

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF THE TODD COUNTY WATER	)	
DISTRICT FOR A CERTIFICATE OF PUBLIC	)	CASE NO.
CONVENIENCE AND NECESSITY TO CONSTRUCT,	)	2017-00245
FINANCE, AND INCREASE RATES PURSUANT TO	)	
KRS 278.023	)	

ORDER

On June 19, 2017, Todd County Water District ("Todd County") submitted an application, pursuant to KRS 278.023, for a Certificate of Public Convenience and Necessity ("CPCN") to construct a waterworks improvement project ("Project"), approval of financing of the proposed project, and an increase in its water rates. By letter dated June 21, 2017, the Commission notified Todd County that minimum filing requirements had been met and that the application had been accepted for filing. No person has sought intervention in this matter, and Todd County has not requested a hearing. The record for this case is complete, and the matter stands ready for decision.

The Commission notes that in its 2015 Annual Report Todd County reported a water loss of 28.7069 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 Todd County’s unaccounted-for water loss to 15 percent would result in an approximate \$31,770.81<sup>1</sup> decrease to purchased water expense. Potentially, Todd County is paying \$0.1924 per 1,000 gallons sold for expenses associated with unaccounted-for water loss greater than 15 percent.

Todd County, a water district organized under KRS Chapter 74, provides retail water service to approximately 3,449 customers in Todd, Logan, and Muhlenberg counties, Kentucky.<sup>2</sup>

The Project comprises two separate contracts (“Contract 1” and “Contract 2”). Contract 1 pertains to Todd County’s application for a CPCN in the instant case and consists of the installation of approximately 57,150 linear feet of 3-inch, 10-inch, and 12-inch water main replacement and extensions, plus associated appurtenances along KY Highway 181, north of Elkton.<sup>3</sup> The waterworks improvements specified in Contract 1 were bid on May 4, 2017.<sup>4</sup> Because the bids came in “significantly lower than expected,” Todd County, among other things and in cooperation with the engineers, “developed additions to the scope of the Project which will be bid at a later date as Contract 2.”<sup>5</sup> Todd County has not applied for a CPCN for the portions of the Project that will be included in

---

<sup>1</sup> Purchased Water from 2015 Annual Report	\$231,787
Times: Water Loss Above 15 Percent	<u>13.7069</u>
Purchased Water Expense Reduction	<u>\$31,770.81</u>

<sup>2</sup> *Annual Report of Todd County District, Water Utilities Report to the Kentucky Public Service Commission for the Year Ended December 31, 2015* at 12, 53, and 60.

<sup>3</sup> Application at 2.

<sup>4</sup> *Id.* at 1.

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

Contract 2. Todd County, instead, requests that the Commission keep this case open until Contract 2 is bid.<sup>6</sup>

The total estimated cost of the Project, including legal, administrative, development, engineering, and environmental costs and surveys, plus interest and contingencies costs, is \$4,200,000.<sup>7</sup> Todd County proposes to finance the proposed construction with the proceeds of the issuance of \$3,068,000 of Waterworks Revenue Bonds to be purchased by the United States Department of Agriculture (“USDA”) Rural Development (“RD”) for a 40-year period at an interest rate not to exceed 2.75 percent annum, and a grant from RD in the amount of \$1,132,000.<sup>8</sup>

Todd County’s proposed rates meet the minimum construction and operating requirements recommended in the Engineering Reports prepared by the USDA. The monthly bill of an average residential water customer using 3,980 gallons of water will increase \$6.14 from \$43.97 to \$50.11, or approximately 14 percent.

Todd County 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 districts 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 Todd County, or to defer the

---

<sup>6</sup> *Id.* at 1 and 2.

<sup>7</sup> *Id.* at Exhibit A, Letter of Conditions, paragraph 24.

<sup>8</sup> *Id.* at 2.

issuance of all necessary orders to implement the terms of the agreement. It further denies the Commission any authority to reject an application when the evidence of record indicates that a water district's proposed facilities will result in the wasteful duplication of facilities or excessive investment or its proposed water rates are unfair, unjust or unreasonable. 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.

KRS 278.023(3) requires, in pertinent part, that the "Commission shall issue a certificate of necessity and convenience and such other orders as may be required to implement the terms of the agreement no later than thirty (30) days after filing." The Commission, therefore, does not have the authority to keep this case open until Contract 2 is bid and a CPCN for that portion of the Project is submitted. The Commission is limited in this case to issuing orders for the portions of the Project that are properly before the Commission for review. The filing requirements for the portions of the Project associated with Contract 2 have not been met; therefore, those portions of the Project are not before the Commission through this application. The Commission finds that it should defer determining any issues concerning Contract 2 until Todd County files an application with the Commission for that portion of the Project.

IT IS THEREFORE ORDERED that:

1. Todd County is granted a CPCN for the construction specified in Contract 1 of the proposed Project as submitted.
2. Any deviation from the construction approved shall be undertaken only with the prior approval of the Commission.

3. Todd County's proposed plan of financing is approved. Todd County is authorized to enter into a promissory note with RD in the amount of \$3,068,000, maturing over a 40-year period, at an interest rate not to exceed 2.75 percent per annum.

4. Within 30 days of executing the promissory note with RD, Todd County shall file with the Commission an executed copy of the promissory note.

5. The proceeds from the promissory note shall be used only for the purposes specified in Todd County's application. None of the proceeds shall be used for the construction of any of the improvements that are part of the Project except those clearly identified as part of Contract 1 unless and until Todd County is granted a CPCN to construct such improvements.

6. Todd County's motion to keep this case open pending further action by Todd County on Contract 2 is denied.

7. Todd County shall make application with the Commission for a CPCN for improvements proposed through Contract 2 when approval is necessary for that phase of the Project and, further, shall obtain approval from the Commission prior to performing any other additional construction not expressly authorized by this Order.

8. Todd County 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.

9. Todd County 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.

10. Todd County 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.

11. Todd County shall notify the Commission in writing one week prior to the actual start of construction and at the 50 percent completion point.

12. The rates set forth in the Appendix to this Order are approved for service that Todd County renders on and after the date of this Order.

13. Within 20 days of the date of this Order, Todd County shall file revised tariff sheets with the Commission, using the Commission’s electronic Tariff Filing System, containing the rates set forth in the Appendix to this Order.

14. Any documents filed in the future pursuant to ordering paragraphs 4, 8, 9, and 11 of this Order shall reference this case number and shall be retained in the utility’s post case correspondence file.

15. The Executive Director is delegated authority to grant reasonable extensions of time for filing of any documents required by this Order upon Todd County’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  
JUL 14 2017  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:



Acting Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2017-00245 DATED **JUL 14 2017**

The following rates and charges are prescribed for the customers in the area served by Todd County Water District. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of the Commission prior to the effective date of this Order.

First	2,000 gallons	\$24.61	Minimum bill
Next	8,000 gallons	12.88	per 1,000 gallons
Next	10,000 gallons	11.49	per 1,000 gallons
Next	20,000 gallons	10.09	per 1,000 gallons
Over	40,000 gallons	8.38	per 1,000 gallons

\*Todd County Water District  
617 West Main Street  
P. O. Box 520  
Elkton, KY 42220

\*Honorable W. Randall Jones  
Attorney at Law  
Rubin & Hays  
Kentucky Home Trust Building  
450 South Third Street  
Louisville, KENTUCKY 40202