

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	)	2025-00066
FOR THE CONSTRUCTION OF NEWPORT	)	
WATER MAIN REPLACEMENT PHASE 3 AND	)	
PHASE 4	)	

ORDER

On March 21, 2025 Northern Kentucky Water District (Northern Kentucky District) filed an application, pursuant to KRS 278.023, requesting a Certificate of Public Convenience and Necessity (CPCN) for the construction of the Newport Water Main Replacement Project (Project) to replace approximately five miles of water lines with a high incidence of breakage and low flows within the city of Newport, Kentucky and upgrade water mains to Northern Kentucky District's minimum standard pipe size as needed to support recommended hydraulic capacity.<sup>1</sup>

Northern Kentucky District stated Phase 3 would cost \$4,235,000 and Phase 4 would cost \$2,550,000<sup>2</sup> and that it would fund the Project<sup>3</sup> using a Cleaner Water Program (CWP) Kentucky Infrastructure Authority (KIA) grant funds (KIA Grants 21CWW025 and

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<sup>1</sup> This case pertains to phases 3 and 4 and is related to Case No. 2025-00007 which pertains to phases 1 and 2 of the Project.

<sup>2</sup> Northern Kentucky's Response to Commission Staff's First Request for Information, (Staff's First Request) (filed Apr. 25, 2025), Item 3.

<sup>3</sup> Northern Kentucky's Response to Staff's First Request, Item 3. The funding is for all four phases.

22CWW223) and plans to supplement project funding with Campbell County American Rescue Plan Act (ARPA) funds, and a KIA loan (KIA Loan F23-007S approved in Case No. 2025-00007).<sup>4</sup>

No party requested intervention in this proceeding. Northern Kentucky District responded to one request for information and filed a motion for a decision on the record and waiver of hearing.<sup>5</sup> This matter stands submitted for decision by the Commission.

### BACKGROUND

Northern Kentucky District is a water district organized under KRS Chapter 74 that provides water serves to retail customers in Kenton, Boone and Campbell counties, Kentucky. Northern Kentucky District also sells water at wholesale to non-affiliated water distribution systems in Kenton, Boone, Pendleton and Campbell counties, Kentucky.<sup>6</sup> The Project involves the replacement of approximately five miles of water lines with high incidence of breakage and low flows within the City of Newport. The project will also upgrade water main lines to Northern Kentucky District's minimum standard pipe size or further as needed to support recommended hydraulic capacity.<sup>7</sup> Due to the size of this project, it was divided into four phases that can be constructed independently of each

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<sup>4</sup> Application at 4.

<sup>5</sup> Northern Kentucky District's Motion for a Decision on the Record and Waiver of Hearing (filed Apr. 25, 2025).

<sup>6</sup> Application at 2.

<sup>7</sup> Application at 2.

other. Phase 1 and Phase 2 were approved by the Commission in Case No. 2025-00007.<sup>8</sup> The CPCN for Phase 3 and Phase 4 is being addressed in this case.<sup>9</sup>

#### Newport Water Main Replacement Project

Northern Kentucky District stated that the age of each water main it is seeking to replace for Phase 3 is approximately 125 years old and suffers from a high rates of failure due to severe corrosion.<sup>10</sup> In addition, Northern Kentucky District stated that the age of each water main it is seeking to replace for Phase 4 is approximately 100 years old and suffers from a high rates of failure due to severe corrosion.<sup>11</sup> Considering the water mains within Phase 3 and Phase 4 of this project have experienced 67 failures since 2002 along with reduced flows and discolored water complaints due to internal pipe tuberculation, it is Northern Kentucky District's opinion that these mains have reached the end of their useful life.<sup>12</sup>

Additionally, Northern Kentucky District stated that it has lost over 1,729,309<sup>13</sup> gallons of water due to leaks and breaks over the past ten years. Northern Kentucky District stated that this equates to 0.012 percent<sup>14</sup> of the overall unaccounted water loss during the same period of time. Of that total, Northern Kentucky District stated that

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<sup>8</sup> Case No 2025-00007, *Electronic Application of Northern Kentucky Water District for a Certificate of Public Convenience and Necessity and Approval of Financing for the Construction of Newport Water Main Replacement Phase 1 and 2* (Ky. PSC Apr. 3, 2025), Order.

