

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF ESTILL	)	
COUNTY WATER DISTRICT NO. 1 FOR A	)	
CERTIFICATE OF PUBLIC CONVENIENCE	)	CASE NO.
AND NECESSITY FOR THE PURCHASE AND	)	2021-00207
INSTALLATION OF METERING EQUIPMENT	)	
AND AUTHORIZATION TO USE LOAN	)	
PROCEEDS FOR PROPOSED PURCHASE	)	

ORDER

On May 28, 2021, Estill County Water District No. 1 (Estill District No. 1), pursuant to KRS 278.020, filed an application for the purchase and installation of 3,100 water meters, 3,800 leak sensor devices and automated meter infrastructure (AMI) radio adapters, a mobile meter data collection and management system, and leak detection software. Estill District No. 1 proposes to finance the project using the remaining balance of \$1,379,030 from the Kentucky Infrastructure Authority (KIA) loan F20-13,<sup>1</sup> which was approved by the Commission in Case No. 2021-00064.<sup>2</sup> No party has sought intervention in this matter. Estill District No. 1 has requested expedited review without a hearing in order to act upon a submitted bid for the equipment.<sup>3</sup> The record is complete, and the matter stands ready for decision.

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<sup>1</sup> Application at 1.

<sup>2</sup> Case No. 2021-00064, *Electronic Application of Estill County Water District No. 1 for Authorization to Enter into an Assistance Agreement with the Kentucky Infrastructure Authority, for a Certificate of Public Convenience to Construct Certain Water Improvements and Authorization to Use Water Loss Control Program Surcharge Proceeds* (Ky. PSC Apr. 8, 2021).

<sup>3</sup> Application at 17, paragraph 4.

## PROPOSED PROJECT

Estill District No. 1, a water district organized under KRS Chapter 74, provides retail water service to approximately 3,527 residential customers<sup>4</sup> in Estill County, Kentucky.<sup>5</sup>

Estill District No. 1 proposes, in its Phase 11 project, a series of system improvements to enhance its ability to locate and repair leaks within its distribution system as well as replace substandard stream crossings water service lines and aging metering equipment. The project improvements will be made in two stages. Estill District No. 1 is requesting a CPCN to install 3,100 water meters, 3,800 leak sensor devices, and automated meter reading radio adaptors, a mobile meter data collection and management system, and leak detection software.<sup>6</sup>

The total cost for the second stage of the project is approximately \$1,879,030.<sup>7</sup> Estill District No. 1 states that it will finance the proposed project with the remainder of the assistance agreement for KIA loan F20-13.<sup>8</sup> The proposed loan will be repaid over a period not to exceed 30 years from the date on which the Phase II facilities begin operations and shall bear interest at the rate of 0.5 percent annum.<sup>9</sup> In addition to interest,

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<sup>4</sup> *Annual Report of Estill Co. Water District No. 1 to the Public Service Commission for the Year Ended December 31, 2019* at 12 and 49.

<sup>5</sup> *Id.* at 12.

<sup>6</sup> Application at 7, paragraph 21.

<sup>7</sup> *Id.* at 15, paragraph 47.

<sup>8</sup> *Id.* at 7, paragraph 20.

<sup>9</sup> Case 2021-00064, *Electronic Application of Estill County Water District No. 1 for Authorization to Enter into an Assistance Agreement with the Kentucky Infrastructure Authority, for a Certificate of Public Convenience to Construct Certain Water Improvements and Authorization to Use Water Loss Control Program Surcharge Proceeds* (filed Feb. 22, 2021), Application at 11.

Estill District No. 1 will pay an administrative fee of 0.25 percent of the outstanding loan balance payable as part of each loan payment. KIA has committed to credit to the loan balance 50 percent of the principal amount of the loan up to \$1,000,000 upon release of liens on all contracts and disbursement of the final draw request by KIA to Estill District No. 1.<sup>10</sup> The Appalachian Regional Commission subsequently awarded a grant of \$500,000 to Estill District No. 1 for the same project.<sup>11</sup>

### LEGAL STANDARD

The Commission's standard of review of a request for a CPCN is well settled. No utility may construct or acquire any facility to be used in providing utility service to the public until it has obtained a CPCN from this Commission except as provided in KRS 278.020(1) and (2) and 807 KAR 5:001, Section 15(3), which are provisions not applicable to this matter. To obtain a CPCN, a utility must demonstrate a need for such facilities and an absence of wasteful duplication.<sup>12</sup>

"Need" requires:

[A] showing of a substantial inadequacy of existing service, involving a consumer market sufficiently large to make it economically feasible for the new system or facility to be constructed or operated.

[T]he inadequacy must be due either to a substantial deficiency of service facilities, beyond what could be supplied by normal improvements in the ordinary course of business; or to indifference, poor management or disregard of the rights of consumers, persisting over such a period of time as to establish an inability or unwillingness to render adequate service.<sup>13</sup>

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<sup>10</sup> *Id.* at 12.

<sup>11</sup> *Id.* at 6.

<sup>12</sup> *Kentucky Utilities Co. v. Public Service Comm'n*, 252 S.W.2d 885 (Ky. 1952).

<sup>13</sup> *Id.* at 890.

