

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF GARRARD	)	
COUNTY WATER ASSOCIATION, INC. FOR THE	)	
ISSUANCE OF A CERTIFICATE OF PUBLIC	)	
CONVENIENCE AND NECESSITY TO	)	CASE NO.
CONSTRUCT A WATER SYSTEM	)	2023-00128
IMPROVEMENTS PROJECT AND AN ORDER	)	
AUTHORIZING THE ISSUANCE OF SECURITIES	)	
PURSUANT TO THE PROVISIONS OF KRS	)	
278.020, KRS 278.300, AND 807 KAR 5:001	)	

ORDER

On May 3, 2023, Garrard County Water Association (Garrard County Water) tendered an application pursuant to KRS 278.020, KRS 278.300, and 807 KAR 5:001, Section 15, seeking financing approval and Certificates of Public Convenience and Necessity (CPCN) for projects looping several sections of water line, extending water lines to new customers, replacing several portions of water main with upgraded pipe, improving its SCADA system, and demolishing its Toddville Tank.<sup>1</sup> The application was initially found deficient and Garrard County Water cured the deficiencies on May 15, 2023. No party requested intervention in this proceeding. Garrard County Water responded to two requests for information. This matter now stands submitted for decision by the Commission.

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<sup>1</sup> Garrard County Water's Response to Commissions Staff's First Request for Information (Staff's First Request) (filed June 13, 2023), Item 1.

## BACKGROUND

Garrard County Water is a nonprofit water association organized under KRS Chapter 273<sup>2</sup> that provides retail water service to approximately 6,069 customers.<sup>3</sup> Garrard County Water's plant in service as of December 31, 2022, was \$20,349,565 and its accumulated depreciation was \$10,000,767.<sup>4</sup> Garrard County Water's Operating Revenues and Net Income Before Contributions in 2022 were \$2,359,945 and (\$3,435).<sup>5</sup> A rate increase was approved for Garrard County Water on September 27, 2022, pursuant to KRS 278.023, in Case No. 2022-00276.<sup>6</sup> Garrard County Water's water loss in 2020, 2021, and 2022 was 21.78 percent, 27.74 percent, and 19.07 percent, respectively.<sup>7</sup>

### Water Line Loop Projects

Garrard County Water requested a CPCN to loop each of the following water lines: Starnes Road Water Line,<sup>8</sup> Boones Creek Water Line,<sup>9</sup> U.S. 27 Mt. Hebron to Canoe Creek Water Line, and Nina Ridge/Freedom Road Water Line.<sup>10</sup> Kentucky Engineering

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<sup>2</sup> Application at 1.

<sup>3</sup> *Annual Report of Garrard County Water to the Public Service Commission for the year of December 31, 2022* (2022 Annual Report) at 49.

<sup>4</sup> 2022 Annual Report at 24–25.

<sup>5</sup> 2022 Annual Report at 20–21.

<sup>6</sup> Case No. 2022-00276, *Electronic Application of Garrard County Water Association, Inc. for a Certificate of Public Convenience and Necessity to Construct a Water System Improvements Project, Finance, and Increase Rates Pursuant to the Provisions of KRS 278.023* (Ky. PSC Sept. 27, 2023), Order.

<sup>7</sup> *Annual Report of Garrard County Water to the Public Service Commission for the year of December 31, 2021* (2021 Annual Report) at 57–58.

<sup>8</sup> Final Engineering Report (filed on May 3, 2023) at 4.

<sup>9</sup> Final Engineering Report (filed on May 3, 2023) at 4.

<sup>10</sup> Garrard County Water's Response to Staff's First Request, Item 1.

