

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

**In the Matter of:**

**ELECTRONIC APPLICATION OF HARDIN )  
COUNTY WATER DISTRICT NO. 2 AND )  
STOLL KEENON OGDEN PLLC FOR ) CASE NO. 2020-00096  
ACCREDITATION AND APPROVAL OF A )  
PROPOSED WATER DISTRICT )  
MANAGEMENT TRAINING PROGRAM )**

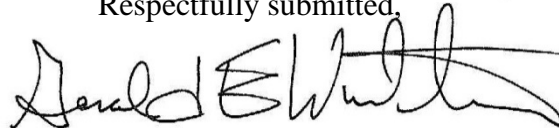
**NOTICE OF FILING**

Hardin County Water District No. 2 and Stoll Keenon Ogden PLLC (“Joint Applicants”) give notice of the filing of the following documents:

1. A sworn statement attesting that the proposed course of instruction entitled “Hardin County Water Training 2020” was performed on September 28, 2020 (**Exhibit 1**);
2. A description of any changes in the presenters or the program 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 copy of the written materials given to program attendees (**Exhibit 4**).

Dated: October 1, 2020

Respectfully submitted,




Gerald E. Wuetcher  
Stoll Keenon Ogden PLLC  
300 West Vine Street, Suite 2100  
Lexington, Kentucky 40507-1801  
gerald.wuetcher@skofirm.com  
Telephone: (859) 231-3017  
Fax: (859) 259-3517

*Counsel for Hardin County Water District No. 2  
and Stoll Keenon Ogden PLLC*

CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, I certify that the Joint Applicants' October 1, 2020 electronic filing of this Notice 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 October 1, 2020; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that, within 30 days following the end of the state of emergency announced in Executive Order 2020-215, this Notice in paper medium will be delivered to the Public Service Commission..

A handwritten signature in black ink, appearing to read "Gerald E. Wuetcher", written over a horizontal line.

Gerald E. Wuetcher

# **EXHIBIT 1**

COMMONWEALTH OF KENTUCKY)

) SS

COUNTY OF WOODFORD )

AFFIDAVIT

Gerald Wuetcher, being duly sworn, states that:

1. He is special legal counsel for Hardin County Water District No. 2 and Stoll Keenon Ogden PLLC in this matter and served as one of the organizers of the water training program entitled "Hardin County Water Training 2020."

2. "Hardin County Water Training 2020" was held on September 28, 2020 at the offices of Hardin County Water District No. 2, 360 Ring Road, Elizabethtown, Kentucky.

3. Except as noted in Exhibit 2 of this Notice of Filing, the presentations listed in the proposed program agenda submitted to the Kentucky Public Service Commission were conducted for the length of the time specified and by the listed presenters.

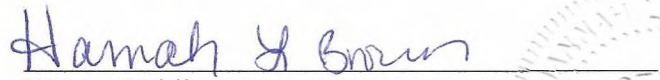
4. Each attendee was provided in paper medium a copy of each presenter's presentation and the program agenda. Because of technical and logistical problems, the "digital library" referenced in the Application was not distributed.



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

Subscribed and sworn to me by Gerald Wuetcher on this 1 day of October, 2020.



  
Notary Public

Notary No. 621059

My Commission expires April 8, 2023



# **EXHIBIT 2**

## **EXHIBIT 2**

### **DESCRIPTION OF CHANGES IN THE PROGRAM**

“Recent Developments in Utility Regulation” was expanded to two hours. Mr. Talley and Mr. Wuetcher were co-presenters for the second hour of the presentation, which replaced the program “Legal Issues in the Operation & Management of Water Systems.” In Case No. 2020-00212, the Public Service Commission provisionally accredited the expanded version of “Recent Developments in Utility Regulation” for two hours of annual water district commissioner training (Order of July 22, 2020). No other changes in the program presenters or the length of the presentations occurred. However, the presenters for the following topics revised or updated their presentations:

Recent Developments in Utility Regulation  
Challenges Facing Kentucky’s Water System  
All You Ever Wanted to Know About Depreciation . . . and Then Some  
Water Utility Tariffs: Practical Considerations  
Extending Meter Service Life

The revised program agenda and a copy of each presentation delivered on September 28, 2020 were distributed to each program attendee and are attached as Exhibit 4 to this Notice.

# **EXHIBIT 3**

**WATER DISTRICT COMMISSIONERS ATTENDING  
HARDIN COUNTY WATER TRAINING PROGRAM 2020**

<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
BOOTHE	KEITH	MEADE COUNTY WATER DISTRICT	6.0
CORNETT	DOUGLAS	MEADE COUNTY WATER DISTRICT	6.0
DAVIS	TIM	HARDIN COUNTY WATER DISTRICT NO. 2	6.0
EFFINGER	JOHN	HARDIN COUNTY WATER DISTRICT NO. 2	6.0
GOSSETT	WILLIAM	HARDIN COUNTY WATER DISTRICT NO. 1	6.0
MILLER	MORRIS	HARDIN COUNTY WATER DISTRICT NO. 2	6.0
MYERS	RICK	MEADE COUNTY WATER DISTRICT	6.0
PIKE	AMBER	HARDIN COUNTY WATER DISTRICT NO. 2	6.0
POLLOCK	FORREST	HARDIN COUNTY WATER DISTRICT NO. 2	6.0
PRATHER	WESLEY	MEADE COUNTY WATER DISTRICT	6.0
SHELTON	JAMES	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	6.0
WILLIAMS	HOWARD	HARDIN COUNTY WATER DISTRICT NO. 2	6.0



# **EXHIBIT 4**



# Hardin County Water Commissioner Training Seminar

Presented by

Hardin County Water District No. 2 & Stoll Keenon Ogden PLLC  
360 Ring Road, Elizabethtown, Kentucky

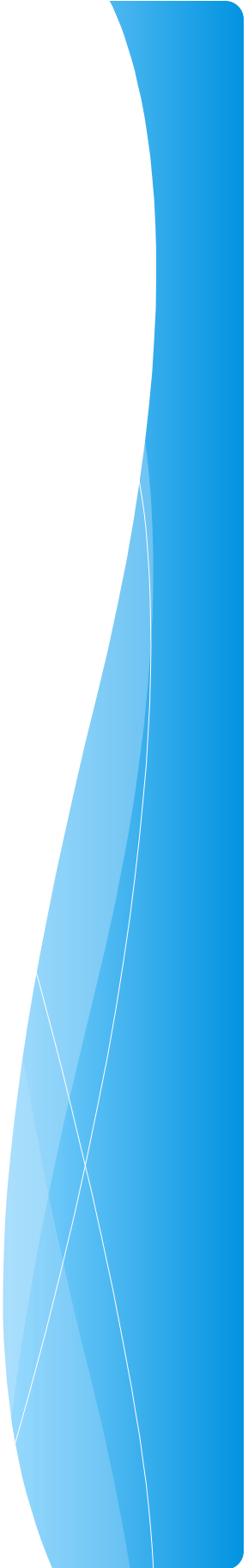
September 28, 2020

## Morning Agenda

- 8:00 - 8:25 **Registration and Refreshments**
- 8:25 - 8:30 **Program Overview and Welcome – Mike Bell**
- 8:30 - 9:30 **Recent Developments in Utility Regulation (Part I) – Damon Talley**  
This presentation reviews recent developments in public utility law and regulation. Topics include unaccounted water loss, revisions to the Open Meetings Act, sovereign immunity, wholesale water purchase agreements, franchises, and laws enacted by the 2020 General Assembly. The presenter will also examine and discuss recent court and PSC decisions.
- 9:40 - 10:40 **Challenges Facing Water Districts – Greg Heitzman**  
This presentation examines the major challenges currently confronting Kentucky's water systems, including the financing and planning of major infrastructure replacement, compliance with announced and anticipated revisions to federal and state safe drinking water laws, increased operating costs, and overcoming public reluctance to rate adjustments to finance improvements. The presenter will offer 12 recommendations for meeting these challenges.
- 10:50 - 11:50 **All You Ever Wanted To Know About Depreciation . . . and Then Some  
Katelyn Brown**  
This presentation discusses the importance of “fully funding depreciation” and examines how many municipal and PSC-regulated water systems are employing this key business practice. The presenter will also address the consequences of failing to fund depreciation and detail how water utilities can increase their depreciation funding.
- 11:50 - 12:30 **Lunch (provided on-site)**

