

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF SOUTH	)	
EASTERN WATER ASSOCIATION, INC. FOR	)	
COMMISSION APPROVAL PURSUANT TO 807	)	CASE NO.
KAR 5:001 AND KRS 278.020 FOR A	)	2022-00065
CERTIFICATE OF PUBLIC CONVENIENCE AND	)	
NECESSITY TO CONSTRUCT A CUSTOMER	)	
SERVICE AND OPERATIONS FACILITY	)	

ORDER

On March 29, 2022, South Eastern Water Association, Inc. (South Eastern Water) tendered an application pursuant to KRS 270.020 and 807 KAR 5:001, Section 15, seeking a Certificate of Public Convenience and Necessity (CPCN) for construction of a customer service and operations facility. The application was deficient and an amended application curing the deficiency was submitted and the application was deemed filed on April 5, 2022. South Eastern Water is not seeking an adjustment in its rates in connection with this application.<sup>1</sup>

The Commission issued an Order on April 22, 2022, establishing a procedural schedule for the processing of this case. The procedural schedule provided for, among other things, deadlines for intervention and discovery requests and responses. No party requested intervention in this proceeding. Commission Staff issued, and South Eastern Water responded to, two rounds of requests for information from Commission Staff. On July 5, 2022, South Eastern Water filed a notice stating it was not requesting a hearing

---

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

and was submitting this matter for a decision based upon the existing evidence of record. This matter now stands submitted for a decision on the written record.

### BACKGROUND

South Eastern Water is a water association that serves customers in Pulaski County, Kentucky.<sup>2</sup> South Eastern Water's current office is an approximately 3,000 square foot building constructed in the late 1970s.<sup>3</sup> That building was built to serve approximately 900 customers and house three employees.<sup>4</sup> South Eastern Water now serves 7,721 customers and employs a staff of 13.<sup>5</sup>

South Eastern Water stated that the current office building contains a small lobby, boardroom, work stations for three customer service representatives, an office for its General Manager, restrooms, a small kitchen, a meter test bench, a small room for storing office supplies, and a small room for storing meters.<sup>6</sup> A fenced-in area outside is used to store dump trucks, trailers, backhoes, water line pipes, and three portable storage buildings containing meters and other parts.<sup>7</sup>

South Eastern Water stated that the current office building is inadequate for its current needs for the following reasons. First, South Eastern Water explained that the reception and customer service representative area in the front of the building is very

---

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

<sup>3</sup> Application at 5.

<sup>4</sup> South Eastern Water's Responses to Commission Staff's First Request for Information (Responses to Staff's First Request), Item 7.

<sup>5</sup> Responses to Staff's First Request, Item 7.

<sup>6</sup> Application at 5.

<sup>7</sup> Application at 5.

crowded. To provide a workspace for a third customer service representative, a barrier was erected across a hallway to serve as a desk and work station.<sup>8</sup> South Eastern Water maintained that this restricts access to various parts of the building. South Eastern Water also stated that the customer service area and lobby are so small that it is difficult to have private conversations with customers, and there is not a separate area for confidential discussions.<sup>9</sup> South Eastern Water also stated that it has inadequate storage space for records.<sup>10</sup>

Next, South Eastern Water explained that the drive-through and parking logistics constitute safety hazards and are inconvenient. Since the drive-through payment window is close to the East Somerset Church Road entrance, only three vehicles can be in line without stopped traffic accumulating on the shoulder-less highway in both the east and west directions.<sup>11</sup> The building has only four parking spaces, one of which is a handicapped space.<sup>12</sup> The spaces are directly in front of the office building, and when a customer leaves, the customer must back out into the highway.<sup>13</sup> Vehicles waiting in the drive-through line often block customers from exiting the lot.<sup>14</sup>

Third, South Eastern Water stated that the lot does not have permanent equipment storage buildings. Distribution and maintenance crews must access the fenced-in outside

---

<sup>8</sup> Application at 6.

<sup>9</sup> Application at 6.

<sup>10</sup> Application at 7.

<sup>11</sup> Application at 7.

<sup>12</sup> Application at 7.

<sup>13</sup> Application at 7.

