



Ernie Fletcher
Governor

Mark David Goss
Chairman

LaJuana S. Wilcher, Secretary
Environmental and Public
Protection Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

Teresa J. Hill
Vice Chairman

Christopher L. Lilly
Commissioner
Department of Public Protection

City of Wilmore
335 E. Main Street
Wilmore, KY 40390

September 22, 2006

RE: Case No. 2006-00409

We enclose one attested copy of the Commission's Order in the above case.

Sincerely,

A handwritten signature in black ink, appearing to read "Beth O'Donnell".

Beth O'Donnell
Executive Director

BOD/jc
Enclosure



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September 22, 2006

Diana Clark
Office Manager
Jessamine-South Elkhorn Water District
P. O. Box 731
Nicholasville, KY 40340-0731

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Honorable Bruce E. Smith
Attorney At Law
Moynahan, Irvin & Smith, P.S.C.
110 North Main Street
Nicholasville, KY 40356



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Nicholasville, KY 40340-0731

Honorable Bruce E. Smith
Attorney At Law
Moynahan, Irvin & Smith, P.S.C.
110 North Main Street
Nicholasville, KY 40356

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PROPOSED WATER PURCHASE AGREEMENT)
BETWEEN THE CITY OF WILMORE AND) CASE NO. 2006-00409
JESSAMINE-SOUTH ELKHORN WATER)
DISTRICT)

ORDER

Jessamine-South Elkhorn Water District (“Jessamine District”) has filed with the Commission a proposed water purchase agreement with the city of Wilmore, Kentucky (“Wilmore”) under which Wilmore will provide wholesale water service to the water district.¹ This contract provides, *inter alia*, that Jessamine District will pay a charge of \$1,000 to Wilmore for each customer who connects to that portion of the water district’s system to which Wilmore furnishes water.² Jessamine District has advised the Commission that this charge is to “fund a restricted account held by Wilmore solely for the purpose of capital improvements to its water system infrastructure.”³

¹ The Commission notes that Wilmore had the statutory and regulatory responsibility for submitting the proposed water purchase agreement. See KRS 278.200; KRS 278.160; 807 KAR 5:006, Section 5; 807 KAR 5:011, Section 13. See also Submission of Contracts and Rates of Municipal Utilities, Administrative Case No. 351 (Ky.PSC Aug. 10, 1994); Kentucky-American Water Company, Case No. 2001-230 (Ky.PSC Oct. 19, 2001) at fn. 1.

² Water Purchase Agreement at 2.

³ Letter from Bruce E. Smith, counsel for Jessamine-South Elkhorn Water District, to Beth O’Donnell, Executive Director, Public Service Commission (Aug. 18, 2006) at 1.

The proposed fee appears to be a “system development charge.” Administrative Regulation 807 KAR 5:090, Section 1(3), defines a system development charge as a “one (1) time charge assessed by a water utility on a real estate developer, on a new customer, or on an existing customer who significantly increases its demand for water service to finance construction of a system improvement necessary to serve that customer or a proposed real estate development.”

No municipal utility may assess a system development charge upon a public water utility without first obtaining Commission approval.⁴ To obtain such approval, a municipal utility must file a formal application with the Commission.⁵

As of the date of this Order, Wilmore has not filed any application requesting Commission approval to assess a system development charge to Jessamine District. Without such application and Commission approval, the Commission finds that the present wholesale contract before us cannot be approved.

The Commission, on its own motion, HEREBY ORDERS that:

1. Wilmore and Jessamine District shall show cause in writing within 20 days of the date of this Order:

⁴ Administrative Regulation 807 KAR 5:090, Section 2. A municipal utility is “any city that provides the services enumerated in KRS 278.010(3)(d) to a public water utility.” Administrative Regulation 807 KAR 5:090, Section 1(1). A public utility is “any person including a water district or water association, except a city, who owns, controls, operates or manages facilities that are used or to be used to provide the services enumerated in KRS 278.010(3)(d).” Administrative Regulation 807 KAR 5:090, Section 1(2).

⁵ Administrative Regulation 807 KAR 5:090, Section 4.

