

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF MOUNTAIN WATER DISTRICT	)	
FOR THE ISSUANCE OF A CERTIFICATE OF	)	
PUBLIC CONVENIENCE AND NECESSITY TO	)	CASE NO.
CONSTRUCT AND FINANCE A SYSTEM	)	2016-00356
IMPROVEMENTS PROJECT PURSUANT TO THE	)	
PROVISIONS OF KRS 278.020, KRS 278.300 AND	)	
807 KAR 5:001	)	

ORDER

Mountain Water District (“Mountain Water”) has applied for a Certificate of Public Convenience and Necessity (“CPCN”) to construct a system improvements project and for approval, pursuant to KRS 278.300, of the issuance of securities to finance a portion of the project. Mountain Water does not propose to adjust its rates.

The Commission notes that in its 2015 Annual Report, Mountain Water reported a water loss of 34.3813 percent. Commission regulation 807 KAR 5:066(6)(3) states that “for rate making purposes a utility’s unaccounted-for water loss shall not exceed fifteen (15) percent of total water produced and purchased, excluding water used by a utility in its own operations.” Reduction of Mountain Water’s water loss to 15 percent would result in a potential annual reduction to purchased water expense of approximately \$351,226.<sup>1</sup>

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<sup>1</sup> Purchased Water (See Final Order Case No. 2014-00342)	\$	955,040
Purchased Power (See Final Order Case No. 2014-00342)		767,678
Chemicals (See Final Order Case No. 2014-00342)		89,474
Cost of Water		1,812,192
Times: Water Loss Above 15 Percent (2015 Annual Report)		19.3813%
Expense Reduction to Cost of Water		\$ 351,226

The Commission strongly encourages Mountain Water to pursue reasonable actions to reduce its water loss.

Mountain Water filed an application for a CPCN on October 3, 2016. After filing deficiencies were cured on October 31, 2016, the application was deemed filed as of that date.

Mountain Water's application for a CPCN includes engineering plans, specifications, reports and information; bid information; project finance information; a current balance sheet and income statement; and certification of the application by the Chairman of Mountain Water.

The Office of the Attorney General ("AG") filed for intervention in this matter on December 7, 2016, and was granted intervention by an Order entered on December 19, 2016. A procedural schedule that provided for one round of discovery and required any written request for a hearing or informal conference to be filed no later than January 9, 2017, was established by the Commission.<sup>2</sup> Discovery is complete, and the AG has filed written comments into the record. Neither party to the case filed a written request for a hearing or informal conference. The record for this case is complete, and this case now stands submitted for a decision.

Mountain Water, a water and sewer district organized under KRS Chapter 74, provides retail water service to approximately 16,898 customers, wholesale water service to the city of Elkhorn, Martin County Water District, and Mingo County PSD,<sup>3</sup>

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<sup>2</sup> Order establishing procedural schedule (Dec. 19, 2016) at 2.

<sup>3</sup> *Annual Report of Mountain Water and Sewer District, Water Utilities Report to the Kentucky Public Service Commission for the Year Ended December 31, 2015* at 12, 53, and 60.

and provides sanitary sewer service to approximately 2,333 customers in Pike County.<sup>4</sup>

This CPCN is for the construction of a 0.3 million gallon per day (“MGD”) membrane bioreactor treatment plant that will serve as an extension of the current Douglas Wastewater Treatment Plant.<sup>5</sup>

The total cost of the proposed project, including administrative, legal, engineering, construction, and contingencies, is approximately \$4,070,000.<sup>6</sup> This project will be funded from the following sources: a House Bill 608 (“HB608”) grant of \$486,079; a House Bill 269 (“HB269”) grant of \$111,000; and a KIA Fund A loan of \$3,472,921.<sup>7</sup> The KIA loan is to be repaid over a 20-year term at an interest rate of 0.75 percent per annum, with a loan-servicing fee of 0.20 percent of the annual outstanding loan balance payable to KIA with each interest payment. Mountain Water received a conditional commitment from KIA by a letter dated November 3, 2016.<sup>8</sup> The KIA’s conditional commitment has an expiration date of February 3, 2017.<sup>9</sup>

The proposed project includes \$370,000 in alternates that were part of a rebid on August 3, 2016. The proposed alternates include items involving odor control, Penny

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<sup>4</sup> *Annual Report of Mountain Water and Sewer District, Sewer Utilities Report to the Kentucky Public Service Commission for the Year Ended December 31, 2015* at 36.

<sup>5</sup> Application, Exhibit B, Letter from Terry Humphries, P.E., Supervisor, Water Infrastructure Branch, KY DOW, dated March 11, 2016.

<sup>6</sup> Kentucky Infrastructure Authority (“KIA”) Conditional Commitment Letter to Mountain Water dated November 3, 2016 (filed Nov. 14, 2016).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 1.

<sup>9</sup> *Id.*

Road Lift Station Renovation, and Lick Branch Lift Station Renovation.<sup>10</sup> On November 14, 2016, Mountain Water submitted a KIA conditional commitment letter dated November 3, 2016, approving a \$370,000 increase to the then-existing proposed loan, originally approved on October 27, 2016. In the absence of the \$370,000 in proposed alternates, the total cost of the proposed project would be \$3,700,000.<sup>11</sup>

Summit Engineering, Inc. of Lexington, Kentucky, prepared the plans and specifications for the proposed project.

