

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PARKSVILLE WATER DISTRICT; RONALD)
RUSSELL; A.B. FEATHER; CARL LEFFEW;)
W.C. BABINGTON; AND JERRY FEATHER)
) CASE NO. 95-136
)

)
ALLEGED FAILURE TO COMPLY WITH)
COMMISSION ORDER)

O R D E R

Parksville Water District ("Parksville") is a water district organized pursuant to KRS Chapter 74 which owns and operates facilities used for the distribution and furnishing of water to the public for compensation in Boyle County, Kentucky; Ronald Russell is the Chairman of Parksville; A.B. Feather is the Treasurer and former Manager of Parksville; Carl Leffew is the Secretary of Parksville; W.C. Babington is the present Manager of Parksville and an employee of Kenroy Engineers, Inc.; and Jerry Feather is the Assistant Manager of Parksville.

Parksville is a utility subject to the jurisdiction of the Public Service Commission ("Commission") pursuant to KRS 278.010(3)(d) and KRS 278.015. Ronald Russell, A.B. Feather, Carl Leffew, W.C. Babington, and Jerry Feather are persons subject to Commission jurisdiction pursuant to KRS 278.010(2), KRS 278.010(3)(d), and KRS 278.015.

By Order of the Commission dated December 13, 1988, Parksville was authorized to assess a monthly surcharge of \$2.56 per customer

for a period not to exceed 75 months.¹ The proceeds of this surcharge were to be invested in a separate interest bearing account and used only for the retirement of Parksville's long-term balloon payment. This \$210,000 balloon payment was to be made to Parksville's bondholders in August 1995 under the terms of its bond ordinance. If the total surcharge proceeds and any accumulated interest earned thereon reached \$210,000 before the 75 month period ended, Parksville was to cease assessing the surcharge.

On January 25, 1995, Parksville applied, pursuant to KRS 278.023, for a Certificate of Public Convenience and Necessity to construct a \$1,305,000 waterworks improvement project, for approval of its plan of financing for this project, and for adjustments to its water service rates.² Information submitted in support of this application showed that Parksville had failed to comply with the Commission's December 13, 1988 Order regarding the surcharge. An Order was issued April 5, 1995, directing Parksville, Ronald Russell, A.B Feather, Carl Leffew, W.C. Babington, and Jerry Feather to appear before the Commission and explain the discrepancy between the surcharge collections and the surcharge account, to explain the use of the remaining surcharge account balances, and to

¹ Case No. 10332, The Application of Parksville Water District of Boyle County, Kentucky, for Approval of the Increased Water Rates Proposed to be Charged by the District to Customers of the District.

² Case No. 95-034, The Application of Parksville Water District of Boyle County, Kentucky, for a Certificate of Public Convenience and Necessity to Construct, Finance and Increase Rates Pursuant to KRS 278.023.

show cause, if they could, why they should not be penalized pursuant to KRS 278.990 for their failure to comply with the Commission Order.

After written explanations had been filed by Parksville, Ronald Russell, A.B Feather, Carl Leffew, W.C. Babington, and Jerry Feather and an informal conference held, all parties were in agreement that there had been a failure to comply with ordering paragraph 4 of the Commission's Order dated December 13, 1988 in Case No. 10332 regarding investing the proceeds of the authorized surcharge in a separate interest bearing account to be used only to make Parksville's long-term balloon payment.

As there were no facts in dispute, Parksville, Ronald Russell, A.B. Feather, Carl Leffew, W.C. Babington, Jerry Feather, and Commission Staff, in order to avoid a hearing, minimize the time, effort and expense associated with the allegations, and to resolve all outstanding issues related to the Commission's Order of April 5, 1995, reached a Settlement Agreement.

In the Settlement Agreement, Parksville agrees to pay a penalty of Twenty-five Dollars (\$25.00), Ronald Russell agrees to pay a penalty of One-hundred Dollars (\$100.00), Carl Leffew agrees to pay a penalty of One-hundred Dollars (\$100.00), and W.C. Babington agrees to pay a penalty of Two-hundred and Fifty Dollars (\$250.00). A.B. Feather agrees to resign from his position as a Commissioner and as Treasurer of Parksville, and agrees to take no active role in the operation of Parksville, either as a member of the board or as a member of management, for a period of five years.