Group, PLLC (Kentucky Engineering), the engineering firm retained by Garrard County Water to assist with plans to improve its system, asserted in its report that looping these lines will improve water turnover/water age by eliminating dead ends, will improve quality of water on these lines, and will provide alternatives to provide service in case of emergency.<sup>11</sup> The planned projects to loop the Starnes Road Water Line and the Boones Creek Water Line will also extend service to new customers.<sup>12</sup>

Kentucky Engineering stated that they did consider using alternative materials for the lines, such as ductile iron and HDPE water line, but that the cost of those materials was much higher than the 200/250 PVC they selected.<sup>13</sup> Kentucky Engineering also noted that Garrard County Water had used Class 160 PVC and asbestos cement (AC) water mains over the years but that they had numerous leaks in sections that used that type of pipe.<sup>14</sup>

Garrard County Water solicited competitive bids for each of the water line loop projects and received four separate bids for each project. For the Starnes Road Water Line project, the bids ranged from \$53,300 to \$103,124.40.<sup>15</sup> Bids for the Boones Creek Water Line project ranged from \$173,650 to \$273,275.50.<sup>16</sup> Bids for U.S. 27 Mt. Hebron

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<sup>11</sup> Final Engineering Report (filed on May 3, 2023) at 3.

<sup>12</sup> Final Engineering Report (filed on May 3, 2023) at 4.

<sup>13</sup> Garrard County Water's Response to Staff's First Request, Item 2.

<sup>14</sup> Garrard County Water's Response to Staff's First Request, Item 2.

<sup>15</sup> Application, Exhibit H.

<sup>16</sup> Application, Exhibit H.

to Canoe Creek Water Line project ranged from \$104,750 to \$208,857.60.<sup>17</sup> Bids for the Nina Ridge/Freedom Road Water Line project ranged from \$112,700 to \$215,370.<sup>18</sup>

Garrard County Water indicated that it evaluated the bids with the assistance of Kentucky Engineering on the basis of total cost submitted, references for the contractors, and past experience with the contractors. Garrard County Water stated that the engineers are generally familiar with the contractors, and therefore, can recommend whether or not to accept the lowest bid. Kentucky Engineering recommended that Garrard County Water accept the overall lowest bidder for the bid package, which included multiple projects.<sup>19</sup>

#### Projects Replacing Problematic Pipe

Garrard County Water next requested a CPCN to replace its Eastland Acres Water Line and Richmond Road Loop #1. Garrard County Water asserted that the pipe currently in the Eastland Acres Water Line and Richmond Road Loop #1 consists of problematic AC and Class 160 PVC.<sup>20</sup> Garrard County Water asserted that it has experienced numerous leaks with the pipe in those areas, and that AC and 160 PVC pipes are brittle and have thin walls making it susceptible to breaks and leaks.<sup>21</sup> As such, Garrard County Water is seeking to replace the lines in those sections with lines constructed of Class 200

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<sup>17</sup> Application, Exhibit H.

<sup>18</sup> Application, Exhibit H.

<sup>19</sup> See Garrard County Water's Response to Commissions Staff's Second Request for Information (Staff's Second Request) (filed July 14, 2023), Item 1, Attachment.

<sup>20</sup> Garrard County Water's Response to Staff's First Request, Item 1.

<sup>21</sup> Garrard County Water's Response to Staff's First Request, Item 10.

and Class 250 PVC pipe as recommended by Kentucky Engineering.<sup>22</sup> Garrard County Water asserted that Class 200 and Class 250 water mains are more industry standard for PVC water main installation.<sup>23</sup>

Garrard County Water solicited and received bids for the projects to replace the Eastland Acres Water Line and Richmond Road Loop #1 with lines constructed of Class 200/250 PVC pipe. The bids received for the Eastland Acres Water Line project ranged from \$249,025 to \$412,640.<sup>24</sup> The bids for the Richmond Road Loop #1 project ranged from \$449,085 and \$644,850. As above, Garrard County Water stated that it evaluated the bids with the assistance of its engineers on the basis of total cost submitted, references for the contractors, and experience with the contractors, and that the engineers recommended that Garrard County Water select the overall lowest bidder for the bid package.<sup>25</sup>

#### SCADA System Improvement Project

Garrard County Water requested a CPCN to make improvements to its SCADA system.<sup>26</sup> The proposed improvements include adding SCADA equipment to five water storage tank sites, two booster pumping stations, and a base site at the Garrard County Water office.<sup>27</sup> Garrard County Water asserted that this project will improve reliability,

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<sup>22</sup> Final Engineering Report (filed May 3, 2023) at 4.

<sup>23</sup> Garrard County Water's Response to Staff's First Request, Item 10.

<sup>24</sup> Applicant, Exhibit H.

<sup>25</sup> Garrard County Water's Response to Staff's Second Request, Item 1, Attachment.

