

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF WESTERN	)	
PULASKI COUNTY WATER DISTRICT FOR A	)	
CERTIFICATE OF PUBLIC CONVENIENCE AND	)	CASE NO.
NECESSITY TO CONSTRUCT A SYSTEM	)	2024-00348
IMPROVEMENTS PROJECT AND AN ORDER	)	
AUTHORIZING THE ISSUANCE OF SECURITIES	)	
PURSUANT TO KRS 278.300	)	

ORDER

On November 15, 2024, Western Pulaski County District (Western Pulaski District) filed an application<sup>1</sup> seeking a Certificate of Public Convenience and Necessity (CPCN) pursuant to KRS 278.020 and is requesting approval of the associated financing pursuant to KRS 278.300 for the replacement of an existing 300,000-gallon elevated water storage tank with a 1,000,000-gallon elevated composite water storage tank and 600 LF of 12-inch ductile iron water main.<sup>2</sup> Western Pulaski District stated it would fund the project using a 20-year Kentucky Infrastructure Authority (KIA) loan in the amount of \$4,500,000 with an additional \$555,000 in supplemental funds from the KIA Fund B Loan Program for a total project cost of \$5,055,000.<sup>3</sup> No party requested intervention in this proceeding.

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<sup>1</sup> Western Pulaski District tendered an application on November 8, 2024 that was rejected for filing due to certain deficiencies. On November 15, 2024, Western Pulaski District filed documents that cured the filing deficiencies, and the application was deemed filed as of November 15, 2024.

<sup>2</sup> Application, Exhibit A.

<sup>3</sup> Application, Exhibit A.

Western Pulaski District responded to one request for information.<sup>4</sup> The matter stands submitted for a decision by the Commission.

### BACKGROUND

Western Pulaski District is a water district organized under KRS Chapter 74<sup>5</sup> that provides retail water service to approximately 9,399<sup>6</sup> customers in Pulaski, Russell, and Wayne counties, Kentucky.<sup>7</sup> Western Pulaski District purchases its water from the city of Somerset.<sup>8</sup> As of December 31, 2023, Western Pulaski District's plant in service was \$30,563,796 and its accumulated depreciation was \$11,222,003.<sup>9</sup>

### WATER LOSS

Pursuant to 807 KAR 5:066, Section 6(3), water loss is limited to 15 percent for ratemaking purposes. The Commission notes that Western Pulaski District reported water loss of 32.7623 percent in its 2023 Annual Report.<sup>10</sup> At 32.7623 percent water loss, the annual cost of water loss above 15 percent is \$280,076, and the yearly total cost of water loss to Western Pulaski District is \$516,597, as shown in the following table.

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<sup>4</sup> Western Pulaski District's Response to Commission Staff's First Request for Information (Staff's First Request) (filed Dec. 9, 2024).

<sup>5</sup> Application at 1.

<sup>6</sup> *Annual Report of Western Pulaski County District to the Public Service Commission for the Year Ending December 31, 2023* (2023 Annual Report) at 49.

<sup>7</sup> 2023 Annual Report at 12.

<sup>8</sup> Application, Exhibit A.

<sup>9</sup> 2023 Annual Report at 24–25.

<sup>10</sup> 2023 Annual Report at 57.

Description	Purchased Water	Purchased Power	Total
Pro Forma Expenses	\$ 1,478,653	\$ 98,150	\$ 1,576,803
Water Loss Percent	32.7623%	32.7623%	32.7623%
Total Water Loss	\$ 484,441	\$ 32,156	\$ 516,597

Description	Purchased Water	Purchased Power	Total
Pro Forma Expenses	\$ 1,478,653	\$ 98,150	\$ 1,576,803
Water Loss in Excess of 15%	17.7623%	17.7623%	17.7623%
Disallowed Water Loss	\$ 262,643	\$ 17,434	\$ 280,076

PROPOSED PROJECT

Western Pulaski District’s proposed project is to replace a 300,000-gallon elevated storage tank with a 1,000,000-gallon elevated composite water storage tank.<sup>11</sup> Western Pulaski District stated that the total capital cost for the project is \$5,055,000.<sup>12</sup>

Western Pulaski District stated the existing 300,000-gallon storage tank was constructed in 1991-1992<sup>13</sup> and described the current condition of the structure as poor, requiring significant rehabilitation to remain in service.<sup>14</sup> Western Pulaski District anticipates the total cost of the necessary rehabilitation measures would be approximately \$600,000 due to “significant corrosion and is in desperate need of repairs and paint.”<sup>15</sup>

In addition, Western Pulaski District stated that the necessity of the project is due to an increase of growth along the KY Highway 914 Bypass and in the western portion of

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<sup>11</sup> Application, Exhibit A.

