

**RE: ELECTRONIC APPLICATION OF THE HARRISON COUNTY WATER ASSOCIATION, INC.
REQUEST A DECLARATORY ORDER THAT A FINANCE ORDER IS NOT NECESSARY
AND A CPCN IS NOT NECESSARY, OR ALTERNATIVELY, A CPCN PURSUANT TO KRS
278.020, WITH AN APPROVAL OF FINANCING ORDER, PURSUANT
TO KRS 278.300**

CASE NUMBER 2023-00257

**KENTUCKY PUBLIC SERVICE COMMISSION (KY PSC)
FRANKFORT, KENTUCKY 40601
*Filed electronically, 807 KAR 5:001***

**HCWA, Inc.
Attn: Mr. Nathan Fields
P.O. Box 215
Cynthiana, Kentucky 41031**

**Jesse Melcher Law Office, PLLC
Attn: Mr. Jesse P. Melcher, Esq.
P.O. Box 345
Mount Olivet, Kentucky 41064**

**HCWA RESPONSE TO KY PSC STAFF
NOTICE OF DEFICIENCY, REGARDING HCWA
APPLICATION FOR A DECLARATORY ORDER
THAT A FINANCE ORDER IS NOT NECESSARY
AND A CPCN IS NOT NECESSARY,
OR ALTERNATIVELY, A CPCN PURSUANT TO KRS 278.020,
WITH AN APPROVAL OF FINANCING ORDER, PURSUANT
TO KRS 278.300**

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

**In the Matter of: ELECTRONIC APPLICATION OF
THE HARRISON COUNTY WATER ASSOCIATION, INC.
REQUEST FOR A DECLARATORY ORDER
THAT A FINANCE ORDER IS NOT NECESSARY
AND A CPCN IS NOT NECESSARY,
OR ALTERNATIVELY, A CPCN PURSUANT TO KRS 278.020,
WITH AN APPROVAL OF FINANCING ORDER, PURSUANT
TO KRS 278.300**

CASE NUMBER 2023-00257

**NOTICE OF FILING OF TO CURE DEFICIENCIES OF APPLICATION
HARRISON COUNTY WATER ASSOCIATION, INC.
REQUEST FOR A DECLARATORY ORDER
THAT A FINANCE ORDER IS NOT NECESSARY
AND A CPCN IS NOT NECESSARY,
OR ALTERNATIVELY, A CPCN PURSUANT TO KRS 278.020,
WITH AN APPROVAL OF FINANCING ORDER, PURSUANT
TO KRS 278.300**

Comes now the Harrison County Water Association, Inc., by and through their counsel, Mr. Jesse P. Melcher, Esq., attested to by the President/Chairman of the Board, J. Frank Marsh, and manger, Nathan Fields, and hereby files the following to cure deficiencies of its application for an Declaratory Order that a Finance Order is not necessary pursuant to KRS 278.300 and a CPCN pursuant to KRS 278.020 or alternatively that a Finance Order is approved pursuant to KRS 278.300 and a CPCN is approved pursuant to KRS 278.020, as noted by KY PSC letter dated September 22, 2023, and filed September 22, 2023, as follows:

1. Harrison County Water Association, Inc., provides the following information to satisfy the deficiency under 807 KAR 5:001(14)(2): "If applicant is a corporation, the applicant shall identify in the application the state in which it is incorporated and the date of incorporation; Applicant's Date of Incorporation is not listed."
 - a. Harrison County Water Association, Inc., is a non-profit corporation, existing under the laws of the Commonwealth of Kentucky, wherein, it was incorporated on or about October 24, 1968, under KRS 273, and is in good standing with the Commonwealth of Kentucky Secretary of State, Corporate ID/Organization # 0021969.
 - b. Harrison County Water Association, Inc., provides the following information to satisfy the deficiency under 807 KAR 5:001(18)(1)(a), to provide subparagraph 14 information, as follows: "The information required by Section 14 of this administrative regulation." (807 KAR 5:001).

Law: KRS 278.020, mandates utilities to obtain a CPCN for any construction improvements, outside of exceptions under KRS 278.020(3)(a-b) for Class A & B water associations and districts. KRS 278.300 requires a utility to obtain a finance Order approval for issuance of securities, bonds, obligations of indebtedness for a period over two years. 807 KAR 5:0001(19) authorizes KY PSC to issue a Declaratory Order as to issues that involve KY PSC regulations and oversight of utilities.

