

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JEFFERY CHARLES QUARLES)	
)	
COMPLAINANT)	
)	
V.)	CASE NO. 2005-00437
)	
PEAKS MILL WATER DISTRICT)	
)	
DEFENDANT)	

O R D E R

On May 26, 2006, Jeffery Charles Quarles ("Complainant"), along with Lennie and Vicki House ("House"), filed a motion for reconsideration of the Commission's May 22, 2006 Order and for substitution of parties in the May 22, 2006 Order dismissing his complaint against Peaks Mill Water District ("Peaks Mill").

On April 28, 2006, in response to a directive of the hearing officer for Complainant and Peaks Mill to file post-hearing briefs, the Complainant in his filing stated that he had sold and transferred the property to which he sought service. The Commission then issued an Order dismissing the case finding that the Complainant lacked standing to pursue the matter before the Commission.

In his May 26, 2006 filing, the Complainant also asked that House, the present owner of the property, be substituted for Jeffery Quarles as the real party in interest. On June 7, 2006, Peaks Mill filed its response to the reconsideration motion in which it objected to the rehearing and substitution of parties.

We have examined the record in this matter and will deny Complainant's motion for reconsideration.

The motion for reconsideration is based upon two grounds, the similarity of issues and judicial economy.

The nature of the complaint was not that Peaks Mill refused to provide service to Complainant but that Peaks Mill refused to provide additional service to Complainant for property upon which Complainant's son was to construct a dwelling. Complainant was at the time receiving service from Peaks Mill. Complainant intended to install a line of a certain size or to have Peaks Mill install the distribution main and pay for the line himself.

The Complainant states that, due to the status of the record in this case and the issues involved, judicial economy requires rehearing to be granted and the parties to be substituted. However, it is the nature of this case that requires Mr. and Mrs. House to bring an action in their own name and create a record in their own right. The complainant always bears the burden of proof in this type of case, and it is necessary that a complainant establish his own record to enable the Commission to arrive at a decision that would affect him. The Commission may not decide matters which are not ripe for review, and the record is devoid of any proof that an actual case or controversy exists between Peaks Mill and Quarles' purchasers.

The new owner of the property should first make an application to the utility for service and, if the application is denied, that owner may formally complain. If certain facts are similar, it is possible to request that certain portions of the present record be

made part of another proceeding, if appropriate. The present owners must make their own record for our consideration.

IT IS THEREFORE ORDERED that Complainant's motion to reconsider the Order entered on May 22, 2006 is denied.

Done at Frankfort, Kentucky, this 15th day of June 2006.

By the Commission

ATTEST:


Executive Director