

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NORTH MARSHALL WATER DISTRICT)
)
_____) CASE NO. 95-107
)
ALLEGED VIOLATIONS OF KRS 278.160)

O R D E R

On March 24, 1995, the Commission ordered North Marshall Water District ("North Marshall") and Roy C. Brien, Gary E. Clark, Dorothy Coffeen, Bennie W. Darnell, and John R. Travis (collectively "the Commissioners"), to show cause why they should not be subject to the penalties of KRS 278.990(1) for their alleged violations of KRS 278.160 and 278.170

Following the commencement of this proceeding, North Marshall, the Commissioners, and Commission Staff entered into negotiations to resolve all disputed issues. On August 30, 1995, they executed a Settlement Agreement and subsequently submitted it for Commission approval.

On October 13, 1995, the Commission accepted with modifications the Settlement Agreement. The Commission further ordered that a hearing in this matter be held for any party to this proceeding which exercised its right to withdraw from the Settlement Agreement.

North Marshall and four of the Commissioners accepted the modified Settlement Agreement. John R. Travis, however, exercised

his right to withdraw from the Settlement Agreement and appeared before the Commission on November 14, 1995 to present testimony and argument on his own behalf.¹

Having considered the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. On January 4, 1973, North Marshall enacted a policy under which all North Marshall employees and all members of North Marshall's Board of Commissioners were provided water service at a reduced rate.

2. On February 14, 1991, North Marshall extended this policy to include all retired employees of North Marshall and all former members of North Marshall's Board of Commissioners.

3. North Marshall did not submit either action to the Commission for its review and approval.

4. North Marshall did not revise its filed rate schedules to reflect these policies.

5. The Commission has never approved nor consented to North Marshall's policy of reduced rates for water service for certain persons.

6. In May 1994, Commission Staff advised North Marshall's General Manager that a utility may not offer service at free or reduced rates without prior Commission review and approval.

7. On or before June 16, 1994, North Marshall's General Manager advised each member of the North Marshall Board of

¹ Mr. Travis appeared pro se and was not represented by legal counsel.

Commissioners that a utility may not offer service at free or reduced rates without prior Commission review and approval.

8. North Marshall continued to provide water service at a reduced rate to certain persons until March 9, 1995.

9. On February 1, 1995, Commission Staff, in response to a complaint from a North Marshall customer, inquired about North Marshall's practice of providing reduced rate service.

10. On March 9, 1995, the Commissioners of North Marshall voted to discontinue the policy of providing water service at reduced rates.

11. North Marshall's practice of providing water service to certain persons at a reduced rate without Public Service Commission approval is a violation of KRS 278.160 and 278.170.

12. The failure of the Commissioners of North Marshall to discontinue immediately the practice of providing water service to certain persons at a reduced rate constitutes a willful violation of KRS 278.160 and 278.170.

13. Mr. Travis was appointed to the North Marshall Board of Commissioners in 1992 and has served continuously as a commissioner since then.

14. The record contains no evidence that, until Commission Staff's written inquiry of February 1, 1995, Mr. Travis took any action to oppose or end North Marshall's practice of providing reduced rate service without Commission approval.

15. Mr. Travis willfully violated KRS 278.160 and 278.170 and aided and abetted North Marshall's violation of KRS 278.160 and 278.170.

16. Mr. Travis should be assessed a penalty of Five Hundred Dollars (\$500.00) for his violation of KRS 278.160 and 278.170.

IT IS THEREFORE ORDERED that:

1. Mr. Travis is assessed a penalty of Five Hundred Dollars (\$500.00) for his violation of KRS 278.160 and 278.170. The assessed penalty shall be paid within 30 days of the date of this Order by certified check or money order made payable to Treasurer, Commonwealth of Kentucky. Said check or money order shall be mailed or delivered to the Office of General Counsel, Public Service Commission of Kentucky, 730 Schenkel Lane, P. O. Box 615, Frankfort, Kentucky.

2. Mr. Travis may pay his assessed penalty over a period of five months in equal installments of One Hundred Dollars (\$100.00). The first installment shall be made within 30 days of the date of this Order. On the first day of each month thereafter, Mr. Travis shall pay an additional installment of One Hundred Dollars (\$100.00) until the assessed penalty is paid in full.

Done at Frankfort, Kentucky, this 8th day of December, 1995.

PUBLIC SERVICE COMMISSION

Robert M. Davis
Vice Chairman

Julia K. Beathett
Commissioner

Chairman George E. Overbey dissents.

ATTEST
Don Mills
Executive Director