

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF MCKINNEY	)	
WATER DISTRICT FOR THE ISSUANCE OF A	)	
CERTIFICATE OF PUBLIC CONVENIENCE AND	)	
NECESSITY TO CONSTRUCT A WATER	)	CASE NO.
SYSTEM IMPROVEMENTS PROJECT AND AN	)	2025-00022
ORDER AUTHORIZING THE ISSUANCE OF	)	
SECURITIES PURSUANT TO THE PROVISIONS	)	
OF KRS 278.020, KRS 278.300 AND 807 KAR	)	
5:001	)	

ORDER

On February 13, 2025, McKinney Water District (McKinney District) filed an application<sup>1</sup>, pursuant to KRS 278.020, KRS 278.300, and 807 KAR 5:001 requesting a Certificate of Public Convenience and Necessity (CPCN) to construct a two-phase water system improvement project; and for approval of its plan to finance the proposed project using a combination of grants, loans, and local funding as further described below.

McKinney District is a water district organized under KRS Chapter 74 and provides retail water service to approximately 1,853 residential customers and 32 commercial customers.<sup>2</sup> McKinney District responded to one round of discovery in this case.<sup>3</sup> No

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<sup>1</sup> McKinney District tendered an application on February 6, 2025 that was rejected for filing due to certain deficiencies. On February 13, 2025, McKinney District filed documents that cured the filing deficiencies, and the application was deemed filed as of February 13, 2025.

<sup>2</sup> Annual Report of McKinney District to the Public Service Commission for the Calendar Year Ended December 31, 2023 (2023 Annual Report) at 49.

<sup>3</sup> McKinney District's Response to Commission Staff's First Request for Information (Staff's First Request) (filed March 10, 2025).

party requested intervention in this proceeding. This matter stands submitted for decision by the Commission.

### 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 this Commission.<sup>4</sup> To obtain a CPCN, the utility must demonstrate a need for such facilities and an absence of wasteful duplication.<sup>5</sup>

"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.<sup>6</sup>

"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."<sup>7</sup> To demonstrate that a proposed facility does not result in wasteful duplication, the Commission has held that the applicant must

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<sup>4</sup> KRS 278.020(1). Although the statute exempts certain types of projects from the requirement to obtain a CPCN, the exemptions are not applicable.

<sup>5</sup> *Kentucky Utilities Co. v. Public Service Commission*, 252 S.W.2d 885 (Ky. 1952).

<sup>6</sup> *Kentucky Utilities Co.*, 252 S.W.2d at 890.

<sup>7</sup> *Kentucky Utilities Co.*, 252 S.W.2d at 890.

demonstrate that a thorough review of all reasonable alternatives has been performed.<sup>8</sup> Although cost is a factor, selection of a proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication.<sup>9</sup> All relevant factors must be balanced.<sup>10</sup>

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 evidences of indebtedness of any other person.”<sup>11</sup> KRS 278.300 only applies to notes that have a term of more than two years.<sup>12</sup>

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.

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<sup>8</sup> 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.

<sup>9</sup> See *Kentucky Utilities Co. v. Public Service Commission*, 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.

<sup>10</sup> Case No. 2005-00089, Aug. 19, 2005 final Order at 6.

<sup>11</sup> KRS 278.300.

<sup>12</sup> Case No. 2005-00089, Aug. 19, 2005 final Order at 6.

## PROJECT DESCRIPTION

Phase 1B consists of a base project (hereinafter, Project 1) and two additions funded by a grant from the Community Development Block Grant program (CDBG). The first addition (hereinafter, Project 2), which McKinney District calls “alternate one”, is an additional mainline replacement project. The second addition (hereinafter, Project 3), which McKinney District refers to as “alternate two”, is also an additional mainline extension project.

