

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION OF THE OPERATING)	
CAPACITY OF MARTIN COUNTY WATER)	CASE NO.
DISTRICT PURSUANT TO KRS 278.280)	2016-00142

ORDER

On April 19, 2018, the Martin County Concerned Citizens Inc. (“MCCC”) filed with the Commission, a request for information to Martin County Water District (“Martin District”), and requested that Martin District respond within 14 days of the date of the requests. On April 20, 2018, the Commission issued an Order requiring, *inter alia*, that requests for information must be served on all parties no later than May 1, 2018, and responses to those requests be filed no later than May 17, 2018.

In a letter dated April 20, 2018, to counsel for MCCC that Martin District filed with the Commission, Martin District informed the Commission that it would not respond to MCCC’s April 19, 2018 request for information.¹ In support of its response, Martin District cites a previous Commission Order in this proceeding in which the Commission stated that:

With regard to how continuing requests for information are to be addressed, the Commission finds that, in order to limit the burden on Martin District and not unduly complicate the proceeding, Martin District is required to respond only to continuing requests from the Commission.²

¹ Letter from Brian Cumbo to Mary Varson Cromer, (Apr. 20, 2018).

² Order (Ky. PSC Dec. 21, 2017) at 3.

By letter dated April 23, 2018, three days after entry by the commission of the order assigning this matter for a hearing on May 31, 2018, counsel for MCCC attempted to engage counsel for the Martin District with a view toward solving the discovery dispute without the necessity of a hearing. Counsel's attempt was apparently ignored by Martin District's attorney as there is no record of any reply to this correspondence found in the record. On April 26, 2018, MCCC filed a motion to compel responses to its requests for information and to date no response has been filed by Martin District.

Martin District's position that it need not respond to data requests by MCCC is not supported by the language relied upon by it which was taken out of context from the commission's order of December 21, 2017. That order specifically recognized the right of MCCC to conduct discovery prior to commission's scheduled hearings. The order stated that:

The commission will provide an opportunity prior to each hearing for discovery, at which point MCCC may renew any request for information that it desires and any amendments or supplements to previous requests may be made.

In order to resolve this matter prior to the May 31, 2018 hearing date, and to avoid the possibility of MCCC not receiving its requested information by May 17, 2018, the commission has examined the tendered data requests in light of the scope of the commission's present investigation of the operating capacity of the Martin County Water District and finds that the data requests, and each of them, seek both relevant and material information critical to issues pending before the commission and likely to be the subject of testimony elicited at its May 31, 2018 hearing.

IT IS HEREBY ORDERED that:

1. MCCC's motion to compel Martin District to fully respond to MCCC's Second Data Request is sustained.
2. Martin District shall fully and completely respond to each data request including subparts thereof without objection on or before May 17, 2018.
3. The Commission shall serve a copy of this Order to the Kentucky Division of Water and also on the Martin County Judge/Executive.

By the Commission

ENTERED
MAY 02 2018
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2016-00142

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