KY PSC rulings have interpreted a lease to purchase a vehicle as an obligation that needs KY PSC approval pursuant to KRS 278.300. *See. Electronic Application of Rowan Water for an Alternative Rate Adjustment, 2022-00252; citing the following cases 2018-00038; 92-178;2020-275-2008-00170.*

Concern: HCWA is concerned with proceeding with the projects and execution of the contracts, until Kentucky Public Service Commission Rules on the matter to preclude a later determination that HCWA is non-compliant with KY PSC.

Request: HCWA, states that it is requesting a Declaratory Order that a CPCN (KRS 278.020) is not necessary and that an Order of approval of financing (KRS 278.300) is not needed by HCWA, all pursuant to 807 KAR 5:0001(19), to proceed with (3) three service contracts, for service over a five (5) year period, for rehabilitation of three steel towers owned by HCWA; because, the five year contract is a service contract, and is not an issuance or assumption of securities or evidences of indebtedness, or an assumption of any obligation or liability in respect to the securities of indebtedness of any person. The total cost of the service contracts to be performed over five years, exceeds the statutory exclusion amount for a CPCN as stated in KRS 278.020 (1)(a); and if the service

contract is interpreted to be a financing or evidence of obligations in respect to securities or evidence of indebtedness, then a CPCN would be necessary prior to execution of the agreements and would require an Order of finance approval pursuant to KRS 278.300.

HCWA is aware of KY PSC rulings that have interpreted a lease to purchase a vehicle as an obligation that needs KY PSC approval pursuant to KRS 278.300. *See. Electronic Application of Rowan Water for an Alternative Rate Adjustment, 2022-00252; citing the following cases 2018-00038; 92-178; 2020-275-2008-00170.*

HCWA would assert that no lease is involved, no lien on any property of HCWA will be imposed, and no monies will be received from HCWA; however, the contracts are for services on HCWA property for maintaining HCWA's water towers, over a five year period, and is not analogous to the case facts in Rowan Co. Water ARF, stated above, nor the facts of the cases cited in Rowan Co Water ARF; *Id.*

The work to be performed includes elimination of hazards identified in inspections, complete outside rehabilitation of the shell, sanding the exterior, priming the exterior, epoxy coating (if necessary), and enamel coating paint with five year maintenance guarantee for the three towers as specified in the contracts with the application, for the amounts as stated in the contracts.

Alternatively, if KY PSC does determine that the contracts by their nature, necessitate a finance order approval, pursuant to KRS 278.300, and thereby additionally necessitating a CPCN (KRS 278.300(3)(b)); HCWA would assert that the contracts are for a lawful purpose (routine maintenance of water tank); is necessary to ensure HCWA water distribution system is adequately maintained, functional and operational, now and in the immediate future; said expense will not impair the ability of HCWA to continue to provide palatable water to its customers, and is reasonably necessary and appropriate for all of the stated reasons. *See. KRS 278.300(3).* Further, this request and approval is in the best interest of HCWA and its customers when considering the additional life the towers will be given by the contractual services versus cost of demolition of the same three towers and erection of new towers.

- a. Pursuant to Subparagraph 14(1), it is provided that: The applicant is Harrison County Water Association, Inc.; the mailing address is P.O. Box 215, 433 Sea Biscuit Way, Cynthiana, KY 41031.
- b. Additionally, pursuant to Subparagraph 14(1), it is provided that Harrison County Water Association, Inc., provides the following information to satisfy the deficiency under 807 KAR 5:001(18(1)(b)), as follows: "Description of

applicant's property and the field of its operation" & "Statement of original cost of applicant's property and the cost to applicant, if different."

Harrison County Water Association, Inc.'s (HCWA) Field of Operation is purchasing and re-selling palatable water to almost all residents/customers in Harrison County, Kentucky, and some customers in Bourbon, Nicholas, Pendleton and Scott Counties; wherein, HCWA provides palatable water to residential and commercial customers in five (5) meter classes (i.e. $\frac{3}{4}$, $\frac{3}{4} \times 5/8$, 1 inch, 1 $\frac{1}{2}$ inch, and 2 inch, for a total of over Six Thousand Accounts, across all five meter classes. Harrison County Water Association's water distribution system is composed of ten (10) water towers/stand pipes, nine (9) pump stations, and water mains in size and mileage as stated below.

