COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DUKE ENERGY KENTUCKY, INC. FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING THE CONSTRUCTION OF A GAS PIPELINE FROM ERLANGER, KENTUCKY TO HEBRON, KENTUCKY	))))))	CASE NO. 2019-00388

O R D E R

On November 6, 2019, Duke Energy Kentucky, Inc. (Duke Kentucky) filed an application for a Certificate of Public Convenience and Necessity (CPCN) to construct a high-pressure, 24-inch diameter, steel natural gas pipeline extending seven miles from Erlanger, Kentucky, to Hebron, Kentucky, with associated facilities to include a 2,100-foot, 8-inch diameter pipe and four pressure regulating stations (Project).[1] The proposed pipeline will flow north to south across the central portion of Duke Kentucky's service area.[2] Duke Kentucky asserts that the Project is required to support future load growth in the area, maintain sufficient natural gas system pressures,[3] and ensure reliability of the natural gas system.[4] Duke Kentucky provided responses to two rounds of discovery requests propounded by Commission Staff. There are no intervenors in this matter. Duke Kentucky requested an expedited review of this application in order to meet customer

[1] Application at 1; Direct Testimony of Victor M. Gaglio (Gaglio Testimony) at 4; Direct Testimony of Amy D. Presson (Presson Testimony) at 3.

[2] Gaglio Testimony at 4.

[3] Application at 4.

[4] *Id*. at 8.

demand. Accordingly, this matter is now submitted for a decision based upon the existing record.

PROPOSED PROJECT

Duke Kentucky is engaged in the business of furnishing natural gas and electric service to various municipalities and unincorporated areas in Boone, Bracken, Campbell, Gallatin, Grant, Kenton, and Pendleton counties in Kentucky.[5] Duke Kentucky contends that the proposed Project to construct a natural gas pipeline from Erlanger, Kentucky, to Hebron, Kentucky, is necessary to satisfy load growth[6] and improve overall reliability of the natural gas system.[7] Duke Kentucky states that Boone County is the fourth most populous and one of the fastest developing counties in the Commonwealth of Kentucky, with growth in residential, commercial, and industrial natural gas loads.[8] According to Duke Kentucky, this rapid population growth has resulted in customer demand nearing the limits of the existing natural gas system's capacity.[9] Duke Kentucky projects growth to continue in this area, in part driven by the expansion and new natural gas load in the Greater Cincinnati/Northern Kentucky Airport (CVG), specifically the Amazon AirHub,[10] which necessitates constructing additional capacity to meet the projected demand.[11]

[5] Application at 2.

[6] *Id*. at 3.

[7] *Id*. at 8.

[8] *Id*. at 3.

[9] *Id*. at 3.

[10] Duke Kentucky's response to Staff's First Request for Information (Staff's First Request), Item 1; Duke Kentucky's response to Staff's Second Request for Information (Staff's Second Request), Item 1(a) and (b).

[11] Application at 3.

Duke Kentucky adds that the timing of the Project, including prioritizing the completion of the first phase of the Project, is to accommodate the desire of the new customer to have service by January 1, 2021.[12] In order to meet this aggressive timeline for construction and ensure service to the new customer, Duke Kentucky requests that the Commission issue its decision on or before April 1, 2020.[13]

Duke Kentucky reiterates that the Project will add supply and improved reliability in the central portion of its natural gas delivery system, which is experiencing rapid growth.[14] Duke Kentucky further states that while it has been able to meet customer needs with safe and reliable natural gas service, the proposed Project will improve the system integrity and alleviate stresses to the overall distribution system.[15] The proposed Project will provide additional reliability to Duke Kentucky's natural gas system by looping an existing north-south pipeline that connects a primary east-west pipeline.[16] The proposed Project will also allow additional pipeline capacity and increase access to gas supply in areas of the service territory that are close to full utilization, and which are experiencing low pressure in times of high gas consumption.[17] According to Duke Kentucky, the additional capacity will allow it to continue to accommodate load growth,

[12] *Id*. at 4.

[13] *Id*.

[14] *Id*.

[15] *Id*.

[16] *Id*.

