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July 5, 2012

RECEIVED

JUL 06 2012

PUBLIC SERVICE
COMMISSION

Mr. Jeff Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Blvd.
Frankfort, Kentucky 40602-0615

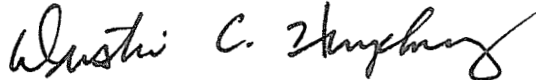
Re: Case No. 2012-00179

Mr. Derouen,

Pursuant to 807 KAR 5:001(12), enclosed please find the answer of Hardin County Water District No. 1 to the complaint filed in case number 2012-00179.

Best Regards,

SKEETERS, BENNETT, WILSON & PIKE


Dustin C. Humphrey

Encl.
CC: HCWD1

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Koppel Associates
COMPLAINANT
vs.

Hardin County Water District No. 1
DEFENDANT

)
)
) CASE NO. 2012-00179
) **RECEIVED**
)
) **JUL 06 2012**

ANSWER

PUBLIC SERVICE
COMMISSION

The above-named defendant, for answer to the complaint in the proceeding, respectfully states:

1. Defendant denies each and every allegation in Complainant's complaint.
2. Defendant affirmatively states that it provided the notice it was obligated to provide to Complainant about a change in Defendant's Tariff relating to a transition to master meter billing to mobile home parks. Further, Defendant states that Complainant knew about the change but chose not to act.
3. Defendant affirmatively states that the complaint fails to state a claim upon which relief can be granted.
4. Defendant affirmatively states that it has initiated a civil suit against Complainant in the Circuit Court of Hardin County, Kentucky, case number 11-CI-01703, that a trial date is set in that action for October 24, 2012, and that the Hardin Circuit Court is the appropriate forum for this dispute. A copy of the Complaint in that action is attached hereto as Exhibit A.

WHEREFORE, the defendant prays:

1. That the complaint be dismissed;

2. For reimbursement of attorney's fees and costs incurred;
3. For relief to amend its pleadings as may be necessary;
4. For any and all other relief to which it may be entitled.

Respectfully Submitted,



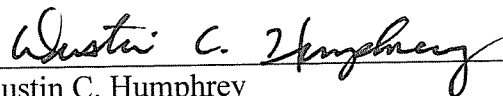
David T. Wilson
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550 W. Lincoln Trail Blvd.
Radcliff, Kentucky 40160
Telephone: 270-351-4404
Fax: 270-352-4626
Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that I have this 5th day of July 2012, mailed a true and correct copy of the foregoing to:

Dayrl Koppel
132 Outer Loop
Louisville, KY 40214

H. Douglas Mann
Attorney for Complainant
500 W. Jefferson Street
15th Floor, PNC Plaza
Louisville, KY 40202



Dustin C. Humphrey

COMMONWEALTH OF KENTUCKY
HARDIN CIRCUIT COURT
DIVISION _____
CIVIL ACTION NO. 11-CI-_____

HARDIN COUNTY WATER DISTRICT NO. 1

PLAINTIFF

VS.

COMPLAINT

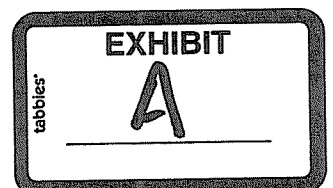
KOPPEL ASSOCIATES, LLC
134 Outer Loop, Suite 102
Louisville, Kentucky 40214

SERVE: Dayrl Koppel, Registered Agent
134 Outer Loop, Suite 102
Louisville, KY 40214

DEFENDANT

Comes the Plaintiff, by and through counsel, and for his Complaint against the named Defendant, states as follows:

1. Plaintiff is a duly organized and existing public water district authorized and existing under the laws and provisions of the Commonwealth of Kentucky;
2. The Defendant, Koppel Associates, LLC, is a Kentucky Limited Liability Company;
3. The Defendant is the owner of certain real property located in Radcliff, Hardin County, Kentucky, by virtue of a deed of record in Deed Book 1254, Page 195, in the Office of the Hardin County Court Clerk, being Park Valley Mobile Home Park;
4. The Plaintiff, among other services, is a provider of retail water to individuals and businesses within Radcliff, Hardin County, Kentucky;
5. The operations of the Plaintiff, including its regulations, rates and other methods of doing business are regulated by the Public Service Commission for the Commonwealth of Kentucky;



6. Specifically, the Plaintiff is authorized to institute civil litigation in the event mobile home park owners who are customers of the Plaintiff fail to pay for excess water which is delivered to the owner of a mobile home park, but for which payment is not received. The tariff which regulates this topic and the Order of the Public Service Commission approving said tariff are attached hereto as Exhibit "A" and Exhibit "B", respectively;

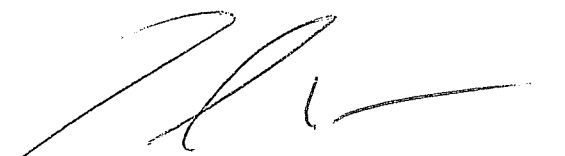
7. This Defendant has been billed for leaked water in accordance with attached Exhibits "A" and "B";

8. This Defendant has failed to pay the Plaintiff for leaked water as required by the attached Exhibits "A" and "B";

9. Since January 15, 2011, through August 15, 2011, this Defendant has been billed for \$13,960.43 and has only paid \$ 1,202.97.

