

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

|                                       |   |            |
|---------------------------------------|---|------------|
| ELECTRONIC APPLICATION OF EAST CLARK  | ) |            |
| COUNTY WATER DISTRICT FOR A           | ) |            |
| CERTIFICATE OF PUBLIC CONVENIENCE AND | ) | CASE NO.   |
| NECESSITY AND FINANCING OF THE MT.    | ) | 2025-00261 |
| STERLING ROAD AND KY 89 WATER LINE    | ) |            |
| REPLACEMENT PROJECT                   | ) |            |

ORDER

On September 4, 2025, East Clark County Water District (East Clark District) tendered an application, pursuant to KRS 278.020 and KRS 278.300, requesting approval of a Certificate of Public Convenience and Necessity (CPCN) and financing for the replacement of approximately 11,150 linear feet of water line in its service area.<sup>1</sup> East Clark District proposed funding the project through a \$748,617 Cleaner Water Program (CWP) grant under fund 22CWW028, along with an \$841,383 loan from the Kentucky Infrastructure Authority (KIA).<sup>2</sup> No party requested intervention in the proceeding. East Clark District responded to two requests for information.<sup>3</sup> The matter stands submitted for a decision by the Commission.

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<sup>1</sup> Application (filed Sept. 4, 2025), Exhibit 20 at 5, Project Description.

<sup>2</sup> Application at 8, paragraph 17.

<sup>3</sup> East Clark District's Response to Commission Staff's First Request for Information (Staff's First Request) (filed Sept 29, 2025); East Clark District's Response to Commission Staff's Second Request for Information (Staff's Second Request) (filed Oct. 21, 2025).

## BACKGROUND

East Clark District is a water district organized under KRS Chapter 74<sup>4</sup> that provides retail water services to approximately 2,726 residential customers and 17 commercial customers in Clark County, Kentucky.<sup>5</sup> East Clark District purchases its water from Winchester Municipal Water and Kentucky-American Water Company.<sup>6</sup> As of December 31, 2024, East Clark District's plant in service was \$14,933,084 and its accumulated depreciation was \$7,543,030.<sup>7</sup>

## WATER LOSS

Pursuant to 807 KAR 5:066, Section 6(3), water loss is limited to 15 percent for ratemaking purposes. East Clark District reported water loss of 11.2630 percent in its 2024 Annual Report.<sup>8</sup> At 11.2630 percent water loss, East Clark District's total cost of water loss is \$49,953.

| Description        | Purchased<br>Water | Purchased<br>Power | Total            |
|--------------------|--------------------|--------------------|------------------|
| Pro Forma Expenses | \$ 407,423         | \$ 36,095          | \$ 443,518       |
| Water Loss Percent | 11.2630%           | 11.2630%           | 11.2630%         |
| Total Water Loss   | <u>\$ 45,888</u>   | <u>\$ 4,065</u>    | <u>\$ 49,953</u> |

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<sup>4</sup> Application at 3, paragraph 4.

<sup>5</sup> Application, Exhibit 19, *Annual Report of East Clark County Water District to the Public Service Commission for the Year Ending December 31, 2024* (2024 Annual Report), at 12 and 49.

<sup>6</sup> Application, Exhibit 19, 2024 Annual Report at 54.

<sup>7</sup> Application, Exhibit 19, 2024 Annual Report at 16.

<sup>8</sup> Application, Exhibit 19, 2024 Annual Report at 57.

## PROPOSED PROJECT

### Project Description

East Clark District is proposing to replace approximately 3,200 linear feet (LF) of 6-inch water line along Mt Sterling Rd; 7,200 LF of 6-inch water line along KY 89;<sup>9</sup> and approximately 980 LF of 3-inch water line along Hilltop Drive<sup>10</sup> with new Class 250 SDR 17 PVC and all necessary appurtenances, along with reconnection of certain existing meter settings and service lines.<sup>11</sup> The project will also include either new meter settings and service line from the new water mains or reconnection to the existing meter settings. Other proposed project components include valves, flush hydrants, and road bores with steel cover pipe.<sup>12</sup>

East Clark District stated that the current pipes were installed in the 1980s.<sup>13</sup> The Mt. Sterling Road pipes were installed using a cut and fill method that is now known to increase the risk of water line breaks.<sup>14</sup> The water lines along KY 89 are pressure-rated class 160, which is now inadequate to fill East Clark District's KY Highway 15 Storage Tank as quickly as the Muddy Creek Booster Pump Station is capable of filling it.<sup>15</sup> The Hilltop lines are the same pressure class and age as the water line on KY 89; in addition they were installed using the same cut and fill construction as the line installed in the rest

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<sup>9</sup> Application, Exhibit 20 at 5, Project Description.