<sup>14</sup> Application at 7–8.

storage area frequently, causing additional congestion.<sup>15</sup> Since the vehicles and equipment are stored outside, during cold weather, backhoes must be run long enough to warm the hydraulic fluid, resulting in extra cost and time spent by crews.<sup>16</sup>

Finally, South Eastern Water stated that the current facility does not include a garage to perform maintenance work on its vehicles and construction and repair equipment, or a shop to conduct work or testing on meters or other equipment.<sup>17</sup> South Eastern Water further stated that there is no room on the lot to construct a garage. South Eastern Water explained that, as a result, it must outsource repair work and cleaning vehicles.

South Eastern Water explained that it purchased a four-acre lot on Somerset Bypass on June 1, 2017, for \$150,000.<sup>18</sup> South Eastern Water proposed to construct a new customer service and operations facility on this lot at an estimated cost of \$2,115,864, and a one-time garage equipment expense of \$7,500.<sup>19</sup> Estimated annual operations and maintenance cost is \$21,108, which is \$8,436 less than the current building's annual cost.<sup>20</sup> As of December 31, 2021, South Eastern Water had unrestricted cash reserves or reserves restricted for this Project exceeding \$3,970,000.<sup>21</sup>

---

<sup>15</sup> Application at 8.

<sup>16</sup> South Eastern Water's Responses to Commission Staff's Second Request for Information (Responses to Staff's Second Request), Item 2.

<sup>17</sup> Application at 8-9.

<sup>18</sup> Responses to Staff's Second Request, Item 1(c); Application, Exhibit 12.

<sup>19</sup> Application at 16; Responses to Staff's First Request, Item 4(b).

<sup>20</sup> Application at 15; Responses to Staff's First Request, Item 3, contain a breakdown of the \$30,095 annual operating costs associated with the existing office building.

<sup>21</sup> Application at 16.

The proposed construction includes four buildings, specifically a customer service building, a garage and repair shop, a two storage buildings. The 3,740 square foot customer service building would be built to house workspaces for customer service, billing, mapping, accounting, and offices for the General Manager and Assistant Manager. It would also include a lobby, break room, server room, board room, conference room, and private office. This proposed building will also include a drive-through and parking lot with more space for vehicles.<sup>22</sup>

A 6,000 square foot garage and shop building would be constructed to house eight employees.<sup>23</sup> It would also allow vehicle storage, maintenance, repair, and washing, resulting in a decrease in costs spent maintaining vehicles via third parties.<sup>24</sup> The proposed building also includes meter testing facilities.<sup>25</sup> Records will also be stored in this building, resulting in a savings of \$600 per month currently paid for off-site storage.<sup>26</sup>

A 1,440 square foot building would be built for storage of pipes and other equipment.<sup>27</sup> A 1,200 square foot building would be constructed to store gravel, blacktop, and topsoil that South Eastern Water does not currently have storage space for and cannot currently obtain outside of regular business hours.<sup>28</sup>

---

<sup>22</sup> Application at 12.

<sup>23</sup> Application at 12.

<sup>24</sup> Application at 13.

<sup>25</sup> Application at 13.

<sup>26</sup> Responses to Staff's First Request, Item 10(a); Responses to Staff's Second Request, Item 2.

<sup>27</sup> Application at 13.

<sup>28</sup> Application at 13.

South Eastern Water advertised for competitive bidding for construction of the proposed project and received four lump sum bids.<sup>29</sup> South Eastern Water does not plan to incur any debt in order to build the new facility.<sup>30</sup> The project will be funded from unrestricted cash reserves.<sup>31</sup> Therefore, no rate increase will be needed. South Eastern Water stated that the only effect on rates will be an increase in depreciation expense of \$26,000 per year based on a 75-year useful life of the buildings<sup>32</sup> that would be recovered in a future rate case.<sup>33</sup> South Eastern Water plans to sell the existing office building at public auction.<sup>34</sup> South Eastern Water stated that based on communications with potential buyers, the estimated value of the existing building is \$200,000.<sup>35</sup> Moving duties will be performed by employees, so no moving expenses will be incurred.<sup>36</sup>

South Eastern Water stated that it considered and rejected the following alternatives to constructing a new customer service and operations facility:

South Eastern Water rejected the option of taking no action to alleviate the above problems, concluding that alleviating the problems associated with the existing office

---

<sup>29</sup> Application at 16; Exhibit 14.

<sup>30</sup> Responses to Staff's First Request, Item 1(e).

<sup>31</sup> Responses to Staff's First Request, Item 1(e).