## **Afternoon Agenda**

- 12:30 - 1:30    **Water Utility Tariffs: Practical Considerations – Gerald Wuetcher**  
A water utility's tariff offers a unique opportunity for the water utility to structure its relationship with its customers. This presentation will highlight various provisions that a water utility should have as part of its tariff to protect against financial and legal liability as well as avoid common customer disputes. In the first portion of his presentation, the presenter will discuss the statutory and regulatory framework for utility tariffs and the process by which a tariff may be revised. The presentation will conclude with some practical suggestions for improving a water utility's tariff.
- 1:40 - 2:40    **Extending Meter Service Life – Mary Ellen Wimberly**  
Studies show water meters remain largely accurate for 15 years, but PSC regulations require 5/8-inch x 3/4-inch meters be tested or removed every 10 years. This presentation will discuss whether sample testing is the functional equivalent of testing each meter, the ANSI Standard method of sample testing the PSC has approved for gas and electric meters, and the PSC's recent decisions on water utility efforts to extend meter service life to 15 years and beyond.
- 2:45 - 3:45    **Recent Developments in Utility Regulation (Part II)**  
**Damon Talley and Gerald Wuetcher**  
Continuation of Earlier Presentation
- 3:45    **Closing Remarks & Administrative Announcements**



# HOT LEGAL TOPICS

**Damon R. Talley**

**Stoll Keenon Ogden PLLC**

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

# DISCUSSION TOPICS

1. Notice to PSC
2. Franchises & Contracts
3. Sovereign Immunity
4. Filled - Rate Doctrine 101
5. Open Meetings Act

Continued . . .

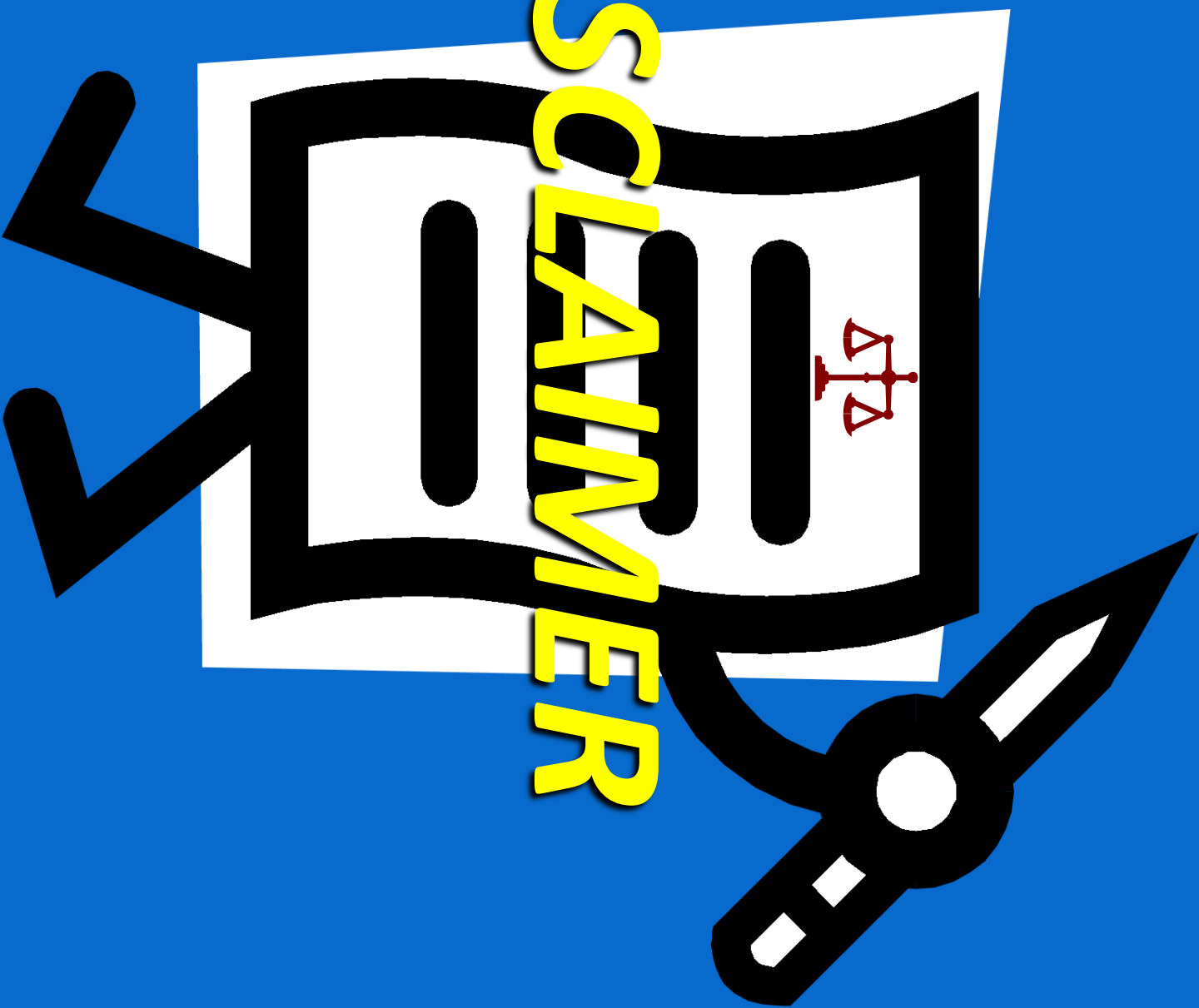


# DISCUSSION TOPICS

6. Borrowing Money
7. 2020 General Assembly
8. Surcharges
9. Recent PSC Orders
10. Cases to Watch



# DISCLAIMER



# PSA for PSC





# Reporting Requirements

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



# 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





# E-Mail Address Reggs.

- 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



# E-Mail Address

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



# Why Municipals?

- Contract Filing
- Tariff Change (Wholesale Rate)
- Protest Supplier's Rate Increase
- Acquiring Assets of Another Utility
- Avoid Delays





# Default Regulatory E-mail Address

- Send E-mail to PSC
  - [psc.reports@ky.gov](mailto:psc.reports@ky.gov)
  - [PSCED@ky.gov](mailto:PSCED@ky.gov)
- Send Letter to PSC
  - ~~Kent A. Chandler,~~  
Executive Director





# Franchises and Contracts



# Franchise

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





# 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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# LEGAL ISSUE

