

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF MOUNTAIN WATER DISTRICT )	
FOR A CERTIFICATE OF PUBLIC )	CASE NO.
CONVENIENCE AND NECESSITY TO )	2016-00266
CONSTRUCT AND FINANCE PURSUANT TO )	
KRS 278.023 )	

ORDER

Mountain Water District ("Mountain Water") has applied to the Commission for a Certificate of Public Convenience and Necessity ("CPCN") to construct a water improvement project and for approval of its plan to finance the proposed project. Mountain Water's application met the minimum filing requirements on July 26, 2016.

On July 21, 2016, the Attorney General of Kentucky, by and through his Office of Rate Intervention, ("AG") filed a motion to intervene in the proceeding. On July 22, 2016, the Commission entered an Order that granted the AG's motion to intervene and also established a procedural schedule that allowed the AG to request information from Mountain Water and also to file comments no later than August 11, 2016.

On July 26, 2016, the AG filed into the record and served upon Mountain Water a request for information. Mountain Water filed its response to the AG's request on August 1, 2016, and on the same day also filed a motion to expedite the application. On August 4, 2016, the AG filed comments into the record and a statement in support of Mountain Water's motion to expedite. The AG stated, among other things, and that the "project will extend service to currently unserved citizens," that it will have "no

appreciable negative impact” on Mountain Water’s existing customers, and that he has no opposition to the Commission’s granting of Mountain Water’s request for a CPCN.<sup>1</sup>

This project consists of approximately 28,000 linear feet of various sizes of water main and associated appurtenances, along with a 20,000-gallon water storage tank, booster pumping stations, and telemetry.<sup>2</sup>

Construction costs, based on the bid received by Mountain Water on April 26, 2016, are \$1,332,025.<sup>3</sup> The total project cost, including costs for administrative, legal, engineering, interest, construction, and contingencies, is \$1,900,000.<sup>4</sup>

Mountain Water proposes to finance the proposed construction with a \$500,000 grant from the Appalachian Regional Commission (“ARC”), a federal Abandoned Mine Land grant in the amount of \$500,000, and State Mining Mitigation funds in the amount of \$900,000.<sup>5 6</sup>

Mountain Water has submitted its application pursuant to KRS 278.023.<sup>7</sup> The ARC grant is administered through Rural Development (“RD”), an agency of the United States Department of Agriculture (“USDA”). Since RD is administering ARC funds,

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<sup>1</sup> AG’s Comments and Statement in Support of Mountain Water District’s Motion to Expedite (filed Aug. 4, 2016) at 2 and 3.

<sup>2</sup> Application at 1.

<sup>3</sup> Application, Exhibit D.

<sup>4</sup> *Id.*

<sup>5</sup> Application, Exhibit A.

<sup>6</sup> In response to a request for information from the Attorney General, Mountain Water stated that State Mining Mitigation funds were from an Agreed Order between McCoy Elkhorn Coal, Inc. and the Kentucky Energy and Environment Cabinet Department of Mine Reclamation and Enforcement.

<sup>7</sup> Application at 1.

Mountain Water has an agreement with the USDA through RD.<sup>8</sup> The application, therefore, is subject to the provisions of KRS 278.023. Notwithstanding KRS 278.020(1), KRS 278.180, KRS 278.190, and KRS 278.300, KRS 278.023 requires the Commission to accept agreements between water districts and RD regarding construction projects, and to issue the necessary orders to implement the terms of such agreements within 30 days of satisfactory completion of the minimum filing requirements.

KRS 278.023 does not grant the Commission any discretionary authority to modify or reject any portion of the agreement between RD and Mountain Water, or to defer the issuance of all necessary orders to implement the terms of that agreement. It further denies the Commission any authority to reject an application when the evidence of record indicates that a water district's proposed facilities will result in the wasteful duplication of facilities or excessive investment or its proposed rates are unfair, unjust, or unreasonable. The Commission, therefore, is not able to review this application using the same standards that are used for applications that are not filed pursuant to KRS 278.023.

IT IS THEREFORE ORDERED that:

1. Mountain Water is granted a CPCN for the proposed construction as set forth in its application.
2. Mountain Water's proposed plan of financing is approved.
3. Mountain Water shall obtain approval from the Commission prior to performing any additional construction not expressly authorized by this Order.

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<sup>8</sup> Application, Exhibit A.

4. Notwithstanding ordering paragraph 3, if surplus funds remain after the approved construction has been completed, Mountain Water may use such surplus to construct additional plant facilities if RD approves of the use and the additional construction will not result in a change in Mountain Water's rates for service. Mountain Water shall provide written notice of this additional construction in accordance with 807 KAR 5:069, Section 4.

5. Mountain Water 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, and administrative), within 60 days of the date that construction is substantially completed. Construction cost shall be classified into appropriate plant accounts in accordance with the Uniform System of Accounts for water utilities prescribed by the Commission.

6. Mountain Water shall file a copy of the "as-built" drawings and a certified statement from the engineer 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.

7. Mountain Water 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.

8. Mountain Water shall notify the Commission in writing one week prior to the actual start of construction and at the 50 percent completion point.

9. Any documents filed in the future pursuant to ordering paragraphs 4, 5, 6, and 8 of this Order shall reference this case number and shall be retained in Mountain Water's general correspondence 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 Mountain Water's showing of good cause for such extension.

Nothing contained herein shall be deemed a warranty of the Commonwealth of Kentucky, or any agency thereof, of the financing herein accepted.

By the Commission

ENTERED  
AUG 15 2016  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

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