

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF THE COUNTY OF)	
BOONE, KENTUCKY FOR (A) ISSUANCE OF A)	
CERTIFICATE OF PUBLIC CONVENIENCE AND)	
NECESSITY TO CONSTRUCT AN)	CASE NO.
IMPROVEMENTS PROJECT TO SERVE)	2005-00291
SUBDISTRICT B; (B) AUTHORIZATION FOR)	
PROJECT FINANCING; AND (C))	
AUTHORIZATION TO ADJUST RATES)	

ORDER

The County of Boone (“the County”) has applied for a Certificate of Public Convenience and Necessity to construct water distribution facilities in unserved areas of Boone County, Kentucky; authorization to borrow \$2,548,148 from the Kentucky Infrastructure Authority to finance the proposed construction; approval of the proposed rates for customers of the proposed new facilities; and an adjustment of rates for existing customers. After careful review, we grant the application with the exception of the County’s request for automatic rate adjustments.

Having considered the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. The County currently owns and operates water distribution facilities that serve approximately 170 customers for compensation in Boone County, Kentucky.¹

¹ Annual Report of Boone County, Kentucky to the Public Service Commission of Kentucky for the Calendar Year Ended December 31, 2004 at 21.

2. KRS 278.010(3)(d) defines a utility as “any person except . . . a city, who owns, controls, operates, or manages any facility used or to be used for or in connection with . . . [t]he diverting, developing, pumping, impounding, distributing, or furnishing of water to or for the public, for compensation.”

3. KRS 278.010(2) defines a “person” to include corporations.

4. KRS 28.010(1) defines “corporation” to include “private, quasipublic and public corporations.”

5. The County is a county of Kentucky and, as such, is a quasipublic corporation. See Howell v. Haney, Ky., 330 S.W.2d 941 (1960).

6. Through its ownership and operation of water distribution facilities, the County is a utility and is subject to the Commission's jurisdiction. See KRS 278.040(1) and (2).

7. In 2002, the County proposed a multi-phased project to construct facilities to serve portions of unincorporated Boone County for which service by Boone County's then-existing water suppliers² was not feasible. The County's plan contained the following features:

a. The facilities would be located in the territory of Boone County Water District ("Boone District") and would be connected to Boone District's water distribution system.

b. Boone District would operate these facilities under the terms of an “Operation and Maintenance Agreement” between the County and the water district.

² At that time, Boone County Water District, the city of Florence, Kentucky, and Bullock Pen Water District served areas of Boone County.

c. Under the terms of this "Operation and Maintenance Agreement," Boone District agreed to operate and maintain the County's water distribution facilities, to provide potable water to customers of these facilities, and to perform all billing and collection services. In return for these services, the County compensates Boone District based upon an operation and maintenance expense factor, which is determined from Boone District's reported operation and maintenance expenses applied to the number of gallons of water sold to Boone District's customers. Upon payment of all debt instruments to finance these facilities, the County will transfer all of its interest in the facilities to Boone District.

d. The County would assess Boone District's schedule of rates for water service and a monthly surcharge of \$25. The use of the monthly surcharge proceeds would be restricted to retirement of debt instruments that finance the construction of the facilities.

e. As the County anticipated that the proposed rates would not generate sufficient revenues to meet all of the facilities' operating expenses and debt requirements, it would pay any deficit from its general funds to ensure timely payment of debt service on all debt instruments.

8. In Case No. 2002-00085,³ the Commission authorized the construction of the initial phase of the County's project and approved rates for customers served through those facilities.

³ Case No. 2002-00085, The Application of the County of Boone, Kentucky to the Kentucky Public Service Commission Requesting a Certificate of Convenience and Necessity for the Construction of a Public Water Distribution System in an Unserved Area of Southern Boone County.

9. The County now proposes to construct approximately 13.4 miles of 12-inch and 8-inch ductile iron class 50 water transmission main in selected portions of unincorporated Boone County, Kentucky. These mains will be connected to Boone District's water distribution system.

10. The proposed construction project has the potential to serve approximately 406 households.

11. Approximately 179 households have contracted with the County to receive water service from the proposed construction project.

12. No other water utility presently provides water service to the areas that the proposed water main extensions will serve.

13. Total estimated cost of the proposed construction project is \$3,815,378.

14. The proposed construction will be funded through a \$2,548,148 loan from the Kentucky Infrastructure Authority, a grant of \$1,000,000 from the Kentucky Infrastructure Authority, and a contribution of \$267,230 from the County.

15. Tetra Tech, Inc. of Cincinnati, Ohio, prepared the plans and specifications for the proposed improvements.

16. The Division of Water of the Kentucky Environmental and Public Protection Cabinet has approved the plans and specifications for the proposed water main extension.

