

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF THE WESTERN FLEMING)	
COUNTY WATER DISTRICT FOR A)	
CERTIFICATE OF PUBLIC CONVENIENCE AND)	CASE NO.
NECESSITY TO CONSTRUCT AND FINANCE AN)	2004-00373
IMPROVEMENTS PROJECT PURSUANT TO KRS)	
278.020 AND 278.300)	

O R D E R

On September 21, 2004, Western Fleming County Water District (“Western Fleming”) applied for a Certificate of Public Convenience and Necessity to construct and finance a \$1,560,000 waterworks improvement project. The proposed project involves the construction of three new filters adjacent to the utility’s existing water treatment plant and is to meet current and proposed federal water quality regulations. The new filters will be constructed on property that Western Fleming currently owns.

Western Fleming proposes to finance the project through the proceeds of (1) a Tobacco Settlement Fund Grant in the amount of \$780,000; (2) a loan in the approximate amount of \$314,000 from the Kentucky Rural Water Finance Corporation (“KRWFC”) through its Flexible Term Program; and (3) internal funds in the approximate amount of \$466,000.

As part of its application, Western Fleming moves for a deviation from the provision of Administrative Regulation 807 KAR 5:001, Section 6, requiring that, “[w]henever in these rules it is provided that a financial exhibit shall be annexed to the application, the said

exhibit shall cover operations for a twelve (12) month period, said period ending not more than ninety (90) days prior to the date the application is filed.” However, Section 14 of that regulation permits a deviation upon the showing of good cause.

In support of its request, Western Fleming states there has been no change that is material in nature in the financial condition or operation of Western Fleming since December 31, 2003. In its application, Western Fleming uses the financial data for the 12-month period ending December 31, 2003, the most recent published financial data available. According to Western Fleming, the required financial data could not be generated in a timely and efficient manner. Requiring it to generate updated financial statements, Western Fleming claims, would cause it to lose its favorable construction bids.

After review of the evidence of the record and being otherwise sufficiently advised, the Commission finds that:

1. Good cause exists to permit Western Fleming to deviate from the requirements of Administrative Regulation 807 KAR 5:001, Section 6.
2. Western Fleming proposes to construct three new filters adjacent to the existing water treatment plant to meet current and proposed federal water quality regulations.
3. Plans and specifications for the proposed improvements prepared by Quest Engineers, Inc. of Lexington, Kentucky, have been approved by the Division of Water of the Environmental and Public Protection Cabinet.

4. The proposed project will not adversely affect the quality of service provided to Western Fleming's customers or Western Fleming's ability to provide adequate water at adequate pressure levels to Western Fleming's present or projected future customers.

5. The proposed project will not compete or conflict with the facilities of other jurisdictional utilities operating in the same area.

6. The proposed project will not result in the wasteful duplication of utility facilities.

7. Public convenience and necessity require that the construction identified in Western Fleming's application be performed and that a Certificate of Public Convenience and Necessity be granted.

8. Western Fleming proposes to finance the project through the proceeds of (1) a Tobacco Settlement Fund Grant in the amount of \$780,000; (2) a loan in the approximate amount of \$314,000 from KRWFC through its Flexible Term Program; and (3) internally generated funds of \$466,000.

9. The proposed loan with KRWFC will be for a term of 14 years and has projected interest rates that vary from 1.68 percent per annum to 4.4 percent per annum.

10. The proposed loan agreement with KRWFC is for a lawful object within Western Fleming's corporate purposes, is necessary and appropriate for and consistent with Western Fleming's proper performance of its service to the public, will not impair Western Flemings' ability to perform that service, and is reasonably necessary and appropriate for such service.

IT IS THEREFORE ORDERED that:

1. Western Fleming's request for permission to deviate from the requirements of 807 KAR 5:001, Section 6, is granted.

2. Western Fleming is granted a Certificate of Public Convenience and Necessity to proceed with the proposed construction project as set forth in the plans and specifications of record herein.

3. Western Fleming shall obtain approval from the Commission prior to performing any additional construction not expressly authorized by this Order.

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

5. Western Fleming shall furnish documentation of the total costs of this project including the cost of construction and all other capitalized costs (engineering, legal, administrative, etc.) within 60 days of the date that construction is substantially completed. Construction costs should be classified into appropriate plant accounts in accordance with the Uniform System of Accounts for Water Utilities prescribed by the Commission.

6. Western Fleming shall require the construction to be inspected under the general supervision of a 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.

7. Western Fleming 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.

8. Western Fleming is authorized to enter into a loan agreement with KRWFC to borrow \$314,000 under the terms and conditions set forth in its application.

9. Western Fleming shall use the proceeds of its proposed loan from KRWFC solely for the purposes set forth in its application.

Nothing contained herein shall be deemed a warranty or finding of value of securities or financing authorized herein on the part of the Commonwealth of Kentucky or any agency thereof.

Done at Frankfort, Kentucky, this 19th day of November, 2004.

By the Commission

ATTEST:

Case No. 2004-00373



Executive Director