

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DORIS HORN AND J. W. HENDERSON, ET AL.)	
)	
COMPLAINANTS)	
)	
VS.)	CASE NO.
)	91-032
ESTILL COUNTY WATER DISTRICT NO. 1)	
ARCHIE MCINTOSH, DAN ROSE, JAMES SONS)	
)	
DEFENDANTS)	

O R D E R

This matter arising upon motion of the Defendants, Estill County Water District No. 1, Archie McIntosh, Dan Rose, and James Sons (collectively "Water District") filed October 7, 1991 to strike the list of witnesses and exhibits filed by the Complainants on the grounds that it does not contain a brief narrative statement of the testimony expected from each witness and to dismiss the complaint on the grounds that it does not state a cause of action, and appearing to this Commission as follows:

By Order dated August 9, 1991, the parties were directed to file all exhibits and a narrative summary of each witness's testimony on or before October 1, 1991. In compliance with that Order, the Complainants, on September 30, 1991, filed a list of the persons they intended to call as witnesses together with the documents they intended to rely upon in support of their complaint. Although the list of witnesses did not contain a

narrative summary of their testimony, it did provide the subject matter upon which they would be asked to give evidence. Thus, the allegation in support of the motion to strike that the Water District is unable to prepare a defense to the complaint because it does "not know what the witnesses will say," is without merit. Furthermore, at the conclusion of the evidence presented by the Complainants on November 1, 1991, the hearing was adjourned to December 11, 1991 to allow the Water District an opportunity to prepare a defense. Therefore, any prejudice to the Water District by reason of the Complainants' failure to comply with the earlier Order was nullified by the adjournment.

The motion to dismiss repeats an earlier motion filed by the Water District on September 25, 1991. By Order entered October 1, 1991, the motion was denied. The Water District has alleged no new or additional grounds upon which to dismiss the complaint and, therefore, this motion should also be denied.

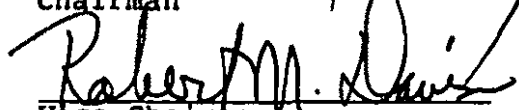
This Commission being otherwise sufficiently advised,

IT IS ORDERED that the Water District's motion to strike and its motion to dismiss be and are hereby denied.

Done at Frankfort, Kentucky, this 11th day of December, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

ATTEST:


Executive Director

Commissioner