

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF JESSAMINE-SOUTH)	
ELKHORN WATER DISTRICT FOR A)	CASE NO.
CERTIFICATE OF PUBLIC CONVENIENCE AND)	2014-00084
NECESSITY TO CONSTRUCT AND FINANCE A)	
WATERWORKS IMPROVEMENT PROJECT)	
PURSUANT TO KRS 278.020 AND 278.300)	

ORDER

On March 7, 2014, Jessamine-South Elkhorn Water District ("JSEWD") tendered an Application for a Certificate of Public Convenience and Necessity ("CPCN") and approval of financing arrangements for construction of a 750,000-gallon elevated water storage tank and related appurtenances, or in the alternative, a 500,000-gallon elevated water storage tank. The Attorney General of the Commonwealth of Kentucky has intervened.

JSEWD requested that the record of Case No. 2012-00470¹ be incorporated into this case. In Case No. 2012-00470, the Commission found that JSEWD failed to demonstrate the need for a million-gallon water storage tank and denied JSEWD's application for a CPCN.²

Pursuant to 807 KAR 5:001, Section 22, JSEWD requested a deviation from the application requirements that it file plans and specifications for the proposed

¹ Case No. 2012-00470, *Application of Jessamine-South Elkhorn Water District for a Certificate of Public Convenience and Necessity to Construct and Finance a Waterworks Improvements Project pursuant to KRS 278.020 and 278.300* (filed Oct. 26, 2012).

² Case No. 2012-00470 (KY. PSC Apr. 30, 2013).

construction,³ copies of permits,⁴ and specific financing arrangements.⁵ JSEWD also requested that it not be required to file financial data for a 12-month period ending within 90 days of the filing of the application.⁶

A utility having less than \$5,000,000 in gross annual revenues is no longer required to provide financial data for a 12-month period ending within 90 days of the filing of the application if the utility's most recent annual report is on file with the Commission, and the application contains information regarding any changes that have occurred since the period covered in the annual report.⁷ For the calendar year ending December 31, 2012, JSEWD had total operating revenues of \$2,322,318.⁸ JSEWD stated in its Application that there has been no material change in its financial condition or operation since December 31, 2012.⁹

In support of its request for deviation from the requirement to file plans and specifications, copies of permits, and specific financing arrangements, JSEWD contends that a 750,000-gallon elevated water storage tank is justified. Should the Commission determine that JSEWD failed to demonstrate the need for a 750,000-gallon elevated water storage tank, JSEWD has proposed an alternative in its Application for a 500,000-gallon elevated water storage tank. JSEWD contends it will prepare and file

³ Required by 807 KAR 5:001, Section 15(2)(c), and 807 KAR 5:001, Section 15(2)(d).

⁴ Required by 807 KAR 5:001, Section 15(2)(b).

⁵ Required by 807 KAR 5:001, Section 18.

⁶ Application at 6.

⁷ 807 KAR 5:001, Section 12(1)(b).

⁸ Annual Report of Jessamine-South Elkhorn Water District (Water Division) to the Kentucky Public Service Commission for the Year Ended December 31, 2012 at 11.

⁹ Application at 6.

the plans and specifications, copies of permits, and specific financing arrangements once the Commission approves either the 750,000- or 500,000-gallon elevated water storage tank.

JSEWD states that preparing plans and specifications and specific financing arrangements for both a 750,000-gallon elevated water storage tank and a 500,000-gallon elevated water storage tank would be unnecessarily expensive. To obtain the necessary permits from the various public authorities, JSEWD has to submit plans and specifications. Specific financing arrangements cannot be provided until JSEWD knows the size of the water tank that will be constructed.

JSEWD has the obligation and burden to prove its infrastructure needs. JSEWD needs to show that a 750,000-gallon elevated water storage tank is needed and will not result in excessive or wasteful investment.¹⁰ Additionally, JSEWD needs to provide plans and specifications, copies of permits, and specific financing arrangements for a 750,000-gallon elevated water storage tank.

The Commission's role is to review all evidence submitted in a case and make a determination based on that evidence. JSEWD requests the Commission make a determination prior to submission of relevant and required evidence by JSEWD. The Commission cannot make a decision based on an application that proposes alternative project proposals that have not been fully developed and fail to meet the Commission's minimum filing requirements.

¹⁰ *Kentucky Utilities Co. v. Pub. Ser. Com'n*, 252 S.W.2d 885 (Ky. 1952).

Having considered JSEWD's requests, the Commission finds that:

1. JSEWD's request to incorporate the record of Case No. 2012-00470 into this case should be granted.

2. JSEWD is not required to submit a financial exhibit covering a 12-month period ending not more than 90 days prior to the date the application is filed.

3. JSEWD's deviation request to delay filing of plans and specifications until the Commission issues a determination regarding the appropriate size of the elevated water storage tank should be denied.

4. JSEWD's deviation request to delay filing copies of permits until the Commission issues a determination regarding the appropriate size of the elevated water storage tank should be denied.

5. JSEWD's deviation request to delay filing specific financing arrangements until the Commission issues a determination regarding the appropriate size of the elevated water storage tank should be denied.

6. To the extent that JSEWD has requested the Commission issue a determination of the appropriate size of the elevated water storage tank prior to submission of required documents, that request should be denied.

7. Based on JSEWD's belief that their infrastructure requirements support the need for a 750,000-gallon elevated water storage tank, JSEWD should submit plans and specifications, copies of permits, and specific financing arrangements, including the amount of anticipated grants and anticipated amount of issuance of indebtedness, for a 750,000-gallon elevated water storage tank.

IT IS THEREFORE ORDERED that:

1. JSEWD's request to incorporate the record of Case No. 2012-00470 into this case is granted.

2. JSEWD's request for a deviation from the requirement to submit a financial exhibit covering a 12-month period ending not more than 90 days prior to the date the application is filed is denied as moot.

3. JSEWD's request for a deviation from filing plans and specifications until the Commission issues a determination regarding the appropriate size of the elevated water storage tank is denied.

4. JSEWD's request for a deviation from filing copies of permits until the Commission issues a determination regarding the appropriate size of the elevated water storage tank is denied.

5. JSEWD's request for a deviation from filing specific financing arrangements until the Commission issues a determination regarding the appropriate size of the elevated water storage tank is denied.

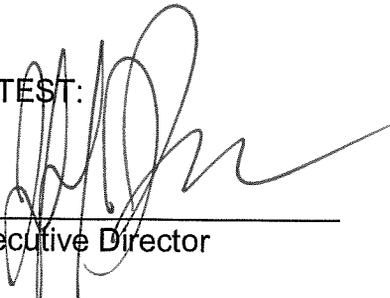
6. To the extent that JSEWD has requested the Commission to issue a determination regarding the appropriate size of the elevated water storage tank, that request is denied.

7. The Application tendered by JSEWD on March 7, 2014, shall not be considered filed until JSEWD files the plans and specifications, copies of permits, and specific financing arrangements, including the amount of anticipated grants and the anticipated amount of issuance of indebtedness to support its request to construct a 750,000-gallon elevated water storage tank.

By the Commission

ENTERED
MAR 24 2014
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2014-00084

Jennifer B Hans
Assistant Attorney General's Office
1024 Capital Center Drive, Ste 200
Frankfort, KENTUCKY 40601-8204

Bruce E Smith
201 South Main Street
Nicholasville, KENTUCKY 40356