

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

JUN 29 2015

PUBLIC SERVICE
COMMISSION

In the Matter of:)
)
PROPOSED ADJUSTMENT OF THE)
WHOLESALE WATER SERVICE) Case No. 2014-00392
RATES OF CITY OF DANVILLE)

POST-HEARING BRIEF FOR PARKSVILLE WATER DISTRICT

Comes now, Parksville Water District, by counsel, and for its Post-Hearing Brief files with the Commission the attached.

This 29th day of June, 2015

Respectfully submitted by:



Jeffrey W. Jones, PLLC, Attorney at Law
1000 E. Lexington Ave. #3
Danville, KY 40422
(859) 608-1195-tel
(859) 712-0411-fax
email: Jeff@JWJLAW.us

Attorney for Parksville Water District.

POST-HEARING BRIEF FOR PARKSVILLE WATER DISTRICT

STATEMENT OF FACTS

Parksville Water District (hereinafter “Parksville”) is a wholesale water customer that purchases water exclusively from the City of Danville (hereinafter “Danville”) and has done so for several decades. The relationship between Parksville and Danville is contractual and they operate pursuant to a wholesale water purchase agreement that has been amended several times, an Agreed Order entered by the PSC in 2009, and applicable statutes and regulations.

On August 20, 2014, the City of Danville (hereinafter “Danville”) sent a notice of rate increase to the Parksville Water District (hereinafter “Parksville”) and Garrard Water (“Garrard”) announcing a rate increase effective September 1, 2014. Prior to September 1, 2014, Parksville filed a Complaint with the Commission challenging the rate increase for inadequate notice and the reasonableness of the proposed rate. Subsequently, Garrard likewise filed a Complaint with the Commission challenging the proposed rate increase.

Danville filed a response which included a Cost of Service Study prepared by Connie Allen of Salt River Engineering setting forth assumptions, data, and conclusions in support of the proposed wholesale water rate adjustment.

From November 2014 through April 2015, members the Public Service Commission Staff (“Commission Staff”) requested additional data from Danville and

Parksville and held two Informal Conferences for the parties to discuss matters concerning the case.

On June 3, 2015, a public hearing was held before the Public Service Commission at which oral testimony was taken and added to the existing record of the case and additional information from the parties was requested. The parties were ordered to file simultaneous briefs with the Commission by June 29, 2015.

ISSUES PRESENTED .

Among the issues raised in this action are: (1) Danville's request to assess a surcharge against Parksville for rate case expenses incurred; and (2) the reasonableness of the proposed water rate adjustment

ARGUMENTS.

1. Danville's Request To Assess Parksville With A Surcharge For Rate Case Expenses Should Be Denied

Danville seeks recovery of its expenses incurred as a result of this action through assessment of a surcharge against Parksville for this rate case. The assessment of the surcharge for rate case expenses was not made a part of Danville's initial application nor included in the notice to wholesale customers. Danville should be required to re-file its application or withdraw its request for the surcharge.

Danville's request for a surcharge not only impacts Parksville, but also Garrard Water District (hereinafter "Garrard") who also filed a Complaint with the Commission. Interestingly, toward the close of the hearing held June 3, 2015, counsel for Garrard Water asserted that after the filing of the initial complaint with the Commission, Garrard

had fully cooperated with Danville. It should be noted that the same assertion applies to Parksville. After the filing of its initial Complaint, Parksville made no request of Danville for data or information. Parksville did not request a hearing or oppose Danville's motion for the matter to be resolved on the record. In fact, subsequent to filing its initial Complaint, Parksville took no action different from that of Garrard Water other than required.

Moreover, the impetus for the filing of Parksville's Complaint was the same as that raised by Garrard, namely, Danville's failure to provide the required written notice of the effective date of the proposed rate adjustment. Danville knew, or should have known, that it was bound by the Water Purchase Contract, the prior PSC order, and existing regulations.¹ *See also*, 807 KAR 5:011(8)(2).

Parksville and Danville operate under a Settlement Agreement approved by the Commission in Case No. 2007-00405. A copy of the Settlement Agreement was attached to the Complaint as Exhibit 2. The Settlement Agreement required that prior to any increase in water rates to Parksville, Danville shall provide Parksville with ninety (90) days written notice. Similarly, the Water Purchase Agreement between Parksville and Danville was attached to the Complaint as Exhibit 1 and provided the notification terms for implement of rate changes. All of which were ignored by Danville.

Danville provided written notice of implementation of the proposed rate adjustment to Parksville eleven (11) days prior to the change going into effect. Danville's action was, in no manner, compliant with its contractual or regulatory

¹ A party is charged with the knowledge of the contents of any document that he signs. J. I. Case Threshing Machine Co. v. Mattingly, 142 Ky, 581, 134 S.W. 1131 (1911).

obligations to notify Parksville of the implementation of the rate change within the time frame required..

