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MAR 16 2018

**PUBLIC SERVICE
COMMISSION**

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March 15, 2018

Gwen R. Pinson, Executive Director
Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40602-0615

RE: Martin County Concerned Citizens Inc.'s
Response to Motion for Protective Order
PSC Case No. 2018-17

Dear Ms. Pinson,

I enclose here an original and five copies of Martin County Concerned Citizens Inc.'s Response to Martin County Water District's Motion for Protective Order, which was filed on March 12, 2018.

I also send a copy of this motion to counsel for the Martin County Water District by U.S. mail and electronic mail today.

Please contact me if you have any questions regarding this filing.

Sincerely,

Mary Varson Cromer

Encls.

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

MAR 16 2018

PUBLIC SERVICE
COMMISSION

In The Matter Of:

THE APPLICATION OF THE
MARTIN COUNTY WATER
DISTRICT FOR ALTERNATIVE
RATE ADJUSTMENT

Case No. 2018-00017

MARTIN COUNTY CONCERNED CITIZENS, INC.'S RESPONSE TO
MARTIN COUNTY WATER DISTRICT'S MOTION FOR PROTECTIVE
ORDER

Martin County Concerned Citizens, Inc. ("MCCC"), by and through counsel, submits this response to Martin County Water District's ("the District") Motion for Protective Order filed with the Commission on March 12, 2018. MCCC's response is filed within seven days of the date of the District's filing of its motion and is therefore timely as set forth in 807 KAR 5:001 §5(2).

INTRODUCTION

The District asks its customers to accept an extraordinary rate increase of nearly 50%. The requested increase is extraordinary not only because it violates the basic principle of gradualism but also because the district's water loss rate is around 64%; because the District has failed to collect its accounts receivable or enforce water theft in the past and therefore requires its paying customers to subsidize its non-paying customers; and because, based on the Commission's 2016 annual report statistics for water districts, the increase would make Martin County Water District's customer's average monthly bill the second highest of all water districts in Kentucky.¹

¹ The requested increase would increase the average bill for Martin County water district customers to \$63.30. Based on 2016's statistics, the only water district with a higher rate is Jessamine-South Elkhorn Water District where the average monthly bill for 2016 was \$64.52. In 2016, Jessamine-South Elkhorn

MCCC members understand that this is their water district, and it is in danger of collapse. The members understand that more money is needed to prevent failure. The members are also aware that the District has been careless with its finances in the past and has engaged in practices that have caused distrust.

MCCC members are hopeful that the tide is turning. Members are encouraged by the willingness of new board members to work together with the community. Working together requires transparency. To build trust, the District must show its willingness to be up front with its customers regarding its financial information. In turn, MCCC will continue to work with the District to accommodate its operational constraints to the extent possible.

But its not just about repairing relationships, it is also about what the law requires. The District must meet its burden to demonstrate that the requested rate increase is just and reasonable. That burden cannot be met based on its application alone. The data MCCC seeks is necessary to substantiate the District's application.

I. The Citizens Submitted the Requests for Information As Soon As Practicable After the Conclusion of the Hearings on the District's Request for an Emergency Rate Increase.

The Commission's regulation governing MCCC's request for information in this matter is set forth at 807 KAR 5:076. That regulation provides that, at a minimum, the intervenor shall be permitted to serve written requests for information upon the applicant within 21 days of the order permitting intervention. MCCC's data requests were filed on March 6, 2018. MCCC was granted full intervention orally at the first hearing on the

was an outlier as the only water district with an average bill above \$60. Furthermore, in 2016 only two other water districts had average bills above \$50, Cannonsburg Water District and Rattlesnake Ridge Water District. There are 107 water districts in Kentucky. See 2016 Annual Report Statistics, available at: https://psc.ky.gov/utility_financial_reports_NET/stats/700_333.pdf.

emergency rate increase on January 26, 2018. The order permitting intervention was entered on February 2, 2018.

While more than 21 days elapsed between the time of the order permitting the intervention and the filing of MCCC's data requests, during that period, all parties were focused on the District's request for an immediate, emergency rate increase. An emergency hearing was held just 10 days after the District's alternative rate adjustment application was filed. Another was held 33 days later. The second of those hearings was ordered just 17 days after the order granting MCCC's intervention.

During those two emergency hearings, critical information was learned regarding the District's financial status, its controls on expenses, and its revenue collection. Many of MCCC's data requests seek to follow up on the information provided at those two hearings. Specific information regarding each of those requests is set forth in Subsection III below.

Because counsels' focus during January and February was on the District's request for an immediate, emergency rate increase and the two emergency hearings held on that matter, MCCC respectfully requests that the Commission use the discretion provided to it in 807 KAR 5:076 §10(2)² to permit the late filing of MCCC's data requests.

II. The Information Requested Is Necessary to Establish That the District Has Met Its Burden to Show that the Requested Rate Increase is Just and Reasonable.

