

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF NORTHERN)	
KENTUCKY WATER DISTRICT FOR A)	
CERTIFICATE OF PUBLIC CONVENIENCE AND)	CASE NO.
NECESSITY TO CONSTRUCT A 36" LICKING)	2022-00209
RIVER CROSSING AND APPROVAL OF)	
FINANCING)	

ORDER

This matter arises from Northern Kentucky Water District’s (Northern Kentucky District) application for a Certificate of Public Convenience and Necessity (CPCN) and financing approval to construct a 36-inch Licking River crossing. The application was filed on July 22, 2022.

The financing for which Northern Kentucky District has requested approval is intended to fund the project for which it is requesting a CPCN, so the financing approval is dependent on Northern Kentucky District obtaining a CPCN for that project. On September 16, 2022, the Commission entered an Order pursuant to KRS 278.300, finding good cause to extend the application beyond 60 days to continue its investigation and review of the application. No party has sought intervention in this matter. The record for this case is complete, and the matter stands ready for decision.

BACKGROUND

Northern Kentucky District, a water district organized under KRS Chapter 74, provides retail water service to approximately 85,838 customers in Kenton, Boone, and

Campbell counties, Kentucky.¹ Northern Kentucky District sells water wholesale to the following nonaffiliated water distribution systems: Bullock Pen Water District, Pendleton County Water District, and to the city of Walton.²

LEGAL STANDARD

The Commission's standard of review regarding a CPCN is well settled. Under KRS 278.020(1), 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. To obtain a CPCN, the utility must demonstrate a need for such facilities and an absence of wasteful duplication.³

"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.⁴

"Wasteful duplication" is defined as "an excess of capacity over need" and "an excessive investment in relation to productivity or efficiency, and an unnecessary

¹ *Annual Report of Northern Kentucky District to the Public Service Commission for the Year Ended December 31, 2021* (2021 Annual Report) at 18 and 56.

² 2021 Annual Report at 63.

³ *Kentucky Utilities Co. v. Pub. Serv. Comm'n*, 252 S.W.2d 885 (Ky. 1952)

⁴ *Kentucky Utilities Co.*, 252 S.W.2d at 890.

multiplicity of physical properties.”⁵ 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.⁶ Selection of a proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication.⁷ All relevant factors must be balanced.⁸

PROPOSED PROJECT

Northern Kentucky District’s proposed project includes the installation of approximately 3,140 linear feet of 36-inch ductile iron and high-density polyethylene (HDPE) water main along South Street and Andrews Way in Wilder, under the Licking River, to approximately 250 feet north of Summit Drive in Covington.⁹ Northern Kentucky District maintains an existing 36-inch concrete water main that runs under the Licking River between Fredrick’s Landing in Campbell County and Twin Oaks Golf Course in Kenton County.¹⁰ This water main is the primary feed to the pumping station at the Taylor Mill Treatment Plant, which serves the majority of Northern Kentucky District’s Kenton County service area.¹¹ The district explained its Water Distribution System Master Plan

⁵ *Kentucky Utilities Co.*, 252 S.W.2d at 890

⁶ Case No. 2005-00142, *Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for the Construction of Transmission Facilities in Jefferson, Bullitt, Meade, and Hardin Counties, Kentucky* (Ky. PSC Sept. 8, 2005).

⁷ See *Kentucky Utilities Co. v. Pub. Serv. Comm’n*, 390 S.W.2d 168, 175 (Ky. 1965). See also Case No. 2005-00089, *The Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity to Construct a 138 kV Electric Transmission Line in Rowan County, Kentucky* (Ky. PSC Aug. 19, 2005).

⁸ Case No. 2005-00089, Aug. 19, 2005 final Order at 6.

⁹ Application, Exhibit A-1, Project Description at unnumbered page 1.

¹⁰ Application, Exhibit A-1, Project Description at unnumbered page 1.

¹¹ Application, Exhibit A-1, Project Description at unnumbered page 1.

identified the need for a redundant water main parallel to the existing 36-inch concrete water main. The existing main crossing the Licking River was identified as a security risk in a vulnerability assessment due to the lack of redundancy.¹² Northern Kentucky District stated if any repairs need to be made to the existing water main under the river, it could take several weeks or even months, which would affect a large part of its customer base.¹³ To connect the river crossing to the existing system will also involve the installation of an additional 1,920 linear feet of 36-inch ductile iron water main via traditional open cut methods on either side of the river.¹⁴

In Case No. 2014-00100,¹⁵ the Commission authorized Northern Kentucky District to enter into the original Assistance Agreement with Kentucky Infrastructure Authority (KIA) for a State Revolving Loan Fund (SRF) Loan F13-012, for an amount not to exceed \$4,000,000.¹⁶ The Commission also found at that time that Northern Kentucky District could not use any of the proceeds from the \$4,000,000 KIA SRF Loan F13-012 to fund the 36" Licking River Crossing until Northern Kentucky District receives a CPCN to construct the crossing.¹⁷ In this instant Case, Northern Kentucky District filed a revised

¹² Application, Exhibit A-3, Asset Management Program Excerpts at 4-5.

