

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF HUNTERS HOLLOW SEWER)
SYSTEM FOR A RATE ADJUSTMENT PURSUANT TO)
THE ALTERNATIVE RATE FILING PROCEDURE) CASE NO. 89-272
FOR SMALL UTILITIES)

O R D E R

On October 12, 1990, the Hillview Citizens League ("Citizens") filed a motion for reconsideration and intervention in this proceeding. The Citizens, twenty-six customers of Bullitt Utilities, Inc. d/b/a Hunters Hollow Sewer System ("Hunters Hollow"), submitted individual affidavits stating that they never received any written or verbal notification from Hunters Hollow that an application for a rate increase had been filed with the Commission, nor were they notified of their right to intervene and to request a public hearing in the proceeding. Accordingly, the Citizens requested the Commission to reopen this case due to failure on the part of Hunters Hollow to comply with the legal requirements governing notification to customers of a proposed rate increase. The Citizens further requested the Commission to grant them the right to intervene in this proceeding and to present evidence that the rates established in the Commission's Order of May 16, 1990 are excessive and unfair.

This rate proceeding was filed with the Commission by Hunters Hollow on September 26, 1989. In its application, Hunters Hollow

reported a total of 178 customers. On October 9, 1989, the Commission notified the utility that its filing was deficient in that the language in the notice to its customers of the proposed rate increase did not comply with Commission regulations. In telephone conversations with Commission Staff members, the owner of Hunters Hollow, Carroll F. Cogan, was further notified that notice by publication in a newspaper was not sufficient, and that the utility must individually mail notice to customers pursuant to KRS 278.185. On October 25, 1989, the Commission received a letter from Carroll F. Cogan which stated that notice of the proposed rate increase was individually mailed to all customers of Hunters Hollow on October 18, 1989. Attached to Mr. Cogan's October 25, 1989 letter was a letter from Lucky Letter Service, Inc., which stated that the company had mailed notice of the proposed rate change to the customers of Hunters Hollow on October 18, 1989. Attached to that letter was a copy of the notice itself. In content, the revised notice complied with Commission statutes and regulations, informing customers of the proposed rate increase and of their right to intervene in the proceeding.

There were no requests for intervention in this proceeding, although one letter of protest was filed by a customer of Hunters Hollow. Staff issued its report on March 27, 1990, recommending that Hunters Hollow be authorized to increase its annual operating revenues by \$24,725. In its application, Hunters Hollow had requested an increase of \$32,574.

After reviewing the record, the Commission finds that, given the relatively high percentage of Hunters Hollow customers who

allege that they did not receive notice, conflicting evidence exists as to whether notice was given pursuant to the requirements of KRS 278.185 and 807 KAR 5:076, Section 3, which require a sewer utility to notify all of its customers by mail when submitting an application for a rate change.

Although the Citizens styled their petition as a motion for reconsideration and intervention, they do not meet the requirements for reconsideration set out in KRS 278.400, in that the Citizens were neither a party to the original proceeding nor did they file for rehearing within the specified 20 days after issuance of the Commission's May 16, 1990 Order.

Therefore, on its own motion and being otherwise sufficiently advised, the Commission HEREBY ORDERS that:

1. This proceeding is hereby reopened pursuant to KRS 278.390 for the limited purpose of determining the factual issue of whether the notice given to Hunters Hollow's customers was in compliance with KRS 278.185.

2. The citizens are granted full intervention to the extent necessary to make the determinations to the sufficiency of Hunters Hollow's notice.

3. Mrs. Steven M. Mattingly, Director of the Hillview Citizens League, is hereby appointed spokesperson for the Citizens. As spokesperson, Mrs. Mattingly shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties.

4. Hunters Hollow shall file the original and eight copies of the following information with the Commission with a copy to all parties of record no later than November 20, 1990. If the information cannot be provided by this date, Hunters Hollow should submit a motion for an extension of time stating the reason a delay is necessary and include a date by which it will be furnished. Such motion will be considered by the Commission. Hunters Hollow shall furnish with each response the name of the witness who will be available to respond to questions concerning each item of information requested should a public hearing be scheduled.

1. Provide a list of names and addresses of all customers of Hunters Hollow.

2. Provide the list of customer names and addresses which was provided to Lucky Letter Service, Inc. for the purpose of notifying said customers of the proposed rate increase.

3. Provide a copy of the bill or invoice from Lucky Letter Service, Inc. which itemizes the number of letters sent.


4. Provide all information to support Hunters Hollow's assertion that notice was given to all customers, including the 26 petitioners herein, in accordance with KRS 278.185. If it is necessary to acquire this information from Lucky Letter Service, Inc., Hunters Hollow shall do so.

Done at Frankfort, Kentucky, this 5th day of November, 1990.

ATTEST:


Executive Director

PUBLIC SERVICE COMMISSION


For the Commission