“Wasteful duplication” is defined as “an excess of capacity over need” and “an excessive investment in relation to productivity or efficiency, and an unnecessary multiplicity of physical properties.”<sup>14</sup> To demonstrate that a proposed facility does not result in wasteful duplication, we have held that the applicant must demonstrate that a thorough review of all reasonable alternatives has been performed.<sup>15</sup> Selection of a proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication.<sup>16</sup> All relevant factors must be balanced.<sup>17</sup> The statutory touchstone for ratemaking in Kentucky is the requirement that rates set or approved by the Commission must be fair, just and reasonable.<sup>18</sup>

### FINDINGS

The Commission authorized Estill District No. 1 to assess a Water Loss Surcharge in Case No. 2019-00119, and ordered the proceeds be placed in a separated interest-bearing account and that no disbursements be made without prior Commission approval.<sup>19</sup> In its application for the first half of the Phase 11 project for Case No. 2021-

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<sup>14</sup> *Id.*

<sup>15</sup> Case No. 2005-00142, *Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Public Convenience and Necessity for the Construction of Transmission Facilities in Jefferson, Bullitt, Meade, and Hardin Counties, Kentucky* (Ky. PSC Sept. 8, 2005).

<sup>16</sup> See *Kentucky Utilities Co. v. Public Service Comm'n*, 390 S.W.2d 168, 175 (Ky. 1965). See also Case No. 2005-00089, *Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity for the Construction of a 138 kV Electric Transmission Line in Rowan County, Kentucky* (Ky. PSC Aug. 19, 2005), final Order.

<sup>17</sup> Case No. 2005-00089, *East Kentucky Power Cooperative, Inc.* (Ky. PSC Aug. 19, 2005), final Order at 6.

<sup>18</sup> KRS 278.190(3).

<sup>19</sup> Case No. 2019-00119, *Electronic Application of Estill County Water District No. 1 for a Surcharge to Finance Water Loss Control Efforts* (Ky. PSC Aug. 29, 2019) at 4.

00064, Estill District No. 1 proposed to use a portion of the annual revenues from the water loss surcharge to service the debt on the KIA loan. Estill District No. 1 stated that as of February 10, 2021, the water loss surcharge had retained proceeds of \$215,185.60. Additionally, the water loss surcharge currently produces \$156,647 in annual revenue, and the average debt service payment for the proposed loan is expected to be \$52,114.70.<sup>20</sup>

Having reviewed the application, supporting materials, and being otherwise sufficiently advised, the Commission finds that:

1. The proposed construction will not result in wasteful duplication of existing facilities. Estill District No. 1 conducted a thorough review of reasonable alternatives and does not propose to duplicate existing infrastructure.<sup>21</sup>

2. The proposed construction does not conflict with any existing certificates or the service of any other utility operating in the area.<sup>22</sup>

3. Public convenience and necessity require the proposed construction, which allows Estill District No. 1 to continue to provide adequate, reliable, and safe service to its customers.

4. Kentucky Division of Water has approved the plans and specifications for the proposed project.<sup>23</sup>

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<sup>20</sup> Case 2021-00064, *Electronic Application of Estill County Water District No. 1 for Authorization to Enter Into an Assistance Agreement With The Kentucky Infrastructure Authority, for a Certificate of Public Convenience to Construct Certain Water Improvements and Authorization to Use Water Loss Control Program Surcharge Proceeds* (filed Feb. 22, 2021), Application at 15.

<sup>21</sup> Application 6–14.

<sup>22</sup> Application 15.

<sup>23</sup> Application 15, Exhibit 21.

5. The Commission finds that the proposed project is a reasonable effort by Estill District No. 1 to mitigate its excessive water loss in furtherance of the recommended and specifically ordered actions in the final Order in Case No. 2019-00041,<sup>24</sup> a CPCN should be granted.

IT IS THEREFORE ORDERED that:

1. Estill District No. 1 is granted a CPCN to construct the proposed project as set forth in the application.

2. Estill District No. 1 shall immediately notify the Commission upon knowledge of any material changes to the project, including, but not limited to, increase in costs and any significant delays, in construction.

3. Any material deviation from the construction approved by this Order shall be undertaken only with the prior approval of the Commission.

4. Estill District No. 1 shall file with the Commission documentation of the total costs of the projects, including the cost of construction and all other capitalized costs (e.g., engineering, legal, administrative, etc.), within 60 days of the date that construction authorized under this CPCN is substantially completed. Construction costs shall be classified into appropriate plant accounts in accordance with the Uniform System of Accounts for water utilities prescribed by the Commission.

5. Estill District No. 1 shall file a copy of the “as-built” drawings and a certified statement that the construction has been satisfactorily completed in accordance with the

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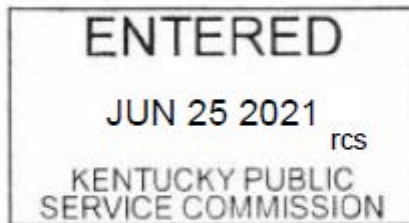
<sup>24</sup> Case No. 2019-00041, *Electronic Investigation into Excessive Water Loss by Kentucky's Jurisdictional Water Utilities* (Ky. PSC Nov. 22, 2019).

contract plans and specifications within 60 days of the substantial completion of the construction certificated herein.

6. This case is closed and removed from the Commission's docket.

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By the Commission



ATTEST:

A handwritten signature in blue ink that reads "Linda C. Bidwell". The signature is written in a cursive style.

Executive Director

Case No. 2021-00207



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