Project 1 will include the replacement and enlargement of existing sections of McKinney District’s water mains and the construction of a 250,000-gallon water storage tank.<sup>13</sup> McKinney District explained that Project 1 begins at the end of the Phase 1A<sup>14</sup> construction at Kentucky Highway 1194 (McCormack Church Road).<sup>15</sup> The proposed Project 1 eight-inch water main will be constructed along a short section of Kentucky Highway 1194 to the intersection with Peyton’s Well Road and will replace an existing McKinney District six-inch water main.<sup>16</sup> The proposed eight-inch main will continue along Peyton’s Well Road to Kentucky Highway 78 for a distance of 19,700 feet and will replace an existing McKinney District six-inch main.<sup>17</sup>

McKinney District stated that, beginning at Kentucky Highway 78 at the intersection of Peyton’s Well Road and Kentucky Highway 198, the proposed eight-inch water main will cross Kentucky Highway 78 and proceed along Kentucky Highway 198 to the new

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<sup>13</sup> Application, Exhibit A.

<sup>14</sup> McKinney District also requested approval in this case for Phase 1A of the Project.

<sup>15</sup> McKinney District’s Response to Filing Deficiencies at 8 (filed Feb. 13, 2025).

<sup>16</sup> McKinney Districts’ Response to Filing Deficiencies at 8.

<sup>17</sup> McKinney Districts’ Response to Filing Deficiencies at 8.

eight-inch water main for a distance of 15,640 feet to serve the new McKinney District water tank and will replace an existing McKinney District six-inch asbestos cement water main.<sup>18</sup> The proposed water main replacing the six-inch asbestos cement water main will be constructed for 1,340 feet along Kentucky Highway 198 to the railroad, and then for 4,821 feet to connection to the existing water main on McKinney Ridge Road.<sup>19</sup> McKinney District explained that also included in Project 1 is the construction of four-inch water main for a distance of 3,534 feet on Mt. Salem Road to replace a three-inch McKinney District water main on Mt. Salem Road, stating that this new four-inch water main will address low pressure due to flow demand.<sup>20</sup>

McKinney District stated that it is currently under an agreed order (DOW-20-3-0293) for low pressure in several areas, particularly along Kentucky Highway 198.<sup>21</sup> McKinney District also stated that the Division of Water (DOW) and the Commission cited McKinney District for insufficient storage capacity and low system pressures.<sup>22</sup> McKinney District explained that its current usable storage from the two existing 100,000-gallon standpipe tanks is limited to 29,000 gallons before pressure drops below minimum standards.<sup>23</sup> However, McKinney District also explained that the average daily demand

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<sup>18</sup> McKinney Districts' Response to Filing Deficiencies at 9.

<sup>19</sup> McKinney Districts' Response to Filing Deficiencies at 9.

<sup>20</sup> McKinney District's Response to Filing Deficiencies at 10.

<sup>21</sup> Application, Exhibit A.

<sup>22</sup> Application, Exhibit A.

<sup>23</sup> Application, Exhibit A.

is 186,200 gallons.<sup>24</sup> McKinney District stated that many of the mains proposed to be replaced are 1960s vintage asbestos cement pipe.<sup>25</sup>

McKinney District explored two alternatives to the construction of a new glass-lined tank to replace the existing water standpipe tanks, as it relates to low pressure areas.<sup>26</sup> McKinney District's first alternative was to upgrade ballpark pumps and improve its connection to the Stanford Water Works.<sup>27</sup> McKinney District determined that, while this option would improve the water flow issues with its current connection, it would not improve water quality, supply, or pressure, and would require construction of a new pump station and water mains for a better connection to the Stanford Water Works water system.<sup>28</sup> McKinney District also explored the option of installing pumps to increase water pressure in the problem areas.<sup>29</sup> McKinney District determined that although the improved pressure would allow water tanks to drop below normal levels in high water demand and low supply, this option would also not improve water quality, supply, or the cost of water supply, and would increase the operating cost of electricity and complexity of the water system, while requiring construction of new pump stations in numerous locations.<sup>30</sup>

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<sup>24</sup> Application, Exhibit A.

<sup>25</sup> McKinney District's Response to Staff's First Request, Item 1.

<sup>26</sup> Application, Exhibit A.

<sup>27</sup> McKinney District's Response to Staff's First Request, Item 10d.

<sup>28</sup> McKinney District's Response to Staff's First Request, Item 10d.

<sup>29</sup> McKinney District's Response to Staff's First Request, Item 10d.

<sup>30</sup> McKinney District's Response to Staff's First Request, Item 10d.

