

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

FOREST HILLS DEVELOPERS, INC.)	
_____)	
ALLEGED VIOLATION OF KRS 278.160)	CASE NO. 93-182

O R D E R

On May 14, 1993, the Commission ordered A. B. Schlatter as president of Forest Hills Developers, Inc. ("Forest Hills") to appear before the Commission and show cause why Forest Hills should not be penalized pursuant to KRS 278.990 for failing to comply with KRS 278.160. The same Order also directed Forest Hills not to charge or collect any rates that are not reflected in its tariff on file with the Commission. A hearing on the issue was held before the Commission on June 17, 1993 at which A. B. Schlatter appeared on behalf of Forest Hills and was represented by counsel.

At the hearing, the evidence upon which the May 14, 1993 Order was based was presented in the form of testimony and supporting exhibits by Commission staff. At the conclusion of the testimony, Forest Hills moved that the Order be dismissed. The motion was denied. The hearing was then adjourned to June 23, 1993 to allow Forest Hills an opportunity to review the evidence presented and prepare a response. Prior to the adjournment, Forest Hills was advised that the Commission expected A. B. Schlatter to testify on the matters involved in these proceedings and, if Forest

Hills chose not to present any evidence, A. B. Schlatter would be called to testify by the Commission.

The hearing was reconvened on June 23, 1993 and Forest Hills renewed its motion to dismiss. The motion was denied and Forest Hills declined to introduce any additional evidence. The Commission then called A. B. Schlatter to testify and, upon the advice of his counsel, he refused to do so.

FINDINGS OF FACT

Forest Hills is a corporation whose principal offices are in Louisville. A. B. Schlatter is its president and managing officer. Forest Hills owns and operates facilities used in the treatment of sewage for the public for compensation and is a utility subject to the jurisdiction of this Commission. As required by KRS 278.160(1), Forest Hills filed its schedule of rates and conditions of service, otherwise known as its tariff, on February 17, 1977. Since being filed, the tariff has remained in full force and effect.

The tariff filed by Forest Hills provides for four classes of service, including a class for commercial businesses. While conducting a billing analysis of Forest Hills, a member of the Commission staff was unable to reconcile the bills charged to commercial customers with the rates authorized in the filed tariff.

The Forest Hills' tariff authorizes rates for commercial customers based upon their consumption of water. On March 18, 1993, a request was made by Commission staff to Forest Hills' accountants for the water usage of those customers whose bills are

based on water consumption. The accountants responded to the request by stating that all customers of the utility are charged a flat rate for the service they receive. According to the financial records of the utility reviewed by the Commission for customers in the commercial business class, that rate varies from customer to customer and is not the minimum rate reflected in Forest Hills' tariff, nor is it divisible by the minimum rate.

CONCLUSIONS OF LAW

KRS 278.160(1) requires all utilities subject to the jurisdiction of this Commission to file with the Commission tariff schedules showing their rates and conditions of service. Subsection (2) of that section further requires utilities to charge for their services only in accordance with their filed tariffs. Charges for service which are greater or less than those permitted by the rate schedules are specifically prohibited by the statute. From the evidence presented, it does not appear that the rates being charged commercial customers by Forest Hills conform to its tariff.

On the contrary, although the tariff requires the rates charged commercial businesses be based upon their water consumption, the accountants who manage the utility's financial affairs have advised that this is not the case. Additionally, the rates being charged cannot be reconciled with the rates authorized by the tariff. Therefore, it can only be presumed that Forest Hills charges its commercial customers rates that are inconsistent with its tariff on file with the Commission. These rates,

therefore, violate KRS 278.160(2), and A. B. Schlatter, as the managing officer of the company, should be fined \$1,000 for the violation.

Additionally, Forest Hills should be directed to immediately cease charging rates which are not in accordance with its filed tariff. Further, A. B. Schlatter should be directed to appear before the Commission to explain in detail how the bills charged to Forest Hills' commercial customers were calculated.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

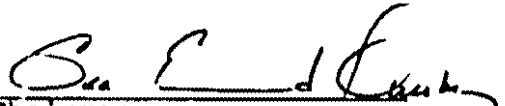
1. A. B. Schlatter be and hereby is assessed a penalty of \$1,000 for the failure of Forest Hills to comply with the provisions of KRS 278.160. A certified check in the amount assessed shall be made payable to the Kentucky State Treasurer and shall be mailed to the Office of General Counsel, Public Service Commission, 730 Schenkel Lane, Frankfort, Kentucky 40601 within 20 days of the date of this Order.

2. Forest Hills shall immediately cease charging rates which are not authorized by its schedule of rates and services on file with this Commission.

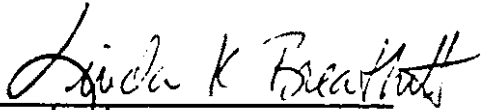
3. A. B. Schlatter shall appear before this Commission on December 13, 1993, at 9:30 a.m. Eastern Standard Time in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, to explain in detail how the bills charged to Forest Hills' commercial customers were calculated.

Done at Frankfort, Kentucky, this 9th day of November, 1993.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director