

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF ESTILL)	
COUNTY WATER DISTRICT NO. 1 FOR)	
AUTHORIZATION TO ENTER INTO AN)	
ASSISTANCE AGREEMENT WITH THE)	
KENTUCKY INFRASTRUCTURE AUTHORITY,)	CASE NO.
FOR A CERTIFICATE OF PUBLIC)	2021-00064
CONVENIENCE TO CONSTRUCT CERTAIN)	
WATER IMPROVEMENTS AND)	
AUTHORIZATION TO USE WATER LOSS)	
CONTROL PROGRAM SURCHARGE)	
PROCEEDS)	

ORDER

On February 22, 2021, Estill County Water District No. 1 (Estill District No. 1) filed an electronic application, pursuant to KRS 278.020 and KRS 278.300, and 807 KAR 5:001, Sections 15 and 18, for the issuance of a Certificate of Public Convenience and Necessity (CPCN) to construct a series of system improvements to enhance its ability to locate and repair leaks and for approval of its plan to finance the proposed project. Estill District No. 1 proposes to finance the project by requesting to borrow \$2,399,450 from the Kentucky Infrastructure Authority (KIA) as well as an Appalachian Regional Commission grant of \$500,000. Estill District No. 1 also proposes to pay the debt service payments for the KIA loan from the proceeds of its water loss surcharge's annual revenues. No party has sought intervention in this matter. Estill District No. 1 has not requested a hearing. The record for this case is complete, and the matter stands ready for a decision.

Estill District No. 1, a water district organized under KRS Chapter 74, provides retail water service to approximately 3,527¹ residential water customers in Estill County, Kentucky.²

The Commission notes that Estill District No. 1 has not sought a general adjustment in rates since 2017.³ The current application does not include a proposal to increase rates, nor does it indicate any future plans to file either a general rate case or alternative rate filing in the future. An examination of finances outlined in the annual and audit reports filed with the Commission reveals that Estill District No. 1 has been operating with a negative net income for the past five calendar years.⁴ Estill District No. 1 also appears not to have any depreciation reserve, nor restricted cash or equivalents on hand and admits in the application that it has experienced significant financial problems due to its high level of water loss.⁵ The Commission is concerned that absent an increase to Estill District No. 1's base rates, a degradation in the quality of service to customers could occur.

Estill District No. 1 proposes, in its Phase 11 project, a series of system improvements to enhance its ability to locate and repair leaks within its distribution system as well as replace substandard stream crossings water service lines and aging metering

¹ *Annual Report of Estill County Water District for the Year ended December 31, 2019* at 49.

² *Id.* at 12.

³ Case No. 2017-00176, *Electronic Application of the Estill County Water District No. 1 for Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Dec. 20, 2017).

⁴ Estill District's Comprehensive Net Income for the calendar years 2015 through 2019 was \$(347,472), \$(198,859), \$(307,758), \$(250,328), and \$(153,439), respectively.

⁵ Application at 4, paragraph 11.

equipment. The project improvements will be made in two stages. Estill District No. 1 is requesting a CPCN to establish a zone metering system. It will divide Estill District No. 1's distribution system into 12 zones and place at least one water meter or flowmeter in each zone. Furthermore, three zones will be divided into subzones, each with its own meter. One meter will be installed to measure water purchased. Telemetry equipment for each meter will also be installed to enable Estill District No. 1 to monitor its zone and subzone meters.⁶

The proposed project will also replace four existing stream crossings to improve system reliability and reduce water loss. The existing stream crossings sit on streambeds and are vulnerable to being washed out during periods of heavy rain and flooding, resulting in significant water loss and the disruption of water service. Estill District No. 1 proposes to install the new crossings underneath the streambeds using directional boring.⁷

The total cost of the first stage of the project is approximately \$1,020,420.⁸ Estill District No. 1 states that it will finance the proposed project with an assistance agreement for KIA loan 20-13 to borrow an amount not to exceed \$2,399,450. The proposed loan will be repaid over a period not to exceed 30 years from the date on which the Phase 11 facilities begin operations and shall bear interest at the rate of 0.5 percent annum.⁹ In addition to interest, Estill District No. 1 will pay an administrative fee of 0.25 percent of the outstanding loan balance payable as part of each loan payment. KIA has committed

⁶ *Id.* at 7.