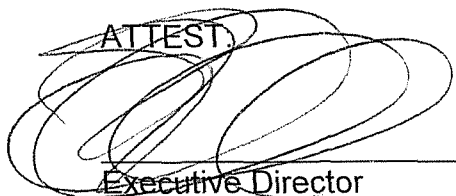
a. Why the proposed charge of \$1,000 per Jessamine District customer who connects to that portion of the water district's system to which Wilmore furnishes water should not be considered a "system development charge"; and,

b. Why the proposed Water Purchase Agreement between Wilmore and Jessamine District should not be rejected for containing a system development charge that the Commission has not approved and for which no application for its approval has been filed with the Commission.

2. Any motion requesting any informal conference with Commission Staff to consider any matter that may aid in the handling or disposition of this proceeding shall be filed with the Commission no later than 20 days from the date of this Order.

Done at Frankfort, Kentucky, this 22nd day of September, 2006.

By the Commission

ATTEST

Executive Director

Is your RETURN ADDRESS completed on the reverse side?

INSTRUCTIONS:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1. Addressee's Address
- 2. Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Diana Clark
Jessamine - South Elkhorn rd
P.O. Box 731
Nicholasville, KY 40340-0731

4a. Article Number

7005 1820 0006 1154 7793

4b. Service Type

- Registered Insured
- Certified COD
- Express Mail Return Receipt for Merchandise

7. Date of Delivery

9-26-06

5. Signature (Addressee)

Diana Clark

6. Signature (Agent)

Diana Clark

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1991

★U.S. GPO: 1992-323-402

DOMESTIC RETURN RECEIPT

06-4009 9/22/06 JDC

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

LEXINGTON KY 405

Official Business

25 SEP 2006 PM 1 P

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300



Print your name, address and ZIP Code here

PUBLIC SERVICE COMMISSION
 211 SOWER BLVD.
 P.O. BOX 615
 FRANKFORT, KY 40602

Is your RETURN ADDRESS completed on the reverse side?

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- 2. Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

City of Wilmore
335 E. Main St.
Wilmore, KY 40390

4a. Article Number

7005 1820 0006 1154 7809

4b. Service Type

- Registered Insured
- Certified COD
- Express Mail Return Receipt for Merchandise

7. Date of Delivery

9-25-06

5. Signature (Addressee)

Rachel Spears

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)

PS Form 3811, December 1991 *U.S. GPO: 1992-323-402

DOMESTIC RETURN RECEIPT

06-409 9/22/06 JDC

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE



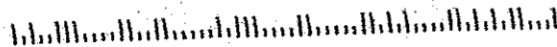
Official Business

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300



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PUBLIC SERVICE COMMISSION
211 SOWER BLVD.
P.O. BOX 615
FRANKFORT, KY 40602



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1. Addressee's Address

2. Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Bruce E. Smith
 Maymudon, Irvin, Smith, P.S.C.
 110 North Main Street
 Nicholasville, KY 40356

4a. Article Number
 7005 1820 0006 1154 7779

4b. Service Type

Registered Insured

Certified COD

Express Mail Return Receipt for Merchandise

7. Date of Delivery
 9/28

5. Signature (Addressee)
 [Signature]

8. Addressee's Address (Only if requested and fee is paid)

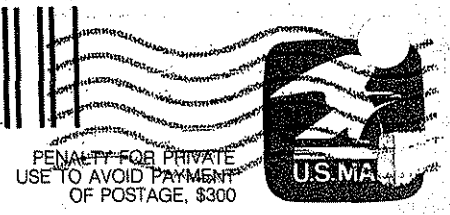
6. Signature (Agent)
 [Signature]

PS Form 3811, December 1991 *U.S. GPO: 1992-323-402 **DOMESTIC RETURN RECEIPT**
 06-409 942106 JDE

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE
 LEXINGTON, KY 405

Official Business
 25 SEP 2006 PM 1



Print your name, address and ZIP Code here

PUBLIC SERVICE COMMISSION
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 P.O. BOX 615

48264 8013 FRANKFORT, KY 40602