

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF THE ADAIR)	
COUNTY WATER DISTRICT FOR THE)	
ISSUANCE OF A CERTIFICATE OF PUBLIC)	
CONVENIENCE AND NECESSITY TO)	
CONSTRUCT A WATER SYSTEM)	CASE NO.
IMPROVEMENTS PROJECT AND AN ORDER)	2021-00176
AUTHORIZING THE ISSUANCE OF)	
SECURITIES PURSUANT TO THE)	
PROVISIONS OF KRS 278.020, KRS 278.300)	
AND 807 KAR 5:001)	

ORDER

On April 27, 2021, Adair County Water District (Adair 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 financing for replacement of approximately 7,400 linear feet of 8-inch water main and 5,250 linear feet of 6-inch water main located in the city of Columbia, Kentucky, as well as the renovation and repainting of the Osh Kosh Water Storage Tank and the dismantling of the Bomar Heights and Paige Street storage tanks. No party has sought intervention in this matter. The record in this case is complete, and the matter stands ready for a decision.

Adair District, a water district organized under KRS Chapter 74, provides retail water service to approximately 7,848 customers¹ and sewer service to approximately 1,709 customers² in Adair County, Kentucky.³

PROPOSED PROJECT

The proposed Phase 20 Project includes the replacement of approximately 7,400 linear feet of 8-inch water main along Tutt Street and Bomar Heights as well as 5,250 linear feet of 6-inch water lines along various streets in the city of Columbia, Kentucky.⁴ Also, as part of the project, Adair District plans to renovate and repaint the Osh Kosh Water Storage tank and dismantle the unused Bomar Heights and Paige Street storage tanks.

Adair District proposes to finance the \$1,476,783 project cost through the issuance of a loan from the Kentucky Infrastructure Authority (KIA) of \$1,476,783.⁵ The proposed KIA loan will mature over a 30-year term, bearing an interest rate of 0.50 percent per annum.⁶ Adair District does not propose to increase its water service rates to its customers as a result of the proposed project.⁷

¹ *Annual Report of Adair County Water District to the Public Service Commission for the Year Ended December 31, 2019* (2019 Annual Water Report) at 49.

² *Annual Sewer Report of Adair County Water District to the Public Service Commission for the Year Ended December 31, 2019* at 36.

³ 2019 Annual Water Report at 12.

⁴ Application, Exhibit A.

⁵ *Id.*, at 3, paragraph 5, section (vi).

⁶ *Id.*, Exhibit C, Attachment A.

⁷ *Id.* at 6, paragraph 11.

Kentucky Engineering Group, PLLC (KEG) prepared the plans and specifications for the proposed Phase 20 Project.⁸ The Kentucky Division of Water (KDOW) approved the plans and specifications for the proposed construction of Phase 20 on July 28, 2020.⁹

Adair District states the installation of the water main will replace asbestos-cement water pipe, improve reliability to the affected customers, and improve water loss in the affected areas.¹⁰ The tank rehab will result in better water quality and eliminate unused water storage tanks, and enhance public safety.¹¹

LEGAL STANDARD

The Commission's standard of review of a request for a CPCN is well settled. No utility may construct or acquire any facility to be used in providing utility service to the public until it has obtained a CPCN from this Commission except as provided in KRS 278.020(1) and (2) and 807 KAR 5:001, Section 15(3), which are provisions not applicable to this matter. To obtain a CPCN, a utility must demonstrate a need for such facilities and an absence of wasteful duplication.¹²

"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

⁸ *Id.*, Contract 4 and Contract 5 Documents.

⁹ *Id.*, Exhibit B.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Kentucky Utilities Co. v. Public Service Comm'n*, 252 S.W.2d 885 (Ky. 1952).

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.¹³

“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.”¹⁴ 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.¹⁵ Selection of a proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication.¹⁶ All relevant factors must be balanced.¹⁷ The statutory touchstone for ratemaking in Kentucky is the requirement that rates set or approved by the Commission must be fair, just and reasonable.¹⁸

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 Adair District, is necessary or appropriate for—or consistent with—the proper performance by

¹³ *Id.* at 890.

