

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 FOR THE CONSTRUCTION OF SUB)	2024-00304
DISTRICT HB WATER MAIN EXTENSIONS,)	
FINANCING AND SURCHARGE)	

ORDER

On October 1, 2024, Northern Kentucky Water District (Northern Kentucky District) filed an application, pursuant to KRS 278.020 and KRS 278.300, requesting approval of a Certificate of Public Convenience and Necessity (CPCN) and financing for the construction of a water main extension and for the formation of Sub District HB in unincorporated areas of Campbell County.¹ Northern Kentucky stated the Sub District HB surcharge portion of the project will be advanced by Northern Kentucky District and collected as a \$30 monthly surcharge from customers in Sub District HB over 25 years.² Northern Kentucky District stated it would fund the project using Cleaner Water Program (CPW) grant funds, anticipated funds from KIA Cleaner Water Grant Increase Request, Campbell County Fiscal Court Contributions and Northern Kentucky District contributions.³ No party requested intervention in this proceeding. The matter stands submitted for decision by the Commission.

¹ Application at 1–2.

² Application at 7.

³ Application at 6–7.

BACKGROUND

Northern Kentucky District is a water district organized under KRS Chapter 74⁴ that provides retail water services to approximately 87,105 customers⁵ in Kenton, Boone and Campbell counties and sells water at wholesale to non-affiliated water distribution systems in Kenton, Boone, Pendleton and Campbell counties, Kentucky.⁶ As of December 31, 2023, Northern Kentucky District's plant in service was \$539,897,722 and its accumulated depreciation was \$215,075,853.⁷

Sub District HB Water Main Extension

Northern Kentucky District requested a CPCN for the construction of Sub District HB water main extension.⁸ Northern Kentucky District stated that the areas included in Sub District HB are rural and remote from existing water distribution facilities with no access to potable water other than cisterns and wells.⁹ Northern Kentucky District stated that the proposed construction consists of 35,135 LF of water main extensions, consisting of 8" ductile iron and PVC water main.¹⁰ Northern Kentucky District stated that the project will extend water mains to make public water available to 91 residences in rural areas

⁴ Application at 1.

⁵ *Annual Report of Western Mason County Water District to the Public Service Commission for the Year Ending December 31, 2023* at 53.

⁶ Application at 2.

⁷ *Annual Report of Northern Kentucky Water District to the Public Service Commission for the Year Ending December 31, 2023* at 27-28.

⁸ Application at 2.

⁹ Application at 4.

¹⁰ Application, Exhibit A at A-1.

that currently have no access to public water supply.¹¹ Additionally, Northern Kentucky District submitted a “Street Density Table” used to determine where the highest number of households per mile can be feasibly served and where interest levels are highest to the number of customers served along each extension to maximize the cost per mile.¹²

Northern Kentucky District retained Cardinal Engineering Corporation (Cardinal Engineering) to draft an engineering report¹³ and solicited bids for the water main extensions.¹⁴ Four contractors tendered bids¹⁵ and upon reviewing the submitted bids, Cardinal Engineering determined that Jack Gemmer & Sons, Inc. was qualified to perform the work, due to past experience, and recommended its bid of \$5,454,350 be accepted.¹⁶ Meeting minutes reflect that on September 19, 2024, the Northern Kentucky Water District Board of Commissioners unanimously accepted the bid of \$5,454,350 for the Sub-District HB Water Main Extension project and awarded a contract to Jack Gemmer & Sons Inc. with a total project budget of \$6,400,000.¹⁷

The proposed water main extensions making up Sub District HB consist of all or portions of Blangey Road, Enzweiler Road, Gunkel Road, Oneonta Road, Upper Lick Branch Road, Poplar Thicket Road, Pond Creek Road, and Rifle Range Road all located

¹¹ Application at 4.

¹² Application, Exhibit I.

¹³ Application at Exhibit A.

¹⁴ Application, Exhibit C at C-1.

¹⁵ Application, Exhibit C at C-1.

¹⁶ Application, Exhibit C at C-2.

