COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

THE APPLICATION OF THE WEST DAVIESS COUNTY WATER DISTRICT FOR APPROVAL OF THE CONSTRUCTION AND METHOD OF FINANCING A WATERWORKS IMPROVEMENT PROJECT	)	CASE NO. 8723

O R D E R

The West Daviess County Water District ("West Daviess") filed an application on November 17, 1983, for authorization to construct a waterworks improvement project and approval of its financing for this project. West Daviess' financing includes cash reserves of approximately $169,000 and a loan of $50,000 from Central Bank & Trust Company of Owensboro, Kentucky. The request for the loan approval was based on the original project cost estimate of $206,000. Construction bids received subsequent to the date of the application lowered the total project cost to $156,000.

The purpose of the proposed construction is the improvement of hydraulic flow and service reliability. No additional customers would be served by this construction. Plans and specifications for the proposed improvements as prepared by Turner Engineering Company, Inc., of Nashville, Tennessee, ("Engineer") have been approved by the Division of Water of the Natural Resources and Environmental Protection Cabinet.

A hearing was held in the offices of the Public Service Commission, Frankfort, Kentucky, on February 15, 1983. There were no intervenors and no protests were entered.

On March 23, 1983, an Order was entered making a report by the Commission's engineering staff ("Staff Report") part of the record in this case and allowing West Daviess the opportunity to request a hearing with respect to the report. The Staff Report addressed the hydraulic capability of West Daviess and concluded that the proposed tank could not be utilized effectively by the existing water system.

A hearing was held in the offices of the Public Service Commission, Frankfort, Kentucky, on May 26, 1983, with respect to the Staff Report. At this hearing West Daviess was permitted to present testimony and water system measurements to rebut the conclusions of the Staff Report.

Motion to Withdraw Application

On May 27, 1983, West Daviess moved to withdraw its application on the basis that its construction cost would be less than 10 percent of its total plant investment. West Daviess asserted that its construction would constitute ordinary expansion and improvement in the course of doing business and that a certificate of public convenience and necessity is not required. KRS 278.020(1) states:

> No person ... shall 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 ... ordinary extensions of existing systems in the usual

> course of business, until such person has obtained from the public service commission a certificate that public convenience and necessity require such construction.

Section 8(3) of 807 KAR 5:001 describes the type of construction for which a certificate is not required:

> No certificate of public convenience and necessity will be required for extensions that do not create wasteful duplication of plant, equipment, property or facilities, or conflict with the existing certificates or service of other utilities operating in the same area . . . in which the utility renders service or contiguous thereto, and that do not involve sufficient capital outlay to materially affect the existing financial condition of the utility involved, or will not result in increased charges to its customers.

The Commission has, in the past, utilized a 10 percent rule of thumb in exempting certain telephone construction from the certificate requirements of KRS 278.020, and the courts have upheld the decision to do so. However, the statutes and regulations do not specifically provide for such a rule and the Commission is currently re-examining its use even in telephone cases. The Commission does not wish to broaden the scope of this rule to include other types of utilities at this time. For these reasons West Daviess' motion to withdraw its application should be denied.

Commentary on Supplemental Hearing

West Daviess agreed with the Staff Report's conclusions that additional water storage facilities were needed, that the existing water system could not supply adequate pressure to the

higher elevations near Utica, and that an altitude control valve was needed at the existing West Louisville tank. West Daviess also concurred that the proposed water tank could increase the available fire flow in the Utica area. The Engineer supplied a mathematical computation to support his opinion that the proposed tank would offer a measure of improved service to the customers in the higher elevations. However, the Engineer acknowledged in direct testimony that, even after construction of the proposed tank, the water pressure in the higher elevations would not meet the required minimum pressure of 30 pounds per square inch.[1]

West Daviess disagreed with the Staff Report's conclusion that the existing pump station and water distribution system is only marginally capable of filling the existing water storage tanks. The Engineer submitted testimony and water system measurements to show that West Daviess was able to fill the existing tanks in just under 18 hours of pump operation by manually operating the pumps and the tank valves.[2] West Daviess also disagreed with the Staff Report's conclusion that the existing pump station and water distribution system cannot reasonably be expected to fill and maintain the water level of the proposed water tank on a daily basis. No additional evidence was presented by West Daviess to support its position on this issue.

The Engineer contended that the water flow rates calculated in the Staff Report were theoretical and based on erroneous assumptions.[3] The Engineer disagreed particularly with the Staff

Report's allowance of 9 pounds per square inch entrance loss for the existing standpipe operation.[4] In direct testimony the Engineer stated, "With that much entrance loss, we wouldn't be able to pump any water--not going down a little bit further to their last tanks."[5] The Engineer was asked if he had any comments on the fact that the entrance loss had been actually measured at the Moseleyville standpipe as shown in Table 5 of the Staff Report.[6] The Engineer then stated, ". . . I just don't think we have that loss in the tanks."[7] No additional evidence was presented by the Engineer to support his opinion.

Summary

The Public Service Commission, after consideration of the application and evidence of record and being advised, is of the opinion and finds that:

(1) A utility with a construction project costing less than 10 percent of its total plant investment is not by statute or regulation relieved and should not be relieved in this case from the requirement to obtain a certificate of public convenience and necessity from this Commission in accordance with KRS 278.020.

(2) There is a need for additional water storage facilities in the West Daviess water distribution system.

(3) Efficient operation of West Daviess requires the addition of an altitude control valve at the existing 150,000-gallon elevated water storage tank near West Louisville to prevent overfilling of this tank.

(4) The proposed project as amended includes construction of about 7,750 feet of 8-inch pipeline along U.S. Highway 431 south from Utica to near Locust Grove Road; a 300,000-gallon water storage tank south of Utica; and an altitude control valve at the existing water tank near West Louisville.

(5) West Daviess' existing water distribution system is not capable of supplying adequate service pressure to customers located on the higher terrain south of Utica. West Daviess should establish an elevated service pressure zone for this area.

(6) West Daviess has failed to demonstrate by appropriate engineering analysis that a 300,000-gallon water storage tank at Utica as proposed in its application will be of significant benefit in rendering service to the public. Public convenience and necessity do not, therefore, require the construction of the water storage tank as proposed.

IT IS THEREFORE ORDERED that the motion by West Daviess for permission to withdraw its application of record herein be and it hereby is denied.

IT IS FURTHER ORDERED that the application by West Daviess to construct a 300,000-gallon water storage tank and 7,750 feet of 8-inch pipeline at Utica be and it hereby is denied.

IT IS FURTHER ORDERED that the application by West Daviess to borrow $50,000 from Central Bank Trust Company of Owensboro, Kentucky, be and it hereby is denied.

IT IS FURTHER ORDERED that West Daviess shall install an altitude control valve at the existing 150,000-gallon elevated water storage tank at West Louisville to prevent overfilling the tank.

IT IS FURTHER ORDERED that West Daviess shall establish an elevated service pressure zone to serve its customers south of Utica with adequate pressure.

Done at Frankfort, Kentucky, this 8th day of August, 1983.

PUBLIC SERVICE COMMISSION

Chairman

Vice Chairman

Commissioner

ATTEST:

Secretary

FOOTNOTES

1. Transcript of Evidence, May 26, 1983, page 41.
2. Ibid., pages 47-52.
3. Ibid., page 45.
4. Ibid.
5. Ibid.
6. Ibid., page 58.
7. Ibid.