

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF THE BRACKEN)	
COUNTY WATER DISTRICT FOR THE ISSUANCE)	
OF A CERTIFICATE OF PUBLIC CONVENIENCE)	
AND NECESSITY TO CONSTRUCT A WATER)	CASE NO.
SYSTEM IMPROVEMENTS PROJECTS AND AN)	2021-00467
ORDER AUTHORIZING THE ISSUANCE OF)	
SECURITIES PURSUANT TO THE PROVISIONS)	
OF KRS 278.020, 278.300, AND 807 KAR 5:001)	

ORDER

This matter arises from Bracken County Water District’s (Bracken District) application for a Certificate of Public Convenience and Necessity (CPCN) and financing approval to install approximately 2,100 linear feet of 12-inch ductile iron water main from the Bracken District’s pump station to a point along the Augusta Berlin Road/Turtle Creek Road intersection. The proposed project will replace a section of 35-year-old, 10-inch PVC water main.¹ The application was tendered on December 17, 2021, and deemed to have been filed on December 22, 2021, after Bracken District cured a deficiency. Bracken District requested an Order to be issued on or before January 24, 2022.

The financing for which Bracken District has requested approval is intended to fund the project for which it is asking a CPCN. Hence, the financing approval is dependent on Bracken District obtaining a CPCN for that project. No party has sought intervention in

¹ Bracken District’s Response to Filing Deficiencies (filed Dec. 22, 2021), Exhibit A.

this matter. Bracken District responded to one Request for Information. The record for this case is complete, and the matter stands ready for decision.

BACKGROUND

Bracken District, a water district organized under KRS Chapter 74, provides retail water service to approximately 2,626 residential water customers² in Bracken, Mason, Pendleton, and Robertson counties, Kentucky.³ Bracken District purchases its water from the city of Augusta (Augusta).⁴

WATER LOSS

Pursuant to 807 KAR 5:066, Section 6(3), water loss is limited to 15 percent for rate-making purposes. The Commission Staff notes that Bracken District reported a water loss of 15.99 percent in its 2020 Annual Report.⁵ At a 15.99 percent water loss, the annual cost of water loss above 15 percent is \$4,611, and the yearly total cost of water loss to Bracken District is \$74,479.⁶

² *Annual Report of Bracken District to the Public Service Commission for the Year Ended December 31, 2020* (2020 Annual Report) at 49.

³ *Id.* at 12.

⁴ *Id.* at 54.

⁵ *Id.* at 57 and 58.

⁶

	Purchased Water	Purchased Power	Total
Allowable Purchases	\$ 419,931	\$ 45,855	465,786.00
Multiplied by: Water Rate per 1,000 Gallons	0.99%	0.99%	0.99%
Pro Forma Purchased Water Expense	\$ 4,157	\$ 454	\$ 4,611
	Electricity	Purchased Power	Total
Allowable Purchases	\$ 419,931	\$ 45,855	\$ 465,786
Multiplied by: Water Rate per 1,000 Gallons	15.99%	15.99%	15.99%
Pro Forma Purchased Water Expense	\$ 67,147	\$ 7,332	\$ 74,479

PROPOSED PROJECT

The proposed project is an extension of the project granted a CPCN in Case No. 2020-00271.⁷ In that proceeding, Bracken District was authorized to obtain a Kentucky Rural Water Finance Corporation (KRWFC) loan in the amount of \$1,000,000 maturing over 20 years with interest rates varying between 2.00 percent to 2.50 percent per annum for the installation of approximately 5,250 linear feet of new water line from Augusta to the Bracken District.⁸

Bracken District's current proposed project extension includes installing approximately an additional 2,100 linear feet of 12-inch ductile iron water main, which will finish the complete replacement of the service line from Augusta to Bracken District. The estimated total cost of Bracken District's proposed construction project is \$292,800.⁹

Bracken District intends to finance the \$292,800 construction project through issuing a \$315,000 loan from the KRWFC that will mature over a 20-year term, and with interest rates that vary between 2.30 percent to 3.00 percent per annum.¹⁰ Bracken District was ordered to file a rate case within 12 months of the final Order issued in Case

⁷ Case No. 2020-00271 *Electronic Application of Bracken County Water District for the Issuance of a Certificate of Public Convenience and Necessity to Construct a Water System Improvements Project and an Order Authorizing the Issuance of Securities Pursuant to the Provisions of KRS 278.020, KRS 278.300, And 807 KAR 5:001* (Ky. PSC Jan. 27, 2021), Order.

⁸ *Id.*

⁹ Bracken District's Response to Staff's First Request for Information (filed on Jan. 17, 2022), Exhibit A.

