

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PAR-TEE LLC; PLYMOUTH PARTNERS, LP,)	
CONSISTING OF JAMES BERLING, MICHAEL)	
BERLING, ANTHONY C. BERLING, CHRISTOPHER)	
D. BERLING, STEVEN A. BERLING AND GREG)	
MARTINI; MARK SEIBERT; MAVERICKS)	CASE NO.
INCORPORATED; CARROLL COUNTY WATER)	2001-282
DISTRICT NO. 1; DENNIS CRAWFORD; STEPHEN)	
DOUGLAS TERRY; MONA KINDOLL; BENNIE)	
WILSON; JAMES W. WILLIAMSON; AND JAMES)	
SMITH)	
_____)	
)	
ALLEGED VIOLATION OF KRS 278.020)	

O R D E R

Par-Tee LLC (“Par-Tee”), a Kentucky Limited Liability Company, prior to October 12, 2000, owned and operated facilities that were used to distribute water to the public for compensation and, therefore, was a utility subject to the Commission’s jurisdiction. KRS 278.010(3)(d); KRS 278.040.

On October 12, 2000, Mavericks Incorporated (“Mavericks”), a Kentucky corporation, and Plymouth Partners LP (“Plymouth”), which there is reason to believe consists of James Berling, Michael Berling, Anthony C. Berling, Christopher D. Berling, Steven A. Berling, and Greg Martini, were members of Par-Tee and the entities and individuals responsible for its business operations and affairs. On and since that date, Mark Seibert was employed as Par-Tee's general manager.

Carroll County Water District No. 1 (“Carroll District”), a water district organized pursuant to KRS Chapter 74, owns and operates facilities that are used to distribute water to the public for compensation and, therefore, is a utility subject to the Commission’s jurisdiction. KRS 278.010(3)(d); KRS 278.015; KRS 278.040.

Dennis Crawford, Stephen Douglas Terry, Mona Kindoll, Bennie Wilson, and James W. Williamson, are members of Carroll District’s Board of Commissioners since on or before October 12, 2000, and have controlled and managed the affairs of Carroll District since on or before that date.

James Smith is employed as Carroll District’s manager and has been since on or before October 12, 2000. As manager of Carroll District, he is required to “look after” Carroll District’s affairs.

KRS 278.020(4) provides that “[n]o person shall acquire or transfer ownership of, or control, or the right to control, any utility under the jurisdiction of the commission by sale of assets, transfer of stock, or otherwise, ... without prior approval by the commission.”

KRS 278.020(5) provides that “[n]o individual, group, syndicate, general or limited partnership, association, corporation, joint stock company, trust, or other entity (an "acquirer"), whether or not organized under the laws of this state, shall acquire control, either directly or indirectly, of any utility furnishing utility service in this state, without having first obtained the approval of the commission.”

On April 30, 2001, Par-Tee and Carroll District jointly applied in Case No. 2001-110¹ for Commission approval of the transfer to Carroll District of the assets that Par-Tee used to provide water service. During the course of this proceeding, Par-Tee's agents advised the Commission in writing that Par-Tee had transferred its water distribution system to Carroll District on October 12, 2000.²

Based upon the foregoing and being otherwise sufficiently advised, the Commission finds that prima facie evidence exists that Par-Tee and Carroll District violated KRS 278.020(4) and (5) by failing to obtain Commission approval prior to the transfer of ownership and control of Par-Tee's water utility facilities and that James Berling, Michael Berling, Anthony C. Berling, Christopher D. Berling, Steven A. Berling, Greg Martini, Mark Seibert, Mavericks Incorporated, Dennis Crawford, Stephen Douglas Terry, Mona Kindoll, Bennie Wilson, James W. Williamson, and James Smith, in their positions as officers, agents, employees or members of Par-Tee or Carroll District aided and abetted this failure.

WHEREFORE, the Commission, on its own motion, HEREBY ORDERS that:

1. Par-Tee and Carroll District shall appear before the Commission on November 19, 2001 at 1:30 p.m., Eastern Standard Time, in the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, for the purposes of presenting evidence concerning their alleged violation of KRS 278.020(1) and of showing cause why they

¹ Case No. 2001-110, Transfer of Par-Tee Water Utility Located In Glenwood Hall Resort to Carroll County Water District No. 1.

² Case No. 2001-110, Joint Response to First Data Request of Commission Staff, Item 3 (filed July 13, 2001).

should not be subject to the penalties prescribed in KRS 278.990(1) for this alleged violation.

2. James Berling, Michael Berling, Anthony C. Berling, Christopher D. Berling, Steven A. Berling, Greg Martini, Mark Seibert, Mavericks Incorporated, Dennis Crawford, Stephen Douglas Terry, Mona Kindoll, Bennie Wilson, James W. Williamson, and James Smith shall also appear before the Commission on November 19, 2001 at the same time and place as stated above for the purposes of presenting evidence concerning their conduct to aid and abet Par-Tee and Carroll District's violation of KRS 278.020(1) and of showing cause why they should not be subject to the penalties prescribed in KRS 278.990(1) for their alleged conduct.

3. Par-Tee, Carroll District, James Berling, Michael Berling, Anthony C. Berling, Christopher D. Berling, Steven A. Berling, Greg Martini, Mark Seibert, Mavericks Incorporated, Dennis Crawford, Stephen Douglas Terry, Mona Kindoll, Bennie Wilson, James W. Williamson, and James Smith shall each respond to the Commission in writing within 20 days of the date of this Order to the allegations contained herein.

4. Any motion requesting an informal conference with Commission Staff to consider any matter that may aid in the handling or disposition of this proceeding shall be filed with the Commission no later than 20 days from the date of this Order.

5. The records of Case Nos. 2001-110, 99-313³ and 99-210⁴ are incorporated by reference into the record of this proceeding.

Done at Frankfort, Kentucky, this 28th day of September, 2001.

By the Commission

ATTEST:


Executive Director

³ Case No. 99-313, Application for Approval of the July 31, 1998 Purchase of Water and Sewer Providing Utilities from ICH Corporation to Par-Tee, LLC d/b/a Perry Park Resort.

⁴ Case No. 99-210, ICH Corporation a/k/a Glenwood Hall Resort Country Club, a/k/aA Perry Perk Resort and Par-Tee LLC d/b/a Perry Park Resort; Alleged Violation of KRS 278.020(4) and (5), Section 2, and 807 KAR 5:011, Section 11.