

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF NORTHERN	)	
KENTUCKY WATER DISTRICT FOR A	)	CASE NO.
CERTIFICATE OF PUBLIC CONVENIENCE AND	)	2024-00025
NECESSITY TO CONSTRUCT A 0.50 MG WATER	)	
STORAGE TANK	)	

ORDER

On February 26, 2024, Northern Kentucky Water District (Northern Kentucky District) filed<sup>1</sup> an application, pursuant to KRS 278.023, requesting a Certificate of Public Convenience and Necessity (CPCN) to construct a 500,000-gallon elevated storage tank, located in the city of Taylor Mill. Northern Kentucky District plans on funding the project using a Bond Anticipation Note with a term of less than two years. No party requested intervention in this proceeding. Northern Kentucky District responded to one round of information requests.<sup>2</sup> This matter stands submitted for decision by the Commission.

BACKGROUND

Northern Kentucky District is a water district organized under KRS 74<sup>3</sup> that provides retail water service customers in Kenton, Boone, and Campbell counties, Kentucky, and sells water at wholesale to non-affiliated water distribution systems in

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<sup>1</sup> Northern Kentucky District, tendered an application on February 23, 2024 that was rejected for filing due to certain deficiencies. On February 26, 2024, Northern Kentucky District filed documents that cured the filing deficiencies, and the application was deemed filed as of February 26, 2024.

<sup>2</sup> Northern Kentucky District's Response to Commission Staff's first Request for Information (Staff's First Request) (filed Mar. 25, 2024).

<sup>3</sup> Application at 1.

Kenton, Boone, Pendleton, and Campbell counties, Kentucky.<sup>4</sup> As of December 31, 2022, Northern Kentucky District's plant in service was \$533,261,173 and its accumulated depreciation was \$203,713,918.<sup>5</sup>

#### 500,000 Gallon Elevated Water Storage Tank

Northern Kentucky District requested a CPCN to construct a 500,000-gallon elevated storage tank at 5421 Pride Parkway.<sup>6</sup> Northern Kentucky District stated that the area was previously served by a ground level standpipe tank that held 330,000 gallons that was located a mile south of the proposed location for the 500,000-gallon water storage tank. The previous tank was inadequate to avoid lower pressures due to its geometry, height, and location within the system due to the higher elevations of its service area.<sup>7</sup> Northern Kentucky District further stated that the pressure regulator supplying the standpipe had to be carefully monitored and adjusted to ensure the tank did not get too low or overflow<sup>8</sup> and normal fluctuations in regulator settings made it challenging to reliably meet minimum pressure requirements at all times.<sup>9</sup>

Northern Kentucky District's Asset Management Program (ASM), recommended retiring the older tank and building a new aboveground storage tank at a different location.<sup>10</sup> As a result of this recommendation, Northern Kentucky District began slowly

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<sup>4</sup> Application at 2.

<sup>5</sup> *Annual Report of Northern Kentucky Water District to the Public Service Commission for the year ending December 31, 2022* (2022 Annual Report) at 27–28.

<sup>6</sup> Application at 10.

<sup>7</sup> Application at 10.

<sup>8</sup> Northern Kentucky District's Response to Staff's First Request, Item 2.

<sup>9</sup> Northern Kentucky District's Response to Staff's First Request, Item 2.

<sup>10</sup> Application at 10.

adjusting the pressure regulators supplying water to the older tank, and this change made the 330,000-gallon standpipe obsolete and Northern Kentucky District sold it as surplus in 2019.<sup>11</sup>

Northern Kentucky District retained GRW Engineers, Inc. (GRW) to draft a preliminary engineering report<sup>12</sup> and, as recommended in the report, solicited bids for a column tank and pedesphere tank.<sup>13</sup> Three contractors tendered bids<sup>14</sup> and upon reviewing the submitted bids, GRW's project engineer determined that Phoenix Fabricators and Erectors, LLC was qualified to perform the work, due to past experience and references contacted, and recommended its bid of \$4,247,758 for the construction of a pedesphere tank be accepted.<sup>15</sup> The board meeting minutes reflect that on February 15, 2024, the Northern Kentucky Water District Board of Commissioners unanimously accepted the bid of \$4,247,758 for a pedesphere style tank, awarded a contract to Phoenix Fabricators and Erectors, LLC for the Taylor Mill Tank project with a total project budget of \$5,000,000.<sup>16</sup> The additional annual operating and maintenance costs for the project are estimated at \$85,000 per year.<sup>17</sup>

GRW noted in its recommendation that although the multi-column tank had cheaper construction costs by \$146,346 the 60-year coating costs of the two types of

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<sup>11</sup> Application, Exhibit A-1.

<sup>12</sup> Application, Exhibit A-4.

<sup>13</sup> Application, Exhibit C-2.

<sup>14</sup> Application, Exhibit C-2.

<sup>15</sup> Application, Exhibit C-2 at 3.

<sup>16</sup> Application, Exhibit C-3 at 2.

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

tanks makes the pedesphere tank cheaper over the expected life of the tank.<sup>18</sup> Northern Kentucky District stated that building a new 500,000-gallon elevated water storage tank will ensure the area can be adequately served in an emergency and the elevated storage provides a buffer against pressure variations that can occur due to rapid increases or decreases in water demand in the area.<sup>19</sup> Specifically, Northern Kentucky District stated that elevated storage buffers pressure variations in the system better than pressure regulating valves alone<sup>20</sup> and the elevated storage tank, with an overflow elevation 30 feet higher, will add approximately 13 psi of pressure to the zone to help meet minimum pressure requirements and will provide 500,000 gallons of usable storage.<sup>21</sup> Finally, Northern Kentucky District states that the additional water in the pressure zone will allow for more water storage when other tanks are taken out of service for maintenance.<sup>22</sup>

### Financing

Northern Kentucky District proposed to fund the project using \$5,000,000 from issuing a future Bond Anticipation Note which includes construction cost, engineering, and contingencies.<sup>23</sup> Northern Kentucky District anticipates issuing the future Bond Anticipation Note in 2025 and bonds to refinance the future Bond Anticipation Note are anticipated to be issued some time in 2027.<sup>24</sup> Northern Kentucky District further stated,

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<sup>18</sup> Application, Exhibit A-1.

