

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JESSE AND BARBARA ASHBAUGH)	
)	
COMPLAINANTS)	
)	
v.)	CASE NO. 96-557
)	
KENTUCKY TURNPIKE WATER DISTRICT)	
)	
DEFENDANT)	

O R D E R

On November 15, 1996, a complaint against Kentucky Turnpike Water District ("Kentucky Turnpike") was filed with the Commission by Jesse and Barbara Ashbaugh. Kentucky Turnpike was directed to satisfy or answer the complaint by Order of the Commission dated November 25, 1996. No response was received until April 4, 1997. According to the complaint, while the Ashbaughs admit they were late in paying their bill and in fact paid a late charge, Kentucky Turnpike charged them a \$20 disconnect fee when no disconnection occurred. As a result, the Ashbaughs request a \$20 refund.

In its answer, Kentucky Turnpike agreed that the Ashbaughs had failed to pay their monthly water bill in a timely manner. In fact, according to Kentucky Turnpike the bill was not paid until the deadline for disconnection for nonpayment had passed. Kentucky Turnpike argues that 807 KAR 5:011, Section 8, allows a utility to make non-recurring charges as a result of customer specific cost which would otherwise result in monetary loss to the utility, and that a termination charge or a field collection charge is

specifically allowed and may be assessed when a representative of the utility makes a trip to the premises for the purpose of terminating service. According to Kentucky Turnpike, it had dispatched an employee to terminate service to the Ashbaughs when the delinquent bill was paid at the office. As a result, service was not actually terminated, although an employee had been dispatched for that purpose. It is Kentucky Turnpike's position that it properly charged the Ashbaughs a \$20 termination fee.

From the record, the parties appear to agree on the facts involved in this matter: that the Ashbaughs were delinquent in paying their monthly bill; an employee was sent to their residence for the purpose of terminating service; the Ashbaughs paid their bill, including a late fee; as a result, their service was not actually terminated; the Ashbaughs were still charged a \$20 termination fee. The only issue in dispute is whether Kentucky Turnpike properly assessed the \$20 charge in question.

Pursuant to 807 KAR 5:006, Section 8, a utility may make special nonrecurring charges to recover customer specific costs incurred which would otherwise result in monetary loss to the utility or increased rates to other customers to whom no benefits accrued from the service provided or action taken. Any utility desiring to establish or change any special nonrecurring charge must apply for Commission approval of such charge in accordance with the provisions of 807 KAR 5:011, Section 10. In addition, pursuant to KRS 278.160, each utility must file schedules with the Commission showing all rates and conditions for service established by it and collected or enforced. No utility shall charge, demand, collect or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules.

In other words, if a charge is not contained in the utility's filed schedule, or tariff, it may not be assessed.

807 KAR 5:006, Section 8(3)(c), addresses termination or field collection charges:

A charge may be assessed when a utility representative makes a trip to the premises of a customer for the purpose of terminating service. The charge may be assessed if the utility representative actually terminates service or if, in the course of the trip, the customer pays the delinquent bill to avoid termination. The charge may also be made if the utility representative agrees to delay termination based on the customer's agreement to pay the delinquent bill by a specific date. The utility may make a field collection charge only once in any billing period.

A termination or field collection charge is thus provided for by regulation. However, Kentucky Turnpike has not had such a charge approved by the Commission and no such charge is contained in its filed tariff. Kentucky Turnpike's tariff includes a \$20 reconnection fee listed on Sheet No. 7 and Sheet No. 18. According to the tariff, Kentucky Turnpike shall assess such a charge for reconnections of water service, specifically, at least on Sheet No. 7, when the water supply to the customer has been discontinued for non-payment of delinquent bills. Such a situation is addressed by 807 KAR 5:006, Section (3)(b):

A reconnect charge may be assessed to reconnect a service which has been terminated for nonpayment of bills or violation of the utility's rules or commission regulations. Customers qualifying for service reconnection under Section 15 of this regulation shall be exempt from reconnect charges.

While the regulations authorize a utility to charge a fee for both a reconnect, 807 KAR 5:006, Section (3)(b), and a termination or field collection, 807 KAR 5:006, Section 3(c), the two charges are quite distinct. Kentucky Turnpike's tariff only includes a

reconnect charge. Therefore, pursuant to KRS 278.160, Kentucky Turnpike did not rightfully assess the Ashbaughs a \$20 fee. Service was not disconnected, so no reconnection could have occurred and the reconnection fee contained in Kentucky Turnpike's tariff should not have been assessed. While a termination or field collection charge would have been appropriate in this instance, Kentucky Turnpike's current tariff does not provide for such a charge, nor has the Commission approved any such charge for Kentucky Turnpike. As a result, Kentucky Turnpike should be required to refund the \$20 wrongfully assessed the Ashbaughs, either directly or, at their discretion, by a credit in the appropriate amount to their account.

IT IS THEREFORE ORDERED that:

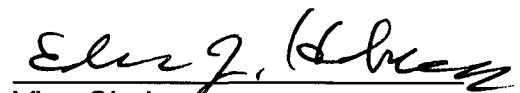
1. The relief requested by the Ashbaughs is granted. Kentucky Turnpike shall, within 10 days of the date of this Order, issue a refund of \$20 to the Ashbaughs, either directly or by means of a credit in the appropriate amount to their account, as determined by the Ashbaughs.

2. Within 20 days of the date of this Order, Kentucky Turnpike shall file proof of this refund with the Commission.

Done at Frankfort, Kentucky, this 28th day of May³, 1997.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

ATTEST:


Executive Director


Commissioner