

COMMONWEALTH OF KENTUCKY
BEFORE THE UTILITY REGULATORY COMMISSION

* * * * *

In the Matter of:

APPLICATION AND NOTICE OF)
OLDHAM COUNTY WATER DISTRICT)
FOR APPROVAL OF INTERIM RATES;)
FOR APPROVAL OF PERMANENT RATES;)
ORDER AUTHORIZING LONG TERM) CASE NO. 7798
FINANCING; CERTIFICATE OF CON-)
VENIENCE AND NECESSITY; AND)
PERMISSION TO FILE PERMANENT)
RATE AND TARIFF INFORMATION)
AFTER BIDS ARE RECEIVED)

O R D E R

On December 18, 1980, the Commission ordered Oldham County Water District, hereinafter referred to as the District to appear at the Commission's offices on January 22, 1981, and show cause, if any it could, why it should not be fined the maximum penalty provided in KRS 278.990 for failure to obey prior Commission orders requiring it to file a proposed plan to refund certain monies collected under rates in excess of those approved by this Commission for the period October 1, 1979, through July 1, 1980.

Thereafter, on January 6, 1981, the District submitted its "Plan for Reimbursement." While the entire amount overcharged is \$136,456.28, the District's proposed plan provides for the District to refund, by a credit on future bills, \$71,515.09, the difference between the rates proposed in Case No. 7390 and placed into effect October 1, 1979, and those approved by the Commission on July 2, 1980, in the above-styled case, plus interest at the rate of 8% per annum. The District proposed to hold the remaining \$64,941.19 (excluding interest) until such time as the Franklin Circuit Court issues its Order in Civil Action No. 80-C1-0136, Oldham County Water District's appeal of the Commission's decision in Case No. 7390.

The hearing was held as scheduled with the two parties intervening in the matter, the City of LaGrange, Kentucky, and the Attorney General's Division of Consumer Intervention being present.

Discussion and Findings

Between January 10, 1980, and January 22, 1981, the Commission twice ordered the Company to file a plan of refund. The Commission clearly gave the District every possible chance to file said plan when it granted the District's request for an extension of time to file its proposed plan to refund. The District totally disregarded the time frame set out by the Commission, however, and in fact did not file the plan until ordered to show cause, if any it could, why it should not be fined. Such flagrant, lack of cooperation and disregard for Commission orders should appropriately result in the maximum fine possible. The Commission does recognize, however, that the appropriate and the practical implications of an action are sometimes at odds. In the District's case, the appropriate action would only result in harm to the customers of the District who would ultimately bear the brunt of the fine.

The Commission, therefore, FINDS that to protect the customers of the District, a fine is not in the public interest and should not be levied.

The Commission does not expect this decision to be taken as a ruling in favor of the Company's failure to comply with the Commission's orders. Moreover, the Commission stresses to the Company that it will not tolerate any future lack of disregard for its orders whether such actions are deliberate or due to the negligence of management.

The Commission further FINDS that:

1. The District failed in Civil Action No. 80-C1-0136 to request injunctive relief as provided in KRS 278.410(3) and is, therefore, immediately liable for the entire amount of the overcharges.
2. The total amount of Oldham County Water District's overcharges is \$136,456.28.
3. The refund plan filed by Oldham County Water District, does not provide for refund of the entire liability and should, therefore, be rejected.

4. The refund of the entire \$136,456.28 within 60 days as set out in KRS 278.190 would place the District in a grave financial position.

Based upon the above-stated findings, it is hereby ORDERED that Oldham County Water District shall not be fined under KRS 278.990.

IT IS FURTHER ORDERED that the District's plan of refund is hereby rejected.

IT IS FURTHER ORDERED that the District shall refund to its customers over the next eight (8) months the entire \$136,456.28.

IT IS FURTHER ORDERED that said refund shall be made by credits on customers bills and shall bear interest at the rate of 10% per annum.

IT IS FURTHER ORDERED that within twenty (20) days of completion of the refund, the District shall provide the Commission with a schedule setting out the amounts refunded to each customer.

Done at Frankfort, Kentucky, this 20th day of February, 1981.

UTILITY REGULATORY COMMISSION

Did not participate
Chairman

James H. ...
Vice Chairman

Mary Ray Oaken
Commissioner

ATTEST:

Secretary