All information is based upon the work records of a prior accountant, and current auditor, wherein the accountant for HCWA was employed for over 30 years; ending @ October 2021, wherein, the new accountant has inherited the prior accountants records, and the information is based upon those records.

Harrison County Water Association, Inc. has in addition to the water tanks/stand pipes, pumps and maters, mains, has vehicles, meters in use, new meter replacements, and inventory, all of which are stated as following:

- I. Ten (10) Standpipes, Water Towers
 - a. Kelat Tower, Original Cost Basis \$557,197.00
 - b. Switzer Tower, Original Cost Basis \$79,183.00
Additions \$24,203.00 (rehab/repair)
 - c. Alberta Tower, Original Cost Basis \$126,810.00
Additions \$5,258.50 (1/2 of Alberta
Arderly Digital telemetry)
 - d. Lair Tower, Original Cost Basis, \$55,208.00
Additions \$4,289.00 (valve)
Additions \$34,765.00 (digital upgrade)
Additions \$2,152 (electrical upgrade)
 - e. Oddville Tower, Original Cost Basis \$457,209.00
Additions \$8,755.00
 - f. KY 32 Tower, Original Cost Basis \$226,365.00
 - g. Mill Creek Tower, Original Cost Basis \$255,063.00
 - h. Mudlick Water Tower, Original Cost Basis \$78,142.00
Additions \$18,060 (rehab/repair)
 - i. Arderly Tower, Original Cost Basis \$167,476.00
Additions \$5,258.50 (1/2 of Alberta
Arderly Digital telemetry)
 - j. Colemansville Tower, Original Cost Basis \$66,348.00
Additions, \$26,467.00 (rehab/repair)

TOTAL ORIGINAL COST BASIS **DOES NOT INCLUDE** THE NORMAL FIVE YEAR CLEANING/INSPECTION OF THE TOWER EXPENSES, THAT IS USUALLY BETWEEN \$5,000.00 AND \$7,000.00 DOLLARS PER TOWER, PER CLEANING/INSPECTION (OUTSIDE OF EXTRAORDINARY WEAR AND TEAR). This original costs also **do not** include the original cost of the real estate. THE CUMULATIVE ORIGNAL COST VALUE OF ALL REAL ESTATE FOR PUMPS AND TOWERS IS \$32,508.00.

II. Nine (9) Water Pumps

- a. 356-Mason Pump, Original Cost Basis \$82,408.00
Additions, 2 60 hp pumps \$27,800.00
- b. 36-Millcreek Pump, Original Cost Basis \$93,578.00
- c. Connersville Pump, Original Cost Basis \$40,000.00
- d. US 62/US 27 Pump, Original Cost Basis \$38,000.00
- e. US 27 N. Pump, Original Cost Basis \$48,527.00
- f. Republican/KY 392 Pump, Original Cost Basis \$91,513.00
- g. US 62/Oddville Pump, Original Cost Basis \$15,221.00
- h. Millersburg Pump, Original Cost Basis \$282,543.00
- i. Carl Stevens Pump, Original Cost Basis \$13,253.00
- j. Cook Pike Pump, Original Cost Basis \$10,000.00

TOTAL COST BASIS FOR ALL WATER PUMPS DOES NOT HAVE THE INDIVIDUAL ORIGINAL COST OF BASIS VALUES FOR THE REAL ESTATE, THE CUMULATIVE ORIGNAL COST VALUE OF ALL REAL ESTATE FOR PUMPS AND TOWERS IS \$32,508.00.

OFFICE BUILDING, REALTY, AND EQUIPMENT STORAGE/WORKSHOP

III. Office Building, Workshop/Toolroom/Equipment Storage, and Realty, 433 Sea Biscuit Way, Cynthiana, KY 41031

- a. Realty of @ 4 acres, more or less, Cost Basis \$80,000.00
- b. Office Building, Cost Basis \$578,266; office furniture \$44,269.00;
- c. Workshop/Toolroom/Equipment Storage, Cost Basis \$172,367.00
herein.

