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ADMITTED IN KY AND WV

October 15, 2025

Kentucky Public Service Commission
P.O. Box 615
Frankfort, KY 40602

RE: Martin County Water District
PSC Case No. 2025-00249

To Whom It May Concern:

Enclosed please find the Martin County Water District's Motion for Reconsideration.

Thank you for your time and attention to this matter.

Very truly yours,

BRIAN CUMBO

BC/ld
Enclosure

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY

IN THE MATTER OF:

ELECTRONIC APPLICATION OF THE MARTIN COUNTY WATER DISTRICT TO ENTER INTO A LEASE FOR SERVICE TRUCKS	)))	**Case No. 2025-00249**

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MOTION FOR RECONSIDERATION

Comes the Martin County Water District ("Martin District"), by counsel, pursuant to KRS 278.400, and moves the Kentucky Public Service Commission ("Commission"), to reconsider and/or clarify its Order of October 2, 2025. In support of this Motion, Martin District states as follows:

In its Order, the Commission pointed out that Martin District is operating at a loss. However, Martin District's financial situation is in the red due to no fault of its own. Martin District renegotiated its Joint Operating Agreement with Prestonsburg City Utilities Commission (PCUC) effective March 1, 2025 (Exhibit 1 is the filing of same with the Commission). It increased the billable rate for water service provided to the Big Sandy Prison to \$7.95 per 1,000 gallons, which increased revenue to Martin District. For the 11 months prior to its effective date, Martin District averaged \$2,958.50 as income from the contract. Since March 1, 2025, Martin District has averaged \$20,536.28 per month (Exhibit 2). By this renegotiation, the District has realized more than sufficient income to pay for the truck lease.

Additionally, Martin District has been awaiting the completion of a desperately needed raw water intake project at the Tug River. Martin District's primary water source is the Crum Reservoir. Over 30 years ago, it became necessary to supplement that source by pumping water from the Tug

River to the Crum Reservoir. The pumping system in place began failing, and has now ceased to function altogether. A new project was begun for a modern pump station. Big Sandy Area Development District ("BSADD") is the administrator and manager of the project on behalf of Martin District. They signed a contract with Howard K. Bell Consulting Engineers, Inc. a/k/a Bell Engineering ("Bell") in November of 2018 to design the project and prepare plans and specifications. On August 21, 2019, BSADD entered into a contract with Xylem Dewatering Solutions, Inc. for the pumps required for the project. On September 22, 2021, BSADD entered into a contract with Pace Contracting, LLC ("Pace"), to serve as a general contractor for the project. Bell issued a notice to proceed to Pace on September 22, 2021 to begin on October 4, 2021 and to achieve substantial completion by July 1, 2022, and final completion by July 31, 2022. To date, the project has not achieved substantial or final completion, and is still not operational.

Martin District contends BSADD negligently performed its duties in administering and managing the contract, causing over a 3 year delay in completion. Litigation is pending in the Martin Circuit Court, case number 25-CI-113, relative thereto.

Martin District has sustained, and is sustaining, extraordinary unbudgeted expenses due to the lengthy delay in the completion of the project. Beginning in November of 2023, Martin District has been renting a diesel pump to pump water from the Tug River approximately 6 miles, over a mountain, to Crum Reservoir. The rental and monthly fuel expenses, plus overhead, have averaged approximately $32,623.00 per month.

To date, Martin District has expended $750,341.48 for pump rental and fuel costs, plus overhead, as a sole result of the delay in the construction of the project (Exhibit 3). But for those unbudgeted expenses for the pump, fuel and overhead, Martin District would be in the black. Martin District is confident in its legal position, and fully believes it will prevail on the merits, making Martin District whole.

Therefore, it is the position of Martin District that, but for these unbudgeted expenses, Martin District can well afford the trucks, and moves the Commission to reconsider its Order denying retroactive approval thereof.

As a result of the Commission's denial, Martin District finds itself in a dilemma. As a practical matter, prior to the lease, Martin District did not have adequate and reliable service trucks to properly operate and maintain its' system.

Martin District also is contractually obligated for payments, whether the leased trucks are being utilized or not. The contract with Magnolia was filed with Martin District's response to the Commission's request for information for this case.

