

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,) CASE NO. 7543
KENTUCKY AGAINST RED WING)
UTILITY COMPANY)

Order Denying Rehearing

On July 2, 1980, the Utility Regulatory Commission ("Commission") dismissed the complaint filed by Jim and Vivian Cooper, et al. ("Complainants") against the Red Wing Utility Company of Mayfield, Kentucky. On July 24, 1980, the Complainants filed an application for rehearing alleging that the Commission's July 2, order was erroneous for the following reasons: (1) Statements by certain members of the Commission's staff created a duty on the part of the Commission to notify the Complainants about the content of Red Wing's rate filing in 1979; (2) The adversary relationship between Red Wing and the developer of Highland Club Estates requires the Commission to "honor" whatever agreement as to the ultimate rates reached by these parties; and (3) That the "false and misleading testimony" of Red Wing as to the prospective customers' awareness of the 1979 rate filing influenced this Commission's decision.

The Utility Regulatory Commission, like any administrative agency, speaks only through its written orders.^{1/} Thus, whatever the Complainant's were told by a member of the Commission's staff regarding "notification" of the rate filing is not binding on the Commission. Moreover, the Commission did not "ignore" the testimony regarding the agreement or "contract" between Red Wing and the developer, but, instead, specifically pointed out that such

^{1/}Union Light, Heat & Power Co. v. Public Service Commission, 271 SW 2d 361,365 (Ky. 1954).

"agreements" are irrelevant to a ratemaking agency:

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. (July 2, 1980 Order, mimeo p. 2).

Equally irrelevant is the issue of whether or not the prospective customers who were living in Highland Club Estates at the time of Red Wing's application were or were not aware of Red Wing's rate application and had or had not objected to it. As fully discussed in the July 2 order, none of the residents of Highland Club Estates were paying any rate at the time of Red Wing's original rate application and, therefore, the residents were not "customers" of the utility entitled to notice under KRS 278.187(1).

For these reasons, the Commission hereby denies the application for rehearing filed by Jim and Vivian Cooper et al. in this proceeding.

Done at Frankfort, Kentucky, this 13th day of August, 1980.

UTILITY REGULATORY COMMISSION


For the Commission

ATTEST:

Secretary