<sup>32</sup> Responses to Staff's First Request, Item 2(c); Responses to Staff's Second Request, Item 4.

<sup>33</sup> Response to Staff's First Request, Item 2(c). Also note the projected O&M will be less than the current O&M.

<sup>34</sup> Responses to Staff's First Request, Item 1(a).

<sup>35</sup> Responses to Staff's First Request, Item 1(c).

<sup>36</sup> Responses to Staff's First Request, Item 5.

building were necessary to properly serve its customers and employees and to ensure their safety.<sup>37</sup>

South Eastern Water considered expanding its existing office building but rejected this idea because the one-acre lot where the existing office building is located is too small.<sup>38</sup> The only way to expand the existing building or add drive-through and parking space would be to build an addition to the rear. However, utility lines and easements are located immediately behind the existing building, preventing additional construction.<sup>39</sup>

South Eastern Water also considered purchasing or leasing an existing building and remodeling it, if necessary. For an undisclosed number of years, South Eastern Water's President asked multiple realtors to look for a suitable property.<sup>40</sup> Board members also attended commercial building auctions.<sup>41</sup> Properties coming on the market during this period were deemed by South Eastern Water to be too small or too far from its customer base.<sup>42</sup> The most suitable building was a former trucking terminal located on a 23-acre lot; however, South Eastern Water rejected this option for multiple reasons. The property was outside its service area, the shop and garage were in poor condition, and the office portion of the building was too small to use as a customer service area.<sup>43</sup>

---

<sup>37</sup> Application at 9.

<sup>38</sup> Application at 9.

<sup>39</sup> Application at 9-10.

<sup>40</sup> Application at 10.

<sup>41</sup> Application at 10.

<sup>42</sup> Application at 10.

<sup>43</sup> Responses to Staff's First Request, Item 15(a).

South Eastern Water estimated the cost of remodeling to meet its needs at \$750,000 to \$1 million in addition to the purchase price of \$1.4 million.<sup>44</sup>

South Eastern Water investigated other lots for sale on which to build the proposed facility. However, no comparable property located near its customer base was found for sale for less than the property already owned by South Eastern Water.

### LEGAL STANDARD

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>45</sup> To obtain a CPCN, the utility must demonstrate a need for such facilities and an absence of wasteful duplication.<sup>46</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>47</sup>

---

<sup>44</sup> Responses to Staff's First Request, Item 15(a); Responses to Staff's Second Request, Item 5.

<sup>45</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>46</sup> *Kentucky Utilities Co. v. Pub. Serv. Comm 'n*, 252 S.W.2d 885 (Ky. 1952).

<sup>47</sup> *Kentucky Utilities Co.*, 252 S.W.2d at 890.



“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>48</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>49</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>50</sup> All relevant factors must be balanced.<sup>51</sup>

### DISCUSSION AND FINDINGS

Having considered the application and all evidence in the record, the Commission finds that the CPCN is granted. KRS 278.030 states that “[e]very utility shall furnish adequate, efficient, and reasonable service, and may establish reasonable rules governing the conduct of its business and the conditions under which it shall be required to render service.” To meet this goal, a utility must maintain a sufficient headquarters building or buildings to serve its customers in a safe, efficient, and private manner and to allow its employees to work in a safe and efficient environment, with enough space and

---

<sup>48</sup> *Kentucky Utilities Co.*, 252 S.W.2d at 890.

<sup>49</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>50</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), final Order.

<sup>51</sup> Case No. 2005-00089, *East Kentucky Power Cooperative, Inc.* (Ky. PSC Aug. 19, 2005), final Order at 6.

resources to perform all necessary duties. South Eastern Water described a crowded, inadequate, inefficient office building, with lack of access to essential areas and a location that causes traffic hazards. The existing building is over 40 years old, and since its construction, the customer base and number of employees has increased significantly.<sup>52</sup> Maintenance workers are unable to perform their jobs efficiently and effectively. Storage areas are also insufficient.