<sup>9</sup> Application at 2.

<sup>10</sup> Northern Kentucky District's Response to Staff's First Request, Item 1.

<sup>11</sup> Northern Kentucky District's Response to Staff's First Request, Item 2.

<sup>12</sup> Northern Kentucky District's Response to Staff's First Request, Items 1-2.

<sup>13</sup> Northern Kentucky District's Response to Staff's First Request, Item 7.

<sup>14</sup> Northern Kentucky District's Response to Staff's First Request, Item 7

587,978 gallons, which would equate to 0.00408 percent, is attributable to water mains in Phase 3 and 1,045,817 gallons, which would equate to 0.007257 percent, is attributable to water mains in Phase 4.<sup>15</sup>

### Phase 3

Phase 3 of the Project will consist of construction of approximately 7,994 linear feet of 8" PVC and ductile iron water main<sup>16</sup> together with the appurtenances and related work for water main replacement of 4 inch and 6 inch pipe for the following areas: E. 3rd Street from Washington Avenue to Providence Way; E. 5th Street from Washington Avenue to Park Avenue; E. 7th Street from Monmouth Street to Washington Avenue; E. 7th Street from Linden Avenue to Oak Street; Roberts Street from E. 6th Street to 320' south of E. 8th Street; Linden Avenue from Nelson Place to E. 9th Street; and Oak Street from E. 6th Street to E. 7th Street.<sup>17</sup>

Northern Kentucky District retained Bayer Becker, Inc (Bayer Becker) to prepare plans, specifications, and estimated project costs for Phase 3 of the Project.<sup>18</sup> The project engineer solicited bids for the project, and of the three bids submitted, the project engineer determined that Lonkard Construction Company (Lonkard) should be awarded the contract for Phase 3 of the Project.<sup>19</sup> Upon the recommendation of the project engineer, the Board of Directors for Northern Kentucky District (Board) unanimously accepted the

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<sup>15</sup> Northern Kentucky District's Response to Staff's First Request, Item 7.

<sup>16</sup> Application, Exhibit A-6.

<sup>17</sup> Northern Kentucky District's Response to Staff's First Request, Item 1.

<sup>18</sup> Application, Exhibit A-7.

<sup>19</sup> Application, Exhibit C-2, Newport WME-Phase 3.

bid of \$3,799,234.80 from Lonkard with a total project budget of \$4,235,000, and authorized staff to execute the applicable contract documents.<sup>20</sup>

#### Phase 4

Phase 4 of the Project will consist of construction of approximately 4,959 linear feet of 8" PVC and ductile iron water main, 1,129 linear feet of 6" ductile iron water main and 193 linear feet of 12" ductile iron water main<sup>21</sup> together with the appurtenances and related work for the following areas: Joyce Avenue from New Linden Road to Florence Circle; 21st Street from Kentucky Drive to the end of the street; Truesdale Road from Grandview Avenue to the end of the street; Amelia Street from Home Street to Widrig Street; Home Street from Amelia Street to 19th Street; Grandview Avenue from McHenry Street to Central Avenue; and Clifton Avenue from McHenry Street to W. 13th Street.<sup>22</sup>

Northern Kentucky District retained Cardinal Engineering Corporation (Cardinal) to prepare plans, specifications, and estimated project costs for Phase 4 of the Project.<sup>23</sup> The project engineer solicited bids for the project, and of the three bids submitted, the project engineer determined that Rector Excavating., Inc. (Rector) should be awarded the contract for Phase 4 of the Project.<sup>24</sup> The Board unanimously accepted the bid of \$2,269,528.65 from Rector Excavating, Inc., awarded a contract for the Newport Water

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<sup>20</sup> Application, Exhibit C-3, Board Meeting Minutes at 1.

<sup>21</sup> Application, Exhibit A-6.

<sup>22</sup> Application, Exhibit A-6.

<sup>23</sup> Application, Exhibit A-7.

<sup>24</sup> Application, Exhibit C-2, Newport WME-Phase 4.

