

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

<b>ELECTRONIC APPLICATION OF</b>	)	
<b>HARDIN COUNTY WATER DISTRICT</b>	)	
<b>NO. 2 FOR ACCREDITATION AND</b>	)	<b>CASE NO. 2018-00110</b>
<b>APPROVAL OF A PROPOSED WATER</b>	)	
<b>DISTRICT MANAGEMENT TRAINING</b>	)	
<b>PROGRAM</b>	)	

**NOTICE OF FILING**

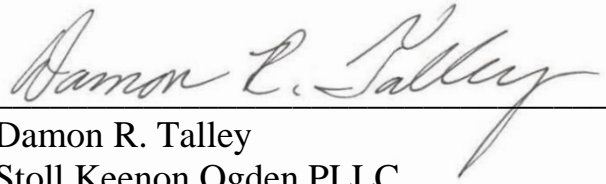
Pursuant to the Public Service Commission’s Order of April 9, 2018, Hardin County Water District No. 2 gives notice of the filing of the following documents:

1. A sworn statement attesting that the proposed course of instruction entitled “Hardin County Water Training 2018” was performed on April 23, 2018 (**Exhibit 1**);
2. A description of any changes in the presenters or the proposed curriculum that occurred after the submission of the application for accreditation (**Exhibit 2**);
3. The name of each attending water district commissioner, his or her water district, and the number of hours that he or she attended (**Exhibit 3**); and,

4. A list of materials included on a flash drive provided to each program attendee and a copy of all written materials given to program attendees not included in the Application (**Exhibit 4**);

Dated: April 25, 2018

Respectfully submitted,



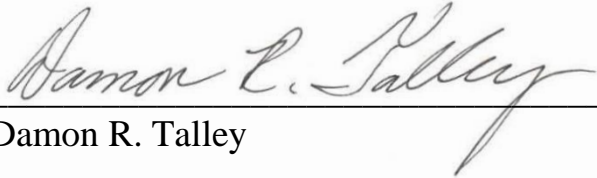
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maryellen.wimberly@skofirm.com

*Counsel for Hardin County Water District  
No. 2*

CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, I certify that Hardin County Water District No. 2's April 25, 2018 electronic filing of this Notice of Filing is a true and accurate copy of the same document being filed in paper medium; that the electronic filing has been transmitted to the Commission on April 25, 2018; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original paper medium of this Application will be delivered to the Commission on or before April 27, 2018.



Damon R. Talley

# **EXHIBIT 1**

COMMONWEALTH OF KENTUCKY)
) SS
COUNTY OF JEFFERSON )

AFFIDAVIT

Gerald Wuetcher, being duly sworn, states that:

1. He is an attorney with Stoll Keenon Ogden PLLC.
2. He served as an organizer of the water training program entitled "Hardin County Water Training 2018."

3. The "Hardin County Water Training 2018" was held on April 23, 2018 at the offices of Hardin County Water District No. 2, 360 Ring Road, Elizabethtown, Kentucky.

4. The presentations listed in the proposed program agenda submitted to the Kentucky Public Service Commission were conducted for the length of the time specified. All presentations, with the exception of the presentation "Extending Meter Service Life," were performed by the listed presenters. Ms. Mary Ellen Wimberly was unable to make the presentation "Extending Meter Service Life." Mr. Damon Tally made the presentation in her absence.

[Handwritten signature of Gerald Wuetcher]

Gerald Wuetcher
Stoll Keenon Ogden PLLC
300 West Vine Street
Suite 2100
Lexington, Kentucky 40507

Subscribed and sworn to before me by Gerald Wuetcher, on this April 25, 2018. My Commission expires: June 26, 2019.



[Handwritten signature of Janet M. Postman]
Notary Public
No. 536742

# **EXHIBIT 2**

### **CHANGES TO PROPOSED AGENDA**

The agenda found at Exhibit 1 of the Application failed to identify Gerald Wuetcher as the presenter for the presentation “Public Service Commission Treatment of Employee Compensation.” The presenters made revisions to the presentations “Recent Developments in Utility Law” and “PSC Treatment of Employee Compensation” that are found at Exhibit 3 of the Application. A copy of each revised presentation is found at Exhibit 4 to this Notice.

# **EXHIBIT 3**



**WATER DISTRICT COMMISSIONERS ATTENDING  
HARDIN COUNTY WATER TRAINING PROGRAM 2018**

<b>LAST NAME</b>	<b>FIRST NAME</b>	<b>WATER DISTRICT</b>	<b>HRS</b>
BELL	MICHAEL	HARDIN COUNTY WATER DISTRICT NO. 2	6.0
CORNETT	DOUGLAS	MEADE COUNTY WATER DISTRICT	6.0
DAVIS	TIM	HARDIN COUNTY WATER DISTRICT NO. 2	6.0
DETRE	JOHN	LARUE COUNTY WATER DISTRICT	6.0
EFFINGER	JOHN	HARDIN COUNTY WATER DISTRICT NO. 2	6.0
GOSSETT	WILLIAM	HARDIN COUNTY WATER DISTRICT NO. 1	6.0
HOGAN	STEPHEN	HARDIN COUNTY WATER DISTRICT NO. 1	6.0
MILLER	MORRIS	HARDIN COUNTY WATER DISTRICT NO. 2	6.0
SHELTON	JIM	HARDIN COUNTY WATER DISTRICT NO. 1	6.0
STIVERS	ALLEN	MEADE COUNTY WATER DISTRICT	6.0
TABB	CORDELL	HARDIN COUNTY WATER DISTRICT NO. 2	6.0
TINDALL	JOHN	HARDIN COUNTY WATER DISTRICT NO. 1	4.0
WILLIAMS	HOWARD	HARDIN COUNTY WATER DISTRICT NO. 1	6.0

# **EXHIBIT 4**

# DIGITAL LIBRARY CONTENTS

## **Presentations – 23 April 2018**

### Agenda

Recent Developments in Utility Regulation (PDF Format) (PowerPoint Format)  
Public Service Commission Treatment of Employee Compensation (PDF Format)  
(PowerPoint Format)  
Extending Meter Service Life (PDF Format) (PowerPoint Format)  
Kentucky Lead Working Group: Findings, Best Practices, and Recommendations (PDF  
Format) (PowerPoint Format)

## **Prior Presentations**

2016 Flint Water Crisis (PDF Format) (PowerPoint Format)  
911Funding (PDF Format)  
Accounting and Auditing Issues for Water Utilities (PDF Format)  
Accounting and Auditing Issues for Water Utilities – Appendix (PDF Format)  
All Things Meter (PDF Format) (PowerPoint Format)  
Basics of Kentucky Water System Financings (PDF Format)  
EEO No! An Employment Law Update (PDF Format)  
Commissioner Board Meetings (PDF Format)  
Drinking Water Law Basics (PDF Format)  
Drinking Water System Basics (PDF Format)  
EEO No! A Discrimination Law Primer (PDF Format)  
Kentucky PSC and Water Utility Inspections (PDF Format) (PowerPoint Format)  
PSC Review of Municipal Utility Rates (PDF Format) (PowerPoint Format)  
Water Utilities and Fire Departments (PowerPoint Format)  
When Bad Things Happen: PSC Investigations (PDF Format) (PowerPoint Format)  
Why Did They Do That? Lessons Learned From Municipal Rate Cases (PDF Format)  
E-911 Funding Alternatives (PDF Format)

## **General Reference**

American Water Works Association - Glossary of Terms  
Compilation of Kentucky Public Utility Laws as of July [15, 2016](#)  
Institute of Public Utilities Regulatory Research & Education (IPU) - Glossary of Terms  
Used in Water Regulation  
IPU – Primer on Water Pricing  
Kentucky Division of Water, Organization Chart (As of April 1, 2018)  
Kentucky Division of Water, Phone Listing (As of April 1, 2018)  
Kentucky Division of Water, Water Referral Directory (As of April 1, 2018)  
Kentucky League of Cities, Insurance Vocabulary 101  
Office of Financial Management and Administration, Department of Local Government,  
Special Districts Manual (2012)  
Public Service Commission Organization Chart  
Public Service Commission Staff Directory

Public Service Commission, Letter Guidance on the Implementation of House Bill 201 (Aug. 19, 2010)

Public Service Commission, Procedures For Approval of Meter Testing Facilities, Basic Measurement Standards and Meter Testing (May 31, 2017)

Public Service Commission, Procedures For Approval of Meter Testing Facilities, Basic Measurement Standards and Meter Testing - Notice of Extension (December 27, 2017)

Rural Community Assistance Partnership (RCAP) – Non-Operator’s Guide to Drinking Water Systems

RCAP – Non-Operator’s Guide to Wastewater Systems

RCAP – USDA Rural Utilities Service Borrower’s Guide

Timeline for A Rate Adjustment Proceeding – Historical Test Period

U.S. Fire Administration, Water Supply Systems and Evaluation Methods, Volume 1: Water Supply System Concepts (Oct. 2008)

U.S. Fire Administration, Water Supply Systems and Evaluation Methods, Volume 2: Water Supply Evaluation Methods (Oct. 2008)

### **911 Fees**

*City of Lancaster v. Garrard County, Kentucky*, No. 2013-CA-000716-MR (Ky. Ct. App. July 3, 2014)

*City of Lancaster v. Garrard County, Kentucky*, No. 2013-CA-000716-MR (Ky. Ct. App. Aug. 11, 2017)

*Garrard County Water Association v. Garrard County*, No. 2017-SC-000469 (Ky. Supreme Court filed Sept. 8, 2017) (Motion for Discretionary Review)

*Greater Cincinnati/Northern Kentucky Apartment Association, Inc.*, 2014-SC-000383-TG (Ky. Oct. 29, 2015)

E-911 Funding Alternatives (Presentation to KACo County Officials Leadership Institute (Oct. 12, 2017)

Whitley County Fiscal Court Ordinance No. 2016-02 (Apr. 19, 2016)

### **Abandonment of Utility**

*Bullitt Utilities Inc.*, Case No. 2014-00255 (Ky. PSC Aug. 31, 2015)

*Bullitt Utilities Inc.*, Case No. 2016-00401 (Ky. PSC Oct. 12, 2017)

*Cedar Hills Sanitation Disposal Corporation, Inc.*, Case No. 2015-00100 (Ky. PSC Apr. 11, 2016)

*Friendly Park Development, Inc.*, Case No. 2015-00101 (Ky. PSC Apr. 11, 2016)

PSC Staff Opinion 2015-011 (Aug. 21, 2015)

### **Asset Management**

Environmental Finance Center - Asset Management: A Guide for Water and Wastewater Systems (2006)

General Accounting Office, Water Infrastructure: Comprehensive Asset Management Has Potential to Help Utilities Better Identify Needs and Plan Future Investments (GAO-04-461) (Mar. 2004)

National Rural Water Association – An Introduction to Water System Operation and Maintenance (2007)

Office of Water, Environmental Protection Agency, EPA 816-B-14-001, A Reference Guide for Asset Management Tools (May 2014)

### **Auditor of Public Accounts**

Recommendations to Strengthen Technology Security (Aug. 2009)

Recommendations for Public and Nonprofit Boards (Mar. 2010)

Examination of Certain Bullitt County Internal Controls and Procedures Governing the Process of Automated Payroll Transactions (Sept. 2009)

Examination of Certain Financial Transactions, Policies, and Procedures of the Kentucky Association of Counties, Inc. (Oct. 29, 2009)

Examination of Certain Financial Transactions, Policies, and Procedures of the Kentucky League of Cities, Inc. (Dec. 2009)

Examination of Certain Policies, Procedures, Controls, and Financial Activity of Mountain Water District (Jan. 2011)

Examination of Certain Policies, Procedures, Controls, and Financial Activity of Sanitation District No. 1 (Aug. 2011)

Examination of Certain Policies, Procedures, Controls, and Financial Activity of Metropolitan Sewer District (Dec. 2011)

Ghost Government: Report on Special Districts (Nov. 2012)

### **Auditing Issues**

General Accounting Office, *Public Accounting Firms: Required Study on the Potential Effects of Mandatory Audit Firm Rotation* (GAO-04-216) (Mar. 2004)

GuideStar, The Sarbanes-Oxley Act and Implications for Nonprofit Organizations (Mar. 2003)

Sarbanes-Oxley Act of 2002

Vincent Ryan, *PCAOB Abandons Auditor Rotation*, CFO.com (Nov. 2003)

### **Board Member Guidance**

Gerald Wuetcher, Legal Issues in the Operation and Management of Water Districts (Dec. 6, 2016)

Rural Community Assistance Partnership (RCAP), *The Big Guide for Small Systems: A Resource for Board Members* (2011)

Rural Development Letter of Conditions Re: Code of Conduct for Board Members

## **Boiled Water Advisories**

*Deviation From Requirements of Administrative Regulation 807 KAR 5:066, Section 3(4)(B) Regarding Notice To Commission*, Case No. 2017-00355 (Ky. PSC Oct. 12, 2017)

Press Release, Kentucky Public Service Commission, *PSC Cuts Red Tape – Ends Redundant Reporting Requirement* (Oct. 12, 2017)

## **Certificates of Public Convenience and Necessity**

*Aqua Corporation*, Case No. 89-307 (Ky. PSC Dec. 7, 1989)

*Beech Grove Water System*, Case No. 2016-00255 (Ky. PSC Aug. 3, 2016)

*Columbia Natural Gas of Kentucky*, Case No. 2016-00181 (Ky. PSC Sept. 9, 2016)

Continuum of PSC Certificate Holdings

*Northern Kentucky Water District*, Case No. 2014-00171 (Ky. PSC Aug. 6, 2014)

PSC Staff Opinion 2017-002

PSC Staff Opinion 2017-005

[House Bill 366](#)

## **Credit Cards**

David Mims, *Using Online Payments to Reduce Cost and Increase Quality of Service*, Kentucky City (Mar. 2012)

Jim Plunkett, *Credit Card Companies Change Rules on Convenience Fees*, Treasury Management Newsletter (Nov. 2008)

Mastercard, The MasterCard® Convenience Fee Program for Government and Education

Tamara E. Holmes, *Convenience fees: When is it OK to charge extra to use a credit card?*, CreditCards.com (Dec. 20, 2012)

## **Cyber Security**

American Water Works Association, *Process Control System Security Guidance for the Water Sector* (2014)

Auditor of Public Accounts, *Recommendations to Strengthen Technology Security* (Aug. 2009)

Centre for Protection of National Infrastructure, *Configuring and Managing Remote Access for Industrial Control Systems* (Nov. 2010)

Congressional Record (Oct. 20, 2015), *Debate on Senate Amendment SA2713 to S.754 (Cybersecurity Information Sharing Act of 2015)*

Environmental Protection Agency, *Cyber Security 101 for Water Utilities* (July 2012)

Environmental Protection Agency, *Response to Executive Order 13636* (undated)

ICS-CERT, *ICS-CERT Monitor* (Oct.-Dec. 2012)

Marshall Abrams and Joe Weiss, *Malicious Control System Cyber Security Attack Case Study–Maroochy Water Services, Australia*

NAS Insurance Services, *Cyber Risks in Industrial Control Systems* (Oct. 2015)

National Institute of Standards and Technology, Guide to Industrial Control Systems (ICS) Security (NIST Special Publication 800-82 Rev. 2) (May 2015)  
Senate Report No. 114-32 (Apr. 15, 2015), Report on S. 754 (Cybersecurity Information Sharing Act of 2015)  
Trend Micro, IT Security for Dummies  
Water ISAC, “10 Basic Cybersecurity Measures: Best Practices to Reduce Exploitable Weaknesses and Attacks” (June 2015)

### **Denial of Service**

U.S. Dept. of Justice, Refusal to Provide Social Security Number Improper Grounds For Denial of Service, Overview of the Privacy Act of 1974 (2012 ed.)

### **Depreciation Practices**

Commission on Rural Water, Guide for the Support of Rural Water-Wastewater Systems (1974)  
National Association of Regulatory Utility Commissioners, Depreciation Practices for Small Water Utilities (1979)

### **Electronic Filing – Public Service Commission**

How to Register and Create Your E-Filing Account: Training Video  
How to Prepare Your Documents for Tariff Filing System (Part 1): Training Video  
How to Prepare Your Documents for Tariff Filing System (Part 2): Training Video  
How to Upload Your Filing Into Tariff Filing System: Training Video

### **Emergency Planning**

CIPAC Workgroup, All-Hazard Consequence Management Planning for the Water Sector (Nov. 2009)  
Environmental Protection Agency (EPA), Planning for an Emergency – Drinking Water Supply (June 2011)  
EPA, EPA 816-K11-003, How to Develop a Multi-Year Training & Exercise (T&E) Plan (May 2011)  
Kentucky Division of Water, Drinking Water Emergency Response Planning (Mar. 29, 2011) (Power Point Presentation)  
Kentucky Division of Water, Emergency Response Plan Template: Public Drinking Water Systems (Dec. 3, 2012)  
Kentucky Public Service Commission, Guidance on Notification Procedures for Utility Related Incidents (Mar. 27, 2015)  
Water and Emergency Management Agency Coordination: A Vital Component of A Successful Response (Webcast) (Note: Must first install player)

## **Employment Law**

*Oakley v. Flor-Shin, Inc.*, 964 S.W.2d 438 (Ky.App. 1998)

*Tilley v. Kalamazoo County Road Commission*, 777 F.3d 303 (6th. Cir. 2015)

Stacy Miller, EEO No! A Discrimination Law Primer (May 4, 2016)

U.S. Equal Employment Opportunity Commission, Notice No. 915.003, EEOC Enforcement Guidance on Pregnancy Discrimination and Related Issues (June 25, 2015)

## **Energy Efficiency**

Chris Barren and Jeremy Boyer, "Water Utility Infrastructure Management - Reducing Energy Costs in Water Utilities," Water Utility Infrastructure Management (July 1, 2010)

David Denig-Chakroff, National Regulatory Research Institute, Reducing Electricity Used for Water Production: Questions State Commissions Should Ask Regulated Utilities (June 13, 2008)

EPA, Ensuring a Sustainable Future: An Energy Management Guidebook for Wastewater and Water Utilities (Jan. 2008)

Grant Van Hemert, P.E., "Reducing Energy Usage in Water and Wastewater Facilities", Water Online: The Magazine

John E. Regnier and Richard Winters, Small System Electric Power Use: Opportunities for Savings (May 8, 2008)

New York State Energy Research & Development Authority, Water & Wastewater Energy Management: Best Practices Handbook (Sept. 2010)

World Bank, A Primer on Energy Efficiency for Municipal Water and Wastewater Utilities (Feb. 2012)

## **Ethics for Utility Board Members**

Andrea Shindlebower Main, "Decoding Your Local Code of Ethics," Kentucky City, Vol. 3, No. 4 (Dec. 2013)

Department of Local Government, Local Government Ethic Codes

OAG, Incompatible Offices and Conflicts of Interest (1995)

Ethics Policy for the Louisville and Jefferson County Metropolitan Sewer District

Ethics Policy for the Louisville and Jefferson County Metropolitan Sewer District – Disclosure Statement

Ethics Policy for the Louisville and Jefferson County Metropolitan Sewer District – Hearing Procedures

House Bill 276 (2014 Ky. General Session)

House Bill 348 (2015 Ky. General Session)



## **Filing Requirements Checklists**

Application for Initial Approval of Water District Commissioner's Training Program  
Application for Authority to Adjust Rates – Sewer Utility  
Application for a Certificate of Public Convenience and Necessity (Sewer Facilities)  
Application for a Certificate of Public Convenience and Necessity – General  
Application for a Certificate of Public Convenience and Necessity (Federally Funded Projects)  
Application for a Certificate of Public Convenience and Necessity (Initial Operations with Tariff)  
Application for a Certificate of Public Convenience and Necessity (Initial Operations without Tariff)  
Application for Authorization to Borrow Funds  
Application for General Rate Adjustments (Fully Forecasted Test Period)  
Application for General Rate Adjustments (Historical Test Period)  
Application for Non-recurring Charges  
Application for Purchased Water Adjustment (Privately Owned Utilities)  
Application for Purchased Water Adjustment (Water Districts and Water Associations)  
Application for Sewage Treatment Adjustment  
Application to Transfer Control/Ownership of Facilities

## **Financial Management**

RCAP, The Basics of Financial Management for Small-Community Utilities (2011)  
RCAP, The Basics of Financial Management for Small-Community Utilities - Part 1 (Video)  
RCAP, The Basics of Financial Management for Small-Community Utilities - Part 2 (Video)

