

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CLASSIC CONSTRUCTION,)
INC. FOR APPROVAL OF TRANSFER OF)
OWNERSHIP OF COOLBROOK SEWAGE) CASE NO.
TREATMENT PLANT IN FRANKLIN COUNTY,) 2003-00495
KENTUCKY FROM AQUA AMERICA)
KENTUCKY, INC.)

ORDER

On, December 22, 2003, Classic Construction, Inc. ("Classic Construction") applied to the Commission for approval of the transfer of Coolbrook wastewater facilities in Coolbrook Subdivision, Franklin County, Kentucky, from AquaSource Utility, Inc. ("AquaSource") to Classic Construction. The Commission found the application was deficient. After AquaSource supplemented its application with additional information, the Commission accepted the application as filed on January 9, 2004. On January 17, 2004, the Attorney General of Kentucky was granted intervention pursuant to statute.

On February 11, 2004, the Commission Staff's First Set of Interrogatories and Requests for Production of Documents ("Staff's First Data Request") was issued requiring the parties to file their responses on or before February 25, 2004. On February 27, 2004, AquaSource responded to Staff's First Data Request. However, AquaSource's filing was incomplete and indicated that additional time was necessary to adequately respond to the remaining items.

In Case No. 2003-00175¹ we found that AquaSource's application for a Certificate of Public Convenience and Necessity for the wet pump capacity improvement and the tertiary treatment lagoon closure should be denied for its failure to comply with the requirements of Administrative Regulations 807 KAR 5:001, Section 9 (2)(b) and 807 KAR 5:071, Section 3(b). These improvements were required by the Kentucky Division of Water ("DOW") and were the subject of a Notice of Violation ("NOV") issued by the DOW. The Commission has the same concerns now about the required improvements as it did in that prior proceeding.

Since the information requested by Staff was filed late and some of the information has yet to be filed, the Commission finds that additional time is required to provide Staff with ample opportunity to review the responses and to advise the Commission on the application of transfer. We further find that an informal conference should be scheduled to obtain additional information regarding the transfer of Coolbrook and construction of the system improvements.

KRS 278.020(4) and (5) requires the Commission to grant, modify or refuse the application within 60 days of the filing of the application. This would require a decision by the Commission by March 9, 2004. However, the Commission may continue the application process an additional 60 days for good cause.

We find that we are without sufficient information to render a decision on the merits of the application and that additional time should be granted to the applicant to

¹ See Case No. 2003-00175, Application for a Certificate of Public Convenience and Necessity for Improvements at the Coolbrook Wastewater Facility of AquaSource Utility, Inc. (November 3, 2003).

furnish the information; therefore, the application should be extended an additional 60 days from the date of filing.

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

1. The application is continued for an additional 60 days from the date of the filing. The Commission's decision in this proceeding is now due on or before May 10, 2004.

2. Classic Construction and AquaSource shall file, on or before March 12, 2004, the information as requested in Items 5 through 7 of Staff's First Data Request dated February 11, 2004.

3. An informal conference is scheduled for March 16, 2004 at 2:00 p.m., Eastern Standard Time, in Conference Room 2 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky. The parties shall have the appropriate personnel at the informal conference to answer questions concerning the construction of the system improvements required by DOW, the status of the current NOV negotiations with DOW, and Classic Construction's financial capabilities to operate Coolbrook.

Done at Frankfort, Kentucky, this 5th day of March, 2004.

By the Commission

ATTEST:


Executive Director