

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION INTO DELAPLAIN) CASE NO.
DISPOSAL COMPANY) 89-218

O R D E R

On December 1, 1989, the Commission entered an Order in this proceeding adopting a settlement agreement between Commission Staff and Delaplain Disposal Company ("Delaplain"). The settlement agreement resolved all issues in this show cause proceeding against Delaplain, including the charging of tap-on fees of \$2,500 to six industrial customers without Commission approval. The terms of the settlement agreement required Delaplain to refund \$2,000 of the \$2,500 tap-on fee to each of the six industrial customers within one year of the date of entry of the Commission's Order. Proof that all reimbursements had been made was ordered to be forwarded to the Commission within the same time period. When the Commission did not receive proof that the reimbursements were made within the allotted time, the Executive Director's office notified Delaplain that it was in violation of the Commission's Order.

In response, on February 13, 1991, Delaplain filed a motion with the Commission to reopen this proceeding and to schedule a conference with Staff to afford Delaplain the opportunity to explain its failure to comply with the terms of the December 1,

1989 Order. By Order of March 7, 1991, the Commission reopened this case, scheduled an informal conference, and notified the six industrial customers of their right to intervene in the proceeding. At the conference, Delaplain informed Staff that it was financially unable to issue the ordered refunds and provided Staff with documentation relating to its financial condition. Delaplain also stated at the conference that it believed that some of the six commercial customers who were still owed refunds would agree to waive the refund.

On March 29, 1991, Delaplain provided information to the Commission concerning the willingness of the six commercial customers to waive the refund. At that time, Delaplain believed that it had obtained an agreement from four of the six customers to waive the \$2,000 refund due them, and requested Commission approval to give the other two customers "credit memorandums" in the amount of \$2,000 each, to apply against future sewage bills. In response to Delaplain's request, on May 24, 1991, the Commission issued an Order stating that it would consider Delaplain's proposal of March 29, 1991 if certain documentation were filed with the Commission on or before June 30, 1991. That documentation included explicit waiver forms and a "Memorandum of Agreement," attached to the Commission's Order as Exhibits A, B, and C, to be executed by the six industrial customers. The Order stated that if the information was not filed with the Commission by June 30, 1991, the cash refunds due the six customers would become due and payable no later than July 15, 1991.

On July 1, 1991, the Commission received a letter from Delaplain which included an executed "Waiver of Refund of Tap-on Fee" from three of the six industrial customers, along with original counterparts of the "Memorandum of Agreement." Delaplain advised that it had not yet obtained waivers or "credit memorandums" from two other of the customers, and requested an additional 10 days to obtain said executed waivers. Delaplain's request was granted by Order of the Commission dated July 3, 1991.

On July 11, 1991, Delaplain filed a statement with the Commission that it had been unsuccessful in its efforts to obtain waivers with respect to certain of the six industrial customers, and that it was Delaplain's intention to refund the sum of \$2,000 to those customers no later than July 15, 1991, in compliance with the Commission's May 24, 1991 Order. On July 15, 1991, Delaplain filed notice with the Commission that it had refunded the sum of \$2,000 to three of the six commercial customers. Delaplain in its filing included documentation of the refunds.

Having reviewed the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. Delaplain has filed with the Commission an executed "Waiver of Refund of Tap-on Fee" from Trinity Manufacturing Company, Delaplain Development Company d/b/a Grandma's Kitchen, and Georgetown Auto/Truck Plaza, Inc., along with an executed "Memorandum of Agreement" from the same three customers, in compliance with the Commission's May 24, 1991 Order.

2. Delaplain has filed proof that the remaining three industrial customers, namely Comfort Inn, Hamilton Oil Company,

and Centennial Real Estate, Inc., have been refunded the \$2,000 owed them pursuant to the Commission's original Order of December 1, 1989. This refund also complies with the Commission's directive in its Order of May 24, 1991.

IT IS THEREFORE ORDERED that:

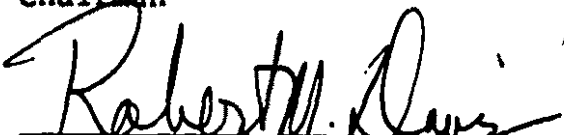
1. The Commission's Order of December 1, 1989 is hereby modified, pursuant to KRS 278.390, to require that the six industrial customers shall either be refunded the \$2,000 owed them by Delaplain or, in lieu thereof, execute knowing waivers of their right to receive said refunds.

2. As Delaplain has satisfied all terms of the Commission's Orders herein, this proceeding is hereby closed.

Done at Frankfort, Kentucky, this 31st day of July, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

Commissioner

ATTEST:


Executive Director