

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE LOUISVILLE AND JEFFERSON COUNTY)	
METROPOLITAN SEWER DISTRICT FOR)	
APPROVAL TO ACQUIRE THE POPLAR LEVEL)	CASE NO. 95-339
ROAD SEWER CONSTRUCTION DISTRICT)	

O R D E R

On August 7, 1995, the Louisville and Jefferson County Metropolitan Sewer District ("MSD") submitted an application for approval of an agreement to transfer ownership of Poplar Level Road Sewer Construction District ("Poplar Level") to MSD.

Poplar Level is a sewer construction district organized pursuant to the provisions of KRS Chapter 76. Prior to 1988, the Commission asserted jurisdiction over both sewer construction districts and sanitation districts. In April of 1988, the Commission issued an opinion stating that sanitation districts organized pursuant to KRS Chapter 220 would no longer be considered under the jurisdiction of the Commission. This opinion was in large part the result of a Franklin Circuit Court case¹ which held that KRS Chapter 220, which establishes and regulates sanitation districts, takes precedence over KRS Chapter 278 to the extent that conflicts between the statutes exist. The Court reasoned that, inasmuch as KRS Chapter 220 sets forth a comprehensive scheme of regulation for sanitation districts, the legislature intended that

¹ Public Service Commission v. Sanitation District No. 1 of Shelby County, No. 87-CI-1273 (Franklin Circuit Court, Division II).

no provisions except those contained in KRS Chapter 220 were required to be met by sanitation districts.

The Commission was further persuaded that sanitation districts organized pursuant to KRS Chapter 220 should no longer be considered under its jurisdiction by the fact that the legislature failed to make specific reference to sanitation districts within KRS Chapter 278. By comparison, KRS Chapter 278 had been amended to specify that the Commission had jurisdiction over both water associations organized pursuant to KRS Chapter 273 and water districts organized pursuant to KRS Chapter 74.


The Commission finds that the reasoning in its April 1988 opinion also applies to sewer construction districts organized under KRS Chapter 76. Inasmuch as KRS Chapter 76 is specific legislation which sets forth a comprehensive scheme of regulation for sewer construction districts, it is the Commission's belief that the provisions of KRS Chapter 76 take precedence over the general regulatory provisions of KRS Chapter 278. In addition, there is the same lack of specific reference to sewer construction districts within KRS Chapter 278.

The Commission thus finds that Poplar Level is no longer under the jurisdiction of the Commission and therefore need not seek Commission approval of the proposed transfer.

IT IS THEREFORE ORDERED that this proceeding is hereby dismissed.

Done at Frankfort, Kentucky, this 7th day of September, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director