

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

THE COMPLAINT OF MR. SALVATORE)
LAURIA AGAINST THE BIG SANDY) CASE NO. 8987
WATER DISTRICT)

ORDER

Mr. Salvatore Lauria wants the Big Sandy Water District ("Big Sandy") to provide water service for his home on Blue Ribbon Road in Boyd County, Kentucky. Mr. Lauria is of the opinion that his home should have been served by Big Sandy's initial construction project completed in July 1983. This project provided for the purchase of water from Kenova, West Virginia, and for the distribution of this water to a broad area of southeastern Boyd County, along some roads in south central and southwestern Boyd County and to a part of eastern Carter County.

Mr. Lauria's complaint about his lack of water service and his allegations of unfair and discriminatory treatment were not alleviated by Big Sandy's responses to his complaint and he, therefore, asked for a public hearing on the matter. A public hearing was held in the offices of the Commission in Frankfort, Kentucky, on March 15, 1984, to provide all parties of interest an opportunity to be heard. Appearing at the hearing and providing

testimony for the complainant were Mr. Salvatore Lauria, the complainant, and Alice Lauria, his wife. Appearing and providing testimony for Big Sandy were Joseph S. Sisler, its engineer, Ms. Nicky Blanton, its treasurer, Mr. J. C. Prichard, its chairman, and Mr. David Salisbury, its former chairman.

DISCUSSION

After its establishment as a water district, Big Sandy prepared for its first construction project by making studies of the area it proposed to serve and by securing the financing essential to the construction of a water distribution system to serve the area.

Information essential to decisions on where to construct was obtained by a house-to-house survey of the area. The number of committed applicants¹ and their locations along the public roadways in the area were used by Big Sandy to determine the location and the size of distribution mains.

Mr. Lauria, according to Big Sandy's records, was the only committed applicant located on a 1.06 mile section of Blue Ribbon Road. Mr. Lauria has testified that two of his neighbors, Mrs. G. G. Byrd and Mr. and Mrs. Mack Church, should also have been counted as committed applicants. He also stated that the number

¹ A committed applicant is defined as one who "signed up" for service during the house-to-house survey of the area. This "sign up" included a \$100 deposit and a signed agreement to take water service if the service was made available by Big Sandy.

of homes now wanting water on the 1.06 mile section of Blue Ribbon Road is seven. He filed a copy of a December 6, 1983, application for water service that had been signed by himself and the other residents.

At the March 15, 1984, hearing, Mr. Lauria testified in support of his contention that Big Sandy's actions regarding water service to Blue Ribbon Road had been discriminatory. He further argued that the construction had been wrongfully planned and carried out without due consideration for the construction cost per customer or for the best method for distribution of water to residents located in the general area of Blue Ribbon Road. He argued that the construction of a water main in the vicinity of his home, but not to his home, was not based on fair, just and equal treatment to all of Big Sandy's applicants for water service.

Mr. Lauria's and Big Sandy's differing statements on the number of committed applicants on Blue Ribbon Road are not significant to the purposes of this Order. Mr. and Mrs. Mack Church, according to information filed March 23, 1984, by Big Sandy, did not complete payment to the bank of the \$100 paid to Big Sandy by the bank; and the \$100 was returned to the bank by Big Sandy. Therefore, the Churches were not committed applicants. Mr. Lauria's other applicant neighbor - Mrs. G. G. Byrd - was, apparently, a committed applicant. It should also be noted that 1/2 mile is the approximate length of water main required to serve the residences of both the Laurias and the Byrds. A generalized

factor of consideration by the Farmers Home Administration is that each mile of water main should serve 10 to 12 applicants to justify its construction.

There are two ways for Big Sandy to provide service to those not reached by its original construction project. Commission Regulations (Section 12 of 807 KAR 5:066) define Big Sandy's obligations and its applicants' obligations for payment of the cost of water main extensions to the existing system. The second way would be by another general water main construction project. Big Sandy has asked the Farmers Home Administration for funds to finance such a project, but had not received a favorable response as of the date of this Order. Big Sandy prepared an estimate of the cost of extending a water main to the applicants on Blue Ribbon Road. The applicants have not, however, agreed to payment of the estimated cost of the proposed main.

At the March 15, 1984, hearing Big Sandy's engineer provided testimony regarding decisions to provide service to as many applicants as could be done with the available project funds. He said it was not possible to provide service for all applicants, that a number of decisions had to be made on the basis of engineering judgment.

FINDINGS AND ORDERS

The Commission, after consideration of the evidence of record and being advised, is of the opinion and finds that:

1. Big Sandy completed a public waterworks project with financing by federal grants and loans in July of 1983.

2. Big Sandy's financing was not adequate to construct a distribution system that could provide water service to all of its applicants for service. The deposits made by applicants for service from Big Sandy have been refunded to all who were not served.

3. The refund of Mr. Lauria's \$100 deposit was not made in a timely manner and Big Sandy should be admonished for its improper handling of this matter.

4. The particulars of the complaint of Mr. Lauria have been adequately defined by the record of the hearing of March 15, 1984, and other documents of record in this matter.

5. The evidentiary record in this matter will not support a finding to alleviate Mr. Lauria's complaint against Big Sandy: a finding that the administration of the affairs of Big Sandy has been capricious or discriminatory with respect to the matter of water service for Mr. Lauria; and no such finding should, therefore, be made herein.

6. The record shows that Big Sandy is aware of its obligation to extend water service to Mr. Lauria and other residents of Blue Ribbon Road in accordance with the provisions of the regulations of this Commission, and is willing to extend service in accordance with Sections 12(2)(a) and (b) of 807 KAR 5:066. Further, the record shows that Mr. Lauria is aware of the provisions of Section 12 of 807 KAR 5:066.

7. The Complaint of Mr. Lauria should be dismissed.

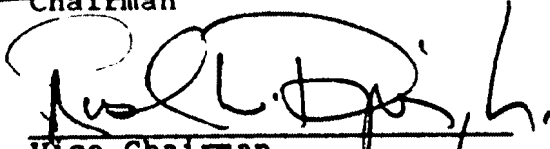
IT IS THEREFORE ORDERED that Big Sandy be and it hereby is admonished for its failure to refund the deposit of Mr. Lauria in a timely and businesslike manner.

IT IS FURTHER ORDERED that the complaint of Mr. Lauria be and it hereby is dismissed.

Done at Frankfort, Kentucky, this 31st day of May, 1984.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Secretary