IV. Vehicles:

- a) 2012 Ford 3500, Original Cost Basis \$17,463.00;
- b) 2016 Ford F-150, Original Cost Basis \$28,087.00;
- c) 2017 Chevy Silverado, Original Cost Basis \$40,090.00;
- d) 2019 Chevy Colorado, Original Cost Basis \$29,690.00;

- e) 2018 Chevy Silverado 1500, Original Cost Basis \$26,988.00;
- f) 2019 Ford F-150, Original Cost Basis \$21,990.00;
- g) 2021 Chevy Silverado 3500, Original Cost Basis \$40,890.00;
- h) 2022 Chevy Silverado 1500 HI, Original Cost Basis \$28,490;
- i) 2022 Chevy Colorado, Original Cost Basis \$31,990.00;
- j) 2023 Chevy Silverado 1500, Original Cost Basis \$46,391.00;

V. Equipment:

a) 2020 Gator Made/Goosneck Dump Trailer	\$12,995.00;
b) 1996 Generator (Winco) 100kw	\$15,900.00
c) 2017 Dixie Chopper Blackhawk	\$6,344.00
d) 2000 16ft Trailer & Ramps	\$645.00
e) 2005 Kubota L39	\$33,318.00
f) 2007 John Deer Backhoe	\$63,200.00
g) 2005 GVW axle trailer	\$3,869.00
h) Scata Telemetry and Improvements	\$146,015.00
Addition	\$4,282.00
Addition	\$18,962.00
i) 2009 Air Compressor	\$10,070.00

VI. Distribution Mains:

Harrison County Water Association, Inc. has the following size and miles of distribution mains:

- i) 10" @ 1.5 miles
- ii) 8" @ 11.2 miles
- iii) 6" @ 188.7 miles
- iv) 4" @ 100.1 miles
- v) 3" @ 7.9 miles

HCWA can not specify an exact original cost of each line, but cumulative value of the all distribution main lines is \$16,116,531.00

VII. Meters/Valves/Hydrants

Customer meters: The Original cost of meter read meters for all customer meters in @ 2010 to 2014, was \$1,000,000.00; which was a total grant through Bluegrass Area Development and KIA with total meter replacement original cost of \$987,239.00; with meter replacement costs in 2015 of \$20,513.00; replacement costs in 2016 of \$12,079.00; replacement costs in 2017 of \$16,347.00; replacement costs in 2021 of \$62,719.00; replacement cost in 2022 of \$45,135.00.

Master meters: HCWA has 18 master meters, with a total estimated original cost of \$187,358.00

Valves: HCWA has 1474, valves with a total estimated original cost is part of the cumulative value of the distribution main as stated above.

Hydrants: HCWA has 378 hydrants for flushing, with a total original cost of \$164,968.00.

VIII. Inventory:

Harrison County Water Association, Inc. has miscellaneous inventory, with a total value of \$120,376.20 Specific items are listed in the attached itemization of inventory prepared in January 2023. This inventory has fluctuated since January 2023, but is an approximate estimate of the inventory and values as of date of filing herein. *See Exhibit "3", January 2023 inventory itemization.*

IX. BANK DEPOSITS/INVESTMENTS

HCWA maintains C.D.'s, investments, and bank deposits, all as itemized on the statement of financial activities for August 2023, which as of that statement cumulative value was \$2,055,688.68. *See Attached Statement of Financial Position, Exhibit "4".*

Further, this statement of applicant's property does not include miscellaneous tools and accessories in and/on the employees work trucks (trucks as stated).

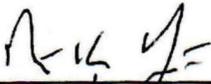
- c. Harrison County Water Association, Inc., provides the following information to satisfy the deficiency under 807 KAR 5:001(12)(2)(g): "Other Indebtedness: Description of Each Class, How Secured, Description of Any Assumption of Indebtedness by Outside Party (i.e., any transfer), Interest Paid in Last Fiscal Year, Detailed Income Statement and Balance Sheet."
 - A. Harrison County Water Association, Inc. only has two debt obligations, i.e. 1) a loan from USDA in 2010 in the original amount of \$885,000.00 at 3% interest, which encumbered all water towers, and all pump stations, for forty (40) years; 2) a loan from USDA in 2017 for Kelat Tower property only, original loan amount of \$469,000.00 at 2.5 % interest for forty (40) years. Both loans were for water system improvements, that would have also implemented USDA grants as part