17. The public convenience and necessity require the proposed water main extension.

18. The County's proposed loan of \$2,548,148 from the Kentucky Infrastructure Authority is for lawful objects within the corporate purpose of the County's

utility operation, is necessary and appropriate for and consistent with the proper performance of the County's service to the public and will not impair the County's ability to perform that service, is reasonably necessary and appropriate for such purpose, and should be approved.

19. Upon completion of the proposed construction project, Boone District will operate the facilities under the terms of its "Operation and Maintenance Agreement" with the County.

20. The County proposes to define the areas of the initial phase of the multi-phased construction project, which has been constructed and is in operation, as Subdistrict A. It proposes to define the areas that the current project will serve as Subdistrict B.

21. The County proposes that the rates for both Subdistricts be established at the same levels as Boone District's rates for water service. The rates that the County currently assesses to customers of Subdistrict A do not reflect the adjustments to Boone District's rates that became effective on February 27, 2003 and are lower than the rates that Boone District currently charges.⁴

22. Given the circumstances surrounding the multi-phased construction project, the County's present financial condition, and the County's stated intention to subsidize the debt service requirements of both Subdistricts, the proposed rates for both

⁴ See Case No. 2002-00295, Application of Boone County Water District for an Adjustment of Rates (Ky. PSC Feb. 27, 2003). The Commission approved rates for Boone District that generated an increase of 39.32 percent in Boone District's test-year revenues.

Subdistricts are reasonable. The proposed rates will require a subsidy from the County's general funds.⁵

23. The County further proposes that the rates for both Subdistricts be automatically adjusted to reflect any adjustments in Boone District's rates for water service. For the reasons set forth in Case No. 2002-00085,⁶ such proposal is unreasonable and should be denied.

24. The County requests authority to deviate from the provisions of Administrative Regulation 807 KAR 5:001, Section 10, that are listed in Appendix A of this Order. Given the unique nature of the County's utility operations and that many of the filing requirements in question will not produce evidence pertinent to the Commission's review, good cause exists to grant the requested deviation.

IT IS THEREFORE ORDERED that:

1. The County is authorized to deviate from the provisions of Administrative Regulation 807 KAR 5:001, Section 10, that are listed in Appendix A of this Order.

2. The County's application shall be considered filed as of December 5, 2005.

3. The County is granted a Certificate of Public Convenience and Necessity to proceed with the proposed construction project as set forth in the plans and specifications of record herein.

4. The County shall obtain approval from the Commission prior to performing any additional construction not expressly authorized by this Order.

⁵ See Appendix C of this Order.

⁶ Case No. 2002-00085, Order of September 27, 2002 at 4.

5. Any deviation from the construction approved shall be undertaken only with the prior approval of the Commission.

6. The County shall furnish documentation of the total costs of this project including the cost of construction and all other capitalized costs (engineering, legal, administrative, etc.) within 60 days of the date that construction is substantially completed. Construction cost should be classified into appropriate plant accounts in accordance with the Uniform System of Accounts (“USoA”) for Water Utilities prescribed by the Commission.

7. The County shall require construction to be inspected under the general supervision of a licensed professional engineer with a Kentucky registration in civil or mechanical engineering to ensure that the construction work is done in accordance with the contract drawings and specifications and in conformance with the best practices of the construction trades involved in the project.

8. The County shall notify the Commission in writing 7 days prior to the actual commencement of the proposed construction and when 50 percent of the proposed construction is completed.

9. The County shall file a copy of the “as-built” drawings and a certified statement that the construction has been satisfactorily completed in accordance with the contract plans and specifications within 60 days of the substantial completion of the construction certificated herein.

10. The County is authorized to enter into a loan agreement with the Kentucky Infrastructure Authority for \$2,548,148 with a term of 30 years at an interest rate not exceeding 2.71 percent per annum.

11. The proceeds of the County's loan agreement with the Kentucky Infrastructure Authority shall be used only for the lawful purposes specified in the County's application.

12. The rates set forth in Appendix B of this Order are approved for service that the County renders on and after the date of this Order.

13. The County's proposal to automatically adjust its rates to reflect any revisions in Boone District's rates is denied.

14. Within 30 days of the date of this Order, the County shall file a tariff that contains its rates and conditions of service and that conforms to the requirements of Administrative Regulation 807 KAR 5:011. This tariff shall contain separate descriptions and maps of the areas that Subdistrict A and Subdistrict B comprise.

15. The County shall maintain a current description of Subdistricts A and B in its filed tariff so long as the surcharges for both subdistricts are effective.

