

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE PROPOSED MERGER OF BARNESBURG)
WATER ASSOCIATION, BRONSTON WATER)
ASSOCIATION, ELIHU-RUSH BRANCH)
WATER ASSOCIATION, NELSON VALLEY)
WATER ASSOCIATION, OAK HILL WATER)
ASSOCIATION, PLEASANT HILL WATER) CASE NO. 9967
DISTRICT, PULASKI COUNTY WATER)
DISTRICT NO. 1, PULASKI COUNTY WATER)
DISTRICT NO. 2, AND TATEVILLE WATER)
ASSOCIATION)

O R D E R

Pursuant to KRS 74.361, the Commission issued an Order on July 21, 1987, establishing this proceeding regarding the proposed merger of three water districts and six associations including Barnesburg Water Association ("Barnesburg"), Bronston Water Association ("Bronston"), Elihu-Rush Branch Water Association ("Elihu-Rush"), Nelson Valley Water Association ("Nelson Valley"), Oak Hill Water Association ("Oak Hill"), Pleasant Hill Water District ("Pleasant Hill"), Pulaski County Water District No. 1 ("District No. 1"), Pulaski County Water District No. 2 ("District No. 2"), and Tateville Water Association ("Tateville"). In accordance with KRS 74.361(2), Commission staff performed a feasibility study and filed a report which is a part of the record in this matter.

A public hearing was held on November 5 and 6, 1987. Bronston, Oak Hill, and Tateville were represented by Hon. John Baughman and Hon. Leslie Gay. Barnesburg, District No. 2, Nelson

Valley, and Pleasant Hill were represented before the Commission by Hon. Bruce Clark. District No. 1 was not represented and did not appear.

On November 16, 1987, Barnesburg, Nelson Valley, Bronston, Oak Hill, and Tateville filed written motions to dismiss this proceeding on the ground that any merger of water associations and water districts undertaken pursuant to KRS 74.361 would be unconstitutional under both the Constitution of the United States and the Constitution of the Commonwealth of Kentucky. The Commission hereby overrules said motions to dismiss and states that it is inappropriate for the Commission to rule on the constitutionality of state statutes.

The Commission has carefully reviewed the record and has decided not to adopt the Staff Report's recommendation to merge the districts and associations into a single district. However, the Commission is of the opinion that the evidence presented is insufficient to negate the legislative finding of fact of KRS 74.361(1) which provides that:

(1) The general assembly of the Commonwealth of Kentucky determines as a legislative finding of fact that reduction of the number of operating water districts in the Commonwealth will be in the public interest, in that mergers of such districts will tend to eliminate wasteful duplication of costs and efforts, result in a sounder and more businesslike degree of management, and ultimately result in greater economies, less cost, and a higher degree of service to the general public; and that the public policy favors the merger of water districts wherever feasible.¹

¹ See KRS 74.361(9) regarding inclusion of water associations.

The hearing provided a thorough discussion of the report and of the concerns of those affected, especially by representatives of the present governing boards. The Commission is of the opinion that while some evidence presented at the hearing contradicts certain information contained in the Staff Report, it does contain important findings which have not been substantially challenged. Those findings include, but are not limited to, the numerous failures to comply with Commission regulations, and the need for increased rates for the majority of the utilities in order to provide for adequate equity growth. The Commission further notes that this is consistent with its general experience regarding the operation of small water utilities. Such utilities generally have a limited economic base from which to generate funds so as to deal effectively with system inadequacies. Additionally, the record does not show any substantial response to Staff's argument that merger of the individual utilities would promote long range planning for future needs of the area.

The Commission, having considered the Staff Report and the evidence of record, believes that the best approach at this time is to merge District No. 2, Pleasant Hill, and Oak Hill into a single district, and Barnesburg, Elihu-Rush, Nelson Valley, and Tateville into a single association. Due to factors such as geographical separation of Bronston from the other utilities and distinct water supply, the Commission is of the opinion that Bronston should not be merged into either of the above entities at this time. The mergers ordered herein will reduce the number of water districts and associations in Pulaski County from nine to

four, and allows the utilities, with the exception of Oak Hill, to retain their identity as either a district or an association.

