

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KARL DAVID BRADLEY, JR.)	
)	CASE NO.
COMPLAINANT)	2006-00163
)	
v.)	
)	
BATH COUNTY WATER DISTRICT)	
)	
DEFENDANT)	

O R D E R

On April 13, 2006, the Complainant, Karl David Bradley, Jr., filed this action requesting the Commission to compel Bath County Water District (“Bath County”) to extend water service to the western side of Cave Run Lake to serve the areas of Leatherwood, Skidmore, and Slab Camp.

DISCUSSION

Complainant relies in part on an Order issued by the Commission in Case No. 89-154.¹ That case was initiated by 20 resident freeholders of Menifee County, requesting authority to establish a water district in the Means, Slab Camp, Skidmore, and Leatherwood areas of Menifee County. In that case, the Commission found that between the three water suppliers in the area, including Bath County and the Frenchburg Water Department, Bath County was at that time the most feasible source of water service for those areas. This finding was based on the proximity of these areas to Bath County lines,

¹ Case No. 1989-00154, Application for Commission Approval to Establish a Water District in Menifee County, Kentucky, Order entered March 19, 1990.

the ability of Bath County to supply water to the area,² and the potential for Bath County to then provide service at the lowest cost.

In its response herein, Bath County asserts that the least restrictive proposal for Bath County to extend water service to the area requested by the Complainant would require 59,000 lineal feet of 4-inch pipe lines, a pump station, and a water storage tank.³ They further state that at a cost of \$1,167,120 to serve 43 customers, without substantial grant funding, the debt service would substantially impact rates for the entire system; the proposed line would require permits and easements from the Forestry Service to cross through a National Forest; and that at 59,000 lineal feet, the line would hold approximately 40,000 gallons of water. Given that the majority of the homes are vacation homes, at an average residential use of 150 gallons per day, it would take approximately 6 days to turn the water over in the line. This would mean that the chlorine would dissipate and the lines would have to be frequently flushed to keep chlorine up to the required level.⁴

Bath County points out that the Gateway Area Development District ("GADD") provides assistance and is responsible for developing long-range water supply plans for Bath County and the city of Frenchburg ("Frenchburg"), which includes the areas in question. Bath County previously proposed the Leatherwood project, and it was listed on the 3-year plan list compiled by GADD. However, the project was never considered for funding. Both Bath County and Frenchburg, in conjunction with the GADD Water

² At that time, Frenchburg purchased its water from Bath County. However, Frenchburg is now a member of the Cave Run Water Commission, which began providing service around 2005 with a 2 million gallon per day plant.

³ Defendant's Response to First Data Requests of Commission Staff at 2.

⁴ Id.

Management Council, have agreed that the Leatherwood project would be more feasible for Frenchburg due to the proximity of its lines.

In addition, Frenchburg has obtained funding from the Appalachian Regional Commission and the Kentucky Legislature Coal Development Grant for a certain "1274 Waterline Extension Project." The project has received approval from the United States Department of Agriculture, Rural Development. This project, as initially proposed, would provide service to areas including Skidmore and Complainant's area of Leatherwood. Although Leatherwood has been dropped from the project, Bath County contends that, upon completion of the project, Frenchburg facilities would be in close proximity to Leatherwood. Furthermore, Leatherwood and Frenchburg are both in Menifee County, not Bath County.

CONCLUSION

By Order dated November 13, 2006, the Commission ordered that either party may, within 7 days of the date of the Order, file a written request for an evidentiary hearing, stating in detail and with specificity what factual issues as contained in the record they intend to pursue at the hearing. The Order further stated that if no written request was filed within the allotted time, this case would stand submitted for decision on the record. As the time for filing such a request has expired, this matter now stands submitted for decision.

Bath County is a water district established pursuant to KRS Chapter 74, which operates facilities that treat and distribute water to the public for compensation in the Commonwealth of Kentucky. It is a utility subject to Commission jurisdiction.⁵ KRS 278.280(3) provides that any person or group of persons may petition the

⁵ KRS 278.010(3)(d).

Commission to compel any utility subject to Commission jurisdiction to make a reasonable extension of its service. The Commission shall determine the reasonableness of the extension and sustain or deny the petition in whole or in part.⁶ The Commission, having reviewed the facts of this case, finds that the circumstances surrounding its 1990 decision in Case No. 1989-00154 have changed and that it would be unreasonable to order Bath County to serve the areas at issue.

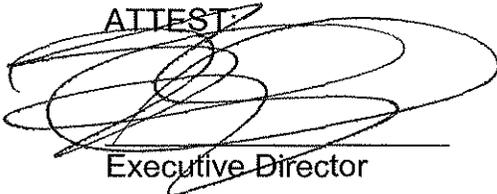
IT IS THEREFORE ORDERED that:

1. Complainant's request that the Commission order Bath County to provide service to the areas in question is denied.
2. This proceeding is closed and shall be removed from the Commission's docket.

Done at Frankfort, Kentucky, this 1st day of June, 2007.

By the Commission

ATTEST



Executive Director

⁶ See City of Bardstown v. Louisville Gas and Electric Co., 383 S.W.2d 918 (Ky. 1964).