WHEREFORE, the Plaintiff prays as follows:

1. That it be granted judgment in the amount of \$12,757.46, representing the amount of water delivered to this Defendant but for which payment has not been received;
2. For interest at the legal rate from date of judgment until paid in full;
3. For any and all other relief to which this Plaintiff may appear to be entitled.



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Radcliff, Kentucky 40160
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Facsimile: (270) 352-4626

FOR Entire Area Served

P.S.C. Ky. No. 1

First Revision Sheet No. 7B-1

(Creating new policies which have not previously been approved. Related tariff sections; Sheet 5A, Non Payment and Service Termination, Sheet No. 8, Customer Classifications and Qualifications for Same, Sheet No. 7, Meter Connection Fees

Hardin County Water District No. 1

CLASSIFICATION OF SERVICE:
MASTER METER BILLING

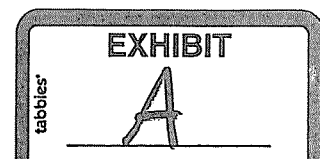
(N)

1. **Applicability:** These rules and policies apply to any existing mobile home park ("MHP") property which as of the effective date of this tariff has an installed master meter available, and which also has individual meters located on lots within the MHP property that are billed for water and sewer services by the District.
2. **Purpose of Policy:**
 - a. To ensure that the District is paid for all water it delivers to MHP's.
 - b. To provide that tenants or residents on existing individually metered lots and account holders within the MHP continue to be billed based on their own metered consumption, subject to other approved rules and regulations of the District's tariff, and other regulations and statutes of the Public Service Commission, and
 - c. To limit setting of water meters, or activation of individual lot meter accounts, to only those lots in the MHP which on the effective date of this tariff, have an existing meter pit. Lots where there has not been a meter pit or metered account as of the effective date of this tariff, the District will not be obligated to set future or new meter pits and meters. Within 15 days of the effective date of this tariff, the MHP owners will provide the District a list of any vacant lots where a meter pit presently exists.
3. **Basic Account Policies:** The following rules and policies apply to only those customers which this section is applicable:
 - a. All MHP property that has a master meter available and which also has individual meters in the MHP will be required to open an account for the master meter billing, or will have an account opened for it within fifteen (15) days after the effective date of this tariff.
 - b. The District will bill the MHP property account for all un-billed water and sewer services provided that is not billed to an individual lot meter. The District will to the extent possible simultaneously read the master meter and individual meters within the MHP on the same day.
 - c. Service to individual lots shall not be discontinued due to the failure of a MHP owner to pay its master meter bill.
4. **Transition to Master Meter Billing:**
 - a. In order to continue to receive service after the effective date of this tariff, each MHP owner owning property to which this tariff is applicable will need to provide the District with the information required for all new customers to open an account. If an applicable property owner does not provide the required information, the District will open the account with known information of public record, and the MHP owner will be billed for all un-billed water use and

DATE OF ISSUE: December 23, 2009

DATE EFFECTIVE: January 1, 2011

ISSUED BY Jim Bruce
Jim Bruce, General Manager Radcliff, Kentucky



FOR Entire Area ServedP.S.C. Ky. No. 1First Revision Sheet No. 7B-2

(Creating new policies which have not previously been approved. Related tariff sections; Sheet 5A, Non Payment and Service Termination, Sheet No. 8, Customer Classifications and Qualifications for Same, Sheet No. 7, Meter Connection Fees)

Hardin County Water District No. 1

CLASSIFICATION OF SERVICE: MASTER METER BILLING

sewer charges used within the MHP property that is not billed to individual lot meters in said MHP.

- b. Any water loss resulting from leaks after the effective date of this tariff on MHP property, which is not billed to individual lot meter accounts, will be billed to the MHP owners account. It will be the responsibility of the MHP owner to repair said leaks.

