

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

HIMA-SIBERT WATER DISTRICT, JOE T. GREGORY,)
MARY GREGORY, AND CARL HIBBARD)
_____) CASE NO. 2000-197
)
ALLEGED VIOLATION OF ADMINISTRATIVE)
REGULATION 807 KAR 5:066, SECTION 15)

ORDER

Hima-Sibert Water District ("Hima-Sibert"), a water district formed pursuant to the provisions of KRS Chapter 74, owns and operates facilities used for the distribution and furnishing of water to the public for compensation in Clay County, Kentucky, and is, therefore, a utility subject to Commission jurisdiction. KRS 278.010(3)(d); KRS 278.015.

Mary Gregory and Carl Hibbard are currently members of Hima-Sibert's Board of Commissioners and served in that capacity between September 1994 and January 1998. Joe Tom Gregory is the manager of Hima-Sibert and has served in that capacity since on or before January 1994.

KRS 278.280 authorizes the Commission to prescribe rules for the performance of any service furnished or supplied by a utility. Pursuant to this authority, the Commission has promulgated Administrative Regulation 807 KAR 5:066, Section 15, which requires a utility to maintain in good mechanical condition all meters used for measuring the quantity of water delivered to a customer.

In December 1998, Center Services, Inc., a customer of Hima-Sibert, brought a formal complaint against the water district for improper billing of water services. During the course of that proceeding, Hima-Sibert officials informed the Commission of the following:

1. In September or October 1994, Seahorse Water Service, a contractor for the water district, removed, tested and cleaned the water meter serving the Manchester Mall Shopping Center in Clay County, Kentucky. It found that the meter had a defective chamber and was registering only 80 percent of water flow.
2. Seahorse Water Service then informed Joe Tom Gregory, Hima-Sibert's manager, of the test results and advised that it did not have the necessary replacement parts or a replacement meter.
3. Gregory directed that the defective meter be returned to service. Thereafter, Hima-Sibert billed Center Services, the shopping center's operator, based upon estimated usage.
4. In 1995 a meter reader for Hima-Sibert discovered that the meter that served the shopping center had totally ceased to function. He reported the problem to Gregory.
5. Hima-Sibert took no action regarding the defective meter until December 1997 when it replaced the defective meter at the insistence of the city of Manchester, Kentucky.

Having reviewed the sworn statements of Hima-Sibert's officials and the record of Case No. 98-172,¹ and being otherwise sufficiently advised, the Commission finds that a prima facie showing has been made that Hima-Sibert willfully violated Administrative Regulation 807 KAR 5:066, Section 15, and that Joe Tom Gregory, Mary Gregory, and Carl Hibbard aided and abetted that willful violation.

The Commission, on its own motion, HEREBY ORDERS that:

1. Hima-Sibert shall appear before the Commission on June 20, 2000 at 10:00 a.m., Eastern Daylight Time, in Hearing Room 2 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, for the purpose of presenting evidence concerning the alleged violation of Administrative Regulation 807 KAR 5:066, Section 15(1), and of

¹ Case No. 98-172, Center Services, Inc. v. Hima-Sibert Water District (Ky.P.S.C. filed Dec. 16, 1998).

showing cause why it should not be subject to the penalties prescribed in KRS 278.990(1) for these alleged violations.

2. Joe Tom Gregory, Mary Gregory, and Carl Hibbard shall appear at the same time and place for the purpose of showing cause why they should not be subject individually to the penalties prescribed in KRS 278.990(1) for aiding and abetting Hima-Sibert's alleged violation of Administrative Regulation 807 KAR 5:066, Section 15(1).

3. Hima-Sibert, Joe Tom Gregory, Mary Gregory, and Carl Hibbard shall each submit to the Commission within 20 days of the date of this Order a written response to the allegations set forth in this Order.

4. The record of Case No. 98-172 is incorporated by reference into the record of this proceeding.

5. Any motion requesting any informal conference with Commission Staff to consider any matter which aid in the handling or disposition of this proceeding shall be filed with the Commission no later than 20 days from the date of this Order.

Done at Frankfort, Kentucky, this 1st day of May, 2000.

By the Commission

ATTEST:


Executive Director