

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF WARREN	)	
COUNTY WATER DISTRICT FOR A	)	CASE NO.
CERTIFICATE OF PUBLIC CONVENIENCE AND	)	2024-00286
NECESSITY	)	

ORDER

On October 18, 2024, Warren County Water District (Warren District), filed an application, pursuant to KRS 278.020, requesting a Certificate of Public Convenience and Necessity (CPCN) to construct a customer service and operation facility, consisting of two buildings, in Bowling Green, Kentucky at a cost not to exceed \$14,430,670.<sup>1</sup> Warren District stated it would fund the project through the issuance of short-term debt in the form of a Bond Anticipation Note (BAN) not exceeding 23 months, and unrestricted internal reserves to pay for the remainder of the construction of the facilities.<sup>2</sup> No party requested intervention in this proceeding. Warren District responded to two requests for information.<sup>3</sup> The matter stands submitted for a decision by the Commission.

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<sup>1</sup> Application at 1.

<sup>2</sup> Application at 5.

<sup>3</sup> Warren District's Response to Commission Staff's First Request for Information (Staff's First Request) (filed Nov. 18, 2024); Warren District's Response to Commission Staff's Second Request for Information (filed Dec. 11, 2024).

## BACKGROUND

Warren District is a water district organized under KRS Chapter 74,<sup>4</sup> and provides retail water service to approximately 33,873 customers, including 31,278 residential customers, 2,404 commercial customers, 63 industrial customers and 128 fire protection customers.<sup>5</sup> In addition Warren District provided wastewater collection and conveyance service to 10,241 customers in Warren County, Kentucky.<sup>6</sup> By contract Warren District manages and operates Butler County Water System, Inc. (Butler County Water) and Simpson County Water District (Simpson District).<sup>7</sup> As of December 31, 2023, Butler County Water provided retail water service to 5,047 customers in Butler County, Kentucky<sup>8</sup> and Simpson District provided water service to 3,620 customers in Simpson County, Kentucky.<sup>9</sup> In total, Warren District is responsible for providing water, fire protection, or sewer services to 52,778 customers in Warren, Simpson, and Butler counties.<sup>10</sup>

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<sup>4</sup> Application at 2.

<sup>5</sup> *Annual Report of Warren County Water District to the Public Service Commission of the Commonwealth of Kentucky for Water Operations for the Year ended December 31, 2023 (2023 Annual Report)* at 49

<sup>6</sup> 2023 Annual Report at 49.

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

<sup>8</sup> *Annual Report of Butler County Water System, Inc. to the Kentucky Public Service Commission for the Year Ending December 31, 2023* at 49.

<sup>9</sup> *Annual Report of Simpson County Water District to the Kentucky Public Service Commission for the Year Ending December 31, 2023* at 49.

<sup>10</sup> Application at 2–3.

## PROPOSED PROJECT

Warren District requested a CPCN for the construction of a Customer Service Facility consisting of a single-story administration building of approximately 32,077 square feet; and a Maintenance Facility consisting of a fleet garage/meter testing lab/inventory warehouse of approximately 19,945 square-feet on land currently owned by Warren District, referred to as the Russellville Road property at the southwest corner of the intersection of Russellville Road and Southwest Parkway in Bowling Green, Kentucky.<sup>11</sup>

Warren District stated that since the current office facility was built in 2000, Warren District has experienced significant growth.<sup>12</sup> Warren District stated that in 2000, Warren District served 18,614 water service customers and as of December 31, 2023, it served 33,745 water service customers, which is an increase of more than 81 percent since 2000.<sup>13</sup> Warren District also stated that due to the growth of Butler County Water and Simpson District, Warren District has experienced a substantial increase in its workforce, as each system has added nearly 1,000 customers since 2000.<sup>14</sup>

Warren District stated that the current facilities are located at 523 US 31-W Bypass, Bowling Green, Kentucky,<sup>15</sup> but are not located within Warren District's current service area and sit along a heavily traveled roadway surrounded by commercial development, which presents daily operational challenges.<sup>16</sup>

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<sup>11</sup> Application at 4.

<sup>12</sup> Application, Direct Testimony of Jacob Cuarta (Cuarta Direct Testimony), Exhibit 11 at 3.

<sup>13</sup> Application at 9.

<sup>14</sup> Application at 9.

<sup>15</sup> Application at 6.

<sup>16</sup> Application at 7–8.