## **Fire Protection**

807 KAR 5:095, Fire Protection Service For Water Utilities  
*An Investigation into Fees for Fire Protection Services*, Administrative Case No. 385 (Ky. PSC Dec. 7, 2001)  
*Kentucky-American Water Company*, Case No. 2007-00450 (Ky. PSC Feb. 28, 2008)  
Letter from Thomas M. Dorman, Executive Director, PSC, to Dr. William H. Tudor (Jan 31, 2002)  
Letter from Thomas M. Dorman, Executive Director, PSC, to David Wilson, Counsel, Hardin County Water District No. 1 (Sept. 20, 2002)  
Letter from Thomas M. Dorman, Executive Director, PSC, to William Ballard, East Clark County Water District No. 1 (Feb. 13, 2003)  
Letter from David M. Samford, PSC General Counsel, to David Wilson, Counsel, Hardin County Water District No. 1 (Dec. 1, 2008)  
*North Mercer Water District*, Case No. 99-486 (Ky. PSC Mar. 2, 2001)  
*North Shelby Water Company*, Case No. 2013-00027 (Ky. PSC Sept. 20, 2013)  
OAG Opinion 78-253

OAG Opinion 78-790  
OAG Opinion 84-147  
PSC Staff Opinion 2011-007 (Apr. 19, 2008)  
Michael Lippert, "How Can We Coordinate Fire Hydrant Maintenance Better?" *Opflow* (Oct. 2012)  
William Lauer, "How Do I Ensure Proper Fire Hydrant Use When So Many People Have Access?" *Opflow* (May 2012)  
John Stubbart, "Who Controls the Fire Hydrants?" *Opflow* (April 2006)  
*Kenton County Water District No. 1*, Case No. 96-020 (Ky. PSC June 24, 1996)  
U.S. Fire Administration, *Water Supply Systems and Evaluation Methods*, Volume 1: *Water Supply System Concepts* (Oct. 2008)  
U.S. Fire Administration, *Water Supply Systems and Evaluation Methods*, Volume 2: *Water Supply Evaluation Methods* (Oct. 2008)

### **Franchise Agreements-Water Purchase Agreements**

Amicus Brief of KRWA, *Crittenden-Livingston Water District v. Ledbetter Water District*, No. 2017-CA-000578 (Ky. Ct. App. filed Aug. 11, 2017)  
Appellant's Brief, *Crittenden-Livingston Water District v. Ledbetter Water District*, No. 2017-CA-000578 (Ky. Ct. App. filed July 21, 2017)  
Declaration of Rights and Order Granting Plaintiff's Motion for Summary Judgement, *Ledbetter Water District v. Crittenden-Livingston Water District* (Livingston Cir. Ct. Jan. 25, 2017)  
KRWA Motion for Leave to File An Amicus Brief, *Crittenden-Livingston Water District v. Ledbetter Water District*, No. 2017-CA-000578 (Ky. Ct. App. filed Aug. 11, 2017)

### **Government Pensions**

Cavanaugh McDonald Consulting LLC, GASB Statement No. 68 Report for the County Employees Retirement System Prepared as of June 30, 2014 (May 13, 2015)  
Lee Ann Watters, Jonathan M. Hollinger, and R. Douglas Martin, *New Accounting Standards for Government Pensions*, Kentucky Bench and Bar Magazine, Mar. 2014  
Government Accounting Standards Board, *Guide to Implementation of GASB Statement 67 on Financial Reporting for Pensions*  
Government Accounting Standards Board, *Guide to Implementation of GASB Statement 68 on Accounting and Financial Reporting for Pensions*  
Government Accounting Standards Board, *Statement No. 67, Financial Reporting for Pension Plans*  
Government Accounting Standards Board, *Statement No. 68, Accounting and Financial Reporting for Pension Plans*  
Government Accounting Standards Board, *Pension Plan Implementation Kit Marion County Water District*, Case No. 2016-00068 (Ky. PSC Nov. 10, 2016)  
PSC Staff Memorandum, *Marion County Water District*, Case No. 2016-00068 (Ky. PSC Filed Sept. 16, 2016)  
PSC Staff Report, *Marion County Water District*, Case No. 2016-00068 (Ky. PSC Filed Aug. 11, 2016)

## **Health Insurance and Other Employee Fringe Benefits**

Bureau of Labor Statistics, Employee Benefits In The United States – March 2016 (July 22, 2016)

Bureau of Labor Statistics, Employee Benefits In The United States – March 2017 (July 21, 2016)

Bureau of Labor Statistics, Employer Costs for Employee Compensation – March 2017 (June 9, 2017)

Bureau of Labor Statistics, Employer Costs for Employee Compensation – December 2017 (Mar. 20, 2018)

*Cumberland Valley Electric, Inc.*, Case No. 2016-00169 (Ky. PSC Feb. 6, 2017)

*Estill County Water District No. 1*, Case No. 2017-00176 (Aug. 9, 2017) (Staff Report)

*Farmers Rural Electric Cooperative Corp.*, Case No. 2016-00365 (Ky. PSC May 12, 2017)

Kaiser Family Foundation and Health Research & Educational Trust, Employer Health Benefits – 2016 Annual Survey (2016)

Kentucky League of Cities, *Wage and Salary Survey of Kentucky Cities (2016)*

Kentucky Rural Water Association, *2017 KRWA Compensation and Benefit Survey Results*

*Nebo Water District*, Case No. 2016-00435 (Ky. PSC June 5, 2017)

*Nolin Rural Electric Cooperative Corp.*, Case No. 2016-00367 (Ky. PSC June 21, 2017)

*North Mercer Water District*, Case No. 2016-00325 (May 19, 2017)

Robert J. Cicero, Comments at the Kentucky Chamber of Commerce Energy Conference (Jan. 18, 2018)

Willis North America, Inc., The Willis Benefits Benchmarking Survey – Survey Report 2015

## **House Bill 1**

House Bill 1 (2013 General Session)

House Bill 192 (2014 General Session)

House Bill 348 (2015 Ky. General Session)

House Bill 348 – Senate Floor Amendment 2 (2015 Ky. General Session)

Emergency Administrative Regulation (With Regulatory Impact Analysis and Fiscal Note)

109 KAR 16:010

Department of Local Government, SPGEs Informational Portal

DLG, Registration and Board Reporting Tutorial

Kentucky Rural Water Association, “House Bill 1 Impact on Utilities” (Mar. 14, 2013)

Legislative Research Commission, “Final Report of The Task Force on Local Taxation” Research Memorandum No. 500 (June 27, 2006)

Legislative Research Commission, “Special Districts in Kentucky” Research Report No. 48 (July 1968)

M. Todd Osterloh and Charles D. Cole, *Taxpayer Revolt, Enhanced Scrutiny of Special Districts, and House Bill 1*, Kentucky Bench and Bar Magazine, Mar. 2014.

## **Identity Theft Prevention and Notification**

Department of Local Government, Protection of Personal Information: Security and Incident Investigation Procedures and Practices for Local Governmental Units (Fall 2014)

Destruction of Records Act (KRS 365.720 .730)

Federal Trade Commission, 16 C.F.R. Part 681, Identity Theft Rules (Dec. 2012)

Federal Trade Commission, Fighting Identity Theft with the Red Flags Rule: A How-To Guide for Business (May 2013)

House Bill 5

House Bill 232

Kara Millonzi, Coates' Canons Blog: Utility Bill Postcards (Sept. 23, 2010)

Kentucky Rural Water Association, Identity Theft Prevention Program Compliance Model (Sep. 29, 2009)

Red Flag Program Clarification Act of 2010, Pub. L. 111-319

## **Landlord Liability for Tenant Bills**

*August Properties, LLC v. City of Burgin*, No. 2015-CA-001570-DG (Ky. Ct of Appeals Oct. 27, 2017)

*Cassidy v. City of Bowling Green*, 368 S.W.2d 318 (Ky. 1963)

*Hardin County Water District No. 1*, Case No. 9383 (Ky. PSC Aug. 26, 1985)

*Jessamine-South Elkhorn Water District*, Case No. 2003-00168 (Ky. PSC Feb. 18, 2004)

OAG Opinion 73-520 (July 6, 1973)

*Plunkett v. City of Muldraugh*, 403 S.W.2d 252 (Ky. 1966)

## **Municipal Separate Storm Sewer System**

Steve Kaelble, MS4 for Dummies (Wiley Publishing 2011)

## **Municipal Utility Rate Issues**

Frequently Asked Questions Regarding PSC Regulation of Municipal Utilities

PSC Guidance Letter to Municipal Utilities (Dec. 18, 1998)

PSC Guidance Letter to Municipal Utilities (Oct. 16, 2007)

Carl Brown, "Sued: A Quick Lesson in Water Litigation", Utility Infrastructure Management

Damon Talley, Why Did They Do That? Lessons Learned From Municipal Rate Cases (Oct. 27, 2015)

Gerald Wuetcher, PSC Review of Municipal Utility Rates (Oct. 27, 2015)

*City of Olive Hill v. Public Service Commission*, 203 S.W.2d 68 (Ky. 1947)

*McClellan v. Louisville Water Co.*, 351 S.W.2d 197 (Ky. 1961)

*City of Georgetown v. Public Service Commission*, 516 S.W.2d 842 (Ky. 1976)

*Simpson County Water District v. City of Franklin*, 872 S.W.2d 460 (Ky. 1994)

*City of Greenup v. Public Service Commission*, 182 S.W.3d 535 (Ky.App. 2005)  
*Submission of Contracts and Rates of Municipal Utilities*, Adm. Case No. 351 (Ky. PSC Aug. 10, 1994)  
*South Shores Water Works v. City of Greenup, Ky.*, Case No. 2009-00247 (Ky. PSC Oct. 5, 2010)  
*City of Franklin v. Simpson County Water District*, Case No. 92-084 (Ky. PSC Jan. 18, 1996)  
*City of Lawrenceburg, Kentucky*, Case No. 2006-00067 (Ky. PSC Nov. 21, 2006)  
*City of North Middletown, Kentucky*, Case No. 2006-00072 (Ky. PSC Jan. 12, 2007)  
*Kentucky-American Water Co.*, Case No. 2001-230 (Ky. PSC Oct. 19, 2001)  
*Hopkinsville Water Environment Authority*, Case No. 2009-00373 (Ky. PSC July 2, 2010)  
*City of Danville, Kentucky*, Case No. 2014-00392 (Ky. PSC Aug. 13, 2015)  
*City of Versailles, Kentucky*, Case No. 2011-00419 (Ky. PSC Aug. 12, 2014)

### **Open Meetings/Records Act Materials**

Open Meetings Statutes, KRS 61.800-.850  
Open Records Statutes, KRS 61.870-.884  
Open Records and Open Meetings Decisions – Administrative Regulations, 40 KAR 1:030  
Legislative Research Commission, Kentucky Open Meetings and Open Records Laws – Questions and Answers (Sept. 2005)  
Office of Attorney General (OAG), Managing Government Records: A Cooperative Undertaking (Aug. 2012)  
OAG, Open Records and Open Meetings: Outline (Feb. 2006)  
OAG, Promoting the Public Trust (Video)  
OAG, Protecting Your Right to Know: Kentucky Open Records and Open Meetings Acts (Jan. 2008)  
OAG, Your Duty Under the Law (July 2013)  
Sample Open Records Act Policy (Kentucky Rural Water Ass'n Form) (MS Word Format)

### **Pensions – State and Local**

Letter from John Chilton, State Budget Director, to all CERS Employers, CERS Pension Plans (Sept. 7, 2017)

### **Privacy Protection**

Destruction of Records Act (KRS 365.720 .730)  
House Bill 5  
House Bill 232  
Department of Local Government, Protection of Personal Information: Security and Incident Investigation Procedures and Practices for Local Governmental Units (Fall 2014)

## **Public-Private Partnerships**

Michael H. Novak, "Entering into a public-private partnership for operations and maintenance? Here are five pitfalls to avoid," *Rural Matters* No 3 (2013)

## **PSC Investigations**

*Corinth Water District*, Case No. 2013-00187 (Ky. PSC May 21, 2013)

*Corinth Water District*, Case No. 2013-00187 (Ky. PSC Oct. 21, 2013)

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Kentucky Public Service Commission, Guidance on Glass Lined Bolted Steel Water Standpipes (July 30, 2015)

Kentucky Public Service Commission, Guidance on Notification Procedures for Utility Related Incidents (Mar. 27, 2015)

*U.S. 60 Water District*, Case No. 2015-00037 (Ky. PSC Apr. 2, 2015)

*U.S. 60 Water District*, Case No. 2015-00037 (Ky. PSC Aug. 17, 2015)

*Western Fleming County Water District*, Case No. 2014-00400 (Ky. PSC Dec. 16, 2014)

*Western Fleming County Water District*, Case No. 2014-00400 (Ky. PSC Mar. 16, 2015)

*Western Mason County Water District Commissioners*, Case No. 2015-00155 (Ky. PSC June 9, 2015)

*Western Mason County Water District Commissioners*, Case No. 2015-00155 (Ky. PSC Sept. 11, 2015)

## **PSC Orders Discussed in Presentation**

*Aqua Corporation*, Case No. 89-307 (Ky. PSC Dec. 7, 1989)

*Beech Grove Water System*, Case No. 2016-00255 (Ky. PSC Aug. 3, 2016)

*Caldwell County Water District*, Case No. 2016-00054 (Ky. PSC July 21, 2016)

*Columbia Natural Gas of Kentucky*, Case No. 2016-00181 (Ky. PSC Sept. 9, 2016)

*Hardin County Water District No. 2*, Case No. 2016-00432 (Ky. PSC Mar. 12, 2018)

*Kenergy Corp.*, Case No. 2015-00312 (Ky. PSC Sept. 15, 2015)

*Monroe County Water District*, Case No. 2017-00070 (Ky. PSC Jan. 12, 2018)

*Mountain Water District*, Case No. 2015-00353 (Ky. PSC Feb. 15, 2016)

*Nebo Water District*, Case No. 2016-00425 (Ky. PSC June 5, 2017)

*North Mercer Water District*, Case No. 2016-00310 (Ky. PSC Oct. 12, 2016)

*North Mercer Water District*, Case No. 2016-00325 (Ky. PSC May 19, 2017)

*Southeast Daviess Water District*, Case No. 2017-00458 (Ky. PSC Feb. 27)

*West Daviess Water District*, Case No. 2017-00458 (Ky. PSC Feb. 27)

*Wood Creek Water District*, Case No. 2016-00338 (Ky. PSC Feb. 23, 2017)

## **PSC Regulatory Issues**

Alternative Rate Filing Procedures: Rate Adjustments Made Easy (Power Point Presentation) (Sep. 2015)

Common Mistakes When Dealing with the Public Service Commission (Power Point Presentation)

Revenue Requirements: A Primer (Dec. 2013) (PDF Presentation)

### **PSC Reorganization**

Executive Order No. 2016-832

Public Service Commission Organization Chart

Senate Bill 183

### **Purchased Water Adjustment**

Model Resolution for Board of Directors/Commissioners

Purchased Water Adjustment Form for Investor-Owned Water Utilities (PDF) (MS Word)

Purchased Water Adjustment Form for Water Associations/Water Districts (PDF) (MS Word)

Treated Sewage Adjustment for Water Associations/Water Districts (PDF) (MS Word)

### **Rate Application Forms**

Alternative Rate Filing Application Forms

### **Records Retention**

Kentucky Department of Libraries and Archives, Local Governments General Records Retention Schedule

Kentucky Department of Libraries and Archives, Managing Government Records

National Association of Regulatory Utility Commissioners (NARUC), Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities (1974)

NARUC, Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities (2007)

### **Reciprocal Preference Bidding Law**

Finance and Administration Cabinet, Kentucky Preference Laws (Power Point Presentation)

Required Affidavit for Bidders, Offerors and Contractors Claiming Resident Bidder Status

Required Affidavit for Bidders, Offerors and Contractors Claiming Qualified Bidder Status

General Preference Clause (Microsoft Word Document)

Preference Clause for Sealed Bid Solicitation (Microsoft Word Document)

Preference Clause – Request for Proposal (Microsoft Word Document)

### **Reduction of Lead In Drinking Water Act**

Reduction of Lead in Drinking Water Act (S. 3784)

Environmental Protection Agency, EPA 815-S-13-001, Summary of the Reduction of Lead in Drinking Water Act and Frequently Asked Questions (Oct. 2013)

### **Regulated Substances for Accidental Release Prevention**

List of Substances, 40 CFR 68.130

### **Salaries and Wages**

*Caldwell County Water District*, Case No. 2016-00054 (Ky. PSC May 4, 2016) (Staff Report)

*Caldwell County Water District*, Case No. 2016-00054 (Ky. PSC July 21, 2016)

*Kenergy Corp.*, Case No. 2015-00312 (Ky. PSC Sept. 15, 2016)

Kentucky League of Cities, *Wage and Salary Survey of Kentucky Cities (2016)*

Kentucky Rural Water Association, *2017 KRWA Compensation and Benefit Survey Results*

*Water Service Corporation of Kentucky*, Case No. 2013-00237 (Ky. PSC July 24, 2014)

### **Security**

American Society of Civil Engineers, Guidelines for Physical Security of Water Utilities (2006)

### **Security Deposits**

Kentucky Public Service Commission, Frequently Asked Questions Regarding Interest on Customer Deposits

Kentucky Public Service Commission, 2013 Guidance on Security Deposit Interest Rates

Kentucky Public Service Commission, 2014 Guidance on Security Deposit Interest Rates

Kentucky Public Service Commission, 2015 Guidance on Security Deposit Interest Rates

Kentucky Public Service Commission, 2016 Guidance on Security Deposit Interest Rates

Kentucky Public Service Commission, 2017 Guidance on Security Deposit Interest Rates

Kentucky Public Service Commission, 2018 Guidance on Security Deposit Interest Rates

KRS 278.460

PSC Staff Opinion 2013-001

### **Sovereign Immunity**

*Coppage Construction Company, Inc. v. Sanitation District No. 1 and DCI Properties-DKY, LLC*, 459 S.W.3d 855 (Ky. 2015)



*Sliding Sales Inc. v. Warren County Water District*, 984 S.W.2d 490 (Ky.App. 1998)  
*South Woodford Water District v. Byrd*, No. 2009-CA-000854-MR (Ky. Ct. of App.  
Sept. 23, 2011)

### **Tariff Materials**

Adoption Notice Form (MS Word Format)  
Cover Page Form (MS Word Format)  
Blank Tariff Page Form (MS Word Format)  
Non-Recurring Charge Cost Justification Form (MS-Word Format)  
Request to PSC Revise Non-Recurring Charge (MS-Word Format)  
Tap-On Fee Cost Justification Form (MS-Word Format)  
Sample Tariff Pages

### **Uniform System of Accounts**

Uniform System of Accounts for Class A/B Water Associations and Districts (2002)  
Uniform System of Accounts for Class A/B Water Companies (2002)  
Uniform System of Accounts for Class C Water Associations and Districts (2002)  
Uniform System of Accounts for Class C Water Companies (2002)  
Uniform System of Accounts for Sewer Utilities (2002)

### **Water District Commissioner Appointments**

Letter to All County Judges Regarding Water District Commissioner Appointments  
(Aug. 19, 2010)

### **Water Commissioner Show Cause Proceedings**

*Estill County Water District No. 1*, Case No. 2017-00176 (Ky. PSC Aug. 18, 2017)  
*Estill County Water District No. 1*, Case No. 2017-00467 (Ky. PSC Feb. 20, 2018)  
*Estill County Water District No. 1*, Case No. 2017-00467 (Ky. PSC Feb. 28, 2018)  
*Mountain Water District*, Case No. 2015-00353 (Ky. PSC Feb. 15, 2016)  
*North Mercer Water District*, Case No. 2016-00310 (Ky. PSC Oct. 12, 2016)  
*U.S. 60 Water District*, Case No. 2015-00037 (Ky. PSC Apr. 2, 2015)  
*U.S. 60 Water District*, Case No. 2015-00037 (Ky. PSC Aug. 17, 2015)  
*Western Fleming County Water District*, Case No. 2014-00400 (Ky. PSC Dec. 16, 2014)  
*Western Fleming County Water District*, Case No. 2014-00400 (Ky. PSC Mar. 16, 2015)  
*Western Mason County Water District Commissioners*, Case No. 2015-00155 (Ky. PSC  
June 9, 2015)  
*Western Mason County Water District Commissioners*, Case No. 2015-00155 (Ky. PSC  
Sept. 11, 2015)  
*Wood Creek Water District*, Case No. 2016-00338 (Ky. PSC Feb. 23, 2017)

### **Water District Commissioner Training**

*Breathitt County Water District*, Case No. 2007-00493 (Ky. PSC Mar. 20, 2008).  
*Jessamine County Water District No. 1*, Case No. 2015-00313 (Nov. 17, 2015)

*Rebekah Johnson*, Case No. 2012-00449 (Ky. PSC Apr. 2, 2013)  
Letter to All Water Districts Re: Implementation of House Bill 201 (Aug. 19, 2010)  
PSC Staff Opinion 2014-017 (Dec. 16, 2014)  
*Review of Training Required and Authorized By KRS 74.020 For The Commissioners of Water Districts*, Case No. 2018-00085 (Ky. PSC Mar. 15, 2018)

### **Water Meter Testing**

AWWA Standards Subcommittee on Magnetic Devices, "Committee Report: Magnetic Inductive Flowmeters," *AWWA Journal*, June 2007  
Damon Talley, All Things Meter (Oct. 27, 2015) (PDF Format) (PowerPoint Format)  
Gene R. Barker, "Water Meter Testing Used to Raise Revenues," 13 *Opflow*, no. 12 (Dec. 1987)  
*Graves County Water District*, Case No. 2011-00233 (Ky. PSC Nov. 3, 2011)  
*Hardin County Water District No. 2*, Case No. 2016-00432 (Ky. PSC Mar. 22, 2018)  
Ken Mercer, "How Often Should Residential Water Meters Be Replaced?," *Opflow*, Feb. 2011 at 1  
*Kentucky-American Water Co.*, Case No. 2009-00253 (Ky. PSC Oct. 5, 2011)  
*Muhlenberg County Water District*, Case No. 2013-00043 (Ky. PSC Feb. 7, 2015)  
S.E. Davis, Residential Water Meter Replacement Economics (2005)  
*Warren County Water District*, Case No. 2011-00220 (Ky. PSC Mar. 5, 2013)  
*Warren County Water District v. Public Service Commission*, No. 13-CI-1078 (Franklin Cir. Ct. Jan. 13, 2014)

### **Water System Management and Sustainability**

Department of Agriculture (USDA)/Environmental Protection Agency (EPA), Rural and Small Systems Guidebook to Sustainable Utility Management (Oct. 2013)  
USDA/EPA, Workshop in a Box: Sustainable Management of Rural and Small Systems Workshops (Oct. 2013)  
Water Advisory Group, Effective Utility Management: A Primer for Water and Wastewater Utilities (June 2008)

**HARDIN COUNTY  
WATER COMMISSIONER  
TRAINING SEMINAR**

April 23, 2018



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**WELCOME**

**Michael L. Bell, Chairman**  
Hardin County Water District No. 2



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**HOT LEGAL TOPICS**

Damon R. Talley  
Stoll Keenon Ogden PLLC  
[damon.talley@skofirm.com](mailto:damon.talley@skofirm.com)

April 23, 2018



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## DISCUSSION TOPICS

1. Notice to PSC
2. Franchises & Contracts
3. Excessive Water Loss
4. Borrowing Money

Continued . . .



