

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO FEES FOR FIRE
PROTECTION SERVICES

) ADMINISTRATIVE
) CASE NO. 385

O R D E R

This proceeding involves an investigation into the fees assessed by water utilities for fire protection services. In this Order we set forth guidelines for the provision of such services and provide notice to the parties hereto of our intention to promulgate an administrative regulation to implement these guidelines.

PROCEDURE

On October 2, 2000, the Kentucky Association of Fire Chiefs (“KAFC”) submitted a written request for a formal investigation into “the practice of water utilities imposing so-called standby fees for private fire protection.” In its request, KAFC asserted that the current pricing practices of several water utilities in the Commonwealth, specifically standby fees, discourage the installation of sprinkler systems and other private fire protection measures. Such pricing practices, it further asserted, force water utilities to make significant infrastructure investments and incur significant maintenance costs that could otherwise be avoided through the promotion of sprinkler systems.

On December 22, 2000, we initiated this proceeding to investigate fire protection services that water utilities provide and the fees charged for such services. At that time we noted that this Commission had not previously addressed this issue on an industry-wide basis and that an investigation would permit us “to collect information regarding

fire protection services, to catalog and examine the present practices of water utilities with regard to these services, to identify any deficiencies with these practices and the extent, if any, to which these deficiencies require the Commission to develop uniform standards.” Order of December 22, 2000 at 1 – 2. We stated that the ultimate goal of this review was to “ensure that utility practices are not discouraging or preventing reasonable, cost-effective means of fire protection services.” Id. at 2.

To better assess the current practices of water utilities, the Commission directed each water utility within our jurisdiction to respond to interrogatories about the nature and availability of their fire protection services.¹ We further directed the KAFC to respond to interrogatories that were designed to solicit their positions regarding fire protection service.² On March 9, 2001, Commission Staff issued a preliminary study of the responses to these interrogatories. Concurrent with the issuance of this Order, Commission Staff has released a final version of this study.

Two informal conferences have been conducted in this proceeding. On March 22, 2001, the Commission held an informal conference to discuss the responses to the interrogatories of December 22, 2000 and to identify issues of concern to the parties. On August 8, 2001, a technical conference, which included presentations from KAFC and the Kentucky Rural Water Association (“KRWA”) on the operation of fire sprinklers and water distribution system design, was conducted.

¹ The Commission posed 24 questions to each water utility. Several of these questions consisted of multiple parts.

² The following entities are parties to this proceeding: KAFC, KRWA, the Attorney General of the Commonwealth of Kentucky, and all jurisdictional water utilities.

DISCUSSION

Background

While we originally intended this proceeding to address a broad range of issues concerning fire protection services, the parties have focused this proceeding on the rates and conditions of service governing water service to fire sprinkler systems. Accordingly, we have directed much of our attention to this issue.

In bringing its complaint, KAFC takes aim at the practice of assessing “standby fees” for fire sprinkler systems and other private fire protection measures. These fees, KAFC asserts, have “a direct and substantial negative impact on fire protection by discouraging the installation of sprinkler systems and fire hydrants by property owners.”³ It notes that the use of fire sprinkler systems and other fire protection measures by private property owners greatly benefits the general public by reducing the resources that fire departments, other emergency response agencies and water utilities must devote to fire emergencies. The primary incentive for the installation of such systems, KAFC further notes, is the savings through reduced property insurance premiums. By negating these savings, “[s]tandby fees destroy [the] economic incentive to install these systems.”⁴

Fire sprinkler systems “are the most effective means of controlling fires in buildings.” A. E. Cote and J. L. Linville Fire Protection Handbook 18-2 (16th ed. 1986). “[O]f all the tools available to facilitate and promote fire protection, none offers such a

³ Letter from Gerry H. Brown, President, Kentucky Association of Fire Chiefs, to Thomas M. Dorman, Executive Director, Public Service Commission, at 1 (Oct. 2, 2000).