<sup>10</sup> East Clark District's Response to Staff's Second Request, Item 1a.

<sup>11</sup> Application, Exhibit 20 at 5, Project Description.

<sup>12</sup> Application, Exhibit 20 at 5, Project Description.

<sup>13</sup> Application at 4-6, paragraph 10.

<sup>14</sup> Application at 5, paragraph 10.

<sup>15</sup> Application at 6, paragraph 11.

of the Project area.<sup>16</sup> For these reasons, East Clark District argued that the pipes need to be replaced in order to reduce the risk of water line breaks and accompanying water loss.<sup>17</sup>

East Clark District retained Bell Engineering to draft a final engineering report for the project, and the District solicited competitive bids for the project.<sup>18</sup> Four contractors tendered bids,<sup>19</sup> and upon reviewing the submitted bids East Clark District determined that H&B Construction was qualified to perform the work due to its positive recommendations and competitive bid pricing.<sup>20</sup> East Clark District accepted H&B Construction's bid of \$850,176.54 for the construction of the project.<sup>21</sup>

### Financing

East Clark District stated that the total capital costs for the project are \$1,590,000, which includes administrative, legal, land and easements, planning, engineering fees, construction, and contingencies.<sup>22</sup>

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<sup>16</sup> East Clark District's Response to Staff's Second Request, Item 1a.

<sup>17</sup> Application at 4-6, paragraph 10.

<sup>18</sup> Application, Exhibit 6, Final Engineering Report at 1.

<sup>19</sup> Application, Exhibit 6, Final Engineering Report at 1.

<sup>20</sup> Application, Exhibit 6, Final Engineering Report at 2.

<sup>21</sup> Application, Exhibit 6, Final Engineering Report at 1.

<sup>22</sup> Application, Exhibit 17, KIA Loan Conditional Commitment Letter, Attachment B, Project Budget.

| Description                   | Amount              |
|-------------------------------|---------------------|
| Administrative Expenses       | \$ 35,000           |
| Legal Expenses                | 20,000              |
| Land, Easements               | 20,000              |
| Planning                      | 10,000              |
| Engineering Fees - Design     | 104,000             |
| Engineering Fees - Inspection | 65,000              |
| Engineering Fees - Other      | 30,000              |
| Construction                  | 1,187,000           |
| Contingency                   | 119,000             |
| Total                         | <u>\$ 1,590,000</u> |

East Clark District proposed to fund the project using \$748,617 grant funds from CWP Grant 22CWW028 and a \$841,383 KIA loan (Loan B25-008).<sup>23</sup> The proposed loan will bear interest at a rate of 2.25 percent per annum and must be repaid over a period not to exceed 20 years from the date of the last draw of funds.<sup>24</sup> The proposed loan will be secured by a pledge of East Clark District's revenues. A loan servicing fee of 20 percent of the outstanding loan balance will also be assessed semi-annually.<sup>25</sup> Payments on the proposed loan will begin six months after funds are first drawn.<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

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<sup>23</sup> Application at 8, paragraph 17.

<sup>24</sup> Application at 10–11, paragraph 27.

<sup>25</sup> Application at 10–11, paragraph 27.

<sup>26</sup> Application at 10–11, paragraph 27.

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>

“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

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<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.

<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.

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 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.

Commission regulation 807 KAR 5:066 Section 11(4) permits a utility to make water main extensions under different arrangements than what is specifically specified in the regulation so long as the Commission gives prior approval.

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<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, (Ky. PSC Aug. 19, 2005), Order at 6.

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

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

## DISCUSSION AND FINDINGS

Having considered the application and all evidence in the record, the Commission finds that the CPCN should be granted.

The Commission finds that East Clark District has demonstrated need for the project given that the current water lines are inadequate for East Clark District's current needs and the installation method of the current pipe may create an unnecessary risk of water line breaks. As noted above, the 11,150-feet of pipe at issue in this case were first installed in the 1980s and are in need of replacement.

East Clark District has also provided sufficient evidence that the project will not result in wasteful duplication. East Clark District considered forgoing upgrading the water lines and instead repairing the lines as breaks occur, but East Clark District determined that this alternative would subject it and its customers to unplanned and unpredictable service interruptions as the water lines continue to degrade,<sup>36</sup> East Clark District is also likely to gradually incur increased expenses due to responding to line breaks and other infrastructure failures that would run approximately an additional \$28,836 each year.<sup>37</sup> Further, East Clark District retained the services of an outside engineering firm to assist in developing the project, solicited competitive bids for the installation of new water lines and received four bids, with the lowest bid being \$850,176.54 from H&B Construction, which East Clark District selected for the proposed project.<sup>38</sup> The record does not indicate that East Clark District's proposed plan would result in excessive investment in relation

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<sup>36</sup> Application at 7.

