

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ALLEGED FAILURE OF CENTER RIDGE	)	CASE NO.
WATER DISTRICT NO. 2 TO FILE REQUIRED	)	2017-00030
REPORTS	)	

ORDER

KRS 278.230(3) directs every utility, when required by the Commission, to file with it any report or other information that the Commission reasonably requires. 807 KAR 5:006, Section 4(2), requires every utility to file with the Commission, on or before March 31 of each year, a financial and statistical report of its utility operations for the preceding calendar year on forms furnished by the Commission. KRS 278.140 requires each utility to file, on or before March 31 of each year, a report of its gross earnings or receipts derived from intrastate business for the preceding calendar year. KRS 278.990 provides penalties for utilities that fail to file the required reports.

Center Ridge Water District No. 2 ("Center Ridge") owns, controls, operates, and manages facilities in the Commonwealth of Kentucky which are used for and in connection with the distribution and furnishing of water to the public for compensation. It is, therefore, a utility subject to Commission jurisdiction.<sup>1</sup>

KRS 278.990(1) states that any utility which willfully violates any provision of KRS Chapter 278 or any Commission regulation shall be subject to a civil penalty not less than \$25.00 and not more than \$2,500.00.

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<sup>1</sup> KRS 278.010(3)(d).

On January 13, 2016, the Commission provided to Center Ridge an electronic link to the standard forms for the annual financial and statistical report and the report of gross earnings from intrastate business. According to Commission records, Center Ridge filed its annual report and gross operating report for the 2015 calendar year on or about January 10, 2017. The failure to file these reports by March 31, 2016, is *prima facie* evidence that Center Ridge willfully failed to comply with KRS 278.230(3).

The Commission initiated a similar action against Center Ridge on October 11, 2011, for failing to file its annual report for the 2010 calendar year.<sup>2</sup> In Case No. 2011-00337, the Commission, after a hearing at which Center Ridge did not appear, assessed Center Ridge a penalty of \$2,500.00.<sup>3</sup> On October 3, 2012, the Commission issued an Order<sup>4</sup> suspending the payment of the fine, contingent upon Center Ridge's timely filing of its 2012, 2013, 2014, 2015, and 2016 annual reports. The October 3, 2012 Order provided that the fine would be waived upon the timely filing of the 2016 annual report, but also provided that the fine would become due and payable if Center Ridge did not timely file its 2012, 2013, 2014, 2015, and 2016 annual reports. It appears that by not timely filing its 2015 annual report, Center Ridge violated the Commission's October 3, 2012 Order issued in Case No. 2011-00337 and, consequently, the suspended fine of \$2,500.00 is due and payable.

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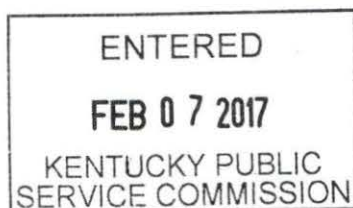
<sup>2</sup> PSC Case No. 2011-00337, *Investigation of the Failure of Center Ridge Water District No. 2 to File Required Reports*, (Ky. PSC Oct. 11, 2011).

<sup>3</sup> *Id.*, Order entered Dec. 20, 2011.

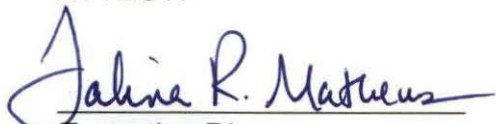
<sup>4</sup> Attached as an Appendix to this Order.

IT IS THEREFORE ORDERED that Center Ridge shall appear on March 28, 2017, at 10:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, for the purpose of showing cause why it should not be subjected to the penalties of KRS 278.990 for its failure to comply with KRS 278.140 and 278.230(3), and for the penalties assessed, and subsequently suspended, in Case No. 2011-00337.

By the Commission



ATTEST:

  
Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2017-00030 DATED **FEB 07 2017**

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION OF THE FAILURE OF CENTER ) ADMINISTRATIVE  
RIDGE WATER DISTRICT NO. 2 TO FILE ) CASE NO. 2011-00337  
REQUIRED REPORTS )

ORDER

On October 11, 2011, the Commission ordered Center Ridge Water District No. 2 ("Center Ridge") to show cause why it should not be penalized for failing to comply with KRS 278.230(3). The October 11, 2011 Order scheduled a formal hearing and also provided that Center Ridge could waive its right to a hearing if it filed its annual report and paid a \$250.00 penalty by October 20, 2011. Center Ridge neither filed its annual report nor paid the \$250.00 fine by October 20, 2012. A hearing in this matter was held on October 27, 2011. No representative appeared on behalf of Center Ridge.

