

DAMON R. TALLEY, P.S.C.

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DAMON R. TALLEY

ATTORNEY AT LAW

October 18, 2005

Ms. Beth O'Donnell
Executive Director
Public Service Commission
P.O. Box 615
Frankfort, KY 40602

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OCT 20 2005

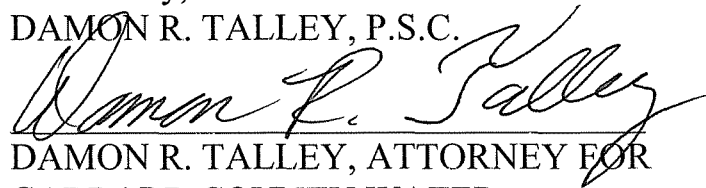
PUBLIC SERVICE
COMMISSION

RE: Adams & Vaughn Complaint
Case No. 2005-00008
Garrard County Water Association, Inc.

Dear Ms. O'Donnell:

Enclosed for filing are the original and ten (10) copies of the Application for Rehearing which is being filed on behalf of Garrard County Water Association, Inc.

Yours truly,
DAMON R. TALLEY, P.S.C.



DAMON R. TALLEY, ATTORNEY FOR
GARRARD COUNTY WATER
ASSOCIATION, INC.

DRT:ms

Enclosures

cc: Garrard County Water Association, Inc.
Danny Ray Adams
Calvin Vaughn

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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DANNY RAY ADAMS AND
CALVIN VAUGHN

OCT 20 2005

PUBLIC SERVICE
COMMISSION

COMPLAINANTS

v.

CASE NO. 2005-00008

GARRARD COUNTY WATER ASSOCIATION, INC.

DEFENDANT

APPLICATION FOR REHEARING

The Garrard County Water Association, Inc. ("Garrard Water"), by Counsel, pursuant to KRS 278.400 and all other applicable laws, hereby requests the Commission to grant a rehearing in this matter. In support of its application for a rehearing, Garrard Water states as follows:

1. On September 29, 2005, the Commission issued its Order directing Garrard Water to set a water meter for Mr. Adams upon the satisfaction of certain conditions by Mr. Adams.

2. Mr. Adams has now met those conditions. Garrard Water set his water meter on October 17, 2005.

3. Garrard Water seeks a rehearing on the following issues:

A. Whether Garrard Water's tariff provision as contained in Sheet No. 1, Section 2(b) entitled "Bona fide prospective customer" should be removed from its tariff; and

B. Whether Tariff Sheet No. 14(i) should be modified to eliminate the phrase "shall not be laid in driveways, nor pass through premises other than that to be supplied."

4. This matter is a complaint case brought by Mr. Adams. He alleged that Garrard Water discriminated against him because Garrard Water has set meters in the past for prospective customers who did not own or lease land abutting a street or highway where the water main was located.

LACK OF FAIR NOTICE

5. At no time did either Mr. Adams or Mr. Vaughn allege or argue that Garrard Water's tariff provisions were unreasonable or that they violated any law, regulation or Commission policy. They simply argued that Garrard Water had made exceptions to these tariff provisions in the past. Therefore, Garrard Water should make an exception for Mr. Adams and set him a meter on the easement granted him by Mr. Vaughn.

6. Likewise, at no time throughout this proceeding did Commission Staff place Garrard Water on notice that the validity or reasonableness of its tariff provisions were being scrutinized by the Commission.

7. The Data Request of Commission Staff to Garrard Water did not contain any questions whatsoever concerning Garrard Water's reasons for adopting the relevant portions of its tariff. They did not call into question the reasonableness of these tariff provisions.

8. Likewise, the Data Request of Commission Staff to Mr. Adams did not seek to obtain any information from Mr. Adams concerning whether the tariff provisions were unreasonable.

9. The Commission Staff did not offer any pre-filed testimony on the issue of whether the tariff provisions are unreasonable.

10. Commission Staff did not offer any testimony at the formal hearing on this issue.

11. Mr. Ward, the President of Garrard Water, provided some background information and rationale for these tariff provisions during his direct testimony at the formal hearing. He was not cross-examined, however, by Commission Staff or any party to the proceeding, about the reasonableness of the tariff provisions.

12. Suffice it to say, Garrard Water had no notice that the Commission was reviewing the reasonableness of the specific tariff provisions.

13. As shown by the record in this case, the Commission assisted Garrard Water in the development of these tariff provisions approximately 15 years ago. These tariff provisions were modeled after similar provisions in the Kentucky American Water Company tariff.

14. Garrard Water adopted these tariff provisions on December 6, 1989 and the Commission approved them on August 1, 1990. Garrard Water has operated under these tariff provisions for more than 15 years.

15. Incidentally, since receipt of the September 29, 2005 Commission Order, Garrard Water's staff has researched the Commission's Tariff Library. It appears that the Kentucky American Water Company is still operating under these same tariff provisions. Also, Garrard staff has discovered five (5) other water utilities with identical or very similar tariff provisions.

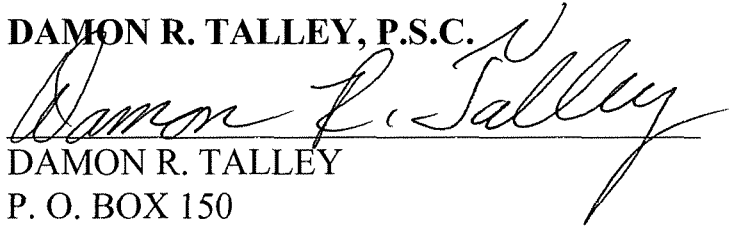
16. If the Commission had given Garrard Water fair notice, or any notice, that the reasonableness of these tariff provisions were at issue in this case, Garrard Water would have presented additional evidence at the formal hearing to demonstrate the reasonableness of, and the need for, these tariff provisions.

17. If the Commission grants a rehearing, Garrard Water intends to file a Motion for an Informal Conference prior to the date of the rehearing. Garrard Water believes an Informal Conference will be beneficial and will enable it to listen to, and address, the concerns of Commission Staff.

For the foregoing reasons, Garrard Water seeks a rehearing on whether the specific tariff provisions are reasonable and whether they should be removed from Garrard Water's tariff.

Respectfully Submitted,

DAMON R. TALLEY, P.S.C.

A handwritten signature in cursive script that reads "Damon R. Talley". The signature is written in black ink and is positioned above a horizontal line.

DAMON R. TALLEY

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ATTORNEY FOR GARRARD COUNTY
WATER ASSOCIATION, INC.

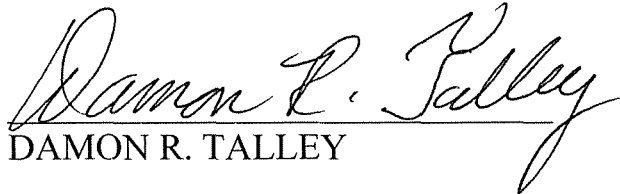
CERTIFICATE OF SERVICE

This is to certify that I have mailed a true copy of the foregoing pleading this
18th day of October, 2005, to the following:

Danny Ray Adams
1455 Perry Rogers Road
Lancaster, KY 40444

Calvin Vaughn
142 Vaughn Way
Lancaster, KY 40444

Harold C. Ward
Garrard County Water Association, Inc.
P. O. Box 670
Lancaster, KY 40444-0670


DAMON R. TALLEY