

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

WAYNE RICHARDSON, ET AL.)	
)	
COMPLAINANTS)	
)	
v.)	CASE NO. 95-050
)	
BARNESBURG WATER ASSOCIATION)	
)	
DEFENDANT)	

ORDER

On February 3, 1995, Wayne Richardson, et al. ("Complainants") filed a complaint naming Barnesburg Water Association ("Barnesburg") as defendant. The Complainants alleged that while Barnesburg had been granted funding by the Farmer's Home Administration for an expansion project which included the properties occupied by the Complainants, Barnesburg no longer intended to include the Complainants' properties in the project. The Complainants further alleged that the decision by the President of Barnesburg not to include the Complainants' properties "was based on personal reasons and not made in good faith."

On February 14, 1995, the Commission ordered Barnesburg to "Satisfy or Answer" the complaint. Barnesburg answered on February 24, 1995, stating that the Complainants had failed to state a claim on which relief could be granted. While admitting that it had curtailed a portion of the expansion project, thereby excluding the Complainants, Barnesburg stated that its decision to do so was "reasonable and prudent," and within its "managerial discretion." Barnesburg cited reasons such as inadequate financing and the presence of rock.

Barnesburg had submitted to the Commission on December 8, 1994, an application for a Certificate of Public Convenience and Necessity to undertake the expansion project brought into question by the Complainants, as well as for approval of its proposed financing plan for the project, and for approval of increased water rates due to the project. On March 24, 1995, the Commission rejected Barnesburg's application because Barnesburg is no longer recognized by the Commission as a utility. Barnesburg was ordered by the Commission on February 22, 1988, to merge with three other water associations.


Without a Certificate of Public Convenience and Necessity, the expansion project cannot be constructed. The matter brought by the Complainants is consequently moot at this time. Their complaint should therefore be dismissed. If at some future date a utility recognized by the Commission applies for a Certificate of Public Convenience and Necessity regarding the same expansion project and the same issue arises, the Complainants may refile their complaint.

IT IS THEREFORE ORDERED that the complaint be and hereby is dismissed.

Done at Frankfort, Kentucky, this 5th day of April, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST


Executive Director