

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TARIFF FILING OF NORTH SHELBY WATER)	
COMPANY TO REMOVE ITS RATE FOR FIRE)	CASE NO. 2011-00239
PROTECTION SERVICE)	

ORDER

North Shelby Water Company ("North Shelby") proposes to revise its filed rate schedules to terminate its fire protection rate. By this Order, the Commission finds that the proposed revision is reasonable and approves the termination of the fire protection rate and its removal from North Shelby's filed rate schedule.

North Shelby, a Kentucky non-profit corporation organized pursuant to KRS Chapter 273,¹ owns, manages and operates facilities that distribute water for compensation to approximately 4,820 customers in the Kentucky counties of Franklin, Henry, Oldham, and Shelby.² It is a utility subject to Commission jurisdiction.³

In Case No. 2000-046,⁴ North Shelby applied to the Commission for a Certificate of Public Convenience and Necessity to construct a million-gallon elevated water storage tank and 1,800 linear feet of 12-inch water main and for approval of its plan to

¹ See <https://app.sos.ky.gov/ftshow/%28S%284jvph345ygdiy3nnwednatfw%29%29/default.aspx?path=ftsearch&id=0038371&ct=09&cs=99999> (last visited Dec. 1, 2011).

² *Annual Report of North Shelby Water Company to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2010* at 5 and 27.

³ KRS 278.010(3)(d); KRS 278.012.

⁴ Case No. 2000-046, *The Application of North Shelby Water Company For a Certificate of Public Convenience and Necessity to Construct and Finance Pursuant to the Provisions of KRS 278.023* (filed Jan. 25, 2000).

finance the proposed project. The purpose of the proposed construction project was to expand the water utility's water storage capacity to meet the requirements of 807 KAR 5:066, Section 4(4), and to ensure sufficient water flows for fire protection service to property upon which the Shelby County Board of Education was constructing two school buildings.

In addition to the issuance of a Certificate of Public Convenience and Necessity and Commission approval of its financing plan, North Shelby also sought authority to assess a "fire protection tariff of \$0.00075 per SF [square foot] of sprinkled space." As the fire protection rate was a condition of an agreement between North Shelby and Rural Development to finance the construction project,⁵ KRS 278.023(3)⁶ directed our approval of the proposed rate regardless of any concerns regarding the reasonableness of the proposed rate.

Our review of the record of Case No. 2000-046 indicates virtually no discussion of the fire protection rate. The preliminary engineering report prepared in support of the proposed construction project contained no recommendation regarding the assessment of a fire protection rate and recommended no changes in North Shelby's rates for

⁵ Letter from Thomas G. Fern, State Director, Rural Development, to Duncan LeCompte, President, North Shelby Water Company (Nov. 5, 1999) at 7.

⁶ KRS 278.023(3) provides:

The commission shall review the project and the agreement, may recommend changes to the utility and the federal agency, but shall not modify or reject any portion of the agreement on its own authority. The commission shall issue a certificate of necessity and convenience and such other orders as may be required to implement the terms of the agreement no later than thirty (30) days after filing.

water service.⁷ The final engineering report⁸ recommended that the water utility maintain a fire protection rate of \$0.0075 per square foot of sprinkled space, but did not explain how the rate was derived nor state the level of revenue that the rate would produce. When it imposed this recommendation as a condition for its financial support of the project, Rural Development offered no explanation for its action.

In a subsequent proceeding, the Commission expressed skepticism of the fire protection rate's reasonableness:

The Commission notes that the present fire protection rate is not consistent with accepted rate design principles. "The most common method of charging for private fire protection service is to base the charge on the size of the customer's fire service connection. The service size is the best measure of the demand that can be put on the system in case of a fire. The service is also what the water utility provides service to; what the customer does with the water beyond the property line is largely outside the control of the utility." American Water Works Association, *Principles of Water Rates, Fees and Charges* (AWWA Manual M1 2000) at 228.

The Commission is unaware of any accepted methodology that bases a charge for fire protection service on the amount of floor space covered by a fire sprinkler system. We have not uncovered any recognized authority that suggests that floor space is relevant to the demands placed on a water system and hence the cost of providing fire protection service. North Shelby has not provided any basis to suggest a relationship between floor space coverage and the cost of service.⁹

⁷ Warner A. Broughman III and Associates, "North Shelby Water Company: Water Storage Tank for Shelby County Elementary & Middle Schools (Project 97-12)" (May 1999) (filed Jan. 25, 2000 in Case No. 2000-046).

