

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BULLOCK PEN WATER )  
DISTRICT FOR APPROVAL TO ENTER INTO A )  
LEASE AGREEMENT WITH THE BANK OF )  
KENTUCKY, INC. IN A PRINCIPAL AMOUNT NOT )  
TO EXCEED \$860,000.00 FOR THE PURPOSE OF ) CASE NO. 2012-00507  
REFINANCING CERTAIN OUTSTANDING DEBT )  
OBLIGATIONS BETWEEN THE KENTUCKY )  
RURAL WATER FINANCE CORPORATION AND )  
THE BULLOCK PEN WATER DISTRICT )

ORDER

Bullock Pen Water District ("Bullock Pen") has applied to the Commission for authorization to enter into a lease finance agreement with The Bank of Kentucky, Inc. ("Bank").<sup>1</sup>

Having considered the record and being otherwise sufficiently advised, the Commission finds that:

1. Bullock Pen, a water district organized pursuant to KRS Chapter 74, owns and operates facilities that distribute water for compensation to approximately 6,680 customers in the Kentucky counties of Boone, Gallatin, Grant, Pendleton and Kenton.<sup>2</sup>

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<sup>1</sup> Bullock Pen tendered its application on November 26, 2012. In its Application, Bullock Pen sought a deviation "necessary to accommodate any situation where inflexible compliance with a regulation would be impractical or which would hinder the District's daily operation." Its references to the period covered by its financial audit report reflected a recognition that a deviation from 807 KAR 5:001, Section 11(2)(a), was necessary. Considering Bullock Pen's request as a motion to deviate from 807 KAR 5:001, Section 11(2)(a), the Commission authorized Bullock Pen to deviate from 807 KAR 5:001, Section 11(2)(a), and accepted Bullock Pen's application for filing on December 18, 2012. No person or entity has sought intervention in this proceeding.

<sup>2</sup> *Annual Report of Bullock Pen Water District to the Public Service Commission for the Calendar Year Ended December 31, 2011* at 5 and 27.

2. Bullock Pen proposes to execute a Lease Finance Agreement with the Bank under which Bullock Pen will lease to the Bank its facilities and the Bank will sublease those facilities to Bullock Pen. The lease and sublease are for a 10-year period.<sup>3</sup>

3. Upon execution of the Lease Finance Agreement, the Bank will pay to Bullock Pen an amount not to exceed \$860,000 to lease Bullock Pen's facilities.

4. Bullock Pen will make monthly rental payments to the Bank consisting of a principal component and an interest component. The principal component reflects the repayment of the Bank's original payment. The interest component reflects interest payments on the outstanding principal at an interest rate of 2.8 percent per annum.

5. Under the terms of the Lease Finance Agreement, Bullock Pen will transfer this amount to the trustee or paying agent for Bullock Pen Water System Revenue Bonds of 1978 ("1978 Bonds") to retire all outstanding bonds and to Kentucky Rural Water Finance Corporation ("KRWFC") to retire the debt obligation created by an Assistance Agreement with KRWFC that Bullock Pen executed on May 1, 2002 to finance the construction of certain system improvements ("Assistance Agreement").<sup>4</sup>

6. Approximately \$400,000 of the 1978 Bonds are outstanding. Interest on these bonds, which Rural Development holds, accrues at a rate of 5 percent per annum.<sup>5</sup>

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<sup>3</sup> App. ¶ 8; Proposed Lease Finance Agreement, § 6.

<sup>4</sup> Proposed Lease Finance Agreement, § 4.

<sup>5</sup> App. ¶¶ 7-8.

7. As of December 31, 2012, approximately \$535,000 of principal sum borrowed through the Assistance Agreement remained outstanding. The interest rate on the outstanding principal varies from 5.15 percent and 5.45 percent.<sup>6</sup>

8. Bullock Pen estimates that its proposed refinancing will result in total gross savings and net present value savings of \$130,553 and \$82,666, respectively.<sup>7</sup>

9. Bullock Pen will expend \$973,734 to refund the outstanding bonds and to pay bond issuance costs.<sup>8</sup>

10. Bullock Pen's execution of the proposed Lease Finance Agreement is for a lawful object within its corporate purpose, is reasonably necessary and appropriate for and consistent with the proper performance of its service to the public, will not impair Bullock Pen's ability to perform that service, and is reasonably necessary and appropriate for such purpose.

11. The Commission authorized Bullock Pen's execution of the Assistance Agreement with KRWFC in part to finance the construction of Bullock Pen's Phase V Water System Improvement Project. When authorizing Bullock Pen's execution of the Assistance Agreement, the Commission also authorized the assessment of a monthly surcharge to customers within the Phase V Water System Improvement Project to

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<sup>6</sup> *Id.*

<sup>7</sup> App. Ex. 3.