## 40-year

Water Supply Contract

Between 2 Water Districts

## Valid or Invalid

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



## **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.**



# Court of Appeals

Crittenden-Livingston *WD*

*vs.*

Ledbetter *WD*

Case No. 2017-CA-000578

Oral Argument: 4-24-18

Decided: 8-17-18

Holding: No Franchise

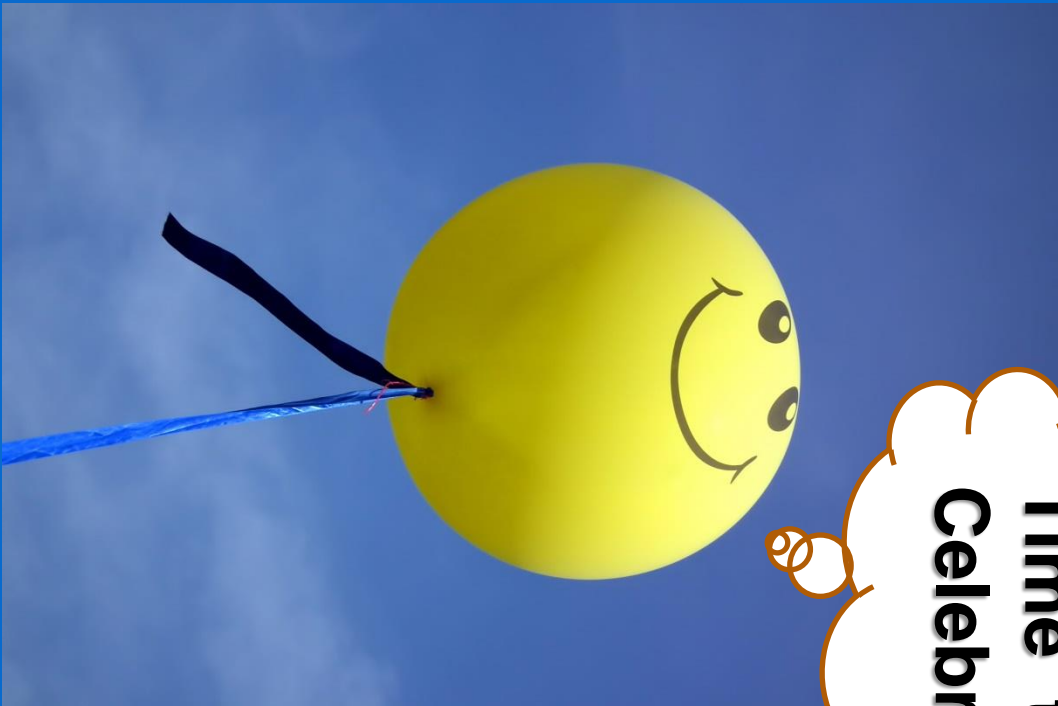




# Court of Appeals @ Page 4

A franchise is generally defined as a **right or privilege granted by a sovereign power, government or a governmental entity to a party to do some act which such party could not do without a grant from the government.** A franchise is a grant of a right to use public property or at least the property over which the granting authority has control.





**Time to Celebrate!**



**MDR**

# Ky. Supreme Court

Leadbetter W.D.

vs.

Crittenden-Livingston WD

Case No. 2018-SC-000494-DG

Motion DR: 09-12-18

DR Granted: 02-07-19

Oral Arguments: None

Decided: 02-20-20



# Ky. Supreme Court

Leadbetter W.D.

vs.

Crittenden-Livingston WD

Decided: 02-20-20

Petition for Rehearing: 03-10-20

Decision Final: 07-09-20

**NOT TO BE PUBLISHED**



# Ky. Supreme Court Holding

- Reversed C/A by 4-2 Vote
- Contract is Franchise
- Section 164 of Const.
  - Must Advertise
  - 20 Years or Less





**THE SKY IS FALLING  
GNTT**



# Ky. Supreme Court Rationale

- Ky. AG Opinion - 1981
- KRS 96.120 (City)
- Broad Definition of Franchise
- Unique Facts



# Dissents by 2 Justices

- Justice VanMeter
  - 2 Pages
  - “Simple contract for the sale of water from one district to the other . . . ”
  - Explained Meaning of Franchise in Context of Utilities
    - Delivering Water to Retail Customers
    - Billing Customers Directly





# Dissents by 2 Justices

- Chief Justice Minton
  - 3 Pages
  - Agreed with J. VanMeter
  - Look at Big Picture
    - Nature of Right Being Conveyed
    - No Special Privilege
    - Supplier Already Had Right to Produce and Sell Water



# Why?

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

. . .



# How Long Is Long Term?

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



# Significance

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



# What's Next

- Rural Development Response
  - 20 - Year Contract and 40 - Year Loan ? ? ?
  - OGC Opinion
- PSC Response ? ? ?



# FAQ

1. My Utility's Contract Was Originally a 40 - Year Contract. Is It Null and Void?

Answer: NO

- Opinion Did Not Void All Such Contracts
- Someone Must File Suit



# Unique Facts in Ledbetter

- Supplier Constructed 6 Miles of Water Line Inside Purchaser's Service Area
- Master Meter Located on Purchaser's Property (Water Tank)
- Building Constructed to House Master Meter on Purchaser's Property



# FAQ

2. Our Utility is a City. We Supply Water to a Water District. Does This Court Case Affect Us?

Answer: YES





# FAQ

3. *Our Utility is a City. We Supply Water to Another City. Does This Court Case Affect Us?*

*Answer: YES*

*But . . . Don't Have to Worry About PSC*



# FAQ

4. Our Utility's Contract Was Only for 15 Years. Does This Court Case Affect Us?

Answer: NO



# FAQ

5. Our Utility's Contract Was Originally for 40 Years, But It Only Has 15 Years Left. Does This Court Case Affect Us?

Answer: YES

Same Facts as in  
Ledbetter Case



# FAQ

6. *What is the Significance of the Supreme Court Opinion Being an Unpublished Opinion?*

**Answer:**

*It Cannot Be Cited as Authority in Another Case Without Providing Copy to Judge and Opposing Attorney. Judge Can Still Rely on the Case as Authority.*



# KRWVA's Role

- Filed Amicus Brief in C/A & S/C
  - “Friend” of Court
- Protect Validity of Contracts
- Protect Ability to Obtain \$
- Working With RD





# QUESTIONS?

# Sovereign Immunity



# The Kings Can Do No Wrong





# Campbell County Case

Kate Carucci

vs.

Northern Ky. WD

Circuit Court

Case No. 2016 - CI - 00476

Decided: 04-12-17

Ruling: Case Dismissed

Why? S/I Defense



# Court of Appeals

Kate Carucci

vs.

Northern Ky. WD

Case No. 2017-CA-000941-MR

Decided: 01-18-19

Holding: Abolished S/I  
For Water Districts





**THE SKY IS FALLING  
GNTT**



# Ky. Supreme Court

Northern Ky. WD vs. Carucci

Case No. 2019-SC-000105-DG

Citation: 600 S.W.3d 240

Motion DR: 02-19-19

DR Granted: 08-29-19

Affirmed: 08-29-19

Final: 02-20-20



# Court of Appeals

South Woodford *WD* vs. Byrd

352 S.W.3d 340 (Ky. App. 2011)

Holding: *WD* Immune from  
Negligence Suit  
Because of S/I



# Supreme Court

Coppage Construction Co., Inc.  
vs.

Sanitation District No. 1

459 S.W.3d 855 (Ky. 2015)

Holding: SD Not Entitled to  
S/I Because It Was  
Not a County-Created Entity



# Ky. Supreme Court

Northern Ky. W/D vs. Carucci

DR Granted: 08-29-19

Oral Arguments: None

Decided: 08-29-19

Final: 02-20-20

Holding: No S/I for

W.D.



# Holding

- O/R South Woodford Case
- No S/I for W.D.
- Adopted by Sup. Court
- Providing Drinking Water  
Is **NOT** Integral State Function









# EXPOSED





# Talley's Tips

- Exercise Reasonable Care
- Use Best Practices
- Adopt Policies
- Follow Policies





# QUESTIONS?

# Filed - Rate Doctrine 101



# *Filed – Rate Doctrine*

- **Definition:** No utility shall charge a greater or less rate for any service than the rate contained in its filed schedules (Tariff).

KRS 278.160





# *Filed – Rate Doctrine*

- Application - 2 Aspects
  1. If it is in your Tariff, you **must** charge it.
  2. If it is **not** in your Tariff, you **can not** charge it.



# *Filed – Rate Doctrine*

Requires Filing of:

- Rates
- Rules & Conditions of Service
- Contracts





# *Filed – Rate Doctrine*

- File Wholesale Contracts with PSC
- War Stories (2)
  - Length of Contract Buy All Water
-  Check PSC Website When You Return



# Open Meetings Act



# Attending Board Meeting Via Zoom

- KRS 61.826 Amended: 2018
- Now Easier to Conduct Meeting via Video Teleconference (VTC)
  - All Meetings
  - Board Member Attend Remotely
    - Count in Quorum Call
    - Fully Participate
    - More Than One



# Special Rules - VTC

- Identify Primary Location
- Everyone Must Be Able to See and Hear Everyone Else
- Notice Requirements
  - Meeting Will Be VTC
  - Primary Location







# Notice of VTC Meetings

1. Regular Meetings
  - Adopt Schedule (61.820)
  - Some or All of the Regular Meetings Will Be VTC
  - Primary Location at \_\_\_\_\_
  - Public May Attend at Primary Location



# Notice of VTC Meetings

## 2. Special Meeting

- Normal Rules (61.823) Plus
  - May Be VTC Meeting
  - Primary Location at \_\_\_\_\_
  - Public May Attend at  
Primary Location

