

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF THE BREATHITT COUNTY)	
WATER DISTRICT FOR THE ISSUANCE OF A)	
CERTIFICATE OF PUBLIC CONVENIENCE AND)	CASE NO.
NECESSITY TO CONSTRUCT A WATER SYSTEM)	2017-00270
IMPROVEMENTS PROJECT PURSUANT TO THE)	
PROVISIONS OF KRS 278.020 AND 807 KAR 5:001)	

ORDER

On July 10, 2017, Breathitt County Water District (“Breathitt County”) submitted an application pursuant to KRS 278.020 for a Certificate of Public Convenience and Necessity (“CPCN”) to construct an improvement project. Breathitt County was informed by letter from the Commissioner’s Acting Executive Director, John S. Lyons, dated July 12, 2017, that the application failed to meet the minimum filing requirements. Breathitt County was instructed to file the necessary information to cure the deficiencies within ten days. On July 22, 2017, Breathitt County submitted additional information curing the deficiencies, and the application was considered filed as of that date. No person has sought intervention in this matter, and Breathitt County has not requested a hearing. The record for this case is complete, and the matter stands ready for a decision.

Breathitt County, a water district organized under KRS Chapter 74, provides retail water service to approximately 1,694 customers in Breathitt County, Kentucky.¹

¹ *Annual Report of Breathitt County District, Water Utilities Report to the Kentucky Public Service Commission for the Year Ended December 31, 2015* at 11 and 53.

Breathitt County's application for a CPCN proposes the construction of approximately 5,725 linear feet of polyvinyl chloride and ductile iron waterline, a hydro pneumatic pump station and bladder tank, and service connections to the Julian Carroll Airport and the National Weather Service, National Oceanic and Atmospheric Administration.²

The total estimated cost of the proposed project, including legal, administrative, development, and engineering, plus interest and contingencies costs, is \$290,000.³

Breathitt County proposes to finance the proposed construction with the proceeds of an Appalachian Regional Commission grant of \$215,000,⁴ and with Breathitt Fiscal Court providing matching funds of \$75,000.⁵ Breathitt County will not issue any evidence of indebtedness or adjust its rates to finance the proposed project.

KRS 278.020(1) provides:

No 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, except retail electric suppliers for service connections to electric-consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business, until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction.

² Application, Exhibit A.

³ Application, Exhibit C at 22 of 26.

⁴ *Id.*

⁵ *Id.*

In its 2016 Annual Session, the Kentucky General Assembly enacted legislation that exempts certain water improvement projects of water districts and water associations from the requirement of obtaining a CPCN pursuant to KRS 278.020(1). This legislation, which creates the exemption, provides:

A water district created pursuant to KRS Chapter 74 and a water association formed under KRS Chapter 273 that undertakes a waterline extension or improvement project shall not be required to obtain a certificate of public convenience and necessity pursuant to KRS 278.020(1), 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 Public Service Commission, pursuant to KRS 278.220, as the system of accounts prescribed for utilities in Kentucky, and either: (a) The water line extension or improvement project will not cost in excess of \$500,000; or (b) The water district or water association will not, as a result of the water line extension or improvement project, incur obligations requiring Public Service Commission approval pursuant to 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.⁶

Based upon our review of a above-described legislation and the application, the Commission finds that:

1. Breathitt County's proposed construction is a waterline extension or improvement project within the scope of the above-described exemption to KRS 278.020(1).
2. Breathitt County will not, as a result of the proposed improvement project, incur obligations that require Commission approval pursuant to KRS 278.300.

⁶ 2016 Ky. Acts Ch. 149.

3. Breathitt County will not, as a result of the proposed improvement project, increase its rates for water service to its customers.

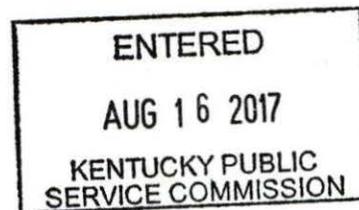
4. Breathitt County's proposed construction is exempt from any requirement to obtain a CPCN.

IT IS THEREFORE ORDERED that:

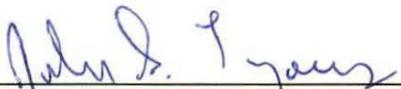
1. Breathitt County's application is denied as moot.

2. Subject to the filing of timely petition for rehearing pursuant to KRS 278.400, these proceedings are closed. The Executive Director shall place any future filings in the appropriate utility's general correspondence file or shall docket the filing as a new proceeding.

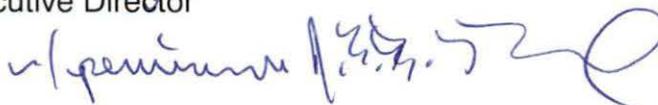
By the Commission



ATTEST:



Acting Executive Director



Case No. 2017-00270

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