

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)	2025-00007
FOR THE CONSTRUCTION OF NEWPORT)	
WATER MAIN REPLACEMENT PHASE 1 AND)	
PHASE 2)	

ORDER

On February 2, 2025 Northern Kentucky Water District (Northern Kentucky District) filed¹ 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 to replace approximately five miles of water lines with a high incidence of breakage and low flows within the city of Newport and upgrade water mains to Northern Kentucky District's minimum standard pipe size as needed to support recommended hydraulic capacity.² Northern Kentucky District stated that it would fund the project using a KIA State Revolving Loan (KIA Loan F23-007S) and plans to supplement project funding with Cleaner Water Program (CWP) grant funds, American Rescue Plan Act (ARPA) funds, and a Bond Anticipation Note (BAN).³ No party

¹ Northern Kentucky District tendered an application on January 21, 2025, that was rejected for filing due to certain deficiencies. On February 2, 2025, Northern Kentucky Water District filed documents that cured the filing deficiencies, and the application was deemed filed as of February 2, 2025.

² Application at 1-2.

³ Application at 6-7.

requested intervention in this proceeding. Northern Kentucky District responded to one request for information.⁴ This matter stands submitted for decision by the Commission.

BACKGROUND

Northern Kentucky District is a water district organized under KRS Chapter 74⁵ that provides water service to approximately 87,105 customers 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 total plant in service was \$565,261,958 and its accumulated depreciation was \$215,075,853.⁷

Northern Kentucky District stated that it divided the Newport Water Main Replacement Project into four phases that can be constructed independently of each other. Northern Kentucky District specified that this application is regarding Phase 1 and Phase 2 of the project and plans to present Phase 3 and Phase 4 to the Public Service Commission later this year in a separate action.⁸

Newport Water Main Replacement Project

Northern Kentucky District stated that the age of each water main the District is seeking to replace is approximately 125 years old and the water mains within Phase 1 and Phase 2 of this project have experienced 133 failures since 2002, along with reduced

⁴ Northern Kentucky District's Response to Commission Staff's First Request for Information (Staff's First Request) (filed Feb. 25, 2025).

⁵ Application at 1.

⁶ Application at 2.

⁷ *Annual Report of Northern Kentucky Water District to the Public Service Commission for the year ending December 31, 2023* (2023 Annual Report) at 27–28.

⁸ Application at 2

flows and discolored water complaints due to internal pipe tuberculation, demonstrating that they have reached the end of their useful life.⁹ Northern Kentucky District stated that the Newport Water Main Replacement Project was developed in partnership with the city of Newport Fire Department to select and replace undersized, and/or tuberculated water mains with low flow rates, to increase fire protection.¹⁰

Additionally, Northern Kentucky District explained that grant funding utilized on this project requires full lead service line replacement to comply with federal and state regulations.¹¹ Northern Kentucky Water District stated that Phase 1 and Phase 2 will improve the District's overall unaccounted for water loss by 0.0451 percent of the overall unaccounted and it has lost 6,490,856 gallons of water due to leaks and breaks over the past ten years.¹²

Phase 1

Phase 1 of the Newport Water Main Replacement Project will install approximately 6,830 linear feet of 16-inch, 12-inch, 8-inch, 6-inch, and 4-inch ductile iron and PVC water main along W. 4th Street from KY 9 to York Street; W. 5th Street from KY 9 to Central Avenue; W. 6th Street from KY 9 to Central Avenue; W. 7th Street from KY 9 to Central Avenue; and Brighton Street from KY 9 to W. 9th Street within the city of Newport.¹³

Northern Kentucky District retained Bayer Becker, Inc (Bayer Becker) and the firm prepared plans, specifications and estimated project cost for Phase 1 of the Newport

⁹ Northern Kentucky District's Response to Staff's First Request, Item 1.

¹⁰ Northern Kentucky District's Response to Staff's First Request, Item 9.

¹¹ Northern Kentucky District's Response to Staff's First Request, Item 5.

¹² Northern Kentucky District's Response to Staff's First Request, Item 2.

¹³ Application, Exhibit A-1, Newport WMR-Phase 1.