<sup>37</sup> East Clark District's Response to Staff's Second Request, Item 2.

<sup>38</sup> Application, Exhibit 6, Final Engineering Report at 1.



to productivity or efficiency. The Commission finds that East Clark District's proposed replacement of the 11,150 linear feet of water lines in its service area will not result in wasteful duplication and finds that the CPCN should be granted.

Additionally, the Commission finds that East Clark District's the proposed financing of the project should be approved pursuant to KRS 278.300. East Clark District's lawful purpose is to provide safe, adequate, and reliable service to the public. The financing will enable East Clark District to construct the proposed project, which, as discussed above, is necessary to provide water service to the public consistent with East Clark District's lawful purpose.

The proposed KIA loan is for lawful objects within the corporate purposes of East Clark District; is necessary, appropriate for, and consistent with the proper performance of East Clark District's service to the public; will not impair its ability to perform that service; is reasonable, necessary, and appropriate for such purposes; and should be approved.

Similarly, the Commission finds that the KIA loan is for a lawful purpose because the proceeds will be used for water line replacement to improve service to existing customers. The KIA loan is necessary and appropriate for and consistent with the proper performance by the utility and will not impair East Clark District's ability to perform that service. The Commission finds the KIA loan is reasonable, necessary and appropriate for East Clark District to meet its statutory duty to provide adequate, efficient and reasonable service. East Clark District 's indebtedness will allow it to strengthen its condition by providing liquidity to facilitate the financing of the Projects.

The Commission finds that the water line replacement is necessary and appropriate for such purposes, and therefore, the Commission finds the project should be approved and the financing should be granted.

During review of this application the Commission undertook a limited review of East Clark District's finances. East Clark District's financial information from 2020 through 2024 is presented below. East Clark District's last rate filing, made pursuant to the alternative rate filing procedure, occurred in Case No. 2021-00318<sup>39</sup> and reflected an increase of \$101,119, or 6.86 percent.<sup>40</sup> During its review of East Clark District's past five-year financial performance, the Commission notes that East Clark District's Rate Based income (adjusted net income minus principal payments) was a net loss for the last five years, even after the updated rates set in Case No. 2021-00318 were put into effect. The increased revenue requirement to support the proposed project in the instant case may support a \$89,081,<sup>41</sup> or 5.66 percent, increase to the revenue requirement used to set rates in Case No. 2021-00318.<sup>42</sup>

Based on this application, the associated financing, and the audited financial information on file, the Commission finds that East Clark District should submit an application for a rate adjustment pursuant to 807 KAR 5:076, a general rate adjustment pursuant to 807 KAR 5:001, Section 16, based on a 2025 test year, or in the alternative,

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<sup>39</sup> Case No. 2021-00318, *Electronic Application of East Clark County Water District for an Alternative Rate Adjustment*, (Ky. PSC Mar. 29, 2022).

<sup>40</sup> Case No. 2021-00318, (Ky. PSC Mar. 29, 2022), Order at 7, Revenue Requirements.

<sup>41</sup> East Clark District's Response to Staff's First Request, Item 1e.

<sup>42</sup> Increased Revenue Requirement \$89,081 Divided by Revenue Requirement from Rates \$1,574,225 = 5.66 Percent.

file a formal motion with a detailed analysis of its rates and revenues explaining the reasons why no modifications are necessary, on or before July 31, 2026.

