

Prestonsburg City's Utilities Commission

Water, Waste Water and Natural Gas System

(Municipally Owned)

2560 South Lake Drive

Prestonsburg, Kentucky 41653-1048

Phone (606) 886-6871 • Fax (606) 886-8779

TDD: Ky Relay #711

June 5, 2017

Talina R. Matthews
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40602-0615

Re: PSC Case No. 2016 – 00142, Martin County Water District (“District”)
Letter to Correct the Record

Dear Ms. Matthews,

I attended the hearing on June 01, 2017, in the aforementioned case. Two of our managers, Mr. Donald R. Compton, Manager of Water Treatment and Mike Campbell, Manager of Administration were in attendance as well. We are not currently an active participant in the case; hence, we were there as interested members of the public. Therefore, we were not afforded the opportunity to rebut more than one instance where witnesses from the District gave answers and/or statements that were incorrect and misleading. By submitting this correspondence, I desire to provide the Commission with information regarding those areas of factual discrepancy. In addition, I will be providing the Commission with additional information I feel is very pertinent to the case.

A little historical background is warranted, I will keep it brief. In the late 1990's, the U.S. Bureau of Prisons decided to construct a large prison just inside Martin County, adjacent to Floyd County. Naturally, the USBP representatives needed to ascertain the availability of utility services. As is common practice across the Commonwealth, the area development district, Big Sandy ADD was engaged to assist the USBP with the confirmation of what entity or entities would have the capability to provide potable and fire protection water, as well as wastewater collection/treatment service.

Martin County did not operate a wastewater collection system in the area being considered. Therefore, Paintsville in neighboring Johnson County and Prestonsburg in Floyd County became the only two alternatives for the providing of wastewater collection/treatment services. Paintsville was a little closer in distance; therefore, the City of Paintsville was chosen to extend a main line from their system to the property under consideration by the Bureau for the new prison. Prestonsburg had the capability to provide potable and fire protection water to the potential new facility, and the Bureau agreed; therefore, the City of Prestonsburg was selected to extend its main waterline to the facility. As I said earlier, the Big Sandy ADD was engaged to help the Bureau procure the utility services. In my opinion, the next action taken by the Big Sandy ADD should not have happened. Holding true to its admirable

goal of regionalization, the ADD convinced officials in charge of both local entities at the time that the potable/fire protection water should be provided to the new prison facility "jointly" by Prestonsburg City Utilities and the District, in part, to enable the District to serve the Honey Branch Industrial Park ("Park").

The U.S. Bureau of Prisons did not request this "joint supply effort" at any time. The Bureau simply wanted a reliable, high quality potable/fire protection water supply for the new Big Sandy Federal Prison and as such, was interested only in said water being supplied by Prestonsburg. After the Big Sandy ADD convinced the officials in charge at Prestonsburg and the District that jointly providing the potable/fire protection water would be in the best interests of both entities, a Joint Operation Agreement was drafted and eventually signed by both entities being made effective July 3, 2000. However, I must reiterate, at no point had the U.S. Bureau of Prisons requested water being jointly provided to the new prison facility. In addition, the final purchase order issued by the U.S. Bureau of Prisons was solely to Prestonsburg City's Utilities Commission, not jointly to Prestonsburg and the District. The Big Sandy Federal Prison in Inez, Martin County, Kentucky has always been the potable/fire protection water customer of Prestonsburg City's Utilities Commission. As such, the true responsibility for providing water to the prison facility rests with Prestonsburg and no other entity. The Joint Operation Agreement was the brainchild/creation of the Big Sandy ADD with its goal to "regionalize" the provision of utility services. This is conceptually a good goal in many instances, not however, in the supplying of water to the Big Sandy Federal Prison.

Early on, even before the prison opened, a U.S. Bureau of Prison official sent a letter dated June 26, 2002 (copy enclosed) to the Superintendent of the Prestonsburg City Utilities expressing concern over the potential commingling of water to be supplied to the Prison. The concern was expressed that "we are aware of local advisories that have been issued due to poor water quality in the regional area of USP Big Sandy. Because a portion of your service commodity (the water) is supplied by the same facilities involved in the advisories, we are requesting written verification that Prestonsburg City's Utilities Commission will still be able to meet the terms and conditions of our agreement. Specifically, we would like you to confirm that the service will not be affected by these water quality problems and that our storage quantities are secure." Please find enclosed Prestonsburg City's Utilities' response to the Prison, and a letter sent to the District.

