

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF MORGAN	)	CASE NO.
COUNTY WATER DISTRICT FOR A	)	2025-00296
DECLARATORY ORDER	)	

ORDER

On September 10, 2025, Morgan County Water District (Morgan District) filed an application for a Declaratory Order pursuant to 807 KAR 5:001 Section 19 seeking a determination that its Kentucky WWATERS Assistance Agreement (Assistance Agreement) with the Kentucky Infrastructure Authority (KIA) is a grant that does not require approval under KRS 278.300.¹ In the alternative, Morgan District requested approval of the agreement under KRS 278.300, if the statute is deemed applicable.² This matter now stands submitted for decision.

BACKGROUND

Morgan District is a water district organized under KRS Chapter 74 that provides retail water service to approximately 2,863 residential customers and 121 commercial customers in Morgan County, Kentucky.³

Morgan District stated that the Kentucky General Assembly appropriated funds for water and wastewater assistance in House Bill 1 (2024 Regular Session) and House Joint

¹ Morgan District Application for Declaratory Order (Application) (filed Sept. 10, 2025).

² Application at 3.

³ Application at 1.

Resolution 30 (2025 Regular Session).⁴ Through KIA's WWATERS program, Morgan District was awarded Grant No. 25KWW016 in the principal amount of \$500,000.⁵ The Assistance Agreement states that the award is a grant from the Commonwealth, administered by KIA, to be disbursed to Morgan District for an eligible project identified in the program documents and budget attachments.⁶ The Assistance Agreement does not impose any principal, interest, or fee obligations on Morgan District and does not pledge or encumber utility revenues;⁷ rather, it provides for disbursement of grant funds upon submission of required exhibits and compliance with program terms.⁸

Morgan District represents that no construction is associated with the Assistance Agreement, and thus, no new operations and maintenance expenses will result from the transaction.⁹ Instead, Morgan District intends to apply the grant proceeds to strengthen its financial position by retiring overdue obligations consistent with the project budget approved by KIA.¹⁰ The Assistance Agreement includes standard program conditions, including: execution of a governing-body resolution accepting the grant, approving the Assistance Agreement, amending the annual budget, and designating an Authorized Official; submission of an opinion of legal counsel regarding the District's authority to accept the grant and approve the Agreement; confirmation of vendor registration with the

⁴ Application at 2.

⁵ Application, Exhibit A at 2.

⁶ Application, Exhibit A at 1.

⁷ Morgan District's Response to Commission Staff's First Request for Information (Staff's First Request) (filed Oct. 14, 2025), Items 3 -4.

⁸ Morgan District's Response to Staff's First Request, Item 6.

⁹ Application at 2-3.

¹⁰ Application at 2-3.

Finance and Administration Cabinet for payment processing; certification that utility accounting is maintained separately and that rates are cost-based; record-retention and audit provisions; and post-completion certification.¹¹

The application attaches the Kentucky WWATERS Assistance Agreement (Grant No. 25KWW016), which incorporates the Act (KRS Chapter 224A) by reference, describes the parties' respective duties, and sets forth events of default, including remedies available to KIA upon default.¹² The project is referenced to WRIS No. WX21175063,¹³ and the Assistance Agreement specifies that grant funds will be disbursed incrementally upon KIA approval of documentation and payment requests, up to the \$500,000 grant amount.¹⁴ Notably, Section 3 of the Assistance Agreement sets forth the "Obligations of the Grantee," none of which include the obligation to repay the grant funds.

LEGAL STANDARD

Morgan District filed its application pursuant to Section 19 of 807 KAR 5:001. The regulation provides in pertinent part:

(1) The commission may, upon application by a person substantially affected, issue a declaratory order with respect to the jurisdiction of the commission, the applicability to a person, property, or state of facts of an order or administrative regulation of the commission or provision of KRS Chapter 278, or with respect to the meaning and scope of an order or administrative regulation of the commission or provision of KRS Chapter 278.

¹¹ Application, Exhibit A, Attachment A at 9-10.

¹² Application, Exhibit A.

¹³ Application, Exhibit A, Attachment B at 12.

¹⁴ Application, Exhibit A at 2.

(2) An application for declaratory order shall:

(a) Contain a complete, accurate, and concise statement of the facts upon which the application is based;

(b) Identify all statutes, administrative regulations, and orders to which the application relates; The issuance of a declaratory order is permissive and at the discretion of the Commission

The issuance of a Declaratory Order is permissive and at the discretion of the Commission.¹⁵

KRS 278.300(1) requires Commission authorization before a utility may “issue any securities or evidences of indebtedness, or assume any obligation or liability in respect to the securities or evidences of indebtedness of any other person.”

