

COMMONWEATH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KARL DAVID BRADLEY, JR.)
)
COMPLAINANT)
)
V.)
)
BATH COUNTY WATER DISTRICT)
)
DEFENDANT)

CASE NO. 2006-00163

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MAY 23 2006

PUBLIC SERVICE
COMMISSION

ANSWER

Comes now the above named Defendant, Bath County Water District, by and through counsel and for its answer to the Complaint in the proceeding, respectfully states as follows:

1. The Complainant's Complaint is a facially deficient, does not comply with the applicable rules of procedure, fails to state a prima-facie claim, and otherwise fails to state a cause of action upon which relief may be granted and therefore should be summarily dismissed.

2. With respect to paragraphs 1, 2 and 15 of the Complainant's Complaint this Defendant is without sufficient knowledge or information to admit or deny said allegations and therefore denies said allegations.

3. With respect to numerical paragraph 3 of the Complainant's Complaint, this Defendant admits said allegations.

4. With respect to numerical paragraphs 4, 5, 8, 9, 10,11,12,13, and 14 of the Complainant's Complaint, this Defendant denies the allegations contained therein.

5. With respect to numerical paragraph 6 of the Complainant's Complaint, this Defendant denies the allegations contained therein. The Complainant has mischaracterized the PSC Order and taken language out of context. This Defendant hereby attaches the referenced Order of the Public Service Commission in support of its response to the Complainants claim.

6. With respect to numerical paragraph 7 of the Complainant's Complaint, this Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegation contained therein that "the PSC was placed on actual notice by the Petitioner on 11 January 2006 through complaint # 2006-00172." Therefore this Defendant denies said allegations. Furthermore, this Defendant denies all other allegations contained in said paragraph.

Wherefore, the Defendant, Bath County Water District, prays that the complaint be dismissed; that this Defendant be awarded its attorneys fees and costs herein expended; and any and all other relief to which this Defendant may appear entitled.

Respectfully Submitted,

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By: 

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CERTIFICATE OF SERVICE

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION FOR COMMISSION APPROVAL TO)
ESTABLISH A WATER DISTRICT IN MENIFEE) CASE NO. 89-154
COUNTY, KENTUCKY)

O R D E R

On May 30, 1989, twenty resident freeholders of Menifee County, Kentucky, filed a petition with this Commission requesting authority to petition the county judge/executive and fiscal court of Menifee County to establish a water district pursuant to KRS 74.012. Consistent with the requirements of that statute, Commission Staff conducted a field investigation to determine the feasibility of creating a water district in the Means, Slab Camp/Skidmore, and Leatherwood areas of Menifee County.

On November 13, 1989, Staff issued its Feasibility Study recommending that the Commission deny permission to petition the county judge/executive for creation of the new district. The basis for this recommendation was that there were not enough potential customers in the area to economically support constructing a system to serve them. Staff further recommended that Bath County Water District be directed to investigate the feasibility of serving those customers who reside in Menifee County.

After notice duly given to all water suppliers in the area proposed to be served and to other agencies with authority in the general area having concern with the application, a public hearing

was held in the Commission's offices on February 6, 1990. Commission Staff, the general manager of Bath County Water District, and one resident of the area proposed to be served testified at the hearing.

The lone resident of Menifee County testifying at this proceeding, Charles L. Howard, testified in support of Staff's recommendation stating his belief that the Slab Camp/Skidmore and Leatherwood areas could more feasibly be served by Bath County Water District.¹ Mr. Howard further pointed out that since Means is geographically distant from the other two areas he was unsure if it would be feasible for Bath County Water District to serve those residents.²

William J. Razor, the general manager of Bath County Water District, testified that Bath County had no objection to serving customers in the Means area provided adequate supply was available; however, an excessive capital investment would be necessary to serve the residents of the Leatherwood and Slab Camp/Skidmore areas.³ He also stated that Bath County's primary concern with respect to extending service to Menifee County was the availability of adequate supply.⁴ (Bath County Water District owns 20 percent of a water treatment plant operated by the Morehead Water Plant Board and is entitled to 20 percent of that

¹ Transcript of Evidence ("Tr.") at 14-15.

² Tr. at 15.

³ Tr. at 26-28.

⁴ Tr. at 37-38.

plant's production. Bath County Water District is nearing its contract limits.⁵⁾

Prior to the establishment of this case, Bath County Water District had undertaken an investigation into the feasibility of serving two of the three areas in question, but put the investigation on hold when this case was established. Bath County's general manager testified that certain "preliminary" findings indicated that the Leatherwood area could not be feasibly served due to economic reasons.⁶ Extending its lines to the Means area would not require an excessive investment, but Bath County does not have an adequate supply of water at this time to serve the area.⁷ Bath County has not studied the feasibility of serving the Slab Camp/Skidmore area.⁸

After consideration of the record in this case and being otherwise sufficiently advised, the Commission finds:

1. There are three water suppliers in the general area proposed to be served: Bath County Water District; Jeffersonville Water System; and the Frenchburg Water Department. Jeffersonville has problems maintaining water pressure on its system and Frenchburg Water Department purchases its supply from Bath County Water District.

⁵ Tr. at 34-36.

⁶ Tr. at 36-37.

⁷ Tr. at 37.

⁸ Tr. at 36.

2. Bath County Water District is the most feasible source of water service for the proposed area for the following reasons: a) the close proximity of the proposed Menifee County Water District to the Bath County Water District; b) the ability of Bath County Water District to supply water to the area proposed to be served; and c) the potential for serving the area at a lower cost per customer due to economics of scale in operations and maintenance.


3. Bath County Water District should be required to complete its study of supply feasibility in the three areas of Menifee County named herein and report its findings to the Commission. The report should include the feasibility of serving each of the three areas.

4. Having found that the geographical area sought to be served can more feasibly be served by an existing water supplier, the Commission should deny the application of the twenty resident freeholders of Menifee County.

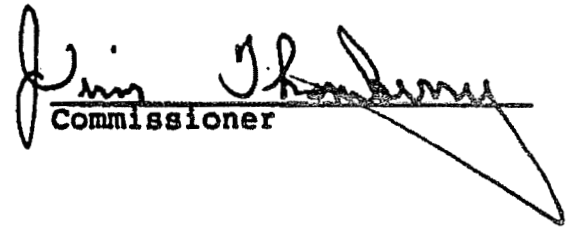
IT IS THEREFORE ORDERED that the application for approval to petition the county judge/executive and fiscal court of Menifee County for creation of a water district is denied. IT IS FURTHER ORDERED that Bath District shall complete its investigation of the feasibility of serving the Means, Slab Camp/Skidmore and Leatherwood areas of Menifee County and shall file its report within 90 days of the date of this Order.

Done at Frankfort, Kentucky, this 19th day of March, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director