

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PROPOSED ADJUSTMENT OF THE)
WHOLESALE WATER SERVICE RATES OF) CASE NO.
THE FRANKFORT ELECTRIC AND WATER) 96-595
PLANT BOARD)

O R D E R

Elkhorn Water District, North Shelby Water Company, and U.S. 60 Water District of Shelby and Franklin Counties (collectively "the Intervenor") and the Frankfort Electric and Water Plant Board ("Plant Board"), have agreed upon a rate which the Plant Board will charge the Intervenor for wholesale water service and have submitted this Settlement Agreement to the Commission. This action follows the Plant Board's application for an adjustment of its current wholesale rate, the Intervenor's objections to the proposed adjustment, and the initiation of this proceeding to investigate the proposed adjustment.

The purpose of the Commission's jurisdiction over a municipal utility's wholesale transactions with a public utility is to ensure that any public utility "consumer/customer" that "has contracted and become dependent for its supply of water from a city utility is not subject to either excessive rates or inadequate service." Simpson County Water District v. City of Franklin, Ky., 872 S.W.2d 460, 465 (1994). In the current case, this purpose has been served. The public utilities which purchase water from the Plant

Board made clear their objections to the proposed adjustment. The Plant Board has apparently addressed those concerns.

Having considered the Settlement Agreement and being otherwise sufficiently advised, the Commission finds that the agreed rate falls within the zone of reasonableness and should be approved. The Commission's approval of the Settlement Agreement, however, is conditioned upon the application of the agreed rate to all public water utilities to which the Plant Board provides wholesale service.

The Settlement Agreement requires the Plant Board to charge the agreed rate only to the Intervenors. The Plant Board, however, provides the same service to two other public water utilities - Peaks Mill Water District and Farmdale Water District. Nothing within the record of this proceeding suggests that these two utilities' usage characteristics differ significantly from those of the Intervenors. To the contrary, the Plant Board's written testimony and documentary evidence strongly suggest that the Plant Board considers all public water utility customers as a single class of customers. The Commission can find no acceptable reason to treat these two public utilities differently.¹

IT IS THEREFORE ORDERED that:

1. Subject to the conditions set forth above, the Settlement Agreement, appended hereto, is approved.

¹ The Commission's action today should not be construed as an endorsement of Peaks Mill Water District and Farmdale Water District's conduct. While the Intervenors expended their time and resources to participate in this proceeding, Peaks Mill Water District and Farmdale Water District stood idly by. None of the benefits which will directly accrue to these two public utilities as a result of the Settlement Agreement can be traced to their actions or those of their management.

2. The rate of \$1.25 per 1,000 gallons is approved for water service rendered by the Plant Board to public water utilities on and after the date of this Order.

3. If any party to the Settlement Agreement wishes to exercise its right to withdraw from that Agreement because of modifications ordered herein, it shall notify the Commission in writing within 10 days of the date of this Order.


4. If the Settlement Agreement is withdrawn, this Order is vacated and shall be considered null and void.

5. The Plant Board shall, within 30 days of the date of this Order, file tariff sheets which reflect the rate approved herein.

Done at Frankfort, Kentucky, this 11th day of August, 1997.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director