| Description / Year   | Audited<br>2020    | Audited<br>2021     | Audited<br>2022     | Audited<br>2023    | Audited<br>2024    |
|--|--------------------|---------------------|---------------------|--------------------|--------------------|
| <i>Adjusted Net Income</i>                                   |                    |                     |                     |                    |                    |
| Net Income / (Loss)  | \$ (124,014)       | \$ (162,105)        | \$ (21,921)         | \$ 141,628         | \$ 666,261         |
| Other Non-recurring Items ( )                                | 0                  | (585)               | (25,731)            | (26,500)           | (534,440)          |
| Non-Cash Pension and OPEB Expense / (Income)                 | 112,462            | 44,453              | 29,130              | (52,303)           | (77,640)           |
| <b>Adjusted Net Income / (Loss)</b>                          | <b>\$ (11,552)</b> | <b>\$ (118,237)</b> | <b>\$ (18,522)</b>  | <b>\$ 62,825</b>   | <b>\$ 54,181</b>   |
| Subtract: Principal Payments ( )                             | (75,000)           | (70,000)            | (82,432)            | (82,432)           | (88,322)           |
| <b>Rate Based Income</b>                                     | <b>\$ (86,552)</b> | <b>\$ (188,237)</b> | <b>\$ (100,954)</b> | <b>\$ (19,607)</b> | <b>\$ (34,141)</b> |
| Add: Depreciation Expense                                    | 360,062            | 374,951             | 378,393             | 378,843            | 390,074            |
| <b>Cash Basis Income</b>                                     | <b>\$ 273,510</b>  | <b>\$ 186,714</b>   | <b>\$ 277,439</b>   | <b>\$ 359,236</b>  | <b>\$ 355,933</b>  |
| Cash Basis Income as Percent of Depreciation                 | 76%                | 50%                 | 73%                 | 95%                | 91%                |
| Capital Spending   | \$ 199,167         | \$ 86,190           | \$ 107,657          | \$ 206,388         | \$ 712,053         |
| <i>Cash and Investments</i>                                  |                    |                     |                     |                    |                    |
| Unrestricted Cash and Investments                            | \$ 592,048         | \$ 643,669          | \$ 825,748          | \$ 571,811         | \$ 673,899         |
| Restricted Funds   | 82,544             | 91,273              | 90,520              | 94,471             | 82,564             |
| Adjusted Cash Balances                                       | 674,592            | 734,942             | 916,268             | 666,282            | 756,463            |
| Net Increase (Decrease) in Cash                              | \$ 25,609          | \$ 60,350           | \$ 181,326          | \$ (249,986)       | \$ 90,181          |
| <i>Selected Statistical Information (PSC Annual Reports)</i> |                    |                     |                     |                    |                    |
| Customer Count   | 2,579              | 2,605               | 2,655               | 2,698              | 2,743              |
| Gallons Purchased  | 137,178            | 141,750             | 148,672             | 146,084            | 145,343            |
| Gallons Sold   | 113,919            | 114,622             | 121,535             | 125,411            | 127,935            |
| Gallons Used for Internal Use                                | 841                | 1,278               | 1,407               | 980                | 1,038              |
| Water Loss Gallons   | 22,418             | 25,850              | 25,730              | 19,693             | 16,370             |
| System Use Percentage  | 0.6131%            | 0.9016%             | 0.9464%             | 0.6708%            | 0.7142%            |
| Water Loss Percentage  | 16.3423%           | 18.2363%            | 17.3066%            | 13.4806%           | 11.2630%           |
| Gallons Sold Per Customer Per Month                          | 3,681              | 3,667               | 3,815               | 3,874              | 3,887              |
| Revenues from the Sale of Water                              | \$ 1,446,472       | \$ 1,493,916        | \$ 1,641,019        | \$ 1,716,969       | \$ 1,759,178       |
| Purchased Water Expense                                      | 364,069            | 389,159             | 409,899             | 397,069            | 407,723            |
| Purchased Water Expense Over 15% Water Loss                  | 4,887              | 12,594              | 9,455               | 0                  | 0                  |
| Water Loss Expense Over 15% as Percentage of Water Revenue   | 0.34%              | 0.84%               | 0.58%               | 0.00%              | 0.00%              |

IT IS THEREFORE ORDERED that:

1. East Clark District is granted a CPCN for the proposed project as submitted.
2. East Clark 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.

4. East Clark 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. East Clark District shall file 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. East Clark District is authorized to issue the evidence of debt requested subject to the conditions discussed herein.

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

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

9. East Clark District shall file a copy of the loan documents executed with KIA in this matter within ten days of executing them.

10. Any documents filed in the future pursuant to ordering paragraphs 2, 4, 5, and 9 of this Order shall reference this case number and shall be retained in East Clark District's post-case correspondence file.

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

12. No later than July 31, 2026, and based on the 2025 test year, East Clark District shall file either an application for a general rate adjustment, pursuant to 807 KAR 5:001, Section 16; an application for an alternative rate adjustment, pursuant to 807 KAR 5:076; or a formal motion with detailed analysis of its rates and revenues, and a statement of the reasons why a rate case is not necessary.

13. Nothing contained in this Order shall be deemed a warranty of the Commonwealth of Kentucky, or any agency thereof, of the financing, herein approved.

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

PUBLIC SERVICE COMMISSION

  
Chairman

  
Commissioner

  
Commissioner

ATTEST:

  
Executive Director



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