

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DANNY RAY ADAMS)	
)	
COMPLAINANT)	
)	
v.)	CASE NO. 2005-00008
)	
GARRARD COUNTY WATER ASSOCIATION, INC.)	
)	
DEFENDANT)	

and

CALVIN VAUGHN)	
)	
COMPLAINANT)	
)	
v.)	CASE NO. 2005-00009
)	
GARRARD COUNTY WATER ASSOCIATION, INC.)	
)	
DEFENDANT)	

O R D E R

Danny Ray Adams and Calvin Vaughn have filed formal complaints in which they allege that Garrard County Water Association, Inc. (“Garrard Water”) has unreasonably and improperly refused water service to Mr. Adams. Garrard Water has moved to dismiss Mr. Vaughn’s complaint or, in the alternative, to consolidate the cases. We deny the motion to dismiss and grant the motion to consolidate.

In its motion to dismiss, Garrard Water argues that the existence of another proceeding to address the question of water service to Mr. Adams renders moot the

complaint of Mr. Vaughn. Suggesting that Mr. Vaughn lacks standing to bring his complaint, it argues that “[t]he Commission lacks the authority to order Garrard Water to install a water meter for [Mr.] Adams simply because Vaughn complains to the Commission.” Motion at 2.

We do not find Garrard Water’s reasoning persuasive. KRS 278.260(1) permits complaints “by any person.” While complaints regarding rates must be made by a complainant who “is directly interested” in the rate at issue, the statute does not require the same level of interest for persons questioning the reasonableness of any “act affecting or relating to the service of the utility.” Based upon the allegations in the complaint, we find sufficient basis to allow the complaint to proceed.¹

We further find that the above-styled cases have common questions of law and fact, that consolidation of these cases will not prejudice any party and will be conducive to expedition and economy, and that Garrard Water’s motion to consolidate should be granted.

IT IS THEREFORE ORDERED that:

1. Garrard Water’s motion to dismiss Mr. Vaughn’s complaint is denied.
2. Garrard Water’s motion to consolidate the above-styled cases is granted.
3. Case No. 2005-00009 is consolidated with Case No. 2005-00008. All future pleadings and documents shall be filed in Case No. 2005-00008.

¹ KRS 278.260(1) also permits the Commission to investigate such complaints on its own motion. See, e.g., Case No. 1989-00014, City of Newport v. Campbell County Kentucky Water District and Kenton County Water District No. 1 (Ky. PSC May 31, 1989).

4. The style of Case No. 2005-00008 is henceforth “Danny Ray Adams and Calvin Vaughn v. Garrard County Water Association, Inc.”

5. Case No. 2005-00009 is closed and is removed from the Commission’s docket.

6. A formal hearing in this matter shall be held on April 7, 2005, beginning at 9:30 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, and shall continue until completed.

7. The official record of the proceeding shall be by video only, unless otherwise requested by a party to this proceeding within 10 days of the date of this Order.

8. On or before March 18, 2005, each party may serve upon any other party an initial request for production of documents and written questions to be answered by the party served within 10 days of service.

9. On or before March 25, 2005, each party shall file with the Commission a list of witnesses each party intends to present at the hearing with a short statement of the subject matter each witness intends to introduce at the hearing.

10. No opening statements shall be made at the hearing.

11. Within 20 days after the hearing, any party may submit a written brief or statement of what the party believes the evidence taken proves. Briefs shall not exceed 15 pages in length.

12. Copies of all documents served upon any party shall be served on all other parties and filed with the Commission with a brief statement signed by the party that the document has been filed with the Commission and upon the other party.

13. Motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

14. To be timely filed with the Commission, a document must be received by the Commission within the specified time for filing, except that any document shall be deemed timely filed if it has been transmitted by United States express mail or by other recognized mail carriers, with the date the transmitting agency received said document from the sender noted by the transmitting agency on the outside of the container used for transmitting, within the time allowed for filing.

15. As the Complainants bear the burden of proof in this matter, their failure to appear at the formal hearing and to present proof in support of their complaints may result in the dismissal of their complaints with prejudice.

16. The failure of Defendant to appear at the formal hearing may result in the entry of an Order granting the Complainants' requested relief.

Done at Frankfort, Kentucky, this 9th day of March, 2005.

By the Commission

ATTEST:



Executive Director

Case No. 2005-00008
Case No. 2005-00009