Water Main Replacement project.¹⁴ The project engineer solicited bids for the project and ten contractors submitted bids.¹⁵ Upon reviewing the submitted bids, the project engineer determined that Howell Contractors, Inc. was the lowest bidder, and recommended that Howell Contractor, Inc. be awarded the contract for Phase 1 based on past experience with the company and a provided list of project references.¹⁶ Upon the recommendation of the project engineer, the Board of Directors unanimously accepted the bid of \$2,331,500 from Howell Contractors, Inc., and awarded a contract for Phase 1 of the Newport Water Main Replacement project with a total project budget of \$2,650,000, and authorized staff to execute the applicable contract documents.¹⁷

Phase 2

Phase 2 of the Newport Water Main Replacement Project will install approximately 4,830 linear feet of 8-inch PVC water main along Lindsey Street from KY 9 to Patterson Street; W. 10th Street from KY 9 to Isabella Street; Hodge Street from KY 9 to Brighton Street; and Putnam Street from W. 7th Street to W. 10th Street within the city of Newport.¹⁸

Northern Kentucky District retained Cardinal Engineering Corporation for Phase 2 of the project.¹⁹ The project engineer reviewed the submitted bids and stated that the lowest bidder was Rack & Ballauer Excavating Company, Inc (Rack and Ballauer) at

¹⁴ Application, Exhibit A-4 at 1-2.

¹⁵ Application, Exhibit C-2, Newport WMR-Phase 1.

¹⁶ Application, Exhibit C-2, Newport WMR-Phase 1.

¹⁷ Application, Exhibit C-3, Board Meeting Minutes.

¹⁸ Application, Exhibit A-1, Newport WMR-Phase 2.

¹⁹ Application, Exhibit C-2, Newport WME-Phase 2.

\$1,991,266.²⁰ Northern Kentucky District stated that the project engineer recommended the District accept the bid and noted that Rack and Ballauer has successfully completed projects for the District in the past.²¹ The Board of Directors unanimously accepted the bid of \$1,991,266 from Rack and Ballauer, and awarded a contract for Phase 2 of the Newport Water Main Replacement project with a total project budget of \$2,250,000, and authorized staff to execute the applicable contract documents.²²

For Phase 1 and Phase 2, Northern Kentucky District stated that it considered alternatives to the material and pipe selected such as structural lining for the existing mains.²³ 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/replace service lines which in many cases are 100 plus years old and at the end of their useful life.²⁴ 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.²⁵ Northern Kentucky District stated that no additional operating and maintenance costs are anticipated from the projects²⁶ and Northern Kentucky District referred to studies by other agencies which

²⁰ Application, Exhibit C-2, Newport WME-Phase 2.

²¹ Application, Exhibit C-2, Newport WME-Phase 2.

²² Application, Exhibit C-3, Board Meeting Minutes at 1.

²³ Northern Kentucky District's Response to Staff's First Request, Item 3.

²⁴ Northern Kentucky District's Response to Staff's First Request, Item 3.

²⁵ Northern Kentucky District's Response to Staff's First Request, Item 3.

²⁶ Application, Exhibit D.

found that properly designed and installed ductile iron and PVC water pipe have an expected life of 100 plus years.²⁷

Financing

Northern Kentucky District stated that the total budget for the total project is \$16,000,000 and will be bid and constructed in 4 separate phases.²⁸ The total budget is made up of \$1,000,000 in Cleaner Water Program (CWP) grant funds appropriated by the Kentucky Legislature in 2021 – Senate Bill 36 (KIA Grant 21CWW025); \$2,403,872 in CWP grant funds appropriated by the Kentucky Legislature in 2022 – House Bill 1 (KIA Grant 22CWW223); \$340,387 in funds from KIA Cleaner Water Grant Increase Request (up to 10 percent of original grant amount) (KIA Grant 22CWW223 Supplemental); \$3,200,000 in Campbell County ARPA funds; \$4,000,000 in KIA Loan F23-007S (\$1,598,681 of which is principal forgiveness); and \$5,055,741 from a future BAN.²⁹ Northern Kentucky District stated that the total cost for Phases 1 and 2 is \$4,900,000, and includes construction cost, engineering, materials, and contingencies.³⁰

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 will be replaced from the water main to a point within the building, 6 inches past the first interior valve.³¹

²⁷ Northern Kentucky District's Response to Staff's First Request, Item 3.

