

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF THE OLDHAM COUNTY)
WATER DISTRICT FOR (1) A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY TO)
CONSTRUCT THE PROPOSED WATERWORKS)
IMPROVEMENT PROJECT; (2) THE APPROVAL) CASE NO. 2001-174
OF THE PROPOSED PLAN TO FINANCE THE)
WATERWORKS IMPROVEMENT PROJECT;)
AND (3) THE APPROVAL OF THE PROPOSED)
INCREASE IN RATES FOR WATER SERVICE)

ORDER

On July 3, 2001, Oldham County Water District (Oldham District) applied for a Certificate of Public Convenience and Necessity (Certificate) to construct a \$5,164,560¹ water system improvements project, for authority to obtain a Kentucky Infrastructure Authority (KIA) loan of \$8,049,876, and for approval of a rate adjustment to produce annual revenues from water sales of \$3,396,641, an increase of \$1,209,378 or 55 percent over normalized revenues from water sales of \$2,197,263.² On July 1, 2002, Oldham District amended its application to remove Phase II from its requested water system improvement project and moved for a deviation from the requirements of Administrative Regulation 807 KAR 5:066, Section 4(4), that a district have a minimum storage capacity equal to its average daily consumption. By this

¹ Excluding Phase 1(a) of the project, which was certificated in Case No. 2001-00024, The Application of Oldham County Water District for a Certificate of Public Convenience and Necessity to Construct an Improvements Project, final Order dated February 8, 2001.

² See Application, Exhibit 8, Minimum and Maximum Revenue Requirement Determination

Order, we grant Oldham District a Certificate to construct the project as amended, approve its proposed plan of financing, and allow an increase in rates that will produce annual revenues from water sales of \$3,106,191, an increase of \$900,914 or 40 percent over Staff's normalized revenues from water sales of \$2,205,277. However, we deny the requested deviation.

BACKGROUND

Oldham District, a non-profit water district organized under KRS Chapter 74, is a utility subject to Commission jurisdiction. KRS 278.010(3)(d); KRS 278.015; KRS 278.040. It currently provides water service to approximately 6,041 residential customers, 239 commercial customers, and 16 public authorities in Oldham County, Kentucky. Oldham District also provides wholesale water service to the LaGrange Utilities Commission, the Goshen Water Company, the LaGrange Reformatory, and the Henry County Water District.

PROCEDURE

On June 4, 2001, Oldham District filed a letter giving notice of its intent to file an application for Commission approval of an increase in its water rates. It subsequently tendered its application on July 3, 2001. The application was not considered filed until September 11, 2001, the date the deficiencies in the application were cured.

The following parties have been granted leave to intervene in this proceeding: the Attorney General's Office of Rate Intervention (AG); the Oldham District Fiscal Court (Fiscal Court); Ashborne Farms (Ashborne); and Robert Sargis (Sargis). An

informal conference was held on September 11, 2001, at which all parties, with the exception of the Fiscal Court, were in attendance.³

On March 12, 2002, the Commission released a Report in which Staff recommended that Oldham District be allowed to increase its water rates to a level that would generate the requested revenue requirement of \$3,396,641. The Report also gave the parties leave to file written comments upon Staff's findings and recommendations or to request a conference or hearing no later than March 22, 2002. The AG, Ashborne, and Sargis filed their comments and requested that the Commission schedule a hearing.

On April 5, 2002, the Commission established a procedural schedule setting a public hearing for April 30, 2002, at the Commission's offices in Frankfort, Kentucky. The schedule further directed each party to submit a list of the issues that it intended to address at the hearing by April 15, 2002 and to submit any pre-filed witness testimony by April 20, 2002.

The public hearing was convened at the Commission's offices in Frankfort, Kentucky on April 30, 2002. However, near the end of the first day of the hearing Oldham District, the AG, Ashborne, Sargis, and Fiscal Court (collectively (the Parties)) announced that they had agreed, in principle, to settle the contested issues. The hearing was suspended to allow the Parties the opportunity to finalize their settlement.

On July 1, 2002, the Parties executed a Settlement Agreement (the Agreement), which Oldham District filed with the Commission the following day. In accordance with the Agreement, Oldham District also filed notice of its amendment to the application that removed Phase II of the project, and a motion to deviate from

³ Fiscal Court was granted leave to intervene on April 3, 2002.

Administrative Regulation 807 KAR 5:066, Section 4(4). The Agreement and the motion to deviate are now before the Commission for approval.

