

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF RATTLESNAKE)	
RIDGE WATER DISTRICT FOR A CERTIFICATE)	
OF PUBLIC CONVENIENCE AND NECESSITY TO)	
CONSTRUCT A SYSTEM IMPROVEMENTS)	CASE NO.
PROJECT AND AN ORDER APPROVING A)	2022-00426
CHANGE IN RATES AND AUTHORIZING THE)	
ISSUANCE OF SECURITIES PURSUANT TO KRS)	
278.023)	

ORDER

On January 9, 2023, Rattlesnake Ridge Water District (Rattlesnake Ridge District) tendered an application, pursuant to KRS 278.023. The application was deemed deficient on January 12, 2023. Rattlesnake Ridge District remedied the deficiency, and the application was deemed filed on January 23, 2023. Rattlesnake Ridge District requested (1) a Certificate of Public Convenience and Necessity (CPCN) to replace 4,000 customer meters with new radio read meters, the installation of nine new system wide master meters as well as 14,500 linear feet of new water main and the replacement of 700 existing service lines and meter assemblies; (2) approval of the proposed plan for financing the project via a loan agreement and grant from the Kentucky Rural Utilities Service (RUS) and administered by the United States Department of Agriculture Rural Development (RD), and (3) approval of proposed rate changes required by said agreement. No party has sought intervention in this matter. This matter now stands submitted for a decision by the Commission.

LEGAL STANDARD

Rattlesnake Ridge District has submitted its application pursuant to KRS 278.023. The Commission is required, pursuant to KRS 278.023, to accept agreements between water utilities and RD regarding construction projects, and to issue the necessary orders to implement the terms of such agreements no later than 30 days after filing the application with the Commission. KRS 278.023 does not grant the Commission any discretionary authority to modify or reject any portion of the agreement between the RD and Rattlesnake Ridge District or defer the issuance of all necessary orders to implement the terms of that agreement.

Pursuant to KRS 278.023, the statute further denies the Commission any authority to reject an application when the evidence of record indicates that a water utility's proposed construction will result in the wasteful duplication of facilities, resulting in an excessive investment, or its proposed rates are unfair, unjust, or unreasonable. As explained in KRS 278.023(1), the limits on the Commission's review are because federal financing of these projects entails prior review and oversight by a federal agency and obligates the utility to take certain actions; conflicting requirements between the federal agency and the Commission may jeopardize the project and place the utility in an untenable position.

The Commission, therefore, is not able to review this application using the same standards that are used for applications that are not filed pursuant to KRS 278.023. The legal standard established in KRS 278.023 requires that (1) the applicant be a water utility formed under KRS Chapter 74 or 273; and (2) the construction project must be funded in whole or in part under terms of an agreement between the water utility, United States

Department of Agriculture or United States Department of Housing and Urban Development. The Commission is not, however, prohibited by KRS 278.023 from requiring a utility seeking approval of such an agreement to subsequently file reports or other information in order to monitor the utility's ability to repay the loan, meet other financial or regulatory obligations, or otherwise establish its financial condition.

BACKGROUND

Rattlesnake Ridge District is a water district organized under KRS Chapter 74. It proposed two projects. First, Rattlesnake Ridge District proposed to purchase and installation of 4,000 new 5/8" x 3/4" radio read meters and integrated software; also included is the installation of nine new master meter vaults and appurtenances system wide.¹ Second, it proposed installation approximately 14,500 LF of new 2" and 3" PVC water main to provide potable water to approximately 25 new customers, including the replacement of 700 service lines and meter assemblies.²

Rattlesnake Ridge District proposed to fund this project via a RUS loan not to exceed \$1,906,000 and a RUS grant not to exceed \$1,196,000 approved by RD.³ Additionally, Rattlesnake Ridge District plans on applying funds from an Appalachian Regional Commission (ARC) grant in the amount of \$500,000; and a Community Development Block Grant (CDBG) in the amount of \$1,000,000.⁴ The agreement with RUS/RD requires that Rattlesnake Ridge District charge minimum rates.⁵ These rates

¹ Application, Exhibit A, Contract 1.

² Application, Exhibit A, Contract 2.

³ Application at 1-2, Paragraph 5.

⁴ Application at 1-2, Paragraph 5.

