

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF THE)	
WESTERN PULASKI 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)	2020-00331
ORDER AUTHORIZING THE ISSUANCE OF)	
SECURITIES PURSUANT TO THE)	
PROVISIONS OF KRS 278.020, KRS 278.300)	
AND 807 KAR 5:001)	

ORDER

On October 22, 2020, Western Pulaski County Water District (Western Pulaski District) filed an application, pursuant to KRS 278.020, KRS 278.300, and 807 KAR 5:001, requesting a Certificate of Public Convenience and Necessity (CPCN) to construct a water system improvements project, as described below, and approval of the proposed plan of financing the project. No party has sought intervention in this matter. The record for this case is complete, and the matter stands ready for decision.

Western Pulaski District, a water district organized under KRS Chapter 74, provides retail water service to approximately 8,844 water customers¹ in Pulaski, Russell, and Wayne counties, Kentucky.²

¹ *Annual Report of Western Pulaski County Water District for the Year Ended December 31, 2019* at 49.

² *Id.* at 12.

The Commission's Division of Inspections last inspected Western Pulaski District on December 11, 2019. Based on the inspector's observations, two deficiencies were identified: (1) Western Pulaski District was failing to operate its facilities so as to provide adequate and safe service to its customers as required by 807 KAR 5:066, Section 7, due to water loss exceeding 15 percent; and (2) Western Pulaski District had 1 inch and smaller customer meters that have been in service for ten years or more and master meters that haven't been tested as required by 807 KAR 5:066, Section 16(1). Western Pulaski District filed a letter in response, received on January 31, 2020, stating:

The Western Pulaski County Water District found and repaired a total of 252 water leaks during 2019. This was a big part of our water loss, although we know that we have other leaks that have not yet been located. We monitor water usage daily thru our SCADA system to help identify potential leaks quicker to eliminate prolonged periods of leakage. We have many lines in our systems that were placed into service during the early 1960's and early 1970's that we have identified as a problem. We are currently working with our engineering firm to draft a plan to replace problem areas. In addition, of the 1,000 meters we have tested during 2019, 29.5 percent of those tested slow, and 17.2 percent were not registering at all. In regards to the master meter test those meters are owned and maintained by the city of Somerset and are tested annually by the city which provide Western Pulaski County Water District a copy of test Results. One-inch and smaller meters we estimate that we have approximately 4,629 that are over the 10 year range. We are in the process of changing our entire system over to the radio read meters over the next 5 years; we are starting this process in the areas that are out of compliance to remedy the problem. In doing this all meters will be back in compliance and within a five year period.

In a letter dated February 14, 2020, Commission Staff accepted Western Pulaski District's response to the deficiencies and stated that Commission Staff would follow up with this at its next inspection.

The Commission notes that its records indicate Western Pulaski District has not sought a general adjustment in base rates since at least 1985. Western Pulaski District filed for an adjustment in rates pursuant 807 KAR 5:076 in 2017³ but subsequently withdrew that application.

Western Pulaski District's last change in rates came by way of a case filed pursuant to KRS 278.023.⁴ The Commission is required, pursuant to KRS 278.023, to accept agreements between water utilities and the United States Department of Agriculture, Rural Development (USDA/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 reject any portion of the agreement between the USDA/RD and Western Pulaski District or to defer the issuance of all necessary orders to implement the terms of that agreement. It 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, result in an excessive investment, or its proposed rates are unfair, unjust and unreasonable. The Commission, therefore, is not able to review KRS 278.023 applications using the same standards that are used for applications that are not filed pursuant to KRS 278.023.

The Commission's review of records in a financing case, filed pursuant to KRS 278.023, is limited and very different from the comprehensive review of a utility's

³ Case No. 2017-00172, *Application of Western Pulaski County Water District for Rate Adjustment for Small Utilities Pursuant to 807 KAR 5:076* (Ky. PSC Aug. 23, 2017).