[17] *Id*.

enhance levels of reliability, and provide redundancy when there are constraints due to scheduled or emergency outages, thereby reducing customer outages.[18]

Duke Kentucky avers that the UL60 pipeline provides a primary artery for natural gas distribution south into Boone County, and that the proposed Project will provide a critical and necessary restoration of pressure along this high-pressure distribution system in northern Kentucky, which is needed in order to provide reliable service during severe winter weather.[19] The Project will also increase available natural gas capacity throughout Boone, Kenton, Grant, and Gallatin counties.[20] Duke Kentucky argues that the Project will allow greater utilization of the UL57 and UL58 "Big Bone" pipeline projects to support higher growth in the southernmost sections of Boone County.[21] The Project also has available capacity to serve any potential customers identified for the Boone County Opportunity Zone that was created in Northern Kentucky as part of the Tax Cuts and Jobs Act of 2017.[22] Finally, the Project will enable Duke Kentucky to perform future integrity management work on the nearby UL02 pipeline.[23]

More specifically, the Project will loop existing pipeline UL02 to connect two existing pipeline segments, UL03 and AM07, on the Duke Kentucky natural gas delivery system.[24] Duke Kentucky states that AM07 is a primary artery that transports gas from

[18] *Id*.

[19] Application at 3.

[20] *Id*.

[21] *Id*.

[22] *Id*.

[23] *Id*.

[24] *Id*. at 3 – 4.

upstream suppliers, extending 16 miles to the Ohio River and providing gas throughout the Duke Kentucky natural gas delivery system via connected pipelines.[25] UL02 is an approximately seven-mile pipeline fed by AM07 through Duke Kentucky's Erlanger Station.[26] UL02 terminates into the UL03 pipeline in Burlington, Kentucky.[27] UL03 is located on the western portion of Duke Kentucky's service territory and extends south approximately 25 miles to service customers in Boone, Gallatin, and Grant counties.[28] Duke Kentucky asserts that the Project will provide additional feeds to the gas delivery system to support continued growth in Boone County and will provide system flexibility to back feed portions of both the UL03 and AM07 segments in the event of scheduled or emergency work.[29]

The proposed Project is a single project that has been split into two phases.[30] Duke Kentucky is requesting approval for the entire Project (both phases) as the overall purpose of the Project cannot be fulfilled until both phases are completed.[31] The first phase will focus on accommodating the new customer's need for service and projected initial load requirements by January 1, 2021.[32] Duke Kentucky states that the second phase will focus on securing all necessary land rights needed for additional construction

[25] *Id*. at 4.

[26] *Id*. at 4.

[27] *Id*. at 4.

[28] *Id*.at 4.

[29] *Id*. at 5.

[30] Duke Kentucky's response to Staff's First Request, Item 4(a).

[31] Duke Kentucky's response to Staff's First Request, Item 4(b).

[32] Duke Kentucky's response to Staff's First Request, Item 4(a).

to ensure reliable service for the natural gas delivery system and accommodate anticipated future load growth once the customer reaches its full load projections.[33] Phase 1 is projected to begin construction in April of 2020, and be in service by January 1, 2021.[34] Phase 2 will begin construction immediately following Phase 1 and is projected to be complete by the end of 2021.[35] The current total estimated Project cost is approximately $63.9 million dollars including $3 million for design, $6 million for land, $44 million for construction, and $10 million for materials.[36] Phase 1 is estimated to cost approximately $40.2 million based on current information, excluding contingencies.[37] Phase 2 is projected to cost approximately $23.7 million based on current information, excluding contingencies.[38] Duke Kentucky asserts that it will finance the construction through continuing operations and debt instruments, as necessary.[39]

The annual ongoing cost of operation of the Project once completed is expected to be less than $10,000, which includes leak surveys, semi-annual line walks, corrosion inspections, and vegetation management of the right of way.[40] However, the proposed

[33] *Id*.

[34] *Id*.

[35] *Id*.

[36] Application at 5; Duke Kentucky's response to Staff's First Request, Item 4(a).

[37] Duke Kentucky's response to Staff's First Request, Item 4(a); *See also*: Duke Kentucky's response to Staff's Second Request, Item 5, wherein Duke Kentucky asserts that the new customer will pay 100 percent of the costs associated with the provision of natural gas service to the customer's facility, which is currently under construction. The Natural Gas Minimum Usage Agreement, which describes the customer's responsibilities related to the extension, was filed with the Commission and suspended for investigation. *See* Case No. 2020-00041, *Electronic Tariff Filing of Duke Energy Kentucky, Inc. of a Natural Gas Service Minimum Usage Agreement and a Petition for Confidential Treatment* (Ky. PSC Feb. 20, 2020).

