

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AUXIER WATER COMPANY)	
)	
COMPLAINANT)	
)	
V.)	CASE NO. 96-362
)	
CITY OF PRESTONSBURG AND)	
PRESTONSBURG CITY'S UTILITIES)	
COMMISSION)	
)	
DEFENDANTS)	

O R D E R

The City of Prestonsburg and the Prestonsburg City's Utilities Commission (collectively "Prestonsburg") have moved to compel Auxier Water Company's ("Auxier") response to interrogatories and requests for production of documents which were served on June 4, 1997. Auxier has objected generally to Prestonsburg's requests as being untimely made.

Having considered the motion and the response thereto and being otherwise sufficiently advised, the Commission finds that Prestonsburg's motion should be granted. In its Order of April 29, 1997, the Commission allowed the parties two opportunities to serve interrogatories and requests for production of documents. We did not condition the second opportunity upon use of the first. While Prestonsburg served no interrogatories or requests for documents during the first round of discovery, it timely served such requests for the second round of discovery. Having complied with the terms

of the April 29, 1997 Order, Prestonsburg is entitled to answers to its interrogatories and requests for documents.¹

The Commission HEREBY ORDERS and COMPELS Auxier to respond to Prestonsburg's interrogatories and requests for production of documents within 10 days of the date of this Order.

Done at Frankfort, Kentucky, this 21st day of July, 1997.

PUBLIC SERVICE COMMISSION


For the Commission

ATTEST:


Executive Director

¹ Prestonsburg's current request for documents falls within the second round of discovery for which the April 29, 1997 Order provided. Upon its receipt of Auxier's responses to that request, Prestonsburg is not entitled to any additional opportunities to serve interrogatories or requests for production of documents.

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O R D E R

The Commission, on its own motion, HEREBY ORDERS that:

1. The procedural schedule established in the Commission's Order of April 29, 1997 is modified in accordance with the terms of this Order. All provisions of the Order of April 29, 1997 which do not conflict with this Order shall remain in effect.
2. A formal hearing in this matter shall be held on October 14, 1997 at 9:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, and continuing until completed.
3. Each party may, on or before August 29, 1997, take the testimony of any person by deposition upon oral examination pursuant to notice or by agreement.
4. Each party may, on or before August 29, 1997, serve upon any other party a written request for admission, for purposes of this proceeding only, of the truth of any matter relevant to this proceeding set forth in the request that relate to statements or

opinions of fact or of the application of law to fact. The matter is admitted unless, within 10 days after service of the request, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection. The form of the request for admission and the answer or objection thereto shall otherwise be governed by Kentucky Civil Rule 36.

5. On or before September 22, 1997, each party shall file with the Commission in verified form the direct testimony of each witness whom it expects to call at the formal hearing.

6. On or before October 6, 1997, each party shall file with the Commission in verified form the testimony of each rebuttal witness whom it expects to call at the formal hearing.

7. Direct examination of witnesses shall be limited to the authentication and adoption of that written testimony. No summarization of written testimony by the witness shall be permitted.

8. Witnesses who have filed written direct and rebuttal testimony shall present that testimony at the same sitting. Opposing parties may cross examine such witnesses on both direct and rebuttal testimonies.


9. Any party may within 14 days of the filing of the hearing transcript with the Commission submit an initial written brief. Reply briefs may be submitted no later than 7 days after the filing of initial briefs. Initial briefs shall not exceed 25 pages in length. Reply briefs shall not exceed 10 pages in length.

Done at Frankfort, Kentucky, this 21st day of July, 1997.

PUBLIC SERVICE COMMISSION


Linda K. Breathitt
For the Commission

ATTEST:


Don Mills
Executive Director