

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF NORTHERN)	
KENTUCKY WATER DISTRICT FOR A)	
CERTIFICATE OF PUBLIC CONVENIENCE AND)	CASE NO.
NECESSITY AND APPROVAL OF FINANCING)	2023-00132
FOR TAYLOR MILL TREATMENT PLANT)	
EMERGENCY GENERATOR)	

ORDER

On April 26, 2023, Northern Kentucky Water District (Northern Kentucky District) filed an application pursuant to KRS 278.020 and 807 KAR 5:001, Section 15, for a Certificate of Public Convenience and Necessity (CPCN) to construct an emergency generator at Northern Kentucky District’s Taylor Mill Treatment Plant. The application also sought approval for financing of this project pursuant KRS 278.300.

On May 18, 2023, the Commission entered an Order pursuant to KRS 278.300, finding good cause to extend the application beyond 60 days to continue its investigation and review of the application. No party requested intervention in this proceeding. Northern Kentucky District responded to one request for information from Commission Staff (Staff’s First Request). On June 5, 2023, Northern Kentucky District filed a motion for a decision on the record and a waiver of hearing. This matter stands submitted for a decision based on the written record.

BACKGROUND

Northern Kentucky District, a water district organized under KRS Chapter 74, provides retail water service to approximately 85,838 customers in Kenton, Boone, and

Campbell counties, Kentucky.¹ Northern Kentucky District sells water wholesale to the following nonaffiliated water distribution systems--Bullock Pen Water District, Pendleton County Water District, and to the city of Walton.²

LEGAL STANDARD

The Commission's standard of review regarding a CPCN is well settled. Under KRS 278.020(1), 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. To obtain a CPCN, the utility must demonstrate a need for such facilities and an absence of wasteful duplication.³

"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 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.⁴

"Wasteful duplication" is defined as "an excess of capacity over need" and "an excessive investment in relation to productivity or efficiency, and an unnecessary

¹ *Annual Report of Northern Kentucky Water District to the Kentucky Public Service Commission for the Year Ended December 31, 2021* at 18 and 56.

² *Annual Report of Northern Kentucky Water District to the Kentucky Public Service Commission for the Year Ended December 31, 2021* at 63.

³ *Kentucky Utilities Co. v. Pub. Serv. Comm'n*, 252 S.W.2d 885 (Ky. 1952)

⁴ *Kentucky Utilities Co.*, 252 S.W.2d 885, 890.

multiplicity of physical properties.”⁵ 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.⁶ Selection of a proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication.⁷ All relevant factors must be balanced.⁸

Regarding the financing approval request, KRS 278.300(3) requires “that the issue or assumption [of debt] is for some lawful object within the corporate purposes of the utility, is necessary or appropriate for or consistent with the proper performance by the utility of its service to the public and will not impair its ability to perform that service and is reasonably necessary and appropriate for such purpose.”

PROPOSED PROJECT

The Taylor Mill Treatment Plant Emergency Generator project will include the installation of a new 7.5 MVA, 69 kV x 2,400 V substation; a 2,000 kW, 2,400 V standby diesel generator; a 2,400 V switchgear in a walk-in enclosure; a 500 kVA, 2,400 V x 480/277 V pad-mounted transformer; and associated structures, cabling, terminations, etc.⁹ In its application, Northern Kentucky District explained that the Taylor Mill Treatment

⁵ *Kentucky Utilities Co.*, 252 S.W.2d 885, 890.

⁶ Case No. 2005-00142, *Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for the Construction of Transmission Facilities in Jefferson, Bullitt, Meade, and Hardin Counties, Kentucky* (Ky. PSC Sept. 8, 2005).

⁷ See *Kentucky Utilities Co. v. Pub. Serv. Comm’n*, 390 S.W.2d 168, 175 (Ky. 1965). See also Case No. 2005-00089, *The Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity to Construct a 138 kV Electric Transmission Line in Rowan County, Kentucky* (Ky. PSC Aug. 19, 2005).

