

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF JESSAMINE-SOUTH ELKHORN)
WATER DISTRICT TO MODIFY THE)
COMMISSION'S ORDER OF FEBRUARY 25, 2008) CASE NO. 2010-00100
IN CASE NO. 2008-00036 TO REFLECT)
MODIFICATIONS IN FINANCING AGREEMENT)
WITH RURAL DEVELOPMENT)

ORDER

On February 25, 2008, the Commission issued an Order in Case No. 2008-00036¹ which, *inter alia*, granted a Certificate of Public Convenience and Necessity to Jessamine-South Elkhorn Water District ("Jessamine-South Elkhorn District") to construct a sewer collection system in northern Jessamine County, Kentucky, whose total estimated cost was \$6,064,000, and authorized a new schedule of rates for sanitary sewer service. We acted pursuant to KRS 278.023, which requires us to accept agreements between water utilities and the U.S. Department of Agriculture and to issue the necessary orders to implement the terms of such agreements within 30 days of satisfactory completion of the minimum filing requirements.

On March 1, 2010, Jessamine-South Elkhorn District moved to modify the Order of February 25, 2008 to reflect changes in its agreement with Rural Development ("RD"), an agency of the U.S. Department of Agriculture. More specifically, RD modified

¹ Case No. 2008-00036, *The Petition of Jessamine-South Elkhorn Water District for Approval of Federally Funded Sanitary Sewer Project for North Jessamine County Pursuant to KRS 278.023 and 807 KAR 5:069 and for Approval of Initial Rates in Conjunction Therewith* (Ky. PSC Feb. 25, 2008).

its agreement with Jessamine-South Elkhorn District to reflect increased costs of construction² and to provide that Jessamine-South Elkhorn District would borrow \$1,512,000 from RD and would issue revenue bonds to RD as evidence of that loan.³

² As originally presented to the Commission, the total estimated cost of the proposed project was \$6,064,000. The individual components of this cost were:

Development	\$ 5,011,079
Land and Rights	4,000
Legal and Administrative	167,000
Engineering	478,800
Interest	152,600
Contingencies	<u>250,521</u>
Total	\$ 6,064,000

According to the letter of conditions that RD issued on August 3, 2009, the estimated cost of the proposed project was revised as follows:

Development	\$ 5,420,000
Land and Rights	4,000
Legal and Administrative	167,000
Engineering	540,000
Interest	204,206
Contingencies	<u>250,521</u>
Total	<u>\$ 6,585,727</u>

³ Under the terms of the latest letter of conditions, total sources of funding for the proposed project are:

RD Loan	\$ 1,512,000
RD Grant	1,223,027
HUD-CDBG	1,000,000
EPA Grant	<u>2,850,700</u>
Total	<u>\$ 6,585,727</u>

These funding sources reflect an additional \$240,000 that the water district will borrow from RD and an increase of \$281,727 in a grant that RD will provide. For an earlier statement of funding sources, see Case No. 2008-00036, Order of February 25, 2008 at 1.

The modifications to the agreement do not require revisions to the previously approved rates for sanitary sewer service.

Although the Commission noted the terms of the financing component in our Order of February 25, 2008, we took no action on the proposed financing plan as the water district did not request such approval. We interpret the water district's current request, which includes a request for modification of our Order to address the issuance of \$1,512,000 of revenue bonds, as a request for approval of the proposed plan of financing.

As KRS 278.023 provides no discretion on the Commission's part to independently review and weigh these modifications and as it further directs us to "issue . . . such orders as may be required to implement the terms of the agreement [between a water district and RD]," we find that Jessamine-South Elkhorn District's application must be granted and that the project's proposed plan of financing, to include the issuance of a larger amount of revenue bonds, must be approved.

IT IS THEREFORE ORDERED that:

1. The record of Case No. 2008-00036 is incorporated by reference into the record of this proceeding.
2. Jessamine-South Elkhorn District's Motion to Amend Order is granted.
3. Jessamine-South Elkhorn District's proposed plan of financing is approved.
4. Jessamine-South Elkhorn District is authorized to issue \$1,512,000 in revenue bonds to RD.

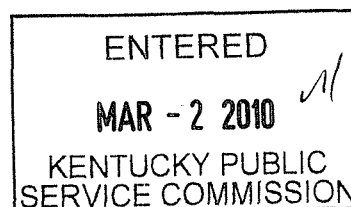
5. Jessamine-South Elkhorn District shall use the proceeds of the revenue bond issuance solely for the purpose of financing the sewer collection facilities for which the Commission issued a certificate of public convenience and necessity in Case No. 2008-00036.

6. Notwithstanding Ordering Paragraph 5, if surplus funds remain after the approved construction has been completed, Jessamine-South Elkhorn District may use such surplus to construct additional plant facility if RD approves of the use, and the additional construction will not result in a change in Jessamine-South Elkhorn District's rates for sewer service. Jessamine-South Elkhorn District shall provide the Commission with written notice of this additional construction in accordance with 807 KAR 5:069, Section 3.

7. All provisions of the Commission's Order of February 25, 2008 that are not in conflict with this Order shall remain in full force and effect.

Nothing contained in this Order shall be deemed a warranty of the Commonwealth, or any agency thereof, of the financing accepted herein.

By the Commission



ATTEST

Executive Director

Diana Clark
Office Manager
Jessamine-South Elkhorn Water District (Water
P. O. Box 731
Nicholasville, KY 40340-0731

Honorable Bruce E Smith
Attorney At Law
Moynahan, Irvin & Smith, P.S.C.
110 North Main Street
Nicholasville, KY 40356