

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE PETITION OF GEORGE LUCAS, SR.,)
ADDISON WATER AND SEWER FACILITIES, FOR)
APPROVAL OF CONSTRUCTION, FINANCING,) CASE NO. 95-439
RATES AND TRANSFER OF WATER AND SEWER)
FACILITIES)

O R D E R

On October 3, 1995, George Lucas, Sr., d/b/a Addison Water and Sewer Facilities ("Lucas") applied for authority to construct new sewer facilities, to finance the construction, to increase sewer rates, and to transfer the water and sewer facilities to Addison Water and Sewer, Inc. The application was deemed filed February 1, 1996.

Lucas currently provides sewer service to 10 customers along the Ohio River near Addison, Kentucky, by means of a cluster low pressure pipe system. Due to the inadequacy of the existing system, which leaves raw sewage standing above ground and has lateral lines which lie in the flood-plain of the Ohio River, the Natural Resources and Environmental Protection Cabinet, Department for Environmental Protection, Division of Water ("NREPC"), has ordered Lucas to take action to abate the problem. Lucas therefore has proposed to install a 4,000 gallon per day metal wastewater treatment plant on a concrete pad to serve his existing customers.

To finance this project, Lucas has proposed to borrow \$85,000 for a 15 year term from the Scott County State Bank of Scottsburg, Indiana. Lucas has requested a rate increase for sewer service

from \$6.50 per month to \$180.00 per month. While Lucas in his Notice to Customers referred to this as an increase of 288 percent, it would in fact be an increase of 2,669 percent. Lucas also proposed to transfer the water and sewer facilities from his personal ownership to a corporate entity by the name of Addison Water and Sewer, Inc.

Of the 10 homes served by Lucas, the owners of eight intervened in this proceeding. The intervenors are Ms. Thelma Bennett, Mr. and Mrs. James F. Hunt, Mr. and Mrs. Lonnie Lawson,¹ Mr. and Mrs. Robert Lenberger, Mr. Leroy Meador, Mr. and Mrs. John Monarch, and Mr. James Stephens. On January 30, 1996, an informal conference was held at the Commission's offices to discuss this case. Four of the intervening parties attended as well as Jack Hughes, Esq., representing Lucas, and Pamla Wood, Ombuds, from the Office of the Secretary of the NREPC. As all the intervenors had previously done by letter, the intervenors present for the informal conference expressed their concerns about the matter now before the Commission.

While the intervenors agree that something needs to be done about their sewage situation, the remedy proposed by Lucas is not acceptable to them. They feel that the proposed monthly rate is excessive and unreasonable. In addition, the intervenors at the informal conference expressed the difficulties they have had with Lucas himself, and discussed matters for which they would like to

¹ The Lawsons own two of the homes served by Lucas.

see him held responsible, which includes providing adequate sewage service to them at a reasonable cost. The intervenors have asked that the Commission deny Lucas's proposed construction and proposed rates, rates which they say they would not, and could not, pay.

Alternatives to the proposed treatment plant were discussed at the informal conference in the hopes of finding a less costly solution to the problem. The Commission Staff as well as the NREPC have since made further investigation.²

After a review of the evidence of record and being sufficiently advised, the Commission finds that:

1. KRS 278.020(4) requires a "person" acquiring a utility to have "the financial, technical, and managerial abilities to provide reasonable service." According to the application submitted by Lucas, the same personnel that currently operate the system will continue to operate the system after the transfer is completed. Also, Lucas himself will be the sole shareholder of Addison Water and Sewer, Inc. Based on the evidence contained in the record, Lucas is not providing reasonable sewer service to his customers at the present time. Furthermore, a valid third-party beneficiary agreement guaranteeing the continued operation of sewage treatment facilities could not be obtained, nor has other evidence of financial integrity been submitted. A prima facie showing has thus not been made that the transfer of the water and sewer facilities

² It appears from the record that some sort of community sand filter or peat system could work, or, if a nearby vacant lot could be obtained, a gravity drainfield system could be constructed on it out of the floodplain.

owned by Lucas to a corporation also owned by Lucas, and under the operation of the same personnel, would be a transfer to a "person" with the financial, technical, and managerial abilities to provide reasonable service required by law. As it is clear to the Commission that such a transfer would not meet the requirements of KRS 278.020(4), the proposed transfer of the water and sewer facilities owned by Lucas to Addison Water and Sewer, Inc. should be denied.

2. KRS 278.300(2) requires applications for authority to issue or assume securities or evidences of indebtedness to be ruled on within 60 days unless it is necessary for good cause to continue the application. Due to the nature of this case and the interest of the intervenors, it will be necessary to extend the time for ruling on the financing application beyond the 60-day limit in order to allow sufficient time to hold a hearing. The hearing will enable the Commission to make a fully informed decision regarding the proposed construction as well as the rate increase which is to accompany the financing of that construction.

IT IS THEREFORE ORDERED that:

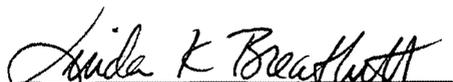
1. The application of Lucas for authority to transfer the water and sewer facilities to Addison Water and Sewer, Inc. is denied.

2. The application of Lucas for authorization to borrow \$85,000 from the Scott County Bank is continued beyond the 60-day period specified in KRS 278.300(2).

3. A formal hearing in this matter shall be held on April 30, 1996, at 9:30 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky.

Done at Frankfort, Kentucky, this 1st day of April, 1996.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director