5. Meter Access / Inability to Read Meter:

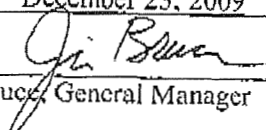
- a. If a meter is not accessible or free from contaminated water, or otherwise presents a health hazard or danger to District employees attempting to read the meter, the District agrees to promptly notify the MHP owner or representative of such condition. Once notified, it will be incumbent upon the MHP owner to make such meters readily accessible or correct the problem.
- b. Access to meters and the decision not to read a meter shall also comply with the provisions of 807 KAR 5:006.
- c. In the event a meter is not made accessible or free from contaminated water after notification to the MHP owner, or within a reasonable time thereafter, then the District will not be obligated to read such meter during that billing period and water use and billings for that lot shall be included and billed with the master meter for that MHP.
- d. If during the next billing period the meter accessibility problem has been corrected, then the MHP owner shall be given a credit for any amounts it paid for water and sewer service attributed to that lot address and individual account. If however, during the billing cycle immediately following the cycle the meter could not be read by the District, and the MHP owner was notified of such, and the meter continues to be inaccessible or contaminated, then the MHP owner will not be given any credit for amounts subsequently billed to the tenant.

6. Alternative to Master Metering:

- a. Any MHP property owner to which this section is applicable will be provided an option to avoid being billed through a master meter account and allow the District to individually bill his/her tenants or occupants within his/her property. Said option or exception shall be executed or approved only as follows:
- i. The property owner will be required to repair or replace and or install new water and or sewer mains within the MHP property that comply with current construction standards of the District, and the Division of Water. Said plans will require review and approval by both the District and the Division of Water.
- ii. All costs, including design, inspection, materials and construction will be borne by the MHP property owner.

DATE OF ISSUE: December 23, 2009DATE EFFECTIVE: January 1, 2011

ISSUED BY


Jim Bruce, General Manager Radcliff, Kentucky

FOR Entire Area Served

P.S.C. Ky. No. 1

First Revision Sheet No. 7B-3

(Creating new policies which have not previously been approved. Related tariff sections; Sheet 5A, Non Payment and Service Termination, Sheet No. 8, Customer Classifications and Qualifications for Same, Sheet No. 7, Meter Connection Fees

Hardin County Water District No. 1

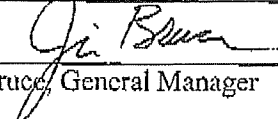
CLASSIFICATION OF SERVICE:
MASTER METER BILLING

- iii. Once installed and accepted by the District, and a one year warranty period has passed during which time the property owner will be responsible for all repairs, the owner will then transfer ownership of the facilities to the District. After transfer occurs, the District will then be responsible for all repair, maintenance and replacement of subject facilities.
- iv. Upon transfer of the facilities to the District, the District will then deactivate the master meter and no further billing will occur to the MHP property owner based upon master meter readings.
- v. If the facilities being installed lie within a non-public right of way, or within a private road or private property, then the owner will also be required to dedicate a public utility and access easement, which shall be recorded with the County Clerk. Said easement shall allow the District to access, work within and maintain all facilities within the easement.
- vi. Once the new facilities are installed, including the installation of water meters within the public easement, then the District will agree to open individual water and sewer accounts direct with each individual dwelling unit, renter, tenant or resident living within the MHP property. The District will then bill that individual account for all water and sewer charges recorded by that individual meter / customer.

END OF SECTION

DATE OF ISSUE: December 23, 2009

DATE EFFECTIVE: January 1, 2011

ISSUED BY 
Jim Bruce, General Manager Radcliff, Kentucky

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF HARDIN COUNTY WATER)	
DISTRICT NO. 1 TO MODIFY WATER UTILITY)	CASE NO.
TARIFF OF MASTER METERS FOR BILLING)	2009-00113
MULTI-UNIT RESIDENTIAL PROPERTIES)	

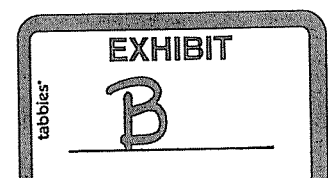
O R D E R

Presently before the Commission is Hardin County Water District No. 1's ("Hardin District") application to approve a tariff modification related to the master metering of mobile home communities ("MHCs"). Finding that it is reasonable, the Commission approves the proposed tariff.

I. BACKGROUND

In the late 1980s, Hardin District changed its internal treatment of MHCs without changing the rules and regulations within its tariff. Instead of having each MHC owner, as a single customer, billed for all water usage within the MHC, Hardin District required each MHC resident to open an account with the utility. Hardin District required MHC owners to purchase and install individual meters for each mobile home. After the residential meters were in place, Hardin District no longer billed the MHC owner based on the master meter.

Hardin District has since recognized problems with billing individual mobile home residents. First, due to the transient nature of mobile home residents in Hardin District's territory, they have an increased rate of non-payment. Second, legal issues arise when utility personnel are required to go onto private property to check meters and turn



service on and off without an easement on that property. Third, meters are often located at inaccessible places, such as under the mobile home or within a fenced-in area. Fourth, the water lines within the MHC were not constructed by the utility and, as a result, may not meet service standards. Fifth, the utility found cases in which MHC residents were diverting water from the water lines within the park without that water being metered.

