

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PROPOSED ADJUSTMENT OF THE)
WHOLESALE WATER SERVICE RATES OF) CASE NO. 98-283
THE CITY OF OWENTON, KENTUCKY)

ORDER

On August 14, 1998, the Commission ordered the City of Owenton, Kentucky ("Owenton") to file the direct testimony of each witness that it intends to present in the hearing in this matter. The Commission's Order represented the Commission's second attempt to obtain Owenton's written testimony. In its Order of May 29, 1998, the Commission directed Owenton to submit the information required by Administrative Regulation 807 KAR 5:001, Section 10, which includes the testimony of any scheduled witnesses. See 807 KAR 5:001, Section 10(6)(c). In its response, Owenton stated its intent not to offer any witnesses. In its response to the Order of August 14, 1998, Owenton again repeated its intention not to offer any witnesses.

KRS 278.200 provides that no rate between a municipal utility and a public utility may be changed "until a hearing has been had before the commission in the manner prescribed" by KRS Chapter 278. See also Simpson County Water District v. City of Franklin, Ky., 872 S.W.2d 460 (1994). At such hearing and through the Commission proceeding, the municipal utility seeking the rate adjustment bears the burden of showing that the proposed adjustment is reasonable. Energy Regulatory Commission v. Kentucky Power Co., Ky.App., 605 S.W.2d 46, 50 (1980). See also Lee v. International Harvester Co., Ky., 373 S.W.2d 418 (1963); KRS 278.190(3). If the

municipal utility refuses to produce any evidence in support of its proposed rate adjustment, it fails to meet its burden of proof and its proposed rate adjustment must be denied.

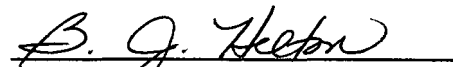
Owenton's refusal to present any testimonial evidence precludes it from meeting this burden. Even if its case for the proposed rate adjustment is based solely upon documentary evidence, the testimony of a witness is required to establish the proper foundation for the introduction and admission of those documents into evidence. In the absence of any direct testimony, Owenton has not met its burden of proof and its proposed rate adjustment must be denied.

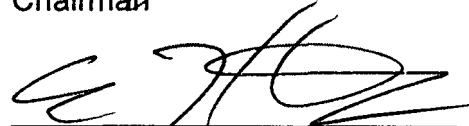
IT IS THEREFORE ORDERED that:


1. Owenton's proposed rate adjustment is denied.
2. This case shall be removed from the Commission's docket.

Done at Frankfort, Kentucky, this 22nd day of September, 1998.

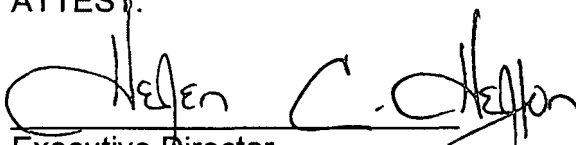
PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director