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## DISCUSSION TOPICS

5. Paying Bills
6. Budget
7. Recent PSC Orders
8. 2018 General Assembly
9. Prevailing Wages



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# PSA for PSC



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## Reporting Requirements

- Must Notify PSC if . . .
  - Vacancy Exists
  - Appointment Made
- When?      Within 30 Days

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## Vacancy

- Inform CJE 60 Days Before Term Ends (KRS 65.008)
- CJE / Fiscal Court – 90 Days
- Then, PSC Takes Over
  - CJE Loses Right To Appoint

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### E-Mail Address Regs.

- All PSC Orders Served by E-mail
- Duty to Keep Correct E-mail Address on file with PSC
  - Default Regulatory E-mail Address
- Duty to List E-mail Address in Application & All Other Papers
  - Utility Official
  - Its Attorney

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### E-Mail Address

- Who is Covered?
  - Water Districts
  - Water Associations
  - Investor Owned Utilities
  - **Municipal Utilities**

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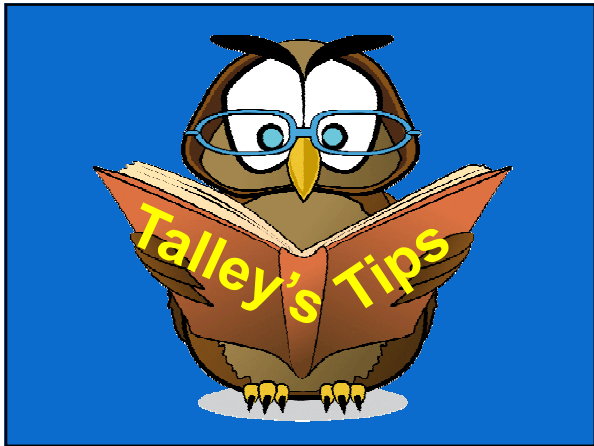
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**Default Regulatory E-mail Address**

- Send E-mail to PSC
  - [psc.reports@ky.gov](mailto:psc.reports@ky.gov)
- Send Letter to PSC
  - Gwen R. Pinson,  
Executive Director



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**Franchises  
and  
Contracts**



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## Franchise

- Definition
  - Private
    - Rights granted by company to individual or business to sell a product
    - Examples



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## Franchise

- Definition
  - Government
    - Privilege granted by government to utility to provide specific utility service
    - Permission to erect facilities over & under streets, alleys, & sidewalks
    - Fee: 3%
    - Examples



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**Livingston County Case**  
Ledbetter W.D.  
vs.  
Crittenden-Livingston WD  
Circuit Court  
Case No. 2015-CI-00079  
Opinion Rendered: 1-25-17  
Status: On Appeal



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Franchise Case - Holding  
**40-year**  
Water Supply Contract  
Between 2 Water Districts  
**Invalid**

- Why? Contract = Franchise
- Over 20 Years
- Basis: Kentucky Constitution Section 164



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**Franchise Case**  
Crittenden - Livingston WD  
vs.  
Ledbetter WD  
Court of Appeals  
Case No. 2017-CA-000578  
Briefs Filed: 7-31-17 & 9-21-17  
Amicus Brief: 8-11-17  
Status: Pending

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**Ky. Constitution Section 164**  
No county, city, town, taxing district or other municipality shall be authorized or permitted to grant any franchise or privilege, or make any contract in reference thereto, for a term exceeding **twenty years**. Before granting such franchise or privilege for a term of years, such municipality shall first, after due advertisement, receive bids therefor publicly, and award the same to the highest and best bidder; but it shall have the right to reject any or all bids.

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## Why?

- 340 Water Utilities
- 169 WTPs
- 50% Buy Water
- Need Water Supply Contract
- Long Term

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## How Long Is Long Term?

- Lender
  - RD: 40 years
  - KIA: 20 or 30 years
  - Bonds: Length of Bonds



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## Significance

- If Franchise . . . 20 Year Limit
  - Can't Borrow \$ from RD
  - Other Sources – Only if < 20 years
    - KIA
    - Bonds
    - KRWFC



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## Legal Analysis

- Does Water District Have Franchising Authority?
  - Constitution: **NO**
  - Judge: **YES**
  - Damon: **NO**



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## Circuit Judge's Rationale

- Sovereign Power → Franchise
- Water District is Sovereign Power
- Water District → Franchise
- Problem
  - Ignored Wording of Constitution



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## Legal Analysis

- Is Water Purchase Agreement a Franchise?
  - Constitution: Silent
  - Case Law: Silent
  - AG Opinion: Yes 1981
  - Judge: Yes
  - Damon: No



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## Circuit Judge's Rationale

- "The court concludes that the Water Purchase Contract is in fact a franchise . . ."
- Conclusion
- No Explanation

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## KRWA's Role

- Filed Amicus Brief
  - "Friend" of Court
- Protect Validity of Contracts
- Protect Ability to Obtain \$

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## What's Next?

- All Briefs Filed
- Oral Arguments 4-24-18
- C/A Decision ? ? ?
- Ky. Supreme Court ? ? ?

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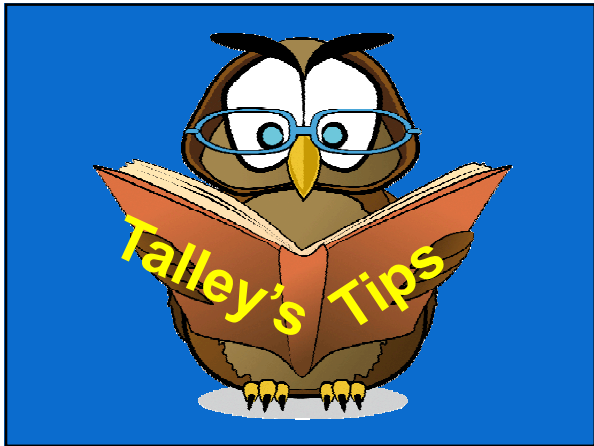
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**Your Role**

- Ruling Is Limited to Livingston County . . . for Now
- Don't Change Behavior . . . for Now
- Stay Tuned
- Alert KRWA



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**Excessive  
Water  
Loss**



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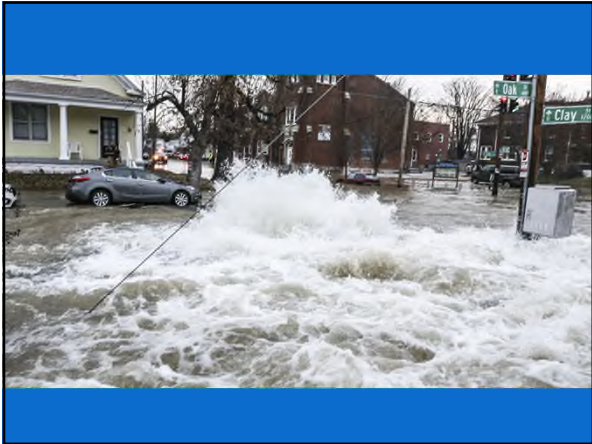
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## Unaccounted-for Water Loss

- 807 KAR 5:066, Section 6(3)

“... for **rate making purposes** a utility’s unaccounted-for water loss shall not exceed fifteen (15) percent of total water produced and purchased, excluding water used by a utility in its own operations.”



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## Terms

- Unaccounted-for Water Loss
  - 15% Maximum
  - Allowance for Flushing, Etc.
- NRW – Non Revenue Water
  - No Allowance for Flushing
- Ray’s Ratio



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## Ray's Ratio

Water Produced & Purchased  
Water Sold

$$\frac{1,436,000}{1,306,673} = 1.099$$

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## Ray's Ratio

- Ray's Ratio: 1.099
- For Every 1,000 Gallons Sold
- Produce or Purchase:  
1,099 Gallons
- Extraordinary !!!

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## Water Loss Comparison

	Utility	Unaccounted For Water	NRW	Ray's Ratio
1	Oldham Co.	7.4 %	9.0 %	1.099
2	North Nelson	7.0 %	9.3 %	1.103
3	Grayson Co.	6.6 %	11.4 %	1.128
4	Hardin # 1	9.4 %	13.0 %	1.149

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<b>Water Loss Comparison</b>				
	<b>Utility</b>	<b>Unaccounted For Water</b>	<b>NRW</b>	<b>Ray's Ratio</b>
5	Hardin # 2 (Before)	11.6 %	14.4 %	1.169
6	Hardin # 2 (After)	18.8 %	21.4 %	1.272
7	Larue Co.	11.2 %	13.6 %	1.158
8	Meade Co.	15.8 %	18.3 %	1.224

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<b>Water Loss Comparison</b>				
	<b>Utility</b>	<b>Unaccounted For Water</b>	<b>NRW</b>	<b>Ray's Ratio</b>
9	MWL - 1	12.1 %	25.3 %	1.340
10	MWL - 2	14.4 %	28.3 %	1.395
11	EWL - 1	27.9 %	31.6 %	1.462
12	EWL - 2	14.9 %	31.7 %	1.545
13	EWL - 3	37.1 %	51.4 %	2.058

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**PSC Case No. 2016 - 068**  
 Decided: 8-17-16  
 Utility: Water District  
 Type: ARF  
 Issue: Excessive Line Loss

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**PSC Held:**

- Water Loss 39%
  - 15% Maximum Allowed
  - Disallowed 24% Excess
- Disallowed \$135,000 Expenses Excess Water Loss (Cost to Purchase & Pump)



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**PSC Ordered:**

“The Commission is concerned with **excessive water loss** and related costs and directs \_\_\_\_ District to **develop and formally adopt a written plan to reduce excessive water loss**. The plan should identify all sources of water loss and each corrective action \_\_\_\_ District will take to minimize water loss from each source.”



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**Other Recent Water Loss Cases**



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## PSC Case No. 2017-064

Decided: 3-09-2017

Utility: Water District

Type: CPCN Granted

Holding: Reprimand & Warning  
Loss = 17%



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## PSC Ordered:

"Failure by \_\_\_\_\_ District to make **significant** progress towards **reducing** unaccounted-for water loss may cause the Commission to pursue **additional action** with the utility."



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## Actions by PSC

- Inspection Report
- ARF Case
- CPCN Case
- .023 Case
- PWA Case
- Financing Case
- Deviation Case
- Sewer CPCN Case



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## Actions by PSC

- Emphasis at Training
- Reduce Rates
- Reprimand & Warning
- PWA Cases
  - Dollars & Cents

Continued . . . 

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## Actions by PSC

- Copy of Inspection Report
  - CJE & Fiscal Court
  - Utility Commissioners
  - Local Newspaper?
- PSC Website?



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## Borrowing



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## KRS 278.300(1)

No utility shall issue any securities or evidences of indebtedness . . . until it has been authorized to do so by order of the Commission.



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## Practical Effect

- Must Obtain PSC Approval Before Incurring Long-term Debt (Over 2 Years)
- Exception:
  - 2 Years or Less
  - 2 Renewals  
(3 X 2 = 6 Years)



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**Violation**

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# Show Cause Case

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- ## Method of Resolution
- Historically . . .
    - Acknowledge Mistake
    - Settle Out of Court . . . Very Quietly
    - Go to Training
    - Pay Small Fine
    - Stay Out of Trouble

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## Consequences

- Debt Service Expense Excluded From Rates
- Delay Implementation of New Rates
- Formal Hearing
- Must Hire Attorney (1 or 2)

Continued . . .



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## Consequences

- Must Advertise Hearing
  - Link to PSC Website
- Hearing Livestreamed
- Commissioners Resign
- Fine (Suspended?)
- Threaten Merger
- Go to Training



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## Who Is Affected?

- Utility
- Current Commissioners
- Former Commissioners
- Manager
- Attorney
- Lender ???



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# Talley's Take Aways

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- PSC Commissioners:**
- PSC is **Serious** About . . .
    - Excessive Water Loss
    - Borrowing Money
    - Enforcing Its Orders

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- PSC Commissioners:**
- Take Their Jobs Seriously
  - Hands On
  - Love Hearings
  - Promote Transparency
  - Oversight Means Oversight

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# Paying Bills



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## Paying Bills

- KRS 74.050 Handout
- Board Adopts Policy
- Minimum Requirement
  - Treasurer and
  - One Other Commissioner

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## Paying Bills

- Who Signs Checks?
  - KRS Is Silent
  - Board Has Discretion
- One or Two Signatures?
- Review by Full Board

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# Budget

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- ### Budget
- Required by KRS 65A.080(1)
  - Post on DLG Website
  - Periodic Review of Budget
  - Amend as Necessary
  - Post Amended Budget on DLG Website

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### Budget

“No moneys shall be expended from any source except as provided in the originally adopted or subsequently amended budget.”

KRS 65A.080(1)

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### Budget

- Review Actual \$ to Budget \$
- Amend Budget if Needed
- When?
  - October Meeting
  - December Meeting
- Upload to DLG Website

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### PSC Case No. 2016-432

Filed: 12-29-2016  
Utility: Hardin Co. WD No. 2  
Type: Deviation  
Issue: 15 Year Meters  
Sample Testing  
Decided: 03-22-2018

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**PSC Case No. 2017-127**

Filed: 3-10-2017  
Utility: North Mercer WD  
Type: Deviation  
Issue: Office Open  
4 Days a Week  
Decided: 3-16-2018



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**PSC Case No. 2017-458**

Filed: 12-22-2017  
Utility: Southeast Daviess WD  
Type: CPCN  
Issue: Smart Meters  
Decided: 02-27-2018



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**PSC Case No. 2017-459**

Filed: 12-22-2017  
Utility: West Daviess WD  
Type: CPCN  
Issue: Smart Meters  
Decided: 02-27-2018



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**PSC Case No. 2017-246**

Filed: 6-30-2017  
Utility: McCreary Co. WD  
Type: Deviation  
Issue: Daily Inspection of  
Grinder Pumps  
Decided: 2-01-2018



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**PSC Case No. 2016-394**

Filed: 11-18-2016  
Utility: Ky. American  
Type: Deviation  
Issue: Annual Inspection of  
Meters & Valves  
Decided: 12-12-2017



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**PSC Case No. 2016-427**

Filed: 12-08-2016  
Utility: Northern KY WD  
Type: Deviation  
Issue: Annual Inspection of  
Meters & Valves  
Decided: 02-01-2018



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# 2018 General Assembly

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- ### Notable Bills
- SB 117 – Ky. 811 - Defeated
  - SB 151 – Sewage (Pension)
  - HB 513 – Private WWTPs
  - HB 362 – Pension Cap
  - HB 366 – CPCN Exemption

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# Prevailing Wages

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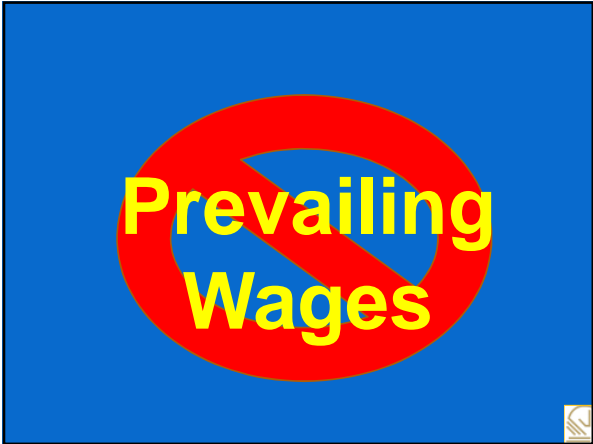
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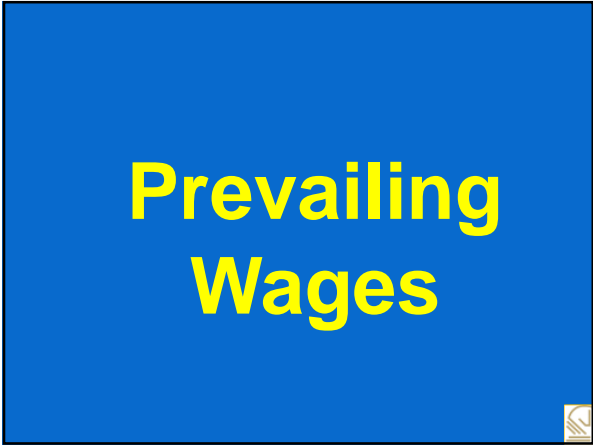
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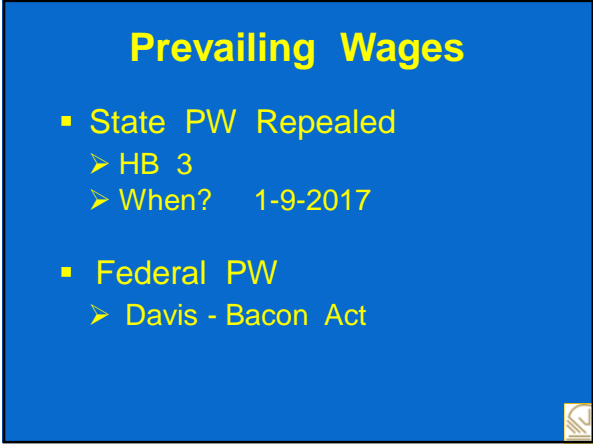
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## Old Law

- State PW Triggered By:
  - Public Works Project
  - Public Authority and
  - Over \$250,000
- Funding Source Immaterial

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## Davis - Bacon Wages

- DB Triggered By:
  - Public Works Project
  - Public Authority and
  - **Funding Source**

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## Davis - Bacon Wages ?

Funding Source	Yes	No
Reserve Funds		✓
RD		✓
KIA (Under Review)	✓	
CDBG	✓	
ARC	✓	
EDA	✓	

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## Davis - Bacon Wages ?

Funding Source	Yes	No
Tax Exempt Bonds		✓
KRWFC		✓
KLC		✓
KACo		✓
Multiple Sources	?	?

