

COMMONWEALTH 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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PUBLIC SERVICE
COMMISSION

RESPONSE TO FIRST DATA REQUEST OF COMMISSION STAFF
TO KARL DAVID BRADLEY, JR.

* * * * *

Comes Karl David Bradley, Jr., Complainant, pursuant to the "First Data Request of Commission Staff to Karl David Bradley, Jr." and provides the requested information, to wit:

Question 1. Refer to Bath County Water District's ("Bath County") responses to the First Data Request of Commission Staff and explain why you believe it is reasonable to order Bath County to provide an extension of service. Address each response by Bath County individually and in detail.

1(a) Reply to Bath County Water District's (hereinafter "Bath County") response to Public Service Commission (hereinafter "PSC") Request at 1.

The undersigned "will be responsible for responding to questions relating to [all] the information provided" throughout.

“[A] water line . . . extends under Cave Run Lake to the Zilpo Recreation Area from Twin Knobs [which] is a 6” cast iron (ductile iron) line which was installed during 1972-1973. The water line is concrete lined with an anticipated service expectancy of 50 years or more. The tank at Zilpo Recreation area has a 125,000 gallon capacity, was constructed in 1979 and is considered to be in good condition.” Letter from Jack L. Craven, Director of Lands, Washington Office, U.S. Forest Service to Mr. Karl D. Bradley (May 28, 1999.) “The statute authorizing or denying use of National Forest System (NFS) lands and federal improvements and facilities such as the Zilpo water line and storage tank can be found at 36 CFR 251.52. If water service utilities want to provide water to other nearby communities such as the Leatherwood area and the utility company wants to assume responsibility for service to Zilpo; we would be glad to discuss any proposals with them.”
Id. at 1.

Each of the four (4) alternatives comprising Defendant’s “Exhibit E” commence at “Zilpo”. In addition, the “Leatherwood Extension Project”, WRIS Number: WX21011007 assumes [at Item 11 (a) at page 6] that “the Zilpo Campground which operates an independent supply . . . [will] be served by the Bath [County Water District] . . .” See 36 CFR 251.52.

At “Drinking Water Profile: at Item 7(d) “Rate impact/reasonableness of cost,” it is stated without ambiguity, to wit: “with sufficient grant funds the project is feasible for service from Bath County Water District or Frenchburg with reasonable [Emph. Added] rates . . .” Kentucky Water Project Profile, Leatherwood Extension Project, WRIS Number: WX21011007 at 4.

“Sufficient grant funds” is a condition precedent to all projects of this nature throughout rural America. It is presumed that “Bath County” was acting in accord with the dictates of the business judgment rule when it employed Scott Taylor, P.E. of Mayes, Sudderth & Etheredge, as Consulting Engineer/Project Administrator, to evaluate the said Leatherwood Extension Project (hereinafter “the Project”).

“Bath County” upon expert advice stated, “the project is feasible for service from Bath County Water District or Frenchburg with reasonable [Emph. Added] rates . . . [predicated on the universally applicable condition precedent to projects in such rural markets], viz. “[w]ith sufficient grant funds”.

This consulting engineer must necessarily have attained the requisite educational achievements to be licensed as a professional engineer in this Commonwealth.

It may be reasonably presumed that he is so licensed, [and is or was at the date of this document] with the requisite licensure board in order to have been employed by “Bath County”. It may be presumed “Bath County” acted prudently and reasonably to retain the “consulting engineer’s” expert services.

It may be reasonably presumed in the ordinary course of state business that its agents act reasonably and prudently. In the ordinary course of state business on 25 July, 2001 at 4:14:22 P.M., the Kentucky Infrastructure Authority, acting for the Commonwealth of Kentucky, accepted the filing of the documents by Bath County seeking to implement the “Leatherwood Extension Project”.

It, therefore, necessarily follows that “it is reasonable [Emph. Added] to order Bath County to provide an extension of service” as this project was held out to be and accepted as reasonable.

1(b). Reply to “Bath County’s” Response to the “PSC’s” Request at 2.

The “6” cast iron (ductile iron) [water] line” conveying potable water from the Morehead Utility Board’s system under Cave Run Lake to the “Zilpo Recreation Area” from “Twin Knobs” is “located in the vicinity” of Leatherwood, if not “in the vicinity of all 3 areas for which Complainant is requesting service.” Likewise, the “125,000 gallon capacity” water tank situated at “Zilpo” is similarly “located in the vicinity” of Leatherwood, et al.

Said 6” water line and the 125,000 gallon water tank at “Zilpo” do not appear on Defendant’s Exhibit B (Map #2). The PSC requested “maps highlighting the three areas for which complainant is requesting service” Defendant “Bath County’s” unresponsive reply identified only one “service area”.

I incorporate by reference as if fully contained herein the Complainant’s presentation of probative evidence demonstrating that extending lines from “Zilpo” to include the use of the 125,000 gallon water tank as set forth at Complainant’s Item 1(a) requires an ordinary, reasonable, prudent auditor of these facts to conclude that “it is reasonable [Emph. Added] to order Bath County to provide an extension of service.”

1(c). Reply to “Bath County’s” Response to “PSC’s” Request at 3.

The undersigned avers that there are more than 43 potential customers “in the areas [Emph. Added] named in the Complainant’s petition.” The number of dwellings exclusively at Leatherwood (excepting for the point of emphasis subdivided lots and unitary tracts) exceeds 43. If Slab Camp and Skidmore were included in this accounting, there would necessarily have been no extant dwellings at these locations respectively. This

also does not include any potential customers in Bath County in the vicinity of “Dogwood Lane” and “Zilpo”.

Again, I incorporate the “preliminary project data and information”, accepted as reasonable by the Commonwealth, denominated as the Leatherwood Extension Project, WRIS Number WX21011007 as well as all other facts recited in Complainant’s Item 1(a); by reference as fully as if contained herein, to demonstrate again that “it is reasonable [Emph. Added] to order Bath County to provide an extension of service.”

1(d). Reply to “Bath County’s” Response to “PSC’s” Request at 4.

The description of the “Current System” ignores the premise of “a study prepared which examines 4 alternative proposals (Exhibit D) . . .” and “the preliminary project data and information” filed with the Kentucky Infrastructure Authority” (hereinafter “KIA”), as the basis for the “Leatherwood Extension Project”, viz. that “Bath County” would assume service to the “Zilpo Campground” and avail itself of use of “the Zilpo water line and storage tank” pursuant to 36 CFR 251.52. Lines would then be extended to “McIntosh/Dogwood Lane” in Bath County, Leatherwood, et al.