In addition, Warren District stated that 73 employees currently work in or are based at the current facilities which were designed to house 38 employees, resulting in an office that is extremely over-crowded, and has negative effect on customer service, employee morale, and overall productivity.<sup>17</sup> Warren District also stated that the current facilities have inadequate work space as the customer service area within the current facility is markedly undersized. The current customer service area has no dedicated customer waiting area and does not allow adequate space for two or more customer service agents to simultaneously assist customers, resulting in customer dissatisfaction because of added wait time.<sup>18</sup> Further, Warren District stated that the current facilities do not have appropriate work areas for field staff members and there are no dedicated spaces for field staff to complete administrative tasks or collaborate on field projects.<sup>19</sup>

Additionally, Warren District stated that the current facilities have inadequate service equipment and employee parking.<sup>20</sup> Warren District stated that it currently lacks a structurally reinforced area for emergency operations and the absence of a hardened emergency operations center (EOC) severely limits Warren District's ability to coordinate and manage emergency responses.<sup>21</sup> To address the lack of a EOC, Warren District's proposed facility contains an area designated and engineered to survive potentially catastrophic natural or man-made disasters that will allow for the continuity and resilience

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<sup>17</sup> Application at 9.

<sup>18</sup> Cuarta Direct Testimony at 6.

<sup>19</sup> Cuarta Direct Testimony at 6–7.

<sup>20</sup> Cuarta Direct Testimony at 6.

<sup>21</sup> Cuarta Direct Testimony at 10.

of services during emergencies.<sup>22</sup> Finally, Warren District stated that the inventory warehouse at the current facility is undersized and insufficient for operational needs and resulted in Warren District paying \$1,500 per month to lease an off-site warehouse due to the need to house large vehicles and heavy equipment, leading to overcrowding and logistical challenges.<sup>23</sup>

Warren District stated that the proposed Customer Service Facility will have approximately 32,077 square feet of usable space.<sup>24</sup> The front portion of the building will be directly accessible to the public and contain a customer service lobby with space for eight customer service representatives to assist customers with paying bills, making applications for service, and reporting service problems and will include a private conference room to address customer complaints and inquiries and requests for service in a more private setting.<sup>25</sup> Additionally, Warren District stated that a two-lane drive-thru station will be attached to the building.<sup>26</sup>

Warren District stated that it plans to sell its current facilities and relocate its customer service and maintenance operations to a 15-acre site Warren District owns within its service territory at the southwest corner of the intersection of Russellville Road and Southwest Parkway in Bowling Green, Kentucky.<sup>27</sup> Warren District also stated that the relocation will provide Warren District's customers with adequate Customer Service

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<sup>22</sup> Cuarta Direct Testimony at 10.

<sup>23</sup> Cuarta Direct Testimony at 10–11.

<sup>24</sup> Application at 10.

<sup>25</sup> Application at 11.

<sup>26</sup> Application at 11.

<sup>27</sup> Application at 8.

and Maintenance Facilities within Warren District's service area as well as providing Warren District easier access to Butler County Water and Simpson District customers.<sup>28</sup> Warren District stated that it does not anticipate any interruption in operations or services during the move from the existing facilities to the proposed new facilities.<sup>29</sup> To facilitate the transition, Warren District drafted a phased moving plan to stagger the move of different departments to ensure continuity in all functions, with a specific focus on maintaining the critical customer services.<sup>30</sup>

Warren District stated a Request for Proposals (RFP) was publicly advertised for publication in the *Bowling Green Daily News* and following the publication of the advertisement, Warren District was contacted by seven firms to obtain information about the project and received proposals from three firms.<sup>31</sup> Warren District stated the Board conducted interviews and in-person presentations from Warren District with each of the contractors submitting proposals and each proposal was evaluated to determine the quality and cost-effectiveness based on Team Qualifications, Project Approach and Schedule and Experience and References and Proposal Quality.<sup>32</sup>

Warren District stated that Scott, Murphy & Daniel, LLC scored the highest across all areas of the evaluation criteria<sup>33</sup> in addition to having the lowest-price proposal for

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<sup>28</sup> Application at 8.

<sup>29</sup> Warren District's Response to Staff's First Request, Item 5.

<sup>30</sup> Warren District's Response to Staff's First Request, Item 5.

<sup>31</sup> Warren District's Response to Staff's Second Request, Item 1.

<sup>32</sup> Warren District's Response to Staff's Second Request, Item 3.