16. The County shall closely monitor its operations and, if the actual results differ substantially from the projections submitted in support of its application, take appropriate action to maintain the financial viability of its Subdistricts.

17. The County shall take all actions necessary to avoid one Subdistrict from subsidizing another Subdistrict. The collection of all revenues from Subdistrict A and Subdistrict B shall be kept separately to ensure that operation and maintenance expenses and debt service for each Subdistrict are paid only from the revenues collected from the customers of that Subdistrict.

Nothing contained herein shall be deemed a warranty of the Commonwealth of Kentucky, or any agency thereof, of the financing herein accepted.

Done at Frankfort, Kentucky, this 1st day of February, 2006.

By the Commission

ATTEST:



Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2005-00291 DATED FEBRUARY 1, 2006

County of Boone is authorized to deviate from the following provisions
of Administrative Regulation 807 KAR 5:001, Section 10:

Section 10(6)(h)
Section 10(6)(n)
Section 10(6)(o)
Section 10(6)(p)
Section 10(6)(r)
Section 10(6)(t)
Section 10(7)(a)
Section 10(7)(b)
Section 10(7)(c)
Section 10(7)(d)

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2005-00291 DATED FEBRUARY 1, 2006

The following rates and charges are prescribed for the customers in the areas served by Subdistricts A and B of the County of Boone. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of this Commission prior to the effective date of this Order.

Monthly Water Rates

SCHEDULE A: All customers except multiple occupancy buildings and mobile home parks.

First	3,000 gallons	\$15.45 Minimum Bill
Next	2,000 gallons	4.65 per 1,000 gallons
Next	5,000 gallons	4.40 per 1,000 gallons
All Over	10,000 gallons	3.65 per 1,000 gallons

SCHEDULE B: Multiple occupancy buildings and mobile home parks.

First	3,000 gallons	\$15.45 Minimum Bill
Next	2,000 gallons	5.15 per 1,000 gallons
Next	5,000 gallons	4.65 per 1,000 gallons
Next	140,000 gallons	4.40 per 1,000 gallons
All Over	150,000 gallons	3.65 per 1,000 gallons

Minimum Bill for Each Meter Size

			Schedule A	Schedule B
3/4"	Meter	3,000 gallons	\$15.45	\$15.45
1"	Meter	5,000 gallons	24.75	25.75
1 1/2"	Meter	9,000 gallons	42.35	44.35
2"	Meter	11,000 gallons	50.40	53.40
3"	Meter	21,000 gallons	86.90	97.40
4"	Meter	29,000 gallons	116.10	132.60
6"	Meter	100,000 gallons	375.25	445.00
Over 6"	Meter	100,000 gallons	375.25	445.00

A surcharge of \$25 per month will be assessed to each customer of Subdistricts A and B for each 10,000 gallons or any portion thereof of water consumed each month.

APPENDIX C

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2005-00291 DATED FEBRUARY 1, 2006

	Sub District	
	A	B
Projected Annual Volume Sales		
Number of customers	170	179
Times: Average monthly usage of Sub District A customers from 2004 Annual Report. Used also for Sub District B	6,118	6,118
Times: 12 months	12	12
Projected annual sales, gallons	<u>12,480,720</u>	<u>13,141,464</u>
Revenue to be Generated from Projected Sales at Proposed Rates		
Monthly revenue generated from one customer at average usage	\$ 29.67	\$ 29.67
Plus: Amount of surcharge	25.00	25.00
Total average monthly collections per customer	54.67	54.67
Times: Number of customers	170	179
Times: 12 months	12	12
Total Revenue to be Generated from Projected Sales at Proposed Rates	<u>\$ 111,526.80</u>	<u>\$ 117,431.16</u>
Projected Cost to be Paid to Boone District by Boone County For Projected Sales		
Boone District Operation and Maintenance Expense per 2004 Annual Report	\$ 7,453,192	\$ 7,453,192
Divide by: Total gallons sold 2004 (Omitted 000's)	1,856,953	1,856,953
Per 1,000 gallon O&M factor	4.01	4.01
Times: Projected sales (Omitted 000's)	12,481	13,141
Cost of projected sales	<u>\$ 50,093</u>	<u>\$ 52,745</u>
Income Available to Retire Debt Compared to Debt Retirements		
Projected revenues	\$ 111,527	\$ 117,431
Less: Projected expenses	(50,093)	(52,745)
Income available to retire debt	61,433	64,686
Less: Projected annual debt principal and interest	(282,923)	(125,179)
Projected Revenue Shortfall at Proposed Rates	<u>\$ (221,489)</u>	<u>\$ (60,493)</u>