

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF HYDEN-LESLIE	)	
COUNTY WATER DISTRICT FOR A	)	
DECLARATORY ORDER THAT THE	)	CASE NO.
CONSTRUCTION OF THE CUTSHIN WATER	)	2025-00325
LINE REPLACEMENT PROJECT - PHASE 1	)	
DOES NOT REQUIRE A CERTIFICATE OF	)	
PUBLIC CONVENIENCE AND NECESSITY	)	

ORDER

On October 21, 2025, Hyden-Leslie County Water District (Hyden-Leslie District) filed an application requesting an Order declaring that its proposed “Cutshin Water Line Replacement Project – Phase 1” (Project) does not require a certificate of public convenience and necessity (CPCN) because it is part of a water line improvement project as defined in KRS 278.020(1)(a)(3). In the alternative, Hyden-Leslie District argued that the proposed Project does not require a CPCN because it is considered an extension in the ordinary course of business as defined in 807 KAR 5:001, Section 15(3).<sup>1</sup> Pursuant to 807 KAR 5:001 Section 19 (7), this matter is now before the Commission for a decision.

BACKGROUND

Hyden-Leslie District is a Class A water district organized pursuant to KRS Chapter 74 that provides water service to approximately 3,372 residential customers and 320 commercial customers in Leslie County, Kentucky.<sup>2</sup> For calendar year 2024,

---

<sup>1</sup> Application (filed (Oct. 21, 2025) at 15-16.

<sup>2</sup> *Annual Report of Hyden-Leslie District to the Public Service Commission for the Year Ending December 31, 2024* (2024 Annual Report) at 49.

Hyden-Leslie District had total water operating revenues of \$2,448,801,<sup>3</sup> and a net utility plant of \$21,201,840.<sup>4</sup>

In Case No. 2019-00041, Hyden-Leslie District identified an existing six-inch polyvinylchloride (PVC) water main, running from mile 10.0 to 12.8 alongside Kentucky Route 699 in Leslie County, Kentucky, as necessary for replacement in order to reduce Hyden-Leslie District's high rate of unaccounted-for water loss.<sup>5</sup> Hyden-Leslie District asserts that this section of six-inch water main was poorly installed and experiences frequent breaks, and that replacement of this line is more cost-effective than having to frequently repair it.<sup>6</sup>

Part of Hyden-Leslie District's proposed Project will replace this existing six-inch PVC water main with new six-inch PVC from mile 10.0 to mile 12.8 alongside Kentucky Route 699 in Leslie County, Kentucky.<sup>7</sup> Upon completion of the replacement of this identified 6-inch PVC water main, Hyden-Leslie District will abandon the existing water main and will write off its remaining book value.<sup>8</sup>

Another aspect of Hyden-Leslie District's proposed Project involves the construction and extension of approximately 10,220 linear feet of three-inch PVC water main along Yeaddiss Road, Right Fork Road, and Pigeonroost Road in Leslie County,

---

<sup>3</sup> 2024 Annual Report at 20.

<sup>4</sup> 2024 Annual Report at 16.

<sup>5</sup> Case No. 2019-00041, *Electronic Investigation into Excessive Water Loss by Kentucky's Jurisdictional Water Utilities*, (filed Apr. 12, 2019), Response of Hyden-Leslie County Water District to Commission Order of March 12, 2019, Item 4.

<sup>6</sup> Application at 3.

<sup>7</sup> Application at 3.

<sup>8</sup> Application at 4.

Kentucky.<sup>9</sup> The project will extend water service to an additional 37 households and will connect to the newly-replaced, six-inch water main located alongside Kentucky Route 699 in Leslie County, Kentucky.

