

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE JOINT APPLICATION OF SANDY VALLEY)	
WATER DISTRICT, SOUTHERN WATER AND)	
SEWER DISTRICT AND THE CITY OF)	
PIKEVILLE FOR APPROVAL OF THE)	CASE NO. 2006-00327
TRANSFER OF FACILITIES AND FOR THE)	
ASSUMPTION OF DEBT BY SOUTHERN)	
WATER AND SEWER DISTRICT)	

ORDER

The City of Prestonsburg, through its Utilities Commission, has moved to intervene in this matter and for a temporary restraining order to prohibit the transfer of the assets of Sandy Valley Water District (“Sandy Valley District”) to Southern Water District (“Southern District”) unless Southern District agrees to the unconditional assumption of Sandy Valley District’s water supply contract with Prestonsburg. Finding that Prestonsburg has failed to satisfy the requirements of Administrative Regulation 807 KAR 5:001, Section 3, we deny the motion.

On September 22, 2006, Sandy Valley District, Southern District, and the city of Pikeville, Kentucky (“Pikeville”) applied for Commission approval of the proposed transfer of Sandy Valley District’s assets to Southern District and Pikeville. On January 22, 2007, we approved the proposed transfer.

On April 17, 2007, Prestonsburg then moved for intervention in this proceeding. As grounds for its motion, Prestonsburg states that it has a wholesale water contract with Sandy Valley District and that the proposed transfer may potentially affect that contract. More specifically, it asserts that Southern has indicated that it will not honor the terms of this contract and that Prestonsburg, as a result of such action, will

experience a loss in revenue that may adversely affect its ability to borrow additional funds for its retail water operations.

Administrative Regulation 807 KAR 5:001, Section 3(8), which governs intervention in Commission proceedings, provides that “[i]n any formal proceeding, any person who wishes to become a party to a proceeding before the commission may by *timely motion* request that he be granted leave to intervene [emphasis added].” Prestonsburg filed its motion 85 days *after* we had entered a final Order in this proceeding. Prestonsburg acknowledges in its motion that it was aware of the proposed transaction and had been monitoring its progress. Despite having notice of the proposed transaction, it took no action to intervene prior to the issuance of a final Order.¹ Given the facts of this case, we find that Prestonburg’s motion is untimely and should be denied.

IT IS THEREFORE ORDERED that Prestonsburg’s Motion to Intervene is denied.

Done at Frankfort, Kentucky, this 29th day of January, 2008.

By the Commission

ATTEST:



Executive Director

¹ See Motion of City of Prestonsburg to Intervene at ¶¶ 6 – 8. See also Case No. 2006-00123, Joint Petition of the City of Pikeville and Mountain Water District for the Transfer of Certain Wastewater Facilities and Related Debt, Prestonsburg’s Reply to Joint Petitioner’s Response to Motion to Intervene at ¶ 5 (filed April 20, 2006) (in which Prestonsburg states that it “has been monitoring the docket of the Public Service Commission in anticipation of the joint application of Sandy Valley, Pikeville and Southern before the Public Service Commission.”).