

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF)	
NORTHERN KENTUCKY WATER DISTRICT)	
FOR A CERTIFICATE OF CONVENIENCE)	CASE NO.
AND NECESSITY FOR OLIVE/COX ROAD)	2018-00413
WATER MAIN REPLACEMENT PROJECT)	

ORDER

On December 14, 2018, Northern Kentucky Water District (Northern District) submitted an application seeking a Certificate of Public Convenience and Necessity (CPCN) for the replacement of a water main along Cox Road and Oliver Road in Kenton County, Kentucky (hereinafter, Oliver Rd. Project). There were no motions to intervene or other objections made in this matter. Northern District responded to one set of requests for information from Commission Staff. Northern District stated that it needed approval on or before January 31, 2019, because the contractors' bids will only remain open through that date.¹ Having reviewed the record and being otherwise sufficiently advised, the Commission grants Northern District's request for a CPCN as discussed herein below.

BACKGROUND

Northern District is a water district organized under KRS Chapter 74 that provides retail water service to approximately 80,753 customers and wholesale water service to nonaffiliated water distribution systems in Kenton, Boone, Pendleton, and Campbell counties. Northern District has approximately \$55,080,758 in Total Operating Revenues

¹ Application at paragraph 5.

and \$17,427,773 in Net Operating Income.² The cost basis of Northern District's total capital assets, less accumulated depreciation is approximately \$345,202,261.³

The Oliver Rd. Project consists of the replacement of approximately 7,600 feet of water main along Cox Road and Oliver Road from KY 16 to 4594 Oliver Road in Independence, Kenton County, Kentucky. The existing lines consist of 6-inch and 8-inch cast iron water mains that were installed in or about 1950.⁴ Northern District proposed replacing the existing lines with new 12-inch ductile iron water mains.⁵ Northern District expects to begin construction in March 2019 and complete construction by October 2019.⁶

Northern District indicated that the Oliver Rd. Project is actually the second phase of a larger project.⁷ The first phase of the project consisted of the replacement of 3,400 feet of water main along McCullum Road from Madison Pike to Oliver Road (hereinafter, McCullum Rd. Project).⁸ Construction on the McCullum Rd. Project began in or about September 2009. Northern District stated that it was necessary to construct that portion of the project at that time because it needed to be completed before the highway project

² *Id.* at Exhibit F, Current Balance Sheet and Income Statement at 3.

³ *Id.*

⁴ *Id.* at paragraph 5.

⁵ *Id.*

⁶ *Id.* at paragraph 10.

⁷ Response to Commission Staff's First Request for Information (Response to Staff's First Request), Item 3.

⁸ *Id.*

in the vicinity, which would have significantly increased the cost of Northern District's project. Northern District is not requesting a CPCN herein for the McCullum Rd. Project.⁹

The total estimated cost of the project, including both the Oliver Rd. Project and the McCullum Rd. Project, is \$1,300,000. The costs broken down are as follows:¹⁰

Engineering Costs ¹¹	\$93,444.00
Contractor Costs: McCullum Rd. Project	\$251,734.20
Contractor Costs: Oliver Rd. Project	\$940,926.60
Misc. & Contingencies	\$13,895.20
Total Project Cost	\$1,300,000.00

The Oliver Rd. Project, for which a CPCN is requested herein, was open to competitive bidding, and Northern District received 11 bids ranging from \$1,658,443.00 to \$940,926.60.¹² Consistent with the recombination of its engineering contractor, Northern District intends to accept the lowest bid for the construction of the project, which was made by Tribute Contracting and Consultants, LLC.¹³ The Oliver Rd. Project will be funded by internally available funds budgeted through the 2019 Operating Capital Budget and, therefore, no debt will be incurred for the project.¹⁴

⁹ *Id.*

¹⁰ Application at paragraph 10; Response to Staff's First Request, Item 3.

¹¹ The engineering costs for the McCullum Rd. Project and the Oliver Rd. Project are both represented in this figure.

¹² Application at paragraph 5; Exhibit C, Bid Tabulation.

¹³ Application at Exhibit C, Engineer's Recommendation of Award; and Exhibit C, Board Meeting Minutes.

¹⁴ Application at paragraph 6; Application at Exhibit D, Project Finance Information.

Northern District asserted that the Oliver Rd. Project is required to allow Northern District to continue to provide adequate service to its customers.¹⁵ Northern District noted that the existing lines it proposed to replace, which are nearly 70 years old, have a history of failure, and portions of those lines rank as a high priority for replacement.¹⁶ Specifically, Northern District represented that it uses a computer model to score all water mains within its system and then ranks and prioritizes them for replacement.¹⁷ Water mains that score in the top 2 percent are categorized as a high priority for replacement. Pipe segments along Oliver and Cox Roads, which are included in this proposed project, scored high enough to rank as a high priority primarily due to their history of failure, which consists of 24 breaks and 14 leaks to date.¹⁸

Northern District acknowledged that it would be possible to repair or rehabilitate the pipes at issue as opposed to replacing them but argued that replacement was the most appropriate alternative in this case.¹⁹ Specifically, Northern District stated that it could rehabilitate that water main by placing structural lining on the existing pipe. However, it indicated that replacing the pipe was bid at \$125 dollars per foot for the Oliver Rd. Project, and past bids on other projects for rehabilitating pipes by placing structural lining have been in the range of \$160 to \$185 per foot.²⁰ Northern District asserted that

¹⁵ Application at paragraph 7.

