

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF WATER)	CASE NO.
SERVICE CORPORATION OF KENTUCKY FOR A)	2019-00284
DEVIATION FROM 807 KAR 5:006 (26) (2) (B))	

ORDER

This matter arises from an application filed by Water Service Corporation of Kentucky (WSCK) for a deviation from the requirement in 807 KAR 5:006, Section 26(6)(b), that it inspect all valves annually. No person requested to intervene in this matter, and the Commission received no public comments regarding this matter. WSCK responded to one set of requests for information. WSCK's application is now before the Commission for a decision.

BACKGROUND

WSCK is a water utility with approximately 7,138 customers in Bell, Clinton, and Hickman counties.¹ Its transmission and distribution facilities include 1,347 valves, consisting of 84 valves that are 10 inches or greater in the Middlesboro service area, 1,139 valves that are 8 inches or smaller in the Middlesboro service area, and 124 valves that are 8 inches or smaller in the Clinton service area.² The valves are used to isolate water mains during repairs and emergencies.³

¹ 2018 Annual Report at 53.

² Response to Commission Staff's First Request for Information (Staff's First Request), Item 1.

³ Response to Commission Staff's First Request, Item 6(b).

Pursuant to 807 KAR 5:006, Section 26(2)(b), WSCK is required to inspect all of its valves annually. WSCK requests a deviation from that requirement, allowing it to inspect valves that are 8 inches or smaller every 3 years while inspecting valves that are 10 inches or larger on an annual basis (there are no valves between 8 and 10 inches).⁴ WSCK argues that the “overarching intent of the inspection requirements . . . is to ‘assure safe and adequate operation of the utility’s facilities.’”⁵ WSCK argues that granting the deviation would not jeopardize the safety or adequacy of the service it provides and would allow WSCK to avoid significant, unnecessary costs for inspections of valves that are smaller than 10 inches.⁶

WSCK indicated that it generally operates valves that are 8 inches or smaller about 1 to 2 times a month when making repairs and that it would typically operate 2 to 3 valves each time that it made such repairs. WSCK reported that as of the end of 2019 no valves of any size had failed since at least 2014.⁷ Further, WSCK claimed that if a valve did fail that it would not cause a significant service issue because WSCK would generally be able to use a nearby valve to isolate a section of the system that needed repair or, in the event that a nearby valve was not available, WSCK indicated that it had “contacts” with contractors that could quickly install insertion valves to isolate the section of the system that required repair.⁸ WSCK also noted that during each inspection it will confirm that

⁴ Application.

⁵ Application at 2 *quoting* 807 KAR 5:006, Section 26(1).

⁶ Application at 2.

⁷ See Response to Staff’s First Request, Item 4.

⁸ Application at 2; see *also* Response to Staff’s First Request, Item 8 and 9 (describing its relationship with contractors and how insertion valves would be installed).

there is adequate access to the valve; assess the condition of the valve box, lid, and operating nut; and exercise and turn the valves themselves to ensure they are working properly, and WSCK indicated that its level of inspection would ensure the appropriate operation of valves even with the deviation extending the period during which certain valves are inspected.⁹

WSCK indicated that granting the deviation would allow it to avoid hiring additional staff¹⁰ and estimated that it would allow it to save \$25,074 per year. WSCK explained that the estimated savings were calculated by:

[D]ividing the number of valves in the system by 2 (to reflect an estimated average of time to inspect each valve as half of an hour) and multiplying by the WSCK cap time rate.¹¹

WSCK stated that the savings it estimated did not include fuel and vehicle maintenance savings that would also arise from additional inspections and be avoided by the requested deviation.¹²

WSCK argued that granting its requested deviation would be consistent with previous Commission Orders granting similar deviations for Kentucky-American Water Company (Kentucky-American) and Northern Kentucky Water District (NKWD). WSCK noted that in Case No. 2016-00394¹³ the Commission granted Kentucky-American a

⁹ Response to Staff's First Request, Item 14.

¹⁰ Response to Staff's First Request, Item 11.