⁴ Id.

wide variety of benefits to the building owner, developer, fire service, water purveyor, and the general public as does the widespread use of automatic sprinkler systems.” American Water Works Association, Distribution System Requirements For Fire Protection 38 (2nd ed. 1992).

Fire sprinkler systems are essentially a series of pipes containing water under pressure. At selected intervals along these pipes are independent, heat-activated valves known as sprinkler heads. Sprinklers are spray nozzles that distribute water over a defined area (usually 150 – 225 square feet). Each sprinkler contains a thermal operated linkage that controls the release of water. Under normal conditions, this linkage holds a water tight seal in place and prevents any water flow. As the linkage, usually a solder link or liquid-filled glass bulb, is exposed to heat, it weakens, releases the seal, and allows water to flow. Most linkages are designed to activate after constant exposure to temperatures in excess of 165° F for a period from 30 seconds to 4 minutes. Most fire sprinklers, once activated, will also sound an alarm to alert building occupants and fire departments.

A properly designed fire sprinkler system detects heat during the initial flame growth stage of a fire.⁵ Once detecting the fire's heat, the system activates an alarm and begins spraying water into the effected area. With the exception of deluge

⁵ The typical accidental fire begins as a slow growth, smoldering process which may last from a few minutes to several hours. This smoldering duration is dependent on fuel type, arrangement, and available oxygen. During this incipient period, heat generation will increase producing light to moderate smoke. A smell of smoke is usually the first indication that an incipient fire is underway. It is during this incipient stage that early detection (either human or automatic) followed by a timely emergency response can enhance the probability of successful fire control before significant loss.

As the fire reaches the end of the incipient period, there is usually adequate heat to permit the onset of open, visible flames. Once flames have appeared, the fire has changed from a relatively minor situation to a serious event. Rapid flame and heat growth will follow with temperatures quickly exceeding 1,000° C (1,800° F). Contents will ignite, structural fatigue becomes possible, and occupant lives become seriously threatened. Within 3-5 minutes room temperatures may be sufficiently high to "flash", igniting all combustibles within the space. At this point, most contents will be destroyed and human survivability becomes impossible. Significant smoke generation in excess of several thousand cubic feet per minute will occur, obscuring visibility and impacting contents remote from the fire. Immediate occupant evacuation is necessary to avoid harm. If the building is structurally sound, heat and flames will consume all remaining combustibles and self extinguish (burn out). However, if wall and/or ceiling fire resistance is inadequate, (i.e. open doors, wall/ceiling breaches, combustible building construction), the fire will spread into adjacent spaces to start the process over. Unchecked, complete destruction or "burn out" of the entire building and contents will ultimately result.

Nicholas Artim, An Introduction to Automatic Fire Sprinklers: Part I, WAAC Newsletter, Sept. 1994, at 20 – 21.

systems,⁶ only the fire sprinklers that are in direct contact with the fire's heat activate. In most instances, fires are controlled with one or two sprinklers.⁷

The use of fire sprinklers has been shown to significantly reduce water usage and conserve water. The result stems from fire sprinklers' ability to attack a fire at its early stages. "They can apply water immediately where it is needed because there are no problems of access to the seat of the fire or interference with visibility for fire fighting due to smoke." Brian R. Shute, Fire Protection Water Standby Charges, Sprinkling of News, Winter 1979-1980, 24.⁸ Fire fighters arriving much later at the fire scene face a fire in its later stages and must use greater amounts of water. As the table below indicates, moreover, fire sprinklers typically apply much less water to extinguish a fire than alternative fire suppression methods.

Delivery Method	Gallons Per Minute
One Sprinkler Head	25
Two Sprinkler Heads	47
Three Sprinkler Heads	72
Occupant Used Hose	100
Fire Dept., Single 1.5" Hose	100
Fire Dept., Double 1.5" Hose	200
Fire Dept., Single 2.5 Hose	250
Fire Dept., Double 2.5 Hose	500

Source: Artim, An Introduction to Automatic Fire Sprinklers: Part I

⁶ For a discussion of the types of fire sprinkler systems and their characteristics, see Cote & Linville, supra, at 18-13 – 18-25.

