

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF HUNTERS HOLLOW)	
SEWER SYSTEM FOR A RATE ADJUSTMENT)	CASE NO.
PURSUANT TO THE ALTERNATIVE RATE)	89-272
FILING PROCEDURE FOR SMALL UTILITIES))	

O R D E R

This rate proceeding was filed with the Commission by Bullitt Utilities, Inc. d/b/a Hunters Hollow Sewer System ("Hunters Hollow") on September 26, 1989. In its application, Hunters Hollow reported a total of 178 customers. After the Commission notified Hunters Hollow that its notice to customers of the rate increase was legally deficient, the Commission received a letter on October 25, 1989 from Hunters Hollow which stated that, pursuant to the requirements of KRS 278.185,¹ notice of the proposed rate increase was individually mailed to all customers of Hunters Hollow on October 18, 1989. Attached to Hunters Hollow's October 25, 1989 letter was a letter from Lucky Letter Service, Inc. which stated that the company had mailed notice of the proposed rate change to the customers of Hunters Hollow on October 18, 1989. Attached to that letter was a copy of the notice

¹ KRS 278.185 and 807 KAR 5:011, Section 8, require notice of a proposed rate change by sewage utilities to be individually mailed to all customers.

itself. In content, the revised notice complied with Commission statutes and regulations, informing customers of the proposed rate increase and of their right to intervene in the proceeding.

There were no requests for intervention in this proceeding, although one letter of protest was filed by a customer of Hunters Hollow. Staff issued its report on March 27, 1990, recommending that Hunters Hollow be authorized to increase its annual operating revenues by \$24,725. In its application, Hunters Hollow had requested an increase of \$32,574. The Commission, by Order of May 16, 1990, adopted the findings of the Staff Report and approved the rates recommended therein for Hunters Hollow.

On October 12, 1990, the Hillview Citizens League ("Citizens") filed a motion for reconsideration and intervention in this proceeding. The Citizens, 26 customers of Hunters Hollow, submitted individual affidavits stating that they had never received any written or verbal notification from Hunters Hollow that an application for a rate increase had been filed with the Commission, nor were they notified of their right to intervene and to request a public hearing in the proceeding. Accordingly, the Citizens requested the Commission to reopen this case due to failure on the part of Hunters Hollow to comply with the legal requirements governing notification to customers of a proposed rate increase. The Citizens further requested the Commission to grant them the right to intervene in this proceeding and to present evidence that the rates established in the Commission's Order of May 16, 1990 are excessive and unfair.

By Order of November 5, 1990, the Commission reopened this proceeding for the purpose of determining whether notice was given to Hunters Hollow's customers in compliance with KRS 278.185. In that Order, the Commission also granted full intervention to the Citizens and ordered Hunters Hollow to file certain information to support its assertion that notice of its proposed rate increase was provided in accordance with KRS 278.185.

Hunters Hollow responded to the Commission's Order on November 14, 1990. Its response contained the following: a computer print-out of customers as of August 15, 1989, obtained from the Louisville Water Company which bills for Hunters Hollow, which print-out was used as the basis for Hunters Hollow's rate case preparation and was the list provided to Lucky Letter Service, Inc.; a copy of the invoice from Lucky Letter Service, Inc. showing the number of notices mailed; an analysis of the invoice; and a statement that Lucky Letter Service, Inc. was a reputable company which Carroll F. Cogan, the owner and president of Hunters Hollow and of several other sewage utilities, had used for several years for mailing notices with no problems encountered. Hunters Hollow noted that 20 of the 26 Citizens were listed on the August 15, 1989 print-out of customers provided to Lucky Letter Service, Inc. Hunters Hollow had no explanation as to why these 20 customers did not receive the mailing. With respect to 4 other of the 26 Citizens, their residential addresses were listed in the name of the builder of the property, to whom the notices were mailed. One of the Citizens was not listed on the August 15, 1989 print-out, presumably because the customer was

not connected to the Louisville Water Company's facilities until October 1, 1989. Another of the Citizens was not listed on the August 15, 1989 print-out at the address provided in her affidavit. This customer, as of October 18, 1990, was still not listed on the print-out, with the customer of record shown as Harold M. Hopkin. Hunters Hollow stated that the notice was mailed to Mr. Hopkin. Hunters Hollow also provided copies of eight envelopes addressed to customers which were returned as "not deliverable as addressed".

