025.

Lastly, BCWD, requests the that the part of the answer by the City of Augusta's, Mayor John Laycock, filed on May 30, 2025, to the Intervenor's third set of questions, which on page two (2), beginning at second paragraph on same page to page three (3), has the mayor testify to legal arguments and reiterate his requested "rebuttal testimony" that has previously been requested to be stricken herein as evidentiary testimony and/or evidence, also be stricken from the evidentiary record. *See. Responses to Countys_Third_RFI-2024-00349.pdf*

Respectfully submitted,

/s/ JESSE P. MELCHER, ESQ.
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CERTIFICATE OF SERVICE

I, Jesse P. Melcher, Esq. as counsel and representative of BCWD herein, do hereby certify that I have mailed out by electronic filing through the KY PSC web portal, pursuant to 807 KAR 5:001(8), this the 28th day of July, 2025; and that no party herein, has opted out of the electronic notice and/or filing herein, and proof of electronic filing and courtesy copy are as follows, of BCWD's Motion in Limine:

KY PSC, filed by web portal in this case number

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