

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF THE BLACK MOUNTAIN)	
UTILITY DISTRICT, OF HARLAN COUNTY,)	
KENTUCKY, FOR APPROVAL OF CON-)	CASE NO. 9838
STRUCTION, FINANCING, AND NEW RATES)	

INTERIM ORDER

Black Mountain Utility District ("Black Mountain") by application filed January 16, 1987, is seeking: (a) approval of its water service rates; (b) authorization to construct a \$435,000 waterworks improvement project, and; (c) approval of its plan of financing for this project. The project funding includes a \$150,000 loan from the Farmers Home Administration ("FmHA"), a \$120,000 Community Development Block Grant (CDBG"), a \$95,000 grant from the Harlan County Fiscal Court, and \$60,000 from applicants for service in the proposed project area. The FmHA loan will be secured by waterworks revenue bonds maturing over a 40-year period at an interest rate of 5 percent per annum.

The proposed construction will provide service to approximately 156 additional customers. Drawings and specifications for the proposed improvements by Flynt Engineering Company, of Knoxville, Tennessee, ("Engineer") and have been approved by the Division of Water of the Natural Resources and Environmental Protection Cabinet.

This Interim Order will address the construction and financing portion of the application. A subsequent Order will address Black Mountain's rate adjustment proposals. In the final Order in this case, the Commission will set rates necessary to provide the utility with an opportunity to recover its reasonable operating cost, service its debt and provide a reasonable surplus for equity growth.

CONTINUITY OF ADEQUATE AND RELIABLE SERVICE

Black Mountain's Engineer has provided information which indicates that reliable and adequate service can be maintained throughout the expanded system after completion of the proposed construction.

However, the engineering data furnished by Black Mountain indicates that after construction the proposed water system will be in violation of two sections of 807 KAR 5:066. First, the hydraulic calculations submitted indicate the potential for several areas to have residual pressure below 30 psig, in violation of regulation 807 KAR 5:066, Section 6(1). Secondly, Black Mountain does not propose to provide any water storage facilities as part of its water system. 807 KAR 5:066, Section 5(4) requires each water utility to provide a minimum of one day's supply of its average daily water usage. Black Mountain must review its water storage situation and take appropriate steps to bring its water system into compliance with Commission regulations.

The Commission reminds Black Mountain of its obligation to provide adequate and reliable service to all of its customers. Black Mountain should monitor the adequacy of the expanded water

distribution system after construction. If this monitoring indicates that the level of service is inadequate or declining, Black Mountain must take necessary actions to maintain the level of service in conformance with the regulations of the Commission.

FIRE HYDRANT INSTALLATION

Black Mountain is proposing to install one new conventional fire hydrant as part of this construction project. This fire hydrant installation is not in compliance with Standard 24 of the National Fire Protection Association as adopted by 815 KAR 10.020 and the "Recommended Standards For Water Works" by the Great Lakes-Upper Mississippi River Board of State Sanitary Engineers as adopted by 401 KAR 6:200.

Black Mountain did not provide any information showing that the fire hydrant is capable of providing fire protection.

The Commission in good conscience cannot approve the installation of a conventional fire hydrant that cannot provide fire protection in compliance with both state regulations and accepted engineering criteria. There are other pieces of water system equipment which can be used for the intended operation and maintenance procedures instead of fire hydrant. The installation of a conventional fire hydrant may mislead the customers of Black Mountain into believing that the water distribution system is capable of providing adequate and reliable volumes of water for fire protection purposes. Under these circumstances the proposed conventional fire hydrant should not be installed.

FINDINGS AND ORDERS

The Commission, after consideration of the evidence of record, and being advised, is of the opinion and finds that:

1. With appropriate monitoring of the system after construction, and the deletion of the conventional fire hydrant, public convenience and necessity require that the construction proposed in the application be performed and that a certificate of public convenience and necessity be granted.

