

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF LAKE VILLAGE)	
WATER ASSOCIATION, INC. OF BOYLE AND)	
MERCER COUNTIES, KENTUCKY FOR A)	CASE NO.
DECLARATORY ORDER THAT A CERTIFICATE)	2025-00158
OF PUBLIC CONVENIENCE AND NECESSITY IS)	
NOT REQUIRED FOR THE ISON LANE)	
STANDPIPE REHABILITATION PROJECT)	

ORDER

On June 16, 2025,¹ Lake Village Water Association, Inc. (Lake Village Water) filed an application requesting a declaratory order that the proposed maintenance to the Ison Lane Standpipe is an ordinary extension of existing facilities in the usual course of business pursuant to KRS 278.020(1)(a) and 807 KAR 5:011(15)(3). There are no intervenors in this matter. Lake Village Water responded to one request for information from Commission Staff.² This matter now stands submitted to the Commission for a decision.

BACKGROUND

Lake Village Water is a water association organized pursuant to KRS Chapter 273 that provides water service to approximately 2,341 customers in Boyle and Mercer

¹ Lake Village Water originally filed an application for a Certificate of Public Convenience and Necessity (CPCN) on May 30, 2025. A deficiency letter was issued on June 5, 2025. Lake Village Water amended its application on June 16, 2025, requesting a declaratory order that the standpipe project was an ordinary extension of existing facilities in the usual course of business and that a CPCN was not required.

² Lake Village Water's response to Commission Staff's First Request for Information (Staff's First Request) (filed July 25, 2025).

counties, Kentucky.³ Lake Village Water's most recent rate adjustment pursuant to 807 KAR 5:076 was final in October of 2022.⁴

Lake Village Water proposed to conduct maintenance on its Ison Lane Standpipe (standpipe project).⁵ The Ison Lane Standpipe is a 250,000-gallon glass lined standpipe constructed in 1994.⁶ The proposed maintenance will consist of power tool cleaning the standpipe's interior seams, an interior coating application, and bolt replacement, as necessary.⁷

Lake Village Water argued that the proposed maintenance would ensure that the water quality in the tank is maintained at optimum quality.⁸ Additionally, Lake Village Water stated that, upon completion of the proposed maintenance, the standpipe could remain in service for 20 years before needing additional maintenance or replacement.⁹ Lake Village Water argued that the proposed maintenance is necessary to combat corrosion of the standpipe that was identified during a routine tank inspection.¹⁰

³ *Annual Report of Lake Village Water Association, Inc. to the Public Service Commission for the Year Ending December 31, 2023* (2023 Annual Report) at 12 and 49.

⁴ Case No. 2022-00068, *Electronic Application of Lake Village Water Association, Inc. for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Oct. 4, 2022).

⁵ Application at 1.

⁶ Application at 2.

⁷ Application at 2.

⁸ Application at 2.

⁹ Lake Village Water's Response to Commission Staff's First Request for Information (Lake Village Water's Response to Staff's First Request) (filed July 25, 2025), Item 1.

¹⁰ Lake Village Water's Response to Staff's First Request, Item 13.

Additionally, Lake Village Water stated that there would be no material modifications to the standpipe.¹¹

Lake Village Water stated that the standpipe project would be primarily funded by a Cleaner Water Program grant in the amount of \$72,589.¹² Lake Village Water further stated that Lake Village Water would provide funding for the remaining \$6,231.¹³ The cost of the proposed standpipe project is \$78,820.¹⁴ According to Lake Village Water, the proposed standpipe project would not have a material impact on its financial condition, and there would be no impact to its cost of operation or customer rates.¹⁵ Lake Village Water stated that the Ison Lane Standpipe project has no impact on its annual depreciation expense and, as a result of this project, Lake Village Water expects the standpipe to remain in service for 20 years before needing additional maintenance or replacement.¹⁶

LEGAL STANDARD

KRS 278.020(1)(a) generally requires a utility to obtain a CPCN before beginning the construction of any plant, equipment, property, or facility. However, a CPCN is not required for “ordinary extensions of existing systems in the usual course of business.”¹⁷ An “ordinary extension . . . in the usual course of business” is not defined in KRS 278.020

¹¹ Lake Village Water’s Response to Staff’s First Request, Item 13.

¹² Application at 3.

¹³ Application at 3.

¹⁴ Application, Exhibit C.

¹⁵ Application at 2.

¹⁶ Lake Village Water Association’s Responses to Kentucky Public Service Commission Staff’s First Request for Information (Staff’s First Request) (filed July 25, 2025), items 1 and 7.

