

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF LAKE VILLAGE)	
WATER ASSOCIATION, INC., OF BOYLE AND)	
MERCER COUNTIES, KENTUCKY FOR A)	
CERTIFICATE OF PUBLIC CONVENIENCE AND)	CASE NO.
NECESSITY TO CONSTRUCT AND FINANCE A)	2023-00107
PROJECT, FUNDED BY USDA, RURAL)	
DEVELOPMENT PURSUANT TO THE)	
PROVISIONS OF KRS 278.023 AND KRS 278.020)	

ORDER

On April 3, 2023, Lake Village Water Association of Boyle and Mercer counties (Lake Village Water) filed an application pursuant to KRS 278.020 and 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 Specifically, Lake Village Water proposed to replace 4,347 linear feet (LF) of three-inch PVC pipe; 6,150 LF of four-inch PVC pipe; and 18,915 LF of eight-inch PVC pipe. Lake Village Water will finance the project using a loan from RD for \$2,089,290 amortized over 40 years at a 2.375 percent interest rate. Additionally, Lake Village Water has secured two grants through the Kentucky Infrastructure Authority Cleaner Water Program for \$202,475 and \$147,525.² The anticipated construction start date for the project is May 15, 2023, with the anticipated completion date of January 15, 2024.³

¹ Application at 1.

² Application, paragraph 5.

³ Application, Exhibit E.

LEGAL STANDARD

Notwithstanding the Commission's general responsibilities and discretion regarding CPCNs as laid out in KRS 278.020(1), pursuant to KRS 278.023(1), the Commission is required to accept agreements between water associations and the United States Department of Agriculture Rural Development (RD), and to issue the necessary orders to implement the terms of such agreements no later than 30 days after the application is filed with the Commission. Additionally, the Commission has no discretionary authority to modify or reject any portion of the agreement between RD and the water association, nor to defer the issuance of all necessary orders to implement the terms of that agreement. As explained in KRS 278.023(1), the Commission's review is truncated 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.

Therefore, the Commission is unable to review this application utilizing the standards applicable in cases 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 Department of Housing and Urban Development. The Commission is not, however, prohibited by KRS 278.023 from requiring a utility seeking approval of such an agreement to subsequently file reports or other information in order

to monitor the utility's ability to repay the loan, meet other financial or regulatory obligations, or otherwise establish its financial condition.

BACKGROUND

Lake Village Water is organized under KRS Chapter 273 and provides water service to approximately 2,328 residential and commercial customers in Boyle and Mercer counties, Kentucky.⁴ Lake Village Water maintained that the planned improvement project consists of replacing aging and inadequate infrastructure.

The Commission's limited review of Lake Village Water's most recently filed financial records⁵ shows that the utility underfunded depreciation between 2017 through 2021; and that the utility saw a net decrease in cash between 2018 and 2020. Although Lake Village Water experienced increased cash flow and decreased its water loss percentage, it still had negative net income in 2021.⁶ A summary of Lake Village Water's financial records appears below:

⁴ *Annual Report of Lake Village Water Association, Inc., of Boyle and Mercer Counties, Kentucky to the Public Service Commission (Annual Report of Lake Village Water) for the Calendar Year Ended December 31, 2021*, at 49.

⁵ Lake Village Water's most recent Annual Report was filed in 2021.

⁶ In Case No. 2022-00068, *Electronic Application of Lake Village Water Association, Inc. For A Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Oct. 4, 2022), final Order (The Commission authorized a Water Loss Reduction Surcharge of \$1.61 per customer for 48 months, or until \$171,220 had been assessed. The Commission attached a number of conditions to the surcharge and so opened Case No. 2022-00325 as a means of monitoring the utility's compliance.) Case No. 2022-00325, *Electronic Lake Village Water Association, Inc. Unaccounted-for Water Loss Reduction Plan, Surcharge and Monitoring*, order (Ky. PSC Oct. 4, 2022).