⁴ Case No. 2018-00203, *Application of Western Pulaski County Water District for a Certificate of Public Convenience and Necessity to Construct a Water Improvements Project and an Order Authorizing the Issuance of Securities and Increase Rates Pursuant to KRS 278.023* (Ky. PSC July 16, 2018).

total financial stability and operational viability that takes place in a traditional rate adjustment case or an alternative rate adjustment. 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.⁵ 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.⁶

The Commission's analysis of Western Pulaski District's Excel spreadsheets submitted in its responses to Commission Staff's request for information is contained in the Appendix attached hereto.⁷ The Commission's analysis of Western Pulaski District Audited financial records shows that for the calendar years 2017 and 2019, Western Pulaski District met the Debt Service Coverage (DSC) of its lenders, but in 2018, was below the lenders requirement of a 1.2X DSC. Based upon Western Pulaski District's projections the Commission's analysis show that Western Pulaski District will remain in compliance with the DSC requirements of its lenders for the calendar years 2020–2024. However, unlike Western Pulaski District's lenders, the Commission includes noncash items such as depreciation expense in the DSC calculation supporting the revenue

⁵ See Case No. 2019-00041, *Electronic Investigation into Excessive Water Loss by Kentucky's Jurisdictional Water Utilities* (Ky. PSC Nov. 22, 2019).

⁶ *Id.*

⁷ Western Pulaski District's Responses to Commission Staff's First Request for Information (Staff's First Request) (filed Nov. 20, 2020), Items 5–7.

requirement of water districts and associations.⁸ For the projected calendar years 2020–2024 Western Pulaski District’s DSC falls below the 1.2X threshold in years 2021–2024.

Pursuant to the Commission’s recommendation in Case No. 2019-00041 and the results of the financial analysis performed in this proceeding, the Commission finds that Western Pulaski District should be ordered to file an application for a general rate adjustment pursuant to 807 KAR 5:001, Section 16, or an application for an alternative rate adjustment pursuant to 807 KAR 5:076 within one year of the date of the issuance of this Order to ensure its revenue is sufficient to support adequate and reliable service. Any filing for a rate adjustment filed under KRS 278.023 does not relieve Western Pulaski District from this requirement.

The Commission notes that Western Pulaski District reported a water loss of 29.2966 percent in its 2019 Annual Report.⁹ Commission regulation 807 KAR 5:066(6)(3) states that, for ratemaking purposes, a utility’s unaccounted-for water loss shall not exceed 15 percent of the total water produced and purchased, excluding water used by a utility in its own operations. Reduction of Western Pulaski District’s unaccounted-for water loss to 15 percent would result in an approximate \$205,083 decrease to its cost of

⁸ See Case No. 2019-00424, *Electronic Application of Grant County Sanitary Sewer District for an Alternate Rate Adjustment* (Ky. PSC May 6, 2020); See Case No. 2020-00020, *Alternative Rate Adjustment Filing of Knox County Utility Commission* (Ky. PSC July 22, 2020); and See Case No. 2020-00141, *Electronic Application of Hyden-Leslie County Water District for an Alternative Rate Adjustment* (Ky. PSC Nov. 6, 2020).

⁹ *Annual Report of Western Pulaski County Water District for the Year Ended December 31, 2019* at 58.

water annually.¹⁰ The Commission is placing greater emphasis on monitoring utilities that consistently exceed the 15 percent unaccounted-for water loss threshold and strongly encourages Western Pulaski District to pursue reasonable actions to reduce its unaccounted-for water loss. Failure by Western Pulaski District to make significant progress towards reducing unaccounted-for water loss may cause the Commission to pursue additional action with the utility.

