

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF MADISON COUNTY UTILITY)	
DISTRICT FOR AN ORDER ISSUING A)	
CERTIFICATE OF PUBLIC CONVENIENCE AND)	CASE NO. 2007-00424
NECESSITY AND FOR AUTHORITY TO)	
BORROW FUNDS AND TO REFINANCE)	
CERTAIN INDEBTEDNESS OF THE DISTRICT)	

ORDER

Madison County Utility District (“Madison District”) has applied for a Certificate of Public Convenience and Necessity to construct an office building and for authority to issue \$3,630,000 of Revenue Refunding Bonds. Having reviewed the evidence of record and being otherwise sufficiently advised, the Commission finds that:¹

1. Madison District, a water district organized pursuant to KRS Chapter 74, owns and operates facilities that distribute water for compensation to approximately 9,743 customers in Madison County, Kentucky.²
2. As of December 31, 2006, Madison District had net utility plant of \$12,953,898.

¹ On September 27, 2007, Madison District tendered its application to the Commission. Finding that the application did not comply with 807 KAR 5:001, Sections 6 and 11, the Executive Director, through her designate, rejected the application for filing. On October 11, 2007, Madison District again tendered its application and requested a waiver from certain provisions of 807 KAR 5:001. On November 8, 2007, the Commission granted the requested waiver and held the application accepted for filing as of October 11, 2007.

² Annual Report of Madison County Utility District to the Kentucky Public Service Commission for the Year Ended December 31, 2006 at 5 and 27.

3. For the year ending December 31, 2006, Madison District had total utility expenses of \$3,212,207.³

4. Madison District seeks a Certificate of Public Convenience and Necessity to construct an office building at 297 Michelle Drive, Richmond, Kentucky.

5. Madison District's prior office building, located at 155 North Keeneland Drive, Richmond, Kentucky, lacks sufficient space to accommodate the water district's operations.

6. The total estimated cost of the proposed office building is \$650,000.

7. The construction of the proposed office building represents an increase of 5 percent in Madison District's net utility plant.

8. Upon completion of the proposed office building, Madison District will incur additional expenses of \$42,810⁴ during the first year of the building's operation, an increase of 1.33 percent over utility expenses for the last reported calendar year.

9. On March 8, 2007, Madison District obtained a building permit for construction of the proposed office building.

³ Id. at 11.

⁴ This amount assumes that expenses for the operation of the new building are essentially the same as for Madison District's previous office building. Assuming a 40-year useful life for the new building, the water district will incur an additional depreciation expense of \$16,250. This amount represents a 4.4 percent increase in depreciation expense over the calendar year 2006 depreciation expense. As the building's cost of \$650,000 represents 16.6 percent of the total funds raised through the proposed bond issuance, using an average of the annual interest payments on those bonds for the first 4 years, the water district will have an annual interest expense of \$26,560 attributable to the new office building.

10. Between March 8, 2007 and September 27, 2007, Madison District commenced construction of the proposed office building.⁵

11. On or after June 12, 2007, Madison District executed two short-term notes to Madison Bank to finance the construction of the proposed office building.

12. Madison District completed construction of the proposed office building and moved into the proposed office building on or about November 21, 2007.⁶

13. The proposed office building does not conflict with the existing certificates or service of any other utility operating in the same area and under the Commission's jurisdiction.

14. Madison District proposes to issue revenue bonds in the par amount of \$3,630,000 for a term of 14 years to finance the building and to refund certain outstanding revenue bonds designated as Madison County Utility District Refunding Revenue Bonds, Series 1997 ("1997 Bonds"), of which a principal amount of \$2,875,000 was outstanding as of October 11, 2007.

15. The 1997 Bonds carry interest rates ranging from 5.0 to 5.2 percent. The proposed bonds will be competitively sold and are estimated to carry interest rates

⁵ On September 27, 2007, Madison District Commissioner James Carr advised the water district's board of commissioners that construction of the "building was proceeding on schedule and below projected costs" and "should be completed around November 1, 2007." Minutes of the Meeting of the Board of Commissioners of the Madison County Utilities Board at 2 (Sept. 27, 2007) (filed in Case No. 2007-00454, The Application of Madison County Utilities District To Revise Certain Non-Recurring Charges (filed Oct. 17, 2007)).