<sup>26</sup> Garrard County Water's Response to Filing Deficiencies (filed May 15, 2023), Exhibit A.

<sup>27</sup> Garrard County Water's Response to Staff's First Request, Item 1.

security and efficiency.<sup>28</sup> Garrard County Water asserted the system will permit remote and wireless control and communication with pump stations and permit remote monitoring of the water storage tanks.<sup>29</sup>

Garrard County Water only sought pricing for this project from Service Specialties, because the existing components in its system with which the new components will need to integrate are from Service Specialties.<sup>30</sup> Service Specialties provided quote in the amount of \$162,703.04.<sup>31</sup> Garrard County Water believes that savings it will accrue from the use of the system, because it will be able to decreasing water loss through monitoring the system and it will not have to send an employee out to check the pump stations and water storage tanks, which will save manhours, fuel, and wear and tear on vehicles.<sup>32</sup> Garrard County Water indicated that any incremental operation and maintenance expense for the upgraded Scada System would be offset by such savings.<sup>33</sup>

#### Toddsville Tank Demolition

Garrard County Water states that the Toddsville Tank is no longer in use, is showing signs of structural failure, that the tank sits near an existing house, and on a hill adjacent

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<sup>28</sup> Garrard County Water's Response to Filing Deficiencies, Exhibit A.

<sup>29</sup> Garrard County Water's Response to Filing Deficiencies, Exhibit A.

<sup>30</sup> Garrard County Water's Response to Staff's First Request, Item

<sup>31</sup> Garrard County Water's Response to Staff's First Request, Item 4, Exhibit A.

<sup>32</sup> Garrard County Water's Response to Staff's First Request, Item 6.

<sup>33</sup> Garrard County Water's Response to Staff's First Request, Item 6.

to a road.<sup>34</sup> Garrard County Water states that leaving the tank in place would present major safety and liability issues.<sup>35</sup>

Garrard County Water was provided an estimate that indicated the cost for the demolition of the tank would be \$21,900. Garrard County Water accepted that estimate. Garrard County Water did not competitively bid the project as Garrard County Water states it was below the amount that would require competitive bidding.<sup>36</sup>

### Financing

Garrard County Water proposes to fund the projects for which it requests CPCNs with a loan in the amounts of \$1,400,000 from the Kentucky Infrastructure Authority (KIA), for which it requests approval herein, and a Cleaner Water grant in the amount of \$774,304. The KIA loan documents indicate that the term of the loan will not exceed 20 years, the loan amount must not exceed \$1,400,000, and the loan will have an interest rate of 2.25 percent per annum, as well as a 0.20 percent loan servicing fee based on the outstanding balance to be made with each interest payment.<sup>37</sup> Garrard County Water is not seeking an increase of rate in relation to this project.<sup>38</sup>

### LEGAL STANDARD

The commission's standard of review regarding a CPCN is well Settled. No utility may construct or acquire any facility to be used in providing utility service to the public

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<sup>34</sup> Garrard County Water's Response to Staff's First Request, Item 2.

<sup>35</sup> Garrard County Water's Response to Staff's First Request, Item 2.

<sup>36</sup> Garrard County Water's Response to Staff's Second Request, Item 8.

<sup>37</sup> Application, Exhibit C.

<sup>38</sup> Application at 6.

until it has obtained a CPCN from this Commission.<sup>39</sup> To obtain a CPCN, the utility must demonstrate a need for such facilities and an absence of wasteful duplication.<sup>40</sup>

"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.<sup>41</sup>

"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."<sup>42</sup> To demonstrate that a proposed facility does not result in wasteful duplication, the Commission has held that the applicant must demonstrate that a thorough review of all reasonable alternatives has been performed.<sup>43</sup> Although cost is a factor, selection of a proposal that ultimately costs more than an

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<sup>39</sup> KRS 278.020(1). Although the statute exempts certain types of projects from the requirement to obtain a CPCN, the exemptions are not applicable.

<sup>40</sup> *Kentucky Utilities Co. v. Pub. Serv. Comm 'n*, 252 S.W.2d 885 (Ky. 1952).

<sup>41</sup> *Kentucky Utilities Co.*, 252 S.W.2d at 890.

