

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF WESTERN)	
PULASKI COUNTY WATER DISTRICT FOR A)	
CERTIFICATE OF PUBLIC CONVENIENCE AND)	CASE NO.
NECESSITY TO CONSTRUCT A SYSTEM)	2022-00203
IMPROVEMENTS PROJECT AND AN ORDER)	
AUTHORIZING THE ISSUANCE OF SECURITIES)	
PURSUANT TO KRS 278.023)	

ORDER

On July 8, 2022, Western Pulaski County Water District (Western Pulaski District) filed an application, pursuant to KRS 278.023, requesting a Certificate of Public Convenience and Necessity (CPCN) to construct a water system improvements project and approval of the proposed plan of financing the project. No party has sought intervention in this matter. This matter now stands submitted for a decision by the Commission.

LEGAL STANDARD

Western Pulaski District has submitted its application pursuant to KRS 278.023. The Commission is required, pursuant to KRS 278.023, to accept agreements between water utilities and the United States Department of Agriculture Rural Development (RD) regarding construction projects, and to issue the necessary orders to implement the terms of such agreements no later than 30 days after filing the application with the Commission. KRS 278.023 does not grant the Commission any discretionary authority to modify or

reject any portion of the agreement between the RD and Western Pulaski District or defer the issuance of all necessary orders to implement the terms of that agreement.

Pursuant to KRS 278.023, the statute further denies the Commission any authority to reject an application when the evidence of record indicates that a water utility's proposed construction will result in the wasteful duplication of facilities, resulting in an excessive investment, or its proposed rates are unfair, unjust, or unreasonable. As explained in KRS 278.023(1), the limits on the Commission's review are because federal financing of these projects entails prior review and oversight by a federal agency and obligates the utility to take certain actions; conflicting requirements between the federal agency and the Commission may jeopardize the project and place the utility in an untenable position. The Commission, therefore, is not able to review this application using the same standards that are used for applications that are not filed pursuant to KRS 278.023.

The legal standard established in KRS 278.023 requires that (1) the applicant be a water utility formed under KRS Chapter 74 or 273; and (2) the construction project must be funded in whole or in part under terms of an agreement between the water utility, USDA or United States HUD.

BACKGROUND

Western Pulaski District, a water district organized under KRS Chapter 74, provides retail water service to approximately 9,154 water customers¹ in Pulaski County, Kentucky. The Commission's Division of Inspections last inspected Western Pulaski

¹ Annual Report of Western Pulaski County Water District for the Year Ended December 31, 2021 at 49.

District on December 11, 2019. Based on the inspector's observations, no deficiencies were identified other than the amount of water loss, which exceeded the statutory permissible maximum amount of 15 percent.

The proposed project consists of installation of approximately 13,670 linear feet of new 12-inch ductile iron water transmission main to replace an existing 8-inch water line along Ringgold Road to Big Clifty Creek Crossing and Fishing Creek Crossing and then onto Hickory Nut Ridge Road; installation of approximately 8,410 linear feet of 12-inch ductile iron water transmission main along North Kentucky Highway 914 Bypass to what is known as the Denham Knob Tank; and installation of one water booster pump station replacement along the right-of-way (ROW) of West Kentucky Highway 80 to replace what is known as the Lees Ford Pump Station.²

The total estimated cost of the proposed project, including but not limited to legal expenses, land and rights, engineering, construction, and contingencies, is approximately \$5,197,000.³ Western Pulaski District proposes to finance the \$5,197,000 cost of the project through a RD loan in the amount of \$4,472,000, and a RD Grant in the amount of \$725,000.⁴ Western Pulaski District has a commitment from RD to fulfill the loan through the purchase of \$4,472,000 of its Water System Revenue bonds maturing over a 40-year period, at an interest rate not to exceed 1.75 percent per annum.⁵ Western Pulaski District did not seek a revision to its rates in its application.

² Application, Exhibit A (Project Description and Necessity).

³ Application, Exhibit A.

⁴ Application, Exhibit A.

