

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ALLEGED FAILURE OF ESTILL COUNTY)	CASE NO.
WATER DISTRICT NO. 1 TO FILE REQUIRED)	2012-00500
REPORTS)	

ORDER

On November 21, 2012, the Commission ordered Estill County Water District No. 1 (“Estill County Water”) to show cause why it should not be subject to the penalties in KRS 278.990 for failing to comply with KRS 278.230(3). The Order also provided that Estill County Water, if it wanted to avoid a hearing, should have filed, no later than December 20, 2012, its required reports with the Commission, as well as a \$250.00 fine. Estill County Water did not file the required reports or pay the \$250.00 fine by December 20, 2012. A hearing in this matter was held on January 23, 2013. No representative appeared on behalf of Estill County Water.

1. Estill County Water owns, controls, operates, and manages facilities in the Commonwealth of Kentucky which are used for and in connection with the distribution and furnishing of water to the public for compensation, and facilities which are used for and in connection with the collection, transmission, or treatment of sewage for the public for compensation. It is, therefore, a utility subject to Commission jurisdiction.¹

2. KRS 278.230(3) directs every utility, when required by the Commission, to file with it any report or other information that the Commission reasonably requires.

¹ KRS 278.010(3)(d) and KRS 278.010(3)(f).

3. 807 KAR 5:006, Section 4(1), requires every utility to file with the Commission, on or before March 31 of each year, a financial and statistical report of its utility operations for the preceding calendar year on forms furnished by the Commission. KRS 278.990 provides penalties for utilities that fail to file the required reports.

4. On or about December 15, 2011, the Commission provided to Estill County Water the standard forms for the annual financial and statistical reports.

5. As of April 1, 2012, Estill County Water had not filed the required reports for the 2011 calendar year operations nor requested an extension of time in which to make such filing.

6. On February 7, 2013, Estill County Water filed its required reports and paid a \$250.00 fine.

7. Estill County Water acknowledged that it had not timely filed its reports.

8. Estill County Water informed the Commission that the delay in filing the required reports was caused by the manager's frequent absence due to family issues.

9. Where the act a utility is required to do is merely clerical in nature, willfulness or deliberate intent can be inferred from the fact of noncompliance.²

10. Estill County Water has willfully failed to comply with KRS 278.230(3).

11. KRS 278.990(1) provides that any utility that willfully violates any provision of KRS Chapter 278 or any regulation promulgated pursuant to KRS Chapter 278 or fails to perform any duty imposed upon it under those sections shall be subject to a civil penalty not less than \$25.00 and not more than \$2,500.00.

² See *Re Dyke Water Company*, 55 PUR3d 342 (Cal. P.U.C. 1964).

12. Estill County Water shall be assessed a penalty of \$2,500.00 for its willful failure to comply with KRS 278.230(3).

13. Prior to the issuance of this Order, Estill County Water did file its required reports and paid a \$250.00 fine. Therefore, the \$2,500.00 penalty shall be suspended for two years, pending Estill County Water's timely filing of its 2012 and 2013 annual reports.

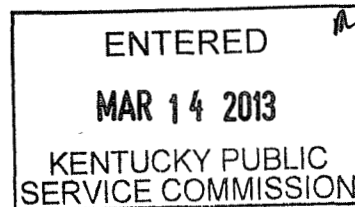
IT IS THEREFORE ORDERED that:

1. Estill County Water is assessed a penalty of \$2,500.00 for its willful failure to comply with KRS 278.230(3).

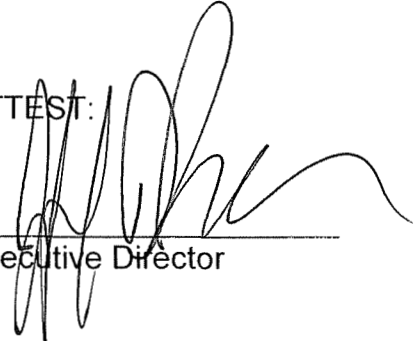
2. The \$2,500.00 penalty is suspended contingent upon Estill County Water's timely filing of its 2012 and 2013 annual reports.

3. This case is closed and removed from the Commission's docket.

By the Commission



ATTEST:



Executive Director

Case No. 2012-00500

Audrea Miller
Office Manager
Estill County Water District #1
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Irvine, KY 40336