⁷ See Nicholas Artim, An Introduction to Automatic Fire Sprinklers: Part II, WAAC Newsletter, May 1995, <<http://palimpsest.stanford.edu/waac/wn/wn17/wn17-2/wn17-206.html>>; National Fire Sprinkler Association, Inc., Fire Sprinkler Facts at 3 <<http://www.nfsa.org/index2.htm>.>

⁸ For a vivid demonstration of the effectiveness of fire sprinklers, see the U.S. Fire Administration's animated comparison of a fire with and without fire sprinklers at <<http://fire.nist.gov/fire/sprink/>>

In addition to water conservation, fire sprinklers provide several other benefits to the public. By extinguishing a fire before fire fighters must be deployed, they decrease the hazards of fire fighting and reduce the cost of manpower and time fighting fires. By extinguishing a fire at an early stage, they also reduce property damage⁹ and the loss of life. Moreover, by applying less water to a fire and tightly controlling the area in which water is released, fire sprinklers reduce the amount of water damage associated with fires.

Public authorities have increasingly recognized the benefits of fire sprinklers and have adopted policies to encourage the use of fire sprinklers. The Kentucky Building Code, for example, requires the installation of fire sprinklers in commercial and multi-residential structures. Kentucky Building Code Sections 904.1 – 904.11. The Kentucky General Assembly recently enacted legislation that requires property insurers to offer discounts in property insurance premiums for buildings equipped with automatic fire sprinklers. See KRS 304.20-380.

In addition to automatic fire sprinkler systems, public and private fire hydrants are used to protect against fire. These facilities allow fire fighters immediate access to large volumes of water to combat fires. The principal difference between public and private fire hydrants is the source of funding for their installation and maintenance. Municipal or county governments generally fund public hydrants. Private individuals or firms

⁹ A study of fires in Scottsdale, Arizona for the period from January 1, 1985 to December 31, 1995 revealed a significant reduction in fire damage in structures equipped with fire sprinklers. It found that the average loss in structures with fire sprinklers was \$1,945 compared with an average loss of \$17,067 where structures were not equipped with fire sprinklers. Rural/Metro Fire Department, Automatic Sprinklers: A 10 Year Study (1997) at 30.

generally fund the cost of private hydrants and request that these hydrants be placed in locations that principally protect their buildings, rather than those of the general public.

The extent to which water utilities provide fire protection service in this state is difficult to assess. Of the 120 water utilities responding to our Order of December 22, 2000, 72 utilities acknowledge providing fire protection service¹⁰ and 15 utilities stated that they provided fire protection service to the extent of permitting fire departments use of utility facilities to fill fire trucks.¹¹ Thirty-three utilities, or approximately 26 percent of the responding utilities, state that they provide no fire protection services. A review of water utility rate schedules indicates that 70 water utilities, or 44 percent of all water utilities, have rate schedules that disclaimed any ability to provide fire protection service.¹²

Where water utilities provide fire protection service, this service usually is in the form of public fire hydrants.¹³ Seventy-one utilities report having one or more public fire hydrants connected to their distribution systems.¹⁴ Forty-five utilities, or approximately 38 percent of responding utilities, report having 50 or more public fire hydrants. Forty-

¹⁰ Final Staff Report on Water Utility Responses to Commission Interrogatories at 2.

¹¹ Id.

¹² Id. at Appendix C.

¹³ In our Order of December 22, 2000, we defined public fire hydrants as “fire hydrants that meet the requirements of Administrative Regulation 807 KAR 5:066, Section 10(2)(b), and are maintained and operated at no cost by the water utility, or whose maintenance and operation costs are assumed and paid by a governmental entity (e.g., municipality, fire district, county government).”

