

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

HOWARD B. KEEN)	
)	
COMPLAINANT)	
)	
v.)	CASE NO.
)	2004-00348
CARROLL COUNTY WATER DISTRICT #1)	
)	
DEFENDANT)	

ORDER TO SATISFY OR ANSWER

Carroll County Water District #1 ("Carroll District") is hereby notified that it has been named as defendant in a formal complaint filed on August 27, 2004, a copy of which is attached hereto.

Pursuant to 807 KAR 5:001, Section 12, Carroll District is HEREBY ORDERED to satisfy the matters complained of or file a written answer to the complaint within 10 days from the date of service of this Order.

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 24th day of September, 2004.

By the Commission

ATTEST:


Executive Director



e-mail wkfii@fuse.net

WILLIAM K. FULMER, II

Attorney and Counselor at Law

gs

7289 Burlington Pike
Florence, Kentucky 41042
Telephone 859.282-3500
Fax 859.282-3212

August 26, 2004

Kentucky Public Service Commission
ATTN: Consumer Services Division
P.O. Box 615
211 Sower Boulevard
Frankfort, Kentucky 40602-0615

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AUG 27 2004

PUBLIC SERVICE
COMMISSION

RECEIVED

AUG 27 2004

PSC Consumer Services

0004-00348

IN RE: HOWARD KEEN v. CARROLL COUNTY WATER DISTRICT #1

To Whom It May Concern:

Enclosed please find the *Formal Complaint* of my client/Petitioner, Howard Keen. Mr. Keen files the enclosed formal complaint to this Commission pursuant to 807 KAR 5.001 § 12 which is applied by statutory authority under KRS § 278.00 *et seq.* If this Commission has any questions for Mr. Keen please direct them through this office. Thank you.

Sincerely,


William K. Fulmer, II

Enclosure

WKF/tm

cc: Howard Keen

COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
CASE NUMBER: _____

HOWARD KEEN

PETITIONER

vs.

CARROLL COUNTY WATER DISTRICT #1

RESPONDENT

FORMAL COMPLAINT

Now comes the Petitioner, HOWARD KEEN, by and through counsel and pursuant to 807 KAR 5.001 § 12 files this *Formal Complaint* and in support of the same states as follows:

1. Petitioner is a natural person and resides at 72 Goodridge Drive, Florence, Boone County, Kentucky.
2. Petitioner is owner of real property located at the corner of Fairview Road and Clay Lick Road in Owen County, Kentucky (Land).
3. Respondent, CARROLL COUNTY WATER DISTRICT #1, is a utility whose principal place of business is P.O. Box 350, Ghent, Carroll County, Kentucky.
4. That this Commission has jurisdiction over this issue pursuant to KRS 278.00 et seq. and has adopted pertinent regulations pursuant to KRS 278.310.
5. That on March 31, 2004 Respondent did notify Petitioner, via a letter from James L. Smith, Manager a copy of which is attached hereto and incorporated herein, of its intention to charge Petitioner for the "road bore back" because of Petitioner's refusal to give Respondent property rights, *to wit*, an easement, in Petitioner's Land.

6. That Respondent's cited regulation does not apply to the herein matter.

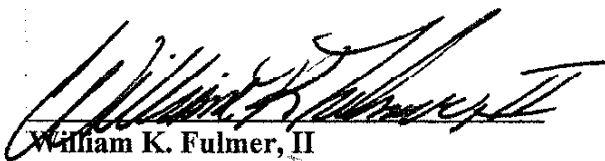
7. That Petitioner, through counsel, did reply to Respondent's March 31, 2004 letter with a letter dated April 13, 2004, a copy of which is attached hereto and incorporated herein, and as of the date of this *Formal Complaint* had yet to receive a reply.

8. That Respondent's failure to reply to Petitioner's April 13, 2004 letter did violate Respondent's own regulations. (Carroll County Water District #1's Rates & Charges and Rules & Regulations for Furnishing Water Service at Carroll, Gallatin and Owen Counties Kentucky § II (F), pp.20-21 (2003)).

WHEREFORE, Petitioner prays for the following relief:

1. Petitioner's meter for the aforementioned property be connected;
2. Petitioner be required to pay only the regular meter connection fee;
3. That Respondent be barred from charging Petitioner any "road bore back" fee;
4. Any and all further relief, to which Petitioner may be entitled; and
5. For leave to amend this Formal Complaint as the premises indicate.

Respectfully Submitted,



William K. Fulmer, II
Attorney at Law (K.B.A. 84145)
7289 Burlington Pike
Florence, Kentucky 41042
Phone: (859) 282-3500
Facsimile: (859) 282-3212
E-mail: wkfii@fuse.net

COPY

cc: Howard Keen

CARROLL COUNTY WATER DISTRICT #1

PO BOX 350
Ghent KY 41045

Phone (502) 347-9500
Fax (502) 347-9333

March 31, 2004

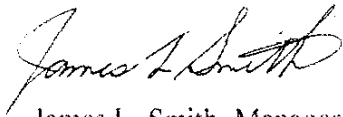
Howard B. Keen
72 Goodridge Drive
Florence, KY 41042

Ref: New Meter on Clay's Lick

Howard,

We are holding your meter connection fee of \$465.00 until we can be assured that you want to proceed. I am enclosing one page from our approved tariff showing that you will have to be responsible for the costs associated with the road bore back to your property. This cost cannot be determined until the bore is complete since we cannot predict how much rock we may encounter. As I explained to you several months ago on the phone, this cost may only be several hundred dollars but could possibly go as high as \$3,000.00 or more. At that time you said you understood. Please let us know whether you want us to proceed on this basis on return you \$465.00.

