



COMMONWEALTH OF KENTUCKY  
PUBLIC SERVICE COMMISSION  
730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KENTUCKY 40602  
(502) 564-3940

November 17, 1998

*- Mailed 11/19*

James S. Sanders, Esq.  
City of Lancaster  
101 Stanford Street  
Lancaster, Kentucky 40444-1234

Dear Mr. Sanders:

Commission Staff is in receipt of your letter of 3 November 1998 regarding a public water utility's obligation to discontinue water service to customers failing to pay for municipal sewer service.

Your letter states the following facts: The City of Lancaster ("Lancaster") provides sewer service to its residents. The Garrard County Water Association ("Garrard County") provides water service to some of these residents. Lancaster has requested that Garrard County discontinue water service to certain customers because of their failure to pay their sewer service bills. Garrard County refuses to take such action.

Your letter presents the following issue: May a public water utility discontinue water service to a customer who fails to pay his bill for sewer service provided by a municipal sewer utility?

KRS 96.934(2) requires a water supplier,<sup>1</sup> upon the request of a municipal sewer utility, to discontinue water service to a customer who fails to pay his sewer service bill. It provides:

If a city is not also the water supplier, then in the event of failure on the part of any sewer user to pay, when due, the bill for sewer service charges, the sewer body may, when such power has been delegated to it by the city, give notice in writing, signed by an authorized person, to the water supplier, to discontinue water service to premises designated in the notice, until notified otherwise. The notice shall identify the delinquent sewer user in such manner as

<sup>1</sup> "Water supplier" is defined as "any person supplying water intended to be used, or actually used, in any manner resulting in contamination and includes the city itself, other cities and public bodies, and private operators of water-supplying facilities." KRS 96.931(4). Garrard County falls within this definition.

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reasonably to enable the water supplier to identify the water service connection which is to be cut off pursuant thereto. Upon receipt of such notice, the water supplier shall discontinue water service to the premises until notified otherwise by the sewer body.

Failure to comply with the municipal utility's request will subject the water supplier to liability for the amounts owed by the delinquent sewer customer. See KRS 96.943.

Pursuant to KRS 96.934(2), Garrard County must, upon Lancaster's request, discontinue water service to any customer who has failed to pay his sewer service bill. Lancaster's request must be in writing and signed by an authorized person. Garrard County may, as a condition to disconnecting water service, require the payment of any disconnection or reconnection charges<sup>2</sup> and the presence of an authorized agent of Lancaster when disconnection is undertaken. See KRS 96.936(1). Where Garrard County complies with Lancaster's written order to discontinue water service, it is immune from liability for any legal action resulting from such termination. See KRS 96.942.

Please note that generally a utility's discontinuance of water service because of a customer's failure to pay charges owed to another utility is contrary to Administrative Regulation 807 KAR 5:006, Section 14(1), which provides:

A utility may refuse or terminate service to a customer only under the following conditions . . . .

(f) For nonpayment of bills. A utility may terminate service at a point of delivery for nonpayment of charges incurred for utility service at that point of delivery; however, no utility shall terminate service to any customer for nonpayment of bills for any tariffed charge without first having mailed or otherwise delivered an advance termination notice which complies with the requirements of Section 13(5) of this administrative regulation.

This regulation permits a utility to discontinue service only for nonpayment of charges for services that it provides.

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<sup>2</sup> According to its filed rate schedules, Garrard County currently assesses a \$30.00 fee for reconnection during normal business hours and a \$45.00 fee for reconnections performed after business hours.

James S. Sanders, Esq.

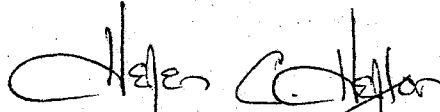
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The Commission has recognized that this regulation does not apply when municipal sewer utility charges are involved. In Kentucky-American Water Company, Case No. 95-238 (June 30, 1995), the Commission found that the provisions of Administrative Regulation 807 KAR 5:006, Section 14(1), conflict with KRS 96.930-.943 and, as KRS Chapter 96 is the more specific statute, it controls. For your reference, a copy of this decision is enclosed.

This letter represents Commission Staff's interpretation of the law as applied to the facts presented. This opinion is advisory in nature and not binding on the Commission should the issues herein be formally presented for Commission resolution. Questions concerning this opinion should be directed to Gerald Wuetcher, Commission counsel, at (502) 564-3940, Extension 259.

Sincerely,

A handwritten signature in black ink, appearing to read "Helen C. Helton". The signature is fluid and cursive, with a large initial "H" and "C".

Helen C. Helton  
Executive Director

Enclosure

cc: Harold C. Ward