

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

U.S. 60 WATER DISTRICT OF SHELBY AND )  
FRANKLIN COUNTIES )  
 )  
\_\_\_\_\_ ) CASE NO. 96-042  
 )  
ALLEGED VIOLATIONS OF COMMISSION ORDERS, )  
KRS 278.0152, KRS 278.020, AND KRS )  
278.160(2) )

O R D E R

U.S. 60 Water District of Shelby and Franklin Counties ("U.S. 60"), a water district formed pursuant to the provisions of KRS Chapter 74, owns and operates facilities used for the distribution and furnishing of water to the public for compensation in Shelby County and Franklin County, Kentucky, and is therefore a utility subject to Commission jurisdiction. KRS 278.010(3)(d); KRS 278.015.

On December 18, 1992, in Case No. 92-298,<sup>1</sup> the Commission issued an Order which: granted U.S. 60 a Certificate of Public Convenience and Necessity to proceed with a proposed construction project; approved a special extension agreement; granted a \$9.00 surcharge; granted a deviation from 807 KAR 5:066, Section 11(1); approved U.S. 60's proposed financing plan; directed U.S. 60 to file semi-annual reports concerning the amount of surcharges

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<sup>1</sup> Case No. 92-298, The Application of U.S. 60 Water District of Shelby and Franklin Counties, Kentucky, for an Order Approving Construction, Financing and Certificate of Public Convenience and Necessity.

collected; directed U.S. 60 to collect a \$400 tap-on fee per customer until completion of the approved construction project, with any amount already paid over \$400 to be refunded; and placed additional requirements on U.S. 60.

On July 9, 1993, in Case No. 93-149,<sup>2</sup> the Commission issued an Order which: granted U.S. 60 a Certificate of Public Convenience and Necessity to proceed with a proposed construction project; approved a special extension agreement; granted a \$9.00 surcharge; granted a deviation from 807 KAR 5:066, Section 11(1); approved U.S. 60's proposed financing plan; directed U.S. 60 to file semi-annual reports concerning the amount of surcharges collected; and placed additional requirements on U.S. 60.

KRS 278.0152 permits a water utility to charge a "tapping fee" for installing service to its customers, "subject to the approval of the commission." KRS 278.020 prohibits a utility from beginning the construction of any plant, equipment, property or facility for furnishing service to the public until it has obtained a certificate of public convenience and necessity from the Commission. KRS 278.160(2) requires a utility to charge only the rates prescribed in its filed schedules.

On June 26, 1995, Commission Staff initiated a review of U.S. 60's surcharge procedures and collections. In its Report on Review of Surcharges, which is appended hereto, Commission Staff noted

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<sup>2</sup> Case No. 93-149, The Application of U.S. 60 Water District of Shelby and Franklin Counties, Kentucky, for an Order Approving Construction, Financing and Certificate of Public Convenience and Necessity.

apparent violations of the Commission's final Orders in Cases No. 92-298 and No. 93-149, as well as violations of KRS Chapter 278.<sup>3</sup>

Having reviewed the report and being otherwise sufficiently advised, the Commission finds that a prima facie showing has been made that U.S. 60 violated the Commission's final Orders in Case No. 92-298 and No. 93-149, as well as KRS 278.0152, KRS 278.020, and KRS 278.160(2).

The Commission, on its own motion, HEREBY ORDERS that:

1. U.S. 60 shall appear before the Commission on April 10, 1996, at 9:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, for the purpose of presenting evidence concerning the alleged violations of the Commission's final Orders in Cases No. 92-298 and No. 93-149, KRS 278.0125, KRS 278.020, and KRS 278.160(2), and of showing cause why it should not be subject to the penalties prescribed in KRS 278.990(1) for these alleged violations.

2. U.S. 60 shall submit to the Commission, within 20 days of the date of this Order, a written response to the allegations

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<sup>3</sup> By failing properly to file the semi-annual reports on the amount of surcharge collections, the District appears to have violated the final Orders in Cases No. 92-298 and No. 93-149. By charging 11 customers the incorrect tap-on fee, the District appears to have violated the final Order in Case No. 92-298 as well as KRS 278.0152 and KRS 278.160(2). By billing \$1,224 in surcharges prior to the date the surcharge went into effect, the District appears to have violated the final Order in Case No. 92-298 as well as KRS 278.160(2). By beginning construction prior to receiving a Certificate of Public Convenience and Necessity, the District appears to have violated KRS 278.020.