<sup>42</sup> *Kentucky Utilities Co.*, 252 S.W.2d at 890.

<sup>43</sup> 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), Order at 11.

alternative does not necessarily result in wasteful duplication.<sup>44</sup> All relevant factors must be balanced.<sup>45</sup>

KRS 278.300 requires Commission authorization before a utility may “issue any securities or evidence of indebtedness or assume any obligation or liability in respect to the securities or evidence of indebtedness of any other person.”<sup>46</sup> KRS 278.300(3) establishes the legal standard and clarifies the scope of Commission review, stating:

The commission shall not approve any issue or assumption unless, after investigation of the purposes and uses of the proposed issue and proceeds thereof, or of the proposed assumption of obligation or liability, the commission finds that the issue or assumption is for some lawful object within the corporate purposes of the utility, is necessary or appropriate for or consistent with the proper performance by the utility of its service to the public and will not impair its ability to perform that service, and is reasonably necessary and appropriate for such purpose.

## DISCUSSION AND FINDINGS

### Garrard County Water’s Request for CPCNs

Having considered the application and all evidence in the record, the Commission finds that the CPCNs should be granted. As noted above, Kentucky Engineering recommended the proposed water line loop projects as part of a system improvement plan and indicated that they would improve water quality by eliminating dead ends with stagnant water, provide more reliable service, and create alternative paths of water

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<sup>44</sup> See *Kentucky Utilities Co. v. Pub. Serv. 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), Order.at 6.

<sup>45</sup> Case No. 2005-00089, Aug. 19, 2005 Order at 6.

<sup>46</sup> KRS 278.300(1).

distribution in case of emergency or line breaks. The Starnes Road Water Line and the Boones Creek Water Line projects also extend the lines to customers in the service area not previously served. Thus, the Commission finds that there is a need for the water line looping projects.

The evidence also indicates that the water line looping projects will not result in wasteful duplication. Garrard County Water retained the services of an outside engineering firm to assist in developing the project, and those engineers considered the use of alternative materials in the design process and recommended the use of the least cost option that they indicated would provide the necessary level of service. Garrard County Water also competitively bid the water line looping projects, reviewed the bids in a reasonable manner, and ultimately selected the overall lowest cost bid on the advice of its engineers. Thus, the Commission finds that Garrard County Water established that the water line looping projects will not result in wasteful duplication, and therefore, that a CPCN should be granted for those projects.

Garrard County Water similarly presented credible evidence that the projects to replace the Eastland Acres Water Line and Richmond Road Loop #1 are needed. Garrard County Water and Kentucky Engineering indicated that Garrard County has experienced numerous leaks with the pipe in those areas and that AC and 160 PVC pipes in use on those lines are brittle and have thin walls, which make them susceptible to breaks and leaks.<sup>47</sup> Kentucky Engineering indicated that the replacing those lines with stronger Class 200/250 PVC lines, which it indicated is the standard for such mains, will improve the reliability and decrease water loss. Thus, the Commission finds that the projects to

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<sup>47</sup> Garrard County Water's Response to Staff's First Request, Item 10.

replace the existing Eastland Acres Water Line and Richmond Road Loop #1 with new Class 200/250 PVC lines are needed.

The evidence also indicates that the water line replacement projects will not result in wasteful duplication. Garrard County Water retained the services of an outside engineering firm to assist in developing the project, and alternative materials were considered in the design process, with the utility selecting the reasonable, least cost option recommended by the engineers. As above, Garrard County Water also competitively bid the projects, reviewed the bids in a reasonable manner, and ultimately selected the overall lowest cost bid on the advice of its engineers. Thus, the Commission finds that Garrard County Water established that the projects to replace the Eastland Acres Water Line and Richmond Road Loop #1 will not result in wasteful duplication, and therefore, that CPCNs should be granted for those projects.

The evidence in the record also indicates that the improvements to the SCADA system are needed and will not result in wasteful duplication. Kentucky Engineering indicated that the project would improve reliability, security, and efficiency by creating an easily monitored and controlled water distribution system, using radio transmission to monitor, communicate and control the water storage tanks and pump stations. Garrard County Water anticipates that costs associated with the project will be recuperated through savings due to water loss reduction and the decreased need to travel to each individual location by an employee. While Garrard County Water could have provided a more thorough analysis of the costs, its assertion is credible, in part, based on the manner in which the project will be financed, which should significantly reduce the rate effects of the project. Further, it was reasonable for Garrard County Water to select Service

Specialties to allow these improvements to interface with its existing system. Thus, the Commission finds that Garrard County Water established that the SCADA Improvement Project is needed and will not result in wasteful duplication, and therefore, that a CPCN should be granted for that project.

