

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ROBERT C. JONES,)	
)	
COMPLAINANT)	
VS.)	CASE NO.
)	90-312
BENNY JONES WATER SUPPLY,)	
)	
DEFENDANT)	

O R D E R

This matter is before the Commission on a complaint by Robert C. Jones filed October 3, 1990 against Benny Jones Water Supply ("Jones Water"). The complaint charges that Jones Water has threatened to terminate service to property owned by Robert C. Jones if the property is sold. On October 29, 1990, the Commission, by Order, directed Jones Water to file a written answer to the complaint, and in accordance with that Order, an answer was filed on November 15, 1990. The answer neither admitted nor denied the charges in the complaint, and on January 9, 1991, an investigation was made of Jones Water by a utility investigator employed by the Commission. By Order entered March 18, 1991 and served by mail on both parties, a hearing on the complaint was held before the Commission on May 17, 1991. At the hearing, Benny Jones appeared as the owner of Jones Water. Robert C. Jones, the complainant, did not appear.

FINDINGS OF FACT

Jones Water operates a small water system along Lake Cumberland in Wayne County from which it distributes treated water for compensation. The system has approximately 47 customers comprised of 25 permanent homes, 21 mobile homes and a marina. The water system consists of a submersible pump used to pump water from Lake Cumberland, a chlorinator, a 100-gallon pressure storage tank, a booster pump, a sand filter, a 14,000-gallon clear well, two storage tanks, and approximately two miles of water line. The system is located above Beaver Creek Marina on Lake Cumberland and, in addition to the marina, serves a small subdivision and a mobile home park. The closest other water line terminates approximately five miles away and is owned by the city of Monticello.

Jones Water was acquired by Benny Jones in 1973 at a public auction. Benny Jones bought the system to obtain a water supply for the marina, which he had built a year earlier on property leased from the U.S. Corps of Engineers. When he purchased the system, it was serving the mobile home park, some cottages which Benny Jones owned, as well as the residences in the subdivision. Since purchasing the system, the cottages are no longer operational and the number of customers has declined. However, the volume of water treated and distributed through the system has substantially increased.

The marina, which is the largest customer of Jones Water, accounts for the increase in volume. When the system and the marina were built, the marina was a small operation. However,

approximately nine years ago, Benny Jones sold the marina and the new operator expanded its operations so that it now consumes approximately five times the volume of water that it was consuming under Benny Jones. Much of the volume is attributable to an increased number of houseboats that use the marina and rely upon it as a source for their water. The system itself is often unable to keep up with the demand and, on occasion, water has been pumped through the system faster than it can be treated properly. This has resulted in Jones Water being cited for excessive turbidity by the Division of Water of the Natural Resources and Environmental Protection Cabinet.

Customers on the water system are not charged a metered rate according to their volume of use. Instead, each residential customer in the subdivision pays an annual rate of \$125 and the marina pays an annual rate of \$600. The mobile home park is owned by Benny Jones and there is no separate charge made for the use of water by persons living in the park.

The inability of the water system to keep up with the increase in demand prompted Benny Jones to inform each customer in writing on June 14, 1990 that if they sold their homes, the buyer "should be informed that they will need to furnish their own water." It was on the basis of this notice that Robert C. Jones filed his complaint. Since the letter was written, no service, however, to any customer has been terminated nor has anyone been denied service.

CONCLUSIONS OF LAW

Jones Water is a public utility operating under the jurisdiction of this Commission. It has long been recognized in this state that public utilities are "bound to serve the public with substantial impartiality, and may be compelled to supply, without discrimination, similar facilities to all who are in similar circumstances." 233 Ky. 68, 24 S.W.2d 928, 930 (1930). In other words, the most important obligation of a public utility is to serve all who seek service. Anyone who begins a utility service is required to extend that service equally and impartially to all within the utility's service area. This duty also includes the obligation to anticipate future needs and make preparations to meet increases in demand that are reasonably foreseeable.

In exchange for assuming this obligation, public utilities have the right to charge fair and reasonable rates for the services they render and to impose reasonable conditions under which those services will be rendered. Fair and reasonable rates are compensatory rates that are designed to allow a utility to recover the revenue it requires to stay in business and to meet the demands of its customers. This refers not only to the recovery of expenses but includes compensation to the owners in the form of a reasonable return on their investment. Commonwealth, ex rel. Stevens v. South Central Bell Telephone Company, 545 S.W.2d 927, 930 (Ky. 1976).

As a public utility, Jones Water is thus obligated to serve its current customers, and to furnish service to new customers where such new service is a reasonable extension of its existing

service. This obligation includes the duty to furnish potable water that meets all quality standards prescribed by law. However, its rate structure and its method of operation severely limit the ability of Jones Water to meet its obligations. Therefore, Jones Water should be required to formulate a written plan to bring its operations into full compliance with the law and to ensure its present and future customers of an adequate supply of water at a fair and reasonable rate.

IT IS THEREFORE ORDERED that:

1. Jones Water shall continue to offer water utility service in accordance with all applicable statutes and regulations to all customers it is currently supplying and to furnish service to new customers where such service constitutes a reasonable extension of existing service.

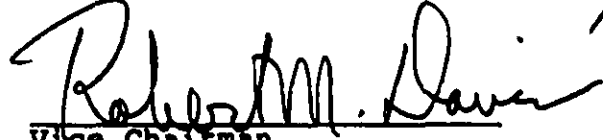
2. Jones Water shall, within 60 days from the date of this Order, present to this Commission, in writing, detailed plans for operation of its system in a manner that will reasonably assure all present and future customers of an adequate supply of water furnished in compliance with all applicable standards and regulations.

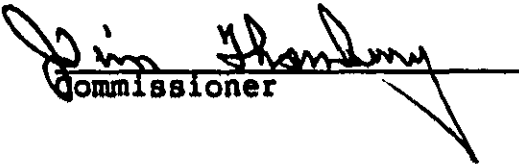
3. The plan of operation shall include, but not be limited to, a proposed rate structure designed to allow Jones Water to recover the revenue it will require to maintain its operations and proposals for modifying and expanding the plant to meet both the present demand for services, as well as reasonably foreseeable demands in the future.

Done at Frankfort, Kentucky, this 17th day of June, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director