<sup>19</sup> Northern Kentucky District's Response to Staff's First Request, Item 1.

<sup>20</sup> Northern Kentucky District's Response to Staff's First Request, Item 5.

<sup>21</sup> Northern Kentucky District's Response to Staff's First Request, Item 4

<sup>22</sup> Northern Kentucky District's Response to Staff's First Request, Item 2.

<sup>23</sup> Application, Exhibit D.

<sup>24</sup> Northern Kentucky District's Response to Staff's First Request, Item 5.

the bond anticipation note may be issued with an interest rate of 3.00 to 3.25 percent and the maturity date will be no later than two years from the date of issuance. However, the assumptions are made based on current market conditions and the best estimate the Northern Kentucky District's financial advisor as the actual terms of the bond anticipation note cannot be determined until the bonds are sold.<sup>25</sup> Northern Kentucky District stated that it is not seeking a rate adjustment as part of the application.<sup>26</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 until it has obtained a CPCN from the Commission.<sup>27</sup> To obtain a CPCN, the utility must demonstrate a need for such facilities and an absence of wasteful duplication.<sup>28</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>29</sup>

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<sup>25</sup> Northern Kentucky District's Response to Staff's First Request, Item 6.

<sup>26</sup> Application at 3.

<sup>27</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>28</sup> *Kentucky Utilities Co. v. Public Service Com'n*, 252 S.W.2d 885,890 (Ky. App. 1952).

<sup>29</sup> *Kentucky Utilities Co.*, 252 S.W.2d at 890.

“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>30</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>31</sup> Although cost is a factor, selection of a proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication.<sup>32</sup> All relevant factors must be balanced.<sup>33</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>34</sup> KRS 278.300 only applies to notes that have a term of more than two years.<sup>35</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

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<sup>30</sup> *Kentucky Utilities Co.*, 252 S.W.2d 885, 890.

<sup>31</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.

<sup>32</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>33</sup> Case No. 2005-00089, Aug. 19, 2005 Order at 6.

<sup>34</sup> KRS 278.300(1).

<sup>35</sup> KRS 278.300(8).

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

Having considered the application and all evidence in the record, the Commission finds that the CPCN should be granted. As noted above the original 330,000-gallon ground-level standpipe provided very little elevated storage and was inadequate to avoid relatively lower pressures within the higher elevations of the service area and was rendered obsolete. The proposed 500,000-gallon elevated water storage tank will help meet minimum pressure requirements, provide 500,000 gallons of storage, and allow Northern Kentucky District to maintain proper water pressure and service during potential emergencies. Therefore, the Commission finds there is a need for the 500,000-gallon elevated water storage tank.

Northern Kentucky District also established that the project will not result in wasteful duplication. Northern Kentucky District considered two different types of water storage tanks, as well as the cost of maintaining the water storage tank. Northern Kentucky District solicited bids for the both the multi-column and pedisphere tank, and three bids were received. Therefore, the Commission finds that the project is necessary will not impair Northern Kentucky District's ability to provide service. In fact, as noted above, the Commission finds that the construction of the 500,000-gallon water storage tank is necessary, will not result in wasteful duplication, and therefore the CPCN should be granted.

Because the construction project will be financed through a Bond Anticipation Note, the Commission finds that approval of the financing is not required at this time. However, pursuant to KRS 278.300, Northern Kentucky District must obtain Commission approval before issuing any long-term financing.<sup>36</sup> Northern Kentucky District will not need to increase its rates as a result of the project as a bond anticipation note will fund the project. The Commission finds that the project is for a lawful object within the corporate purposes of Northern Kentucky District's utility operations, as the lawful object of the Northern Kentucky District's purpose is to provide adequate, efficient and reasonable service at fair, just and reasonable rates. The construction of a 500,000-gallon water storage tank is necessary and appropriate for such purposes, and therefore the Commission finds that the project should be approved.

IT IS THEREFORE ORDERED that:

1. Northern Kentucky District is granted a CPCN to install a 500,000-gallon elevated water storage tank as proposed in its application.
2. Northern Kentucky District 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.

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<sup>36</sup> Case No. 2023-00322, *Electronic Application of South Woodford County Water District for Authorization to Execute an Assistance Agreement with the Kentucky Infrastructure Authority and a Certificate of Public Convenience and Necessity for Certain System Improvements* (Ky. PSC Mar. 11, 2024).

4. Northern Kentucky District shall file with the Commission documentation of 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 the construction authorization 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. Northern Kentucky District shall file a copy of the as-built drawings of the proposed 500,000-gallon elevated water storage tank and a certified statement that the construction has been satisfactorily completed in accordance with the construction plans and specifications within 60 days of the substantial completion of the construction discussed herein.

6. Northern Kentucky District must obtain Commission approval before issuing any long-term financing.

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

8. 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.

9. 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.

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

PUBLIC SERVICE COMMISSION

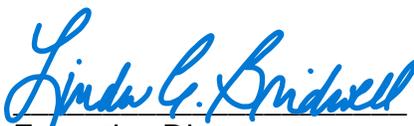
  
Chairman

  
Vice Chairman

  
Commissioner

ENTERED  
APR 19 2024 bsb  
KENTUCKY PUBLIC  
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ATTEST:

  
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