

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF THE HENRY COUNTY)	
WATER DISTRICT NO. 2 FOR A CERTIFICATE)	CASE NO.
OF PUBLIC CONVENIENCE AND NECESSITY)	2016-00080
TO CONSTRUCT A WATER IMPROVEMENT)	
PROJECT PURSUANT TO KRS 278.020 AND 807)	
KAR 5:001)	

ORDER

Henry County Water District No. 2 ("Henry District") has applied for a Certificate of Public Convenience and Necessity ("CPCN") to construct a waterworks improvements project and for approval of its plan to finance the proposed project.

Henry District filed an application for a CPCN and approval of financing on February 16, 2016. The application was accepted for filing on March 3, 2016. Henry District has not requested a hearing in this matter.

Henry District, a water district organized under KRS Chapter 74, provides retail water service to approximately 6,341 water customers in Carroll, Henry, Oldham, Shelby and Trimble counties.¹

The proposed project entails the construction of a one-million-gallon composite elevated storage tank to replace an existing 48-year-old 200,000-gallon elevated tank in poor condition.² Henry District describes the existing tank as the "lead tank" for the

¹ *Annual Report of Henry County Water District No. 2 Water Division to the Kentucky Public Service Commission for the Year Ended December 31, 2014* at 5 and 27.

² Application at 2.

Henry District system through which almost all water distributed by Henry District passes. Henry District states that when breaks occur along Morton Ridge or pumping operations at the water treatment plant are disrupted, the existing tank provides very limited reserve capacity for the system. Henry District further states that even under normal operating conditions, the existing tank draws down very rapidly, requiring the service pumps at the treatment plant to cycle and run frequently. A tank with increased capacity is expected to address these problems.³ The total construction cost of the proposed project, including engineering design, construction supervision, inspection, easement acquisition, and contingency, is \$3,254,000.⁴

Henry District intends to finance this project with a \$2,800,000 State Revolving Fund loan, administered by the Kentucky Infrastructure Authority ("KIA"), \$254,000 of locally generated funds, and a \$200,000 contribution from the Shelby Rural Electric Cooperative Corporation.⁵

This KIA loan is to be repaid over a 20-year term at an interest rate of 1.75 percent per annum with a loan servicing fee of 0.25 percent of the annual outstanding loan balance payable to KIA with each interest payment. Henry District received a one-year Conditional Commitment from KIA for this loan on October 2, 2014.⁶ On September 15, 2015, the Conditional Commitment was extended until April 2, 2016.⁷

³ *Id.*, Appendix A.

⁴ *Id.* at 2.

⁵ *Id.*, Appendix B, Executive Summary, Kentucky Infrastructure Authority Fund F, Federally Assisted Drinking Water Revolving Loan Fund at 3. The KIA loan was approved on October 2, 2014.

⁶ *Id.*, Appendix B.

⁷ Kentucky Infrastructure Authority Federally Assisted Drinking Water Revolving Loan Fund Conditional Commitment Letter (F15-014) Extension, September 15, 2015 (filed Mar. 3, 2016).

Tetra Tech, Inc. of Lexington, Kentucky, prepared the plans and specifications for the proposed project.⁸ The plans and specifications were approved by the Kentucky Division of Water (“DOW”) for the technical aspects of the project only on January 15, 2016, with the statement:⁹

Based on DOW records, this project is being funded by a State Revolving Fund (SRF) loan. Therefore, this approval is for the technical aspects of the project only. Currently, a State Planning and Environmental Assessment Report (SPEAR) related to your funding application is under review. **Therefore, you are NOT authorized to advertise for bids at this time. Should you choose to proceed with the bidding and award a contract prior to DOW authorization to bid, this will be at your own risk and payment from the SRF program is not guaranteed.**¹⁰

Regardless, bids were received by Henry District on February 15, 2016.¹¹ Included with the application was an environmental statement (the SPEAR referenced above) with a Finding of No Significant Impact (“FONSI”) that was open for comment until March 5, 2016, part of the 30-day public notice by DOW.¹² The Division of Water issued its FONSI letter on March 7, 2016,¹³ and an Authorization to Bid letter on March 10, 2016.¹⁴

⁸ Application, Appendix B.

