

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF SOUTHERN MADISON WATER)	
DISTRICT FOR CERTIFICATE OF CONVENIENCE)	CASE NO. 90-305
AND NECESSITY TO CONSTRUCT STORAGE)	
FACILITIES)	

O R D E R

On October 5, 1990, Southern Madison Water District ("Southern Madison") initiated this proceeding by filing an application for a Certificate of Public Convenience and Necessity with the Commission. The application was for authorization to construct a 90,000 gallon water storage tank, 1,525 feet of 4-inch connecting water lines and related appurtenances. In the course of Commission Staff's review of this case, members of the Commission's engineering staff visited Southern Madison's plant to obtain field measurements. Staff submitted an affidavit alleging that Southern Madison had already constructed the facilities for which a certificate is being sought in this case. As a result, the Commission issued an Order on June 19, 1991, which is attached hereto as Exhibit A and incorporated herein by reference. That Order, which initiated Case No. 91-188,¹ directed Southern

¹ Case No. 91-188, Investigation of Construction by Southern Madison Water District, H. Wayne Lunsford, Leonard Hays, Howard Woodson, and Ray Curry - Alleged Violation Of KRS Chapter 278.

Madison and its Commissioners to appear before the Commission and show cause why they should not be penalized for constructing facilities without first obtaining a certificate from the Commission.

KRS 278.020 requires a utility to obtain the approval of the Commission prior to beginning the construction of any facilities not constructed in the usual course of business. Inasmuch as the Commission in its June 19, 1991 Order found a prima facie showing that Southern Madison has already constructed the facilities for which it seeks Commission approval herein, the Commission finds that this proceeding should be held in abeyance pending the outcome of Case No. 91-188.

IT IS THEREFORE ORDERED that this proceeding is hereby held in abeyance until such time as the issues involved in Case No. 91-188 have been resolved.

Done at Frankfort, Kentucky, this 7th day of August, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

Commissioner

ATTEST:


Executive Director

filing requirements. After reviewing Southern Madison's October 26, 1990 response to the Commission's deficiency letter, Commission Staff determined that additional information was necessary to adequately review Southern Madison's application. By Order of November 21, 1990, the Commission directed Southern Madison to file additional engineering data no later than December 5, 1990. On December 3, 1990, Southern Madison filed a motion for an extension of time until January 19, 1991 in which to respond to the Commission's Order. This extension was granted and Southern Madison's response was filed on January 18, 1991.

Upon review of Southern Madison's response, Staff determined that additional information was still needed to evaluate the feasibility and necessity of the proposed project. Accordingly, an informal conference was held with representatives of Southern Madison and Commission Staff on February 27, 1991. At the conclusion of the conference, Southern Madison stated that more field measurements would be made and additional hydraulic information would be filed with the Commission by June 1, 1991.

On April 30, 1991, members of the Commission's engineering staff visited the utility's plant to obtain field measurements to assist in their review of this case. The affidavit of Robert N. Arnett, which is attached hereto and incorporated herein as Exhibit A, describes this visit and Staff's discovery in the course thereof that Southern Madison had already constructed the facilities for which a certificate was being sought.

H. Wayne Lunsford, Leonard Hays, and Howard Woodson are the chairman, secretary, and treasurer of Southern Madison, respectively. Ray Curry is the superintendent.

The Commission finds from Exhibit A that a prima facie showing has been made that Southern Madison has begun the construction of facilities without obtaining a certificate from the Commission that public convenience and necessity requires such construction, in violation of KRS 278.020. The Commission further finds that a prima facie showing has been made that H. Wayne Lunsford, Leonard Hays, Howard Woodson, and Ray Curry willfully aided or abetted the above violation.

IT IS THEREFORE ORDERED that:

1. H. Wayne Lunsford, Leonard Hays, Howard Woodson, and Ray Curry, individually and on behalf of Southern Madison, shall submit to the Commission individual written responses to the allegations contained herein within 30 days of the date of this Order.

2. H. Wayne Lunsford, Leonard Hays, Howard Woodson, and Ray Curry, individually and on behalf of Southern Madison, shall appear at a hearing scheduled for July 31, 1991, at 9:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, and be prepared to show cause why they should not be penalized pursuant to KRS 278.990 for willful violation of KRS 278.020.

3. In an effort to narrow the issues in this case and to discuss settlement, H. Wayne Lunsford, Leonard Hays, Howard

Woodson, and Ray Curry shall appear at an informal conference to be held in the Commission's offices at Frankfort, Kentucky, on July 18, 1991, at 1:30 p.m., Eastern Daylight Time, in Conference Room 1.

Done at Frankfort, Kentucky, this 19th day of June, 1991.

By the Commission

ATTEST:


Executive Director

AFFIDAVIT

COMMONWEALTH OF KENTUCKY)
) S.S.
 COUNTY OF FRANKLIN)

The Affiant, Robert N. Arnett, being duly sworn, states the following:

My name is Robert N. Arnett and I am employed as an engineer with the Kentucky Public Service Commission.

On April 30, 1991, along with other Engineers from the Commission, I went to Southern Madison Water District to obtain field measurements to assist in Staff's review of Case No. 90-305. During this visit I observed that the water storage tank, 1,525 feet of 4-inch water line and related appurtenances proposed in Case Number 90-305 had already been constructed. Mr. Ray Curry, the manager of Southern Madison, stated that the project was complete but has not been placed in service.

FURTHER THE AFFIANT SAYETH NOT

Robert N. Arnett
 Robert N. Arnett

13th Subscribed and sworn to before me by Robert N. Arnett this day of June, 1991.

Mary Frances Betton
 Notary Public

My Commission Expires: Nov. 30, 1992