<sup>12</sup> Application, Exhibit J.

<sup>13</sup> Western Pulaski District’s Response to Staff’s First Request, Item 6(a).

<sup>14</sup> Western Pulaski District’s Response to Staff’s First Request, Item 5(d).

<sup>15</sup> Western Pulaski District Response to Staff’s First Request, Item 5(d).

the county.<sup>16</sup> Western Pulaski District stated the average daily demand for Western Pulaski District served by the current tank has been approximately 875,000 gallons per day since the beginning of 2024 and the maximum daily demand was 904,000 gallons, which occurred the week of December 2, 2024.<sup>17</sup> Additionally, Western Pulaski District stated that the system storage provided by the proposed 1,000,000-gallon tank is needed to meet average daily storage requirements in the Ten States Standards and ensure the area can be adequately served in an emergency and the elevated storage provides a buffer against pressure variations that can occur due to rapid increases or decreases in water demand in the area.<sup>18</sup>

Western Pulaski District explained that the project engineer determined that only two potential storage tank site locations with the desired elevation existed and one was the existing storage tank site and the other was within an airport flight restricted zone across from the existing tank site on KY Highway 914.<sup>19</sup> Based on these facts and the previous existing site having already been permitted by the Federal Aviation Administration and the Kentucky Airport Zoning Commission, the project engineer recommended the construction of a new 1,000,000-gallon water storage tank at the existing 300,000-gallon water storage tank site.<sup>20</sup>

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

<sup>17</sup> Western Pulaski District's Response to Staff's First Request, Item 6(b).

<sup>18</sup> Western Pulaski District's Response to Staff's First Request, Item 5(b).

<sup>19</sup> Western Pulaski District's Response to Staff's First Request, Item 7(b).

<sup>20</sup> Western Pulaski District's Response to Staff's First Request, Item 7(b).

Western Pulaski District retained Monarch Engineering, Inc. to draft plans and specifications for the project, and the District solicited competitive bids for the project.<sup>21</sup> Three contractors tendered bids,<sup>22</sup> and upon reviewing the submitted bids the project engineer determined that Caldwell Tanks, Inc. was qualified to perform the work due to previous project experience and recommendations from other utilities.<sup>23</sup> Western Pulaski District accepted Caldwell Tanks, Inc. bid of \$4,094,000 for the construction of the project.<sup>24</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 until it has obtained a CPCN from the Commission.<sup>25</sup> To obtain a CPCN, the utility must demonstrate a need for such facilities and an absence of wasteful duplication.<sup>26</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

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<sup>21</sup> Application at Exhibit A.

<sup>22</sup> Application, Exhibit I.

<sup>23</sup> Western Pulaski District's Response to Staff's First Request, Item 8.

<sup>24</sup> Application, Exhibit J.

<sup>25</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>26</sup> *Kentucky Utilities Co. v. Public Service Com'n*, 252 S.W.2d 885,890 (Ky. App. 1952).

of consumers, persisting over such a period of time as to establish an inability or unwillingness to render adequate service.<sup>27</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>28</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>29</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>30</sup> All relevant factors must be balanced.<sup>31</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>32</sup> KRS 278.300 only applies to notes that have a term of more than two years.<sup>33</sup>

KRS 278.300(3) establishes the legal standard and clarifies the scope of Commission review, stating:

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<sup>27</sup> *Kentucky Utilities Co.*, 252 S.W.2d at 890.

<sup>28</sup> *Kentucky Utilities Co.*, 252 S.W.2d 885, 890.

<sup>29</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>30</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>31</sup> Case No. 2005-00089, Aug. 19, 2005 Order at 6.

