Public Service Commission  
ATTN: Gwen R. Pinson  
P.O. Box 615  
Frankfort, Kentucky 40602

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

Dear Ms. Pinson:

Enclosed please find an original and six (6) copies of a Notice of Filing regarding the above captioned matter.

Thank you for your attention to this matter.

Very truly yours,

Kipley J. McNally

KJM:jlr  
Enclosures
COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION OF THE OPERATING CAPACITY
OF MARTIN COUNTY WATER DISTRICT
PURSUANT TO KRS 278.280

Case No. 2016-00142

NOTICE OF FILING

Notice is given to all parties that the following materials have been filed into the record of this proceeding:

- Letter to John Horn from Eddie Campbell dated April 24, 2018
- Statement of Municipal Utility Lien dated April 24, 2018

Respectfully Submitted,

Kipley J. McNally, Esq.
Kipley J. McNally, PLC
2527 Nelson Miller Parkway, Suite 104
Louisville, Kentucky 40223
Telephone: 502-245-6133
Facsimile: 502-245-1974
kj@mcnallylaw.biz
Counsel for Prestonsburg City’s Utilities Commission

CERTIFICATE OF SERVICE

I, Kipley J. McNally, hereby certify that on April 25, 2018, a true and accurate copy of the foregoing Notice of Filing was served via postage-paid U.S. mail to the following:

Public Service Commission
ATTN: Gwen R. Pinson
P.O. Box 615
Frankfort, Kentucky 40602

Brian Cumbo
86 W. Main St., STE 100
P.O. Box 1844
Inez, Kentucky 41224
cumbolaw@cumbolaw.com
Counsel for Martin County Water District

Mary Varson Cromer
Jim Gardner
Appalachian Citizens' Law Center, Inc.
317 Main Street
Whitesburg, Kentucky 41858
mary@appalachianlawcenter.org
Counsel for MCCC

M. Todd Osterloh
Turner, Barker & Molone, PLLC
333 West Vine Street, Suite 1400
Lexington, Kentucky 40507
tosterloh@sturgillturner.com

Kathy J. McVilly
Counsel for PCUC
EXHIBIT A

LETTER
April 24, 2018

Re: Notice of Breach of Joint Operation Agreement & Notice of Termination

Dear Mr. Horn:

Pursuant to the Joint Operation Agreement dated July 3, 2000, as amended by the First Amendment dated the 1st day of January, 2017 (collectively, the “Agreements”), the parties agreed to the joint operation of certain waterworks facilities in the Honey Branch Park located in Martin County. In addition, the Agreements provided that Prestonsburg City’s Utilities ("PCUC") would provide “… emergency backup water service of a non-recurring nature to the District.” PCUC has provided such service on a recurring basis during the term of the Agreements. During the previous four (4) months the District has delivered 1,630,000 gallons to the jointly operated facilities, while PCUC has delivered 43,650,000 gallons. Clearly, the District has not provided fifty percent (50%) of the waterworks facilities’ requirements. The District took delivery of 11,867,000 gallons of water for delivery to its customers for which PCUC has not been paid, in full.

The Agreements provide that the District shall make payment within ten (10) working days from the date of PCUC’s invoice for backup emergency water service. The following invoices to the District have not been paid, in full, and are, now, overdue:

<table>
<thead>
<tr>
<th>Invoice No.</th>
<th>Invoice Date</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1231 2017</td>
<td>January 1, 2018</td>
<td>6,754.50</td>
</tr>
<tr>
<td>0131 2018</td>
<td>February 1, 2018</td>
<td>44,291.00</td>
</tr>
<tr>
<td>0228 2018</td>
<td>March 1, 2018</td>
<td>26,164.00</td>
</tr>
<tr>
<td>0331 2018</td>
<td>April 1, 2018</td>
<td>5,936.25</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>$83,145.75</td>
</tr>
</tbody>
</table>

*PRESTONSBURG CITY’S UTILITIES COMMISSION IS AN EQUAL OPPORTUNITY EMPLOYER*
*The payment in the amount of $12,000.00 received on February 20, 2018, was applied to satisfy the December 1st statement in the amount of $5,603.00, in full, leaving a credit of $6,397.00. The remaining credit was applied, in part, to the outstanding invoice for January 1, 2018, leaving a balance due of $6,754.50. Attached are copies of the foregoing statements.

Since neither you nor any member of your board or management staff have given us the professional courtesy of a call or any other contact relating to the status of the above unpaid invoices, we have no choice, but to request full payment in writing. We have gone above and beyond our usual billing/service disruption policies to lessen the suffering of the customers of the District. Without any communication, we do not know when to expect payment for the increasing, outstanding debt owed to PCUC. We are willing to discuss alternatives, please contact me.