⁸ Case No. 2005-00089, Aug. 19, 2005, final Order at 6.

⁹ Application, Exhibit A.

Plant was built in the early 1950s and can treat up to 10 million gallons of water per day.¹⁰ The plant also houses a critical pump station, which transmits water from both the Fort Thomas and Taylor Mill Treatment Plants to about 60 percent of Kenton County, Kentucky.¹¹ The pump station and most of the plant are fed from a Duke Energy transmission line.¹² In the event of extended power outage or a substation or transformer failure, Northern Kentucky District claimed it would lose the ability to supply water to a majority of its Kenton County customers.¹³

Northern Kentucky District stated the generator to be installed will be capable of powering the existing plant and one of the larger pumps or two of the smaller pumps, and the standby power system can be expanded in the future to run more pumps and supply backup power to an advanced treatment facility if these improvements materialize.¹⁴ Pending Commission approval, this project is scheduled to begin construction in August 2023 and will be completed in September 2025.¹⁵ Northern Kentucky District has received approvals from the Kentucky Division of Water for the Plans and Specifications and funding.¹⁶

¹⁰ Application, Exhibit A.

¹¹ Application, Exhibit A.

¹² Application, Exhibit A.

¹³ Application, Exhibit A.

¹⁴ Application, Exhibit A.

¹⁵ Application at 2.

¹⁶ Application at 2.

The total cost of the proposed project is \$7,850,000.¹⁷ Northern Kentucky District requested approval to use a total of \$4,065,000 remaining from an \$8,000,000 KIA State Revolving Fund Loan F20-044 that was approved by the Commission in Case No. 2022-00319¹⁸ to partially finance the project.¹⁹ The KIA loan will mature over a 20-year term, at an interest rate of 1.50 percent and an additional loan servicing fee of 0.25 percent.²⁰ Northern Kentucky District proposed to finance the remaining \$3,785,000 through a \$1,000,000 Cleaner Water Program Grant 21CWW105, and a future Bond Anticipation Note (BAN).²¹ Northern Kentucky District stated that, although the project costs are more expensive due to the additional SRF Loan requirements, it expects to see overall savings as current market interest rates are significantly higher than the SRF Loan interest rate.²²

Northern Kentucky District does not propose to increase its water service rates to its customers as a result of the proposed project.²³

DISCUSSION AND FINDINGS

Having reviewed the evidence of record and being otherwise sufficiently advised, the Commission finds that the proposed construction will not result in wasteful duplication of existing facilities. The proposed construction does not conflict with any existing certificates or services of any other utility operating in the area. The Commission further

¹⁷ Application at 4.

¹⁸ Case No. 2022-00319, *Electronic Application of Northern Kentucky Water District for Approval to Issue Evidence of Indebtedness* (Ky. PSC Nov. 7, 2022).

¹⁹ Application at 3–4.

²⁰ Application at 4.

²¹ Application at 3–4.

²² Application at 4.

²³ Application at 3.

finds public convenience and necessity require the proposed construction, due to the age of the Taylor Mill Treatment Plant, the amount of water that is supplied from the plant, and to ensure Northern Kentucky District's supply of water from the plant to its customers in Kenton County in the event of a potential extended power outage or a substation or transformer failure. The Kentucky Department of Water has approved the plans and specifications for this proposed project.

Regarding alternatives considered for this project, Northern Kentucky District stated that during the development of its Asset Management Plan, updated in 2011,²⁴ it had originally planned to add Granular Activated Carbon (GAC) treatment at its Taylor Mill Plant, including two 2,500 kW back-up power generators to power the existing and proposed treatment facilities in addition to 36 MGD of pumping capacity.²⁵ Northern Kentucky District later determined it would postpone implementation of GAC treatment at the Taylor Mill Treatment Plant and, as a result, reduced its generator need down to one 2,000 kW generator.²⁶ The single generator currently proposed is sized to run the existing treatment facilities in addition to 20 MGD of pumping capacity (average daily pumping capacity at this location during a maximum month condition is 18 MGD).²⁷ Northern Kentucky District asserted that if it decides to add GAC treatment at the Taylor Mill Treatment Plant at some point in the future or pumping needs increase, approval for a

²⁴ Application, Exhibit A-3.