## 3. Minutes

- Comm. \_\_\_\_\_ Attended via VTC

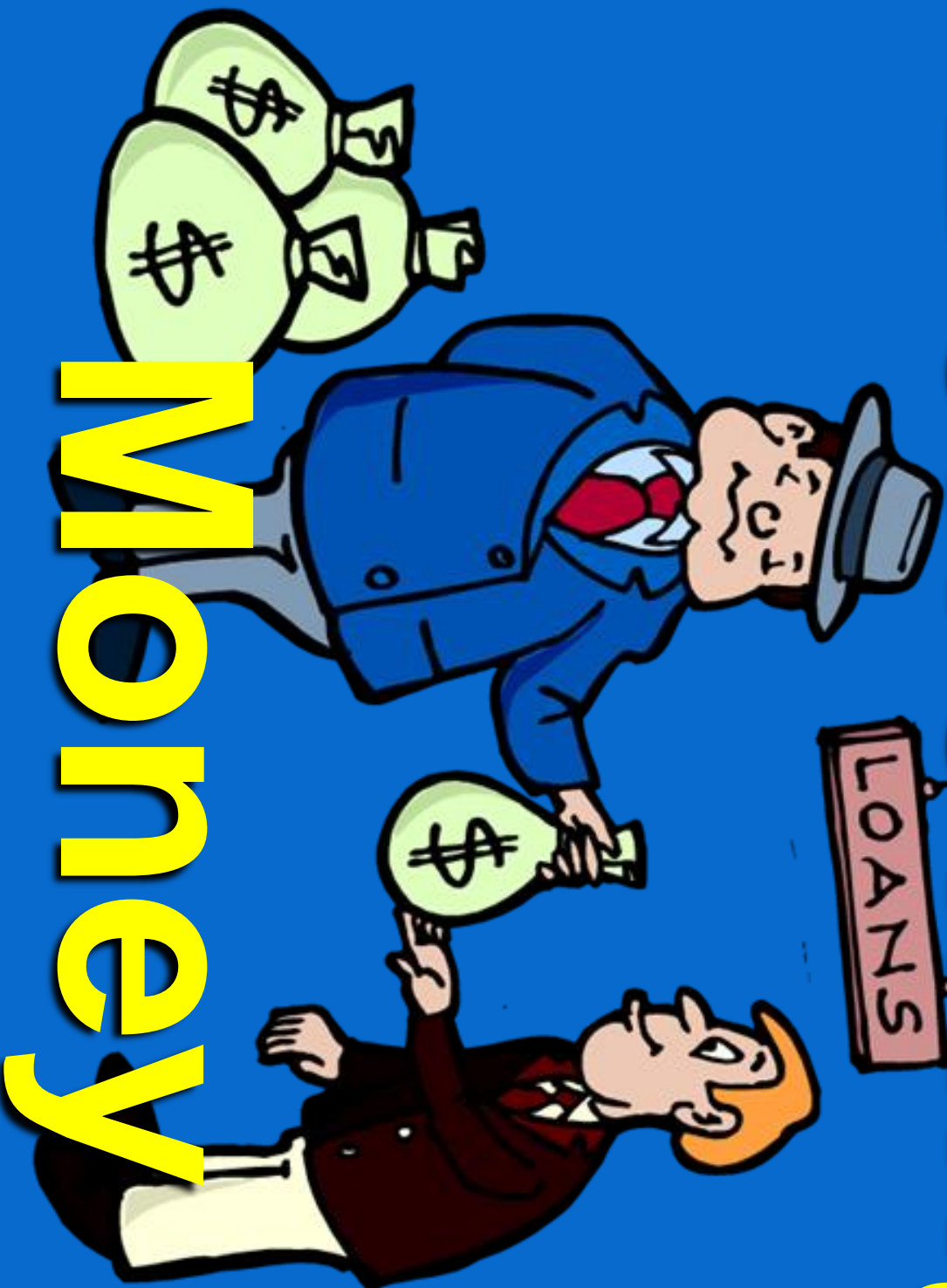




# QUESTIONS?

# Borrowing

# Money



# 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.



# Practical Effect

- Must Obtain PSC Approval Before Incurring Long-term Debt (Over 2 Years)
- Exception:
  - 2 Years or Less
  - Renewals
    - (3 X 2 = 6 Years)
    - (6 X 1 = 6 Years)





**Violation**

**Show  
Cause  
Cases**





# Show Cause Case # 3

Case No. 2017 - 469

Opened: 01-11-2018

Hearing: 02-27-2018

Issue: KRS 278.300

Decision: 09-17-2018



# Show Cause Case # 3

This is the **third** case in the last year and a half involving a show cause order against a water district utility and/or its commissioners for violating KRS 278.300 by obtaining a loan, the term of which is in excess of two years, without prior approval of the Commission. To date the Commission has **assessed, but not sought, to collect** civil penalties against individual water district commissioners for essentially two reasons.

(Continued)

# Show Cause Case # 3

**First**, the Commission's goal has been to obtain **compliance** with the requirements of the statute and not to exact a penalty and, **second**, the Commission was determined to **send a message** to these utilities and their local commissioners that they were out of compliance and **future violations** could result in **individual penalties** as well as a **separate penalty against the utility**.

(Continued)

# Show Cause Case # 3

The Commission also intended to place **all other water districts on notice** that obtaining loans in violation of KRS 278.300 could subject both the utility and its commissioners to civil penalties, and **to provide fair notice that strict enforcement could be expected in future cases.**

# Show Cause Case # 3

Water districts and their commissioners are hereby put on **final notice** that unauthorized debt incurred after the date of this order may well result in **substantial** civil penalties being **assessed and collected against both** in future show cause cases.

Pages 7 and 8 of Order

# Show Cause Case # 3

- District Fined \$2,500
  - Pay \$500
  - \$2,000 Suspended
  - Good Behavior
  - One Year
- Commissioner Matthews Dissented



# Show Cause Case # 3

- Commissioners Fined \$2,000
  - Pay Zero
  - Entire \$2,000 Suspended
  - Good Behavior
  - One Year
- 12 Hours Training



# Show Cause Case # 3

- Develop Written Policy
  - Borrow \$
  - Hire Lawyer
- Adopt Policy
- File Policy with PSC





# 2019 Show Cause Cases

- WD # 1
  - All Commissioners Resigned
  - General Manager Resigned
  - PSC Dismissed Case