¹⁷ Application, Exhibit C at C-3.

in Campbell County, Kentucky.¹⁸ The areas selected for the water main extension were chosen based on population density and interest level.¹⁹ All the areas included in the project have similar characteristics of rural location, sparse population density, lack of potable water supply, inability to connect to a water distribution system without these extensions.²⁰ Northern Kentucky District stated that this is the same methodology that it has used for other sub districts in the past.²¹ Northern Kentucky District proposed a surcharge of \$30 per customer within the sub district for 25 years.²² There are 91 households in the project area and Northern Kentucky District stated 45 of those households have already submitted applications and tap fees for Sub District HB.²³

Financing

Northern Kentucky District stated the total capital costs for the project is \$6,400,000, which includes construction cost, engineering, materials, and contingencies.²⁴ Northern Kentucky District proposed to fund the project using \$1,000,000 Cleaner Water Program (CWP) grant funds appropriated by the Kentucky Legislature in 2021 – Senate Bill 36, \$2,600,000 in CWP grant funds appropriated by the Kentucky Legislature in 2022 – House Bill 1, \$360,000 in anticipated funds from KIA Cleaner Water Grant Increase Request (up to 10 percent of original grant amount),

¹⁸ Application at 4–5.

¹⁹ Application at 5.

²⁰ Application at 5.

²¹ Application at 2.

²² Application at 7.

²³ Application at 7.

²⁴ Application, Exhibit D.

\$1,300,000 in Campbell County ARPA funds, \$1,140,000 in cash from Northern Kentucky District funded as part of the District’s Five-Year Capital Budget, PSC No. 290 “Campbell County Sub-District HB,” which includes a customer contribution of \$405,000.²⁵ Northern Kentucky District stated that the customer contribution will be paid back through a maximum monthly surcharge of \$30 on the customer’s water bill over 25 years. Northern Kentucky District stated that the return on the advancement over 25 years assumes that 45 of the 91 potential customers will sign up for service and 45 property owners have already submitted applications and tap fees.²⁶ Northern Kentucky District stated that it is not seeking any additional rate adjustment as part of the application.²⁷

LEGAL STANDARD

The Commission’s standard of review regarding 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 the Commission.²⁸ To obtain a CPCN, the utility must demonstrate a need for such facilities and an absence of wasteful duplication.²⁹

“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

²⁵ Application, Exhibit D.

²⁶ Application at 7.

²⁷ Application at 6.

²⁸ KRS 278.020(1). Although the statute exempts certain types of projects from the requirement to obtain a CPCN, the exemptions are not applicable.

²⁹ *Kentucky Utilities Co. v. Public Service Com’n*, 252 S.W.2d 885,890 (Ky. App. 1952).

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.³⁰

“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.”³¹ To demonstrate that a proposed facility does not result in wasteful duplication, the Commission has held that the applicant must demonstrate that a thorough review of all reasonable alternatives has been performed.³² Although cost is a factor, selection of a proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication.³³ All relevant factors must be balanced.³⁴

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.”³⁵ KRS 278.300 only applies to notes that have a term of more than two years.³⁶

³⁰ *Kentucky Utilities Co.*, 252 S.W.2d at 890.

³¹ *Kentucky Utilities Co.*, 252 S.W.2d 885, 890.

³² 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), Order at 11

³³ See *Kentucky Utilities Co. v. Pub. Serv. 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), Order at 6.

³⁴ Case No. 2005-00089, Aug. 19, 2005 Order at 6.

³⁵ KRS 278.300(1).

³⁶ KRS 278.300(8).

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 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.

Commission regulation 807 KAR 5:066 Section 11(4) permits a utility to make water main extensions under different arrangements than what is specifically specified in the regulation so long as the Commission gives prior approval.

DISCUSSION AND FINDINGS

Having considered the application and all evidence in the record, the Commission finds that the CPCN should be granted. As noted above, approximately 91 households are without access to potable water distribution in Campbell County and 45 of those households have already submitted applications and tap fees. Therefore, the Commission finds that Northern Kentucky District has demonstrated a need for the water line extension and creation of Sub District HB to provide water to households without access to potable water distribution. Additionally, the Commission finds that Northern Kentucky has established the lack of wasteful duplication by identifying up to 91 households without potable water distribution, soliciting bids for the project, conducting a street density analysis and submitted an engineering report demonstrating that the system can reasonably meet the hydraulic and flushing velocity needs of the proposed development.

