

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TONY BROWNING D/B/A HERRINGTON HAVEN)
SEWER SYSTEM)

_____)
FAILURE TO COMPLY WITH KRS 278.140)
AND 278.230(3))

CASE NO. 94-375

O R D E R

Tony Browning, doing business as Herrington Haven Sewer System ("Browning"), owns, controls, operates, and manages a subdivision treatment facility plant in Garrard County, Kentucky which is used for and in connection with the treatment of sewage for the public for compensation. He is therefore a utility subject to Commission jurisdiction. KRS 278.010(3)(f).

KRS 278.140 requires every utility, on or before March 31 of each year, to file with the Commission a report of its gross earnings or receipts derived from intrastate business for the preceding calendar year.

KRS 278.230(3) directs every utility, when required by the Commission, to file with it any report or other information that the Commission reasonably requires. Commission Regulation 807 KAR 5:006, Section 3(1), requires every utility to file with the Commission on or before March 31 of each year a financial and statistical report of its utility operations for the preceding calendar year on forms furnished by the Commission.

KRS 278.990(1) states that any utility which willfully violates any provision of KRS Chapter 278 or Commission regulation shall be subject to a civil penalty not less than twenty-five dollars (\$25.00) nor more than two thousand five hundred dollars (\$2,500).

On January 1, 1994, the Commission provided to Browning the standard forms for the annual financial and statistical report and the report of gross earnings from intrastate business. According to Commission records, Browning has yet to file these reports for the 1993 calendar year with the Commission. The absence of these reports from Commission records constitutes prima facie evidence that Browning has willfully failed to comply with KRS 278.140 and 278.230(3).

IT IS THEREFORE ORDERED that:

1. Browning shall file with the Commission, no later than October 28, 1994, his financial and statistical report and his report of gross earnings from intrastate business for the 1993 calendar year.

2. Browning shall appear on November 7, 1994, at 9:30 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, for the purpose of showing cause, if any he can, why he should not be subjected to the penalties of KRS 278.990 for his failure to comply with KRS 278.140 and 278.230(3).

3. If Browning desires to waive his right to a hearing in this matter, he shall, no later than October 28, 1994, file the

required reports and pay a penalty of \$250. Payment of the penalty shall be made by certified check or money order made payable to Treasurer, Commonwealth of Kentucky and shall be delivered to office of General Counsel, Public Service Commission, 730 Schenkel Lane, P. O. Box 615, Frankfort, Kentucky 40602.

Done at Frankfort, Kentucky, this 11th day of October, 1994.


PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director