

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE DEVIATION OF U.S. 60 WATER DISTRICT)	
FROM ITS REGULAR EXTENSION POLICY -)	CASE NO. 2001-00265
SHELBY FISCAL COURT FOR MCFARLAND)	
LANE, BACKCREEK ROAD, AND COOK ROAD)	

ORDER

On March 19, 2002, Commission Staff served Interrogatories and Requests for Production of Documents upon U.S. 60 Water District for Shelby and Franklin Counties, Kentucky (U.S. 60 District) and requested a response within 20 days. Commission records fail to indicate that U.S. 60 District has filed with the Commission a response to these requests.

U.S. 60 District's proposed agreement with Shelby County Fiscal Court constitutes a water main extension arrangement that differs from that set forth in Administrative Regulation 807 KAR 5:066, Section 11. Accordingly, Commission approval of this arrangement and a formal deviation from Administrative Regulation 807 KAR 5:066, Section 11, is required. See 807 KAR 5:066, Sections 11(4) and 18. The burden of proof in demonstrating that good cause exists falls on the proponent of the differing arrangement. Energy Regulatory Commission v. Kentucky Power Co., Ky.App., 605 S.W.2d 46, 50 (1980) (Applicants before an administrative agency have the burden of proof.).

In light of U.S. 60 District's failure to respond to Commission Staff's requests or to provide any evidence or argument in support of its proposed arrangement, the Commission finds that the water utility has yet to meet its burden of proof in this matter

and that its application should be denied. To ensure that U.S. 60 District has full opportunity to present its case in this matter, however, the Commission will permit it 20 days in which to respond to Commission Staff's requests and to present any other evidence or argument in support of its proposed water main extension arrangement. If no response is received within that period, then its application will be denied and this case shall be dismissed.

The Commission HEREBY ORDERS and COMPELS U.S. 60 District to file with the Commission, within 20 days of the date of this Order, its responses to Commission Staff's Interrogatories and Requests for Production of Documents and any other documentary evidence or written argument in support of its proposed water main extension arrangement.

The Commission FURTHER ORDERS that if U.S. 60 District fails to submit to the Commission within 20 days of this Order its responses to Commission Staff's Interrogatories and Requests for Production of Documents, the proposed arrangement and U.S. 60 District's request for deviation shall be deemed denied and this matter shall be closed and removed from the Commission's docket without further Order.

Done at Frankfort, Kentucky, this 13th day of May, 2002.

By the Commission

ATTEST:


Executive Director