The Commission held a special called meeting to re-consider and propose alternatives to the earlier version of the tank lease. The version of the tank lease submitted to you for the District’s consideration was consistent with our understanding of the terms discussed during the luncheon break during the Public Service Commission ("PSC") hearing held on February 28, 2018. Once again, you did not give us the courtesy of a call or letter explaining your Board’s concerns with the proposal. Our Commission revised the Tank Lease with an offset provision as a reasonable collection alternative. Since the date of the PSC hearing, you have neither contacted us regarding the tank lease, nor proposed a payment plan. Consequently, we are, terminating the emergency back-up water service to the District by a complete shut-off of the meter that delivers water to your water line located on Route 3. This shut-off will not affect the District’s customers located in the Honey Branch Industrial Park, or the District’s customer’s located along-side airport road located near the Honey Branch Industrial Park.

The effective date of this shut-off will be thirty (30) days from the date that this letter is filed with the PSC.

Since PCUC has provided uninterrupted water service to a substantial portion of the District’s customers during the water shortage crisis this winter, we are dismayed by the District’s lack of business decorum and courtesy. In addition, the Commission has long tired of being portrayed as the villain, being constantly described in public as “kicking the District when it is down”, and being accused of attempting to “take a valuable asset (the Honey Branch Tank) from Martin County”. Our offer to purchase the tank from the District made very good business sense for both entities and was made with the intent of trying to provide the quickest help available to give the District a fighting chance. The numbers don’t lie, the involvement by the District in the sharing of the supply of potable water to the Honey Branch Tank has never been anything but a burden to the District’s operations, having at the very best broken even
financially over the past decade and a half. The purchase of the tank by PCUC could have infused a substantial amount of near immediate cash into the coffers of the District and provided a stable, abundant source of potable water at a very reasonable wholesale rate to the District for years to come. Again, a very good business transaction for the District.

If you have any questions regarding this letter, please contact me.

Sincerely,

[Signature]

Turner E. Campbell, Superintendent

Copy: Kentucky Public Service Commission
Les Stapleton, Mayor of Prestonsburg
File
Prestonsburg City Utilities Commission  
2560 South Lake Drive  
Prestonsburg, KY 41653

INVOICE: 12312017

January 1, 2018

Martin County Water and Sewer District  
387 East Main Street  
Suite 140  
Inez, KY 41224

Water Provided to Martin County November 27, 2017 through December 26, 2017

<table>
<thead>
<tr>
<th>Description</th>
<th>Quantity</th>
<th>Rate</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Provided</td>
<td>1,764,000</td>
<td>Gallons</td>
<td></td>
</tr>
<tr>
<td>First 112,000 Gallons @ $348.50 (Minimum)</td>
<td></td>
<td>$348.50</td>
<td></td>
</tr>
<tr>
<td>Over 112,000 @ $7.75/1,000 Gallons</td>
<td></td>
<td></td>
<td>12,803.00</td>
</tr>
<tr>
<td>Total <em>due</em> Prestonsburg City’s Utilities</td>
<td></td>
<td></td>
<td>$13,151.50</td>
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</table>


**MARTIN COUNTY WATER DISTRICT**
**PRESTONSBURG CITY UTILITIES**

<table>
<thead>
<tr>
<th>Item to be Paid – Description</th>
<th>Discount Take</th>
<th>Amount Paid</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>5,603.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td>6,397.00</td>
<td></td>
</tr>
</tbody>
</table>

**Memo:**

<table>
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<tr>
<th>Check Number</th>
<th>Check Date</th>
<th>Check Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Feb 16, 2018</td>
<td>$12,000.00</td>
</tr>
</tbody>
</table>

**PAY**

Twelve Thousand and 00/100 Dollars

TO THE ORDER OF

PRESTONSBURG CITY UTILITIES
2560 SOUTH LAKE DRIVE
PRESTONSBURG, KY 41653

[Signature]

**DATE**
Feb 16, 2018

**AMOUNT**
**********$12,000.00**
Prestonsburg City Utilities Commission
2560 South Lake Drive
Prestonsburg, KY 41653

INVOICE: 11302017

December 1, 2017

Martin County Water and Sewer District
387 East Main Street
Suite 140
Inez, KY 41224

Water Provided to Martin County October 26, 2017 through November 27, 2017

<table>
<thead>
<tr>
<th>Total Provided</th>
<th>790,000 Gallons</th>
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<tbody>
<tr>
<td>First 112,000 Gallons @ $348.50 (Minimum)</td>
<td>$348.50</td>
</tr>
<tr>
<td>Over 112,000 @ $7.75/1,000 Gallons</td>
<td>5,254.50</td>
</tr>
<tr>
<td>Total due Prestonsburg City's Utilities</td>
<td>$5,603.00</td>
</tr>
</tbody>
</table>
Prestonsburg City Utilities Commission
2560 South Lake Drive
Prestonsburg, KY 41653

INVOICE: 1312018

February 1, 2018

Martin County Water and Sewer District
387 East Main Street
Suite 140
Inez, KY 41224

Water Provided to Martin County December 26, 2017 through January 26, 2018

<table>
<thead>
<tr>
<th>Description</th>
<th>Quantity</th>
<th>Unit Price</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Total Provided</td>
<td>5,782,000 Gallons</td>
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<td></td>
</tr>
<tr>
<td>First 112,000 Gallons @ $348.50 (Minimum)</td>
<td></td>
<td>$348.50</td>
<td></td>
</tr>
<tr>
<td>Over 112,000 @ $7.75/1,000 Gallons</td>
<td></td>
<td>$43,942.50</td>
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<tr>
<td>Total due Prestonsburg City's Utilities</td>
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<td>$44,291.00</td>
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</table>
Prestonsburg City Utilities Commission
2560 South Lake Drive
Prestonsburg, KY 41653