On November 13, 1987, in Case No. 9894,² the Commission granted the joint application of the City of Science Hill ("Science Hill") and District No. 1 requesting approval of the transfer of the waterworks system of District No. 1 to Science Hill. In the event that District No. 1 is not transferred to Science Hill, the Commission finds that it should be merged with the remaining district.

The Commission firmly believes that as these consolidations are implemented and as experience is gained in operating larger water systems, the decisions herein will be a positive step toward a county-wide merger as recommended in the Staff Report.

The Commission recognizes the efforts of the officials and employees who have contributed to the development of the rural water systems in Pulaski County. However, the Commission, in meeting its responsibilities, must look ahead. We are convinced that consolidation offers the best means by which to provide for customer growth, to enhance economic development, and to provide safe and dependable water for the citizens of the region. Mergers should ensure and simplify long range planning for future needs,

² Case No. 9894 - In the Matter of the Joint Application of the City of Science Hill, a Sixth Class City of Pulaski County, Kentucky, and Pulaski County Water District No. 1 of Pulaski County, Kentucky, Created and Existing Under and by Virtue of Chapter 74 of the Kentucky Revised Statutes, for Approval of a "Contract of Sale and Purchase" Providing for the Purchase by said City from said Water District of the Existing Waterworks Distribution System of the District, Subject to the Existing Bonds and Other Encumbrances Against said System.

and ultimately result in more efficient management and operations benefiting area residents. The Commission and its staff stand ready to work with utility personnel and other officials to accomplish these objectives.

The Commission, consistent with the express public policy of KRS 74.361, and after careful consideration of the record in this matter, is of the opinion and finds that:

1. KRS 74.361(1) establishes a statutory basis for merger and sets forth the purposes of merger.

2. The record in this matter shows that the merger of District No. 2, Pleasant Hill, and Oak Hill, and the merger of Barnesburg, Elihu-Rush, Nelson Valley, and Tateville are feasible, are in accordance with the purposes of KRS 74.361, and will result in a higher degree of compliance with Commission regulations.

3. It is in the public interest for District No. 2, Pleasant Hill, and Oak Hill to merge into a single district, and Barnesburg, Elihu-Rush, Nelson Valley, and Tateville to merge into a single association.

4. The merged district in accordance with KRS 74.110, should petition the County Judge/Executives of Pulaski, Wayne and Russell Counties for definition of the territorial limits of the merged district to include the service area of District No. 2, Pleasant Hill, and Oak Hill.

5. All parties of interest be advised that the Commission may find it necessary to reopen this matter for the purpose of addressing outstanding obligations, charges for services, and the

rates of the merged water district and the merged water association.

IT IS THEREFORE ORDERED that:

1. District No. 2, Pleasant Hill and Oak Hill be merged into a single district.

2. Barnesburg, Elihu-Rush, Nelson Valley, and Tateville be merged into a single association.

3. All affected utilities shall immediately begin the work essential to accomplishment of the merger. The merged district and the merged association shall each file with this Commission quarterly reports on the progress of the merged water district and the merged water association. The first reports shall be due by March 15, 1988, and the subsequent reports will be required quarterly until the Commission directs otherwise.

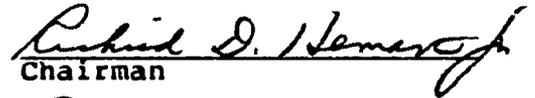
4. Pursuant to KRS 74.361(7), the commissioners of the merged water districts and the officers of the merged water associations shall continue to serve for the remainder of the terms for which they were appointed. The determination of the names for the merged water district and the merged water association shall rest with the affected utilities.

5. Retirement of the outstanding obligations of the affected utilities shall be continued in accordance with KRS 74.361(5).

6. The Commission hereby denies the Motions to dismiss filed by Barnesburg, Nelson Valley, Bronston, Oak Hill, and Tateville.

Done at Frankfort, Kentucky, this 22nd day of February, 1988.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director