McKinney District solicited bids for the Project 1 water tank construction through publication.<sup>31</sup> McKinney District stated that, while it was in communication with three companies, only Ky Glass Lined Tanks, Inc. submitted a bid totaling \$811,165.<sup>32</sup> McKinney District's project engineers did not recommend rebidding and the Board of Commissioners agreed.<sup>33</sup> McKinney District also solicited bids for the Project 1 water line construction.<sup>34</sup> Two contractors tendered bids, with Frederick and May's base bid in the amount of \$2,896,116 being selected, as well as its bids for Projects 2 and 3 for the water line construction in the amounts of \$428,726 and \$314,204, respectively.<sup>35</sup>

For Project 2, McKinney District explained that the project is a four-inch water main and pump station of McKinney Ridge Road.<sup>36</sup> The purpose of this is to replace Eubank Water, which has a high-water purchase cost and water quality issues. According to McKinney District, this project further addresses the water supply and quality issues noted above.<sup>37</sup>

For Project 3, McKinney District intends to construct an eight-inch water main for a distance of 5,700 feet on Kentucky Highway 78 to replace a six-inch asbestos cement water main to address additional flow to and from Stanford Water Works, when needed.<sup>38</sup>

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<sup>31</sup> Application, Exhibit N.

<sup>32</sup> McKinney District's Response to Staff's First Request, Item 17d.

<sup>33</sup> McKinney District's Response to Staff's First Request, Item 17d.

<sup>34</sup> Application, Exhibit N.

<sup>35</sup> Application, Exhibit O.

<sup>36</sup> Project Summary Letter (filed March 13, 2025).

<sup>37</sup> Project Summary Letter (filed March 13, 2025).

<sup>38</sup> McKinney District's Response to Deficiencies at 10.

McKinney District explained that replacing the asbestos lines from the 1960s will help eliminate biofilm buildup and potentially reduce water loss, as well as addressing additional flow problems with Stanford Water Works.<sup>39</sup> McKinney District explained that Project 3 will help to provide emergency water supply.<sup>40</sup>

McKinney District stated that it does not anticipate any funding interruption in the funds already approved but, prior to receiving approval, was considering the possibility that the additional \$750,000 request from CDBG may not be funded.<sup>41</sup> McKinney District explained that Project 1, which is partially funded by CDBG, has in it two alternates with a total amount nearly equal to the requested shortfall.<sup>42</sup> However, McKinney District provided an update that it received approval for the CDBG grant that will fund the majority of Projects 2 and 3.<sup>43</sup> Project 2 is bid in the amount of \$428,726 and Project 3 is bid at \$314,204 with contingencies of \$74,293 for a total anticipated cost of \$817,223.<sup>44</sup> The other bidder for Project 2 bidder bid in at \$436,220.<sup>45</sup> The other bidder for Project 3 bid in at \$547,384.<sup>46</sup> McKinney District explained that this portion of the project will not be

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<sup>39</sup> Application, Exhibit A.

<sup>40</sup> Project Summary Letter (filed March 13, 2025).

<sup>41</sup> McKinney District's Response to Staff's First Request, Item 5a.

<sup>42</sup> McKinney District's Response to Staff's First Request, Item 5a.

<sup>43</sup> Project Summary Letter (filed March 13, 2025).

<sup>44</sup> McKinney District's Response to Staff's First Request, Item 5a.

<sup>45</sup> Application, Exhibit O.

<sup>46</sup> Application, Exhibit O.



authorized for construction until it has a commitment of the additional contingency funding.<sup>47</sup>

### Financing

McKinney District stated that the total cost of the project was \$1,361,139 for Phase 1A and \$4,973,183 for Projects 1-3, collectively \$6,334,322.<sup>48</sup> The construction cost for Projects 1-3 was an estimated \$4,450,211.<sup>49</sup> The non-construction cost was an estimated \$522,972 for Projects 1-3, excluding contingency fees.<sup>50</sup>

McKinney District stated that it would fund Project 1 using a combination of a Cleaner Water grant from the Kentucky Infrastructure Authority (KIA) in the amount of \$287,289; a CDBG in the amount of \$1,000,000; an additional CDBG in the amount of \$750,000; an Appalachian Regional Commission (ARC) grant in the amount of \$500,000; local funding in the amount of \$62,436; and a loan from KIA in the expected amount of \$2,491,916.<sup>51</sup> McKinney District anticipated the KIA loan to have an interest rate of 1.0 percent and a life of 20 years.<sup>52</sup>

## DISCUSSION AND FINDINGS

Having considered the record and being otherwise sufficiently advised, the Commission finds that the CPCN should be granted, in part. However, this Order applies

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<sup>47</sup> McKinney District's Response to Staff's First Request, Item 5a.

