

the utilities under its jurisdiction. South Central Bell v. Utility Regulatory Commission, Ky., 637 S.W.2d 649 (1982). Therefore, the Commission cannot consider Lakewood's rates as part of this complaint. Lakewood filed a separate rate application on August 11, 1993 in Case No. 93-279.¹

The Commission scheduled a public hearing in this case on January 11, 1994. Lakewood was present at the hearing, represented by counsel. Frank Wethington, Lakewood's owner, testified on its behalf. Mr. Van Horne and William H. Doyle, of the Attorney General's Utility and Rate Intervention Division, also participated. The only intervenor, Kevin Kincaid, was not present at the hearing.

At the hearing, Mr. Van Horne testified that he had lived in Lakewood Valley Subdivision for nine months (Transcript of Evidence ("T.E."), p. 14). He produced a video, which he had recorded, showing duckweed, that the agitator was not turned on, there were no emergency numbers posted, "a hole a kid can crawl through and go in there" and "snake heaven." (T.E., p. 19). He also said he could smell the plant from his back patio three blocks away. (T.E., p. 20). He said he has seen snakes and rats at or near the property (T.E., p. 19-20). He never actually saw any rats or snakes inside the fence surrounding Lakewood. (T.E., p. 51). According to Frank Wethington, the lot adjacent to the plant belongs to someone else,

¹ Case No. 93-279, The Application of Lakewood Valley Sewer Company, Inc. for an Adjustment of Rates Pursuant to the Alternative Rate Filing Procedure for Small Utilities.

Bob Jones, and that is where the grass has not been mowed, and rats and snakes have been seen. (T.E., p. 74).

Mr. Van Horne also testified that the last time he went to the property the agitator was working (T.E., p. 20), the emergency number was posted, and there was evidence of other maintenance efforts. (T.E., p. 23). He spoke with an employee of the Department of Natural Resources, Mike Mudd, regarding that agency's "Notices of Violation" sent to Lakewood's owner, each dated at least one year prior to the date the complaint was filed. (T.E., pp. 31-33, p. 106).

Mr. Van Horne stated he has seen muskrats inside the fence (T.E., p. 51) and the owner of Lakewood, Frank Wethington, admits there is a muskrat problem, but states he is uncertain how to rid the plant of them. He stated he is willing to consider any suggestions for legally removing them from the plant area. (T.E., p. 78).

FINDINGS

The Commission finds that there seem to have been some maintenance problems in the past but that it appears from the evidence of record that Mr. Wethington is attempting to cure each of the problems about which Mr. Van Horne complained. The only existing problems are the presence of muskrats on the property and the excessive duckweed on the surface of the lagoon. Commission Staff will work with Mr. Wethington to determine a legal way to remove the muskrats and Mr. Wethington has agreed to fill the

lagoon with more duckweed-eating fish this spring if the duckweed remains on the surface. (T.E., p. 78).

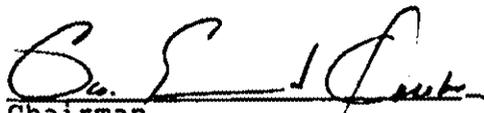
IT IS THEREFORE ORDERED that:

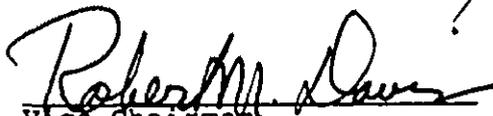
1. Mr. Wethington shall provide the Commission and the parties with a written report no later than June 15, 1994 explaining his success or failure in removing the duckweed from the lagoon.

2. Mr. Wethington shall provide the Commission and the parties with a written report no later than October 15, 1994 explaining his success or failure in removing the muskrats from the plant area.

Done at Frankfort, Kentucky, this 27th day of April, 1994.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director