²⁵ Northern Kentucky District's Response to Staff's First Request (filed May 26, 2023) (Response to Staff's First Request), Item 1.

²⁶ Response to Staff's First Request, Item 1.

²⁷ Response to Staff's First Request, Item 1.

second generator will be sought from the Commission.²⁸ Otherwise, Northern Kentucky District states no other viable alternatives are available regarding this project.²⁹

Northern Kentucky District further states that it would cost an estimated \$1,370,000 based on the engineer's estimate for the second generator and its operational and maintenance costs would increase \$23,500 per year for the additional generator.³⁰ Northern Kentucky District argued no savings or differences in useful lives of the equipment would be obtained by having the second generator at this time.³¹

For the reasons discussed above, the Commission finds that the project as described in Northern Kentucky District's CPCN application satisfies the legal standard for approval by the Commission. The project reflects need and a lack of wasteful duplication, as Northern Kentucky District has chosen the most cost-effective alternative plan for this only viable solution regarding the need for backup generation. However, in order to protect customers from unforeseen costs, any material deviation from the construction approved by this Order shall be undertaken only with the prior approval of the Commission.

Additionally, the Commission finds the proposed financing for the project is for lawful objects within the corporate purposes of Northern Kentucky District; is necessary and appropriate for and consistent with the proper performance by the utility of its service to the public; will not impair its ability to perform that service; is reasonable, necessary,

²⁸ Response to Staff's First Request, Item 1.

²⁹ Response to Staff's First Request, Item 1.

³⁰ Response to Staff's First Request, Item 3.

³¹ Response to Staff's First Request, Item 3.

and appropriate for such purposes; and should be approved. The project will be funded by \$4,065,000 from an \$8,000,000 State SRF Loan from the KIA, and the remaining amount from a \$1,000,000 Cleaner Water Program Grant 21CWW105, and a future BAN. Northern Kentucky District's Application does not include a proposal to adjust rates. Northern Kentucky District satisfied the legal standard for Commission approval of the financing. Northern Kentucky District's lawful purpose is to provide safe, adequate, and reliable service to the public. The financing will enable Northern Kentucky District to construct the proposed project, which, as discussed above, is necessary to provide water service to the public consistent with Northern Kentucky District's lawful purpose.

IT IS THEREFORE ORDERED that:

1. Northern Kentucky District is granted a CPCN to construct the proposed project as set forth in the application.
2. Northern Kentucky District's proposed plan of financing is approved.
3. Northern Kentucky District is authorized to use the remaining \$4,065,000 of KIA Loan F20-044, and, under the terms of that Agreement, said amount is to be repaid over 20 years at an interest rate of 1.50 percent and an additional loan servicing fee of 0.25 percent.
4. The remaining proceeds from KIA Loan F20-044 shall be used only for the purposes specified in Northern Kentucky District's application.
5. Northern Kentucky District shall obtain approval from the Commission prior to performing any additional construction not expressly approved by this Order.
6. Northern Kentucky District shall require construction to be inspected under general supervision of a licensed 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 best practices of the construction trades involved in the project.

7. Northern Kentucky District shall file with the Commission documentation of the total cost of the project within 60 days of the date that construction authorized under this CPCN 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. Northern Kentucky District shall file a copy of the as-built drawings and a certified statement that the construction has been satisfactorily completed in accordance with the contract plans and specifications within 60 days of the substantial completion of the construction authorized under this CPCN.

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

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

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.

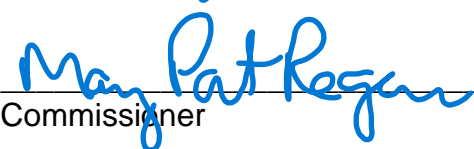
PUBLIC SERVICE COMMISSION



Chairman



Vice Chairman



Commissioner

ENTERED
JUN 21 2023 bsb
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



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