⁷ *Id.* at 7.

⁸ *Id.* at 10.

⁹ *Id.* at 11.

to credit to the loan balance 50 percent of the principal amount of the loan up to \$1,000,000 upon release of liens on all contracts and disbursement of the final draw request by KIA to Estill District No. 1.¹⁰ The Appalachian Regional Commission subsequently awarded a grant of \$500,000 to Estill District No. 1 for the same project.¹¹

The Commission authorized Estill District No. 1 to assess a Water Loss Surcharge in Case No. 2019-00119, and ordered the proceeds be placed in a separated interest-bearing account and that no disbursements be made without prior Commission approval.¹² In its application in the pending case, Estill District No. 1 proposed to use a portion of the annual revenues from the water loss surcharge to service the debt on the KIA loan. Estill District No. 1 stated that as of February 10, 2021, the water loss surcharge had retained proceeds of \$215,185.60. Additionally, the water loss surcharge currently produces \$156,647 in annual revenue, and the average debt service payment for the proposed loan is expected to be \$52,114.70.¹³ The Commission finds that the proposed project is a reasonable effort by Estill District No. 1 to mitigate its excessive water loss in furtherance of the recommended and specifically ordered actions in the final Order in Case No. 2019-00041,¹⁴ a CPCN should be granted and the proposed financing be approved. Additionally, because the projects are a part of Estill District No. 1's

¹⁰ *Id.* at 12.

¹¹ *Id.* at 6.

¹² Case No. 2019-00119, *Electronic Application of Estill County Water District No. 1 for a Surcharge to Finance Water Loss Control Efforts* (Ky. PSC Aug. 29, 2019) at 4.

¹³ Application at 15.

¹⁴ Case No. 2019-00041, *Electronic Investigation into Excessive Water Loss by Kentucky's Jurisdictional Water Utilities* (Ky. PSC Nov. 22, 2019).

comprehensive water loss control program previously filed and accepted by the Commission in the determination of the reasonableness of the surcharge, the Commission finds that the proposed use of the proceeds of the surcharge to pay the debt service of the KIA loan should be approved. The Commission notes, however, the KIA provided its conditional commitment letter to Estill District No. 1 dated December 6, 2019.¹⁵ Despite receiving approval over one year prior, Estill District No. 1 did not request a CPCN nor approval of financing for the proposed project until February 22, 2021. Part of the conclusions and recommendations of Estill District No. 1's Comprehensive Corrective Action Plan prepared by Bell Engineering and filed into the record in Case No. 2019-00119 was a statement that if no action is taken, [water loss] will exceed meter sales within the next ten years.¹⁶ The Commission is concerned with the length of time between the presentation of KIA's conditional commitment letter and the filing of the pending case. For this reason, and the reasons regarding the financial situation stated above, this matter should remain open, and Estill District No. 1 should respond to Commission Staff's requests for information contained in the Appendix to this Order within 14 days of the date of filing of this Order.

Having reviewed the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. The proposed construction will not result in wasteful duplication of existing facilities.

¹⁵ Application, Exhibit 23.

¹⁶ Case No. 2019-00119, *Electronic Application of Estill County Water District No. 1 for a Surcharge to Finance Water Loss Control Efforts*, (filed Aug. 1, 2019), Application, Exhibit 2, Comprehensive Corrective Action Plan at 65.

2. The proposed construction does not conflict with any existing certificates or services of any other utility operating in the area.

3. Public convenience and necessity require the proposed construction, which will allow Estill District No. 1 to provide reliable and adequate water service to its customers.

4. Kentucky Division of Water has approved the plans and specifications for this proposed project.

5. The proposed loan with KIA is necessary, is appropriate for and consistent with the proper performance of Estill District No. 1's service to the public and will not impair Estill District No. 1's ability to perform that service, and is reasonably necessary and appropriate for such purpose.

6. The project will be funded by a KIA loan of \$2,399,450, and a grant from the Appalachian Regional Commission of \$500,000.

