

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF THE BIG SANDY)	
WATER DISTRICT FOR A CERTIFICATE)	
OF PUBLIC CONVENIENCE AND NECESSITY)	
TO CONSTRUCT AN IMPROVEMENT)	
PROJECT AND TO ISSUE SECURITIES IN)	CASE NO.
THE APPROXIMATE PRINCIPAL AMOUNT)	2001-178
OF \$822,000 FOR THE PURPOSE OF)	
FINANCING SAID PROJECT AND REFUNDING)	
CERTAIN OUTSTANDING REVENUE BONDS)	
OF THE DISTRICT PURSUANT TO THE)	
PROVISIONS OF KRS 278.020, 278.300)	
AND 807 KAR 5:001)	

ORDER

On June 7, 2001, Big Sandy Water District (“Big Sandy”) submitted an application requesting: (1) a certificate of public convenience and necessity (“CPCN”) to construct a 300,000 gallon water tank; and (2) authority to obtain a loan from the Kentucky Rural Water Finance Corporation (“KRWFC”) in the amount of \$822,000. According to the original application, \$204,000 of the loan proceeds are to be used to finance the improvements project and \$618,000 of the loan proceeds are to be used to refund the outstanding revenue bonds designated as Big Sandy Water District Waterworks Revenue Bonds of 1989. On June 15, 2001, Big Sandy revised its application to reflect that the finalized loan amount for its proposed bond refunding would be \$589,000. In an Interim Order dated June 26, 2001, the Commission granted Big Sandy authority to obtain a KRWFC loan in the amount of \$589,000 to refinance its

existing indebtedness, but deferred its decision on the CPCN on the improvements project and the proposed financing thereof. This Order supplements that Interim Order.

Big Sandy is a water district organized pursuant to KRS Chapter 74, owns and operates facilities that are used to distribute water to the public for compensation and, therefore, is a utility subject to the Commission's jurisdiction. KRS 278.010(3)(d); KRS 278.015; KRS 278.040.

On September 11, 2001, in response to an information request, Big Sandy furnished the Commission information that indicates that construction on the proposed tank commenced on August 18, 2000, 10 months before its application for a CPCN was filed. The information further indicates that construction of the proposed tank has been completed and that the tank is in service.

Paul Thomas, Jerald Blanton, Charles Shockey, Wilma McCall and John Campbell are members of Big Sandy's Board of Commissioners since on or before August 18, 2000 and controlled and managed the affairs of Big Sandy on or before that date.

Robert McGlothlin is employed as Big Sandy's manager and has been since on or before August 18, 2000. As manager of Big Sandy, he is required to attend to Big Sandy's affairs.

KRS 278.020(1) prohibits any person, partnership or private corporation, or combination thereof from beginning construction of any plant, equipment, property or facility for furnishing to the public any of the services enumerated in KRS 278.010 until such person has obtained from the Commission a certificate that public convenience and necessity require such construction.

KRS 278.300 provides that no utility may assume any obligation of indebtedness until it has been authorized to do so by the Commission. The Commission shall not approve any such obligation unless it finds that it “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.”

Based upon the foregoing and being otherwise sufficiently advised, the Commission finds that:

1. No CPCN should be issued for utility facilities already constructed.
2. The financing arrangement being contemplated by Big Sandy for the 300,000 gallon water tank is consistent with the requirements set forth in KRS 278.300 and should be approved.
3. Prima facie evidence exists that Big Sandy violated KRS 278.020(1) by its construction of the proposed facilities without first obtaining a CPCN from the Commission.
4. Prima facie evidence exists that Paul Thomas, Jerald Blanton, Charles Shockey, Wilma McCall and John Campbell, as members of Big Sandy’s Board of Commissioners, aided and abetted Big Sandy in its failure to comply with KRS 278.020(1).
5. Prima facie evidence exists that Robert McGlothin, as manager of Big Sandy, aided and abetted Big Sandy in its failure to comply with KRS 278.020(1).

IT IS THEREFORE ORDERED that:

1. Big Sandy’s request for a CPCN is denied.

2. Big Sandy is authorized to obtain a KRWFC loan in the amount of \$204,000 at an interest rate that will vary between 4.15 percent and 5.525 percent per annum.

3. Big Sandy shall, within 30 days of obtaining the KRWFC loan, file with the Commission a statement setting forth the date the loan is entered into, the actual interest rate, and the principal amount.

4. The proceeds from the transaction authorized herein shall be used only for the lawful purposes specified in the application.

5. Big Sandy shall appear before the commission on February 6, 2002 at 10:00 a.m., Eastern Standard Time, in the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, for the purposes of presenting evidence concerning its alleged violation of KRS 278.020(1) and of showing cause why it should not be subject to the penalties prescribed in KRS 278.990(1) for this alleged violation.

6. Paul Thomas, Jerald Blanton, Charles Shockey, Wilma McCall, John Campbell and Robert McGlothlin shall also appear before the Commission on February 6, 2002 at the same time and place as stated above for the purposes of presenting evidence concerning their alleged conduct to aid and abet Big Sandy's violation of KRS 278.020(1) and of showing cause why they should not be subject to the penalties prescribed in KRS 278.990(1) for their alleged conduct.

7. Big Sandy, Paul Thomas, Jerald Blanton, Charles Shockey, Wilma McCall, John Campbell and Robert McGlothlin shall each respond to the Commission in writing, within 20 days of the date of this Order, to the allegations contained herein.

8. Any motion requesting an informal conference with Commission Staff to consider any matter that may aid in the handling or disposition of this proceeding shall be filed with the Commission no later than 20 days from the date of this Order.

Nothing contained herein shall be construed as a finding of value for any purpose or as a warranty on the part of the Commonwealth of Kentucky or any agency thereof as to the securities authorized herein.

Done at Frankfort, Kentucky, this 20th day of December, 2001.

By the Commission

ATTEST:


Executive Director