

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 ("U.S. 60") is a water district formed pursuant to the provisions of KRS Chapter 74, which owns and operates facilities used for the distribution and furnishing of water to the public for compensation in Shelby County, Franklin County, Anderson County, and Spencer County, Kentucky.

U.S. 60 is a utility subject to the jurisdiction of the Public Service Commission pursuant to KRS 278.010(3)(d), KRS 278.015, and KRS 278.040(2).

On February 13, 1996, the Public Service Commission ordered U.S. 60 to show cause why it should not be subject to the penalties of KRS 278.990(1) for its violations of the Public Service

Commission's final Orders in Case Nos. 92-298¹ and 93-149², KRS 278.0152, KRS 278.020, and KRS 278.160(2).

This Settlement Agreement, appended hereto, is in accordance with the law and constitutes full satisfaction of any penalties against U.S. 60 arising out of this proceeding. Commission Staff recommended to the Commission that this Settlement Agreement be approved and that this proceeding be closed and removed from the Commission's docket.

IT IS THEREFORE ORDERED that:

1. The Settlement Agreement, appended hereto, is incorporated in this Order as if fully set forth herein.

2. The terms and conditions set forth in the Settlement Agreement are adopted and approved.

¹ 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. Final Order dated December 18, 1992.

² 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. Final Order dated July 9, 1993.

Done at Frankfort, Kentucky, this 10th day of April, 1996.

PUBLIC SERVICE COMMISSION

Lynda K. Breathitt
Chairman

E. J. Galt
Vice Chairman

Robert M. Davis
Commissioner

ATTEST:

Don Mills

Executive Director

APPENDIX

AN APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 96-042 DATED April 10, 1996

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))	

SETTLEMENT AGREEMENT

THIS AGREEMENT is made and entered this 3rd day of April, 1996, by and between STAFF OF THE PUBLIC SERVICE COMMISSION OF KENTUCKY ("Commission Staff") and U.S. 60 WATER DISTRICT OF SHELBY AND FRANKLIN COUNTIES ("U.S. 60").

WITNESSETH

THAT, WHEREAS, U.S. 60 is a water district formed pursuant to the provisions of KRS Chapter 74, which owns and operates facilities used for the distribution and furnishing of water to the public for compensation in Shelby County, Franklin County, Anderson County, and Spencer County, Kentucky;

WHEREAS, U.S. 60 is a utility subject to the jurisdiction of the Public Service Commission pursuant to KRS 278.010(3)(d), KRS 278.015, and KRS 278.040(2);

WHEREAS, the Commission Staff issued a Report on Review of Surcharges describing the results of an inspection of U.S. 60's records conducted for the purpose of reviewing surcharge projects

approved in Cases No. 92-298¹ and No. 93-149². During two field visits on June 26, 1995, and August 1, 1995, Commission Staff examined special extension contracts, bank statements, billing records, surcharge reports, and loan statements;

WHEREAS, Commission Staff noted the following violations of statutes and Public Service Commission Orders:

1. U.S. 60 failed to properly file the required semi-annual reports on the amount of surcharge collections - violations of the Public Service Commission's final Orders in Cases No. 92-298 and No. 93-149;
2. U.S. 60 charged 11 customers an incorrect tap-on fee of \$515 rather than the appropriate \$400 - violations of the final Order in Case No. 92-298 as well as KRS 278.0152, which permits a water utility to charge a "tapping fee" for installing service to its customers, "subject to the approval of the commission";
3. U.S. 60 billed \$1,224 in surcharges prior to the date the surcharge went into effect - violations of the final Order in Case No. 92-298 as well as KRS 278.160(2), which requires a utility to charge only the rates prescribed in its filed schedules;
4. U.S. 60 began construction prior to receiving a Certificate of Public Convenience and Necessity - a violation of KRS 278.020, which prohibits a utility from beginning the construction of any plant, equipment, property or facility for furnishing service

¹ 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. Final Order issued December 18, 1992.

² 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. Final Order issued July 9, 1993.

to the public until it has obtained a Certificate of Public Convenience and Necessity from the Public Service Commission.

