

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION**

IN THE MATTER OF:

**THE APPLICATION OF THE BREATHITT COUNTY )  
WATER DISTRICT FOR THE ISSUANCE OF A )  
CERTIFICATE OF PUBLIC CONVENIENCE AND ) Case No. 2023-00417  
NECESSITY TO CONSTRUCT A WATER SYSTEM )  
IMPROVEMENT PROJECT PURSUANT TO THE )  
PROVISIONS OF KRS 278.020 AND 807 KAR 5:001 OR  
ALTERNATELY A DECLARATORY ORDER ESTABLISHING  
THAT A CERTIFICATE OF PUBLIC NEED AND CONVENIENCE  
IS NOT NECESSARY AS TO A WATERLINE EXTENSION  
(KY. 30 EAST & WOLF CREEK WATERLINE EXTENSION PROJECT),  
PURSUANT TO 807 KAR 5:001(15) &/OR 807  
KAR 5:001(19)**

\*\*\*    \*\*\*    \*\*\*    \*\*\*    \*\*\*    \*\*\*    \*\*\*

The Applicant, Breathitt County Water District (the “District”), electronically files this Application pursuant to KRS 278.020(1) and 807 KAR 5:001, and all other applicable laws and regulations, and requests the Kentucky Public Service Commission (the “Commission”) grant the District a Certificate of Public Convenience and Necessity to construct a water system improvements project, or in the alternative, issue a Declaratory Order that a certificate of Public Need and Convenience is not necessary for this project. In support of the Application, and in compliance with the rules and regulations of the Commission, the District states as follows:

1. The District was established in accordance with the provisions of Chapter 74 of the Kentucky Revised Statutes pursuant to an Order of the County Judge/Executive of Breathitt County, which Order is on file in the County Court Order Books in the office of the Clerk of Breathitt County, Kentucky. The District is now, and has been since its inception, regulated by

the Commission, and all records and proceedings of the Commission with reference to the District are incorporated in this Application by reference. The District does not have any Articles of Incorporation due to the fact that it is a statutory entity.

2. The governing body of the District is its Board of Commissioners which is a public body corporate, with power to make contracts in furtherance of its lawful and proper purpose as provided for in KRS 74.070 and all applicable law and regulations.

3. The mailing address of the District is as follows:

Breathitt County Water District  
c/o Mr. Estill McIntosh, Superintendent  
1137 Main Street  
Jackson, Kentucky 41339  
Telephone: (606) 666-3800  
Fax: (606) 666-2860  
Email: [breathittwater@yahoo.com](mailto:breathittwater@yahoo.com)

4. A general description of the District's water system property, together with a statement of the original cost, is contained in the District's Annual Report for 2023 which is on file with the Commission. The Annual Report is incorporated herein by reference.

5. Pursuant to 807 KAR 5:001, Section 15 – Applications for Certificates of Public Convenience and Necessity, the District hereby responds as follows:

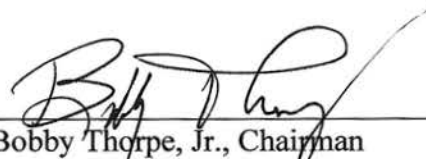
- (i) Section 15(2)(a): Facts Relied Upon to Show Public Necessity: the proposed water improvements project (hereinafter the "Project") and the need for the Project is described in **Exhibit "A"** attached hereto.
- (ii) Section 15(2)(b): Copies of Permits: Required permits include a Kentucky Division of Water Construction Permit and Kentucky Transportation Cabinet Encroachment permit. A statement regarding the required permits is attached hereto as a portion of **Exhibit "B"**.


- (iii) Section 15(2)(c): Description of Proposed Location or Route. A description of the proposed location and routes of the construction are shown on the maps being filed herewith. The proposed Project will not compete with any other public utilities and will not result in any wasteful duplication.
  - (iv) Section 15(2)(d)(1) and (2): Maps to Suitable Scale and Plans and Specifications: two maps showing the location and route of the proposed Project are included with this Application.
  - (v) Section 15(2)(e) Financing: The District is financing the Project with the proceeds of a Cleaner Water grant in the amount of three million six hundred thirty thousand dollars (\$3,630,000.00). (See the grant documentation attached hereto as **Exhibit "C"**.)
  - (vi) Section 15(2)(f) Statement of Estimated Annual Cost of Operation: the proposed annual production and operation costs after the Project is placed in service are attached hereto as **Exhibit "D"**).
6. Certified copies of the bid tabulations for the Project are attached hereto as **Exhibit "E"**.
7. No rate adjustment will be necessary.