Both inadequate water infrastructure and "stolen" water have created relatively high percentages of water loss within the MHCs. During Hardin District's 16-month reporting period, the monthly water loss for MHC properties averaged between 16.5 percent and 46.7 percent.¹ In addition, the poor infrastructure can create health risks if contaminants infiltrate the system.

At least ten years ago, Hardin District recognized some of these problems created by metering individual mobile home customers and contemplated potential solutions for these problems.² The utility has held meetings with MHC owners to discuss potential solutions and concerns, it has distributed a survey to gather customer and MHC owner input, and it has communicated with the Kentucky Manufactured Housing Institute. As the Commission has previously stated, "[t]hese actions display Hardin District's dedication to resolving its perceived problem in a well-reasoned and considerate fashion."³

¹ In comparison, Hardin District's system-wide water loss in 2009 averaged 12.18 percent.

² See, e.g., Memorandum from Jim Bruce, General Manager of Hardin District, to David Wilson, Attorney for Hardin District (Oct. 19, 1998).

³ Case No. 2007-00461, *Hardin County Water Dist. No. 1*, at 2 (Ky. PSC Aug. 14, 2008).

The first product of Hardin District's deliberations was considered by the Commission in Case No. 2007-00461.⁴ Hardin District sought to create a new classification of service for MHC owners and residents. Under that proposal, MHC owners would have become customers of the utility. Initially, MHC owners would have been billed for all water passing through a master meter minus water billed to the individual sub-metered customers. If certain specified conditions or events occurred, such as failure of an MHC owner to pay for water charges, Hardin District would have ceased billing the sub-metered customers and billed all water usage to the MHC owner. If the triggering event occurred, it would have effectively terminated the utility/customer relationship between Hardin District and the MHC residents. In addition, other triggering events, such as an inaccessible meter, would have permitted the utility to selectively terminate billing individual residents within the park. The proposed tariff in that case dictated the procedure required to transition to billing exclusively on the master meter.

In our final Order in Case No. 2007-00461, the Commission recognized that, by transferring to a master meter, the utility was effectively transferring responsibility of the cost of the water loss to the MHC owner. Although we were concerned about the reasonableness of shifting that responsibility, we found that the master-metering concept could represent a reasonable solution to the problems of significant line loss and unsanitary conditions. The Commission weighed heavily the fact that the water lines were owned by, installed by, and located on the property of the MHC.

Despite finding that the master-metering approach could be a reasonable solution, the Commission found certain provisions of Hardin District's proposal to be unreasonable. First, we determined that certain circumstances would create a situation

⁴ *Id.*

whereby neither the utility nor the customer would have responsibility to repair portions of the service line. Second, we found that the utility could not terminate service at the master meter if its sub-metered customers that were downstream of the master meter were paying their bills. Third, there was no opportunity for the sub-metered customers to protect their rights as customers of a regulated entity if one of the triggering events occurred. Accordingly, we denied Hardin District's proposed tariff in Case No. 2007-00461.

In response to the Commission's Order, Hardin District drafted new tariff provisions that it hoped would pass the reasonableness standard. It filed a new proposed tariff on March 17, 2009. Hardin District also published notice of the proposal in a newspaper of general circulation in Hardin District's area and notified the MHC owners by letter about the proposed tariff. Ten of the MHCs that are served by Hardin District intervened in this case.

During the processing of this case, Hardin District and the Intervenors participated in a mediation conference, which resulted in a revised proposed tariff on which the parties agreed. Under this proposal, Hardin District will continue to bill and collect payments of MHC residents as long as the individual lot meters are accessible and free of contaminated water. Owners of MHCs will be required to pay Hardin District for the amount of water passing through the master meter of the MHC minus the cost of water billed to the individually metered lots in the MHCs. If individual lot meters are not accessible or the meter pits are not free of contaminated water, Hardin District will notify the MHC owner. If the problem is not resolved, Hardin District will not bill the individual customer and will, instead, charge the MHC owner for the amount of water used at that

lot. In addition, Hardin District will not terminate service for non-payment of the MHC owner.

II. ANALYSIS

KRS 278.030(2) permits a utility to "establish reasonable rules governing the conduct of its business and the conditions under which it shall be required to render service." In addition, KRS 278.030(3) permits the utility to "employ in the conduct of its business suitable and reasonable classifications of its service, patrons and rates." The burden of demonstrating the reasonableness of a proposed rule or condition of service is upon the utility.⁵ Accordingly, the Commission must determine whether Hardin District's proposed tariff revision is a reasonable rule under which it shall be required to render service and whether the revision establishes a suitable and reasonable classification of service.

