

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF MCCREARY)	
COUNTY WATER DISTRICT FOR A)	
CERTIFICATE OF PUBLIC CONVENIENCE AND)	CASE NO.
NECESSITY TO CONSTRUCT A SYSTEM)	2022-00204
IMPROVEMENTS PROJECT AND AN ORDER)	
AUTHORIZING THE ISSUANCE OF SECURITIES)	
PURSUANT TO KRS 278.023)	

ORDER

On July 8, 2022, McCreary County Water District (McCreary District) filed an application, pursuant to KRS 278.023, requesting a Certificate of Public Convenience and Necessity (CPCN) to construct a water system improvements project and approval of the proposed plan of financing the project.¹ This matter now stands submitted for a decision by the Commission.

LEGAL STANDARD

McCreary District has submitted its application pursuant to KRS 278.023. The Commission is required, pursuant to KRS 278.023, to accept agreements between water utilities and the United States Department of Agriculture Rural Development (RD) regarding construction projects, and to issue the necessary orders to implement the terms of such agreements no later than 30 days after filing the application with the Commission. KRS 278.023 does not grant the Commission any discretionary authority to modify or

¹ Application at 1.

reject any portion of the agreement between RD and McCreary District or defer the issuance of all necessary orders to implement the terms of that agreement.

KRS 278.023 further denies the Commission any authority to reject an application when the evidence of record indicates that a water utility's proposed construction will result in the wasteful duplication of facilities, resulting in an excessive investment, or its proposed rates are unfair, unjust, or unreasonable. As explained in KRS 278.023(1), the limits on the Commission's review are because federal financing of these projects entails prior review and oversight by a federal agency and obligates the utility to take certain actions; conflicting requirements between the federal agency and the Commission may jeopardize the project and place the utility in an untenable position. 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.

The legal standard established in KRS 278.023 requires that (1) the applicant be a water utility formed under KRS Chapter 74 or 273; and (2) the construction project must be funded in whole or in part under terms of an agreement between the water utility, United States Department of Agriculture or United States HUD.

BACKGROUND

McCreary District, is a water district organized under KRS Chapter 74, provides retail water services to approximately 6,258 customers in McCreary County, Kentucky.²

The proposed project consists of the interior blasting and re-coating, and exterior overcoating of three water storage tanks: the Stearns Tank, Parkers Lake Tank, and

² *Annual Report of McCreary County Water District to the Public Service Commission for the Calendar Year Ending December 31, 2021* (2021 Annual Report) at 12 and 49. This report has been filed with the Commission but is under review and has not yet been published on the Commission's website.

Prison Tank, in the McCreary District system.³ There will also be small structural improvements, including re-securing safety ladders and replacing vents, to the three tanks and other tanks in the system.⁴ McCreary District explained that the proposed project was necessary to maintain the integrity of the tanks.

The total cost of the proposed project will be approximately \$819,750.⁵ Financing will be through (1) the issuance of \$615,000 of its Water System Revenue Bonds and (2) a \$204,750 grant from RD.⁶ McCreary District has a commitment from RD, to purchase said \$615,000 of bonds maturing over a 40-year period, at an interest rate not to exceed 1.875 percent per annum.⁷ McCreary District is not seeking a revision to its rates in this application.

RD's Letter of Conditions includes a requirement that rates and charges for facilities and services rendered by the McCreary District's "must be at least adequate to meet cost of maintaining, repairing, and operating the water system and meeting required principal and interest payments and the required deposits to debt service and/or depreciation reserve."⁸

DISCUSSIONS AND FINDINGS

³ Application, Exhibit A.

⁴ Application, Exhibit A.

⁵ Application, Exhibit B, paragraph 28.

⁶ Application, paragraph 5.

⁷ Application, paragraph 5.

⁸ Application, Exhibit B at 32.

McCreary District currently has an Alternative Rate Filing Adjustment (ARF) case filed with the Commission,⁹ which was filed in response to a Commission Order.¹⁰ Prior to the currently pending ARF McCreary District had not filed for a review of their rates since 1990.¹¹ The Commission recently noted that some utilities file applications to increase rates pursuant to KRS 278.023 to intentionally avoid a review of its financial records.¹² A key general recommendation that resulted from the investigation in Commission Case No. 2019-00041 was that water utilities should monitor the sufficiency of their base rates closely and, in general, apply for base rate adjustments on a more frequent basis.¹³ The Commission makes the same recommendation now to McCreary District.