In the two most recent years of audit reports on file with the Commission, South Eastern Water has operated with a negative net income, shown below. This indicates that the utility had been failing to fully fund its depreciation. However, South Eastern Water completed an Alternative Rate Filing (ARF) in which, by Commission Order dated September 17, 2021,<sup>53</sup> rates were authorized that ensure the utility will be able to fully fund depreciation, provide sufficient revenue to meet operating expenses, and included additional working capital to cover expenses or capital expenditures not known and measurable at the time, such as the projected depreciation of \$26,600<sup>54</sup> for the proposed project. As the financial impact of the increased rates is not currently known, the Commission urges South Eastern Water to review their financial position within three years to ensure that the authorized rates continue to sufficiently maintain a stable financial

---

<sup>52</sup> See Case No. 2020-00207, *Electronic Application of Hardin County Water District No. 2 for a Certificate of Public Convenience and Necessity* (Ky. PSC Oct. 21, 2020), Order at 4-5, in which the Commission granted a CPCN for a new customer service facility where the utility asserted an industry-recommended 442 square foot per employee standard. In the present case, this would necessitate at least 5,746 square feet for 13 employees. The existing office building is 3,000 square feet.

<sup>53</sup> Case No. 2021-00126, *Electronic Application of South Eastern Water Association, Inc. for a Rate Adjustment Pursuant To 807 KAR 5:076*, (Ky. PSC Sept. 17, 2021), Order.

<sup>54</sup> Response to Staff's Second Request for Information, Item 4.

position. Presently, South Eastern Water maintains the funding to pay for this project without raising rates or incurring debt.

Year	2015	2016	2017	2018	2019
Net Income Before Contributions	\$ 417,345	\$ 129,895	\$ 56,010	\$ (130,358)	\$ (24,614)
Less: Principal Payments	(103,093)	(294,472)	(283,792)	(305,370)	(316,500)
Add: Depreciation Expense	868,983	943,430	988,985	980,038	986,238
Cash Basis Income	1,183,235	778,853	761,203	544,310	645,124
Year	2015	2016	2017	2018	2019
Cash and Cash Equivalents	\$ 3,189,791	\$ 3,111,107	\$ 2,223,151	\$ 1,673,728	\$ 2,035,198
Restricted Cash	891,607	918,201	1,020,030	1,088,210	1,128,033
Net Increase (Decrease) in Cash	-	(52,090)	(786,127)	(481,243)	401,293

The Commission has allowed utilities significant leeway in determining their need for new headquarters facilities, regularly granting CPCN applications with comparable or less need.<sup>55</sup> South Eastern Water is also in a financial position sufficient to bear the cost of this construction, and without incurring debt or seeking recovery via rate increase

---

<sup>55</sup> Case No. 2021-00314, *Electronic Application of Big Rivers Electric Corporation for a Certificate of Public Convenience and Necessity Authorizing Construction of a New Headquarters Facility and an Order Authorizing Big Rivers to Sell Its Existing Headquarters Facility* (Ky. PSC Dec. 7, 2021), Order at 9; Case No. 2020-00207, Oct. 21, 2020, Order at 8; Case No. 2019-00326, *Electronic Application of Jackson Purchase Energy Corporation for a Certificate of Public Convenience and Necessity to Construct a New Headquarters Facility* (Ky. PSC Jan. 14, 2020), Order at 13; Case No. 2018-00244, *Application of South Anderson Water District for a Certificate of Public Convenience and Necessity to Begin Construction of New Office Headquarters* (Ky. PSC Nov. 7, 2018), Order at 3; Case No. 2016-00392, *Application of North Mercer Water District for a Certificate of Public Convenience and Necessity to Acquire a Building and Make Minimal Adaptations Thereto* (Ky. PSC Dec. 22, 2016), Order at 3; Case No. 2014-00355, *Application of South Kentucky Rural Electric Cooperative Corporation for a Certificate of Public Convenience and Necessity to Construct a New Headquarters Facility and for Approval to Transfer Ownership of Certain Assets or, in the Alternative, a Determination That Such Approval Is Unnecessary* (Ky. PSC Mar. 27, 2015), Order at 9, originally denied for lack of wasteful duplication in Case No. 2008-00371; Case No. 2013-00343, *Application of Salt River Electric Cooperative Corporation for a Certificate of Convenience and Necessity Authorizing Certain Proposed Construction Identified as the Headquarters Construction and District Renovations* (Ky. PSC Oct. 25, 2013), Order at 7; Case No. 2010-00516, *Application of Big Sandy Rural Electric Cooperative Corporation for a Certificate of Convenience and Necessity Pursuant to KRS 278.020 and 807 KAR 5:001, Section 9 and Related Sections, Authorizing Certain Proposed Construction* (Ky. PSC July 27, 2011), Order at 3; Case No. 2010-00224, *Application of Mountain Rural Telephone Cooperative Corporation, Inc. for a Certificate of Public Convenience and Necessity for Construction of a New Headquarters Building in West Liberty Kentucky* (Ky. PSC Sept. 16, 2010), Order at 4.

except for the resulting depreciation expense. South Eastern Water will also recoup some of the cost of building a new facility by selling the existing headquarters property. South Eastern Water has established the need for a more adequate customer service and operations facility.

