

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF THE HYDEN-LESLIE COUNTY)
WATER DISTRICT FOR AUTHORITY TO ISSUE)
SECURITIES AND ISSUANCE OF A)
CERTIFICATE OF PUBLIC CONVENIENCE AND) CASE NO. 2013-00388
NECESSITY TO CONSTRUCT AN)
IMPROVEMENTS PROJECT PURSUANT TO KRS)
278.020 AND 278.300)

ORDER

Hyden-Leslie County Water District (“Hyden-Leslie District”) has applied for a Certificate of Public Convenience and Necessity (“Certificate”) for the construction of water infrastructure improvements in its water distribution system and for authority to enter into an Assistance Agreement with the Kentucky Rural Water Finance Corporation (“KRWFC”) to borrow \$2,455,000.

Having reviewed the application and being otherwise sufficiently advised,¹ the Commission finds that:

1. Hyden-Leslie District, a water district organized pursuant to KRS Chapter 74, owns and operates facilities that produce and distribute potable water to approximately 3,483 customers in Clay, Leslie, and Perry counties, Kentucky.²

¹ Hyden-Leslie District tendered its application on November 4, 2013. In its application Hyden-Leslie District requested a deviation from 807 KAR 5:001, Section 12. On November 27, 2013, the Commission granted the requested deviation and accepted the application for filing. No person has requested leave to intervene in this matter. Hyden-Leslie District did not request a hearing on its application.

² *Annual Report of Hyden-Leslie County Water District to the Public Service Commission of Kentucky for the Year Ending December 31, 2012* at 5 and 27.

2. Hyden-Leslie District proposes a two-part water infrastructure improvement project. Contract No. 15 involves the construction of approximately 270,200 linear feet of two-, three-, and four-inch polyvinyl chloride water distribution mains and appurtenances and three booster pump stations. Contract No. 16 involves the construction of two 50,000-gallon ground water storage tanks and appurtenances.³

3. The proposed project⁴ is expected to extend water service to approximately 300 customers in Leslie County.⁵ A significant portion of these potential customers presently obtain their water through wells or cisterns that have high concentrations of iron or sulfur or are contaminated with e-coli bacteria.⁶

³ Hyden-Leslie District's Response to Commission Staff's First Request for Information, Item 5(a).

⁴ The Water Resource Information System ("WRIS") identifies the proposed project as three distinct projects with the following identifiers: WX21131007 (Hell for Certain Water Project); WX21131008 (Hyden/Leslie Water System Improvements Phase II); and WX21131111 (Grassy Water Line Extensions).

⁵ Application ¶ 12(a). According to WRIS records, surveys show that 210 households that presently do not receive water service would be served by the proposed project. Hyden-Leslie District indicates that only 207 households have currently committed to contracting for water service, but expects an additional 93 households to apply for service by completion of the proposed construction. Hyden-Leslie District's Response to Commission Staff's First Request for Information, Item 14.

⁶ E-mail message from Michael K. Maggard, Sisler-Maggard Engineering, PLLC, to Gerald Wuetcher, Commission Staff counsel (Jan. 14, 2014). *See also* WRIS Water Project Profile No. WX21131007, <http://wris.ky.gov/portal/DwPrjData/WX21131007> (last visited Jan. 15, 2014); WRIS Water Project Profile No. WX21131008, <http://wris.ky.gov/portal/DwPrjData/WX21131008> (last visited Jan. 15, 2014); WRIS Water Project Profile No. WX21131111, <http://wris.ky.gov/portal/DwPrjData/WX21131111> (last visited Jan. 15, 2014).

4. The total cost of Hyden-Leslie District's proposed project, including contingencies, engineering fees, inspection fees, legal and administrative fees, is approximately \$3,825,000.⁷

5. Total construction cost of the proposed project is \$3,265,268.⁸

6. Hyden-Leslie District proposes to finance the cost of the project with \$1,505,496.76 of appropriated funds⁹ and \$2,435,000 from the proceeds of a proposed loan from KRWFC.¹⁰

7. Sisler-Maggard Engineering, PLLC of Lexington, Kentucky, prepared the plans and specifications for the proposed project.

8. The Kentucky Division of Water has approved the plans and specifications for the proposed project.¹¹

⁷ Application Ex. A. Based upon the present number of customers who have contracted for water service in the area of the proposed extension, the proposed project's average cost per added customer is \$18,214. Based upon Hyden-Leslie District's expectations of 300 customers by completion of the project, the average cost per customer is \$12,750. Hyden-Leslie District states that, while its average cost per added customer for water main extensions has been approximately \$10,000, the average cost per customer for this project is reasonable because the extension is to less densely populated areas. E-mail message from Michael K. Maggard, Sisler-Maggard Engineering, PLLC, to Gerald Wuetcher, Commission Staff counsel (Jan. 14, 2014).

⁸ Application Ex. A.

⁹ During its 2008 Regular Session, the Kentucky General Assembly appropriated \$2.0 million to Hyden-Leslie District for three water projects: WX21131007 (\$750,000); WX21131008 (\$500,000); and WX21131111 (\$750,000). 2008 Ky. Acts Ch. 191. Hyden-Leslie District has previously used \$500,000 of these funds for a water main extension in north central Leslie County. E-mail message from Debbie Milton, Financial Analyst, Kentucky Infrastructure Authority, to Gerald Wuetcher, Commission Staff counsel (Jan. 15, 2014).

