

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TRI-VILLAGE WATER DISTRICT)	
_____)	
ALLEGED VIOLATION OF COMMISSION)	CASE NO.
REGULATION 807 KAR 5:066)	91-143

O R D E R

On May 14, 1991, the Commission ordered Tri-Village Water District ("Tri-Village") to show cause why it should not be penalized pursuant to KRS 278.990 for its failure to comply with 807 KAR 5:066, Section 6(1), and the Commission's Order of August 24, 1988 in Case No. 10264.¹ On May 23, 1991, Tri-Village filed its answer to the Order in which it admitted violating Commission Regulation 807 KAR 5:066, Section 6(1), but attributing the failure to its inability to obtain the financing necessary to correct the violation. A hearing on this matter was held on June 13, 1991 at which Tri-Village appeared and was represented by counsel.

FINDINGS OF FACT

Tri-Village operates water distribution facilities which furnish water to the public for compensation. It serves 912

¹ Case No. 10264, The Application of Tri-Village Water District for a Deviation From the Requirements of 807 KAR 5:066, Section 6(1) Regarding Water Pressure.

customers, most of whom are in Owen County. Tri-Village also serves a small number of customers in Gallatin and Grant counties. Tri-Village has no water treatment facilities and purchases its total water requirement from the city of Owenton.

The first inspection relative to this violation was conducted on April 19, 1988. The report of that inspection issued April 22, 1988 found that areas in the system failed to receive water at adequate pressure levels established by 807 KAR 5:066, Section 6(1).² In its response to the report filed May 17, 1988, Tri-Village admitted the violation and requested a deviation from the regulation. On June 7, 1988, the Commission established Case No. 10264 which granted the deviation but directed Tri-Village to furnish specified information concerning its water distribution system. After reviewing the information, the Commission found that Tri-Village was "not capable of providing adequate and reliable service to all of its customers" and ordered Tri-Village to retain an engineer to study the system and recommend a course of action to remedy its problems.³ It further required Tri-Village to file a report of the engineer's findings and recommendations by September 30, 1988 and to bring its system into compliance with Commission Regulation 807 KAR 5:066, Section 6(1),

² 807 KAR 5:066, Section 6(1) provides that "[i]n no event. . . shall the pressure at the customer's service pipe under normal conditions fall below thirty (30) psig nor shall the static pressure exceed 150 psig."

³ Case No. 10264, supra, Order dated August 24, 1988, at 1.

by November 30, 1988. The date of compliance was later extended to November 30, 1989.

Since November 30, 1989, Tri-Village's facilities were inspected twice, the most recent inspection being on January 30, 1991. The reports of both inspections found areas within Tri-Village in which water pressure was outside the range permitted by Commission Regulation 807 KAR 5:066, Section 6(1).⁴

To comply with the Commission's Order of August 24, 1988, Tri-Village retained PEH Engineers ("PEH") to prepare a hydraulic profile of the problem area. After completing its review, PEH, in a written report issued on December 5, 1988, stated it would bring its system into compliance with the Commission's pressure regulations by February 1, 1989 if correcting the problems did not require massive construction and it concluded that the pressure problems were the result of high demand in the northeastern portion of Tri-Village's system and friction losses. PEH recommended several improvements to correct these problems, including the construction of a 100,000 gallon storage tank and 9,500 feet of 6-inch main. Total cost of the recommended improvements was estimated at \$403,000.

To implement engineer's recommendations, Tri-Village applied for a block grant and a loan from the Farmers Home Administration ("FmHA"). When the application was denied, Tri-Village asked the Kentucky Rural Water Association for assistance and they recommended that some of Tri-Village's lines be cleaned. Although

⁴ Order dated May 14, 1991, Exhibit A and B.

that did alleviate the problem slightly, it was not enough to bring the system into compliance.

In February 1990, Tri-Village terminated its relationship with PEH and retained Kenroy Engineers ("Kenroy") as its engineer. Kenroy was of the opinion that the original proposal was too small to be approved by the FmHA for financing and proposed that the size of the project be enlarged to increase the likelihood of obtaining funding. It recommended that Tri-Village expand its proposed project to provide service to all of Owen County and increase its customer base by 1,400 customers. The estimated cost of the expanded project was \$2,323,000. Tri-Village applied for financing to the FmHA for the project and its application was denied.