²⁸ Application at 4.

²⁹ Application at 4.

³⁰ Application, Exhibit D at Newport WMR-Phase 1 and Newport WMR-Phase 2.

³¹ Northern Kentucky District's Response to Staff's First Request, Item 5.

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.³² To obtain a CPCN, the utility must demonstrate a need for such facilities and an absence of wasteful duplication.³³

"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.³⁴

"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."³⁵ 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.³⁶

³² KRS 278.020(1). Although the statute exempts certain types of projects from the requirement to obtain a CPCN, the exemptions are not applicable.

³³ *Kentucky Utilities Co. v. Public Service Com'n*, 252 S.W.2d 885,890 (Ky. App. 1952).

³⁴ *Kentucky Utilities Co.*, 252 S.W.2d at 890

³⁵ *Kentucky Utilities Co.*, 252 S.W.2d 885, 890.

³⁶ 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.³⁷ All relevant factors must be balanced.³⁸

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.”³⁹ KRS 278.300 only applies to notes that have a term of more than two years.⁴⁰ 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, the Commission finds that the CPCN should be granted. As noted above, the approximate age of each water mains that Northern Kentucky District is seeking to replace is approximately

³⁷ 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.

³⁸ Case No. 2005-00089, Aug. 19, 2005 Order at 6.

³⁹ KRS 278.300(1).

⁴⁰ KRS 278.300(8).

125 years old, are well past the infrastructures expected life, are in poor condition and many are undersized, requiring upgrades to Northern Kentucky District's minimum standard pipe size necessary to support the District's recommended hydraulic capacity and remain in compliance with federal and state regulations. Northern Kentucky District demonstrated its need to upgrade the requested water mains to Northern Kentucky District's minimum standard pipe size within the city of Newport through the use of hydraulic modeling. Additionally, the approximately five miles of water lines that Northern Kentucky District is seeking to replace have experienced a high incidence of breakage and 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 and in need of replacement, soliciting bids for the projects, and consulting with engineering firms to develop a detailed plan in partnership with the city of Newport Fire Department to allow sufficient water flow to increase fire protection. Additionally, Northern Kentucky District compared the cost of alternative water line pipes and structural lining and determined that the alternatives would not meet future reliability or capacity needs.

The Commission 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's utility operations, is necessary and appropriate for and consistent with the proper performance of Northern Kentucky District's service to the public, will not impair Northern Kentucky District's ability to perform that service, and is reasonably necessary and appropriate for such purposes, and, therefore, the Commission finds that approval of the financing should be granted.

IT IS THEREFORE ORDERED that:

1. Northern Kentucky District is granted a CPCN to replace water lines and water mains, 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 (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.

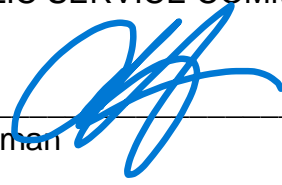
10. Any documents filed in the future pursuant to ordering paragraphs 4, 5, and 9 shall reference this case number and shall be retained in the post case correspondence file.

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 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.

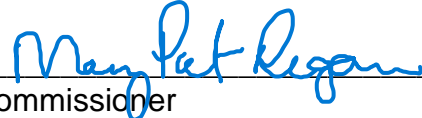
PUBLIC SERVICE COMMISSION

Chairman



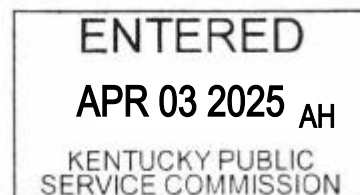
Vice Chairman

Commissioner



ATTEST:


Executive Director



*Cassandra Zoda
Northern Kentucky Water District
2835 Crescent Springs Road
P. O. Box 18640
Erlanger, KY 41018-0640

*Northern Kentucky Water District
2835 Crescent Springs Road
P. O. Box 18640
Erlanger, KY 41018-0640

*Stacey Kampsen
Northern Kentucky Water District
2835 Crescent Springs Road
P. O. Box 18640
Erlanger, KY 41018-0640

*Tom Edge
Northern Kentucky Water District
2835 Crescent Springs Road
P. O. Box 18640
Erlanger, KY 41018-0640