The conclusions set forth in Exhibit C are valid logically. They simply, respectfully, proceed from a spurious premise.

“It is reasonable [Emph. Added] to order Bath County to provide an extension of service” predicated on the expert opinion of the consulting engineer, employed by “Bath County”, set out in the filed documents for the said “Leatherwood Extension Project”.

1(e). Reply to “Bath County’s” Response to “PSC’s” Request at 5.

Exhibit D is consistent with “the preliminary project data and information” filed with “KIA” that forms the basis for the “Leatherwood Extension Project”, WRIS Number WX21011007; which was described by “Bath County’s” Consulting Engineer as “feasible for service from Bath County Water District or Frenchburg with reasonable [Emph. Added] rates . . .”, predicated on the universally necessary “sufficient grant funds” for projects of this general type. In fact, but for the Rural Electrification Act of 1935, the Tennessee Valley Authority, et al., it would not be feasible today to provide other utility services to much of the rural South.

Exhibit E is unresponsive to the “PSC’s” request because it is not an “update to the report” “ordered in Case No. 1989-00154” nor does it provide “any new information that would change the outcome of this study [,]” viz. “the feasibility study . . . that was ordered in Case No. 1989-00154.” This is because Frenchburg’s Water Department is not regulated by the “PSC”, and it was “Bath County”, and not “Frenchburg” that was the object of the “PSC’s” order in Case No. 1989-00154. The issue was whether “Bath County” would relent and extend service.

The last two sentences of “Bath County’s” answer are not well taken. They are non sequiturs.

It is worth noting that Exhibit E, which was also created by the same Mayes, Sudderth & Etheredge, Inc., which was the consulting engineering firm for the “Leatherwood Extension Project” aforesaid, noted “35 customers” at Leatherwood alone in April 1994. New home construction and land transfers have occurred at Leatherwood since April 1994. Also, acquisition of land and rights to include obtaining a “Special Use

Permit” to “cross” federal lands to serve Leatherwood, et al., was estimated at a de minimis \$10,000 out of an “Estimated Project Cost” of “\$1,341,300”. See also 36 CFR 251.52. “[I]t is reasonable to order Bath County to provide an extension of service” because Exhibits D and E are not inconsistent with the consulting engineer’s conclusion that the “Leatherwood Extension Project” is reasonable with the universal requirement for public subsidies to such projects generally.

1(f). Reply to “Bath County’s” Response to “PSC’s” Request at 6.

The undersigned relies on the expert engineering opinion of Scott Taylor, P.E., who was employed by “Bath County” to consult on the “Leatherwood Extension Project”, WRIS Number WX21011007, i.e. that “with sufficient grant funds that project is feasible for service from Bath County Water District” Kentucky Water Project Profile, “Leatherwood Extension Project” at 4.

The “Leatherwood Extension Project” “involves the construction of line”, i.e. 63,000 linear feet of 4” and 6” lines which would serve 145 customers. In contrast, the proposal “set out in Map #2”, Exhibit B requires 59,000 linear feet but serves only “43 customers”.

The estimated cost of the “Leatherwood Extension Project” is \$1,027,000.00. The estimated cost of the proposal “set out in Map #2, Exhibit B is \$1,167,120.00.

The consulting engineer/project administrator, i.e. “Bath County’s” agent, stated at Item 7 (d) of the said Kentucky Drinking Water Profile, viz. “Rate impact/reasonableness of cost”, that “[w]ith sufficient grant funds the project is feasible . . . with reasonable

rates” Said consulting engineer/project manager estimated that \$827,000 or the \$1,027,000, or 80.5% of the total project cost, would be funded with grants from U.S.D.A.-Rural Development and the Appalachian Regional Commission respectively.

In contrast, the proposal “set out in Map #2”, Exhibit B, would require “substantial grant funding” to avoid a significant adverse “impact to rates system wide”.

The undersigned avers that this is the rationale for “Bath County’s” submission of “the preliminary project data and information” filed with “KIA”, viz. “Leatherwood Extension Project”, which included “[f]easibility calculations for service from Bath County Water District beginning from the ‘Zilpo’ tank owned by the Forest Service utilizing the water main under Cave Run Lake” This was proposed by Bath County rather than the route “Bath County had [Mayes, Sudderth & Etheredge, Inc., Engineers, Architects, Planners] look at [for] service directly to the Leatherwood area from SR 211 south of Salt Lick by running a line through Clear Creek Furnace Area of the Forest Service (sic).” Letter from Mayes, Sudderth & Etheredge, Inc., by D. Scott Taylor, P.E., Manager-Water Supply to Tom Fern, State Director, Rural Development (October 29, 1997) (discussing Water Service to Carl (sic) Bradley at Leatherwood near Cave Run Lake MSE Project No. 009520 and 004024).

“Bath County” had its engineers “look at” service substantially following the route “set out in Map #2”, Exhibit B prior to “route consideration” “for service from Bath County Water District beginning from the ‘Zilpo’ tank owned by the Forest Service utilizing the water main under Cave Run Lake.” Id.

In sum, prior to the 10 July, 2006 “Data Request” from the Commission Staff, “Bath County” had actual knowledge that the route “beginning from the Zilpo tank owned

by the Forest Service utilizing the water main under Cave Run Lake . . .” is “[w]ith sufficient grant funds . . . feasible for service . . . with reasonable rates.”

Likewise, Bath County knew prior to 20 July, 2006 that the “Leatherwood Area Feasibility [study] for PSC”, which was prepared by O’Brien & Gere Engineers, Inc., would find that “[O’Brien & Gere, Engineers, Inc.] [could not] recommend that this is a reasonable project for the Bath County Water District to serve this area.”

In the opinion of an ordinary, reasonable, prudent person, “Bath County’s” answer to the “PSC’s” Request at Item 6 is **not** responsive for the reasons stated supra.

As to the right of way issue raised by the Defendant at Defendant’s Item 6 (b), the citation provided to my late father is authority for the “use of National Forest (NFS) lands and federal improvements and facilities such as the ‘Zilpo’ water line and storage tank” The citation was provided by Jack L. Cravens, Director of Lands, and it is 36 CFR 251.52. See Exhibit 1.