<sup>48</sup> Application, Exhibit C.

<sup>49</sup> Application, Exhibit C.

<sup>50</sup> McKinney District's Response to Staff's First Request, Items 13a and 13b.

<sup>51</sup> Application at 3-4.

<sup>52</sup> Application, Exhibit F, Attachment B.

to Phase 2 of the project only, Projects 1-3<sup>53</sup>. The Commission will issue a separate Order relating to Phase 1 of the project, Phase 1A.

In Project 1, McKinney District plans to replace asbestos lines, improve low-pressure areas, and install a 250,000-gallon water tank. Replacing the asbestos lines, which were installed in the 1960s, will help eliminate biofilm buildup and potentially reduce water loss. Building the water tank will improve the issues that McKinney District has had with low pressure. The installation of a storage tank at a higher elevation will work to increase the system pressure. Therefore, the Commission finds that McKinney District has demonstrated a sufficient need for Project 1 as the water supply, low pressure issues, and water quality issues show a substantial inadequacy in existing service.

For Project 2, McKinney District provided evidence of need for the project. This project will add a four-inch water main and pump station, which is needed to address purchase costs and water quality issues.<sup>54</sup> This project further addresses concerns with water supply and quality. For Project 3, replacing the asbestos lines from the 1960s will help eliminate biofilm buildup and potentially reduce water loss, as well as addressing additional flow problems with Stanford Water Works.<sup>55</sup> Furthermore, the purpose of this is provide for an emergency water supply. Therefore, McKinney District has demonstrated a sufficient need for Projects 2 and 3.

For Project 1, McKinney District has established that the project will not result in wasteful duplication. McKinney District selected option meets its goals of eliminating low-

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<sup>53</sup> As explained above, Phase 1B includes Projects 1-3. Phase 1B consists of a base project (Project 1 and two additions (Projects 2-3) funded by a grant from CDBG.

<sup>54</sup> Project Summary Letter (filed March 13, 2025).

<sup>55</sup> Application, Exhibit A.

water-pressure zones in the water system and the storage tank will add water turnover in the tanks, improving water age and water quality. The building of the storage tank will also make all the water stored usable in the system. McKinney District presented three alternatives to its selected option: installing new pumps; enlarging main feed from Stanford Water Works; installing additional booster pumps in the problem areas; and reconstructing current water standpipes with higher overflows. McKinney District explained that reconstructing current water standpipes with higher overflows was not an optimal due to design. For the other two options, McKinney District provided that both would be at a significantly higher cost and not meet the objectives of lower pressuring in the areas or improving water quality. Furthermore, McKinney District solicited competitive bids for the installation of the water mains and storage tank, receiving two bids for the water mains portion of Phase 1B and one bid for the storage tank. For the installation of water mains, McKinney District chose the lowest bid option, which totaled \$2,896,116. For the glass lined storage tank, while there was only one bid in the amount of \$811,165.00, which was lower than the engineer's estimate of \$1,123.696. Therefore, the Commission finds that Project 1 will not result in wasteful duplication.

For Projects 2 and 3, McKinney District has also established that the project will not result in wasteful duplication. The majority of both projects will be funded by a CDBG grant amounting to \$750,000 as noted above, to address issues with its water supply and replace the high purchase water cost from the city of Eubank.<sup>56</sup> McKinney District also provided evidence that it bid this project out, selecting the lowest bid option in the amount

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<sup>56</sup> Project Summary Letter (filed March 13, 2025) at 2.

of \$428,726.<sup>57</sup> For Project 3, McKinney District provided evidence that it has selected the lowest bid amount of \$314,204.<sup>58</sup> Furthermore, McKinney District is replacing aging asbestos lines with new construction.<sup>59</sup> Therefore, the Commission finds that Projects 2 and 3 will not result in wasteful duplication.

