

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF BLUEGRASS	)	
WATER UTILITY OPERATING COMPANY, LLC	)	
FOR A CERTIFICATE OF PUBLIC CONVENIENCE	)	
AND NECESSITY FOR THE INSTALLATION OF A	)	CASE NO.
DRAIN FIELD AT THE MARSHALL RIDGE	)	2024-00170
SYSTEM OR AN ORDER DECLARING THE	)	
INSTALLATION IS AN EXTENSION IN THE	)	
ORDINARY COURSE OF BUSINESS	)	

ORDER

On February 19, 2025, Bluegrass Water Utility Operating Company, LLC (Bluegrass Water), filed a motion and an affidavit pursuant to 807 KAR 5:001, Section 4(5), for leave to amend its application for a Certificate of Public Convenience and Necessity (CPCN) or for a declaratory order that the project falls within the exception of an extension in the ordinary course of business, filed pursuant to KRS 278.020(1)(a)(2) and accepted for filing effective July 8, 2024.

Bluegrass Water’s CPCN application sought approval to replace the Marshall Ridge neighborhood’s overgrown drain field,<sup>1</sup> which was overflowing with sewage and discharging into a nearby stream, resulting in notices of violations assessed by the Purchase District Health Department and the Kentucky Department for Environmental Protection.<sup>2</sup>

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<sup>1</sup> Application (tendered June 26, 2024) at 1.

<sup>2</sup> Bluegrass Water’s Response to Commission Staff’s First Request for Information, Item 3(b).

Bluegrass Water requested a two-month extension to request a hearing or a decision on the record so it could supplement the record after it became apparent that the Paducah McCracken County Joint Sewer Agency (JSA) was interested in enforcing its right under local ordinance to require the Marshall Ridge neighborhood to hook up to its sewer system.<sup>3</sup> The Commission granted the extension,<sup>4</sup> as the facts of the case had materially changed. On the January 14, 2024 deadline, Bluegrass Water requested another extension which the Commission denied because, under KRS 278.019, the statutory deadline to issue a final order was March 8, 2025, which would have given the Commission insufficient time to resolve the case.<sup>5</sup> The Order denying another extension noted that Bluegrass Water could refile or amend the application subject to resetting the statutory deadline pursuant to 807 KAR 5:001, Section 4(5).

Bluegrass Water's motion to amend included an affidavit from its manager indicating that it is waiting for JSA to provide it with additional information about whether and when JSA will proceed with a project to connect Marshall Ridge to its sewer system.<sup>6</sup> The manager acknowledged that additional information would be required to determine if JSA's involvement would eliminate the need for the proposed drain field.<sup>7</sup> The affidavit did not include a specific timeline for the parties to obtain the necessary information. The motion did not include a withdrawal of the application.

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<sup>3</sup> Motion at unnumbered 2.

<sup>4</sup> Order (Ky. PSC Dec. 4, 2024).

<sup>5</sup> Order (Ky. PSC Jan. 27, 2025).

<sup>6</sup> Motion, Affidavit at unnumbered 2.

<sup>7</sup> Motion, Affidavit at unnumbered 3.

Since Bluegrass Water acknowledged that it cannot establish that the drain pond is a reasonable alternative until JSA makes its decision regarding connecting Marshall Ridge to its system, the Commission finds that Bluegrass Water's application is denied, as Bluegrass Water cannot, within the period set forth by KRS 278.019, establish that the drain field is a reasonable method of resolving the ongoing violations. Bluegrass Water cannot establish lack of wasteful duplication because JSA may make the drain field obsolete by requiring Marshall Ridge to connect to its sewer system.<sup>8</sup> Bluegrass Water's motion to amend is denied as moot; however, Bluegrass Water is permitted to refile its application in a new case. A refiled application will not relate back to the date of the original application.<sup>9</sup> The Commission shall incorporate the record in this case by reference in a refiled case.

IT IS THEREFORE ORDERED that:

1. Bluegrass Water's application is denied.
2. Bluegrass Water's motion to amend is denied as moot.
3. Bluegrass Water is permitted to refile its CPCN application in a new case.

A refiled application will not relate back to the original application.

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

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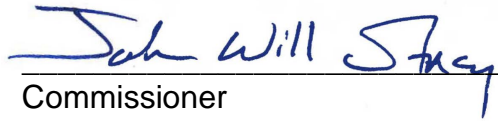
<sup>8</sup> Lack of wasteful duplication must be established by a utility to obtain a CPCN or establish an extension in the ordinary course of business. *Kentucky Utilities Co. v. Pub. Serv. Comm'n*, 252 S.W.2d 885 (Ky. 1952); 807 KAR 5:001, Section 15(3). See also Case No. 2023-00415, *Electronic Application of Kentucky Utilities Company and Louisville Gas and Electric Company for Declaratory Order That the Proposed Construction of Lisle Avenue Operations Center and the Proposed Purchase of an Office Building in Eastern Jefferson County Are Ordinary Extension in the Usual Course of Business and Do Not Require a Certificate of Public Convenience and Necessity* (Ky. PSC Apr. 4, 2024), Order at 6-7.

<sup>9</sup> 807 KAR 5:001, Section 4(5).

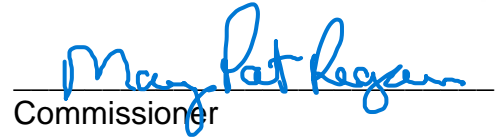
PUBLIC SERVICE COMMISSION



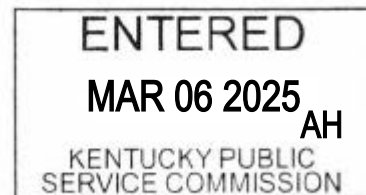
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Commissioner



Commissioner



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