

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of

AN ADJUSTMENT OF RATES OF THE )  
MUHLENBERG COUNTY WATER )  
DISTRICT NO. 1 )

CASE NO. 8189

O R D E R

On March 27, 1981, Muhlenberg County Water District No. 1 ("District"), by counsel, filed its Petition (Application) seeking an adjustment of rates. On July 22, 1981, the District, by counsel, filed a Motion and accompanying Affidavit requesting a continuance of the hearing which had been scheduled for July 29, 1981, and an indefinite extension of time to allow the District to amend the Application. The Affidavit stated that the District had ceased to operate its water treatment plant and had begun to purchase water from Muhlenberg County Water District No. 2 in order to serve its customers. The supporting Affidavit of Russell L. Croley, Jr., Assistant Muhlenberg County Attorney, pointed out that the information and schedules submitted with the Application were now obsolete because of the discontinuance by the District of the use of its water treatment plant.

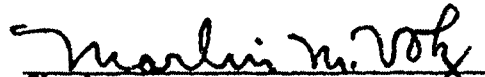
The Commission, by Order entered July 22, 1981, sustained the Motion of the District and continued the hearing scheduled July 29, 1981.

The Commission, recognizing the fact that the five months have elapsed from the time the Application was filed and considering the time constraints set forth in KRS 278.190 and the requirements of 807 KAR 5:001E, Section 6 and Section 9, and being advised, is of the opinion and finds that the Application should be dismissed without prejudice.

IT IS THEREFORE ORDERED That the Application of Muhlenberg County Water District No. 1 be and it hereby is dismissed without prejudice.

Done at Frankfort, Kentucky, this 1st day of September, 1981.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

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Secretary

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of

THE COMPLAINT OF UNITED GOSHEN HOME- ) CASE NO.  
OWNERS AGAINST GOSHEN UTILITIES, INC. ) 8151

ORDER DENYING REHEARING

On August 14, 1981, the United Goshen Homeowners ("Homeowners"), complainants in the above-styled action, filed an application for rehearing of this Commission's Orders issued on July 27 and August 10, 1981. Therein, the Homeowners argue that the Commission erred in (1) failing to accept every adjustment in the test year expenses of Goshen Utilities as advocated by the Homeowners, and (2) the Commission erred by not responding to each and every "motion" proposed by the Homeowners in a pleading submitted July 6, 1981. The Commission will respond to the latter alleged "error" first.

We begin by noting that a regulatory agency is not required to respond to every item raised in a proceeding by an applicant. 1/ This is especially true where the "applicant" is also a complainant having the burden of proof before such agency. 2/ However, for the sake of clarity (and perhaps

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1/ U.S. v. Pierce Auto Freight Lines, 327 U.S. 515, 90 L.ed. 821 (1946); Mackay Radio Telegraph Co. v. Federal Communications Commission

2/ Energy Regulatory Commission v. Kentucky Power Co., Ky. App., 605 S.W.2d 46 (1980)

finality) in this matter, the Commission will specifically address the remaining motions filed by the Homeowners on July 6, 1981. It was the understanding of the Commission that the voluminous deposition taken between the parties prior to the hearings (and prior to our approval to even take such deposition) was verbally approved by the Commission during the subsequent hearings in this matter. However, to avoid researching the 350 page transcript in this matter, the Commission will simply grant the motion for inclusion of the deposition into the official record of this case. The Commission hereby denies the Homeowners' "second" motion which was to strike the entire statement of operations of Goshen Utilities from the record. The Commission's Order of July 27, 1981, found many of Goshen's operation expenses to be reasonable, and, thus, the Homeowners have failed in their burden of proving that the entire statement of operations should be stricken. Goshen's third "motion" was for a ruling that the "Homeowners' pleadings constitute a valid complaint in this matter." The very title of this action in Case No. 8151, 3/ should have made it perfectly clear that the Commission treated the Homeowners' pleading as a valid complaint. However, the Commission hereby rules that the pleadings of the Homeowners constitute a "valid complaint." The last motion that the Homeowners request a specific ruling on is that Goshen violated the provisions of K.R.S. 278.020(1) by failing to get a certificate of public convenience and necessity for (a) Goshen's purchase of Cardinal

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3/ "The Complaint of United Goshen Homeowners Against Goshen Utilities, Inc." (Emphasis supplied).

Harbour Sanitation, (b) Goshen's purchase of Harmony Lake, and (c) Goshen's commencement of its 1979 expansion program. In regard to points (a) and (b) recited above, the Commission points out that no certificate under K.R.S. 278.020 is required for the purchase of additional assets by a utility. That part of Motion No. 7 is, accordingly, denied. However, the Commission agrees that Goshen should have obtained prior certificate approval before engaging in its 1979 expansion program. The Commission, therefore, admonishes Goshen Utilities that any further such expansion without prior certificate approval may subject the utility to the penalty provisions of K.R.S. 278.990.

We now return to the Homeowners' contentions that the Commission's conclusions regarding a proper rate for Goshen to charge from July 27, 1981, forward were erroneous. After review of these arguments, the Commission is of the opinion and so finds that these arguments represent nothing more than a re-argument of the Homeowners' position throughout the hearings. No additional evidence has been presented by the Homeowners to warrant this Commission's reconsideration of its original opinion under the provisions of K.R.S. 278.400.

For all of the above-stated reasons, the application for rehearing filed by United Goshen Homeowners, be, and hereby is, denied.

Done at Frankfort, Kentucky this 2nd day of September,  
1981.

PUBLIC SERVICE COMMISSION

Marlin M. Voh  
Chairman

Did not participate  
Vice Chairman

Jim Havigan  
Commissioner

ATTEST:

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Secretary