COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION AND NOTICE OF CAMPBELL COUNTY, KENTUCKY WATER DISTRICT (A) TO ISSUE REVENUE BONDS IN THE APPROXIMATE PRINCIPAL AMOUNT OF $5,535,000 (B) TO CONSTRUCT ADDITIONAL PLANT FACILITIES OF APPROXIMATELY $4,523,000 (C) NOTICE OF ADJUSTMENT OF RATES EFFECTIVE MAY 1, 1989 (D) SUBMISSION OF LONG TERM WATER SUPPLY CONTRACT	)	CASE NO. 89-029

O R D E R

The Attorney General ("AG"), through his Utility Rate and Intervention Division, has petitioned for rehearing in this case contending that the Commission erred in establishing rates which include expenses incurred by Campbell County Kentucky Water District ("Campbell District") in its defense against a complaint brought by the city of Newport ("Newport") and two Campbell District customers. Finding the AG's arguments to be contrary to existing law, we deny.

The AG takes exception to the inclusion of Campbell District's expenses for Case No. 89-014[1] into the newly established rates. While he does not "challenge the

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[1] Case No. 89-014, City of Newport v. Campbell County Kentucky Water District and Kenton County Water District No. 1 and Charles Atkins and Steven J. Franzen Campbell County Kentucky Water District.

reasonableness of the amounts charged and expended for legal and other work done by or for Campbell County Water District in connection with Case No. 89-014,"[2] the AG maintains that, as the water supply agreement between Campbell District and Kenton County Water No. 1 - the subject of Case No. 89-014 - was not found to be reasonable, any expenses incurred in its defense cannot be found reasonable and are not, therefore, proper expenses for rate-making purposes. No legal authority is produced to support this argument.

Case No. 89-014 involved formal complaints against Campbell District by Newport and two Campbell District customers which alleged that the water supply agreement between Campbell and Kenton Districts was imprudent and unreasonable and had resulted in unreasonable increases in Campbell District's rates. The expenses incurred by Campbell District in that case were at least in part to defend the reasonableness of its existing rates. "Even where the rates in effect are excessive, on a proceeding by a Commission to determine reasonableness, . . . a utility should be allowed its fair and proper expenses for presenting its side to the commission." Driscoll v. Edison Light & Power Co., 307 U.S. 104, 120 (1939). See also Solar Electric Co. v. Pennsylvania Pub. Util. Comm'n, 9 A.2d 447 (Pa. Super. Ct. 1939). Allowing recovery of these expenses, therefore, is proper.

IT IS HEREBY ORDERED that the AG's petition for rehearing is denied.

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2 AG's Petition at 3.

Done at Frankfort, Kentucky, this 6th day of March, 1990.

PUBLIC SERVICE COMMISSION

Chairman

Vice Chairman

Commissioner

ATTEST:

Executive Director