⁵ Exhibit B at 12.

exceed Rattlesnake Ridge District's current rates.⁶ The new rates represent an increase of approximately six percent for residential and commercial customers.⁷

The Commission has an open investigation into Rattlesnake Ridge District's financial and operating capacity.⁸ Because this project was mentioned in a filing from November 8, 2021, in Case No. 2021-00340, that references Rattlesnake Ridge District receiving a \$1,500,000 grant and states "[t]he District is currently working on the Phase 12 Project which consists of 700 new services and replacing 4,000 meters with new meters".⁹ The Commission is concerned with the expenditure of the funds within the district. The utility does not appear to ever have filed any evidence that the project referenced in the response in Case No. 2021-00340 was ever undertaken even though the utility had mentioned the funding. The district has failed to file its audits in a timely fashion; filing both 2019 and 2020 in 2021.¹⁰ The 2021 Audit still has not been filed despite the Commission's investigation in Case No. 2021-00340.

DISCUSSION AND FINDINGS

Having considered the application and all evidence in the record, the Commission finds that the application should be approved pursuant to KRS 278.023. Rattlesnake

⁶ Application, Exhibit E.

⁷ Application, Exhibit E.

⁸ Case No. 2021-00340 *Electronic Investigation into the Financial and Operating Capacity of Rattlesnake Ridge Water District Including Rattlesnake Ridge Water District and Its Individual Commissioners, and Manager David Gifford for Alleged Failure to Comply With KRS 278.300 as Well as Possible Vacancies on the Board of Commissioners of Rattlesnake Ridge Water District* (Ky. PSC Oct. 18, 2021).

⁹ Case No. 2021-00340, Response on Behalf of Rattlesnake Ridge Water District (filed on Nov. 8, 2021) at 1, Item 1.

¹⁰ Rattlesnake Ridge District's 2019 Annual Audit Report (accepted as filed Dec. 16, 2022) and Rattlesnake Ridge District's 2020 Annual Audit Report (accepted as filed Dec. 16, 2022).

Ridge District is a water district organized under KRS Chapter 74 and the approvals sought are authorized or required by the RD agreement. Rattlesnake Ridge District's KRS 278.023 filing does not satisfy the Order in Case No. 2021-00340, in which the Commission ordered Rattlesnake Ridge District to file either a general rate case or an alternative rate filing by May 2023,¹¹ not a rate change as part of a KRS 278.023 filing. As discussed in the November 2022 Order in Case 2021-00340, the Commission has concerns about commission vacancies and the ongoing high-water loss.¹²

Given the ongoing investigation in Case No. 2021-00340, the Commission anticipates that Commission Staff will propound additional requests for information regarding the finances and operations of Rattlesnake Ridge District. The Commission finds that Rattlesnake Ridge District should respond to all requests for information propounded by Commission Staff in Case No. 2021-00340 according to the date set forth on those requests.

IT IS THEREFORE ORDERED that:

1. Rattlesnake Ridge District is granted a CPCN for the proposed project as submitted.
2. Rattlesnake Ridge District's proposed plan of financing is approved.
3. Rattlesnake Ridge District is authorized to execute the RD loan as provided.

¹¹ Case No. 2021-00340, (Ky. PSC Nov. 7, 2022), Order at 6, ordering paragraph 1.

¹² Rattlesnake Ridge District has filed two responses addressing the vacancies but it appears three of the commissioners listed were not duly appointed. Case No. 2021-00340, Rattlesnake Ridge District's Responses (filed Jan. 5, 2023 and Jan. 24, 2023). *Annual Report of Rattlesnake Ridge District's to the Public Service Commission for the Year Ending December 31, 2021* (accepted for filing on Aug. 4, 2022) denotes 64.25% on page 57.

4. Rattlesnake Ridge District shall charge rates, set forth in the Appendix attached hereto, not to exceed the minimum rates required by the RD agreement but not less than its current rates.

5. Rattlesnake Ridge District shall file a revised tariff sheet adopting the rates set forth in the Appendix attached hereto within 30 days of issuance of this Order.

6. The proceeds of the loan shall be used only for the purposes specified in Rattlesnake Ridge District's application.

7. Rattlesnake Ridge District shall obtain approval from the Commission prior to performing any additional construction not expressly authorized by this Order.

