

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF SOUTHERN	)	CASE NO.
WATER & SEWER DISTRICT FOR APPROVAL	)	2020-00366
FINANCING PURSUANT TO KRS 278.300	)	

ORDER

On January 19, 2021, Southern Water and Sewer District (Southern District), filed an application seeking Commission authority to enter into two loan agreements with Co-Bank to borrow approximately \$2,400,000. The proceeds of these loans will be used to refinance two outstanding debt obligations to the United States Department of Agriculture, Rural Development (RD), and one outstanding loan with Peoples Bank, and corresponding issuance costs. Two rounds of discovery requests were issued. There are no intervenors in this case, and the matter is submitted to the Commission for a decision based upon the evidentiary record.

BACKGROUND

Southern District, a water district organized pursuant to KRS Chapter 74, owns and operates facilities that provide retail water service to 5,529 customers, and wholesale water service to two customers in Floyd and Knott counties, Kentucky.<sup>1</sup>

Southern District proposes to execute the first Co-Bank Loan to borrow \$200,000.<sup>2</sup> The proposed loan will have a 48-month term subject to an interest rate of approximately

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<sup>1</sup> *Annual Report of Southern Water and Sewer District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2019* (2019 Annual Report) at 12 and 49.

<sup>2</sup> Application at 2, paragraph 6.

2.75 percent per annum.<sup>3</sup> Southern District proposes to issue a second Co-Bank loan to borrow \$2,200,000.<sup>4</sup> The proposed loan will have a 240-month term subject to an interest rate of approximately 3.5 percent per annum.<sup>5</sup> Southern District proposes to use the proceeds from the Co-Bank Loans to refinance three outstanding notes. The first note, is a line of credit from Peoples Bank with a current principal amount of \$187,364.<sup>6</sup> The remaining two notes are bond issuances owed to RD, with original principal amounts of \$2,515,000, and \$225,000.<sup>7</sup>

Southern District estimates that it will expend approximately \$5,000 in issuance costs to refund the prior loans.<sup>8</sup> Southern District provided a debt service comparison indicating that the refinancing would generate a total interest savings of \$394,292<sup>9</sup> over the life of the proposed loans, resulting in a positive net present value (NPV) savings of \$10,390 and \$220,429, respectively.<sup>10</sup>

An Informal Conference (IC) in this matter was held on March 17, 2021. At the IC, Southern District confirmed that the People's Bank note for which it seeks replacement financing originated as a line of credit with Peoples Bank's predecessor, First

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<sup>3</sup> *Id.*, Exhibit A.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Southern District's Response to Commission Staff's First Request for Information (Staff's First Request) (filed Feb. 24, 2021), Item 1.b., Exhibit 1(b)2(b).

<sup>7</sup> 2019 Annual Report at 42.

<sup>8</sup> Southern District's Response to Staff's First Request (filed Feb. 24, 2021), Item 3.

<sup>9</sup> *Id.*, Item 1.b., Exhibit 1(b)2(b).

<sup>10</sup> Southern District's Supplemental Response to Staff's First Request (filed Mar. 23, 2021), Item 1.b., Attachments NPV\_1.pdf at 1, and NPV\_2.pdf at 7.

Commonwealth Bank.<sup>11</sup> Southern District indicated the line of credit was converted into a loan in May 2020. Following the IC, Staff issued its Second Request for Information (Staff's Second Request) and asked Southern District to file into the record of this proceeding a statement from Peoples Bank confirming the date the line of credit was initially issued to Southern District, a copy of the signed loan documents for the loan that replaced the line of credit, and copies of the agendas and minutes from every regularly scheduled and special meeting of Southern District's board of commissioners for the past 24 months.<sup>12</sup>

On March 29, 2021, Southern District filed a response to Staff's Second Request (Response to Staff's Second Request) wherein Southern District states that Peoples Bank was unable to locate the original documents relating to the line of credit established with Peoples Bank's predecessor. Southern District also states in this response that its current board members and counsel for the district have no personal knowledge with which to respond to Staff's request because none of the current board members or counsel for Southern District were associated with Southern District at the time the line of credit was initially obtained.<sup>13</sup> Included in its Response to Staff's Second Request, Southern District filed a commercial promissory note renewal from Peoples Bank that has a note date of March 24, 2021 (March 24, 2021 Renewal). The March 24, 2021 Renewal is signed by Steven G. Dawson, the current treasurer for Southern District's board of commissioners; it lists a principal amount of \$187,364.57 and a nine month loan term with

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<sup>11</sup> Intra-Agency Memorandum (filed Apr. 5, 2021).

