

Russellville's wholesale customers. This ordinance further makes this rate retroactive to sales on and after April 21, 2001.

In prior proceedings, we have held that a municipal utility's proposed rate adjustment is void if filed without proper authorization from the city's legislative body. See City of Pikeville, Ky., Case No. 2000-540 (Oct. 8, 2001) at 3; Winchester Municipal Utilities, Case No. 96-616 (Ky.PSC Oct. 3, 1997) at 6. These holdings are based upon KRS 96.170, which provides:

The legislative body of any city of the third class may, by ordinance, provide the city and its inhabitants with water, light, power, heat and telephone service, by contract or by works of its own, located either within or beyond the boundaries of the city; make regulations for the management thereof, and fix and regulate the prices to private consumers and customers.

See also 64 Am. Jur. 2d Public Utilities §§ 81, 89 (1972). Without such authorization, the filing "has no legal standing and cannot be considered as an official action of the city." Pikeville at 3.

The ordinance by which Russellville claims to base its wholesale rate of \$2.45 per 1,000 gallons was enacted after the filing of its proposed rate revision¹ and after the purported effective date of this revision.² It strongly suggests that the Russellville City Council had not authorized the proposed rate revision and that the filing was ultra vires.

Based upon the above, the Commission finds prima facie evidence exists to conclude that at the time of its purported request for rate adjustment Russellville lacked

¹ The Commission received Russellville's proposed rate adjustment filing on March 22, 2001.

² The Secretary to the Commission deemed the proposed rate filing effective on April 21, 2001.

the requisite authorization to adjust its wholesale water service rate and that the wholesale rate of \$2.45 per 1,000 gallons is void and not a lawful rate for wholesale water service.

IT IS THEREFORE ORDERED that Russellville shall, within 20 days of the date of this Order, show cause in writing why the Commission should not declare Russellville's rate of \$2.45 void and unlawful and that the proper rate for wholesale water service is \$1.55 per 1,000 gallons.

Done at Frankfort, Kentucky, this 20th day of December, 2001.

By the Commission

ATTEST:


Executive Director