Lastly, to further enhance Hyden-Leslie District's leak detection capabilities, Hyden-Leslie District has proposed to purchase and install 77 Kamstrup Flow IQ 2200 radio-read water meters, two master meters, and eight leak detection meters, and install two pressure reducing valves along various points of the replaced 6-inch PVC water main and extended 3-inch water main.<sup>10</sup>

No aspect of Hyden-Leslie District's proposed Project requires the utility to acquire private easements nor does the Project cross any streams or creeks.<sup>11</sup> Hyden-Leslie District has received permits from the Kentucky Transportation Cabinet's Department of Highways for the proposed excavations that are required for the Project, and the Kentucky Division of Water has approved Hyden-Leslie District's Project plans.<sup>12</sup>

#### FINANCING OF PROPOSED PROJECT

The estimated cost of Hyden-Leslie District's proposed Project is approximately \$2,550,000.<sup>13</sup> The proposed Project will be funded in its entirety through a grant from the Kentucky Division of Abandoned Mine Lands (KYAML).<sup>14</sup> Accordingly, Hyden-Leslie

---

<sup>9</sup> Application at 4.

<sup>10</sup> Application at 4-5.

<sup>11</sup> Application at 5.

<sup>12</sup> Application, Exhibit I at 61-99.

<sup>13</sup> Application at 6.

<sup>14</sup> Application at 6.

District will not need to use any internal funds, issue any evidence of indebtedness, or adjust its rates for water service to fund the proposed Project.

Hyden-Leslie District published an advertisement to receive bids for the proposed Project in *The Leslie County News* and received four responsive bids for the Project on or before September 23, 2025.<sup>15</sup> A bid from Jones Contracting, LLC, was the lowest responsive bid in the amount of \$1,411,540.<sup>16</sup> On September 24, 2025, Hyden-Leslie District's Board of Commissioners awarded the contract to Jones Contracting, LLC.<sup>17</sup>

### LEGAL STANDARD

KRS 278.020(1)(a) provides that

[N]o person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010 . . . until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction."<sup>18</sup>

An exception to the CPCN requirement is provided in KRS 278.020(1)(a)(3) for:

A water district created under KRS Chapter 74 or a water association formed under KRS Chapter 273 that undertakes a waterline extension or improvement project if the water district or water association is a Class A or B utility as defined in the uniform system of accounts established by the commission according to KRS 278.220 and:

(a) The water line extension or improvement project will not cost more than five hundred thousand (\$500,000) dollars;  
or

---

<sup>15</sup> Application at 6.

<sup>16</sup> Application at 6.

<sup>17</sup> Application at 6.

<sup>18</sup> KRS 278.020(1)(a).

(b) The water district or water association will not, as a result of the water line extension or improvement project, incur obligations requiring commission approval as required by KRS 278.300.

In either case, the water district or water association shall not, as a result of the water line extension or improvement project, increase rates to its customers.<sup>19</sup>

Commission regulation 807 KAR 5:001 Section 15(3), provides additional clarification, stating:

A certificate of public convenience and necessity shall not be required for extensions that do not create wasteful duplication of plant, equipment, property, or facilities, or conflict with the existing certificates or service of other utilities operating in the same area and under the jurisdiction of the commission that are in the general or contiguous area in which the utility renders services, and that do not involve sufficient capital outlay to materially affect the existing financial condition of the utility involved, or will not result in increased charges to its customers.<sup>20</sup>

In implementing 807 KAR 5:001 Section 15(3), the Commission has stated that no CPCN is required for extensions “that do not result in wasteful duplication of utility plant, do not compete with the facilities of existing public utilities, and do not involve a sufficient capital outlay to materially affect the existing financial condition of the utility involved or to require an increase in utility rates.”<sup>21</sup>

Lastly, a utility may request a declaratory Order pursuant to 807 KAR 5:001 Section 19. The Commission “. . . may, upon application by a person substantially

---

<sup>19</sup> KRS 278.020(1)(a)(3).

<sup>20</sup> See 807 KAR 5:001, Section 15(3). Extensions in the ordinary course of business.