Jerry Feather pays no penalty and continues serving as Assistant Manager of Parksville.

After consideration of the Settlement Agreement, its terms and the severity of the violations addressed therein, the Commission finds that the Settlement Agreement represents a reasonable resolution of the Show Cause proceeding and should therefore be approved.

IT IS THEREFORE ORDERED that:

1. The Settlement Agreement, attached hereto and incorporated herein as Appendix A, is adopted and approved in its entirety as a complete resolution of all issues and charges in this case.

2. Parksville shall pay a penalty of Twenty-five Dollars (\$25.00) within ten (10) days from the date of this Order by certified check made payable to the Kentucky State Treasurer and delivered to the Office of General Counsel, Public Service Commission, 730 Schenkel Lane, Frankfort, Kentucky 40602.

3. Ronald Russell shall pay a penalty of One-hundred Dollars (\$100.00) from his personal funds within ten (10) days from the date of this Order by certified check made payable to the Kentucky State Treasurer and delivered to the Office of General Counsel, Public Service Commission, 730 Schenkel Lane, Frankfort, Kentucky 40602.

4. Carl Leffew shall pay a penalty of One-hundred Dollars (\$100.00) from his personal funds within ten (10) days from the date of this Order by certified check made payable to the Kentucky State Treasurer and delivered to the Office of General Counsel,

Public Service Commission, 730 Schenkel Lane, Frankfort, Kentucky 40602.

5. W.C. Babington shall pay a penalty of Two-hundred Fifty Dollars (\$250.00) from his personal funds within ten (10) days from the date of this Order by certified check made payable to the Kentucky State Treasurer and delivered to the Office of General Counsel, Public Service Commission, 730 Schenkel Lane, Frankfort, Kentucky 40602.

6. A.B. Feather shall resign from his position as a Commissioner and as Treasurer of Parksville within thirty (30) days from the date of this Order, and shall take no active role in the operation of Parksville, either as a member of the board or as a member of management, for a period of five years from the date of this Order.

7. Jerry Feather need not pay a penalty and may continue serving as Assistant Manager of Parksville.

8. All alleged violations of Commission statutes, regulations, and Orders having been resolved by this Settlement Agreement, this case is hereby closed.

Done at Frankfort, Kentucky, this 29th day of June, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PARKSVILLE WATER DISTRICT; RONALD)
RUSSELL; A.B. FEATHER; CARL LEFFEW;)
W.C. BABINGTON; AND JERRY FEATHER)
) CASE NO. 95-136
)

ALLEGED FAILURE TO COMPLY WITH)
COMMISSION ORDER)

SETTLEMENT AGREEMENT

This AGREEMENT is made and entered into this 15th day of June, 1995, by and between STAFF OF THE PUBLIC SERVICE COMMISSION OF KENTUCKY ("Commission Staff") and PARKSVILLE WATER DISTRICT ("Parksville"), RONALD RUSSELL, A.B. FEATHER, CARL LEFFEW, W.C. BABINGTON, AND JERRY FEATHER.

WITNESSETH

THAT, WHEREAS, Parksville is a water district organized pursuant to KRS Chapter 74 which owns and operates facilities used for the distribution and furnishing of water to the public for compensation in Boyle County, Kentucky; Ronald Russell is the Chairman of Parksville; A.B. Feather is the Treasurer and former Manager of Parksville; Carl Leffew is the Secretary of Parksville; W.C. Babington is the present Manager of Parksville and an employee of Kenroy Engineers, Inc.; and Jerry Feather is the Assistant Manager of Parksville.

WHEREAS, Parksville is a utility subject to the jurisdiction of the Public Service Commission ("Commission") pursuant to KRS 278.010(3)(d) and KRS 278.015. Ronald Russell, A.B. Feather, Carl

Leffew, W.C. Babington, and Jerry Feather are persons subject to Commission jurisdiction pursuant to KRS 278.010(2), KRS 278.010(3)(d), and KRS 278.015.