# 2019 Show Cause Cases

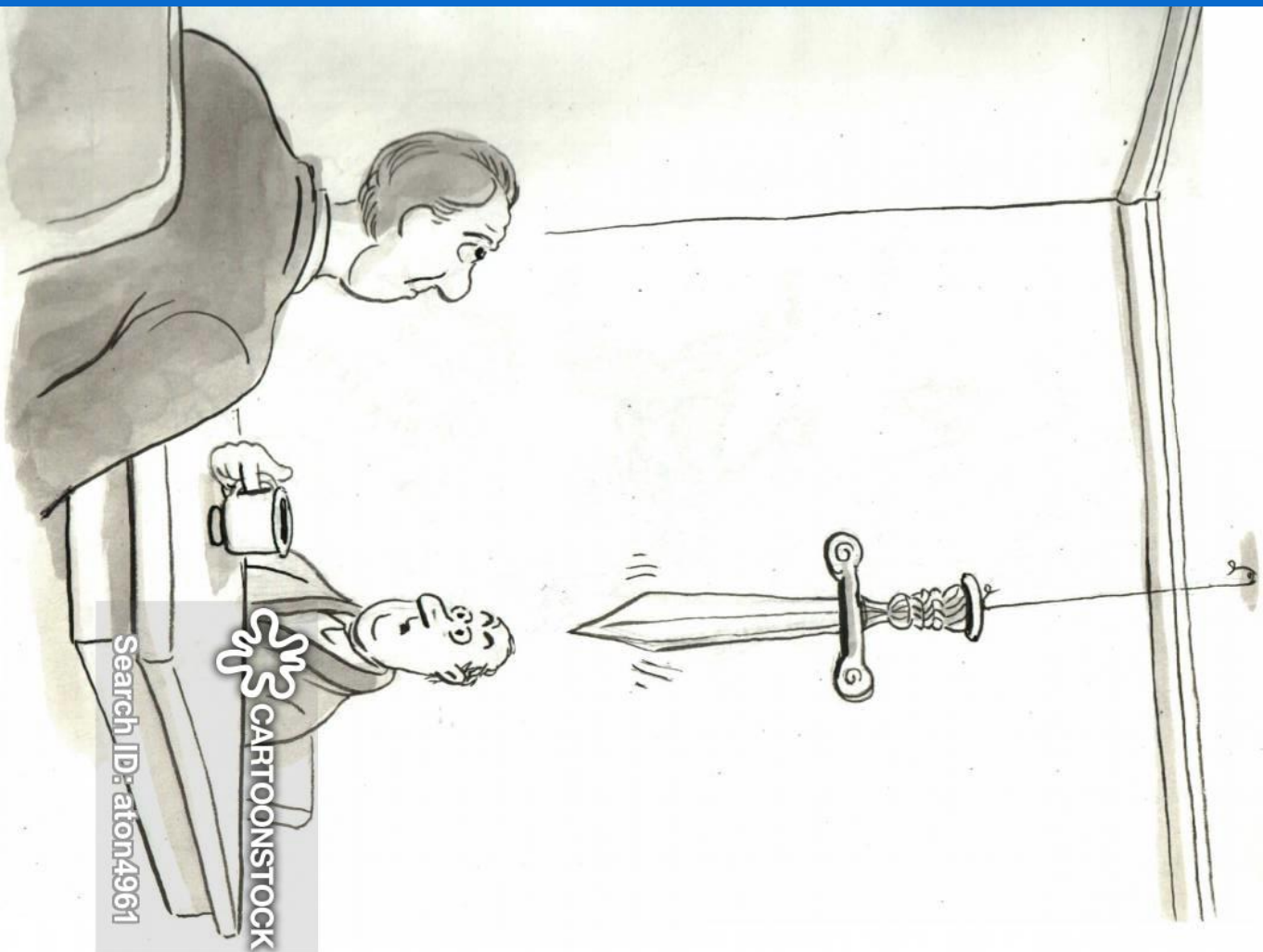
- W/D # 2
  - Commissioners Settled with PSC
  - \$500 Fine (suspended)
  - 12 Hours Training Per Year
  - W/D Not Fined
  - See Timeline



# Timeline

09-27-17	Staff Report
01-11-18	Show Cause Order
02-27-18	Hearing (Rescheduled)
04-08-19	Offer of Settlement
06-19-19	Order Accepting Offer of Settlement





CARTOONSTOCK

Search ID: aton4961

"Damocles, did I sit in the wrong chair?"



# QUESTIONS?

# 2020 General Assesmbly



# Notable Bills

- SB 165 – Ky. 811
- SB 228 – Ky. 811
- HB 446 – Commissioner Training
- HB 570 – Interlocal Cooperation Act



# Surcharge Cases





# W.D. Surcharges

Cannonsburg 2014-267 &

2018-376

Martin Co. 2018-017

Estill Co. 2019-119

Graves Co. 2019-347

Farmdale 2020-021

Southern 2019-131



# Water Loss Reduction Surcharge

- Mechanism to Recover Reduction in Revenue Requirement Because of Unaccounted for Water Loss over 15%
- Time Limit: 36 or 48 Months
- Monetary Limit
- Restrictions



# Restrictions

- Separate Bank Account
- Water Loss Reduction Plan
- Prior PSC Approval
- Monthly Reports



# How to Get Surcharge

1. File ARF Case
  - Staff Report
  - Motion for Surcharge
2. File Separate Application





# QUESTIONS?

# Recent PSC Orders



# Thou Shall File a Rate Adjustment Case

- Over 2 Dozen Utilities . . .
  - Case Type
    - PWA
    - Refinancing
    - .023
- cont.



# Rate Adjustment

- Case Type
  - Defending Wholesale Rate Increase
  - Intervention
  - Deviation
  - Any Application





# Rate Adjustment

- Reasons
  - No Recent General Base Rate Adjustment
  - Negative Cash Flow
  - Decreasing Depreciation Reserves







This Photo by Unknown Author is licensed under CC BY-NC-ND

# PSC Case No. 2019 - 041

Filed: 03-12-2019

Utility: 11 Water Utilities

Type: Investigation

Issue: Excessive Water Loss

Hearings: 11 Separate Hearings

Decided: 11-22-19



# Leaky 11 Cases

## Findings:

- High Water Loss is Symptom of Larger Problems
- Poor Board Oversight
- Poor Management
- Poor Financial Health
- Need Rate Increase



# Leaky 11 Cases

Utilities Ordered to:

- Develop Water Loss Reduction Plan
- Perform Water Loss Audit
- Adopt Policies
- Adopt Procedures
- Board Training



# Leaky 11 Cases

PSC Published

Comprehensive Report:

- November 22, 2019
- 82 Pages
- Summarized Findings
- Legislative Recommendations



# PSC Case No. 2019 - 080

Filed: 02-21-2019

Seller: Pikeville

Buyer: Mountain WD

Type: Municipal Wholesale  
Rate increase

Hearing: 09-11-2019

Decided: 12-19-19 & 01-31-20





# Pikeville

## Issues:

- COSS: M1 vs. M54 Manual
- Discovery
- Rate Case Expense



# Pikeville

## Holdings:

- COSS: Invalid
- Wholesale Rate Increase
- Rate Case Expense
  - No COSS Expert \$
  - Attorney Fees OK



# Pikeville Holding (cont.)

- Other Wholesale Customer
  - Settled Before Case Filed
  - PSC Reduced Rate
  - Must Pay  $\frac{1}{2}$  of Rate Case Expense



# Pikeville Status

Decided: 12-19-19 & 01-31-20

Appealed: Franklin Cir. Court

Status: Pending



# PSC Case No. 2019 - 444

Filed: 11-27-2019

Seller: Princeton

Buyers: Caldwell Co. WD &

Lyon Co. WD

Type: Municipal Wholesale

Rate increase

Hearing: 05-05-2020

Decided: 06-15-2020



# Princeton

## Issues:

- Unit Cost Approach
- No True COSS
- Allocation of Expenses
- Rate Case Expense



# Princeton

## Holding:

- Unit Cost Approach: Invalid
  - Wholesale Rate Increase
  - Rate Case Expense
    - Reduced
    - Attorney Fees OK
- 



# Princeton Holding (cont.)

- Rate Case Expense Shared by Princeton & Wholesale Customers
- Criticized for No Negotiations
- Both Wholesale Customers Must File Rate Adjustment Application





# PSC Case No. 2019 - 268

Filed: 07-31-2019

Seller: Knott Co. WD

Type: ARF Case

Hearing: 01-22-2020

Decided: 01-31-20



# PSC Case No. 2019 - 268

- Utility Requested 48% ↓
- Staff Recommended 70% ↓
- PSC Granted Increase:
  - Year One 46%
  - Year Two 15%
- Hearing Noteworthy



# PSC Case No. 2019 - 268

- No Rate Increase – 17 Years
- Commissioners' Benefits
- Open Meetings Act Violation
- Other Issues



# PSC Case No. 2019 - 115

Filed: 4-11-2019

Utility: Grayson Co. WD

Type: Deviation

Issue: 15 Year Meters

Sample Testing

Decided: 4-28-20





# Cases to Watch

# PSC Case No. 2020 - 137

Filed: 6-8-2020

Utility: West Daviess Co.

Type: Deviation

Issue: 15 Year Meters

Sample Testing

Decided: Pending



# PSC Case No. 2020 - 138

Filed: 6-8-2020

Utility: Southeast Daviess Co.