Main Replacement Phase 4 project with a total project budget of \$2,550,000, and authorized staff to execute the applicable contract documents.<sup>25</sup>

For Phase 3 and Phase 4, Northern Kentucky District stated that it considered alternatives to the material and pipe selected such as structural lining for the existing mains.<sup>26</sup> However, Northern Kentucky District maintained that structural lining is roughly the same cost as traditional open cut water main installation in developed areas; however, unlike water main replacement, structural lining does not address or replace service lines which in many cases are 100 plus years old and at the end of their useful life.<sup>27</sup> Additionally, while water main replacement allows for mains to be upsized, structural lining would leave approximately 1.6 miles of small diameter pipes which are below the current Northern Kentucky District's minimum design standards.<sup>28</sup> Northern Kentucky District stated that no additional operating and maintenance costs are anticipated from the projects.<sup>29</sup> Northern Kentucky District referred to studies by other agencies which found that properly designed and installed ductile iron and PVC water pipe have an assigned useful life of 62.5 years.<sup>30</sup>

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<sup>25</sup> Application, Exhibit C-3, Board Meeting Minutes at 2.

<sup>26</sup> Northern Kentucky District's Response to Staff's First Request, Items 4-5.

<sup>27</sup> Northern Kentucky District's Response to Staff's First Request, Items 4-5.

<sup>28</sup> Northern Kentucky District's Response to Staff's First Request, Item 4.

<sup>29</sup> Application, Exhibit D.

<sup>30</sup> Northern Kentucky District's Response to Staff's First Request, Item 1.

## Financing

Northern Kentucky District stated that the budget for the total project is \$16,000,000 and will be bid and constructed in four separate phases.<sup>31</sup> The total budget is made up of: (1) \$1,000,000 in Cleaner Water Program (CWP) grant funds appropriated by the Kentucky Legislature in 2021 – Senate Bill 36 (KIA Grant 21CWW025); (2) \$2,403,872 in CWP grant funds appropriated by the Kentucky Legislature in 2022 – House Bill 1 (KIA Grant 22CWW223); (3) \$340,387 in funds from KIA Cleaner Water Grant Increase Request (up to 10 percent of original grant amount) (KIA Grant 22CWW223 Supplemental); (4) \$3,200,000 in Campbell County ARPA funds; (5) \$4,000,000 in KIA Loan F23-007S (\$1,598,681 of which is principal forgiveness); and (6) \$5,055,741 from a future Bond Anticipation Note.<sup>32</sup>

Northern Kentucky District stated that the total cost for Phase 3 is \$4,235,000 which includes construction cost, engineering, materials, and contingencies, and Phase 4 is \$2,550,000 which also includes construction cost, engineering, materials, and contingencies.<sup>33</sup>

Northern Kentucky District stated that the grant funding to be utilized on this project requires full lead service line replacement, requiring the replacement of an estimated 37 lead service lines, which will be replaced from the water main to a point within the building, 6 inches past the first interior valve.<sup>34</sup>

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<sup>31</sup> Application at 4.

<sup>32</sup> Application at 4.

<sup>33</sup> Application, Exhibit D at Newport WMR-Phase 3 and Newport WMR-Phase 4.

<sup>34</sup> Application, Exhibit A-1 at Newport WMR-Phase 3 and Newport WMR-Phase 4.

## 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.<sup>35</sup> To obtain a CPCN, the utility must demonstrate a need for such facilities and an absence of wasteful duplication.<sup>36</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>37</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>38</sup> 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.<sup>39</sup>

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<sup>35</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 to this matter.

<sup>36</sup> *Kentucky Utilities Co. v. Public Service Com'n*, 252 S.W.2d 885,890 (Ky. App. 1952).

<sup>37</sup> *Kentucky Utilities Co.*, 252 S.W.2d at 890.

<sup>38</sup> *Kentucky Utilities Co.*, 252 S.W.2d 885, 890.

<sup>39</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.



Although cost is a factor, selection of a proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication.<sup>40</sup> All relevant factors must be balanced.<sup>41</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 evidence of indebtedness of any other person.”<sup>42</sup> KRS 278.300 only applies to notes that have a term of more than two years.<sup>43</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.