WHEREAS, by Order of the Commission dated December 13, 1988, Parksville was authorized to assess a monthly surcharge of \$2.56 per customer for a period not to exceed 75 months.¹ The proceeds of this surcharge were to be invested in a separate interest bearing account and used only for the retirement of Parksville's long-term balloon payment. This \$210,000 balloon payment was to be made to Parksville's bondholders in August 1995 under the terms of its bond ordinance. If the total surcharge proceeds and any accumulated interest earned thereon reached \$210,000 before the 75 month period ended, Parksville was to cease assessing the surcharge.

WHEREAS, after the fourth quarter of 1994, Parksville reported surcharge collections of \$176,982.97. Of this, \$87,550.00 was invested in certificates of deposit and \$6,383.59 was held in a surcharge account, for a total of \$93,933.59. This left a deficiency of \$83,049.38, which Parksville states it used for operating expenses rather than investing it in a separate interest bearing account to be used only for the retirement of its long-term balloon payment pursuant to the Commission's Order in Case No. 10332. A.B. Feather admits he used the surcharge funds to pay

¹ Case No. 10332, The Application of Parksville Water District of Boyle County, Kentucky, for Approval of the Increased Water Rates Proposed to be Charged by the District to Customers of the District.

operating expenses, but did so in order "to keep the District operating." Ronald Russell and Carl Leffew state that they had no knowledge that the surcharge funds were being spent for operating expenses. Both admit that they had no knowledge of the use of surcharge funds because they had no knowledge of the district's operations in general. Parksville has held regular board meetings only since February 1994. W.C. Babington did not become manager until May 30, 1994. Jerry Feather primarily performs general maintenance and meter reading for Parksville under the authority of a superior, and was not in a position to expend funds from the escrow account for operating expenses.

WHEREAS, Parksville's surcharge account was closed prematurely in February 1995 by W.C. Babington. Of the \$87,550.00 invested in certificates of deposit, \$40,000.00 was paid to Kennoy Engineers, Inc., towards costs incurred by Parksville for engineering reports, hydraulic analyses, and system design; \$10,000.00 was paid to John Hughes, Attorney, for unspecified legal costs; \$10,500.00 was paid to Marine Midland Bank, one-half for August 1, 1994, bond interest and one-half for March 1, 1995, bond interest; and \$24,500.00 went into a construction account supervised by Farmers Home Administration. Because of early withdrawal, penalties of \$900.45 had to be paid, while Kennoy Engineers, Inc. negated \$1,045.32 owed to it in interest. The \$1,649.55 remaining from the certificates of deposit was placed in Parksville's operating account, as was the \$6,383.59 from the surcharge account. Again, as all proceeds from the surcharge were to be used to make Parksville's long-term

balloon payment, these uses of the surcharge collections were contrary to the Commission's Order in Case No. 10332.

WHEREAS, all parties are in agreement that there has been a failure to comply with ordering paragraph 4 of the Commission's Order dated December 13, 1988 in Case No. 10332 regarding investing the proceeds of the authorized surcharge in a separate interest bearing account to be used only to make Parksville's long-term balloon payment.

WHEREAS, Parksville, Ronald Russell, A.B. Feather, Carl Leffew, W.C. Babington, Jerry Feather, and Commission Staff, in order to avoid a hearing, minimize the time, effort and expense associated with the allegations, and to resolve all outstanding issues related to the Commission Order of April 5, 1995, have reached an agreement.

WHEREAS, Parksville agrees to pay a penalty of Twenty-five Dollars (\$25.00), Ronald Russell agrees to pay a penalty of One-hundred Dollars (\$100.00), Carl Leffew agrees to pay a penalty of One-hundred Dollars (\$100.00), and W.C. Babington agrees to pay a penalty of Two-hundred and Fifty Dollars (\$250.00). A.B. Feather agrees to resign from his position as a Commissioner and as Treasurer of Parksville, and agrees to take no active role in the operation of Parksville, either as a member of the board or as a member of management, for a period of five years. Jerry Feather need not pay a penalty and may continue serving as Assistant Manager of Parksville.

NOW, THEREFORE, be it resolved that:

1. Parksville, Ronald Russell, A.B. Feather, Carl Leffew, W.C. Babington, and Jerry Feather shall comply with all provisions of KRS Chapter 278, all regulations promulgated pursuant thereto, and all Orders of the Commission.

