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April 27, 2012

Mr. Jeff R. Derouen, Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
P. O. Box 615
Frankfort, Kentucky 40602-0615

RECEIVED

APR 27 2012

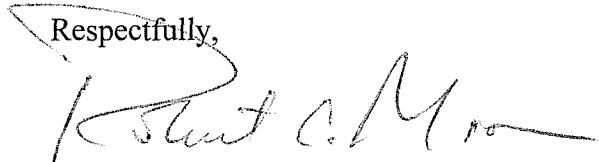
PUBLIC SERVICE
COMMISSION

Re: Forest Creek vs. Jessamine - South Elkhorn Water District,
Public Service Commission Case No. 2011-00297

Dear Executive Director Derouen:

Please find enclosed for filing in the above-referenced case the original and ten (10) copies of Forest Creek's Motion to Compel. Please contact me if you would like to discuss this matter, or need any further information concerning same.

Respectfully,


Robert C. Moore

RCM/neb

cc: Jerry Wuetcher - via electronic mail

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

APR 27 2012

In the matter of:

FOREST CREEK, LLC

COMPLAINANT

vs.

JESSAMINE- SOUTH ELKHORN WATER DISTRICT

DEFENDANT

PUBLIC SERVICE
COMMISSION

Case No. 2011-00297

**FOREST CREEK, LLC'S, MOTION TO COMPEL
JESSAMINE-SOUTH ELKHORN WATER DISTRICT
TO ANSWER REQUESTS FOR INFORMATION**

Comes Forest Creek, LLC ("Forest Creek"), by counsel, and for its Motion to Compel Jessamine - South Elkhorn Water District ("Water District") to provide full and complete Answers to its Requests for Information, and states as follows:

The Public Service Commission's ("Commission") Order of March 16, 2012, provided a procedural schedule for the serving of information requests upon the parties in this case. Accordingly, on March 30, 2012, Forest Creek served twenty-three (23) separate information requests upon the Water District. The Water District refused to provide answers to Request for Information Nos. 1, 2, 3, 4, 16 and 23, and Forest Creek hereby requests the Commission issue an order requiring the Water District to provide full and complete answers to these information requests. The information responsive to these requests is necessary to help show whether the rules and contracts applied to Forest Creek were the same rules or contracts that were applied to other applicants for water extensions, whether Option I was a viable option made available by the

Water District to its customers and/or whether there was any bias on the part of the Water District or its contractors against Forest Creek that resulted in the approximately five (5) year delay in approving its plans.

Information Request No. 1. Forest Creek requested the Water District to identify the rules issued or followed by the Water District from January 1, 2005, through March 1, 2012, in reviewing, denying and/or approving an application for a water extension. The Water District refused to answer this request on the basis that the information sought is irrelevant, and because Forest Creek's plans have finally been approved.

This information is directly relevant to this proceeding because it will identify for the Commission and Forest Creek the rules that were applied to applications for water line extensions that were submitted to the Water District before, during and after Forest Creek's application was submitted. This will establish whether the same rules were applied to Forest Creek's application as were applied to all other applications during this time frame. Additionally, the Commission will be able to determine whether the rules used by the Water District in reviewing applications for water service were issued and approved in accordance with the Commission's requirements. Furthermore, Forest Creek's application for water line extension was submitted to the Water District on April 27, 2007, and was not approved until recently. The review of the rules applied to Forest Creek's application during the approximately five (5) year time period it was under review is directly relevant to whether the Water District's actions were arbitrary and capricious and violated the Commission's rules. This is particularly true where Forest Creek has paid approximately \$31,266 to the Water District in connection with its application for water line extension.

Information Request No. 2. Forest Creek requested the Water District to identify the personnel that determined during the time period from January 1, 2005 through March 1, 2012, whether an application for water line extension was approved or denied, and to provide a brief summary of each person's duties in this process. The Water District again objected to this information request on the basis that it was irrelevant, and refused to answer this request. The requested information is necessary to establish whether one or more persons determined whether a water line extension should be approved, and whether one or more persons were biased when reviewing Forest Creek's application for water line extension.

Information Request No. 3. Forest Creek requested the Water District to provide a copy of the contract to be entered into by individuals or entities selecting Option I when requesting a water line extension from the Water District during the time period from January 1, 2005 through March 1, 2012, and the Water District refused to answer this request on the basis that the requested information is irrelevant. Forest Creek submits that the requested information is relevant because it has asked for authorization to select Option I when requesting a waterline extension and should be allowed to review the Option I contract. Furthermore, Forest Creek asserts that Option I was not mentioned by the Water District as a feasible option available to Forest Creek when it originally selected Option II. Whether or not a contract to be entered into by individuals or entities selecting Option I is available for review will help to establish whether it was or was not a viable option made available by the Water District to anyone, including Forest Creek. It is Forest Creek's position that the Water District never explained Option I or showed a contract concerning Option I, in order to ensure that it selected Option II. This position is supported by the Water District's answer to Request for Information No.5 and No. 6 stating that

“no applicant has chosen Option 1” since January 1, 2000, and that “all individual or entities since January 1, 2000, have selected Option II”. (See Water District’s Answer to Information Request No. 5 and No. 6). Such action would be relevant to Forest Creek’s allegation that the Water District acted arbitrarily and capriciously toward it.

