

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION OF THE OPERATING CAPACITY )  
OF MARTIN COUNTY WATER DISTRICT ) CASE NO. 2002-00116  
PURSUANT TO KRS 278.280 )

ORDER

On April 4, 2002, the Commission initiated this docket pursuant to KRS 278.250,<sup>1</sup> KRS 278.260(1),<sup>2</sup> and KRS 278.280(1)<sup>3</sup> to examine alleged serious operating deficiencies that immediately threatened the ability of Martin County Water District

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<sup>1</sup> Whenever it is necessary in the performance of its duties, the commission may investigate and examine the condition of any utility subject to its jurisdiction. In conducting such investigation, the commission may proceed with or without a hearing as it deems best, but shall make no order without giving a hearing to the parties affected thereby.

<sup>2</sup> The commission shall have original jurisdiction over complaints as to rates or service of any utility, and upon a complaint in writing made against any utility by any person that any rate in which the complainant is directly interested is unreasonable or unjustly discriminatory, or that any regulation, measurement, practice or act affecting or relating to the service of the utility or any service in connection therewith is unreasonable, unsafe, insufficient or unjustly discriminatory, or that any service is inadequate or cannot be obtained, the commission shall proceed, with or without notice, to make such investigation as it deems necessary or convenient. The commission may also make such an investigation on its own motion. No order affecting the rates or service complained of shall be entered by the commission without a formal public hearing.

<sup>3</sup> Whenever the commission, upon its own motion or upon complaint as provided in KRS 278.260, and after a hearing had upon reasonable notice, finds that the rules, regulations, practices, equipment, appliances, facilities or service of any utility subject to its jurisdiction, or the method of manufacture, distribution, transmission, storage or supply employed by such utility, are unjust, unreasonable, unsafe, improper, inadequate or insufficient, the commission shall determine the just, reasonable, safe, proper, adequate or sufficient rules, regulations, practices, equipment, appliances, facilities, service or methods to be observed, furnished, constructed, enforced or employed, and shall fix the same by its order, rule or regulation.

( Martin District ) to provide water service. While we noted in that Order that our primary concern was with those conditions that immediately threatened service to Martin District s customers, we also stated our intention that this proceeding address the long term issues concerning the operation of Martin District.

After hearing evidence on the conditions that immediately threaten service to Martin District, including the testimony of the immediate past chairman of Martin District s Board of Commissioners, and reviewing the available records on file with the Commission, we find that the scope of this proceeding should be expanded to consider additional issues regarding Martin District s operation and management. An examination of these issues, which are set forth in Appendix A to this Order, is necessary to assess the current condition of Martin District s operations and management, to determine the rules, methods, and practices that are required to ensure the water district provides adequate and reasonable service, and to restore public confidence in the water district s operations.

In expanding the scope of this proceeding, we have directed Commission Staff to, inter alia, examine Martin District s books, records, and documents and to identify any problems or irregularities that may affect or may have affected Martin District s ability to perform its obligations under KRS Chapter 74 and Chapter 278. We have further directed Commission Staff to interview all appropriate persons involved in the water district s past and present operations. At the conclusion of their efforts, Commission Staff will present its evidence, findings, and recommendations at a hearing.

IT IS THEREFORE ORDERED that:

1. The scope of this proceeding is enlarged to include the issues set forth in Appendix A to this Order.

2. The parties and Commission Staff shall follow the procedural schedule set forth in Appendix B to this Order.

3. The record of Case No. 1996-00358<sup>4</sup> is incorporated by reference into the record of this proceeding

4. The certified minutes of the Martin County Fiscal Court from January 1, 1996 to April 4, 2002 are made a part of the record of this proceeding.

5. The Executive Director shall within 7 days of the date of this Order serve upon Martin District a copy of the documents referred to in Ordering Paragraph 3 of this Order.

6. Beginning July 1, 2002 and continuing until further Order of the Commission, Martin District shall on the 15th and 30th day of each month file a written report with the Commission that contains:

a. The current status of its efforts to remedy the deficiencies described in the Commission Staff Report of April 5, 2002;

b. The expected date of completion of all actions required to remedy the deficiencies stated in the Commission Staff Report of April 5, 2002;

c. The current status of its negotiations with Kentucky-American Water Company for an operations and management services agreement;

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<sup>4</sup> Case No. 1996-00358, The Application of Martin County Water District 1 and Martin County Water District 2 for Approval of Merger.

d. The current status of all its pending proceedings before the Natural Resources and Environmental Protection Cabinet; and,

e. A list of all boiled water advisories or other health advisories that Martin District has issued since June 1, 2002 or its last report to the Commission, whichever occurred later, the reasons for the issuance of each advisory, and the actions taken to lift the advisory.

7. Martin District shall, upon the request of Commission Staff, produce at its own expense and provide to Commission Staff verified copies of any books, accounts, papers and records of its operations.

