

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TARIFF FILING OF HENRY COUNTY WATER)	
DISTRICT NO. 2 TO AMEND ITS POLICY)	CASE NO. 2009-00440
REGARDING CERTIFICATION OF WATER)	
AVAILABILITY)	

ORDER

Henry County Water District No. 2 ("Henry District") has filed a tariff sheet in which it proposes to condition its certification of the availability of water service to subdivision developments upon the payment of an impact fee or system development charge to offset the effect "of holding hydraulic capacity in reserve for . . . [the] subdivision."

Finding that the proposed revision raises significant issues of first impression and that further investigation is necessary, the Commission, on its own motion, HEREBY ORDERS that:

1. This case is initiated to investigate the reasonableness of the proposed tariff revision.
2. Henry District shall take no action to place the proposed revision into effect until it has complied with the provisions of KRS 278.180 and 807 KAR 5:011.¹

¹ We find that no action is necessary to suspend the proposed revision. No revision to an existing tariff may be made unless in compliance with KRS 278.180. That statute provides that the notice of any revision in a rate must state plainly the time when the changed rates will go into effect. As the proposed tariff sheet revision did not state an effective date, it did not comply with KRS 278.180 and cannot take effect.

3. Within 20 days of the date of this Order, Henry District shall file the information listed in the Appendix to this Order and shall serve a copy to each party of record.

4. In preparing and submitting the information listed in the Appendix, Henry District shall:

a. Place each copy of the information listed in the Appendix in a bound volume with each item tabbed. When a number of sheets are required for an item, each sheet shall be appropriately indexed, for example, Item 1(a), Sheet 2 of 6.

b. Include with each response the name of the witness who will be responsible for responding to questions relating to the information provided.

c. Shall answer each response under oath or provide for each response a signed certification of the preparer or person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

d. Make timely amendment to any prior response if it obtains information which indicates that the response was incorrect when made or, though correct when made, is now incorrect in any material respect.

e. For any request to which Henry District fails or refuses to furnish all or part of the requested information, provide a written explanation of the specific grounds for its failure to completely and precisely respond.

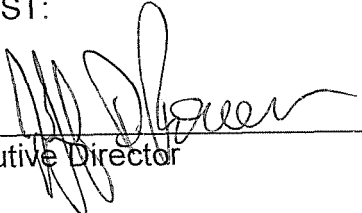
f. Give careful attention to copied material to ensure that it is legible.

5. The Executive Director shall serve a copy of this Order upon the Henry County Planning Commission.

By the Commission

ENTERED
NOV 30 2009 *sl*
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2009-00440 DATED NOV 30 2009

1. Provide all correspondence with the Henry County Planning Commission in which the certification of subdivision plats is discussed.
2. Provide all policy statements, regulations, and other guidance that the Henry County Planning Commission has issued regarding the certification of water availability.
3. State whether Henry District, by the filing of its proposed revision, is requesting that the Commission strike from its current tariff Section 1 of "Plat Certification Requirements" of its "Procedures and Requirements for the Development of Water Line Extensions."
4. Provide the format of the certification that Henry District presently uses to certify the availability of water to a subdivision plat.
5. Explain why the existence of an impact fee or system development charge is essential to the certification of the availability of water to the local planning commission.
6. List the other planning commissions that exercise authority within any portion of Henry District's territory.
7. For each planning commission listed in item 6, describe the policy of that planning commission regarding the certification of water availability for a proposed real estate subdivision development.

8. State whether Henry District agrees that a local planning commission has the legal authority to require water reserve requirements for a water utility. Explain

James T Simpson
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