

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC PROPOSED ACQUISITION OF)	
WASTEWATER SYSTEM FACILITIES BY)	CASE NO.
BLUEGRASS WATER UTILITY OPERATING)	2021-00265
COMPANY, LLC)	

ORDER

On October 27, 2021, Bluegrass Water Utility Operating Company, LLC (Bluegrass Water) filed an application, pursuant to KRS 278.020 and KRS 278.030, requesting approval of Bluegrass Water’s acquisition of wastewater facilities currently owned and operated by Darlington Creek Homeowner’s Association, Inc. (Darlington Creek). Bluegrass Water indicated that Darlington Creek is not a utility as defined by KRS 278.010(3).

The Commission finds that an investigation of the proposed acquisition is necessary and that a procedural schedule should be established to ensure an orderly review of Bluegrass Water’s application. The Commission notes that Bluegrass Water requested approval within 60 days. While the Commission uses its best efforts to render decisions by dates requested by a utility, the Commission finds that additional time will be necessary to conduct a thorough review of the proposed transaction due to the complex issues involved, including the important health and safety issues related to sewer service and the limited information the Commission currently has regarding Darlington Creek. However, while there is a question regarding the applicability of timeline in

KRS 278.020(7),¹ the Commission finds that the review of this matter should be conducted based on the timeline set forth therein, though the Commission finds good cause exists for extending the 60-day timeline by 60 days to 120 days from the date the application was filed.

IT IS THEREFORE ORDERED that:

1. The procedural schedule set forth in the Appendix to this Order shall be followed.²

2. Any party filing a paper with the Commission shall file an electronic copy in accordance with the electronic filing procedures set forth in 807 KAR 5:001, Section 8. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked. The Commission directs the parties to the Commission's July 22, 2021 Order in Case No. 2020-00085³ regarding filings with the Commission.

3. As set forth in 807 KAR 5:001, Section 4(11)(a), a person requesting permissive intervention in a Commission proceeding is required to demonstrate either (1) a special interest in the proceeding that is not adequately represented in the case, or (2) that the person requesting permissive intervention is likely to present issues or develop

¹ See Case No. 2020-00028, *Electronic Proposed Acquisition by Bluegrass Water Utility Operating Company, LLC of Wastewater System Facilities and Subsequent Tariffed Service to Users Presently Served by those Facilities*, Order, 10-17 (Ky. PSC Jun 19, 2020) (The Commission held that approval pursuant to KRS 278.020(6) and (7) is not required when a jurisdictional utility purchases a non-jurisdictional utility, but that approval is required pursuant to KRS 278.020(1).).

² The schedule does not include dates for Intervenor evidence and rebuttable testimony but it will be amended to add such dates depending on whether any requests for intervention are made.

³ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. Further, KRS 278.040(2) requires that a person seeking intervention must have an interest in the rates or service of a utility, as those are the only matters that are subject to the Commission's jurisdiction. Therefore, any person requesting to intervene in a Commission proceeding must state with specificity the person's special interest that is not otherwise adequately represented, or the issues and facts that the person will present that will assist the Commission in fully considering the matter. A mere recitation of the quantity of utility service consumed by the movant or a general statement regarding a potential impact of possible modification of rates will not be deemed sufficient to establish a special interest. In addition, any motion to intervene filed after the date established in the procedural schedule shall also show good cause for being untimely. If the untimely motion is granted, the movant shall accept and abide by the existing procedural schedule.

4. Bluegrass Water shall give notice of any scheduled hearing in accordance with the provisions set forth in 807 KAR 5:001, Section 9(2). In addition, the notice of hearing shall include the following statement: "This hearing will be streamed live and may be viewed on the PSC website, psc.ky.gov." At the time publication is requested, Bluegrass Water shall forward a duplicate of the notice and request to the Commission.

5. At any public hearing in this matter, neither opening statements nor summarization of direct testimonies shall be permitted.

6. Pursuant to KRS 278.360 and 807 KAR 5:001, Section 9(9), a digital video recording shall be made of the hearing.

7. The Commission does not look favorably upon motions for continuance. Accordingly, motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

8. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

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By the Commission

ENTERED
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KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2021-00265

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00265 DATED NOV 11 2021

- Last day for intervention requests to be accepted..... 11/19/2021
- All initial requests for information to Bluegrass Water shall
be filed no later than..... 11/22/2021
- Bluegrass Water shall file responses to initial requests for
information no later than..... 12/06/2021
- All supplemental requests for information to Bluegrass Water
shall be filed no later than 12/20/2021
- Bluegrass Water shall file responses to supplemental requests
for information no later than 01/05/2022
- Intervenor testimony, if any, in verified prepared
form shall be filed no later than To be scheduled
- All requests for information to Intervenors shall
be filed no later than..... To be scheduled
- Intervenors shall file responses to requests for
information no later than..... To be scheduled
- Bluegrass Water shall file, in verified form, its rebuttal
testimony no later than To be scheduled
- Last day for Parties to request a Public Hearing or submit a
request for the matter be decided based upon the written record 01/10/2022

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