

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF NORTH SHELBY)	
WATER COMPANY FOR A CERTIFICATE)	
OF PUBLIC CONVENIENCE AND)	CASE NO. 2008-00232
NECESSITY TO CONSTRUCT PURSUANT)	
TO THE PROVISIONS OF KRS 278.020)	

O R D E R

North Shelby Water Company (“North Shelby”) has applied to the Commission for a Certificate of Public Convenience and Necessity (“CPCN”) to construct proposed waterworks facilities. By letter dated June 27, 2008, Commission Staff informed North Shelby of certain filing deficiencies, including failing to include copies of franchises or permits from the proper public authority for the proposed new construction or extension, as required by 807 KAR 5:001, Section 9(2)(b). In its response, North Shelby requested permission to deviate from this filing requirement. The other identified filing deficiencies have been cured.

In support of its request for permission to deviate from 807 KAR 5:001, Section 9(2)(b), North Shelby states that the utility was not aware of its need to obtain a Division of Water (“DOW”) permit at the outset of this case. It has filed for DOW approval, but such approval may take several weeks. The utility suggests that the Commission process its case, and condition a certificate on the DOW approval. In addition, North Shelby states that it has applied for a state road encroachment permit, which will be filed with the Commission soon.

Administrative Regulation 807 KAR 5:001, Section 14, provides the Commission with the authority to permit deviations from its regulations for good cause shown. Administrative Regulation 401 KAR 8:100, which was promulgated pursuant to KRS Chapter 224, requires a water supplier that is constructing facilities to increase its capacity to obtain DOW approval for the water supplier's design and construction plans. The DOW reviews the sanitary features of design and other significant features of public health, and it may not grant approval if the design does not meet proper standards. In the interest of administrative economy, the Commission finds it appropriate to require the DOW approval prior to processing North Shelby's application for a CPCN. We therefore find that North Shelby has not shown good cause to deviate from 807 KAR 5:001, Section 9(2)(b).


IT IS THEREFORE ORDERED that:

1. North Shelby's request for permission to deviate from the filing requirements of Administrative Regulation 807 KAR 5:001, Section 9(2)(b), is denied.
2. North Shelby shall file the requisite DOW permit and the state road encroachment permit prior to the Commission's processing of this case.

Done at Frankfort, Kentucky, this 22nd day of July, 2008.

By the Commission

ATTEST:


Executive Director *for Stephanie Stumbo*
by permission

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