In determining the reasonableness of this proposed tariff, we are compelled to recognize the unique circumstances that led to this proposed tariff. Although Hardin District has mentioned several problems associated with its service to the MHCs, line loss is the most significant problem addressed by the proposed tariff. Currently, the cost of any water that is lost due to deteriorated or poorly constructed lines in MHCs is being borne by the water district and, in turn, by all of its customers. The proposed tariff would shift the responsibility of that cost to the MHC owner. Hardin District maintains that this shift is reasonable because the MHC owners, or their predecessors, installed and own the water lines.

⁵ See *Energy Regulatory Commission v. Kentucky Power Co.*, 605 S.W.2d 46 (Ky. Ct. App. 1980); cf KRS 278.190(3) (placing the burden of proof for an increased rate or charge on the utility).

In determining whether this shifting of responsibility is reasonable, the Commission is cognizant of our regulations concerning service connections. Hardin District began billing individual MHC residences in the late 1980s, which was a few years before the Commission regulation regarding responsibility for service connections was changed to its current form. Prior to June 7, 1992, a utility was required to install the water line from its distribution system to the curb box or curb stop,⁶ and the customer was required to maintain the service line, which was defined as the portion of the line downstream from the property line.⁷ On June 7, 1992, the regulations changed, and the utility's responsibility for the service connection was amended to include

⁶ (a) Utility's responsibility. In urban areas with well-defined streets the utility shall furnish and install at its own expense for the purpose of connecting its distribution system to the customer's premises that portion of the service line from its main to and including the curb box, if curb box is used, otherwise to the curb stop. The curb stop may be installed at a convenient place between the property line and the curb. All services shall include a curb stop.

(b) Customer's Responsibility. The customer shall furnish and lay the necessary pipe to make the connection from the curb stop to the place of consumption and shall keep the service line in good repair and in accordance with such reasonable requirements of the utility as may be incorporated in its rules and regulations.

807 KAR 5:066, Section 13 (effective Jan. 14, 1982 and repealed June 7, 1992). The substance of this provision was first enacted in 1959. PSC-W, Rule XIII(1) (effective Nov. 28, 1959).

⁷ "Service' line means the line from the property line to the place of consumption." 807 KAR 5:066, Section 12(4) (effective Jan. 14, 1982 and superseded June 7, 1992).

the service connection up to and including the meter and the meter box.⁸ The regulation established the customer's responsibility as commencing at the "point of service," which it defined as "the outlet of the customer's water meter."⁹

To hold Hardin District responsible for the maintenance and ownership of the portion of the service connection from the property line of the MHCs to the meters requires retroactive application of the present version of Section 12 of 807 KAR 5:066 to the service connections in question. The Commission has previously determined that application of the present version of regulations related to responsibility for service connections should not be given retroactive effect.¹⁰ Thus, Hardin District should not be responsible for maintaining those lines that are owned by and were installed on the property of the MHC owners prior to June 7, 1992.

⁸ (1) Ownership of service.

(a) Utility's responsibility. The utility shall furnish and install at its own expense for the purpose of connecting its distribution system to the customer's premises that portion of the service connection from its main to and including the meter and meter box. The utility may recoup this expense from the customer in accordance with KRS 278.0152.

(b) In areas where the distribution system follows well-defined streets and roads, the customer's point of service shall be located at that point on or near the street right-of-way or property line most accessible to the utility from its distribution system. In areas where the distribution system does not follow streets and roads, the point of service shall be located as near the customer's property line as practicable. Prior to installation of the meter the utility shall consult with the customer as to the most practical location.

(2) Customer's responsibility. The customer shall furnish and lay the necessary pipe to make the connection from the point of service to the place of consumption and shall keep the service line in good repair and in accordance with such reasonable requirements of the utility as may be incorporated in its rules and administrative regulations.

807 KAR 5:066, Section 12.

⁹ 807 KAR 5:066, Section 1(5).

¹⁰ Case No. 2005-00148, *Northern Kentucky Water District* (Ky. PSC July 18, 2008).

The proposed tariff will establish rules that clearly delineate the responsibility of maintenance for the water lines on the MHC property. It will provide incentive for the MHC owner to repair and maintain deteriorating water lines. Under the current tariff, the MHC owner has no economic incentive to repair water lines because the owner is not paying for the cost of water that is lost on his property. Under the proposed tariff, the MHC owner will be charged for the cost of that water and will, thus, be more likely to repair those water lines.

