

RE: ELECTRONIC APPLICATION OF THE HARRISON COUNTY WATER ASSOCIATION, INC. REQUEST FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NEED (CPCN) FOR A SYSTEM IMPROVEMENT THAT MAY BE DETERMINED TO REQUIRE APPROVAL DUE TO THE CONTRACT SET UP FOR DEFERRED COSTS COULD BE AKIN TO FINANCING AND REQUIRE KY PSC APPROVAL, BOTH PURSUANT TO KRS 278.020 AND/OR 278.300, OR ALTERNATIVELY A DECLARATORY ORDER ESTABLISHING THAT A CERTIFICATE OF PUBLIC CONVENIENCE AND NEED (CPCN) IS NOT NECESSARY PURSUANT TO 807 KAR 5:001(15), 807 KAR 5:001 (18) &/OR 501 KAR 5:001(19).

CASE NUMBER 2023- 00257

**KENTUCKY PUBLIC SERVICE COMMISSION (KPSC)
FRANKFORT, KENTUCKY 40601
Filed electronically and hard copy to KPSC
807 KAR 5:001**

**Applicant, pursuant to 807 KAR 5 :001(14)
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**

INDEX/TABLE OF CONTENTS

**A. PAGE ONE (1)DISTRIBUTION LIST &
INDEX/TABLE OF CONTENTS**

B. PAGE TWO TO THREE (2-3).....APPLICATION INFORMATION
 i.Project Information-Rehab Three (3) Towers
 ii.Contractual Provisions

C. PAGE FOUR (4).....CERTIFICATION SIGNATURES

**D. Appendices/Attachments.....Three (3) proposed contract
For the steel towers.**

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of: ELECTRONIC APPLICATION OF THE HARRISON COUNTY WATER ASSOCIATION, INC. REQUEST FOR A CERTIFICATE OF PUBLIC NEED AND CONVENIENCE FOR A SYSTEM IMPROVEMENT THAT MAY BE DETERMINED TO REQUIRE APPROVAL BY KENTUCKY PUBLIC SERVICE, PURSUANT TO KRS 278.020 AND KRS 278.030, DUE TO THE CONTRACT THAT HAS INITIAL REHABILITATION COSTS DEFERRED OVER A FIVE YEAR PERIOD, COULD BE AKIN TO FINANCING AND REQUIRE KY PSC APPROVAL, BOTH PURSUANT TO KRS 278.020 AND/OR KRS 278.300 and 807 KAR 5:001(15) AND/OR 807 KAR 5:001(18), OR ALTERNATIVELY A DECLARATORY ORDER ESTABLISHING THAT A CERTIFICATE OF PUBLIC NEED AND CONVENIENCE IS NOT NECESSARY PURSUANT TO 807 KAR 5:001(19).

CASE NUMBER 2023- 00257

Comes now the Harrison County Water Association, Inc., (HCWA) by and through their president of the board of directors, Mr. J. Frank Marsh, and the manager, Mr. Nathan Fields, and through counsel, Mr. Jesse P. Melcher, Esq. and hereby requests an Order approving a certificate of convenience and necessity (CPCN) for a collective system improvements of three (3) steel towers, for a total five year contract for all three of \$524,335.00, and approval of a financing Order for the contractual terms, or alternatively an Declaratory Order stating that the CPCN and Finance Order are not necessary. As grounds for this request, the Harrison County Water Association, Inc. (HCWA), does hereby establish as follows:

- A. HCWA has been presented with three contract proposals for rehabilitation of the towers known as 1) Mudlick, 2) Colmansville, and 3) Switzer Pike.
- B. HCWA out of abundance of caution and due to lack of clarity as to whether a contract for water tower rehabilitation and continued maintenance over five (5) years that defers the primary rehabilitation cost over five (5) years is akin to a lease to own (vehicles) or deferred financing, that would require Kentucky Public Service Commission approval, pursuant to KRS 278.300 and would be over the \$500,000 exemption under KRS 278.020(1)(a)(3)(b), requiring a CPCN, or whether the contracts do not require Kentucky Public Service Commission approval, by declaratory Order, pursuant to 807 KAR 5:001(15) &/OR (19).
- C. HCWA believes it has the cash reserves to make this contract without any formal financing.
- D. HCWA currently has an alternative rate adjustment pending before the Kentucky Public Service Commission. *See. Case 2023-00154.* HCWA in that case has submitted updated general ledger accounts from January 1, 2023 to May 2023, which demonstrate cash reserves. *See. Excel-(1a)-2023_General_Ledger.xlsx*

