



2014.<sup>1</sup> Black Mountain stated that the Kentucky Infrastructure Authority (“KIA”) halted the processing of the grant for the project.<sup>2</sup> In support of this statement, Black Mountain provided a photocopy of an October 29, 2014 letter from KIA to Kentucky State Representative Rick G. Nelson which states that the KIA was halting the processing of the grant for WRIS Project Number WX21095005 until such time as a determination could be made regarding the legislative intent for the grant.<sup>3</sup>

Black Mountain requests that the Complaint be dismissed.<sup>4</sup> Black Mountain states that: (1) Mr. Craycraft fails to state a cause of action against Black Mountain for which relief can be granted; (2) Mr. Craycraft fails to set forth a prima facie case that Black Mountain had violated any Kentucky statute or Commission regulation; and (3) that Black Mountain has at all relevant times acted in accordance with the rules and regulations of the Commission and Kentucky law.<sup>5</sup> Furthermore, Black Mountain states that it cannot proceed with the project because the funding was halted.<sup>6</sup>

The Commission, having considered Black Mountain’s Motion to Dismiss, finds that it should be denied because it appears that there are material issues of fact in dispute between the parties. The Commission finds that, pursuant to KRS 278.260, the Commission has original jurisdiction over complaints as to rates or service of any utility.

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<sup>1</sup> Black Mountain Utility District’s Answer to Complaint/Requests for Information and Motion to Dismiss, filed Feb. 26, 2015, at 2.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at Exhibit B.

<sup>4</sup> *Id.* at 3.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

KRS 278.260(1) states, in pertinent part, “the commission shall proceed, with or without notice, to make such investigation as it deems necessary or convenient.” The Commission finds the record in this proceeding is not adequate; therefore, the Commission finds that a procedural schedule should be established in order for the Commission to investigate the Complaint’s claims and to afford the parties the opportunity to conduct discovery. The Commission notes that the complainant bears the burden of proof in matters before an administrative agency.<sup>7</sup>

IT IS THEREFORE ORDERED that:

1. Black Mountain’s Motion to Dismiss is denied.
2. The procedural schedule set forth in Appendix A to this Order shall be followed.
3. a. The information requested in Appendix B to this Order is due no later than 14 days from the date of this Order. Responses to requests for information shall be appropriately bound, tabbed and indexed and shall include the name of the witness responsible for responding to the questions related to the information provided, with copies to all parties of record and an original and seven copies to the Commission.
  - b. Each response shall be answered under oath or, for representatives of a public or private corporation or partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person’s knowledge, information, and belief formed after a reasonable inquiry.

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<sup>7</sup> *Energy Regulatory Comm’n v. Kentucky Power Co.*, 605 S.W.2d 46, 50 (Ky. App. 1980).

c. Any party shall make timely amendment to any prior response if it obtains information which indicates that the response was incorrect when made or, though correct when made, is now incorrect in any material respect.

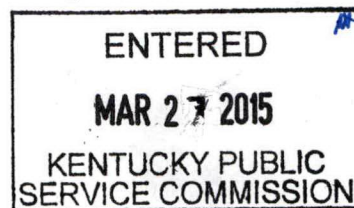
d. For any request to which a party fails or refuses to furnish all or part of the requested information, that party shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

e. A party filing a paper containing personal information shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the paper so that personal information cannot be read.

4. The Commission does not look favorably upon motions for continuance. Consequently, motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

5. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

By the Commission



ATTEST

A blue ink signature scribble, consisting of several overlapping loops and lines, extending from the left side of the signature line towards the right.

Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2015-00038 DATED **MAR 27 2015**

Requests for information to all parties  
shall be filed no later than..... 04/08/15

Responses to requests for information from all parties  
shall be filed no later than..... 04/22/15

An informal conference will be held at the Commission's  
offices in Frankfort, Kentucky, for the purpose of considering the  
possibility of settlement, the simplification of issues, and any other  
matters that may aid in the handling or disposition of this case ..... To be scheduled

## APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2015-00038 DATED **MAR 27 2015**

### COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION TO BLACK MOUNTAIN UTILITY DISTRICT

1. Provide a copy of the application and all materials supplied by Black Mountain in support of the application to KIA for WRIS Project Number WX21095005.
2. Refer to Appendix C to this Order, the KIA Drinking Water Project Profile for WRIS Project Number WX21095005. Provide a detailed description of the system wide rehabilitation/leak detection and repair elements of the project. Include the direct and indirect costs for each element.
3. Refer to Appendix C to this Order, the KIA Drinking Water Project Profile for WRIS Project Number WX21095005. Provide a detailed description of any equipment purchases to be funded as part of the project. Include the cost for each purchase.
4. Refer to Appendix D to this Order, the KIA Kentucky WRIS Portal, Budget and Schedule for WRIS Project Number WX21095005. For the total project cost amount listed as \$325,000, identify the cost associated with extending water service. Provide an average cost per customer for the extension project.
5. Refer to the October 29, 2014 letter from Debby Milton, Financial Analyst with KIA, to State Representative Rick G. Nelson, attached as Exhibit B to Black Mountain's Answer to Complaint/Requests for Information and Motion to Dismiss.
  - a. Explain in detail any steps that Black Mountain has taken since October 29, 2014, to determine the legislative intent for WRIS Project Number WX21095005.

b. Explain in detail any steps that Black Mountain has taken since October 29, 2014, in furtherance of an agreement regarding a rehabilitation project as suggested by Ms. Milton in her letter.

APPENDIX C

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2015-00038 DATED **MAR 27 2015**





# Drinking Water Project Profile

Legal Applicant: **Black Mountain Utility District**

Project Title: **Woodard Br. Waterline Extension - Green Hills System Rehabilitat**

Project Number: **WX21095005**

[View Map](#)

Submitted By: **CVADD**

Funding Status: **Not Funded**

Primary County: **Harlan**

Project Status: **Approved**

Planning Unit: **Harlan**

Project Schedule: **0-2 Years**

Multi-County: **No**

E-Clearinghouse SAI: **KY201403280282**

ECH Status: **Endorse With Condition**

Applicant Entity Type: **Water District (KRS 74)**

ADD WMC Contact: **Adam Scott**

Date Approved (AWMPC): **03-25-2014**

## Project Description:

**The project proposes to extend 350 ft of 6" waterline, 2950 ft of 4" waterline including one pump station along Woodard Branch to serve 8 customers. This project has funds for system wide rehabilitation / leak detection and repair as well as to assist in equipment purchase needs.**

## Need for Project:

*Briefly describe how this project promotes public health or achieves and/or maintains compliance with the Clean Water Act or Safe Drinking Water Act:*

**The project will provide potable water service to an unserved area and reduce water loss to areas already served.**

## Project Alternatives:

Alternate A:

**Drill wells at every household.**

Alternate B:

**Install cisterns for hauling water.**

## Legal Applicant:

Entity Type: **Water District (KRS 74)**

PSC Group ID: **20000**

Entity Name: **Black Mountain Utility District**

Web URL:

Office EMail: **blackmt@harlanonline.net**

Office Phone: **606-573-1277**

Toll Free:

Fax: **606-573-1276**

Mail Address Line 1: **609 Four Mile Rd**

Phys Address Line 1:

Mail Address Line 2:

Phys Address Line 2:

Mail City, State Zip: **Baxter, KY 40806**

Phys City, State Zip:

Contact: **Ray Metcalfe**

Auth Official: **Steve Sergeant**

Contact Title: **Administrator**

Auth Official Title: **Chairman**

Contact EMail: **blackmt@harlanonline.net**

Auth Official EMail: **blackmt@harlanonline.net**

Contact Phone: **606-573-1277**

Auth Official Phone: **606-573-1277**

Contact Cell:

