

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF THE BUTLER)	
COUNTY WATER SYSTEM, INC. TO ISSUE)	
SECURITIES IN THE APPROXIMATE PRINCIPAL)	
AMOUNT OF \$840,000 FOR THE PURPOSE OF)	CASE NO.
REFUNDING CERTAIN OUTSTANDING)	2021-00016
OBLIGATIONS OF THE ASSOCIATION)	
PURSUANT TO THE PROVISIONS OF)	
KRS 278.300 AND 807 KAR 5:001)	

ORDER

On January 28, 2021, Butler County Water System, Inc. (Butler County Water), pursuant to KRS 278.300 and 807 KAR 5:001, filed an application seeking Commission authority to enter into a loan agreement (Loan) with Kentucky Rural Water Finance Corporation (KRWFC) to borrow approximately \$840,000 (subject to an adjustment of up to 10 percent). The proceeds of which will be used to refinance two outstanding debt obligations of Butler County Water, and to pay the costs of issuance of the Loan. There are no intervenors in this case, and the matter is submitted to the Commission for a decision based upon the evidentiary record.

Butler County Water, a water association organized pursuant to KRS 278.012, owns and operates facilities that provide retail water service to 4,576 residential customers in Butler County, Kentucky.¹

¹ *Annual Report of Butler County Water System 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.

The Commission notes that its records reflect that Butler County Water has not sought a general adjustment in rates by any other means than through financing approval or in conjunction with an application for a Certificate of Public Convenience and Necessity since 2003.² An examination of finances outlined in the annual and audit reports filed with the Commission reveals that Butler County Water has been operating with a positive net income for all the past five calendar years.³ A key general recommendation that resulted from the investigation by the Commission in Case No. 2019-00041⁴ 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.⁵ While this statement was made in the context of Case No. 2019-00041, which involved water utilities that were under examination due to high water loss, the theory that a closer examination of a water district's finances with regard to the sufficiency of rates by the Commission still applies in this instance. Although Butler County Water has increased its rates as part of financing cases through the United States Department of Agriculture Rural Development (RD),⁶ the Commission's review of records in a RD

² Case No. 2003-00486, *Application of Butler County Water System, Inc. for a General Rate Adjustment Pursuant to the Provisions of KRS 278.030 and 807 KAR 5:001* (Ky. PSC Jan. 12, 2005).

³ Butler County Water's Comprehensive Net Income for the calendar years 2015 through 2019 was \$70,690, \$29,536, \$30,045, \$8,637, and \$109,392, respectively.

⁴ Case No. 2019-00041, *Electronic Investigation into Excessive Water Loss by Kentucky's Jurisdictional Water Utilities* (Ky. PSC Nov. 22, 2019).

⁵ See generally, *id.*

⁶ Case No. 2014-00353, *Application of Butler County Water System, Inc. (1) for a Certificate of Public Convenience and Necessity Authorizing Said System to Construct Major Improvements and Additions to Its Existing Municipal Water Treatment System Financed by Rural Economic and Community Development Service (Formally Farmers Home Administration) Pursuant to the Provisions of KRS 278.023 of the Kentucky Revised Statutes; and (2) Seeking Approval of the Issuance of Certain Securities, and (3) Approval of Water Rates* (Ky. PSC Oct. 27, 2014), and Case No. 2018-00048, *Electronic Application of Butler County Water System, Inc. (1) for a Certificate of Public Convenience and Necessity Authorizing Said System to Construct Major Improvements and Additions to Its Existing*

financing case is limited and very different from the comprehensive review of a utility's total financial stability and operational viability that takes place in a traditional rate adjustment case or an alternative rate adjustment. Thus, the Commission recently noted that utilities intentionally use this practice to avoid a review of its financial records.⁷ Based on the foregoing, Butler County Water should file an application for a traditional adjustment in rates or an alternative rate adjustment within three years of the date of filing of this Order or, in the alternative, file a formal motion with a detailed analysis of its rates and state the reasons why no rate modifications are necessary.

The Commission notes that, in its 2019 Annual Report, Butler County Water reported a water loss of 20.8541 percent.⁸ Commission regulation 807 KAR 5:066(6)(3) states that for ratemaking purposes, a utility's water loss shall not exceed 15 percent of the total water produced and purchased, excluding water consumed by a utility in its own operations. Reduction of Butler County Water's water loss to 15 percent would result in an annual decrease of approximately \$12,230.67⁹ to its purchased water expense.

Municipal Water Treatment System Financed by Rural Economic and Community Development Service (Formally Farmers Home Administration) Pursuant to The Provisions of KRS 278.023 of The Kentucky Revised Statutes; and (2) Seeking Approval of The Issuance of Certain Securities, and (3) Approval of Water Rates (Ky. PSC Mar. 1, 2018).

⁷ See generally, Case No. 2019-00041, *Electronic Investigation into Excessive Water Loss by Kentucky's Jurisdictional Water Utilities* (Ky. PSC. Nov. 22, 2019).

⁸ 2019 Annual Report at 57.