Sincerely,



James L. Smith, Manager
Carroll County Water District #1

Enclosure

COPY

FOR Carroll County Water District #1

P.S.C. KY.NO. _____

SHEET NO. _____

Carroll County Water District #1

CANCELLING P.S.C. KY.NO. _____

SHEET NO. _____

RULES AND REGULATIONS

- 4. Nothing contained therein shall be construed to prohibit the utility from making extensions under different arrangements if such arrangements have received the prior approval of the Public Service Commission.
- 5. Upon complaint to and investigation by the Public Service Commission a utility may be required to construct extensions greater than fifty (50) feet upon a finding by the Public Service Commission that such extension is reasonable and that an extension of fifty (50) feet or less is unreasonable under the circumstances.
- 6. In cases where a landowner has refused to give easement to cross his property and the District had to cross the road to avoid the property, the District may charge this property owner for the road bore back to his property in addition to a regular meter connection fee if and when a request is made for water service. This additional charge would not apply to subsequent owners of the property if the ownership changes.

AF. Extension Procedures for Developers and/or New Subdivisions. The utility contracts privately with the owners/developers for the installation of water service for the subject subdivision. The owners/developers, pursuant to these contracts, extend mains and install water service at their expense. The utility does not accept nor receive any contribution, cost reimbursement, or deposit from any customer (lot owner) in this circumstance and as contemplated by 807 KAR 5:066 Section 11 (2)(a), and therefore, 807 KAR 5:066 Section 11 (2)(b) (1) or (2) does not apply to the utility with regard to newly-developed subdivisions. All contracts entered into by the district must have the prior approval of the Public Service Commission.

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE

AUG 18 2003

PURSUANT TO 807 KAR 5:011
SECTION 9 (1)

BY James L. Smith
EXECUTIVE DIRECTOR

DATE OF ISSUE August 18, 2003
Month / Date / Year

DATE EFFECTIVE August 18, 2003
Month / Date / Year

ISSUED BY James L. Smith
(Signature of Officer)

TITLE MANAGER

ISSUED BY THE AUTHORITY BY AN ORDER OF THE PUBLIC SERVICE COMMISSION OF KENTUCKY IN

CASE NO. 2003-00145

PAGE# 44

DATED August 19, 2003

WILLIAM K. FULMER, II
Attorney at Law
7289 Burlington Pike
Florence, Kentucky 41042
Office - (859) 282-3500
Facsimile - (859) 282-3212

April 13, 2004

James L. Smith
Carroll County Water District #1
PO Box 350
Ghent, Kentucky 41045

RE: Howard B. Keen, new meter on Clay's Lick

Dear Mr. Smith:

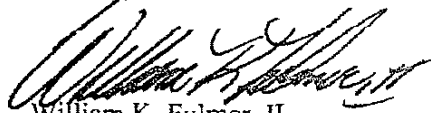
Howard Keen brought your letter of March 31, 2004 to my office for review. From a factual standpoint, I am puzzled about your contention that because Mr. Keen refused to give an easement you are charging him for a bore back to his property. In paragraph 6 the Rules and Regulations state in pertinent part::

In cases where a landowner has refused to give easement to cross his property and the District had to cross the road to avoid the property, the District may charge owner for the road bore back to his property in addition to a regular meter connection fee if and when a request is made for water service.

My survey of your installation on Clay Lick reveals that the water district crossed Fairview to lay the line on Clay Lick. Regardless of the easement, your district would have had to cross Fairview to lay the line. So my question is how did the district cross the road to avoid Mr. Keen's property?

Paragraph 6 does not apply to Mr. Keen's situation, therefore, the connection fee tendered should be sufficient.

Sincerely,


William K. Fulmer, II

WKF:jaa

COPY

WILLIAM K. FULMER, II
Attorney and Counselor at Law
7289 Burlington Pike
Florence, Kentucky 41042



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SEP 1 0 2004

PUBLIC SERVICE
COMMISSION

Hon. Gerald Wuetcher
Assistant General Counsel
Environmental and Public Protection Cabinet
Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, Kentucky 40602-3940



4060240613 07



e-mail wkfji@fuse.net

WILLIAM K. FULMER, II

Attorney and Counselor at Law

7289 Burlington Pike
Florence, Kentucky 41042
Telephone 859.282-3500
Fax 859.282-3212

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SEP 10 2004

PUBLIC SERVICE
COMMISSION

September 8, 2004

Hon. Gerald Wuetcher
Assistant General Counsel
Environmental and Public Protection Cabinet
Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, Kentucky 40602-3940

IN RE: Howard Keen v. Carroll County Water District No. 1
Case No. 2004-00348

Dear Mr. Wuetcher:

Enclosed please find Mr. Fulmer's letter to the Public Service Commission dated April 13, 2004 which was referenced in our client's *Formal Complaint*. Sorry for any confusion its exclusion may have caused.

Sincerely,

Daniel H. Miller, III
Law Clerk