

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF NORTHERN)	
KENTUCKY WATER DISTRICT FOR A)	
CERTIFICATE OF PUBLIC CONVENIENCE)	CASE NO.
AND NECESSITY TO CONSTRUCT THE)	2021-00047
FORT THOMAS TREATMENT PLANT BASIN)	
IMPROVEMENTS PHASE 2 AND FOR)	
APPROVAL OF FINANCING)	

ORDER

On February 5, 2021, Northern Kentucky Water District (Northern Kentucky District) filed an electronic application, pursuant to KRS 278.020 and KRS 278.300, for a Certificate of Public Convenience and Necessity (CPCN) and approval of the financing for construction of Phase II of the improvements at the Fort Thomas Treatment Plant. No party has sought intervention in this matter. The record for this case is complete, and the matter stands ready for decision.

Northern Kentucky District, a water district organized under KRS Chapter 74, provides retail water service to approximately 84,139 customers¹ in Kenton, Boone, and Campbell counties, Kentucky. Northern Kentucky District sells water wholesale to the following nonaffiliated water distribution systems the Bullock Pen Water District, the Pendleton County Water District, and to the city of Walton.²

¹ *Annual Report of Northern Kentucky Water District to the Kentucky Public Service Commission for the Year Ended December 31, 2019* at 53.

² *Id.* at 60.

The proposed Phase II Project will improve water quality and service reliability for customers by making improvements to both the Taylor Mill Treatment Plant (Taylor Mill Plant) and the Fort Thomas Treatment Plant (Fort Thomas Plant).³ The Taylor Mill Plant contains a critical pump station, which is responsible for transmitting water to approximately 60 percent of Kenton County.⁴ The pump station and a majority of the Taylor Mill Plant have a single source of electricity from a Duke Energy transmission line.⁵ The proposed Phase II Project includes the installation of a generator, switch gear, and new substation that will provide a backup power supply to the Taylor Mill Plant.⁶

The Phase II Project will address the problems at Basin No. 1 and Basin No. 2 at the Fort Thomas Plant.⁷ The improvements at these two basins will include concrete repair, reconfiguration of the flocculation process and mixing basins, and replacement of influent/effluent valves and sludge collection equipment.⁸ Also, in Phase II the existing tube settlers in all four basins will be replaced with new plate settlers and the chemical feed manifold piping will be replaced in the sodium hypochlorite building.⁹

Northern Kentucky District intends to finance the \$6,000,000 project with a \$3,395,000 State Revolving Fund (SRF) loan from the Kentucky Infrastructure Authority

³ Northern Kentucky District's Response to Staff Telephone Data Request of March 24, 2021 (filed Mar. 25, 2021), Item 2.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* There are four uncovered concrete basins at the Fort Thomas Plant.

⁸ *Id.*

⁹ *Id.*

(KIA) and a \$2,065,000 Bond Anticipation Note (BAN).¹⁰ The \$3,395,000 KIA SRF loan is to be repaid over a 20-year term at an interest rate of 1.75 percent per annum with a loan-servicing fee of 0.25 percent of the annual outstanding loan balance payable to KIA with each interest payment.¹¹

GRW, Engineering prepared the plans and specifications for the proposed Phase II construction project.¹² The Kentucky Division of Water (KDOW) approved the plans and specifications for the proposed construction of Phase II of the improvements at the Ft. Thomas Treatment Plant on October 20, 2020.¹³ Northern Kentucky District opened bids for this project on January 13, 2021. Bids are subject to acceptance for 90 days. The bids on this project will expire on April 13, 2021.¹⁴ Northern Kentucky District states that the proposed improvements will enable it to continue to provide adequate and safe service to its customers.¹⁵

To establish that the public convenience and necessity require the construction of a new facility, an applicant must demonstrate the need for the proposed facilities and that the proposed construction will not result in the wasteful duplication of facilities.¹⁶

“Need” requires:

¹⁰ Application at paragraph 7.

¹¹ *Id.*, Exhibit D, Project Finance Information.

¹² *Id.*, Exhibit A.

¹³ *Id.*, Exhibit B3.

¹⁴ *Id.* at paragraph 10.

¹⁵ *Id.* at paragraph 6.

