

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of

THE RESPONSIBILITY OF ASH AVENUE)	
SANITATION COMPANY AND VILLAGE)	
GREEN, INC., FOR THE MAINTENANCE)	CASE NO.
OF A SEWER LIFT STATION IN VILLAGE)	8519
GREEN, JEFFERSON COUNTY, KENTUCKY)	

FINAL ORDER

On May 3, 1982, the Commission received a letter from George Lehmann, a developer, requesting a hearing and resolution of a dispute between Ash Avenue Sanitary Sewer Company ("Ash Avenue") and Village Green, Inc., ("Village Green") over permanent ownership of and responsibility for a sewer lift station. This lift station is currently in use and will also be used to provide sewerage service to adjacent lots being developed by Mr. Lehmann which were formerly owned by Village Green. A hearing was held on June 1, 1982, at which the complainant and the principals in Village Green and Ash Avenue appeared and testified.

An agreement between Ash Avenue and Village Green executed on February 1, 1978, was introduced at the hearing as an exhibit. The dispute between Village Green and Ash Avenue centers around paragraph 2 which provides for Village Green to build, maintain and repair the lift station until it is conveyed to Ash Avenue. Under the agreement, Ash Avenue need not accept the conveyance

until it is tested for proper operation and repaired or cleaned to the satisfaction of Ash Avenue. Although Village Green tendered the lift station to Ash Avenue in March of 1982, Ash Avenue refused to accept title believing major repair work needed to be performed. Village Green also ceased making payment of utility bills for and repairs to the lift station. Since that time, Ash Avenue has been making necessary repairs and paying the utility bills to keep the lift station in operation.

Based upon the evidence of record and being advised, the Commission is of the opinion and FINDS that:

1. Ash Avenue is a utility providing sewerage service pursuant to KRS 278.010, and the rates and service of Ash Avenue are within the exclusive jurisdiction of this Commission under KRS 278.040.
2. The collection and treatment of sewage in certain portions of Village Green Subdivision are jeopardized by the continued dispute between Village Green Subdivision and Ash Avenue.
3. KRS 278.030(1) requires Ash Avenue to provide "adequate, efficient and reasonable service" including the collection and treatment of sewage, in return for "fair, just and reasonable rates."
4. Without regard to the agreement between Ash Avenue and Village Green Subdivision, Ash Avenue should therefore be required to continue operating the lift station in Village Green Subdivision as it is a necessary facet of its ability to collect and treat sewage.

5. The jurisdiction of this Commission does not extend to a review of the February 1, 1978, agreement for any actionable claims between Village Green and Ash Avenue, nor can this Commission award damages resulting therefrom; the courts provide the proper forum for such matters.

IT IS THEREFORE ORDERED that Ash Avenue shall operate the lift station in Village Green Subdivision and that in all other aspects, the case is dismissed.

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

PUBLIC SERVICE COMMISSION

Marlin M. Voh
Chairman

Katherine Randall
Vice Chairman

Len Carrigan
Commissioner

ATTEST:

Secretary