Description / Year	Audited 2017	Audited 2018	Audited 2019	Audited 2020	Audited 2021
Adjusted Net Income / (Loss) before Contributions	\$ (66,501)	\$ (176,160)	\$ (78,420)	\$ (80,889)	\$ (28,409)
Subtract: Principal Payments ()	(88,597)	(90,002)	(101,473)	(204,276)	(214,039)
Rate Based Income	\$ (155,098)	\$ (266,162)	\$ (179,893)	\$ (285,165)	\$ (242,448)
Add: Depreciation Expense	306,829	312,039	312,915	311,352	277,404
Cash Basis Income	\$ 151,731	\$ 45,877	\$ 133,022	\$ 26,187	\$ 34,956
<i>Cash and Investments</i>					
Unrestricted Cash and Investments	\$ 32,243	\$ 4,996	\$ 9,577	\$ 13,743	\$ 13,692
Restricted Funds (exclude construction funds from bond proceeds)	241,704	132,759	117,307	100,193	173,308
Adjusted Cash Balances	273,947	137,755	126,884	113,936	187,000
Net Increase (Decrease) in Cash		\$ (136,192)	\$ (10,871)	\$ (12,948)	\$ 73,064

Selected Statistical Information (PSC Annual Reports)

Customer Count	2,226	2,229	2,251	2,275	2,328
Gallons Purchased	203,572	214,290	208,854	209,499	190,093
Gallons Sold	157,287	157,625	159,237	159,375	150,235
Gallons Used for Internal Use	32,305	38,203	14,093	2,883	3,116
Water Loss Gallons	13,980	18,462	35,524	47,241	36,742
System Use Percentage	15.87%	17.83%	6.75%	1.38%	1.64%
Water Loss Percentage	6.87%	8.62%	17.01%	22.55%	19.33%
Per Cust Per Month Gallons	5,888	5,893	5,895	5,838	5,378
Revenue from Sales of Water	\$ 1,379,274	\$ 1,377,698	\$ 1,402,914	\$ 1,444,027	\$ 1,436,582
Purchased Water Expense	509,885	564,197	520,333	552,238	512,295
Purchased Water Expense Over 15% Water Loss	0	0	10,454	41,691	22,174
Water Loss Expense Over 15% as Percentage of Total Revenue	0.00%	0.00%	0.75%	2.89%	1.54%

DISCUSSION AND FINDINGS

In 2022, Lake Village Water filed its most recent general rate case with the Commission.⁹ As part of its final Order, the Commission established Phase 1 and Phase 2 rates. The Phase 1 rates took effect on October 4, 2022, the date of the final Order.¹⁰

⁷ Lake Village Water's Audit Reports can be found on the Commission website at:
https://psc.ky.gov/Utility_Financial_Reports_Net/uploaded/support/SD_34800_2017_1.pdf;
https://psc.ky.gov/Utility_Financial_Reports_Net/uploaded/support/SD_34800_2018_1.pdf;
https://psc.ky.gov/Utility_Financial_Reports_Net/uploaded/support/SD_34800_2019_1.pdf;
https://psc.ky.gov/Utility_Financial_Reports_Net/uploaded/support/SD_34800_2020_1.pdf;
https://psc.ky.gov/Utility_Financial_Reports_Net/uploaded/support/SD_34800_2021_1.pdf

⁸ 2017 Annual Report of Lake Village Water at 49, 52, and 57; 2018 Annual Report of Lake Village Water at 49, 52 and 57; 2019 Annual Report of Lake Village Water at 49, 52, and 57; 2020 Annual Report of Lake Village Water at 42, 52, and 57; 2021 Annual Report of Lake Village Water at 49, 52, and 57.

⁹ Case No.2022-00068, *Electronic Application of Lake Village Water Association, Inc. for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Oct. 4, 2022).

¹⁰ Case No. 2022-00068, *Electronic Application of Lake Village Water Association, Inc. for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Oct. 4, 2022), Appendix A.

