

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION INTO THE)	
IMPACT OF MADISON COUNTY FISCAL)	CASE NO.
COURT’S USE OF MADISON COUNTY)	2021-00422
UTILITIES DISTRICT’S SYSTEM FOR ITS FIBER)	
OPTIC CABLE INSTALLATION PROJECT)	

ORDER

The Commission, on its own motion and pursuant to KRS 278.260, establishes this proceeding to conduct a formal investigation into Madison County Utilities District (Madison District), and its involvement in the Madison County Fiscal Court’s (Madison Fiscal Court) Fiber Optic Cable Installation Project. During Case No. 2021-00218,¹ the Commission was made aware of Madison Fiscal Court’s project to install broadband fiber optic cable using Madison District’s water system.

Information filed in the record in Case No. 2021-00218² throughout multiple rounds of discovery shows that Madison District is taking part in a project to install broadband fiber optic cable owned by the Madison Fiscal Court in mains owned by Madison District. The information provided did not indicate a level of planning or engineering that would ensure the project will not unreasonably burden the ratepayers of Madison District. The quality and quantity of information needed by the Commission related to Madison District’s involvement caused delay. In order to prevent a hardship on the utility in the

¹ Case No. 2021-00218, *Electronic Application of Madison County Utilities District for an Alternative Rate Adjustment* (filed June 24, 2021).

² *Id.*

processing of that case, the Commission finds that this separate proceeding should be established to investigate the impact, financial and otherwise, of the Madison Fiscal Court's use of Madison District's system for the installation of broadband fiber optic cable. The Commission opens this investigation to further review Madison District's involvement in this project and finds the record in Case No. 2021-00218 should be incorporated by reference into this case in the interest of administrative efficiency.

The Commission finds that Madison Fiscal Court has a significant interest in this proceeding and should be served with a copy of this Order and presented an opportunity to intervene in this proceeding. The Commission finds that any interested party should file any motion to intervene, signed by counsel, no later than December 17, 2021.

As 807 KAR 5:001, Section 8, permits the Commission to direct the use of electronic filing procedures for proceedings that are initiated on our own motion, the Commission finds that electronic filing procedures should be used. As such, Madison District, and any intervening party, should follow the procedures set forth in 807 KAR 5:001, Section 8, when filing any document or paper in this matter. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked. The Commission directs the parties to the Commission's July 22, 2021 Order in Case No. 2020-00085³ regarding filings with the Commission.

The Commission further finds that a procedural schedule should be established to review the reasonableness of the proposed project. The procedural schedule is attached as an Appendix A to this Order and is incorporated herein.

³ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

IT IS THEREFORE ORDERED that:

1. This proceeding is established to investigate the reasonableness of Madison District's proposed involvement in the Madison Fiscal Court project.
2. Madison District's proposed involvement in this project is suspended until a final Order of this Commission has been entered into this matter.
3. The record in Case No. 2018-00218⁴ shall be incorporated by reference into this matter.
4. Any interested party, may, by counsel, file a motion to intervene no later than December 17, 2021.
5. Madison District shall, by counsel, enter an appearance in this proceeding within seven days of the date of entry of this Order. The entry of appearance shall include the name, address, telephone number, fax number, and electronic mail address of counsel.
6. Unless otherwise ordered by the Commission, the procedures set forth in 807 KAR 5:001, Section 8, related to service and electronic filing of papers shall be followed in this proceeding.
7. Pursuant to 807 KAR 5:011, Section 8(9), within seven days of entry of this Order, Madison District shall file by electronic means a written statement that it waives any right to service of Commission orders by United States mail and that it or its authorized agents possesses the facilities to receive electronic submissions.

⁴ Case No. 2021-00218, *Electronic Application of Madison County Utilities District for an Alternative Rate Adjustment*, (Ky. PSC Nov. 22, 2021).

8. Unless a party granted leave to intervene states its objection to the use of electronic filing procedures in a motion for intervention, the party shall:

a. Be deemed to have consented to the use of electronic filing procedures and the service of all papers, including Orders of the Commission, by electronic means; and

b. Within seven days of the date of entry of an Order of the Commission, granting intervention, file with the Commission a written statement that: (1) It or its authorized agent possesses the facilities to receive electronic transmissions; and (2) Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding should be served.

