

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BOONE COUNTY WATER AND SEWER DISTRICT )

\_\_\_\_\_ )  
ALLEGED VIOLATION OF KRS 278.020 )

) CASE NO. 89-343  
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)

O R D E R

On November 22, 1989, the Commission issued an Order directing Boone County Water and Sewer District ("Boone County") to show cause why it should not be penalized for violating the provisions of KRS 278.020, by acquiring a sewage treatment facility without first obtaining Commission approval. A hearing on this matter was held before the Commission on January 10, 1990 at which Boone County appeared and was represented by counsel.

Boone County owns and operates facilities used in the treatment of sewage for the public for compensation and is not subject to regulation by a metropolitan sewer district. On May 9, 1988, Boone County acquired from ODF Industries, Inc., the Boone Aire Sewage treatment facility used to treat sewage from the Boone Aire subdivision. The acquisition was part of Boone County's plan to acquire all the sewage treatment plants in the county and to consolidate them into one regional plant. Notification of the acquisition was given to the Department for Environmental Protection of the Natural Resources and Environmental Protection Cabinet, and the Boone Aire treatment plant's assets were included in the year-end statement filed with the Commission upon which the

Commission determines the annual assessment for the utility. However, Boone County inadvertently neglected to obtain prior approval of the acquisition from the Commission.

This was the second sewage treatment facility that Boone County has acquired without first obtaining Commission approval. According to information on file in Case No. 10388,<sup>1</sup> Boone County acquired another sewage plant, known as the Mars Hill treatment facility, in April 1986 without first obtaining Commission approval. On August 31, 1988, the Commission became aware of the Mars Hill acquisition and notified Boone County that prior approval of such acquisitions was required. This notification, however, was not given until after Boone County had acquired the Boone Aire facility.

KRS 278.020(4) specifically requires prior Commission approval of any purchase or acquisition of a utility such as the Boone Aire Treatment Facility. Therefore, Boone County's failure to obtain approval of the acquisition of the Boone Aire facility violated that statutory provision. Pursuant to the provisions of KRS 278.990(1) a penalty of \$500 for the violation would be appropriate under the circumstances.

IT IS THEREFORE ORDERED that:

1. Boone County is a public utility under the jurisdiction of this Commission pursuant to KRS 278.010(3) and is the owner and

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<sup>1</sup> Case No. 10388, Investigation Into the Operating Status of Mars Hill Corporation.

operator of the treatment facility previous owned and operated by ODF Industries, Inc. and known as the Boone Aire Sewage Treatment Facility.

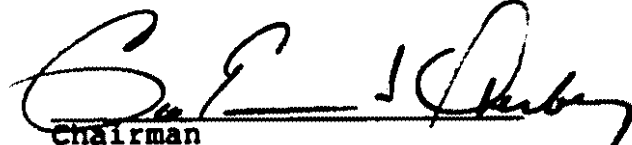
2. Boone County is in violation of KRS 278.020(4) for acquiring the Boone Aire Sewage Treatment Facility without prior approval from the Commission.

3. For the violation a penalty of \$500 is hereby assessed against Boone County.

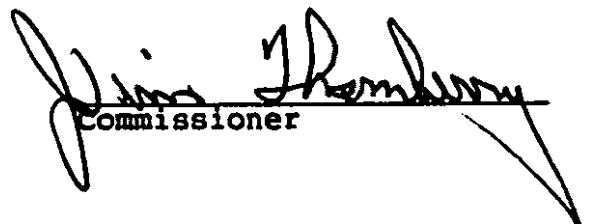
4. Boone County shall pay the penalty within 30 days of the date of this Order by certified check or money order made payable to Treasurer, Commonwealth of Kentucky. Said check or money order shall be mailed or delivered to the Office of General Counsel, Public Service Commission, 730 Schenkel Lane, P.O. Box 615, Frankfort, Kentucky 40602.

Done at Frankfort, Kentucky, this 26th day of March, 1990.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director