Second, the Complainant requests that the “PSC” take judicial notice of the fact that the Complainant, et al., are served with electricity by Clark Energy and telephone service by Mountain telephone through wires that “cross” the Daniel Boone National Forest.

Third, the Complainant, et al., are permitted “ingress and egress to intermingled and adjacent private lands across National Forest Service System lands.” See 36 CFR 212.8 and 212.10.

Fourth, Complainant requests that the “PSC” take judicial notice that pipelines “cross” National Forest System lands.

Fifth, “[p]ermits and occupancy agreements [are issued] on National Grasslands and other lands administered under the provisions of Title III of Bankhead-Jones Farm Tenant Act issued under 36 CFR 213.3 . . .” by the Forest Service.

Sixth, the Forest Service issues “[g]razing and livestock permits . . . under 36 CFR part 222, Subpart A.”

Seventh, “[m]ining plans of operation under 36 CFR part 228, Subpart A . . .” are issued by the Forest Service.

Eighth, a map provided to Hon. Harold Rogers by Gail K. Wright, Exec. Director, GADD, depicts proposed water lines “crossing” National Forest System lands in order to serve Skidmore, et al.. Skidmore is proposed to be served by the “1274 Waterline Extension Project” per “Bath County’s” Response to “Data Request” Item 7. Attachment to letter from Gail K. Wright, Exec. Director, GADD to Congressman Harold Rogers (August, 24, 2006).

Ninth, Complainant requests that the “PSC” take judicial notice that watercraft ply the waters of Cave Run Lake at Leatherwood, et al., and that aircraft enter airspace above National Forest System lands and spacecraft (U.S., Russian, et al.) orbit the space above National Forest System lands.

Finally, Complainant would reiterate that the cost of acquiring easements and a Special Use Permit pursuant to 36 CFR 251.52, as set forth in Exhibit E, was projected to be de minimis by the same engineers who consulted for “Bath County” on the said “Leatherwood Extension Project”.

Defendant’s argument is not well taken.

As to the health concerns expressed by the Defendant at Item 6(c) of its answers to the “PSC” request at Item 6, this is a valid conclusion flowing from the spurious premise that “[t]he least restrictive proposal for Bath Water to extend water service to the area of the Complainant is as set out in Map #2.”

In sharp contrast, the Kentucky Water Project Profile, “Leatherwood Extension Project”, WRIS Number WX21011007 submitted to “KIA” by “Bath County” states at Item 11 (c) that “[p]roject activity improves water quality by providing: [p]roper maintenance of disinfection residual.”

Defendant’s arguments are not well taken, and do not overcome the highly substantial, probative evidence demonstrating that again “it is reasonable [Emph. Added] to order Bath County to provide an extension of service”.

1(g). Reply to “Bath County’s” Response to “PSC’s” Request at 7.

The fact that “[p]rior to 2004 the Leatherwood project was proposed by Bath County and listed on the three-year list compiled by GADD (See attached cover page Gateway Area Water Project List and page 7, Exhibit F) . . .” is an admission by both “Bath County”, and GADD acting pursuant to KRS 151.114, KRS 151.116 and 401 KAR 4: 220, that “it is reasonable to order Bath County to provide an extension of service.”

No explanation is offered as to why “the [Leatherwood Extension] project was never considered [Emph. Added] for funding when proposed by Bath County.”

It is stated that “[i]n conjunction with the GADD Water Management Council, Bath Water and Frenchburg agreed that the Leatherwood project would be more [Emph. Added]

feasible for the City of Frenchburg due to having lines closer to that area [Leatherwood] **and** [Emph. Added] the closest point for Bath Water to extend to Leatherwood is at a point where the water would be purchased from Frenchburg by Bath Water.” This statement is not well taken. Please note the employment of the conjunctive “and” by “Bath County”.

First, Complainant would reiterate that the “Leatherwood Extension Project” would begin from the “Zilpo tank” which is 26,300 feet from Leatherwood. This is 32,700 feet closer to Leatherwood than the point described by “Bath County” which is 59,000 feet from Leatherwood. “The closest point for “Bath County” to extend to Leatherwood is [in fact] at a point . . .” at “Zilpo”. See Exhibits 1, and “D”, and “Kentucky Drinking Water Profile for “Leatherwood Extension Project”, WRIS Number WX21011007 accepted for filing by “KIA”. “Bath County’s” argument is a non sequitur.

Second, “Bath County’s” supplier would be the Morehead Utility Board. “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 plant’s production.” Application For Commission Approval To Establish A Water District In Menifee County, Kentucky, Case No. 89-154 at 2-3.

“[T]he water would [not] be purchased from Frenchburg by Bath Water.”

“Bath County Water District is the most feasible source of water for the proposed area . . .” Id. at 4.

Both Bath County Water District and the City of Frenchburg provide water service in close [Emph. Added] proximity to Leatherwood Road. Letter from Gail K. Wright, Executive Director, Gateway Area Development District to Harold Rogers, M.C. (August 24, 2006), Exhibit 2.

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Bath County alleged that “Leatherwood was deleted . . .” from the “1274 project” “[i]t is believed . . . due to ‘cost’ and ‘right of way concerns’.” This is not well taken.

First, Scott Taylor, P.E., the consulting engineer/project administrator of Mayes, Sudderth, and Etheredge (hereinafter “MSE”), advised expertly, to wit” “With sufficient grant funds the project is feasible for service from . . . Frenchburg with reasonable rates . . .” Item 7(d), Kentucky Water Project Profile, “Leatherwood Extension Project”, WRIS # WX21011007.

Second, said “MSE” by said consultant/administrator, Taylor, estimated funding, i.e. 80.5%, to be anticipated to be comprised of “RD” and “ARC” grants respectively to be achieved in 3-10 years from 25 July, 2001 at 4:14:22 P.M. for an extension to Leatherwood, et al.

Third, “MSE’s” expert engineering opinion should be dispositive, as to the issue of “cost”, because “MSE” calculated the feasibility of service from Frenchburg to “Carl (sic) Bradley at Leatherwood near Cave Run Lake MSE Project No. 009520 and 004024” from three (3) different routes. Letter from D. Scott Taylor, P.E. Manger-Water Supply, Mayes, Sudderth & Etheredge, Inc., to Tom Fern, State Director, Rural Development (October 29, 1997). “MSE” also prepared “Exhibit D”.

