

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE PETITION OF BOONE COUNTY)	
WATER AND SEWER DISTRICT FOR)	CASE NO.
APPROVAL OF LEASE WITH BOONE)	95-288
COUNTY, KENTUCKY)	

O R D E R

Boone County Water and Sewer District ("Boone District") has applied for Commission approval of an agreement with Boone County, Kentucky ("Boone County") under which it will lease its sewage treatment facilities to Boone County.

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

1. Boone District is a water and sewer district organized under the provisions of KRS Chapter 74 and is a political subdivision of the Commonwealth of Kentucky. Louisville Extension Water District v. Diehl Pump & Supply Co., Inc., Ky., 246 S.W.2d 585 (1952).

2. Boone District owns, operates and manages facilities which are used for and in connection with the treatment of sewage for the public for compensation, and which serve approximately 6,000 persons residing in the unincorporated areas of Boone County, Kentucky.

3. On May 30, 1990, Boone District executed an agreement with Sanitation District No. 1 of Campbell and Kenton Counties,

Kentucky ("Sanitation District") for the construction of sewer collection lines in the Richwood and Taylorsport Service Areas.¹

4. Under the terms of the May 30, 1990 Agreement, Boone District was obligated to pay Sanitation District approximately \$3,663,225 on June 28, 1995 for the facilities constructed.

5. On September 16, 1992, Boone District, Boone County, and Sanitation District executed an agreement for the construction of sewage collection facilities to serve Boone District's Central Service Area.² Boone County guaranteed payment of Boone District's obligations to Sanitation District for the facilities constructed under this Agreement and the May 30, 1990 Agreement.

6. Boone District proposes to meet its obligations under the May 30, 1990 Agreement through the issuance of approximately \$3,680,000 in bond anticipation notes.

7. To facilitate the issuance of the bond anticipation notes and to reduce financing costs, Boone County and Boone District have entered a lease agreement.

8. Under the terms of the lease agreement, Boone District will lease its sewage treatment facilities to Boone County for a term of one year. Unless Boone County notifies Boone District to

¹ For Commission review and approval of this agreement, see Case No. 90-216, Agreement of Boone County Water and Sewer District and Sanitation District No. 1 of Campbell and Kenton Counties (Nov. 1, 1990).

² For Commission review and approval of this agreement, see Case No. 92-245, The Application of Boone County Water & Sewer District for Approval of a Sewer Service Agreement with Sanitation District No. 1 of Campbell and Kenton Counties (June 16, 1992).

the contrary, the lease will be renewed each year until the bond anticipation notes are retired. Boone County will make rental payments to Boone District in an amount necessary to pay the principal and any interest on the bond anticipation notes to the extent that Boone District's system revenues are inadequate.

9. Upon execution of the lease agreement,¹ Boone District will continue to operate and maintain the sewage treatment facilities which are the subject of the lease agreement.

10. The Lease Agreement requires Boone District to submit its annual budget for its sewage treatment facilities to Boone County for approval. It further provides Boone County with limited control over the rates for the services which the sewage treatment facilities provide.

11. The State Local Debt Officer has approved the lease agreement between Boone District and Boone County.

12. The lease agreement constitutes a transfer of ownership and control, subject to Commission review and approval. See KRS 278.300(4) and (5).

13. Boone County is a political subdivision of the Commonwealth of Kentucky. See City of Lexington v. Hagar, Ky., 337 S.W.2d 27, 28 (1960).

¹ Although Boone County and Boone District executed the Lease Agreement on June 28, 1995, both agree that the Lease Agreement shall not become effective until the Commission has reviewed and approved it.

14. For the period ending June 30, 1994, Boone County had total assets and other resources of \$3,787,439 and total liabilities of \$1,736,616.

15. Boone County has the financial, technical, and managerial abilities to provide reasonable utility service to the persons who currently receive sanitary sewer service from Boone District.

16. In view of its financial assets and its status as a political subdivision of the Commonwealth, Boone County has sufficient financial integrity to ensure the continuity of sewage service. A copy of a valid third-party beneficiary agreement guaranteeing the continued operation of Boone District sewage treatment facilities is therefore not required. 807 KAR 5:001, Section 3(1)(a).

17. Upon approval of the Lease Agreement, the rates and service of the facilities in question will remain subject to the Commission's jurisdiction.

IT IS THEREFORE ORDERED that the lease agreement between Boone District and Boone County, as attached to Boone District's application, is approved.

Done at Frankfort, Kentucky, this 12th day of September, 1995.

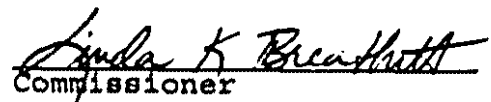
PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

ATTEST:


Executive Director


Commissioner