¹⁴ *Id.*

¹⁵ 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).

¹⁶ See *Kentucky Utilities Co. v. Public Service 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.

¹⁷ Case No. 2005-00089, *East Kentucky Power Cooperative, Inc.* (Ky. PSC Aug. 19, 2005), final Order at 6.

¹⁸ KRS 278.190(3).

Adair District of its service to the public, and will not impair its ability to perform that service. Any such agreement must also be reasonably necessary and appropriate for such purpose.

FINDINGS

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

1. The proposed construction will not result in wasteful duplication of existing facilities. Indeed, the proposed construction provides for the dismantling of superfluous infrastructure.¹⁹

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 Adair District to continue to provide adequate, reliable and safe 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 Adair District's corporate purpose. It is necessary for, appropriate for, and consistent with the proper performance of Adair District's service to the public. It will not impair Adair District's ability to perform that service. It is reasonably necessary and appropriate for such purpose.

6. The Commission notes that Adair District is still under requirement to file for an adjustment in base rates or file for an alternative rate filing within one year of the date

¹⁹ Application, Exhibit A.

of filing of the final Order in Commission Case No. 2020-00148²⁰ to ensure that its rates are sufficient. In that order, the Commission noted that a lack of insight into Adair District's financial records due to extended absence from a rate adjustment proceeding as well as concerns surrounding the financial health and depreciation reserve of the utility led the Commission to order Adair District to file for a general rate adjustment or alternative rate filing.

IT IS THEREFORE ORDERED that:

1. Adair District is granted a CPCN to proceed with the proposed construction of the Phase 20 Project as set forth in its application.
2. Adair 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 prior approval of the Commission.
4. Adair District shall require the construction to be inspected under the general supervision of a 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. Adair District is authorized to supplement the executed Assistance Agreement with KIA and, under the terms of that Agreement, to borrow from KIA an

²⁰ Case No. 2020-00148, *Electronic Application of the Adair County Water District to Issue Securities in the Approximate Principal Amount of \$5,405,000 for the Purpose of Refunding Certain Outstanding Obligations of the District Pursuant to the Provisions of KRS 278.300 and 807 KAR 5:001* (Ky. PSC Sept. 4, 2020), final Order.

amount not to exceed \$1,476,783, said amount to be repaid over a 30-year period at an interest rate of 0.50 percent per annum and loan servicing fee of 0.25 percent per annum.

6. Adair District 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 contract plans and specifications within 60 days of substantial completion of the construction certified herein.

7. Adair 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, and administrative), within 60 days of the date that construction 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. Any documents filed in the future pursuant to ordering paragraphs 2, 6, and 7 of this Order shall reference this case number and shall be retained in the utility’s post-case correspondence file.

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

10. The Commission notes that Adair District is still under requirement to file for an adjustment in base rates or file for an alternative rate filing within one year of the date of filing of the final Order in Commission Case No. 2020-00148 to ensure that its rates are sufficient. In that Order, the Commission noted that a lack of insight into Adair District’s financial records due to extended absence from a rate adjustment proceeding

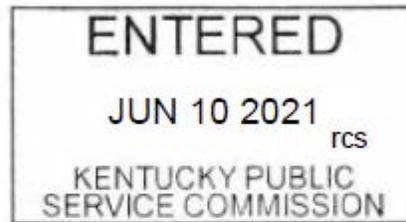
as well as concerns surrounding the financial health and depreciation reserve of the utility led the Commission to order Adair District to file for a general rate adjustment or alternative rate filing.

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

Nothing contained herein shall be deemed a warranty or finding of value of securities or financing authorized herein on the part of the Commonwealth of Kentucky, or any agency thereof.

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By the Commission



ATTEST:


Executive Director

Case No. 2021-00176

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