The Commission further finds that the requested financing for Phase 1B Projects 1-3, including the KIA loan, is necessary for the completion of the projects discussed above and will not impair McKinney District's ability to provide service. Further, the Commission finds that the financing requests are for the lawful purpose of providing safe, adequate and reliable service to the public. The financing will enable McKinney District to construct the proposed project, which, as discussed above, is necessary to provide water service consistent with the lawful purpose. In this instance, the financing plan will not impair McKinney District's ability to provide service and is reasonably necessary for McKinney District to provide adequate service. The approved projects are resolving issues with service related to water quality and low-pressure areas, as also highlighted in DOW violation. Therefore, the Commission finds that approval of the financing should be granted pursuant to KRS 278.300.

Finally, McKinney District's last alternative rate filing in Case No. 2022-00400 resulted in an increase in revenues of \$57,378, or 5.89 percent, effective September 1, 2023.<sup>60</sup> The Commission finds that McKinney District should file an application for a

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<sup>57</sup> Application, Exhibit O.

<sup>58</sup> Application, Exhibit O.

<sup>59</sup> Project Summary Letter (filed March 13, 2025) at 2.

<sup>60</sup> Case No. 2022-00400, *Electronic Application of McKinney Water District for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Sept 01, 2023), Order.

general rate adjustment, an alternative rate adjustment, or tender a detailed explanation with supporting documentation to show cause why a rate adjustment is unnecessary, on or before June 30, 2026, to ensure that depreciation and debt service for Phase 1B are captured in McKinney District's rates.

IT IS THEREFORE ORDERED that:

1. McKinney District is granted a CPCN for the Phase 1B as submitted.
2. McKinney District's proposed plan of financing is approved.
3. McKinney District is authorized to enter into a loan in the amount of \$2,491,916 with KIA, maturing over a period of 20 years and with an interest rate not to exceed 1.00 percent.
4. The proceeds of the loan shall be used only for the purposes specified in McKinney District's application.
5. McKinney District shall obtain approval from the Commission prior to performing any additional construction not expressly authorized by this Order.
6. McKinney 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. McKinney District shall notify the Commission in writing one week prior to the actual start of construction.

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

10. McKinney District shall only execute the loan documents with KIA to the extent the terms and conditions are consistent with the loan described in its application except as otherwise authorized herein.

11. McKinney District shall file a copy of the loan documents executed with KIA within ten days of execution.

12. Any documents filed in the future pursuant to ordering paragraphs 6–11 of this Order shall reference this case number and shall be retained in McKinney District'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 McKinney District's showing of good cause for such extension.

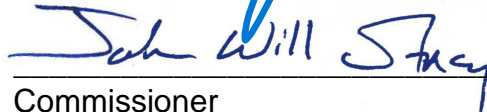
14. McKinney District shall file an application for a general rate adjustment, an alternative rate adjustment, or tender a detailed explanation with supporting documentation to show cause why a rate adjustment is unnecessary, on or before June 30, 2026.

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.

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PUBLIC SERVICE COMMISSION

  
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Chairman

  
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Commissioner

  
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Commissioner

ATTEST:

  
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Executive Director

ENTERED  
MAR 28 2025 AH  
KENTUCKY PUBLIC  
SERVICE COMMISSION



\*Jack Scott Lawless  
17111 Mallet Hill Drive  
Louisville, KY 40245

\*Luther Galloway  
AGE Engineering Services Inc.  
165 Foster Lane  
Stanford, KY 40484

\*McKinney Water District  
2900 KY HWY 198  
Hustonville, KY 40437

\*Matt Rankin  
Chairman  
McKinney Water District  
P. O. Box 7  
McKinney, KY 40448

\*Marty Spears  
AGE Engineering Services Inc.  
165 Foster Lane  
Stanford, KY 40484

\*Nick Roederer  
Raymond James Financial Services  
300 West Vine Street  
Lexington, KY 40507

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