Finally, to reiterate “Bath County’s tentative allegation that “[i]t is believed Leatherwood was removed from the project due to cost . . .” is inconsistent with the advice of Scott Taylor, P.E. of “MSE” that “[w]ith sufficient grant funds the project [extending lines to Leatherwood, et al.] is feasible from . . . Frenchburg with reasonable rates . . .” Drinking Water Profile, “Leatherwood Extension Project” , WRIS # WX21011007 at Item 7(d), p. 4. “Sufficient grant funds” were anticipated by “MSE” to be available to said

project “3-10 years” from 25 July, 2001 at 4:14:22 P.M. from “RD” and “ARC” respectively.

Bath County stated the cost of the “1274 project” to be \$2,500,000.

“This project as initially proposed would construct water lines in areas of Menifee County on Route 1274, Myers Fork, Whites Road area, Clifton, Skidmore, Ratliff Road, Hog Branch, and the Complainant’s Leatherwood area . . .” according to “Bath County”.

The average cost per household, for WRIS Project Number WX21165002, Frenchburg as Project Owner, that had included Leatherwood, Slab Camp and Skidmore, et al., was estimated to be \$13,561 per household. In contrast, the “Leatherwood Extension Project”, WRIS # WX21011007 “affected 145 “households” at a “total project cost” of \$1,027,000 or \$7,082.76 per “household affected”. See marked as Exhibit F, on Complainant’s copy.

The Frenchburg Project, WRIS # WX21165002 did not apparently serve the McIntosh area of Bath County near Leatherwood. The Complainant surveyed potential customers at McIntosh/Dogwood Lane on 9 September, 2006. Eleven “households” advised they seek water service. That was a-unanimous response from the parties surveyed. It is more feasible to serve Leatherwood, Slab Camp and Skidmore through the “Leatherwood Extension Project”, WRIS # WX21011007 than it would have been through Frenchburg Project, WRIS # WX21165002.

Since Leatherwood was “deleted” from the project, the Leatherwood Extension Project, WRIS # WX 21011007 cannot be meaningfully compared to the “1274 Waterline Project”, WRIS # WX21165003.

The issue of “right of way concerns” is not well taken.

It was stated that “Bath County is not involved in the project upon completion of the project. Leatherwood will not be served, as it was removed from the final project. Bath Water will be in no better position to serve Leatherwood upon completion of the project than now.”

“In conjunction with the GADD Water Management Council, Bath Water and Frenchburg agreed [Emph. Added] that the ‘Leatherwood project’ would be more [Emph. Added] feasible for the City of Frenchburg . . .” Complainant infers that the “Leatherwood Extension Project”, WRIS # WX21011007 was withdrawn from the WRIS, et al., by “Bath County”. This was a “geographical allocation”. Frenchburg Water Department was thereby freed of competition and reacted by summarily “deleting” Leatherwood from the waterline extension project.

Such horizontal market division arrangements i.e. horizontal territorial restraints, were explicitly ruled per se illegal under the Sherman Anti-Trust Act whether or not ancillary to price-fixing or other market-rigging arrangements. United States v. Topco Associates, Inc., 405 U.S. 596 (1972).

Said understanding is per se illegal. The effects of the “understanding” have been economically injurious to freeholders at Leatherwood and McIntosh, which lies in Bath County.

Complainant asks the “PSC” to take judicial notice that the Kentucky legislature cannot immunize any party to an agreement that is per se illegal under federal law. This would in fact result in a state preempting federal law in violation of the Supremacy clause of the Federal Constitution. This was, of course, settled by force of arms in 1865.

Complainant would note that the acknowledged agreement to engage in a geographical market division arrangement, which is per se illegal was denied by “Bath County” in its answer to the petition filed pursuant to KRS 278.280. See 405 U.S. 596 (1972).

The action by “Frenchburg Water” to “delete” Leatherwood was so arbitrary as to offend Section 2 of the Kentucky Constitution. Said action also violated the public policy of the Commonwealth by taking such an action grossly offensive to the “equality of rights” of citizens similarly situated. 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)).

The action by Frenchburg Water Department to “delete” Leatherwood is “unfair”. See KRS 367.170 (1). Said action constitutes “state action” in violation of the Equal Protection clause of the 14th Amendment to the Federal Constitution as well.

The fact that “Bath Water and Frenchburg . . .”—acting through its proprietary department—“agreed that the Leatherwood project would be more [Emph. Added] feasible for the City of Frenchburg . . .” admits the reasonableness of the extension of water service to Leatherwood, i.e. “more feasible” implies that it is also “feasible” for the other source to which it is compared, viz. “Bath County”.

Predicated on this admission, it is “reasonable to order Bath County to provide an extension of service.”

Finally, as to “Bath County’s statement that the “1274 project will put Frenchburg facilities in extremely [Emph. Added] close proximity to the Leatherwood area . . .,” this begs the question—why was Leatherwood “deleted” as allegedly “believed” by “Bath

County” i.e. in part “due to cost”. The “right of way concerns” were treated extensively at 1(f), and that response in relevant part is incorporated by reference as fully as if contained herein.

1(h). Reply to “Bath County’s Response to PSC’s” Request at 8.

“Bath County’s” Answer denied any “understanding between Bath County and Frenchburg . . .,” but said “understanding” is admitted here and at “response to interrogatory number 7.” This “understanding” constitutes a horizontal territorial restraint explicitly ruled per se illegal under the Sherman Anti-Trust Act whether or not ancillary to price-fixing or other market-rigging arrangements. See United States v. Topco Associates, Inc., 405 U.S. 596 (1972). KRS 151.114 does not immunize said “understanding from the per se rule explicitly set out by the Supreme Court of the United States in Topco, supra.

In fact, the action by Frenchburg to “delete” Leatherwood is a classis example of a monopolist freed from competition.

For the sake of economy, Complainant incorporates by reference as if fully contained herein the treatment of this issue in 1(g).

“It was determined that since Bath County had no success obtaining funding for Leatherwood . . . Frenchburg would serve the area.”

It was not “determined” that Bath County would never succeed in “obtaining funding for Leatherwood” In fact, “Bath County” averred that \$827,000 out of a total project cost of \$1,027,000 was estimated to be available 3-10 years from 25 July, 2001 at 4:14:22 P.M. Kentucky Drinking Water Project Profile, “Leatherwood Extension Project”, WRIS # WX21011007 at Item 10, p. 5.

