

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE VERIFIED JOINT APPLICATION OF)	
BOONESBORO WATER ASSOCIATION, INC.)	
AND KENTUCKY-AMERICAN WATER)	
COMPANY FOR APPROVAL OF THE)	CASE NO. 97-320
TRANSFER OF THE OWNERSHIP OF THE)	
ASSETS OF BOONESBORO WATER)	
ASSOCIATION, INC. TO)	
KENTUCKY-AMERICAN WATER COMPANY)	

O R D E R

The Attorney General ("AG") has applied for rehearing of the Commission's Order of October 16, 1997. He requests that the Commission amend its Order to require Boonesboro Water Association, Inc. ("BWA") to distribute its assets in a manner "wholly consistent with Chapter 273." While professing its intention to comply with the directives of KRS Chapter 273, BWA argues that the AG's requested relief is outside the scope of the Commission's jurisdiction. The Commission agrees and denies the AG's application.

On October 16, 1997, the Commission approved the proposed transfer to Kentucky-American Water Company ("Kentucky-American") of all facilities which BWA currently uses to provide utility service in exchange for \$499,190. After all outstanding debts on the transferred property are retired, BWA will have remaining assets in excess of \$260,000. BWA intends to voluntarily dissolve upon completion of the transfer and distribute these assets in accordance with its bylaws.

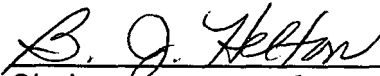
BWA is a non-profit corporation which is organized pursuant to KRS Chapter 273. The provisions of KRS Chapter 273 govern all facets of its operations, including the distribution of any assets upon its voluntary dissolution. KRS 273.303 provides a specific scheme for the application and distribution of a non-profit corporation's assets.

While recognizing BWA's obligations under KRS Chapter 273, the Commission is without power to enforce them.¹ In enacting KRS Chapter 273 and 278, the General Assembly has no express grant of authority to the Commission to enforce the provisions of KRS Chapter 273. The Commission's jurisdiction extends only to the "regulation of the rates and service of utilities" and the enforcement of the provisions of KRS Chapter 278. KRS 278.040(2). The distribution of a utility's assets upon its voluntary dissolution involves neither utility rates nor service.

Finding that it is without jurisdiction to grant the AG's requested relief, the Commission HEREBY ORDERS that the AG's Application for Rehearing is denied.

Done at Frankfort, Kentucky, this 24th day of November, 1997.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

Commissioner

ATTEST:


Executive Director

¹

In his discussions with BWA, the AG has recognized as much. See Letter of Nov. 10, 1997 from Asst. Attorney General David Spenard to William Dykeman (counsel for BWA) ("While the Commission has jurisdiction to authorize the sale of assets, the distribution of the value of charitable assets upon dissolution is matter wholly outside the scope of the Commission's jurisdiction.") (emphasis added).