

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BETHANY CHRISTIAN MISSION CENTER, INC.)	
)	
COMPLAINANT)	
)	
v.)	CASE NO. 98-282
)	
HOLLY CREEK PRODUCTION CORPORATION)	
)	
DEFENDANT)	

O R D E R

On July 28, 1999, the Commission found that Bethany Christian Mission Center, Inc. ("Complainant") was overbilled \$23,674 from January 1994 through December 1997 by Holly Creek Production Corporation ("Holly Creek"). The Commission ordered Holly Creek to refund Complainant the overbilled amounts and to prepare and file, within 60 days from the date of the Order, a plan setting forth Holly Creek's proposal for making the refund of \$23,674 over a three-year period.

On August 17, 1999, Holly Creek filed a motion to reconsider the Commission's Order of July 28, 1999, which the Commission denied. On May 30, 2000, Complainant filed a motion to compel Holly Creek to file its plan for refunding \$23,674 as directed in the July 28, 1999 Order. Holly Creek has not filed its plan pursuant to that Order.

On April 10, 2000, the Franklin Circuit Court dismissed Holly Creek's action to set aside the Commission's Order. That dismissal is presently on appeal before the Kentucky Court of Appeals. Nevertheless, no court has entered any order that

suspends or vacates the Commission's Order of July 28, 1999, nor has there been any supersedeas bond filed in the appeal to stay the proceeding for the refund of the money due Complainant pursuant to that Order. Every Order entered by the Commission remains in force until suspended or vacated by an order of a court of competent jurisdiction. KRS 278.390. There is no such order or decree by any court directed to that issue; therefore, the Order requiring Holly Creek to submit its plan is in force.

Being sufficiently advised, the Commission HEREBY ORDERS that:

1. The motion of Complainant to compel Holly Creek to submit its refund plan is granted.
2. Within 20 days of the date of this Order, Holly Creek shall submit its refund plan to the Commission, pursuant to the Order of July 28, 1999.

Done at Frankfort, Kentucky, this 21st day of June, 2000.

By the Commission

ATTEST:


Executive Director