

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE COMPLAINT OF MS. FRAN COLE,)
FRANKFORT, KENTUCKY AGAINST)
FARMDALE DEVELOPMENT CORPORATION) CASE NO. 8547

ORDER ON REHEARING

On March 22, 1982, the Public Service Commission (Commission) received a letter from Ms. Fran Cole, Frankfort, Kentucky, concerning problems she is experiencing with sewer service, including the backing of sewage into her home. Sewer service is provided by Farmdale Development Corporation (Farmdale). The Commission investigated the complaint and prepared a Staff Report dated April 5, 1982, summarizing the investigation and containing conclusions and recommendations.

A copy of the Report was forwarded on April 5 to Mr. Carroll Cogan of Farmdale, requesting that he respond to the matters in the Report no later than May 5, 1982. No written response was made. On May 26, 1982, Mr. Cogan was again requested to respond. No written response was made. However, Mr. Larry Smither, operator of Farmdale, contacted the staff by telephone during this period to obtain more time to investigate the problem.

On June 10 the Commission ordered Farmdale to show cause why the staff's recommendations should not be implemented.

The hearing was held at the Commission's office on June 16. No representative of Farmdale appeared to respond to the Commission's order.

Evidence was received from the complainant, Ms. Cole. She purchased the home new and until recently experienced no problems with the sewage system. However, in the last several months, sewage has been backing up into her house, making use of the toilet, washing machine, etc., impossible for parts of each day. A plumber hired by her inspected the sewer line and found no obstructions, but informed her that her service line may be improperly installed.

Ms. Cole further testified that contacts with Mr. Cogan of Farmdale failed to resolve the problem. She then complained to this Commission.

As a result of the hearing, an order was issued on June 17, 1982. That order required Farmdale to correct the complainant's sewage problem.

On July 6, 1982, Farmdale filed a Petition for Rehearing. The petition was granted and a rehearing held on July 8.

At the rehearing, it was learned that Mr. Smither had been aware of Ms. Cole's complaint since January or February. However, the first time he informed her of his opinion of the source of the problem was at the rehearing. Mr. Martin Cogan, representing Mr. Carroll Cogan, testified that Ms. Cole's problem constituted a health hazard which should be corrected. He also

testified that he neglected to open the certified letter setting the June 10 hearing until June 10 and for that reason Farmdale was not represented at the hearing.

Thus, Farmdale was aware of Ms. Cole's problem no later than February 1982 but did not advise her of its opinion of the cause of the problem until the rehearing held July 8. Giving due consideration to Farmdale's verbal communications with the Commission staff and other evidence provided by Farmdale at the rehearing, the Commission is of the opinion that five months is an excessive period of time to investigate a problem resulting in a health hazard of this nature and to identify the party with the responsibility for correcting the problem. Thus, Farmdale failed to meet the legislatively imposed standard of service set out in 278.030(2).

The Commission also must serve notice on Farmdale and on other similar utilities that it will not tolerate inattention to Commission deadlines in the future. No penalty will be assessed in this instance solely because Farmdale may have had reason to believe that it had received extensions of Commission deadlines from Commission staff.

At the rehearing Farmdale presented witnesses who described the topography of Ms. Cole's lot and the layout of the sewer system. Ms. Cole's lot was not part of the original sewer system because of the lack of sufficient grade to enable sewage to flow by gravity from her lot to the nearest sewer main.

The developer of the subdivision, Mr. Charlie Weaver, testified that he joined Ms. Cole's lot with another and sold both of them to another builder with the expectation that any building would occur on the other lot and that her lot would be used for garden purposes. Mr. Weaver added that his engineer believed that the lot was unsuitable for connection to the sewer system due to the lack of proper elevation in relation to the sewage system and that FHA included a lift station requirement in its construction plans for the lot because of its low elevation.

Mr. Larry Updike, Utility Inspector of the Commission, stated that he inspected the site on July 7 and found only a minimal grade from Ms. Cole's service line to the manhole, which apparently with the passage of time or settling of the line had become insufficient.

All of the testimony indicated that the problem which exists is in the service line between Ms. Cole's house and the main. The two reasons given for the problem are lack of adequate grade and the possibility of settling of a portion of the line which obstructs the normal flow of sewage. The sewage treatment facilities are now and have been functioning properly.

The Commission regulations define "customer service pipe" as "...any sewer pipe extending from the customer's residence... receiving and transporting sewage to the utility's collection sewer...." 807 KAR 5:071(2)(4). "Collecting sewer" is defined as "...sewers, including force lines, gravity sewers, interceptors,

laterals, trunk sewers, manholes, lampholes and necessary appurtenances...used to transport sewage and are owned, operated, or maintained by a sewage disposal utility." 807 KAR 5:071(2)(2).

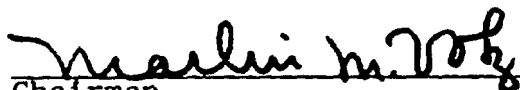
From the evidence presented, the line from Ms. Cole's home to the manhole is a "customer service pipe." 807 KAR 5:071(8)(2) states: "The customer shall install and maintain that portion of the service pipe from the end of the sewage utility's portion into the premises served."

Thus, Ms. Cole is responsible for remedying the problem with her service line caused by lack of grade or settlement of a portion of the line which leads to a restriction of the flow.

After a review of the record, the Commission orders Farmdale to be more diligent in responding to staff requests and customer complaints, and that the complaint of Ms. Cole is dismissed.

Done at Frankfort, Kentucky, the 14th day of July, 1982.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Secretary