

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION AND NOTICE OF CAMPBELL COUNTY)
KENTUCKY WATER DISTRICT (A) TO ISSUE)
REVENUE BONDS IN THE APPROXIMATE PRINCIPAL)
AMOUNT OF \$5,535,000 (B) TO CONSTRUCT)
ADDITIONAL PLANT FACILITIES OF APPROXI-) CASE NO. 89-029
MATELY \$4,523,000 (C) NOTICE OF ADJUSTMENT)
OF RATES EFFECTIVE MAY 1, 1989)
(D) SUBMISSION OF LONG TERM WATER SUPPLY)
CONTRACT)

O R D E R

This matter arising upon the motions of the applicant, Campbell County Kentucky Water District ("Campbell County"), filed June 9 and July 10, 1989, to expedite this case, and it appearing to the Commission as follows:

Because a significant portion of the proposed construction for which Campbell County seeks a Certificate of Public and Convenience in this case is directly related to the pending litigation in Case No. 89-014,¹ and because a just and proper decision on the merits of Campbell County's application could not be rendered until the final resolution of Case No. 89-014, the Commission on June 1, 1989 ordered this case be held in abeyance.

¹ Case No. 89-014, City of Newport v. Campbell County Kentucky Water District and Kenton County Water District No. 1 and Charles Atkins and Steven J. Franzen v. Campbell County Kentucky Water District.

In moving to expedite this case, Campbell County argues the proposed construction is unrelated to the issues in Case No. 89-014 and that its application should "go forward in the normal manner of such applications." Position Paper of Campbell County Kentucky Water District, July 26, 1989, page 5. Campbell County asserts that all of its proposed construction is required regardless of who supplies it water and that no valid reason exists for continuing to hold this case in abeyance. Campbell County has proposed in the alternative that the Commission proceed with both cases concurrently so as to avoid prejudicing either case.

The city of Newport ("Newport") opposes Campbell County's motions and urges that this case remain held in abeyance or, in the alternative, be dismissed. It argues that only those portions which are clearly unrelated to Case No. 89-014 should be acted upon by the Commission at this time. It disputes Campbell County's contention that the entire construction project is needed. The remaining portions of the application, Newport maintains, should be dismissed so as to avoid the time limitations imposed by KRS 278.190.² Newport firmly opposes the Commission proceeding concurrently with both cases.

The city of Highland Heights ("Highland Heights"), while not expressly opposed to Campbell County's motion, has stated its

² KRS 278.190(5) requires the Commission to act on applications for adjustment of rates not later than ten (10) months after the filing of new rate schedules.

reluctance to concur with it. Highland Heights urges the Commission to thoroughly review the proposed construction and to make certain that construction of any kind, whether related to the source of supply or not, is needed and done cost effectively.

Despite Campbell County's claims to the contrary, both cases are inexorably linked. In Case No. 89-014, Newport and the other complainants have alleged that Campbell County's proposed water purchase contract with Kenton County Water District No. 1 ("Kenton County") will lead to unreasonable rates and require the construction of wasteful and duplicative facilities to implement the contract. Campbell County, in Case No. 89-029, has sought Commission approval of the proposed water purchase contract and authority to construct certain facilities which Newport and others allege are needed only to implement the proposed water purchase contract. If the allegations of Newport and the other intervenors are true, proceeding with this case without regard to Case No. 89-014 may produce final results which are totally inconsistent. The Commission does not wish to approve a water purchase contract in Case No. 89-029 which it might subsequently find in Case No. 89-014 to be unreasonable, nor does it desire to grant a Certificate of Public Convenience and Necessity for construction projects which it subsequently discovers to be unneeded.

Conversely, if the intervenors' allegations are unfounded, the continued delay of this case prevents the construction of needed facilities. The practical effect of continued delay is dismissal of Campbell County's application. Given the procedural schedule in Case No. 89-014, that case will not be resolved in

sufficient time to allow the Commission to adequately evaluate Campbell County's application in this case within the time limits of KRS 278.190. Furthermore, continuing to hold this case in abeyance needlessly delays those portions of the proposed construction which are unrelated to Case No. 89-014.