The proposed tariff does not raise the same concerns that were raised by Hardin District's previously proposed tariff in Case No. 2007-00461. As discussed above, the proposed tariff clearly delineates who is responsible for repairing the lines on the MHC property, so there are no longer certain circumstances that would create a situation whereby neither the utility nor the sub-metered customer would have responsibility to repair portions of the service line. In addition, the utility will not terminate service at the master meter, nor will there be any triggering events that will force the sub-metered customers to be customers no longer of a regulated utility.

The Commission finds that, based on the unique circumstances, Hardin District's proposed tariff is reasonable. Under normal conditions, the Commission would not generally support a similar dual-metered service. Our current regulations related to service connections prevent the occurrence of similar situations in the future. Nevertheless, Hardin District's proposed tariff is a reasonable and appropriate solution to this complex situation.

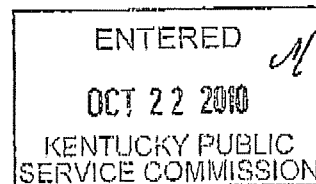
Nothing in this Order should be construed as prohibiting an MHC owner and its sub-metered customers from collectively agreeing to be billed on the master meter only.

In fact, the MHC owners and residents may find significant savings in being billed only on a master meter because the volumetric usage rate above 15,000 gallons would be reduced and the customer charges for the sub-metered accounts would be eliminated.¹¹

Finding that Hardin District's proposed tariff revision is a reasonable rule under which it shall be required to render service and that the revision establishes a suitable and reasonable classification of service, IT IS THEREFORE ORDERED that:

1. Hardin District's proposed tariff is approved for service rendered on and after the date of this Order.
2. Prior to establishing an account for which usage will be billed, Hardin District shall test for accuracy any MHC master meter that has not been tested for accuracy in accordance with the schedule provided in 807 KAR 5:066, Section 16.¹²

By the Commission



ATTEST:

Executive Director

¹¹ For example, if an MHC had 65 residences that each used 3,000 gallons per month and was served by a 2-inch master meter that reflected 235,000 gallons of monthly usage, a single bill for the entire usage based on the master meter would be \$801.66. Under the proposed tariff, each sub-metered customer would be charged \$18.28 and the master meter would be billed for \$185.46. The total cost to the MHC owner and residences under the proposed tariff would be \$1,373.66, a 58 percent increase over the master meter billing only.

¹² Hardin District shall not construe the deviation granted by the Commission in Case No. 2005-00225, *Hardin County Water District No. 1* (Ky. PSC Oct. 14, 2005), to apply to the MHC master meters, regardless of the size of the meter.

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF HARDIN COUNTY WATER)	
DISTRICT NO. 1 TO MODIFY WATER UTILITY)	CASE NO.
TARIFF OF MASTER METERS FOR BILLING)	2009-00113
MULTI-UNIT RESIDENTIAL PROPERTIES)	

O R D E R

Presently before the Commission is Hardin County Water District No. 1's ("Hardin District") application to approve a tariff modification related to the master metering of mobile home communities ("MHCs"). Finding that it is reasonable, the Commission approves the proposed tariff.

I. BACKGROUND

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Hardin District has since recognized problems with billing individual mobile home residents. First, due to the transient nature of mobile home residents in Hardin District's territory, they have an increased rate of non-payment. Second, legal issues arise when utility personnel are required to go onto private property to check meters and turn

service on and off without an easement on that property. Third, meters are often located at inaccessible places, such as under the mobile home or within a fenced-in area. Fourth, the water lines within the MHC were not constructed by the utility and, as a result, may not meet service standards. Fifth, the utility found cases in which MHC residents were diverting water from the water lines within the park without that water being metered.

Both inadequate water infrastructure and "stolen" water have created relatively high percentages of water loss within the MHCs. During Hardin District's 16-month reporting period, the monthly water loss for MHC properties averaged between 16.5 percent and 46.7 percent.¹ In addition, the poor infrastructure can create health risks if contaminants infiltrate the system.

At least ten years ago, Hardin District recognized some of these problems created by metering individual mobile home customers and contemplated potential solutions for these problems.² The utility has held meetings with MHC owners to discuss potential solutions and concerns, it has distributed a survey to gather customer and MHC owner input, and it has communicated with the Kentucky Manufactured Housing Institute. As the Commission has previously stated, "[t]hese actions display Hardin District's dedication to resolving its perceived problem in a well-reasoned and considerate fashion."³

¹ In comparison, Hardin District's system-wide water loss in 2009 averaged 12.18 percent.

² See, e.g., Memorandum from Jim Bruce, General Manager of Hardin District, to David Wilson, Attorney for Hardin District (Oct. 19, 1998).

