

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CITY OF FLEMINGSBURG AND CITY OF	)	
FLEMINGSBURG UTILITY SYSTEM	)	CASE NO.
ALLEGED FAILURE TO COMPLY WITH	)	2017-00079
KRS 278.495 AND 49 CFR PART 192.605(A);	)	
49 CFR PART 192.721; 49 CFR PART	)	
199.105; AND 49 CFR 199.225	)	

ORDER

On March 6, 2017, the Commission opened an investigation into a January 28, 2016 incident involving the city of Flemingsburg and its operation, through a department of the city, the Flemingsburg Utility System (collectively “Flemingsburg”). Our March 6, 2017 Order set this matter for a hearing on June 13, 2017.<sup>1</sup> Our March 6, 2017 Order included, among other things, the following requirement regarding the June 13, 2017 hearing:

The city of Flemingsburg and the Flemingsburg Utility System shall, in addition to any other witnesses they may seek to present, produce as witnesses for examination at the June 13, 2017 hearing the employees on site at the time of the January 28, 2016 incident and also Flemingsburg’s utilities superintendent, Joe Edward Dunaway, Jr.<sup>2</sup>

On April 24, 2017, Flemingsburg requested an informal conference with Commission Staff. Flemingsburg asked that, in the event that the Commission did not grant an informal conference, any hearing be limited to the sole issue of penalties

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<sup>1</sup> Order (Mar. 6, 2017) at 5 and 6.

<sup>2</sup> *Id.* at 6.

described in KRS 278.992(1).<sup>3</sup> Further, Flemingsburg asked that, in the event that the Commission did not grant an informal conference, Joe Edward Dunaway, Jr., alone be required to testify, rather than all of the employees involved with the January 28, 2016 incident.<sup>4</sup> On May 24, 2017, we entered an Order scheduling an informal conference for May 30, 2017.

The Commission has reviewed Flemingsburg's request for an informal conference and our May 24, 2017 Order. We find that the Informal Conference should be cancelled. As required by our March 6, 2017 Order, Flemingsburg is to appear on June 13, 2017, at the scheduled hearing. We find that Flemingsburg does not present good cause for limiting the scope of our inquiry into the January 28, 2016 incident. We further find that Flemingsburg does not present good cause for excusing any of the employees involved in the January 28, 2016 incident from the June 13, 2017 hearing. While we are aware that Flemingsburg has admitted the allegations contained in the Incident Investigation Report for the January 28, 2016 incident, we do not find that the admission limits inquiry into the event.

The Commission, on its own motion and finding good cause, HEREBY ORDERS that:

1. The Informal Conference scheduled for May 30, 2017, is cancelled.
2. Flemingsburg's motion to limit the scope of the hearing is denied.
3. Flemingsburg's motion to excuse all the employees involved with the January 28, 2016 incident other than Joe Edward Dunaway, Jr. is denied.

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<sup>3</sup> Response to Order, Motion for Enlargement of Time, Request for an Informal Conference (filed Apr. 24, 2017) at 2 and 3.

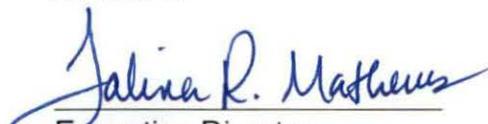
<sup>4</sup> *Id.* at 3.

4. All provisions of our March 6, 2017 Order regarding the June 13, 2017 hearing remain in full force and effect.

By the Commission

ENTERED  
MAY 25 2017  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

Case No. 2017-00079

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