The 3-10 year period has not elapsed on the date of this writing. It is reasonable to conclude predicated on the conclusions of Project Administrator and Consulting Engineer, Scott Taylor, P.E. of "MSE", that the "grant funds" may yet be obtained by "Bath County" to underwrite a substantial amount of the said project's total cost.

"There should be no [Emph. Added] difference in eligibility for Federal assistance between the operating utilities [Frenchburg Water Department and "Bath County"]" Report-Feasibility Study, Case No. 89-154 (1990) at 10.

For "Bath County" to rely on an implicit "difference", as the justification for "Bath County's" abandonment of the "Leatherwood Extension Project" WRIS # WX21011007, is not reasonable.

Finally, funding was denied to Frenchburg in February of 2004, December of 2004 and March of 2005, but Frenchburg did not abandon the "1274 Project"

The issue of Frenchburg Water Department's "facilities" (its proprietary agency) was treated extensively in 1(a), 1(b), 1(d), 1(e), 1(f), and 1(g).

For the sake of economy, the Complainant incorporates its Answers at 1(a)-(b), 1(d)-(g) by reference as if fully contained herein.

The issue of the "cost effectiveness" of service from Frenchburg Water Department to Leatherwood versus the "cost effectiveness" of service to Leatherwood pursuant to the "Leatherwood Extension Project", WRIS # WX 21011007, submitted to "KIA by "Bath County", is treated extensively in Complainant's Answer at 1(g).

Finally, a straw man is employed by "Bath County", to wit: the rationale is asserted that "since the Leatherwood area is in Menifee County, not Bath County, that Frenchburg would seek the funding necessary to serve . . . [Leatherwood]."

This argument is inconsistent with “Bath County’s” assertion that the “Leatherwood Extension Project”, WRIS # WX21011007, “helps cover a portion of the unserved areas within the Bath County Water District jurisdiction [Emph. Added].” Kentucky Water Project Profile, “Leatherwood Extension Project”, WRIS # WX21011007, Item 7(c), p. 4.

Further contradicting this thesis, “Gateway Area Water Project List, 0-2 Year Timeframe January 1, 2001-December 31, 2003”, marked on Complainant’s copy as Exhibit F, records “Bath County” as the “project owner” of WRIS # WX21011-005, described as the “Means System Upgrade and Area Extensions”. Means is “in Menifee County, not Bath County . . .,” but “Bath County” is “seek[ing] the funding necessary to serve the area.”

This action by “Bath County” is inconsistent with the “doctrine” impliedly set out by “Bath County” in the last sentence of Defendant’s answer to “PSC’s” Request at 8.

Finally, also inconsistent with said “implied doctrine”, “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” Transcript of Evidence at 26-28, P.S.C. Case # 89-154 (1990). McIntosh was to be served by the “Leatherwood Extension Project”, WRIS # WX21011007 and is situated in Bath County.

Defendant’s answers to “PSC” Request #8 are not well taken for the reasons set forth supra. “It is [therefore] reasonable to order Bath County to provide an extension of service.”

1(i). Reply to “Bath County’s” Response to “PSC’s” Request at 9.

“Bath County” asserts it “presently has “no plans to serve the [Leatherwood] area.”

Complainant cannot reasonably infer from the tortured history of efforts by the Complainant, Complainant's late father, Complainant's mother, various petitioners in P.S.C. Case # 89-154 (who included Complainant's late father and mother) and Mr. Carl Cassity, et al., and the tortured history of the "Leatherwood Extension Project", WRIS # WX21011007, what material change would have to occur for "Bath County" to reverse its present indisposition to "serve the [Leatherwood] area." In fact "Bath County" has agreed not to compete.

Said indisposition to "serve the [Leatherwood] area" flows from an "understanding" between Frenchburg and "Bath County" which is per se illegal under the Sherman anti-Trust Act and violates other lawful prohibitions discussed supra.

1(j). Reply to "Bath County's" Response to "PSC's" Request at 10.

It was stated that "Bath County's knowledge of other entities plans to serve the [Leatherwood] area is as outlined above." There has been absolutely no discussion of service to McIntosh in Bath County, which is along the route to Leatherwood, et al., shown on the four maps contained in Exhibit D. As stated supra, "MSE" prepared Exhibit D for "Bath County" and acted as well as consulting engineer and project administrator for "Bath County's" "Leatherwood Extension Project", WRIS # WX21011007. "Bath County's" "knowledge of other entities plans . . . as outlined above . . ." consisted most notably of an admission of an "understanding" to create horizontal territorial restraints that have caused profound economic damage in the nature of a denial of infrastructure improvements, such as are ubiquitously subsidized by taxpayer contributions, to the freeholders at Leatherwood. This "understanding", which was initially

denied by “Bath County”, is inter alia, a per se violation of the ruling by the Supreme Court of the United States in United States v. Topco Associates, Inc., 405 U.S. 596 (1972).

In conclusion, there is overwhelming evidence that “it is reasonable to order Bath County to provide an extension of service.” “Bath County” has admitted that the extension is “reasonable”, i.e. “feasible” in the body of the Response to the “PSC’s” “First Request For Data”. The evidence is replete with admissions that said “extension” is “reasonable”, i.e. feasible with “reasonable rates” with anticipated grant funding. In sharp contrast, there has been not one scintilla of evidence presented to prove that it is not “reasonable to order Bath County to provide an extension of service.”

Question 2. Have you made an attempt to survey the customers that desire water service in the area in question? If so, fully explain your attempts and provide a list of potential customers indicating if they are recreational or permanent residences.

I have made a continuing “attempt to survey the customers that desire water service in the area[s] in question . . .” in concert with my late father and my mother since 1985. This has included collecting and sorting names and addresses of property owners at Leatherwood, Slab Camp and Skidmore. The P.V.A. did not index property owners by territory. This included house-to-house surveys by my late father, correspondence, petitions with property owners, circulating petitions, and interviews in person and by telephonic means. This has included informal queries as well as systematic surveys by my late father and the Complainant complemented by an equally exhaustive survey of McIntosh, Leatherwood, Skidmore and Slab Camp by a retired civil engineer, Carl Cassity, who lives on Dogwood Lane on the drainage of McIntosh Creek in the vicinity of “Zilpo” on Cave Run Lake.

During the course of the past twenty-one (21) years, a substantial number of older potential customers desirous of water service have expired and others have quit the area. Potential customers desirous of water service have been replaced again and again in certain instances by others desirous of water service to be again replaced by other new owners unknown to the Complainant.