³ Case No. 2007-00461, *Hardin County Water Dist. No. 1*, at 2 (Ky. PSC Aug. 14, 2008).

whereby neither the utility nor the customer would have responsibility to repair portions of the service line. Second, we found that the utility could not terminate service at the master meter if its sub-metered customers that were downstream of the master meter were paying their bills. Third, there was no opportunity for the sub-metered customers to protect their rights as customers of a regulated entity if one of the triggering events occurred. Accordingly, we denied Hardin District's proposed tariff in Case No. 2007-00461.

In response to the Commission's Order, Hardin District drafted new tariff provisions that it hoped would pass the reasonableness standard. It filed a new proposed tariff on March 17, 2009. Hardin District also published notice of the proposal in a newspaper of general circulation in Hardin District's area and notified the MHC owners by letter about the proposed tariff. Ten of the MHCs that are served by Hardin District intervened in this case.

During the processing of this case, Hardin District and the Intervenors participated in a mediation conference, which resulted in a revised proposed tariff on which the parties agreed. Under this proposal, Hardin District will continue to bill and collect payments of MHC residents as long as the individual lot meters are accessible and free of contaminated water. Owners of MHCs will be required to pay Hardin District for the amount of water passing through the master meter of the MHC minus the cost of water billed to the individually metered lots in the MHCs. If individual lot meters are not accessible or the meter pits are not free of contaminated water, Hardin District will notify the MHC owner. If the problem is not resolved, Hardin District will not bill the individual customer and will, instead, charge the MHC owner for the amount of water used at that

lot. In addition, Hardin District will not terminate service for non-payment of the MHC owner.

II. ANALYSIS

KRS 278.030(2) permits a utility to “establish reasonable rules governing the conduct of its business and the conditions under which it shall be required to render service.” In addition, KRS 278.030(3) permits the utility to “employ in the conduct of its business suitable and reasonable classifications of its service, patrons and rates.” The burden of demonstrating the reasonableness of a proposed rule or condition of service is upon the utility.⁵ Accordingly, the Commission must determine whether Hardin District’s proposed tariff revision is a reasonable rule under which it shall be required to render service and whether the revision establishes a suitable and reasonable classification of service.

In determining the reasonableness of this proposed tariff, we are compelled to recognize the unique circumstances that led to this proposed tariff. Although Hardin District has mentioned several problems associated with its service to the MHCs, line loss is the most significant problem addressed by the proposed tariff. Currently, the cost of any water that is lost due to deteriorated or poorly constructed lines in MHCs is being borne by the water district and, in turn, by all of its customers. The proposed tariff would shift the responsibility of that cost to the MHC owner. Hardin District maintains that this shift is reasonable because the MHC owners, or their predecessors, installed and own the water lines.

⁵ See *Energy Regulatory Commission v. Kentucky Power Co.*, 605 S.W.2d 46 (Ky. Ct. App. 1980); cf KRS 278.190(3) (placing the burden of proof for an increased rate or charge on the utility).

In determining whether this shifting of responsibility is reasonable, the Commission is cognizant of our regulations concerning service connections. Hardin District began billing individual MHC residences in the late 1980s, which was a few years before the Commission regulation regarding responsibility for service connections was changed to its current form. Prior to June 7, 1992, a utility was required to install the water line from its distribution system to the curb box or curb stop,⁶ and the customer was required to maintain the service line, which was defined as the portion of the line downstream from the property line.⁷ On June 7, 1992, the regulations changed, and the utility's responsibility for the service connection was amended to include

⁶ (a) Utility's responsibility. In urban areas with well-defined streets the utility shall furnish and install at its own expense for the purpose of connecting its distribution system to the customer's premises that portion of the service line from its main to and including the curb box, if curb box is used, otherwise to the curb stop. The curb stop may be installed at a convenient place between the property line and the curb. All services shall include a curb stop.

(b) Customer's Responsibility. The customer shall furnish and lay the necessary pipe to make the connection from the curb stop to the place of consumption and shall keep the service line in good repair and in accordance with such reasonable requirements of the utility as may be incorporated in its rules and regulations.

807 KAR 5:066, Section 13 (effective Jan. 14, 1982 and repealed June 7, 1992). The substance of this provision was first enacted in 1959. PSC-W, Rule XIII(1) (effective Nov. 28, 1959).

⁷ "Service' line means the line from the property line to the place of consumption." 807 KAR 5:066, Section 12(4) (effective Jan. 14, 1982 and superseded June 7, 1992).

the service connection up to and including the meter and the meter box.⁸ The regulation established the customer's responsibility as commencing at the "point of service," which it defined as "the outlet of the customer's water meter."⁹

To hold Hardin District responsible for the maintenance and ownership of the portion of the service connection from the property line of the MHCs to the meters requires retroactive application of the present version of Section 12 of 807 KAR 5:066 to the service connections in question. The Commission has previously determined that application of the present version of regulations related to responsibility for service connections should not be given retroactive effect.¹⁰ Thus, Hardin District should not be responsible for maintaining those lines that are owned by and were installed on the property of the MHC owners prior to June 7, 1992.

