

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF MORGAN	)	
COUNTY WATER DISTRICT FOR THE ISSUANCE	)	
OF A CERTIFICATE OF PUBLIC CONVENIENCE	)	
AND NECESSITY TO CONSTRUCT A WATER	)	CASE NO.
SYSTEM IMPROVEMENTS PROJECT AND AN	)	2022-00245
ORDER AUTHORIZING THE ISSUANCE OF	)	
SECURITIES PURSUANT TO THE PROVISIONS	)	
OF KRS 278.020, KRS 278.300, AND 807 KAR	)	
5:001	)	

ORDER

On August 9, 2022, Morgan County Water District (Morgan District) filed an application pursuant to KRS 270.020, KRS 278.300, and 807 KAR 5:001, Section 15, seeking a Certificate of Public Convenience and Necessity (CPCN) to complete the second phase of its infrastructure improvement project designed to address its extensive water loss issues and for approval of a \$3.26 million in financing from Kentucky Infrastructure Authority (KIA) to fund the project.

Morgan District requested an expedited decision based on the construction bid expiration date and the January 7, 2023 expiration date for the KIA loan. No party requested intervention in this proceeding. Morgan District responded to two rounds of discovery. This matter now stands submitted for a decision by the Commission.

## BACKGROUND

Morgan District was granted approval by the Commission for the first phase of the overall water system improvement project on April 26, 2021, in Case No. 2021-00146.<sup>1</sup> The first phase of the project primarily involved the replacement of waterlines, water meters, and service lines; installation of leak detection vaults throughout the system to locate leaks; and the acquisition of leak detection equipment.

In a separate proceeding, Morgan District was granted a water loss surcharge by the Commission to assist in reducing the utility's unaccounted-for water loss.<sup>2</sup> That surcharge is monitored in Case No. 2021-00206.<sup>3</sup> Morgan District's most recent water loss report filed for October 2022 stated that its water loss for the month was 29.70 percent, which is consistent with its water loss for prior months. The amount of unaccounted-for water loss by Morgan District is in excess of the standard established in 807 KAR 5:066, Section of 15 percent for ratemaking purposes. Morgan District filed a water loss corrective action plan in surcharge monitoring case, Case No. 2021-00206, prepared by Nesbitt Engineering. Morgan District plans to reduce its unaccounted-for water loss by, among other things, identifying and replacing lines contributing to the high water loss and replacing aging meters. The proposed CPCN at issue in this case is

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<sup>1</sup> Case No. 2021-00146, *Electronic Application of Morgan 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 Apr. 26, 2021).

<sup>2</sup> Case No. 2020-00386, *Electronic Application of Morgan County Water District for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC June 9, 2021), at 27 and 28.

<sup>3</sup> Case No. 2021-00206, *Electronic Morgan County Water District's Unaccounted-For Water Loss Reduction Plan, Surcharge and Monitoring* (Ky. PSC June 9, 2021).

designed to assist in Morgan District's continued efforts to reduce its substantial water loss.

### PROPOSED PROJECT

The second phase of the proposed water system improvements project includes replacement of aging lines and lines that have experienced a significant number of leak repairs.<sup>4</sup> Additionally, Morgan District will continue the phase 1 meter replacement plan by replacing aging meters with 200 new radio read meters.<sup>5</sup> The estimated capital cost for the waterline replacement is approximately \$3 million; the estimated capital cost for the radio read meters is \$263,700. The project will be funded through a \$3.26 million loan from KIA; \$1 million of the KIA load principal will be forgiven.<sup>6</sup> Morgan District issued a request for bids for the project; it provided the bid tabulations for the project.<sup>7</sup>

Under the proposed phase 2 project, approximately 12.7 miles of waterlines and appurtenances will be replaced along KY 191, KY 1000, Brushy Fork, and Heaven Brn Tr. Park. Morgan District asserted that replacement of these waterlines will substantially reduce the amount of unaccounted-for water loss. Morgan District stated that the waterlines to be replaced are at least 30 years old and that a substantial amount of water loss is a direct result of the age and poor condition of the waterlines.<sup>8</sup> Morgan District estimated that the four waterlines are losing approximately 28 percent of the water going

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<sup>4</sup> Morgan District's Response to Commission Staff's First Request for Information (Staff's First Request) (filed on Sept. 22, 2022), Item 1.

<sup>5</sup> Application, Exhibit A.

<sup>6</sup> Application, Exhibit C.

<sup>7</sup> Application, Exhibit H.