With respect to the Toddville Tank demolition project, Garrard County Water presented evidence that the tank is no longer in operation, is in poor condition, and that it would be a liability to Garrard County Water to leave the tank in place as it continues to deteriorate due to its proximity to a residential home and road. The cost of demolishing the tank is also small, \$21,900, in relation to the risk of keeping such a structure in place. Continued monitoring of the tank would also likely be more costly over time. Thus, the Commission finds that Garrard County Water established that demolishing the Toddville Tank is needed and will not result in wasteful duplication, and therefore, that a CPCN should be granted for that project.

#### Garrard County Water's Request for Financing Approval

Garrard County Water requests approval pursuant to KRS 278.300(1) of the proposed KIA loan that it proposes to use to finance the projects for which it requests a CPCN herein. The loan will have a 20-year term, an initial principal balance of \$1,400,000 and an annual interest rate of 2.25 percent, as well as a loan servicing fee of 0.20 percent based on the outstanding loan balance to be paid with each interest payment.

The Commission finds that the financing is necessary for the completion of the projects discussed above and will not impair Garrard County Water's ability to provide service. As noted above, the projects at issue are necessary and will not result in wasteful duplication. Further, as the loan is being issued by KIA, the rates and terms are extremely

favorable. Furthermore, Garrard County Water is not seeking an increase of rate in relation to this project. Thus, the Commission finds that the financing for which Garrard County Water requests approval is for a lawful object within the corporate purposes of Garrard County Water's utility operations, is necessary and appropriate for and consistent with the proper performance of Garrard County Water's service to the public, will not impair Garrard County Water's ability to perform that service, and is reasonably necessary and appropriate for such purposes; and therefore, the Commission finds that the approval of the financing should be granted.

IT IS THEREFORE ORDERED that:

1. Garrard County Water is granted a CPCN for the proposed projects to loop the U.S. 27 Mt. Hebron to Canoe Creek Water Line and Nina Ridge/Freedom Road Water Line, loop and extend the Starnes Road Water Line and Boones Creek Water Line, replace the Eastland Acres Water Line and Richmond Road Loop #1, improve its SCADA system, and demolish the Toddville Tank as set forth in its application.

2. Garrard County Water shall immediately notify the Commission upon knowledge of any material changes to the projects, including, but not limited to, increase in cost and any significant delays.

3. Any material deviation from the construction approved by this order shall be undertaken only with prior approval of the Commission.

4. Garrard County Water shall file with the Commission documentation of the total costs of the projects, including the cost of construction and all other capitalized costs, (e.g., engineering, legal, administrative, etc.) 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.

5. Garrard County Water 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 certificated herein.

6. Garrard County Water is authorized to issue the evidences of debt requested subject to the conditions discussed herein.

7. The proceeds from the issuance of the evidences of debt authorized shall be used only for the lawful purposes set out in the application.

8. Garrard County Water shall only execute the KIA loan documents to the extent their terms and conditions are consistent with the loan described in its application, except as otherwise authorized herein.

9. Bath District shall file the KIA loan documents in this matter within ten days of the executing them.

10. Any documents filed in the future pursuant to ordering paragraphs 4, 5, and 9 shall reference this case number and shall be retained in the post case correspondence file.

11. The Executive Director is delegated authority to grant reasonable extensions of time for filing any documents required by this Order upon Garrard County Water showing of good cause for such extension.

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

Nothing contained herein shall be deemed a warranty or finding of value of securities or financing authorized herein on the part of the Commonwealth of Kentucky or any agency thereof.

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PUBLIC SERVICE COMMISSION

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Chairman

*Not Original w/permission* [ *Angie Hatten*  
Vice Chairman

*Man Pat Reger*  
Commissioner

ENTERED  
AUG 10 2023 rcs  
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SERVICE COMMISSION

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