¹⁶ *Id.* at paragraph 5.

¹⁷ Response to Staff's First Request, Item 2.

¹⁸ *Id.*

¹⁹ *Id.* at Item 1.

²⁰ *Id.*; see also Case No. 2014-00171, *Application of Northern Kentucky Water District For Approval of Dixie Highway Water Main Improvements, Issuance of a Certificate of Convenience and Necessity and Approval of Financing*, Final Order (Ky. PSC Aug. 6, 2017) (where the total project cost for placing structural lining on about 8,500 feet of water main was \$1,530,000).

rehabilitation makes financial sense in congested areas with limited corridors where restoration, easement acquisition, traffic control, and other constraints are likely to drive up the cost of replacement but indicated that there is sufficient right-of-way in the location of the Oliver Rd. Project to install most of the new main within the grass where restoration costs are low.²¹ Northern District also indicated that replacement was preferential to rehabilitation because replacement mitigates the risk of failure to a greater extent than rehabilitation, and replacement allows it to increase the capacity of its main.²²

DISCUSSION

The Commission's standard of review regarding a CPCN is well settled. Under KRS 278.020(1), 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. To obtain a CPCN, the utility must demonstrate a need for such facilities and an absence of wasteful duplication.²³

"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

²¹ Response to Staff's First Request, Item 1.

²² *Id.*

²³ *Kentucky Utilities Co. v. Pub. Serv. Comm'n*, 252 S.W.2d 885 (Ky. 1952).

establish an inability or unwillingness to render adequate service.²⁴

“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.”²⁵ 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.²⁶ Selection of a proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication.²⁷ All relevant factors must be balanced.²⁸ The statutory touchstone for ratemaking in Kentucky is the requirement that rates set by the Commission must be fair, just, and reasonable.²⁹

Here, Northern District established that the Oliver Rd. Project is needed and that it will not result in wasteful duplication. The water main that will be replaced by this project is approximately 70 years old and has had frequent failures, including 24 breaks and 14 leaks. Moreover, a section of water main that will be replaced as part of the project was

²⁴ *Id.* at 890.

²⁵ *Id.*

²⁶ Case No. 2005-00142, *Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for the Construction of Transmission Facilities in Jefferson, Bullitt, Meade, and Hardin Counties, Kentucky* (Ky. PSC Sept. 8, 2005).

²⁷ *See Kentucky Utilities Co. v. Pub. Serv. Comm'n*, 390 S.W.2d 168, 175 (Ky. 1965). *See also* Case No. 2005-00089, *The Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity to Construct a 138 kV Electric Transmission Line in Rowan County, Kentucky* (Ky. PSC Aug. 19, 2005).

²⁸ Case No. 2005-00089, *East Kentucky Power Cooperative, Inc.* (Ky. PSC Aug. 19, 2005), Final Order at 6.

²⁹ KRS 278.190(3).

identified as being among the top 2 percent of lines in the Northern District system in need of replacement based primarily on the failures identified by Northern District. Further, while there is another option to replacement, the record indicates that option—rehabilitation through the placement of a structural lining—would not be the most cost-effective option and would provide fewer benefits than replacement in this case. Also, the scope of this project is narrow and will account for less than one-third of one percent of Northern District’s plant in service upon completion. Thus, the Commission finds that the Oliver Rd. Project is needed and that it will not result in wasteful duplication.

IT IS THEREFORE ORDERED that:

1. Northern District is granted a CPCN to construct the Oliver Rd. Project as set forth in its application.
2. Northern District shall immediately notify the Commission upon knowledge of any material changes to the Oliver Rd. Project, including but not limited to increase in cost, any significant delays in the construction of the water main, or any changes in the route of the water main.
3. Any material deviation from the construction approved by this Order shall be undertaken only with the prior approval of the Commission.
4. Northern District shall file with the Commission documentation of the total costs of the project, 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. Northern District shall file a copy of the "as-built" drawings and a certified statement that the construction has been satisfactorily completed in accordance with the contract plans and specifications within 60 days of the substantial completion of the construction certificated herein.

6. Any documents filed in the future pursuant to ordering paragraphs 2, 4, and 5 shall reference this case number and shall be retained in the post-case correspondence file.

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

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

By the Commission

ENTERED
JAN 30 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2018-00413

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