

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BLACK MOUNTAIN UTILITY)	
DISTRICT FOR APPROVAL OF FINANCING AND)	CASE NO.
ISSUANCE OF A CERTIFICATE OF CONVENIENCE)	2009-00422
AND NECESSITY)	

O R D E R

On October 27, 2009, Black Mountain Utility District (“Black Mountain”) tendered for filing an application requesting the issuance of a Certificate of Public Convenience and Necessity to construct a \$2,650,000 waterworks improvement project and approval to issue evidences of indebtedness of \$500,000. The application was made pursuant to KRS 278.020 and KRS 278.300. Several deficiencies were noted and the case was considered filed on December 7, 2009.

The proposed construction consists of: (1) approximately 9.4 miles of water distribution pipeline, known as the Kentucky 38 Klondike Water Distribution Project; (2) three booster-pump stations known as the Black Bottom Station, the Clover Darby Station, and the Kentucky 38 Station; and (3) two 50,000-gallon storage tanks, one at Mary Wynn Road and one at Kentucky 38, and appurtenances. Five small tracts of land totaling approximately 1/2 acre will be purchased to locate the booster pump stations and the storage tanks. The purpose of the project is to provide treated water to an additional 120 households which currently rely on contaminated wells.

Black Mountain proposes to finance the proposed waterworks improvement project with an American Recovery and Reinvestment Act Federally-Assisted Drinking Water State

Revolving Fund loan of \$500,000 to be administered by the Kentucky Infrastructure Authority (“KIA”);¹ a \$1,000,000 grant funded by House Bills 406 and 410;² and an Infrastructure for Economic Development Fund for Coal Producing Counties grant of \$1,150,000.³

Black Mountain proposes to enter into a loan agreement with KIA for \$500,000 to be repaid over a 20-year period at an interest rate of 1 percent per annum.⁴ According to the KIA commitment letter, the loan contains principal forgiveness of 54.1 percent for a loan reduction of \$270,500.⁵ Black Mountain has determined that it does not require a rate increase, because its analysis shows that the current rates are sufficient to fund the new \$500,000 loan less the \$270,500 principal forgiveness.⁶

Based on a review of the record and being otherwise sufficiently advised, the Commission finds that the proposed construction is needed to provide safe and adequate water service to new customers, is in the public interest, and will not compete with the facilities of any other utility. The Commission further finds that the proposed loan agreement with KIA is for a lawful object within Black Mountain's corporate purposes, is necessary and appropriate for and consistent with Black Mountain's proper performance of its service to the

¹ Application, Exhibit B, KIA commitment letter dated August 10, 2009.

² Id., Memorandum of Agreement between the Commonwealth of Kentucky KIA and the County of Harlan, Kentucky, HB140 - #202.

³ Id., KIA letter dated April 30, 2009.

⁴ Id., KIA commitment letter at 2.

⁵ Id.

⁶ Application, Exhibit A, Final Engineering Report, IV Conclusions and Recommendations, Conclusion D.

public and will not impair Black Mountain's ability to perform that service, and is reasonably necessary and appropriate for such purpose. When Black Mountain receives the principal forgiveness of 54.1 percent, or \$270,500, it should debit the Long Term-Debt Account for the \$270,500 and should make a corresponding entry for the same amount to Account 271 - Contributions in Aid of Construction.

IT IS THEREFORE ORDERED that:

1. Black Mountain is granted a Certificate of Public Convenience and Necessity to construct: (1) approximately 9.4 miles of water distribution pipeline; (2) three booster pump stations; and (3) two 50,000-gallon storage tanks and appurtenances as described in detail in the application.

2. Black Mountain is authorized to enter into a loan agreement with KIA for an amount not to exceed \$500,000 with a term of 20 years at an interest rate of 1 percent per annum.

3. Upon receipt of the principal forgiveness of 54.1 percent, or \$270,500, Black Mountain shall debit the Long Term-Debt Account for the amount of the forgiveness and shall make a corresponding entry for the same amount to Account 271 - Contributions in Aid of Construction.

4. Any deviation from the approved construction shall be undertaken only with the prior approval of the Commission.

5. Black Mountain shall furnish 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.

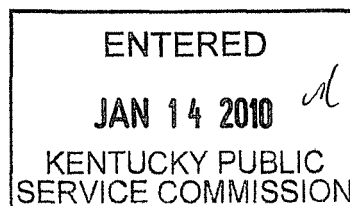
6. Black Mountain shall require construction to be inspected under the general supervision of a licensed professional engineer with a Kentucky registration in civil, electrical, or mechanical engineering, to ensure that the construction work is done in accordance with the contract drawings and specifications and in conformance with the best practices of the construction trades involved in the project.

7. Black Mountain is required to 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.

8. Black Mountain shall notify the Commission one week prior to the actual start of construction and at the 50-percent completion point.

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

By the Commission



ATTEST:


Executive Director

Earl Hall
Operator
Black Mountain Utility District
609 Four Mile Road
Baxter, KY 40806-8437

Honorable John N Hughes
Attorney at Law
124 West Todd Street
Frankfort, KY 40601