

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF U.S. 60 WATER DISTRICT OF)
SHELBY AND FRANKLIN COUNTIES, KENTUCKY)
FOR A CERTIFICATE OF PUBLIC CONVENIENCE) CASE NO. 2008-00045
AND NECESSITY TO CONSTRUCT, FINANCE)
AND INCREASE RATES PURSUANT TO KRS)
278.023)

THE APPLICATION OF U.S. 60 WATER DISTRICT)
OF SHELBY, SPENCER, AND FRANKLIN)
COUNTIES TO TERMINATE OR REVISE) CASE NO. 2008-00345
SURCHARGES RELATED TO CERTAIN WATER)
DISTRIBUTION MAIN EXTENSIONS)

O R D E R

U.S. 60 Water District of Shelby and Franklin Counties ("U.S. 60 District") has moved for the elimination of a monthly rental charge of \$5.00 per fire hydrant and approval of revisions to its rules regarding the provision of free water for fire protection purposes to fire departments and fire protection districts.¹ Finding that the proposed revisions are reasonable and have Rural Development's consent, we grant the motion.

On March 7, 2008, the Commission authorized the monthly hydrant rental charge in compliance with KRS 278.023. That statute requires the Commission to accept agreements between water utilities and Rural Development, and to issue the necessary orders to implement the terms of such agreements within 30 days of satisfactory completion of the minimum filing requirements. A financing agreement between Rural

¹ On August 27, 2008, U.S. 60 District filed its motion in Case No. 2008-00045. On December 17, 2008, it filed additional materials to support its motion in the record of Case No. 2008-00345. To avoid any confusion, the Commission has entered this Order in both proceedings.

Development and U.S. 60 District required, *inter alia*, the assessment of the monthly hydrant rental fee.

U.S. 60 District states that the monthly hydrant rental fee was originally intended to recover the cost of water that fire departments and fire protection districts used for firefighting and training activities. Local fire departments and fire protection districts, however, have been resistant to paying the hydrant rental fee. Due to intense opposition to the fee, U.S. 60 District considered alternatives to the imposition of a rental fee.

After reviewing the issue and in light of the significant opposition to the rental fee, U.S. 60 District requests that the Commission amend our earlier Order to eliminate the rental fee and in its place approve a revised policy regarding a fire department or fire protection district's right to water at no charge for fire training events.² Under the proposed revisions, fire departments and fire protection districts are prohibited from withdrawing unreasonable quantities³ of water from the water system at all times and from withdrawing any water for training purposes during peak demand time or times of

² The rate schedules that U.S. 60 District filed with the Commission on August 27, 2008 set forth an effective date of October 1, 2008. Despite the stated effective date, the Commission was not required to suspend the proposed rate schedules to prevent the proposed revisions from taking effect. These schedules were not filed separately with the Commission, but were an integral part of a motion to amend and modify our Order of March 7, 2008. That Order could not be modified until the Commission affirmatively acted on the motion. See KRS 278.390 ("Every order entered by the commission shall continue in force until the expiration of the time, if any, named by the commission in the order, or until revoked or modified by the commission . . ."). Moreover, KRS 278.023 prohibited the Commission from taking any action that would have prevented U.S. 60 District from fulfilling its obligations under its agreement with RD. Since RD did not consent to the proposed modifications in the water district's rates until December 11, 2008 and since the hydrant fee was a condition of an agreement between RD and the water district, the Commission could not act to modify or otherwise amend the Order of March 7, 2008 to eliminate the hydrant fee before RD's consent.

³ An example of an unreasonable quantity of water for fire protection purposes is the withdrawal of an amount of water that damages or causes contamination of the water district's water system.

restricted water usage. If a fire department or fire protection district violates these restrictions, it must reimburse the water district for the cost of the water.

The revised policy further requires a fire department or fire protection district that fails to report its water withdrawals monthly to pay for the cost of water that has been withdrawn from the water district's water system. It also provides for the assessment of a \$50 penalty against the offending fire department or fire protection district.

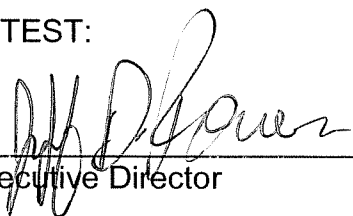
U.S. 60 states that elimination of the monthly hydrant fee will not materially affect the water district's financial position. It does not generate significant revenues. U.S. 60 has obtained the consent of Rural Development to the proposed revision.⁴

Finding that the proposed revisions are reasonable and consistent with KRS 278.170 and 807 KAR 5:095, the Commission HEREBY ORDERS that:

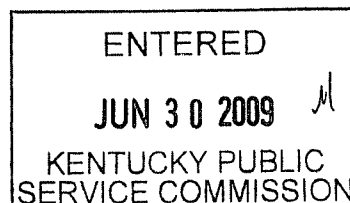
1. U.S. 60 District's Motion is granted.
2. Effective as of the date of this Order, U.S. 60 District shall cease assessing the monthly hydrant rental fee and shall enforce its revised rules for service to fire departments.
3. Within 30 days of the date of this Order, U.S. 60 District shall file with the Commission revised tariff sheets setting out the approved revisions.

By the Commission

ATTEST:



Executive Director



⁴ See Letter from Kenneth Slone, Kentucky State Office – Rural Development, to William Eggen, Chairman, U.S. 60 District (Dec. 11, 2008).

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