

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF NORTHERN KENTUCKY	)	
WATER DISTRICT FOR APPROVAL TO	)	CASE NO.
REFINANCE REVENUE BONDS IN THE	)	2001-198
APPROXIMATE AMOUNT OF \$38,425,000	)	

O R D E R

On June 28, 2001, Northern Kentucky Water District ("Northern Kentucky") applied to the Commission for authority to issue certain securities. In its filing, Northern Kentucky failed to provide certain documents required by Administrative Regulation 807 KAR 5:001, Sections 6(4), 6(5), 6(6), 6(7), and 6(9). In addition, Northern Kentucky's application does not comply with KRS 278.300(2).

Administrative Regulation 807 KAR 5:001, Sections 6(4), 6(5), 6(6), 6(7), and 6(9), requires the submission of information covering the period ending not more than 90 days prior to the date on which the application was filed, regarding existing mortgages, existing bonds, outstanding notes, any other indebtedness, and the submission of a detailed income statement and balance sheet. Northern Kentucky did not provide information concerning that time frame.

KRS 278.300(2) requires that every financing application be made under oath, and shall be signed and filed on behalf of the utility by its president, or by a vice president, auditor, comptroller, or other executive officer having knowledge of the matters set forth and duly designated by the utility. Only Northern Kentucky's legal counsel signed the application.

Northern Kentucky did not make a specific request for a waiver of these required items in its application. It did, however, request a “deviation under 807 KAR 5:004(14), if necessary to accommodate any situation where inflexible compliance with a regulation would be impracticable, onerous or which would hinder the District’s daily operations.” See Application, para. 17. The Commission notes that there is no administrative regulation designated as 807 KAR 5:004(14) and that the foregoing request is a blanket request. The Commission will, however, treat this request as one for deviation pursuant to Administrative Regulation 807 KAR 5:001, Section 14. This section authorizes the Commission to grant deviations “[i]n special cases, for good cause shown. . . .” Id.

Having reviewed the requested deviation, the Commission has determined that Northern Kentucky failed to provide good cause, or, indeed, any cause, and therefore will deny the request. Northern Kentucky is a long-established water district with ample resources to compile the information required by Administrative Regulation 807 KAR 5:001, Sections 6(4), 6(5), 6(6), 6(7), and 6(9). It has not demonstrated any basis under which the Commission can determine what cause, if any, warrants a deviation.

In addition, KRS 278.300(2) provides a mandate with which all utilities must comply. KRS 446.010(29) provides that the word “[s]hall’ is mandatory.” Northern Kentucky has not provided information that its legal counsel is one of the individuals required by KRS 278.300(2) to sign its application. Nor has it cited any authority permitting the Commission to grant a deviation from the statutory mandate.

Having reviewed the filing and being otherwise sufficiently advised, the Commission HEREBY ORDERS that:

1. Northern Kentucky did not provide good cause for a deviation from Administrative Regulation 807 KAR 5:001, Sections 6(4), 6(5), 6(6), 6(7), and 6(9), and its blanket deviation request is denied.

2. Northern Kentucky shall, within 14 days of the date of this Order, provide the information required by Administrative Regulation 807 KAR 5:001, Sections 6(4), 6(5), 6(6), 6(7), and 6(9).

3. Northern Kentucky shall, within 14 days of the date of this Order, file an amended application containing the authorized signatures as required by KRS 278.300(2).

4. Should Northern Kentucky fail to provide this information timely, its application will be held in abeyance pending its submission of the required material.

Done at Frankfort, Kentucky, this 25<sup>th</sup> day of July, 2001.

By the Commission

ATTEST:

  
Executive Director