

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LOVELACEVILLE WATER COMPANY)	CASE NO.
REQUEST TO ABANDON)	2014-00136

ORDER

Lovellaceville Water Company (“Lovellaceville Water”) is a for-profit class C water company in Ballard County, Kentucky.¹ It currently provides water to the public for consumption and is a utility subject to the Commission’s jurisdiction.² On March 18, 2014, Lovellaceville Water submitted a letter to the Commission requesting authorization to abandon its facilities due to its deteriorating financial and physical condition.³ On April 21, 2014, the Commission opened this matter to investigate the request. There are no intervenors in this matter.

The utility is owned and operated by Eric Young, who acquired Lovellaceville on January 28, 2011.⁴ Lovellaceville is currently served by two wells, each with a separate pump. Lovellaceville last sought and received a rate increase in 2009.⁵

¹ *Annual Report of Lovellaceville Water Company for the Year Ending December 31, 2013* at 5, 24.

² KRS 278.010(3)(d); 278.040.

³ Order, Appendix (Ky. PSC Apr. 21, 2014).

⁴ Case No. 2010-00422, *Joint Application of Paul and Barbara McGowan and Eric Young for Approval of the Transfer of Ownership of Lovellaceville Water Company's Pumping, Treatment, and Distribution Facilities* (KY. PSC Jan. 28, 2011).

⁵ Case No. 2009-00381, *Alternative Rate Adjustment Filing of Lovellaceville Water Company* (Ky. PSC Nov. 25, 2009).

Public meetings were held in Lovelaceville, Kentucky, on May 14, 2014, and September 16, 2014, for the purpose of providing information to Lovelaceville Water customers. A hearing was held on September 17, 2014 at the Commission's office. The sole witness to testify was Lovelaceville's owner/operator, Eric Young. No public comments were received either at the Commission's offices or in Paducah, Kentucky, where a video transmission of the hearing provided a more convenient location for customers to view the proceeding.

In the course of the hearing, Mr. Young stated that nine customers have left the system after drilling wells for their private use, leaving 42 customers, down from an approximated high of 55. Mr. Young testified that the loss of these customers from the system has caused further harm, as they were predominantly customers who had been regularly paying their bills. Because of the number of leaks on the system, water usage (and loss) has remained constant, despite the reduced number of customers. Mr. Young indicated that he has difficulty maintaining adequate pressure throughout the system's high and low points, without causing new leaks, due to the type of pipe used. Mr. Young stated that the utility is currently experiencing a water loss rate of approximately 70 percent.

Mr. Young further testified that approximately 25 customers are current on their bills and 18 are delinquent. Additionally, because Lovelaceville is a for-profit entity, it is not eligible for grants or low-interest loans. Mr. Young stated that significant improvements to the utility infrastructure are needed to continue operation. The estimated cost of needed repairs and upgrades is approximately \$150,000. Issues with the system include the lack of a storage tank and numerous leaks that would require the

complete replacement of all the system's water mains. Because there are not meter setters at each customer connection, there is no feasible way to disconnect service to a non-paying customer. Mr. Young has stated that upon disconnecting, customers can and do reconnect their service with minimal effort. Meter setters that would permit disconnection would cost approximately \$175 each.

Mr. Young expressed an unwillingness to request a rate increase, as the necessary increase would be substantial and would potentially result in a decline in bill payments. Moreover, he stated that even if an increase were to be granted, he would no longer be willing to operate the utility due to the financial burden and continued stress of running the failing business.⁶ Finally, Mr. Young stated that despite his willingness to give the system away at no cost, his efforts to find an entity or an individual to take over the system have been unsuccessful.

KRS 278.021 provides for the abandonment of utilities. It provides in part:

(1) If the commission, after notice and hearing, enters an order in which it finds that a utility is abandoned, the commission may bring an action in the Franklin Circuit Court for an order attaching the assets of the utility and placing those assets under the sole control and responsibility of a receiver.

(2) For purposes of this section, a utility shall be considered abandoned if it:

(a) Disclaims, renounces, relinquishes, or surrenders all property interests or all rights to utility property, real or personal, necessary to provide service;

(b) Notifies the commission of its intent to abandon the operation of the facilities used to provide service;

(c) Fails to comply with an order of the commission in which the commission determined that the utility is not rendering adequate service, specified the actions necessary for the utility to render adequate service, and fixed a reasonable time for the utility to perform such actions, and the failure of

⁶ Response to Staff's First Request for Information, Item 11.

the utility to comply with the order presents a serious and imminent threat to the health or safety of a significant portion of its customers; or

(d) Fails to meet its financial obligations to its suppliers and is unable or unwilling to take necessary actions to correct the failure after receiving reasonable notice from the commission, and the failure poses an imminent threat to the continued availability of gas, water, electric, or sewer utility service to its customers.

