

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF ROWAN	)	
WATER, INC. FOR A CERTIFICATE OF PUBLIC	)	
CONVENIENCE AND NECESSITY TO	)	
CONSTRUCT A SYSTEM IMPROVEMENTS	)	CASE NO.
PROJECT AND AN ORDER APPROVING A	)	2023-00046
CHANGE IN RATES AND AUTHORIZING THE	)	
ISSUANCE OF SECURITIES PURSUANT TO	)	
KRS 278.023	)	

ORDER

On February 22, 2023, Rowan Water, Inc. (Rowan Water) tendered an application, pursuant to KRS 278.023. The application was deemed deficient on February 23, 2023. Rowan Water remedied the deficiency, and the application was deemed filed on February 23, 2023. Rowan Water requested a Certificate of Public Convenience and Necessity (CPCN) for the installation of approximately 5,500 linear feet (LF) of 4-inch water main to replace an existing line that is currently in a slip area at the intersection of KY 1274 and KY 519, and an additional 3,000 LF of 10-inch Polyvinyl chloride (PVC) water main on US 60 to replace the existing water main on the discharge side of a new pump station. In addition, the project includes new pump stations on KY 32 and US 60. The KY 32 pump station will provide additional pressure along Christy Creek. Rowan Water also requested approval of the proposed plan for financing the project via a loan agreement and grant from the Kentucky Rural Utilities Service (RUS) and administered by the United States Department of Agriculture Rural Development (RD), and approval of proposed rate changes required by the agreement

with RUS/RD. No party has sought intervention in this matter. Rowan Water has responded to one data request.<sup>1</sup> This matter now stands submitted for a decision by the Commission.

### LEGAL STANDARD

Rowan Water has submitted its application pursuant to KRS 278.023. The Commission is required, pursuant to KRS 278.023(3), to accept agreements between water utilities and 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(3) does not grant the Commission any discretionary authority to modify or reject any portion of the agreement between the RD and Rowan Water or defer the issuance of all necessary orders to implement the terms of that agreement.

Pursuant to KRS 278.023, the Commission is denied 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.

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<sup>1</sup> Rowan Water's Response to Commission Staff's First Request for Information (Staff's First Request), (filed Mar. 1, 2023).

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 Department of Housing and Urban Development. The Commission is not, however, prohibited by KRS 278.023 from requiring a utility seeking approval of such an agreement to subsequently file reports or other information in order to monitor the utility's ability to repay the loan, meet other financial or regulatory obligations, or otherwise establish its financial condition.

#### BACKGROUND

Rowan Water is a non-profit water association organized under KRS Chapter 273. It proposed one project with several items: the installation of approximately 5,500 LF of 4-inch water main to replace an existing line; an additional 3,000 LF of 10-inch PVC water main on US; and two new pump stations on KY 32 and US 60.<sup>2</sup>

Rowan Water proposed to fund this project via the issuance of a \$1,120,000 promissory note, and a RUS grant in the amount of \$737,000 approved by RD.<sup>3</sup> The agreement with RUS/RD requires that Rowan Water charge rates at least adequate to meet the cost of maintaining, repairing, and operating the water system, meeting required principal and interest payments and the deposits to debt service, and depreciation reserve.<sup>4</sup> These rates exceed Rowan Water's current rates.<sup>5</sup> The new

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<sup>2</sup> Application, Exhibit A, Project Description.

<sup>3</sup> Application at 1-2, paragraph 5.

<sup>4</sup> Exhibit B, Section II, 5. Rates and Charges.

rates represent an increase of approximately 29 percent for residential and wholesale customers.<sup>6</sup>

Currently, the Commission has an open alternative rate adjustment proceeding that has been amended to include an investigation.<sup>7</sup> The Commission is concerned that Rowan Water is filing for a rate adjustment and simultaneously adding to its debt. The Commission is also frustrated with the timing of both filings and the lack of forthrightness and candor on the part of Rowan Water.

In the final Order in Case No. 2021-00042,<sup>8</sup> Rowan Water was ordered to file a rate case by April 19, 2022. Rowan Water did not file its rate case by the deadline, nor did it file a motion for an extension of time. Rowan Water has obviously anticipated filing the application in this proceeding for an extended period, as the “2021 Water System Improvements, Water Main Pump Stations, Contract Documents and Specifications for Rowan Water, Inc.” document created by Bluegrass Engineering, PLLC submitted with the application are dated February 14, 2022. Knowing that it would be taking on additional debt and that RUS/RD would require a rate increase to cover the additional debt service, Rowan Water could have stated this in a motion and requested an extension of time in which to file the rate case ordered in Case No. 2021-

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<sup>5</sup> Application, Exhibit E.

<sup>6</sup> Application, Exhibit E.

<sup>7</sup> Case No. 2022-00252 *Electronic Application of Rowan Water, Inc. for an Alternative Rate Adjustment and an Investigation into Rowan Water, Inc. and Its Individual Directors, Larry Johnson, Danny Stevens, Danny Cox, Mike Collins, Enoch Blair, and Its Manager, Jerry Patrick, for Allegedly Failing to Comply With KRS 278.300 and a Commission Order* (Ky. PSC Feb. 16, 2023).