⁸ (1) Ownership of service.

(a) Utility's responsibility. The utility shall furnish and install at its own expense for the purpose of connecting its distribution system to the customer's premises that portion of the service connection from its main to and including the meter and meter box. The utility may recoup this expense from the customer in accordance with KRS 278.0152.

(b) In areas where the distribution system follows well-defined streets and roads, the customer's point of service shall be located at that point on or near the street right-of-way or property line most accessible to the utility from its distribution system. In areas where the distribution system does not follow streets and roads, the point of service shall be located as near the customer's property line as practicable. Prior to installation of the meter the utility shall consult with the customer as to the most practical location.

(2) Customer's responsibility. The customer shall furnish and lay the necessary pipe to make the connection from the point of service to the place of consumption and shall keep the service line in good repair and in accordance with such reasonable requirements of the utility as may be incorporated in its rules and administrative regulations.

807 KAR 5:066, Section 12.

⁹ 807 KAR 5:066, Section 1(5).

¹⁰ Case No. 2005-00148, *Northern Kentucky Water District* (Ky. PSC July 18, 2008).

The proposed tariff will establish rules that clearly delineate the responsibility of maintenance for the water lines on the MHC property. It will provide incentive for the MHC owner to repair and maintain deteriorating water lines. Under the current tariff, the MHC owner has no economic incentive to repair water lines because the owner is not paying for the cost of water that is lost on his property. Under the proposed tariff, the MHC owner will be charged for the cost of that water and will, thus, be more likely to repair those water lines.

The proposed tariff does not raise the same concerns that were raised by Hardin District's previously proposed tariff in Case No. 2007-00461. As discussed above, the proposed tariff clearly delineates who is responsible for repairing the lines on the MHC property, so there are no longer certain circumstances that would create a situation whereby neither the utility nor the sub-metered customer would have responsibility to repair portions of the service line. In addition, the utility will not terminate service at the master meter, nor will there be any triggering events that will force the sub-metered customers to be customers no longer of a regulated utility.

The Commission finds that, based on the unique circumstances, Hardin District's proposed tariff is reasonable. Under normal conditions, the Commission would not generally support a similar dual-metered service. Our current regulations related to service connections prevent the occurrence of similar situations in the future. Nevertheless, Hardin District's proposed tariff is a reasonable and appropriate solution to this complex situation.

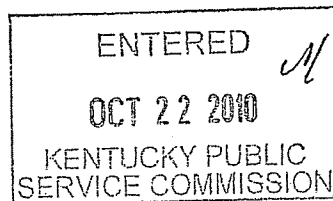
Nothing in this Order should be construed as prohibiting an MHC owner and its sub-metered customers from collectively agreeing to be billed on the master meter only.

In fact, the MHC owners and residents may find significant savings in being billed only on a master meter because the volumetric usage rate above 15,000 gallons would be reduced and the customer charges for the sub-metered accounts would be eliminated.¹¹

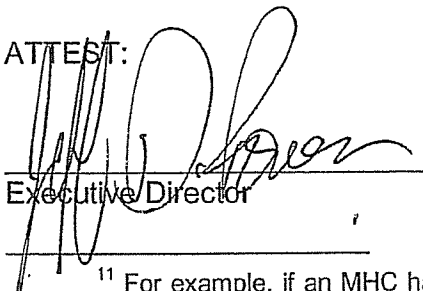
Finding that Hardin District's proposed tariff revision is a reasonable rule under which it shall be required to render service and that the revision establishes a suitable and reasonable classification of service, IT IS THEREFORE ORDERED that:

1. Hardin District's proposed tariff is approved for service rendered on and after the date of this Order.
2. Prior to establishing an account for which usage will be billed, Hardin District shall test for accuracy any MHC master meter that has not been tested for accuracy in accordance with the schedule provided in 807 KAR 5:066, Section 16.¹²

By the Commission



ATTEST:



Executive Director

¹¹ For example, if an MHC had 65 residences that each used 3,000 gallons per month and was served by a 2-inch master meter that reflected 235,000 gallons of monthly usage, a single bill for the entire usage based on the master meter would be \$801.66. Under the proposed tariff, each sub-metered customer would be charged \$18.28 and the master meter would be billed for \$185.46. The total cost to the MHC owner and residences under the proposed tariff would be \$1,373.66, a 58 percent increase over the master meter billing only.

¹² Hardin District shall not construe the deviation granted by the Commission in Case No. 2005-00225, *Hardin County Water District No. 1* (Ky. PSC Oct. 14, 2005), to apply to the MHC master meters, regardless of the size of the meter.

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