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March 10, 2009

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MAR 11 2009

PUBLIC SERVICE  
COMMISSION

Jeff Derouen, Executive Director  
Kentucky Public Service Commission  
211 Sower Blvd  
P.O. Box 615  
Frankfort, KY 40602

Re: Proposed Adjustment of the Wholesale Water Service Rates of  
the Frankfort Electric and Water Plant Board  
Case No. 2008-00250

Dear Mr. Derouen:

Enclosed are the original and ten copies of the Brief of North  
Shelby Water Company and U.S. 60 Water District of Shelby and  
Franklin Counties, Kentucky, Inc. Please file the original to the  
record of this action and return the file-stamped copy of the first page  
to me in the enclosed self-addressed, stamped envelope.

Thank you very much for your attention to this matter.

Yours Truly,

MATHIS, RIGGS & PRATHER, P.S.C.

By: 

Donald T. Prather

DTP/pm  
Enclosure  
Dtp/wtr/us60/rate/psc ltr2

COMMONWEALTH OF KENTUCKY

RECEIVED

BEFORE THE PUBLIC SERVICE COMMISSION

MAR 1 7 2009

PUBLIC SERVICE  
COMMISSION

In the Matter of:

PROPOSED ADJUSTMENT OF THE WHOLESALE	)	
WATER SERVICE RATES OF THE FRANKFORT	)	CASE NO. 2008-00250
ELECTRIC AND WATER PLANT BOARD	)	

**BRIEF OF NORTH SHELBY WATER COMPANY AND  
U.S. 60 WATER DISTRICT OF SHELBY AND  
FRANKLIN COUNTIES, KENTUCKY, INC.**

Come North Shelby Water Company and U.S. 60 Water District of Shelby and Franklin Counties, Kentucky, Inc., by counsel, and set forth herein their arguments regarding selected issues of the Frankfort Rate Increase Request.

Frankfort representatives admitted during the hearing the wholesale rate charged by Frankfort to Georgetown is a separate rate not affected by this rate case. Therefore, all costs attributable to the 16-inch water main leading to the Georgetown master meter should be excluded from this rate case. Furthermore, the following additional water mains should also be excluded because they are only necessary to serve the Georgetown master meter:

1. The 20-inch water main beginning in the vicinity of the JETT pump and then extending in an easterly and then northerly direction to its intersection with the 16-inch water main leading directly to the Georgetown master meter.
2. The 20-inch water main extending from the vicinity of the Taylor Tot tank in an easterly direction leading to the intersection of the aforementioned 20-inch and 16-inch water mains. A portion of this main decreases to 16 inches in diameter prior to this intersecting point.

3. There is a 16-inch water main leading south from the Taylor Tot tank. The 12-inch main beginning at the end of that 16-inch main, which runs east and then north, and intersects with the aforementioned 20-inch east/west water main, serves only the Georgetown master meter.

4. All of the 6- or 8-inch water mains in the vicinity of the beginning point of the 16-inch water main leading only to the Georgetown master meter.

The burden of proof in this case is upon Frankfort to justify all aspects of its requested rate increase. Only those expenses which are necessary to provide wholesale service are properly considered. Frankfort failed to prove that all of the 6-inch and 8-inch water mains in its system are necessary to supply the wholesale customers which would be effected by this rate case.

Whether a given water main is "necessary" to serve a given customer is a different question from whether a small main provides some minor incidental flow of water to that customer. If it is a wholesale customer whose service would be adequate without the use of the small main then the small main is not necessary to serve that wholesale customer.

Although Frankfort representatives consistently insisted that all 6- and 8-inch mains are used to serve the wholesale customers, their expert, Paul Herbert, never testified that Frankfort could not serve its wholesale customers without using most of the 8-inch and smaller water mains. In fact, he admitted that, assuming Frankfort had no customers other than the wholesale customers, those wholesale customers could be served without using any of the 6- or 8-inch mains other than those 6- or 8-inch mains leading directly to a given wholesale customer master meter.

Frankfort representatives repeatedly referred to the hydraulic studies which showed that some water flowed through many 6- and 8-inch water mains when the demand of all of Frankfort's other customers was disregarded. This fact is irrelevant. The only relevant issue is whether a given water main is necessary to serve the wholesale customers, not whether small collateral water mains, which were obviously installed to serve non-wholesale customers, provide some incidental water flow to the wholesale master meters. If all of those collateral 6- and 8-inch lines were valved off, it is obvious the wholesale customers would still be adequately served by the 10-inch and larger water transmission mains. Although Mr. Herbert made it quite clear he vigorously agreed with this approach, this policy issue is for this Commission, not Mr. Herbert, to decide.


Frankfort argued that if the wholesale customers were charged only with the cost of the 10-inch and larger mains, and those 6- and 8-inch mains leading directly to wholesale master meters, Frankfort would then have to begin calculating rates for all of its other customer classes in a similar manner. This is not true. Only the jurisdictional utility wholesale customer rates are subject to PSC jurisdiction. As a municipal utility, Frankfort is free to charge all of its other non-jurisdictional utility customers any rate it chooses. In fact, it became evident during the hearing that the county residential customers greatly subsidize the city residential customers, and that there are significant rate disparities between commercial customers and retail customers relative to their respective costs of service.

In summary: all costs related to the water mains leading to the Georgetown master meter must be excluded from the rate calculation in this case, and all costs associated with all water mains 8-inches and

smaller, except for those leading directly to wholesale master meters, must be excluded from the rate calculations in this case.

Respectfully Submitted,

MATHIS, RIGGS & PRATHER, P.S.C.

BY:   
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**CERTIFICATE OF SERVICE**

I, the undersigned attorney, do hereby certify that a true and correct copy of the foregoing was this 10<sup>th</sup> day of March, 2009 served via first class mail, postage prepaid on the following:

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