⁹ *Id.*, Appendix D.

¹⁰ *Id.*

¹¹ *Id.*, Appendix C.

¹² *Id.*, Appendix D.

¹³ March 7, 2016 letter from Cindy McDonald, Supervisor, Division of Water, Wastewater Planning Section, to James T. Simpson, Chief Operating Officer, Henry County Water District No. 2 (filed Mar. 22, 2016).

¹⁴ March 10, 2016 letter from Terry Humphries, P.E., Division of Water, Supervisor, Engineering Section, to James T. Simpson, Henry County Water District No. 2 (filed Mar. 23, 2016).

Henry District opened bids for this project on February 15, 2015.¹⁵ Bids are subject to acceptance for 90 days.¹⁶ The bids on this project will expire on May 14, 2016.

Having reviewed the application and being otherwise sufficiently advised, the Commission finds that:

1. The record for this case is complete.
2. The proposed construction will not result in wasteful duplication of existing facilities.
3. The proposed construction does not conflict with any existing certificates or the service of any other utility operating in the area.
4. Public convenience and necessity require the proposed construction, which allows Henry District to provide reliable and adequate water service to its customers.
5. The proposed Assistance Agreement with KIA is for lawful objects within Henry District's corporate purpose. It is necessary for, appropriate for, and consistent with the proper performance of Henry District's service to the public. It will not impair Henry District's ability to perform that service. It is reasonably necessary and appropriate for such purpose.
6. Henry District should be authorized to utilize \$2,800,000 of the proceeds of the Assistance Agreement on the project approved herein.

¹⁵ Application, Appendix C.

¹⁶ Specifications, Henry County Water District No. 2, U.S. 42 Storage Tank, prepared by Tetra Tech, Inc., December 2015, at 00030-2.

IT IS THEREFORE ORDERED that:

1. Henry District is granted a CPCN to proceed with the proposed construction as set forth in its application.

2. Henry District shall notify the Commission prior to performing any additional construction not expressly authorized by this Order.

3. Any deviation from the construction approved shall be undertaken only with the prior approval of the Commission.

4. Henry District shall require construction to be inspected under the general supervision of a licensed professional engineer with a Kentucky registration in civil or mechanical engineering to ensure that the construction work is done in accordance with the contract drawings and specifications and in conformance with the best practices of the construction trades involved in the project.

5. Henry District is authorized to enter the proposed Assistance Agreement with KIA and, under the terms of that Agreement, to borrow from KIA an amount not to exceed \$2,800,000 to be repaid over a 20-year period at an interest rate of 1.75 percent per annum.

6. Within 30 days of executing its proposed Assistance Agreement with KIA, Henry District shall file with the Commission an executed copy of the Assistance Agreement. Henry District shall use \$2,800,000 of the proceeds from the proposed Assistance Agreement with KIA only for the lawful purposes set forth in its application. None of the proceeds, however, shall be used for the construction of any project not approved by the Commission, except those clearly identified in Henry District's Application in this proceeding, unless and until Henry District obtains prior Commission

approval for the use of the proceeds. This shall be executed before any construction begins.

7. Henry District shall file with the Commission documentation of the total costs of this project including the cost of construction and all other capitalized costs, (e.g., engineering, legal, administrative) within 60 days of the date that construction authorized under this CPCN is substantially completed. Construction costs shall be classified into appropriate plant accounts in accordance with the Uniform System of Accounts for water utilities prescribed by the Commission.

8. Henry District shall file a copy of the "as-built" drawings and a certified statement that the construction has been satisfactorily completed in accordance with the contract plans and specifications within 60 days of the substantial completion of the construction certificated herein.

9. Any documents filed in the future pursuant to ordering paragraphs 2, 6, 7, and 8 shall reference this case number and shall be retained in the post case reference file.

10. The Executive Director is delegated authority to grant reasonable extensions of time for the filing of any documents required by this Order upon Henry District's showing of good cause for such extension.

Nothing contained herein shall be construed as a finding of value for any purpose or as a warranty on the part of the Commonwealth of Kentucky or any other agency thereof as to the securities authorized herein.

By the Commission

ENTERED
MAR 30 2016
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

David D. Guenard
Acting Executive Director *for*

Case No. 2016-00080

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