KRS 278.020(5) further states:

(5) No person shall acquire or transfer ownership of, or control, or the right to control, any utility under the jurisdiction of the commission by sale of assets, transfer of stock, or otherwise, or abandon the same, without prior approval by the commission. The commission shall grant its approval if the person acquiring the utility has the financial, technical, and managerial abilities to provide reasonable service.

KRS 278.020(5) provides that Commission approval is required prior to abandoning a utility. KRS 278.021 permits the Commission to find that a utility is abandoned, and provides that a utility may notify “the commission of its intent to abandon the operation of the facilities used to provide service.”

Mr. Young has explored all available options for transferring the utility to other entities and persons. Likewise, Commission Staff contacted the surrounding water systems and all respondents indicated that due to the size, location and condition of Lovelaceville, they are unwilling and unable to operate and/or acquire the system.⁷ Any neighboring system would be required to extend its lines several miles to connect to the

⁷ Letter from Jeff Derouen, Executive Director, Kentucky Public Service Commission, Oct. 2, 2014.

Lovellaceville system. Each system indicated that it was financially unable to connect or operate Lovellaceville.⁸ Ballard County has not expressed an interest in forming a water district to maintain service to its citizens in Lovellaceville. No interest by any person, including Lovellaceville's current customers, or entity has been expressed in taking over the utility and no feasible solutions for continued operation appear available.

Because Lovellaceville is technically a for-profit entity, it is unable to obtain the necessary grants and low-interest loans that would be required to finance the necessary infrastructure improvements to enable continued operation. The poor condition of the system infrastructure and its significant water loss rate, coupled with the low customer count, make the utility non-viable as an ongoing concern.

The Commission regrets the loss of water service to those customers in Lovellaceville. However, the Commission also recognizes Mr. Young for his efforts to continue operation of the utility. The possibilities for transferring Lovellaceville have been thoroughly explored. Lovellaceville has demonstrated that it no longer maintains the financial ability to continue operating. Furthermore, its infrastructure is in need of total replacement. Its efforts to maintain service have been significantly stymied by its for-profit classification and consequent ineligibility to receive grants or low-interest loans. Given the dwindling customer base, Lovellaceville does not retain the ability to assess and collect a rate sufficient to maintain operations.

Accordingly, the Commission finds that Lovellaceville has adequately demonstrated that it is no longer able to continue providing water to the public for consumption. Lovellaceville's request to abandon its facilities should therefore be granted. However, to provide for an orderly transition and ample opportunity for its

⁸ *Id.*

remaining customers to make alternative arrangements for potable water, the Commission further finds that Lovelaceville should continue operating until February 2, 2015. Lovelaceville should also provide with its next customer billing a written notice that the system will be shut down on February 2, 2015.

The Commission further finds that Lovelaceville should ensure safety of members of the public through the removal of risks and hazards associated with its remaining facilities. Lovelaceville should ensure that the electric service is disconnected, appropriate lines severed, wells secured, locked or otherwise made safe, and that all chemicals are properly disposed of. Finally, Lovelaceville should submit separate financial, statistical, and gross operating revenues reports for the calendar year ending December 31, 2014, and for the period of January 1, 2015, through the final date of the utility's operation.

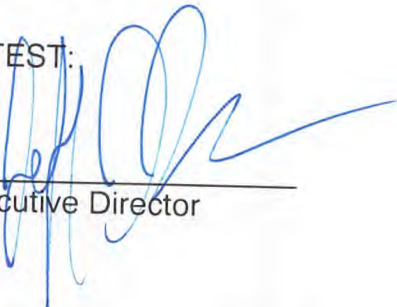
IT IS THEREFORE ORDERED that:

1. The request of Lovelaceville to abandon its facilities is granted, subject to ordering paragraph 2.
2. Lovelaceville shall continue operating until February 2, 2015.
3. Lovelaceville shall notify the Commission when the abandonment has occurred and shall identify the steps taken to discontinue service and secure remaining facilities, and shall include in its next customer billing a notice that the system is to be shut down on February 2, 2015.
4. No later than April 1, 2015, Lovelaceville shall submit separate Gross Reports and Annual Reports for the calendar year ending December 31, 2014, and for the period spanning January 1, 2015, through the date of abandonment.

By the Commission

ENTERED
OCT 31 2014
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2014-00136

J. Eric Young
Owner
Lovelaceville Water Company
626 Elmos Road
Sedalia, KY 42079