

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION FOR AUTHORITY TO	)	
ESTABLISH A WATER DISTRICT UNDER	)	
THE PROVISIONS OF KRS 74.010 TO BE	)	
KNOWN AS THE JONATHAN CREEK WATER	)	CASE NO. 91-144
DISTRICT AND TO ACQUIRE AN EXISTING	)	
WATER SYSTEM FROM THE JONATHAN CREEK	)	
WATER ASSOCIATION	)	

O R D E R

On May 8, 1991, five resident freeholders of Marshall County, Kentucky ("Applicants") filed an application with the Commission pursuant to KRS 74.012 for authority to petition the county judge/executive of Marshall County for establishment of a water district. The purpose of establishing the proposed water district is to create a legal entity to acquire the Jonathan Creek Water Association's existing water system. Upon establishment of the proposed district and its acquisition of all the assets and liabilities of the Jonathan Creek Water Association ("Association"), the district will serve as successor to the Association and the Association will dissolve pursuant to the provisions of KRS Chapter 273.

Applicants state that the Association, a non-profit corporation formed under the provisions of KRS Chapter 273, is no longer capable of receiving favorable tax consideration with respect to its bonds and financial obligations. The proposed water district as its successor will be a "governmental agency" as

envisioned under the United States Code and will qualify for favorable income tax considerations on its bonded indebtedness and other financial obligations. The creation of the proposed district will allow the construction of a new water treatment facility, new wells, expansion of the present system, an installation of overhead water storage in an amount sufficient to comply with the Commission's present regulations, and will benefit the area now served by the Association. Unless a water district is formed and the assets and liabilities of the Association are transferred to the district, the Association will no longer be able to meet the needs of its members and provide for the future development of the area.

KRS 74.012 requires the Commission, upon receipt of an application to establish a water district, to set the application for formal public hearing. The Commission must give notice of the hearing to all other water suppliers in the general area proposed to be served and to other regulatory agencies having concern with the application. Before the Commission shall approve any application for the creation of a water district, it must make a finding and a determination of fact that the geographical area sought to be served by the proposed water district cannot be feasibly served by any existing water supplier.

Clearly, the procedures set forth in KRS Chapter 74 for establishment of a water district contemplate the construction of a water supply system where none is currently in place; hence, the requirement of a public hearing to determine whether the area sought to be served cannot be more feasibly served by an existing

supplier. In the instant case, the area to be served by the new water district is already being served by an existing supplier, the Association. The application herein is not one to create a water distribution system, but to transform an existing water system from one type of legal entity to another.

The Commission therefore finds that the provisions of Chapter 74 which require the Commission to conduct a hearing and make findings of fact before approving an application for the creation of a water district are inapplicable to the case at bar. The Commission further finds that the Applicants have made a sufficient showing for the Commission to grant its approval to petition the Marshall County Judge/Executive for establishment of a water district.

IT IS THEREFORE ORDERED that the Applicants are hereby granted authority to petition the county judge/executive of Marshall County, Kentucky for the establishment of a water district pursuant to the provisions of KRS Chapter 74. Should the Applicants be successful in their attempt to establish a water district, the Commission reminds the Applicants that the district must comply with all applicable requirements of KRS Chapter 278 before construction of new facilities is begun.

Done at Frankfort, Kentucky, this 19th day of June, 1991.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director