¹⁴ Id. at Appendix B, Responses to Commission Interrogatory 5(a).

nine utilities, or 40 percent of the responding utilities, have no public fire hydrants. In contrast, 98 utilities, or about 82 percent of the responding utilities, state that no private hydrants are connected to their water distribution systems.¹⁵ Twenty-two utilities state that private hydrants are connected to their water distribution system. Fifty-two utilities report that no sprinkler systems are connected to their systems. Sixty-eight utilities state that at least one sprinkler system is connected to their systems.

Rates for Water Service to Fire Protection Services

Noting the benefits of fire sprinklers and the emerging public policies that encourage their use, KAFC has requested the elimination of rate practices that discourage the use of fire sprinklers. Its principal target is “standby fees” that require the owners of buildings equipped with fire sprinkler systems to pay a monthly charge for the system’s connections to a water utility’s distribution system. It argues that such fees are unreasonable as unactivated sprinkler systems that have no water usage impose no costs on the water utility’s distribution system. It further argues that fees for fire sprinkler systems should be limited to the costs of installation and actual water usage.¹⁶

KAFC also requests that the Commission adopt pricing policies to encourage the installation of fire sprinkler and other fire protection systems. It asserts that no charges should be assessed to private fire protection systems such as fire sprinklers and private fire hydrants. Buildings with fire sprinkler systems, KAFC further asserts, should receive a reduced rate for water usage. Such reduced rates, it argues, are appropriate

¹⁵ Id.

¹⁶ KAFC’s Response to the Commission’s Order of December 22, 2000, Item 1.

as these buildings “will not suffer catastrophic fires requiring high, prolonged water flow rates for firefighting, as compared to a non-sprinkled building.”¹⁷

The Commission recognizes the benefits of fire sprinkler systems and agrees with the proposition that public policy should encourage the installation of such systems. The promotion of the installation and use of fire sprinkler systems, however, should not be at the expense of cost based rates. We fully agree with the sentiments recently expressed by another state utility regulatory commission facing the same issue:

Our long-standing Commission policy is to set rates based upon cost. . . . We apply this tenet as accurately as possible in the countless rate design and other ratesetting matters that come before us. We have no intention of abandoning that principle in this instance. Consequently, the issue that is before us is what is the cost of providing private fire protection service upon which charges should be based. While we may believe that sprinkler installations are good public policy, we do not believe it is consistent with our primary obligation to promote it at the expense of setting reasonable rates for all ratepayers. Our concern is to determine the fair and appropriate cost-basis for private fire protection rates. Of course, we recognize that rate design changes, due to the ‘zero sum’ nature of rate design, generally impact the relative burdens for other ratepayers, and we try to ameliorate such affects when possible. Nonetheless, **society is best served as a whole when rates accurately reflect cost-based pricing.**

Re Amendment to Private Fire Protection Rule, Docket No. 94-285 (Me.PUC April 11, 1995) (emphasis added) at 23.

Simply put, utility charges associated with fire protection systems should not be eliminated merely because they discourage the installation and use of such systems. Such position merely shifts the cost of private fire protection from the individual property owner to the general public. Ratepayers should not subsidize such systems. The

¹⁷ Id. at Item 2(b).

decision to install fire sprinklers should be based upon a rational review of economic and social factors. Likewise, property owners who install fire sprinklers should not be required to pay excessive charges or meet conditions of service unrelated to the provision of service.

Having stated our guiding principle, we turn first to the issue of standby charges. KAFC argues that any monthly or annual fee, other than that for actual usage, constitutes a standby fee and is inherently unreasonable. Using this definition, at least 32 water utilities assess standby fees.¹⁸ The fees assessed by several of these utilities include a commodity component. Unless a fire occurs and the fire sprinkler activates, this commodity will not be used.