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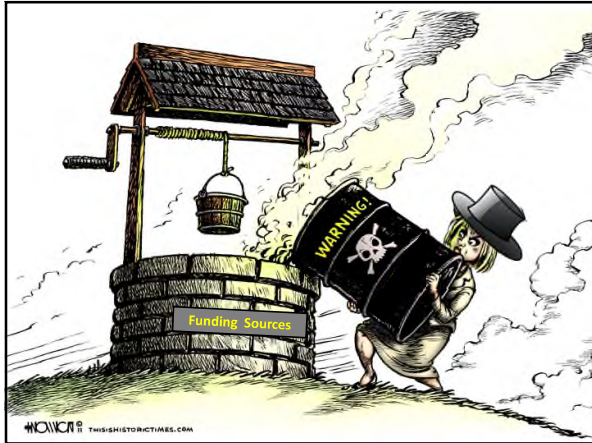
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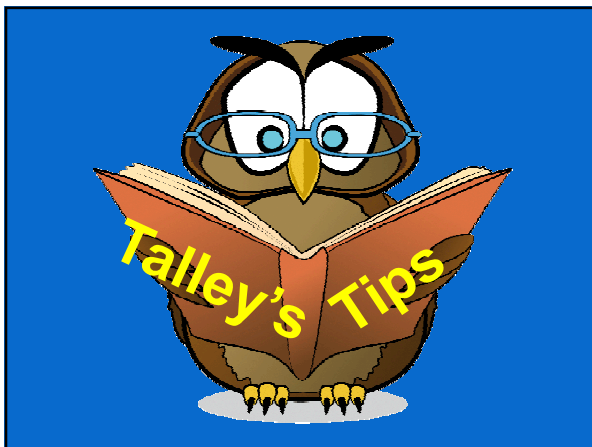
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## Davis - Bacon Wages

- Multiple Funding Sources
  - Does **Any** Funding Source Require DB Wages?
  - If Yes . . . Then Entire Project Requires DB Wages



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**QUESTIONS?**

[damon.talley@skofirm.com](mailto:damon.talley@skofirm.com)

270-358-3187



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STOLL KEENON OGDEN  
PLLC

**PUBLIC SERVICE COMMISSION  
TREATMENT OF EMPLOYEE  
COMPENSATION**

**Hardin County Water Training Program**  
April 23, 2018

Gerald Wuetcher  
Stoll Keenon Ogden PLLC  
gerald.wuetcher@skofirm.com  
<https://twitter.com/gwuetcher>  
(859) 231-3017

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STOLL KEENON OGDEN  
PLLC

**ORDER OF PRESENTATION**

- Legal Standards
- Salaries/Wages
- Bonuses
- Commissioner Salaries/Fringe Benefits
- Health Insurance Coverage
- Other Insurance
- Pension/Retirement Benefits

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STOLL KEENON OGDEN  
PLLC

**LEGAL STANDARDS**

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STOLL KEENON OGDEN PLLC 

**PRESUMPTION OF REASONABLENESS**

**Management decisions are deemed reasonable until evidence of:**

- Wasteful Or Excessive Expenses
- Abuse Of Managerial Discretion
- Action Is Contrary To Public Interest

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STOLL KEENON OGDEN PLLC 

**PSC AUTHORITY LIMITED TO REGULATION OF RATES AND SERVICE**

- KRS 278.040 grants PSC the authority to regulate utility rates and service
- No authority to operate or manage the utility
- PSC may disallow recovery of unlawful or unreasonable expense
- Disallowance of the expense does not prohibit the utility from incurring the expense, only recovery through utility rates

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STOLL KEENON OGDEN PLLC 

**WAGES AND SALARIES**

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STOLL KEENON OGDEN 

## Annual Increases In Employees' Wages & Salaries

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STOLL KEENON OGDEN 

**ANNUAL WAGE INCREASES**

### Potential Problem Areas

- Unusual or Disparate Increases in Salaries
- Excessive/Unreasonable Increases
- Unexplained Increases

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STOLL KEENON OGDEN 

**CASE NO. 2016-00054**

- Water District sought rate increase
- PSC Staff challenges annual increases of employees receiving percentage increases greater than other employees
- PSC **disallows** higher increases:  
"The annual wage rate increase for all employees should be comparable **unless there is evidence demonstrating a reasonable basis for a different increase amount**, such as when an employee receives a promotion for accepting additional responsibilities."

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STOLL KEENON OGDEN PLLC 

**CASE NO. 2016-00054**

- AG challenges annual wage increase of **3% for all employees (& benefit package)**
- PSC rejected challenges and found wage increase & fringe benefit package reasonable
- PSC focused not on reasonableness of the amount of increase but whether **the total compensation was unreasonable**

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STOLL KEENON OGDEN PLLC 

**CASE NO. 2016-00325**

- Utility provides varying annual wage increases
- Range of increases: 3.0% to 4.5%
- No written explanation for variations
- No discussion in Board minutes
- GM provided explanation to PSC Staff
- PSC Staff recommends approval

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STOLL KEENON OGDEN PLLC 

**CASE NO. 2016-00325**

- PSC accepts recommendation but expresses concerns
- Notes “the lack of information to evaluate salaries and wages paid to North Mercer’s employees, especially given that no basis or justification has been provided for its annual wage and salary increases”
- **Note:** PSC focus is on **ALL** increases

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STOLL KEENON OGDEN PLLC 

**CASE NO. 2016-00325**

“The Commission has begun placing more emphasis on performance-based evaluations of salary and benefits provided by utility providers as they relate to **competitiveness in a broad marketplace**. Future rate applications . . . should include a performance-based validation method to justify raises.”

Order of 5/29/2017 at 3-4

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STOLL KEENON OGDEN PLLC 

**CASE NO. 2017-00070**

- Utility reviewed wages 2X annually:
  - Cost-of-living
  - Performance Evaluation
- Utility did not use a defined price index to establish cost-of-living increase
- Utility did not provide written evaluations
- Utility awarded all employees performance increases of 2%

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STOLL KEENON OGDEN PLLC 

**CASE NO. 2017-00070**

**PSC warns all water utilities:**

**In future rate cases, cost-of-living adjustments without a sound basis, such as a relevant inflation index or written performance-based metric, will be disallowed.**

Order of 1/12/2018 at 16

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STOLL KEENON OGDEN PLLC

**SUPPORTING WAGE INCREASES**

- Support for Wage/Salary Increases
  - Consumer Price Index
  - Bureau of Labor Statistics
  - Employee Performance Evals
- **Annual Increases In Excess of Cost of Living:**
  - Written Performance Evaluations
  - Other factors: Labor Market/Location
  - **Total Salary Comparison**

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STOLL KEENON OGDEN PLLC

**SUPPORTING WAGE INCREASES**

- Document Wage Decisions
  - Bd Minutes should reflect Bd's reasoning
  - Specific, detailed reasons preferred
- Implement Evaluation System to better support selective wage/salary increases
- **Avoid cross-the-board performance raises**

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STOLL KEENON OGDEN PLLC

**SUPPORTING WAGE INCREASES**

- Adopt written policy re: wage increases & evaluations
- Follow the policy
- Ensure Board witness can articulate basis for decision
- If competition for local labor is a basis for a wage increase, provide supporting info re: local labor market

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STOLL KEENON OGDEN PLLC 

**REVIEW OF WAGES & SALARIES:  
TOTAL SALARY AND WAGE LEVELS**

**Are the Utility's Wages and Salaries Reasonable?**

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STOLL KEENON OGDEN PLLC 

**CASE NO. 2015-00312**

- Electric Utility Sought Rate Increase
- Attorney General (AG) raised concerns re: wage & salary increases/fringe benefits
- PSC:
  - Shares AG's concerns
  - No basis in record to justify determination that wages and benefits are not reasonable
  - Notes problems with studies re: wages

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STOLL KEENON OGDEN PLLC 

**CASE NO. 2015-00312**

"[T]he Commission believes that employee compensation and benefits need to be more sufficiently researched and studied. The Commission will begin placing more emphasis on evaluating salary and benefits as they relate to competitiveness in a broad marketplace. Future rate applications will be required to include a salary and benefits survey that is not limited exclusively to electric cooperatives, electric utilities, or other regulated utility companies. The study must include local wage and benefit information for the geographic area where the utility operates and must include state data where available."

Order of 9/15/2016 at 15

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STOLL KEENON OGDEN PLLC 

**SUPPORTING SALARY/WAGE LEVELS**

- Applications for Rate Adjustment should support any adjustment in test period expense **AND** total salary levels
- ARF Regulation/Application Form do not require such support – **PROVIDE ANYWAY**

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STOLL KEENON OGDEN PLLC 

**SUPPORTING SALARY/WAGE LEVELS**

- Comparison with other utilities
  - KRWA Salary Survey
  - Kentucky League of Cities' Wage and Salary Survey
  - AWWA Wage/Salary Survey
  - Bureau of Labor Statistics
  - PSC Annual Reports

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STOLL KEENON OGDEN PLLC 

**EMPLOYEE COMPENSATION:  
SUPPORTING SALARY/WAGE LEVELS**

- When using surveys, ensure appropriate category used
- PSC will closely examine/critique employees in excess of average
- Provide Complete Job Descriptions
- Identify Special Employee Skills & Education
- Emphasize Experience/Longevity w/Utility

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STOLL KEENON OGDEN PLLC 

**RECENT PSC CASES**

- **Case No. 2016-00325**
  - WD provides weeks salary to all employees
  - Paid at discretion of Board
  - Disallowed
- **Case No. 2016-00435**
  - WD provides \$4,800 gift cards to employees
  - “Incentive Pay”
  - AG objects
  - Disallowed

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STOLL KEENON OGDEN PLLC 

**LEGAL CONCERNS**

- **Kentucky Constitution, § 3:**  
no “grant[s] of exclusive, separate public emoluments or privileges shall be made to any man or set of men, **except in consideration of public services.**”
- **AG Opinion 62-1:**  
The granting or award of bonus contravenes Constitution since it is using public funds for services not actually rendered

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STOLL KEENON OGDEN PLLC 

**SUGGESTED APPROACH**

- Consider Implementing Incentive Compensation Policy to Overcome Legal Concerns
- Forego Rate Recovery of Bonuses
- If Seeking Rate Recovery, Be Prepared to Explain Why Existing Salary/Wage System Is Inadequate

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STOLL KEENON OGDEN PLLC 

## COMMISSIONER SALARIES/BENEFITS

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STOLL KEENON OGDEN PLLC 

### Commissioners' Salaries

- KRS 74.020 establishes Maximum Annual Salary at **\$3,600**
- Exception: **\$6,000** Maximum if 6 Hours of Certified Water Management Training
- Fiscal Court Sets the Salary Level
- Failure to Attend Board Meetings does not affect right to salary

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STOLL KEENON OGDEN PLLC 

### Commissioners' Salaries

- Ensure Fiscal Court Ordinances re: salary level available for inspection
- Retroactive Approval of Salary Level Permitted
- Have proof of training attendance
  - Water District
  - Individual Commissioner

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STOLL KEENON OGDEN PLLC 

### Commissioners' Benefits

- Benefits may not exceed WD Employees
- Free or reduced service
  - Requires PSC Approval
  - PSC Historically Denied
- Insurance benefits should not exceed those provided employees
- Future Issue: Why are benefits needed?

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STOLL KEENON OGDEN PLLC 

### HEALTH INSURANCE

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STOLL KEENON OGDEN PLLC 

### PSC POLICY - SUMMARY

- PSC reviewing employers' contribution for health insurance cost
- If employer's contribution (%) exceeds BLS estimate of national average, recovery for excess **DENIED**
- PSC **encouraging** utility policies requiring employees to pay portion of health & dental insurance costs

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STOLL KEENON OGDEN PLLC

**FACTORS CONTRIBUTING TO EMPLOYER'S HEALTH INSURANCE COSTS**

- Deductible Levels
- Co-pay Amounts
- Benefit Levels
- Geographical Area
- Workforce Demographics
- Local Healthcare Market
- Firm/Bargaining Unit Size
- **Employer Contribution Rate**

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STOLL KEENON OGDEN PLLC

**BLS: Estimate of National Average**

Coverage	Average	Private Industry	State & Local Government
Family	68/32	67/33	71/29
Single	80/20	79/21	86/14

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STOLL KEENON OGDEN PLLC

**KAISER FOUNDATION REPORT (2016)**

- 12% of Covered Workers – Employers paid full cost of single coverage
- 30% of Covered Workers in Small Firms (> 200 employees) – Employers pay full cost
- Covered Workers pay 18% of premium (single coverage) (17% for small firms)
- Public Firms: Workers paid 8% of single coverage (small firms)

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STOLL KEENON OGDEN PLLC 

**CASE NO. 2016-00169**

- AG challenges utility's 100% payment of health, life & vision insurance premiums
- PSC finds that employer contributions should be "more in line with other businesses" to reduce expenses
- PSC: Majority of businesses do not pay 100% of employees' insurance costs
- Expenses should be based upon National Average

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STOLL KEENON OGDEN PLLC 

**CASE NO. 2016-00169**

- National Average based on BLS Study
- Limited to salaried Employees
- Union Employees exempted
- PSC **ORDERS** utility to limit to national average percentages its contributions to employee insurance

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STOLL KEENON OGDEN PLLC 

**CASE NO. 2016-00365**

- RECC paid for single coverage; employee paid \$149/month for other coverages
- PSC: RECC should limit its contribution to BLS national average employer rate
- PSC: Expects RECC to **establish policy** to limit contribution & require all employees to pay portion of premium
- Portion of health insurance cost disallowed

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STOLL KEENON OGDEN PLLC 

**CASE NO. 2016-00325**

- Water District paid 100% of insurance cost
- PSC Staff Rpt: Accepted w/o comment
- PSC: WD should exercise financial prudence & reduce expense related to employee benefits **by establishing policy** that requires employees to pay a portion of premiums
- Portion of health insurance cost disallowed
- WD given **no notice** of possible action

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STOLL KEENON OGDEN PLLC 

**CASE NO. 2016-00435**

- Water District paid 100% of insurance cost
- PSC Staff Rpt: Accepted w/o Comment
- PSC: WD should exercise financial prudence & reduce expense related to employee benefits **by establishing policy** that requires employees to pay a portion of premiums
- Portion of health insurance cost disallowed
- WD given **no notice** of possible action

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STOLL KEENON OGDEN PLLC 

**CASE NO. 2016-00367**

- RECC paid 100% of insurance cost
- PSC: RECC should exercise financial prudence & reduce expense related to employee benefits **by establishing policy** that requires employees to pay a portion of premiums
- Portion of health insurance cost disallowed

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STOLL KEENON OGDEN PLLC 

**CASE NO. 2016-00434**

- RECC requires non-union employees to pay 8%, union employees to pay 10% of insurance cost
- PSC: RECC should increase efforts to rein in expenses **by establishing policy** that requires employees to pay an **increased percentage** of premium
- Portion of health insurance cost disallowed

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STOLL KEENON OGDEN PLLC 

**CASE NO. 2017-00070**

- WD paid 100% of insurance cost (Single Coverage)
- PSC Staff Report:
  - Determination of reasonableness of cost should be based upon total compensation costs (Wages + Health Insurance + Pension);
  - WD's overall cost lower than others and should be considered reasonable

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STOLL KEENON OGDEN PLLC 

**PSC STAFF REPORT**

“The reasonableness of the cost of an employee compensation package . . . should be evaluated in its totality recognizing that the combination of the individual components included in an employee benefit package often vary widely from one business entity to another. One entity may provide higher wages with limits on other benefits when compared to another entity that offers lower wages while providing better insurance coverages or retirement benefits to remain competitive for employee services.”

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STOLL KEENON OGDEN PLLC 

**PSC STAFF REPORT**

“As a result, evaluating the level of one benefit of a compensation package in isolation, such as wages or health insurance, without giving consideration to the level of all other benefits included with the package is neither fair, just, nor reasonable .”

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STOLL KEENON OGDEN PLLC 

**CASE NO. 2017-00070: HEARING**

- WD offers evidence re: local job market competitors
- WD presents evidence comparing its cost of employee benefits vs. national cost
- WD questions use of BLS “private firm” percentage
- WD suggests use of Private Firm – Utility Rate (87/13)

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STOLL KEENON OGDEN PLLC 

**CASE NO. 2017-00070: AT HEARING**

- WD argued for use of State/Local Government Percentage (86/14)
- WD argued PSC should apply same employee contribution rate that KY State Govt uses (11%)
- PSC Staff unable to respond to questions re: use of BLS rate
- Commissioner Cicero responds

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STOLL KEENON OGDEN PLLC

**FINAL ORDER**

- PSC “placing greater on evaluating employees’ total compensation packages”
- Ignores Total Compensation Argument
- Applies Private Firm Rate
- Does not address Local/State Gov’t Rate argument

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STOLL KEENON OGDEN PLLC

**CASE NO. 2017-00070: PSC RESPONSE**

- No rescission of PSC Staff findings re: total compensation
- No explanation why KY State Gov’t rate should not be applied

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STOLL KEENON OGDEN PLLC 

**HEALTH INSURANCE COSTS  
DISALLOWED IN 2017-18**

- Last 13 WD rate cases:
  - Rule Applied/Costs disallowed – 9
  - PSC Hearing on Costs – 1 (Disallowed)
  - Allowed – 1
  - No health insurance costs – 3

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STOLL KEENON OGDEN PLLC 

**PSC ORDERS: COMMON CHARACTERISTICS**

- No discussion of employer's health insurance plan specifics
- No comparison of employer's health costs with other utilities
- Ignores Utility and PSC Staff arguments and evidence
- No finding that employer's cost for health insurance is unreasonable

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STOLL KEENON OGDEN PLLC 

**PSC ORDERS: COMMON CHARACTERISTICS**

- No explanation for use of the private firm standard or why other standards are inappropriate

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STOLL KEENON OGDEN 

**COMMISSIONER CICERO: PSC POLICY ON HEALTH INSURANCE BENEFITS**

- Appearance before KY Chamber of Commerce Energy Conference (01/18/2018)
- All PSC Commissioners present
- VC Cicero stated PSC Policy
- Posted at <http://bit.ly/2sBUL1d>

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STOLL KEENON OGDEN 

**COMMISSIONER CICERO: PSC POLICY ON HEALTH INSURANCE BENEFITS**

- “[F]or rates to be fair, just, and reasonable - both to the ratepayers and the utility - the utility’s employees should reasonably participate in the cost of their health and dental insurance premiums”
- “Absent any employee participation, PSC will apply 21% contribution for single & 32% for family”

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STOLL KEENON OGDEN 

**COMMISSIONER CICERO: PSC POLICY ON HEALTH INSURANCE BENEFITS**

“From a personal perspective, I’m concerned that the utility industry in general, regardless of the entity’s financial viability, seems to have a philosophy that health, dental and many other benefit programs should be completely or majority funded by the company; that somehow all employees, regardless of their skill level or occupation, are so valuable as to be irreplaceable.”

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STOLL KEENON OGDEN 

**COMMISSIONER CICERO: PSC POLICY ON HEALTH INSURANCE BENEFITS**

“Essentially, **utility employee benefits need to be market competitive** as measured against not only other utilities but other business sectors and public employees.”

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STOLL KEENON OGDEN 

**COMMISSIONER CICERO’S POLICY ON HEALTH INSURANCE BENEFITS**

The Commission has been questioned as to why it doesn’t utilize the statistical percentages for “Service-providing industries – utility category” instead of the “all workers” category. The reason is obvious: **if all utilities offer the same program benefits the comparative percentages will be skewed for that category.**

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STOLL KEENON OGDEN 

**COMMISSIONER CICERO’S POLICY ON HEALTH INSURANCE BENEFITS**

I will emphasize this point - if the employee percent cost participation is not exactly at the standard percentage levels, but the company does require employee cost participation **at a reasonable level**, the Commission will not adjust those costs. However, the further the actual percentage is below the **standard statistical average percent participation**, the greater the probability that the Commission could make an adjustment.

