

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE TRANSFER OF ALL OUTSTANDING)
STOCK OF COOL WATERWORKS, INC.)
TO WILLIAM DUNCAN AND SUBSEQUENT) CASE NO. 2001-207
TRANSFER OF UTILITY ASSETS TO)
CENTER RIDGE WATER DISTRICT, INC.)

O R D E R

This matter concerns the application of William M. Duncan for Commission approval of his agreement with Nancy Futrell to acquire the outstanding stock of Cool Waterworks, Inc. ("Cool Waterworks") and subsequently to transfer that utility's assets to Center Ridge Water District, Inc. ("Center Ridge Water District").

Having considered the application and other evidence of record and being sufficiently advised, the Commission finds that:

1. Cool Waterworks, a Kentucky corporation organized pursuant to KRS Chapter 271, owns and operates facilities that pump, distribute, and furnish water for compensation to approximately 101 customers in the Pine Bluffs Shores Subdivision of Calloway County, Kentucky.¹
2. Nancy Futrell owns all of the outstanding shares of Cool Waterworks.²

¹ Annual Report of Cool Waterworks, Inc. to the Public Service Commission For the Year Ended December 31, 2000 at 5 and 24.

² Id. at 6.

3. On July 6, 2001, Nancy Futtrell executed an agreement to sell all outstanding shares of stock of Cool Waterworks to William M. Duncan.

4. Prior to the execution of the transfer agreement, Cool Waterworks had applied to the Commission for approval to abandon its water treatment and distribution system.³ In support of its application, it stated that its sole shareholder was not physically able to operate the system and that it lacked the financial resources to operate or maintain its water treatment and distribution system adequately.

5. William M. Duncan is the president, secretary, treasurer, and sole shareholder of Center Ridge Water District.⁴

6. Center Ridge Water District, a Kentucky corporation organized pursuant to KRS Chapter 271, owns and operates facilities that pump, distribute, and furnish water for compensation to approximately 96 customers in Calloway County, Kentucky.⁵

7. Center Ridge Water District has been responsible for the operation of its current facilities since May 2000 and assisted in the management and operation of those facilities since October 1999.

8. Since Center Ridge Water District assumed responsibility for the operation of its current facilities, it has operated those facilities in compliance with all safe drinking

³ Case No. 2001-148, Application of Cool Waterworks Incorporated to Abandon the Provision of Utility Service (filed May 23, 2001). Cool Waterworks subsequently withdrew its application.

⁴ Annual Report of Center Ridge Water District, Inc. to the Public Service Commission For the Year Ended December 31, 2000 at 6. For a listing of Center Ridge's officers, see its annual report to the Kentucky Secretary of State at <<http://www.sos.state.ky.us/corporate2/showenti.asp?id=0493799&seq=99999&ctype=09>>.

⁵ Id. at 5 and 24.

water laws. During that period, the Commonwealth of Kentucky has not cited those facilities for any health-based monitoring, or reporting violations.⁶

9. William M. Duncan is Center Ridge Water District's sole employee and is responsible for its operation and management.

10. The Natural Resources and Environmental Protection Cabinet has certified William M. Duncan as a Class I-BD Water Plant Operator.

11. Upon completion of the proposed transfer of stock, William M. Duncan intends to dissolve Cool Waterworks and to transfer Cool Waterworks's assets to Center Ridge Water District. Upon completion of the assets transfer, Center Ridge Water District will operate the Cool Waterworks system as a separate division under the name Center Ridge Water District – Division 2.

12. The Commission has previously determined that Center Ridge Water District has the managerial, technical, and financial ability to provide reasonable service to residents of Calloway County, Kentucky.⁷

13. Since the execution of the transfer agreement, William M. Duncan has operated Cool Waterworks's system on behalf of Cool Waterworks. He has made a significant number of repairs and improvements to the system. He has sought financial assistance from governmental authorities to make further repairs to bring the system into compliance with all regulatory requirements. No regulatory violations have been noted during his operation of the Cool Waterworks system.

⁶ See <http://oaspub.epa.gov/enviro/sdw_report.first_table?report_id=510469&pwsid=KY0180549&state=KY&source=Ground%20water%20&population=218&sys_num=0>.

⁷ Case No. 2001-164, Transfer of Ownership of Center Ridge Water System to Center Ridge Water District, Inc. (Ky.PSC Aug. 2, 2001) at 2.

Based upon these findings of fact, we conclude that:

1. William M. Duncan and Center Ridge Water District have the financial, technical, and managerial abilities to provide reasonable utility service to those persons whom Cool Waterworks currently serves.
2. The proposed transfers are in accordance with law, for a proper purpose, and consistent with the public interest.

IT IS THEREFORE ORDERED that:

1. The proposed transfer of all Cool Waterworks's outstanding stock from Nancy Futrell to William M. Duncan and the subsequent transfer of all assets of Cool Waterworks to Center Ridge Water District is approved on the condition that both transactions are completed within 45 days of this Order and that Center Ridge Water District obtain all necessary regulatory approvals, licenses, and permits necessary to operate the acquired assets in conformance with the laws of Kentucky.
2. Within 10 days of completion of the proposed transfer of stock and the transfer of assets, Mr. Duncan and Center Ridge Water District shall notify the Commission in writing of the completion of the transfers.
3. Within 10 days of completion of the transfers, Center Ridge Water District shall file with the Commission the journal entries used to record the transfer of assets and identify the detailed plant accounts to which the assets are recorded.
4. Within 10 days of completion of the transfers, Center Ridge Water District shall file with the Commission an adoption notice, conforming to the requirements of Administrative Regulation 807 KAR 5:011, Section 15(6). In this notice, Center Ridge

Water District shall adopt and ratify as its own all of Cool Waterworks's rates, rules, and classifications on file with the Commission and effective at the time of the transfer.

5. Within 10 days after the filing of its adoption notice with the Commission, Center Ridge Water District shall issue and file in its own name Center Ridge Water District's tariff, or such other tariff as it proposes to put into effect in lieu thereof, in the form prescribed in Administrative Regulation 807 KAR 5:011.

6. Cool Waterworks shall be responsible for submitting to the Commission a financial and statistical report, as described in Administrative Regulation 807 KAR 5:006, Section 3, for the period in calendar year 2001 it owned and operated the transferred assets.

7. Center Ridge Water District shall be responsible for submitting to the Commission a financial and statistical report, as described in Administrative Regulation 807 KAR 5:006, Section 3, for the period in calendar year 2001 it owned and operated the transferred assets.

Done at Frankfort, Kentucky, this 3rd day of October, 2001.

By the Commission

ATTEST:


Executive Director