

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|--------------------------------------|---|-----------------|
| REGINA LEE JONES |) | |
| |) | |
| COMPLAINANT |) | |
| |) | |
| v. |) | CASE NO. 98-332 |
| |) | |
| WESTERN ROCKCASTLE WATER ASSOCIATION |) | |
| |) | |
| DEFENDANT |) | |

ORDER

On June 22, 1998, Regina Lee Jones (Complainant) filed a formal complaint against Western Rockcastle Water Association (Western Rockcastle). The Complainant alleges that she paid for a water meter and 200 feet of pipeline but was refused service by Western Rockcastle. She requests that Western Rockcastle be required to provide water service to her home.

On June 26, 1998, an Order was issued to Western Rockcastle requiring it to satisfy or answer the complaint. On July 8, 1998, Western Rockcastle filed an answer denying the requested relief. Western Rockcastle s Answer states that the association is unable to connect the Complainant to water service because of a boundary dispute between the Complainant and a neighbor. According to the Answer, the water line must pass through the property of the neighbor who threatened to shoot anyone who digs on his property to install a service extension. The Answer concludes that Western Rockcastle is willing to install service to the Complainant as soon as its employees can do so without risk of serious injury.

On September 10, 1998, Western Rockcastle filed a response to the Commission's Order dated August 17, 1998. In its response, Western Rockcastle states that in order to extend service to the Complainant, Western Rockcastle must secure an easement from Donald Collins, the aforementioned neighbor. The response further states that Donald Collins has refused to grant such an easement and that condemnation proceedings are the only legal means of providing service to the Complainant. According to the response, the estimated cost to condemn the property is from \$2,500 to \$3,000.

A formal hearing was held at the Commission's offices on November 18, 1998. Regina Lee Jones and her father, Clyde Collins, the owner of the property on which she lives, testified on behalf of the Complainant. Buzz Carloftis, county judge/executive for Rockcastle County, and Denver Burton, manager of Western Rockcastle, testified on behalf of the defendant.

FINDINGS OF FACT

Western Rockcastle is a water association organized pursuant to KRS Chapter 273. Western Rockcastle owns, controls, and operates facilities used in the distribution of water to the public for compensation and is, therefore, subject to the Commission's jurisdiction. KRS 278.010(3)(d); KRS 278.012; and KRS 278.040(2). Its offices are located in Brodhead, Kentucky. The Complainant, Mrs. Jones, is a resident of Mt. Vernon, Kentucky, and lives within the territory served by Western Rockcastle.

The Complainant and her husband live in a mobile home at the end of Jack Hurd Road Extension on property owned by Mrs. Jones' father, Clyde Collins. The trailer was placed there January 9, 1997, and Mrs. Jones applied for water service on March 16,

1997.¹ At the time of her application for service, Mrs. Jones paid the water association \$585 dollars for the meter and for 200 feet of pipeline. She later paid an additional \$55 when informed that the first payment covered only 100 feet of pipeline. The Complainant has paid Western Rockcastle a total of \$640 for the meter and 200 feet of line.² She has not been provided water service by Western Rockcastle to date.

Clyde Collins, owner of the property on which Mrs. Jones lives, contends that his property line is approximately 200 feet from the blow-off valve located at the end of a three-inch water line maintained by Western Rockcastle.³ The blow-off valve is located on property owned by Donald Collins. In order to serve Mrs. Jones directly from the blow-off valve, Western Rockcastle must obtain an easement from Donald Collins in order to extend the water line to Clyde Collins property. Donald Collins has refused to grant Western Rockcastle a voluntary easement.⁴ In order to serve Mrs. Jones directly from the blow-off valve, going east along the north side of Jack Hurd Road Extension, Western Rockcastle must pursue an action to condemn the Donald Collins property. Ms. Jones has indicated that she is willing to pay the cost of a condemnation action should it be required.⁵

¹ Transcript of Evidence at 23.

² Id. The amount includes the tapping fee of \$480, a \$50 deposit, and 55 cents per foot of pipe.[Transcript at 67.]

³ Id. at 33-34.

⁴ Id. at 69.

⁵ Id. at 26.

According to the Complainant and Clyde Collins testimony, however, there is an alternative means of serving Mrs. Jones home. According to them, Western Rockcastle can serve the Complainant by running a water line from the blow-off valve on Donald Collins property to the property directly across Jack Hurd Road Extension.⁶ From this point, a service line could be installed along the south side of Jack Hurd Road Extension to serve Mrs. Jones home. Denver Burton, manager of Western Rockcastle, testified that it would be possible to serve the Complainant in such a manner.⁷ Mr. Burton also testified that it was possible to tap into the existing extension at a point below Donald Collins property line, run a line under the road, and set a meter for Mrs. Jones on property owned by her father, Clyde Collins.⁸ From this point, a service line could again be installed along the south side of Jack Hurd Road Extension to serve Mrs. Jones home. If either of these two approaches were taken, an easement may not be required to serve Mrs. Jones.

DISCUSSION

Western Rockcastle has the obligation to serve Mrs. Jones in accordance with its approved tariff and Commission regulations. Pursuant to 807 KAR 5:006, Section 5(3), Western Rockcastle is responsible for obtaining any easements necessary to serve Mrs. Jones:

Obtaining easements and rights-of-way necessary to extend service shall be the responsibility of the utility. No utility shall require a prospective customer to obtain easements or rights-of-way on property not owned by the prospective customer as a condition for providing service. The cost of

⁶ Id. at 11 and 30.

⁷ Id. at 71.

⁸ Id. at 68.

obtaining easements or rights of way shall be included in the total per foot cost of an extension, and shall be apportioned among the utility and customer in accordance with the applicable extension regulation.

The applicable extension regulation is 807 KAR 5:066, Section 11(1), which states the following: An extension of fifty (50) feet or less shall be made by a utility to its existing distribution main without charge for a prospective customer who shall apply for and contract to use service for one (1) year or more. Thus, under 807 KAR 5:006, Section 5(3) and 807 KAR 5:066, Section 11(1), Western Rockcastle must obtain any necessary easement as well as bear the cost of 50 feet of the average estimated cost per foot. Western Rockcastle's cost per foot responsibility includes both the cost to install the water line and the cost of obtaining the easement.

IT IS THEREFORE ORDERED that:

1. Western Rockcastle shall install the necessary service extension to serve Mrs. Jones in accordance with its filed tariff and Commission regulations.

2. If Western Rockcastle has not provided service to Mrs. Jones by January 31, 1999, Western Rockcastle shall submit a construction plan for doing so within 15 days from the date of this Order. The construction plan shall present any and all appropriate methods for serving Mrs. Jones, including estimates of any additional costs Mrs. Jones may be required to pay for service under each proposed method.

Done at Frankfort, Kentucky, this 26th day of January, 1999.

By the Commission

ATTEST:

Executive Director