

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE FILING OF JESSAMINE-)	
SOUTH ELKHORN WATER)	
DISTRICT TO REVISE ITS)	CASE NO. 2003-00168
WATER USER AGREEMENT)	

O R D E R

On May 5, 2003, Jessamine-South Elkhorn Water District ("District") filed for Commission approval a new or amended WATER USER AGREEMENT ("Agreement"). The Agreement was between the District and the customer and its execution by the landlord/owner and tenant/lessee was necessary as a condition of service. The Agreement stated, "if the CUSTOMER is a Renter, then the Owner of the leased property shall be required to sign this contract before water service is begun and the OWNER shall be bound by all the provisions of the agreement including all charges for service." The Agreement provides for the signature of the owner, including address and telephone number. The District is unilaterally imposing as a condition for service that the landlord/owner is jointly and severally responsible with tenant/lessee for payment of all charges. This issue is referred to herein as "landlord/tenant liability."

The landlord/tenant liability issue was addressed by the Commission in its decision and Order in Hardin County Water District No. 1, Case No. 9383 (Ky. PSC, August 26, 1985) ("Hardin No. 1"). Therein, Hardin No. 1 filed proposed tariff sheets and contractual conditions of service that included a revision making landlords and

tenants jointly liable for water charges. The District herein filed similar tariff contractual changes that were rejected by the Commission.¹

It was the Commission's finding in Hardin No. 1 that:

Hardin No. 1's proposed tariff revision also contains a provision making landlords and tenants jointly liable for water charges. It is the opinion of the Commission that landlords and tenants cannot be held jointly liable for water charges. Rather, the person who applies for and receives the service is responsible for charges for that service. Likewise, a tenant with good credit cannot be denied service because of a prior delinquency incurred by a former tenant or the landlord at that address; nor can a landlord with good credit be denied service in the name of the landlord at the rental property because of a delinquent bill owed by a former tenant even when the new tenant is a delinquent customer of the utility.

The Commission then ordered that the landlord/tenant language be rejected. The Commission affirms herein the findings and Order of Hardin No. 1 regarding the landlord/tenant liability issue.

The Commission finds that a jurisdictional utility cannot unilaterally impose, directly or indirectly, as a condition of service, the debt of a user of its services including, but not limited to tenant/lessee, on another, including, but not limited to, landlord/owner.

However, the Commission finds that nothing herein shall prevent a landlord/owner from entering into a voluntary and separate written agreement with a jurisdictional utility governing the terms and conditions under which service will be provided. The execution of any such agreement must be truly voluntary on the part of

¹ Case No. 2003-00120, Jessamine-South Elkhorn Water District (Ky. PSC, October 17, 2003).

the landlord/owner and the making of such an agreement may not be imposed by the utility as a condition of providing service. The terms and conditions of such agreement shall be fully disclosed and reasonable, and shall be clearly stated in the utility's tariff.

Jurisdictional utilities should examine 807 KAR 5:006, Section 7, regarding customer deposits and should utilize such deposits to mitigate the potential loss of revenue caused by the failure of customers, including tenant/lessees, to pay for service.

The Commission, being otherwise sufficiently advised, HEREBY ORDERS that:

1. The Commission affirms the findings and Order regarding the landlord/tenant liability issue in Hardin No. 1, and further states that a jurisdictional utility may not unilaterally impose, directly or indirectly, as a condition of service, the debt of the user of such service, including, but not limited to, tenant/lessee, on another including, but not limited to, landlord/owner.

2. Nothing herein prevents a landlord/owner from entering voluntarily into a separate written agreement with a jurisdictional utility governing the terms and conditions under which service will be provided. The terms and conditions of such agreement shall be fully disclosed, reasonable, and clearly stated in the utility's tariff.

Done at Frankfort, Kentucky, this 18th day of February, 2004.

By the Commission

ATTEST:


Executive Director