Ms. Matthews, with this history of the early developments as to the construction of the Big Sandy Federal Prison and its utility service needs, I simply want to correct the record of the June 1st hearing. At one point during the testimony, the attorney for Martin County, Brian Cumbo stated that he wanted to clarify that the U.S. Bureau of Prisons would not have constructed the Big Sandy Prison there in Martin County without "two sources" of potable water. The witness on the stand responded that was correct. As I have explained here, the facts do not in any manner support this statement by Mr. Cumbo or the witness.

During the June 1st hearing and the questioning of Linda Sumpter, CPA who keeps the books of record for the District, she was asked (paraphrasing), if she had an opinion as to how the District hoped to improve its dire financial situation. She replied that increasing revenues and reducing expenses would be the most logical way. She was then asked if she knew of any revenue increasing measures that could be taken. She then replied that they were working on the contract with Prestonsburg and hoped to get an additional \$30,000 per month from the increased rate that was negotiated and in place. Ms. Matthews, let me assure you and the Commission that Ms. Sumpter is far too optimistic with her hopes of \$30,000 additional revenue per month from the Prestonsburg "contract". The contract to which she refers is the Joint Operation Agreement, I have described earlier. The increased rate to which Ms. Sumpter refers is a "double-edged sword". In any given month that Martin County cannot pump into the Honey Branch Tank more water than they use for their own customers they will in essence be purchasing water from Prestonsburg at the rate they have "negotiated". That rate is \$7.75 (up from \$3.05) per thousand gallons, nearly a dollar more than the rate at which they sell water to their customers.

Given their history of not being able to pump into the Honey Branch Tank on a consistent basis (hence purchasing water from Prestonsburg) this new rate they are promoting as a potentially huge benefit to their revenue stream could in reality have devastating financial consequences. As an example, in late 2014 through most of 2015 Martin County pumped little or no water into the Honey Branch Tank; thus, running up a substantial bill for water purchased from Prestonsburg. Had the "new" rate been in place the bill that was nearly \$40,000 would have been over \$100,000. The Joint Operation Agreement states that Prestonsburg and the District will each provide "up to 50% of the demand for the Big Sandy Federal Prison". However, this has seldom been the case. Since the inception of the service, Prestonsburg has been the predominant supplier of potable/fire protection water to its customer, the Big Sandy Federal Prison with very little assistance from the District. Given the less than adequate condition of the infrastructure in place on which the District relies to pump water into the Storage Tank, I see no avenue for the District to "gain" increased revenue from being a party to the Joint Operation Agreement. Therefore, Ms. Sumpter's lofty \$30,000 per month increase in revenues is unlikely on a regular and reoccurring basis.

As for my final correction to the record, during the testimony of Martin County Judge/Executive Callahan, a Commission staff attorney addressed the Judge/Executive about the "Prestonsburg contract". I do not recall the exact question posed to the Judge/Executive, but he responded to the Commission staff attorney that (paraphrasing), "Prestonsburg's rate to the Prison is \$10 or \$11, and we the District are only getting \$7.95." As is the case with politicians, facts do tend to get loosely stated. Both of his figures were incorrect. The rate charged by Prestonsburg for water supplied to the Prison is the same rate charged to all of our outside city customers, currently \$8.32 per thousand gallons. He got a little closer to the new rate in the Joint Operation Agreement, it being \$7.75 per thousand gallons.

Talina R. Matthews

June 5, 2017

Page 4

Ms. Matthews, the Big Sandy Federal Prison is solely the customer of Prestonsburg City's Utilities Commission. If the Joint Operation Agreement written years ago at the behest of the Big Sandy Area Development District goes away today officials at the U.S. Bureau of Prisons and its Big Sandy Federal Prison couldn't care less, and would not see any change whatsoever in the supply of water to that facility other than an improvement to the overall quality of the water delivered. Prestonsburg City's Utilities Commission has, since the beginning of potable water service to the Prison, shouldered the load and responsibility of supplying quality, dependable potable water to the facility. For the District to now be touting a renegotiated rate in an agreement that they have seldom if ever been capable of honoring is an affront to the good people of Martin County who must meet their own drinking water needs by purchasing water at local stores while paying a monthly water bill to the District.

I would be remiss if I did not inform you and the Commission of a request made to me during a telephone conversation approximately a year and a half ago. At the time, Martin County Water District owed Prestonsburg City's Utilities Commission between \$30 and \$40 thousand dollars for water they had to purchase from us at the storage Tank for the use of their customers over the past year. As had been the case numerous times before, they were very far behind on paying the bill to us. I placed a call to Joe Hammond of Martin County Water asking him to pay this bill as soon as possible as it was quite a few months behind. He stated that he would see what he could do to free up at least a partial payment. He then said (paraphrasing), "Why don't you get with your Commission and make me an offer to buy everything out here on the hill (Honey Branch infrastructure)?" I must admit, it took me by surprise so I asked him to repeat and clarify what he had just asked me. He did and I told him that we would be very interested and that I would speak with our Commission regarding his request. I closed the conversation by telling him that we should schedule a meeting as soon as possible in order to begin the process. He agreed.

