

COMMONWEALTH OF KENTUCKY
BEFORE THE UTILITY REGULATORY COMMISSION

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In the Matter of:

SPEARS WATER COMPANY, INC. FOR)
APPROVAL OF A CONTRACT FOR)
EXPANDING AND PROVIDING WATER) CASE NO. 7549
SERVICES FOR THE SOUTHERN PORTION)
OF JESSAMINE COUNTY, KENTUCKY)

ORDER

A hearing was scheduled on this matter for October 25, 1979 at 1:00 p.m. However, the petitioner requested a conference be held with Commission Staff in lieu of the hearing. The Commission having considered the filings and reviewed the contract in conjunction with 807 KAR 25:050 and being duly advised finds:

That an extension of approximately 2.5 miles is required to be laid in order to connect the existing Spears Water Company, Inc. main with the property to be developed by Marvin Lear;

That there are currently 31 residences and 33 developed tracts along the route of the main line extension;

That the contract between Spears Water Company, Inc. and Marvin Lear of July 16, 1979 provides that Lear will contract and pay for the construction of the extension. Upon completion, Spears will lease the line from Lear in return for its assuming the obligation to maintain the line. Before tapping on to the line, each residence would have to pay Lear for 1/64 of the cost of construction, this being so even if 100% of Lear's costs have already been recouped. Lear is to transfer title to the line to Spears, after having recouped the costs of construction over a period of ten (10) years. Further, the contract provides that it is subject to approval by this Commission;

That the scheme embodied in the above-mentioned contract, does not comply with 807 KAR 25:050, Section 12 because the contract does not provide for the utility to pay for the cost of the first fifty (50)

feet of extension for each applicant, nor does it require the utility or developer to refund a portion of the costs which any of the original 64 customers paid when additional customers directly tap-on to the extension. Further, it appears that the potential exists for the developer to collect more than the actual costs of constructing the extension. 807 KAR 25:050, Section 14(3)(a) prohibits a private water utility from charging a tapping fee before providing service and likewise, the developer, in this instance, is also barred from collecting such a fee. Additionally, the contract would permit the developer, to retain ownership of the line for ten (10) years instead of transferring title to the utility after the line is constructed. Retaining the ownership of the main creates an ambiguous situation because both the Spears Water Company, Inc. and Lear, the developer would meet the definition of a non-energy utility, subject to the regulation of this Commission as contained in KRS 278.010(5)(a).

IT IS THEREFORE ORDERED that approval of the contract, as submitted, is denied.

IT IS FURTHER ORDERED that the petitioner is granted leave to resubmit a contract to build the main line extension provided the contract conforms to 807 KAR 25:050, Section 12; 807 KAR 25:050, Section 14(3)(a) and contains the following terms:

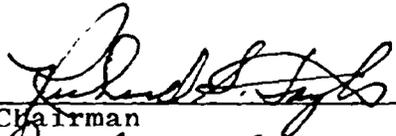
A. Each of the 64 property owners who want water service agree to the terms of the contract with Spears Water Company, Inc.;

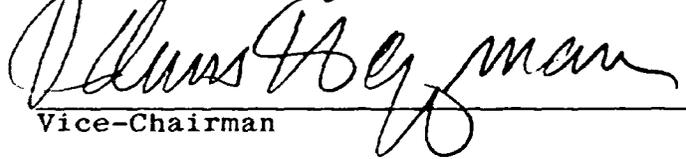
B. In the case of additional customers requesting service, Spears Water Company, Inc. will annually refund to the original customers, who paid for the main extension, their share of the costs of 50 feet of extension per additional customer, but this refund obligation shall not exceed the amount paid to the utility; and

C. Upon completion, the main line shall become the property of the Spears Water Company, Inc.

Done at Frankfort, Kentucky this 24th day of January, 1980.

UTILITY REGULATORY COMMISSION


Chairman


Vice-Chairman


Commissioner

ATTEST:

Secretary