Request for Information No. 4. Forest Creek requested the Water District to provide a copy of the contract to be entered into by individuals or entities selecting Option II when requesting a water line extension from the Water District during the time period from January 1, 2005 through March 1, 2012; however, the Water District refused to provide a copy of the requested contract. If the Water District used multiple versions of a contract providing for the use of Option II, and Forest Creek was only offered one Option II contract, this information would help to establish that the Water District treated it arbitrarily and capriciously, as alleged by Forest Creek in its Complaint.

Request for Information No. 16. The Water District was requested in Request for Information No. 15 to identify the third parties that have provided engineering services to the Water District at any time during the time period from January 1, 2000 to March 15, 2012, and if so, please state the name of the third party that provided engineering services to the Water District. The Water District identified only one entity, Qore Engineers, as providing such services. However, in its answer to Request for Information No. 10, the Water District stated that John G. Horne and L. Christopher Horne reviewed the plans submitted by Forest Creek. Whether intentionally or unintentionally, the Water District failed to identify Horne Engineering in its answer to Request for Information No. 15. By doing so, the Water District avoided having to state in its answer to Request for Information No. 16 whether Horne Engineering has provided

engineering services to entities or individuals that have applied to the Water District for a water line extension, and to identify the third parties that have done so. If Horne Engineering provided engineering services to entities applying to the Water District for a water line extension and these entities represented by Horne Engineering were competitors of Forest Creek, the failure to approve Forest Creek's water line extension plans for approximately five (5) years could reflect favoritism on the part of the Water District to Horne Engineering's clients and cause it to act arbitrarily and capriciously towards Forest Creek and its application. Accordingly, the Water District should be required to fully and completely answer Request for Information No. 16.

Request for Information No. 23. Forest Creek requested the Water District to provide a copy of any agreements entered into from January 1, 2000 to March 1, 2012 by the Water District and any governmental agency, including but not limited to municipalities, concerning water lien extensions to the governmental agencies or to third parties: however, the Water District failed to provide any answer to this request. This information is relevant to determine whether contracts entered into with governmental entities involving other applicants for water lines extensions were treated differently than the governmental contracts involving Forest Creek's application for water line extension.

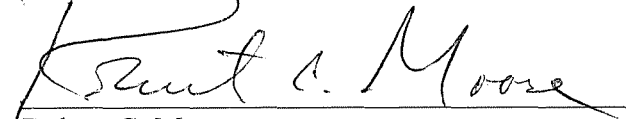
By letter to the Water District's counsel dated April 26, 2012, the Water District was requested to provide full and complete answers to Forest Creek's Request for Information No. 1, 2, 3, 4, 16 and 23, and to the Water District's Counsel was requested to advise the undersigned on April 27, 2012, if the Water District would be providing the requested information. By telephone conversation on April 27, 2012, the Water District's counsel advised Forest Creek's counsel that the Water District would not provide full and complete answers to the identified

Requests for Information. Accordingly, Forest Creek has filed its Motion to Compel.

Conclusion

Based upon the information provided above, the Water District should be required to provide full and complete answers to Request for Information Nos. 1, 2, 3, 4, 16 and 23. Forest Creek requests the Commission to enter an order requiring the Water District to provide these full and complete answers on or before Friday, May 4, 2012.

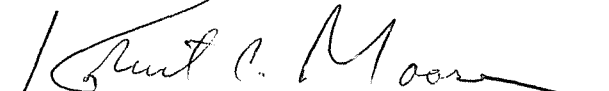
Respectfully submitted,



Robert C. Moore
Hazelrigg & Cox, LLP
415 West Main Street, 1st Floor
P. O. Box 676
Frankfort, KY 40602-0676
Counsel for Forest Creek, LLP

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was served by first class mail, postage prepaid, this the 27th day of April, 2012, to, Hon. Bruce E. Smith, **BRUCE E. SMITH LAW OFFICES, PLLC**, 201 South Main Street, Nicholasville, Kentucky 40356.


Robert C. Moore

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JOHN B. BAUGHMAN
ROBERT C. MOORE
THOMAS J. HELLMANN

April 26, 2012

Via Electronic Mail

Hon. Bruce E. Smith

BRUCE E. SMITH LAW OFFICES, PLLC

201 South Main Street

Nicholasville, Kentucky 40356.

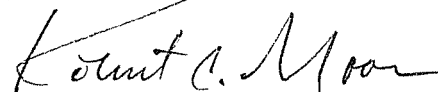
RE: Forest Creek vs. Jessamine - South Elkhorn Water District ("Water District"),
Public Service Commission, Case No. 2011-00297

Dear Mr. Smith:

Please find attached a draft of a Motion to Compel that will be filed with the Public Service Commission requesting it to enter an order compelling the Water District to provide full and complete answers to Request for Information Nos. 1, 2, 3, 4, 16 and 23 that were served upon the Water District by Forest Creek in the above referenced case. Please let me know on Friday, April 27, 2012, if the Water District will agree to provide the requested information without the need to file the attached Motion to Compel. If I do not hear from you on April 27, 2012, or you advise me that the Water District will not provide the requested information, I will file the Motion to Compel and let the Commission decide this issue.

Thank you for your attention to this important matter, and I look forward to discussing same with you.

Sincerely,



Robert C. Moore

RCM/jlc
Attachment