

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

GLENNIS W. BLAIR)	
)	
COMPLAINANT)	
)	
V.)	CASE NO. 2007-00502
)	
APPALACHIAN WASTE CONTROL)	
)	
DEFENDANT)	

O R D E R

On December 4, 2007, Glennis W. Blair filed a complaint against Appalachian Waste Control ("AWC") in which he alleged that he should not be required to pay for services that are not available and that he should not be required to pay the same rate as other customers. The Commission denied Mr. Blair's complaint by Order dated July 21, 2008.

During the processing of this case, the parties agreed that Mr. Blair would pay delinquent funds for sewer service into an escrow account at Citizens National Bank, pending the outcome of this case. The funds were to be held in escrow until the bank received an Order from the Commission containing instructions to release the funds. See Escrow Agreement, attached hereto as Appendix A. The Commission, however, did not negotiate or participate in any discussions related to the escrow account with the bank.

After the Commission entered its final Order in this case on July 21, 2008, AWC filed a motion requesting an Order directing the bank to release the funds escrowed on behalf of Mr. Blair and AWC. The time in which a party may request a rehearing under KRS 278.400 or file an action in Franklin Circuit Court under KRS 278.410 has expired, and no party has requested a rehearing or filed an action related to this case. As such, it appears that it is appropriate for Citizens National Bank to release the escrow funds to Squire N. Williams, III, Temporary Receiver for AWC.

The Commission must consider our jurisdiction over the matter. As an administrative agency, the Commission is a creature of statute and possesses only the powers delegated to it by statute.¹ We have jurisdiction over rates and service of utilities in this state and have the ability to enforce the provisions of KRS Chapter 278.² The Commission does not have jurisdiction over financial institutions, nor has the General Assembly granted us the power to order a financial institution to release funds, regardless of whether it appears appropriate for the funds to be released.

IT IS THEREFORE ORDERED that:

1. AWC's motion is denied for lack of jurisdiction.
2. The Commission's Executive Director is directed to serve a copy of this Order on Citizens National Bank Trust Department, P.O. Box 1488, Paintsville, KY 41240-5488.

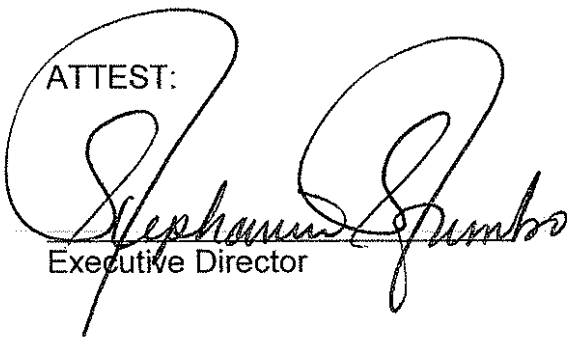
¹ Boone County Water and Sewer Dist. v. Pub. Serv. Comm'n, 949 S.W.2d 588, 591 (Ky. 1997).

² KRS 278.040.

Done at Frankfort, Kentucky, this 27th day of October, 2008.

By the Commission

ATTEST:


Executive Director

Case No. 2007-00502

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2007-00502 DATED OCTOBER 27, 2008

ESCROW AGREEMENT

TO: CITIZENS NATIONAL BANK TRUST DEPARTMENT
PAINTSVILLE, KENTUCKY

DATE: FEBRUARY 25, 2008

You are hereby instructed to make delivery of the following described cash and/or instruments herewith deposited in escrow upon payment or delivery to you of other cash and/or instruments as described below under delivery instructions, the latter to be delivered in exchange for the former:

DESCRIPTION OF CASH AND/OR INSTRUMENTS DEPOSITED

INITIAL DEPOSIT: \$567.20

DELIVERY INSTRUCTIONS:

FUNDS WILL BE HELD IN ESCROW UNTIL AN ORDER IS OBTAINED BY THE CITIZENS NATIONAL BANK TRUST DEPARTMENT FROM THE PUBLIC SERVICE COMMISSION WITH INTRUCTIONS OF FUNDS RELEASE.

APPALACHIAN WASTE CONTROL

BY: Glenn W. Blair
GLENNIS W. BLAIR

BY: Squire N. Williams III
SQUIRE N. WILLIAMS III
TEMPORARY RECEIVER

Citizens National Bank Trust Department

By: Joni Graham
Vice President & Trust Officer

An Escrow Fee in the amount of \$100.00 shall be paid from accrued interest annually. Included in this fee shall be trust tax preparation fees, wire transfer fees, and any and all other administrative fees connected with this Escrow Agreement.