

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF THE ALLEN)	
COUNTY WATER DISTRICT FOR A)	
CERTIFICATE OF PUBLIC CONVENIENCE AND)	
NECESSITY TO CONSTRUCT A SYSTEM)	CASE NO.
IMPROVEMENTS PROJECT AND AN ORDER)	2024-00118
AUTHORIZING THE ISSUANCE OF SECURITIES)	
PURSUANT TO THE PROVISIONS OF KRS)	
278.300)	

ORDER

This matter arises from Allen County Water District’s (Allen District) application filed on May 13, 2024, for a Certificate of Public Convenience and Necessity (CPCN) and financing approval for the purpose of replacing an existing undersized 179,000-gallon glass lined water standpipe that has significant corrosion with a 300,000-gallon water tower (elevated tank). The financing for which Allen District has requested approval is intended to fund the CPCN project. Hence, the financing approval is dependent on Allen District obtaining a CPCN for that project.

No party has sought intervention in this matter. On June 20, 2024, the Commission issued a procedural schedule and found good cause to extend the 60-day statutory deadline to issue an Order on the application for financing. Allen District responded to two Requests for Information.¹ The matter stands ready for decision.

¹ Allen District’s Response to Commission Staff’s First Request for Information (Staff’s First Request) (filed July 12, 2024); Allen District’s Response to Commission Staff’s Second Request for Information (Staff’s Second Request) (filed Aug. 7, 2024).

BACKGROUND

Allen District, a water district organized under KRS Chapter 74, provides retail water service to approximately 5,807 residential, 451 commercial, five industrial customers and one public authority in Allen County, Kentucky.² Allen District purchases its water from the city of Scottsville (Scottsville) and the city of Glasgow (Glasgow).³

WATER LOSS

Pursuant to 807 KAR 5:066, Section 6(3), water loss is limited to 15 percent for rate-making purposes. The Commission notes that Allen District reported a water loss of 19.6108 percent in its 2023 Annual Report.⁴ At 19.6108 percent water loss, the annual cost of water loss above 15 percent is \$41,007, and the yearly total cost of water loss to Bracken District is \$174,413, as shown in the following table.

Description	Purchased Water	Purchased Power	Total
Pro Forma Expenses	\$ 817,674	\$ 71,700	\$ 71,700
Water Loss Percent	19.6108%	19.6108%	19.6108%
Total Water Loss	<u>\$ 160,352</u>	<u>\$ 14,061</u>	<u>\$ 174,413</u>

Description	Purchased Water	Purchased Power	Total
Pro Forma Expenses	\$ 817,674	\$ 71,700	\$ 71,700
Water Loss in Excess of 15%	4.6108%	4.6108%	4.6108%
Disallowed Water Loss	<u>\$ 37,701</u>	<u>\$ 3,306</u>	<u>\$ 41,007</u>

² *Annual Report of Allen County Water District for the year ended December 31, 2023* (2023 Annual Report) (filed May 30, 2024) at 12, 49.

³ 2023 Annual Report at 54.

⁴ 2023 Annual Report at 58.

PROPOSED PROJECT

Allen District's proposed project is to replace an existing glass lined standpipe with a new 300,000 gallon elevated storage tank. The lowest bid for the construction project was an estimated total cost of \$1,694,000 and the total available funding for the proposed construction project is \$1,404,250.⁵ Allen District intends to finance \$1,404,250 of the construction project with a \$700,000 loan with Kentucky Infrastructure Authority (KIA), \$600,000 in Kentucky Cleaner Water Program grant funds, and \$104,250 of its own funds.⁶ The KIA loan will mature over a 20-year term, and with 1.25 percent interest rate per annum.⁷

LEGAL STANDARD

The Commission's standard of review for a request for a CPCN is well settled. 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 except as provided in KRS 278.020(1) and (2) and 807 KAR 5:001, Section 15(3), which are provisions not applicable to this matter. To obtain a CPCN, a utility must demonstrate a need for such facilities and an absence of wasteful duplication.⁸ "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

⁵ Application, Exhibit K.

⁶ Application, Exhibit K.

⁷ Application, Exhibit C at 3.

⁸ *Kentucky Utilities Co. v. Public Service Comm'n*, 252 S.W.2d 885 (Ky. 1952).

disregard of the rights of consumers, persisting over such a period of time as to establish an inability or unwillingness to render adequate service.⁹

“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.”¹⁰ 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.¹¹ Selection of a proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication.¹² All relevant factors must be balanced.¹³

KRS 278.300 requires Commission authorization before a utility may “issue any securities or evidence of indebtedness, or assume any obligation or liability in respect to the securities or evidence of indebtedness of any other person.”¹⁴

KRS 278.300(3) establishes the legal standard and clarifies the scope of Commission review, stating:

The Commission shall not approve any issue or assumption unless, after investigation of the purposes and uses of the proposed issue and proceeds thereof, or of the proposed assumption of obligation or liability, the commission finds that

⁹ *Kentucky Utilities Co. v. Public Service Comm’n*, 252 S.W.2d 885, 890 (Ky. 1952).

¹⁰ *Kentucky Utilities Co. v. Public Service Comm’n*, 252 S.W.2d 885, 890 (Ky. 1952).

¹¹ 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).

¹² See *Kentucky Utilities Co. v. Public Service 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.

¹³ Case No. 2005-00089 Aug. 19, 2005 final Order at 6.

¹⁴ KRS 278.300(1).

the issue or assumption 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.

DISCUSSION AND FINDINGS

Having considered the record, the Commission finds that the requested CPCN should be granted, and the proposed financing should be approved as discussed below.

