

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF DUKE ENERGY KENTUCKY,)	
INC. FOR A CERTIFICATE OF PUBLIC)	CASE NO.
CONVENIENCE AND NECESSITY)	2016-00168
AUTHORIZING THE CONSTRUCTION OF A)	
GAS PIPELINE FROM WALTON, KENTUCKY)	
TO BIG BONE, KENTUCKY)	

ORDER

On May 11, 2016, Duke Energy Kentucky, Inc. ("Duke Kentucky") tendered an application for a Certificate of Public Convenience and Necessity ("CPCN"), pursuant to KRS 278.020 and 807 KAR 5:001, Sections 14 and 15, for the construction of a new natural gas pipeline from Walton, Kentucky, to Big Bone, Kentucky, and associated facilities to include a pipeline to serve the portion of its distribution system in Richwood, Kentucky, and two pressure-regulating stations ("the Project"). Duke Kentucky was notified by letter dated May 18, 2016, that its application ("Application") was deficient in that it did not comply with the provisions of 807 KAR 5:001, Section 15(2)(b), which require copies of franchise or permits, if any, from the proper public authority for the proposed construction. On May 23, 2016, Duke Kentucky filed a motion to deviate from the filing requirements in 807 KAR 5:001, Section 15(2)(b). On June 2, 2016, the Commission issued an Order granting Duke Kentucky's deviation request and accepting the application for filing as of June 2, 2016. Duke Kentucky subsequently filed copies of required permits from the Energy and Environment Cabinet, Boone County Public Works, CSX Railroad, the Kentucky Heritage Council, the Division of Water, and the

U.S. Department of the Interior Fish and Wildlife Service. Duke Kentucky responded to one Commission Staff Request for Information. There are no intervenors in this proceeding, and the matter now stands submitted to the Commission for a decision.

BACKGROUND

Duke Kentucky is a Kentucky corporation with its principal place of business located in Cincinnati, Ohio. It distributes and sells natural gas and electric services in Boone, Bracken, Campbell, Gallatin, Grant, Kenton, and Pendleton counties in Kentucky and, pursuant to KRS 278.010(3), is a utility regulated by the Commission.¹

Duke Kentucky states that the purpose of the Project is to construct additional capacity necessary for its system to meet anticipated demand and to provide greater reliability to the overall system. The Project will provide an interconnection between two pipelines at the center of its system, providing it with additional reliability, supply, and pressure.² Duke Kentucky states that the majority of the Project will be located in private easements³ and that it will finance the Project through continuing operations and debt instruments, as necessary.⁴ It is not requesting financing approval pursuant to KRS 278.300 as part of this proceeding. The total estimated cost of the Project is \$13.5 million, with annual ongoing cost expected to be less than \$5,000.

ANALYSIS

In support of its application, Duke Kentucky provided project maps, drawings, plans, and work specifications certified by a professional engineer. It stated that Duke

¹ Application at 42, paragraph 1.

² *Id.* at paragraph 7.

³ *Id.* at paragraph 8.

⁴ *Id.* at 7, paragraph 15.

Kentucky crews and contractor crews would be trained on work and design specifications prior to facility installation, and Duke Kentucky personnel will provide oversight to any contractor crews.⁵ Duke Kentucky will award any contracts through a bidding process similar to those it has used in prior construction projects, such as that used for its Accelerated Main Replacement Program.⁶

The Project involves construction of a 9.5-mile-long, 12-inch-diameter steel natural gas pipeline from Walton, Kentucky, to Big Bone, Kentucky. Also included in the Project are a 4,000-foot-long, eight-inch-diameter plastic natural gas pipeline to serve the portion of its distribution system in Richwood, Kentucky, and two pressure regulating stations. The Project will provide a west-east pipeline connection between Duke Kentucky's two existing north-south UL03 and AM03 pipelines at a central part of its system. As they are currently configured, these two pipelines cannot be operated separately, either in the winter due to increased demand or during a pipeline breach caused by excavation or some other incident without negatively impacting customers.⁷ According to Duke Kentucky, this area of its system is close to capacity and experiences low gas pressure at times of high consumption.

Duke Kentucky states that Boone County, in which the Project is located, is the fourth-most-populous county in Kentucky, and one of the fastest-developing counties in the state. Growth is expected to continue in all three of its customer segments: residential, commercial, and industrial.⁸ Duke Kentucky states that the Project has

⁵ Direct Testimony of Gary J. Hebbeler ("Hebbeler Testimony") at page 7.

⁶ *Id.*

⁷ Application at paragraph 7.