8. If a party objects to the use of electronic filing procedures and the Commission determines that good cause exists to excuse that party from the use of electronic filing procedures, service of documents on that party and by that party shall be made in accordance with 807 KAR 5:001, Section 4(8).

9. The procedural schedule set forth in Appendix A to this Order shall be followed.

10. Madison District shall file responses to the information request set forth in Appendix B no later than January 21, 2022.

11. a. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked.

b. Each response shall include the question to which the response is made, and shall include the name of the witness responsible for responding to the questions related to the information provided and shall be answered under oath or, for

representatives of a public or private corporation or a partnership or an association or a governmental agency, be accompanied by a signed certification of the preparer or person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

c. A party shall make timely amendment to any prior response if it obtains information which indicates that the response was incorrect when made or, though correct when made, is now incorrect in any material respect.

d. For any request to which a party fails or refuses to furnish all or part of the requested information, that party shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

e. Careful attention should be given to copied material to ensure that it is legible. When the requested information has been previously provided in this proceeding in the requested format, reference may be made to the specific location of that information in responding to this request.

f. Any party filing a paper containing personal information shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the paper so that the personal information cannot be read.

12. As set forth in 807 KAR 5:001, Section 4(11)(a), a person requesting permissive intervention in a Commission proceeding is required to demonstrate either (1) a special interest in the proceeding which is not adequately represented in the case, or (2) that the person requesting permissive intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly

complicating or disrupting the proceedings. Further, KRS 278.040(2) requires that a person seeking intervention must have an interest in the rates or service of a utility, as those are the only matters that are subject to the Commission's jurisdiction. Therefore, any person requesting to intervene in a Commission proceeding must state with specificity the person's special interest that is not otherwise adequately represented, or the issues and facts that the person will present that will assist the Commission in fully considering the matter. A mere recitation of the quantity of utility service consumed by the movant or a general statement regarding the potential impact of possible modification of rates will not be deemed sufficient to establish a special interest. In addition, any motion to intervene after the date established in the procedural schedule shall also show good cause for being untimely. If the untimely motion is granted, the movant shall accept and abide by the existing procedural schedule.

13. Madison District shall give notice of the hearing in accordance with the provisions set forth in 807 KAR 5:001, Section 9(2). In addition, the notice of the hearing shall include the following statements: "This hearing will be streamed live and may be viewed on the PSC website, psc.ky.gov"; and "Public comments may be made at the beginning of the hearing. Those wishing to make oral public comments may do so by following the instructions listed on the PSC website, psc.ky.gov." At the time publication is requested, Madison District shall forward a duplicate of the notice and request to the Commission.

14. At any public hearing in this matter, neither opening statements nor summarization of direct testimonies shall be permitted.

15. Pursuant to KRS 278.360 and 807 KAR 5:001, Section 9(9), a digital video recording shall be made of the hearing.

16. The Commission does not look favorably upon motions of continuance. Accordingly, motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

17. The Executive Director shall serve a copy of this Order on Madison County Judge/Executive Reagan Taylor.

18. Nothing contained herein shall prevent the Commission from entering further Orders in this matter

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By the Commission

ENTERED
NOV 22 2021 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2021-00422

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00422 DATED NOV 22 2021

- Requests for intervention shall be filed no later than 12/17/2021
- Madison District shall file its response to the Commission's
request for information attached hereto no later than 01/21/2022
- Initial requests for information to Madison District
shall be filed no later than 02/04/2022
- Madison District shall file responses to initial requests for
information no later than 02/18/2022
- All supplemental requests for information to
Madison District shall be filed no later than 03/11/2022
- Madison District shall file responses to supplemental
requests for information no later than 04/15/2022
- Intervenors Testimony, if any, in verified prepared
form shall be filed no later than 05/06/2022
- All requests for information to Intervenors
shall be filed no later than 05/27/2022
- Intervenors shall file responses to requests
for information no later than 06/17/2022
- Madison District or any Intervenors shall request either
a hearing or that the case be submitted for a decision
based on the record no later than 06/24/2022

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2021-00422 DATED NOV 22 2021

1. Refer to Case No. 2021-00218,¹ Commission Staff's Second Request for Information (Staff Second Request), Item 1(c)(iv). Identify the dates of all of the meetings between Madison Fiscal Court and Madison District regarding this project.

- a. Identify each individual attending these meetings.
- b. Provide the minutes taken during these meetings.