<sup>8</sup> Morgan District's Response to Staff's First Request, Item 1.

through them due to their condition. The new waterlines have an expected useful life of at least 50 years.<sup>9</sup>

Morgan District examined reasonable, least cost alternatives to replacing the waterlines. According to Morgan District, the only feasible alternative to replacing the waterlines is to perform patchwork repairs to every leak. Morgan District projected that piecemeal repairs would cost approximately \$5,864 per repair of an estimated 12-24 repairs.<sup>10</sup> Morgan District asserted that piecemeal repairs would only extend the useful life of the waterlines by about ten years at best and that the waterlines would need to be replaced at that time.<sup>11</sup>

The proposed project also includes installing 200 new Sensus SR2 radio read meters to replace aging meters that are under-registering water usage and thereby, improve the accuracy of the readings from each meter. The current meters to be replaced are 14-16 years old,<sup>12</sup> with an expected remaining useful life of approximately seven years.<sup>13</sup> Morgan District asserted that replacing the aging meters will improve its unaccounted-for water loss because the current aging meters are under-reporting water usage, and therefore don't account for actual water usage, which results in additional

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<sup>9</sup> Application, Exhibit I.

<sup>10</sup> Morgan District's Response to Staff's Second Request for Information (Staff's Second Request) (filed Oct. 27, 2022). Item 4.

<sup>11</sup> Morgan District's Response to Staff's First Request, Item 2.

<sup>12</sup> Morgan District's Response to Staff's First Request, Item 5.

<sup>13</sup> Morgan District's Response to Staff's Second Request, Item 7.

water loss to Morgan District.<sup>14</sup> Morgan District maintained that installing new meters will allow it to bill customers more accurately and monitor usage more accurately.<sup>15</sup>

Morgan District considered the alternative of repairing or refurbishing the meters in lieu of replacement. Morgan District estimated the average cost of repairing or refurbishing each of the 200 meters would be at least \$75 per meter,<sup>16</sup> or \$15,000 total, plus additional costs for labor, and the cost of purchasing and installing temporary replacement meters for use while repairs or refurbishments are being performed.<sup>17</sup> Further, repairing or refurbishing the current meters would not substantially extend the useful life of the meters.<sup>18</sup>

### PROPOSED FINANCING

Morgan District proposed to finance phase two of the project through a loan from Kentucky Infrastructure Authority (KIA).<sup>19</sup> The loan is for \$3.26 million that will mature over a 30-year term with an interest rate of 0.25 percent per annum with an additional loan servicing fee of 0.25 percent of the outstanding loan balance payable as a part of each interest payment.<sup>20</sup> KIA will credit up to \$1,000,000 to the loan balance upon release of liens on all contracts and disbursement of the final draw request. Morgan District must maintain a 1.1 debt coverage ratio throughout the life of the KIA loan. KIA required a

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<sup>14</sup> Application, Exhibit A.

<sup>15</sup> Morgan District's Response to Staff's First Request, Item 15.

<sup>16</sup> Morgan District's Response to Staff's First Request, Item 13.

<sup>17</sup> Morgan District's Response to Staff's First Request, Item 14.

<sup>18</sup> Morgan District's Response to Staff's First Request, Items 13–16.

<sup>19</sup> Application, Exhibit C.

<sup>20</sup> Application, Exhibit C, KIA Commitment Letter, Attachment A.

minimum rate for 2,000 gallons of \$31.27 and a minimum rate for 4,000 gallons of \$54.42 for financing the project.<sup>21</sup> The rates required by KIA were based on its financial analysis from May 6, 2021. However, in Morgan District's last rate case, the Commission established a minimum rate of \$31.49 for 2,000 gallons and \$54.81 for 4,000 gallons, exceeding the rates required by KIA.<sup>22</sup> Morgan District determined that no additional rate increase was required and stated that it did not propose to increase customer rates to finance the second phase of the project.<sup>23</sup>

### LEGAL STANDARD

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.<sup>24</sup> To obtain a CPCN, the utility must demonstrate a need for such facilities and an absence of wasteful duplication.<sup>25</sup>

"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

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<sup>21</sup> Morgan District's Response to Staff's First Request, Item 18.

<sup>22</sup> Case No. 2020-00386, *Morgan County Water District*, (Ky. PSC June 9, 2021) final Order at Appendix B.

<sup>23</sup> Morgan District's Response to Staff's First Request, Item 18.

<sup>24</sup> KRS 278.020(1). Although the statute exempts certain types of projects from the requirement to obtain a CPCN, the exemptions are not applicable.