Following receipt of Hunters Hollow's response, the Commission scheduled an informal conference to discuss same with all parties. The informal conference was held on January 7, 1991 in the Commission's offices and was attended by Mr. Cogan and representatives of the Citizens. At that time, the Citizens expressed the opinion that notification of the rate increase should have been sent to the houses in the subdivision, not, as in 4 instances, to the builders' offices. Hunters Hollow explained that the Louisville Water Company at any given time has the official list of the residents of record of the houses served by Hunters Hollow. Hunters Hollow explained that when a builder sells a house, there could be a "lag-time" before the builder transfers the utility contract to the owner's name. Hunters Hollow indicated that it had no explanation for the failure of some customers to receive the notification, but that it did not know how the notification process could have been handled more efficiently. Hunters Hollow also filed into the record another statement by Corporate Mailing Concepts, Inc. (formerly Lucky

Letter Service, Inc.) affirming that the notices were mailed to Hunters Hollow's customers on October 18, 1989. Although the amount of Hunters Hollow's sewer charge versus that of neighboring sewage systems was also discussed, the Citizens did not dispute any of the facts relied upon by Staff in its report of March 27, 1990 in recommending the rates which the Commission ultimately approved. At the conclusion of the informal conference, the Citizens requested that representatives of the Commission attend a meeting with Hunters Hollow and the Citizens to discuss the issues of failure to receive notice, the high sewer rate, and the 85 percent increase in the rate. By Order of January 28, 1991, the Commission directed Mr. Cogan to appear at a public meeting to be held on February 21, 1991 for the purpose of responding to questions concerning these issues.

The public meeting was held on February 21, 1991 in the Dorothea Stottman Library in Hillview, Kentucky. Approximately 12 of the Citizens were present, as well as Mr. Cogan, Commission Staff members, and other customers of Hunters Hollow. The meeting was conducted by Representative John Harper, with the Citizens permitted to ask questions of Mr. Cogan and Commission Staff. The Citizens and other customers complained of failure to receive notice of the proposed rate increase, resulting in denial of an opportunity to be heard in the rate proceeding; the high rates currently in effect; and various other concerns. Mr. Cogan responded to the questions and complaints by explaining the procedure he had used in mailing notice; the expenses requested in his rate application and what those expenses reflected; and the

general operation of the sewer system. At the public meeting, Staff responded to general questions regarding rate cases before the Commission; however, no customer of Hunters Hollow disputed any of the data in the Staff Report of March 27, 1990 upon which Staff relied in recommending the rates ultimately approved by the Commission on May 16, 1990. At the conclusion of the meeting, Staff requested all present who believed that they received a bill at the increased rate prior to its effective date of May 16, 1990 to notify the Commission in writing with accompanying documentation within 7 days of the date of the meeting. Staff also requested those present who did not receive notice of the rate increase and who had not already filed an affidavit so stating, to file such an affidavit within 7 days of the date of the meeting. As of the date of this Order, no customer of Hunters Hollow has filed any of the above with the Commission.

DISCUSSION

The Citizens' sworn statements that they failed to receive notice of the proposed rate increase are not disputed by Hunters Hollow and are accepted as fact by the Commission. However, there is similarly no evidence in the record to dispute Hunters Hollow's and Lucky Letter Service, Inc.'s statements filed at the Commission on October 25, 1989, confirming that notice of the rate increase was mailed to all of Hunters Hollows customers on October 18, 1989. No evidence in the record contradicts the information filed by Hunters Hollow in its November 14, 1990 response to the Commission's Order reopening this case. That detailed information, although failing to explain why notice was not

received by 20 customers, indicates that Hunters Hollow complied with the requirements of KRS 278.185 to the best of its ability. The print-out provided to Lucky Letter Service, Inc. by Hunters Hollow was the official list used by the Louisville Water Company to bill its own and Hunters Hollows' customers. Moreover, it is not disputed that some of Hunters Hollow's customers received the notices mailed on October 18, 1989. Other than the original 26 Citizens who intervened in this action, no other of the 178 customers of Hunters Hollow has filed a statement with the Commission asserting that they failed to receive notice.

In the Citizens' motion for reconsideration and intervention, they assert that the rates established by the Commission for Hunters Hollow in its May 16, 1990 Order are "excessive, unfair, and unjust." Those rates were recommended in Staff's report of March 27, 1990 and were adopted by the Commission in its May 16, 1991 Order. At the informal conference held in the Commission's offices on January 7, 1991, Staff specifically questioned the Citizens regarding their assessment of the data and recommendations contained in the Staff Report. The Citizens expressed no opinion, with those representatives present merely stating that others not present would be more qualified to evaluate the Staff Report. At the public meeting held in Hillview on February 21, 1991, Staff was present to answer questions regarding the data, methodology, and ultimate recommendations of the Staff Report. However, no questions of this sort were put to Commission Staff nor was the report challenged in any respect. There is consequently no indication from the record that the

Citizens could or would support their assertion as to excessive and unjust rates were a hearing to be held in this matter.

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

1. The evidence indicates that the great majority of Hunters Hollow's customers did, indeed, receive notice of the proposed rate increase.

2. Hunters Hollow has sufficiently demonstrated that it complied with the requirements of KRS 278.185 to the best of its ability.

IT IS THEREFORE ORDERED that:

1. The Citizens' motion to reopen this proceeding on its merits for the purpose of presenting evidence that the rates established by the Commission in its May 16, 1990 Order are excessive and unjust is hereby denied.

2. The Commission's Order of May 16, 1990 in this proceeding is hereby reaffirmed in its entirety.

3. This proceeding is hereby closed.

Done at Frankfort, Kentucky, this 18th day of March, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director