Further, the Commission finds that the creation of Sub District HB is appropriate to provide water extensions to households without access to potable water and grants the creation of Sub District HB and surcharge pursuant to 807 KAR 5:066 Section 11(4).³⁷

The Commission finds that approval of financing is not required at this time as the construction project will be financed through grant funding, cash reserves, and the surcharge to be applied to the new customers within the subdistrict. However, pursuant to KRS 278.300, Northern Kentucky District must obtain Commission approval before issuing any long-term financing.³⁸ Northern Kentucky District will not need to increase its rates as a result of the project for current customers and the surcharge will be applied to the rates of new customers.

The Commission finds that the construction water main extensions and the creation of a sub district, Sub District HB, is necessary and appropriate for such purposes, and therefore the Commission finds the project should be approved.

IT IS THEREFORE ORDERED that:

1. Northern Kentucky District is granted a CPCN for the proposed project as submitted.

³⁷ Case No. 2012-00583, *Application of Northern Kentucky Water District for a Certificate of Convenience and Necessity for the Construction of Sub District I Water Main Extension, Financing and Surcharge* (Ky. PSC Mar. 7, 2013); Case No. 2007-00131, *Application of Northern Kentucky Water District for a Certificate of Convenience and Necessity for the Construction of Sub District G Water Main Extensions, Financing and Surcharge* (Ky. PSC Jan. 31, 2008) and Case No. 2006-00315, *Application of Northern Kentucky Water District for a Certificate of Convenience and Necessity for the Construction of Subdistrict F Water Main Extensions, Financing and Surcharge*.

³⁸ Case No. 2023-00322, *Electronic Application of South Woodford County Water District for Authorization to Execute an Assistance Agreement with the Kentucky Infrastructure Authority and a Certificate of Public Convenience and Necessity for Certain System Improvements* (Ky. PSC Mar. 11, 2024).

2. Northern Kentucky District shall immediately notify the Commission upon knowledge of any material changes to the projects, including but not limited to increase in cost and any significant delays.

3. Any material deviation from the construction approved by this Order shall be undertaken only with prior approval of the Commission.

4. Northern Kentucky District shall file with the Commission documentation of total costs of the projects, including the cost of construction and all other capitalized costs (e.g., engineering, legal, administrative, etc.) within 60 days of the date that the construction authorization 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.

5. Northern Kentucky District shall file a certified statement that the construction has been satisfactorily completed in accordance with the construction plans and specifications within in 60 days of the substantial completion of the construction discussed herein.

6. Within 20 days of the date of service of this Order, Northern Kentucky District shall file with this Commission, using the Commission's electronic Tariff Filing System, new tariff sheets setting forth the new subdistrict and the surcharge rates approved and their effective date.

7. Northern Kentucky District is authorized to create subdistrict HB.

8. Northern Kentucky District is authorized to assess each customer of Subdistrict HB, a monthly surcharge of \$30 subject to the conditions set forth in ordering paragraphs 8 through 10.

9. Northern Kentucky District shall cease collection of the surcharge 25 years after the effective date which is to be provided in the tariff filing required by ordering paragraph 6, or until \$405,000 is collected, whichever occurs first.

10. The surcharge proceeds shall be used only to finance the facilities that are identified in Northern Kentucky District's application as Subdistrict HB facilities that the Commission has approved in this Order.

11. Northern Kentucky District shall identify the surcharge as a separate line item on its bills Subdistrict HB.

12. Northern Kentucky 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.

13. Any documents filed in the future pursuant to ordering paragraphs 4 and 5 of this Order shall reference this case number and shall be retained in Northern Kentucky District's post-case correspondence file.

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

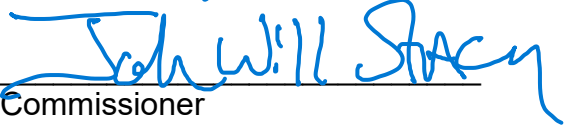
15. Nothing contained in this Order shall be deemed a warranty of the Commonwealth of Kentucky, or any agency thereof, of the financing, herein approved.

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


PUBLIC SERVICE COMMISSION



Chairman



Commissioner



Commissioner

ATTEST:



Executive Director



APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2024-00304 DATED NOV 26 2024

The following rates and charges are prescribed for the customers in the area service by Northern Kentucky District. 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.

Sub District Surcharge Fee

Customers in Sub District HB

\$30.00 per month

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