South Eastern Water has also established a lack of wasteful duplication. The proposed construction meets the needs of the current customer base and number of employees without exceeding this need beyond what is necessary for future growth. South Eastern Water also properly selected the least-cost reasonable alternative for upgrading its facility. Expanding the existing office building was not a feasible option due to the small size of the lot and the inability to build over existing utility lines and easements. In addition, no suitable, existing, comparable building was available for purchase or lease at a lesser cost. The 23-acre lot with the former trucking terminal building is located outside the service area and was more costly when taking into account the need for renovations to meet South Eastern Water's requirements.<sup>56</sup> This option was properly rejected by South Eastern Water. Selecting a different site for purchase and construction was also properly rejected. South Eastern Water already owns a suitable parcel to build on, which was purchased at a time that allowed considerable savings compared to the current real property market.<sup>57</sup>

IT IS THEREFORE ORDERED that:

---

<sup>56</sup> The purchase price of this property plus the estimated cost of renovations is \$2.15-2.4 million compared to the \$2,123,364 total cost of building the proposed construction on property already owned by South Eastern Water.

<sup>57</sup> For comparison, a 1.3-acre lot across the Somerset Bypass listed for \$179,900 in 2017 recently sold for \$235,000. Responses to Staff's Second Request, Item 1(f).

1. South Eastern Water's request for a CPCN for the proposed projects described in its application is granted.

2. South Eastern Water shall immediately notify the Commission upon knowledge of any material changes to the project, including, but not limited to, a material increase in costs and any significant delays in construction.

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

4. South Eastern Water shall file with the Commission documentation of the 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 construction authorized under this CPCN is substantially completed. Construction costs shall be classified into appropriate plant accounts in accordance with the Uniform System of Accounts for electric utilities as prescribed by the Commission.

5. South Eastern Water shall file a copy of the "as-built" drawings, if any, and a certified statement that the construction has been satisfactorily completed in accordance with the plans and specifications within 60 days of the substantial completion of the construction certificated herein.

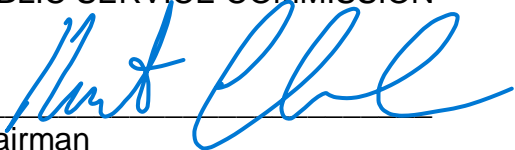
6. Any documents filed in the future pursuant to ordering paragraph 2 through 5 shall reference this case number and shall be retained in the utility's general correspondence files.

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

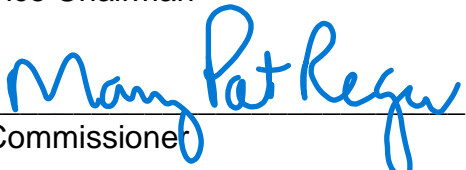
8. This case is closed and is removed from the Commission's docket.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

PUBLIC SERVICE COMMISSION

  
Chairman

Vice Chairman

  
Commissioner



ATTEST:

  
Executive Director

\*Honorable Damon R Talley  
Attorney at Law  
STOLL KEENON OGDEN PLLC  
300 West Vine Street  
Suite 2100  
Lexington, KENTUCKY 40507-1801

\*Gerald E Wuetcher  
Attorney at Law  
STOLL KEENON OGDEN PLLC  
300 West Vine Street  
Suite 2100  
Lexington, KENTUCKY 40507-1801

\*Joe D. Crawford  
President  
South Eastern Water Association, Inc.  
147 East Somerset Church Road  
Somerset, KY 42503

\*Morris Vaughn  
Manager  
South Eastern Water Association, Inc.  
147 East Somerset Church Road  
Somerset, KY 42503

\*South Eastern Water Association, Inc.  
147 East Somerset Church Road  
Somerset, KY 42503