Type: Deviation

Issue: 15 Year Meters

Sample Testing

Decided: Pending





# QUESTIONS?

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

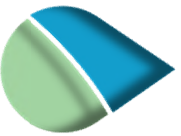
270-358-3187



Presented by

Greg C. Heitzman, PE, MBA

BlueWater Kentucky



BlueWater  
Kentucky

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# CHALLENGES FACING KENTUCKY'S WATER SYSTEMS

**Hardin County Water Training 2020**

**September 28, 2020**

# 2019 Kentucky Infrastructure Report Card



*“Mediocre”*

Drinking Water = C+

Waste Water = C-



ASCE Committee on America’s  
Infrastructure

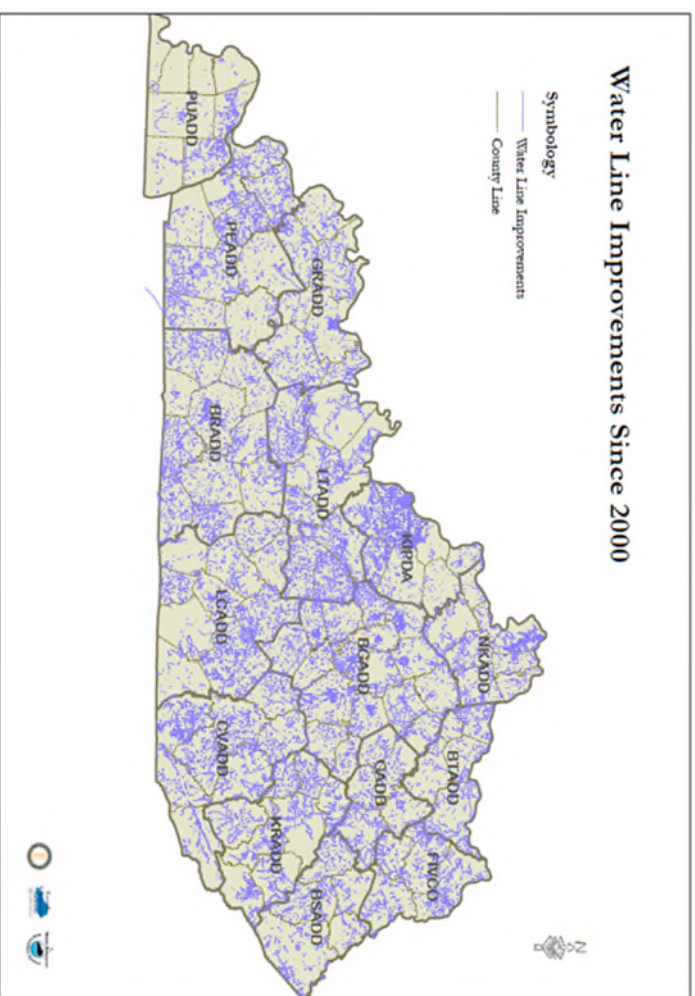
<b>A</b>	<b>EXCEPTIONAL</b>
<b>B</b>	<b>GOOD</b>
<b>C</b>	<b>MEDIOCRE</b>
<b>D</b>	<b>POOR</b>
<b>F</b>	<b>FAILING</b>

<https://www.infrastructurereportcard.org/state-item/kentucky/>

# KENTUCKY'S SUCCESS SINCE SB 409 AUTHORIZED IN 2000

- ✓ 15 Regional Water Management Councils to coordinate planning
- ✓ State-wide water GIS database => KY WRIS
- ✓ Drinking Water coverage at 95%
- ✓ Water and Wastewater system consolidation
- ✓ Water System interconnections through regional cooperation
- ✓ Improved compliance record in water and wastewater
- ✓ Industry Collaboration through KY Water Advisory Council
- ✓ Active Industry Associations (AWWA, KMUA, KWWOA, Rural Water, etc.)
- ✓ Coordinated Agency Funding (KIA, RD, DLG, AML, ARC, CDBG, etc.)
- ✓ Training from AWWA, KDOW, RCAP, Rural Water, UK, etc.
- ✓ R&D support from UK, UL, WKU
- ✓ Partnerships among Best Practice Water/WW systems

# KENTUCKY WATER SYSTEMS

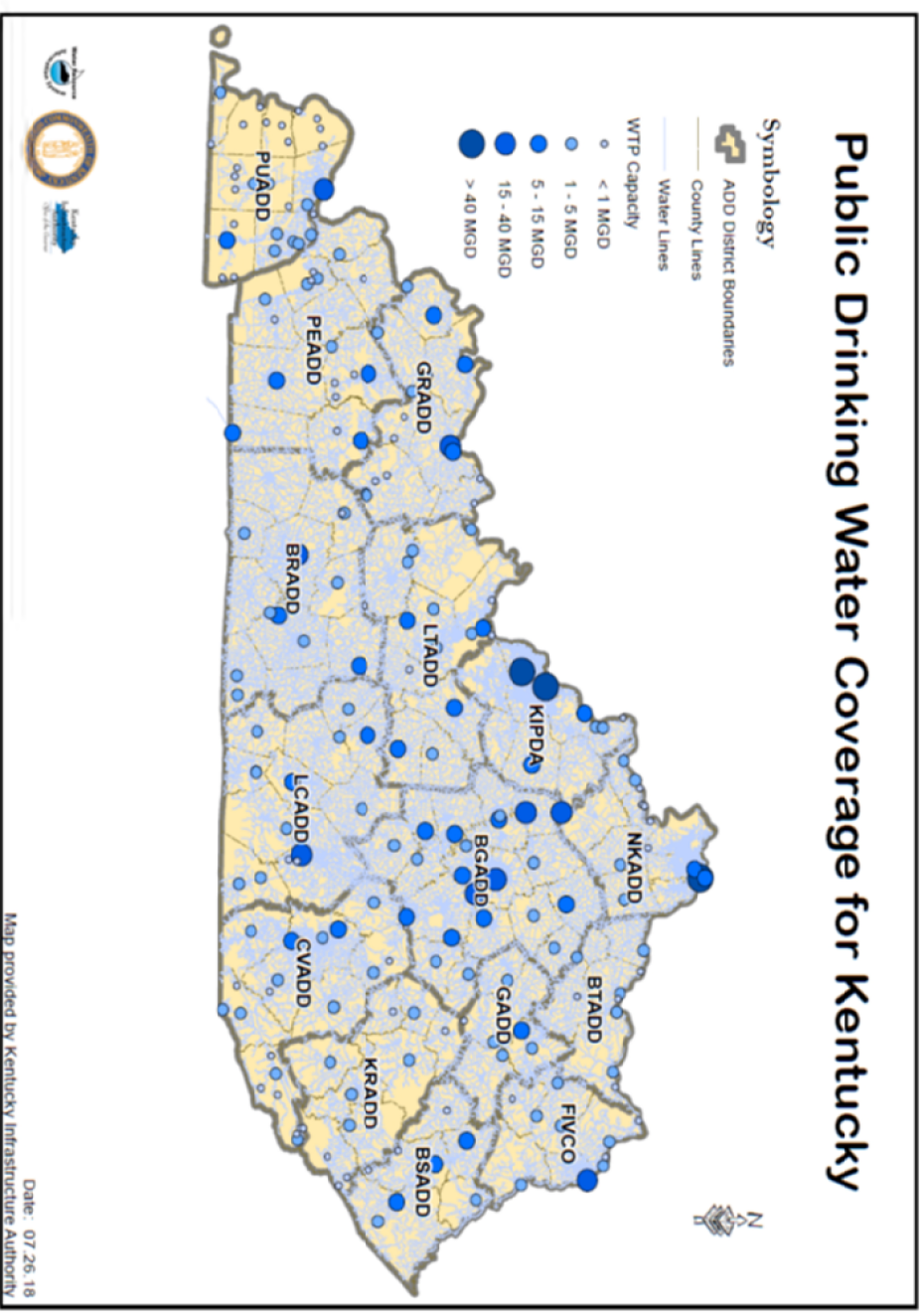


Source: KY Infrastructure Authority and KY Division of Water

- ✓ 435 Public Water Systems
- ✓ 213 Water Treatment Plants (average age 36 years)
- ✓ 1,842 Water Storage Tanks (average age 26 years)
- ✓ 58,783 Miles of Water Main
  - Average age 38 years
  - 20% over 50 years
- ✓ Estimated 25,000 lead service lines