The proposed project consists of improvements to the water system of Western Pulaski District. The project consists of approximately 45,500 LF of 8-inch water transmission main along Ringgold Road (KY 3263), Hickory Nut Road, across Coldweather Creek/Lake Cumberland, and then along Piney Grove Ridge Road to the north side of Cumberland Parkway (KY 9008).¹¹ The project also includes the installation of an 800 GPM water booster pump station near an existing 500,000-gallon water storage tank located on Denham Knob, a 400 GPM water booster pump station along the transmission main route located at the intersection of Lewis Road and Piney Grove Ridge Road.¹² The water transmission main will serve to replace an existing 10-inch water line

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	10		
Percentage of Unaccounted for Water Loss			29.30%
Less: Allowable Limit			<u>-15.00%</u>
Percentage Water Loss in Excess of 15 Percent			<u><u>14.30%</u></u>
	Electricity	Water	Total
Allowable Purchases	\$ 77,642	\$ 1,356,514	\$ 1,434,156
Multiplied by: Water Rate per 1,000 Gallons	<u>-14.30%</u>	<u>-14.30%</u>	<u>-14.30%</u>
Excess Purchased Water and Pumping Cost	<u>\$ (11,102)</u>	<u>\$ (193,981)</u>	<u>\$ (205,083)</u>

¹¹ Preliminary Engineering Report at unnumbered page 4, Item VI, Proposed Project.

¹² *Id.*

that currently crosses along the Fishing Creek Bridge (West KY Highway 80). The project will also include three new master meters located at KY Highway 80, Oak Hill Road, and the northern master meter located along north US 127. The project will also consist of a piping and meter replacement at the existing Lee's Ford Pump Station.¹³

The need for the project is to eliminate a maintenance problem that Western Pulaski District has dealt with for years with an existing aged 10-inch PVC water line across the KY 80 Fishing Creek Bridge.¹⁴ Based on the location of the existing 10-inch water line across the Fishing Creek Bridge, the District has had limited access to maintain the water main. Therefore, the new 12-inch water line will be installed on the bridge that will be feasible to maintain should there be leaks or breaks.¹⁵ Also, by replacing the existing 10-inch waterline across the Fishing Creek Bridge and the existing 6-inch water line on each side of the bridge with a 12-inch ductile iron pipe, will eliminate a bottleneck in the system that restricts the flow from the Somerset side of Fishing Creek Bridge to the demand of the Nancy and the Faubush areas of the county.¹⁶

Legal Standard

The Commission's standard of review of a request for a CPCN is well settled. 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 except as provided in KRS 278.020(1) and (2) and 807 KAR 5:001, Section 15(3), which are provisions not

¹³ *Id.*

¹⁴ Application, Exhibit A.

¹⁵ *Id.*

¹⁶ *Id.*

applicable to this matter. To obtain a CPCN, a utility must demonstrate a need for such facilities and an absence of wasteful duplication.¹⁷

“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 establish an inability or unwillingness to render adequate service.¹⁸

“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.”¹⁹ To demonstrate that a proposed facility does not result in wasteful duplication, we have held that the applicant must demonstrate that a thorough review of all reasonable alternatives has been performed.²⁰ Selection of a

¹⁷ *Kentucky Utilities Co. v. Public Service Comm’n*, 252 S.W.2d 885 (Ky. 1952).

¹⁸ *Id.* at 890.

¹⁹ *Id.*

²⁰ 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).

proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication.²¹ All relevant factors must be balanced.²²

Findings

Western Pulaski District has demonstrated the need for the proposed project. The proposed project should make Western Pulaski District's system more reliable. Western Pulaski District is the only major supplier of potable water within the rural areas of South Central, South Western, and Western portions of Pulaski County.²³ The proposed project will not result in wasteful duplication as a thorough review of all reasonable alternatives has been performed.²⁴ The three alternatives explored all proved to be unsuitable for the needed project.

The total estimated cost of the proposed project, including but not limited to legal expenses, land and rights, engineering, construction, and contingencies, is approximately \$1,865,000.²⁵ Western Pulaski District proposes to finance the \$1,865,000 project cost through the issuance of a loan from the Kentucky Infrastructure Authority (KIA) Infrastructure Revolving Loan Fund of \$1,146,000 of its Utility Revenue Bonds and a

²¹ See *Kentucky Utilities Co. v. Public Service 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), final Order.