The response to these surveys has been unfailingly positive by the overwhelming number of respondents. I am personally aware of only three (3) householders who expressed no interest in water service. Of these three, one expired circa 1994.

The following potential customers are not "permanent residences" unless otherwise indicated, viz. Karl David Bradley, Jr. and Johnny Mynhier Bradley—Permanent, Allie and Irene Hunt; Jeni and Bud Carpenter; Chris Hunt; Roberta Hunt; Tom Hunt; Calvin Hunt, Jr.; Mary and Eric Gerde—Permanent; Johnny Byrd—Permanent; Gardner Wagers; Mary and John Jefferson; Bas Gaither; Joan and Carl Cassity—Permanent; Ginter Cemetery (petitioner in P.S.C. Case 89-154); Lee Blumen; Rochelle Mann; Rick Mink; Hobart Cassity—Permanent; Joe and Marie Dues—substantially permanent; Dick Wengert; John Good; Findlay Stamatatos; Rick Stadler—substantially permanent; Chuck Kilgore—substantially permanent; Tim Thompson; Terri and Dan Adams. The following potential customer names were provided by Mr. Carl Cassity to the Complainant on 13, September, 2006. The Complainant makes no warranties. To wit: Fannie Sorrell; Elmer Adkins; Maxine Oberg; Danny Williamson; Zander Bray; Deanna Wagner; Herbert Cundiff; Paul Dyer; Jack Motley; Fostina Murphy; Donald C. Moore; Jerry F. or Sue B. Sparks; Owen Johnson; Samuel Williams; David Johnson; Denvil Williamson; Jimmy Stiltner; Roy Leonard; Bobby Sammons; Marion Kemper; Michael Cornett; Donald Gamble; Charles

Mikels; Timothea Branham; Anna Marie Roberts; Bill and Barb Harris; Gail and Daddy DeHart; R. Calvin; Ronnie and Brenda Whittaker; Gregory May; Thomas Thornsberry; Clarence Ritchie; James Staab; Carl Sorrell; Terry R. Justice; Ruth Mikles; Eugene Back; Gilbert Back; Tim Clayton; Michael Combs; Hobert King; David Simkins; Tina Cloud; Aldo Miller; Paul Barber. The following are situated at Leatherwood/Buck Creek: Calvin Maas (Tim Robinson); James Hunter; David Duncan; David and Ruth Barker; Ronald Reffitt; Jerry Reffitt; Raymond Stacy; James Black; Michael D. Cecil; Jesse D. Cecil; Al Yost; Roland Ratliff; Rebecca C. Miller; Joseph Lukens; Oliver Henry; Waverly Jones; David Caldie; JoAnn Needham; James Mullins; Vondell Shepherd; Minus Ray Helton; Lyle Eads; A. B. Conley; Bennett Thacker; Phillip R. Lawson; Rick Mink; Kellie Brewer; Shirley Gibbs; Mr. Harold Humphries.

The "P.S.C." "assumed [86%] [of potential customers] will apply for service. This high percentage is based on the prevalent dependency on 'hailed water' . . . in this area of Menifee County." Report-Feasibility Study, P.S.C. Case 89-154 at 2-3. Participation at Leatherwood was estimated to be 85% of potential customers. Id at 5. The "area of Menifee County" noted, included Means, which has been served by "Bath County" and is the object of the Means System Upgrade and Area Extensions, WRIS Project # WX21011-005. It also included Leatherwood, Slab Camp and Skidmore. There are no serviceable wells or springs in use at Leatherwood. The last two wells that were drilled by a geologist, Dr. Eric Jerde, were reported by him to me as producing salt water.

As to the reasonably anticipated consumption of water by potential customers, Complainant would ask the "PSC" to take judicial notice of the demographic trends caused by the aging of the "baby boom" generation.

Kentucky, like other states, will experience dramatic demographic changes in the next 20 years. The 50-59 age group is expected to experience the strongest population growth in the next ten years in the state. After that, two-thirds of Kentucky's population growth will occur in the over 65 age group.

The growing role of retirement income in particular is important to the future of rural Kentucky and public service needs of local governments [Emph. Added]. Retirement-based income is an important asset to a rural community's future. The growing wealth of older Americans provides a potential new [Emph. Added] source of employment growth for local communities in fields such as healthcare services, nursing, recreation and tourism. Retirement income may also assist in stabilizing a local economy because it is not tied to business cycles or downturns in the economy unlike manufacturing or agriculture." "The Economic and Fiscal Implications of Demographic Changes in Kentucky: Insights from Census 2000", Excerpted from Morris, Ellen Burkett, City Magazine, Winter 2001, Kentucky League of Cities: Lexington, KY by Eric Scorsone. See Exhibit 3 generally.

"Attracting retirees to a state has become big business. States, especially in the South, have multi-million dollar retiree attraction programs aimed at luring retirees. Again, the numbers validate the reason for this emerging industry. According to Hearst Communications, as many as 36 percent of mature adults move to a new residence or community following retirement. Of those who move: 22 percent move to another house in their city—usually away from the city, 30 percent move to a new town in their state and 48 percent move to another state. This 48 percent represents more than 400,000 people who annually move to another state upon retirement. Prior to making the move, the 50+ market directly impacts communities and states through tourism. In addition to enjoying leisure travel, retirees will typically travel to a potential new home at least three times before they relocate. If they do choose a new community, these retirees will continue to generate tourism dollars with an average of 12 annual outside visits to the new community by friends and relatives." Morgan, "Senior Living Communities", 22 Economic Development Commentary 12 (1998).

Complainant asks that judicial notice be taken of the fact that tourism is Kentucky's third largest industry.

"The positive impact to a community by seniors is dramatic. Contrary to popular belief, the 50+ market is not a group of individuals in poor health. According to the Brookings Institute, less than 5 percent of persons age 65 and older are institutionalized in any way. In today's communities, where volunteerism is dying, seniors can rebuild the volunteer

work force. Recent studies conducted by the United Way indicate that the 50+ market provides 85 percent of volunteer workers. Retirees are members of churches, civic groups, art associations, community service groups and special interest groups.

Another myth is that seniors are a drain on the community's economy. Again, the opposite is true. Seniors are economic energizers. Communities with successful programs to attract and relocate seniors will benefit economically in the form of jobs, increased tax bases, and increased bank deposit levels from the financial activities of these seniors. With these increased deposits, local financial institutions will have more funds available for developmental purposes.