- E. HCWA, has been presented with contracts with Utility Srv. Co. Inc., for rehabilitation of three steel tanks, i.e. (1, Mudlick, built 1979, 2, Switzer, built 1979, and 3, Colmansville, built 1976), including interior cleaning and repair, and exterior painting preparation, including, various methods of sanding, priming, epoxy, and painting, welding and repairs of needed items, with continued maintenance.
- F. The tanks have a mortgage from 2010 on it and the entire distribution system except Kelat Tower (has its own mortgage) the mortgages and amortization schedules were filed with the Alternative Rate filing case in 2023-0154, currently pending before the Kentucky Public Service Commission. *See*.
Exhibit_15_USDA_Loans_Payment_Schedule.xls.
- G. The nature of the contract is structured so that the total estimated costs of rehabilitation for the three (3) steel towers, is 1) Mudlick, \$49,548.00 for each of the first five years, and \$8,301.00, for each additional year thereafter; 2) Colmansville, \$28,404.00 for each of the first five years, and \$8,177.00 for each year thereafter; 3) Switzer Pike, \$26,919.00 for each of the first five years, and \$8,603, for each year thereafter; however, the contract is structured so that if the contract is cancelled prior to the end of five years, the full five years must be paid to USG Water Solutions, to compensate for the initial rehabilitation.
- H. HCWA, out of concern of interpretation of these contracts and deferred payments over five (5) years is akin to financing and/or lease to own vehicles, which KY PSC has determined to necessitate financing approval pursuant to KRS 278.300; wherein, it is requested that KY PSC approve this application to obtain a CPCN pursuant to KRS 278.020 and Order of financing pursuant to KRS 278.300 and 807 KAR 5:0001(15) and (18), or grant a declaratory Order pursuant to 807 KAR 5:001(19), that a CPCN is not needed to eliminate any questions as to the authority to proceed with this system improvement project.
- I. The Contracts in question for each tower are attached hereto for reference and review, as appendices.
- J. The Contracts call for all three towers be to rehabilitated within the first year, and within three (3) years to rehabilitate the interiors, with the five year contract to also include normal wear and tear rehabilitation and identification.
- K. HCWA out of concern of interpretation of these contracts being akin to leases to own vehicles, which KY PSC has determined to necessitate financing approval pursuant to KRS 278.300, HCWA files this application and request. HCWA will not receive any cash proceeds or monies from these contracts.
- L. HCWA is a corporation existing under the laws of the Commonwealth of Kentucky and is in good standing.

CERTIFICATION

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 request for a Certificate of Public Convenience and Necessity (CPCN) and financing approval if necessary or alternatively a declaratory judgment that the a CPCN and financing Order are not necessary, 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.

[Signature]
NATHAN FIELDS, MANAGER

[Signature]
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 its application, concerning HCWA's request for a CPCN and financing order or a declaratory order not requiring a CPCN and financing order, this the 24th day of July, 2023.

[Signature]
WITNESS # 1 (Print Name) Heather Russell

[Signature]
WITNESS # 2 (Print Name) Tracy M. Brinkmeyer

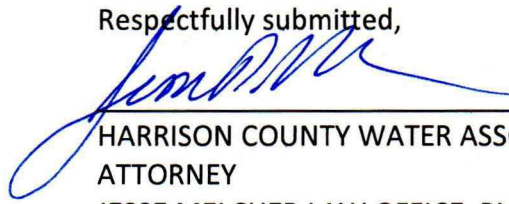
COMMONWEALTH OF KENTUCKY
COUNTY OF Harrison

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 24th day of July, 2023

[Signature]
NOTARY PUBLIC, STATE OF KY AT LARGE

1-15-2027
MY COMMISSION EXPIRES:
NOTARY ID: WYMP11330

Respectfully submitted,



HARRISON COUNTY WATER ASSOCIATION, INC.

ATTORNEY

JESSE MELCHER LAW OFFICE, PLLC

MR. JESSE P. MELCHER, ESQ.

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