

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

THE APPLICATION OF THE TODD)
COUNTY WATER DISTRICT OF TODD)
AND LOGAN COUNTIES, KENTUCKY,) CASE NO. 8943
FOR APPROVAL OF AN INCREASE)
IN RATES TO BE CHARGED FOR)
WATER SERVICE)

O R D E R

On July 13, 1984, the Public Service Commission ("Commission") issued an Order setting a wholesale rate of \$1.02 per 1,000 gallons to be charged by Todd County Water District ("Todd County") to its wholesale customer, the City of Elkton ("Elkton").

On July 30, 1984, Todd County and Elkton filed with the Commission a Joint Motion for Reconsideration and Rehearing ("Motion") with respect to its wholesale rate and certain matters set forth in the Commission's Order in Case No. 8943. On August 17, 1984, the Commission issued an Order wherein it denied the Motion made by Todd County and Elkton.

On September 18, 1984, the Commission received a letter from Mr. John P. Kirkham, Attorney at Law, stating that an appeal by Todd County and Elkton had been filed in the Franklin Circuit Court. The letter further requested the Commission hold the matter open or in abeyance until the exact status and potential for an "in-house" resolution could be ascertained. The Commission reopened the case on November 20, 1984, to offer Todd County an

opportunity to present additional information and reserved the right to reaffirm its Order entered July 13, 1984.

The Commission issued an Order on February 14, 1985, wherein it scheduled a hearing to be held on March 12, 1985, to consider evidence on rehearing. On March 5, 1985, Todd County requested a postponement of approximately 2 weeks. The hearing was held on March 21, 1985, at the Commission's offices in Frankfort, Kentucky.

At the hearing, Todd County stated that, based on its water purchase contract with Elkton, the rate during the test year should have been 82 cents per 1,000 gallons, and using the same formula the rate for 1984 should have been 75 cents per 1,000 gallons. Currently Todd County is billing Elkton \$1.02 per 1,000 gallons in accordance with the rate set by the Commission, but Elkton is paying Todd County only 75 cents per 1,000 gallons.

The wholesale rate has been recalculated for 1985 and Todd County is proposing to charge Elkton a rate of 64 cents per 1,000 gallons.¹ Todd County asserts that this rate is fair since the cost per 1,000 gallons is less due to the fact that the amount treated has been increasing faster than the cost of treating the water.²

Todd County is of the opinion that the capital cost contribution and reserve contribution which totals \$69,868 paid by

¹ Transcript of Evidence, March 21, 1985, p. 33.

² Ibid., p. 36.

Elkton annually should be considered in the total cost paid by Elkton. Todd County additionally stated its concern that if the wholesale rate charged to Elkton is not based on the water purchase contract, Elkton will discontinue purchasing water from Todd County, and start using its abandoned plant.

SUMMARY

The Commission, having considered the evidence of record and being advised, is of the opinion and finds that:

1. The wholesale rate of \$1.02 per 1,000 gallons includes a transmission, distribution and administrative overhead factor. The cost study filed January 26, 1984, which shows a proposed wholesale rate of 86.9 cents per 1,000 gallons, does not include any costs associated with transmission and distribution expenses.

2. Todd County's water purchase contract has not been approved by the Commission. Todd County has in the past adjusted its wholesale rate annually and proposes to continue this practice. The Commission is of the opinion that Todd County should file cost justification annually for a rate change.

3. Todd County is billing Elkton \$1.02 per 1,000 gallons in accordance with the rate set by the Commission; however, Elkton is paying Todd County 75 cents per 1,000 gallons. The effective date for billing and collecting \$1.02 per 1,000 gallons should remain the same as in the Commission's Order of July 13, 1984. The Commission cautions Todd County that KRS 278.160 (2) provides that no utility shall charge, demand, collect or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no

person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules.

4. Todd County has stated that as sales increase, expenses decrease; therefore, Elkton's rate should be decreased. However, Todd County's retail sales increased by 26.81 percent and its sales to Elkton increased only 11.3 percent from 1983 to 1984. Therefore, the Commission finds that all customers should benefit equally from the decrease in cost of service, and not just Elkton.

5. Todd County has proposed that Elkton is already paying its share since it pays \$69,868 annually in fixed debt service costs which would result in an actual rate of \$2.21 per 1,000 gallons when added to the wholesale rate of \$1.02 per 1,000 gallons. The Commission is of the opinion that Elkton is not paying an excessive amount for its purchased water since Todd County's retail customers pay \$2.50 per 1,000 gallons for all water purchased over 40,000 gallons. Moreover, the Commission finds that Elkton's payment of \$69,868 annually for fixed debt service costs is less than the 1.2X Debt Service Coverage authorized by the Commission in its Order in Case No. 8943 dated July 13, 1984.³

6. The water purchase contract allows for an adjustment of the wholesale rate to cover the cost of supplying water to Elkton.

³ Commission's Order in Case No. 8943 p. 13.

Therefore, it does not appear that Elkton could void this agreement solely on the basis of the wholesale rate set by the Commission. In fact, the agreement itself specifies that the contract is subject to any rules, regulations or laws that may be applicable to such agreements. Further, Attachment No. 1, Item 4, in the contract states that the Debt Service Payment shall be paid to the Seller on an annual basis regardless of the quantity of water used. KRS 278.200 states that the Commission may change any rate fixed by contract between a utility and a city. The Commission's authority to change contracts in that manner was previously upheld in Board of Education of Jefferson County v William Dohrman, Inc. and U.R.C., 620 SW 2d 328 (Ky App. 1981).

IT IS THEREFORE ORDERED that Todd County shall file with the Commission cost justification if it decides to adjust its rates annually.

IT IS FURTHER ORDERED that if Todd County's expenses decrease, this decrease shall be passed on to all its customers in a fair, just and reasonable manner.

IT IS FURTHER ORDERED that Todd County shall bill and collect from Elkton a rate of \$1.02 per 1,000 gallons.

IT IS FURTHER ORDERED that the Commission's Order dated July 13, 1984, be and it hereby is affirmed in its entirety.

Done at Frankfort, Kentucky, this 18th day of June, 1985.

PUBLIC SERVICE COMMISSION

Richard D. Johnson
Chairman

R. O. Wilgus
Vice Chairman

Sam Shuck
Commissioner

ATTEST:

Secretary