

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION INTO ALLEGED UNAUTHORIZED )  
CHARGES OF BULLITT HILLS, INC. D/B/A ) CASE NO. 91-167  
HUNTERS HOLLOW SEWER SYSTEM )

O R D E R

On May 30, 1991, the Commission initiated this investigation to determine whether Bullitt Utilities, Inc. d/b/a Hunters Hollow Sewer System ("Hunters Hollow") collected connection fees from certain customers which were not authorized by the Commission. Specifically, the Commission had received information that Hunters Hollow had charged connection fees to customers tying on to a new sewer main extension to South Louisville Industrial Park and Terrace Gardens Condominiums. The extension was built at the expense of the developer of the industrial park and condominiums.

KRS 278.160 requires a utility to "file with the commission . . . schedules showing all rates and conditions for service established by it and collected or enforced." The statute further states:

No utility shall charge, demand, collect or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules.

This proceeding was initiated to determine whether the alleged connection charges were indeed made and, if so, whether the

charges were approved charges prescribed in Hunters Hollow's tariff.

The Commission's May 30, 1991 Order directed Hunters Hollow to provide additional information concerning the charges collected. Hunters Hollow responded to the Commission's Order on July 1, 1991. In its response, Hunters Hollow stated that South Louisville Industrial Park and Terrace Gardens Condominiums are both developments outside the original Hunters Hollow Subdivision development. The sewer extensions installed to serve these areas are currently owned by South Louisville Industrial Park, and will be deeded to Hunters Hollow when the utility determines that all construction has been substantially completed. Hunters Hollow stated that no tap fees or charges had been assessed to customers for connecting to the new sewer extension; however, since Hunters Hollow does have an arrangement with South Louisville Industrial Park to treat the domestic waste from the outside developments, and since Hunters Hollow does not want the usage of this capacity to affect the rate paid by any customer of the utility, Hunters Hollow charged each new customer from the outside developments a "contribution in aid of construction" in exchange for providing waste treatment plant capacity. These contributions in aid of construction have been or will be used to upgrade existing facilities or increase capacity as necessary to enable the outside developments to receive service without affecting rates charged to existing customers. The new customers from outside developments are also charged the regular monthly sewer rate currently authorized by the Commission.

Hunters Hollow identified the following as that section of its tariff which authorizes it to collect these contributions in aid of construction:

The charges for connections made for the purpose of land development or for any party that will not be committed to the payment of a monthly rate in accordance with the established rate schedule as approved by the Public Service Commission are subject to negotiation between the Utility and the party requesting the connection. Any such connection that will affect the rate paid by any consumer of this utility shall be subject to the approval of the Public Service Commission.

Hunters Hollow interprets this provision as permitting it to negotiate a connection charge with parties not committed to the payment of a monthly rate, as long as the connection will not affect the rate paid by other consumers of the utility.

Hunters Hollow stated in its July 1, 1991 response that as the contribution in aid of construction was negotiated between the utility and the party requesting the connection, who was not then committed to the payment of a monthly rate, the charge was not subject to the approval of the Commission. However, inasmuch as it appears from Hunters Hollow's July 1, 1991 response that several of the parties charged the contribution in aid of construction are customers of the utility, committed to the payment of a monthly rate, the Commission finds that a prima facie showing has been made that Hunters Hollow has violated KRS 278.160 by charging customers contributions in aid of construction which are not authorized by its tariff and which have not been approved by the Commission.

**IT IS THEREFORE ORDERED that:**

1. Hunters Hollow shall appear at a hearing scheduled for October 17, 1991 at 9:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, and be prepared to show cause why Hunters Hollow should not be penalized pursuant to KRS 278.990 for violation of KRS 278.160.

2. Hunters Hollow shall immediately cease and desist charging customers contributions in aid of construction which are not set out in its currently effective tariff.

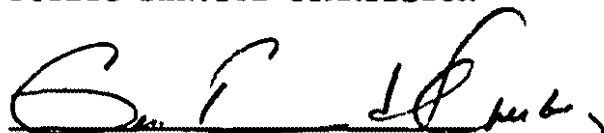
3. Hunters Hollow shall submit a written response to all allegations contained herein within 20 days of the date of this Order.


4. Hunters Hollow shall appear at an informal conference scheduled for October 3, 1991 at 10:00 a.m., Eastern Daylight Time, in Conference Room 2 of the Commission's offices for the purpose of discussing the matters at issue in this proceeding.

5. Hunters Hollow shall notify the customers listed in paragraph 1 of its July 1, 1991 response of the hearing scheduled herein and of their right to intervene in this proceeding by mailing a copy of this Order to the customers no later than September 15, 1991.

Done at Frankfort, Kentucky, this 9th day of September, 1991.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

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Commissioner

ATTEST:

  
Executive Director