

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

THE APPLICATION OF TODD)
COUNTY WATER DISTRICT FOR) CASE NO. 8943
AN INCREASE IN RATES TO)
BE CHARGED FOR WATER SERVICE)

O R D E R

On July 13, 1984, the Public Service Commission ("Commission") issued an Order setting a wholesale rate of \$1.02 per 1,000 gallons to be charged by Todd County Water District ("Todd County") to its wholesale customer, the City of Elkton ("Elkton"). On July 30, 1984, Todd County and Elkton filed a Joint Motion for Reconsideration and Rehearing with respect to its wholesale rate and certain matters set forth in the Commission's Order in Case No. 8943.

On August 9, 1984, the Commission received a letter from Farmers Home Administration addressing the Water Purchase Contract between Todd County and Elkton. The Commission has decided to treat the letter as a Motion for Reconsideration in this Order.

Water Purchase Contract

In the motion for reconsideration and rehearing, it was noted that the Order in Case No. 8943 stated that the water purchase contract had not been approved by the Commission. In support of the petition a water purchase

contract was attached to the motion. The contract filed with the motion is not the same contract filed as Exhibit L of Todd County's original petition filed July 19, 1979, an application of Todd County for a certificate of public convenience and necessity, approval of proposed financing and approval of proposed rates. Therefore, the Commission is correct in its statement that the water purchase contract between Todd County and Elkton has not been approved by the Commission.

Capital Cost Contributions

In the motion it is pointed out that Elkton currently pays Todd County \$63,515 annually in capital cost contributions as set forth in paragraph 4 of the water purchase contract filed with the motion. Additionally, Elkton pays a 10 percent reserve contribution which amounts to \$6,352 annually, as set forth in paragraph 5 of the water purchase contract between Todd County and Elkton. The motion further states that the Commission must have "...totally ignored the massive contribution being made by the city of Elkton over and above the rate per 1,000 gallons and must have been totally overlooked by oversight or error." The Commission does not concur with Todd County and Elkton's position. The Commission was fully aware of the contribution to debt service made by Elkton and consideration was given to that in determining the total revenue requirements for which the customers of Todd County are responsible, exclusive of this debt cost. Elkton agreed to pay the debt attributable

to its portion of the allocated capital cost at the rate of \$63,500 to be applied to principal and interest incurred in building the water intake structure, raw water transmission line and pumps, water treatment facility, additional line supply capacity and master meter. In addition to the aforementioned agreement, the contract also provides for a "cost per thousand gallons" with Elkton bearing its fair share of the operation and maintenance expenses. It is, therefore, the opinion of the Commission that the rate of \$1.02 per 1,000 gallons, based on Elkton's fair share of operation and maintenance expenses, is the fair, just and reasonable rate to be charged to Elkton exclusive of the capital contribution. Therefore, the Commission denies the petition for rehearing on this issue.

Jurisdiction of the Commission

In the motion, it was submitted that, notwithstanding the position and control of the Commission over Todd County, the Commission has no direct control over Elkton, and should not be in the position to control, cancel, or disrupt an arm's-length transaction between Todd County and Elkton. It was further noted that the Order in Case No. 7519 recognized special contract customers being excepted from the rates to be adjudged by the Commission.

The Commission does not concur with Todd County and Elkton's contention on this issue. The Order in Case No. 7519 does not state that special contract customers are excepted from rates to be adjudged by the Commission. The

Commission has jurisdiction over all rates charged by Todd County pursuant to KRS 278.040 (2). Further, the Commission is legally responsible to monitor all rates charged by utilities under its jurisdiction. Granted, Elkton is not regulated by the Commission, but since Todd County is selling water to Elkton it is the Commission's responsibility to regulate the rate charged Elkton by Todd County. Therefore, the Commission denies the petition for rehearing on this issue.

Status of Water Purchase Contract

Todd County and Elkton contend that if the water purchase contract is declared void and terminated by action of the Commission requiring Elkton to pay Todd County \$1.02 per 1,000 gallons, Todd County would be unable to operate financially. In its Order, the Commission did not declare the water purchase contract void, invalid and of no consequence, but merely stated that all rates and charges must be approved by the Commission regardless of what a particular contract may say. The Commission further concluded that the rate of \$1.02 per 1,000 gallons is the fair, just and reasonable rate to be charged to Elkton. Had the Commission intended to deviate from the purchase water contract, the usage rate charged Elkton would have included capital costs for which Elkton is responsible and would thus have exceeded the usage rate approved. Therefore, the Commission denies rehearing on this issue.

FINDINGS AND ORDERS

The Commission, after consideration of the evidence of record and being advised, is of the opinion and finds that for all reasons previously discussed Todd County and Elkton's Joint Motion for Reconsideration and Rehearing should be denied in total as specified in the above sections of this Order.

IT IS THEREFORE ORDERED that Todd County and Elkton's Joint Motion for Reconsideration and Rehearing be and it hereby is denied in total as previously indicated.

Done at Frankfort, Kentucky, this 17th day of August, 1984.

PUBLIC SERVICE COMMISSION

Richard D. Herman
Chairman

Richard D. Dyer
Vice Chairman

James H. Shull
Commissioner

ATTEST:

Secretary