<sup>12</sup> Staff's Second Request (filed Mar. 23, 2021).

<sup>13</sup> Response to Staff's Second Request (filed Mar. 29, 2021).

a maturity date of December 24, 2021.<sup>14</sup> A paragraph entitled “Renewal” appears on the first page of the March 24, 2021 Renewal and indicates this note is a renewal and extension of a note dated January 8, 2020, in the principal amount of \$225,788.30.<sup>15</sup>

Further, on March 29, 2021, Southern District filed an email communication from Tyler Crum, assistant vice president of Peoples Bank, to counsel for Southern District, wherein Assistant Vice President Crum states he is unaware of when the line of credit originated because the line of credit was from a different institution that has now been acquired by Peoples Bank.<sup>16</sup> Finally, on March 29, 2021, Southern District filed a commercial promissory note from Peoples Bank with a loan date of January 8, 2020 (January 8, 2020 Renewal).<sup>17</sup> The January 8, 2020 Renewal is signed by Jeff Prater, the current chairperson of Southern District’s board of commissioners.<sup>18</sup> The January 8, 2020 Renewal lists a principal amount of \$225,788.30, and a maturity date of December 24, 2020.<sup>19</sup> A paragraph entitled “Prior Note” appears on page two of the January 8, 2020 Renewal and states that this note is issued as a continuation of a promissory note dated July 15, 2019, in the principal amount of \$230,773.37.<sup>20</sup>

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<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> Southern District’s Supplemental Response to Staff’s Second Request (filed Mar. 29, 2021). The Commission notes that Southern District filed two supplemental responses to Staff’s Second Request on March 29, 2021, and entitled each of them “Supplemental Response.” The email communication was the first of these supplemental responses to be filed.

<sup>17</sup> Southern District’s Supplemental Response to Staff’s Second Request (filed Mar. 29, 2021). The Commission notes that this is the second of the two supplemental responses that were filed on March 29, 2021.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

On April 1, 2021, Southern District filed a Second Supplemental Response to Staff's Second Request, which consisted of a governmental certificate and resolution of Southern District indicating that on February 14, 2003, Southern District applied for a \$1,000,000 loan with First Guaranty Bank of Martin, Kentucky (First Guaranty). The certificate is certified and attested by Hubert Halbert, chairperson of Southern District, and Robert Meyer, US Filter project manager.<sup>21</sup> The certificate is signed by each commissioner serving on Southern District's board of commissioners at the time.<sup>22</sup> The resolution of Southern District is dated February 14, 2003, and sets forth Southern District's board of commissioners' authorization to borrow an amount not to exceed \$1,000,000 from First Guaranty for a term not to exceed one year. The resolution is signed by Hubert Halbert, chairperson of Southern District, and Paula Johnson, secretary of Southern District.<sup>23</sup> The resolution explains that Southern District was seeking to borrow money from First Guarantee in order to pay contractors who were working on an expansion and improvement project to its distribution system in southern Floyd County. Part of the funding for that project was to come from Floyd County Coal Severance Funds.<sup>24</sup> However, the resolution mentions "time constraints that the District has encountered with state agencies in obtaining Floyd County Coal Severance Funds"<sup>25</sup> and

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<sup>21</sup> Southern District's Second Supplemental Response to Staff's Second Request (filed Apr. 1, 2021) at 2.

<sup>22</sup> *Id.* at 1.

<sup>23</sup> *Id.* at 4.

<sup>24</sup> *Id.* at 3.