Each year, states and communities spend millions of dollars to attract industries. While a typical factory job generally averages \$24,000 per year, a retiree who relocates from another area typically brings an annual income of approximately \$40,000.

According to a study by the Federal Reserve Bank of Kansas City, "counties designated as retirement sites witnessed the largest increase in personal income and employment among all non-metropolitan counties". *Id.* at 12-13.

Complainant asks that judicial notice be taken of the fact that the public policy of Kentucky favors retiree attraction, as expressed by the General Assembly, in creating a "Certified Retirement Communities" Program, that Morehead is a "certified retirement community", that the Cave Run Lake and the Daniel Boone National Forest are Morehead's principal attractions, and that Leatherwood and McIntosh are situated within the National Forest with views of Cave Run Lake, and are adjacent to the Pioneer Weapons Area, Zilpo National Forest Scenic Byway, boat ramps, Tater Knob Fire Tower (registered on the national firetower historic registry), Clear Creek Iron Furnace (nominated by the U.S. Forest Service to the National Register of Historic Places) and the Sheltoewe Trail.

"Attracting retirees allows a community to diversify its economic base. Non-metropolitan areas that have had difficulty competing for the relocation of manufacturing plants are discovering that they may have the infrastructure to attract retirees.

The bottom line: *Retiree Attraction Is an Industry* [Emph. in original].

Id at 12-13. See Exhibit 4 generally.

Complainant asks that judicial notice be taken of the fact that Leatherwood and McIntosh, which are, though objectively, potentially attractive to relocating seniors, severely diminished in attractiveness to relocating seniors due to the necessary reliance on “hauled water”. Kentucky cannot compete effectively with other states in attracting relocating retirees, if two of its most attractive sites necessarily offer only the inevitability of “hauled water” in perpetuity. “Bath County” agreed not to compete with “Frenchburg” in offering service to Leatherwood, and it is not clear McIntosh was ever given even pro forma consideration by “Frenchburg”. “Frenchburg” has “deleted” Leatherwood from the “1274 project”. This is the inexplicable act of a monopolist.

“Supply creates demand.” Say’s Law of Economics.

If Leatherwood and McIntosh were served with potable water, the demand for water would increase. The demand for permanent retirement homes by relocating retirees would increase in these areas due to their scenic locations, recreational opportunities, etc. The benefits would be diffuse. Not only would these areas benefit, but so would the larger community and the state. More capital would be created and would become available for other public improvements such as other water line extensions and other community development, which would create more jobs, etc. Complainant asks P.S.C. to take judicial notice of the “multiplier effect” that money spent in the local economy would necessarily produce.

These areas possess singular positive characteristics not shared by other rustic communities. Static analysis is not sufficient to appraise the revenues that would flow

from potable water service to Leatherwood and McIntosh on Cave Run Lake, Daniel Boone National Forest.

Arbitrary denial of a water line extension by "Bath County" is in violation, inter alia, of the public policy of Kentucky as it is expressed in legislation enacted to create the "Kentucky Certified Retirement Communities" Program by the General Assembly.

Leatherwood and McIntosh have been arbitrarily denied the infrastructure imperative to attract relocating retirees.

Question 3. Are you or any other potential customer willing to contribute to the cost of completing a project to extend water service?

I understand that customer contributions for rural water line extensions consist of reasonable "tap-on fees" and a portion of reasonable monthly rates are directed to debt service of any subsidized loans during the amortization period, e.g. 40 years. I am willing to contribute a reasonable "tap-on fee" and a reasonable monthly rate charge. I am not an agent for any "potential customers" so that I am not authorized to bind anyone else "to contribute to the cost of completing a project to extend water service"

Question 4. Identify any source of funding you are aware of for this project.

"Bath County" anticipated grant funding by the Appalachian Regional Commission and Rural Development, U.S.D.A. and "other" whose source was not disclosed. See Kentucky Water Project Profile, "Leatherwood Project", WRIS # WX21011007.

"Projects of this type are normally funded through customer contributions, bond issues, state and local government grants, and federal grants from such agencies as the [RD], the Department for Housing and Urban Development, and the Appalachian Regional

Commission. [RD] [was] loaning (sic) funds to public projects for up to 40 years at 5, 6, and 7 1/8 percent interest rates.” Report-Feasibility Study, P.S.C. Case # 89-154, at 9.

“The project would be eligible for consideration for funding under [HUD’s] Small Cities Community Development Block Grant Program” Letter from Verna Van Ness, Manager, Louisville HUD Field Office to David Bradley (January 12, 1994). Exhibit 5.

Complainant learned from the “P.S.C.” website that Menifee County contributed \$35,000 to “Bath County” for a waterline extension which is pending approval by the “P.S.C.”

Finally, “Bath County” described a “Coal Funded Development Grant” by the General Assembly for the benefit of Frenchburg. Had “Leatherwood” not been “deleted” by Frenchburg prior to the award of the grant, this would have subsidized, in part, the extension to Leatherwood. Complainant infers a “Coal Development Grant” is also “a source of funding for this project.”

Question 5. Do you believe the city of Frenchburg was reasonably diligent in attempting to obtain funding? Explain why.

No. Complainant categorically does not believe that “the city of Frenchburg was reasonably diligent in attempting to obtain funding”. “Bath County’s” “belief” as to why Leatherwood was “deleted” from the “1274 Waterline Extension Project” WRIS # WX21165003, i.e. “cost and right of way concerns” is not well taken.

Complainant discussed these issues in detail, supra.

Complainant incorporates those answers by reference as if fully contained herein.

Complainant avers that Frenchburg’s “deletion” of Leatherwood was unconstitutionally arbitrary, which is inherently inconsistent with “reasonable diligence”.

Question 6. You state in your complaint, paragraph no. 7, that Frenchburg Water Department is less economically competitive as a potential supplier. Explain the information on which you base this belief.

“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 plant’s production.” In the Matter Of Application For Commission Approval To Establish A Water District In Menifee County, Kentucky, Case No. 89-154 (1990) at 2-3. “Frenchburg Water Department purchases its supply [or a portion of its supply] from Bath County Water District.” Id. at 3.