Several states have prohibited standby fees or charges for automatic fire sprinkler systems.¹⁹ In these states, standby fee has generally been defined as additional charges “imposed by a water utility on [the] owners of structures because the structures are equipped with automatic fire protection systems.”²⁰ These statutes have not been interpreted as prohibiting fire protection service rates where the rates are for separate and distinct investments beyond those for regular water service. For example, in Pennsylvania Public Service Commission v. Superior Water Co., 199 PUR4th 603 (Pa.PUC 2000), the Pennsylvania Public Service Commission held that a water utility’s assessment of a charge for a separate service line and shut off valve to serve a fire

¹⁸ See Final Staff Report at 2.

¹⁹ See, e.g., Minn. Stat. Ann. §444.25 (West 2000); N.J. Stat. Ann. §52:27D-198.12 (West 2000); N.M. Stat. Ann §62-13-14 (2001); 66 Pa. Cons. Stat. Ann. §1326 (West 2001). While not prohibiting such fees, Alaska requires that such service be provided at reduced rates. Alaska Stat. §42.05.381 (2000).

sprinkler system was for separate and distinct investments to provide fire protection service and therefore did not constitute a “standby charge.”

The Commission agrees with the proposition that standby fees should not be assessed for fire protection service. We define such fees as additional charges imposed by a water utility on owner of structures because the structures are equipped with automatic fire protection systems. For example, a water utility that provides domestic service and fire protection service through the same service connection should not be permitted to assess a charge in addition to the general service rate merely because a fire sprinkler system is served through this connection. Where a separate service connection is installed to serve a fire sprinkler system or other fire protection system, the assessment of an additional fee is appropriate, provided this fee reflects the cost of service.

In those instances in which a separate service connection is installed for fire protection purposes, the key question concerns the appropriate rate for such service. This rate should reflect the cost of serving the fire protection system. Given the nature of fire protection service, the demands and costs that such service imposes upon a water utility are quite different than those of domestic service customers. The rates for such service, therefore, should differ from those for domestic water service. At a minimum, these rates should be sufficient to recover (1) depreciation and debt service or return on investment in the water utility’s facilities that directly connect the water distribution main to the fire sprinkler system; (2) expenses associated with periodic inspections to ensure against unauthorized use; (3) expenses associated with meter

²⁰ N.M. Stat. Ann §62-13-14 (2001).

reading and billing, if a meter is installed for the fire sprinkler system; and (4) expenses for maintenance and inspection of water utility facilities that directly connect the water distribution main to the fire sprinkler system. A portion of a water utility's treatment, transmission, and distribution costs may also be allocated to fire protection service where appropriate.

The Commission places on notice all water utilities that provide fire protection services that their fire protection service rates will be closely reviewed in their next general rate adjustment proceeding. We expect these utilities to include with any application for rate adjustment a cost-of-service study that fully considers the cost of fire protection services and to clearly demonstrate that their rates for fire protection service rates are cost-based.

Our investigation of fire protection service rates has shown that a significant number of water utilities are assessing the same charges for fire protection service as they are assessing for domestic water service. As these water utilities have minimum monthly charges that contain a commodity component, they are effectively billing fire protection service customers for significant amounts of water that are unlikely to be consumed.²¹ We find that this practice is unreasonable and unfair. By this Order, we direct that such practice cease and that any utility that engages in this practice revise its

²¹ Warren County Water District, for example, requires fire protection systems to be separately metered. It bills a customer who has a fire sprinkler system that is served through a 6-inch meter \$310.30 monthly for that service. Included in this bill is the usage of 100,000 gallons of water. Unless a fire activates the customer's fire sprinkler system, an event that is not likely to occur on a monthly basis, the customer is unlikely to use any of this water.

filed rate schedules to eliminate the commodity component of its fire protection services rate and to reduce that rate to reflect the elimination of this component.

The Commission recognizes that fire protection service will involve the use of water. Once a fire sprinkler is activated or a fire hydrant is opened, water is used. KAFC argues that this usage is miniscule and should not be reflected in any fire protection service rate, but should be borne by general ratepayers.²² While this position has some merit, we believe that utility rates should generally reflect the cost of service. Where water is used, a utility incurs a cost and should be permitted to recover that costs from the person imposing the cost. We therefore find that utilities may assess as a part of a fire protection service rate a charge for actual water usage.