<sup>25</sup> *Id.*

states that Southern District needs to secure interim financing in order to make timely payments to various contractors.<sup>26</sup>

On April 7, 2021, Southern District filed another Supplemental Response to Staff's Second Request that consisted of a promissory note from First Guaranty with a loan date of May 24, 2011, a maturity date of May 24, 2012, and listing a principal amount of \$300,000 (May 24, 2011 Note). The May 24, 2011 Note indicates that it evidences a straight line of credit, and is secured by a mortgage dated May 24, 2011, to First Guaranty on real property located in Floyd County, Kentucky, and inventory, chattel paper, accounts, equipment, and general intangibles described in a commercial security agreement dated May 24, 2011.<sup>27</sup> The May 24, 2011 Note is signed by Paula Johnson, who was the chairperson of Southern District's board of commissioners at the time, and Bert Layne, who served as treasurer of Southern District's board at the time.<sup>28</sup>

Despite an express request from Staff and having the assistance of counsel, Southern District did not provide documentation of the origin of the Peoples Bank note for which Southern District seeks approval of replacement financing. Instead, Southern District filed bits and pieces of evidence of indebtedness, some dating back more than eighteen years. It appears to the Commission as if Southern District was initially trying to document the history of the Peoples Bank note by filing the renewals of that note, essentially working its way backward in time. However, not only did Southern District fail

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<sup>26</sup> *Id.*

<sup>27</sup> Southern District's Supplemental Response to Staff's Second Request (filed Apr. 7, 2021) at 1. The Commission notes that Southern District did not include the mortgage or the commercial security agreement as part of its supplemental response.

<sup>28</sup> *Id.* at 2.

to trace this indebtedness back to its origin, it failed to even provide all of the renewals of this indebtedness executed by Southern District's current board of commissioners.<sup>29</sup> The January 8, 2020 Renewal indicates that it is a continuation of a prior note dated July 15, 2019.<sup>30</sup> The Commission notes that four of the five current members of Southern District's board of commissioners were serving on the board at the time the July 15, 2019 note was issued,<sup>31</sup> yet Southern District did not file a copy of it in any of its responses to Staff's Second Request. The Commission notes that Southern District employs an accounting firm to assist it with bookkeeping matters. The Commission expects Southern District and any professionals it employs to keep complete and accurate financial records. Obviously Southern District is failing to do this or it would not have had such difficulty responding to Staff's request for such basic documentation.

#### REQUIREMENTS OF KRS 278.300

Pursuant to KRS 278.300, public utilities in Kentucky must obtain Commission approval before issuing any securities or evidence of indebtedness.<sup>32</sup> There is an exception to this requirement for notes issued by a utility, for a proper purpose, that are

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<sup>29</sup> Case No. 2018-00230, *Electronic Application of Southern Water and Sewer District for an Alternative Rate Adjustment* (filed Feb. 8, 2019), Post-Case Reference Correspondence. On February 8, 2019, the Commission received a letter dated February 5, 2019, from the Floyd County Judge Executive informing the Commission that Brian Hunter, Rick Roberts, Jeff Prater, Donny Daniels, and Steve Dawson had been appointed to Southern District's board of commissioners. The Commission notes that with the exception of Brian Hunter, who was replaced by Bob Shepherd on February 19, 2021, all of these individuals continue to serve on Southern District's board of commissioners.

<sup>30</sup> Southern District's Supplemental Response to Staff's Second Request (filed Mar. 29, 2021). The Commission notes that this is the second of the two supplemental responses that were filed on March 29, 2021.

<sup>31</sup> Case No. 2018-00230, *Electronic Application of Southern Water and Sewer District* (filed Feb. 8, 2019), Post-Case Correspondence.

<sup>32</sup> KRS 278.300(1).

payable in periods of not more than two years.<sup>33</sup> Notes meeting this requirement may be renewed for additional periods of not more than two years as long as the aggregate number of years from the date of issue of the original note is not more than six years.<sup>34</sup>

Southern District has a history of issuing evidence of indebtedness without prior Commission approval. In Case No. 2018-00230, the Commission discovered two loans payable to First Guaranty for which Southern District did not obtain Commission approval.<sup>35</sup> Additionally, the Commission established Case No. 2019-00084, to conduct a formal investigation into the operation and management of Southern District by its manager at the time, Dean Hall (Mr. Hall).<sup>36</sup> During Case No. 2018-00230, Staff discovered that, in his capacity as manager for Southern District, Mr. Hall executed a 2015 loan promissory note and a change-in-terms agreement for that note in 2017 that appeared to have violated KRS 278.300.<sup>37</sup> The Commission has also chastised Southern District for its lack of candor with the Commission and its failure to properly provide documentation.<sup>38</sup>

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<sup>33</sup> KRS 278.300(8).