<sup>8</sup> Case No. 2021-00042 *Electronic Application of Rowan Water, Inc. to Issue Securities in the Approximate Principal Amount of \$2,450,000 for the Purpose of Refunding Certain Outstanding Indebtedness of the Association Pursuant to the Provisions of KRS 278.300 and 807 KAR 5:001*. (Ky. PSC Apr. 19, 2021.)

00042. The Commission would then have had the opportunity to evaluate the continued need for a rate case and the most appropriate timing for one.

### DISCUSSION AND FINDINGS

Having considered the application and all evidence in the record, the Commission finds that the application should be approved pursuant to KRS 278.023. Rowan Water is a non-profit water association organized under KRS Chapter 273, and the approvals sought are authorized or required by the RD agreement. Given the ongoing investigation in Case No. 2022-00252, the Commission anticipates that Commission Staff will propound additional requests for information regarding the finances and operations of Rowan Water.

The Commission finds that Rowan Water should respond to all requests for information propounded by Commission Staff in Case No. 2022-00252 according to the date set forth on those requests.

IT IS THEREFORE ORDERED that:

1. Rowan Water is granted a CPCN for the proposed project as submitted.
2. Rowan Water's proposed plan of financing is approved.
3. Rowan Water is authorized to execute the RD loan as provided.
4. Rowan Water shall charge rates, set forth in the Appendix attached hereto, not to exceed the minimum rates required by the RD agreement but not less than its current rates.
5. Rowan Water shall file a revised tariff sheet adopting the rates set forth in the Appendix attached hereto within 30 days of issuance of this Order.

6. The proceeds of the loan shall be used only for the purposes specified in Rowan Water's application.

7. Rowan Water shall obtain approval from the Commission prior to performing any additional construction not expressly authorized by this Order.

8. Rowan Water 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.

9. Rowan Water 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.

10. Rowan Water 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.

11. Rowan Water shall notify the Commission in writing one week prior to the actual start of construction and at the 50 percent completion point.

12. Any documents filed by Rowan Water in the future pursuant to this Order shall reference this case number and shall be retained in the post-case correspondence file for this proceeding.

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

14. The Commission's approval of the CPCN and rates is conditioned upon execution of all required loan documents.

15. Rowan Water shall respond to requests for information propounded by Commission Staff in Case No. 2020-00252 by the date set forth on those requests.

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

PUBLIC SERVICE COMMISSION

  
\_\_\_\_\_  
Chairman

  
\_\_\_\_\_  
Vice Chairman

  
\_\_\_\_\_  
Commissioner

ENTERED  
MAR 23 2023  
rcs  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
\_\_\_\_\_  
Executive Director



APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2023-00046 DATED MAR 23 2023

The following rates and charges are prescribed for the customers in the area served by Rowan Water, Inc. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under the authority of the Commission prior to the effective date of this Order.

Monthly Water Rates

5/8 x 3/4" Inch Meter

First	2,000 Gallons	\$	25.05 Minimum Bill
Next	3,000 Gallons		0.01054 Per Gallon
Next	10,000 Gallons		0.00983 Per Gallon
Next	10,000 Gallons		0.00961 Per Gallon
Next	10,000 Gallons		0.00912 Per Gallon
Next	15,000 Gallons		0.00869 Per Gallon
All Over	50,000 Gallons		0.00841 Per Gallon

3/4-Inch Meter

First	4,000 Gallons	\$	47.27 Minimum Bill
Next	1,000 Gallons		0.01054 Per Gallon
Next	10,000 Gallons		0.00983 Per Gallon
Next	10,000 Gallons		0.00961 Per Gallon
Next	10,000 Gallons		0.00912 Per Gallon
Next	15,000 Gallons		0.00869 Per Gallon
All Over	50,000 Gallons		0.00841 Per Gallon

1-Inch Meter

First	5,000 Gallons	\$	57.79 Minimum Bill
Next	10,000 Gallons		0.00983 Per Gallon
Next	10,000 Gallons		0.00961 Per Gallon
Next	10,000 Gallons		0.00912 Per Gallon
Next	15,000 Gallons		0.00869 Per Gallon
All Over	50,000 Gallons		0.00841 Per Gallon

1-1/2-Inch Meter

First	15,000 Gallons	\$	156.06 Minimum Bill
Next	10,000 Gallons		0.00961 Per Gallon
Next	10,000 Gallons		0.00912 Per Gallon
Next	15,000 Gallons		0.00869 Per Gallon
All Over	50,000 Gallons		0.00841 Per Gallon

2-Inch Meter

First	25,000 Gallons	\$	252.20 Minimum Bill
Next	10,000 Gallons		0.00912 Per Gallon
Next	15,000 Gallons		0.00869 Per Gallon
Over	50,000 Gallons		0.00841 Per Gallon

Wholesale Rate

Fleming County Water Association	\$	0.00273 Per Gallon
City of Olive Hill		0.00273 Per Gallon

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