

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE KENTUCKY PUBLIC SERVICE COMMISSION)
))
 VS.) CASE NO. 8813
))
TOTZ WATER SUPPLY)

O R D E R

On January 12, 1983, this Commission mailed to the Totz Water Supply ("Totz") a written request for information on the operations of domestic water service facilities at Totz in Harlan County, Kentucky. Totz did not respond to this Commission's request for information and the matter was set for hearing on May 6, 1983.

The Commission, having been advised that Totz would be unable to appear at the hearing scheduled May 6, 1983, cancelled the hearing. The case was generally continued subject to further investigation by this Commission.

Commentary

The following information was taken from an investigation of Totz done by this Commission on June 23, 1983:

Totz is located approximately 13.5 miles from the Harlan city limits West on Highway 522. The water distribution system serves eight homes of the Totz community. The source of supply

is a one-half acre reservoir located on the North side of Pine Mountain. This reservoir is located on land owned by Mr. Clyde Bennett.

Mr. Bennett does not charge for the water that flows from his reservoir into the Totz distribution system. The Totz residents do not pay Mr. Bennett for the water they consume nor do they pay Mr. Bennett any maintenance fees. The customers of Totz take equal responsibility for the repair and upkeep of this distribution system.

Opinion and Order

The Commission, after consideration of the evidence and being advised, is of the opinion and finds that:

1. The Totz Water Supply distribution system is owned, operated and maintained by the eight residents of Totz being served by said system.

2. KRS 278.010 states:

(2) "Person" includes natural persons, partnerships, corporations, and two or more persons having a joint or common interest;

(3) "Utility" means any person except a city, who owns, controls or operates or manages any facility used or to be used for or in connection with:

* * *

(d) The diverting, developing, pumping, impounding, distributing or furnishing of water to or for the public, for compensation;
(Emphasis added.)

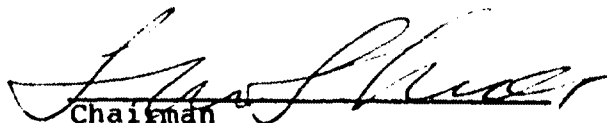
Totz should not be classified as a utility under KRS 278.010 since it receives no compensation for the water.

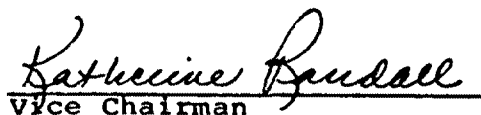
3. Mr. Clyde Bennett is the owner of the mountain reservoir that is the source of supply for the Totz water distribution system. Mr. Bennett is not compensated by the residents of Totz for their use of the water that flows from his reservoir. Mr. Bennett should not be classified as a utility under KRS 278.010.

IT IS THEREFORE ORDERED that Totz shall not be subject to the jurisdiction of this Commission as long as its ownership and operating procedures are substantially in accordance with the findings of this Order.

Done at Frankfort, Kentucky, this 16th day of September, 1983.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Secretary