

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ROBERT P. ADAMS)	
)	
COMPLAINANT)	
)	
v.)	CASE NO. 97-026
)	
NORTH SHELBY WATER COMPANY)	
)	
DEFENDANT)	

O R D E R

On January 17, 1997, Robert P. Adams filed a complaint against North Shelby Water Company ("North Shelby") regarding the fact that he was being required to pay a line enlargement charge as well as a tap fee by North Shelby in order to receive water service to a one acre lot he retained following the sale of the remaining 35 acres of a farm. Mr. Adams did not feel he should have to pay the line enlargement charge as he does not see himself as a developer.

North Shelby filed a response to Mr. Adams' complaint on February 10, 1997. In its response, North Shelby contends that Mr. Adams is a developer regardless of whether he considers himself a developer, as he divided a tract of land into two or more pieces. According to North Shelby, it is required by its Rules and Regulations to collect a line enlargement charge for all residential lots. Pursuant to its Rules and Regulations pertaining to the line enlargement charge, a lot is considered more residential than agricultural in nature if the lot is less than 15 acres. As Mr. Adams' lot was not served by an existing meter and is residential in nature, North Shelby argued that it had no

choice but to require Mr. Adams to pay a line enlargement charge based on the one acre lot. According to North Shelby, it has without exception required all persons to pay this line enlargement charge as required by its Rules and Regulations.

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

1. Mr. Adams subdivided a farm which he owned into two parcels, one which he sold and one on which he is constructing a residence. By doing so, he meets the definition of a developer as contemplated by North Shelby's line enlargement charge policy approved by Order of the Commission in Case No. 95-161¹ and contained in its filed tariff.

2. North Shelby has correctly applied its line enlargement charge to Mr. Adams' situation.

3. 807 KAR 5:006, Section 14(a), allows North Shelby to refuse service to those failing to comply with its applicable tariffed rules, assuming it has first made a reasonable effort to obtain customer compliance.

4. It appears that, prior to refusing service to Mr. Adams, North Shelby made a reasonable effort to obtain his compliance with its tariffed rules.

5. KRS 278.170(1) prohibits North Shelby from giving any person any unreasonable preference or advantage, or subjecting any person to any unreasonable prejudice or disadvantage.

¹ Case No. 95-161, The Tariff Filing Of North Shelby Water Company To Revise Its Extension Policy To Include A Line Upsize Charge. Final Order issued September 25, 1995.

6. If North Shelby does not require Mr. Adams to pay the line enlargement charge, it would give Mr. Adams an unreasonable preference or advantage.

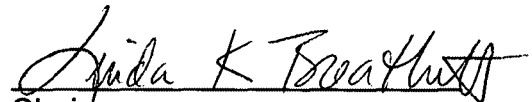
7. Pursuant to KRS 278.260(2), the Commission "may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest or for the protection of substantial rights." As the only issue in the present complaint involves whether North Shelby rightfully applied its line enlargement charge, and thus only involves a question of law rather than fact, a hearing in this matter is not necessary.

8. The complaint filed by Mr. Adams should therefore be dismissed.

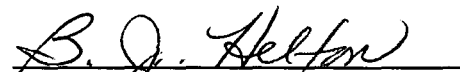
IT IS THEREFORE ORDERED that the complaint filed by Mr. Adams against North Shelby is dismissed.

Done at Frankfort, Kentucky, this 21st day of April, 1997.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director