

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CHARLES AND DELORISE EVANS)	
D/B/A MEADOWBROOK)	
)	
COMPLAINANT)	
)	CASE NO. 96-301
v.)	
)	
WEST MARSHALL WATER DISTRICT)	
)	
DEFENDANT)	

O R D E R

On July 16, 1996, Charles and Delorise Evans d/b/a Meadowbrook ("Complainants") filed a formal complaint against West Marshall Water District ("West Marshall") alleging that they paid West Marshall \$14,281.60 for an extension of its water main to serve twenty (20) lots located in Phase I of Meadowbrook Mobile Home Park and West Marshall has failed to reimburse them for the nineteen (19) customers who have connected to the extension--an alleged violation of 807 KAR 5:066, Section 11(3).

On July 31, 1996, West Marshall filed a document entitled Response to Order and Answer of Complaint ("Answer"). In its Answer, West Marshall admits that it entered a contract with Complainants for the extension, that Complainants paid West Marshall \$14,281.60 for the extension, and that it agreed to pay Complainants "a sum equal to the cost of fifty feet per extension installed for each new customer."

On September 18, 1996, Complainants filed with the Commission additional information which included a copy of the contract that the parties entered on July 22,

1994. The contract incorporates the reimbursement plan set forth in 807 KAR 5:066, Section 11(3), which states in relevant part that:

Each year, for a refund period of not less than ten (10) years, the utility shall refund to the applicant who paid for the extension a sum equal to the cost of fifty (50) feet of the extension installed for each new customer connected during the year. . . . Total amount refunded shall not exceed the amount paid to the utility.

Notwithstanding the above, West Marshall seeks Commission approval of a payment schedule that it has implemented because it is "a small water district, and cannot pay in lump sum, the amount requested by the Complainant." Under the schedule, West Marshall is required to pay Complainants "\$100 per month until the complete balance of \$14,281.60 has been paid in full."

On October 9, 1996, West Marshall filed its response to the Commission's August 28, 1996 request for additional information. In the response, West Marshall states that the extension is 960 feet. West Marshall further states that each 50-foot section costs \$743.50, which is "higher than the agreed upon amount of \$714.08."

On December 2, 1996, Complainants filed with the Commission a letter stating that West Marshall began making the monthly payments of \$100 in July of 1996. Complainants, however, seek reimbursement from West Marshall pursuant to 807 KAR 5:066, Section 11(3). Alternatively, they sought "a working agreement to pay a specified amount monthly as long as West Marshall Water District agree[d] to continue to abide by their contract for providing water line extensions for the future phases of Meadowbrook."

West Marshall seeks dismissal of this Complaint and Commission approval of its decision to refuse to accept contracts for new water main extensions until completion of the new water treatment plant of the City of Benton, West Marshall's wholesale supplier. As grounds for its request, West Marshall states that, prior to that time, it cannot assure anyone that adequate service can be attained by extension of new mains.

The Commission, having reviewed the evidence of record and being otherwise sufficiently advised, finds that West Marshall's offer to satisfy this Complaint has been rejected by Complainants. The Commission further finds that it is unable to make a determination regarding the offer because West Marshall has failed to provide supporting documentation for its claim that it is unable to issue refunds to the Complainants pursuant to 807 KAR 5:066, Section 11(3). Consequently, West Marshall's motion to dismiss this case should be denied.

Finally, the Commission finds that West Marshall's motion seeking approval of its decision regarding future requests for extensions should be denied because it involves issues that are not the subject of this proceeding.

IT IS THEREFORE ORDERED that:

1. West Marshall's motions seeking approval of its decision regarding future requests for extensions and dismissal of this case are hereby denied.
2. West Marshall shall, by no later than 15 days from the date of this Order, file with the Commission supporting documentation for its claim that it is unable to issue refunds to the Complainants pursuant to 807 KAR 5:066, Section 11(3).

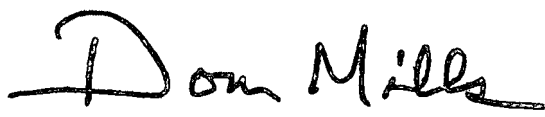
3. If West Marshall fails to file the supporting documentation by no later than 15 days from the date of this Order, then its claim that it is unable to issue the refunds pursuant to 807 KAR 5:066, Section 11(3), shall be denied by the Commission and its right to request a hearing shall at such time be deemed to be waived. This matter shall then stand submitted to the Commission for its decision based upon the record as it exists on the deadline date.

Done at Frankfort, Kentucky, this 6th day of January, 1997.

PUBLIC SERVICE COMMISSION


For the Commission

ATTEST:


Executive Director