INVOICE: 2282018
March 1, 2018

Martin County Water and Sewer District
387 East Main Street
Suite 140
Inez, KY 41224

Water Provided to Martin County January 26, 2018 through February 26, 2018

<table>
<thead>
<tr>
<th>Description</th>
<th>Quantity</th>
<th>Rate</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>First 112,000 Gallons @ $348.50 (Minimum)</td>
<td></td>
<td>$348.50</td>
<td></td>
</tr>
<tr>
<td>Over 112,000 @ $7.75/1,000 Gallons</td>
<td></td>
<td></td>
<td>$26,164.00</td>
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<tr>
<td>Total due Prestonsburg City’s Utilities</td>
<td></td>
<td></td>
<td>$26,512.50</td>
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</table>
Prestonsburg City Utilities Commission
2560 South Lake Drive
Prestonsburg, KY 41653

INVOICE: 3312018
April 1, 2018

Martin County Water and Sewer District
387 East Main Street
Suite 140
Inez, KY 41224

Water Provided to Martin County February 26, 2018 through March 26, 2018

<table>
<thead>
<tr>
<th>Total Provided</th>
<th>833,000 Gallons</th>
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</thead>
<tbody>
<tr>
<td>First 112,000 Gallons @ $348.50 (Minimum)</td>
<td>$ 348.50</td>
</tr>
<tr>
<td>Over 112,000 @ $7.75/1,000 Gallons</td>
<td>$ 5,587.75</td>
</tr>
<tr>
<td>Total due Prestonsburg City’s Utilities</td>
<td>$ 5,936.25</td>
</tr>
</tbody>
</table>
EXHIBIT B

MUNICIPAL UTILITY LIEN
STATEMENT OF MUNICIPAL UTILITY LIEN
PURSUANT TO KRS 376.265

The name of the lien claimant is Prestonsburg City’s Utilities Commission (Claimant) whose address is 2560 South Lake Drive, Prestonsburg, Kentucky 41653. The Affiant, Turner E. Campbell, states that he is the Superintendent of the Claimant, that he is authorized to make and file the statement on the Claimant’s behalf, and that he is its agent for the service of process.

The Affiant states that a lien is hereby asserted against the property owned by the Martin County Water District, which is located on Airport Road off of Kentucky Hwy. 3 and is more particularly described as follows:

WITNESSETH: That the parties of the first part for and in the consideration of the sum of One Dollar ($1.00) cash in hand paid, receipt of which is hereby acknowledged, do hereby grant and convey unto the party of the second part the right to enter onto the premises of Martin County Industrial Park belonging to the parties of the first part and to lay a water service line, storage tank, and pumping station, and to thereafter enter upon the premises for the purposes of maintenance of said line. The location of said line shall be placed on the premises of the party of the first part as described and outlined by map recorded in Martin County Clerk’s Office, Plat Book #5 page 40.

And being a portion of the same land conveyed to the GRANTORS herein by deed from The Homer and Elanor Goble Trust dated the 28th day of August, 1993 and of record in Deed Book 116 at Page 553, records of the Martin County Court Clerk’s Office.

Being the same property conveyed to the Martin County Water District herein by Deed of Easement dated the 18th day of March, 1996 and of record in Deed Book 124 at Page Number 483, records of the Martin County Court Clerk’s Office.

The Claimant, as a municipal utility, entered into the Joint Operation Agreement dated July 3, 2000 (“Agreement”) with the Martin County Water District (“District”) to jointly provide potable water and operate the water distribution facilities located at the Honey Branch Industrial Park. Pursuant to that Agreement, the Claimant has delivered water to the District for use by the District’s customers for the billing cycles of February, 2018 and March, 2018.
The amount of $32,100.25 is, now, due and owing to the Claimant after deducting all just credits and set-offs known to it. The Claimant does hereby claim and assert a Municipal Utility Lien pursuant to KRS 376.65, on all of the rights, title, and interest on the real property as described herein and the improvements thereon to secure the Claimant in the payment of said amount, plus interest, and the cost of filing this Statement, and the further cost of the enforcement of this Lien.

Prestonsburg City's Utilities Commission

By: _____________________________

Turner E. Campbell, Superintendent

COMMONWEALTH OF KENTUCKY )
COUNTY OF FLOYD )

I, a Notary Public within the Commonwealth of Kentucky, do hereby certify that on this the 24th day of April, 2018 the foregoing instrument was subscribed and sworn to by Turner E. Campbell for and on behalf of said Claimant.

My Commission Expires: 9/15/21

Mary L. Noble
NOTARY PUBLIC
ID # 585963

This Document Prepared By:

Kipley J. McNally, Esq.
Kipley J. McNally, PLC
2527 Nelson Miller Parkway, Suite 105
Louisville, Kentucky 40223
(502) 245-6133