Allen District stated that the proposed construction was necessary because the current glass lined standpipe has significant corrosion and was cycling excessively.¹⁵ According to Allen District, the utility has already spent approximately \$70,000 to repair its current standpipe and the rehabilitation coating was already showing signs of premature failure.¹⁶ Allen District also stated that the current tank is undersized for the customer base.¹⁷ The proposed 300,000 gallon elevated water storage tank will provide adequate pressure once the fill pipe is full at the bottom of the storage bowl and the proposed tank's increased volume is adequate to serve current consumption and conservative consumption growth projections for the area.¹⁸

As such, the Commission finds that the proposed construction is needed and will not result in wasteful duplication of services or facilities considering Allen District's current water standpipe is undersized and showing signs of premature failure. The proposed construction does not conflict with any existing certificates or the service of any other

¹⁵ Application, Exhibit A.

¹⁶ Allen District's response to Staff's First Request, Item 3(a).

¹⁷ Allen District's response to Staff's First Request, Item 3(b).

¹⁸ Allen District's response to Staff's First Request, Item 3(b).

utility operating in the area. The proposed tank will allow Allen District to continue to comply with Kentucky Division of Water requirements and provide adequate, efficient and reasonable service for its customers. Additionally, the Kentucky Division of Water has approved the project.¹⁹

Additionally, the Commission finds the proposed KIA loan is for lawful objects within the corporate purposes of Allen 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, and appropriate for such purposes; and should be approved.

Allen District's lawful purpose is to provide safe, adequate, and reliable service to the public. The financing will enable Allen District to construct the proposed project, which, as discussed above, is necessary to provide water service to the public consistent with Allen District's lawful purpose. Within ten days of the execution of the KIA loan documents as well as the Kentucky Cleaner Water Program documents, Allen District should file with the Commission an electronic version of the loan documents. The Commission directs Allen District to the Commission's July 22, 2021, Order in Case No. 2020-00085²⁰ regarding filings with the Commission. The proceeds from the proposed loan should be used only for the lawful purposes set out in Allen District's application.

¹⁹ Application, Exhibit B.

²⁰ 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).

The terms and conditions of the new KIA loan should be consistent with loan documents as described in Allen District's application.

Additionally, in reviewing this application, the Commission reviewed Allen District's submitted financial information.²¹ Based on this application, the associated financing and the audited financial information on file, the Commission finds that Allen District should submit an application for a rate adjustment pursuant to 807 KAR 5:076, or general rate adjustment pursuant to 807 KAR 5:001, Section 16, based on a 2024 test year, or in the alternative, file a formal motion with a detailed analysis of its rates and revenues explaining the reasons why no modifications are necessary, on or before July 31, 2025. The Commission notes that Allen District's operating performance has degraded significantly since its last rate adjustment in 2021,²² and the Commission further recommends that Allen District monitor its operating performance annually and consider filing future cases every three to five years thereafter depending on inflation and other changes in operating conditions.

IT IS THEREFORE ORDERED that:

1. Allen District is granted a CPCN for the proposed project as submitted.
2. Allen District's proposed plan of financing as submitted is approved.
3. Allen District is authorized to execute the loan agreement with KIA and, under the terms of that Agreement, to borrow from KIA an amount not to exceed \$700,000, said amount to be repaid over 20 years with interest rate of 1.25 percent per annum.

²¹ The Commission reviewed the audits on file for the years 2018 through 2022.

²² Case No. 2020-00296, *Electronic Application of Allen County Water District for an Alternative Rate Adjustment* (Ky. PSC Feb. 3, 2021).

4. The proceeds from the loan agreement shall be used only for the purposes specified in Allen District's application.

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

6. Allen 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. Allen 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. Allen 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. Allen District shall notify the Commission in writing one week before the actual start of construction and at the 50 percent completion point.

10. Allen District shall notify the Commission if any additional financing is required for this project or there is a material change to the cost.

11. Within ten days of the execution of the KIA loan documents as well as the Kentucky Cleaner Water Program documents, Allen District shall file with the Commission an electronic version of the loan and grant documents.

12. Any documents filed in the future pursuant to ordering paragraphs 6, 7, 9, 10 and 11 of this Order shall reference this case number and shall be retained in the utility's post-case correspondence file.

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

14. Allen District shall apply for a general rate adjustment pursuant to 807 KAR 5:001, Section 16, or an application for an alternative rate adjustment pursuant to 807 KAR 5:076, based on a 2024 test year, or in the alternative, file a formal motion with a detailed analysis of its rates and revenues explaining why no modifications are necessary, on or before July 31, 2025.

15. 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.

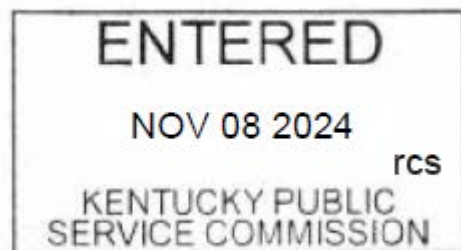
16. This case is closed and removed from the Commission's docket.

PUBLIC SERVICE COMMISSION

Chairman

Commissioner

Commissioner



ATTEST:

Executive Director

*Allen County Water District
330 New Gallatin Road
Scottsville, KY 42164

*Wayne Jackson
Chairman
Allen County Water District
330 New Gallatin Road
Scottsville, KY 42164

*Adam Nunn
Allen County Water District
330 New Gallatin Road
Scottsville, KY 42164

*Matthew R. Curtis, P.E.
Bluegrass Engineering, PLLC
222 East Main Street
Suite 1
Georgetown, KENTUCKY 40324

*Honorable W. Randall Jones
Attorney at Law
Rubin & Hays
Kentucky Home Trust Building
450 South Third Street
Louisville, KENTUCKY 40202