⁸ Warner A. Broughman III and Associates, "North Shelby Water Company: School Board Water Tank -- Final Engineering Report" (Dec. 15, 1999) (filed Jan. 25, 2000 in Case No. 2000-046). The Final Engineering Report consisted of one page. North Shelby provided no cost-of-service study or other analysis to support the proposed rate.

⁹ Case No. 2004-00105, *Tariff Filing of North Shelby Water Company to Revise Its Rate For Fire Protection Service* (Ky. PSC. Jan. 11, 2005) at 3.

North Shelby now proposes to cease charging the fire protection rate and to remove the rate from its filed rate schedule. In support of its proposed action, it states that the assessment of a fire protection rate conflicts with its regulations that provide that North Shelby provides only domestic water service and does not provide fire protection service.¹⁰ While recognizing that some areas within its distribution system may meet the Commission's standards for fire protection, North Shelby notes that those areas change continuously with system demand and operation. It concludes that assessing the "charge to any customer or customers particularly where this service is not available on a consistent basis" is unfair.¹¹

As the assessment of the fire protection rate is a condition of a financing agreement with Rural Development, the termination of the rate while the Rural Development loan remains an outstanding obligation cannot occur without Rural Development's consent.¹² North Shelby has obtained Rural Development's consent to the termination.¹³

¹⁰ Letter from Jerry Ruble, President, North Shelby Water Co., to Jeff Derouen, Executive Director, Public Service Commission (June 1, 2011). See *Tariff of North Shelby Water Co.*, P.S.C. Ky. No. 2, Original Sheet No. 10 at ¶ VI.D ("No Fire Protection Service. The Company provides only domestic water service to rural residences and businesses. The Company does not provide fire protection to its Members or to others. Fire protection must be provided on site by the Member using means other than the Company's distribution system.").

¹¹ Letter from Ruble to Derouen.

¹² Case No. 2008-00045, *Application of U.S. 60 Water District of Shelby and Franklin Counties, Kentucky For a Certificate of Public Convenience and Necessity To Construct, Finance and Increase Rates Pursuant To KRS 278.023* (Ky. PSC Jun. 30, 2009).

¹³ Letter from John Johnson, Shelbyville Area Office Director, Rural Development, to Jerry Ruble, President, North Shelby Water Co. (July 20, 2011).

The termination of the fire protection rate will not materially affect North Shelby's financial condition. North Shelby assesses the rate to only two customers.¹⁴ The rate produces monthly revenue of \$180, or \$2,160 annually.¹⁵ During the period in which the rate has been in effect, North Shelby has collected approximately \$94,240 in revenues related to fire protection services, or an average of \$8,567 annually.¹⁶ Given that North Shelby had total revenues of \$2,104,481 from water sales for the year ending December 31, 2010,¹⁷ the average annual revenue from the fire protection fee represents no more than 0.4 percent of the water utility's annual revenues from water sales and is not materially significant.

Based upon the reasons set forth in North Shelby's request and the criticisms that the Commission has previously expressed regarding the fire protection rate, we find that termination of the fire protection rate is reasonable and should be granted.

IT IS THEREFORE ORDERED that:

1. North Shelby's request to terminate its fire protection rate is granted.
2. The tariff sheet containing North Shelby's fire protection rate is revoked as of the date of this Order.
3. North Shelby shall cease assessing the fire protection fee as of the date of this Order.

¹⁴ North Shelby assesses a fee to the Shelby County Board of Education for service at East Middle School and Painted Stone Elementary School. North Shelby's Response to Commission Staff's Request for Information, Item 4 (filed Oct. 25, 2011).

¹⁵ *Id.* Item 2.

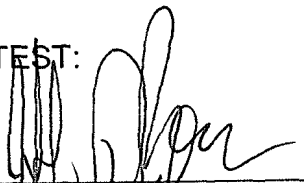
¹⁶ See Appendix to this Order.

¹⁷ *Annual Report of North Shelby Water Company to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2010* at 27.

By the Commission

ENTERED *PA*
DEC 06 2011
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2011-00239

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2011-00239 DATED **DEC 06 2011**

NORTH SHELBY WATER COMPANY'S REVENUES FROM FIRE PROTECTION
SERVICE FOR THE PERIOD FROM 2000 TO 2010

Year	Revenue
2000	\$ 3,638.00
2001	8,730.00
2002	11,640.00
2003	17,460.00
2004	16,673.00
2005	15,570.00
2006	14,453.00
2007	2,277.00
2008	1,167.00
2009	1,232.00
2010	1,400.00
Total	\$94,240.00

Source: North Shelby Water Company Annual Reports 2000-2010

Jerry Ruble
Chairman
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