

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CUMBERLAND COUNTY	)	
WATER DISTRICT FOR A CERTIFICATE	)	
OF PUBLIC CONVENIENCE AND	)	
NECESSITY TO CONSTRUCT WATER	)	CASE NO. 2008-00187
DISTRIBUTION SYSTEM EXTENSIONS	)	
AND IMPROVEMENTS AND APPROVAL	)	
OF THE PROPOSED PLAN OF FINANCING	)	

ORDER

Cumberland County Water District (“Cumberland District”) has tendered an application for a Certificate of Public Convenience and Necessity (“Certificate”) to construct a water line improvement project in Cumberland County, Kentucky. At issue is whether House Bill 380 exempts the proposed construction project from the requirement to obtain a Certificate. Finding in the affirmative, we dismiss the application as moot.

Cumberland District, a water district organized under KRS Chapter 74, provides retail water service to approximately 2,383 customers in Cumberland County, Kentucky.<sup>1</sup> For the calendar year ending December 31, 2007, it had annual revenues of \$862,571.<sup>2</sup> Cumberland District is a Class A Water District.<sup>3</sup>

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<sup>1</sup> *Annual Report of Bullock Pen Water District to the Public Service Commission for the Calendar Year Ended December 31, 2007* at 5 and 27.

<sup>2</sup> *Id.* at 11.

<sup>3</sup> The Kentucky Public Service Commission's Uniform System of Accounts defines a Class A water utility as a utility “having annual water operating revenues of \$750,000 or more.” Uniform System of Accounts for Class A/B Water Districts and Associations at 14 (2002) (found at <http://psc.ky.gov/agencies/psc/forms/usoa/0700ab02.pdf>).

Cumberland District proposes to construct 14.6 miles of 8-inch, 6-inch, 4-inch and 3-inch water main in Cumberland County, Kentucky. It further intends to commence construction of the project prior to July 1, 2008.<sup>4</sup> It estimates that the proposed project will provide water service to approximately 23 households. No public utility currently provides water service in the proposed project area.

The estimated cost of the proposed project is \$737,512. Cumberland District will finance this cost with a Kentucky Infrastructure Authority grant of \$700,000. It will not issue any evidences of indebtedness or adjust its rates to finance the proposed project.

KRS 278.020(1) provides:

No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010, except retail electric suppliers for service connections to electric-consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business, until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction.

In its 2006 Annual Session, the Kentucky General Assembly enacted legislation that exempts certain water improvement projects of water districts and water associations from the requirement of obtaining a Certificate. This Act provides:

A water district created pursuant to KRS Chapter 74 and a water association created pursuant to KRS Chapter 273 that undertakes a waterline extension or improvement project shall not be required to obtain a certificate of public convenience and necessity pursuant to KRS 278.020(1) if the water district or water association is a Class A or B utility as defined in the Uniform System of Accounts established by the Public Service Commission, pursuant to KRS 278.220,

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<sup>4</sup> Letter from Henry M. Reed III, legal counsel for Cumberland District, to J.R. Goff, Commission Staff Attorney (June 16, 2008).

as the system of accounts prescribed for utilities in Kentucky, and either: (a) The water line extension or improvement project will not cost in excess of \$500,000; or (b) The water district or water association will not, as a result of the water line extension or improvement project, incur obligations requiring Public Service Commission approval pursuant to KRS 278.300. In either case, the water district or water association shall not, as a result of the water line extension or improvement project, increase rates to its customers.

2006 Ky. Acts Chapter 252.<sup>5</sup>

Based upon our review of this Act and the application, the Commission finds that:

1. Cumberland District will not, as a result of the proposed water main extension project, incur obligations that will require Commission approval pursuant to KRS 278.300.

2. Cumberland District will not, as a result of the proposed water main extension project, increase its rates for water service to its customers.

3. Provided that construction of the proposed water main extension project commences prior to July 1, 2008, the proposed project is exempt from any requirement to obtain a Certificate.

IT IS THEREFORE ORDERED that:

1. Cumberland District's application is denied as moot.

2. Subject to the filing of a timely petition for rehearing pursuant to KRS 278.400, these proceedings are closed. The Executive Director shall place any future filings in the appropriate utility's general correspondence file or shall docket the filing as a new proceeding.

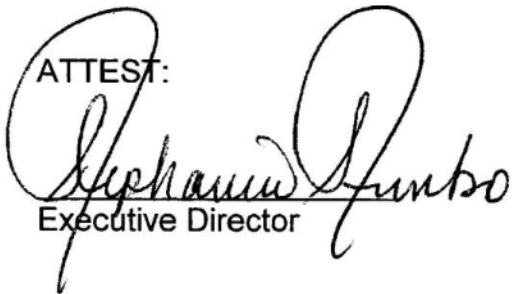
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<sup>5</sup> The provisions of this Act temporarily suspend any statutes that are in conflict with the Act's provisions. The Act expires at the end of the biennium, which is June 30, 2008. See also *Commonwealth Ex Rel. Armstrong v. Collins*, Ky., 709 S.W.2d 437 (1986).

Done at Frankfort, Kentucky, this 30<sup>th</sup> day of June, 2008.

By the Commission

ATTEST:

  
Executive Director