On December 9, 2011, Center Ridge filed its 2010 annual report. The report was unaccompanied by any explanation why the annual report was filed late. There also was no explanation why Center Ridge failed to appear at the October 27, 2011 hearing or pay the \$250.00 fine by October 20, 2011.

On December 20, 2011, the Commission issued an Order in which it found that, even though Center Ridge had filed its 2010 annual report on December 9, 2011, it had willfully violated KRS 278.230 and 807 KAR 5:006, Section 3(1). The Commission assessed Center Ridge a fine of \$2,500.00 and ordered Center Ridge to pay the fine within fourteen days of the Order. Center Ridge neither sought reconsideration of the Order nor paid the assessed fine.

On May 23, 2012, the Commission received a letter<sup>1</sup> from William Duncan, Center Ridge's Operator. In the letter, Mr. Duncan asserts that the failure to timely file Center Ridge's 2010 annual report was merely an oversight on Center Ridge's part but provided no explanation why it did not pay this \$250.00 fine or appear at the October 27, 2011 hearing. Mr. Duncan also asserts that Center Ridge cannot afford to pay the \$2,500.00 fine.

The Commission takes seriously violations of its statutes and regulations and does not lightly grant pardon from the willful violations of these laws. Center Ridge, however, did finally file its 2010 report, albeit in an untimely manner, and has timely filed its 2011 annual report. Because Center Ridge did make its required filings, and because of Center Ridge's alleged inability to pay the \$2,500.00 fine, the Commission finds that the fine shall be suspended indefinitely contingent upon Center Ridge continuing to make timely filings of its annual reports in the future.

IT IS THEREFORE ORDERED that:

1. The \$2,500.00 fine imposed against Center Ridge on December 20, 2011 is hereby suspended.
2. If Center Ridge fails to timely file its 2012, 2013, 2014, 2015, or 2016 annual reports in the future, the suspended fine shall no longer be suspended and will become due and payable upon the day after the deadline for filing annual reports.
3. If Center Ridge timely files its 2012, 2013, 2014, 2015, and 2016 annual reports, the \$2,500.00 fine will be waived upon the timely filing of the 2016 annual report.


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<sup>1</sup> Attached as the Appendix to this Order.

By the Commission

ENTERED   
OCT 03 2012  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
\_\_\_\_\_  
Executive Director

Administrative Case No. 2011-00337

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN ADMINISTRATIVE CASE NO. 2011-00337 DATED **OCT 03 2012**



Date 5-23-2012

TO Jeb Pinney ← ATTN: TO

Company Public Service Commission

Fax (502) 564-3460

RECEIVED

MAY 23 2012

PUBLIC SERVICE  
COMMISSION

From William Duncan

Company Center Ridge Water dist

Fax (270) 436-6304

Comments

Mr Pinney

You will be receiving a letter

From C.R.W.D Today so I'm Faxing

you a updated copy of the same letter

which. The other was worded wrong

If you need me to mail you the updated letter also let me H

Number of Pages including cover sheet [2]

**Center Ridge Water District  
69 Marguerite blvd  
Newconcord, Ky 42076  
(270) 436-6304**

**Public Service Commission  
RE: case no. 2011-00337**

**Dear Mr Jeb Pinney**

**After speaking to M. Shane Benson by phone I have learned That P.S.C found annual financial and statistical reports we had sent in some time back.**

**Although they were late it was just an over site by c.r.w.d. As soon as we found out we forgot to file them with p.s.c we sent them in right away. As far as the \$2,500. dollar fine I think that is very very excessive for first time offence. c.r.w.d does not have \$2,500. dollars to spare.it takes every penny coming in to operate c.r.w.d and that's not enough. c.r.w.d has not been able to pay William Duncan-operator for over a year and still owes B.D Trucking several thousands of dollars for last year and this year either for repairs. and Arlene Elmore which has been working in the office for 12 years has never been paid because c.r.w.d don't have the money to spare. If commission seeks to inforce please do so close to the area of c.r.w.d because division of water says I can not be no more than one hour driving time from c.r.w.d and I think it takes four hours to drive to Frankfort.**

**Sincerely  
William M. Duncan**  
*William Duncan*

**CENTER RIDGE WATER DISTRICT  
69 MARGUERITE , BLVD.  
NEWCONCORD,KY. 42076  
(270) 436-6304**

**RECEIVED**

MAY 23 2012

PUBLIC SERVICE  
COMMISSION

**Public Service Commission  
RE: case no. 2011-00337**

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**Sincerely  
William m duncan**

*William Duncan*

William Duncan  
President  
Center Ridge Water District No. 2  
69 Marguerite Blvd  
New Concord, KY 42076

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