

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION OF CONSTRUCTION BY)	
SOUTHERN MADISON WATER DISTRICT,)	
H. WAYNE LUNSFORD, LEONARD HAYS,)	
HOWARD WOODSON, AND RAY CURRY)	
_____)	CASE NO. 91-188
)	
ALLEGED VIOLATION OF KRS CHAPTER 278)	

O R D E R

On October 5, 1990, Southern Madison Water District ("Southern Madison") filed an application for a Certificate of Public Convenience and Necessity with the Commission. This filing was assigned Case No. 90-305.¹ 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 its application, Southern Madison stated that it would pay for construction of the project from cash reserves on hand and available to the District. The estimated cost of the proposed construction was not provided.

Southern Madison was notified by the Commission by letter of October 16, 1990 that its application was deficient in certain

¹ Case No. 90-305, Application of Southern Madison Water District for Certificate of Convenience and Necessity to Construct Storage Facilities.

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.

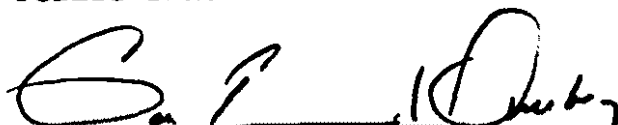
2. H. Wayne Lunsford, Leonard Hays, Howard Woodson, and Ray Curry, individually and on behalf of Southern Madison, shall appear at a hearing scheduled for July 31, 1991, at 9:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, and be 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.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

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

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


 Notary Public

My Commission Expires: Nov. 30, 1992