Metering Requirements for Fire Protection

Administrative Regulation 807 KAR 5:066, Section 13(1), provides that “[a]ll water sold by a utility shall be upon the basis of metered volume sales.” Unmetered water service may be provided where “water usage can be readily estimated” and the utility develops “standard methods for estimating the volume of water used and maintaining records which show volumes used and associated revenues and expenses.” 807 KAR 5:066, Section 13(2). Flat rates for public and private fire protection services are currently authorized. 807 KAR 5:066, Section 13(2)(b).

Water utilities are metering at least some forms of fire protection service. Of the 33 utilities that responded to the Commission’s Order of December 22, 2000 and

²² KAFC’s Response to the Commission’s Order of December 22, 2000, Item 9.

provide private fire protection service, only 13 utilities meter that service.²³ Twenty-nine utilities, or approximately 53 percent of the responding utilities that serve fire sprinkler systems, meter that form of fire protection service.²⁴ Only four utilities provide metered public fire protection service.²⁵

KAFC argues against the metering of fire protection services. It contends that metering is not cost effective. Water usage for fire protection service is relatively small. The metering equipment, especially for large fire services, is expensive. Requiring metering equipment for fire sprinkler systems, whose cost the customer must bear, will significantly reduce the financial benefits of installing a fire sprinkler system and discourage the installation of such systems.²⁶

KAFC also argues that for many fire events, the amount of water usage can be easily determined. Sprinkler systems, for example, are hydraulically calculated, with the flow charted for each individual sprinkler head. A comparison of alarm time and termination of the water flow by the responding fire department can yield an accurate measure of water usage. Similar estimates of water usage can be made for fire hydrants.²⁷

²³ Final Staff Report at Appendix B, Responses to Commission Interrogatory 6(a).

²⁴ Id. at Appendix B, Responses to Commission Interrogatory 6(b).

²⁵ Id. at Appendix B, Responses to Commission Interrogatory 6(c).

²⁶ KAFC's Response to the Commission's Order of December 22, 2000, Item 9.

²⁷ Id.

KAFC further argues that the use of metering equipment may reduce the available water to fight a fire. The use of a smaller diameter meter on a larger water main may restrict water flows. It notes that even meters designed to open when large water flows are required, but which are normally closed under small flows, can cause resistance to water flows.²⁸

Several utilities argue that metering is necessary to prevent unauthorized or inappropriate use of water, theft, and leakage. While noting that a fire event may not frequently occur, customers with fire protection service may open fire hydrants and withdraw water for unrelated purposes. Moreover, metering equipment by measuring usage can more easily detect the existence of leaks.

Based upon our review of the record, we find that use of metering equipment for fire protection services is generally not cost effective and should not be required absent compelling circumstances. Responses to the Commission's Order of December 22, 2000 indicate that the installation and use of metering equipment for fire protection services is expensive. The cost of a meter and its installation varies with meter size. Responding utilities reported that metering equipment to measure fire flow ranged from \$20,200 for a 4-inch meter installation to \$21,450 for a 10-inch meter installation.²⁹ In contrast, these same utilities reported minimal usage and costs associated with fire protection services.³⁰ The American Water Works Association describes the total

²⁸ Id.

²⁹ Final Staff Report at Appendix B, Responses to Commission Interrogatory 14.

³⁰ Id. at Appendix B, Responses to Commission Interrogatories 2 and 3.

quantity of water used for fire protection service as “minimal.”³¹ We also share K AFC’s concerns that metering may impede the effectiveness of some fire protection systems.