⁹

Purchased Power for Pumping	\$ 129,834.83
Chemicals	<u>79,090.00</u>
Cost of Water	208,924.83
Times Water Loss Above 15 Prcnt	<u>5.85%</u>
Expense Reduction to Cost of Water	<u><u>\$ 12,230.67</u></u>

Potentially, Butler County Water is paying \$0.04 per 1,000 gallons sold, for expenses associated with water loss greater than 15 percent.¹⁰

The Commission is placing greater emphasis on monitoring utilities that consistently exceed the 15 percent water loss threshold and strongly encourages Butler County Water to pursue reasonable actions to reduce its water loss. Failure by Butler County Water to make significant progress towards reducing water loss may cause the Commission to pursue additional action with the utility.

Butler County Water proposes to execute the Loan with KRWFC to borrow \$840,000.¹¹ The proposed Loan will have a 15-year term subject to interest rates that will vary from 2.75 percent to 3.25 percent per annum.¹² Butler County Water proposes to use the proceeds from the KRWFC Loan to fully refund the RD loans held by the United States Department of Agriculture dated August 8, 1996, with an original principal amount of \$950,000 (1996 Note), and promissory note dated July 7, 1998, with an original principal amount of \$545,000 (1997A Note).¹³

¹⁰

Expense Reduction to Cost of Water	\$ 12,230.67
Divided by: Total 1,000 gallon sold from 2019 Annual Report	<u>328,093</u>
Cost per 1,000 gallons sold	\$ 0.04

¹¹ Application at 2, paragraph 5.

¹² *Id.*, Exhibit A.

¹³ Application at 2–3, paragraph 5.

Butler County Water estimates that it will expend \$946,958.05 to refund the Prior Bonds.¹⁴ The estimated expended cost to refinance the outstanding indebtedness includes reoffering premiums of \$63,000.55.¹⁵ Butler County Water provided a Debt Service Comparison indicating that the refinancing would save \$197,744.68¹⁶ over the life of the proposed Loan, resulting in a positive net present value (NPV) cash flow savings of \$165,434.86.¹⁷

The Commission has reviewed the proposed refinancing and finds Butler County Water's proposal to be reasonable due to the lower effective interest rate and cash flow savings Butler County Water would realize over the period of the Loan. However, if the new interest rate on the proposed refinancing is higher than the range of interest rates set forth in the application, Butler County Water should not proceed with the refinancing unless the NPV of the refinancing results in positive cash flow.

The Commission commends Butler County Water for taking advantage of the financing alternatives available to it, thereby securing savings for itself and its customers. However, the Commission is concerned with Butler County Water's prolonged absence from the Commission's review of its asset management through an application for adjustment of its rates. Pursuant to KRS 278.300(4), the Commission may grant or deny an application for approval of financing in whole or in part, or upon such terms and

¹⁴ *Id.*, Exhibit B, Sources and uses. Uses of Funds: \$14,700.00 (Total Underwriter's Discount) + \$16,940.00 (Costs of Issuances) + \$912,004.68 (Deposit to Current Refunding Fund) + \$3,313.37 (Rounding Amount) = \$946,958.05.

¹⁵ *Id.*, Exhibit B.

¹⁶ Application, Exhibit C.

¹⁷ *Id.*

conditions as deemed necessary or appropriate. The Commission has performed a limited review of Butler County Water's financial records that are on file for the five calendar years and determined that Butler County Water appears to be on solid financial footing at the present time. Therefore, the Commission finds that Butler County Water should file an application for adjustment of its base rates through an alternative rate filing within three years of the date of filing of this order, or, in the alternative, file a formal motion with a detailed analysis of its rates and state the reasons why no rate modification are necessary.

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

1. The proposed Loan from KRWFC is for lawful objects within the corporate purposes of Butler County Water; 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.

2. Butler County Water should execute its note as security for the proposed Loan in the manner described in its application.

3. The Commission directs Butler County Water to the Commission's March 16, 2020 and March 24, 2020 Orders in Case No. 2020-00085¹⁸ regarding filings with the 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.

¹⁸ 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.

4. The final amounts of the RD payoff, the legal fees, and the new KRWFC Loan will not be known until the refinancing transaction is finalized. Therefore, Butler County Water should provide the Commission an updated version the application, Exhibit C, reflecting the cash flow analysis of the new KRWFC Loan within ten days of finalizing the transaction.

5. Within ten days of the execution of the new KRWFC Loan documents, Butler County Water 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 Butler County Water's application.

7. The terms and conditions of the new KRWFC Loan should be consistent with the KRWFC assistance program as described in Butler County Water's application.

8. Butler County Water should file for an adjustment in base rates or file for an alternative rate filing within three years of the date of filing of this Order to ensure that its rates are sufficient or, in the alternative, file a formal motion with a detailed analysis of its rates, and state the reasons why no rate modifications are necessary.

IT IS THEREFORE ORDERED that:

1. Butler County Water is authorized to enter into the Loan with KRWFC 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 KRWFC assistance program as described in Butler County Water's application.

2. Butler County Water shall execute the KRWFC Loan documents as authorized herein.

3. Butler County Water 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. Butler County Water shall file for an adjustment in base rates or file for an alternative rate filing within three years of the date of filing of this Order or, in the alternative, file a formal motion with a detailed analysis of its rates and states the reasons why no modifications are necessary.

6. 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
MAR 12 2021 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director for

Case No. 2021-00016

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