

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT APPLICATION OF SOUTHERN MASON)	
WATER DISTRICT AND THE CITY OF)	
MAYSVILLE FOR AN ORDER AUTHORIZING)	CASE NO. 2004-00384
THE TRANSFER OF UTILITY ASSETS)	
PURSUANT TO KRS 278.020(4) AND (5))	

ORDER

On January 28, 2005, the Commission approved the City of Maysville's ("Maysville") proposed acquisition of the assets and liabilities of Southern Mason Water District ("Southern Mason"). Our approval was conditioned upon, inter alia, Maysville providing water service to the customers of Southern Mason's water system at the same rates as those charged to customers residing within Maysville's corporate limits within 5 years after its acquisition of Southern Mason's assets.

Maysville and Southern Mason ("Joint Applicants") have moved for rehearing of our Order of January 28, 2005 and for modifications to Ordering Paragraph 3 of that Order. In support of their motion, they state that Maysville has numerous customers outside of its corporate limits and that all customers located outside of its corporate limits are assessed a 25 percent surcharge. This surcharge is not assessed upon customers residing within Maysville's corporate limits. The Joint Applicants assert that, if the condition remains in effect, customers of Southern Mason will be paying a rate for water service that is less than other similarly situated customers, i.e., Maysville customers who are located outside Maysville's corporate limits.

While we find that the motion should be granted, our reasoning differs from that set forth in the Joint Applicants' motion. We note that Maysville has provided no evidence or argument to support different rates based upon a customer's location. Moreover, the Joint Applicants' "Purchase Agreement" does not specifically state that Maysville currently assesses a different rate for water service provided to customers who are located outside its corporate limits or that customers of Southern Mason's water system are to be assessed a rate that differs from city residents.¹

Notwithstanding these facts, it is clear that the Joint Applicants were aware of Maysville's pricing practices at the time of their execution of the Purchase Agreement. When executing their Purchase Agreement, they apparently intended that Maysville's present pricing practices, which provide for disparate treatment of customers based upon their location, be applied to customers of Southern Mason within 5 years of the date of Maysville's acquisition of Southern Mason's assets. As Maysville's current rates for water service to non-resident customers are lower than Southern Mason's current rates and as its future rates are likely to be less than those that Southern Mason

¹ It provides:

CONTINUED SERVICE. The District presently serves approximately 600 customers. The Commission shall after the closing integrate the District system into the Commission system and provide retail water service to the District's present customers on a parity with the present Commission water customers. Water rates shall be identical, to those presently charged to District customers for five years from the closing date of acquisition of the District system.

Purchase Agreement at ¶4.

might assess if it continued in existence, the proposed transfer remains in the public interest notwithstanding Maysville's pricing practices.

IT IS THEREFORE ORDERED that:

1. Joint Applicants' Motion for rehearing is granted.
2. Ordering Paragraph 3 of our Order of January 28, 2005 is amended to

read as follows:

Beginning 5 years after the date of its acquisition of Southern Mason's assets, neither Maysville nor the Utility Commission shall provide water service to customers of Southern Mason's water distribution system at rates that exceed those rates charged to its customers residing outside Maysville's corporate limits.

3. This case is closed and is removed from the Commission's docket.

Done at Frankfort, Kentucky, this 23rd day of February, 2005.

By the Commission

ATTEST:



Executive Director