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STOLL KEENON OGDEN PLLC

**PROBLEMS WITH PSC APPROACH**

- Due Process Concerns
  - No notice to utilities
  - Utility has no opportunity to confront BLS “National Average” Statistics
  - Failure to Address Utility Arguments
- KRS Chapter 13A: PSC adopts a rule without following proper procedure

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STOLL KEENON OGDEN PLLC

**PROBLEMS WITH PSC APPROACH**

- PSC Assumption: Utility Industry and Government payment of insurance costs is “skewed” – no supporting evidence
- Improper Use of BLS Statistics
  - No recognition of State/Local Gov’t Data
  - Refusal to Use “Utilities Information”
- No empirical or statistical evidence to support any finding that current compensation costs are unreasonable

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STOLL KEENON OGDEN PLLC

**PROBLEMS WITH PSC APPROACH**

PSC refuses to consider:

- Insurance Policies of Utility
- Local Labor Markets
- Utilities’ Efforts to contain/reduce health insurance costs
- Reputable/recognized studies on issue

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STOLL KEENON OGDEN PLLC

**RESPONSES TO PSC APPROACH**

- Use Good Procurement Practices
  - Request Bids/Seek cost estimates from various suppliers annually
  - Document costs/efforts to reduce costs
- Determine the amount of likely disallowance prior to filing and if cost-effective to mount significant protest
- If not cost-effective, still document the record

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STOLL KEENON OGDEN PLLC

**RESPONSES TO PSC APPROACH**

- Compare **Total Compensation Cost** vs. Other Regulated Utilities/Municipal Utilities
- Offer comparisons of benefits/costs by other regional/state utilities (Use KRWA/KLC Surveys)
- Provide evidence on local labor markets
- Emphasize unique aspects of your workforce

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STOLL KEENON OGDEN PLLC

**RESPONSES TO PSC APPROACH**

- Consider differences between the quality of WD's insurance coverage & National Average Policy (e.g. deductibles, benefits)
- Propose use of BLS State/Local Government Category or Private Firm Utility or KY State Contribution Rate
- Argue for use of different study to determine National Average (e.g., Kaiser Family Foundation)

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STOLL KEENON OGDEN PLLC 

**RESPONSES TO PSC APPROACH**

- Consider challenging disallowance in response to PSC Staff Report (even if accepting PSC Staff rates)
- Conditional Waiver
- If Hearing – Challenge PSC Staff’s knowledge on utility’s health insurance policy and understanding of utility industry’s practices

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**PSC AUTHORITY TO MANDATE EMPLOYEE CONTRIBUTION**

- Employer Contribution is a **matter of managerial discretion**
- PSC jurisdiction limited to ratemaking
- PSC **CANNOT** restrict what employer pays for employee health insurance
- PSC **CANNOT** mandate employees contribute to health insurance cost

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STOLL KEENON OGDEN PLLC 

**OTHER INSURANCE**

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STOLL KEENON OGDEN PLLC 

**DENTAL INSURANCE**

- PSC: National Average Employer Contribution is 60%
- Based upon Willis Benefits Benchmarking Survey (2015)
- Employer contribution is limited to 60% for ratemaking purposes

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STOLL KEENON OGDEN PLLC 

**LIFE INSURANCE**

- IRS Ceiling for Employer-Provided Life Insurance: \$50,000 (>\$50,000 FICA taxes incurred)
- If Cost of Employer-Provided >\$50,000, must clearly demonstrate the need for this additional compensation

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STOLL KEENON OGDEN PLLC 

**PENSION & RETIREMENT BENEFITS**

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STOLL KEENON OGDEN PLLC 

**PENSION/RETIREMENT BENEFITS**

- No disallowances for contributions to WD retirement plans
- Limits for utilities with more than one retirement plan for employees
- Rate recovery limited to employer contributions to one plan if employees eligible for 2 or more retirement plans

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STOLL KEENON OGDEN PLLC 

**QUESTIONS**



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**EXTENDING METER SERVICE LIFE**

Damon R. Talley  
Stoll Keenon Ogden PLLC

April 23, 2018

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**Overview**

1. Meter Testing Requirements
2. Meter Accuracy
3. Utilities Achieving Extended Service Life
4. Sample Testing
5. Case No. 2016-00432 (HCWD # 2)



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**Meter Testing Requirements**



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### Meter Testing Requirements

- KRS 278.210
  - Establishes statutory standard for meters
  - Meter may not be more than two percent to the disadvantage of the customer (2% **fast**)



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### Meter Testing Requirements

- KRS 278.210(4):
  - “If a utility demonstrates through sample testing that no statistically significant number of its meters over-register above the limits set out in subsection (3) of this section, the meter testing frequency shall be that **which is determined by the utility to be cost effective.**”



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### Meter Testing Requirements

- 807 KAR 5:066, Section 15
  - Requires meters be tested prior to initial placement into service
  - Provides accuracy limits for new, rebuilt, and repaired cold water meters
  - Prohibits any new, rebuilt, or repaired meter from being placed in service if it does not register within accuracy limits



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**Accuracy Limits:  
5/8 x 3/4 Inch Displacement Meters**

- Maximum Rate
  - Flow Rate: 15 gpm
  - Accuracy Limit: 98.5-101.5%
- Intermediate Rate
  - Flow Rate: 2 gpm
  - Accuracy Limit: 98.5-101.5%



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**Accuracy Limits:  
5/8 x 3/4 Inch Displacement Meters**

- Minimum Rate
  - Flow Rate: 1/4 gpm
  - Accuracy Limit:
    - 95-101% (New and Rebuilt)
    - 90% (Repaired)



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**Meter Testing Requirements**

- 807 KAR 5:066, Section 16
  - “Each utility shall test periodically **all water meters** so that no meter will remain in service without test for a period longer than specified[.]”
  - 5/8 x 3/4 Inch: 10 years



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### Significant Savings Example

- Utility: 5,000 meters
- Meter cost: \$100
- Annual Savings:
  - 10 years: 500 meters replaced yearly
  - 15 years: 333 meters replaced yearly
  - 167 fewer meters purchased annually → \$16,700 annual savings



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### Significant Savings Example

- Utility: 5,000 meters
- Meter cost: \$100
- Avoided Capital Expenditures:
  - Utility avoids replacing 2,500 meters over next five years (500 meters per year)
  - One-time savings: \$250,000



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## Meter Accuracy



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### Meter Accuracy

- Meter accuracy > 10 years
- Most meters warranted for accuracy for **at least 15 years**
  - Example: Sensus warranty
    - Sensus SR11: 15 years
    - Sensus iPERL: 20 years



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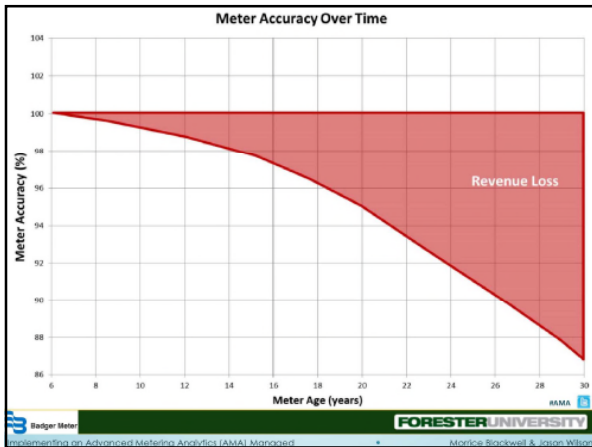
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### Meter Accuracy

- Declining meter accuracy = slow meters
- Without regulation, utilities would change meters when revenue loss from slow meters > cost to replace meters



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## Utilities Achieving Extended Service Life



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*Warren County Water Dist. v. PSC*

- Case No. 2011-00220
  - Joint Applicants sought deviation from 10-year testing requirement based upon results of sample testing from Case No. 2003-00391
  - Testing Results:
    - Meters remained within standards for 15 years
    - Lost revenue from inaccurate meters did not exceed cost of testing until 21 years in service
  - PSC authorized deviation to permit meters in service for 15 years without testing



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*Warren County Water Dist. v. PSC*

- Utility brings action for review → REVERSED
- Franklin Circuit Court found:
  - Significant that meters do not over register
  - Sampling plan was cost-effective → met KRS 278.210(4)



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### Case No. 2009-00253

- Kentucky - American sample tested group of meters
- Meters tested within standard after 15 years of service
- PSC extended time in service to 15 years for meters
- Estimated annual savings: \$90,000
- Estimated annual capital expenditure savings: \$545,000



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## Sample Testing



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### Sample Testing

- Sample = subset containing characteristics of a larger population
- Is sample testing the functional equivalent of testing every meter?
- Statutes and regulations acknowledge sample testing



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### Sample Testing

- KRS 278.210(4)
  - “If a utility demonstrates through **sample testing** that no statistically significant number of its meters over-register . . . .”
- 807 KAR 5:041, Section 16 (Electric)
- 807 KAR 5:022, Section 8(5)(c) (Gas)




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### Sample Testing

- ANSI/ASQ Z1.9-2003 (R2013), Sampling Procedures and Tables for Inspection by Variables for Percent Nonconforming [“ANSI Standard”]
  - Three Inputs
  - Acceptance Calculation




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### ANSI Standard

Three Inputs:

1. Acceptance Quality Limit (“AQL”)
  - Worst tolerable product average
  - Table A-1
  - PSC Cases
    - Use AQL of 2.0
    - Converts to 2.5

Table A-1  
AQL Conversion Table

For specified AQL values falling within these ranges		Use this AQL value
–	to 0.109	0.10
0.110	to 0.164	0.15
0.165	to 0.279	0.25
0.280	to 0.439	0.40
0.440	to 0.669	0.65
0.700	to 1.09	1.0
1.10	to 1.64	1.5
1.65	to 2.79	2.5
2.80	to 4.39	4.0
4.40	to 6.99	6.5
7.00	to 10.9	10.0




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## ANSI Standard

Three Inputs:

### 2. Inspection Level

- Five different inspection levels
- A7: "Unless otherwise specified, Inspection Level II shall be used."
- PSC Cases
  - Inspection Level II




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## ANSI Standard

Three Inputs:

### 3. Lot Size

- Size of entire group
- Example: Total number of meters of a certain age




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## ANSI Standard

- Variability Unknown – Standard Deviation

– Double Specification Limit

- Sample Size Code Letter

– Based upon inputs, Table A-2 provides Letter

– 555 meters → Letter "J"

*Table A-2<sup>1</sup>*  
Sample Size Code Letters<sup>2</sup>

Lot Size	Inspection Levels		
	Special S <sub>1</sub> S <sub>2</sub>	General I II III	
2 to 8	B	B	B B C
9 to 15	B	B	B B D
16 to 25	B	B	B C E
26 to 50	B	B	B C D F
51 to 90	B	B	B D E G
91 to 150	B	C	E T H
151 to 280	B	D	F G I
281 to 400	C	E	G H J
401 to 500	C	E	G I J
501 to 1,200	D	F	H <b>J</b> K
1,201 to 3,200	E	G	I K L
3,201 to 10,000	F	H	J L M
10,001 to 35,000	G	I	K M N
35,001 to 150,000	H	J	L N P
150,001 to 500,000	H	K	M P P
500,001 and over	H	K	N P P




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### ANSI Standard

- Sample Size
  - Table B-3
  - Sample Size Code Letter “J” = 35
  - Must randomly select sample!
    - PSC has approved selections by Excel, billing software, or other computerized process




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Lot Size			Meters Tested
51	to	90	7
91	to	150	10
151	to	280	15
281	to	400	20
401	to	500	25
501	to	1,200	35
1,201	to	3,200	50
3,201	to	10,000	75

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### Case No. 2016 - 00432 Maximum Flow Results

1. 99.5	13. 99.2	25. 99.6
2. 99.4	14. 99.6	26. 99.7
3. 99.2	15. 99.9	27. 101.0
4. 98.5	16. 99.6	28. 99.0
5. 99.3	17. 99.5	29. 99.6
6. 100.0	18. 99.4	30. 99.3
7. 99.5	19. 99.5	31. 98.5
8. 100.0	20. 99.2	32. 99.2
9. 100.2	21. 99.4	33. 98.5
10. 99.8	22. 99.6	34. 99.5
11. 100.3	23. 99.6	35. 99.3
12. 100.0	24. 99.5	




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### Case No. 2016 - 00432

- Request for deviation → GRANTED
  - Establishing the lots
  - Only damaged meters can be removed
  - Low flow testing method approved
  - Commission found cost savings significant
  - Additional protections for customers are important



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### Establishing the Lots

- Year Installed
- Meter Mfg. (Sensus)
- Meter Mechanism
  - Displacement (SR II)
  - Magnetic (iPearl)



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### Proceed With Caution . . .

- Line loss must be low



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### Proceed With Caution . . .

- “Moreover, with respect to any utility that would seek to rely on this Order as the basis for a request for deviation allowing sample testing, the Commission observes that this Order should provide notice that **implementing such a plan prior to seeking Commission approval is a violation of 807 KAR 5:066, Section 16(1), and doing so may indicate a willful violation justifying the imposition of penalties.**”



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### Questions?

Mary Ellen Wimberly  
maryellen.wimberly@skofirm.com  
(859) 231-3047



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**Kentucky Lead Workgroup  
Findings, Best Practices  
and Recommendations**



**Water Commissioner Training  
Seminar**

Greg Heitzman, P.E.  
Chair, KY Lead Workgroup  
April 23, 2018  
 Elizabethtown, Kentucky

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**Flint Public Health Crisis**




**HOUSE PANEL  
CHAIR ASSAILS  
EPA MISSTEPS  
IN FLINT CRISIS**

Lawmaker says agency ignored warnings about lead, didn't act on information

**Flint Spigot**  
The House panel chair, Rep. Bob Latta (R-Ohio), assailed the EPA for missteps in the Flint water crisis, saying the agency ignored warnings about lead in the water and didn't act on information that was available to it.

considering that he brought the spigot to light, Latta says, "I'm sure it's not going to be the last time we hear about this. It's a real tragedy, by the way."

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**Trouble Spreading**

**Which Cleveland suburbs have the most lead water pipes?**

**Pittsburgh water continues to exceed federal lead threshold**

**Ohio schools find hundreds of water fixtures with lead**

**Kentucky maintains safe lead levels in water**

**As Blue Lanes, Associated Press**

The public's Division of Water has found a strategy that can help water utilities reduce lead levels in drinking water. Lead levels in water are a concern because of its toxicity. Lead levels in water are a concern because of its toxicity. Lead levels in water are a concern because of its toxicity.

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## Kentucky Lead Workgroup

### Members

- Jennifer Burt, Kentucky Health Department
- Obe Cox, Carroll County Water District
- Tom Gabbard, Kentucky Division of Water
- Mike Gardner, Bowling Green Municipal Utilities
- Greg Heitzman, BlueWater Kentucky
- Ron Lovan, Northern Kentucky Water District
- Brad Montgomery, GRW Engineers
- Bill Robertson, Paducah Water
- Tom Rockaway, PhD, University of Louisville
- Justin Sensabaugh, Kentucky American Water Company
- Rengao Song, PhD, Louisville Water Company
- Brian Thomas, Marion Water Department





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## Kentucky Lead Workgroup

### Resources

- Peter Goodmann, KY Division of Water
- Claude Carothers, KY Division of Water
- Samantha Kaiser, KY Division of Water
- Susan Lancho, Kentucky American Water
- Gary Larimore, Kentucky Rural Water
- Kay Sanborn, KY-TN AWWA
- Kelley Dearing Smith, Louisville Water Company
- Victoria Wilhoite, KY Division of Compliance Assistance


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## Kentucky Lead Workgroup

- First meeting held April 20, 2016
- Workgroup generally meets monthly on third Wednesday
- Meetings open to the public
- Sub-teams established in the following areas:
  - ✓ Public health
  - ✓ Lead regulations and compliance record with LCR
  - ✓ Treatment/Corrosion control
  - ✓ Distribution/Piping/Plumbing infrastructure
  - ✓ Training/Education
  - ✓ Financing/Funding lead replacement
  - ✓ Communications/Education


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## Kentucky Lead Workgroup

- Expect Final Report to be completed by Sumer, 2018
- Deliverables:
  - ✓ Recommendations
  - ✓ Power point presentations on each topic area
  - ✓ Workgroup, compiled by sub-team/topic area
- Workgroup report will provide the following:
  - ✓ Summary of Kentucky's compliance with EPA's Lead and Copper Rule
  - ✓ Best practices for treatment of lead in drinking water
  - ✓ Best practices for removal of lead pipes, fixtures, etc.
  - ✓ Preparation for future regulatory changes (lower action levels)
  - ✓ Best practices for sharing lead information and educating consumers
  - ✓ Financing practices to fund replacement programs
  - ✓ Recommendations to State Agencies, Utilities, and Industry Associations




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## KY Lead Compliance Results

- 436 Public Water Supply Systems (PWS) in KY
- 390 PWS monitor for lead under the LCR
- # of samples based on population
- 36,270 Lead Compliance samples 2005-17
- 75% of samples had no detection (< 2 ppb)
- 98% of samples less than 15 ppb
- 3 systems (2%) exceeded 15 ppb
- 3 systems (<1%) required additional action
- Since 2012, all KY PWS comply with LCR


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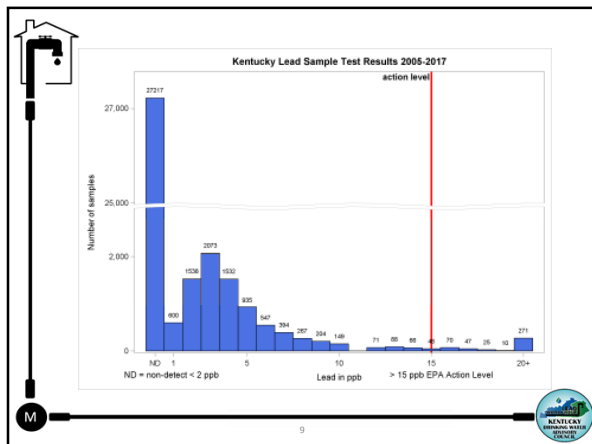
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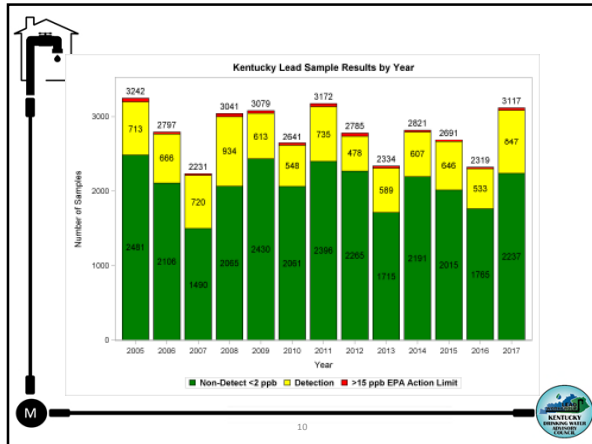
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### What Have We Learned?

#### US Lead Service Line Inventory



- AWWA/EPA estimates 6.1 million public Lead Service Lines (LSL) in U.S. (range of 5.5 to 7.1 million LSL)
- Includes full and partial LSL (public and private)
- Largest density is with systems serving 10,000 to 50,000 Population.
- Generally utilities transitioned from lead to copper between 1930 and 1960
- National cost estimate of \$18 to \$30 billion for 6.1 million LSL, assumes \$3,000 to \$5,000 per LSL replacement costs

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### What Have We Learned?

#### Kentucky Lead Service Line Inventory



- AWWA/EPA estimate 53,000 Public LSL in Kentucky (*we think overestimated*)
- Replacement Cost Range of \$1,500 to \$3,000 each
- Estimate of \$79.5 to \$159 million for public portion
- Estimate 13,000 Private LSL in Kentucky
- Replacement Cost Range of \$1,000 to \$2,000
- Estimate of \$19.5 to \$26 million for private portion
- Total Kentucky Estimate for removal of Public and Private LSL of \$92.5 to \$185 million (*based on AWWA/EPA estimated #s*)

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### How does Kentucky Compare?

- **United States Survey Data:**
  - US 2015 Population 320 million people
  - 293 million people served by Community Water Systems (92% served)
  - 97.7 million household connections (assumes 3 people per connection)
  - 6.1 million Lead Service Lines (AWWA Journal Article June 2016)
  - **Estimate 6.2% of US Houses have full or partial Lead Service Lines**
- **Kentucky Survey Data:**
  - Kentucky 2015 Population of 4.4 million
  - 4.2 million people served by Community Water System (95%+ served)
  - 1.4 million household connections (assumes 3 people per connection)
  - 53,000 Lead Service Lines (AWWA Journal Article June 2016)
  - **Estimate 3.8% of KY Houses have full or partial Lead Service Lines**

**Kentucky Compares Favorably to National Average**




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### Best Practices Emerging

- On-line lead service GIS database
- Free water sampling for lead
- Proactive lead replacement programs (public and private)
- Lead replacement subsidy or finance program for homeowner's portion of lead piping



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### Best Practices Emerging

- Optimized water treatment for corrosion
- Best practices for sampling and monitoring
- School partnerships for lead inventory, testing, flushing and plumbing fixture replacement (Indiana Finance Authority school program)

Indiana To Begin Testing For Lead In Public School Water


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### Best Practices Emerging

- Lead education and communication materials
- Best Practices for Flushing

**Flushing your pipes daily helps improve water quality. It's hard to flush the water line.**

Flushing your pipes daily helps improve water quality. It's hard to flush the water line.

Flushing your pipes daily helps improve water quality. It's hard to flush the water line.

**Typical Water Service Line**

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### Regulatory Possibilities

- Reduction in Action Level below 10 ppb
- Possibly a MCL for Lead or a Household Action Level
- Change in sampling methods (cycles, size, frequency, locations)
- Strict water sampling protocol for lead
- Mandatory replacement programs (XX % per year)
- Mandatory lead education materials provided to for consumers, including health risk info.
- Private lead line replacement requirements for homeowners
- Specific lead action steps for schools, daycares and public facilities

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## 32 Recommendations of the Kentucky Lead Workgroup

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 **State Level Recommendations (10)**

1. Develop protocol, guidance and technical assistance for evaluation of treatment process changes using the US EPA's Optimal Corrosion Control Treatment (OCCT) report published March 2016. A Corrosion Control Plan (CCP) should be developed when:
  - a) a new water source is introduced (including interconnects with utilities);
  - b) the water source is changed;
  - c) the water treatment process is changed (including chemical additives);
  - d) lead compliance sampling results are near or exceed the EPA Action Level (currently 15 ppb);
  - e) an interim supply is needed (excludes emergency supply)

A CCP is a complex analysis. To assure optimal water treatment quality is achieved and regulatory compliance is maintained, the CCP should be conducted by a qualified water quality professional. As recommended by EPA, the CCP should be developed in coordination with the Kentucky Division of Water.

