

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND)
NECESSITY FOR IMPROVEMENTS) CASE NO. 2003-00175
AT THE COOLBROOK WASTEWATER)
FACILITY OF AQUASOURCE UTILITY, INC.)

O R D E R

On May 12, 2003, AquaSource Utility, Inc. (AquaSource) petitioned the Commission for a Certificate of Public Convenience and Necessity (CPCN) for the construction of improvements to its wastewater facilities in Coolbrook Subdivision, located in Franklin County, Kentucky. AquaSource requested the Commission to issue a CPCN for a wet well pump capacity improvement project and tertiary treatment lagoon closure. AquaSource also requested the Commission to find that the chlorination systems revisions and certain customer service improvements (described as the installation of a customer lift station) are projects within the scope of ordinary course of business and therefore do not require a CPCN. AquaSource states that it is not seeking financing for the projects and that the cost of the projects will be paid from AquaSource funds.

The Attorney General of Kentucky was granted intervention on June 12, 2003. On July 12, 2003, Commission Staff issued to AquaSource requests for information and for production of documents regarding calculations for the pump upgrade prepared by an engineer licensed in Kentucky and bearing the necessary approval stamps and

supporting documentation from the Natural Resources and Environmental Protection Cabinet (Cabinet) for the lagoon closure. AquaSource filed its response to these interrogatories on July 28, 2003 and attached thereto copies of correspondence between AquaSource and the Cabinet regarding an inspection report and the proposed closure of the lagoon.¹

On August 27, 2003, Commission Staff issued a second set of interrogatories and request for production of documents to AquaSource regarding further engineering calculations for the pump upgrade, including necessary approvals and supporting documentation from the Cabinet. AquaSource filed its response to these interrogatories on September 8, 2003.²

807 KAR 5:001, Section 9(2)(b), requires that when any application for a CPCN is made, it shall be supported with copies of franchises or permits, if any, from the proper public authority for the proposed new construction or extension, if not previously filed with the commission. 807 KAR 5:071, Section 3(b), requires a copy of a preliminary approval by the Cabinet of the plans and specifications for the proposed construction. AquaSource has produced no such approval document in any of its responses. The Commission finds that AquaSource has not complied with 807 KAR 5:001, Section 9(2)(b), and 807 KAR 5:071, Section 3(b), and therefore the application

¹ Response of AquaSource to Commission Staff s First Set of Interrogatories and Request for Production of Documents, Response to Request 2, at 2, filed July 28, 2003.

² Response of AquaSource to Commission Staff s Second Set of Interrogatories and Request for Production of Documents, Response to Request 1, at 1-2, filed September 8, 2003.

for a CPCN for the wet pump capacity improvement and the tertiary treatment lagoon closure should be dismissed. Based upon the facts presented in this case, the Commission finds the chlorination system revisions and the customer service improvements to be in the ordinary course of business, pursuant to 807 KAR 5:001, Section 9(3), and therefore do not require a CPCN.

Based upon the finding that the application for a CPCN should be dismissed, the requirement of filing a valid third-party beneficiary agreement is moot.

The Commission, having considered the record herein and being sufficiently advised, HEREBY ORDERS that:

1. The chlorination system revisions and the customer service improvements as described in the application do not require a CPCN.
2. The application for a CPCN for the wet pump capacity improvement and the tertiary treatment lagoon closure is dismissed without prejudice.
3. This case is closed and is removed from the Commission's docket.

Done at Frankfort, Kentucky, this 3rd day of November, 2003.

By the Commission

ATTEST:


Executive Director