Tri-Village also explored the possibility of buying treated water from Gallatin County to serve approximately 100 of its customers who reside in the community of Glencoe. Although the construction portion of the project was estimated to cost \$4,000, it required two hydraulic studies, one of Gallatin County and one of Owen County, at an estimated cost of \$12,000. Because of the high cost of the studies, Tri-Village did not deem the project to be feasible. A major obstacle to Tri-Village in obtaining financing is an inadequate water supply and poor water quality. The city of Owenton, Tri-Village's sole supplier, lacks sufficient water production capacity to meet Tri-Village's demand. Any project for further expansion of the customer base requires that Owenton increase its capacity or that new sources of water be found. Although Owenton has applied to the FmHA for funding to

finance an expansion of its treatment plant, its applications have also been denied.

Another major problem facing Tri-Village in its attempts to obtain financing is the presence of high levels of trihalomethane, a carcinogen in the water, that it receives from Owenton.⁵ Trihalomethanes are produced when organic matter in the water combines with chlorine used to treat the water. The water that Owenton sells is derived from pools with high levels of organic matter which, in turn, results in high levels of trihalomethanes. The Kentucky State Clearinghouse, the state agency designated to review and approve all requests for FmHA funding, refuses to approve and endorse Tri-Village's request for funding until the trihalomethane level of its water is reduced. However, only Owenton has the facilities to address the problem.

CONCLUSIONS OF LAW

Tri-Village is a utility subject to the jurisdiction of this Commission and required to provide utility service in accordance with the Commission's regulations. Failure to meet this obligation may subject Tri-Village or its Board of Commissioners, or both, to the penalties provided in KRS 278.990. The failure to provide water service to all of Tri-Village's customers at

⁵ The city of Owenton was notified on February 5, 1991 by the Division of Water of the Natural Resources and Environmental Protection Cabinet that its water exceeded the allowed total trihalomethane maximum contaminant level for the last quarter of 1989 and the third quarter of 1990 according to the "Notice of Violation," a copy of which is appended to this Order.

pressures of not less than 30 psig or more than 150 psig is a violation of Commission Regulation 807 KAR 5:066, Section 6(1).

Although the pressure problem has existed since 1988, Tri-Village has attempted to find a solution that will bring its system into compliance. Tri-Village's efforts in this regard have been thwarted by its inability to obtain the funding it sought to finance the corrective actions recommended by its engineers. Therefore, the violation does not constitute a willful violation on the part of Tri-Village and no penalty should be assessed at this time.

Nevertheless, the lack of adequate pressure and the high levels of trihalomethanes in its water continue to present a health and safety threat to Tri-Village's customers. Tri-Village should notify its customers, in accordance with and in the manner prescribed in 401 KAR 8:070E, that the trihalomethane levels of its water exceed maximum contaminant levels allowed by law and, therefore, be required to formulate a plan that will ensure it of an adequate water supply and the ability to maintain the quality of service required of all water utilities operating under this Commission's jurisdiction. In formulating such a plan, Tri-Village should utilize all available methods of financing. The plan should be submitted to the Commission for review and approval upon its formulation, but not later than 60 days from the date of this Order. This matter should remain on the docket pending further Orders until such time as the water system is operating in compliance with all applicable regulations.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. Tri-Village shall submit to the Commission, within 60 days from the date of this Order, a plan for bringing its water system into compliance with 807 KAR 5:066, Section 6(1), and all other regulations required by law.

2. Tri-Village shall notify its customers, in accordance with 401 KAR 8:070E, that the trihalomethane levels in its water exceed the maximum contaminant levels allowed by law and thereby constitute a health and safety threat. Copies of such notice and proof of publication shall be filed by Tri-Village within 15 days following this Order and within 15 days following future notification.

3. This matter shall remain on the docket pending further Orders herein.

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

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

ATTEST:

Commissioner


Executive Director