

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KARL DAVID BRADLEY, JR.)
)
 COMPLAINANT)
)
v.) CASE NO. 2006-00163
)
BATH COUNTY WATER DISTRICT)
)
 DEFENDANT)

ORDER TO SATISFY OR ANSWER

Bath County Water District ("Bath District") is hereby notified that it has been named as defendant in a formal complaint filed on April 13, 2006, a copy of which is attached hereto.

Pursuant to 807 KAR 5:001, Section 12, Bath District is HEREBY ORDERED to satisfy the matters complained of or file a written answer to the complaint within 10 days from the date of service of this Order.

Should documents of any kind be filed with the Commission in the course of this proceeding, the documents shall also be served on all parties of record.

Done at Frankfort, Kentucky, this 4th day of May, 2006.

ATTEST:

By the Commission


Executive Director

BEFORE THE PUBLIC SERVICE COMMISSION

In the matter of the petition of Karl David Bradley, Jr.)

For order to compel extension of water service) No. 2006-00163

RECEIVED

APR 13 2006

The petition of Karl David Bradley, Jr. respectfully shows:

PUBLIC SERVICE
COMMISSION

1. That the petitioner is a "person".
2. That the post office address of the petitioner is 8845 Leatherwood Road, Salt Lick, Kentucky 40371.
3. That the Bath County Water District is a utility subject to the jurisdiction of the Public Service Commission.
4. That the extension is reasonable.
5. That as a matter of law, the Public Service Commission as an agency of the Commonwealth should conclude that the extension sought to be compelled is reasonable predicated on the acceptance by the Commonwealth of "an official act of the Bath County Water District in seeking the implementation of said [Leatherwood Extension WRIS Number: WX21011007] project ..." submitted on 25 July, 2001 at 4:14:22 P.M. "Reasonableness of cost" was set forth at item 7(d) of the said Kentucky Drinking Water Project Profile.
6. That as a matter of law, the Public Service Commission should uphold its conclusion in P.S.C. Case # 89-154 that "Bath County Water District is the most feasible source of water for [Leatherwood, Slab Camp, and Skidmore in Menifee County] for the following reasons: ... the potential for serving the area at a lower cost per customer due to economics (sic) of scale in operations and maintenance."

7. That the P.S.C. was placed on actual notice by the Petitioner on 11 January, 2006 through complaint # 200600172 of the refusal of Bath County Water District to extend water lines to serve Leatherwood, et al., on the western side of Cave Run Lake predicated solely on an “understanding” between the Bath County Water District and the Frenchburg Water Department, to wit: Bath County Water District categorically refuses to extend water service to Leatherwood, Slab Camp, and Skidmore for the expressed purpose of creating a monopoly for the Frenchburg Water Department, the less economically competitive potential supplier, in this territory and market.
8. That the P.S.C. should estop the Bath County Water District to deny that the Extension sought to be compelled is “reasonable” predicated on Item 7(d), et al., of the filing cited above, viz. “Leatherwood Extension Project” as a matter of law.
9. That this “understanding” is “unfair” pursuant to KRS 367.170(1)-(2).
10. That this “understanding” is anti-competitive pursuant to KRS 367.175(1)-(2).
11. That this “understanding” is anti-competitive pursuant to 15 U.S.C. 1-2.
12. That this “understanding” is “arbitrary” in violation of Section 2 of the Constitution of Kentucky.
13. That this “understanding” violates the public policy of the Commonwealth of Kentucky. See Stone v. Pryor, 103 Ky. 645, 45 S.W.1053, 1057 (1898); Kentucky State Fair Board v. Faulkner, 310 Ky. 607, 221 S.W. 435, 439 (1949)(citing St. Louis Min. and Mill Co., 171 U.S. 650, 195 S.Ct. 61, 43 L. Ed. 320 (1898)).
14. That the “understanding” between the Bath County Water District and the

Frenchburg Water Department creates a class denied equal protection pursuant to the 14th Amendment of the Federal Constitution because these entities, created pursuant to the statutes of the Commonwealth of Kentucky, have combined to create an artificial monopoly that necessarily will have the effect of extracting “a [higher] cost per customer due to economics (sic) of scale and maintenance...”, in the proposed sale and distribution of a basic, regulated public service, than to other citizens of the Commonwealth similarly situated.

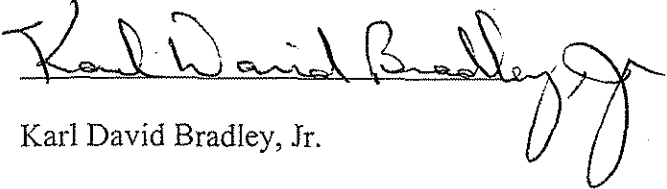
15. That the P.S.C. take judicial notice that “[p]rojects of this type are normally funded through customer contributions, bond issues, state and local government grants, and federal grants from such agencies as the FmHA [Rural Development-U.S.D.A.], the Department for Housing and Urban Development, and the Appalachian Regional Commission.” P.S.C. Case # 89-154, Report-Feasibility Study at 8-9.

WHEREFORE, petitioner asks that the Public Service Commission of the Commonwealth of Kentucky make its order compelling the Bath County Water District to extend water service, i.e. to “make a reasonable extension”, “to the western side of Cave Run Lake to [serve] the areas around Leatherwood, Skidmore and Slab Camp [in Menifee County] which are currently unserved ...” as set forth in Kentucky Water Project Profile, “Leatherwood Extension Project”, WRIS Project Number (PNUM): WX21011007 submitted to the Kentucky Infrastructure Authority as “an official act of the Bath County Water District in seeking the implementation of said project as so authorized....” on 25 July, 2001,

4:14:22 P.M.

Dated at Salt Lick, Kentucky

This 11th day of April, 2006.

A handwritten signature in cursive script that reads "Karl David Bradley, Jr." The signature is written in black ink and is positioned above a horizontal line.

Karl David Bradley, Jr.

APPENDIX A

Bath County Water District

First	2,000 gallons	\$ 7.00 (Minimum Bill)
Next	3,000 gallons	2.75/1,000 gallons
Next	5,000 gallons	1.75/1,000 gallons
Next	10,000 gallons	1.25/1,000 gallons
Next	30,000 gallons	1.10/1,000 gallons
Over	50,000 gallons	1.00/1,000 gallons

Source: Tariffs currently on file with the Public Service Commission

Frenchburg Water Department - District No. 2

First	2,000 gallons	\$12.40 (Minimum Bill)
Next	2,000 gallons	5.81/1,000 gallons
Next	3,000 gallons	5.43/1,000 gallons
Next	3,000 gallons	5.04/1,000 gallons
Over	10,000 gallons	2.56/1,000 gallons

Source: Gateway Area Development District