MOTION TO DEVIATE

During the course of the hearing a question arose regarding Oldham District's need for the storage tank proposed in Phase II. One argument presented by Oldham District to justify the construction of the 1 million gallon tank is that it is needed to satisfy the storage requirements prescribed by Administrative Regulation 807 KAR 5:066, Section 4(4). That subsection requires water utilities to maintain, as a minimum, storage capacity equal to one day's average daily consumption. Oldham District presented evidence that without the storage tank it cannot meet this requirement,⁴ an assertion that intervenors, Sargis and Ashbourne, through the testimony of their engineer, strongly disputed.⁵ While the Agreement has apparently removed the question of adequate storage as an issue between the Parties, the issue remains one of concern for this Commission.

Administrative Regulation 807 KAR 5:066, Section 18, authorizes the Commission to permit deviations from the provision of the regulation only for good cause shown. Oldham District has not established good cause for the requested deviation and the motion should be denied without prejudice.

AGREEMENT

On July 2, 2002, the Parties filed their Agreement. The following is a brief synopsis of the Agreement:

⁴ Transcript of Evidence, Oldham's Exhibit 4.

⁵ Prefiled Testimony of Warner A. Brougham at 3-5.

1. The Parties agree that construction of Phase Ib, Phase III, and Phase IV are necessary to maintain pressure and provide quality water service to the southern portion of Oldham District's service territory, and, therefore, Oldham District should be granted a Certificate to construct these system improvements.

2. To finance the construction, Oldham District should be allowed to obtain a KIA loan with the following terms: (a) an original principal balance that will not exceed \$5,564,209; (b) an interest rate that will not exceed 6 percent per annum; (c) a 20 year term; and (d) a KIA administrative fee of 0.2 percent.

3. To bring the proceeding into conformity with the Agreement, Oldham District will file simultaneously with the Agreement a motion to Amend its Application to remove its request to construct Phase II, the 1 million-gallon storage tank near U. S. Highway 42 and the associated water transmission mains.

4. The amortization of the consulting and legal fees incurred by Oldham District in connection with Case No. 2000-00460⁶ shall be excluded from the determination of Oldham District's revenue requirement.

5. Staff will recompute Oldham District's revenue requirement and rates to reflect the changes dictated by the Agreement, and the Parties request that the Commission approve Staff's rates as fair, just, and reasonable.

6. The Parties further request the Commission to approve a February 8, 2001 Water Purchase Agreement between Bluegrass Generation Company, LLC (Bluegrass) and Oldham District as modified by the Agreement.

⁶ Case No. 2000-00460, C&L Builders v. Oldham County Water District, final Order issued February 12, 2002.

7. Commission will direct Staff to perform, within in 3 years of the effective date of the Agreement, a limited financial review of Oldham District s operations and to prepare a cost-of-service study. This review shall place emphasis upon the water usage of Bluegrass to determine if it is still appropriate to continue to charge the industrial rate for Bluegrass s water purchases. Upon completion of the report, Staff shall serve the Parties with a copy.

FINDINGS OF FACT

Proposed Construction

In its original application, Oldham District estimated that its proposed water system improvements, including Phase II, would cost approximately \$5,164,560. Based on the final bid tabulations in the engineering report, the actual construction cost would have been \$5,591,837.⁷ The construction project as originally proposed would have consisted of the following 4 phases:

Phase 1(b) The installation of a 24-inch water main that will cross Interstate 71 on a Louisville Gas & Electric Company power line easement to the Centerfield tank site.

Phase II The installation of a 1 million-gallon elevated storage tank at U.S. 42 and the installation of a 24-inch water main that will connect the tank to the Oldham District s system.

Phase III The installation of a 750,000-gallon and 250,000-gallon elevated storage tanks on Osage Road and Ballardsville, respectively. Each tank will be connected to Oldham District s system with a 16-inch water main.

⁷ \$7,265,000 (Total Project Cost) - \$1,673,163 (Phase 1a) = \$5,591,837.

Phase IV The installation of a 16-inch reinforcement water main connecting the Centerfield tank site to Ballardsville along State Road 22.

By agreement of the Parties, Oldham District has amended its application to remove Phase II from the project. Removal of Phase II reduces the total construction cost to be certificated to \$3,823,550.⁸

The Division of Water of the Kentucky Natural Resources and Environmental Protection Cabinet has approved the plans and specifications for the proposed construction. Public convenience requires the proposed construction in order to permit continued growth in Oldham District's service territory and to provide adequate water supply to its ratepayers. Construction of Oldham District's water system improvement project, as amended, will not result in the wasteful duplication of any existing utility facilities nor will it compete with any other utility.

Proposed Financing

In its original application Oldham District proposed to obtain a \$8,049,876 loan from KIA to fund the total cost of the construction, including Phase 1(a). The proposed KIA loan was for a 20-year term and had an interest rate of 7 percent per annum. The removal of Phase II from the application has allowed Oldham District to reduce its proposed loan to \$5,564,209. The new proposed KIA loan will have a 20-year term and an interest rate not to exceed 6 percent per annum.

