COMMONWEALTH OF KENTUCKY

BEFORE THE UTILITY REGULATORY COMMISSION

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In the Matter of

COMPLAINT OF JIM AND VIVIAN COOPER AND OTHERS, HIGHLAND CLUB ESTATES, GRAVES COUNTY, KENTUCKY AGAINST RED WING UTILITY COMPANY	)	CASE NO. 7543

Order Dismissing Complaint

On July 10, 1979, the Utility Regulatory Commission ("Commission") issued an order in Case No. 7371 which established an initial rate of $25.45 per month for Red Wing Utility Company to charge for providing sewerage service to the residents of the Highland Club Estates in Mayfield, Kentucky. Since this was an initial rate with no customers being served under an old rate at the time of the application, the provisions of KRS 278.185(1) requiring notice to existing customers did not, of course, apply.1/

On July 30, 1979, Jim and Vivian Cooper, et al. (hereinafter "Complainants"), residents of Highland Club Estates, filed a complaint with this Commission alleging that they were assured by the developer of Highland Club Estates that Red Wing Utility would not apply to this Commission for an initial rate in excess of $12 per month.

A hearing was held in this matter on November 8, 1979, with the Attorney General's Office intervening and participating therein.

Based upon the above-recited facts as developed in the hearing and pleadings in this matter, the Commission hereby FINDS as follows:

1. The rates applied for by Red Wing Utility Company in Case No. 7371 which culminated in an order issued July 10, 1979

1/The record indicates that several homes were actually hooked-up to the plant and being served at the time of the application for the initial rate. However, the record also establishes that no charges were being made for this service. KRS 278.010(f) defines a utility in this instance as a company engaged in "the treatment of sewage for the public, for compensation***." Since no compensation was being received at the time of the application, no utility service was being provided and there were, therefore, no "customers" to be notified.

approving a $25.45 monthly sewerage charge for the residents of Highland Club Estates in Mayfield, Kentucky, was an initial rate that did not require notice to any member of the public.

2. KRS 278.040(2) gives the Utility Regulatory Commission exclusive jurisdiction over the rates and services of all private sewerage utilities operating in the Commonwealth. Whatever agreement, understanding, or contract that was made between the utility or the developer and the prospective customers of the utility, is not binding on this Commission.2/ The initial rates established for Red Wing Utility Company on July 10, 1979 were based on a complete record compiled before this Commission and were found to be the fair, just and reasonable rate for the utility's service at that time. It is, accordingly, the only lawful rate that may be charged by Red Wing and it is the rate all prospective customers must pay if they desire service from this utility.

Based on the above-stated findings, and being advised, the complaint filed by Jim and Vivian Cooper et al. should be, and hereby is, DISMISSED.

2/Midland Realty Company v. Kansas Power and Light Company, 300 U.S. 109 (1936); Fern Lake Company v. Public Service Commission, 367 SW 2d 701 (1962).

Done at Frankfort, Kentucky, this 2nd day of July, 1980.

UTILITY REGULATORY COMMISSION

Chairman

Vice Chairman

Commissioner

ATTEST:

Secretary