

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ALLEGED FAILURE OF FAILURE OF CENTER	)	CASE NO.
RIDGE WATER DISTRICT NO. 2 TO FILE	)	2017-00030
REQUIRED REPORTS	)	

ORDER

On February 7, 2017, the Commission ordered Center Ridge Water District No. 2 (“Center Ridge”) to show cause why it should not be penalized for failing to comply with KRS 278.140 and 278.230(3). The Commission Order also noted that it had initiated a similar action against Center Ridge in 2011 which resulted in the Commission’s suspending of a \$2,500.00 fine contingent upon Center Ridge’s timely filing of its 2012, 2013, 2014, 2015, and 2016 annual statistical and financial reports.<sup>1</sup> A hearing in this matter was held on March 28, 2017. No representative appeared on behalf of Center Ridge.

Having reviewed the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. Center Ridge is a Kentucky corporation that owns, controls, operates, and manages facilities which are used for and in connection with the distribution and furnishing of water to and for the public for compensation. It is, therefore, a utility subject to Commission jurisdiction.<sup>2</sup>

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<sup>1</sup> February 7, 2017 Order, citing Case No. 2011-00337, *Alleged Failure of Center Ridge Water District No. 2 to File Required Reports*, (Ky. PSC Oct. 11, 2011).

<sup>2</sup> KRS 278.010(3)(d)

2. KRS 278.230(3) directs every utility, when required by the Commission, to file with it any report or other information that the Commission reasonably requires.

3. 807 KAR 5:006, Section 4(2), requires every utility to electronically file with the Commission, on or before March 31 of each year, a financial and statistical report of its utility operations for the preceding calendar year.

4. KRS 278.140 requires each utility to file, on or before March 31 of each year, a report of its gross earnings or receipts derived from intrastate business for the preceding calendar year.

5. On December 20, 2011, the Commission, in Case No. 2011-00337, assessed Center Ridge a \$2,500.00 penalty for its willful failure to comply with KRS 278.230(3).

6. On October 3, 2012, the Commission, in Case No. 2011-00337, issued an Order suspending the payment of the \$2,500.00 penalty, contingent upon Center Ridge's timely filing its 2012, 2013, 2014, 2015, and 2016 annual reports.

7. On January 13, 2016, the Commission provided to Center Ridge an electronic link to the standard forms for the annual financial and statistical report and the report of gross earnings from intrastate business.

8. As of April 1, 2016, Center Ridge had neither filed these reports for the 2015 calendar year operations nor requested an extension of time in which to make such filing.

9. On or about January 10, 2017, Center Ridge filed its annual financial and statistical report for the 2015 calendar year.

10. On or about January 10, 2017, Center Ridge filed its report of its gross earnings or receipts derived from intrastate business for the 2015 calendar year.

11. Where the act which a utility is required to do is merely clerical in nature, willfulness or deliberate intent can be inferred from the fact of noncompliance.<sup>3</sup>

12. Center Ridge has willfully violated the October 3, 2012 Order in Case No. 2011-00337 by failing to timely file its reports for the 2015 calendar year.

13. Center Ridge has willfully failed to submit reports for the 2015 calendar year by March 31, 2016, as required by 807 KAR 5:006 Section 4(2) and KRS 278.140.

14. Center Ridge has willfully failed to comply with KRS 278.230(3).

15. Center Ridge has willfully failed to comply with KRS 278.140.

16. KRS 278.990(1) provides that any utility that willfully violates any Commission order, provision of KRS Chapter 278, any regulation promulgated pursuant to KRS Chapter 278, or fails to perform any duty imposed upon it under those sections shall be subject to a civil penalty not less than \$25.00 and not more than \$2,500.00.

17. The \$2,500.00 penalty assessed in Case No. 2011-00337 should be due and payable.

18. Center Ridge should be assessed a penalty of \$2,500.00 for its willful failure to comply with KRS 278.230(3).

19. Center Ridge should be assessed a penalty of \$2,500.00 for its willful failure to comply with KRS 278.140.

IT IS THEREFORE ORDERED that:

1. Center Ridge shall pay the \$2,500.00 penalty suspended in Case No. 2011-00337.

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<sup>3</sup> See *Re Dyke Water Company*, 55 PUR3d 342 (Cal. P.U.C. 1964).

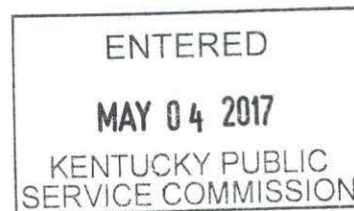
2. Center Ridge is assessed a penalty of \$2,500.00 for its willful failure to comply with KRS 278.230 and 807 KAR 5:006, Section 4(2).

3. Center Ridge is assessed a penalty of \$2,500.00 for its willful failure to comply with KRS 278.140.

4. Center Ridge shall pay the assessed penalties, totaling \$7,500.00, within 14 days of the date of this Order. Payment shall be by certified check or money order made payable to "Treasurer, Commonwealth of Kentucky" and shall be sent by certified mail or delivered to Office of General Counsel, Public Service Commission of Kentucky, 211 Sower Boulevard, P. O. Box 615, Frankfort, Kentucky 40602-0615.

5. The Executive Director shall serve a copy of this order on Center Ridge via certified mail.

By the Commission



ATTEST:

  
Executive Director

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New Concord, KY 42076

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