

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF BLUEGRASS)	
WATER UTILITY OPERATING COMPANY, LLC)	CASE NO.
FOR CERTIFICATES OF CONVENIENCE AND)	2022-00104
NECESSITY FOR PROJECTS AT THE)	
DELAPLAIN SITE)	

ORDER

On March 30, 2023, the Commission granted the application of Bluegrass Water Utility Operating Company, LLC (Bluegrass Water) for a Certificate of Public Convenience and Necessity (CPCN) to construct improvements to its Delaplain wastewater treatment facility (Delaplain) in Scott County, Kentucky. These improvements included (1) installation of a moving bed biofilm reactor (MBBR) treatment system intended to reduce the amount of ammonia and biochemical oxygen demand (BOD) below permitted levels; and (2) a polymer feed and tertiary filter to improve the facility's ability to settle fine solids.

Bluegrass Water provided estimated costs of installing these systems, as well as estimated costs of several alternative measures considered for remedying these effluent exceedances. The final Order in this case included the following ordering paragraphs:

2. Bluegrass Water shall immediately notify the Commission upon knowledge of any material changes to the project, including, but not limited to, a material increase in costs and any significant delays in construction.
3. Any material deviation from the construction approved by this Order shall be undertaken only with the prior approval of the Commission.

On December 20, 2023, Bluegrass Water filed a notice stating that the total cost of the entire project had increased from \$609,900 to \$1,322,958. Bluegrass Water stated that the increase was attributable to the following requirements identified by its selected contractor: (1) geotech boring revealed that the bearing elevations for the filter building would need to be lowered to the underlying bedrock due to the soil quality; (2) the height of the filter building needed to be raised in order to properly remove and perform maintenance on the filter disks within the building; and (3) relocation of the filter building because it was located within a flood zone, which necessitated a higher elevation, a pump station, a new valve vault, and additional piping.¹ Bluegrass Water sought a deviation from the approved plans.

Having considered the matter and being advised, the Commission finds that the \$713,058 increase in cost from the estimated costs provided by Bluegrass Water prior to the granting of the CPCN constitutes a material increase and a material deviation requiring Commission approval. The Commission further finds that this case should be re-opened to re-evaluate whether the proposed project still meets the CPCN requirement of absence of wasteful duplication.² “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.”³ To demonstrate that a proposed facility does not result in wasteful duplication, the Commission has held that the applicant must demonstrate that a thorough review of all reasonable alternatives has been

¹ Ordering Paragraph 2 Notice and Request for Approval Pursuant to Ordering Paragraph 3 (filed Dec. 20, 2023) at 2—3.

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

³ *Kentucky Utilities Co.*, 252 S.W.2d at 890.

performed.⁴ Although cost is a factor, selection of a proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication.⁵ All relevant factors must be balanced.⁶

To facilitate prompt review, Commission Staff has attached its Fifth Requests for Information as an Appendix to this order.

IT IS THEREFORE ORDERED that:

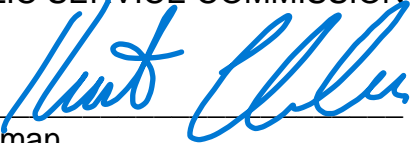
1. This matter is re-opened and added to the Commission's active docket.
2. Bluegrass Water is ordered to respond to Commission Staff's Fifth Requests for Information attached as an Appendix to this Order by April 15, 2024.


⁴ 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), Order at 11.

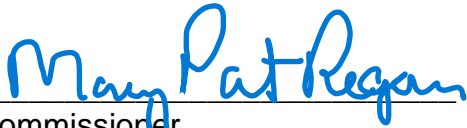
⁵ See *Kentucky Utilities Co. v. Pub. Serv. Comm'n*, 390 S.W.2d 168, 175 (Ky. 1965). See also Case No. 2005-00089, *Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity for the Construction of a 138 kV Electric Transmission Line in Rowan County, Kentucky* (Ky. PSC Aug. 19, 2005), final Order.

⁶ Case No. 2005-00089, Aug. 19, 2005 final Order at 6.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ENTERED
MAR 18 2024 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2022-00104 DATED MAR 18 2024

COMMISSION STAFF'S FIFTH REQUEST FOR INFORMATION
TO BLUEGRASS WATER UTILITY OPERATING COMPANY, LLC

Bluegrass Water Utility Operating Company, LLC (Bluegrass Water) pursuant to 807 KAR 5:001, shall file with the Commission an electronic version of the following information. The information requested is due on April 15, 2024. The Commission directs Bluegrass Water to the Commission's July 22, 2021 Order in Case No. 2020-00085⁷ regarding filings with the Commission. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked.