<sup>8</sup> *Id.* \$10,000 (Cost of Issuance) + \$956,980 (Deposit to Current Refunding Fund) + \$6,754 (Rounding) = \$973,734. As a result of the payment from the Lease Finance Agreement (\$860,000) and transfers from Prior Issue Debt Service Funds (\$113,734), \$973,734 will be available to meet these expenditures.

service a portion of the debt obligations created under the Assistance Agreement.<sup>9</sup> Use of the surcharge proceeds was restricted to servicing the obligations created under the Assistance Agreement.<sup>10</sup> Collection of the surcharge was to cease when the portion of the debt obligation related to the Improvement Project had been retired.

12. Upon the execution of the proposed Lease Finance Agreement, the obligations created under the Assistance Agreement will be retired and, pursuant to the terms of the Commission's Order authorizing collection of the surcharge, the surcharge should terminate.

13. Termination of the collection of the surcharge should be stayed for a period of 60 days from the date of the execution of the Lease Finance Agreement to permit Bullock Pen sufficient time to request the assessment of a new surcharge.

IT IS THEREFORE ORDERED that:

1. Bullock Pen is authorized to enter into the proposed Lease Finance Agreement with the Bank to receive a lease payment of no more than \$860,000 for the purpose of retiring its debt obligations under the Assistance Agreement and the 1978 Bonds, but only under such terms and conditions that will produce both positive gross savings and net present value savings.

2. If the actual terms and conditions of the Lease Finance Agreement with the Bank differ from those set forth in Bullock Pen's application, Bullock Pen shall, within 30 days of executing the Lease Finance Agreement, file with the Commission

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<sup>9</sup> Case No. 2002-00015, *Application of the Bullock Pen Water District for a Certificate of Public Convenience and Necessity to Construct and Finance an Improvements Project and to Implement a Surcharge to Its Existing Rates Pursuant to KRS 278.020 and 278.300* (Ky. PSC Mar. 18, 2002) at 4. The Assistance Agreement created a principal debt obligation of \$719,000. Approximately \$377,000 of this obligation, plus application interest, was to be retired through the proceeds of the surcharge.

<sup>10</sup> *Id.*

amortization schedules and work papers showing the actual gross savings and net present value savings that will result from the transaction.

3. Within 30 days of executing the proposed Lease Finance Agreement, Bullock Pen shall file a copy of the executed Lease Finance Agreement, any documents referenced in the executed Lease Finance Agreement that Bullock Pen has not previously filed with the Commission, and evidence that the state local debt officer has approved the Lease Finance Agreement as KRS 65.944 requires.

4. The proceeds from the Lease Finance Agreement shall be used only for the lawful purposes specified in Bullock Pen's application.

5. Bullock Pen shall terminate collection of the Phase V Water System Improvement Project surcharge no later than 60 days from the date of the execution of the Lease Finance Agreement.

6. If Bullock Pen wishes authorization to assess a new surcharge, it shall within 30 days of the date of the execution of the Lease Finance Agreement apply to the Commission for such authorization.

7. Should Bullock Pen file an application for authorization to assess a surcharge:

a. Its application shall include a detailed explanation as to why a surcharge is required and is reasonable, the amount of the surcharge, the expected term of the surcharge, the total amount that the surcharge will produce and a revised tariff sheet that complies with 807 KAR 5:011.

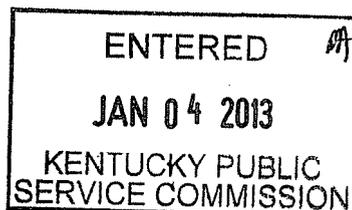
b. Bullock Pen shall provide notice pursuant to 807 KAR 5:011, Section 8, of its application to all customers within the area that the Phase V Water System Improvement Project serves.

8. If Bullock Pen does not apply for authorization to assess a new surcharge, it shall within 90 days of the date of the execution of the Lease Finance Agreement file with the Commission a report on its total surcharge collections, any excess surcharge proceeds remaining after retirement of the debt obligations created by the Assistance Agreement, and the method that it will use to refund such proceeds.

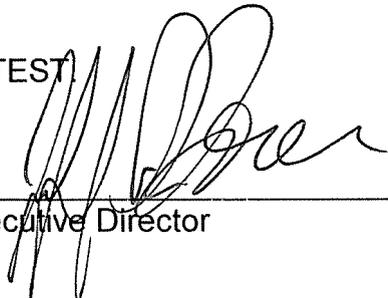
9. Any documents filed pursuant to ordering paragraphs 2, 3, and 8 of this Order shall reference the number of this case and shall be retained in the utility's general correspondence file.

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.

By the Commission



ATTEST

  
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Executive Director

Case No. 2012-00507

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