

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE DEVIATION OF U.S. 60 WATER DISTRICT)
FROM THE COMPANY S REGULAR EXTENSION) CASE NO. 2001-00266
POLICY BRUCE NETHERY FOR THE BRUCE)
NETHERY FARM)

ORDER

On January 22, 2001, U.S. 60 Water District for Shelby and Franklin Counties, Kentucky (U.S. 60 District) filed a proposed agreement with Bruce Nethery for a water main extension to serve a proposed real estate subdivision in Shelby County, Kentucky. Because this agreement contains an extension arrangement that differs from that established in Administrative Regulation 807 KAR 5:066, Section 11, we interpreted U.S. 60 District s filing as a request for a deviation from this administrative regulation and established this proceeding to determine whether good cause existed to grant such request.

Administrative Regulation 807 KAR 5:066, Section 11, permits a water utility to require a real estate developer to pay the entire cost of a water main extension to a real estate subdivision. It requires the water utility to refund to that developer, for a minimum of 10 years following the installation of such extension, a sum equal to the cost of fifty (50) feet of the extension installed for each new customer connected whose service line is directly connected to the extension.

The proposed extension arrangement differs from Administrative Regulation 807 KAR 5:066, Section 11, in one significant respect. It requires the real estate developer

to forego any refund for any connection to the water main extension that occurs within the proposed subdivision development.

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 that [I]n special cases, for good cause shown, the commission may permit deviations from this administrative regulation. The burden of proof in demonstrating that good cause exists falls on the proponent of the differing arrangement. Energy Regulatory Comm n v. Kentucky Power Co., Ky.App., 605 S.W.2d 46, 50 (1980) (Applicants before an administrative agency have the burden of proof.).

U.S. 60 District has yet to provide any evidence in support of the proposed water main extension arrangement or to demonstrate that good cause exists for the granting of a deviation from the requirements of Administrative Regulation 807 KAR 5:066, Section 11. The Commission finds that U.S. 60 District should be permitted 20 days from the date of this Order to submit any evidence or argument to support the proposed arrangement. If at the close of that period no supporting evidence or argument is submitted, then the proposed arrangement and U.S. 60 District s request for a deviation will be denied.

IT IS THEREFORE ORDERED that:

1. U.S. 60 District shall file with the Commission, within 20 days of the date of this Order, any documentary evidence or written argument in support of its proposed water main extension arrangement.

2. If U.S. 60 District fails to submit to the Commission within 20 days of the date of this Order any documentary evidence or written argument in support of its proposed water main extension arrangement, the proposed arrangement and U.S. 60 District's request for deviation shall be deemed denied and this matter shall be closed and removed from the Commission's docket without further Order.

Done at Frankfort, Kentucky, this 13th day of May, 2002.

By the Commission

ATTEST:


Executive Director