

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF JESSAMINE-	)	
SOUTH ELKHORN WATER DISTRICT FOR	)	
APPROVAL TO ENTER INTO A LEASE	)	
AGREEMENT WITH THE KENTUCKY	)	
ASSOCIATION OF COUNTIES LEASING TRUST IN	)	CASE NO.
AN APPROXIMATE PRINCIPAL AMOUNT OF	)	2020-00382
\$2,515,000 FOR THE PURPOSE OF	)	
REFINANCING ALL OUTSTANDING	)	
OBLIGATIONS OF THE JESSAMINE-SOUTH	)	
ELKHORN WATER DISTRICT	)	

ORDER

On December 1, 2020, Jessamine-South Elkhorn Water District (Jessamine-South Elkhorn District) filed an application seeking Commission authority to refinance certain debt of up to \$2,515,000 via a Lease Agreement (KACOFC Lease) with the Kentucky Association of Counties Finance Corporation (KACOFC). There are no Intervenor in this case, and the matter is submitted to the Commission for a decision based upon the evidentiary record.

The Commission notes that in its past five annual reports filed with the Commission, Jessamine-South Elkhorn District reported a water loss that has increased each year from 6.61 percent to 13.26 percent in its most recent annual report. Commission regulation 807 KAR 5:066(6)(3) states that for ratemaking purposes a utility's water loss shall not exceed 15 percent of total water produced and purchased, excluding water consumed by a utility in its own operations. The Commission is placing greater emphasis on monitoring utilities that consistently exceed the 15 percent water loss

threshold and strongly encourages Jessamine-South Elkhorn District to pursue reasonable actions to prevent water loss in excess of 15 percent.

In addition, the Commission notes that Jessamine-South Elkhorn District has not sought a general adjustment in base rates since 1990. An examination of finances outlined in the annual and audit reports filed with the Commission finds that when accounting for both the water and sewer divisions of Jessamine-South Elkhorn District, the utility has been operating with a negative net income for all of the past five years. A key general recommendation that resulted from the investigation by the Commission in Case No. 2019-00041,<sup>1</sup> was that water districts with sustained excessive water loss should monitor the sufficiency of their base rates closely and, in general, apply for base rate adjustments on a more frequent basis.<sup>2</sup> The Commission also noted the troubling practice of water utilities to file for rate increases as part of a Lease process to fund capital projects and use those rate increases obtained to avoid filing a comprehensive rate adjustment with the Commission.<sup>3</sup> Jessamine-South Elkhorn District's unaccounted for water loss has increased from 6.61 percent in 2011<sup>4</sup> to 13.26 percent in 2019.<sup>5</sup> The lack of insight into Jessamine-South Elkhorn District's financial records, coupled with the fact that Jessamine-South Elkhorn District has increasing water loss over the past eight years

---

<sup>1</sup> Case No. 2019-00041, *Electronic Investigation into Excessive Water Loss by Kentucky's Jurisdictional Water Utilities* (Ky. PSC. Nov. 22, 2019).

<sup>2</sup> See generally, *Id.*

<sup>3</sup> *Id.*, Appendix L, Confronting the Problems Plaguing Kentucky's Water Utilities at ii.

<sup>4</sup> *Annual Report of Jessamine-South Elkhorn Water District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar year Ended December 31, 2011* at 57.

<sup>5</sup> *Annual Report of Jessamine-South Elkhorn Water District to the Public Service Commission of the Commonwealth of Kentucky for the Calendar year Ended December 31, 2019* at 57.

indicates to the Commission that Jessamine-South Elkhorn District should file an application for a traditional adjustment in rates or an alternative rate adjustment within one year of the date of filing of this Order to ensure its financial situation is sufficient to combat excessive water loss.

Jessamine-South Elkhorn District intends to use the proceeds from the proposed KACOFD Lease to refinance and discharge \$2,515,000 of outstanding indebtedness to the U.S. Department of Agriculture, acting through Rural Development (RD) as well as Kentucky Rural Water Finance Corporation (KRWFC). The outstanding RD balance consists of two fixed-rate debts with remaining principal of \$673,000 carrying an interest rate of 4.250 percent per annum and \$470,000 carrying an interest rate of 4.375 percent per annum, respectively.<sup>6</sup> The outstanding KRWFC balance consists of one variable-rate debt with the outstanding principal amount of \$1,300,000 carrying interest rates between 3.000 and 4.000 percent per annum. The total refinancing amount is \$2,515,000 that is comprised of one lease agreement with a 29-year term funded by bonds that will be issued at interest rates that will vary between 2.250 percent and 3.000 percent per annum.<sup>7</sup>

Jessamine-South Elkhorn District stated that the KACOFD Lease would provide the funds necessary to refund the RD and KRWFC indebtedness and pay the fees and expenses incident to the issuance of the Lease.<sup>8</sup> Jessamine-South Elkhorn District provided a cash flow analysis that indicates that the refinancing would save \$325,485

---

<sup>6</sup> Application, Exhibit C.

