

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION FOR CERTIFICATE)
OF PUBLIC CONVENIENCE AND)
NECESSITY TO CONSTRUCT A) CASE NO. 96-466
SEWAGE TREATMENT FACILITY)
OWNED BY JOHN FEHSAL)

O R D E R

John Fehsal filed an application on October 24, 1996 seeking a Certificate of Public Convenience and Necessity for a plant addition to the existing sewage treatment system owned by him at Huntington Woods Estate ("Huntington Woods"). The total project cost is estimated to be \$40,575 and will be financed by Mr. Fehsal. Mr. Fehsal will pay for the proposed construction out of operating revenues or personal funds. Since Mr. Fehsal will not be obtaining external financing for this construction, no approval under KRS 278.300 is needed. However, any subsequent recovery through rates of personal loans made to the utility would be subject to Commission approval.

The Commission, having reviewed the evidence of record and being otherwise sufficiently advised, finds that:

1. As a result of the application filed by Mr. Fehsal, it was noted that the Commission had no knowledge that ownership of the Huntington Woods sewage treatment system had been transferred from the Huntington Woods Homeowners Association to Mr. Fehsal. Commission Staff therefore conducted an investigation of the Huntington Woods system on November 13, 1996, to determine whether Mr. Fehsal

was operating as a public utility pursuant to state law and regulations, and to determine the condition of the system.¹

2. During the investigation, Commission Staff found that Mr. Fehsal acquired ownership of the sewage treatment system from the Huntington Woods Homeowners Association in 1988. Mr. Fehsal charges the system's customers \$25.00 per month for sewer service. The system provides service to approximately 84 customers. While the system operates under a KPDES permit, a Certificate of Public Convenience and Necessity has not been issued by the Commission for the system. Furthermore, no annual reports or rules and regulations concerning this system are on file with the Commission.

3. As Mr. Fehsal, through his sewage treatment system at Huntington Woods, provides sewage treatment to the public for compensation, he is operating as a utility pursuant to KRS 278.010(3) and therefore is subject to the jurisdiction of the Commission pursuant to KRS 278.040(2).²

¹ KRS 278.010(3) states: "'Utility' means any person except a city, who owns, controls, or operates or manages any facility used or to be used for or in connection with:

* * *

(f) The treatment of sewage for the public, for compensation, if the facility is a subdivision treatment facility plant, located in a county containing a city of the first class or a sewage treatment facility located in any other county and is not subject to regulation by a metropolitan sewer district."

² KRS 278.040(2) states: "The jurisdiction of the commission shall extend to all utilities in this state. The commission shall have exclusive jurisdiction over the regulation of rates and service of utilities, but with that exception nothing in this chapter is intended to limit or restrict the police jurisdiction, contract rights or powers of cities or political subdivisions."

4. The Commission does not retroactively grant Certificates of Public Convenience and Necessity. Mr. Fehsal's existing sewage treatment system should thus not be granted one at this time.

5. Mr. Fehsal should, within 30 days of the date of this Order, file a tariff containing the rates, rules, and regulations for his sewage treatment system at Huntington Woods.

6. In the future, Mr. Fehsal should file an annual report for his sewage treatment system at Huntington Woods in accordance with 807 KAR 5:006, Section 3.

7. In order to comply with the wastewater discharge permit issued by the Division of Water, Natural Resources and Environmental Protection Cabinet ("DOW") and to serve additional customers, Mr. Fehsal proposes to replace the existing 20,000-gallon per day sewage treatment plant with a 45,000-gallon per day sewage treatment plant.

8. The proposed facilities have been approved by the DOW, are cost effective, and will not create wasteful duplication with any existing facilities. The total cost of the proposed construction, after allowances are made for fees, contingencies, and other indirect costs, is approximately \$40,575. The public convenience and necessity require that the proposed construction be performed and a Certificate of Public Convenience and Necessity should be granted.

9. Any deviation from the construction approved should be undertaken only upon Commission Order approving same.

10. Mr. Fehsal shall not perform construction not expressly authorized by this Order or execute any evidence of indebtedness within the purview of KRS 278.300, until authorized to do so by Commission Order.

11. Mr. Fehsal should document the total costs of the present project including the cost of construction and all other capitalized costs (engineering, legal, administrative, etc.) within 60 days of the date that construction is substantially completed and file same with the Commission. Construction costs should be classified into appropriate plant accounts in accordance with the Uniform System of Accounts for Sewage Utilities prescribed by the Commission.

IT IS THEREFORE ORDERED that:

1. Mr. Fehsal is granted a Certificate of Public Convenience and Necessity to proceed with the proposed construction as set forth in the plans of record herein.

2. Mr. Fehsal shall, within 30 days of the date of this Order, file a tariff containing the rates, rules, and regulations for his sewage treatment system at Huntington Woods. Tariff forms are attached.

3. In the future, Mr. Fehsal shall file an annual report for his sewage treatment system at Huntington Woods in accordance with 807 KAR 5:006, Section 3.

4. Mr. Fehsal shall comply with the requirements contained in Findings 9 through 11 as if fully set out herein.

Nothing contained herein shall be construed as Commission approval of any financing related to this project.

Done at Frankfort, Kentucky, this 5th day of March, 1997.

PUBLIC SERVICE COMMISSION

Linda K Breathitt
Chairman

[Signature]
Vice Chairman

B. J. Helton
Commissioner

ATTEST:

[Signature]
Executive Director