⁵ Application at 1–2.

DISCUSSIONS AND FINDINGS

The Commission does not find it necessary to review Western Pulaski District's financial condition in this case because Western Pulaski District has a pending rate case currently before the Commission.⁶ Western Pulaski District's last rate case was filed with the Commission in 2006.⁷ Western Pulaski District's most recent Annual Report for the year 2021 showed a negative net income of \$2,632, down from 2020's negative net income of \$10,357. In light of the year over year net loss, Western Pulaski District should, consider implementing a policy to review its rates for rate sufficiency at least on an annual basis, if not monthly. Additionally, the Commission recommends the utility implement a policy to file for a base rate case with the Commission every 3 to 5 years to ensure adequate rates to allow the utility to continue providing reasonable service to its ratepayers.

RD's Letter of Conditions includes a requirement that rates and charges for facilities and services rendered by Western Pulaski District "must be at least adequate to meet cost of maintaining, repairing and operating the water system and meeting required principal and interest payments and the required deposits to debt service and/or depreciation reserve."⁸

The Commission also notes that Western Pulaski District's unaccounted-for water loss has been over 15 percent for the last two years. Its unaccounted-for water loss in

⁶ Case No. 2021-00445, *Electronic Application of Western Pulaski County Water District for a Rate Adjustment Pursuant to 807 KAR 5:076 (Ky. PSC Dec. 7, 2021)*.

⁷ Case No. 2006-00370, *The Application of Western Pulaski County Water District for Approval of Increased Rates for Water Service (Ky. PSC Oct. 27, 2006)*.

⁸ Application, Exhibit B at 12.

2020 was 27.67 percent, while it was slightly reduced in 2021 to 25.55 percent.⁹ The Commission is concerned that Western Pulaski District is consistently in excess of the statutory maximum amount of water loss permitted. The Commission Staff's Report issued in Case No. 2021-0445 has recommended a \$1.75 surcharge be added to each customer's bill so that Western Pulaski District can create and implement a qualified infrastructure improvement plan to reduce the amount of its water loss.¹⁰ The proposed project of this CPCN will assist Western Pulaski District in reducing the amount of water loss, but the Commission reminds it to continue to implement all reasonable and available measures to reduce its unaccounted-for water loss amount to within the statutory limit of 15 percent.

Based upon the evidence of record, the Commission concludes that the KRS 278.023 legal standard to approve the proposed financing is met because Western Pulaski District is a water association formed by KRS Chapter 74 and the financing for the proposed project is being obtained through a federal agency, RD. Therefore, the Commission finds that the CPCN is granted, and the plan of financing is approved.

IT IS THEREFORE ORDERED that:

1. Western Pulaski District is granted a CPCN for the proposed project as submitted.
2. Western Pulaski District's proposed plan of financing is approved.

⁹ *Annual Report of Western Pulaski County Water District for the Year Ended December 31, 2021 at 30.*

¹⁰ Case No. 2021-00445, *Electronic Application of Western Pulaski County Water District for a Rate Adjustment Pursuant to 807 KAR 5:076 (Ky. PSC Apr. 26, 2022)*, Commission Staff's Report.

3. Western Pulaski District is authorized to issue \$4,472,000 of its Water System Revenue Bonds in the amount of \$4,472,000 maturing over 40 years at an interest rate not to exceed 1.75 percent per annum.

4. The proceeds for the issuance of the Water System Revenue Bonds shall be used only for the purposes specified in Western Pulaski District's application.

5. Western Pulaski District shall obtain approval from the Commission prior to performing any additional construction not expressly authorized by this Order.

6. Western Pulaski 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

7. Western Pulaski 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.

8. Western Pulaski 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.

9. Western Pulaski District shall notify the Commission in writing one week prior to the actual start of construction and at the 50 percent completion point.

10. Any documents filed in the future pursuant to ordering paragraphs 6, 7, and 9 of this Order shall reference this case number and shall be retained in the utility's post-case correspondence file.

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

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

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PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner



ATTEST:


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