As to utility concerns regarding unauthorized use, theft, and leakage, the Commission is of the opinion that less costly alternatives can be implemented to resolve these concerns. The water utility can conduct periodic inspections of fire protection systems for material leakage or unauthorized connections. It may seal sprinkler drains, hydrants and hose outlets and require the fire system owner to report when a seal is broken and to provide notice before testing through outlets on hydrants or sprinkler drains and the payment of an appropriate charge for resealing.³²

We find that alternative methods to metering presently exist and should be used. We agree with K AFC that, provided good coordination and communication exists between the fire protection system owner, the local fire department, and the water utility, actual usage of most fire protection systems can be reliably estimated. Only when these methods prove unsuccessful or impractical³³ should a water utility require water

³¹ See, e.g., American Water Works Association, AWWA Manual M1: Principles of Water Rates, Fees and Charges 220 (5th ed. 2000) (“The total quantity of water used for fire fighting is minimal in comparison to other uses and is ignored in some studies. In other studies, a nominal amount of base use (between 0.5 and 1.0 percent) is assigned to fire protection.”).

³² See Cote and Linville, Fire Protection Handbook 17-57 – 17-58 (16th ed. 1986).

³³ We recognize that differences between fire protection services exist. For example, the potential for unauthorized use or theft is much less where water service is being provided only for an automatic fire sprinkler system in a residence or small commercial establishment as opposed to an industrial complex or large commercial center. In the latter, the fire protection system may consist of several hydrants, standpipes and pumps. Requiring metered fire protection service to that type of system is generally reasonable.

service to a fire protection system to be metered. Where the metering of such service is appropriate, the cost of the metering equipment and its installation may be assessed to the applicant for fire protection service.

Duty to Provide Protection Fire Service

Sixty-nine jurisdictional water utilities do not offer fire protection service and have disclaimed any ability to provide such service.³⁴ Others offer very limited fire protection services. Kentucky law does not expressly confer an obligation upon any water utility to provide fire protection service unless the utility expressly commits by contract to provide such service. Most states do not expressly impose such an obligation. See generally 78 Am. Jur. 2d Waterworks and Water Companies Section 50 (1975).

By this Order, the Commission does not expand or extend any water utility's obligation to provide fire protection services. Nor do we impose any additional obligations upon those water utilities currently providing such service. We are not requiring water utilities to construct at their own expense any additional facilities that will be used solely to provide private protection service. Where additional facilities are required to provide private fire protection service, we continue to hold the position that the cost of such facilities should be borne by the customers benefiting from that service.

Water Utility Filed Rate Schedules

Based upon our review of the responses to our Order of December 22, 2000 and water utility filed rate schedules, we have discovered significant discrepancies between many utilities' actual practices and their filed rate schedules. For example, many water utilities have acknowledged providing free or reduced rate water service to fire

³⁴ Final Staff Report at Appendix C.

departments for fire protection service, but fail to note the provision of this service in their filed rate schedules. The Commission has also discovered glaring inconsistencies within these schedules. To ensure the integrity and reliability of these filed rate schedules, we find that all water utilities should be required to file new rate schedules that reflect their current practices and that are internally consistent. We do not direct such filing by this Order, but intend to make such requirement part of any new administrative regulation on the provision of fire protection services.

Guidelines and Administrative Regulation

Appended to this Order are proposed guidelines for the provision of fire protection services by water utilities. It reflects our findings concerning the appropriate rate design principles and conditions of service that should be applied to fire protection services. The Commission recognizes that implementation of portions of these guidelines requires the promulgation of an administrative regulation. Concurrent with the issuance of this Order, the Commission has filed this day with the Legislative Research Commission a notice of intent to promulgate an administrative regulation on the provision of fire protection services.

SUMMARY

Having considered the evidence of record, the Commission HEREBY ORDERS that:

1. Within 20 days of this Order, any utility that currently assesses a minimum monthly bill for fire protection services that includes a commodity component shall file with the Commission a revised rate schedule that eliminates the commodity component of its fire protection services rate and reduces that rate to reflect that elimination.

2. The Guidelines appended hereto will form the basis of a new administrative regulation the Commission will promulgate pursuant to KRS Chapter 13A.