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 **State Level Recommendations (10)**

2. Establish protocol and reporting requirements for utilities to use for the collection and reporting of special lead samples and when customers request water sample testing for lead.
3. Update the estimated number of lead service lines (public and private) in Kentucky and the associated replacement costs.
4. Revise prioritization criteria for state-wide water projects to include lead service line replacement.
5. Develop funding sources that utilities can use to finance lead service line replacement (public and private) and lead abatement projects. Funding sources may include: KIA, Rural Development, SRF funding, and state/local appropriations.

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 **State Level Recommendations (10)**

6. Develop a lead training curriculum in partnership with utilities, state and local health departments and water industry associations. The training should include corrosion control treatment methods, lead service line replacement and repair practices, flushing practices and customer communications.
7. Consider Kentucky state legislation for requiring blood lead level testing for all children at 12 and 24 months of age.
8. Update the Kentucky Division of Water's website to serve as a resource for information on lead in drinking water, best practices, health impacts and regulatory requirements.

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### State Level Recommendations (10)

- Promote the use of U.S. EPA's 3T (Training, Testing and Telling) program for reducing lead in drinking water in schools and child care centers. The program includes: Training of school officials on the potential of lead in drinking water; Testing of drinking water in schools to identify potential problems and corrective actions (as needed); and Telling staff, parents, students and the local community about the testing results, potential risks and remedial actions taken by the school.
- Monitor lead testing programs for schools and child care centers being used in other states and consider implementing in Kentucky following a review of benefits and costs.

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### Utility Recommendations (13)

- Conduct a Corrosion Control Evaluation (CCE) and develop a Corrosion Control Plan (CCP) for water treatment and distribution operations following the guidance provided in US EPA's Optimal Corrosion Control Treatment (OCCT) report published March 2016. A CCP should be developed when:
  - a new water source is introduced (including interconnects with utilities);
  - the water source is changed;
  - the water treatment process is changed (including chemical additives);
  - lead compliance sample results are near or exceed the EPA Action Level (currently 15 ppb);
  - an interim supply is needed (excludes emergency supply).

A CCP is a complex analysis. To assure optimal water treatment quality is achieved and regulatory compliance is maintained, the CCP should be conducted by a qualified water quality professional. As recommended by EPA, the CCP should be developed in coordination with the Kentucky Division of Water.

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### Utility Recommendations (13)

- Adopt the EPA recommended guidelines for lead compliance sampling.
- Prepare for a reduction in the EPA Lead Action Level from 15 parts per billion (ppb) to less than 10 ppb as part of a revised Lead and Copper Rule (LCR).
- Prepare for more frequent sampling cycles and more diverse sampling locations for LCR compliance.
- Adopt a policy or practice to remove public lead service lines when exposed during excavation. Communicate the discovery of any private lead service lines to the homeowner/occupant. The communication message should define the homeowner's responsibility for private plumbing, the benefits of flushing and the impacts of lead contained in plumbing fittings and fixtures.

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 **Utility Recommendations (13)**

6. Proactively investigate the location of public lead service lines using various methods (historical records, maps, construction plans, field surveys, home age, etc.). The service line information (public portion) should be added to the water distribution inventory, maps and records (include material type, age, condition, and other attributes where available).
7. Provide customers access to an on-line database of utility-confirmed lead service line locations (public portion).
8. Adopt a long-term goal of replacing all lead service lines. The implementation practices and the time line associated with this goal will be based on local conditions and financial capability.

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 **Utility Recommendations (13)**

9. Develop consumer education materials on lead in drinking water in collaboration with industry associations, regulators and public health officials. The education materials should: include the health risks associated with lead; include guidance on common methods to reduce lead exposure; and identify the homeowner responsibility for private service lines and plumbing fixtures. The information should be provided to consumers and stakeholders through Consumer Confidence Reports, websites, social media, door hangers and other available communication methods.
10. Train field personnel to identify, locate, repair, and/or replace lead service lines and lead-containing fittings.

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 **Utility Recommendations (13)**

11. Monitor state and national best practices on managing lead in drinking water. Practical and feasible practices should be implemented where appropriate.
12. Review the ANSI/AWWA Standard C810-17 on Replacement and Flushing of Lead Service Lines (published November 1, 2017). The standard should be adopted where feasible and practical.
13. Develop a program to partner with the health department, public/private schools and childcare centers for testing, education and coordination of replacement of lead piping and plumbing fixtures within school and childcare facilities. The program should include a protocol for reporting results of lead testing to the utility, schools and child care centers, local health department and Kentucky Division of Water.

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 **Industry Recommendations (4)**

1. Develop a utility training curriculum on lead in drinking water, including: lead treatment (corrosion control); water sampling protocol; system assessment for lead; lead inventory; lead service line repair; lead service line replacement (public and private); the potential source of lead from homeowner plumbing fixtures; and communication materials for consumers.
2. Identify key stakeholders and develop lead communication tools, including web site links and templates, for utilities to use in communicating with customers. Utilize existing resources from national and local partners. The materials should include information on the homeowner responsibility for private lead service lines and plumbing fixtures that may be sources of lead.

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 **Industry Recommendations (4)**

3. Engage and educate key stakeholders on lead in drinking water. Key stakeholders include health departments, medical professionals, regulatory agencies, education officials, engineering professionals, building trades, homeowners and other organizations that are impacted by or establish policy or regulations regarding lead in drinking water.
4. Pursue financial assistance from local, state and federal agencies for public and private lead service line replacement, utilizing the State Revolving Loan Fund Program and other financial assistance programs for home lead abatement.

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 **Research & Development Recommendations (5)**

1. Develop technology to identify buried lead service lines (non-destructive).
2. Advance utility best practices for full (public and private) and partial (public portion only) replacement of lead service lines.
3. Conduct research on the impact of lead in drinking water on human health. This work will assist in identifying an appropriate action level for lead in drinking water.

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### R & D Recommendations (5)

4. Evaluate the cost effectiveness of point of use (POU) and point of entry (POE) treatment devices for lead removal as an alternative to treatment changes or lead service line replacement to achieve compliance with the Lead and Copper Rule lead action level (currently 15 ppb).
5. Conduct research to determine the best sampling methods to obtain a representative sample of lead in drinking water for purposes of Lead and Copper Rule compliance monitoring.



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### Approval Process and Next Steps

- The Kentucky Lead Workgroup met on February 21, 2018 and approved the final version on March 7, 2018 by email
- Recommendations were submitted to US EPA on March 8, 2018, as part of a Federal Consultation Process on the LCR (Peter Goodmann, KDOW)
- The Kentucky Drinking Water Council approved the recommendations on March 13, 2018
- Final Report to be available in the summer 2018.



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**Greg C. Heitzman, PE**  
**Chair**  
**Kentucky Lead Workgroup**  
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# Kentucky Lead Workgroup Recommendations

## March 13, 2018

**Document Compiled By**  
**Greg Heitzman**  
**Chair, Kentucky Lead Workgroup**

Following the 2015 public health crisis in Flint Michigan, the Kentucky Environmental Protection Cabinet formed the Kentucky Lead Workgroup to evaluate the current state of lead in drinking water in Kentucky. The Workgroup has been meeting regularly since May 2016 to review current practices in managing lead in Kentucky's public drinking water systems. The 12-member Workgroup has representation from small, medium, large public water systems, regulators, the state public health department, engineering consultants, academia and industry associations. The Workgroup established seven subgroups to review and evaluate lead in the areas of public health, drinking water regulations, water treatment/corrosion control, water distribution/piping, training/education, finance/funding, and communications. The initial draft recommendations were presented at the Kentucky-Tennessee Water Professional Conference on July 11, 2017. The meetings of the Workgroup are open to the public and minutes and presentations are available online at <http://water.ky.gov/drinkingwater>.

The recommendations are organized into the following stakeholder groups: State Agency; Public Water System/Utility; Drinking Water Industry Associations; and Research Organizations. The recommendations were finalized by the Kentucky Lead Workgroup on March 7, 2018 and approved by the Kentucky Drinking Water Advisory Council on March 13, 2018. A final report of the Workgroup findings and recommendations will be compiled in the Summer 2018.

### **1.0 - State Agency Recommendations:**

**Kentucky Division of Water (KDOW), Kentucky Infrastructure Authority (KIA), Kentucky Division of Compliance Assistance (KDCA), Kentucky Department of Public Health (KDPH), Kentucky Department of Education (KDE).**

*The agency recommendations included herein should be evaluated by the respective state agencies and implemented where budget resources are available. The recommendations should be evaluated in partnership with water industry stakeholders (utilities, industry associations and engineering community) and presented to the Kentucky Drinking Water Advisory Council for review and comment prior to implementation. State Agencies should consider the following recommendations:*

- 1.1 Develop protocol, guidance and technical assistance for evaluation of treatment process changes using the US EPA's Optimal Corrosion Control Treatment (OCCT) report published March 2016. A Corrosion Control Plan (CCP) should be developed when:
  - a. a new water source is introduced (including interconnects with utilities);
  - b. the water source is changed;
  - c. the water treatment process is changed (including chemical additives);
  - d. lead compliance sampling results are near or exceed the EPA Action Level (currently 15 ppb);
  - e. an interim supply is needed (excludes emergency supply)

A CCP is a complex analysis. To assure optimal water treatment quality is achieved and regulatory compliance is maintained, the CCP should be conducted by a qualified water quality professional. As recommended by EPA, the CCP should be developed in coordination with the Kentucky Division of Water.

*Responsible Parties: KDOW, Drinking Water Utilities. KY Rural Water, KY-TN AWWA.*

- 1.2 Establish protocol and reporting requirements for utilities to use for the collection and reporting of special lead samples and when customers request water sample testing for lead.

*Responsible Parties: KDOW, with input from Drinking Water Utilities.*

- 1.3 Update the estimated number of lead service lines (public and private) in Kentucky and the associated replacement costs.

*Responsible Parties: KDOW, KY Rural Water, KY-TN AWWA, Drinking Water Utilities.*

- 1.4 Revise prioritization criteria for state-wide water projects to include lead service line replacement.

*Responsible Parties: KDOW, KIA with input from Drinking Water Utilities.*

- 1.5 Develop funding sources that utilities can use to finance lead service line replacement (public and private) and lead abatement projects. Funding sources may include: KIA, Rural Development, SRF funding, and state/local appropriations.

*Responsible Parties: KIA and Rural Development with input from KDOW and Drinking Water Utilities.*

- 1.6 Develop a lead training curriculum in partnership with utilities, state and local health departments and water industry associations. The training should include corrosion control treatment methods, lead service line replacement and repair practices, flushing practices and customer communications.

*Responsible Parties: KDOW, KDCA, KDPH, KY Rural Water, KY-TN AWWA, Drinking Water Utilities.*

- 1.7 Consider Kentucky state legislation for requiring blood lead level testing for all children at 12 and 24 months of age.

*Responsible Parties: KDPH in collaboration with KDOW, Drinking Water Utilities, KY Rural Water, KY-TN AWWA.*

- 1.8 Update the Kentucky Division of Water's website to serve as a resource for information on lead in drinking water, best practices, health impacts and regulatory requirements.

*Responsible Parties: KDOW in collaboration with Drinking Water Utilities, KY Rural Water, KY-TN AWWA.*

- 1.9 Promote the use of U.S. EPA's 3T (Training, Testing and Telling) program for reducing lead in drinking water in schools and child care centers. The program includes: Training of school officials on the potential of lead in drinking water; Testing of drinking water in schools to identify potential problems and corrective actions (as needed); and Telling staff, parents, students and the local community about the testing results, potential risks and remedial actions taken by the school.

*Responsible Parties: KDE, School Officials and Child Care Centers in partnership with KDPH and local public health officials.*

- 1.10 Monitor lead testing programs for schools and child care centers being used in other states and consider implementing in Kentucky following a review of benefits and costs.

*Responsible Parties: KDPH, KIA and KDOW in collaboration with Drinking Water Utilities, KY Rural Water, KY-TN AWWA.*

## **2.0 - Public Water System/Utility Recommendations:**

*The public water system/utility recommendations included herein should be considered on a case-by-case basis, with consideration given to: budget and resource availability; the technical expertise and knowledge of the utility; the feasibility and practicality of implementation; the impact on customer water rates and fees; and the size of the utility (population served, number of customers, water demand and size of distribution system). Public water systems/utilities should consider the following recommendations:*

- 2.1 Conduct a Corrosion Control Evaluation (CCE) and develop a Corrosion Control Plan (CCP) for water treatment and distribution operations following the guidance provided in US EPA's

Optimal Corrosion Control Treatment (OCCT) report published March 2016. A CCP should be developed when:

- a. a new water source is introduced (including interconnects with utilities);
- b. the water source is changed;
- c. the water treatment process is changed (including chemical additives);
- d. lead compliance sample results are near or exceed the EPA Action Level (currently 15 ppb);
- e. an interim supply is needed (excludes emergency supply).

A CCP is a complex analysis. To assure optimal water treatment quality is achieved and regulatory compliance is maintained, the CCP should be conducted by a qualified water quality professional. As recommended by EPA, the CCP should be developed in coordination with the Kentucky Division of Water.

*Responsible Parties: Drinking Water Utilities and KDOW.*

- 2.2 Adopt the EPA recommended guidelines for lead compliance sampling.

*Responsible Parties: Drinking Water Utilities and KDOW.*

- 2.3 Prepare for a reduction in the EPA Lead Action Level from 15 parts per billion (ppb) to less than 10 ppb as part of a revised Lead and Cooper Rule (LCR).

*Responsible Parties: Drinking Water Utilities and KDOW.*

- 2.4 Prepare for more frequent sampling cycles and more diverse sampling locations for LCR compliance.

*Responsible Parties: Drinking Utilities and KDOW.*

- 2.5 Adopt a policy or practice to remove public lead service lines when exposed during excavation. Communicate the discovery of any private lead service lines to the homeowner/occupant. The communication message should define the homeowner's responsibility for private plumbing, the benefits of flushing and the impacts of lead contained in plumbing fittings and fixtures.

*Responsible Parties: Drinking Water Utilities with assistance from KY Rural Water and KY-TN AWWA.*

- 2.6 Proactively investigate the location of public lead service lines using various methods (historical records, maps, construction plans, field surveys, home age, etc.). The service line information (public portion) should be added to the water distribution inventory, maps and records (include material type, age, condition, and other attributes where available).

*Responsible Parties: Drinking Water Utilities.*



- 2.7 Provide customers access to an on-line database of utility-confirmed lead service line locations (public portion).

*Responsible Parties: Drinking Water Utilities.*

- 2.8 Adopt a long-term goal of replacing all lead service lines. The implementation practices and the time line associated with this goal will be based on local conditions and financial capability.

*Responsible Parties: Drinking Water Utilities.*

- 2.9 Develop consumer education materials on lead in drinking water in collaboration with industry associations, regulators and public health officials. The education materials should: include the health risks associated with lead; include guidance on common methods to reduce lead exposure; and identify the homeowner responsibility for private service lines and plumbing fixtures. The information should be provided to consumers and stakeholders through Consumer Confidence Reports, websites, social media, door hangers and other available communication methods.

*Responsible Parties: Drinking Water Utilities in partnership with KY Rural Water, KY-TN AWWA, KDOW, State and Local Health Departments.*

- 2.10 Train field personnel to identify, locate, repair, and/or replace lead service lines and lead-containing fittings.

*Responsible Parties: Drinking Water Utilities.*

- 2.11 Monitor state and national best practices on managing lead in drinking water. Best Practices should be implemented where feasible and practical.

*Responsible Parties: Drinking Water Utilities.*

- 2.12 Review the ANSI/AWWA Standard C810-17 on Replacement and Flushing of Lead Service Lines (published November 1, 2017). The standard should be adopted where feasible and practical.

*Responsible Parties: Drinking Water Utilities.*

- 2.13 Develop a program to partner with the health department, public/private schools and childcare centers for testing, education and coordination of replacement of lead piping and plumbing fixtures within school and childcare facilities. The program should include a protocol for reporting results of lead testing to the utility, schools and child care centers, local health department and Kentucky Division of Water.

*Responsible Parties: Drinking Water Utilities, local Health Departments, Public/Private Schools, and Childcare Centers.*

### **3.0 - Drinking Water Association Recommendations:**

**Kentucky Rural Water (KY Rural Water), Kentucky-Tennessee AWWA (KY-TN AWWA), Kentucky Water/Wastewater Operators Association (KWWOA) and other industry associations.**

*The drinking water association recommendations included herein should be evaluated by the respective associations and implemented where feasible and practical, using a collaborative process with utilities, drinking water regulators and key stakeholders. Drinking water associations should consider the following recommendations:*

- 3.1 Develop a utility training curriculum on lead in drinking water, including: lead treatment (corrosion control); water sampling protocol; system assessment for lead; lead inventory; lead service line repair; lead service line replacement (public and private); the potential source of lead from homeowner plumbing fixtures; and communication materials for consumers.

*Responsible Parties: KY Rural Water, KY-TN AWWA, KWWOA, Drinking Water Utilities.*

- 3.2 Identify key stakeholders and develop lead communication tools, including web site links and templates, for utilities to use in communicating with customers. Utilize existing resources from national and local partners. The materials should include information on the homeowner responsibility for private lead service lines and plumbing fixtures that may be sources of lead.

*Responsible Parties: KY Rural Water, KY-TN AWWA, Drinking Water Utilities.*

- 3.3 Engage and educate key stakeholders on lead in drinking water. Key stakeholders include health departments, medical professionals, regulatory agencies, education officials, engineering professionals, building trades, homeowners and other organizations that are impacted by or establish policy or regulations regarding lead in drinking water.

*Responsible Parties: KY Rural Water, KY-TN AWWA, KWWOA, Drinking Water Utilities*

- 3.4 Pursue financial assistance from local, state and federal agencies for public and private lead service line replacement, utilizing the State Revolving Loan Fund Program and other financial assistance programs for home lead abatement.

*Responsible Parties: KDOW, KIA, KY Rural Water, KY-TN AWWA, KWWOA, Drinking Water Utilities, local government agencies.*

#### **4.0 - Research and Development Recommendations:**

##### **Water Research Foundation, U.S. EPA Office of Research and Development, Universities, and other research groups.**

*The Research and Development recommendations are provided for consideration by organizations that conduct applied research in areas of public health, water treatment and water delivery. The following recommendations will be forwarded to the Water Research Foundation and US EPA Office of Research and Development for consideration in their future research planning and budgets.*

- 4.1 Develop technology to identify buried lead service lines (non-destructive).

*Responsible Parties: Water Research Foundation, Universities, private sector market.*

- 4.2 Advance utility best practices for full (public and private) and partial (public portion only) replacement of lead service lines.

*Responsible Parties: Water Research Foundation, Universities, private sector market.*

- 4.3 Conduct research on the impact of lead in drinking water on human health. This work will assist in identifying an appropriate action level for lead in drinking water.

*Responsible Parties: US EPA, Centers for Disease Control and Prevention (CDC), National Science Foundation, National Institute of Health, Health Foundations Universities, Water Research Foundation, Drinking Water Utilities.*

- 4.4 Evaluate the cost effectiveness of point of use (POU) and point of entry (POE) treatment devices for lead removal as an alternative to treatment changes or lead service line replacement to achieve compliance with the Lead and Copper Rule lead action level (currently 15 ppb).

*Responsible Parties: EPA, Water Research Foundation, Drinking Water Utilities, private sector market.*

- 4.5 Conduct research to determine the best sampling methods to obtain a representative sample of lead in drinking water for purposes of Lead and Copper Rule compliance monitoring.

*Responsible Parties: EPA, Water Research Foundation, Drinking Water Utilities, private sector market.*

END OF DOCUMENT

# Kentucky Public Service Commission Vice Chairman

Robert Cicero

Comments at the Kentucky Chamber of Commerce Energy

Conference

January 18, 2018

## Fair, Just and Reasonable / Accountability

As everyone knows, the Kentucky Public Service Commission is statutorily charged with the responsibility of ensuring that utility rates under its jurisdiction are fair, just and reasonable - both for the consumer and the utilities. This Commission takes that responsibility very seriously and acts accordingly.

There have been several large rate cases filed over the past year or so in which PSC staff spent an extensive amount of time reviewing operating and maintenance costs to determine their reasonableness. These costs are thoroughly evaluated and justified based on their appropriateness and reasonability in order to determine fairness.

Although a great deal of time could be spent speaking about O&M costs in general, I will particularly focus on salary and benefits, since the Commission's attention to these costs seems to be causing some industry concern.

As Commissioners we realize that any perceived position change from prior Commissions' practices, especially regarding cost justification for rate base determination, could be unsettling. It has become apparent to us that there is not only concern, but a certain level of misunderstanding, as to how the Commission is evaluating salary and benefit programs. And a great deal of that misunderstanding is probably due to our negligence in providing guidance. I'll attempt to clarify the Commission's position and what standard is being applied in determining what is fair, just, and reasonable with regard to salary and benefits.