2. Refer to Commission Staff's Third Request for Information (Staff's Third Request), Item 3. Madison District's response, "MCUD has agreed to forgo any compensation related to the deployment of fiber optic lines in the service of the CSEPP program and upgrade of the community emergency communications system."

- a. Identify all additional expenses related to the installation of the fiber optic cable.
- b. Identify the party that will be responsible for paying these additional expenses.
- c. Identify any additional expenses that may occur, such as additional labor costs during repairs while waiting on fiber optic cable removal.
- d. Identify the party that will be responsible for these additional expenses.

¹ Case No. 2021-00218, *Electronic Application of Madison County Utilities District for an Alternative Rate Adjustment*.

3. Refer to Staff's Third Request, Item 4. The Water Resources Information System (WRIS) Portal managed by the Kentucky Infrastructure Authority (KIA) identifies 10" PVC pipe only in section of Link 21. The areas identified in the portal for Links 22 and 23 contain 8" PVC pipe and 4" AC pipe.

a. Confirm that Links 22 and 23 contain 10" PVC rather than 8" PVC pipe.

b. Confirm that the information in the WRIS Portal is incorrect.

4. Explain the party responsible for the first contact between the representatives of Craley Group Limited (Craley) and representatives of Madison Fiscal Court.

a. Explain when the first established contact between Madison Fiscal Court and Craley occurred.

b. Explain when the first established contact between Madison District and Craley occurred.

5. Refer to Staff's Third Request, Item 5 (b).

a. Explain in detail how the operating pressures and flows were determined via the Madison District's GIS and Telemetry systems.

b. Provide the equipment utilized to determine the operating pressures and flows information.

c. Explain if Madison District has a hydraulic model of its system.

d. Explain if the hydraulic model was used in establishing operating pressures and flows for the installation of the fiber optic cable.

e. Identify the party that determined the information relied upon

6. Refer to Staff's Third Request, Item 6(b).
 - a. Provide the name of the party that owns the hydrants that were not tested by the Madison County Fire Department in 2020.
 - b. Identify the Links in the proposed project where each hydrant is located.
7. Refer to Staff's Third Request, Item 7.
 - a. Provide the C-factor that was assumed in pipe calculations of pressure loss in the Hydraulic Regime.
 - b. Explain if the C-factor was confirmed through field testing or hydraulic modelling of the system.
8. Refer to Staff's Third Request, Item 11.
 - a. Identify all analysis performed related to pole attachments of the project.
 - b. Provide copies of all bids received for directional boring and trenching.
9. Refer to Staff's Third Request, Item 13.
 - a. Identify when the contact with Kentucky American Water was made.
 - b. Provide the name of the individual that was contacted.
 - c. Provide the name of the individual that made the contact
 - d. Provide the response provided by Kentucky American Water.
10. Provide any plans that have been made to establish a fiber optic cable link across the Kentucky River.

a. Provide copies of any plans that detail how the project will cross the Kentucky River, the permits if required, and the proposed length of time for that phase of project implementation.

b. If no plans have been drafted, explain how the project will cross the Kentucky River.

c. If permits are required, provide copies or explain why they have not been obtained at present.

11. Identify all locations of fiber installation within existing waterlines that have occurred in the United States that the Madison District is aware of.

12. Identify the pressure loss along the length of the project during peak water demand periods due to the fiber optic cable installation.

a. If there is pressure loss, provide the amount of this pressure loss.

13. Identify the pressure loss during fire flows at any point of the project due to the fiber optic cable installation.

a. If there is pressure loss, provide the amount of this pressure loss.

14. Provide the amount in feet and percentage of the total project of mains installed in existing easements.

15. Provide the amount of mains in feet and percentage of the total project installed in an existing right-of-way.

16. Explain if any of the vaults to be constructed are located in existing easements.

a. Explain if new easements will need to be obtained.

b. Explain if the easements allow for appurtenances to be constructed that are not related to the operation of the water mains.

c. Explain if the easements allow for appurtenances to be constructed that are not related to the operation of the water meters.

d. Explain if the easements allow for appurtenances to be constructed that are not related to the operation of the water lines.

17. Provide any material provided to the Division of Water and explain if the installation project will also include use of the Craley Sensing technology.

a. If so, provide any additional expense for the technology.

b. If not, explain why there is no additional expense for the technology.

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