

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF FRIENDLY )  
UTILITIES, INC., D/B/A FRIENDLY )  
HILLS EAST SEWER SYSTEM FOR A )  
RATE ADJUSTMENT PURSUANT TO THE ) CASE NO. 9129  
ALTERNATIVE RATE FILING PROCEDURE )  
FOR SMALL UTILITIES )

O R D E R

On May 27, 1986, Friendly Hills East Neighborhood Association ("Neighborhood Association"), an intervenor, filed a motion requesting the Commission to grant a rate refund based on an allegation that Friendly Utilities, Inc., ("Friendly Utilities") had charged its customers excessive sewer rates. Neighborhood Association states that the Commission issued an Order on March 22, 1985, authorizing Friendly Utilities to charge higher rates. Subsequently, the Commission was notified by the Neighborhood Association that Friendly Utilities had failed to properly notify its customers of the pending rate request. The Commission then required Friendly Utilities to comply with the statutory notice requirements and held a hearing to afford the Neighborhood Association an opportunity to present evidence. By Order issued May 7, 1986, the Commission reduced the rate increase previously granted to Friendly Utilities. Neighborhood Association requests refunds equal to the amount by which the rates approved on March 22, 1985, exceeded the rates approved on May 7, 1986.

On June 9, 1986, Friendly Utilities filed an objection to the Neighborhood Association's motion requesting refunds. Friendly Utilities states that it acted in good faith in utilizing newspapers to comply with the Commission's requirements that customers be advised of requests for rate increases and the procedures to intervene. It was not until after the Commission had issued its rate Order on May 22, 1985, that Friendly Utilities was advised that it must notify each sewer customer in writing of an application for a rate change. Friendly Utilities further alleges that the revenue produced by the higher rates approved on March 22, 1985, was used to pay its current obligations and any refunding would cause an undue financial hardship. Friendly Utilities states that it should not be further penalized for the extended time period needed by the Commission to investigate its rate application.

Based on the motion and objection thereto, the evidence of record and being advised, the Commission is of the opinion and hereby finds that due to the lack of proper notice, the Neighborhood Association did not have the opportunity to present its case to the Commission prior to the issuance of the Commission's Order on March 22, 1985.

The failure to insure that proper notice is given is the responsibility of Friendly Utilities as well as the Commission. The notice requirement for sewer utilities should not be a surprise to Friendly Utilities or its owners. At the time this case was filed, September 7, 1984, 807 KAR 5:076 - The Alternative Rate Adjustment for Small Utilities - had been in effect for over 2

years, since April 7, 1982. KRS 278.185 - The Notification to Customers of Proposed Rate Changes by Sewerage Corporations had been in effect for over 5 years, since April 1, 1979.

Had the Neighborhood Association been allowed to intervene at an earlier date the Commission is persuaded that it would have presented the same evidence that it presented at the rehearing of this case. The obvious result of such earlier intervention would be that the ultimate rate increase of \$14,526 granted Friendly Utilities on May 7, 1986, would have been the amount granted in the Commission's original rate Order dated March 22, 1985.

Friendly Utilities' use of the revenue produced by the rates granted March 22, 1985, is irrelevant to this proceeding. The expenses reportedly incurred since that time have not been analyzed by the Commission as to their validity or their reasonableness. In addition, the Commission does not find that Friendly Utilities will be penalized by the extended time period required to resolve this matter. Regardless of whether excess revenues were collected for one month or for one year, those revenues--and only those revenues--should be refunded to the customers from which they were collected.

In summary, the Commission finds that the rates granted in its Order of March 22, 1985, produced excessive revenues in the amount of \$8,709 annually, and that Friendly Utilities should refund the excess collected between March 22, 1985, and May 7, 1986. Since the excess rates were charged for approximately 12 months the Commission finds that the refund should be accomplished by a credit to customers' bills for 12 months with such credit

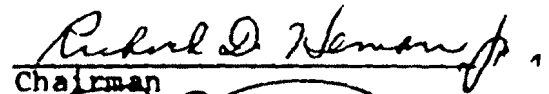
calculated to return to customers the full amount overcollected by the rates granted March 22, 1985.

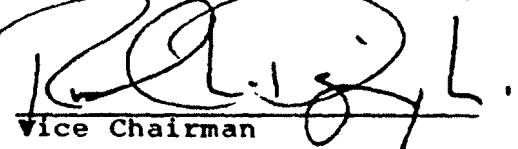
IT IS THEREFORE ORDERED that Neighborhood Association's motion for a refund be and it hereby is granted and Friendly Utilities shall refund to its customers the excess amounts by which the rates approved on March 22, 1985, exceed the rates approved on May 7, 1986.

IT IS FURTHER ORDERED that within 20 days of the date of this Order Friendly Utilities shall submit a refund plan showing the calculation of excess revenues collected during the time the rates granted March 22, 1985, were in effect. This plan should indicate the amounts to be credited to customers' bills, the length of time--not to exceed 12 months--that the credits will appear on customers' bills and the date, subject to Commission approval of the plan, that the credit billings will begin.

Done at Frankfort, Kentucky, this 16th day of June, 1986.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

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Secretary