

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE DEVIATION OF NORTH SHELBY WATER)	
COMPANY FROM THE COMPANY'S REGULAR)	CASE NO.
EXTENSION POLICY – MAGNOLIA PLACE)	2001-078
SUBDIVISION, SECTION 1)	

O R D E R

North Shelby Water Company (“North Shelby”) has submitted for Commission review and approval a contract with JIL Development Company (“Applicant”) for the extension of distribution lines and attachment of fire hydrants to serve the Magnolia Place Subdivision located in Shelby County. The Commission established this case because the proposed contract differs from the provisions of Administrative Regulation 807 KAR 5:066, Section 11. The Attorney General is the only intervenor in this case. Finding that the proposed contract is reasonable and that good cause exists to permit a deviation from Administrative Regulation 807 KAR 5:066, Section 11, we approve the contract.

North Shelby, a non-profit corporation, provides water service to approximately 3,810 members in Franklin, Oldham and Shelby counties, Kentucky. It has entered an agreement with the Applicant for a water main extension to serve the Magnolia Place Subdivision, Section 1. The subdivision has approximately 85 lots, of which 47 are potential tap-ons to this extension.¹ The extension is approximately 2,970 feet, of which

¹ North Shelby Response to Data Request No. 2. (Hereinafter “Response to D.R. No. ___”.)

735 feet are outside the subdivision.² The Applicant will bear the entire project cost estimated at \$102,843.00. The Applicant further agreed to secure all easements for the proposed water main extension and to waive any right to any refund on its contribution should additional applicants for service connect to the water main extension.³ However, North Shelby will pay the cost to upgrade the line through the subdivision from 8 inch to 12 inch.⁴ The Applicant has waived its right to a refund under the 50-foot rule for new customers in the subdivision. However, the Applicant retains the right to a refund for any additional customers outside the subdivision.⁵

The proposed agreement's provisions relating to refund of the Applicant's contribution are inconsistent with Administrative Regulation 807 KAR 5:066, Section 11(3), which provides:

An applicant desiring an extension to a proposed real estate subdivision may be required to pay the entire cost of the extension. Each year, for a refund period of not less than ten (10) years, the utility shall refund to the applicant who paid for the extension a sum equal to the cost of fifty (50) feet of the extension installed for each new customer connected during the year whose service line is directly connected to the extension installed by the developer, and not to extensions or laterals therefrom. Total amount refunded shall not exceed the amount paid to the utility. No refund shall be made after the refund period ends.

Under this regulation, North Shelby is required to refund to the Applicant the cost of 50 feet of the proposed water main extension for each customer that connects to that main

² Response to D.R. No. 1.

³ Proposed Contract, paras. 2 and 13.

⁴ Response to D.R. No. 10. No other public entity will contribute to the project.
Id.

⁵ Response to D.R. No. 4.

extension within the subdivision. This contract is similar to a contract upon which North Shelby Water Company has relied for water main extensions to subdivisions.⁶ The Commission granted a deviation for that contract.

North Shelby recognizes that this contract does not fully comply with 807 KAR 5:066, Section 11. It believes, however, that the contract is reasonable.

North Shelby states that the purchasers of lots in subdivisions pay for the entire water main extension whether or not the developer is reimbursed under the 50-foot rule. If a rebate were allowed, the rebate would merely be realized through negotiations for the sale price of the lot.⁷ Further, it states that developers generally recover all costs through lot sales.⁸ Finally, North Shelby states that it is the common business practice of developers in Shelby County to waive rebates in subdivision development.⁹

North Shelby states that it has seen rapid growth and expansion in recent history. This growth has been significant because of the development of farms into 5-acre and small-lot developments. This growth caused the exhaustion of the capacity of the smaller lines and has required new construction or upgrade of existing transmission facilities, pump stations and storage capacity.¹⁰

⁶ See Case No. 2000-344, The Deviation of North Shelby Water Company From The Company's Regular Extension Policy (Ky. P.S.C. March 2, 2001).

⁷ Response to D.R. No.8.

⁸ Id.

⁹ Id. North Shelby states that the city of Shelbyville municipal system does not pay rebates in subdivision developments.

¹⁰ Response to D.R. No. 9

While the Commission cannot speak to the negotiation and purchase of subdivision lots, the Commission recognizes that Shelby County, and North Shelby Water Company, has experienced rapid growth in the past 5 years. Growth of this magnitude may cause a decrease in cash flow and require a unique approach to line extensions. Further, North Shelby has also agreed to pay the cost of increasing the size of the line.

Therefore, the Commission having examined the proposed extension agreement and the circumstances surrounding that agreement, finds that good cause for both the proposed agreement and the proposed deviation to Administrative Regulation 807 KAR 5:066, Section 11, exists.¹¹ See Case No. 2000-344, The Deviation of North Shelby Water Company From The Company's Regular Extension Policy (Ky. P.S.C. March 2, 2001).

The Commission notes that an investigation of water main extension practices is currently pending.¹² The results of this investigation may significantly affect our review

¹¹ The Commission is authorized to permit a water utility to make water main extensions under arrangements that differ from those established in Administrative Regulation 807 KAR 5:066, Section 11. Administrative Regulation 807 KAR 5:066, Section 11(4) provides:

Nothing contained herein shall be construed to prohibit the utility from making extensions under different arrangements if such arrangements have received the prior approval of the commission.

Administrative Regulation 807 KAR 5:066, Section 18, provides:

Deviations from Administrative Regulation. In special cases, for good cause shown, the commission may permit deviations from this administrative regulation.

¹² Administrative Case No. 386, An Examination of Existing Water Distribution Main Extension Policies.

of further requests for deviations from Administrative Regulation 807 KAR 5:066, Section 11. We therefore caution North Shelby not to rely unduly on this decision when considering differing arrangements for other water main extensions.

IT IS THEREFORE ORDERED that:

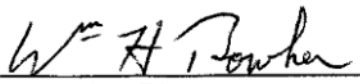
1. North Shelby is authorized to deviate from Administrative Regulation 807 KAR 5:066, Section 11(3), and to use a different arrangement to extend water service to JIL Development Company and the proposed development of the Magnolia Place Subdivision, Section 1.

2. The proposed contract between North Shelby and the Applicant is approved as of the date of this Order.

Done at Frankfort, Kentucky, this 3rd day of August, 2001.

By the Commission

ATTEST:

Deputy 
Executive Director