2. Parksville shall pay a penalty of Twenty-five Dollars (\$25.00) to be paid in full within ten (10) days of entry of an order approving this Settlement Agreement. A certified check for the full amount of the penalty shall be made payable to the Kentucky State Treasurer and delivered to the Office of General Counsel, Public Service Commission, 730 Schenkel Lane, Frankfort, Kentucky 40601.

3. Ronald Russell shall pay a penalty of One-hundred Dollars (\$100.00) from his personal funds to be paid in full within ten (10) days of entry of an order approving this Settlement Agreement. A certified check for the full amount of the penalty shall be made payable to the Kentucky State Treasurer and delivered to the Office of General Counsel, Public Service Commission, 730 Schenkel Lane, Frankfort, Kentucky 40601.

4. Carl Leffew shall pay a penalty of One-hundred Dollars (\$100.00) from his personal funds to be paid in full within ten (10) days of entry of an order approving this Settlement Agreement. A certified check for the full amount of the penalty shall be made payable to the Kentucky State Treasurer and delivered to the Office of General Counsel, Public Service Commission, 730 Schenkel Lane, Frankfort, Kentucky 40601.

5. W.C. Babington shall pay a penalty of Two-hundred Fifty Dollars (\$250.00) from his personal funds to be paid in full within ten (10) days of entry of an order approving this Settlement Agreement. A certified check for the full amount of the penalty shall be made payable to the Kentucky State Treasurer and delivered to the Office of General Counsel, Public Service Commission, 730 Schenkel Lane, Frankfort, Kentucky 40601.

6. A.B. Feather shall resign from his position as a Commissioner and as Treasurer of Parksville within thirty (30) days of entry of an order approving this Settlement Agreement, and shall take no active role in the operation of Parksville, either as a member of the board or as a member of management, for a period of five years from the date of entry of an order approving this Settlement Agreement.

7. Jerry Feather need not pay a penalty and may continue serving as Assistant Manager of Parksville.

8. Upon execution of the proposed Settlement Agreement, this case is hereby settled as to only the issues contained herein, with prejudice, notwithstanding any other provision of this agreement to the contrary.

9. The proposed Settlement Agreement is submitted for the purposes of this case only and is not to be offered or relied upon in respect of any other issues in any other proceeding involving Parksville, Ronald Russell, A.B. Feather, Carl Leffew, W.C. Babington, or Jerry Feather, or any other utility.

10. Commission Staff shall use its best efforts in recommending complete adoption of the proposed Settlement Agreement by the Commission. If the Commission issues an Order approving and adopting the proposed Settlement Agreement in its entirety, Parksville, Ronald Russell, A.B. Feather, Carl Leffew, W.C. Babington, and Jerry Feather agree that they shall neither apply for rehearing on such Order nor initiate an action for review of such Order in Franklin Circuit Court.

11. If the proposed Settlement Agreement is not approved and adopted in its entirety, Parksville, Ronald Russell, A.B. Feather, Carl Leffew, W.C. Babington, and Jerry Feather reserve the right to withdraw from it and request a hearing on all or any matters involved herein. In such event, the terms of the proposed Settlement Agreement shall not be deemed binding upon the signatories, nor shall the proposed Settlement Agreement be admitted into evidence or referred to or relied upon in any manner by any signatory.


12. The signatories agree that the foregoing Settlement Agreement is reasonable, not contrary to regulatory principals or the law, is in the best interest of all concerned, and urge that the Commission adopt the Settlement Agreement in its entirety.

AGREED TO BY:



STAFF OF THE PUBLIC SERVICE
COMMISSION OF KENTUCKY

6/15/95
Date



PARKSVILLE WATER DISTRICT

6/15/95
Date

Ronald Russell
RONALD RUSSELL

6-8-95
Date

A. B. Feather
A. B. FEATHER

6-9-95
Date

Carl Leffew
CARL LEFFEW

6/9/95
Date

W. C. Babington
W. C. BABINGTON

6/9/95
Date

Jerry Feather
JERRY FEATHER

6-9-95
Date