

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF GEORGE LUCAS, SR.)	
D/B/A ADDISON WATER AND)	
SEWAGE FACILITIES TO ABANDON)	CASE NO. 97-177
FACILITIES)	

O R D E R

On April 10, 1997, George Lucas, Sr. d/b/a Addison Water and Sewage Facilities (Addison) filed a petition for authority to cease operation as a public utility. Addison is a ten-customer water and sewer utility located adjacent to the Ohio River in Breckinridge County, Kentucky.

In 1995 Addison was cited by the Natural Resources and Environmental Protection Cabinet (Cabinet) for failure to comply with certain environmental regulations concerning the operation of the septic system and pollution of the ground water in the area of the septic field. As a result of negotiations between Addison and the Cabinet, an Agreed Order was entered into whereby Addison would install a package treatment plant to serve its customers (Cabinet Exhibit No. 1).

On October 3, 1995, Addison petitioned this Commission in Case No. 95-439¹ for authority to construct and finance the facility and also filed for a rate increase. On November 25, 1996, the Commission issued an Order denying the application for

¹ Case No. 95-439, The Petition of George Lucas, Sr., Addison Water and Sewer Facilities, For Approval of Construction, Financing, Rates and Transfer of Water and Sewer Facilities.

financing and the proposed rate increase. The Commission found that the proposed 2,669 percent increase in rates was oppressive and that a less expensive, yet feasible, alternative to the proposed construction appeared to exist.

A public hearing was held in this case on September 22, 1998. Three intervenors appeared at the hearing along with counsel for the Natural Resources and Environmental Protection Cabinet. The evidence for the petitioner at the hearing consisted of testimony from Dennis O'Brien (Addison's accountant), Cindy Napier (George Lucas's attorney) and Woodrow W. Smither (Addison's engineer). These witnesses indicated that George Lucas is the operator of the system and has been for several years, but that he is now in ill health and unable to operate the system and no one is willing to take over for him. Engineer Smither stated it was his opinion that the present system would work if properly installed and maintained. At the hearing there was sparse evidence pertaining to other systems that would work. Mr. Smither, incredibly, did not inspect the present system. He did design the system that was proposed in Case No. 95-439. He stated he had reviewed a GO-flow Drip System, but he didn't know anything about it and would not recommend the system. It appears that several systems have been proposed in this case, but none has received much, if any, study by Addison. There is evidence that Addison did not explore the system mentioned by the EPA in its letter and also that some systems were rejected after only cursory consideration.

It further appears that there has been little, if any, effort by Addison to collect the monthly fees from all customers. It seems that if a customer does not pay the monthly fee, no effort is made by Addison to collect it.

The Commission finds that Addison has not produced evidence that it has sufficiently considered alternative systems as noted in the Commission's Order of November 25, 1996 in Case No. 95-439. That Order indicated that a less expensive, yet feasible, alternative system appears to exist. If a utility is to be abandoned, the applicant must convince the Commission that the person or entity seeking the abandonment does not have the financial, technical and managerial ability to provide reasonable service.

The Commission finds that Addison has not sufficiently explored the systems proposed and has not presented sufficient evidence of the unsuitability of other treatment methods. The Commission is of the opinion that it cannot render a decision until further study is undertaken by Addison to explore alternative systems and their cost.

IT IS THEREFORE ORDERED that:

1. The Commission will hold this case in abeyance for sixty days from the date of this Order.
2. Addison shall file a report within sixty days from the date of this Order describing the alternative sewage treatment facilities it has explored and the costs to implement each.
3. Addison shall specifically consider a drip system as proposed in the Commission's Order of November 25, 1996.

Done at Frankfort, Kentucky, this 22nd day of January, 1999.

By the Commission

ATTEST:

Executive Director