¹⁰ Although Hyden-Leslie District originally applied for authorization to borrow approximately \$2,455,000 from KRWFC, it has since advised the Commission that the loan amount will be \$2,435,000. E-mail message from W. Randall Jones, counsel for Hyden-Leslie District, to Gerald Wuetcher, Commission Staff counsel (Jan. 13, 2014). Approximately \$2,320,000 of these funds will be deposited to the project construction fund. The remaining amount will be deposited to the Capitalized Interest Fund and cover Hyden-Leslie District's allocated portion of bond issuance and related costs.

¹¹ Letter from Mark Rasche, Professional Engineer, Supervisor, Kentucky Division of Water, to Leihman Howard, Manager, Hyden-Leslie County Water District (Sept. 25, 2013).

9. The proposed construction will not result in wasteful duplication of existing facilities.

10. The proposed construction does not conflict with any existing Certificate or the service of any other utility operating in the area.

11. The public convenience and necessity require the proposed construction.

12. On or before July 31, 2013, Hyden-Leslie District commenced construction of the proposed Contract No. 15 facilities.¹²

13. Hyden-Leslie District reported to the Kentucky Infrastructure Authority that, as of September 20, 2013, contracted work of approximately \$1,010,860 for Contract No. 15 facilities had been performed.¹³

14. Hyden-Leslie District ceased construction activity on the Contract No. 15 facilities as of December 2013, pending Commission action on Hyden-Leslie District's application.¹⁴

15. Hyden-Leslie District proposes to execute an Assistance Agreement with KRWFC to borrow \$2,455,000 at an interest rate of 2.40 percent per annum and to be repaid over a three-year period.¹⁵

¹² Memorandum from Gerald Wuetcher, Commission Staff Counsel, to Case Record (Jan. 29, 2013) at 1.

¹³ Request for Payment and Project Status, Project No. WX2113108, Periodic Estimate No. 3 (Sept. 26, 2013) at 1.

¹⁴ Memorandum from Gerald Wuetcher, Commission Staff Counsel, to Case Record (Jan. 29, 2013) at 1.

¹⁵ Under the terms of the proposed Assistance Agreement, Hyden-Leslie District will make an interest payment of \$36,989 on August 1, 2014, and interest payments of \$29,460 on February 1, 2015, August 1, 2015, and February 1, 2016. It is required to make a principal payment of \$2,455,000 on February 1, 2016. Application Ex. D.

16. Based upon its projections, Hyden-Leslie District will have sufficient cash flow in 2014 to meet the debt service requirements of its existing debt instruments and the proposed KRWFC loan for calendar year 2014.¹⁶

17. Hyden-Leslie District does not propose any change to its rates for water service within the next 12 to 14 months.¹⁷

18. Hyden-Leslie District intends to obtain permanent financing for the proposed project through a loan from Rural Development and anticipates that as a condition for such loan, RD will require an adjustment of Hyden-Leslie District's rates for water service to pay the principal and interest payments on the proposed loan.¹⁸

19. As of January 24, 2014, Hyden-Leslie District had not yet submitted a completed application to Rural Development for a loan to permanently finance the proposed facilities.

20. As of January 24, 2014, Rural Development had not completed the required environmental review for a loan to permanently finance the proposed facilities and had made no commitment to make such loan.¹⁹

21. The proposed Assistance Agreement with KRWFC is for a lawful object within Hyden-Leslie District's corporate purposes, is necessary and appropriate for and consistent with Hyden-Leslie District's proper performance of its service to the public,

¹⁶ E-mail message from W. Randall Jones, counsel for Hyden-Leslie District, to Gerald Wuetcher, Commission Staff counsel (Jan. 10, 2014).

¹⁷ *Id.*

¹⁸ *Id.* Hyden-Leslie District indicates that any application for rate adjustment will be made pursuant to KRS 278.023.

¹⁹ E-mail message from Vernon Brown, Rural Development Kentucky State Office, to Gerald Wuetcher, Commission Staff counsel (Jan. 24, 2014).

will not impair Hyden-Leslie District's ability to perform that service, and is reasonably necessary and appropriate for such purpose.

22. Hyden-Leslie District's commencement of construction of the Contract 15 facilities prior to the Commission's issuance of a Certificate for those facilities should be addressed in a future Commission proceeding.

IT IS THEREFORE ORDERED that:

1. Hyden-Leslie District is granted a Certificate to proceed with the proposed construction as set forth in its application.

2. Hyden-Leslie 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 prior approval of the Commission.

4. Hyden-Leslie District shall file with the Commission 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 shall be classified into appropriate plant accounts in accordance with the Uniform System of Accounts for water utilities prescribed by the Commission.

5. Hyden-Leslie 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.

6. Hyden-Leslie District shall require construction to be inspected under the general supervision of a Licensed Professional Engineer with a Kentucky registration in civil, electrical, 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. Hyden-Leslie District is authorized to enter into an Assistance Agreement with KRWFC to borrow no more than \$2,435,000 to be repaid over a three-year period at an interest rate not to exceed 2.4 percent per annum.


8. Within 30 days of executing the proposed Assistance Agreement with KRWFC, Hyden-Leslie District shall file with the Commission a copy of the executed Assistance Agreement and any documents referenced in the executed Assistance Agreement that Hyden-Leslie District has not previously filed with the Commission.

9. Hyden-Leslie District shall use the proceeds from the proposed Assistance Agreement only for the lawful purposes specified in its application.

10. Any documents filed in the future pursuant to ordering paragraphs 2, 4, 5, and 8 shall reference this case number and shall be retained in the utility's general correspondence file.

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

By the Commission

ENTERED 
FEB 06 2014
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2013-00388

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