<sup>34</sup> *Id.*

<sup>35</sup> Case No. 2018-00230, *Electronic Application of Southern Water and Sewer District*, (Ky. PSC Oct. 24, 2018) Staff Report at 4 and 13–14, (Ky. PSC Nov. 15, 2018) Order.

<sup>36</sup> Case No. 2019-00084, *Electronic Investigation into Southern Water and Sewer District Manager Dean Hall Alleged Failure to Comply with KRS 278.160, KRS 278.170, KRS 278.300, 807 KAR 5:066, and 807 KAR 5:095*, (Ky. PSC Mar. 11, 2019). Mr. Hall resigned his position with Southern District on May 2, 2019, and by Order issued on May 6, 2019, the Commission dismissed the case without prejudice.

<sup>37</sup> *Id.* at 13–14.

<sup>38</sup> Case No. 2018-00230, *Electronic Application of Southern Water and Sewer District* (Ky. PSC Jan. 31, 2019), Order at 4.



## ANALYSIS

The Commission notes that the current members of the board of commissioners of Southern District are not the same individuals who served on the board at the time the events discussed above took place.<sup>39</sup> However, for the reasons explained below, the Commission remains greatly concerned about the financial management of Southern District. Additionally, the Commission is concerned about the difficulty Southern District has in producing even rudimentary documentation to support its requests despite its having the assistance of counsel. The Commission reminds Southern District's board of commissioners that they are responsible for ensuring that the utility complies with all applicable statutes and regulations. Failure to do so subjects the utility and the individual commissioners to the penalties set forth in KRS 278.990.

A search of the Commission's records reveals that at least since 2002, the only loan to be approved by the Commission from First Guaranty to Southern District was a \$167,739 loan for the purchase of an office building authorized in Case No. 2007-00099.<sup>40</sup> However, the annual reports filed with the Commission by Southern District have consistently listed notes payable to First Guaranty and its successor institutions that carry balances from year to year. An examination of the annual reports filed by Southern

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<sup>39</sup> Case No. 2018-00230, *Southern Water and Sewer District*, (Ky. PSC Jan. 31, 2019) Post- Case Reference Correspondence. On February 8, 2019, the Commission received a letter dated February 6, 2019, from Strobo Barkley, PLLC notifying the Commission of the resignation of Southern District's board of commissioners. Individual resignation letters were attached. Also on February 8, 2019, the Commission received a letter dated February 5, 2019, from the Floyd County Judge Executive informing the Commission that Brian Hunter, Rick Roberts, Jeff Prater, Donny Daniels, and Steve Dawson had been appointed to Southern District's board of commissioners. The Commission notes that with the exception of Brian Hunter, who was replaced by Bob Shepherd on February 19, 2021, all of these individuals continue to serve on Southern District's board of commissioners.

<sup>40</sup> Case No. 2007-00099, *Application of Southern Water and Sewer District for Authority to Borrow funds for Property Acquisition*, (Ky. PSC May 9, 2007).

District for the years 2007 through 2009 reveals that for each of these years Southern District reported it had five notes payable to First Guaranty.<sup>41</sup> In 2010, Southern District reported it had six notes payable to First Guaranty, including for the first time, a note with a nominal date of issue of September 12, 2007, with a “demand” maturity date and a principal amount of \$250,000.<sup>42</sup> This note continues to appear on Southern District’s annual reports up through and including the most recently filed annual report for 2019,<sup>43</sup> and appears to be the indebtedness for which Southern District seeks replacement financing.

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<sup>41</sup> *Annual Report of Southern Water and Sewer District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2007* at 41; *Annual Report of Southern Water and Sewer District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2008* at 42; *Annual Report of Southern Water and Sewer District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2009* at 42.

<sup>42</sup> *Annual Report of Southern Water and Sewer District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2010* at 42.