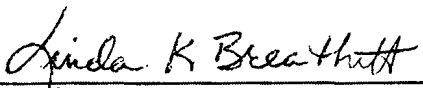
contained herein and to the contents of the Report on Review of Surcharges.

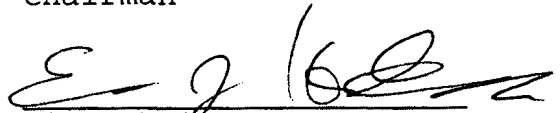
3. The Report on Review of Surcharges, which is appended hereto, is made part of the record of this proceeding.

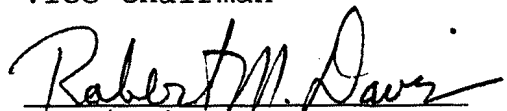
4. Any motion requesting an informal conference with Commission Staff to consider the simplification of issues or any other matters which may aid in the handling or disposition of this proceeding shall be filed with the Commission no later than 20 days from the date of this Order.

Done at Frankfort, Kentucky, this 13th day of February, 1996.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director

**REPORT ON REVIEW OF SURCHARGES FOR  
U. S. 60 WATER DISTRICT OF SHELBY AND FRANKLIN COUNTIES**

BACKGROUND

Since 1992, U. S. 60 Water District of Shelby and Franklin Counties has financed two waterworks projects through a somewhat unusual mechanism. In Case Number 92-298, the Commission approved a proposed construction project and a surcharge on the customers to be served by the project. The district's financing plan consisted of a \$444,000 loan from Kentucky Infrastructure Authority ("KIA") and a contribution from the prospective customers of \$56,000 with a portion of the debt service to be paid through a \$9.00 monthly surcharge. The Commission's order expressed the intention of reviewing the financing plan in operation.

The district requested and received approval for the second construction project in Case Number 93-149 which also included a surcharge on the customers served by the project. The project was funded with a \$237,000 loan from Kentucky Association of Counties Leasing Trust ("KACoLT") and a contribution of \$33,475 from the prospective customers with a portion of the debt service to be paid through a \$9.00 monthly surcharge. The final order in that case also stated that the Commission would be reviewing the financing plan.

APPROACH

A review of the surcharge projects was initiated on June 26, 1995 with a field visit to the district's office by Beverly Davis and Scott Lawless of the Financial Audit Branch of the Financial Analysis Division. A follow-up visit was made on August 1, 1995 by Ms. Davis. Records examined during the field visits included special extension contracts, bank statements, billing records, surcharge reports, and loan statements.

CN 92-298 SURCHARGE

During the hearing, the district testified it had collected tap-on fees ranging from \$450 to \$550 from potential customers although the determination of the surcharge needed was based on a tap-on fee of \$400 per customer. The Commission's final order dated December 18, 1992, directed the district to collect a tap-on fee of \$400 per customer prior to the completion of the extension and to refund any amounts over \$400 that had already been collected.

In a letter to KIA dated March 24, 1993, the district reported collecting \$50,800 in tap-on fees. A review of the special

extension contracts reveals that 128 customers had agreed to connect to the project by that date. If \$400 had been collected from each of those 128 customers, a total of \$51,200 would have been collected by that date. This estimate differs by only \$400 from the amount reported by the district. Based on this test, it appears that through March 24, 1993, the district was in compliance with the Commission's order regarding the collection of a \$400 tap-on fee.

The district's office manager advised that the construction project was completed in December 1993. According to the special extension contracts, a tap-on fee of \$515 was collected from at least eleven customers between April 1993 and December 1993. The office manager said it was her recollection that the district was allowed to charge the higher fee after a date certain such as the loan closing date; however, nothing could be found in the case record to support this statement. Further investigation may be appropriate to determine whether the district should have only collected \$400 from these customers.

