

RECEIVED

MAR 16 2018

PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DEXTER-ALMO HEIGHTS WATER)
DISTRICT AND ITS INDIVIDUAL) CASE NO. 2017-00468
COMMISSIONERS, JOE DAN TAYLOR,)
CHARLES BOREN, AND PAT PASCHALL)

MOTION FOR POSTPONEMENT OF SCHEDULED HEARING

Dexter-Almo Heights Water District, Joe Dan Taylor, Charles Boren, and Pat Paschall (collectively “Respondents”), by counsel, move for a 30-day postponement of the hearing scheduled in this matter.

In support of their motion, the Respondents state:

1. On January 11, 2018, the Public Service Commission (“the Commission”) initiate this proceeding to investigate allegations that Dexter-Almo Heights Water District willfully violated KRS 278.300 by issuing a promissory note payable over a 15-year period without obtaining the Commission’s authorization and that Messrs. Taylor, Boren and Paschall aided and abetted the alleged willful violation of KRS 278.300. The Commission further ordered Dexter-Almo Heights Water District and Messrs. Taylor, Boren and Paschall to respond to the allegations contained in its Order of January 11, 2018 and to appear before it on February 27, 2018 to show cause why they should not be penalized for the willful violation of KRS 278.300.

2. On January 25, 2018, Messrs. Taylor, Boren and Paschall submitted a response to the allegations contained in the Order of January 11, 2018. Mr. Warren Hopkins, an attorney licensed to practice in the Commonwealth of Kentucky, filed these responses on their behalf.

3. On January 25, 2018, Mr. Hopkins also filed on behalf of the Respondents a motion to extend the date of the scheduled hearing in this matter because Dexter District Commissioner Charles Boren would not be in the Commonwealth on the scheduled hearing date

and would not return to the Commonwealth before March 5, 2018. The Commission granted this motion and rescheduled the hearing to March 21, 2018.

4. On February 12, 2018, Mr. Hopkins advised the Commission's Executive Director by letter that "my client is the Dexter-Almo Heights Water District. I do not represent the individual commissioners named in the action." He provided a copy of this letter to Messrs. Taylor, Boren and Paschall.

5. Upon Mr. Boren's return to the Commonwealth, Messrs. Taylor, Boren and Paschall investigated the need to retain legal counsel. Based upon their previous dealings with the Commission and its Staff, they originally assumed that the proceedings would be non-adversarial and that they could adequately represent themselves without legal counsel. After learning the penalties related to the alleged offenses included criminal penalties and speaking with other water district commissioners who had faced similar proceedings, however, they recognized the need to obtain legal counsel.

6. On March 9, 2018, Mr. Taylor made an initial inquiry to Gerald Wuetcher of Stoll Keenon Ogden PLLC regarding his possible representation of Messrs. Taylor, Boren and Paschall. On March 12, 2018, Messrs. Taylor, Boren and Paschall held a conference call with Mr. Wuetcher to discuss the pending proceeding and retaining Stoll Keenon Ogden PLLC as their legal counsel.

7. While they were discussing the terms of representation with Stoll Keenon Ogden PLLC, Mr. Hopkins advised Messrs. Taylor, Boren and Paschall on March 14, 2018, that he was withdrawing as counsel for Dexter-Almo Heights Water District in this proceeding and recommended that Dexter-Almo Heights Water District retain Stoll Keenon Ogden PLLC to jointly represent the Respondents in this proceeding. Mr. Hopkins filed his notice of withdrawal with the Public Service Commission on March 16, 2018.

8. At a special meeting held on March 15, 2018, the Dexter-Almo Heights Water District's Board of Commissioners adopted a resolution to retain Stoll Keenon Ogden PLLC to represent Messrs. Taylor, Boren and Paschall in their official and individual capacities and Dexter-Almo Heights Water District and to execute a representation agreement with Stoll Keenon Ogden PLLC.

9. On March 16, 2018, Mr. Wuetcher filed with the Commission his entry of appearance on behalf of the Respondents.

10. Respondents' counsel will have only five days to prepare for the scheduled hearing in the proceeding. This limited amount of preparation time is not sufficient to enable an adequate defense on behalf of the Respondents. Respondents' counsel has yet to discuss with the Respondents the specific circumstances surrounding the issuance of the promissory note that is the subject of this proceeding or to review the records regarding that issuance.

11. Moreover, as of the date of this Motion, the Respondents have not complied with several provisions of the Commission's Order of January 11, 2018. Dexter-Almo Heights Water District has not filed a response to the allegations contained in that Order or provided a list of the witnesses or documents that it intends to introduce at the scheduled hearing. Similarly, Messrs. Taylor, Boren and Paschall have not submitted a list of their witnesses and exhibits.

12. Postponement of the scheduled hearing for 30 days would permit Respondents' counsel to adequately prepare for the hearing and to bring the Respondents in to compliance with all pre-hearing requirements set forth in the Commission's Order of January 11, 2018. Permitting the Respondents to comply with these requirements out-of-time will allow for more orderly and efficient hearing.

13. Respondents have simultaneously with the filing of this Motion filed motions to dismiss this proceeding based upon the statute of limitations and, in the case of Mr. Boren, the

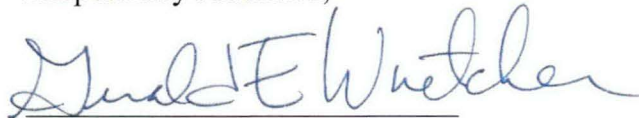
lack of any evidence to support a *prima facie* case that he aided and abetted the alleged violation of KRS 278.300. The requested postponement would allow the Commission additional time to consider these motions prior to hearing and, if it found merit in either motion, to resolve this proceeding with regard to one or all of the Respondents without a hearing. In such case, it would prevent one or all of the Respondents from incurring the expense of an unnecessary appearance before the Commission.

14. In addition to the reasons set forth above, Respondents' counsel has a conflict with scheduled hearing date. He is scheduled to make a three hour presentation on legal and regulatory issues to the Utility Management Institute's training program on March 21, 2018 in LaGrange, Kentucky, beginning in the late morning. He committed to make this presentation more than two months ago. He wishes to honor that commitment if possible.

WHEREFORE, the Respondents request that the Commission postpone the scheduled hearing in this matter for a period of 30 days.

Dated: March 16, 2018

Respectfully submitted,



Gerald E. Wuetcher
Stoll Keenon Ogden PLLC
300 West Vine Street, Suite 2100
Lexington, Kentucky 40507-1801
Telephone: (859) 231-3017
Fax: (859) 259-3597
gerald.wuetcher@skofirm.com

Counsel for Respondents