

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE PROPOSED)	
WHOLESALE WATER SERVICE CONTRACT)	CASE NO.
BETWEEN THE CITY OF DANVILLE, KENTUCKY)	99-353
AND GARRARD COUNTY WATER ASSOCIATION)	

ORDER

The City of Danville, Kentucky (Danville) and the Garrard County Water Association (Garrard County) have jointly filed a water purchase contract. Under the terms of this contract, Danville will provide Garrard County with 300,000 gallons of water daily. Garrard County currently receives its total water supply from the City of Lancaster, Kentucky (Lancaster).

Lancaster has requested that the Commission review the proposed contract and that it be permitted to participate in the Commission's review. In support of its request, Lancaster first states that it has been Garrard County's water supplier since the water association's creation in 1968. It further states that approximately 60 percent of its water production is used to serve Garrard County and that it recently made expenditures to construct a new water line to meet Garrard County's needs. It finally states that Garrard County's new contract with Danville will cause its present rates for service to increase.

Having reviewed the contract and the correspondence related thereto, the Commission finds that:

1. Lancaster and Garrard County have special interests in this proceeding that are not otherwise adequately represented, and their intervention is likely to present issues or to develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting this proceeding.

2. Pursuant to Simpson County Water District v. City of Franklin, Ky., Ky., 972 S.W.2d 460 (1994), the Commission has jurisdiction over the rates and services that a municipal utility provides to a public utility.

3. The proposed contract raises issues not only of rates and service that Danville will provide to Garrard County, but whether the proposed contract will result in the wasteful duplication of municipal and public utility facilities.

4. Because the extent of the Commission's jurisdiction over the proposed contract and its effect on other municipal utilities is unclear and raises a question of first impression for the Commission, the parties should be required to submit written briefs on the issue of the Commission's jurisdiction.

5. The Commission should conduct further proceedings, pursuant to KRS 278.190, to determine the reasonableness of the proposed rate and the contract's effect on existing utility facilities if jurisdiction on those issues is found to exist.

IT IS THEREFORE ORDERED that:

1. Danville's proposed rate is suspended for five months from August 27, 1999 up to and including January 26, 2000.

2. Garrard County and Lancaster are made parties to this proceeding. Any party filing testimony, exhibits, pleadings, correspondence or any other documents with the Commission shall serve a copy of such documents on Danville.

3. With 30 days of the date of this Order, Danville, Garrard County, and Lancaster shall each file a written brief with the Commission on the Commission's jurisdiction over the proposed contract. Each party's brief shall address the following issues:

a. May the Commission, when determining whether a proposed contract for wholesale water service between a municipal utility and a public utility is reasonable, consider the effects that such a contract will have on other municipal utilities and their customers?

b. May the Commission, when determining whether a proposed contract for wholesale water service between a municipal utility and a public utility is reasonable, consider whether the proposed contract will result in the unnecessary or wasteful duplication of municipal utility facilities that are not subject to Commission jurisdiction?

c. Does Lancaster have standing to protest or dispute the proposed contract's rate for wholesale water service to Garrard County?

Done at Frankfort, Kentucky, this 26th day of August, 1999.

By the Commission

ATTEST:

Executive Director