¹⁶ *Kentucky Utilities Company v. Public Service Commission*, 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.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 reasonable alternatives has been performed.¹⁹ Selection of a proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication.²⁰ All relevant factors must be balanced.²¹ The statutory touchstone for ratemaking in Kentucky is the requirement that rates set by the Commission must be fair, just and reasonable.²²

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).

²⁰ See *Kentucky Utilities Co. v. Pub. Serv. Comm’n*, 390 S.W.2d 168, 175 (Ky. 1965). See also Case No. 2005-00089, *The 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.

²¹ Case No. 2005-00089, *East Kentucky Power Cooperative, Inc.* (Ky. PSC Aug. 19, 2005), final Order at 6.

²² KRS 278.190(3).

KRS 278.300(2) requires a finding by the Commission that the proposed Assistance Agreement is for some lawful object within the corporate purposes of Northern Kentucky District, is necessary or appropriate for or consistent with the proper performance by Northern Kentucky District 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.

Having reviewed the application and being otherwise sufficiently advised, the Commission finds that:

1. The proposed construction will not result in wasteful duplication of existing facilities.
2. The proposed construction does not conflict with any existing certificates or the service of any other utility operating in the area.
3. Public convenience and necessity require the proposed construction, which allows Northern Kentucky District to continue to provide reliable and adequate water service to its customers.
4. KDOW has approved the plans and specifications for the proposed project.
5. The proposed Assistance Agreement with KIA is for lawful objects within Northern Kentucky District's corporate purpose. It is necessary for, appropriate for, and consistent with the proper performance of Northern Kentucky District's service to the public. It will not impair Northern Kentucky District's ability to perform that service. It is reasonably necessary and appropriate for such purpose.
6. Furthermore, \$2,065,000 of this project will be financed through a BAN, and Commission approval of the financing of this amount is not presently required. However,

pursuant to KRS 278.300, Northern Kentucky District should seek Commission approval before issuing any long-term revenue notes.

IT IS THEREFORE ORDERED that:

1. Northern Kentucky District is granted a CPCN to proceed with the proposed construction of Phase II of the improvements at the Fort Thomas Plant and the Taylor Mill Plant as set forth in its application.

2. Northern Kentucky District shall notify the Commission prior to performing any additional construction not expressly authorized by this Order.

3. Any deviation from the approved construction shall be undertaken only with the prior approval of the Commission.

4. Northern Kentucky District shall require construction to be inspected under the general supervision of a licensed professional engineer with a Kentucky registration in civil or mechanical engineering to ensure that the construction work is done in accordance with the contract drawings and specifications and in conformance with the best practices of the construction trades involved in the project.

5. Northern Kentucky District is authorized to supplement the executed Assistance Agreement with KIA and, under the terms of that Agreement, to borrow from KIA an amount not to exceed \$3,395,000 to be repaid over a 20-year period at an interest rate of 1.75 percent per annum and loan servicing fee of 0.25 percent per annum.

6. Northern Kentucky District shall submit an application to the Commission prior to issuing any securities that require approval pursuant to KRS 278.300.

7. Northern Kentucky District shall file with the Commission documentation of the total costs of this project, including the cost of construction and all other capitalized

costs, (e.g., engineering, legal, administrative) within 60 days of the date that construction authorized 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.

8. Northern Kentucky District shall file a copy of the “as-built” drawings and a certified statement that the construction has been satisfactorily completed in accordance with the contract plans and specifications within 60 days of the substantial completion of the construction certificated herein.

9. Any documents filed in the future pursuant to ordering paragraphs 2, 6, 8, and 9 shall reference this case number and shall be retained in the post-case correspondence file.

10. The Executive Director is delegated authority to grant reasonable extensions of time for the filing of any documents required by this Order upon Northern Kentucky District’s showing of good cause for such extension.

11. This case is closed and removed from the Commission’s docket.

By the Commission



ATTEST:


Executive Director

*Honorable John N Hughes
Attorney at Law
124 West Todd Street
Frankfort, KENTUCKY 40601

*Lindsey Rehtin
Northern Kentucky Water District
2835 Crescent Springs Road
P. O. Box 18640
Erlanger, KY 41018-0640

*Northern Kentucky Water District
2835 Crescent Springs Road
P. O. Box 18640
Erlanger, KY 41018-0640

*Tom Edge
Northern Kentucky Water District
2835 Crescent Springs Road
P. O. Box 18640
Erlanger, KY 41018-0640