<sup>33</sup> Warren District's Response to Staff's Second Request, Item 3.

design fees.<sup>34</sup> Warren District accepted the bid submitted by Scott, Murphy & Daniel, LLC for \$14,430,670 as the guaranteed maximum price to construct the project.<sup>35</sup> Warren District stated that the additional operating and maintenance cost for proposed facilities will result in an estimated \$59,838 increase in Warren District's operating expenses.<sup>36</sup>

Warren District created an internal team, referred to as the Building Committee (Committee), to address the ability of Warren District's facilities to accommodate current staff and customer needs and assess the impact of anticipated future customer growth.<sup>37</sup> At the recommendation of the Committee, Warren District considered maximizing the existing location, exploring the existing inventory of commercial buildings available in Warren County and purchasing land with the goal of building a new facility.<sup>38</sup>

Warren District stated that the site of the current facilities is only five acres and the office only has room to expand by 3,000 square feet.<sup>39</sup> Warren District asserted that such an expansion would not be sufficient for its long-term needs, and would have no space for additional parking or the additional warehouse or maintenance shop.<sup>40</sup> Additionally, Warren District utilized a former residence situated on the property for IT staff, and in 2019, Warren District intended to convert a nearby parcel of land with an existing building into a field operations center and warehouse and to demolish its current warehouse for

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<sup>34</sup> Warren District's Response to Staff's Second Request, Item 3.

<sup>35</sup> Application at 5.

<sup>36</sup> Application at 6.

<sup>37</sup> Cuarta Direct Testimony at 12.

<sup>38</sup> Cuarta Direct Testimony at 12.

<sup>39</sup> Cuarta Direct Testimony at 12–13.

<sup>40</sup> Cuarta Direct Testimony at 13.

office expansion.<sup>41</sup> However, a road widening project made Warren District's plans a non-viable option.<sup>42</sup> Warren District stated it considered the existing inventory of commercial buildings available in Warren County; however, only one property was identified as a possibility, but Warren District deemed the identified property insufficient to meet its long-term needs because it was only 2.85 acres.<sup>43</sup>

Warren District identified a 15-acre parcel of land on Russellville Road which would allow crews to access Warren, Butler, and Simpson County customers provide space for future growth and is not as congested as Warren District's current location.<sup>44</sup> Warren District negotiated a \$1,250,000 sale price and the Board voted to purchase the property with the intent of constructing a new Customer Service Facility and a new Maintenance Facility from which to operate Warren District.<sup>45</sup>

Warren District stated that the Russellville Road property was purchased by Warren District in 2022, at an arm's length transaction from Western Apartments, LLC and no current or former member of Warren District's Board of Commissioners or current or former employee of Warren District had any financial interest in the property.<sup>46</sup> Additionally, Warren District clarified that since purchasing the land no site preparation, infrastructure improvements, or construction have been initiated as Warren District

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<sup>41</sup> Cuarta Direct Testimony at 14.

<sup>42</sup> Cuarta Direct Testimony at 13.

<sup>43</sup> Cuarta Direct Testimony at 13.

<sup>44</sup> Cuarta Direct Testimony at 14.

<sup>45</sup> Cuarta Direct Testimony at 14.

<sup>46</sup> Warren District's Response to Commission Staff's First Request for Information (Staff's First Request) (filed Nov. 18, 2024), Item 7.



planned to engage in such endeavors once it obtains a CPCN to construct the new facilities.<sup>47</sup>

### Financing

Warren District is not seeking approval of financing or a rate adjustment to fund the Project.<sup>48</sup> Warren District proposed to finance the estimated total cost not exceeding \$14,430,670 for the construction of the project through the issuance of short-term debt in the form of a Bond Anticipation Note (BAN) not exceeding 23 months<sup>49</sup> and will use unrestricted internal reserves to pay for the remainder of the construction of the facilities.<sup>50</sup> Warren District further stated it plans to partially retire the short-term debt associated with this Project using the proceeds from the sale of approximately five acres of land upon which Warren District's current Customer Service and Operations Complex is located.<sup>51</sup> Warren District stated that once the Project has been completed and the sale of the current facilities has occurred, it will file a separate Application seeking approval for any long-term financing that is necessary to retire the short-term debt.<sup>52</sup>

### 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

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<sup>47</sup> Warren District's Response to Staff's First Request, Item 8.

<sup>48</sup> Application at 5.

<sup>49</sup> Application at 5.

<sup>50</sup> Application at 5.

<sup>51</sup> Application at 6.