¹⁰ Application, Exhibit D.

No. 2020-00271.¹¹ Bracken District has filed a Notice of a rate case filing but has not applied.¹²

LEGAL STANDARD

The Commission's standard of review for a request for a CPCN is well settled. 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 except as provided in KRS 278.020(1) and (2) and 807 KAR 5:001, Section 15(3), which are provisions not applicable to this matter. To obtain a CPCN, a utility must demonstrate a need for such facilities and an absence of wasteful duplication.¹³

"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 establish an inability or unwillingness to render adequate service.¹⁴

"Wasteful duplication" is defined as "an excess of capacity over need" and "an excessive investment in relation to productivity or efficiency, and an unnecessary

¹¹ Case No. 2020-00271, *Bracken County Water District* (Ky. PSC Jan. 27, 2021), final Order at 6.

¹² Case No. 2021-00415, *Electronic Application of Bracken County Water District for a Rate Adjustment Pursuant to 807 KAR 5:076* (filed Nov. 3, 2021), Notice of Intent and Election.

¹³ *Kentucky Utilities Co. v. Public Service Comm'n*, 252 S.W.2d 885 (Ky. 1952).

¹⁴ *Id.* at 890.

multiplicity of physical properties.”¹⁵ 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.¹⁶ Selection of a proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication.¹⁷ All relevant factors must be balanced.¹⁸

KRS 278.300 requires Commission authorization before a utility may “issue any securities or evidence of indebtedness, or assume any obligation or liability in respect to the securities or evidence of indebtedness of any other person.”¹⁹ KRS 278.300(3) establishes the legal standard and clarifies the scope of Commission review, stating:

The Commission shall not approve any issue or assumption unless, after investigation of the purposes and uses of the proposed issue and proceeds thereof, or of the proposed assumption of obligation or liability, the commission finds that the issue or assumption is for some lawful object within the corporate purposes of the utility, is necessary or appropriate for or consistent with the proper performance by the utility of its service to the public and will not impair its ability to perform that service, and is reasonably necessary and appropriate for such purpose.

¹⁵ *Id.*

¹⁶ Case No. 2005-00142, *Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Public Convenience and Necessity for the Construction of Transmission Facilities in Jefferson, Bullitt, Meade, and Hardin Counties, Kentucky* (Ky. PSC Sept. 8, 2005).

¹⁷ See *Kentucky Utilities Co. v. Public Service Comm’n*, 390 S.W.2d 168, 175 (Ky. 1965). See also Case No. 2005-00089, *Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity for the Construction of a 138 kV Electric Transmission Line in Rowan County, Kentucky* (Ky. PSC Aug. 19, 2005), final Order.

¹⁸ Case No. 2005-00089, *East Kentucky Power Cooperative, Inc.* (Ky. PSC Aug. 19, 2005), final Order at 6.

¹⁹ KRS 278.300(1).

DISCUSSION

Bracken District stated that currently, it purchases over 90 percent of its potable water from Augusta via one 10-inch water main.²⁰ This water main is over 35 years old and runs parallel with the Ohio River. The majority of the water main is located within the floodplain.²¹ Often, when the Ohio River floods, areas along with the water main experience flooding due to the backwaters of the river, and this flooding has been recorded to occur as many as 30 days out of three months.²² Additionally, if the water main were to break, the vast majority of Bracken District's customers are in jeopardy of losing water service.²³

The final Order in Case No. 2020-00271 granted a CPCN and approved the installation of approximately 5,250 linear feet of 12-inch ductile iron water main from the Augusta water treatment plant to a point along Augusta Berlin Road.²⁴ The project extension, which is the subject of this case, extends this water main from the intersection of Augusta Berlin Road and Turtle Creek Road to Bracken District's existing main pump station.²⁵ Bracken District maintained that this additional 2,100 linear feet will ensure that the entire supply line from Augusta is composed of 12-inch ductile iron and is not within the floodplain.²⁶ Bracken District stated that the new water main will be installed on

²⁰ Application, Exhibit A.

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ Case No. 2020-00271, *Bracken County Water District* (Ky. PSC Jan. 27, 2021), final Order at 4.

²⁵ Application, Exhibit A.

²⁶ *Id.*

private property within an existing easement that Bracken District possesses.²⁷ Bracken District stated that it will add appurtenances, such as gate valves, which will allow Bracken District to use both the new and old water mains, which in turn allows for reliability for Bracken District.²⁸

FINDINGS

Having considered the application and being otherwise sufficiently advised, the Commission finds that the proposed construction is needed and will not result in wasteful duplication of services or facilities. Additionally, the Commission finds the proposed KRWFC loan is for lawful objects within the corporate purposes of Bracken District; is necessary and appropriate for and consistent with the proper performance by the utility of its service to the public; will not impair its ability to perform that service; is reasonable, necessary, and appropriate for such purposes; and should be approved. For the reasons stated below, the Commission finds that the requested CPCN should be granted, and the proposed financing should be approved.