<sup>21</sup> Case No. 2000-00481, *Application of Northern Kentucky Water District (A) for Authority to Issue Parity Revenue Bonds in the Approximate Amount of \$16,545,000; and (B) A Certificate of Convenience and Necessity for the Construction of Water Main Facilities* (Ky. PSC Aug. 30, 2001), Order at 4.

affected, issue a declaratory order with respect to the jurisdiction of the commission, the applicability to a person, property, or state of facts of an order or administrative regulation of the commission or provision of KRS Chapter 278, or with respect to the meaning and scope of an order or administrative regulation of the commission or provision of KRS Chapter 278.”<sup>22</sup>

### DISCUSSION

Having reviewed the evidence of record, the Commission finds that Hyden-Leslie District’s proposed Project is a water main extension or improvement project, that Hyden-Leslie District is a Class A utility as defined in the uniform system of accounts established by the Commission according to KRS 278.220, and that Hyden-Leslie District will not, as a result of its proposed Project, incur obligations requiring Commission approval as required by KRS 278.300.

Hyden-Leslie District is a Class A water district created under KRS Chapter 74. In Hyden-Leslie District’s most recent Annual Report filing for the year ending 2024, it reported operating revenues of \$2,448,801,<sup>23</sup> exceeding the required annual operating revenues of \$750,000 or more, thus qualifying the water district as a Class A utility.<sup>24</sup>

Hyden-Leslie District is proposing to undertake a waterline extension or improvement project. The proposed Project involves the replacement of a 6-inch water main and the extension of 3-inch water mains. In this particular circumstance the

---

<sup>23</sup> 2024 Annual Report at 20.

<sup>24</sup> *Uniform System of Accounts for Class A/B Water Companies* (last modified and adopted by Kentucky Public Service Commission in 2002), at 15. <https://psc.ky.gov/agencies/psc/forms/usoa/0600ab02.pdf>.

purchase and installation of water meters, master meters, leak detection meters, and pressure reducing valves are reasonably related to the water main replacement and extension projects and are limited to within the proposed Project's service area.

Finally, it is reasonable to conclude that Hyden-Leslie District will not incur obligations requiring Commission approval as required by KRS 278.300, as a result of the proposed Project. KRS 278.300(1) states that, "No utility shall issue any securities or evidences of indebtedness, or assume any obligation or liability in respect to the securities or evidences of indebtedness of any other person until it has been authorized so to do by order of the commission."<sup>25</sup> Because Hyden-Leslie District's proposed Project is entirely funded through a grant it has secured from KYAML in an amount equal to the Project's estimated costs, it is reasonable to conclude that Hyden-Leslie District will not need to issue any securities or evidences of indebtedness to fund its proposed Project.

Therefore, the Commission finds that Hyden-Leslie District has adequately demonstrated that construction of its proposed Project meets all the requirements for an exemption from obtaining a CPCN from the Commission as outlined in KRS 278.020(1)(a)(3). Furthermore, because Hyden-Leslie District's proposed Project meets all the requirements necessary for exemption from a CPCN found in KRS 278.020(1)(a)(3), additional analysis of 807 KAR 5:001, Section 15(3), is unnecessary.

The Commission notes that, although Hyden-Leslie District's proposed Project does not require a CPCN application, this Order should not be construed as to relieve Hyden-Leslie District from the obligations of KRS 278.020 for other or similar projects.

---

<sup>25</sup> KRS 278.300.

Should any material revisions to the Project occur after the issuance of this Order, those revisions should be reviewed by the Commission to ensure they do not undermine this determination.

IT IS THEREFORE ORDERED that:

1. Hyden-Leslie District's application for a declaratory order is granted.
2. Hyden-Leslie District has adequately demonstrated that it should be exempt from obtaining a CPCN for its proposed Project, as outlined in KRS 278.020(1)(a).
3. Hyden-Leslie District shall notify the Commission of any material revision(s) to the Project within three business days of said revisions and seek a determination if said revision(s) alter the findings herein.
4. This case is closed and removed from the Commission's docket.



PUBLIC SERVICE COMMISSION

  
Chairman

  
Commissioner

  
Commissioner

ATTEST:

  
Executive Director



Case No. 2025-00325

\*Gerald E Wuetcher  
Attorney at Law  
STOLL KEENON OGDEN PLLC  
300 West Vine Street  
Suite 2100  
Lexington, KY 40507-1801

\*Hyden-Leslie County Water District  
356 Wendover Road  
Hyden, KY 41749

\*L.J. Turner  
Hyden-Leslie County Water District  
356 Wendover Road  
Hyden, KY 41749