

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE KENTUCKY PUBLIC SERVICE)	
COMMISSION)	
)	
VS.)	CASE NO. 9673
)	
WESTERN FLEMING COUNTY WATER)	
DISTRICT)	

O R D E R

On August 29, 1986, Western Fleming Water District ("Western") was ordered to appear and show cause why it should not be penalized under KRS 278.990 for failure to comply with the Commission's regulations, with deficiencies noted for the years 1984, 1985 and 1986.

A hearing was held on September 16, 1986. Clyde Thomas, Chairman of Western, and J. T. Hammonds, Treasurer, appeared as officers of Western and to offer testimony.

The evidence showed that Western had received copies of staff inspection reports in 1984 and 1985 (and a report for 1986 was handed them at the hearing), detailing multiple violations of Commission laws and regulations recurring yearly. The violations specified in the Show Cause Order of August 29, 1986, included contract rate and customer charge increases without Commission approval, and inadequate maintenance and safety practices, all compounded by inadequate record-keeping. Western's officers admitted that they promised to correct the violations but had done

nothing until June, 1986, when a pressure testing device was purchased, and a "testing program" commenced. A post-hearing document filed by Western's Treasurer discloses that 16 meters were checked in 1984 and 19 meters in 1985, although the Chairman agreed to check "ten a month which will make it average out to about every five years."¹

When interrogated about charging Buffalo Trail Water District \$0.55 per thousand gallons instead of \$0.50, per Western's tariff, Mr. Thomas responded that Western had requested by letter (undated) that the Commission approve the higher rate, but had received no acknowledgement of or response to the letter. Then "someone" (not the witness) had put the requested rates into effect.² Mr. Thomas acknowledged that the letter was undated, but stated that it had been mailed to the Commission in November, 1985. There is no evidence in Commission files that the letter was received.

This proceeding discloses an intolerable situation. Here there is admission of Western's failure to observe Commission regulations in a number of instances over a period of more than 3 years. Though given ample opportunity, the district did not respond adequately to correct the violations. This pattern of conduct cannot be allowed to continue.

¹ Transcript of Evidence, ("T.E."), p. 11.

² T.E., pp. 7, 15.

Western's Chairman stated at the hearing that he had not asked the district's attorney to accompany him to the hearing because he "didn't feel it was that serious." The officers of the district should be aware that KRS 278.990 provides for penalties which may be imposed against the officers or employees of a utility who are in willful violation of KRS 278 or the regulations promulgated thereunder.

FINDINGS AND CONCLUSIONS

1. Violations of Commission regulations have existed for an extended time, even though Commission inspections have placed Western on notice as to those violations and representations were made that prompt action would be forthcoming.

2. The following allegations of violation have been unrebutted or admitted:

a. Western raised its service connection and service reconnection charges without the approval of the Commission as required by 807 KAR 5:001, Section 10, and 807 KAR 5:006, Section 10.

b. Western did not maintain history cards and test cards on its meters as required by 807 KAR 5:006, Section 15.

c. Western did not have a pressure recording device that could record a continuous 24-hour test as required by 807 KAR 5:066, Section 6 (2).

d. Western did not perform annual pressure surveys or keep records as required by 807 KAR 5:066, Section 6 (3).

3. These violations, as stated in the preceding paragraph (2) have been of an extended duration.

4. Western had not received Commission approval (807 KAR 5:067) for the \$0.05 rate increase to Buffalo Trail Water Association.

5. The Commission is aware of the severe impact fines and penalties may have on small water utilities and their ratepayers. However, in this case a fine should be assessed.

IT IS THEREFORE ORDERED that the Findings and Conclusions as stated in numbered paragraphs 1, 2a through 2d, 3, 4, and 5 are specifically adopted and incorporated herein as if fully stated. Furthermore, Western shall immediately correct all such violations enumerated therein.

IT IS FURTHER ORDERED that a fine of \$500 is levied against Western, one-half of which is due and payable within 30 days after receipt of this Order; and the remaining one-half due and payable 90 days from the date of this Order, unless Western demonstrates to the satisfaction of the Commission that it has remedied all violations heretofore communicated to Western. Please send your certified check or money order, made payable to the Kentucky State Treasurer, within the time directed herein to Leigh Hutchens, Accountant Supervisor, Public Service Commission, 730 Schenkel Lane, Frankfort, Kentucky 40601.

Done at Frankfort, Kentucky, this 30th day of March, 1987.

PUBLIC SERVICE COMMISSION

Richard D. Brown
Chairman

Richard L. ...
Vice Chairman

James M. Williams
Commissioner

ATTEST:

Executive Director