The proposed construction will not result in wasteful duplication of existing facilities. This water main is the primary source of potable water to Bracken District's entire customer base.²⁹ The current water main is constructed of 35-year-old PVC and prone to leaks and breaks.³⁰ The new water main will be constructed of ductile iron, which

²⁷ *Id.*

²⁸ *Id.*

²⁹ Bracken District's Response to Staff's First Request for Information (filed Jan. 17, 2022), Item 3.

³⁰ Bracken District's Response to Filing Deficiencies (filed on Dec. 22, 2021), Exhibit A.

provides a larger interior diameter, greater impact strength, and greater burst strength than PVC.³¹

The proposed construction does not conflict with any existing certificates or the service of any other utility operating in the area. The proposed water main connects Bracken District with its source of supply, Augusta's water treatment plant. It does not conflict with the operation of Augusta's water system, and the Kentucky Division of Water has approved the project.³²

Public convenience and necessity require the proposed project because the older water main, which will be replaced, is made of inferior materials and more prone to leaks and breaks than the ductile iron water main that is proposed in this project. The topography of the area in which the water main is located creates a difficult environment for installation and maintenance, which is why a more dependable ductile iron main is needed to ensure that Bracken District can reliably supply its customers with potable water.

Bracken District satisfied the legal standard for Commission approval of the financing. Bracken District's lawful purpose is to provide safe, adequate, and reliable service to the public. The financing will enable Bracken District to construct the proposed project, which, as discussed above, is necessary to provide water service to the public consistent with Bracken District's lawful purpose.

Within ten days of the execution of the new KRWFC loan documents, Bracken District should file with the Commission an electronic version of the loan documents. The

³¹ Bracken District's Response to Staff's First Request for Information (filed Jan. 17, 2022), Item 3.

³² Application, Exhibit B.

Commission directs Bracken District to the Commission's July 22, 2021 Order in Case No. 2020-00085³³ regarding filings with the Commission.

The proceeds from the proposed loan should be used only for the lawful purposes set out in Bracken District's application.

The terms and conditions of the new KRWFC loan should be consistent with loan documents as described in Bracken District's application.

IT IS THEREFORE ORDERED that:

1. Bracken District is granted a CPCN for the proposed project as submitted.
2. Bracken District's proposed plan of financing is approved.
3. Bracken District is authorized to execute the loan agreement with KRWFC and, under the terms of that Agreement, to borrow from KRWFC an amount not to exceed \$315,000, said amount to be repaid over 20 years with interest rates that vary between 2.30 percent to 3.00 percent per annum.
4. The proceeds from the loan agreement shall be used only for the purposes specified in Bracken District's application.
5. Bracken District shall obtain approval from the Commission prior to performing any additional construction not expressly authorized by this Order.
6. Notwithstanding ordering paragraphs 4 and 5, if surplus funds remain after the approved construction has been completed, Bracken District may use such surplus to construct additional plant facilities if KRWFC approves of the use and the additional

³³ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

construction, and it will not result in a change in Bracken District's rates for service. Bracken District shall provide written notice of this additional construction in accordance with 807 KAR 5:069, Section 4.

7. Bracken 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.

8. Bracken 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.

9. Bracken 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.

10. Bracken District shall notify the Commission in writing one week before the actual start of construction and at the 50 percent completion point.

11. Any documents filed in the future pursuant to ordering paragraphs 6, 7, 8, and 10 of this Order shall reference this case number and shall be retained in the utility's post-case correspondence file.

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

13. Bracken District shall apply for a general rate adjustment pursuant to 807 KAR 5:001, Section 16, or an application for an alternative rate adjustment pursuant to 807 KAR 5:076 by January 27, 2022, in compliance with the Commission's Order in Case No. 2020-00271.³⁴

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

Nothing contained herein shall be deemed a warranty or finding of value of securities or financing authorized herein on the part of the Commonwealth of Kentucky or any agency thereof.

³⁴ Case No. 2020-00271, *Bracken County Water District* (Ky. PSC Jan. 27, 2021), final Order at 6. The Commission notes that Bracken District filed a notice of intent to file an application for a rate adjustment on November 3, 2021.

By the Commission

ENTERED
FEB 04 2022 ^{rCS}
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2021-00467

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