²² Case No. 2005-00089, *East Kentucky Power Cooperative, Inc.* (Ky. PSC Aug. 19, 2005), final Order at 6.

²³ Final Engineering Report, Final Budget Big Clifty Area Water System Improvements - Phase 2 KY Highway 80/Fishing Creek Bridge Water Line Replacement Western Pulaski Water District October 5, 2020.

²⁴ *Id.*

²⁵ *Id.*

USDA, Rural Development grant in the amount of \$719,000.²⁶ The proposed KIA loan will mature over a 20-year term, at an interest rate not to exceed 1.50 percent per annum.²⁷ Western Pulaski District does not propose to increase its water service rates to its customers as a result of the proposed project.²⁸

IT IS THEREFORE ORDERED that:

1. Western Pulaski District is granted a CPCN for the proposed project as submitted.
2. Western Pulaski District's proposed plan of financing is approved.
3. Western Pulaski District is authorized to obtain a KIA loan in the amount of \$1,146,000 maturing over 20 years at an interest rate not to exceed 1.50 percent per annum.
4. The proceeds from the issuance of the KIA loan shall be used only for the purposes specified in Western Pulaski District's application.
5. Western Pulaski District is authorized to obtain a grant in the amount of \$719,000 from USDA/RD.
6. Western Pulaski District shall obtain approval from the Commission prior to performing any additional construction not expressly authorized by this Order.
7. Notwithstanding ordering paragraphs 4 and 6, if surplus funds remain after the approved construction has been completed, Western Pulaski District may use such surplus to construct additional plant facilities if USDA/RD approves of the use and the

²⁶ *Id.*

²⁷ Application, KIA Conditional Commitment Letter, Attachment A, paragraphs 2–3.

²⁸ Staff's First Request (filed Nov. 20, 2020), Item 2.

additional construction, and it will not result in a change in Western Pulaski District's rates for service. Western Pulaski District shall provide written notice of this additional construction in accordance with 807 KAR 5:069, Section 4.

8. Western Pulaski 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.

9. Western Pulaski 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.

10. Western Pulaski 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.

11. Western Pulaski District shall notify the Commission in writing one week prior to the actual start of construction and at the 50 percent completion point.

12. Any documents filed in the future pursuant to ordering paragraphs 7, 8, 9, and 11 of this Order shall reference this case number and shall be retained in the utility's post-case correspondence file.

13. The Executive Director is delegated authority to grant reasonable extensions of time for filing of any documents required by this Order upon Western Pulaski District's showing of good cause for such extension.

14. Western Pulaski District shall file an application for a general rate adjustment pursuant to 807 KAR 5:001, Section 16, or an application for an alternative rate adjustment pursuant to 807 KAR 5:076 within one year of the date of the issuance of this Order.

Nothing contained herein shall be deemed a warranty of the Commonwealth of Kentucky, or any agency thereof, of the financing, herein approved. This case is closed and will be removed from the Commission's docket.

By the Commission

ENTERED
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KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

 for _____
Executive Director

Case No. 2020-00331

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2020-00331 DATED DEC 17 2020

Commission Analysis of Western Pulaski District's Audited and Projected Financial Information

	Audited 2017	Audited 2018	Audited 2019
Operating Revenues	\$ 2,921,392	\$ 2,999,184	\$ 3,385,440
Operating Expenses	2,627,129	2,995,583	2,918,177
Operating Income (Loss)	294,263	3,601	467,263
Add back: Depreciation Expense	440,250	409,689	446,529
Cash Available for Debt Service	734,513	413,290	913,792
Divided by: 3-Year Average Debt Service	356,685	406,074	510,384
Debt Service Coverage Ratio	205.93%	101.78%	179.04%

