

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF FARMDALE WATER)	
DISTRICT FOR A DEVIATION FROM THE)	CASE NO.
REQUIREMENTS OF 807 KAR 5:066,)	2003-00497
SECTION 4(4), REGARDING WATER STORAGE)	

O R D E R

On February 13, 2004, Farmdale Water District ("Farmdale District") was granted a deviation from 807 KAR 5:066, Section 4(4). That regulation requires that each water utility maintain minimum water storage of one day's supply of its average daily usage. Farmdale District stated that its average daily water usage, including unaccounted-for water, is approximately 604,500 gallons, and that its current water storage capacity is 378,000 gallons. Farmdale District submitted with its application for a deviation a letter from the Frankfort Plant Board ("FPB"), its current water supplier with a 500,000-gallon water storage tank located near Farmdale District's master meter, assuring the availability of water storage to Farmdale District until March 18, 2008.

Based upon the record, we granted to Farmdale District the deviation from 807 KAR 5:066, Section 4(4), until March 18, 2008. In that Order, we directed Farmdale District to take all necessary actions to bring its water storage facilities into compliance with Commission regulations prior to March 18, 2008. We also directed Farmdale District to confirm to us that FPB continues to provide the storage capacity required of

807 KAR 5:066, Section 4(4), or report on the status of Farmdale District's efforts to comply with the regulation

On March 8, 2004, Farmdale District filed a motion for clarification or a rehearing of the February 13, 2004 Order. We find no reason to grant a rehearing, but will take this opportunity to address the request for clarification.

Farmdale District states that the language contained in finding 2 of the February 13, 2004 Order "can be interpreted to mean that Farmdale is expected to construct facilities to meet the one day water storage requirement." 807 KAR 5:066, Section 4(4), applies to all water utilities and requires that Farmdale District have a minimum storage capacity for its system equal to the average daily consumption. Therefore, the Commission may direct a water district to provide such storage capacity by whatever means is necessary, including requiring the water utility to construct its own facilities to provide the required storage capacity. If a water utility cannot provide such required capacity in its own system, it may seek a deviation from the requirement pursuant to 807 KAR 5:066, Section 18. That regulation states that, "In special cases, for good cause shown, the Commission may permit deviations from this administrative regulation." Farmdale District filed such a request and we found that, in this case, "good cause" was shown to grant Farmdale District a deviation to March 18, 2008 in which to comply. We further directed Farmdale District to take all necessary action to bring its water storage facilities into compliance with the law. We also found that Farmdale District needed time to plan, finance, and construct water storage facilities. While we did not order Farmdale District to immediately construct storage facilities, Farmdale District should consider such construction in the future to comply with the regulations.

Farmdale District must also recognize that a deviation from the regulation is only granted in special cases and is not granted in perpetuity. Farmdale District cannot assume that we will always grant a deviation from the regulation or that “assurances” from some other entity concerning its water storage will constitute “good cause” for any future deviation application.

Upon expiration of the deviation granted by the Order of February 13, 2004, Farmdale District will have to meet the storage requirement at that time or be granted further deviation by the Commission of that regulation.

We directed Farmdale District to file a report on its efforts to comply with the regulation. We will grant the motion for clarification and, in so doing, amend the Order of February 13, 2004 to the effect that Farmdale District shall file any statement or letter from the FPB as part of a report on the status of Farmdale District’s efforts to comply with the regulation. Simply stated: Report to the Commission what actions and plans Farmdale District is making to comply with the regulation, other than solely relying upon the assurances of the FPB. Such a report should contain, at a minimum, the following information:

1. An updated average daily water usage for Farmdale District.
2. Actual reserve capacity of the FPB available for Farmdale District.
3. A copy of the FPB’s rules and regulations governing water usage and supply.
4. Any study or plan Farmdale District has considered for the construction of any facility to meet the minimum water storage requirements.

The Commission, having considered the motion of Farmdale District and being sufficiently advised, HEREBY ORDERS that:

1. The motion for a rehearing is denied.
2. The motion for clarification is granted to the extent set out in this Order.
3. Ordering paragraph 3 of the Order of February 13, 2004 is amended to the extent that Farmdale District shall file any statement from the FPB as part of a report on the status of Farmdale District's efforts to comply with the regulation to include the listed items as contained in this Order.

Done at Frankfort, Kentucky, this 26th day of March, 2004.

By the Commission

ATTEST:


Executive Director