

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF SOUTH SHORE WATER WORKS)
COMPANY FOR A DEVIATION FROM 807 KAR)
5:006, SECTION 14, TO DISCONTINUE WATER)
SERVICE TO CUSTOMERS FAILING TO PAY) CASE NO. 95-045.
CHARGES FOR SANITARY SEWER SERVICE)
PROVIDED BY THE CITY OF SOUTH SHORE,)
KENTUCKY)

O R D E R

South Shore Water Works Company ("South Shore") has applied for a deviation from Commission Regulation 807 KAR 5:006, Section 14, to permit the discontinuance of water service to any customer who fails to pay sanitary sewer service charges owed to the city of South Shore. Its application poses the following question: May a public water utility discontinue a customer's water service for failure to pay charges for sanitary sewer services provided by a municipal utility? Finding that a public water utility may take such action without a deviation from Commission Regulation 807 KAR 5:006, Section 14, we dismiss the application as moot.

South Shore is a privately-owned Kentucky corporation which owns and operates facilities for the distribution and sale of water to approximately 2,115 customers in Greenup County, Kentucky. Prior to January 16, 1995, South Shore also provided billing and collection services for sanitary sewer services which the city of South Shore provided. On January 16, 1995, the city of South Shore assumed this function. By ordinance enacted on February 14, 1995 and pursuant to KRS Chapter 96.932, the city of South Shore

directed South Shore to discontinue water service to those persons who failed to pay charges for sanitary sewer service.

In its application, South Shore asserts that a deviation from Commission Regulation 807 KAR 5:006, Section 14, is required before it may take such action. Commission Regulation 807 KAR 5:006, Section 14(1), provides:

A utility may refuse or terminate service to a customer only under the following conditions . . .

(f) For nonpayment of bills. A utility may terminate service at a point of delivery for nonpayment of charges incurred for utility service at that point of delivery; however, no utility shall terminate service to any customer for nonpayment of bills for any tariffed charge without first having mailed or otherwise delivered an advance termination notice which complies with the requirements of Section 13(5) of this regulation.

(emphasis added). The regulation permits a utility to discontinue only for nonpayment of charges for services which it provides.

The Commission has previously addressed this issue in Case No. 95-238.¹ In that case, Kentucky-American Water Company applied for Commission approval of its agreement with the Lexington-Fayette Urban County Government ("LFUCG") for the billing and collection of charges for LFUCG's sanitary sewer service operations. The agreement provided, inter alia, that Kentucky-American would discontinue water service to any customer which failed to pay billed sanitary sewer service charges. Kentucky-American also

¹ Case No. 95-238, An Agreement Between Lexington-Fayette Urban County Government and Kentucky-American Water Company For the Billing Accounting and Collection Of Sanitary Sewer Charges (June 30, 1995).

sought a deviation from Commission Regulation 807 KAR 5:006, Section 14, to implement the agreement.

After reviewing the Agreement, the Commission found that KRS Chapter 96 clearly authorized the agreement and the discontinuance of water service to those customers who fail to pay charges owed to LFUCG for sanitary sewer service. While recognizing that the requirements of KRS Chapter 96² conflict with those of 807 KAR 5:006, Section 14, the Commission found that KRS Chapter 96 is more specific than the statute upon which the regulation is based and therefore controls. We held that a public water utility does not require a deviation from Commission Regulation 807 KAR 5:006,

² KRS 96.932 states: "In the interests of the public health, safety, and general welfare, cities may enforce collection of lawful rates and charges for the use of municipal sewer facilities by requiring that water service, whether provided publicly or privately, be discontinued until payment is made or some satisfactory arrangement is reached. Cities may delegate to sewer bodies the power to issue orders to water suppliers to discontinue service to any person who is delinquent in paying sewer charges."

KRS 96.934(2) states: "If a city is not also the water supplier, then in the event of failure on the part of any sewer user to pay, when due, the bill for sewer service charges, the sewer body may, when such power has been delegated to it by the city, give notice in writing, signed by an authorized person, to the water supplier, to discontinue water service to premises designated in the notice, until notified otherwise. The notice shall identify the delinquent sewer user in such manner as reasonably to enable the water supplier to identify the water service connection which is to be cut off pursuant thereto. Upon receipt of such notice, the water supplier shall discontinue water service to the premises until notified otherwise by the sewer body."

Section 14, to implement a municipal utility's instructions to discontinue a customer's water service under KRS 96.934.³

While neither a deviation from Commission Regulation 807 KAR 5:006, Section 14, nor Commission approval of the practice of discontinuing service is required, a public water utility must still obtain Commission approval of the rate which it charges the municipal sewer utility for discontinuing and subsequently restoring water service if the rate differs from that already charged to its customers. Furthermore, the public water utility should file with the Commission a copy of any contract with a municipal sewer utility for collection and billing services. In the absence of such contract, the public water utility's filed tariff should reflect the performance of this service.

Based upon the above, the Commission finds that South Shore does not require a deviation from Commission Regulation 807 KAR 5:006, Section 14, and that its application is moot.

³ In its application, South Shore also refers to the Commission's Order of January 9, 1995 in Administrative Case No. 347. In that case, the Commission investigated the billing and collection practices of privately-owned sewer utilities. In its Order of January 9, 1995, the Commission concluded that Commission Regulation 807 KAR 5:006, Section 14(1), prohibited water utilities from discontinuing water service because of a customer's failure to pay charges owed for sanitary sewer service. As that case dealt only with privately-owned sewer utilities, it is not applicable to the case at bar.

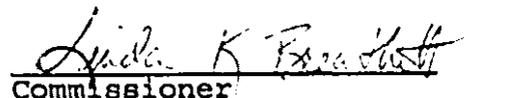
IT IS THEREFORE ORDERED that South Shore's application for a deviation from Commission Regulation 807 KAR 5:006, Section 14, is denied as moot.

Done at Frankfort, Kentucky, this 14th day of July, 1995.

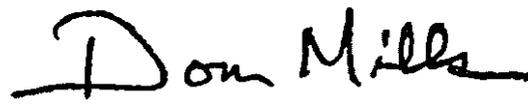
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Executive Director