	Projected Debt Service Coverage Ratios - Lenders				
	2020	2021	2022	2023	2024
Operating Revenues	\$ 3,385,440	\$ 3,385,440	\$ 3,385,440	\$ 3,385,440	\$ 3,385,440
Projected Operating Expenses Net of Depreciation	2,521,081	2,571,503	2,622,933	2,675,392	2,728,900
Add: Projected Depreciation Expense	500,000	564,501	564,501	564,501	564,501
Total Projected Operating Expenses	3,021,081	3,136,004	3,187,434	3,239,893	3,293,401
Net Operating Income Available for Debt Service	864,359	813,937	762,507	710,048	656,540
Add: Non-Cash Items (Depreciation)	500,000	564,501	564,501	564,501	564,501
Cash Available for Debt Service	1,364,359	1,378,438	1,327,008	1,274,549	1,221,041
Divided by: 3-Year Average Debt Service	625,203	695,063	704,695	704,956	665,938
Debt Service Coverage Ratio	218.23%	198.32%	188.31%	180.80%	183.36%

	Projected Debt Service Coverage Ratios - Commission				
	2020	2021	2022	2023	2024
Operating Revenues	\$ 3,385,440	\$ 3,385,440	\$ 3,385,440	\$ 3,385,440	\$ 3,385,440
Projected Operating Expenses Net of Depreciation	2,521,081	2,571,503	2,622,933	2,675,392	2,728,900
Add: Projected Depreciation Expense	500,000	564,501	564,501	564,501	564,501
Total Projected Operating Expenses	3,021,081	3,136,004	3,187,434	3,239,893	3,293,401
Net Operating Income Available for Debt Service	864,359	813,937	762,507	710,048	656,540
Divided by: 3-Year Average Debt Service	625,203	695,063	704,695	704,956	665,938
Debt Service Coverage Ratio	138.25%	117.10%	108.20%	100.72%	98.59%

Projected Operating Expenses Net of Depreciation

Western Pulaski District used a 2 percent Inflation Factor	
Audited 2019 Operating Expenses	\$ 2,918,177
Less: Audited 2019 Depreciation Expense	<u>(446,529)</u>
2019 Operating Expenses Net Depreciation	2,471,648
Add: 2% Inflation Factor	<u>49,433</u>
2020 Operating Expenses Net Depreciation	2,521,081
Add: 2% Inflation Factor	<u>50,422</u>
2021 Operating Expenses Net Depreciation	2,571,503
Add: 2% Inflation Factor	<u>51,430</u>
2022 Operating Expenses Net Depreciation	2,622,933
Add: 2% Inflation Factor	<u>52,459</u>
2023 Operating Expenses Net Depreciation	2,675,392
Add: 2% Inflation Factor	<u>53,508</u>
2024 Operating Expenses Net Depreciation	<u>\$ 2,728,900</u>

Projected Depreciation Expense

Construction Project Costs	\$ 2,166,335	\$ 1,865,000	\$ 4,031,335
depreciable life per PSC guidelines	<u>62.5</u>	<u>62.5</u>	<u>62.5</u>
annual depreciation	<u>\$ 34,661</u>	<u>\$ 29,840</u>	<u>\$ 64,501</u>
2020 Depreciation Based on full year depreciation on Utility Plant placed in service as of Dec 2019			\$ 500,000
Add: Annual Depreciation for Construction Project			<u>64,501</u>
Projected Depreciation 2021-2024			<u>\$ 564,501</u>

Projected 3-Year Average Debt Service

Year	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>
2020	\$ 493,983				
2021	673,655	\$ 673,655			
2022	707,970	707,970	\$ 707,970		
2023		703,564	703,564	\$ 703,564	
2024			702,552	702,552	\$ 702,552
2025				708,753	708,753
2026					<u>586,508</u>
3-Year Average Debt Service	<u>\$ 625,203</u>	<u>\$ 690,813</u>	<u>\$ 704,695</u>	<u>\$ 704,956</u>	<u>\$ 665,938</u>

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