# KY PUBLIC WATER SERVICE AVAILABILITY

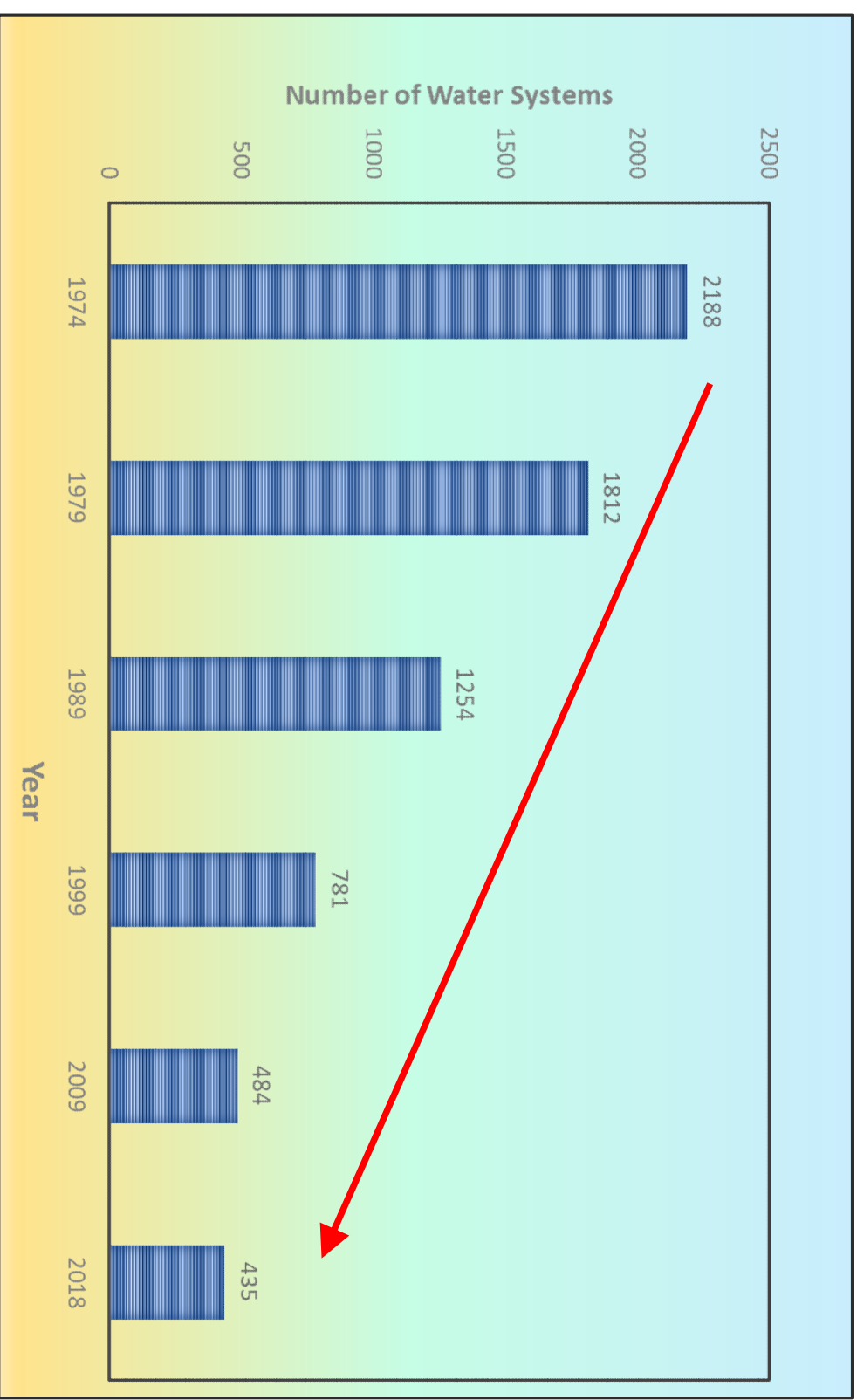
- ✓ 2000 - Governor Paul Patton's 2020 Water Vision thru Senate Bill 409
- ✓ 435 Kentucky Public Water Systems serve 4.5 million people
- ✓ 95% of Kentuckians have access to public water system (top 5 in US)
- ✓ Recognized nationally for regional planning and consolidation



Source: KY Infrastructure Authority and KY Division of Water

# Consolidation of KY Water Systems

- ✓ 80% decline in number of water systems over 45 years (one of best in US)