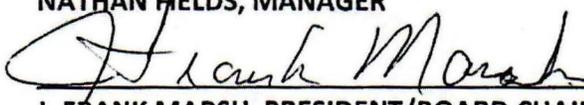
of the loan project. Both mortgages were filed of record in Harrison County Water Association's current rate adjustment case. *See. Case No. 2023-00154, filing, Exhibits: Exhibit_8a-Amortization.pdf; Exhibit - 8a_Annual_Statement_of_Loan_Account.pdf; Exhibit_8a_Mtg.pdf; Exhibit_8a_Promissory_Note.pdf; Exhibit_-8b-Amortization.pdf; Exhibit_8b_Promissory_Note.pdf; Exhibit_8b_Annual_Statement_of_Loan_Account.pdf; Exhibit_8b_Mtg.pdf; filed May 12, 2023.*

- B. Harrison County Water Association, Inc., operates on a yearly (Jan-Dec) fiscal period, wherein, the annual payments for both loans are due in October of each year, and all loan payments are current, and the outstanding balances for both are noted on the amortization schedule of both loans, as attached hereto, identified as Exhibit "1", Loan Balance Statements, December 2022.
- C. The principal amount paid for both loans in 2022 was \$24,585.55, and the interest on both loans paid in 2022 was \$33,447.56. The amortization for both mortgages were filed of record in Harrison County Water Association's current rate adjustment case.
- D. The most recent statement of activities and statement of financial activities, for Harrison County Water Association, Inc., for the month of August, 2023, showing/illustrating income and balance sheet for the month of August 2023, and for the period of January 2023 to August 2023 (year to date), is attached hereto, and fully incorporated herein. See Exhibit "2" and Exhibit "4", "August 2023 statement of financial activities".

CERTIFICATION/VERIFICATION OF RESPONSES
AND INFORMATION

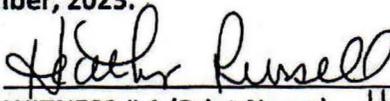
We, J. Frank Marsh, President/Board Chairman, and Nathan Fields, Manager, for the Harrison County Water Association, Inc., hereby certify that we have read over the foregoing information being submitted to the Kentucky Public Service Commission, and that all averments and statements herein are true and accurate to the best of our knowledge and belief.



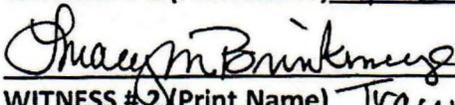
NATHAN FIELDS, MANAGER


J. FRANK MARSH, PRESIDENT/BOARD CHAIRMAN

We, Heather Russell (print name) and Tracy Brinkmeyer (print name) as two witnesses, state that Nathan Fields, and J. Frank Marsh, did in our presence execute their signatures, and affirm and acknowledge their certification to the Kentucky Public Service Commission, concerning Harrison County Water Association Inc.'s, first response to requests for information, for the rate adjustment case of 2023-0154, this the _____ day of September, 2023.



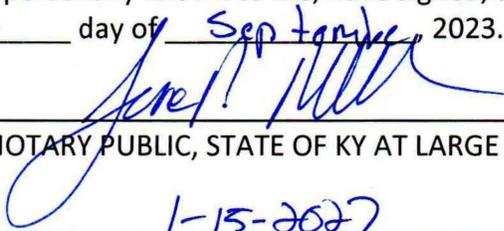
WITNESS # 1 (Print Name) Heather Russell



WITNESS # 2 (Print Name) Tracy Brinkmeyer

COMMONWEALTH OF KENTUCKY
COUNTY OF Harrison

I, JESSE P. MELCHER, being a Notary Public in the State of Kentucky at Large, do hereby state that J. Frank Marsh, President of the Harrison County Water Association, Inc. and Nathan Fields, manager, who are both personally known to me, have signed, sworn, and acknowledged before me this the 29th day of September, 2023.



NOTARY PUBLIC, STATE OF KY AT LARGE
1-15-2027

MY COMMISSION EXPIRES:
NOTARY ID: 2421164030

Respectfully submitted,

s/ MR. JESSE P. MELCHER, ESQ.
HARRISON COUNTY WATER ASSOCIATION, INC.
ATTORNEY
JESSE MELCHER LAW OFFICE, PLLC
MR. JESSE P. MELCHER, ESQ.
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