2. Black Mountain should begin immediately to bring its water system into compliance with the requirements of 807 KAR 5:066, Section 5(4) no later than January 1, 1991.

3. The proposed construction consists of approximately 2.8 miles of 8-, 6-, 4- and 3-inch diameter pipelines, and related appurtenances. The low bids received for the proposed construction totaled \$148,990 which will require about \$435,000 after allowances are made for fees, contingencies, and indirect costs.

4. Black Mountain should monitor the adequacy of the expanded water distribution system after construction. If the level of service is inadequate or declining, Black Mountain should take immediate action to maintain the level of service in conformance with the regulations of the Commission.

5. Any deviations from the construction herein approved which could adversely affect service to any customer should be done only with the prior approval of the Commission.

6. Black Mountain should furnish duly verified documentation of the total cost of this project including the cost of construction and all other capitalized costs (engineering, legal,

administrative, etc.) within 60 days of the date that construction is substantially completed. Said construction costs should be classified into appropriate plant accounts in accordance with the Uniform System of Accounts for Water Utilities prescribed by the Commission.

7. Black Mountain's contract with its Engineer should require the provision of full-time resident inspection under the general supervision of a professional engineer with a Kentucky registration in civil or mechanical engineering, to ensure that the construction work is done in accordance with the contract drawings and specifications and in conformance with the best practices of the construction trades involved in the project.

8. Black Mountain should require the Engineer to furnish a copy of the "as-built" drawings and a signed statement that the construction has been satisfactorily completed in accordance with the contract plans and specifications within 60 days of the date of substantial completion of this construction.

9. The financing plan proposed by Black Mountain is for lawful objects within its corporate purposes, is necessary and appropriate for and consistent with the proper performance of its service to the public and will not impair its ability to perform these services. The financing plan is reasonably necessary and appropriate for such purposes and should, therefore, be approved.

10. If under FmHA loan conditions Black Mountain is notified and granted an option to accept a lower interest rate on the date of closing, Black Mountain should file the following with the Commission within 30 days of the date of closing: (1) the FmHA

notification of the lower interest rate and all correspondence from and to FmHA concerning this notification; (2) a statement of the interest rate accepted from FmHA; (3) amended pages to its bond resolution and an amended amortization schedule based on the different interest rate if a different rate is accepted; and, (4) full documentation of why the lower rate was not accepted showing an analysis of the higher costs associated with the loan over the loan's repayment period in the event the option to accept the lower rate is not taken by Black Mountain.

IT IS THEREFORE ORDERED that:

1. Black Mountain be and it hereby is granted a certificate of public convenience and necessity to proceed with the proposed construction project as set forth in the drawings and specifications of record herein on the condition that the system be monitored and corrective action taken in accordance with Findings 1 through 2 and Finding Number 4 of this Order and that the conventional fire hydrant be deleted.

2. Black Mountain's financing plan consisting of an FmHA loan of \$150,000, CDBG grant of \$120,000, Harlan County Fiscal Court grant of \$95,000 and connection fees of \$60,000 is approved.

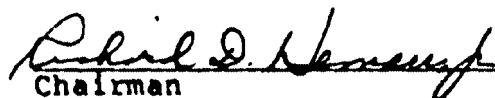
3. Black Mountain shall comply with all matters set out in Findings 4 through 8 and Finding Number 10 as if the same were individually so ordered.

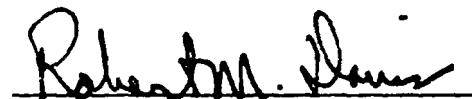
4. In a subsequent Order, the Commission will set rates necessary to provide Black Mountain with an opportunity to recover its reasonable operating cost, service its debt and provide a reasonable surplus for equity growth.

Nothing contained herein shall be deemed a warranty of the Commonwealth of Kentucky, or any agency thereof, of the financing herein authorized.

Done at Frankfort, Kentucky, this 29th day of December, 1987.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director