About three months later, I was informed by Sandy Runyon, Executive Director of the Big Sandy ADD that officials of the District would like to meet with us to discuss the Park. She told me a date and time, and David Ellis, Superintendent at the time, Mayor Les Stapleton, and I arrived at the meeting to find Joe Hammond, William Harvey, the District Board Chair, and Judge/Executive Kelly Callaham in attendance. Executive Director Runyon called the meeting to order stating that her understanding of the purpose of the meeting was to discuss a potential sale of the Martin County Water District's Honey Branch infrastructure to Prestonsburg City's Utilities Commission. Judge/Executive Callaham quickly stated that was not the case and immediately began to address the "rate" in the Joint Operation Agreement. In a very agitated manner he proceeded to state how badly that "Prestonsburg was ripping off Martin County" in that they were getting \$10 - \$11 per thousand gallons from the Prison and only paying Martin County a much smaller rate for the water they pumped out there." Mayor Stapleton and I very quickly rebutted that statement. We then stated that we were under the assumption that we were there to begin a discussion of the potential sale of the infrastructure assets at Honey Branch that Joe Hammond had asked me to do three months before. Mr. Hammond told the group that he had only said

that to me out of frustration and that his board did not really want to do that. I ended the meeting shortly thereafter.

Several weeks later, I received a letter (copy enclosed) from Mr. Brian Cumbo, attorney for District informing me that the District was giving notice that they would be raising the rate in the Joint Operation Agreement to \$10.75 per thousand gallons. Naturally our response through our attorney back to him was a rejection. Several weeks later, Joe Hammond and I began another dialog as to the situation at Honey Branch. We agreed to meet again. A few days later Joe Hammond and Board Chair William Harvey came to our office for the meeting. The meeting with the two District officials was attended by me, Donald Compton-Manager of Water Treatment, and Mike Campbell-Manager of Administration. I wasted no time in proposing that we would purchase the Honey Branch Tank and the infrastructure in that area from the District for a very fair price. I also informed the gentlemen that we would also agree to sell to the District water at the Honey Branch feed point at a wholesale rate that "would be an embarrassment for them to turn down." Mr. Harvey quickly stated that the Prison would not hear of them not being a party to the supply of water to them. I told Mr. Harvey that he was very misinformed, that the Prison officials would not give a second thought to the District not being involved in the supply of water to the facility. Mr. Hammond then stated that the deal could definitely inject some cash into the District to help with repairs. I agreed and then asked if he and Mr. Harvey would at least consider our offer, and allow us to take a look at the book values of their assets. They stated that they would do that. Mr. Harvey then addressed the "rate" in the joint agreement being so low is what had prompted his board to ask Mr. Cumbo to raise the rate to \$10.75 per thousand. I told him that I wasn't sure where he and Mr. Cumbo had come up with such a lofty rate since it was much higher than even the rate being charged to the Prison. He then asked me if I minded sharing with him the rate we charged the Prison. I told him the rate was the same rate charged to any of our "outside city" customers, \$8.17 per thousand gallons at that time. He then asked would we entertain raising the rate to one discounted some from the rate we currently charged the Prison with said discount being for Prestonsburg's staff doing the monthly paperwork. I told him that I would consider it and would discuss it with our Commission and our attorney and get back with him. However, I warned him and Joe Hammond of the consequences of more than doubling the rate of \$3.05 per thousand gallons currently in the Joint Operation Agreement; reiterating, that in any given month if the District could not pump more water than it used at the Park the financial result could be very bad for the District. They acknowledged that, but stated that they felt confident that they were getting their system in better shape which "should" prevent any periods of time where they might not pump the volume needed. After several more weeks of discussion in house and letter exchanges between the two attorneys both parties settled on the rate of \$7.75 that, the District has now informed the Commission will be their "salvation".