8. Martin District shall make available to Commission Staff for inspection at reasonable hours all books, accounts, papers and records of its operations.

9. Copies of all documents served upon any party shall be served upon all other parties and filed with the Commission.

10. Any party taking a person's testimony by deposition shall, within 15 days of the taking of the deposition, file the original and a copy of such deposition with the Commission and shall serve notice of such filing upon all parties. Motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

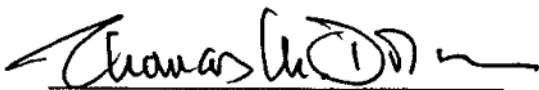
11. To be timely filed with the Commission, a document must be received by the Secretary of the Commission within the specified time for filing except that any document shall be deemed timely filed if it has been transmitted by United States express mail, or by other recognized mail carriers, with the date the transmitting agency received said document from the sender noted by the transmitting agency on the outside of the container used for transmitting, within the time allowed for filing.

12. Service of any document or pleading shall be made in accordance with Administrative Regulation 807 KAR 5:001, Section 3(7), and Kentucky Civil Rule 5.02.

Done at Frankfort, Kentucky, this 1<sup>st</sup> day of July, 2002.

By the Commission

ATTEST:

A handwritten signature in black ink, appearing to read "Thomas W. [unclear]", written over a horizontal line.

Executive Director

## APPENDIX A

### AN APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2002-00116 DATED July 1, 2002

- Is Martin District's current organization, including the number of members of its Board of Commissioners, consistent with KRS Chapter 74?
- Did Martin District willfully violate KRS 278.020(1) when constructing facilities related to a raw water supply pipeline without obtaining prior Commission approval?
- Did any member of Martin District's Board of Commissioners aid and abet a willful violation of KRS 278.020(1) by authorizing the construction of facilities related to a raw water supply pipeline without obtaining prior Commission approval?
- Is Martin District currently performing its meter reading, billing and collection functions in a timely and appropriate manner?
- Is Martin District processing and paying vendor invoices and other legal obligations in a timely and appropriate manner?
- Is Martin District currently procuring equipment, supplies and services in a reasonable and lawful manner?
- What revisions, if any, are required in Martin District's method of procuring equipment, supplies and services to ensure the provision of reasonable utility service?
- Is Martin District performing its record keeping and bookkeeping functions in a timely and appropriate manner?
- Is Martin District addressing requests for customer service in a timely and appropriate manner?
- Is Martin District providing service in accordance with the provision of the rate schedules currently on file with the Commission?
- What additional actions, if any, should Martin District undertake to protect its sources of water?
- What actions, if any, should Martin District undertake to provide redundancies within its system to ensure continuity of water service?

- Are Martin District's repair and maintenance practices adequate to ensure the use of facilities and equipment over such equipment's expected useful service life?
- What revisions, if any, are needed in Martin District's current employment and staffing policies and practices sufficient to ensure the provision of reasonable water service?
- Are Martin District's current management and communications practices adequate to ensure that all relevant information is disseminated to members of its Board of Commissioners?
- Are Martin District's current communications procedures and practices adequate to ensure dissemination of all relevant information to the public?
- Does Martin District have an adequate leak detection program to reduce water loss? If not, what revisions to its existing program are necessary?
- Are Martin District's financial and operations planning practices and processes adequate to ensure the continuity of reasonable service at reasonable rates?
- Are Martin District's current emergency planning procedures adequate?
- What revisions, if any, are needed in Martin District's management practices to ensure the provision of reasonable water service?

APPENDIX B

AN APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2002-00116 DATED July 1, 2002

Commission Staff or any party may serve  
interrogatories and requests for production of documents  
upon other parties no later than ..... 07/15/2002

Parties shall file with the Commission and serve upon all parties of  
record responses to interrogatories and requests for production of  
documents no later than..... 07/29/2002

Commission Staff or any party may serve supplemental  
interrogatories and requests for production of documents  
upon other parties no later than ..... 08/08/2002

Parties shall file with the Commission and serve upon all parties of  
record responses to supplemental interrogatories and requests for production of  
documents no later than..... 08/19/2002

Commission Staff or any party may take the testimony of  
any person by deposition upon oral examination pursuant  
to notice or by agreement on or until..... 08/19/2002

Commission Staff and the parties shall file with the Commission  
and serve upon other parties a list of the persons who they intend  
to testify at the scheduled hearing in this matter and a detailed  
summary of their expected testimony no later than ..... 08/30/2002

A hearing shall be held in this matter, beginning at 9:00 a.m.,  
Eastern Daylight Time, in the Commission s offices at 211 Sower  
Boulevard, Frankfort, Kentucky to hear the testimony of the witnesses  
of Commission Staff and any party..... 09/13/2002