

3. The city of Greenup, Kentucky shall satisfy the matters complained of in the Amended Complaint, a copy of which is appended hereto, or shall file a written answer to that complaint within 10 days from the date of service of this Order.

4. Should documents of any kind be filed with the Commission in the course of this proceeding, the documents shall also be served on all parties of record.

Done at Frankfort, Kentucky, this 15th day of February, 2002.

By the Commission

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2002-00003 DATED February 15, 2002

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

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In the Matter of:

SOUTH SHORE WATER WORKS CO.)	
)	
COMPLAINANT)	
)	
vs.)	
)	CASE NO. 2002-003
CITY OF GREENUP, KENTUCKY)	
)	
DEFENDANT)	
)	

PUBLIC SERVICE
COMMISSION

AMENDED AND SUBSTITUTED COMPLAINT

Comes South Shore Water Works Co. ("South Shore"), by and through counsel, and for its Amended Complaint against the City of Greenup, states and alleges as follows:

1. South Shore Water Works Co., P. O. Box 485, South Shore, Kentucky 41175, is a public water utility operating pursuant to Chapter 278 of the Kentucky Revised Statutes.
2. The City of Greenup, 1005 Walnut Street, Greenup, Kentucky 41144, is a municipality located in the Commonwealth of Kentucky which operates a municipal water utility.
3. By this Complaint, South Shore seeks to have the Public Service Commission assume and exercise jurisdiction over the City of Greenup for purposes of enforcing a wholesale water supply agreement between the City of Greenup and South Shore entered into on April 7, 1998, or otherwise entered into as a result of the conduct and actions of the parties.
4. On March 6, 1998, South Shore released its "Investigation of Sources of Supply and Future Demand" which showed a deficient water supply in South Shore's area. It further

identified Greenup's new 2,000,000 gallon per day treatment plant as the best alternative to alleviate the water shortage.

5. The City was undertaking an expansion, denominated the "Phase VI Expansion" through the receipt of grant funds of its water supply in and around the City of Greenup.

6. On April 7, 1998, South Shore made application for a wholesale water supply before the Greenup City Council. At that meeting, the City Clerk read the entire wholesale water application into the minutes, and the application was accepted and approved by the City Council. The minutes of the April 7, 1998 meeting were subsequently approved at the next City Council meeting.

7. As a result of the South Shore wholesale water application, the City amended its grant request and subsequently received and accepted \$1.7 million in grants for its Phase VI Expansion, which expansion included in part specific water lines and taps to meet the request for service by South Shore as set forth in its April 7, 1998 Application.

8. The City received the grant funds referred to in paragraph 7 above, and proceeded to construct and complete its Phase VI Expansion, which expansion included the installation of water mains to South Shore, as well as water taps for wholesale water hookup.

9. As the Phase VI Expansion was being constructed by the City, the City further required a \$5,000 tap fee from South Shore for the anticipated connections to the water mains being constructed. South Shore agreed to the tap fee and subsequently paid the \$5,000 tap fee to the City.

10. In October 1998, in reliance upon the April 7, 1998 application, the acceptance of that application by the City Council, and the subsequent application and receipt of funds for the Phase VI Expansion, South Shore began constructing a reservoir, at a higher elevation than

would otherwise have been required, specifically to handle the backup water supply necessary to meet the needs of South Shore's customers. The reservoir was designed to handle the City's higher water pressure.

11. In November-December, 1998, South Shore invested an additional \$23,069 in the reservoir referred to in paragraph 10 above.

12. In May 1999, South Shore invested an additional \$1,859 on the reservoir referred to in paragraph 10 above.

13. In July 2000, South Shore completed its investment in the reservoir with additional monies totaling \$15,502.

14. The total invested by South Shore for the reservoir was \$90,450.

15. At all times during South Shore's initial investment and construction of the reservoir, the City of Greenup knew and was aware of South Shore's investment and South Shore's reliance upon the City's commitment and obligation to supply backup wholesale water for the South Shore system and its customers.

16. In July 2001, the City completed construction of the water main to South Shore (at a cost of approximately \$250,000), and the taps for the connection between the City's water lines and the South Shore system were installed and completed.

17. In November 2001, a dispute developed between the City and South Shore regarding the minimum water usage to be required of South Shore (such minimums having been included in the April 7, 1998 application), and a further dispute arose regarding the billing rate to be imposed by the City on South Shore.

18. Upon being advised by South Shore that the dispute would have to be resolved by the Kentucky Public Service Commission, the City indicated that it would not be willing to sell water to South Shore.

19. South Shore and the City had a contract expressed and implied as a result of the allegations set forth in paragraphs 4-18 above.

20. The City is estopped to deny the existence of a contract because of the reliance by South Shore in constructing the reservoir and other justifiable reliance upon the contract.

21. The City is further estopped to deny the existence of a contract because it made representations to various governmental agencies regarding its obligations to provide South Shore with water, and received funds from those agencies in reliance upon those representations.

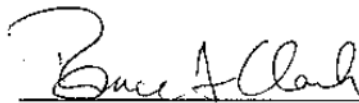
22. The City is further estopped to deny the existence of a contract between South Shore and the City because the City utilized approximately \$250,000 of grant funds to install water lines to South Shore and install two water taps that can only be used by South Shore.

23. The City is unable to deny the contract because of its concern over jurisdiction by the Public Service Commission because, in 1994, in the case of *Simpson County Water District v. City of Franklin, Ky.*, 872 S.W.2d 460 (1994), the Kentucky Supreme Court held that the Public Service Commission does have jurisdiction over these contracts. Accordingly, the City should have been on notice, and as a legal matter, it must be deemed to have notice of the jurisdiction of the Public Service Commission during all dates which are involved in this controversy.

24. The Public Service Commission has jurisdiction over the agreement between South Shore and the City, and is empowered to determine and adjudicate the appropriate minimum water usage and water rates to be imposed by the City for South Shore's water usage.

WHEREFORE, pursuant to KRS 278.260, South Shore Water Works Co. files and makes this Complaint against the City of Greenup, and requests the Public Service Commission to assume jurisdiction of the Complaint, and grant such relief as may be authorized hereunder, including but not limited to the determination of the minimum usage requirement under the contract between South Shore and the City, and the minimum wholesale rate to be imposed.

Respectfully submitted,

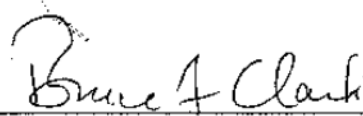


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WORKS CO.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been served on the parties of record herein, by mailing a copy of same to the following, this 28th day of January, 2002:

Luke Bentley, Esq.
City Attorney
East Main Street
Greenup, KY 41144



Bruce F. Clark