[38] Duke Kentucky's response to Staff's First Request, Item 4(a).

[39] Application at 8.

[40] Duke Kentucky's response to Staff's First Request, Item 7.

Project will also require periodic inspections and testing.[41] Duke Kentucky asserts that the annual cost of valve testing and inspection for all facilities related to the Project is approximately $30,000 a year.[42] Also, the in-line inspection that tests valves at regulator stations and inspects the entire line must be performed once every seven years, which will cost approximately $500,000, or $71,500 per year.[43]

Duke Kentucky provides a full description of the proposed location, route, or routes of the proposed construction or extension, including a description of the manner in which the facilities will be constructed.[44] However, due to the sensitive nature of gas utility infrastructure, the maps and engineering drawings displaying the route, location, and nature of the proposed construction are being submitted under confidential seal.[45] Duke Kentucky will utilize both its own employees as well as contractor crews to complete this Project.[46] Duke Kentucky further asserts that the awarding of any contracts for this project will be accomplished through a bidding process.[47] Duke Kentucky contends that because the Project is situated solely within the Company's service territory, it will not compete with any public utilities, corporations, or persons.[48]

[41] *Id*.

[42] *Id*.

[43] *Id*.

[44] Application at 7.

[45] *Id*.; Presson Testimony at 3.

[46] Presson Testimony at 6.

[47] *Id*. at 6.

[48] Application at 8.

Finally, Duke Kentucky found no other reasonable alternatives to the proposed Project.[49] Duke Kentucky states that other alternatives to the Project were eliminated during high-level preliminary screening due to cost, length, and route considerations.[50] According to Duke Kentucky the four key factors that dictated the selection of the proposed Project are as follows: the ability to recoup pressure issues on the pipeline along UL02, the ability to minimize piping/routing, the proximity to the nearest interstate suppliers, and the projected future large volume customers along the route.[51]

DISCUSSION

CPCN

No utility may begin the construction of any facility to be used to provide utility service to the public without first obtaining a CPCN from the Commission, except as noted in KRS 278.020(1). That statute provides, in pertinent part, as follows:

> No person, partnership, public or private corporation, or combination thereof shall . . . begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010 . . . until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction.

The Commission's standard of review of a request for a CPCN is well settled. To obtain a CPCN, the utility must demonstrate a need for such facilities and an absence of wasteful duplication.[52]

"Need" requires:

[49] Duke Kentucky's response to Staff's First Request, Item 2(g).

[50] *Id*.

[51] *Id*.; Duke Kentucky's response to Staff's Second Request, Item 3(a) – (d).

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

> [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.[53]

"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."[54] 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.[55] Selection of a proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication.[56] All relevant factors must be balanced.[57] The statutory touchstone

[53] *Id.* at 890.

[54] *Id.*

[55] 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).

[56] *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), Final Order.

[57] Case No. 2005-00089, *East Kentucky Power Cooperative, Inc.* (Ky. PSC Aug. 19, 2005), Final Order at 6.

for ratemaking in Kentucky is the requirement that rates set by the Commission must be fair, just, and reasonable.[58]

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that Duke Kentucky has established sufficient evidence to demonstrate that the proposed natural gas pipeline Project is needed to provide service to anticipated load growth in the local area; maintain sufficient natural gas system pressures, including at the location of the new Amazon Prime Air Hub; and ensure greater overall reliability of the natural gas system. The Commission further finds that construction of the proposed natural gas pipeline Project is reasonable and will not result in the wasteful duplication of facilities.

IT IS THEREFORE ORDERED that:

1. Duke Kentucky is granted a CPCN to construct and operate the proposed natural gas pipeline as set forth in its application.

2. Duke Kentucky shall file "as-built" drawings or maps within 60 days of the completion of the construction authorized by this Order.

3. Duke Kentucky shall immediately notify the Commission upon knowledge of any material changes to the scope of the natural gas pipeline Project, including, but not limited to, increase in cost, any significant delays in the construction of the natural gas pipeline Project, or any changes in the route of the natural gas pipeline.

[58] KRS 278.190(3).

4. Any documents filed pursuant to ordering paragraph Nos. 2 and 3 of this Order shall reference the case number of this matter and shall be retained in the utility's general correspondence files.

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By the Commission

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KENTUCKY PUBLIC
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