

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF)	
LOUISVILLE WATER COMPANY)	CASE NO.
FOR APPROVAL OF ACQUISITION)	2002-00088
OF STOCK OF GOSHEN UTILITIES, INC.)	

O R D E R

On March 19, 2002, the Louisville Water Company (Louisville Water) filed with the Commission an application pursuant to KRS 278.020(4) and (5) and 807 KAR 5:001, Section 8, requesting Commission approval of its proposed acquisition of the stock of Goshen Utilities, Inc. (Goshen).

PROCEDURE

Gregory E. and Karen D. Mayes, Gordon and Carole McMurry, Sue and Hewett Brown, David and Marian Shimp, Buford and Margaret Parrish, Doug and Jamie Parrish, Kent and Susan Kalmey, Charles Hebel, IV, David Osborne, Michael Gardner, and the Attorney General moved to intervene. The Commission granted their motions and established a procedural schedule providing for discovery, public hearing, and post-hearing briefs. Due to the number of intervenors and the complexity of issues involved, the Commission found that good cause existed to extend the review period to 90 days.

On May 15, 2002, Commission Staff met with representatives of Louisville Water and the intervenors to allow the parties an opportunity to resolve any outstanding issues

prior to the evidentiary hearing. The informal conference reconvened on May 29, 2002, at which time the parties agreed to settle their dispute.

On May 30, 2002, the Attorney General filed with the Commission written notice that he would not object to a determination of the matter without a public hearing. The parties convened as scheduled on June 3, 2002. At that time, Commission Staff met with the parties in a formal conference to determine the necessity of moving forward with the evidentiary hearing. After discussion among those present, the evidentiary hearing was cancelled by mutual agreement and the formal conference was adjourned.

PROPOSED TRANSACTION

Louisville Water is a Kentucky corporation governed by the Board of Water Works, pursuant to KRS 96.230 through KRS 96.310. Louisville Water's present address and principal place of business is 550 South Third Street, Louisville, Kentucky 40202. Louisville Water currently provides water service to approximately 266,778 customers in Greater Louisville and certain areas in Oldham and Bullitt counties.¹ The company also provides water on a wholesale basis to West Shelby Water District, North Nelson Water District, North Shelby Water Company, Shepherdsville, Taylorsville, and Mount Washington.²

Goshen is a Kentucky corporation and wholly owned subsidiary of AquaSource Utilities, Inc. (Aqua), a Texas corporation. Goshen currently provides potable water to residential and business customers in Oldham County, Kentucky.

¹ Louisville Water's 2000 Annual Report.

² Id.

On March 11, 2002, Louisville Water and Aqua entered into a Stock Purchase Agreement, wherein Louisville Water agreed to purchase from Aqua all issued and outstanding stock of Goshen.³ Louisville Water agreed to pay \$3,500,000 for the shares.⁴ The purchase agreement is subject to certain conditions, one of which is approval by this Commission with respect to the transfer of ownership of Goshen to Louisville Water.

STATUTORY PROVISIONS

KRS 278.020(4) provides that no person may acquire or transfer control or ownership of a utility without prior approval by the Commission. The Commission will approve such a transfer if it determines that the acquirer has the financial, technical, and managerial abilities to provide reasonable service. The Commission must also determine that the acquisition is made in accordance with the law, for a proper purpose, and is consistent with the public interest. KRS 278.020(5). The Commission may grant an application upon terms and conditions it deems necessary to protect the public interest.

After careful consideration and deliberation, the Commission finds that Louisville Water meets the standards set forth in KRS Chapter 278. Louisville Water has provided sufficient evidence to support its assertion that it has the financial, technical, and managerial ability to provide reasonable service to Kentucky consumers.

Louisville Water has demonstrated the financial ability necessary to acquire Goshen and provide reasonable service to its customers. As of December 31, 2000,

³ Section A, Stock Purchase Agreement.

⁴ Id. at 2.

Louisville Water had utility plant of \$510,280,688; total assets of \$622,586,100; equity capital of \$273,398,799; and liabilities and other credits of \$349,187,301. For the year ending December 31, 2000, Louisville Water reported operating revenues of \$88,255,340 and net income of \$29,117,501.

Louisville Water has also demonstrated the technical and managerial ability necessary to provide reasonable service to Goshen customers. The company is capable of delivering more than 127 million gallons to customers on a daily basis and possesses the resources to conduct more than 108,000 water quality tests annually.⁵ In addition, Louisville Water's management team has an established track record in the successful management and operation of water companies. Louisville Water's management expertise, together with its financial and technical resources, ensures that Goshen's customers will receive safe and reliable service.

During the formal conference, Louisville Water addressed the issue of customer deposits. Upon closing of the proposed acquisition, Goshen's customer deposit liability will transfer to Louisville Water. Louisville Water has stated its intention to operate Goshen as a wholly owned subsidiary for a period of approximately 2 years after the transfer. During that period Louisville Water will require deposits of new customers in the Goshen territory under the same rules governing the current deposits. After Goshen's operations are fully integrated into Louisville Water's operations, it is Louisville Water's intention either to refund those deposits or, if Louisville Water's customer deposit policy is reinstated, to hold the deposits in accordance with its policy.

⁵ 2000 Annual Report.

Pursuant to KRS 278.460, Goshen remains responsible for the payment of accrued interest on its customer deposits up to the date of the transfer. The Commission notes that Goshen has not filed the 2001 annual report required to be filed with the Commission by March 31, 2002.

CONCLUSIONS

Louisville Water has provided sufficient evidence to prove that it has the financial, technical, and managerial ability to provide reasonable service to Kentucky customers. The proposed acquisition is made in accordance with law, does not violate any statutory prohibition, and is executed for a proper purpose. The Commission finds that the proposed acquisition is consistent with the public interest and that Louisville Water will maintain both the level and quality of service currently received by Goshen customers.

With regard to motions made early in this proceeding requesting the Commission to condition any approval of the acquisition on certain terms, the Commission has received indications that the parties have resolved their differences and finds that no further Commission action is necessary.

The Commission, having reviewed the evidence of record and having been otherwise sufficiently advised, HEREBY ORDERS that:

1. The application for the approval of Louisville Water's acquisition of Goshen is approved.
2. Within 10 days of the date of this Order, Goshen shall file with the Commission its 2001 annual report.
3. Within 30 days of the date of this Order, Goshen shall file an annual report for that portion of 2002 that it owned and operated the water distribution system.

4. Within 10 days of the date of the transfer, Goshen shall file verification that accrued interest has been paid on its customer deposits up to the date of the transfer.

Done at Frankfort, Kentucky, this 13th day of June, 2002.

By the Commission

ATTEST:


Executive Director