

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF BOONE COUNTY WATER AND)	
SEWER DISTRICT FOR DEVIATION FOR WATER)	CASE NO. 93-204
LINE EXTENSION PROJECTS)	

O R D E R

Boone County Water and Sewer District ("Boone District") has applied for a deviation from Commission Regulation 807 KAR 5:066, Section 11(4),¹ for certain water main extensions. Finding that the requested deviation violates KRS 278.170(1) and Commission Regulation 807 KAR 5:066, Section 11(5), we deny.

To encourage the expansion and enhancement of water service in Boone County, Boone District and Boone County Fiscal Court ("Fiscal Court") entered into an agreement to provide certain financial incentives for water service expansion. Under the terms of this agreement, Fiscal Court agreed to contribute \$300 or 33 percent of the cost of the extension in excess of \$2,000 per property owner, whichever is greater, for certain designated water main extension projects. It has deposited \$650,000 into a special account to fund these contributions. In return, Boone District agreed to provide the cost of 55 feet of water main extension for each customer.

¹ Boone District's application refers to Commission Regulation 807 KAR 5:066, Section 12. That regulation, however, refers only to service connections. Since the application refers to water main extensions, the Commission will consider Boone District's pleading as an application for deviation from Commission Regulation 807 KAR 5:066, Section 11.

Property owners who benefit from the water main extension will pay the balance of the project costs through special assessments.²

Boone District has applied for a deviation from Commission Regulation 807 KAR 5:066, Section 11, to implement the agreement. That regulation requires water utilities to make extensions of 50 feet or less to existing distribution mains at no charge to customers. It also permits a water utility to make greater extensions at its own expense "provided like free extensions are made to other customers under similar conditions." 807 KAR 5:066, Section 11(5).

The Commission finds that requested deviation conflicts with 807 KAR 5:066, Section 11(5). In the case at bar, only customers in areas which Fiscal Court has designated are eligible for an additional five feet of water main. Customers in other parts of Boone District's service territory are not similarly treated.

For the same reason, the requested deviation would result in unreasonable discrimination between customers and thus violate KRS 278.170(1) which provides that

[n]o utility shall, as to rates or service, give any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage, or establish or maintain any unreasonable difference between localities or between classes of service for doing a like and contemporaneous service under the same or substantially the same conditions.

² KRS 74.100(2) provides that water districts may pay for extension of water mains "by assessment against the land benefitted according to benefits, as provided in this chapter [KRS Chapter 74]."

Customers not under the plan will be given only 50 feet of water main extension. Similarly situated customers in designated areas, however, will be given an additional five feet of water main extension.

Boone District has not explained why this disparate treatment is necessary or reasonable. Furthermore, it has not explained how the additional five feet will enhance the project's goals or how its delegation to Fiscal Court of the authority to designate eligible water main extension projects will not result in unreasonable preferential treatment.

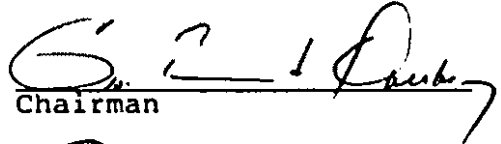
The Commission finds that, absent a showing that disparate treatment is reasonable, Boone District's application should be denied.³

IT IS THEREFORE ORDERED that Boone District's application is denied.

³ The Commission recognizes that Boone District's application for a similar deviation was granted. Case No. 92-368, Application of Boone County Water and Sewer District For Deviation For a Water Line Extension Proposal (Ky. P.S.C. Nov. 11, 1992). Unlike the limited and experimental nature of that earlier request, Boone District's present application seeks a system-wide deviation on a permanent basis. To obtain such a deviation, Boone District must present stronger legal and policy arguments. In this instance, it has not.

Done at Frankfort, Kentucky, this 9th day of September, 1993.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

Commissioner

ATTEST:



Executive Director