Information submitted by the Parties in response to data requests is to be considered by the Commission in making its decision regarding the requested alternative

² "The commission may establish different arrangements for discovery if it finds different arrangements are necessary to evaluate an application or to protect a party's rights to due process." 807 KAR 5:076 §10(2).

rate adjustment. 501 KAR 5:076 §3(3). In making that decision, the Commission must determine whether the District has met its burden of proof to show that the requested increase is just and reasonable. *See* KRS 278.190(3).

All data requests submitted by MCCC go directly to the issue of whether the proposed rate adjustment is just and reasonable. Nineteen of the twenty-two data requests made by MCCC seek additional information regarding the District's operation and maintenance expenses³ or revenue⁴ during the test year or request information related to the District's claimed depreciation expenses⁵ for the test year. Each of these requests seeks information to substantiate the numbers provided for the test year on the District's Schedule of Adjusted Operations.

The three remaining requests seek budgets approved by the District's board (Request 8) and information related to potential rate designs (Requests 20-21), with the idea being that the District may be able to design a rate that is more forgiving for Martin County citizens, like Board Treasurer Jimmy Kerr's grandmother, who live alone on a fixed income.

Additionally, as set forth above, eight of the requests seek to follow up on testimony provided at the emergency hearings of January 26, 2018 and February 28, 2018. MCCC was not aware of the need to seek such information related to the District's claimed revenue requirements before the hearings' testimonies. Specifically, in data requests 1 and 2, MCCC requests receipts and records of purchases made from January 1,

³ Data requests directly seeking information regarding the District's reported operation and maintenance expenses during the test year are found at: MCCC Initial Requests for Information, Requests 1-2, 5-7, 9-15, and 22.

⁴ Data requests directly seeking information regarding the District's reported revenue during the test year are found at: MCCC Initial Requests for Information, Requests 3-4.

⁵ Data requests directly seeking information regarding the District's depreciation expenses during the test year are found at: MCCC Initial Requests for Information, Requests 16-19.

2016 to the present. Based on the District's testimony regarding the lack of controls on expenses and questions related to the procurement of goods, MCCC seeks a better understanding of the extent to which the expenses for 2016 on which the requested rate increase are based are justifiable. Documentation of purchases during the test year will provide MCCC and the Commission with a basis upon which to determine whether the stated revenue needs of the District can be substantiated. Documentation of purchases from January 1, 2017 to the present will provide the Commission and MCCC with information needed to determine whether the problems revealed during the hearings regarding the district's controls on expenses continue beyond the test year. The determination of the scope of the purchasing problems is necessary as the Commission considers what controls to order or recommend as a condition of any rate increase.

Similarly, data requests 3-4, 7 and 22 seek further documentation of the District's outstanding accounts receivable and bad debt expense based on the revelations during the first emergency hearing that the district was carrying over \$600,000 in outstanding accounts receivable and had done very little in the past to collect that money.

Likewise, data request number 8 stems from the testimony at the February 28th hearing that at times the District has operated on an approved monthly budget, as well as the need to better understand the degree to which the past board approved budgets under which revenues were clearly insufficient to meet the District's expenses without seeking a rate increase. Finally, data request number 9 stems from the testimony of Linda Sumpter that the determination of whether to account for line replacements as capital or operating expenses was made entirely by the Operations Manager on a case-by-case basis

and previous testimony in Case No. 2016-162 indicating that the District had conducted extensive line replacements in the recent past.

III. MCCC Will Agree to a Reasonable Extension of Time for the District to Respond to the Requests for Information.

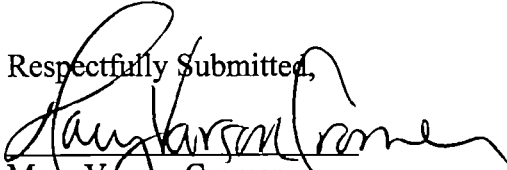
The District states that the financial and administrative burdens of complying with MCCC's requests are too great at this critical point when the District is working with a new board and a new interim general manager. MCCC is aware of the daily operational difficulties of the District. However, the burden of data production must be considered in light of the District's burden to establish that the rates sought are just and reasonable.

Pursuant to 807 KAR 5:076 §10(c), the data requested by MCCC is due within 21 days of the District's receipt of the Requests, which is no later than March 29, 2018. The staff report is due no later than May 1, 2018. The information requested may inform the staff and MCCC as the staff it prepares its report to the Commission. Given the circumstances of the District, MCCC will agree to an extension of time that would give the District until April 16, 2018 to reply to MCCC's requests.

CONCLUSION

Based on the foregoing arguments, MCCC respectfully asks the Commission to deny the District's Motion for Protective Order and order the District to produce all data requested by April 16, 2018.

Respectfully Submitted,


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Counsel for MCCC

DATED: 3/15/18

CERTIFICATE OF SERVICE

Pursuant to 807 KAR 5:001 Sec. 6, I, Mary Varson Cromer, hereby certify that on 3/15/18, a true and accurate copy of the foregoing Response to Motion for Protective Order was served via electronic mail and postage-paid U.S. mail to the following:

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cumbolaw@cumbolaw.com
Counsel for Martin County Water District


Counsel for the MCCC