

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

Pending before the Commission are two motions filed by Forest Hills Residents' Association ("Forest Hills"). The first requests clarification of the Commission's September 8, 2014 Order, and the second requests the scheduling of a hearing.

Motion for Clarification

Forest Hills filed a motion on September 9, 2014, requesting clarification of a portion of the Commission's September 8, 2014 Order relating to Jessamine-South Elkhorn Water District's ("JSEWD") application requesting approval of financing for a waterworks improvement project. Specifically, Forest Hills asks that the Commission clarify and state whether it has rejected the financing portion of JSEWD's application as incomplete under 807 KAR 5:001, Section 18(c), in as much as KRS 278.300 grants the Commission 60 days to adjudicate a financing application after it has been accepted as filed. In its application tendered on March 7, 2014, JSEWD applied for a Certificate of Public Convenience and Necessity ("CPCN") and approval of financing for a water tank project.

On September 16, 2014, JSEWD filed a response to Forest Hill's motion for clarification. JSEWD avers that Forest Hills, in its motion, is actually requesting that JSEWD's application for approval of financing be rejected as incomplete.¹ JSEWD further states that Forest Hills mischaracterized KRS 278.300 by claiming that the statute requires the issuance of an Order within 60 days after the application is considered filed. KRS 278.300(2) does indicate that within 60 days of the application's acceptance for filing, processing of the application should be finalized; however, KRS 278.300(2) further indicates the Commission may continue the application for a period beyond 60 days by issuing an Order for a continuance and stating the facts for the continuance.

JSEWD estimates the total project cost at \$2,000,000 for a 750,000-gallon water storage tank.² Grants in the amount of \$1,440,000 have been obtained by JSEWD for use in the 750,000-gallon water storage tank project.³ Based on the estimated cost of the project and the grants already secured, JSEWD will require financing for less than one-third of the project.

By letter dated August 22, 2014, the Commission's Division of Filings notified JSEWD that its application in this case met the minimum filing requirements. The intent of the Commission's September 8, 2014 Order was to indicate that while the CPCN portion of the application had been accepted for filing, the financing portion of the

¹ JSEWD's Response at 1.

² JSEWD Response to Commission's Order (filed June 12, 2014).

³ *Id.*

application would not be considered filed for purposes of KRS 278.300 until supplemental information regarding the terms of the financing is filed.

Motion to Schedule a Hearing

Forest Hills filed a request for a hearing on September 9, 2014. JSEWD filed a reply to Forest Hills' motion on September 16, 2014, indicating that a hearing is not necessary. The Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention ("AG") on September 19, 2014, filed a reply to Forest Hills' motion also indicating that a hearing is not necessary.

JSEWD states that the Commission has already held an exhaustive hearing regarding the construction of a one million-gallon water storage tank in Case No. 2012-00470,⁴ and that case has been incorporated into this case. In case No. 2012-00470, the Commission found that JSEWD failed to demonstrate that the construction of a one million-gallon water storage tank would not result in excessive or wasteful investment. The Commission denied JSEWD's application for a CPCN for construction of a one million-gallon water storage tank in Case No. 2012-00470.⁵

JSEWD avers that Forest Hills wants to question the appropriateness of locating the water storage tank at the proposed site, which borders the Forest Hills Subdivision. JSEWD states that all alternative sites proposed by Forest Hills have been investigated and JSEWD presented evidence in the hearing held in Case No. 2012-00470 for why the site proposed by JSEWD is the best location.

⁴ 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 (Ky. PSC Apr. 30, 2013).

⁵ *Id.*

The AG indicates that he shares JSEWD's concerns regarding the need for a hearing. The AG is further concerned about the litigation expenses JSEWD is incurring in addressing issues that were previously addressed in the hearing in Case No. 2012-00470. The additional litigation expenses will be passed to all customers of JSEWD, including customers not represented by Forest Hills.

KRS 278.020 does not require the Commission to conduct a hearing on JSEWD's application. The Commission may hold a hearing at its discretion on an application for a CPCN.⁶ The Commission is cognizant that holding a hearing will increase litigation expenses and that these expenses will increase the cost of the proposed project should the Commission grant JSEWD's application for the CPCN. However, the Commission finds that due to the complexity of the issues, a hearing should be held.

IT IS THEREFORE ORDERED that:

1. For purposes of KRS 278.300, JSEWD's application for approval of financing for a waterworks improvement project will be considered accepted for filing when JSEWD completes and files the terms of the financing arrangement.
2. For purposes of KRS 278.020, JSEWD's application for a CPCN was accepted for filing as of August 21, 2014.
3. Forest Hills' motion for a hearing is granted.
4. A formal hearing in this matter shall be held beginning on Tuesday, February 10, 2015, at 10 a.m. Eastern Standard Time, in the Commission's offices at 211 Sower Boulevard.

⁶ KRS 278.020(1).

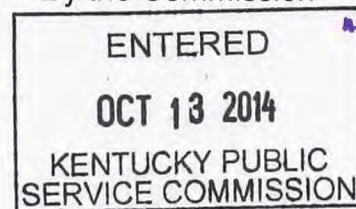
5. JSEWD shall publish notice of the scheduled hearing in accordance with 807 KAR 5:001, Section 9(2)(b), no more than 21 days and no less than seven days before the day of the scheduled hearing.

6. Pursuant to KRS 278.360 and 807 KAR 5:001, Section 9(9)(a), the record of the formal hearing in this matter shall be by videotape.

7. Commission Staff shall prepare a written list of all exhibits presented at the hearing and shall file this list with the Commission with all hearing exhibits and a copy of the video transcript of the hearing.

8. Any request to cancel or postpone this hearing shall be made by motion filed with the Commission at least one week before the hearing is scheduled to commence.

By the Commission



ATTEST:



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