Our Mayor, Les Stapleton, recently met with Martin County Judge/Executive at the Judge/Executive's request in order to discuss the District's "not getting paid" for water they had pumped into the Honey Branch Tank. At that meeting Mayor Stapleton quickly informed the Judge/Executive that Prestonsburg

Talina R. Matthews


June 5, 2017

Page 6

City's Utilities Commission had indeed paid the District for everything owed them at that time and in a very timely manner. He then asked the Judge/Executive to just "sell everything out there on the hill (in the Park) to Prestonsburg. Mayor Stapleton told me later that the Judge/Executive pushed back from the table and responded, "Are you serious?" Mayor Stapleton responded, "Absolutely." Judge/Executive Callaham then told the Mayor to let him do some checking and get back with him. He also told the Mayor that the deal would have to include "the 113 customers" in their system on Davella Road. Mayor Stapleton told him that would be no problem. Three days later Judge/Executive Callaham called back to Mayor Stapleton and in a very agitated manner said that he had found out through his board that "everyone in Frankfort, even Secretary Snavelly, was trying to push the District into selling the Honey Branch area to Prestonsburg" and that they all feel as though they are being backed into a corner. Mayor Stapleton quickly informed the Judge/Executive that it was Joe Hammond, months ago, that had first brought up the subject of the potential sale of the Honey Branch assets to Turner Campbell and that Prestonsburg had simply responded favorably to that request. Judge/Executive Callaham calmed down and asked the Mayor if a meeting could be setup between him and the Mayor, Mr. Campbell, Joe Hammond, and William Harvey. Mayor Stapleton told him of course. After one cancellation due to it conflicting with the June 1st PSC hearing a meeting was rescheduled for June 5, 2017.

Ms. Matthews, please forgive the length of my correspondence, however, I feel compelled to not only provide the Commission with a clear history of the Prestonsburg – Martin County Water District – U.S. Bureau of Prisons scenario/relationship, but to correct the record of the June 1, 2017 PSC hearing regarding the Martin County Water District.

Respectfully,



Turner E. Campbell, Superintendent/CEO

Copy: Mayor Les Stapleton
Jimmy A. Calhoun, Chairman
File



U.S. Department of Justice

Federal Bureau of Prisons

Washington, DC 20534

June 26, 2002

Seldon D. Horne, Superintendent
Prestonsburg City's Utilities Commission
2560 South Lake Drive
Prestonsburg, Kentucky 41653-1048

Re: Purchase Order Number 07410470

Dear Mr. Horne:

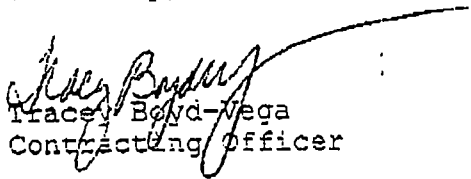
The purpose of this letter is to express our concern regarding your water service to the United States Penitentiary (USP) facility at Big Sandy, Kentucky. The Prestonsburg City Utilities Commission (PCUC) is obligated to provide 540,000 gallons per day of potable water service and maintain dedicated water storage for domestic and fire flow use.

We are aware of local advisories that have been issued due to poor water quality in the regional area of USP Big Sandy. Because a portion of your service commodity is supplied by the same facilities involved in the advisories, we are requesting written verification that Prestonsburg City's Utilities Commission will still be able to meet the terms and condition of our agreement. Specifically, we would like you to confirm that the service will not be affected by these water quality problems and that our storage quantities are secure.

The Federal Bureau of Prisons' contribution to the storage facility was made with the agreement that the specified amount of potable water would be available for the USP use at all times. The Federal Bureau of Prisons would expect that the PCUC has the facilities and equipment in place to monitor, control, and protect the integrity of the water system and its service to us.

Please provide a written response addressing the above concerns by July 8, 2002. If you require any additional information or have any questions, please do not hesitate to contact me at (202) 307-0954.

Sincerely,


Tracey Boyd-Wega
Contracting Officer

Prestonsburg City's Utilities Commission

Water, Waste Water and Natural Gas System

(Municipally Owned)

2560 South Lake Drive

Prestonsburg, Kentucky 41653-1048

(606) 886-6871

August 14, 2002

Ms. Tracey Boyd-Vega
Contracting Officer
U.S. Department of Justice
Federal Bureau of Prisons
Washington, D.C. 20534

RE: Purchase Order No. 07410470

Dear Ms. Boyd-Vega:

This will acknowledge receipt of your letter of June 26, 2002 expressing concern regarding the water service to be provided by the Prestonsburg City's Utilities Commission ("PCUC") to the United States Penitentiary ("USP") facility at Big Sandy, Kentucky. Your letter states that you are aware of local advisories that have been issued due to poor water quality in the regional area of the USP facility. You note further that because a portion of the water to be supplied by PCUC is supplied at wholesale by the Martin County Water District ("District") which is the subject of the advisories, you are requesting verification that PCUC will still be able to meet the terms and conditions of the water supply contract.

