

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	)	2001-00178
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

Big Sandy Water District ( BSWD ) 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 December 20, 2001, the Commission directed BSWD to appear at a hearing to show cause why it should not be penalized pursuant to KRS 278.990(1) for its alleged violation of Commission regulations.

Following the commencement of this proceeding, BSWD and Commission Staff entered into negotiations to resolve all outstanding issues. On November 6, 2002, they executed the Settlement Agreement that is appended hereto.

After reviewing the Settlement Agreement, and being otherwise sufficiently advised, the Commission finds that the Settlement Agreement is in accordance with the law, does not violate any regulatory principle, results in a reasonable resolution of this case, and is in the public interest.

IT IS THEREFORE ORDERED that:

1. The Settlement Agreement, appended hereto, is incorporated into this Order as if fully set forth herein.
2. The terms and conditions set forth in the Settlement Agreement are adopted and approved.
3. No formal hearing shall be held in this case.

Done at Frankfort, Kentucky, this 13<sup>th</sup> day of December, 2002.

By the Commission

ATTEST:



Executive Director

COMMONWEALTH OF KENTUCKY  
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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 )

**SETTLEMENT AGREEMENT**

This Settlement Agreement is made and entered into on this 5<sup>th</sup> day of ~~September~~ <sup>November</sup>, 2002, between Big Sandy Water District (hereinafter referred to as "BSWD"), Paul Thomas, Jerald Blanton, Charles Shockey, Wilma McCall, John Campbell, (hereinafter referred to as "the Board"), Robert McGlothin (hereinafter referred to as "the Superintendent") and the Staff of the Public Service Commission (hereinafter referred to as "Commission Staff").

WITNESSETH:

THAT WHEREAS, BSWD is a water district organized pursuant to KRS Chapter 74, which owns and operates facilities that are used to distribute water to the public for compensation and is subject to the jurisdiction of the Commission pursuant to KRS 278.010(3)(d) and KRS 278.015; and

WHEREAS, the Board and the Superintendent of BSWD are subject to the jurisdiction of the Commission pursuant to KRS 278.010(2), KRS 278.990, KRS 278.010(3)(d) and KRS 278.015; and

WHEREAS, on June 7, 2001, BSWD 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; and

WHEREAS, on June 26, 2001, the Commission entered an interim order authorizing BSWD to obtain a loan to refinance existing evidence of indebtedness but deferred its decision on the CPCN for the water tank project and the financing of that project; and

WHEREAS, on December 20, 2001, the Commission entered an order finding that the water tank had already been constructed and denied BSWD a CPCN and directed BSWD, the Board and the Superintendent to show cause why it should not be subject to the penalties of KRS 278.990(1) for their alleged violation of KRS 278.020(1); and

WHEREAS, ON February 12, 2002, BSWD, the Board and the Superintendent filed a response to the Commission's Order of December 2001, admitting that it failed to comply with KRS 278.020(1), but asserting that the failure was not willful; and

WHEREAS, BSWD, the Board, the Superintendent and the Commission Staff desire to settle the issues raised by this proceeding and have entered into this Settlement Agreement through compromise.

NOW, THEREFORE, BSWD, the Board and the Superintendent and Commission Staff agree that:

1. A penalty in the amount of \$100 will be assessed against BSWD and Paul Thomas, Jerald Blanton, Charles Schockey, Wilma McCall, John Campbell and Robert tMcGlothin individually. Each penalty will be stayed for a period of one year. If after one year BSWD is in substantial compliance with KRS Chapter 278 and Commission regulations, the penalty will be vacated. Otherwise, each penalty will be immediately due in full and payable to the Commonwealth of Kentucky.

2. Nothing contained herein shall be construed as an admission of a willful violation of any statute or administrative regulation nor shall the Public Service Commission's acceptance of this agreement be construed as a finding of a willful violation of any statute or administrative regulation.

3. This agreement is subject to the acceptance of and the approval by the Public Service Commission.

4. If the Public Service Commission fails to accept and approve this Settlement Agreement in its entirety, this proceeding shall go forward and neither the terms of this Settlement Agreement nor any matters raised during settlement negotiations shall be binding on any of the signatories or be construed against them.

5. Commission Staff shall recommend to the Public Service Commission that this Settlement Agreement be accepted and approved.

6. If the Public Service Commission accepts and adopts this Settlement Agreement in its entirety and enters an Order in this proceeding to that effect, BSWD,

the Board and the Superintendent agree that they will not apply for rehearing in this proceeding nor bring an action for review of the Order in Franklin Circuit Court.

IN WITNESS WHEREOF, BSWD, the Board, the Superintendent and Commission Staff have executed this Settlement Agreement the day and year first above written.

BIG SANDY WATER DISTRICT

BY: Paul E. Thomas

TITLE: Chairman

Paul E. Thomas  
PAUL THOMAS

Jerald Blanton  
JERALD BLANTON

Charles Shockey  
CHARLES SHOCKEY

Wilma McCall  
WILMA McCALL

John Campbell  
JOHN CAMPBELL

Robert McGlothlin  
ROBERT McGLOTHIN

*Staff of*  
PUBLIC SERVICE COMMISSION  
OF KENTUCKY

BY: Janita L. Melabell

TITLE: Staff Attorney