

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF AQUASOURCE UTILITY, INC. FOR)
ALL APPROVALS NECESSARY FOR THE SALE AND)
PURCHASE OF THE COOLBROOK SANITATION) CASE NO. 2000-131
DIVISION 4-WAY ENTERPRISES, INC.)
WASTEWATER SYSTEM)

ORDER

AquaSource Utility, Inc. ("ASU") has petitioned for rehearing on certain aspects of the Commission's Order of May 15, 2000. More specifically, ASU requests that the Commission amend the Order to include certain findings about the proposed transaction. It further requests an extension of time in which to submit the journal entries used to record the proposed transaction. We grant the petition in part and deny in part.

In our Order of May 15, 2000, we chose not to address ASU's request for approval of its proposed acquisition adjustment for rate-making purposes. We found that any decision on the rate-making aspects of such acquisition adjustment should be deferred until ASU's first general rate adjustment proceeding. See Order at 3.

In its petition for rehearing, ASU requests that the Commission amend the Order of May 15, 2000 to include findings that would effectively mandate such adjustment for rate-making purposes. The requested findings would establish that the proposed transaction meets the criteria set forth in Delta Natural Gas Co., Case No. 9059

(Ky.P.S.C. Sep. 11, 1985)¹ and would require inclusion of the adjustment in determining ASU's rate base and test period expenses.

The Commission finds that ASU's request is inappropriate and premature for several reasons. First, the scope of this proceeding is limited to a review of ASU's managerial, financial, and technical abilities to provide reasonable utility service and of the proposed acquisition's purpose, legality, and consistency with the public interest. KRS 278.020(4) and (5). An acquiring party's potential acquisition adjustment is not relevant to this consideration. See Blue Grass State Tele. Co. v. Pub Serv. Com'n, Ky., 382 S.W.2d 81 (1964). See also Boonesboro Water Association, Case No. 97-320 (Ky.P.S.C. Oct. 16, 1997).

Second, adjudication of these issues at this time will likely prejudice the rights of other persons in future rate adjustment proceedings. Any Commission finding on the proposed acquisition adjustment in this proceeding will limit or preclude review of that adjustment in future rate adjustment proceedings. Since ASU has not published notice of this proceeding or of its request, potential parties at any future rate adjustment

¹ The burden of proof is upon the utility to justify its investment at the price in excess of net original cost based on economic and quality of service criteria. In order to meet this burden of proof, evidence must be submitted that shows that the purchase price was established upon arms-length negotiations, the initial investment plus the cost of restoring the facilities to required standards will not adversely impact the overall costs and rates of the existing and new customers, operational economies can be achieved through the acquisition, the purchase price of utility and non-utility property can be clearly identified, and the purchase will result in overall benefits in the financial and service aspects of the utility's operations.

proceeding have not had any meaningful opportunity to present evidence or argument on the proposed adjustment at this proceeding and will be effectively precluded from doing so at a future rate adjustment proceeding.

Finally, some of the requested findings are based solely upon ASU's projections and estimates. They are not supported by historical operations. In these instances, a decision should be deferred until ASU has a history of operating the facilities in question and a clear picture of the results of the acquisition emerges.

As to ASU's request to extend by 90 days the time for submission of its journal entries for recording the proposed transaction, the Commission finds the request is reasonable and should be granted.

IT IS THEREFORE ORDERED that:

1. ASU's Petition for Rehearing is granted in part and denied in part.
2. ASU's request for additional findings regarding the proposed transaction is denied.
3. Ordering Paragraph 9 of the Commission's Order of May 15, 2000 is amended as follows:

Within 100 days of completion of the transfer, ASU shall file with the Commission the journal entries used to record the purchase and identify the detailed plant accounts to which the assets are recorded. ASU shall also file the proposed amortization of the acquisition adjustment as a journal entry.

4. All other provisions of the Order of May 15, 2000 that do not conflict with this Order remain in full force and effect.

Done at Frankfort, Kentucky, this 12th day of June, 2000.

By the Commission

ATTEST:

Deputy W^m H. Fowler
Executive Director