<sup>43</sup> *Id.*, *Annual Report of Southern Water and Sewer District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2011* at 42. *Annual Report of Southern Water and Sewer District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2012* at 42. *Annual Report of Southern Water and Sewer District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2013* at 47. *Annual Report of Southern Water and Sewer District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2014* at 47. *Annual Report of Southern Water and Sewer District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2015* at 47. *Annual Report of Southern Water and Sewer District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2016* at 42. *Annual Report of Southern Water and Sewer District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2017* at 42. The Commission notes that in 2017 and 2018, this note is listed as payable to First Commonwealth Bank (First Commonwealth). *Annual Report of Southern Water and Sewer District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2018* at 43. *Annual Report of Southern Water and Sewer District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2019* at 43. The Commission notes that in 2019 this note is listed as payable to Peoples Bank.

From 2011 through 2016, Southern District reported having four or five notes each year payable to First Guaranty.<sup>44</sup> In 2017 and 2018, Southern District lists two notes payable to First Commonwealth, and two notes payable to Citizens National Bank (Citizens National).<sup>45</sup> In 2019, Southern District lists one note payable to Citizens National, one note payable to “CTB,” and the aforementioned note with a nominal date of issue of September 12, 2007, payable to Peoples Bank.<sup>46</sup> It is the Commission’s understanding that First Commonwealth and First Guaranty were acquired by Peoples Bank.

According to the limited documentation provided by Southern District, it appears the first act the current board of commissioners took in relation to this long-standing, unapproved indebtedness was when it issued the July 15, 2019 promissory note referenced in the January 8, 2020 Renewal.<sup>47</sup> On July 15, 2019, this debt had been outstanding since September 12, 2007, a period of over 11 years. This is greatly in excess of the aggregate of six years allowed for evidences of indebtedness payable in

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<sup>44</sup> *Annual Report of Southern Water and Sewer District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2011 at 42. Annual Report of Southern Water and Sewer District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2012 at 42. Annual Report of Southern Water and Sewer District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2013 at 47. Annual Report of Southern Water and Sewer District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2014 at 47. Annual Report of Southern Water and Sewer District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2015 at 47. Annual Report of Southern Water and Sewer District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2016 at 42.*

<sup>45</sup> *Annual Report of Southern Water and Sewer District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2017 at 42. Annual Report of Southern Water and Sewer District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2018 at 43.*

<sup>46</sup> *Annual Report of Southern Water and Sewer District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2019 at 43.*

<sup>47</sup> Southern District’s Supplemental Response to Staff’s Second Request (filed Mar. 29, 2021).

not more than two years permitted by KRS 278.300(8). Additionally, the current leadership of Southern District admit they have no personal knowledge of the origin of this indebtedness.<sup>48</sup> Before entering into a renewal of this note by executing yet another promissory note, the current board of commissioners should have sought the Commission's approval. They did not. Following this July 15, 2019 decision to re-issue this evidence of indebtedness without prior Commission approval, Southern District's leadership went on to re-issue this evidence of indebtedness on two additional occasions without seeking the Commission's approval.<sup>49</sup> Although the term of each re-issue was shorter than the two-year term provided for in the statute, the leadership of Southern District was aware this debt had existed for longer than six years. They chose to continue Southern District's practice of issuing evidence of indebtedness without prior Commission approval.

The members of Southern District's current board of commissioners are all well aware of the statutory obligation to seek Commission approval before encumbering a public utility with debt. The Commission's records reflect that, with the exception of newly appointed commissioner Bob Shepherd, all members of Southern District's board of commissioners are receiving the enhanced \$6,000 annual salary provided for in KRS 74.020(6) for having completed an additional six hours of water district management training each year they have served as a commissioner for Southern District.<sup>50</sup> Among

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<sup>48</sup> Response to Staff's Second Request (filed Mar. 29, 2021).

<sup>49</sup> Southern District's Supplemental Response to Staff's Second Request, January 8, 2020 Renewal (filed Mar. 29, 2021), Response to Staff's Second Request, March 24, 2021 Renewal (filed Mar. 29, 2021).

<sup>50</sup> The Commission's records reflect that Donnie Daniels and Steve Dawson attended training on December 3, 2019, and October 20, 2020. The Commission's records also reflect that Bishop Newsome, Jeff Prater, and Rick Roberts attended training on October 8, 2019, and October 20, 2020. According to

other things, that training instructs water district commissioners on their obligation under KRS 278.300 to seek Commission approval before issuing evidence of indebtedness on behalf of a public utility. The Commission is aware that the current leadership of Southern District is burdened with the consequences of actions taken by its predecessors. However, the decision to issue the promissory note without prior approval of the Commission was a decision of the current board of commissioners for Southern District, not a prior act of others over which it had no control. The Commission acknowledges Southern District appears to have been obligated to repay this debt and seeking Commission approval would likely not have altered that fact. However, the statutory requirement for public utilities to seek Commission approval before issuing evidence of indebtedness was applicable to this situation and the leadership of Southern District had knowledge of that.