Further, the Commission, or at least Commission staff, was aware the truck lease was being considered as early as March 25, 2025, as quotes for vehicle leasing were included in the Board packet provided to the Commission.[1] It was also included in the April 22, 2025 Board packet, the May 6, 2025 special meeting Board packet and the May 27, 2025 Board packet.

Martin District moves the Commission not only to reconsider its Order denying retroactive approval, or, absent that approval, to offer guidance to Martin District on its way forward, should the Commission again deny Martin District's request for retroactive approval.

Should Martin District maintain possession of the service trucks, and continue to make payments, in light of the Commission's Order? Should Martin District return the trucks, exposing itself to contractual liability for the payment per the contract, and be unable to adequately operate and service its system?

[1] The PSC, in its Order of July 22, 2020, in case number 2020-00154, ordered the District, on a monthly basis, to file the information packet prepared by Alliance for monthly Board meetings to be filed in the case record on the same date it is provided to the Commissioners.

Wherefore, Martin District requests the Commission's reconsideration of its Order of denial dated October 2, 2025, and retroactively approve the truck lease. Alternatively, to clarify its' Order, and to inform Martin District as to its correct path forward. Unless the Public Service Commission orders Martin District to return the trucks, it is Martin District's intention to retain them.

MARTIN COUNTY WATER DISTRICT

By ______________________

BRIAN CUMBO
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From: Kipley J. McNally <kjm@mcnallylaw.biz>
Sent: Tuesday, March 4, 2025 11:26 AM
To: PSC Executive Director <PSCED@ky.gov>
Subject: Prestonsburg City's Utility Commission

****CAUTION** PDF attachments may contain links to malicious sites. Please contact the COT Service Desk ServiceCorrespondence@ky.gov for any assistance.**

To Linda C. Bridwell,

Please find attached a copy of an executed amendment to the Join Operations Agreement by and between Martin Co. Water District and Prestonsburg City's Utilities Commission for filing.

Thank you,

Kip McNally, Counsel for Prestonsburg City's Utilities Commission.

KIPLEY J. MCNALLY, PLC
2527 Nelson Miller Parkway
Suite 104
Louisville, Kentucky 40223
(502) 245-6133 phone
(502) 245-1974 fax

EXHIBIT
1

<u>THIRD AMENDMENT</u>
<u>TO</u>
<u>JOINT OPERATION AGREEMENT</u>

THIS THIRD AMENDMENT TO JOINT OPERATION AGREEMENT dated as of the 1ST day of March, 2025, by and between the MARTIN COUNTY WATER DISTRICT (hereinafter "District") and PRESTONSBURG CITY'S UTILITIES COMMISSION (hereinafter "PCUC") (collectively, as "parties").

RECITALS

WHEREAS, the parties entered into a certain Joint Operation Agreement, dated July 3, 2000 (hereinafter "Joint Operation Agreement"), which was filed by PCUC with the Kentucky Public Service Commission (hereinafter the "Commission") on July 11, 2007.

WHEREAS, the parties entered into a certain First Amendment to the Joint Operation Agreement dated as of the 1st day of January, 2017.

WHEREAS, the parties entered into a certain Second Amendment to the Joint Operation Agreement dated as of the 1st day of November, 2018.

WHEREAS, the parties desire to modify the water rate established by the Second Amendment.

NOW, THEREFORE, in consideration of the covenants and agreements set forth in the Second Amendment and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. The provisions in Sections 13 and 14 detailing water rates, as amended by the First and Second Amendments, setting the water rates shall be deleted in their entirety and the following is substituted therefore:

(i) PCUC shall pay the District for the water delivered, as determined under the remaining Sections of 13 and 14 at the same rate as the Bureau of Federal Prisons pays PCUC, from time-to-time pursuant to its agreement with Bureau of Federal Prisons. Currently, that rate is $7.95 per 1,000 gallons.

(ii) The District shall pay PCUC at the same rate as the Bureau of Federal Prison pays PCUC, in effect from time-to-time, for the water delivered to the District from the Honey Branch Tank as determined pursuant to the remaining terms of Sections 13 and 14. Currently, that rate is $7.95 per 1,000 gallons.

2. This Third Amendment shall be filed by the District with the Public Service Commission ("Commission") and shall be subject to the Commission's jurisdiction and review.

