

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BUFFALO TRAIL WATER)	
ASSOCIATION, INC. FOR A CERTIFICATE OF)	CASE NO.
PUBLIC CONVENIENCE AND NECESSITY TO)	2017-00193
CONSTRUCT AND FINANCE PURSUANT TO KRS)	
278.023)	

ORDER

On May 8, 2017, Buffalo Trail Water Association, Inc. ("Buffalo Trail") submitted an application, pursuant to KRS 278.023, for a Certificate of Public Convenience and Necessity ("CPCN") to construct a waterworks improvement project and for approval of its plan to finance the proposed project. By letter dated May 15, 2017, the Commission notified Buffalo Trail that its application was rejected because it contained certain filing deficiencies. On May 15, 2017, Buffalo Trail submitted additional information to correct the filing deficiencies, and the application was accepted for filing as of that date. No one has sought intervention in this matter, and Buffalo Trail has not requested a hearing. The record for this case is complete, and the matter stands ready for decision.

Buffalo Trail's application for a CPCN proposes the construction of a 100,000-gallon elevated storage water tank. The proposed project will replace an existing aging 100,000-gallon standpipe water tank that is approximately 38 years old and nearing the

end of its useful life. The existing tank has had two major leaks, and based on tank inspections, the likelihood of the steel developing additional leaks is high.¹

The total cost of the project, including legal, administrative, development, and engineering, plus interest, environmental, and contingencies costs, is \$658,000.² This project is to be financed with a \$480,000 loan and a \$160,000 grant from the United States Department of Agriculture, Rural Utilities Service, Rural Development (“RD”) and \$18,000 from Buffalo Trail.³ As set out in the RD Letter of Conditions as amended,⁴ the \$480,000 loan will mature over a 40-year period at an interest rate not exceeding 1.875 percent per annum, but will be equal to the lower of the rate in effect at the time of loan approval or the rate in effect at the time of closing.⁵ Buffalo Trail will not raise rates to fund this project.⁶

Buffalo Trail has submitted its application pursuant to KRS 278.023. Notwithstanding KRS 278.020(1), KRS 278.190, and KRS 278.300, KRS 278.023 requires the Commission to accept agreements between water associations and RD regarding construction projects, and to issue the necessary orders to implement the terms of such agreements within 30 days of satisfactory completion of the minimum filing requirements. KRS 278.023 does not grant the Commission any discretionary authority to modify or reject any portion of the agreement between RD and Buffalo Trail, or to defer

¹ Cann-Tech, LLC, Preliminary Engineering Report, Item 2: Existing Facilities.

² Cann-Tech, LL. Letter, dated March 22, 2017, at 1.

³ *Id.*, at 2.

⁴ Application, Item 5.

⁵ *Id.*, Exhibit A, at 1.

⁶ Application, Cover Letter.

the issuance of all necessary orders to implement the terms of that agreement. It further denies the Commission any authority to reject an application when the evidence of record indicates that a water association's proposed facilities will result in the wasteful duplication of facilities or excessive investment. The Commission, therefore, is not able to review this application using the same standards that are used for applications that are not filed pursuant to KRS 278.023.

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

1. The record for this case is complete.
2. Buffalo Trail is an entity authorized to submit an application for Commission approval of a federally funded construction project pursuant to KRS 278.023.
3. The proposed construction will not result in wasteful duplication of existing facilities.
4. The proposed construction does not conflict with any existing certificates or service of any other utility operating in the area.
5. Public convenience and necessity require the proposed construction, which will allow Buffalo Trail to continue providing reliable and adequate water service to its customers.
6. The project will be financed through a loan and a grant from RD and with the utility's own funds.
7. Buffalo Trail will not raise its rates to fund this project.

IT IS THEREFORE ORDERED that:

1. Buffalo Trail is granted a CPCN for the proposed project as submitted.

2. Buffalo Trail's proposed plan of financing is approved. Buffalo Trail is authorized to enter into a loan with RD in the amount of \$480,000, maturing over a 40-year period, at an interest rate not to exceed the lower of 1.875 percent per annum and equal to the lower of the rate in effect at the time of loan approval or the interest rate in effect at the time of closing.

3. The proceeds from the loan shall be used only for the purposes specified in Buffalo Trail's application.

4. Buffalo Trail shall obtain approval from the Commission prior to performing any additional construction not expressly authorized by this Order.

5. Notwithstanding ordering paragraphs 3 and 4, if surplus funds remain after the approved construction has been completed, Buffalo Trail may use such surplus to construct additional plant facilities if RD approves of the use and the additional construction will not result in a change in Buffalo Trail's rates for service. Buffalo Trail shall provide written notice of this additional construction in accordance with 807 KAR 5:069, Section 4.

6. Buffalo Trail 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, and administrative) within 60 days of the date that construction is substantially completed. Construction cost shall be classified into appropriate plant accounts in accordance with the Uniform System of Accounts for water utilities prescribed by the Commission.

7. Buffalo Trail shall file a copy of the "as-built" drawings and a certified statement from the engineer that the construction has been satisfactorily completed in

accordance with the contract plans and specifications within 60 days of substantial completion of the construction certified herein.

8. Buffalo Trail 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.

9. Buffalo Trail shall notify the Commission in writing one week prior to the actual start of construction and at the 50 percent completion point.

10. Any documents filed in the future pursuant to ordering paragraphs 6, 7, and 9 of this Order shall reference this case number and shall be retained in the utility's post-case correspondence file.

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

Nothing contained herein shall be deemed a warranty of the Commonwealth of Kentucky, or any agency thereof, of the financing herein accepted.

By the Commission

ENTERED
JUN 12 2017
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

*Buffalo Trail Water Association, Inc.
41135 Highway 62
Maysville, KY 41055

*Honorable John F Estill
Attorney at Law
Fox, Wood & Wood & Estill
24 West Third Street
Maysville, KENTUCKY 41056