<sup>7</sup> Supplement to Jessamine-South Elkhorn Water District's Response to Staff's First Data Request (filed Jan. 27, 2021).

<sup>8</sup> Application, paragraph 7.

over the life of the proposed Lease, resulting in a positive net present value (NPV) cash flow of \$266.668.<sup>9</sup>

The Commission has reviewed the proposed refinancing and finds Jessamine-South Elkhorn District's proposal to be reasonable due to the lower effective interest rate and cash flow savings Jessamine-South Elkhorn District would realize over the period of the KACOFC Lease. However, in the event that the new interest rate on the proposed refinancing is higher than the range of interest rates set forth in the application, Jessamine-South Elkhorn District should not proceed with the refinancing unless the NPV of the refinancing results in positive cash flow.

The Commission is concerned with Jessamine-South Elkhorn District's prolonged absence from the Commission's review of its asset management through an application for adjustment of its rates and its steadily increasing water loss. Therefore, the Commission finds that Jessamine-South Elkhorn District's proposal should file an application for adjustment of its base rates through a traditional or an alternative rate filing within one year of the date of filing of this Order.

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

1. The proposed Lease from KACOFC is for lawful objects within the corporate purposes of Jessamine-South Elkhorn District, is 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; is reasonable, necessary, and appropriate for such purposes; and should be approved.

---

<sup>9</sup> *Id.*, Exhibit C.

2. Jessamine-South Elkhorn District should execute its note as security for the proposed Lease in the manner described in its application.

3. The final amounts of the RD and KRWFC payoff, the legal fees, and the new KACOFC Lease will not be known until the refinancing transaction is finalized. Therefore, Jessamine-South Elkhorn District should provide the Commission an updated version of the application, Exhibit A, reflecting the cash flow analysis of the new KACOFC Lease within ten days of finalizing the transaction.

4. Within ten days of the execution of the new KACOFC Lease documents, Jessamine-South Elkhorn District should file with the Commission one copy in paper medium and an electronic version of the Lease documents.

5. The proceeds from the proposed Lease should be used only for the lawful purposes set out in Jessamine-South Elkhorn District's application.

6. The terms and conditions of the new KACOFC Lease should be consistent with the KACOFC Lease Agreement as described in Jessamine-South Elkhorn District's application.

7. Jessamine-South Elkhorn District should file for an adjustment in base rates or file for an alternative rate filing within one year of the date of filing of this Order to ensure that its rates are sufficient.

IT IS THEREFORE ORDERED that:

1. Jessamine-South Elkhorn District is authorized to borrow from KACOFC an amount up to \$2,515,000, but no more than the total amount needed to pay off the RD indebtedness proposed to be refinanced in the application and on the condition that the final NPV of the savings, determined upon closing, generate positive cash flow. The

Lease maturity date and interest rate shall be in accordance with the KACOFC Lease Agreement as described in Jessamine-South Elkhorn District's application.

2. Jessamine-South Elkhorn District shall execute the KACOFC Lease documents as authorized herein.

3. Jessamine-South Elkhorn District shall comply with all matters set out in the findings paragraphs 3 through 7 above as if they were individually ordered.

4. Any documents filed in the future pursuant to the findings paragraphs 3 and 4 above shall reference this case number and shall be retained in the post-case correspondence file.

5. Jessamine-South Elkhorn District shall file for an adjustment in base rates or file for an alternative rate filing within one year of the date of the filing of this Order to ensure that its rates are sufficient.

6. This case is closed and 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



ATTEST:

  
Executive Director

\*Daniel Briscoe, Jr  
Dinsmore & Shohl, LLP  
101 South Fifth Street  
Suite 2500  
Louisville, KENTUCKY 40202

\*Jessamine-South Elkhorn Water District  
802 S Main Street  
P. O. Box 731  
Nicholasville, KY 40356