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January 17, 2019

VIA ELECTRONIC MAIL

The County Commission of Jefferson County
c/o Patsy Noland, *President*
124 E. Washington Street, 2nd Floor
Charles Town, West Virginia 25414

Re: Jefferson Utilities, Inc.
Rockwool Water Line Extension

Dear County Commission and Ms. Noland:

I represent Jefferson Utilities, Inc. ("Jefferson Utilities") concerning the above-referenced water line extension to serve Roxul USA Inc. ("Rockwool"). Jefferson Utilities understands that The County Commission of Jefferson County (the "County Commission") has allocated time on its Thursday, January 17, 2019 agenda to discuss the water line extension. Please allow this letter to serve as an update on the status of the water line extension:

Jefferson Utilities is pleased to advise the County Commission that construction has commenced on the water line extension to serve Rockwool. Such construction is only possible due to Rockwool's prior agreement to pay for all costs associated with the water line extension, which are currently estimated at \$5,275,229. Jefferson Utilities previously obtained a certificate of convenience and necessity from the Public Service Commission for the water line extension (Case No. 18-0657-W-ECN, Comm'n Order, July 12, 2018).

It is important to note that there will be **NO** current or future rate impact to the customers of Jefferson Utilities as part of the cost associated with the water line extension to serve Rockwool. Jefferson Utilities has agreed to pay Rockwool each month an amount equal to \$2.88 per 1,000 gallons of water sold in the month immediately prior to said month to all customers served by Jefferson Utilities on the Jefferson Orchards Site. In other words, if no water is sold to customers at the Jefferson Orchards Site, then no payment is made to Rockwool. Simply put, if Rockwool or other customers at the Jefferson Orchards Site do not buy water, then Rockwool will never be reimbursed for the cost of the water line extension.

Jefferson Utilities would like to make it clear that it has obtained all of the permits and approvals required for the water line extension to serve Rockwool. In addition, it has secured the real property rights required for the water line extension. In sum, Jefferson Utilities

has complied with all of the legal requirements associated with the water line extension. If it had not, then it would not have commenced construction of the water line extension.

It is also worth noting that the Public Service Commission's *Water Rule* 5.5.a (W. VA. CODE R. § 150-7-5.5.a) states that "[a] water utility, whether publicly or privately owned, is under a public service obligation to extend its mains, and its plant and facilities to serve new customers within its service area who may apply for service." Rockwool has applied for water service from Jefferson Utilities. In addition, Rockwool has agreed to pay for the entire cost associated with the water line extension. Under this scenario, Jefferson Utilities is obligated to extend service to Rockwool. This conclusion is clearly supported by the case law of the Public Service Commission¹ and Supreme Court of Appeals of West Virginia.²

Jefferson Utilities finds it disturbing that a County Commissioner has chosen to use his elected position as a platform to publicly disparage Jefferson Utilities and its President, Lee Snyder. Jefferson Utilities and Mr. Snyder have done nothing other than comply with their legal obligations to provide water service in Jefferson County, West Virginia. Should the unwarranted attacks on Jefferson Utilities and Mr. Snyder continue, please be advised that all legal remedies will be pursued to address the unlawful use of an elected position to further personal interests.

Should the County Commission like further information about the water line extension to serve Rockwool, Jefferson Utilities respectfully requests that the County Commission submit such requests in writing. Jefferson Utilities will gladly provide written responses to the County Commission's questions concerning the water line extension.

If you have any questions, or if I can provide any further information, please do not hesitate to call.

Sincerely,



Todd M. Swanson

¹ *George Neilan v. Cty. of Charleston Sanitary Bd.*, Case No. 12-1640-S-C (Comm'n Order, June 2, 2017); *Kanawha Falls Pub. Serv. Dist.*, Case No. 16-0314-PSD-PC (Final Order, Sept. 11, 2016); *East Resources, Inc.*, Case No. 04-0979-G-X (Comm'n Order, Nov. 10, 2004).

² *Benwood-McMechen Water Co. v. Cty. of Wheeling*, 121 W. Va. 373, 4 S.E.2d 300 (1939); *Preston County Light and Power Company v. Renick*, 145 W.Va. 115, 113 S.E.2d 378 (1970); *Harry C. Boggs v. Public Service Commission*, 145 W.Va. 46, 174 S.E.2d 331 (1970); *State ex rel. City of Wheeling v. Renick*, 145 W.Va. 640, 652, 116 S.E.2d 763, 770 (1960).

cc: Commissioner Jane M. Tabb
Commissioner Caleb Wayne Hudson
Commissioner Ralph Lorenzetti
Commissioner Josh Compton
B. Lee Snyder