

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DENZIL A. O'DELL, JR.)	
CAROLYN S. O'DELL)	
)	
COMPLAINANTS)	
)	
VS.)	CASE NO. 91-051
)	
)	
KENTUCKY-AMERICAN WATER COMPANY, INC.)	
)	
DEFENDANT)	

O R D E R

On January 30, 1991, the Commission received a complaint from Denzil A. O'Dell, Jr. and Carolyn S. O'Dell ("O'Dells") against the Kentucky-American Water Company, Inc. ("Kentucky-American") regarding the new rate for water sales through bulk loading stations. The new rate of \$.225 per 50 gallons was approved by the Commission by Order entered November 5, 1990 in Case No. 90-149¹ (attached hereto as Appendix A).

The Commission is empowered by KRS 278.260 to investigate a complaint against a utility that a rate is unreasonable or unjustly discriminatory. Pursuant to Commission regulation 807

¹ Case No. 90-149, Tariff Filing of Kentucky-American Water Company, Inc. for Bulk Sales of Water Through Computerized Loading Stations.

KAR 5:001, Section 12(4)(a), upon a filing of a complaint, the Commission is to make an examination to determine if it establishes a prima facie case. If the complaint does not establish a prima facie case, the complainant is to be notified and an opportunity may be given to amend within a specified time. A prima facie case is one which, if unrebutted or unexplained, is sufficient to maintain a proposition.

Based on a review of the O'Dells' claim and being advised, the Commission hereby finds that a prima facie case has not been presented. Paragraph three of the complaint sets forth a claim that the rate increase "is without justification and creates a substantial hardship on those rural residents." However, no discussion or explanation is provided to support this claim. In fact, in Case No. 90-149, Kentucky-American filed a multi-page exhibit (attached hereto as Appendix B) disclosing its costs to provide water at the bulk loading stations, as well as the derivation of the new bulk loading rate.

Paragraph four of the complaint states that no notice of the proposed rate increase was placed in the vicinity of the bulk loading stations. While this statement may be true, that type of notice is not required by Commission regulation. Rather, 807 KAR 5:011, Section 8(2), requires notice of a proposed rate change to be published by a utility once a week for three consecutive weeks in a newspaper of general circulation in the utility's service area. Notice of the bulk loading station rate was published in the Lexington-Herald on October 5, 12, and 19, 1990. A copy of the notice is attached hereto as Appendix C. The Commission will

hold the O'Dells' complaint for 20 days to give them an opportunity to file additional information to support their claim that Kentucky-American's bulk loading rate is either unreasonable or unjustly discriminatory. If no amendment setting forth a prima facie case is received within 20 days, the complaint will be dismissed.


IT IS THEREFORE ORDERED that:

1. The O'Dells be and they hereby are granted 20 days from the date of this Order to file an amended complaint stating a prima facie case against Kentucky-American that the bulk loading rate is unreasonable or unjustly discriminatory.

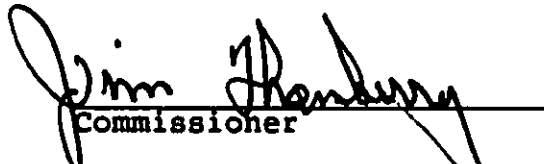
2. If an amended complaint is not filed within 20 days of the date of this Order, the Complaint shall be dismissed without further Order of the Commission.

Done at Frankfort, Kentucky, this 22nd day of February, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director