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ADMITTED IN KY AND WV

September 18, 2017

Public Service Commission
ATTN: David Spenard
P.O. Box 615
Frankfort, KY 40602

RE: Martin County Water District
PSC Case No. 2016-00142

Dear Mr. Spenard:

Enclosed please find original and five (5) copies of Objection and Response to Second Motion to Intervene regarding the above captioned matter.

Thank you for your attention to this matter.

Very truly yours,

BRIAN CUMBO

BC/ld
Enclosure
cc: Martin County Water District

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

OBJECTION AND RESPONSE TO SECOND MOTION TO INTERVENE

Comes the Martin County Water District (District), by counsel, and for its Objection and Response to the Martin County Concerned Citizens, Inc.’s second motion to intervene, states as follows:

The intervention of persons into an investigation being conducted by the Public Service Commission is addressed in KAR 5:001, Section 4(11)(b). The rule has explicitly set forth the basis for permissive intervention, and states in totality:

“The Commission shall grant a person leave to intervene if the Commission finds that he or she has made a timely motion for intervention and that he or she has a special interest in the case that is not otherwise adequately represented or that his or her intervention is likely to present issues or to develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting the proceeding.”

The District respectfully submits that this motion to intervene is not timely, in that this investigation has been pending for over one year.

The District further respectfully suggests that the movant does not represent a special interest in the case that is not otherwise adequately represented. To the contrary, the movant, as well as the customers of the District, are adequately represented. Tellingly, the Public Service

Commission has solicited comments, have filed comments in the record made by many customers and, in fact, has conducted a public hearing in Inez, Kentucky on August 29, 2017, where counsel and many members of the public made input.

Further, the District suggests that the movant is unlikely to present issues or develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. This, in fact, is the heart of the District's argument.

The District is a small utility, with a limited number of employees, all of whom are dedicated, and work hard at their jobs.

This investigation has been a financial strain on the District, in that employees responsible for other duties relative to the provision of services has spent many, many hours responding to the several requests for information, gathering documents, and attending hearings before the Commission in Frankfort, Kentucky.

To permit the movant to intervene will, without a doubt, increase the financial burden and time burden on the District unduly. It is not unreasonable to believe that such intervention would not double the District's work load relative to this matter, but increase it several fold.

Further, that the hearings conducted in this matter, some of which have taken literally all day, will likely turn into several day affairs if the movant is permitted to present evidence, present witnesses, question witnesses, and cross examine witnesses. Further, the likelihood of a settlement which concludes with an agreed order becomes questionable, at best. "There can be no stipulation, or settlement, without consent of all the parties." *Kentucky American Water Co. v. Commonwealth of Kentucky and Public Service Commission, et al.*, 847 S.W. 2nd 737 (Ky. 1993).

Due to the likelihood of the intervention becoming unduly burdensome, the hearings becoming unduly workable, and a financial burden on an already financially strained District, the intervention should be denied.

“The PSC retains the power in its discretion to grant or deny a motion for intervention.”

Enviropower, LLC v. Public Service Commission of Kentucky, 2007 WL 289328.

Wherefore, counsel requests appropriate Orders of the Public Service Commission consistent with this Objection and Response.



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CERTIFICATE OF SERVICE

This will certify that a true and correct copy of the foregoing was mailed, postage pre-paid, on this the 15 day of September, 2017, to the following:

Public Service Commission
ATTN: David Spenard
P.O. Box 615
Frankfort, KY 40602

Hon. Mary Varson Cromer
Appalachian Citizens' Law Center, Inc.
317 Main Street
Whitesburg, KY 41858



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