¹³ Application, Exhibit A-1, Project Description at unnumbered page 1.

¹⁴ Application, Exhibit A-1, Project Description at unnumbered page 1.

¹⁵ See Case No. 2014-00100, *Application of Northern Kentucky Water District for Approval of The Ft. Thomas Treatment Plant Raw Water Main Extension, Issuance of a Certificate of Convenience and Necessity, and Approval of Financing* (Ky. PSC May 1, 2014) at 5 ordering paragraph 7.

¹⁶ Case No. 2014-00100, Application, Exhibit D, May 6, 2014 KIA Commitment Letter, Attachment A F13-012.

¹⁷ See Case No. 2014-00100, May 1, 2014 Order at 6, ordering paragraph 9.

KIA Assistance Agreement dated July 14 2014, that increased KIA's Loan commitment to \$8,000,000.¹⁸

The total cost of the proposed project, including but not limited to development, Land and Rights, legal and administration, engineering, interest, plus contingencies, is \$6,800,000.¹⁹ Northern Kentucky District proposed to finance this project by using \$3,323,000 from its Operational Capital Budget and \$3,477,000 from the \$8,000,000 KIA SRF Loan F13-012.²⁰ The proposed KIA loan will mature over a 20-year term, at an interest rate of 1.75 percent and an additional loan servicing fee of 0.25 percent.

Northern Kentucky District does not propose to increase its water service rates to its customers as a result of the proposed project.²¹

Having reviewed the evidence of record and being otherwise sufficiently advised, the Commission finds that the proposed construction will not result in wasteful duplication of existing facilities, as it will address the current lack of redundancy and security risk for vulnerability if any repairs are necessary to the existing Licking River main. The proposed construction does not conflict with any existing certificates or services of any other utility operating in the area. The Commission further finds public convenience and necessity require the proposed construction to ensure Northern Kentucky District's supply of water to the Taylor Mill Treatment Plant, given that service could be interrupted for a lengthy time to the majority of the Kenton County service area in the event of necessary repairs

¹⁸ Application, Exhibit E-2, Conditional Commitment Letter and Assistance Agreement, July 14, 2014 KIA Conditional Commitment Letter (F13-012 (Increase)).

¹⁹ Application at unnumbered page 4, Exhibit D.

²⁰ Application at unnumbered page 4.

²¹ Application at unnumbered page 3.

to the existing Licking River main. The Kentucky Department of Water has approved the plans and specifications for this proposed project. The project will be funded from \$3,323,000 from Northern Kentucky District's Operational Capital Budget and \$3,477,000 from an \$8,000,000 State SRF Loan from the KIA. Northern Kentucky District's application does not include a proposal to adjust rates.

IT IS THEREFORE ORDERED that:

1. Northern Kentucky District is granted a CPCN to construct the proposed project as set forth in the application.

2. Northern Kentucky District shall obtain approval from the Commission prior to performing any additional construction not expressly approved by this Order.

3. Northern Kentucky District shall require construction to be inspected under general supervision of a licensed 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 best practices of the construction trades involved in the project.

4. Northern Kentucky District is authorized to enter the proposed Assistance Agreement with KIA and, under the terms of the Assistance Agreement, to borrow from KIA an additional \$4,000,000. The total SRF F13-012 KIA Loan will not exceed \$8,000,000 and will be repaid over a 20-year term at an interest rate of 1.75 percent per annum.

5. Within 30 days of executing the proposed Assistance Agreement with KIA, Northern Kentucky District shall file with the Commission an executed copy of the Assistance Agreement. Northern Kentucky District shall use \$3,477,000 of the proceeds

from the proposed Assistance Agreement with KIA only for the project set forth in the application and approved by the Commission. None of the proceeds, however, shall be used for the construction of any other project unless and until Northern Kentucky District obtains prior Commission approval for the use of the proceeds.

6. On November 30, 2022, Northern Kentucky District shall file a schedule listing each construction project that has it funded with proceeds from the SRWF KIA F13-012 Loan, a complete description of each project, identify the Commission Case No. where Northern Kentucky District received a CPCN to construct the project, and the amount of the SRWF KIA F13-012 Loan that was used to construct the project.

7. On November 30, 2022, Northern Kentucky District shall file the amount, if any, of the \$8,000,000 SRWF KIA F13-012 Loan will remain after the Licking River Crossing is constructed.

8. On November 30, 2022, Northern Kentucky District shall file a schedule listing the projected future construction projects that will be funded with the remaining SRWF KIA F13-012 Loan and include the projected cost of each project.

9. Northern Kentucky District shall file with the Commission documentation of the total cost of the project within 60 days of the date that construction authorized under this CPCN 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.

10. Northern Kentucky District shall file a copy of the as-built drawings and a certified statement that the construction has been satisfactorily completed in accordance

with the contract plans and specifications within 60 days of the substantial completion of the construction authorized under this CPCN.

11. Any documents filed in the future pursuant to ordering paragraphs 5 through 10 shall reference this case number and shall be retained in the post-case correspondence file.

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

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

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PUBLIC SERVICE COMMISSION



Chairman

Vice Chairman



Commissioner



ATTEST:



Executive Director

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