As a 20% owner of a water treatment plant “operated by the Morehead Water Plant Board, and a distributor of water by sale to the Frenchburg Water Department “Bath County’s” cost basis in the commodity it sells is necessarily lower than the cost basis of the Frenchburg Water Department. The cost to Frenchburg Water Department (hereinafter “Frenchburg”) of its acquisition of water from “Bath County”, in the ordinary course of business, reflects “Bath County’s” “cost basis” in the commodity, combined with its own costs and profit, which forms the predicate for “Frenchburg’s” cost basis. Whereas the cost of water sold to “Frenchburg’s” customers equals “Frenchburg’s” cost basis in the commodity it sells combined with its own costs and profit per unit of water sold. Simply stated, a retailer cannot sell to its customers at a price lower than a wholesaler or that of a manufacturer or original processor, and remain a “going concern”.

Appendix A to the Feasibility Report prepared for P.S.C. Case # 89-154 indicates that “Bath County’s” rates were substantially lower than were the rates of Frenchburg Water Department-District No. 2.

Finally, I queried a citizen on September 8, 2006, with personal knowledge of the respective rates of “Frenchburg” and “Bath County”. Complainant was advised that “Frenchburg’s” rates were substantially higher.

Question 7. Do you agree that the requested service is currently outside Bath County’s territory?

No. I categorically disagree “that the requested service is currently outside Bath County’s territory”. “Bath County” expressly states in the Drinking Water Profile, “Leatherwood Extension Project”, WRIS # WX21011007, Item 7(c) at 4, to wit: “This project helps cover a portion of the unserved areas within the Bath County Water District jurisdiction.” Likewise, “William J. Razor, the general manager of Bath County Water District testified that Bath County had no objection to serving customers in the [Menifee County] means area” Application For Commission Approval To Establish A Water District In Menifee County, Kentucky, P.S.C. Case 89-154, Transcript of Evidence at 26-28.

Finally, “Bath County” “owns” WRIS Project # WX21011-005, Means System Upgrade and Area Extensions. Means lies exclusively in Menifee County.

Question 8. Explain what efforts you have made to obtain service other than filing this complaint with the Commission.

In constant support of and in concert with my late father and my mother, Complainant has undertaken efforts “to obtain service” since 1985. Our efforts included, but were not limited to, the following: We made inquiries of potential customers whom we knew. We circulated our first petition of many in support of “service”. We then began a

voluminous correspondence and telephonic contacts on this subject with Senators Ford, McConnell and Bunning; Congressmen Carl C. Perkins, Baesler, and Rogers; several state legislators, several governors, successive Frenchburg mayors and successive Salt Lick mayors, successive Menifee and Bath County Judge-Executives, successive "Bath County" managers from Mr. Razor to Ms. Walton.

Complainant's late father had audiences with Congressman Perkins at his Ashland office. We met with senatorial aides in Lexington and congressional aides at Morehead and Lexington. Complainant's parents met with and corresponded with various state administrative officials at Frankfort and federal administrative officials. Complainant's parents attended GADD meetings at Owingsville and communicated extensively with two GADD executive directors as well as successive GADD chairmen. We conducted surveys described in answer to question 2 herein.

Complainant's parents and other potential customers at Leatherwood attended a Bath County Water District Board Meeting (most of those proponents are now deceased).

Complainant's parents were two of the freeholders who initiated P.S.C. Case #89-154, in good faith.

Complainant queried program staff who were colleagues at HUD. Complainant was told inter alia, that HUD had even awarded a grant for a sharpshooter to kill deer creating a nuisance in a Midwestern town, and that our project would be eligible for HUD funding. Complainant's parents traveled to FmHa (now RD) offices at Morehead, Campton and Lexington. Complainant's late father consulted several civil engineers who all recommended the "Zilpo to Leatherwood" route. Complainant has contacted two

engineers who specialize in water/wastewater projects as late as last week. Complainant's father communicated extensively with Scott Taylor of "MSE".

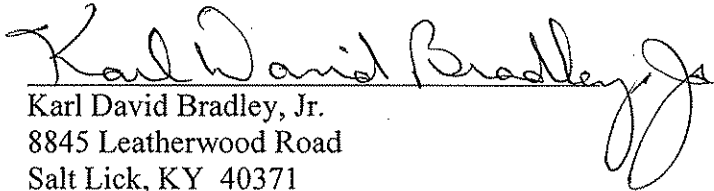
Following admission to the Kentucky Bar on motion, Complainant represented his parents in this matter as counsel. Complainant's late twin sister and law partner performed substantial research on these issues as well. This is not intended to be an exhaustive account, as this 21-year effort was ceaseless and because no daily written account was kept.

Complainant, a former Special Assistant U.S. Attorney, contacted the U.S. Department of Justice in good faith to ascertain whether the Ginter Cemetery, as a repository for the remains of relocated graves disinterred by the U.S. Army Corps of Engineers for Cave Run Lake, was subject to the then recently-enacted Americans with Disabilities Act, i.e. as handicapped visitors to said remote cemetery were particularly burdened by a lack of toilet facilities and drinking water, would potable water service be a reasonable accommodation.

Complainant's late father communicated with numerous U.S. Forest Service officials relating to a possible line extension to the federal campgrounds and Leatherwood boat ramp in the vicinity of the Leatherwood community.

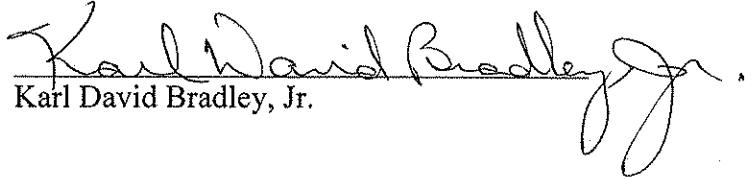
Mr. Carl Cassity undertook an additional exhaustive effort to "obtain service" as well.

Respectfully submitted,


Karl David Bradley, Jr.
8845 Leatherwood Road
Salt Lick, KY 40371
(606) 768-9654

Certificate of Service

I hereby certify that the original and six (6) true and exact copies of the foregoing were served upon the Kentucky Public Service Commission at 211 Sower Blvd., P.O. Box 615, Frankfort, KY 40601 by Certified U.S. Mail—Return Receipt Requested—postage prepaid, and that a true and exact copy of the foregoing was served upon counsel for the Defendant, Hon. Earl Rogers, III, at 154 Flemingsburg Road, Morehead, KY 40351 by regular U.S. Mail—postage prepaid this 14th day of September 2006.


Karl David Bradley, Jr.