⁶ Bill Robinson, County's rural utilities expanding, Richmond Register, Jan. 3, 2008, http://www.richmondregister.com/localnews/local_story_003081836.html (last visited March 3, 2008).

ranging from 2.33 to 3.95 percent, and are therefore expected to achieve a net present value benefit of \$170,317.85 in comparison to the 1997 Bonds.

Based upon the above findings, the Commission makes the following conclusions of law:

1. No person shall commence the construction of any property or facility for furnishing or distributing water to the public for compensation, except ordinary extensions in the course of business, until obtaining a Certificate of Public Convenience and Necessity from the Commission.⁷

2. A proposed project is in the ordinary course of business if it does not create wasteful duplication of plant, equipment, property or facilities; conflict with the existing certificates or service of other utilities operating in the same area and under the Commission's jurisdiction; does not involve sufficient capital outlay to materially affect the existing financial condition of the utility involved; and will not result in increased charges to its customers.⁸

3. The method used to finance the cost of the proposed facilities does not necessarily determine whether those facilities require a Certificate of Public Convenience and Necessity.⁹

⁷ KRS 278.020(1).

⁸ 807 KAR 5:001, Section 9(3).

⁹ See Case No. 2000-481, The Application of Northern Kentucky Water District (A) For Authority to Issue Parity Revenue Bonds in the Approximate Amount of \$16,545,000; and (B) A Certificate of Convenience and Necessity for the Construction of Water Main Facilities (Ky. PSC Aug. 30, 2001) at 4.

4. The construction of the proposed office building will not materially affect Madison District's existing financial condition.

5. The construction of the proposed office is in the ordinary course of business and does not require a Certificate of Public Convenience and Necessity.¹⁰

6. Madison District's proposed revenue bond issuance is for a lawful object within Madison District's corporate purposes, is reasonably necessary, appropriate for and consistent with the proper performance of its service to the public, will not impair its ability to perform that service, and should therefore be approved.

IT IS THEREFORE ORDERED that:

1. Madison District's application for a Certificate of Public Convenience and Necessity is denied as moot.¹¹

2. Madison District is authorized to issue bonds for an amount not to exceed \$3,630,000, with coupon rates to be determined by competitive bids.

3. Madison District shall issue its proposed bonds only on terms that are consistent with its application and will result in a positive net present value savings.

¹⁰ Assuming arguendo that the proposed office building was not constructed in the ordinary course of business and required a Certificate of Public Convenience and Necessity, the Commission could not grant such relief. A Certificate of Public Convenience and Necessity may not be issued for facilities that have already been constructed. See Case No. 1992-00532, The Petition of Boone County Water and Sewer District for Approval of a Certificate of Convenience and Necessity to Construct a Sanitary Sewer (Ky. PSC Dec. 9, 1993); Case No. 1990-00305, Application of Southern Madison Water District for Certificate of Convenience and Necessity to Construct Storage Facilities (Ky. PSC Nov. 1, 1991).

¹¹ To avoid unnecessary filings in the future, Madison District should consider requesting an advisory opinion from Commission Staff on whether a proposed construction project requires a Certificate of Public Convenience and Necessity.

4. Madison District shall, within 30 days after issuance of the securities, advise the Commission in writing of the date or dates of issuance of the securities, the price paid, the interest rates, the purchasers, and all fees and expenses, including underwriting discounts or commissions or other compensation involved in the issuance and distribution.

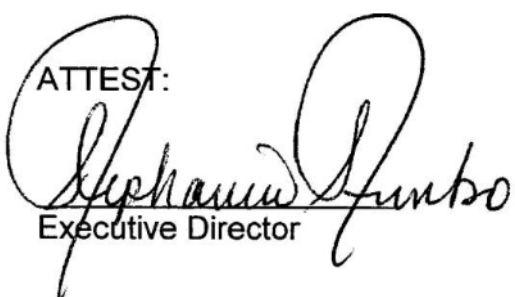
5. The proceeds from the transactions authorized herein shall be used only for the lawful purposes specified in Madison District's application.

6. 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 March, 2008.

By the Commission

ATTEST:


Executive Director