<sup>32</sup> KRS 278.300(1).

<sup>33</sup> KRS 278.300(8).

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 300,000-gallon water storage tank to be replaced by this project has been in service since 1991 and is in need of significant rehabilitation. The Commission admonishes Western Pulaski District for failing to perform routine maintenance on the current water storage tank and advises them to perform the required maintenance on assets in the future.

The Commission finds that Western Pulaski District has demonstrated that the current storage tank does not meet its current and future capacity demands due to an increased in customer growth.

Western Pulaski District also provided sufficient evidence that the project will not result in wasteful duplication. The District evaluated repairing the existing water storage tank, which would cost approximately \$600,000 and provide a useful life of 20 years,<sup>34</sup> but would not resolve current or future capacity needs. Further, Western Pulaski District retained the services of an outside engineering firm to assist in developing the project, solicited competitive bids for the construction of the storage tank and received three bids,

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<sup>34</sup> Western Pulaski District's Response to Staff's First Request, Item 5(d).

with the lowest bid being \$4,094,000 from Caldwell Tanks, Inc, which Western Pulaski District selected for the proposed project. Considering that, even after repair, the current water storage tank would not meet current or future water capacity needs and coupled with a competitive construction bid process, the record does not indicate that Western Pulaski District's proposed plan would result in excessive investment in relation to productivity or efficiency, or unnecessary physical properties. Therefore, the Commission finds that Western Pulaski District's proposed replacement of the 300,000-gallon storage tank with a 1,000,000-gallon storage tank will not result in wasteful duplication and finds that the CPCN should be granted.

Additionally, the Commission finds that the proposed KIA loan is for lawful objects within the corporate purposes of Western Pulaski District; is necessary and appropriate for and consistent with the proper performance of Western Pulaski District's service to the public; will not impair its ability to perform that service; is reasonable, necessary, and appropriate for such purposes; and should be approved.

Western Pulaski District's lawful purpose is to provide safe, adequate, and reliable service to the public. The financing will enable Western Pulaski District to construct the proposed project, which, as discussed above, is necessary to provide water service to the public consistent with Western Pulaski District's lawful purpose. Therefore, the Commission finds that approval of the financing should be granted.

Additionally, in reviewing this application, the Commission reviewed Western Pulaski District's submitted financial information.<sup>35</sup> Based on this application, the associated financing, and the audited financial information on file, the Commission finds

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<sup>35</sup> The Commission reviewed the audits on file for the years 2019-2023.



that Western Pulaski District should submit an application for a rate adjustment pursuant to 807 KAR 5:076, or general rate adjustment pursuant to 807 KAR 5:001, Section 16, based on a 2025 test year, or in the alternative, file a formal motion with a detailed analysis of its rates and revenues explaining the reasons why no modifications are necessary, on or before July 31, 2026.

IT IS THEREFORE ORDERED that:

1. Western Pulaski District is granted a CPCN to replace an existing 300,000-gallon elevated water storage tank with a new 1,000,000-gallon elevated composite water storage tank and 600 LF of 12-inch ductile iron water main, as proposed in its application.

2. Western Pulaski 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. Western Pulaski 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. Western Pulaski 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. Western Pulaski District is authorized to issue the evidence of debt requested subject to the conditions 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. Western Pulaski District shall only execute the loan documents with KIA to the extent their terms and conditions are consistent with the loan described in its application, except as otherwise authorized herein.

9. Western Pulaski District shall file a copy of the loan documents executed with KIA 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 Western Pulaski District's showing of good cause for the extension.

12. 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.

13. Western Pulaski District shall file either an application for a general rate adjustment pursuant to 807 KAR 5:001, Section 16, or an application for an alternative rate adjustment pursuant to 807 KAR 5:076 no later than July 31, 2026, based on the

2025 test year, or shall file a formal motion with detailed analysis of its rates and revenues, and a statement of the reasons why a rate case is not necessary.


14. The case is closed and removed from the Commissions docket.

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PUBLIC SERVICE COMMISSION

  
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Chairman

  
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Commissioner

  
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Commissioner

ATTEST:

   
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Executive Director



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