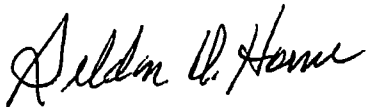
This will confirm that PCUC will meet the terms and conditions of the water supply agreement. PCUC has ample water supply capacity to provide the required quantities of potable water service and to maintain dedicated water storage for the domestic and fire flow use as required by the agreement. Rest assured that reliable service to the USP facility will be provided by PCUC.

PCUC shares the concerns expressed in your letter about the local advisories issued relating to poor water quality in the area served by the Martin County Water District. PCUC is inquiring into this matter with the District and with

responsible state and local officials to ensure that such issues do not affect PCUC's service to the USP facility or other customers. As long as any issue exists concerning water quality provided by the District, PCUC will supply the USP facility entirely with water from its own system.

We appreciate your interest and concern about this matter. Please feel free to give me a call at any time if you wish to discuss this further.

Sincerely,

A handwritten signature in cursive script that reads "Seldon D. Horne". The signature is written in dark ink and is positioned above the typed name.

Seldon D. Horne
Superintendent

Prestonsburg City's Utilities Commission

Water, Waste Water and Natural Gas System

(Municipally Owned)

2560 South Lake Drive

Prestonsburg, Kentucky 41653-1048

(606) 886-6871

August 30, 2002

Mr. G. Michael Cain
Chairman
Martin County Water District
HC 69 Box 875
Inez, KY 41224

RE: Water Service to United States Penitentiary ("USP")
Facility

Dear Mr. Cain:

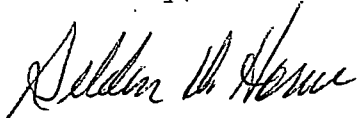
I wrote you on August 14, 2002 and enclosed a copy of a letter from the Federal Bureau of Prisons expressing serious concern about poor water quality on the system of the Martin County Water District ("District") and the potential effect it may have on the water service to the USP facility. In my August 14 letter, I requested that you contact me within the next week to arrange a meeting to discuss how our respective systems can ensure the USP facility receives the reliable supply of potable water that it needs. To date, I have had no response from you to set up such a meeting. By this letter, I renew my request.

The Prestonsburg City's Utilities Commission ("PCUC") has been informed that the Bureau of Prisons will take control from the construction contractor of the USP facility on September 29, 2002. By that date, PCUC must be in a position to supply sufficient quantities of potable water, including fire protection, to the USP facility. As I mentioned in my earlier letter, PCUC will need to close the valve between our two systems to prevent any co-mingling of water because of the previously mentioned water quality concerns. This will advise that PCUC will close the valve between our systems on September 23, 2002. This will allow several days for PCUC to sterilize the tank, flush the lines, and do bacteriological testing to ensure that the water is potable by September 29. PCUC would appreciate

your response to ensure proper coordination between the two systems for this purpose. In addition, I renew my request for a meeting to be scheduled promptly to address longer term alternatives for water service to the USP facility and other customers located in that immediate area.

Please give your immediate attention to this matter.

Sincerely,



Seldon D. Horne

Cc: Gerald Wuetcher, Esquire
Kentucky Public Service Commission

Vicki L. Ray
Manager, Drinking Water Branch
Division of Water

Roger Rechtenwald
Kentucky Infrastructure Authority

Big Sandy Area Development District



BRIAN CUMBO

ATTORNEY AT LAW

86 W. Main St., Suite 100
P.O. Box 1844
Inez, KY 41224
(606) 298-0428
FAX: (606) 298-0316
cumbolaw@cumbolaw.com

ADMITTED IN KY AND WV

October 18, 2016

Turner E. Campbell, Superintendent
Prestonsburg City's Utilities Commission
2560 South Lake Drive
Prestonsburg, KY 41653

RE: Joint Operation Agreement between Martin County Water District
and Prestonsburg City's Utilities

Dear Mr. Campbell:

Please be advised that this office represents the Martin County Water District. They have asked me to correspond with you relative to the rate provision in the Joint Operation Agreement referenced above. Martin County Water District must increase the rate charged to Prestonsburg City's Utilities to remain viable. The Martin County Water District has confirmed it is not required to file for a rate change with the Public Service Commission.

Therefore, please consider this written formal notice that in no less than 120 days, the District will modify its rate charged to the utility to \$10.75 per 1,000 gallons.

If you have any questions about this communication, please do not hesitate to contact my office.

Very truly yours,

BRIAN CUMBO

BC/ld

cc: Martin County Water District
Regular & Certified Mail, RRR
Article No. 7015 0640 0006 7953 0542