

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF WINCHESTER )  
MUNICIPAL UTILITIES FOR APPROVAL OF ) CASE NO.  
THE COLLECTION OF SYSTEM ) 96-616  
DEVELOPMENT CHARGES )

O R D E R

Winchester Municipal Utilities ("WMU") has moved to limit the scope of Boonesboro Water Association's ("BWA") participation in the August 11, 1997 hearing in this matter. BWA has responded to the motion. Having considered the motion and response, the Commission denies the motion.

WMU has not provided, nor has the Commission found, any legal authority for the proposition that a party to an administrative proceeding may be deprived of its right to cross-examine witnesses or have its scope of cross-examination limited because of a party's alleged failure to respond adequately to requests for information. In the absence of such authority, the Commission is reluctant to limit a right which is basic to the concept of due process.

WMU clearly bears the burden of proof in this proceeding. See KRS 278.190(3); Energy Regulatory Commission v. Kentucky Power Co., Ky.App., 605 S.W.2d 46, 50 (1980) ("Applicants before an administrative agency have the burden of proof."). All parties to the proceeding and the Commission have the right to question and examine the evidence which WMU presents in support of its proposed rate. WMU cannot shield

itself from those inquiries merely by asserting that an opposing party's answer to an interrogatory is unresponsive. The appropriate method of obtaining information is to file a motion to compel a more responsive answer. However, WMU has made no such motion.

IT IS THEREFORE ORDERED that WMU's Motion to Limit Participation in the Hearing is denied.

Done at Frankfort, Kentucky, this 8th day of August, 1997.

PUBLIC SERVICE COMMISSION

  
For the Commission

ATTEST:

  
Executive Director