The Commission is also concerned about Southern District's lack of candor with Staff. Only a week following the IC, Southern District executed the March 24, 2021 Renewal.<sup>51</sup> The Commission cannot conceive why Southern District did not bring it to Staff's attention that it planned on, or needed to, re-issue this debt with the bank that currently holds the note prior to entering into the financing agreement that is the subject of this proceeding. The Commission notes that Southern District is represented by counsel and employs an accounting firm to assist it with recordkeeping. It is beyond the Commission's understanding why Southern District has failed to provide adequate

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information submitted to the Commission by Southern District and stored in the Commission's Utility Master Search, all Southern District Commissioners besides Bob Shepherd are paid \$6,000 a year by the district. Mr. Shepherd was appointed in February 2021 and is currently paid \$3,600 a year.

<sup>51</sup> Intra-Agency Memorandum (filed Apr. 5, 2021).

documentation of the origin of the indebtedness it wishes to refinance when it is paying professionals to assist it in doing so.

Despite Southern District's inability to provide the information requested, the Commission has reviewed the proposed refinancing and finds Southern District's proposal to be reasonable due to the lower effective interest rate and cash flow savings Southern District would realize over the period of the loan. Although, if the new interest rate on the proposed refinancing is higher than the range of interest rates set forth in the application, Southern District should not proceed with the refinancing unless the NPV of the refinancing results in positive cash flow.

After consideration of the evidence of record and being sufficiently advised, the Commission finds that:

1. The proposed Co-Bank loans are for lawful objects within the corporate purposes of Southern District, are necessary and appropriate for and consistent with the proper performance by the utility of its service to the public, will not impair its ability to perform that service, are reasonable, necessary, and appropriate for such purposes, and should be approved.

2. Southern District should execute its note as security for the proposed loan in the manner described in its application.

3. The Commission directs Southern District to the Commission's March 16, 2020 and March 24, 2020 Orders in Case No. 2020-00085<sup>52</sup> regarding filings with the

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<sup>52</sup> Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC Mar. 16, 2020), Order at 5–6. Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC Mar. 24, 2020), Order at 1–3.

Commission. The Commission expects the original documents to be filed with the Commission within 30 days of the lifting of the current state of emergency.

4. The final amounts of the legal fees and the closing costs of the Co-Bank loans will not be known until the refinancing transaction is finalized. Therefore, Southern District should provide the Commission an updated version the debt service schedule, reflecting the cash flow analysis of the new Co-Bank loans within ten days of finalizing the transaction.

5. Within ten days of the execution of the new Co-Bank loan documents, Southern District should file with the Commission one copy in paper medium and an electronic version of the loan documents.

6. The proceeds from the proposed loan should be used only for the lawful purposes set out in Southern District's application.

7. The terms and conditions of the Co-Bank loans should be consistent with the loan proposal as described in Southern District's application.<sup>53</sup>

IT IS THEREFORE ORDERED that:

1. Southern District is authorized to enter into the two Co-Bank loans to borrow no more than the total amount to pay off the indebtedness proposed to be refinanced as identified in the application on the condition that the final NPV of the savings, determined upon closing, generate positive cash flow. The loan maturity date and interest rate shall be in accordance with the Terms and Conditions as described in Southern District's application.

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<sup>53</sup> Application, Exhibit A.

2. Southern District shall execute the Co-Bank loan documents as authorized herein.

3. Southern District shall comply with all matters set out in finding paragraphs 3 through 7 as if they were individually so ordered.

4. Any documents filed in the future pursuant to finding paragraphs 4 and 5 shall reference this case number and shall be retained in the post-case correspondence file.

5. This case is closed and will be removed from the Commission's docket.

Nothing contained herein shall be deemed a warranty or finding of value of securities or financing authorized herein on the part of the Commonwealth of Kentucky or any agency thereof.



By the Commission

ENTERED  
APR 23 2021 rcs  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

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