<sup>52</sup> Application at 6.

until it has obtained a CPCN from the Commission.<sup>53</sup> To obtain a CPCN, the utility must demonstrate a need for such facilities and an absence of wasteful duplication.<sup>54</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>55</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>56</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>57</sup>

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<sup>53</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>54</sup> *Kentucky Utilities Co. v. Public Service Com’n*, 252 S.W.2d 885, 890 (Ky. App. 1952).

<sup>55</sup> *Kentucky Utilities Co.*, 252 S.W.2d at 890.

<sup>56</sup> *Kentucky Utilities Co.*, 252 S.W.2d 885, 890.

<sup>57</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>58</sup> All relevant factors must be balanced.<sup>59</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>60</sup> KRS 278.300 only applies to notes that have a term of more than two years.<sup>61</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, the Commission finds that the CPCN should be granted. Warren District has demonstrated need as a result of the substantial customer growth since the current facilities were constructed. To support the large customer growth, Warren District has nearly doubled the number of

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<sup>58</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>59</sup> Case No. 2005-00089, Aug. 19, 2005 Order at 6.

<sup>60</sup> KRS 278.300(1).

<sup>61</sup> KRS 278.300(8).

office employees and lacks the proper office space for each employee to perform their duties or meet with customers, and Warren District's current facilities provide no space for field officers to perform administrative tasks. In addition, the current facilities do not contain an emergency operations center. Finally, Warren District estimated the useful life of the Customer Service Facility and the Maintenance Facility to be 75 years.<sup>62</sup>

Warren District also provided sufficient evidence that the project will not result in wasteful duplication. Warren District evaluated alternatives to building a new facility including expanding the existing location and exploring the inventory of commercial buildings available in Warren County but found that neither alternative would resolve current or future needs for a larger facility. Further, Warren District's board of directors (Board) solicited competitive bids for a Construction Manager for the project. The Board selected Scott, Murphy & Daniel as the Project Manager after conducting interviews and in person presentations from three firms submitting proposals. Warren District provided that Scott, Murphy & Daniel was not the lowest bidder, but that Scott Murphy & Daniel was selected based off an overall scoring rubric, which took into consideration team qualifications, project approach and schedule, experience and references, and proposal quality.<sup>63</sup> Warren District's consideration of expanding the its existing service facilities, coupled its efforts to obtain constructions services through a competitive bid process with a thorough evaluation of each proposal by the Board, reflects Warren District's efforts to avoid excessive investment or unnecessary physical properties.

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<sup>62</sup> Warren District's Response to Commission Staff's First Request for Information (Staff's First Request) (filed Nov. 18, 2024).

<sup>63</sup> Warren District's Response to Commission Staff's Second Request for Information (Staffs Second Request) (filed Dec. 11, 2024) item 2, item 3, Exhibit 2-2.

The Commission finds that Warren District's proposed construction of a Customer Service Facility and Maintenance Facility to replace the current facilities is needed and will not result in wasteful duplication, and therefore finds that the CPCN should be granted.

IT IS THEREFORE ORDERED that:

1. Warren District is granted a CPCN for the construction of a customer service and operation facility, consisting of two buildings, as proposed in its application.
2. Warren 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. Warren 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. Warren District shall file a certified statement that the construction has been satisfactorily completed in accordance with the construction plans and specifications within 60 days of the substantial completion of the construction discussed herein.
6. Warren District must obtain Commission approval before issuing any long-term financing.

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

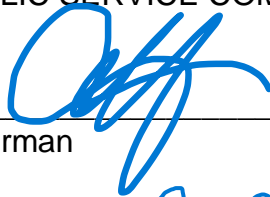
8. The Executive Director is delegated authority to grant reasonable extensions of time for filing any documents required by this Order upon Warren District's showing of good cause for the extension.

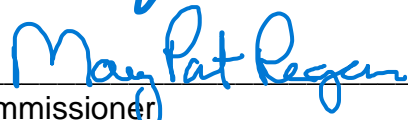
9. Nothing contained herein shall be deemed a warranty or finding of value of securities or financing authorized herein on the part of the Commonwealth of Kentucky or any agency thereof.


10. This case is closed and removed from the Commissions docket.

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PUBLIC SERVICE COMMISSION

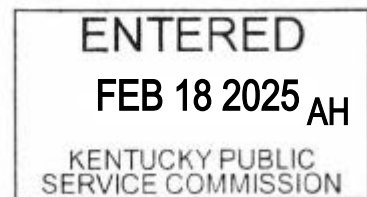
  
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Commissioner

  
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ATTEST:

  
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