7. Estill District No. 1 should be authorized to utilize \$1,020,420 of the Assistance Agreement on the project approved herein.

8. Estill District No. 1's application does not include a proposal to adjust rates.

9. This case should remain open for the purpose of obtaining additional information regarding Estill District No. 1's current operational and financial status.

IT IS THEREFORE ORDERED that:

1. Estill District No. 1 is granted a CPCN to construct the proposed project as set forth in the application.

2. Estill District No. 1's proposed plan for obtaining financing is approved.

3. Estill District No. 1 shall obtain approval from the Commission prior to performing any additional construction not expressly approved by this Order.

4. Estill District No. 1 shall require construction to be inspected under general supervision of a licensed 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 best practices of the construction trades involved in the project.

5. Estill District No. 1 is authorized to enter the proposed Assistance Agreement with KIA and, under the terms of the Assistance Agreement, to borrow an amount not to exceed \$2,399,450 to be repaid over 30 years from the date on which the Phase 11 Facilities begin operation.

6. The proceeds of the promissory note shall be used only for the purposes specified in Estill District No. 1's application.

7. Estill District No. 1 is authorized to utilize proceeds from the water loss surcharge approved in Case No. 2019-00119 to facilitate the payment of the debt service for the KIA loan.

8. Estill District No. 1 shall file with the Commission documentation of the total cost of the project 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.

9. Estill District No. 1 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 authorized under this CPCN.

10. Any documents filed in the future pursuant to ordering paragraphs 3, 8, and 9 shall reference this case number and shall be retained in the post-case correspondence file.

11. The Executive Director is delegated authority to grant reasonable extensions of time for filing any documents required by this Order upon Estill District No. 1's showing of good cause for such extension.

12. This case shall remain open for the purpose of obtaining additional information regarding Estill District No. 1's operational and financial status.

13. Within 14 days of the date of filing of this Order, Estill District No. 1 shall file responses to the attached Requests for Information in the Appendix to this Order.

a. Responses to requests for information in paper medium shall be appropriately bound, tabbed and indexed, with the original and an electronic version to the Commission. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked. Each response shall include the name of the witness responsible for responding to the questions related to the information provided.

b. Each response 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 that indicates 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.

14. Any party filing a paper with the Commission shall file an original in paper medium and an electronic copy in accordance with the electronic filing procedures set forth in 807 KAR 5:001, Section 8. The original in paper medium shall be appropriately bound, tabbed, and indexed. 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 March 16, 2020 and March 24, 2020 Orders in

Case No. 2020-00085¹⁷ regarding filings with the Commission. The Commission expects the original documents to be filed with the Commission within 30 days of the lifting of the current state of emergency.

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

¹⁷ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC Mar. 16, 2020), Order at 5–6. Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC Mar. 24, 2020), Order at 1–3.

By the Commission



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2021-00064 DATED APR 08 2021

1. For the calendar years ended December 31, 2019, and December 31, 2020, provide the following information, and when appropriate, provide in Excel spreadsheet format with all formulas, columns, and rows unprotected and fully accessible:
 - a. Estill District No. 1's general ledger.
 - b. Estill District No. 1's audited adjusted trial balance showing unaudited account balances, audit adjustments, and audited balances.
2. Provide Estill District No. 1's 2020 financial audit.
3. Provide the name of all commissioners for each of the five previous years, and state, individually, the total amount of each benefit paid to, or on behalf of, each commissioner during each year (i.e., wages, health insurance premiums, life insurance premiums, FICA taxes, etc.).
4. Provide the minutes from Estill District No. 1's commissioner meetings for the calendar years 2019, 2020, and for the current period up to the date of this request.
5. A document detailing the names, job titles, job description, and pay rates for each employee for the calendar years 2018, 2019, 2020, and currently employed.
6. For the calendar year ended December 31, 2020, provide the hours worked by each employee, separated by regular hours worked, overtime hours worked, and any other form of hourly wage provided to Estill District No. 1's employees.

7. Provide any written plans Estill District No. 1 has drafted, in addition to its Comprehensive Corrective Action Plan, that details a timeline on a going-forward basis to address its water loss concerns.

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