The Commission is of the opinion that the interests and rights of all parties are best protected if both cases are allowed to proceed concurrently. In this way, all parties will have an opportunity to fully present their positions and contest the positions of their opponents. The Commission must decide these cases with a complete understanding of the evidence and the implications of its decision. No party will be adversely affected or prejudiced by undue delay.

To achieve economy of effort and ensure that the parties devote their attention to the most significant issues, evidence and argument on the proposed water purchase supply contract will be heard only in the proceedings in Case No. 89-014. Parties wishing to address issues centering on that contract must raise them in that case. No party will be permitted to present evidence or argument on those issues in 89-029, save to demonstrate the need for the proposed construction regardless of the Commission's decision on the proposed water purchase contract. This does not mean that the Commission will not consider the evidence surrounding the proposed water purchase contract in reaching a decision in Case No. 89-029. Rather, it means the forum in which a party may introduce evidence on the proposed water purchase contract is limited to Case No. 89-014. All evidence

presented in Case No. 89-014 will be incorporated by reference into Case No. 89-029.

Approximately 5 months remain for the Commission to hear and review the evidence and to reach a decision. While this time period is adequate for a full and complete adjudication of both cases, it affords the Commission little time to spare. As a result, the Commission will no longer tolerate the endless stream of pleadings which the parties have previously been quite prolific in generating with such seeming ease. All parties are hereby placed on notice that excessive or redundant pleadings will be stricken as a matter of course. Time is of the essence in these cases and the Commission will not allow that valuable time to be squandered over trivial matters.

IT IS THEREFORE ORDERED that:

1. Campbell County's motions to expedite are granted.
2. The procedural schedule listed in Appendix A of this Order shall be followed.
3. All requests for information and responses thereto shall be appropriately indexed. All responses shall identify the witness responsible for responding to questions related to the information provided. The responding party shall submit 11 copies of its response to the Commission and serve a copy on each party of record.
4. Campbell County shall give notice of the hearing in accordance with the provisions of Commission Regulation 807 KAR 5:011, Section 8(5).

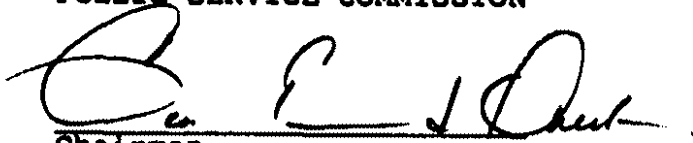
5. The record of Case No. 89-014 is incorporated by reference into the record of this case.

6. Motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only on a showing of good cause.

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

Done at Frankfort, Kentucky, this 25th day of August, 1989.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 89-029 DATED 8/25/89

- All parties shall submit to the Commission a list of the witnesses which they intend to call at the public hearing no later than.....8/31/89
- Campbell County shall file the testimony of its witnesses in verified prepared form no later than.....9/15/89
- All requests for information to Campbell County shall be due no later than.....9/25/89
- Campbell County shall mail or deliver responses to the first requests for information no later than.....10/5/89
- All supplemental requests for information (to include only those matters within the scope of the initial requests) to Campbell County shall be due no later than.....10/16/89
- Campbell County shall mail or deliver responses to the supplemental requests for information no later than.....10/26/89
- Intervenors shall file the testimony of their witnesses in verified prepared form shall be due no later than.....11/6/89
- All requests for information to intervenors concerning their witnesses testimony shall be due no later than.....11/16/89
- Intervenors shall mail or deliver responses to requests for information no later than.....11/28/89
- Prehearing Conference to begin at 9 a.m., Eastern Standard Time, in Hearing Room No. 2 of the Commission's offices at Frankfort, Kentucky, for the purpose of considering the possibility of settlement, the simplification of issues, and other matters which may aid in the handling and disposition of this case.....12/1/89
- Public Hearings to begin at 10 a.m., Eastern Standard Time, in Hearing Room No. 1 of the Commission's offices at Frankfort, Kentucky, for the purpose of cross-examination of witnesses of Campbell County and Intervenors.....12/5/89
- Parties shall submit briefs, if required, no later than.....12/19/89