Revenue Requirement Determination

Oldham District originally proposed to fund its waterworks improvement project with a \$8,049,876 loan from KIA. The 3-year average debt service for Oldham District's

⁸ The Agreement at 4.

existing and proposed long-term debt would have been \$1,362,483. Oldham District arrived at its revenue requirement of \$3,396,641 by using the 3-year average debt service of \$1,362,483 and its proposed pro forma operating revenues and expenses of \$2,260,630 and \$2,005,365, respectively.

It was revealed at the September 11, 2001 informal conference that Bluegrass had contributed \$800,000 toward the construction of the water facilities to serve the Dynegy power generation plant. The Bluegrass contribution reduced Oldham District's proposed KIA loan and resulted in a decrease in the 3-year average debt service of \$61,935. Upon review of the data relied upon by Oldham District, Staff adjusted the pro forma operating revenues and expenses to \$2,278,854 and \$2,074,359, respectively. Based upon the reduced debt service of \$1,300,548 and its recommended operations, Staff calculated a revenue requirement range from water sales of \$2,644,621 to \$3,397,723, respectively. Since Oldham District's requested revenue requirement is within this range, Staff recommended that Oldham District be allowed to increase its rates to generate the revenue requirement from water sales of \$3,396,641.

Reducing the interest rate from 7 to 6 percent per annum and eliminating Phase II from Oldham District's construction project results in a further reduction to debt service of \$210,531. However, neither Oldham District's nor Staff's pro forma operating revenues and expenses took into consideration this reduction in debt service. When the \$210,531 reduction in debt service is considered, together with the adjustments proposed by the Agreement, they produce pro forma operating revenues and expenses of \$2,278,854 and \$2,014,411, respectively, and support a revenue requirement from water sales of \$3,106,191.

The rate schedule set forth in Appendix A to this Order should be sufficient to satisfy Oldham District's revenue requirement. The rate schedule establishes classifications regarding, among other things, the nature of the ratepayers' use, the quantity used, and the purpose for which used.

CONCLUSIONS OF LAW

Public convenience and necessity require construction of Oldham District's proposed water system project, as amended. To facilitate the project, the Agreement executed by the Parties should be approved, with one minor exception. Paragraph 20 of the agreement provides that the Commission shall, within 3 years, direct its Staff to conduct a limited financial review of Oldham District's operations. The Commission is not a party to this proceeding, or to the Agreement, and approval of the agreement should not be construed as consent by the Commission to be bound to perform the financial review called for in the agreement. This modification, however, will not prevent any party to this proceeding from requesting such a study from the Commission.

The construction proposed by Oldham District is in the public interest and a Certificate and necessity should be issued approving the project. The financing proposed for the project is for a lawful object within the corporate purpose of Oldham District. Furthermore, the financing is necessary and appropriate for and consistent with the proper performance of its service to the public, will not impair its ability to perform that service, and is reasonably necessary for Oldham District to provide adequate service to present and future ratepayers.

The rate schedule set forth in Appendix A to this Order establishes rates and classifications of service that are fair, just and reasonable. Therefore, the rate schedule should also be approved.

IT IS THEREFORE ORDERED that:

1. The agreement executed by the Parties on July 1, 2002 is approved, except as modified herein.

2. In accordance with the Parties agreement, Oldham District is hereby authorized to construct the water system improvements described in its application as amended, and to finance the construction in the manner set forth in its application as amended.

3. For the services that it renders, Oldham District shall be permitted to charge its ratepayers in accordance with the rate schedule appended to this Order.

4. Three years from the date of this Order, Oldham District shall file an income statement, along with any pro forma adjustments, in sufficient detail to demonstrate that the rates approved herein are sufficient to meet its operating expenses and annual debt service requirements.

5. The motion by Oldham District to deviate from the provisions of Administrative Regulation 807 KAR 5:066, Section 4(4), is denied without prejudice.

Done at Frankfort, Kentucky, this 10th day of July, 2002.

By the Commission

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2001-00174 DATED July 10, 2002

The following rates and charges are prescribed for the customers in the area served by Oldham County Water District. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of the Commission prior to the effective date of this Order.

Monthly Usage Rates

First 40,000 Gallons	\$	2.75	per 1,000 Gallons
Over 40,000 Gallons	\$	1.48	per 1,000 Gallons

Monthly Customer Charge

5/8 Inch Connection	\$	7.69	Minimum Bill
3/4 Inch Connection	\$	8.46	Minimum Bill
1 Inch Connection	\$	19.23	Minimum Bill
1 1/2 Inch Connection	\$	38.45	Minimum Bill
2 Inch Connection	\$	76.90	Minimum Bill
3 Inch Connection	\$	115.35	Minimum Bill

WHOLESALE RATE \$ 1.22 per 1,000 Gallons

INDUSTRIAL RATE \$ 1.48 per 1,000 Gallons