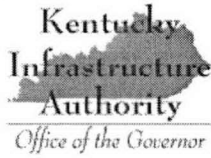
Auth Official Cell:

Data Source: **Kentucky Infrastructure Authority**

Date Last Modified: **06.03.2014**

APPENDIX D

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2015-00038 DATED **MAR 27 2015**



- About Us
- Loan Programs
- WRIS
- Internet Mapping
- Geospatial Data
- WRIS Portal
- System Data
- Project Profile Data
- SRF Project Funding
- Area Water Management Planning Councils
- Downloadable Reports
- Water Management Coordinators
- ADD GIS Staff
- ADD WMC Resources
- ADD GIS Resources
- Legislation & Regulations
- News & Events
- WRIS Contact

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**Drinking Water Project Profile:**

**This profile is currently locked (ECH Applicant).**

Project Title: **Woodard Br. Waterline Extension - Green Hills System Rehabilitat** [Download Profile \(PDF\)](#)

Project Number: **WX21095005** [View Map](#) AWMPC: **CVADD**

Funding Status: **Not Funded** Date Approved by AWMPC: **03.25.2014**

Project Status: **Approved** Primary County: **Harlan**

Project Schedule: **0-2 Years** Planning Unit: **Harlan**

E-ClearingHouse SAI: **KY201403280282** ECH Status: **Endorse With Condition**

Primary System: **KY0480341 BMUD - Green Hills** ADD WMC Contact: **Adam Scott**

Legal Applicant: **Black Mountain Utility District**

Entity Type: **Water District (KRS 74)**

- Narrative
- Applicant
- Administration
- Budget & Schedule
- Impacts
- Components
- Sustainable Infrastructure
- Audit
- Map

Estimated Budget  As-Bid Budget

Project Cost Categories	
Cost Category	Cost
Administrative Expenses:	\$5,000
Legal Expenses:	
Land, Appraisals, Easements:	
Relocation Expense & Payments:	
Planning:	\$10,000
Engineering Fees - Design:	\$17,198
Engineering Fees - Construction:	\$4,300
Engineering Fees - Inspection:	\$18,894
Engineering Fees - Other:	
Construction:	\$261,190
Equipment:	
Miscellaneous:	
Contingencies:	\$8,418
<b>Total Project Cost:</b>	<b>\$325,000</b>

Construction Cost Categories	
Cost Category	Cost
Treatment:	
Transmission and Distribution:	\$168,350
Source:	
Storage:	
Purchase of Systems:	
Restructuring:	
Land Acquisition:	
Non-Categorized :	\$92,840
<b>Total Construction Cost:</b>	<b>\$261,190</b>
<b>Total Sustainability Costs:</b>	

Note: Sustainability costs are included within other costs reported in this tab. This breakout, when provided, is for SRF review purposes.

**Project Funding Sources**

Total Project Cost: **\$325,000**

Total Committed Funding:

Funding Gap: **Not Funded**

Funding Source	Loan or Grant ID	Fiscal Year	Amount	Status	Applicable Date
HB 265 Single County Coal Severance Grant			\$325,000	Anticipated	
<b>Total</b>			<b>\$325,000</b>		

**Funding Source Notes**

**Detailed Project Schedule**

Environmental Review Status:

RD Approval Date:

CDBG Approval Date:

No Approval but Cross-Cutter Scoping Completed:

This project requires a construction permit.

Estimated Bid Date:

Estimated Construction Start Date:



\*Black Mountain Utility District  
609 Four Mile Road  
Baxter, KY 40806-8437

\*Carol Craycraft  
499 Woodard Branch Road  
Bledsoe, KENTUCKY 40810

\*Earl Hall  
Operations Manager  
Black Mountain Utility District  
609 Four Mile Road  
Baxter, KY 40806-8437

\*Scott Lisenbee  
Otis Doan, Jr., P.S.C. Attorneys At Law  
117 North First Street  
Harlan, KENTUCKY 40831