

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE COMPLAINT OF MR. W. E. DRURY,)
MR. LONNIE BROWN AND MR. ROBERT)
PERRY, VERSAILLES, KENTUCKY,) CASE NO. 8504
AGAINST SOUTH WOODFORD COUNTY)
WATER DISTRICT)

INTERIM ORDER

On April 14, 1982, Mr. William E. Drury, Mr. Lonnie Brown and Mr. Robert Perry (hereafter "Complainants") filed a complaint with this Commission alleging that the South Woodford County Water District (hereafter "South Woodford") had unlawfully refused to provide residential water service to Complainants after proper application had been made.

On April 20, 1982, the Woodford Circuit Court, after finding that an emergency existed, ordered South Woodford to provide temporary water service to the residence of Mr. Lonnie Brown until May 1, 1982. In so ruling, the Woodford Circuit Court required the Plaintiff, Mr. Lonnie Brown "to explore whether or not the Public Service Commission considers itself to have jurisdiction of this matter and to report back to the Court with some ruling from the Public Service Commission on that point." 1/

1/ Woodford Circuit Court Order, p. 2, April 20, 1982.

On April 26, 1982, South Woodford submitted its answer to the complaint to this Commission. Therein, South Woodford emphasized that it had a strict volumetric limitation on the amount of water it may purchase under its contract with its wholesale supplier, the City of Versailles. South Woodford further stated that due to this lack of additional water to supply new customers, it had exercised its discretion to refuse service to new customers requiring an extension of the district's existing water lines, and that this policy had been informally approved by this Commission through consultation with members of our engineering staff.

On September 26, 1982, South Woodford notified Mr. Lonnie Brown (through a letter to his attorney) that the district would discontinue service to Mr. Brown's residence on May 1, 1982, the date the Woodford Circuit Court's injunction expires. On April 29, 1982, counsel for Mr. Brown and the other two Complainants in this case filed a motion with this Commission seeking an interim order requiring South Woodford to continue its present service of water to the Complainants until such time as a full evidentiary hearing can be had before the Commission and a final order issued thereafter.

Based upon the above-stated facts and being advised, the Commission hereby finds as follows:

1. KRS 278.040(2) states as follows:

The jurisdiction of the commission shall extend to all utilities in this state. The commission shall

have exclusive jurisdiction over the regulation of rates and service of utilities, but with that exception nothing in this chapter is intended to limit or restrict the police jurisdiction, contract rights or powers of cities or political subdivisions.

KRS 278.010(3)(d) defines a water utility as "any person except a city, who owns, controls or operates or manages any facility used or to be used for or in connection with the diverting, developing, pumping, impounding, distributing or furnishing of water to or for the public, for compensation." Since South Woodford County Water District distributes water to retail customers within its service area, it is clearly a utility subject to the PSC's jurisdiction. The complaint in this case involves the refusal of service to a certain group of customers and, as such, this matter falls within the exclusive jurisdiction of the Public Service Commission under the provisions of KRS 278.040(2) quoted above.

2. South Woodford is correct that this Commission has given its implied approval (through consultation with our staff) to the district's present policy of refusing service to new customers where a line extension is required when the district is unable to negotiate a larger water supply from its wholesale supplier. However, KRS 278.170(1) states as follows:

No utility shall, as to rates or service, give any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage, or establish or maintain any unreasonable difference between localities or between classes of service for doing a like and contemporaneous service under the same or substantially the same conditions.


Accordingly, the Commission is of the opinion that an evidentiary hearing in this matter is required to determine (1) whether South Woodford (under its present volumetric limitation by the City of Versailles) has provided service to any new customers where no line extension is required, and (2) if so, does such a practice discriminate against other "potential" new customers residing within the district's boundaries but who can only be served through a line extension?

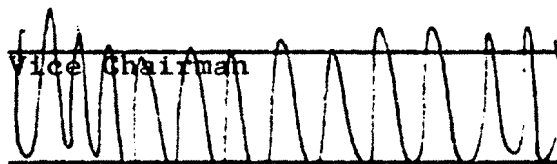

IT IS THEREFORE ORDERED that South Woodford County Water District and the Complainants herein shall appear at a public hearing to be held in the Commission's offices in Frankfort, Kentucky on May 7, 1982, at 10:00 A.M., E.D.T.

IT IS FURTHER ORDERED that South Woodford County Water District shall take no action to terminate the existing service to the Complainants herein pending the resolution of this matter by a final Order of this Commission.

Done at Frankfort, Kentucky this 29th day of April, 1982.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

Commissioner

ATTEST:

Secretary