

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF HAYFIELD UTILITIES,)
INC. FOR A RATE ADJUSTMENT PURSUANT)
TO THE ALTERNATIVE RATE FILING) CASE NO. 97-457
PROCEDURE FOR SMALL UTILITIES)

O R D E R

Countryside Homeowner's Association ("Association") and its individual members ("Individual Movants") have moved for intervention in this proceeding. They further have moved that the application of Hayfield Utilities, Inc. ("Hayfield") be dismissed for failure to comply with Administrative Regulation 807 KAR 5:001, Section 10(3), or, in the alternative, a full evidentiary hearing on the application and suspension of the proposed rate adjustment.

Having considered the motions and being otherwise sufficiently advised, the Commission finds that:

1. The Association is a non-profit corporation organized under the laws of Kentucky and is composed of homeowners residing in the Countryside Subdivision of Prospect, Kentucky.
2. Individual Movants are members of the Association and reside in the Countryside Subdivision of Prospect, Kentucky.
3. Hayfield provides sanitary sewer service to the Countryside Subdivision of Prospect, Kentucky and has applied pursuant to the Commission's Alternative Rate

Adjustment Procedures for a 120.1 percent increase in its monthly charge for sanitary sewer service.

4. The Association has a special interest in this proceeding which is not otherwise adequately represented. Its intervention is likely to present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

5. The Individual Movants have an interest in this proceeding.

6. The Individual Movants have requested that, if granted limited intervention in this matter, no party should be required to serve them with copies of any motions, pleadings, documents, papers or filings.

7. Administrative Regulation 807 KAR 5:076, Section 4, required Hayfield to mail notice of its proposed rate adjustment to each customer. It further required that this notice state that "[C]opies of the application may be obtained at no charge from (the applicant) at (the applicant's address). Upon request from an intervenor, the applicant shall furnish to the intervenor a copy of the application and supporting documents."

8. Administrative Regulation 807 KAR 5:001, Section 10(3), provides a different form of notice for utilities seeking a rate adjustment under the Commission's general rate adjustment procedures.

9. As Administrative Regulation 807 KAR 5:076 specifically addresses applications using the Commission's Alternative Rate Adjustment Procedures and as a specific regulation controls a more general regulation, Heady v. Commonwealth, Ky., 597 S.W.2d 613 (1980), Hayfield was required to comply with the provisions of Administrative Regulation 807 KAR 5:076 only.

10. Hayfield has substantially complied with the Administrative Regulation 807 KAR 5:076, Section 4.

11. Before any hearing is held in this matter, Commission Staff will conduct a limited review of Hayfield's financial records and submit a written report of its findings and conclusions. No hearing should be established in this matter pending the submission of Commission Staff's report. The Association and Individual Movants' motion for an evidentiary hearing on the proposed rate adjustment, therefore, is premature and should be denied. The Association and Individual Movants may renew their motion at a later date.

12. A utility may not change its rates "except upon thirty (30) days' notice to the commission, stating plainly the changes proposed to be made and the time when the changed rates will go into effect." KRS 278.180(1) (emphasis added).

13. While Hayfield has applied for a rate adjustment under the Commission's Alternative Rate Adjustment Procedures, it does not state in its application when the proposed rates will go into effect. Absent 30 days' notice of the effective date of its proposed rates, it may not place the proposed rates into effect without prior Commission approval. The Association and Individual Movants' motion to suspend the proposed rate adjustment, therefore, is premature and should be denied. The Association and Individual Movants may renew their motion at a later date.

IT IS HEREBY ORDERED that:

1. The Association's motion for full intervention is granted.

2. The Association shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.

3. Should the Association file documents of any kind with the Commission in the course of these proceedings, the Association shall also serve a copy of said documents on all other parties of record.

4. The Individual Movants whose names are listed in Appendix A are granted limited intervention in this matter. No party is required to serve them copies of any motions, pleadings, documents, papers or filings.

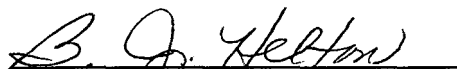
5. The Association and Individual Movants' motion to dismiss Hayfield's application for failure to comply with Administrative Regulation 807 KAR 5:001, Section 10(3), is denied.


6. The Association and Individual Movants' motion for an evidentiary hearing is denied.

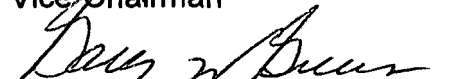
7. The Association and Individual Movants' motion to suspend the proposed rate adjustment is denied.

Done at Frankfort, Kentucky, this 8th day of January, 1998.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC
SERVICE COMMISSION IN CASE NO. 97-457 DATED JANUARY 8, 1997

Steven Adwell
Dora Adwell
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Emerson and Nancy Aliey
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Cliff Anderson
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John Bachmen
Kay Fleming
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Laura and Jim Bevarly
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Joe Bloyd
Carol Bloyd
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Thomas Bond, Jr.
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Darin Bullock
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Marsha Burleson
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Joan Campbell
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Jane Cox
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Thomas Cox
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Tim Crawly
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