¹⁷ KRS 278.020(1)(a).

or elsewhere in KRS Chapter 278. For that reason, the Commission promulgated 807 KAR 5:001, Section 15(3),¹⁸ which states:

Extensions in the ordinary course of business. A certificate of public convenience and necessity shall not be required for extensions that do not create wasteful duplication of plant, equipment, property, or facilities, or conflict with the existing certificates or service of other utilities operating in the same area . . . , and that do not involve sufficient capital outlay to materially affect the existing financial condition of the utility involved, or will not result in increased charges to its customers.¹⁹

The Commission has interpreted 807 KAR 5:001, Section 15(3), as stating that no CPCN is required for extensions “that do not result in the wasteful duplication of utility plant, do not compete with the facilities of existing public utilities, and do not involve a sufficient capital outlay to materially affect the existing financial conditions of the utility involved or to require an increase in utility rates.”²⁰

Pursuant to 807 KAR 5:001, Section 19, the Commission may, upon application by a person substantially affected, “issue a declaratory order . . . with respect to the meaning and scope of an order or administrative regulation of the commission or provision of KRS Chapter 278.”²¹ An application for a declaratory order must:

- (a) Be in writing;
- (b) Contain a complete, accurate, and concise statement of facts upon which the application is based;

¹⁸ Case No. 2000-00481, *Application of Northern Kentucky Water District (A) For Authority to Issue Parity Revenue Bonds in the Approximate Amount of \$16,545,000; and (B) A Certificate of Convenience and Necessity for the Construction of Water Main Facilities* (Ky. PSC Aug. 30, 2001), Order at 4.

¹⁹ 807 KAR 5:001, Section 15(3).

²⁰ Case No. 2000-00481, Aug. 30, 2001 Order at 4.

²¹ 807 KAR 5:001, Section 19(1); see also Case No. 2020-00095, *Electronic Application of Kenergy Corp. for a Declaratory Order* (Ky. PSC Mar. 11, 2021), Order at 4–5 (noting that Commission may issue a declaratory order, in its discretion, with respect to the meaning and scope of an order, regulation, or statute if a request is made by a person substantially affected).

- (c) Fully disclose the applicant's interest;
- (d) Identify all statutes, administrative regulations, and orders to which the application relates; and
- (e) State the applicant's proposed resolution on conclusion.²²

Any factual allegation in an application for a declaratory order must be supported by an affidavit or verified.²³ The Commission “may dispose of an application for a declaratory order solely on the basis of the written submissions filed”²⁴ or may allow for other actions, including additional discovery, to ensure that the record is complete.

DISCUSSION AND FINDINGS

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that the proposed maintenance of the standpipe is an extension in the ordinary course of business and does not require a certificate of public convenience and necessity (CPCN) pursuant to KRS 278.020(1)(a). Based on the record, the proposed standpipe project is needed to address corrosion found on the standpipe during a routine inspection. Lake Village Water did not propose to make any material modifications. The standpipe project consists of maintenance. For these reasons, the Commission finds that the proposed standpipe project would not create wasteful duplication.

Furthermore, the Commission finds that the standpipe project will not compete or conflict with any other existing utility; will not result in sufficient capital or material outlay; or immediately impact the financial condition of the utility in a manner resulting in a rate case. The Ison Lane Standpipe Project will not result in an increase to Lake Village

²² 807 KAR 5:001, Section 19(2).

²³ 807 KAR 5:001, Section 19(6).

²⁴ 807 KAR 5:001, Section 19(8); see also Case No. 2020-00095, Mar. 11, 2021 Order at 4–5 (noting that that Commission has discretion in whether to address an application for a declaratory order).

Water's annual operating expenses or its revenue requirement and will allow the standpipe to remain in service for an additional 20 years. Lake Village Water has been approved for a grant from the Cleaner Water Program which covers \$72,589 of the \$78,820 project cost. Lake Village Water would only be responsible for \$6,231. Therefore, the Commission finds an application for a CPCN should not be required as Lake Village Water meets all requirements outlined in KRS 278.020(1)(a)(3) and the exception in 807 KAR 5:001, Section 15(3).

IT IS THEREFORE ORDERED that:

1. Lake Village Water's application for a declaratory order is granted.
2. Lake Village Water does not need to obtain a CPCN, pursuant to KRS 278.020(1)(a), for the proposed standpipe project as it is an ordinary extension in the usual course of business.
3. Lake Village Water shall file notice of completion of the standpipe project within 30 days of its completion.
4. Any documents filed pursuant to ordering paragraph 3 herein shall reference this case number and shall be retained in the post-case correspondence file for this proceeding.
5. This case is closed and removed from the Commission's docket.

PUBLIC SERVICE COMMISSION


Chairman


Commissioner


Commissioner

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ATTEST:


Executive Director



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