It was also discovered that the surcharge was being billed prior to the date of the final order and the effective date listed on the tariff page describing the surcharge of March 1, 1993. According to the computer billing records, the first three surcharge customers were billed in December 1991. Approximately 25 additional customers were added to the surcharge billing during 1992, primarily during October. The district's surcharge summary report showed a total of \$1,224 being billed between December 1991 and the end of 1992. The office manager said she could not explain why the surcharge was billed prior to the date of the order approving the surcharge.

It should also be noted that construction may have been initiated before approval for the project was received from the Commission. The office manager reported that customers would not have been billed for the surcharge unless they were receiving service.

The final order directed the district to report on the amount collected in surcharges six months after the first billing of customers on the extension and to update this information semi-annually. The reports were to continue until further order of the Commission. The first report was filed on December 20, 1993. No other reports were filed by the district until July 21, 1995.

The project was planned to serve approximately 140 new customers. According to the July 21, 1995 report, there were 139 surcharge customers at the end of 1994. This is not materially different from the estimate of 142 customers determined by reviewing extension contracts and the billing records. The amount billed for surcharges during 1994 was \$14,193. This amount traced to the amount deposited in the surcharge account after adjustments

for late charges and other adjustments. The surcharge billed was tested by recalculating the amount using information obtained from extension contracts and billing records regarding customer numbers and dates billed. The amount recalculated by the test was not materially different from the amount reported by the district.

The amount reported as billed for the first two quarters of 1995 was also examined. With a customer base of 142 as determined in our estimate, the district would have billed approximately \$7,668 during the first six months of 1995. This is not materially different from the amount actually reported by the district of \$7,619. Based upon our examination, it appears the amount reported as billed and deposited in the surcharge account is fairly stated.

According to a loan amortization schedule from KIA, this project will require approximately \$45,500 annually to service the debt. The surcharge should provide about \$15,100 as projected by the district. The remaining \$30,400 will come from water service revenue. The district is depositing \$2,600 per month into the surcharge account. The office manager reports the district has had no problems to this date meeting the debt service requirements.

#### CN 93-149 SURCHARGE

This project was expected to serve 65 customers. The financing plan was based upon a tap-on fee of \$515. According to our review of the special extension contracts dated through the end of 1994, at least 63 customers paid \$515 each in tap-on fees which is very close to the projections made by the district.

The final order in this case was dated July 9, 1993 and the effective date for the updated tariff page describing the surcharge was November 1, 1993. According to the billing records, the first customers on this project were billed in February 1994.

The final order in this case also directed the district to report on the amount collected in surcharges six months after the first billing of customers on the extension and to update this information semi-annually. The reports were to continue until further order of the Commission. No reports were filed in this case until July 21, 1995.

According to our review of extension contracts and billing records, there were approximately 78 customers on this project at the end of 1994. The district's July 1995 surcharge report indicated only 60 customers as of December 1994. However, the same report listed 74 customers at January 1995 which is within a reasonable range of our estimate. With a customer base of 78, the district would have billed approximately \$4,212 during the first six months of 1995. This is not materially different from the amount actually reported by the district of \$4,138. It appears the

amount reported as billed for this surcharge project is also fairly stated.

The financing for this project through KACoLT will require approximately \$18,200 annually to service the debt. The surcharge should provide about \$8,200 each year. The remaining \$10,000 will have to come from water service revenues. The district makes monthly interest payments and has made one principal payment on this debt. The office manager reports no problems to this date meeting the debt service requirements.

#### CONCLUSION

It appears the district's customer projections for both projects were realized. The billing system seems to be appropriately identifying, billing, and tracking surcharge customers. Surcharge proceeds are being deposited quarterly into separate interest-bearing accounts.

The primary concern at this point would be whether the district will be able to continue to fund over \$40,000 annually in debt service payments through water service revenues. However, the district's office manager reported no problems and none were noted for the period through the end of 1994.

Further investigation may be warranted to determine whether the district charged a larger tap-on fee to customers of the first surcharge project than allowed by Commission order during the period April 1993 through December 1993. Investigation may also be appropriate to determine whether the surcharges collected prior to the date of the final order in Case Number 92-298 were unauthorized charges. Determination of whether construction was initiated prior to receiving Commission approval may also deserve further inquiry. The district's failure to timely file semi-annual surcharge reports for both projects should also be noted.