Pursuant to 807 KAR 5:066, Section (6)3, water loss is limited to 15 percent for ratemaking purpose. The Commission notes that in its 2021 Annual Report McCreary District reported water loss of 13.18 percent.¹⁴ At 13.18 percent water loss, the total

⁹ Case No. 2021-00301, *Electronic Application of McCreary County Water District for an Alternative Rate Adjustment* (filed Sep. 24, 2021).

¹⁰ Case No. 2021-00021 *Electronic Application of McCreary County Water District for a Certificate of Public Convenience and Necessity to Construct a System Improvements Project and an Order Approving a Change in Rates and Authorizing the Issuance of Securities Pursuant to KRS 278.023* (Ky. PSC Feb. 22, 2021), Order.

¹¹ Case No. 1990-00205, *Electronic Application of McCreary County Water District for an Alternative Rate Adjustment* (filed Sep. 10, 1990).

¹² Case No. 2019-00041, *Electronic Investigation into Excessive Water Loss by Kentucky's Jurisdictional Water Utilities* (Ky. PSC Nov. 22, 2019), final Order.

¹³ Case No. 2019-00041, (Ky. PSC Nov. 22, 2019), final Order.

¹⁴ 2021 Annual Report at 58.

annual cost of water loss to McCreary District is \$36,393.¹⁵ The Commission also notes that McCreary District’s unaccounted-for water loss has been under 15 percent for the last two years,¹⁶ and is generally decreasing yearly, as shown below.

	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Water loss Percentage ¹⁷	11.69%	14.31%	14.05%	13.53%	13.18%

Based upon the evidence of record, the Commission concludes that the KRS 278.023 legal standard to approve the proposed financing is met because McCreary District is a water association formed by KRS Chapter 74 and the financing for the proposed project is being obtained through a federal agency, RD. Therefore, the Commission finds that the CPCN is granted, and the plan of financing approved.

IT IS THEREFORE ORDERED that:

1. McCreary District is granted a CPCN for the proposed project as submitted.
2. McCreary District’s proposed plan of financing is approved.

¹⁵

	Purchased	
	<u>Power</u>	<u>Chemicals</u>
Pro Forma Expenses	\$ 345,038	\$ 150,834
Times: Total Water loss	13.18%	13.18%
Total Water Loss	<u>\$ 45,490</u>	<u>\$ 19,886</u>
Total		<u><u>\$ 65,376</u></u>

¹⁶ 2021 Annual Report at 57 and *Annual Report of McCreary County Water District to the Public Service Commission for the Calendar Year Ending December 31, 2020* (2020 Annual Report) at 57

¹⁷ 2021 Annual Report at 57, 2020 Annual Report at 57, *Annual Report of McCreary County Water District to the Public Service Commission for the Calendar Year Ending December 31, 2019* at 57, *Annual Report of McCreary County Water District to the Public Service Commission for the Calendar Year Ending December 31, 2018* at 57, *Annual Report of McCreary County Water District to the Public Service Commission for the Calendar Year Ending December 31, 2017* at 56.

3. McCreary District's is authorized to issue \$615,000 of its Water System Revenue Bonds maturing over 40 years at an interest rate not exceeding 1.875 percent per annum will be purchased by RD.

4. The proceeds from the issuance of the Water System Revenue Bonds shall be used only for the purpose specified in McCreary District's application.

5. McCreary District shall obtain approval from the Commission prior to performing any additional construction not expressly authorized by this Order.

6. Notwithstanding ordering paragraph 5, if surplus funds remain after the approved construction has been completed, McCreary District 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 McCreary District's rate for service. McCreary District shall provide written notice of this additional construction in accordance with 807 KAR 5:069, section 4.

7. McCreary 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. McCreary 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. McCreary 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. Any documents filed in the future pursuant to ordering paragraphs 7 and 8 of this Order shall reference this case number and shall be retained in the utility's general correspondence file.

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PUBLIC SERVICE COMMISSION


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Vice Chairman


Commissioner



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