KRS 278.300(3) establishes the legal standard and clarifies the scope of Commission review, stating:

The Commission shall not approve any issue or assumption unless, after investigation of the purposes and uses of the proposed issue and proceeds thereof, or of the proposed assumption of obligation or liability, the commission finds that the issue or assumption is for some lawful object within the corporate purposes of the utility, is necessary or appropriate for or consistent with the proper performance by the utility of its service to the public and will not impair its ability to perform that service, and is reasonably necessary and appropriate for such purpose.

DISCUSSION AND FINDINGS

Having considered the record and being otherwise sufficiently advised, the Commission finds that the Kentucky WWATERS Assistance Agreement at issue is a grant and not an evidence of indebtedness. Neither the Assistance Agreement, nor other

¹⁵ See Case No. 2023-00308, *Electronic Petition of Kenergy Corp. for a Declaratory Order* (Ky. PSC Aug. 6, 2024), Order.

portions of the record, contain a schedule for repayment of principal or interest, no maturity schedule, no pledge or lien on utility revenues, and no obligation to repay without default. As such, the transaction does not constitute the issuance of securities or evidences of indebtedness, nor does it constitute the assumption of another's evidences of indebtedness within the meaning of KRS 278.300(1). Accordingly, approval under KRS 278.300 is not required.

Given the Commission's finding above, Morgan District's alternative request for approval under KRS 278.300 is rendered moot. Nevertheless, the Commission notes that the intended use of grant proceeds to retire existing obligations is consistent with the lawful objective of stabilizing the district's finances and thereby supporting adequate, efficient, and reasonable service to customers. The Commission further finds that certain transparency and compliance-related filings are warranted to ensure clarity regarding the non-debt character of the transaction and the disposition of grant proceeds.

The Commission is aware from Morgan District's response to Staff's First Request, Item 1(b), that Morgan District's proposed use of funds could include reimbursing a vehicle loan incurred in May 2023 and reportedly retired in September 2025.¹⁶ The Commission expresses no determination here regarding the propriety of that loan or any reimbursement thereof. Morgan District currently has an open investigation case, Case No. 2024-00325,¹⁷ concerning potential noncompliance with prior Commission Orders. The Commission finds that matters related to the vehicle loan, including whether the loan should have received KRS 278.300 approval, can be more appropriately addressed in

¹⁶ Morgan District's Response to Staff's First Request, Item 1(b).

¹⁷ Case No. 2024-00325, *Electronic Investigation into the Financial and Operating Capacity of Morgan County Water District* (Ky. PSC Dec. 20, 2024).

that investigation. Although the Commission makes no finding in this proceeding regarding Morgan District's use of WWATERS grant funds, the appearance that the underlying vehicle loan may have been obtained without prior Commission authorization raises compliance concerns that warrant further review within the context of Case No. 2024-00325. The Commission therefore refers these issues to that pending investigation for further examination.

The Commission also finds that certain post-transaction filings are appropriate. Specifically, Morgan District should file the fully executed Assistance Agreement (including any board resolution, legal opinion, and exhibits referenced therein) and a summary accounting identifying each obligation retired (payee, purpose, original amount, amount paid with WWATERS funds, and date of payment). Morgan District should further confirm on the record that no pledge of utility revenues is made, and that no repayment obligation exists beyond ordinary grant compliance provisions.

IT IS THEREFORE ORDERED that:

1. Morgan District's application for a Declaratory Order is granted. The WWATERS Assistance Agreement (Grant No. 25KWW016) is a grant and does not require approval under KRS 278.300.
2. Morgan District's alternative request for approval under KRS 278.300 is denied as moot.
3. Within ten business days of execution of the Assistance Agreement, Morgan District shall file in this docket: (a) the fully executed Assistance Agreement, including any referenced board resolution and legal opinion; and (b) a written confirmation

that the agreement imposes no repayment obligation and includes no pledge or lien on Morgan District's revenues.

4. Within 60 days after final disbursement of WWATERS funds, Morgan District shall file in this docket an accounting that identifies each obligation retired with grant proceeds, including the payee, purpose of the obligation, date incurred, original principal amount, and the amount of grant funds applied.

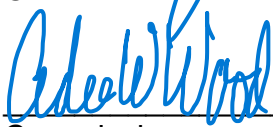
5. Matters concerning Morgan District's 2023 vehicle (truck) loan, including whether the loan required approval under KRS 278.300 and whether the Commission's prior approval requirements were satisfied, are referred to Case No. 2024-00325 for review and resolution. The Commission notes that the early retirement of the loan does not resolve or negate any potential noncompliance associated with entering into the loan without prior authorization. Questions and issues relating to the loan, shall be reviewed in Case No. 2024-00325.

6. Any documents filed pursuant to ordering paragraphs 3–5 shall reference this case number and shall be placed in the post-case correspondence file.

7. This case is closed and removed from the Commission's docket.

PUBLIC SERVICE COMMISSION


Chairman


Commissioner


Commissioner

J

ATTEST:


Executive Director



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