

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF SOUTHERN WATER)	CASE NO.
AND SEWER DISTRICT FOR AN)	2019-00131
ALTERNATIVE RATE ADJUSTMENT)	

ORDER

On July 8, 2019, Southern Water and Sewer District (Southern District) filed a motion requesting Commission approval to execute a four-year loan in the amount of \$150,000 to repay Floyd County Fiscal Court for a loan agreement. Attached to the motion was a one-page letter from Community Trust Bank, Inc., that briefly enumerated the terms of the loan and stated that the loan commitment expires on July 30, 2019.

On April 1, 2019, Southern District entered into a \$150,000 loan agreement with Floyd County Fiscal Court, with repayment due on or before July 16, 2019.¹ Southern District was not required to obtain Commission approval prior to entering into the Floyd County Fiscal Court loan agreement because, pursuant to KRS 278.300, prior Commission approval is required for loans payable in a period greater than two years and the loan from Floyd County Fiscal Court was payable in a period of three months.

Based upon a review of the motion and being otherwise sufficiently advised, the Commission finds that Southern District's motion is procedurally and substantively deficient, and therefore should be denied. As a procedural matter, the request for

¹ Southern District Response to Commission Staff's Post-Hearing Request for Information, Item 6, Exhibit 2.

approval of financing is outside the scope of this general rate proceeding. Because the request for approval of financing expands the scope of this proceeding, Southern District should have either filed its request as a new case or amended its application in this case. As a substantive matter, Southern District failed to provide the required information that is necessary for the Commission to fully evaluate the loan and determine whether it meets the standards set forth in KRS 278.300. For example, one standard that must be satisfied is that the loan will not impair Southern District's ability to perform its service to the public. This is of particular concern given that the loan requires \$3,500 per month payment and Southern District has testified that it has a negative cash flow of \$40,000 to \$50,000 per month.²

The Commission further finds that Southern District should refile its request as a separate case from the instant matter and that the application should comply with the filing requirements for requests for approval of financing.³ Because time is of the essence, the Commission encourages Southern District to consider filing the application as an electronic case pursuant to 807 KAR 5:001, Section 8, with a request to deviate from the notice requirements for election of use of electronic filing procedures. The Commission advises Southern District to consult the filing checklist provided on the Commission's website,⁴ along with a review of KRS 278.300 and 807 KAR 5:001, Sections 12 and 18, before refiling its request. In its application, Southern District should

² May 9, 2019 Hearing Video Transcript at 9:26:07.

³ See 807 KAR 5:001, Section 4(9). A paper is not deemed filed with the Commission until it is physically received and meets all applicable filing requirements.

⁴ See <https://psc.ky.gov/agencies/psc/forms/checklist/chk034.pdf> . The checklist is available by selecting the following options, in order: From the menu bar at the top of the page, select "Utility Information," then make the following selections, in order, "Utility Forms," "Forms for All Utilities," "Filing Requirements Check List," "Financing."

also explain how it will address the pending default on the Floyd County Fiscal Court loan, which requires Southern District to pay liquidated damages of \$100 per day from July 17, 2019, until the loan is paid in full if repayment is timely not made.

IT IS THEREFORE ORDERED that:

1. Southern District's motion for approval of a four-year, \$150,000 loan is denied.
2. Southern District shall file an application, pursuant to KRS 278.300, for approval of the loan as a separate proceeding.

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By the Commission

ENTERED
JUL 10 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST.

For [Signature]
Executive Director

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