

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

EDDIE WAYNE ASHBURN	)	
	)	
COMPLAINANT	)	
	)	
VS.	)	CASE NO. 93-230
	)	
NICHOLAS COUNTY WATER DISTRICT	)	
	)	
DEFENDANT	)	

O R D E R

Eddie Wayne Ashburn ("Mr. Ashburn") filed a complaint against Nicholas County Water District ("Nicholas County") on June 7, 1993 alleging that he and Donna Hunter had requested that their water line be run through the front of their residence, but that a Nicholas County representative, Hal Williams, said the line must be run to the back of the lot due to a "code restriction plan." Mr. Ashburn further stated that every other line in the subdivision runs to the front of the lot. He wants the line run to the front of his own residence because it is less expensive.

Nicholas County responded to this complaint on July 13, 1993, stating that it is required to run Mr. Ashburn's water line to the back of the lot due to a restrictive covenant recorded on June 20, 1986 in the plat record for Law Estates in Deed Book 77, page 543 of the Nicholas County Clerk's office.

Subsection E of said covenants states:

"Easements rights for utility purposes over,  
across or upon the rear of each lot, to be

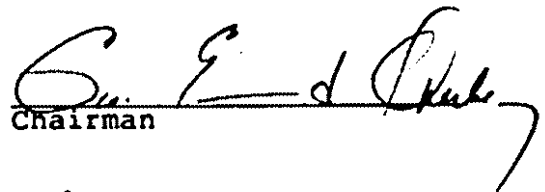
located not more than thirty (30) feet from the rear of each lot is hereby reserved and established."

The Commission does not have authority over the validity of deed restrictions, nor can it order a utility under its jurisdiction to provide utility service in contravention of a recorded deed restriction.

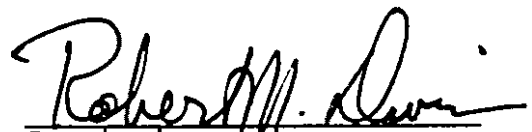
IT IS THEREFORE ORDERED that this case will be dismissed, without prejudice and without further Commission Order, within 15 days from the date of this Order unless Mr. Ashburn files further evidence to show Nicholas County should run its water line to the front of his residence.

Done at Frankfort, Kentucky, this 6th day of August, 1993.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director