Each response shall include the question to which the response is made and shall include the name of the witness responsible for responding to the questions related to the information provided. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or the person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

Bluegrass Water shall make timely amendment to any prior response if Bluegrass Water obtains information that indicates the response was incorrect or incomplete when

⁷ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

made or, though correct or complete when made, is now incorrect or incomplete in any material respect.

For any request to which Bluegrass Water fails or refuses to furnish all or part of the requested information, Bluegrass Water shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

Careful attention shall be given to copied and scanned material to ensure that it is legible. When the requested information has been previously provided in this proceeding in the requested format, reference may be made to the specific location of that information in responding to this request. When applicable, the requested information shall be separately provided for total company operations and jurisdictional operations. When filing a paper containing personal information, Bluegrass Water shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the paper so that personal information cannot be read.

1. Refer to Bluegrass Water's Ordering Paragraph 2 Notice and Request for Approval Pursuant to Ordering Paragraph 3 (Notice), page 2, paragraphs 4-5. Provide a cost breakdown itemized by the three approved projects in the following format:

Total cost of MBBR system per selected bid: \$_____.

Total cost of polymer feed/filtration system per selected bid: \$_____.

Total cost of road/fencing per selected bid: \$_____.

2. Refer to the Commission's March 30, 2023 final Order granting a CPCN (final Order), pages 10-11, tables reproduced below:

MBBR and alternatives first year cost-benefit analysis:

	Proposed Project	IFAS Alternative	Aeration Alternative	Tankage Alternative	Connect to City
Construction Costs	\$ 311,500	\$ 500,000	\$ 750,000	\$ 600,000	\$ 1,340,000
Multiply by: WACC	7.95%	7.95%	7.95%	7.95%	7.95%
Rate Base Effect	\$ 24,764	\$ 39,750	\$ 59,625	\$ 47,700	\$ 106,530
Depreciation	\$ 15,184	\$ 25,000	\$ 37,500	\$ 30,000	\$ 31,953
Annual O&M Expense	\$ 156,961	\$ 156,961	\$ 192,311	\$ 192,311	\$ 735,000
Total Revenue Requirement	\$ 196,909	\$ 221,711	\$ 289,436	\$ 270,011	\$ 873,483
Less: Current Annual O&M Expense	\$ 156,961	\$ 156,961	\$ 156,961	\$ 156,961	\$ 156,961
Total Revenue Requirement Impact	\$ 39,948	\$ 64,750	\$ 132,475	\$ 113,050	\$ 716,522

Polymer feed and tertiary filters and alternatives first year cost-benefit analysis:

	Proposed Project	Tertiary Filters	Separate Tankage Alternative	Connect to City
Construction Costs	\$ 283,200	\$ 418,000	\$ 500,000	\$ 1,340,000
Multiply by: WACC	7.95%	7.95%	7.95%	7.95%
Rate Base Effect	\$ 22,514	\$ 33,231	\$ 39,750	\$ 106,530
Depreciation	\$ 12,749	\$ 20,900	\$ 25,000	\$ 31,953
Annual O&M Expense	\$ 156,961	\$ 156,961	\$ 156,961	\$ 735,000
Total Revenue Requirement	\$ 192,224	\$ 211,092	\$ 221,711	\$ 873,483
Less: Current Annual O&M Expense	\$ 156,961	\$ 156,961	\$ 156,961	\$ 156,961
Total Revenue Requirement Impact	\$ 35,263	\$ 54,131	\$ 64,750	\$ 716,522

- a. Provide updated cost-benefit analyses for the proposed projects and the alternatives identified in these tables using cost breakdowns provided in the response to Item 1 above and updated estimated costs of alternatives.
- b. For each alternative identified in these tables, explain why the issues resulting in increased costs identified in Notice, page 2–3, paragraphs 6–9 would or would not affect the estimated costs of each alternative.
- c. Provide all documents relied upon to estimate costs of alternative projects.

3. Refer to Bluegrass Water's Application, page 4–5, paragraphs 11 and 13, and Bluegrass Water's responses to Commission Staff's First Request for Information, Item 2 (21 Design Engineering Memo).

a. State whether identifying subsurface conditions and flood zones were within 21 Design's scope of work in preparing its engineering memo, recommendations, and cost estimates, if any.

b. Identify any person or entity that was responsible for preparing cost estimates for the proposed projects.

c. Identify any person or entity that was responsible for identifying subsurface conditions and flood zones for the proposed projects.

4. Refer to Notice, Exhibit B. State the date, if any, on which the selected bid expires, or if a contract has been executed, provide a copy of the contract.

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