

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF MARTIN)	CASE NO.
COUNTY WATER DISTRICT FOR AN)	2018-00017
ALTERNATIVE RATE ADJUSTMENT)	

ORDER

On February 25, 2019, the Martin County Concerned Citizens, Inc. (MCCC), filed a motion asking to participate in the upcoming confidential conferences. After considering the motion, the Commission has determined that there are sufficient grounds to grant MCCC's motion in part and deny in part.

MCCC requested that MCCC's counsel and its representative(s) be allowed to attend and participate in the confidential conferences on June 18, 2019, and July 30, 2019. In support of its motion, MCCC stated that MCCC's participation in the two conferences would help the Commission because MCCC's representative, Nina McCoy, is one of the members of the request for proposals (RFP) selection review committee. MCCC also states that MCCC's participation in both confidential conferences is necessary to make the Commission aware of any concerns MCCC may have with the approved contract management entity or with the terms of the contract. MCCC representative(s) and counsel who participate in the confidential conferences offered to sign a confidentiality agreement.

In the Commission's Order entered February 21, 2019 (February 21, 2019 Order), the Commission scheduled a formal confidential conference for June 18, 2019, for the

purpose of discussing Martin County Water District's (Martin District) recommendation and selection of a contractor. Based upon a review of the record, the Commission finds that, upon the execution of a confidentiality agreement, MCCC's representative(s) and its counsel may attend, review, and participate in the discussions pertaining to Martin District's recommendation and selection of a contractor to be conducted during the June 18, 2019 formal confidential conference. MCCC's representative, Nina McCoy, and its counsel who wish to attend the conference should execute the confidentiality agreement attached as an Appendix to this Order and submit it for filing at the start of the formal confidential conference on June 18, 2019.

The Commission's February 21, 2019 Order scheduled a second formal confidential conference, to occur on July 30, 2019, for the purpose of reviewing and approving the proposed contract resulting from Martin District's RFP process. As the resulting contract will be negotiated between and entered into by Martin District and the management entity to whom the contract is awarded with MCCC not being a party thereto, the request of MCCC to participate in the July 30, 2019 formal confidential conference is denied. Because Martin District has allowed MCCC's representative, Nina McCoy, to serve as one of the members of the RFP selection review committee, MCCC and its counsel have sufficient means available to make Martin District aware of its concerns regarding the potential contract management entity through Mrs. McCoy. MCCC also will have the opportunity to make the Commission aware of any concerns it may have during the June 18, 2019 formal confidential conference. While the Commission will be privy to the contract details by virtue of its jurisdiction over Martin District and in furtherance of its Order that Martin District present its decision process and proposed contract terms for

review and approval by the Commission, MCCC is neither a party to the potential contract nor a party to the contract negotiation process. Therefore, the Commission finds that MCCC should not be present at the July 30, 2019 formal confidential conference.

IT IS THEREFORE ORDERED that:

1. MCCC's Motion to be Included in the Upcoming Confidential Conferences is granted in part and denied in part.

2. Upon the execution of the confidentiality agreement that is attached as an Appendix to this Order, MCCC's representative, Nina McCoy and MCCC's counsel may attend and participate in the formal confidential conference scheduled for June 18, 2019, at 10 a.m. Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, in Frankfort, Kentucky for the purpose of discussing Martin District's recommendation and selection of a contractor.

3. For the reasons set forth herein, MCCC's representative(s) and its counsel are not permitted to attend the formal confidential conference on July 30, 2019, at 10 a.m. Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, in Frankfort, Kentucky.

APPENDIX

**Commonwealth of Kentucky
Public Service Commission**

Confidentiality Agreement

I agree not to disclose or divulge any information pertaining to the contents, status, or ranking of the proposals submitted in response to the request for proposal (RFP) process being conducted by Martin County Water District (Martin District), in connection with Kentucky Public Service Case Nos. 2018-00017 (Ky. PSC 2018) and 2016-00142 (Ky. PSC 2016), nor the selection of a contractor as a result of Martin District's RFP process. I agree not to disclose or otherwise divulge any information regarding the above that is discussed or disclosed during the formal confidential conference on June 18, 2019. I understand that the terms "disclose or otherwise divulge" include, but are not limited to, reproduction of any part or portion of the above referenced RFP.

I understand that any behavior in contravention of the terms of this agreement or any breach of confidentiality relating hereto would result in expulsion from participation in further proceedings related to Martin District's RFP process. Additionally, any such behavior or breach of confidentiality would be considered by the Commission as unduly complicating or disrupting the proceedings pursuant to 807 KAR 5:001, Section 4(11) and intervention status could be reassessed. Further, any such behavior or breach of confidentiality could jeopardize the integrity of the ongoing procurement process being conducted by Martin District, which could require termination of the process, or cancellation of a contract award made as a result of the procurement process if said process was determined to be compromised by my breach of the terms of this agreement.

I am acting of my own accord and am not acting under duress.

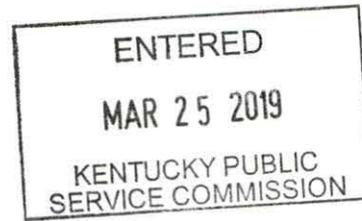
Printed Name _____

Entity _____

Signature _____

Date _____

By the Commission



ATTEST:

A handwritten signature in blue ink that reads "Steve R. Penson". The signature is written in a cursive style and is positioned above a horizontal line.

Executive Director

*Brian Cumbo
Attorney at Law
P.O. Box 1844
Inez, KENTUCKY 41224

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

*Greg Scott
General Manager
Martin County Water District
387 East Main Street, Suite 140
Inez, KY 41224

*Mary Cromer
Appalachian Citizens' Law Center, Inc.
317 Main Street
Whitesburg, KENTUCKY 41858

*M. Todd Osterloh
Sturgill, Turner, Barker & Moloney, PLLC
333 West Vine Street
Suite 1400
Lexington, KENTUCKY 40507