

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

GOSHEN UTILITIES, INC.)	
)	
_____)	CASE NO. 96-451
)	
ALLEGED FAILURE TO COMPLY WITH)	
807 KAR 5:006 AND 807 KAR 5:066)	

O R D E R

Goshen Utilities, Inc. ("Goshen") is an investor-owned water utility which owns and operates facilities used for the treatment, distribution, and furnishing of water to the public for compensation in Oldham County, Kentucky. As such, it is a utility subject to Public Service Commission jurisdiction. KRS 278.010(3)(d).

On September 17, 1996, the Commission, finding that a prima facie showing had been made that Goshen was in violation of Commission Regulations 807 KAR 5:006 and 807 KAR 5:066, issued an Order directing Goshen to appear before the Commission at a hearing scheduled for November 6, 1996 for the purpose of showing cause why it should not be subject to the penalties prescribed in KRS 278.990(1) for those alleged violations. Goshen was also directed to file a written response to the allegations.

Goshen filed two written responses. The first, filed September 27, 1996, included a copy of a letter addressed to Commission Staff dated February 9, 1996.¹ This letter responded to a November 7, 1995 inspection of Goshen's facilities by Commission Staff.

¹ Commission Staff has no record of having received Goshen's letter of February 9, 1996 prior to September 27, 1996.

It was from this inspection that five areas in which Goshen was not in compliance with Commission regulations were identified, leading to the Commission's Order of September 17, 1996.

As Goshen's first response contained outdated information, Goshen filed a second response on October 21, 1996. This response contained evidence that Goshen was in compliance with 807 KAR 5:006, Section 25(3), and 807 KAR 5:066, Section 5(2), and that it was making an effort to comply with 807 KAR 5:066, Section 16(1). No mention was made regarding its efforts to comply with 807 KAR 5:066, Section 6(3), although Goshen's first response indicated that it intended to replace approximately 5,250 feet of old water line which was expected to improve its unaccounted-for water loss.

As it was clear from the responses filed by Goshen on September 27 and October 21 that the utility was attempting to comply with Commission regulations, the hearing scheduled for November 6, 1996 was postponed indefinitely while the Commission gathered additional information. Goshen was directed by Order on October 30, 1996 to file this additional information within 15 days. However, the information was not received by the Commission until December 26, 1996.

While the information provided by Goshen to the Commission during the course of this proceeding has addressed the concerns of the Commission in that Goshen appears to have taken the actions necessary to bring itself into compliance with 807 KAR 5:006, Section 25(3); 807 KAR 5:066, Section 16(1); 807 KAR 5:066, Section 5(2); and 807 KAR 5:066, Section 6(3), there are other concerns left outstanding. Goshen was notified of its noncompliance with five Commission regulations by letter of November 9,

1995. The same letter requested a reply from Goshen by December 11, 1995. No reply was received. A second notice was mailed on January 29, 1996, giving Goshen until February 29, 1996 to respond. There is no record of a response being received by the Commission during that time. On March 5, 1996, Goshen requested permission to grant free water and sewer service to one of its employees, thereby addressing one of the five areas of noncompliance. No response was received from Goshen regarding the other four. The present proceeding was initiated on September 17, 1996, as a result of Goshen's failure to address the remaining four violations. Goshen was timely in its initial responses to the Commission's Order, but on October 30, 1996, the Commission by Order directed Goshen to file additional information within 15 days. Again, no response was received from Goshen during the time provided. A reminder letter was sent by the Commission on December 10, 1996, giving Goshen until December 20, 1996, to file the requested information. This information was not received until December 26, 1996.

It is for these reasons, these failures to follow directives of the Commission, that the Commission is not willing to merely dismiss this case. While Goshen may have brought itself into compliance with Commission regulations, it did so only after a year of being badgered and cajoled by the Commission. While Goshen may no longer be in violation of 807 KAR 5:006, Section 25(3); 807 KAR 5:066, Section 16(1); 807 KAR 5:066, Section 5(2); and 807 KAR 5:066, Section 6(3), it willfully allowed itself to remain in violation of these regulations for over a year after the violations were first brought to its attention. For its willful failure to comply with Commission regulations, a penalty should be assessed against Goshen in the amount of \$250 pursuant to KRS 278.990(1).

Furthermore, the Commission does not find Goshen's proposal regarding 807 KAR 5:066, Section 5(2), completely acceptable, in that it appears Goshen does not intend to maintain a pressure recording gauge at a representative point on its main for a minimum of one week per month during times of extremely cold temperatures. While the Commission is aware that certain weather conditions can make compliance difficult or even impossible, extremely cold weather in and of itself does not provide a blanket excuse for failure to comply with 807 KAR 5:066, Section 5(2). Goshen is expected to use every effort to maintain compliance with this, and all relevant regulations, at all times.

IT IS THEREFORE ORDERED that a penalty of \$250 is assessed against Goshen to be paid in full within ten days of the date of this Order by certified check or money order made payable to the Kentucky State Treasurer and mailed to the Office of General Counsel, Public Service Commission, P. O. Box 615, Frankfort, Kentucky 40602.

Done at Frankfort, Kentucky, this 3rd day of April, 1997.

PUBLIC SERVICE COMMISSION

Linda K. Breathitt
Chairman

Elmer L. Helman
Vice Chairman

B. J. Helton
Commissioner

ATTEST:

Don Mills
Executive Director