

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BARRY L. COMBS)	
)	
COMPLAINANT)	
)	
VS.)	CASE NO. 92-163
)	
FRANCIS WATER COMPANY)	
)	
DEFENDANT)	

O R D E R

On April 9, 1992, Barry L. Combs filed a complaint against Francis Water Company ("Francis Water") alleging that Francis Water had refused to refund to its customers their pro rata share of the cost of constructing a new water line. Francis Water does not deny the allegation, but states that it does not know what it is required to do and seeks direction from this Commission. A hearing was held before the Commission on July 10, 1992 at which both parties appeared. Neither party was represented by counsel.

FINDINGS OF FACT

Francis Water is a Kentucky corporation that owns and operates facilities used to distribute water to or for the public for compensation. Its principal offices are located in Floyd County. Mr. Combs is a resident of the Rockfork community in Floyd County and is a customer of Francis Water.

Because the Rockfork community was not being served by any water utility, Mr. Combs and approximately 12 other residents of

the community requested service from Francis Water. After several discussions between the company and the Rockfork residents, Francis Water agreed to extend service to Rockfork if the residents would pay for the construction of a water line from the company's existing line to their community. A handwritten proposal was submitted to the residents by Francis Water and its construction contractor, Right Beaver Construction Company, offering to construct the line for \$15,000.

The residents of Rockfork were unable to raise \$15,000 and, on March 1, 1991, a written counterproposal was offered by 11 of the residents. In their counterproposal, the residents offered to pay Francis Water \$13,000 to both construct the line and connect the 11 residents to the system. Francis Water in return would waive its connection fee for those customers. The counterproposal further provided that if additional customers were added to the line, they would each be required to contribute up to \$1,000 toward the cost of construction. Contributions from the new customers would be divided among existing customers in proportion to the amount each invested in the new line. New customers would also be required to pay Francis Water's customary connection fee of \$180. Although not stated specifically, the intent was to equalize the cost of construction of the new line among all the customers who connect directly to the line.

Although the counterproposal was never filed with the Commission as a tariff or signed by Francis Water, the company's acceptance of the terms was signified by the construction of the

water line. The line, which is 1.6 miles in length, runs from the Garrett School on Highway 80 to the Rockfork community on the Knott County line. While not included in the proposal, an additional \$1,000 was paid to Right Beaver Construction Company, either in cash or in the form of materials, bringing the total cost of construction to \$14,000.

Since its construction, two additional customers have been allowed to connect to the water line. The first customer paid \$1,000 to Mr. Combs. From that, Francis Water was paid \$250 to connect the customer to the system. The remainder was divided among the original subscribers in proportion to their investment. The second customer, however, refused to pay any portion of the construction cost and when he insisted on service, he was allowed to connect to the system. It was the failure of the second customer to contribute toward the construction cost that gave rise to the complaint.

CONCLUSIONS OF LAW

Francis Water is a utility subject to the jurisdiction of this Commission. As such, its operations must conform to the provisions of KRS Chapter 278 and the regulations promulgated thereunder. Those regulations allow the Commission to approve special contracts for the extensions of water lines when they are in the public interest. Contracts so approved must be filed with this Commission.

The contract between Francis Water and the original customers serves the interests of the residents of the Rockfork community and

should be approved. Accordingly, the second new customer who connected to the line should be required to pay his fair share of the cost of construction, not to exceed \$1,000. The amount so paid should then be distributed among the existing customers on the extension in accordance with the agreement. Additionally, Francis Water should reimburse the first new customer the sum of \$70 which represents the difference between the \$250 connection fee that he paid and the \$180 connection fee authorized by the tariff.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The agreement between the residents of the Rockfork community and Francis Water, submitted to Francis Water in the form of a counterproposal on March 1, 1991, be and is hereby approved and a copy shall be filed as a tariff with this Commission by Francis Water within 30 days from the date of this Order.

2. Francis Water shall collect from each customer who connects to the line and was not a party to the original agreement that customer's proportionate share of the cost of construction, not to exceed \$1,000, and shall distribute the funds so collected to the existing customers in accordance with the agreement. New customers who are unwilling to pay their proportionate share of the cost of construction shall not be connected to the addition, or if connected, shall be disconnected.


3. Francis Water shall, within 20 days from the date of this Order, refund to the first new customer who connected to the Rockfork addition the sum of \$70 which represents

the overpayment of the connection fee authorized by Francis Water's tariff.

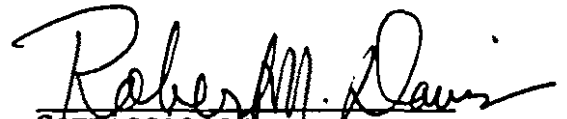
4. Francis Water shall, within 20 days from the date of this Order, mail a copy of this Order to each customer not a party to this proceeding who has connected to the new water line.

Done at Frankfort, Kentucky, this 22nd day of September, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director