

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

ORDER

Breathitt County Water District (“Breathitt District”) has applied for authorization to enter an Assistance Agreement with the Kentucky Infrastructure Authority (“KIA”) to borrow \$572,000 to finance the costs of a water main extension project.¹ Having considered the application and being otherwise sufficiently advised, the Commission finds that:

1. Breathitt District, a water district created pursuant to KRS Chapter 74, owns and operates facilities used to distribute water to approximately 516 customers in the unincorporated areas of Breathitt County, Kentucky.²

¹ Breathitt District tendered its Application on February 1, 2010. This application included a request for a Certificate of Public Convenience and Necessity to construct the KY 30 West Waterline Extension Project. On February 10, 2010, it moved to amend its Application to reflect the withdrawal of its request for a Certificate and to deviate from certain filing requirements. On February 12, 2010, the Commission granted this motion and accepted the water district’s Amended Application for filing.

² Annual Report of Breathitt County Water District to the Kentucky Public Service Commission for the Calendar Year Ending December 31, 2008 at 5 and 21.

2. Breathitt District proposes to enter an Assistance Agreement with the KIA to borrow \$572,000. Under the terms of this Agreement, approximately 54.1 percent of the principal amount, or \$309,452, will be forgiven. Applicant will incur total loan indebtedness of \$262,548 that will be paid over a 20-year period at an interest rate of 1 percent per annum. The loan involves funding made available as a result of the American Recovery and Reinvestment Act of 2009 and is subject to the provisions set forth in that law.

3. Breathitt District intends to use the proceeds of the proposed Assistance Agreement to pay the construction costs of the KY 30 West Waterline Extension Project, which consists of 8.7 miles of various-sized water lines ranging in size from 8-inch to 4-inch and which will serve approximately 79 customers. Construction on the proposed project was completed on December 31, 2009.³

4. The Project will provide water service to an area which no water supplier currently serves.

5. The Project will not compete with the service of any existing water supplier and will not conflict with the existing certificate or service of other public utilities operating in the same area or in the general area in which Breathitt District renders service.

³ Breathitt District constructed the facilities without obtaining a Certificate of Public Convenience and Necessity. In its original application, the water district applied for a Certificate. Noting past decisions in which the Commission found that the issuance of a Certificate for constructed facilities was not appropriate or lawful, see, e.g., Case No. 1992-00532, *Boone County Water and Sewer District* (Ky. P.S.C. Dec. 9, 1993); Case No. 1990-00305, *Southern Madison Water District* (Ky. P.S.C. Nov. 1, 1991), Breathitt District subsequently amended its application to delete its request for a Certificate.

6. The proposed loan will not result in an increase in Breathitt District's existing rates for water service.

7. The proposed loan agreement is for a lawful object within Breathitt District's corporate purposes, is necessary and appropriate for and consistent with Applicant's proper performance of its service to the public and will not impair its ability to perform that service, and is reasonably necessary and appropriate for such purpose.

8. As Breathitt District receives any principal forgiveness, the total amount of which is 54.1 percent of the principal amount, or \$309,452, it should debit the appropriate Long Term-Debt Account for the amount of the principal forgiveness and make a corresponding credit entry to Account 271 - Contributions in Aid of Construction.

IT IS THEREFORE ORDERED that:

1. Breathitt District is authorized to enter the proposed Assistance Agreement with KIA to borrow \$572,000, 54.1 percent of the principal to be forgiven over the life of the loan and the remaining portion to be repaid over a 20-year period at an interest rate of 1 percent per annum.

2. Within 30 days of the execution of the Assistance Agreement, Breathitt District shall file a copy of the executed agreement with the Commission.

3. Breathitt District shall use the proceeds of the proposed Assistance Agreement with KIA only for the purposes set forth in its Amended Application.

4. As Breathitt District receives any principal forgiveness, the total amount of which is 54.1 percent of the principal amount, or \$309,452, it shall debit the appropriate

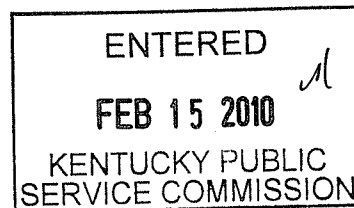
Long Term-Debt Account for the amount of the principal forgiveness and make a corresponding credit entry to Account 271 - Contributions in Aid of Construction.

5. Within 30 days of the date of this Order, Breathitt District shall file with the Commission a copy of the "as built" drawings for the KY 30 West Waterline Extension Project.

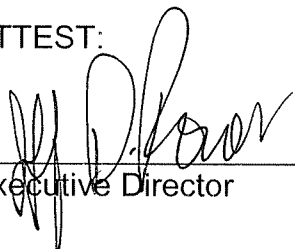
6. Any documents filed pursuant to Ordering Paragraphs 2 or 5 shall reference this case number and shall be retained in the utility's general correspondence file.

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:



Executive Director

Honorable Brendon D Miller
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