8. Rattlesnake Ridge District shall file with the Commission documentation of the total costs of this project, including the cost of construction and all other capitalized costs (e.g., engineering, legal, and administrative), within 60 days of the date that construction 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.

9. Rattlesnake Ridge District shall file a copy of the as-built drawings and a certified statement from the engineer that the construction has been satisfactorily completed in accordance with the contract plans and specifications within 60 days of substantial completion of the construction certified herein.

10. Rattlesnake Ridge District shall require the construction to be inspected under the general supervision of a 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.

11. Rattlesnake Ridge District shall notify the Commission in writing one week prior to the actual start of construction and at the 50 percent completion point.

12. Any documents filed by Rattlesnake Ridge District in the future pursuant to this Order shall reference this case number and shall be retained in the post-case correspondence file for this proceeding.

13. The Executive Director is delegated authority to grant reasonable extensions of time for filing of any documents required by this Order upon Rattlesnake Ridge District's showing of good cause for such extension.

14. The Commission's approval of the CPCN and rates is conditioned upon execution of all required loan documents.

15. Rattlesnake Ridge District shall respond to requests for information propounded by Commission Staff in Case No. 2021-00340 by the date set forth on those requests.

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

PUBLIC SERVICE COMMISSION

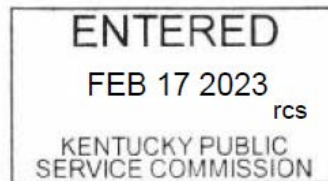


Chairman

Vice Chairman



Commissioner



ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2022-00426 DATED FEB 17 2023

The following rates and charges are prescribed for the customers in the area served by Rattlesnake Ridge Water District. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under the authority of the Commission prior to the effective date of this Order.

<u>Monthly Water Rates</u>			
<u>5/8- x 3/4-Inch Meter</u>			
First	1,000 Gallons	\$	20.48 Minimum Bill
Next	4,000 Gallons		0.01526 Per Gallon
Next	5,000 Gallons		0.01314 Per Gallon
Next	10,000 Gallons		0.01177 Per Gallon
Next	20,000 Gallons		0.00837 Per Gallon
Over	40,000 Gallons		0.00668 Per Gallon
<u>3/4-Inch Meter</u>			
First	5,000 Gallons	\$	81.54 Minimum Bill
Next	5,000 Gallons		0.01314 Per Gallon
Next	10,000 Gallons		0.01177 Per Gallon
Next	20,000 Gallons		0.00837 Per Gallon
Over	40,000 Gallons		0.00668 Per Gallon
<u>1-Inch Meter</u>			
First	10,000 Gallons	\$	147.26 Minimum Bill
Next	10,000 Gallons		0.01177 Per Gallon
Next	20,000 Gallons		0.00837 Per Gallon
Over	40,000 Gallons		0.00668 Per Gallon
<u>1-1/2-Inch Meter</u>			
First	30,000 Gallons	\$	348.66 Minimum Bill
Next	10,000 Gallons		0.00837 Per Gallon
Over	40,000 Gallons		0.00668 Per Gallon
<u>2-Inch Meter</u>			
First	50,000 Gallons	\$	499.18 Minimum Bill
Over	50,000 Gallons		0.00668 Per Gallon

<u>3-Inch Meter</u>			
First	100,000 Gallons	\$	833.08 Minimum Bill
Over	100,000 Gallons		0.00668 Per Gallon
<u>4-Inch Meter</u>			
First	200,000 Gallons	\$	1,500.88 Minimum Bill
Over	200,000 Gallons		0.00668 Per Gallon
<u>6-Inch Meter</u>			
First	200,000 Gallons	\$	3,504.28 Minimum Bill
Over	200,000 Gallons		0.00668 Per Gallon
<u>Wholesale Rate</u>			
Big Sandy Water District		\$	0.00456 Per Gallon
City of Grayson			0.00456 Per Gallon
City of Vanceburg			0.00405 Per Gallon
<u>Wholesale Rate (Emergency)</u>			
City of Olive Hill		\$	0.00456 Per Gallon
KY Dept. of Parks (Golf)			0.00491 Per Gallon
Sandy Hook Water District			
First	50,000 Gallons		153.86 Monthly Rate
Over	50,000 Gallons		3.07 Monthly Rate

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