WHEREAS, on February 13, 1996, the Public Service Commission ordered U.S. 60 to show cause why it should not be subject to the penalties of KRS 278.990(1) for its violations of the Public Service Commission's final Orders in Cases No. 92-298 and No. 93-149, KRS 278.0152, KRS 278.020, and KRS 278.160(2);

WHEREAS, U.S. 60 and Commission Staff, following an informal conference, have agreed to the following factual matters:

1. Since the final Order was issued in Case No. 92-298, U.S. 60 failed to properly file three semi-annual reports as ordered in Case No. 92-298 and two semi-annual reports as ordered in Case No. 93-149;
2. U.S. 60 charged 12 customers the incorrect tap-on fee of \$515 rather than the appropriate tap-on fee of \$400 as directed by the final Order in Case No. 92-298;
3. U.S. 60 billed \$1,224 in surcharges prior to the date the surcharge was approved by the Public Service Commission in its final Order in Case No. 92-298;
4. U.S. 60 began construction prior to receiving a Certificate of Public Convenience and Necessity from the Public Service Commission in Case No. 92-298.

WHEREAS, U.S. 60, while agreeing to the above facts, states that it at no time acted with the intention of violating Public Service Commission Orders or the relevant statutes, attributing the violations to mistaken assumptions, incorrect interpretations, and simple human error, as well as the prolonged illness and death of its former manager;

WHEREAS, U.S. 60 and Commission Staff desire to settle the issues raised by this proceeding; and

WHEREAS, U.S. 60 agrees to pay a penalty of \$800.00 and to make refunds to all customers in accordance with paragraphs 2 and 3 of this Settlement Agreement.

NOW, THEREFORE, be it resolved that:

1. U.S. 60 shall pay a penalty in the amount of \$800.00 to be paid in full within ten days of an order accepting and approving this Settlement Agreement. A certified check for the full amount of the penalty shall be made payable to the Kentucky State Treasurer and delivered to the Office of General Counsel of the Public Service Commission, 730 Schenkel Lane, Frankfort, Kentucky 40602.

2. Upon the issuance of an order by the Public Service Commission accepting and approving this Settlement Agreement, U.S. 60 shall refund \$115 to each of the 12 customers who were charged a tap-on fee of \$515 rather than the appropriate tap-on fee of \$400 in violation of the Public Service Commission's final Order in Case No. 92-298, and shall refund or credit the \$1,224 in surcharge collections that were billed prior to the date the surcharge was approved by the Public Service Commission in Case No. 92-298. Each customer affected may choose to have a credit in the appropriate amount placed on their account rather than to receive a refund. Within 60 days of the date of such order accepting and approving this Settlement Agreement, U.S. 60 shall have completed issuing the refunds and credits.

3. Within 60 days from the date of such order accepting and approving this Settlement Agreement, U.S. 60 shall submit a verified statement listing the names, addresses, amounts paid, and method of payment for customers entitled to and receiving a refund.

4. Upon the issuance of an Order by the Public Service Commission accepting and approving this Settlement Agreement, U.S. 60 shall file its reports regarding the surcharge collections on an annual basis, rather than semi-annually as previously ordered. These reports shall be filed simultaneously with U.S. 60's annual report on a report form to be supplied by the Commission.

5. This Settlement Agreement constitutes full satisfaction of any penalties against U.S. 60 arising out of this proceeding. Commission Staff shall recommend to the Public Service Commission that this Settlement Agreement be approved and that this proceeding be closed and removed from the Public Service Commission's docket.

6. This Settlement Agreement is subject to the acceptance of and approval by the Public Service Commission.

7. If the Public Service Commission fails to accept and approve this Settlement Agreement in its entirety, this proceeding shall go forward and neither the terms of this Settlement Agreement nor any matters raised during settlement negotiations shall be binding on either signatory.

8. If the Public Service Commission accepts and adopts this Settlement Agreement in its entirety and enters an order in this proceeding to that effect, U.S. 60 shall not apply for rehearing in this proceeding nor bring an action for review of that order.

AGREED TO BY:

U.S. 60 WATER DISTRICT

By: Don Chavis, Attorney

April 1, 1996
Date

PUBLIC SERVICE COMMISSION STAFF

By: John H. Hoff, Esq.

April 3, 1996
Date