

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|---------------------------------------|---|-----------------|
| THE APPLICATION OF OHIO COUNTY WATER |) | |
| DISTRICT FOR: (1) ISSUANCE OF A |) | |
| CERTIFICATE OF PUBLIC CONVENIENCE |) | |
| AND NECESSITY FOR CONSTRUCTION OF |) | |
| THE 1997 WATER SYSTEM IMPROVEMENTS; |) | CASE NO. 98-015 |
| (2) AUTHORIZATION TO ISSUE SERIES I |) | |
| REVENUE BONDS IN THE AMOUNT OF |) | |
| \$4,000,000; AND (3) AUTHORIZATION TO |) | |
| RAISE RATES TO PAY FOR THE ADDITIONAL |) | |
| INDEBTEDNESS |) | |

O R D E R

Ohio County Water District ("Ohio District") has moved for expedited treatment of its application and issuance of an Order granting its requested relief. Finding that the record does not currently support such relief, the Commission denies the motion but orders changes in the existing procedural schedule to expedite a final ruling in this case.

On February 13, 1998, Ohio District applied for a certificate of public convenience and necessity to construct six water improvement projects, for authority to issue \$4 million in revenue bonds to finance these improvements, and for approval to increase its rates by approximately \$380,000 annually, or 27 percent.¹ The proposed water improvement projects are intended to correct serious system deficiencies and to extend

¹ Ohio District filed its application with the Commission on January 7, 1998. The application, however, failed to comply with Administrative Regulation 807 KAR 5:001. Ohio District cured its filing deficiencies with a subsequent filing on February 13, 1998.

service to areas currently served by contaminated water wells. Each water improvement project is interrelated and will function properly only if the others are constructed.

On May 20, 1998, Ohio District moved for an expedited Order. In support of its motion, Ohio District contends that it has already advertised and received favorable bids on three of the six water improvement projects which will expire on June 25, 1998. Without prompt action upon its application, Ohio District states, it will lose the benefit of these bids and of favorable market interest rates.

Ohio District further states that its acceptance of these bids requires Commission approval of the entire application. Ohio District cannot accept the bids without assurance of the funding for these projects. According to Ohio District, an issuance of less than \$4 million of revenue bonds is not feasible and the proposed bond issuance requires simultaneous approval of all proposed water improvement projects and approval of rates that will support the revenue bonds' debt service requirements.

Our review of the existing record shows Ohio District's application to be far from complete. Three of the six water improvement projects have not been advertised for bids. Accordingly, their final cost cannot be ascertained. Plans and specifications for the two of these projects have not been drawn nor has the Division of Water of the Natural Resources and Environmental Protection Cabinet ("Division of Water") issued any approval for them.

Ohio District's requested relief is at odds with long standing Commission practice. The Commission has historically granted a certificate of public convenience and necessity **only** after the Division of Water's approval of the proposed construction plans

and specifications² and the submission of final bids. Moreover, the Commission has consistently held that a certificate of public convenience and necessity will only be issued when the proposed construction's feasibility has been shown.³ Without reviewing the project's plans and specifications, no determination can be made as to the project's feasibility. In such instance, the Commission must base its decision upon the water district's unwritten assurances of feasibility and without independently verifying the project's technical aspects. Given that the proposed water improvement projects are interdependent, any problems with the yet-to-be designed water improvement projects may pose significant problems for the water improvement projects for which plans and specifications have been submitted.

The lack of final bids on three projects, whose estimated total cost is approximately \$1.3 million, will prevent the Commission from determining the total amount of bonds necessary to finance the proposed water improvement projects and Ohio District's total revenue requirements. Without final bids, the potential exists that the

² Administrative Regulation 807 KAR 5:001, Section 9(2)(b), requires submission of such approvals with an application for a certificate of public convenience and necessity.

³ See, e.g., Case No. 10189, The Application of Hardin County Water District No. 1, A Water District Organized Pursuant to Chapter 74 of the Kentucky Revised Statutes, in Hardin County, Kentucky, for (1) a Certificate of Public Convenience and Necessity Authorizing And Permitting Said Water District to Construct Water Storage and Distribution System Improvements, Consisting of Elevated Storage Tanks, and Water Transmission Lines (The Project); (2) Approval Of the Proposed Plan of Financing of Said Project; and (3) Approval of Increased Water Rates Proposed to Be Charged by The District to its Retail and Wholesale Customers (May 15, 1998), at 2.

Commission will authorize the issuance of more bonds than required and will establish rates for service that are higher than necessary.

In light of these concerns, the Commission finds that Ohio District's motion should be denied. While this decision may delay the construction of the proposed water improvement projects, Ohio District bears full responsibility for any delay. It has failed to meet its own timetable for designing its proposed water improvement projects and obtaining approval from the Division of Water.⁴ It is over three months behind schedule for designing the proposed water improvement projects. Had Ohio District adhered to its own timetable, the record would more likely support a different result.

Recognizing the need for prompt action in this case, the Commission will expedite these proceedings and plans to issue a final decision in this matter by August 1, 1998. It is incumbent upon Ohio District, however, to complete the design of all proposed projects and to secure their approval from Division of Water before that date. Without such action on the water district's part, additional delays are likely.

IT IS HEREBY ORDERED that:

1. Ohio District's Motion to Expedite and Enter Interim Order is denied.
2. The procedural schedule set forth in the Commission's Order of March 27, 1998 is vacated.
3. A public hearing in this matter shall begin at 9:30 a.m., Eastern Daylight Time, on July 14, 1998 in Hearing Room 1 of the Commission's offices at 730 Schenkel

⁴ See Ohio District's Application, Exhibit N, Item 4.

Lane, Frankfort, Kentucky, for the purpose of cross-examination of witnesses of Ohio District and any witnesses of the Intervenors.

4. Ohio District shall, no later than July 7, 1998, publish notice of the scheduled hearing in this matter.

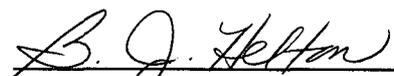
5. Intervenors shall no later than July 2, 1998 file, in verified prepared form, the testimony of any witnesses who they intend to call at the scheduled hearing in this matter.

6. Neither opening statements nor witnesses' summaries of prefiled direct testimony will be permitted.

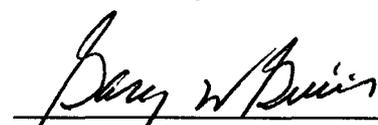
7. All provisions of the March 27, 1998 Order which do not conflict with the provisions of this Order shall remain in full force and effect.

Done at Frankfort, Kentucky, this 19th day of June, 1998.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director