

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF NORTHERN KENTUCKY	)	
WATER DISTRICT FOR A CERTIFICATE OF	)	CASE NO.
CONVENIENCE AND NECESSITY, FINANCING,	)	2014-00150
SURCHARGE, AND CREATION OF SUB	)	
DISTRICT M PURSUANT TO KRS 278.023	)	

ORDER

On May 8, 2014, Northern Kentucky Water District (“NKWD”) applied to the Commission for a Certificate of Public Convenience and Necessity (“CPCN”) to construct certain water main extensions within its proposed Sub district M and for authority to assess a surcharge to all customers within that area.

NKWD proposes to construct approximately 6.62 miles of six- and eight-inch polyvinyl chloride and ductile iron water main and appurtenances. This project will service approximately 136 new customers. The proposed project is needed to provide water service to NKWD’s unserved residents of southern Kenton County, Kentucky, who currently use potentially unsafe water from ground water wells or water from hauling stations. The total cost of the project, including development cost, land and rights costs, legal and administrative costs, engineering costs, interest and contingencies, is \$3.4 million.

On June 4, 2014, the Commission issued an Order wherein it rejected the application for filing. The Commission found that it appeared that rates for sub districts other than Sub district M were being altered but were not provided notice of the adjustments. The Commission further noted that notice had not been published until

May 22, 2014. The Commission ordered NKWD to republish notice and held that the case would not be accepted as filed until a corrected notice was published.

On June 5, 2014, NKWD submitted a response wherein it stated that it is not seeking to alter the rates of sub districts A, B, C, D, E, F, G, K, R, RF, or RL. Instead, NKWD stated that the United States Department of Agriculture Rural Development's ("RD") letter of conditions,<sup>1</sup> where the divergent rates for the other sub districts appear, was based upon the tariffed rates as of January 1, 2012. In support NKWD attached the accepted 2012 tariff, which shows rates mirroring the rates in the RD letter. NKWD asserts that the sub district rates are recalculated on an annual basis and this recalculation accounts for the discrepancy between the current tariff rates and the rates indicated in the July 2013 RD letter of conditions. NKWD further states that the delay in publishing the notice was impacted due to the publication schedule of one of the area newspapers. Accordingly, NKWD requests that its application be accepted as filed as of the original filing date.

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

1. NKWD has satisfied the terms of the Commission's June 4, 2014 Order, and because NKWD is not seeking to alter the rates of any sub districts unrelated to the proposed project, republishing of the newspaper notice is not required.

2. In accordance with 807 KAR 5:069 Section 3(2)(b)(3), notice of the proposed change in rates is required for acceptance of an application wherein rates will

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<sup>1</sup> Letter from Thomas Fern, State Director, RD, to C. Ronald Lovan, President/CEO, Northern Kentucky Water District (July 1, 2013). Application at Exhibit A. NKWD noted in its June 5, 2014 response that the RD letter appears to have a typographical error in the rate for sub district B.

be altered. NKWD did not publish notice of the change in rates for customers in Sub district M until May 22, 2014, 14 days after its application was initially filed.

3. NKWD's application is accepted as filed as of May 22, 2014.

4. NKWD proposes to create for administrative, financing, and ratemaking purposes a sub district known as "Sub district M".<sup>2</sup>

5. Sub district M comprises all or a portion of the following areas in southern Kenton County: Little Cruises Creek Road, Rich Road, KY 177 (Decoursey Pike), Camp Drive, Harvil Drive, Rouse Road, Fontana, and Lakeview Drive.<sup>3</sup>

6. NKWD provided a street customer density table and a map of affected streets in the Application.<sup>4</sup>

7. NKWD proposes to finance the proposed construction with the proceeds of a loan from RD in the amount of \$1,733,000, a grant from RD in the amount of \$600,000, a Department of Housing and Urban Development Community Development Block Grant in the amount of \$1 million, a Kenton County Fiscal Court contribution in the amount of \$50,000, and a cash contribution in the amount of \$17,000 from NKWD connection fees. The proposed loan is to be repaid over a period of 40 years at an interest rate that is the lower of the rate in effect at the time of the loan's approval or the rate in effect at the time of loan closing, unless NKWD otherwise chooses.<sup>5</sup>

8. NKWD has submitted its application pursuant to KRS 278.023. Notwithstanding KRS 278.020(1), KRS 278.180, KRS 278.190, and KRS 278.300, KRS

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<sup>2</sup> Application at 2.