3. In all other respects, the parties hereto approve, confirm and ratify the terms and conditions of the Joint Operation Agreement.

This Third Amendment is made as of the year and date first above written and shall be effective as of that date without regard to the fact that execution hereof by the parties shall have been affected at the same or different times.

MARTIN COUNTY WATER DISTRICT
BY: ______________________
ITS: CHAIRMAN

ATTEST:
____
SECRETARY

PRESTONSBURG CITY'S UTILITIES COMMISSION
BY: ______________________
BRIAN MUSIC, SUPERINTENDENT/CEO

ATTEST:
Jimmy A Calhoun
JIMMY A. CALHOUN, CHAIRMAN OF
THE PRESTONSBURG CITY'S
UTILITIES COMMISSION

Prestonsburg City Utilities

	PAID TO MCW	BILLED TO MCW
Apr-24		11,599.40
May-24		10,092.60
Jun-24		15,277.00
Jul-24		3,147.05
Aug-24	8,768.45	
Sep-24	10,716.50	
Oct-24	18,496.75	
Nov-24	0.00	
Dec-24	15,552.20	
Jan-25	22,085.05	
Feb-25	0.00	
Mar-25	14,824.30	
Apr-25	0.00	
May-25	27,713.70	
Jun-25	26,863.05	
Jul-25	30,225.90	
Aug-25	18,181.65	
Sep-25	25,948.80	

EXHIBIT

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MCWD RWI Temporary Pump Operation Costs							
Year	Month	Pump Rental Cost	Diesel Fuel Cost	Oppurtunity Cost	H&E Equipment	Attorney Fees	Total
2023	November	$16,269.03	$48,654.10	$3,450.24	$739.50		$69,112.87
2023	December	$11,164.88	$25,412.60	$7,331.76	$739.50		$44,648.74
2024	Janurary	$14,035.01	$38,364.44	$5,606.64	$739.50		$58,745.59
2024	February	$10,920.84	$38,364.44	$6,037.92	$739.50		$56,062.70
2024	March	$12,514.12	$38,660.08	$431.28	$739.50		$52,344.98
2024	April	$12,548.58	$1,904.15	$1,725.12	$739.50		$16,917.35
2024	May	$10,920.84	$4,686.03	$2,156.40	$739.50		$18,502.77
2024	June	$10,920.84	$5,845.30	$862.56	$739.50		$18,368.20
2024	July	$10,920.84	$3,064.99	$7,763.04	$739.50		$22,488.37
2024	August	$10,920.84	$36,142.51	$5,175.36	$739.50		$52,978.21
2024	September	$10,920.84	$36,084.88	$6,037.92	$739.50		$53,783.14
2024	October	$13,880.56	$26,552.86	$3,018.96	$739.50		$44,191.88
2024	November	$8,083.61	$33,048.54	$8,625.60	$739.50	$52.50	$50,549.75
2024	December	$7,038.61	$18,156.07	$8,194.32	$739.50	$105.00	$34,233.50
2025	Janurary	$7,038.61	$16,876.62	$0.00	$739.50	$507.50	$25,162.23
2025	February	$7,038.61	$299.40	$0.00	$739.50	$87.50	$8,165.01
2025	March	$6,933.67	$2,144.77	$0.00	$739.50	$0.00	$9,817.94
2025	April	$0.00	$1,878.30	$0.00	$0.00	$0.00	$1,878.30
2025	May	$0.00	$0.00	$0.00	$0.00	$5,385.00	$5,385.00
2025	June	$0.00	$0.00	$0.00	$0.00	$87.50	$87.50
2025	July	$8,798.95	$28,781.96	$11,428.92	$0.00	$10,319.50	$59,329.33
2025	August	$8,798.95	$17,141.79	$3,665.88	$0.00	$4,147.50	$33,754.12
2025	September	$8,798.95	$20,644.27	$5,822.28	$0.00	$14,337.57	$49,603.07
2025	October						$0.00
							$0.00
					Total		**$786,110.55**

Note: Opportunity Cost is Alliance labor to refuel pump, which would not have been required without diesel pump. The labor could have been used in other areas. Cost does not include January 2025 expenses.

EXHIBIT

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