

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF DOE VALLEY UTILITIES, INC.)	
FOR A CERTIFICATE OF CONVENIENCE AND)	CASE NO.
NECESSITY FOR CONSTRUCTION AND)	2002-00353
FINANCING AN UPGRADE TO WATER)	
TREATMENT FACILITIES)	

O R D E R

Doe Valley Utilities, Inc. (Doe Valley) has submitted to the Commission an application requesting approval of the construction of water treatment plant and financing. While the Commission received the application on September 26, 2002, it was deemed deficient in its filing requirements until December 23, 2002.¹ On February 18, 2003, the Commission issued an Order containing data requests and a procedural schedule. By Order dated March 10, 2003, a formal hearing was scheduled in this matter for May 8, 2003 and Doe Valley was granted an extension of time until March 10, 2003 to file its responses to the data request. Based on information received, we determine herein that the procedural schedule must be suspended and the application amended.

The application of Doe Valley as filed on December 23, 2002, while requesting approval of financing, explicitly added that no approval pursuant to KRS 278.300 was actually necessary since the Doe Valley Property Owners Association (POA), rather

¹ The Commission, on October 11, 2002, notified Doe Valley, by letter, that there were several filing deficiencies. Doe Valley submitted additional information to correct the deficiencies on December 23, 2002. The Commission notified Doe Valley, by letter on February 2, 2003, that all filing deficiencies were corrected and the application was considered filed as of December 23, 2002.

than the utility, would be obtaining a loan for the plant construction. However, Doe Valley's response to the data request, filed on March 10, 2003, includes a copy of a mortgage apparently entered into between Doe Valley and Bank One. The document is incomplete, but indicates that all property of the utility itself has been pledged as security for the loan to POA.

KRS 278.300(1) states that [n]o utility shall issue any securities or evidences of indebtedness, or assume any obligation or liability in respect to the securities or evidences of indebtedness of any other person until it has been authorized so to do by order of the commission. The mortgaging of utility property assuredly is an assumption of obligation or liability. Accordingly, approval of the utility's assumption of such obligation or liability must be sought by Doe Valley.

As this case must comply with KRS 278.300 and the regulations requesting approval of financing, we find that the application as it currently exists is deficient. Accordingly, this case cannot be considered as filed or processed further without amendment. The procedural schedule as contained in the Order of February 18, 2003 should be suspended and the hearing scheduled for May 8, 2003 be continued until further Order of the Commission.

The Commission, being sufficiently advised, HEREBY ORDERS that:

1. The procedural schedule issued February 18, 2003 is hereby suspended and the formal hearing scheduled for May 8, 2003 is continued pending further Order.
2. Doe Valley shall have 15 days from the date of this Order in which to file an amended application complying with the requirements of obtaining financing pursuant to KRS 278.300 and applicable regulations.

Done at Frankfort, Kentucky, this 14th day of March, 2003.

By the Commission

ATTEST:

*Deliaah P. Everett for
Thomas M. Gorman*

Executive Director