**WHEREFORE**, the District respectfully requests the Commission take the following actions:

A. Grant the District a Declaratory Order establishing that a Certificate of Public Need and Convenience is not necessary for construction of this project, or alternately, issue a Certificate of Public Convenience and Necessity permitting the District to construct the Project;  
and

B. Grant the District any other relief to which said District is entitled.

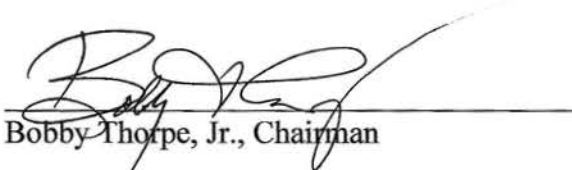
By   
Bobby Thorpe, Jr., Chairman  
1137 Main Street  
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Telephone: (606) 666-3800  
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By   
Dawn R. Watts  
14 Howell Lane  
P.O. Box 944  
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Email: drs.law@outlook.com  
Counsel for Breathitt County Water District


STATE OF KENTUCKY            )  
  ) SS  
COUNTY OF BREATHITT        )

The affiant, Bobby Thorpe, Jr., being first duly sworn, states: That is the Chairman of the Breathitt County Water District, the Applicant in this case; that he has read the foregoing Application and has noted the contents thereof; that the same are true of his own knowledge and belief, except as to matter which are herein stated to be based on information or belief, and that these matters, believes to be true and correct.

IN TESTIMONY WHEREOF, witness the signature of the undersigned on the 7<sup>th</sup>  
day of December, 2023.

  
Bobby Thorpe, Jr., Chairman

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by Bobby Thorpe, Jr., Chairman of the Breathitt County Water District on this the 7 day of December, 2023.

  
NOTARY PUBLIC, STATE AT LARGE  
My Commission Expires: 08-26-2024  
Notary ID#: KYNP 13913

CERTIFICATE of CHAIRPERSON of BREATHITT COUNTY  
WATER DISTRICT, as to STATEMENT REQUIRED by  
SECTION 1 (5) of 807 KAR 5:06

I, BOBBY THORPE, JR., hereby certify that I am the duly qualified and acting Chairperson of the Breathitt County Water District, and that said District is in the process of arranging to finance the construction of extensions, additions and improvements to the existing waterworks system of the District (the "Project"), in cooperation with Nesbitt Engineering, Inc., Lexington, Kentucky, the Engineers for the District (the "Engineers").

Based on information furnished to me by said Engineers for the District, I hereby certify as follows:

1. The proposed plans and specifications for the Project have been designated to meet the minimum construction and operating requirements set out in 807 KAR 5:066, Section 4 (3) and (4); Section 5 (1); Sections 6 and 7; Section 8 (1) through (3); Section 9 (1) and Section 10.
2. All other state approvals have already been obtained, including the approval of the Kentucky Division of Water.

The Existing rates of the District filed with the Public Service Commission of Kentucky are contemplated to produce total revenue requirements set out in the Engineering Reports, prepared by the Engineers and filed with the Public Service Commission. That it is now contemplated that construction of the "Breathitt Waterline Extension, (KY 30 East & Wolf Creek Waterline Extension) shall begin on or about January 10, 2024, and will end on or about September 10, 2024.

IN TESTIMONY WHEREOF, witness my signature this 7<sup>th</sup> day of December 2023.

BREATHITT COUNTY WATER DISTRICT  
By: [Signature]  
BOBBY THORPE, JR., Chairperson

STATE OF KENTUCKY       )  
COUNTY OF BREATHITT    )

Subscribed and sworn to before me by Bobby Thorpe, Jr., Chairperson of the Board of  
Commissioners of the Breathitt County Water District, on this the 7<sup>th</sup> day of December,  
2023.

[Signature]  
NOTARY PUBLIC, STATE AT LARGE

My Commission Expires: 08-26-2024



DISTRIBUTION LIST

Case No. 2023-00417

Re: Breathitt County Water District Application

District Officials

Mr. Bobby Thorpe, Jr., Chairperson  
Mr. Estill McIntosh, Manger  
Breathitt County Water District  
1137 Main Street  
Jackson, Kentucky 41339

Telephone: (606) 666-3800  
Fax: (606) 666-2860

Engineer

Mr. Paul Nesbitt  
Nesbitt Engineering, Inc.  
227 North Upper Street  
Lexington, Kentucky 40507

Telephone: (859) 233-3111  
Fax: (859) 259-2717

Local Counsel

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