The Kentucky Division of Water (“KY DOW”) approved the plans and specifications of the proposed project on March 16, 2016.<sup>12</sup>

Mountain Water states that the proposed construction is needed due to aging facilities, such as steel tanks that have been in use for over 30 years. A 2004 rehabilitation project extended the life of the tanks, but they have since deteriorated and are in poor condition. Expansion of the Douglas Wastewater Treatment Plant is also proposed due to the addition of over 700 customers to the wastewater system since the rehabilitation project of 2004 and for additional increases of customers in the future. This project will include a sludge dewatering box so that sludge processing may be done on site, eliminating the manpower and fuel commitments of liquid hauling. Also the plant is known to produce foul odors that affect the quality of life in the surrounding area, which includes several apartments, two schools, and U.S. Highway 23.<sup>13</sup>

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<sup>10</sup> Application, Exhibit I.

<sup>11</sup> *Id.*, Exhibit C, at 1.

<sup>12</sup> *Id.*, Exhibit E.

<sup>13</sup> *Id.*, Exhibit A.

On January 18, 2017, the AG filed into the record written comments stating, among other things, that Mountain Water's loan will be secured and payable from the gross revenues of Mountain Water's water and sewer operations.<sup>14</sup> The AG's written comments reference portions of the Commission's October 9, 2015 Order in Case No. 2014-00342,<sup>15</sup> in which the Commission discussed the water and sewer rates proposed by Mountain Water in that proceeding. The AG asserts that "based upon prior Commission precedent, and in order to afford equitable treatment to the Mountain Water customers, the costs of the proposed sewer project should not be borne by the District's water customers."<sup>16</sup>

The AG does not recommend that the Commission deny Mountain Water's request for a CPCN or its request for authorization to enter into the proposed Assistance Agreement. The AG states that he "defers to the Commission, based upon the evidentiary record, to make a well-reasoned decision regarding Mountain Water's request for a CPCN, and respectfully requests that the District's water customers not be forced to subsidize the proposed sewer improvements project."<sup>17</sup>

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<sup>14</sup> AG Written Comments (filed Jan. 18, 2017) at 2.

<sup>15</sup> *Application of Mountain Water District for an Adjustment of Water and Sewer Rates* (filed Dec. 11, 2014).

<sup>16</sup> AG Written Comments (filed Jan. 18, 2017) at 2.

<sup>17</sup> *Id.* at 2 and 3.

Having reviewed the record and being sufficiently advised, the Commission finds that:

1. The proposed construction will not result in wasteful duplication of existing facilities.
2. The proposed construction does not conflict with any existing certificates or service of any other utility operating in the area.
3. Public convenience and necessity require the proposed construction, which allows Mountain Water to provide reliable and adequate sanitary sewer services to its customers.
4. KY DOW has approved the plans and specifications for this proposed project.
5. The project will be funded from the following funding sources: a KIA Fund A loan of \$3,472,921; an HB608 grant of \$486,079; and an HB269 grant of \$111,000.
6. The proposed Assistance Agreement with KIA is for lawful objects within Mountain Water's corporate purpose. It is necessary for, appropriate for, and consistent with the proper performance of Mountain Water's service to the public, will not impair Mountain Water's ability to perform that service, and is reasonably necessary and appropriate for such purpose.
7. Mountain Water should be authorized to utilize \$3,472,921 of the Assistance Agreement on the project approved herein.
8. Mountain Water's application does not include a proposal to adjust rates.
9. No issue concerning subsidization of rates between Mountain Water's water and sewer divisions is pending before the Commission in the instant case.

IT IS THEREFORE ORDERED that:

1. Mountain Water is granted a CPCN to proceed with the proposed construction as set forth in its application.

2. Mountain Water 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 the prior approval of the Commission.

4. 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.

5. Mountain Water is authorized to enter the proposed Assistance Agreement with KIA and, under the terms of the Assistance Agreement, to borrow from KIA an amount not to exceed \$3,472,921 to be repaid over a 20-year period at an interest rate of .75 percent per annum with a loan-servicing fee of .20 percent of the annual outstanding loan balance payable to KIA with each interest payment.

6. Within 30 days of executing its proposed Assistance Agreement with KIA, Mountain Water shall file with the Commission an executed copy of the Assistance Agreement. Mountain Water shall use \$3,472,921 of the proceeds from the proposed Assistance Agreement with KIA only for the lawful purposes set forth in its application. None of the proceeds shall be used for the construction of any project not clearly identified in Mountain Water's Application and approved by the Commission in this

proceeding, unless and until Mountain Water obtains prior Commission approval for the use of the proceeds.

7. 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, administrative) within 60 days of the date that construction authorized under this CPCN is substantially completed. Construction costs shall be classified into appropriate plant accounts in accordance with the Uniform System of Accounts for sewer utilities prescribed by the Commission.

8. Mountain Water 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.

9. Any documents filed in the future pursuant to ordering paragraphs 2, 6, 7, and 8 shall reference this case number and shall be retained in the post-case correspondence file.

10. The Executive Director is delegated authority to grant reasonable extensions of time for filing any documents required by this Order upon Mountain Water's showing of good cause for such extension.

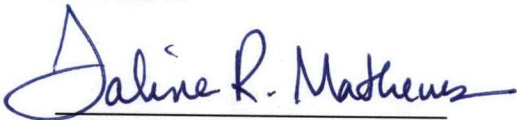
Nothing contained herein shall be construed as a finding of value for any purpose or as a warranty on the part of the Commonwealth of Kentucky or any agency thereof as to the securities authorized herein.



By the Commission

ENTERED  
JAN 31 2017  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2016-00356

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