As used in this discussion, salary and benefits includes all compensation programs, both from the Kentucky-based operations and allocated overheads from parent companies. They include:

Salaries

Wages - both non-negotiated and negotiated

Incentive compensation

Healthcare insurance

Dental insurance

Vision insurance

Life insurance

Disability insurance – both long and short term

Retirement savings plans with company contributions

Pensions

Post-employment benefits

While this list may not be all-inclusive, the magnitude of its cost materiality cannot be diminished. For example, investor owned utilities' salary and benefit costs represent approximately 1 in every 7 O&M dollars spent, so it should come as no surprise that the Commission is examining them with the same fair, just, and reasonableness standard as any other cost.

I'll give a quick rundown of the Commission's policy by salary and benefit cost category.

1. Salary and non-negotiated wages – Salaries should always be market-competitive as supported by survey benchmarks that include both other utilities and general business. Local, state and national data are always useful and encouraged. Annual salary increases should be performance-based, documented and supported by policy.
2. Negotiated wages – This Commission has no interest in renegotiating or dictating the terms of any labor contract. However, contracts with annual wage increases that appear to be excessive will be questioned and the applicant will be required to provide support showing them to be reasonable.

3. Incentive compensation – This type of compensation will always be more heavily scrutinized for necessity and reasonableness and will need to have a logical basis supported by performance goals for determining distributions.

4. Healthcare and Dental Insurance – The Commission’s position is that for rates to be fair, just, and reasonable - both to the ratepayers and the utility - the utility’s employees should reasonably participate in the cost of their health and dental insurance premiums.

Essentially, utility employee benefits need to be market competitive as measured against not only other utilities but other business sectors and public employees. Keeping that goal in mind, the following data are pertinent.

According to a Fortune article published in March 2016, only 9% of all companies pay 100% of their employees’ healthcare costs, and that percentage continues to decline.

The Henry J. Kaiser Family Foundation 2015 Employer Health Benefits Survey states that “Employers generally require that workers make a contribution towards the cost of the premium. Covered workers contribute on average 18% of the premium for single coverage and 29% of the premium for family coverage, the same percentages as 2014 and statistically similar to those reported in 2010. Workers in small firms contribute a lower average percentage for single coverage compared to workers in large firms (15% vs. 19%), but they contribute a higher average percentage for family coverage (36% vs. 26%). Workers in firms with a higher percentage of lower-wage workers (at least 35% of workers earn \$23,000 a year or less) contribute higher percentages of the premium for family coverage (41% vs. 28%) than workers in firms with a smaller share of lower-wage workers.”

However, there are difficulties in trying to compare healthcare insurance plans company-to-company or even industry-to-industry, because of the differences in coverage levels, deductibles, co-pays and prescription reimbursements.

Keeping this in mind, the key word from the Commission’s perspective is reasonable. Absent any Company-required employee participation in the cost of their healthcare (the company pays 100% of the premium), the Commission has applied a consistent standard utilizing the Bureau of Labor report for all workers in private industry, which, on a statistically sound basis, shows average single and family healthcare coverage

employee cost participation of 21% and 32%, respectively, as a reduction to allowable recoverable costs.

The Commission has been questioned as to why it doesn't utilize the statistical percentages for "Service-providing industries – utility category" instead of the "all workers" category. The reason is obvious: if all utilities offer the same program benefits the comparative percentages will be skewed for that category.

The average dental premium employee cost participation is 60%, as reported by the 2015 Willis Benefits Benchmarking Survey for all employers, and the Commission has applied the same ratemaking philosophy to this category as healthcare.

I will emphasize this point - if the employee percent cost participation is not exactly at the standard percentage levels, but the company does require employee cost participation at a reasonable level, the Commission will not adjust those costs. However, the further the actual percentage is below the standard statistical average percent participation, the greater the probability that the Commission could make an adjustment.

5. Vision and Life Insurances – The Commission has not attached as much significance to these coverages as health and dental cost participation because they are normally not material to total costs and provide a benefit that the utilities can utilize to attract and retain employees. However, utilities need to be prudent in controlling all costs and, as evidenced in a recent rate case, even these types of costs can become excessive. We found that although the IRS ceiling for company paid non-taxable life insurance is \$50,000, the company was offering as much as five times that amount. That would be considered excessive.

6. Pensions – the Defined Dollar Benefit pension plan is the most generous and expensive of retirement plans, which probably accounts for the statistic reported by the advisory firm Willis Towers Watson which states that "between 1998 and 2015, the percentage of employers still offering a traditional defined benefit pension plan to newly hired employees fell from about 50 percent to 5 percent."

401k savings or similar plans are now the prevailing standard retirement plan, as they are much less costly and funding is predictable. The Commission's policy regarding pension plan costs is that they are necessary for the wellbeing of employees, and pension benefit costs have not been adjusted for any plans, regardless of type, except under the following condition:

If a utility with a Defined Dollar Benefit pension plan permits participants to continue to earn benefits through a grandfathered clause, rather than locking and freezing the plan, and simultaneously permits those employees to contribute to a 401k or similar plan in which the company then matches some or all of the employee's contribution, those are duplicative benefits and the Commission will adjust those costs out of the rate base. Many ratepayers have no pension plan at all, and permitting utility employees to participate in multiple pension plans simultaneously is not practicable and is certainly not fair, just or reasonable.

7. Post Retirement Employee Benefits – only 23% of all companies offer retiree health plans, down 66% from 1988, according to the Henry J. Kaiser Family Foundation 2015 Employer Health Benefits Survey. The Commission has thus far elected not to apply any statistical standard to adjust these benefits.

From a personal perspective, I'm concerned that the utility industry in general, regardless of the entity's financial viability, seems to have a philosophy that health, dental and many other benefit programs should be completely or majority funded by the company; that somehow all employees, regardless of their skill level or occupation, are so valuable as to be irreplaceable.

Utilities often support their position by providing the Commission with utility industry-only comparative data indicating that benefits levels being offered are the market standard, when in reality they are highly skewed industry data.

The Commission accepts the premise that the utility industry employs individuals in dangerous occupations. However, many industries are inherently dangerous from an operations standpoint. Salaries of employees in those industries, as well as salaries of all utility employees, should be market based.

We've heard that utility employees are irreplaceable and that without the benefit level being offered many employees would be lost to the competition. Yet in every case that the PSC has heard over the past year, employee turnover ratios have been low to non-existent. Employee turnover has not been an issue.



Would utility management be so inclined to pay what is in effect an employee stability insurance premium if the costs were to be borne not by the ratepayers, but instead were funded by the shareholders out of their profits?

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF MONROE	)	CASE NO.
COUNTY WATER DISTRICT FOR RATE	)	2017-00070
ADJUSTMENT PURSUANT TO 807 KAR 5:076	)	

ORDER

On March 16, 2017, pursuant to 807 KAR 5:076, Monroe County Water District (“Monroe District”) tendered its application (“Application”) for adjustment to its water service rates and certain nonrecurring charges. Monroe District’s proposed rates would increase the monthly bill of a typical residential customer purchasing 4,000 gallons of water per month through a 5/8- x 3/4-inch meter from \$34.51 to \$39.07, an increase of \$4.56, or 13.2 percent,<sup>1</sup> and would generate \$225,312 in additional annual revenues.<sup>2</sup> By this Order we deny the water rates proposed by Monroe District, approve rates that will generate sufficient revenues for Monroe District to continue operations, and approve the non-recurring charges as proposed by Monroe District.

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<sup>1</sup> Application, Tab 2, page 1.

<sup>2</sup> *Id.* Tab 4, page 1.

## BACKGROUND

Monroe District is a water district organized pursuant to KRS Chapter 74. It owns and operates a water distribution system through which it provides water service to approximately 3,438 water customers located in Monroe County, Kentucky.<sup>3</sup> Monroe District does not produce any of its own water; rather, it purchases its water from the city of Tompkinsville. Monroe District received its last general rate adjustment on December 1, 2011.<sup>4</sup>

## TEST PERIOD

The calendar year ended December 31, 2015, was used as the test year to determine the reasonableness of Monroe County's existing and proposed water rates, as required by 807 KAR 5:076, Section 9.

## PROCEDURE

Monroe District tendered its application on March 16, 2017. The Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention ("Attorney General"), was granted full intervention on April 10, 2017. The Commission, upon its own motion, established a procedural schedule on April 12, 2017. The Attorney General submitted his initial request for information on May 1, 2017. Monroe District submitted its responses to the Attorney General's initial data request on May 19, 2017, and additionally filed its first supplement to its application wherein, among other things, it revised the calculation of its proposed nonrecurring charges.

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<sup>3</sup> *Annual Report of Monroe County Water District No. 1 to the Public Service Commission for the Calendar Year Ended December 31, 2015 ("Annual Report")* at 12 and 53.

<sup>4</sup> Case No. 2011-00272, *Application of the Monroe County Water District for the Approval of the Proposed Increase in Rates for Water Service* (Ky. PSC, Dec. 1, 2011) Final Order.

Commission Staff applied generally accepted methods and practices to review the reasonableness of Monroe District's pro forma financial statements, revenue requirement calculation, requested water rates, and requested nonrecurring charges. On June 30, 2017, Commission Staff ("Staff") issued a Staff Report finding that Monroe District's adjusted test-year operations support an overall revenue requirement of \$1,939,741, and additionally found Monroe District's proposed changes to its non-recurring charges to be reasonable.

On July 14, 2017, the Attorney General and Monroe District separately filed their written comments and objections to the Staff Report. The only finding in the Staff Report to which Monroe District objected was Staff's use of a 62.5-year life for Monroe District's transmission and distribution mains rather than the 50-year life Monroe District utilized in its Application. The Attorney General did not object to any finding in the Staff Report, but rather provided three comments concerning certain portions of the Staff Report, should the Commission rely upon them in a Final Order. First, the Attorney General commented on Staff's acceptance of the revised cost-justification calculations concerning non-recurring charges. He stated that Monroe District's customers will experience significant increases compared to what they might expect, due to Monroe District not requesting changes its non-recurring charges in past rate adjustments.<sup>5</sup> Second, the Attorney General noted that while he agrees employee expenses are best considered as a total package per employee, he disagreed with the comparison made between Nolin Rural Electric Cooperative Corporation and Monroe District regarding the

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<sup>5</sup> Attorney General's Comments on Commission Staff Report, at 3.

total compensation package.<sup>6</sup> Finally, the Attorney General questioned the support used in Staff's Report with regard to the depreciable lives assigned to transmission and distribution mains. He stated a concern that the record, as of the issuance of Staff's Report, did not contain enough evidence to support Staff's findings and that Staff should supplement the record to support its position.<sup>7</sup>

Per Commission Order issued on August 18, 2017, a hearing was held on September 27, 2017. On September 21, 2017, Monroe District submitted the following witnesses list: Jana Dubree, Office Manager, Monroe County Water District; Mark Williams, Chair, Monroe County Water District Board of Commissioners; Richard O. Ross, General Manager, Monroe County Water District; Robert D. Stigall, President, Stigall Engineering Associates; R. Brett Billingsley, C.P.A., Campbell, Meyer, and Rutledge, PLLC; and Melissa A. Melton, Technical Assistance Provider, CAK, Inc. By Order dated September 18, 2017, Ariel Miller adopted the findings and recommendations relating to Monroe District's overall revenue requirement as set forth in the Staff Report and she, with Jason Green, were listed as Staff witnesses who would testify at the September 27, 2017, hearing. The Attorney General did not call any witnesses in this matter.

On September 22, 2017, Monroe District filed a motion to take witness testimony by deposition because Melissa A. Melton would be unable to appear at the hearing. The Attorney General did not object to Monroe District's motion. The Commission entered an Order on October 3, 2017, continuing the hearing to October 25, 2017. Melissa A. Melton and Staff members Jason Green and Ariel Miller testified at the

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<sup>6</sup> *Id.*, at 5.

<sup>7</sup> *Id.*, at 5.

October 25, 2017, hearing. Monroe District and the Attorney General filed post-hearing briefs on December 8, 2017.

### ANALYSIS AND DISCUSSION OF ISSUES

The following are the Commission's analysis and discussion of the issues raised by the parties in their briefs and at the hearing, and by Staff in its report:

#### Depreciation Expense

The Commission has considered the arguments of Monroe District in support of its estimate of a 50-year service life assigned to its transmission and distribution mains and finds, as discussed in detail below, that the 62.5-year service life assigned by Staff is reasonable and supported by the evidence of record.

##### 1. The NARUC Study and Monroe District's Expert.

In its Application, Monroe District cited *Depreciation Practices for Small Water Utilities (NARUC Aug. 15, 1979)*<sup>8</sup> ("NARUC Study") and attached an affidavit from its consulting engineer Robert D. Stigall, whereby he provided the following sworn statement:

Based upon my training and experience as a professional engineer, my personal knowledge of Monroe District's operations, and experience with other water utilities that are similarly situated, the service lives assigned to Monroe District's assets are appropriate.<sup>9</sup>

Accordingly, Monroe District assigned a 50-year service life to its transmission and distribution mains. At the hearing on September 27, 2017, Mr. Stigall testified that he did not prepare Monroe District's Application and had not read it in its entirety. Mr.

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<sup>8</sup> Application, Tab 6, at 1(C.)

<sup>9</sup> Application, Tab 21, at 3.

Stigall stated that he only provided an opinion as to whether the 50-year service life was reasonable.<sup>10</sup>

In its post-hearing brief, Monroe District argued that its proposed estimate of a 50-year service life for its water transmission and distribution mains was reasonable and supported by substantial evidence presented in the hearing and other filed documents.<sup>11</sup> In his post-hearing brief, the Attorney General stated that the Commission should not change its approach to determining useful lives on the basis of the instant case. The Attorney General further stated that the Commission should continue to analyze depreciation calculations on a case-by-case basis to best serve the interest of customers of individual utilities.<sup>12</sup>

Historically, the Commission has relied upon the NARUC Study to determine the reasonableness of depreciation practices of small water utilities. In the Staff Report, the mid-point of the NARUC ranges were used for all of Monroe District's assets.<sup>13</sup> Staff based its decision to use the mid-point for the transmission and distribution mains on a discussion with Monroe District's General Manager, Richard Ross. As referenced in the Staff Report, Mr. Ross stated that the plant's overall condition was average for its age and that no component of the plant exhibits excessive or accelerated decay. In the Staff Report, Staff noted that discussions with Mr. Ross revealed approximately 95 percent of Monroe District's transmission and distribution mains are constructed of

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<sup>10</sup> September 27, 2017 H.V.T. at 4:41:11

<sup>11</sup> Post-Hearing Brief of Monroe County Water District, (filed Dec. 8, 2017) at 4.

<sup>12</sup> Attorney General's Post-Hearing Brief, (filed Dec. 8, 2017) at 2.

<sup>13</sup> Staff Report at 25.

polyvinyl chloride (“PVC”) and all mains are in satisfactory condition with no major replacements necessary in the foreseeable future.<sup>14</sup>

During cross-examination at the hearing, Mr. Ross confirmed the conversation referenced in the Staff Report. Mr. Ross testified about a replacement project on Monroe District’s distribution system in 2003. Mr. Ross stated this project consisted of the replacement of eight miles of main that originally had been improperly installed. Mr. Ross further agreed that the project represented a small portion of the total system, and confirmed that there were no plans for any major replacements in the foreseeable future.<sup>15</sup>

Mr. Stigall testified that in his review process he looked for similarly situated utilities in order to make his determination regarding the service lives of Monroe District’s facilities.<sup>16</sup> Mr. Stigall stated that he believed Monroe District had used a “standard of care”<sup>17</sup> with regard to the proper installation of its transmission and distribution mains. He confirmed he did not base his report on an actual physical examination of the Monroe District’s mains, but instead that he based it upon comparison to similarly sized utilities and knowledge of practices at Monroe District. He stated that from 2003 to date, there have been no major replacements to transmission and distribution mains, and that no major replacements were expected to be undertaken in the near future.<sup>18</sup> Mr. Stigall stated PVC would be the correct material for the size of

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<sup>14</sup> *Id.* at 29.

<sup>15</sup> September 25, 2017 H.V.T. at 12:13:25.

<sup>16</sup> *Id.* at 4:25:00.

<sup>17</sup> *Id.* at 4:39:50.

<sup>18</sup> *Id.* at 4:40:08.



Monroe District's system. Mr. Stigall also agreed that, given the testimony of Mr. Ross and the record revealing that a very small percentage of the mains had actually required repair, it is possible that based on the actual age of the PVC pipes, which was already approaching 50 years for a large number of Monroe District's mains, the service lives could be longer than 50 years. He explained that he did not have any data to suggest that the service life should be longer than 50 years, but also stated that he did not have any data to suggest he was "necessarily right either."<sup>19</sup> Mr. Stigall stated that he had given PVC pipe a 50-year service life throughout his career. He also testified that he had not consulted any manufacturers of PVC pipe regarding the service lives of mains in his review of Monroe County's assets.<sup>20</sup> Monroe District argued in their post-hearing brief that the Commission Staff ignored Mr. Stigall's detailed statement in support of the use of a 50-year service life for Monroe District's water mains.

The Commission finds that there is not sufficient evidence to suggest that a 50-year life is more appropriate than a 62.5-year service life for Monroe District's transmission and distribution mains. The Commission evaluated the testimony of Monroe District's witnesses at the hearing regarding the age of the system, and notes Monroe District itself stated that there are no major replacements planned in the near future. In addition, Monroe District's witnesses testified that proper practices were used in the installation of its mains. Although Mr. Stigall testified that, based upon his practices, similarly situated utilities typically use a 50-year service life, he was unable to offer any data to support his position. The Commission also notes that Mr. Stigall did

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<sup>19</sup> *Id.* at 4:55:32.

<sup>20</sup> *Id.* at 4:54:05.

not base his report on a physical examination of the pipes, but on his past experience with contractors and his knowledge of Monroe District standard practices when installing the mains.

The Commission finds that Monroe District did not present evidence sufficient to refute the NARUC Study, nor did Monroe District's expert witness testify that 62.5-year service life was unreasonable. On the contrary, a 62.5-year service life is within the range suggested by the NARUC Study. Based upon the evidence in the record, the estimate provided by Staff is shown to be conservative. Monroe District cited the NARUC Study in its Application and then upon receiving Staff's recommendation, Monroe District argued in its response to the Staff Report that the NARUC Study was not a credible source. The Commission acknowledges that both Monroe District's proposed service life of 50-years and Staff's proposed service life of 62.5-years are reasonable under the terms of the NARUC Study. Given the evidence in the record that the majority of the mains are already approaching 50 years in service, the history of required repairs, and the apparent condition of the Monroe District mains given the absence of any planned major repairs or main replacement, the 62.5-year service life has been determined to be the more appropriate estimate.

Furthermore, a Utah State University study published in 2014 regarding depreciation of PVC pipes indicates that a service life of 100 years is reasonable.<sup>21</sup> The Indiana Utility Regulatory Commission published a Small Utility Accounting Manual for Water and Wastewater Divisions that utilizes a service life of 75 years.<sup>22</sup> Monroe

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<sup>21</sup> PSC Hearing Exhibit 2, at 7.

<sup>22</sup> PSC Hearing Exhibit 3, at 13.

District cites to the Commission on Rural Water's Guide for the Support of Rural Water-Wastewater Systems ("Rural Water Guide") in its post-hearing brief. The Rural Water Guide, however, was issued in 1974, provides a service life range of 40 to 75 years for plastic water transmission mains, and a service life of 25 to 50 years for plastic water distribution mains.<sup>23</sup> The Rural Water Guide does not provide a strong alternative argument to the 1979 NARUC Study.

Staff testified that Monroe District is unable to perform a depreciation study because it simply does not have the required records.<sup>24</sup> In the absence of a depreciation study, which is not possible due to the age of Monroe District's facility and records, and which the Commission understands can be difficult and costly for a small water utility to undertake, some standard metric must be used as a guide for determining the useful lives of a small utility's assets. The Commission and Staff historically has used the NARUC study as that standard. The Commission finds, therefore, that a 62.5-year service life, the midpoint of the NARUC range, be assigned to all of Monroe District's transmission and distribution mains.

## 2. Monroe District's Additional Arguments

In addition to the arguments addressed above, Monroe District made other post-hearing arguments that the Commission will address herein. Monroe District argued that the Commission's finding in Case No. 2011-00272<sup>25</sup> of a service life of 50 years is

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<sup>23</sup> Monroe District Post-Hearing Brief, at 7-8.

<sup>24</sup> October 25, 2017, H.V.T. at 4:17:10.

