

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY TURNPIKE WATER	)	
DISTRICT FOR A CERTIFICATE OF PUBLIC	)	
CONVENIENCE AND NECESSITY TO CONSTRUCT	)	CASE NO. 99-237
A WATER MAIN EXTENSION TO THE NICHOLS	)	
AREA OF BULLITT COUNTY, KENTUCKY	)	

ORDER

Kentucky Turnpike Water District ( Kentucky Turnpike ), a water district formed pursuant to KRS Chapter 74, has applied for a Certificate of Public Convenience and Necessity to construct approximately 4 miles of water transmission main to provide water service to Nichols Elementary School and the surrounding area in Bullitt County, Kentucky.

Having reviewed the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. On July 27, 1999, Kentucky Turnpike Water District filed an application for a Certificate of Public Convenience and Necessity to construct approximately 4 miles of water transmission main to provide water service to Nichols Elementary School and the surrounding area in Bullitt County, Kentucky.

2. On September 13, 1999, while its application was still pending before the Commission, Kentucky Turnpike advised the Commission that construction on the

proposed facilities had commenced before its application for a certificate had been filed.<sup>1</sup>

4. Kentucky Turnpike subsequently announced that construction of the proposed facilities had been completed and that these facilities were in service.<sup>2</sup>

5. KRS 278.020(1) prohibits any person, partnership, public or private corporation, or combination thereof from beginning construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010 until such person has obtained from the Commission a certificate that the public convenience and necessity require such construction.

6. No Certificate of Public Convenience and Necessity may be issued for utility facilities already constructed. Boone County Water and Sewer District, Case No. 92-532 (Ky. P.S.C. December 9, 1993); Southern Madison Water District, Case No. 90-305 (Ky. P.S.C. November 1, 1991).

7. As the proposed facilities have already been constructed, Kentucky Turnpike's application should be denied.

8. A prima facie showing has been made that Kentucky Turnpike has violated KRS 278.020(1) by its construction of the proposed facilities without first obtaining a Certificate of Public Convenience and Necessity from the Commission.

9. A prima facie showing has been made that Raymond Abell, Kentucky Turnpike's General Manager, and Dan Thibodeaux, George Miller, and Elmer Mills, the

---

<sup>1</sup> Letter from Jason P. Thomas, counsel for Kentucky Turnpike Water District, to Gerald Wuetcher, Commission counsel (September 13, 1999).

<sup>2</sup> Missy Baxter, Bullitt County School Will Finally Get Water Line, The Courier-Journal, September 27, 1999, at B-2 (Metro Edition).

members of Kentucky Turnpike s Board of Commissioners, have aided and abetted Kentucky Turnpike in its failure to comply with KRS 278.020(1).

IT IS THEREFORE ORDERED that:

1. Kentucky Turnpike s Application for a Certificate of Public Convenience and Necessity is denied.<sup>3</sup>

2. Kentucky Turnpike shall appear before the Commission on February 16, 2000 at 9:00 a.m., Eastern Standard Time, in the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, for the purposes of presenting evidence concerning its alleged violation of KRS 278.020(1) and of showing cause why it should not be subject to the penalties prescribed in KRS 278.990(1) for this alleged violation.

3. Raymond Abell, Dan Thibodeaux, George Miller, and Elmer Mills shall also appear before the Commission on February 16, 2000 at the same time and place as stated above for the purposes of presenting evidence concerning their conduct to aid and abet Kentucky Turnpike s violation of KRS 278.020(1) and of showing cause why they should not be subject to the penalties prescribed in KRS 278.990(1) for their alleged conduct.

4. Kentucky Turnpike, Raymond Abell, Dan Thibodeaux, George Miller, and Elmer Mills each shall respond to the Commission in writing within 20 days of the date of this Order to the allegations contained herein.

---

<sup>3</sup> Our denial of Kentucky Turnpike s application should not be construed as declaring the operation of transmission main illegal or requiring the water district to cease its operation of this transmission main. At Kentucky Turnpike s next general rate adjustment proceeding, the Commission will determine whether the facilities in question are used and useful in providing utility service.

5. Any motion requesting any informal conference with Commission Staff to consider any matter that may aid in the handling or disposition of this proceeding shall be filed with the Commission no later than 20 days from the date of this Order.

Done at Frankfort, Kentucky, this 20<sup>th</sup> day of October, 1999.

By the Commission

ATTEST:

---

Executive Director