Once the complaints were filed by Parksville and Garrard, Danville responded. Danville's response, however, was found inadequate by the Commission Staff. Data requests, including clarifications, corrections, and supplementations, were made solely by the Commission Staff. Again, it was Danville's failure to provide supporting documentation in a clear and compliant manner that caused expenses to be incurred by all parties. Danville elected to proceed with its application without a hydraulic model and, instead, relied solely on the Cost of Service Study (CSS) prepared by Salt River Engineering. The Commission Staff's Data Requests and inquiries at the informal conferences indicate that the Commission Staff needed, wanted, and requested information to cure non-compliance and resolve ambiguities in the information provided by Danville initially. Here again, it was Danville's unwillingness or inability to provide information and data without prompting from the Commission Staff that directly caused all parties to incur expenses and costs.

Had Danville complied with its contractual and regulatory obligations regarding notice of implementation of the rate change, no complaints may have been filed with the Commission by either Parksville or Garrard. Had Danville complied with standard practices in preparation of its material supporting its proposed rate increase, specifically in the preparation and submission of its CSS, most, if not all, of the expenses incurred by Danville, Parksville, and Garrard may have been avoided.

Danville seeks to be rewarded for failing to comply with its own contractual and existing regulatory obligations. In all fairness, Danville should be ordered to pay the

expenses of Garrard and Parksville, rather than the other way around. Should Danville be permitted to impose a surcharge for rate case expenses, it indicates that a party's contractual obligations, existing PSC Orders, and regulations can be ignored not only without consequences, but with reward.

2. Danville's Data and Conclusions Are Insufficient To Support Its Proposed Rate Adjustment

Danville asserts that its proposed rate adjustment is reasonable. In order to support this assertion, Danville relies almost exclusively on the Cost of Service Study prepared by Connie Allen of Salt River Engineering. Some of the factual assumptions relied on by Ms. Allen were called into question by the Commission Staff. Of particular significance was Ms. Allen's assertion that the Perryville Road Station has a capacity of 450 gallons per minute. The evidence is undisputed that the Perryville Road Station has never achieved the capacity utilized by Ms. Allen in support of the conclusions in her CSS. In fact, according to the written and oral testimony of Jerry Feather, Parksville Co-Manager, the Perryville Road Pump Station maximum capacity is 335 gpm. A review of the information provided by Parksville prior to the hearing actually shows the annual average usage for the Perryville Road Station to have been 236.2 gpm over the past five years,² nearly one-half of the number utilized by Ms. Allen in her CSS. Ms. Allen's conclusions as to Parksville's projected water usage are inaccurate and inflated. Rather than using the actual historical water usage, Allen chose to use a number representing a virtual doubling of that of the actual water used in setting the proposed rate.

² See Parksville Response filed 5/4/15 p.4-8 showing annual average gallons per minute as follows:
2010 -- 229/gpm; 2011 -- 230/gpm; 2012 -- 240/gpm; 2013 -- 240/gpm and 2014 -- 242/gpm

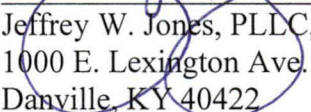
Further, in part of her response to the Commission Staff, Ms. Allen described a scenario under which a portion of the customers of the Parksville System would run out of water. Parksville's Co-Manager, Jerry Feather, stated in his last filed testimony that Ms. Allen's conclusion was simply untenable. Ms. Allen conceded on cross-examination that with the exception of the Parksville Water District office, she had not made a visit to, or watched the operation of, the water system's pumps and tanks. Mr. Feather, conversely, has significantly more experience with the operation of the water system and its equipment.

CONCLUSION

In light of the foregoing, Parksville Water District respectfully request that Danville's request for a surcharge for rate case expenses be denied and that the Commission order the case expenses incurred by Parksville be paid by Danville and that the proposed rate adjustment be set in accordance with Parksville's actual water usage.

This 29th day of June, 2015

Respectfully submitted by:



Jeffrey W. Jones, PLLC, Attorney at Law
1000 E. Lexington Ave. #3
Danville, KY 40422
(859) 608-1195-tel
(859) 712-0411-fax
email: Jeff@JWJLAW.us

Attorney for Parksville Water District.

CERTIFICATE OF SERVICE

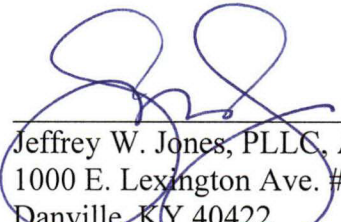
This is to certify that this 29th day of June, 2015, a copy of the foregoing was served by mailing a true and exact copy to:

M. Todd Osterloh, Esquire
Sturgill, Turner, Barker & Maloney, PLLC
333 West Vine Street
Lexington, KY 40507

Caywood Metcalf, Esquire
Metcalf & Metcalf
214 Stanford Street
Lancaster, KY 40444

Original + ten copies to:

Public Service Commission
211 Sower Blvd.
Frankfort, KY 40602



Jeffrey W. Jones, PLLC, Attorney at Law
1000 E. Lexington Ave. #3
Danville, KY 40422
(859) 608-1195-tel
(859) 712-0411-fax
email: Jeff@JWJLAW.us

Attorney for Parksville Water District.