### DISCUSSION AND FINDINGS

Having considered the application and all evidence in the record, as was found in Case No. 2025-0007, the Commission finds that the CPCN for Phase 3 and Phase 4 of the North Kentucky District main replacement project should be granted. As noted above, the approximate age of the water mains in each phase that Northern Kentucky District is

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<sup>40</sup> 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.

<sup>41</sup> Case No. 2005-00089, Aug. 19, 2005 Order at 6.

<sup>42</sup> KRS 278.300(1).

<sup>43</sup> KRS 278.300(8).

seeking to replace are approximately 100 plus years old. As noted in the application, the infrastructure is well past the expected useful life, is in poor condition and, in many cases, is undersized for the usage. The Commission notes that the information provided supports a finding that replacements and upgrades are necessary to Northern Kentucky District's minimum standard pipe size necessary to support the District's recommended hydraulic capacity. Additionally, the approximately five miles of water lines that Northern Kentucky District is seeking to replace have experienced a high incident of breakage and have resulted in water loss and low flows within the city of Newport. Therefore, the Commission finds that Northern Kentucky District has demonstrated a need for the replacement of the identified water lines and water mains.

Additionally, the Commission finds that Northern Kentucky District has established the lack of wasteful duplication by identifying water mains and water lines that are in poor condition, in need of replacement, soliciting bids for the projects, and choosing the least expensive bid.<sup>44</sup> In exploring alternative solutions to the issues, Northern Kentucky District compared the cost of water line replacement pipes and structural lining and determined that the alternatives would not meet future reliability or capacity needs.

The Commission also finds that the requested financing is necessary for the completion of the projects discussed above and will not impair Northern Kentucky District's ability to provide service. In fact, as noted above, the Commission finds that the projects at issue are necessary and will not result in wasteful duplication. Further, the Commission finds that the financing for which Northern Kentucky District requests approval is for a lawful object within the corporate purposes of Northern Kentucky District.

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<sup>44</sup> Application, Exhibit C-2 at Newport WMR-Phase 3 and Newport WMR-Phase 4.

The breadth of the Northern Kentucky District's project<sup>45</sup> is necessary, appropriate for and consistent with the proper performance of Northern Kentucky District's service to the public and will not impair Northern Kentucky District's ability to perform that service. The financing is reasonably necessary and appropriate for such purposes. The Commission also recognizes that a portion of this financing is grants and a loan with an option for principal forgiveness.<sup>46</sup> The Commission notes that, although the financing was approved in full by the final Order in Case No. 2025-00007,<sup>47</sup> the Commission, as requested in this application, continues to find that the financing requested is approved subject to the same conditions set forth in that Order.

IT IS THEREFORE ORDERED that:

1. Northern Kentucky District is granted a CPCN for Phase 3 and Phase 4 of the Northern Kentucky District water main replacement project, as proposed in its application.
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

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<sup>45</sup> All four phases.

<sup>46</sup> Application, Exhibit D at Newport WMR-Phase 3 and Newport WMR-Phase 4.

<sup>47</sup> Case No. 2025-00007, Apr. 3, 3035 final Order at 11, ordering paragraph 6-9.

(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. Northern Kentucky District is authorized to issue the evidence of debt requested subject to the conditions set forth in its application and discussed herein.

7. The proceeds from the issue of evidence of debt authorized shall be used only for the lawful purposes set out in the application.

8. Northern Kentucky District shall only execute the loan documents to the extent their terms and conditions are consistent with the loans described in its application, except as otherwise authorized herein.

9. Northern Kentucky District shall file copies of the loan documents in this matter within ten days of executing them.

10. Any documents filed in the future pursuant to ordering paragraphs 4, 5, and 9 shall reference this case number and shall be retained in the post case correspondence file.

11. 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 s showing of good cause for such extension.

12. The case is closed and removed from the Commissions 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.

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PUBLIC SERVICE COMMISSION

Chairman

Vice Chairman

Commissioner

ATTEST:

*Linda Bridwell RP*  
Executive Director



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