

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION FOR THE TRANSFER OF)
OWNERSHIP OF A & B SANITATION COMPANY,)
INC., AND FOR A RATE ADJUSTMENT PURSUANT) CASE NO. 10391
TO THE ALTERNATIVE RATE FILING PROCEDURE)
FOR SMALL UTILITIES)

O R D E R

On January 24, 1990, the Commission entered an Order directing M.A.V.I.S.S., Inc. ("MAVISS"), formerly A & B Sanitation Company, Inc., to show cause why it should not be penalized under KRS 278.990 for failure to comply with the Commission Orders of September 7, 1989 and December 8, 1989. A hearing was held on this matter before the Commission on February 8, 1990 at which MAVISS appeared and was represented by its president and sole shareholder.

MAVISS, a Kentucky corporation, is the owner and operator of a sewage treatment plant in Madison County. The company is managed by Bil Darby, its president and sole shareholder.

On September 22, 1988 MAVISS filed an application for an adjustment of its rates to become effective October 30, 1988. By order entered October 12, 1988, the proposed rates were suspended for five months from their effective date to allow the Commission an opportunity to investigate the proposal and determine whether the rates proposed were reasonable. On July 7, 1989, after the suspension period expired, MAVISS notified the Commission by

telephone, that it had placed its proposed rates into effect on July 1, 1989. In response to this notification, the Commission, by Order entered July 13, 1989, directed MAVISS to file its new rates within 30 days and to "maintain its records in such manner as will allow determination of any amount to be refunded, in the event that one is ordered upon final resolution in this matter."

The first Order out of which this show cause matter arises was issued by the Commission on September 7, 1989. In that Order, the Commission denied MAVISS's application for the proposed rate adjustment, but established a new rate schedule effective July 1, 1990. The new rates were lower than the proposed rates that MAVISS had charged from July 1, 1989 and, consequently, the Order directed MAVISS to refund within 60 days, all rates collected since July 1, 1989 in excess of the approved rates, with interest at the rate of 9.11 percent, and to file with the Commission, within 90 days, a summary statement reconciling each customer's billings with the amount refunded. The Order was never modified or amended by the Commission or any court. Nevertheless, MAVISS failed to file the reconciliation as required by the September 7, 1989 Order, and on January 24, 1990 the Commission, by Order, directed MAVISS to show cause why it should not be penalized under KRS 278.990 for its failure. The statement was not filed by MAVISS until March 13, 1990.

The second Order out of which this show cause matter arises was issued by the Commission on December 8, 1989 and relates to issues raised on a rehearing of portions of the September 7, 1989 Order. The rehearing was granted on October 16, 1989 on motion

of the Attorney General and was limited to two issues; namely: (1) the office and utility expenses allowed in establishing the new rate schedule; and (2) the ownership of the company. The December 8, 1989 Order made two requests upon MAVISS for information relating to these issues and directed MAVISS to respond within 14 days from the date of the Order. Although the Order was never modified or amended by the Commission or by any court, MAVISS did not respond to the data requests until January 25, 1990.

DISCUSSION

Bil Darby, as the manager and sole shareholder of MAVISS, acknowledged at the hearing that the company had received all of the Orders and correspondence from the Commission pertaining to the issues raised on the show cause Order. As a defense, Mr. Darby stated that while he attempted to comply with all Orders of the Commission, and thought he had done so, he did not always fully understand what the Orders required him to do. Mr. Darby gave no explanation why he had failed to file the reconciliation statement required by the September 7 Order when it was due, or even prior to the hearing, nor did he explain why the information required to be furnished by the December 8, 1989 Order was filed so long after it was due.

KRS 278.990(1) provides in pertinent part as follows:

If any such utility that is a private corporation... fails to obey any lawful requirement or order of the public service commission, the utility shall for each offense forfeit and pay to the state treasurer, to be credited to the general fund, a sum not less than twenty-five dollars (\$25) nor more than one thousand dollars (\$1,000).

The failure of MAVISS to file the reconciliation statement as required by the September 7, 1989 Order and the failure to respond timely to the data requests contained in the December 8, 1989 Order constitutes violations subject to the penalty imposed by KRS 278.990(1). For the failure to file timely the reconciliation statement required by the September 7, 1989 Order, a penalty of \$50 should be assessed against MAVISS, and for the failure to respond timely to the data requests propounded in the December 8, 1989 Order, a penalty of \$50 should be assessed.

Now, therefore, this Commission being otherwise sufficiently advised, IT IS HEREBY ORDERED that:

1. MAVISS is in violation of the Commissions Orders for:

(a) failing to furnish timely the information required by the Commission's Order of September 7, 1989.

(b) failing to respond timely to the data requests propounded in the Commission's Order of December 8, 1989.

2. For failing to comply with the Commission's Order of September 7, 1989, MAVISS shall pay to this Commission a penalty of \$50.

3. For failing to comply with the Commission's Order of December 8, 1989, MAVISS shall pay to this Commission a penalty of \$50.

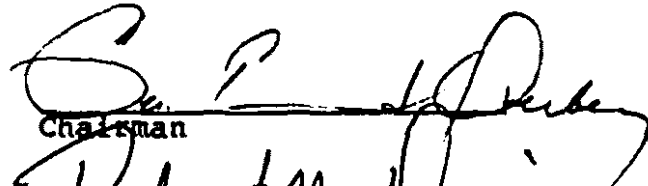
4. The penalties imposed by this Order shall be paid within 30 days of this date.

5. The penalties imposed by this Order shall be paid by certified check or money order made payable to Treasurer,

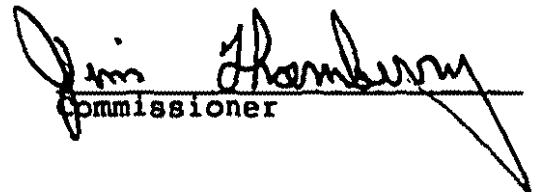
Commonwealth of Kentucky and mailed or delivered to the Office of
General Counsel, Public Service Commission, 730 Schenkel Lane,
P.O. Box 615, Frankfort, Kentucky 40602.

Done at Frankfort, Kentucky, this 27th day of April, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director