⁸ *Id.* at paragraph 5.

been contemplated for nearly ten years as a result of load growth, and that gas pressure during the winter continues to decline in this area as the population of Boone County grows.⁹ In response to a Staff request for information, Duke Kentucky provided information showing that its number of customer accounts in Boone County grew more than 11 percent from 2006 through June 2016, and estimated that customer growth in that area will continue to grow at the ten-year historical rate of 1.1 percent per year.¹⁰ According to Duke Kentucky's system modelling software, the Boone County high-pressure gas system is at approximately 90 percent of available peak-demand-hour capacity at existing demand. Duke Kentucky states that the Project will also make gas available in some areas of Boone County that do not currently have gas service, and that it has received requests to serve seven new residential developments in the Boone County area in the past year.¹¹

With regard to the addition of two pressure regulating stations, Duke Kentucky states that one will reduce the pressure for the Richwood distribution system, and one will provide over pressurization for the AM03 line.¹²

Duke Kentucky anticipates that 70 percent of the Project will be located in private easements, and where that is not possible it will use existing rights-of-way.¹³ Duke Kentucky stated in response to a Staff request for information that it is in the process of

⁹ Direct Testimony of John A. Hill, Jr. at page 4.

¹⁰ Response to Commission Staff's First Request for Information ("Staff's First Request"), Item 2, Attachment.

¹¹ *Id.*, Item 3.

¹² Application at paragraph 7.

¹³ Hebbeler Testimony at page 6.

negotiating and acquiring 98 easements along the route and does not anticipate any major changes to the route it has submitted. At the time of that response, Duke Kentucky reported that the easement acquisition was on schedule and the projected cost was in line with the budget.¹⁴ Duke Kentucky provided an update on its estimated total project cost, stating that it had been able to lower the easement cost estimate, but recognized the need to include contingency dollars in the budget. The updated project cost estimate continued to be \$13.5 million.¹⁵ According to the Project Schedule provided in the Hebbeler Testimony, construction is intended to begin in March 2017 and to be completed in November 2017.

LEGAL STANDARD

Duke Kentucky's request for approval of the Project is pursuant to KRS 278.020(1), which provides, in relevant part, that:

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

807 KAR 5:001, Section 15(2), provides in part:

New construction or extension. Upon application for a certificate that the present or future public convenience or necessity requires, or will require, the construction or extension of any plant, equipment, property, or facility, the applicant, in addition to complying with Section 14 of this administrative regulation, shall submit with its application:

¹⁴ Response to Staff's First Request, Item 11.

¹⁵ *Id.*, Item 7.

(a) The facts relied upon to show that the proposed construction or extension is or will be required by public convenience or necessity.

To obtain a CPCN, the utility must demonstrate a need for such facilities and an absence of wasteful duplication.¹⁶

“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 and operated.

...

The 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.¹⁷

“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.”¹⁸ 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 alternatives has been performed.¹⁹ Selection of a proposal that

¹⁶ Kentucky Utilities Co. v. Pub. Serv. Comm’n, 252 S.W.2d 885 (Ky. 1952).

¹⁷ *Id.* at 890.

¹⁸ *Id.*

¹⁹ 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).

ultimately costs more than an alternative does not necessarily result in wasteful duplication.²⁰

The Commission finds that Duke Kentucky's request for a CPCN for the Project does not duplicate any existing facilities and is necessary in order for Duke Kentucky to have the ability to accommodate current and expected system requirements for safe and reliable natural gas service. Based upon the record and being otherwise sufficiently advised, the Commission finds that a CPCN for construction of the pipeline should be approved, and that, no later than 90 days after the completion of the project, Duke Kentucky should file with the Commission a statement of the actual costs of the construction. Prior to incurring any long-term financing related to this project, pursuant to KRS 278.300, Duke Kentucky is required to seek Commission approval.

IT IS THEREFORE ORDERED that:

1. Duke Kentucky is granted a CPCN for the Project as set forth in the Application.
2. Duke Kentucky shall provide copies of any remaining permits within ten days of obtaining each permit or approval
3. Duke Kentucky shall, no later than 90 days after the completion of the Project, file with the Commission a statement of the actual costs of the construction.

²⁰ See *Kentucky Utilities Co. v. Pub. Serv. Comm'n*, 390 S.W.2d, 175 (Ky. 1965). See also Case No. 2005-00089, *Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity to Construct a 138 kV Transmission Line in Rowan County, Kentucky* (Ky. PSC Aug. 19, 2005).

4. Duke Kentucky shall file a copy of the "as-built" drawings and a certified statement from the engineer that the construction has been satisfactorily completed in accordance with the plans and specifications within 60 days of substantial completion of the construction certified herein.

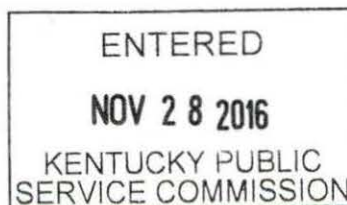
5. Duke Kentucky shall require the construction to be inspected under the general supervision of a professional engineer licensed to practice in the Commonwealth of Kentucky in civil or mechanical engineering to ensure that the construction work is done in accordance with the drawings and specifications and in conformity with the best practices of the construction trades involved in the project.

6. Duke Kentucky shall notify the Commission one week prior to the actual start of construction and at the 50 percent completion point.

7. Duke Kentucky shall not incur any long-term indebtedness associated with the project without applying to the Commission for approval pursuant to KRS 278.300.

8. Any documents filed pursuant to ordering paragraphs 2, 3, 4, and 6 of this Order shall reference the number of this case and shall be retained in the utility's general correspondence file.

By the Commission



ATTEST:


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