<sup>25</sup> *Application of the Monroe County Water District for the Approval of the Proposed Increase in Rates for Water Service*, Case No. 2011-00272 (filed Aug. 15, 2011).

controlling precedent,<sup>26</sup> and further argues that Commission precedent plays the “strongest role” in Staff’s recommendation of 62.5 years.<sup>27</sup> Monroe District’s argument that the finding of a 50-year service life in Case No. 2011-00272 fails, as the controlling precedent is not the finding of a 50-year service life, but is the process by which the result was obtained.

The 2011 case record does not contain any additional evidence to identify the processes Staff used to determine the 50-year service life beyond the use of the NARUC Study. Monroe District argues that Staff had a responsibility to identify the changes that had taken place in the years since the Monroe District’s last rate case.<sup>28</sup> The testimony of record is clear that in the instant case, Staff based its Report upon the field interview and applied the range of service lives and analysis of the NARUC Study. After the additional examination of witnesses and investigation of comparable depreciation studies, it is clear that Staff thoroughly investigated and considered the decision to apply a 62.5-year service life. Further, the age of the Monroe District system reinforces the estimate of depreciable service life. The collateral estoppel argument also fails, as there is no merit to an argument that once a service-life has been assigned to a system, that issue has been “litigated” and cannot be revisited in a rate case which is later in time and in which the facts have changed.

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<sup>26</sup> Monroe District’s Post-Hearing Brief, at 9.

<sup>27</sup> *Id.* at 13.

<sup>28</sup> *Id.* at 14.

In its post-hearing brief, Monroe District argued that a recommendation by Staff should be based upon “solid, concrete evidence – hard facts and hard numbers.”<sup>29</sup> This argument is not convincing as the record supports Staff’s recommendation. The determination of useful service life is at best an educated estimate in the absence of a depreciation study. The Commission heard evidence of Mr. Stigall’s education and qualifications to make an educated estimate of the service-life. Mr. Stigall also testified that he did not perform a depreciation study and used the depreciation schedules that had been prepared by accountants.<sup>30</sup> Contradicting its own evidence, Monroe District cited to Case No. 2014-00342<sup>31</sup> in which the Commission found that the opinion testimony of a certified public accountant is insufficient evidence to support a water district’s proposed service life. Monroe District argued further that Staff was not qualified to make an “engineering judgment” and that additionally, Staff was not qualified to apply the NARUC Study. Monroe District argues that the Commission should afford no weight to Staff’s opinion.<sup>32</sup> Staff testified that the former engineers employed by the Commission used the NARUC Study to determine the useful lives in a rate case.<sup>33</sup> Monroe District argued that the Kentucky Rules of Evidence should apply in an advisory nature while trying to argue that Ms. Miller is not a qualified expert. However, this argument implies that she is required to be an expert and there is no such

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<sup>29</sup> *Id.* at 16.

<sup>30</sup> October 25, 2017, H.V.T. at 4:44:07.

<sup>31</sup> *Application of Mountain Water District for Adjustment of Water and Sewer Rates*, (Ky. PSC Dec.11, 2014).

<sup>32</sup> Monroe District Post-Hearing Brief, at 19.

<sup>33</sup> October 25, 2017, H.V.T. at 4:11:16.

authority or precedent that requires this. Further, the Commission is not bound by the Kentucky Rules of Evidence,<sup>34</sup> as Monroe District admits in its post-hearing brief.

Finally, Monroe District's arguments that the NARUC study is not incorporated into the Commission's regulations and that the Commission should employ qualified personnel, such as trained engineers, are arguments that are not specific to Monroe District, and have no bearing on Staff's determination as to service life. As the Attorney General argued in his post-hearing brief, these matters are not directly relevant to the determination of service lives of the transmission and distribution mains for Monroe District.

#### Employee Healthcare Costs

In its Application, Monroe District requested to increase Employee Pensions and Benefits by \$11,223 to normalize expenses related to health, dental, and life insurance paid on behalf of its employees by Monroe District. In the Staff Report, Monroe District's proposed adjustment was accepted. The report stated that the cost of Monroe District's employee compensation package was reasonable and that it did not warrant additional adjustment.<sup>35</sup> At the hearing, Monroe District provided extensive testimony and exhibits regarding the reasonableness of employee compensation levels. The Commission has reviewed and has taken into consideration Monroe District's position.

In recent Orders, the Commission has made ratemaking adjustments to reduce the cost of employee benefit packages paid by some utilities when certain aspects of those benefits packages were found to be unreasonable based on a review of total

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<sup>34</sup> KRS 278.310.

<sup>35</sup> Staff Report at 16.

salaries and fringe benefits. The Commission is placing greater emphasis on evaluating employees' total compensation packages, including both salary and benefits programs for market and geographic competitiveness to ensure the development of fair, just, and reasonable rates.

The Commission has found that in most cases 100 percent employer-funded healthcare does not meet those criteria. Absent a utility's requirement of reasonable employee participation in healthcare costs, the Commission has applied a consistent standard by utilizing the Bureau of Labor Statistics report,<sup>36</sup> which reflects an average employee contribution to single healthcare coverage of 21 percent of cost. Accordingly, the Commission finds that Employee Health Insurance Premiums should be reduced by 21 percent for single healthcare coverage, in the amount of \$20,562.<sup>37</sup>

Cost of Living Adjustment and Changes to Employee Staffing Levels

In its Application, Monroe District requested to increase test-year Salaries and Wages by \$33,145 to reflect increases in wages for cost-of-living and merit increases during 2015 and 2016, and to decrease Salaries and Wages by \$13,960 for wages that were associated with tap-on fees.<sup>38</sup> Staff accepted these adjustments in its Report. Subsequent to the filing of the Staff Report, Monroe District, in its third supplement to its

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<sup>36</sup> Bureau of Labor Statistics, Healthcare Benefits, March 2016, Table 10, private industry workers. (<https://www.bls.gov/ncs/ebs/benefits/2016/ownership/private/table10a.pdf>).

<sup>37</sup>

Pro Forma Health Insurance Premiums	\$	97,916
Times: 21 Percent		<u>21%</u>
Adjustment to Health Insurance	\$	<u>20,562</u>

<sup>38</sup> Application, Tab 3, at 4.

Application, filed information regarding changes to its staffing levels and the most recent cost-of-living increase awarded to Monroe District's employees. Specifically, Monroe District hired two additional full-time employees, and, on July 10, 2017, granted a two percent cost-of-living increase to Monroe District's current employees. On October 16, 2017, in its response to the Attorney General's post-hearing data request, Monroe District indicated that one of its employees, an Accounts Receivable Clerk I, had resigned following the September 27, 2017, hearing. Monroe District stated that the net effect of these changes since the filing of the original Application is \$47,188.

Monroe District did not amend its Application when it notified the Commission of these changes. In fact, it stated on more than one occasion that Monroe District did not intend to amend the Application, and that it merely supplemented the record which requests rates that will generate revenues of approximately \$1,932,500.<sup>39</sup> In Case No. 10481, Kentucky-American Water Company ("Kentucky-American") requested to increase its rate base by \$1,985,570 to reflect plant placed into service 5 months after the close of the historical test period. All utilities under the Commission's jurisdiction were subsequently placed on notice that "post test-period additions to plant in service should not be requested unless all revenues, expenses, rate base, and capital items have been updated to the same period as plant additions."<sup>40</sup> It continues that, "[the Commission] will accept a forecasted test period in lieu of the adjusted historical test period."

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<sup>39</sup> Response to Attorney General's Post-Hearing Data Request, at 1.

<sup>40</sup> Case No. 10481, *Notice of Adjustment of the Rates of Kentucky-American Water Company Effective on February 2, 1989* at 5 (Ky. PSC Aug. 22, 1989).



Monroe District has made a similar request in this case by supplementing its Application with what it believes to be significant changes to its operations that occurred subsequent to the test year. The Commission finds that all post-test-period adjustments (operating revenues and expenses) should be held to the same standard that it established in Case No. 10481. To the extent that Monroe District supplements the record, the Commission finds that in order to fully consider these post-test-period changes, the use of a forecasted test year would be the desirable remedy. Therefore, the Commission denies all adjustments that occurred subsequent to the issuance of Staff's Report. The Commission additionally finds that in future rate cases, cost-of-living adjustments without a sound basis, such as a relevant inflation index or written performance-based metric, will be disallowed.

#### Rate Case Expenses

A utility may properly recover reasonable rate case expenses as a cost of doing business.<sup>41</sup> The Commission generally has permitted the recovery of rate case expenses in rates but has disallowed such expenses when a utility has failed to provide adequate documentation of the incurrence of the expense.<sup>42</sup> Monroe District requested to recover \$15,000.00 in rate case expense amortized over three years in its Application. Monroe District did not amend its Application, but instead filed several Supplements, claiming that they "notified the Commission of changing conditions that might affect the Commission's review."<sup>43</sup> There has also been precedent that a utility

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<sup>41</sup> *Driscoll v. Edison Light & Power Co.*, 307 U.S. 104, 120 (1939).

<sup>42</sup> Case. No. 2008-00250, *Frankfort Plant Board at 7 (Ky. PSC Apr.6, 2009)*.

<sup>43</sup> Monroe District Post-Hearing Brief, at 2.

must justify a high level of expense for a relatively simple alternate rate filing.<sup>44</sup> Currently, the Application requests \$15,000.00 and has not been amended. For these reasons, the Commission grants the \$15,000.00, amortized over three years as requested in the Application, and denies Monroe District's request to recover its rate case costs referred to in the three supplements filed in the record.

Sales of Water

Subsequent to the issuance of Staff's Report, an error was discovered in Monroe District's Application in the Usage Table provided as an exhibit to support its Billing Analysis.<sup>45</sup> The Usage Table miscalculates gallons attributable to the minimum bills for amounts over 20,000 gallons for customers served by 2-inch meters. Monroe District's exhibit shows the total over-20,000-gallon usage attributable to the minimum bill for those customers to be 2,700,00 gallons. The result of this error is an overstatement of gallons of usage over 20,000 that are above the minimum bill. The corrected Usage Table for the 2-inch meter size is calculated below.

	Bills	Gallons	First 20,000	Over 20,000
First 20,000 Gallons (Minimum Bill)	107	370,590	370,590	
Over 20,000 Gallons	270	40,137,970	5,400,000	34,737,970
Totals	377	40,508,560	5,770,590	34,737,970

Additionally, the Revenue Table (Current Rates) miscalculates the revenues for usage in the next 5,000 Gallons and over 10,000 Gallons categories for the 5/8-Inch x

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<sup>44</sup> Case No. 9127, *Sergent & Sturgeon Builders, Inc., Gardenside Subdivision Sewer Division at 14 (Ky.PSC Mar. 25, 1985)*.

<sup>45</sup> Application, Tab 5 at 1.

3/4-Inch meter class, which are entered as \$131,896 and \$104,396, respectively.<sup>46</sup> The corrected revenue for this usage tier should be \$142,490 and \$114,233, respectively.

The combined result of the corrected allocation of gallons and recalculation of revenue for the 5/8-Inch x 3/4-Inch meter class results in a net increase to pro forma present rate revenues of \$5,068. The Commission finds that Sales of Water shall be increased by this amount to reflect the correct test year Sales.

#### MODIFICATIONS TO STAFF'S FINDINGS

Based on its modifications made herein to the Commission Staff's Report, the Commission finds that Monroe District's adjusted pro forma operating revenues and expenses should be as follows:

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<sup>46</sup> *Id.* at 3.

	Commission Staff Report	Adjustments	Adjusted Pro Forma Expense
Operating Revenues			
Sales of Water	\$ 1,707,729	\$ 5,068	\$ 1,712,797
Miscellaneous Service Revenue	81,509		81,509
Total Operating Revenues	<u>1,789,238</u>	<u>5,068</u>	<u>1,794,306</u>
Operating Expenses			
Operation and Maintenance Expenses			
Salaries and Wages - Employees	369,369		369,369
Salaries and Wages - Commissioners	6,000		6,000
Employee Pensions and Benefits	156,886	(20,562)	136,324
Purchased Water	590,723		590,723
Purchased Power			
Pumping	47,966		47,966
Other	13,341		13,341
Materials and Supplies	90,927		90,927
Contractual Services	57,569		57,569
Transportation Expenses	18,197		18,197
Insurance	34,437		34,437
Bad Debt Expense	8,224		8,224
Regulatory Commission Expense	1,125	3,875	5,000
Miscellaneous Expense	25,433		25,433
Total Operation and Maintenance Expenses	1,420,197	(16,687)	1,403,510
Taxes Other Than Income	3,101		3,101
Depreciation	283,712		283,712
Total Operating Expenses	<u>1,707,010</u>	<u>(16,687)</u>	<u>1,690,323</u>
Net Operating Income	82,228	21,755	103,983
Interest Income	7,839		7,839
Income Available to Service Debt	<u>\$ 90,067</u>	<u>\$ 21,755</u>	<u>\$ 111,822</u>

### REVENUE REQUIREMENT DETERMINATION

Based on the modifications to the findings of the Commission Staff Report, the Commission finds that Monroe District requires an overall revenue requirement of \$1,923,043, as determined below. In its September 30, 2017 filing, Monroe District gave notice that it intended to put the rates requested in its Application into effect

subject to refund.<sup>47</sup> The Commission finds that Monroe District shall refund its customers the difference between the rates requested in the application that generate the required revenue of \$1,932,500, and the rates that generate that revenue requirement of \$1,833,695 found to be reasonable by the Commission in this Order.

Pro Forma Operating Expenses	\$ 1,690,323
Add: Average Annual Debt Payments	193,942
Additional Working Capital	<u>38,778</u>
Overall Revenue Requirement	1,923,043
Less: Other Operating Revenue	(81,509)
Interest Income	<u>(7,839)</u>
Revenue Required from Rates	1,833,695
Less: Pro forma Present Rate Revenues	<u>(1,712,797)</u>
Revenue Increase	<u>\$ 120,898</u>
Percentage Increase	<u>7.06%</u>

### RATE DESIGN

The Commission finds that in the absence of a cost-of-service study the proposed across-the-board method is an appropriate and equitable method to allocate the increased cost to Monroe District’s customers. The rates in the Appendix A attached to this Order will produce water rate revenues of approximately \$1,833,695. The revenue requirement is determined herein to be reasonable by the Commission. The rates calculated in Appendix A have been determined to be sufficient to produce the revenue requirement determined by Staff for the time period between September 30, 2017 and November 7, 2017. The Commission finds that any amounts in excess of

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<sup>47</sup> Notice of Intent to Place Rates Into Effect, at 1 (September 30, 3017).

the rates calculated in Appendix A for this time period should be refunded to Monroe District's customers.

#### PURCHASED WATER ADJUSTMENT

By Final Order dated November 8, 2017, in Case No. 2017-00404, Monroe District was granted an adjustment to its water service rates pursuant to the purchased water adjustment procedure.<sup>48</sup> The Commission finds that the purchased water adjustment factor that was determined in that case shall be used to calculate the rates in Appendix B for service rendered on or after November 8, 2017. The Commission also finds that Monroe District should refund any amounts exceeding this rate that were collected between November 8, 2017, and the date of this Order.

#### NONRECURRING CHARGES

The non-recurring charges proposed by Monroe County in its first supplement to the application and contained in Appendix C of this Order are found to be reasonable and are approved for service rendered by Monroe County on and after the date of this Order.

#### SUMMARY

Having considered the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. Monroe District's proposed rates would produce revenue in excess of that found reasonable herein and should be denied.

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<sup>48</sup> KRS 278.015; 807 KAR 5:068.

2. The recommendations and findings contained in the Commission Staff's Report, as modified herein, are adopted and incorporated by reference into this Order as if fully set out herein.

3. The rates set forth in Appendix A to this Order will produce the gross annual revenues found reasonable for the period between September 30, 2017, and November 7, 2017, and should be approved for service rendered by Monroe District during those dates.

4. Monroe District should be required to refund any amounts in excess of the rates in Appendix A for service rendered by Monroe District between September 30, 2017, and November 7, 2017.

5. The rates set forth in Appendix B to this Order will produce gross annual revenues as found reasonable herein and should be approved for service rendered by Monroe District on and after November 8, 2017.

6. Monroe District should be required to refund any amounts exceeding the rates found to be reasonable by the Commission in Appendix B for service rendered by Monroe District from November 8, 2017, to the date of this Order.

7. The nonrecurring charges set forth in Appendix C to this Order should be approved for service rendered from September 30, 2017, to the date of this Order, and to continue after the date of this Order.

IT IS THEREFORE ORDERED that:

1. Monroe District's proposed water service rates are denied.

2. The recommendations and findings contained in Commission Staff's Report, as modified herein, are adopted and incorporated by reference into this Order as if fully set out herein.

3. The rates set forth in Appendix A to this Order are approved for services rendered by Monroe District between the dates of September 30, 2017, and November 7, 2017.

4. Monroe District shall refund its customers for amounts billed in excess of the rates in Appendix A for service rendered by Monroe District between September 30, 2017, and November 7, 2017.

5. The rates set forth in Appendix B to this Order are approved for services rendered by Monroe District on and after November 8, 2017.

6. Monroe District shall refund its customers for amounts billed in excess of the rates in Appendix B for service rendered by Monroe District from November 8, 2017, to the date of this Order.

7. The nonrecurring charges set forth in Appendix C to this Order are approved for services rendered by Monroe District between, September 30, 2017, and on the date of this Order, and after the date of this Order.

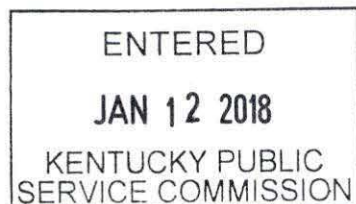
8. Within 20 days of the date of the entry of this Order, Monroe District shall file with this Commission, using the Commission's electronic Tariff Filing System, new tariff sheets setting forth the rates and charges approved herein and their effective date, and stating that the rates and charges were authorized by this Order.

9. Monroe District shall use the depreciable life ranges found reasonable by Staff in the Staff Report, to depreciate water plant assets for accounting purposes in all



future reporting periods. No adjustment to accumulated depreciation or retained earnings should be made to account for this change in the accounting estimate.

By the Commission



ATTEST:

  
Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2017-00070 DATED **JAN 12 2018**

The following rates and charges are prescribed for the customers in the area served by Monroe County Water District. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of the Commission prior to the effective date of this Order.

Monthly Water Rates

5/8- x 3/4-Inch Meter

First	2,000 Gallons	\$ 20.27 Minimum Bill
Next	3,000 Gallons	8.34 per 1,000 Gallons
Next	5,000 Gallons	7.06 per 1,000 Gallons
Over	10,000 Gallons	6.09 per 1,000 Gallons

1-Inch Meter

First	5,000 Gallons	\$ 45.29 Minimum Bill
Next	5,000 Gallons	7.06 per 1,000 Gallons
Over	10,000 Gallons	6.09 per 1,000 Gallons

2-Inch Meter

First	20,000 Gallons	\$142.34 Minimum Bill
Over	20,000 Gallons	6.09 per 1,000 Gallons

Wholesale Rate

3.21 per 1,000 Gallons

## APPENDIX B

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2017-00070 DATED **JAN 12 2018**

The following rates and charges are prescribed for the customers in the area served by Monroe County Water District. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of the Commission prior to the effective date of this Order.

#### Monthly Water Rates

##### 5/8- x 3/4-Inch Meter

First	2,000 Gallons	\$ 22.15 Minimum Bill
Next	3,000 Gallons	9.28 per 1,000 Gallons
Next	5,000 Gallons	8.00 per 1,000 Gallons
Over	10,000 Gallons	7.03 per 1,000 Gallons

##### 1-Inch Meter

First	5,000 Gallons	\$ 49.99 Minimum Bill
Next	5,000 Gallons	8.00 per 1,000 Gallons
Over	10,000 Gallons	7.03 per 1,000 Gallons

##### 2-Inch Meter

First	20,000 Gallons	\$161.14 Minimum Bill
Over	20,000 Gallons	7.03 per 1,000 Gallons

##### Wholesale Rate

4.15 per 1,000 Gallons

## APPENDIX C

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2017-00070 DATED **JAN 12 2018**

The following rates and charges are prescribed for the customers in the area served by Monroe County Water District. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of the Commission prior to the effective date of this Order.

#### Nonrecurring Charges

Meter Connection/Tap-On Charge	
5/8-Inch X 3/4-Inch Meter	\$1,375.00
1-Inch Meter	1,635.00
2-Inch Meter	4,990.00
Connection/Turn-on Charge	85.00
Connection/Turn-on Charge (After Hours)	100.00
Deposit	
5/8-Inch X 3/4-Inch Meter	80.00
1-Inch Meter	370.00
2-Inch Meter	1,425.00
Field Collection Charge	65.00
Meter Re-Read Charge	65.00
Meter Relocation Charge	610.00
Meter Testing Charge	125.00
Reconnection Charge	125.00
Reconnection Charge (After Hours)	140.00
Returned Check Charge	35.00
Service Call/Investigation Charge	75.00
Service Call/Investigation Charge (After Hours)	95.00
Service Line Inspection Charge	85.00

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