<sup>3</sup> Application at Exhibit C.

<sup>4</sup> Application at Exhibit F.

<sup>5</sup> Letter from Thomas G. Fern, State Director, RD, to C. Ronald Lovan, President/CEO, Northern Kentucky Water District (July 1, 2013). Application at Exhibit A.

278.023 requires the Commission to accept agreements between water districts and RD regarding construction projects, and to issue the necessary orders to implement the terms of such agreements within 30 days of satisfactory completion of the minimum filing requirements.

9. KRS 278.023 does not grant the Commission any discretionary authority to modify or reject any portion of the agreement between RD and NKWD, or to defer the issuance of all necessary orders to implement the terms of that agreement. It further denies the Commission any authority to reject an application when the evidence of record indicates that a water district's proposed facilities will result in the wasteful duplication of facilities or excessive investment or its proposed rates are unfair, unjust, or unreasonable. 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.

IT IS THEREFORE ORDERED that:

1. NKWD's application is accepted as filed as of May 22, 2014.
2. NKWD is granted a Certificate of Public Convenience and Necessity for the proposed construction project.
3. NKWD's proposed plan of financing is accepted.
4. NKWD is authorized to borrow \$1,733,000 from RD to be repaid over a period of 40 years at an interest rate that is the lower of the rate in effect at the

time of the loan approval or the rate in effect at the time of loan closing, unless NKWD otherwise chooses.

5. The proceeds from the proposed loan shall be used only for the purposes specified in NKWD's application.

6. NKWD shall, within 30 days of executing the loan agreement, file a written statement with the Commission setting forth the date on which the agreement was entered, the actual interest rates, and a loan amortization schedule.

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

8. Notwithstanding ordering paragraph 5, if surplus funds remain after the approved construction has been completed, NKWD may use such surplus to construct additional plant facilities if RD approves of the use and the additional construction will not result in a change in NKWD's rates for service. NKWD shall provide written notice of this additional construction in accordance with 807 KAR 5:069, Section 4.

9. NKWD 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. NKWD 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. NKWD shall notify the Commission in writing one week prior to the actual start of construction and at the 50 percent completion point.

12. The surcharge rate for Sub district M set forth in the Appendix to this Order is approved for service that NKWD renders on and after the date of this Order.

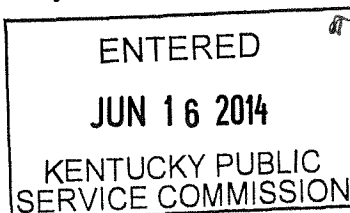
13. Within 20 days of the date of this Order, NKWD shall file revised tariff sheets with the Commission, using the Commission's electronic Tariff Filing System, containing the rates set forth in the Appendix to this Order.

14. Any documents filed in the future pursuant to ordering paragraphs 6, 8, 9, and 11 of this Order shall reference this case number and shall be retained in the utility's general correspondence file.

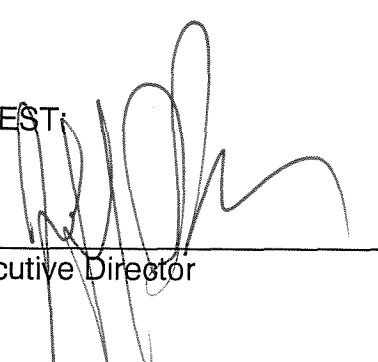
15. The Executive Director is delegated authority to grant reasonable extensions of time for filing of any documents required by the Order upon NKWD's showing of good cause for such extension.

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

By the Commission



ATTEST:

  
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Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2014-00150 DATED **JUN 16 2014**

The following rates and charges are prescribed for the customers in the area served by Northern Kentucky Water District. 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.

Sub district Surcharge Fee

Customers in Sub district M

30.00 per month

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Northern Kentucky Water District  
2835 Crescent Springs Road  
P. O. Box 18640  
Erlanger, KY 41018-0640

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Frankfort, KENTUCKY 40601