

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF HARDIN)
COUNTY WATER DISTRICT #1 FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY AUTHORIZING THE)
CONSTRUCTION OF ADDITIONS AND)
IMPROVEMENTS TO ITS WATER SYSTEM,)
APPROVAL OF REVISED WATER SERVICE)
RATES AND CHARGES, AND AUTHORIZING)
THE ISSUANCE OF CERTAIN SECURITIES)
PURSUANT TO THE PROVISIONS OF KRS)
278.023 AND 807 KAR 5:069)

CASE NO.
2022-00337

ORDER

On October 12, 2022, Hardin County Water District #1 (Hardin District #1) filed an application, pursuant to KRS 278.023, requesting a Certificate of Public Convenience and Necessity (CPCN) to construct major additions and improvements to its water system, approval of proposed adjustment to water rates and charges, and authorization to issue certain securities. This matter now stands submitted for a decision by the Commission.

LEGAL STANDARD

Hardin District #1 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 RD and Hardin District #1 or defer the issuance of all necessary orders to implement the terms of that agreement.

KRS 278.023 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, United States Department of Agriculture or United States HUD.

BACKGROUND

Hardin District #1, is a water district organized under KRS Chapter 74, provides water service to approximately 10,702 customers in Hardin, Breckenridge, and Mead counties.¹

¹ *Annual Report of Hardin District #1 to the Public Service Commission (Annual Report) for the Calendar Year Ending December 31, 2021 (2021 Annual Report) at 12 and 49.*

The proposed project will consist of constructing additional filtration, a new Brizendine Booster Station, new safety handrails, and a new catwalk on clarifiers 1 and 2 at Pirtle Spring Water Treatment Plant, and the rehabilitating and upgrading the Gray Lane Raw Water Pump Station.²

The proposed cost of the project is approximately \$2,729,950. The project is finance through a \$995,000 RD loan, a \$1,000,000 American Rescue Plan Act Grant, and \$734,950 of the utility's cash reserves.³

RD's letter of conditions includes a requirement that rates and charges for facilities and services rendered by the Hardin District #1 "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."⁴ RD imposes minimum rate levels to meet these conditions, and Hardin District #1 will be required to increase rates by 41.2 percent.⁵ Under the proposed rates, the monthly bill of an average residential water customer who uses 3,800 gallons of water will increase from \$20.18 to \$28.50.

DISCUSSION AND FINDINGS

Hardin District #1 has not filed for a general rate review since 2006.⁶ The Commission recently noted that some utilities file applications to increase rates pursuant

² Application at 2.

³ Application at 2.

⁴ Application, Exhibit 1, paragraph 30.

⁵ Application, Exhibit 6 – 1, Public Notice.

⁶ Case No. 2006-00410, *The Application of Hardin County Water District No. 01 for a General Rate Adjustment Effective on and after December 2, 2006.*

to KRS 278.023 to intentionally avoid a review of its financial records.⁷ A key general recommendation that resulted from the investigation in Commission Case No. 2019-00041 was that water utilities should monitor the sufficiency of their base rates closely and, in general, apply for base rate adjustments on a more frequent basis.⁸ The Commission makes the same recommendation now to Hardin District #1. The Commission notes that Hardin District #1 has had positive total revenue over the last five years.⁹

Pursuant to 807 KAR 5:066, Section (6)3, water loss is limited to 15 percent for ratemaking purpose. The Commission notes that according to Hardin District #1's annual reports, water loss has been substantially lower than the 15 percent threshold and does not appear to be increasing.¹⁰

Based upon the evidence of record, the Commission finds that the CPCN should be granted, and the plan of financing approved because the proposed project will be undertaken by a water district and is financed in part under the terms of an agreement between a water association and RD, and thus meets the legal standards established in KRS 278.023.

IT IS THEREFORE ORDERED that:

1. Hardin District #1 is granted a CPCN for the proposed project as submitted.

⁷ Case No. 2019-00041, *Electronic Investigation into Excessive Water Loss by Kentucky's Jurisdictional Water Utilities* (Ky. PSC Nov. 22, 2019), final Order.

⁸ Case No. 2019-00041, Nov. 22, 2019 final Order.

⁹ 2021 Annual Report at 49, 2020 Annual Report at 49, 2019 Annual Report at 49, 2018 Annual Report at 49, and 2022 Annual Report District #1 at 49.

¹⁰ 2022 Annual Report at 57, 2021 Annual Report at 57, 2020 Annual Report at 57, 2019 Annual Report at 57, 2018 Annual Report at 57, and 2022 Annual Report at 56.

2. Hardin District #1's proposed plan of financing is approved.
3. Hardin District #1 shall obtain approval from the Commission prior to performing any additional construction not expressly authorized by this Order.
4. Notwithstanding ordering paragraph 3, if surplus funds remain after the approved construction has been completed, Hardin District #1 may use such surplus to construct additional plant facilities if RD approves of the use and the additional construction will not result in a change in Hardin District #1's rate for service. Hardin District #1 shall provide written notice of this additional construction in accordance with 807 KAR 5:069, section 4.
5. Hardin District #1 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.
6. Hardin District #1 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. Hardin District #1 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.

8. Any documents filed in the future pursuant to ordering paragraphs 3, 4, 5, 6, and 7 shall reference this case number and shall be retained in the post-case correspondence file.

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

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PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner



ATTEST:



Executive Director

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