<sup>25</sup> *Kentucky Utilities Co. v. Pub. Serv. Comm'n*, 252 S.W.2d 885 (Ky. 1952).

establish an inability or unwillingness to render adequate service.<sup>26</sup>

“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.”<sup>27</sup> To demonstrate that a proposed facility does not result in wasteful duplication, the Commission has held that the applicant must demonstrate that a thorough review of all reasonable alternatives has been performed.<sup>28</sup> Although cost is a factor, selection of a proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication.<sup>29</sup> All relevant factors must be balanced.<sup>30</sup>

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.”<sup>31</sup> 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

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<sup>26</sup> *Kentucky Utilities Co.*, 252 S.W.2d at 890.

<sup>27</sup> *Kentucky Utilities Co.*, 252 S.W.2d at 890.

<sup>28</sup> 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), Order at 11.

<sup>29</sup> See *Kentucky Utilities Co. v. Pub. Serv. 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), Order at 6.

<sup>30</sup> Case No. 2005-00089, Aug. 19, 2005 Order at 6.

<sup>31</sup> KRS 278.300(1).

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.

### DISCUSSION AND FINDINGS

Based upon the evidence of record and being otherwise sufficiently advised, the Commission finds that Morgan District demonstrated the need for the proposed project to reduce its unaccounted-for water loss and carry out the water loss reduction plan funded by a surcharge approved by the Commission in Case No. 2020-00386. As noted above, Morgan District has a water loss rate of 29.70 percent, which exceeds the maximum permitted amount of 15 percent for ratemaking purposes. The evidence of record indicates that the lines to be replaced experience a water loss of approximately 28 percent and are nearing the end of their useful life, and thus demonstrate a need for the replacement of the waterlines. Morgan District also demonstrated a need to replace aging meters, which are between 14-16 years old with reduced accuracy in registering water usage. The evidence of record supports the conclusion that replacing the aging meters will help Morgan District address underreading of water usage, thereby addressing the water loss rate.

The Commission further finds that Morgan District provided sufficient evidence that the proposed project will not result in wasteful duplication. According to the evidence of record, Morgan District has excessive water loss in the area in which it is proposing the new lines and has aging meters that are underreading customer water usage. The alternative to replacing the lines and the meters is to perform temporary, patchwork repairs which may slow down the rate of water loss temporarily. However, the repairs



would only delay for a few years the inevitable need for replacement of both the aging waterlines and the meters. While the repairs would be a lower short-term cost, they will not provide a long-term solution that will enable Morgan District to make substantial progress towards eliminating its water loss issues and thereby achieve solid financial footing.

Additionally, Morgan District currently operates about 3,000 Sensus SR2 meters with radio read capability and owns the necessary meter reading equipment for these meters. Replacing the 200 meters would not result in additional expenses beyond the cost of the meters.

For the reasons discussed above, the Commission finds that Morgan District established a need for the proposed project and that the project would not result in wasteful duplication, and therefore Morgan District's request for a CPCN should be granted to further Morgan District's efforts in reducing water loss

The Commission finds that the proposed financing satisfies the legal standards under KRS 278.300 and therefore should be approved. Morgan District is using the loan to address its water loss issues which is within its corporate purpose to provide adequate, efficient and reasonable service. Replacing aging waterlines and water meters to address the water loss is necessary and appropriate for and consistent with the proper performance by Morgan District of its service to the public. The proposed financing will not impair Morgan District's ability to perform that service, and is reasonable, necessary, and appropriate for such purposes.

IT IS THEREFORE ORDERED that:

1. Morgan District is granted a CPCN for the proposed project as submitted.

2. Morgan District's proposed plan of financing is approved.
3. Morgan District is authorized to execute the loan agreement with KIA and, under the terms of that Agreement, to borrow from KIA an amount not to exceed \$3.26 million, said amount to be repaid over 30 years with an interest rate of 0.25 percent per annum.
4. The proceeds from the loan agreement shall be used only for the purposes specified in Morgan District's application.
5. Morgan 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, Morgan District may use such surplus to replace additional lines or meters if KIA approves of the use and the additional construction, and it will not result in a change in Morgan District's rate for service. Morgan District shall provide written notice of this additional construction in accordance with 807 KAR 5:069. Section 4.
7. Morgan 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 the 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. Morgan 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. Morgan 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. Morgan 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 Morgan District's showing of good cause for such extension.

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

PUBLIC SERVICE COMMISSION

  
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Chairman

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Vice Chairman

  
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Commissioner



ATTEST:

  
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