¹¹ Response to Staff's First Request, Item 12.

¹² *Id.*

¹³ *Electronic Kentucky-American Water Company's Request to Deviate from 807 KAR 5:006, Section 26(6)(b)*, Case No. 2016-00394, Order (Ky. PSC Dec. 12, 2017).

deviation allowing it to inspect valves larger than 24 inches every year, valves between 16 and 24 inches every two years, and valves smaller than 16 inches every five years. It further noted that in Case No. 2016-00427¹⁴ the Commission granted NKWD a deviation allowing it to inspect its valves at the same frequency. WSCK noted that its proposal to inspect valves 10 inches and larger annually and valves 8 inches and smaller every three years exceeds the standards placed on Kentucky-American and NKWD and assures adequate inspection of valves in WSCK's system.

DISCUSSION

Pursuant to 807 KAR 5:006, Section 26(6)(b), a water utility is required to inspect all valves, regardless of size, at least once annually. The Commission may grant a deviation from the annual inspection requirement pursuant to 807 KAR 5:006, Section 28, which states that “[i]n special cases, for good cause shown, the commission shall permit deviations from this administrative regulation.” The party requesting the deviation bears the burden of proving that good cause exists for granting a deviation.¹⁵

WSCK presented evidence that granting the deviation will not materially affect the safety or adequacy of WSCK's service. As noted above, it will continue to inspect the valves that are 10 inches or larger, which it deemed to be critical, on an annual basis. WSCK also indicated that it has experienced no valve failures either during an inspection or when the valves have been called upon during repairs in the last five years,¹⁶ that

¹⁴ *Electronic Application of Northern Kentucky Water District for a Deviation from 807 KAR 5:006, Section 26(6)(b)*, Case No. 2016-00427, Order (Ky. PSC Dec. 8, 2017).

¹⁵ See *Energy Regulatory Comm'n v. Kentucky Power, Co.*, 605 S.W.2d 46, 50 (Ky. App. 1980) (“Applicants before an administrative agency have the burden of proof.”).

¹⁶ Response to Staff's First Request, Item 4.

based on the spacing of its valves only 5 to 10 additional customers would generally be affected in the event that a valve fails in an emergency,¹⁷ and that in the event a valve fails and there is no nearby valve that can be operated that it has a relationship with contractors that can quickly install an insertion valve to isolate the section being repaired.¹⁸ The Commission also observes that WSCK has a positive history of keeping water loss below 15 percent of total water purchased or produced.¹⁹ Based on those facts, the Commission finds that granting the deviation requested by WSCK is unlikely to materially affect the safety and adequacy of its service.

WSCK also presented evidence that granting the deviation will allow it to avoid costs associated with conducting the inspections. There are issues with the method by which WSCK estimated the cost savings because it only estimated the total cost of inspecting all meters each year without accounting for the fact that it would still be inspecting a little over one-third of the meters, on average, each year (the meters that are 10 inches or larger would still be inspected each year as would one-third of all other meters, on average).²⁰ However, assuming WSCK's estimate of 30 minutes to inspect each valve, which the Commission finds to be reasonable given the manner in which

¹⁷ Response to Staff's First Request, Item 7.

¹⁸ Application at 2; see *also* Response to Staff's First Request, Item 8(b) and (c) (identifying the contractors with which it has a relationship and indicating that they could be on site within 3 to 4 hours and could install the insertion valves within 1 to 2 hours with the main was exposed when they arrived).

¹⁹ See 2018 Annual Report at 62 (showing 538,588 gallons purchased and produced; 445,210 gallons sold; 18,147 gallons used; and 75,231 gallons lost); 2017 Annual Report at 61 (showing 444,959 gallons purchased and produced; 414,060 gallons sold; 15,925 gallons used; and 14,974 gallons lost); 2016 Annual Report at 63 (showing 478,697 gallons purchased and produced; 418,931 gallons sold; 24,221 gallons used; and 35,552 gallons lost); 2015 Annual Report at 61 (showing 498,717 gallons purchased and produced; 420,832 gallons sold; 20,394 gallons used; and 57,493 gallons lost).

