

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE DEVIATION OF U.S. 60 WATER DISTRICT OF)	
SHELBY AND FRANKLIN COUNTIES, KENTUCKY)	CASE NO.
FROM THE COMPANY'S REGULAR EXTENSION)	2001-162
POLICY – ORCHARD ACRES SUBDIVISION)	

O R D E R

U.S. 60 Water District of Shelby and Franklin Counties, Kentucky (“U.S. 60”) has submitted for Commission review and approval a contract with Tim Hagan (“Applicant”) for the extension of distribution lines and to serve Orchard Acres Subdivision. The proposed contract differs from the provisions of Administrative Regulation 807 KAR 5:066, Section 11. Finding that the proposed contract is reasonable and that good cause exists to permit a deviation from Administrative Regulation 807 KAR 5:066, Section 11, we approve the contract.

U.S. 60, a water district organized under KRS Chapter 74, provides water service to approximately 1,739 customers in Franklin, Spencer, Anderson and Shelby counties, Kentucky.¹ The project entails upgrading the existing water main on Crab Orchard Road and an extension into the proposed subdivision. The extension consists of the construction of approximately 4,700 linear feet of 8 and 6-inch water mains. U.S. 60 originally estimated the total project to be \$55,120.00. Of this amount, U.S. 60 was going to contribute \$16,005 toward the costs of the project.² In exchange for U.S.

¹ 2000 Annual Report.

² Proposed Contract, p. 1 (Construction Comments).

60's proposed contribution, the Applicant agreed to waive his right to refund under the 50-foot rule. The Applicant further agreed to secure all easements for the proposed water main extension and to waive any right to contributions pursuant to the 50-foot rule required by 807 KAR 5:066, Section 11(3). The Applicant retains the right to a rebate from any customer that connects to the extension during the following 10-year period.³

The proposed agreement's provisions relating to refund of the Applicant's contribution is inconsistent with Administrative Regulation 807 KAR 5:066, Section 11(3), which provides:

An applicant desiring an extension to a proposed real estate subdivision may be required to pay the entire cost of the extension. Each year, for a refund period of not less than ten (10) years, the utility shall refund to the applicant who paid for the extension a sum equal to the cost of fifty (50) feet of the extension installed for each new customer connected during the year whose service line is directly connected to the extension installed by the developer, and not to extensions or laterals therefrom. Total amount refunded shall not exceed the amount paid to the utility. No refund shall be made after the refund period ends.

Under this regulation, U.S. 60 is required to refund to the applicants the cost of 50 feet of the proposed water main extension for each applicant that connects to that main.

This contract is similar to a contract that both U.S. 60 and North Shelby Water Company have relied upon for water main extensions to subdivisions.⁴ The Commission granted deviations in those cases.⁵

³ Proposed Contract, paras. 2 and 12.

⁴ See Case No. 2000-303, Application of U.S. 60 Water District of Shelby, Spencer and Franklin Counties for Commission Approval of a Special Contract for a Water Main Extension Along Jephtha Knob Road (Ky. P.S.C. October 9, 2000); Case No. 2000-344, The Deviation of North Shelby Water Company From The Company's Regular Extension Policy (Ky. P.S.C. March 2, 2001).

⁵ Id.

The Commission, having examined the proposed extension agreement and the circumstances surrounding the agreement, finds that good cause exists to grant a deviation in this case. U.S. 60 estimates that the Applicant's refund under the 50-foot rule would be approximately \$14,399.⁶ As stated previously, the Applicant is waiving his right to refund in exchange for U.S. 60's contribution toward construction costs outside the subdivision.

On July 30, 2001, U.S. 60 filed the final bid estimates with the Commission.⁷ According to that letter, the project cost is approximately \$84,595. The cost of construction outside the subdivision is approximately \$59,100.⁸ Therefore, U.S. 60 will contribute \$29,550 toward this project.⁹ This is significantly greater than the Applicant's estimated refund under the 50-foot rule.

⁶ July 25, 2001 letter of Donald T. Prather to Thomas M. Dorman.

⁷ July 27, 2001 letter of Warner A. Broughman, III to Doug Hendrix, Commission Staff.

⁸ Id.

⁹ Id. See also July 25, 2001 letter of Donald T. Prather to Thomas M. Dorman.

Based on the foregoing, good cause for both the proposed agreement and the proposed deviation to Administrative Regulation 807 KAR 5:066, Section 11, exists.¹⁰ See Case No. 2000-344, The Deviation of North Shelby Water Company From The Company's Regular Extension Policy (Ky. P.S.C. March 2, 2001).

The Commission notes that an investigation of water main extension practices is currently pending.¹¹ The results of this investigation may significantly affect our review of further requests for deviations from Administrative Regulation 807 KAR 5:066, Section 11. We therefore caution U.S. 60 not to rely unduly on this decision when considering differing arrangements for other water main extensions.

IT IS THEREFORE ORDERED that:

1. U.S. 60 is authorized to deviate from Administrative Regulation 807 KAR 5:066, Section 11(3), and to use a different arrangement to extend water service to Tim Hagan for the extension of service to Orchard Acres Subdivision.

¹⁰ The Commission is authorized to permit a water utility to make water main extensions under arrangements that differ from those established in Administrative Regulation 807 KAR 5:066, Section 11. Administrative Regulation 807 KAR 5:066, Section 11(4) provides:

Nothing contained herein shall be construed to prohibit the utility from making extensions under different arrangements if such arrangements have received the prior approval of the commission.

Administrative Regulation 807 KAR 5:066, Section 18, provides:

Deviations from Administrative Regulation. In special cases, for good cause shown, the commission may permit deviations from this administrative regulation.

¹¹ Administrative Case No. 386, An Examination of Existing Water Distribution Main Extension Policies.

2. The proposed contract between U.S. 60 and the Applicant is approved as of the date of this Order.

Done at Frankfort, Kentucky, this 5th day of September, 2001.

By the Commission

ATTEST:


Executive Director