

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE  
COMMISSION

In the Matter of:

APPLICATION OF BREATHITT COUNTY WATER )  
DISTRICT OF BREATHITT COUNTY, KENTUCKY )  
FOR AUTHORIZATION TO ENTER LOAN ) CASE NO. 2010-00042  
AGREEMENT WITH KENTUCKY )  
INFRASTRUCTURE AUTHORITY )

MOTION TO FILE AN AMENDED APPLICATION AND FOR  
A DEVIATION FROM 807 KAR 5:001, SECTIONS 6 AND 9

Breathitt County Water District ("Breathitt District") moves for leave to file an Amended Application and to deviate from the requirements of 807 KAR 5:001, Sections 6 and 9 to allow the acceptance of its annual report for calendar year ending December 31, 2008 ("Annual Report") as its Financial Exhibit.

In support of its motion, Breathitt District states:

1. On February 1, 2010, Breathitt District applied to the Public Service Commission for a Certificate of Public Convenience and Necessity to construct the KY 30 West Waterline Extension – a water main extension project consisting of 8.7 miles of various sized water lines ranging in sizes from 8-inch to 4-inch and which is expected to serve approximately 79 customers – and for authority to enter an Assistance Agreement with the Kentucky Infrastructure Authority ("KIA") to borrow \$572,000.

2. Construction of the water main extension project for which a Certificate of Public Convenience and Necessity was sought was completed on December 31, 2009.

3. As the Commission has previously held no Certificate of Public Convenience and Necessity may be granted for facilities already constructed,<sup>1</sup> that portion of Breathitt District's Application requesting a Certificate is moot and no longer requires Commission review.

4. Those portions of Breathitt District's application relating to its proposed Assistance Agreement with KIA still require Public Service Commission approval.

5. Breathitt District has prepared and attached to this Motion an Amended Application to reflect the elimination of its request for a Certificate of Public Convenience and Necessity.

6. 807 KAR 5:001, Section 11(2)(a), requires Breathitt District to file a Financial Exhibit with its Application. 807 KAR 5:001 Section 6, requires that the Financial Exhibit cover operations for a twelve (12) month period that ends not more ninety (90) days prior to the date the Application is filed.

7. Breathitt District's Annual Report has been filed with the Public Service Commission, is incorporated by reference into its Amended Application, and may be considered as Breathitt District's Financial Exhibit.

8. The Annual Report does not cover a period ending no more than 90 days prior to the filing of the Amended Application.

9. As Public Service Commission authorization to enter the Assistance Agreement and actual execution of the Assistance Agreement must occur no later than February 17, 2010 and as preparation of a financial exhibit would require considerable work and time, Breathitt District does not have sufficient time to prepare a financial

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<sup>1</sup> *Boone County Water and Sewer District*, Case No. 92-532 (Ky. P.S.C. Dec. 9, 1993); *Southern Madison Water District*, Case No. 90-305 (Ky. P.S.C. Nov. 1, 1991).

exhibit covering a period ending no more than 90 days prior to the filing of the Amended Application.

10. Good cause exists to grant a deviation from the requirements of 807 KAR 5:001, Sections 6 and 9, to permit the use of the Annual Report as Breathitt District's Financial Exhibit since

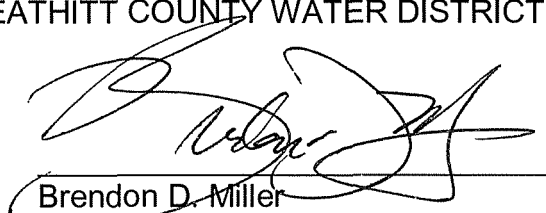
a. No material change has occurred in Breathitt District's financial condition since December 31, 2008.

b. The Amended Application contains sufficient information to permit the Public Service Commission to render a decision regarding Breathitt District's Application.

c. The potential benefits of the proposed transaction outweigh the risks inherent in any delay necessary to prepare a more current financial exhibit.

BREATHITT COUNTY WATER DISTRICT

By:



Brendon D. Miller  
Breathitt County Attorney  
Counsel for Applicant  
1149 Main Street  
Jackson, Kentucky 41339  
(606) 666-4400