²⁰ See Response to Staff's First Request, Item 12.

WSCK inspects its valves,²¹ WSCK would avoid the cost of about 421 employee hours per year if the Commission granted the deviation.²² Further, while a valve failure may require WSCK to retain a contractor to install an insertion valve at an additional cost, according to WSCK, of between \$3,500 to \$10,400, the evidence indicated the deviation is unlikely to increase the need for an insertion valve in any material way given that WSCK has not had a valve fail in five years,²³ and even in the event of a valve failure, it would only require an insertion valve in rare circumstances.²⁴ Thus, the Commission finds that granting the deviation will allow WSCK to avoid costs that would otherwise be passed on to customers.

Because the deviation will not materially affect the safety and adequacy of service and will allow WSCK to avoid costs that would otherwise be borne by WSCK's customers, the Commission finds that WSCK has demonstrated good cause for obtaining the deviation. However, on a small number of the valve cards on which WSCK documents its inspection of valves, the Commission observes that WSCK simply noted that it was unable to locate the valve when it attempted to inspect. It should go without saying that attempting to locate a valve but failing to do so is not an "inspection" that will satisfy the

²¹ See Response to Staff's First Request, Item 10 (where WSCK describes how it inspects valves that are 8 inches or smaller).

²² $1,263 \text{ valves that are 8-inchs or smaller} \times 0.5 \text{ hours per valve} = 569.5 \text{ hours} \times 2/3 \text{ per year} = 421 \text{ hours per year.}$

²³ See Response to Staff's First Request, Item 4 (indicating that there were no valve failures in 2014, 2015, 2016, 2017, or 2019).

²⁴ WSCK reported that based on the typical spacing between valves of about a block that it would generally be able to operate a nearby valve in the event that the closest valve failed to isolate a of the system without affecting more than about 5 to 10 additional customers. Response to Staff's First Request, Item 7. WSCK indicated that the areas in which valves are spaced further apart are generally in areas that are not dense populated and make up less than 5 percent of WSCK's system. Response to Staff's First Request, Item 8(a).

requirements of 807 KAR 5:006, Section 26. Thus, while the Commission is granting WSCK's requested deviation, WSCK must actually locate and inspect the valves and must document each inspection to satisfy the inspection requirements in 807 KAR 5:006, Section 26.

The Commission also notes that WSCK reported that it has been inspecting valves that are 8 inches or smaller every 3 years in a manner consistent with the requested deviation and that it failed to document some inspections. While the Commission has found good cause for granting the deviation based on the record in this matter, WSCK's failure to conduct annual inspections of its valves before a deviation was granted and its failure to document all inspections violated 807 KAR 5:006, Section 26. However, the Commission observes that service was not affected by WSCK's failure and it voluntarily reported its violation when requesting this deviation to bring its inspection program within the regulations. Thus, the Commission will not penalize WSCK at this time but would caution WSCK and other utilities that future violations, particularly if identified by the Commission, may result in the imposition of penalty pursuant to KRS 278.990.

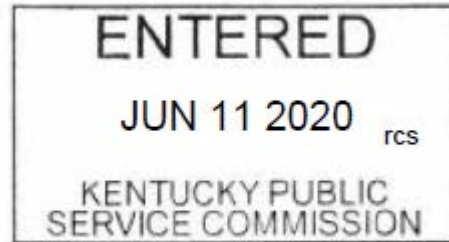
IT IS THEREFORE ORDERED that:

1. WSCK's petition for a deviation from 807 KAR 5:006, Section 26, is granted.
2. The inspection requirement in 807 KAR 5:006, Section 26, shall be extended for valves that are 8 inches or smaller such that WSCK shall only be required to inspect each such valve every three years.
3. All other valves in WSCK's system shall be inspected on an annual basis pursuant to 807 KAR 5:006, Section 26.

4. This matter is closed and may be removed from the Commission's active docket.

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By the Commission



ATTEST:

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