

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF NORTHERN KENTUCKY)	
WATER DISTRICT FOR APPROVAL OF DIXIE)	
HIGHWAY WATER MAIN IMPROVEMENTS,)	CASE NO.
ISSUANCE OF A CERTIFICATE OF)	2014-00171
CONVENIENCE AND NECESSITY AND)	
APPROVAL OF FINANCING)	

ORDER

Northern Kentucky Water District ("NKWD") has applied for a Certificate of Public Convenience and Necessity ("CPCN") to construct improvements to the Dixie Highway water main, for approval of its plan to finance the proposed construction, and for approval to capitalize the construction costs. In the event that the Commission determines that a CPCN is not required, NKWD requests the case be dismissed.

NKWD is a water district organized under KRS Chapter 74 that provides retail water service to approximately 80,753 customers in Boone, Campbell, and Kenton counties, Kentucky, and wholesale water service to the city of Walton, Kentucky, Pendleton County Water District, and Bullock Pen Water District.¹

NKWD's initial application in the instant matter was received on June 10, 2014. It was supplemented and accepted as filed with the Commission on June 24, 2014. No person has sought intervention in this matter. NKWD has not requested a hearing in this matter and the Commission finds the record complete.

¹ Annual Report of Northern Kentucky Water District to the Kentucky Public Service Commission for the Year Ended December 31, 2013 at 5, 27, and 30.

NKWD's proposed project consists of the structural lining of approximately 7,210 linear feet of eight-inch water main along Dixie Highway (U.S. 25) in the cities of Erlanger, Elsmere, and Florence in Kenton and Boone counties and an additional 1,320 linear feet of six- and eight-inch water main along various streets in the city of Florence.² NKWD asserts that the repairs are necessary due to the approximately 70-year age of the existing cast-iron pipe, which has experienced numerous leaks.³

Structural lining is a process which has been utilized in the rehabilitation of water and sewer mains.⁴ It involves the installation of Cured-In-Place Pipe ("CIPP") into an existing water main while remaining in service. A tube of flexible lining material, after being impregnated with an epoxy resin, is inserted into the existing pipe and pressurized till the resin hardens into a 3/8-inch-thick "pipe within a pipe."⁵ NKWD asserts that this new material is an American Water Works Association ("AWWA") Class IV pipe that is fully structural and that can help extend the service life of the original water main by up to 50 years or more.⁶ No new water main will be installed as part of this project.

Due to the water main's location on a major roadway and the existence of several other utility easements in the same vicinity, the Kentucky Department of Transportation previously declined to permit closing the roadway to replace the main through traditional open-cut replacement. Accordingly, NKWD proposes to utilize the

² Application at 2.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

structural lining method to repair the main, which it states is the safest and most cost effective option.

The total cost of the proposed project, including engineering costs, construction costs, miscellaneous and contingency costs, is approximately \$1,530,000. Of that amount, the city of Florence will contribute \$470,633.67. NKWD intends to finance the remaining portion of the project through a 2014 bond anticipation note ("BAN").⁷

NKWD's application requests a CPCN, or dismissal of the case if a CPCN is not required. Whether the proposed project requires a CPCN hinges upon whether the project is deemed to be within the ordinary course of business. Construction projects which are in the ordinary course of business do not require a CPCN. Both Kentucky statute and the Commission's regulations address the need for a CPCN.

KRS 278.020(1) provides:

No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010, except retail electric suppliers for service connections to electric-consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business, until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction.

Administrative Regulation 807 KAR 5:001, Section 15(3), further states:

A certificate of public convenience and necessity shall not be required for extensions that do not create wasteful duplication of plant, equipment, property, or facilities, or conflict with the existing certificates or service of other utilities operating in the same area and under the jurisdiction of the commission that are in the general or contiguous area in which the utility renders service, and that do not involve sufficient capital outlay to materially affect the existing

⁷ *Id.* at 4.

financial condition of the utility involved, or will not result in increased charges to its customers.

In assessing whether a proposed project is a system extension in the ordinary course of business, Kentucky courts have traditionally looked to the size and scope of a project in the context of the monetary cost involved.⁸ The Commission has similarly adopted this method and likewise looks to the scale of a proposed project in relation to the relative size of the utility and its present facilities. The proposed method of financing a project is not necessarily determinative of whether a project requires a CPCN; rather the Commission looks to whether the facilities would result in wasteful duplication, compete with existing facilities or involve sufficient capital to materially affect the utility's financial condition.⁹

Here, NKWD has a total net utility plant of \$330,896,925.¹⁰ The proposed project represents an increase in NKWD's total utility plant of less than 1 percent. The Commission traditionally considers such an increase in total utility plant as ordinary, as it does not materially affect the utility's existing financial condition and will not require an immediate adjustment of its rates.¹¹ Moreover, due to the age and condition of the existing main and the fact that the repair will not conflict with any existing utility services,

⁸ See e.g., *City of Covington v. Board of Commissioners of Kenton County Water District No. 1*, 371 S.W.2d 20, 22 (Ky. 1963); See also *Kentucky Utilities Co. v. Public Service Commission*, 390 S.W.2d 168, 170 (Ky. App. 1965) (holding the proposed major facilities could not be considered "mere ordinary extensions or normal improvements").

⁹ Case No. 2000-00481, *The Application of Northern Kentucky Water District (A) for Authority to Issue Parity Revenue Bonds in the Approximate Amount of \$16,545,000; and (B) a Certificate of Convenience and Necessity for the Construction of Water Main Facilities*, at 4 (Ky. PSC Aug. 30, 2001).

¹⁰ *Annual Report of NKWD to the Kentucky Public Service Commission for the Year Ended December 31, 2012* at 7.

¹¹ Case No. 2001-00344, *The Application of the Bullock Pen Water District to Assume a Note Payable in the Principal Amount of \$355,660 Pursuant to the Provisions of KRS 278.300 and 807 KAR 5:001* (Ky. PSC Jan. 9, 2002).

the proposed repair will not create wasteful duplication of the existing plant. NKWD's proposed construction is an improvement to its existing system that may properly be classified as a maintenance or replacement project and should thus be considered to be in the ordinary course of business.¹²

Finally, since the CIPP lining will extend the main's original estimated service life, Generally Accepted Accounting Principles require that its cost be capitalized and depreciated as a component of the main's original cost. Furthermore, because the proposed project will be financed through a two-year BAN, Commission approval of the financing is not presently required. However, pursuant to KRS 278.300, NKWD should seek Commission approval before issuing any long-term revenue notes.

IT IS THEREFORE ORDERED that:

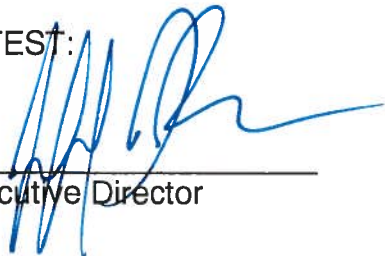
1. NKWD's proposed water main relining project is deemed to be an ordinary extension in the usual course of business and is exempt from the requirement of a CPCN.
2. NKWD shall capitalize the cost of the project and depreciate it as a component of the main's original cost.
3. NKWD shall submit an application to the Commission prior to issuing any securities that require approval pursuant to KRS 278.300.
4. This case is closed and removed from the Commission's docket.

¹² Case No. 1989-00307, *In the Matter of the Application of Aqua Corporation for an Expedited Order Granting a Certificate of Convenience and Necessity and Approving Financing. In the Alternative, a for an Order Declaring the Project to be in the Ordinary Course of Business* (KY. PSC Dec. 7, 1989).

By the Commission

ENTERED
AUG 06 2014
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



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