3. This proceeding is closed and shall be removed from the Commission's docket.

Done at Frankfort, Kentucky, this 7th day of December, 2001.

By the Commission

ATTEST:

Deputy W. H. Fowler
Executive Director

APPENDIX A
AN APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN ADMINISTRATIVE CASE NO. 385
DATED DECEMBER 7, 2001

**GUIDELINES ON THE PROVISION OF
FIRE PROTECTION SERVICES**

1. No water utility shall assess a standby fee for water service to a fire sprinkler system.
2. A water utility shall require a customer requesting private fire service to bear the cost of constructing a private fire service line that runs from the water utility's distribution or transmission main to the customer's property. The water utility shall own and be responsible for the maintenance, repair, and replacement of that portion of this line that extends from the water utility's distribution or transmission main to utility's easement. The customer shall own and be responsible for the maintenance, repair, and replacement of the remaining portion of the line.
3. A utility may, as a condition of service, require a customer who connects a fire sprinkler system to the utility's water distribution system to conduct periodic maintenance, tests, or inspections upon its fire sprinkler system to ensure that the fire sprinkler system is not adversely affecting the water quality or performance of the water utility's distribution system and to report periodically upon the performance of that maintenance or the results of those tests or inspections. A customer's failure to perform that maintenance or conduct these tests or inspections or to make timely reports shall be a basis for discontinuing water service to the customer.

4. A water utility may require a customer who connects a fire sprinkler system to its water distribution system to report the location of that system and advise the water utility of any changes in the system's operating status.

5. Unless otherwise shown to be reasonable, a utility is not obligated to construct system improvements to its water system to enable or support a private fire protection service, but may enter into a special contract with a customer regarding the allocation of costs for system improvements necessary to support a private fire protection service. A utility providing water service that complies with Administrative Regulation 807 KAR 5:066, Section 5(1), shall not be required to increase water pressure level to support fire sprinkler systems unless the Commission finds such action is reasonable under the circumstances.

6. A water utility shall provide water service dedicated solely to a fire sprinkler system on an unmetered basis unless good cause exists for metering such service. Where a utility installs a metered service for a fire sprinkler system, it may assess a fee for the cost of this installation. This fee may include charges for service tap, meter, meter vault, and their installation.

7. Unless good cause otherwise exists, a utility shall permit a customer to connect its private fire service line to a service line that serves the customer for other purposes, including domestic consumption, if the connection to the service line is beyond the utility's metering point and a separate shutoff valve subject to the water utility's control exists. Where a customer connects its private fire service line to a service line that provides the customer with water service under these conditions, the water utility shall not assess a separate charge or fee for water service

8. A water utility shall require a customer who receives private fire service through an unmetered connection to report at least annually its reasonable estimate of water usage for flushing, testing or other purposes and the basis for its estimate.

9. A water utility shall require a customer who receives private fire service through an unmetered connection and whose service is used to fight a fire to report its estimate of the water usage to fight the fire and the basis for its estimate within a reasonable time after the fire's occurrence.

10. A water utility may assess a monthly rate for fire protection systems that are separately connected to the utility's distribution system and do not receive water service for any other purpose. This rate shall recover at a minimum the cost of

a. Depreciation and debt service or return on utility investment in the utility facilities that directly connect the utility's water distribution main to the fire protection system; and,

b. Expenses associated with periodic inspections to ensure against unauthorized use; and,

c. Expenses associated with meter reading and billing, if a meter is installed for the fire protection system; and,

d. Expenses for maintenance, repairs and inspection on the utility facilities that directly connect the utility's water distribution main to the fire protection system.

11. A water utility shall not assess a monthly rate for service to fire protection systems that includes a component for water usage unless that component is based upon the customer's actual usage.

12. A water utility may require as a condition of service a customer who connects a fire protection system to the water utility's distribution facilities, either directly or indirectly, to install double acting backflow preventers.