Phase 2 rates are set to take effect on October 4, 2023, one year following the date of that Order. Those rates are provided below:

Phase 1:

<u>5/8- x 3/4-Inch Meter</u>	
First 2,000 Gallons	\$ 28.29 Minimum Bill
Next 18,000 Gallons	0.01101 Per Gallon
Over 20,000 Gallons	0.00889 Per Gallon

<u>Wholesale Rates</u>	
North Point Training Center	0.00426 Per Gallon

Phase 2:

<u>5/8- x 3/4-Inch Meter</u>	
First 2,000 Gallons	\$ 29.85 Minimum Bill
Next 18,000 Gallons	0.01162 Per Gallon
Over 20,000 Gallons	0.00938 Per Gallon

<u>Wholesale Rates</u>	
North Point Training Center	0.00450 Per Gallon

The RD 2020 letter of conditions provided the following minimum rates:¹¹

First	2,000 gallons @ \$29.39	–	minimum bill
Next	18,000 gallons @ 11.45	–	per 1,000 gallons
All over	20,000 gallons @ 9.27	–	per 1,000 gallons

Wholesale rate will be at least \$4.47 per 1,000 gallons.

Notably, the minimum water rates established by the RD letter of conditions is higher than the Phase 1 water rates which Lake Village Water is currently authorized to charge its customers. However, when the Phase 2 water rates become effective in October 2023, Lake Village Water’s rates will be higher than the minimum water rates required by RD. Given the proposed construction start date of May 15, 2023, there will

¹¹ Application, Exhibit A at 11.

be a four-month period in which Lake Village Water will be charging its customers less than required. Despite this apparent discrepancy, Lake Village Water expressly requests that the Commission not adjust its water rates, and that the water rates established in Case No. 2022-00068 remain effective. Additionally, in Exhibit E of the application Lake Village Water affirmed that the “proposed water rates shall produce the total revenue requirements recommended. . . and are sufficient to cover the debt obligation for the proposed project as set forth in the Rural Development Letter of Conditions, dated April 13, 2020[.]”

Therefore, because Lake Village Water is a water utility created under KRS Chapter 273, and the financing for the proposed project was obtained, in part, through the RD, the agreement between Lake Village Water and RD satisfies KRS 278.023(1). Consequently, the Commission finds that the CPCN is granted, and the financing plan is approved. However, although the Commission is compelled to approve the financing, the Commission finds that this case will remain open, and that Lake Village Water must supplement the record explaining the discrepancy between the minimum required rates in RD’s letter of conditions and the Phase 1 rates that Lake Village Water currently charges, and provide any additional documentation or correspondence between RD and Lake Village Water regarding the minimum water rates.

IT IS THEREFORE ORDERED that:

1. Lake Village Water is granted a CPCN for the proposed project as submitted.
2. Lake Village Water’s proposed plan of financing is approved.
3. Lake Village Water is authorized to execute the RD loan as provided.

4. The proceeds of the loan shall be used only for the purposes specified in Lake Village Water's application.

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

6. Lake Village Water 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.

7. Lake Village Water 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.

8. Lake Village Water shall notify the Commission in writing one week prior to the actual start of construction and at the 50 percent completion point.

9. Lake Village Water 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 6, 7, and 8 of this Order shall reference this case number and shall be retained in the utility's post-case correspondence file.

11. Within 20 days of the date of service of this Order, Lake Village Water shall supplement the record explaining the discrepancy between the minimum required rates in RD's letter of conditions and the Phase 1 rates the utility currently charges, including any additional documentation or correspondence between RD and Lake Village Water regarding the minimum water rates.

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

13. This case shall remain open to allow the Commission sufficient time to evaluate Lake Village Water's financial condition.

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


PUBLIC SERVICE COMMISSION



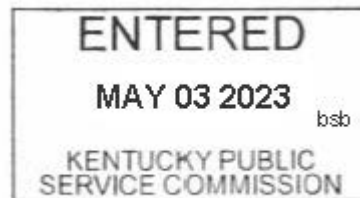
Chairman



Vice Chairman



Commissioner



ATTEST:



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