

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BREATHITT COUNTY WATER )  
DISTRICT FOR DEVIATION FROM FILING A ) CASE NO.  
CERTIFICATION OF PUBLIC CONVENIENCE AND ) 2018-00355  
NECESSITY )

ORDER

On October 23, 2018, Breathitt County Water District (Breathitt District) filed with the Commission an application seeking the Commission grant a deviation from obtaining a Certificate of Public Convenience and Necessity (CPCN).

As grounds for its motion, Breathitt District states that the project is an extension of two previously approved projects for Kentucky Highway 1098 South Fork Extension (Phase I),<sup>1</sup> and Kentucky Highway 1098 South Fork Extension (Phase II)<sup>2</sup> and will provide water service to areas where there are currently no public water suppliers. The approximate cost of the project, including lines and ground storage tanks, is approximately \$1,950,000.00. The project will be paid directly by the Breathitt County Fiscal Court with designated funds in the full amount pursuant to funds received from the Fiscal Court and from the Commonwealth of Kentucky, Division of Abandoned Mine Lands. Breathitt District will not issue any evidence of indebtedness, therefore, no

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<sup>1</sup> Case No. 2011-00415, *Application of Breathitt County Water District for a Certificate of Public Convenience and Necessity to Construct and Finance Pursuant to KRS 278.020*, (Ky. PSC Dec. 27, 2011).

<sup>2</sup> Case No. 2011-00230, *Application of Breathitt County Water District for a Certificate of Public Convenience and Necessity* (Ky. PSC Aug, 09, 2012).

Commission approval is necessary under KRS 278.300. Breathitt District will also not increase its rates to finance the proposed project.

KRS 278.020(1) provides, in pertinent part, that:

(a) No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010, except . . .

2. A water district created under KRS Chapter 74 or a water association formed under KRS Chapter 273 that undertakes a waterline extension or improvement project if the water district or water association is a Class A or B utility as defined in the uniform system of accounts established by the commission according to KRS 278.220 and:

a. The water line extension or improvement project will not cost more than five hundred thousand dollars (\$500,000); or

b. The water district or water association will not, as a result of the water line extension or improvement project, incur obligations requiring commission approval as required by KRS 278.300.

In either case, the water district or water association shall not, as a result of the water line extension or improvement project, increase rates to its customers; until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction.

Based upon a review of the proposed project and applicable statutes, the Commission finds that:

1. Breathitt District's proposed construction is a waterline extension or improvement project within the scope of the above-described exemption to KRS 278.020(1).

2. Breathitt District will not, as a result of the proposed improvement project, incur obligations that require Commission approval pursuant to KRS 278.300.

3. Breathitt District will not, as a result of the proposed improvement project, increase its rates for water service to its customers.

4. Breathitt District's proposed construction is exempt from any requirement to obtain a CPCN.

5. Breathitt District's application should be denied as moot.

IT IS THEREFORE ORDERED that:

1. Breathitt District's application is denied as moot.

2. This case is dismissed and removed from the Commission's active docket.

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By the Commission

ENTERED  
NOV 29 2018  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

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