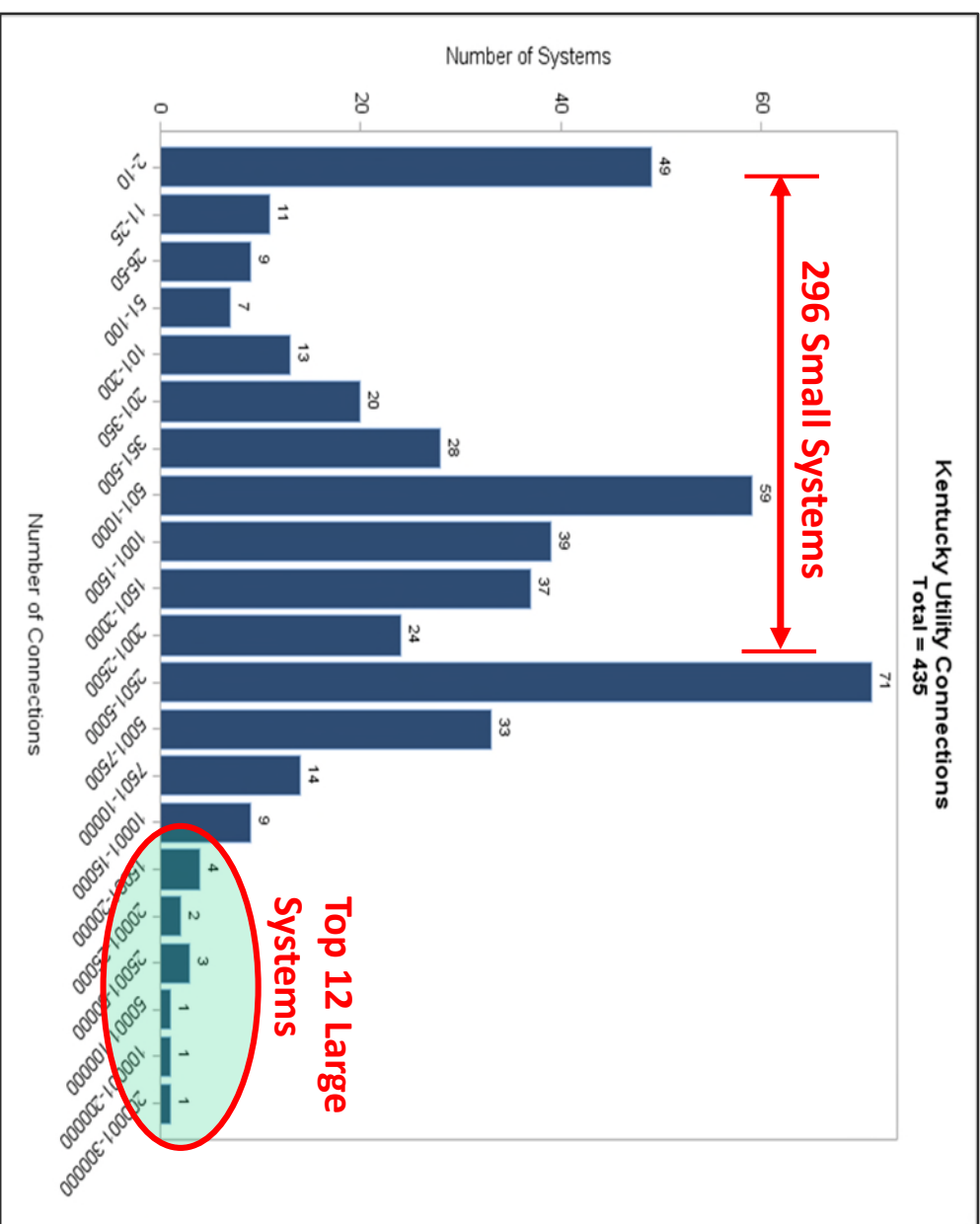
Source: KY Division of Water

# Kentucky Water System Profile

## Top 12 Systems Serve:

- ✓ 37 % of KY Population
- ✓ 54% of Water Produced

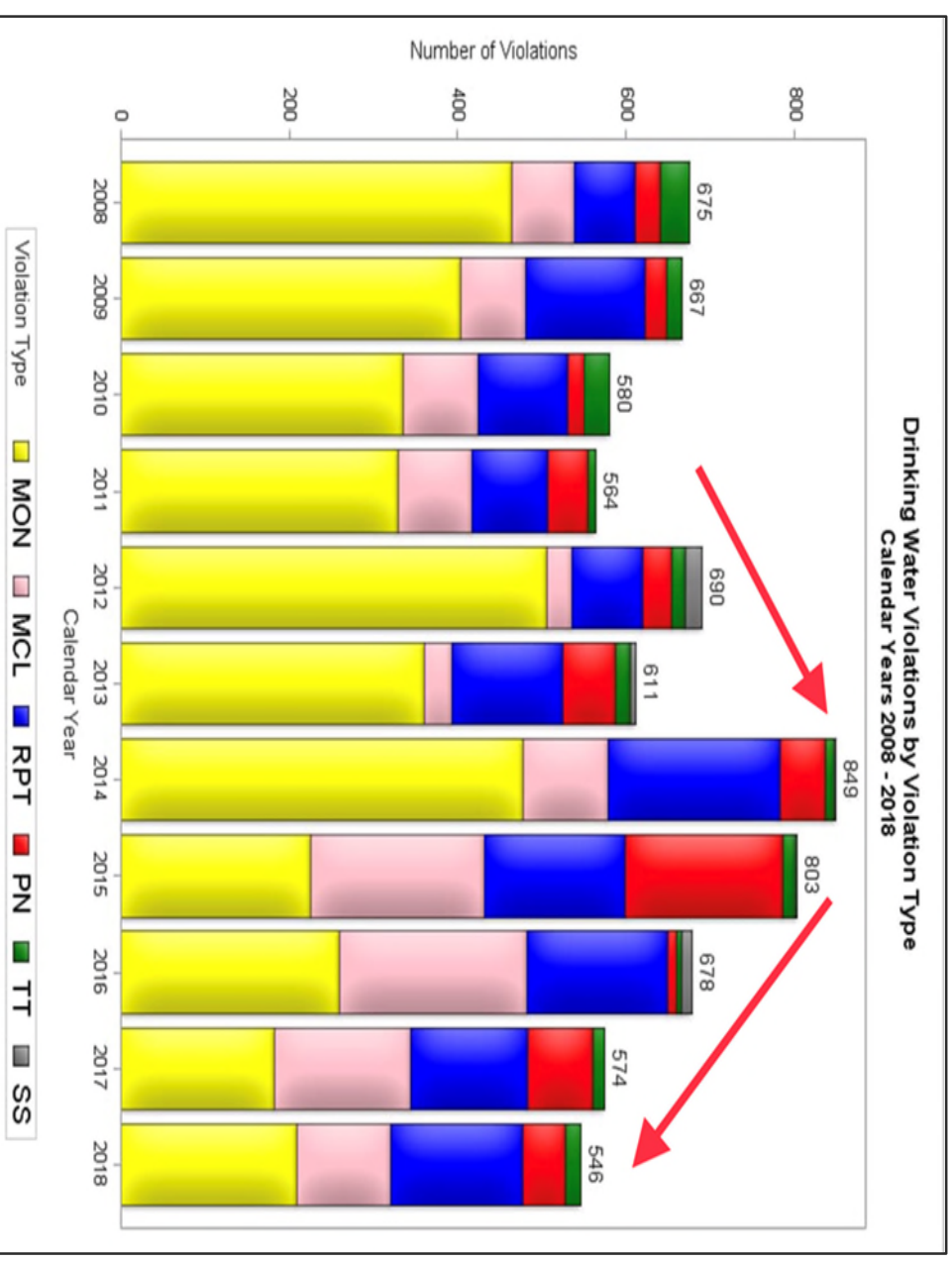
  1. Louisville Water Company
  2. Kentucky-American Water Co
  3. Northern Kentucky Water District
  4. Bowling Green Municipal Utilities
  5. Owensboro Municipal Utilities
  6. Ashland Water Works
  7. Paducah Water Works
  8. Frankfort Plant Board
  9. Somerset Water Service
  10. Logan-Todd Regional Commission
  11. Glasgow Water Company
  12. Hardin County Water District No. 2



Source: KY Division of Water

# KY Drinking Water Regulations

- ✓ Decline in Violations last 5 years from 849 in 2014 to 546 in 2018
- ✓ Increase in 2014 for Disinfection By-Product Violations
- ✓ DBPs have declined through 2018 with technical assistance from KY DOW and KY Rural Water
- ✓ Expect improvement again in 2019

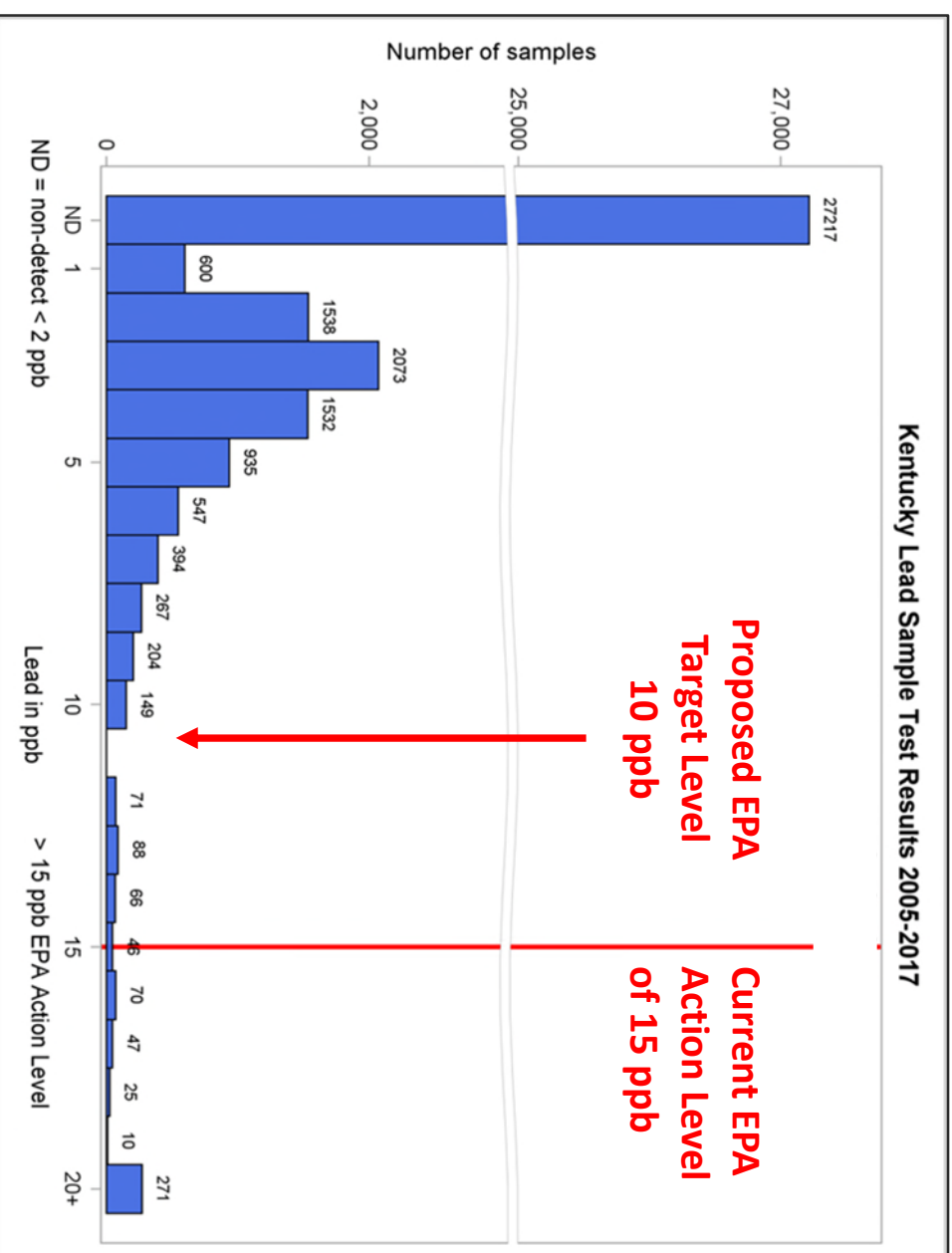


Source: KY Division of Water



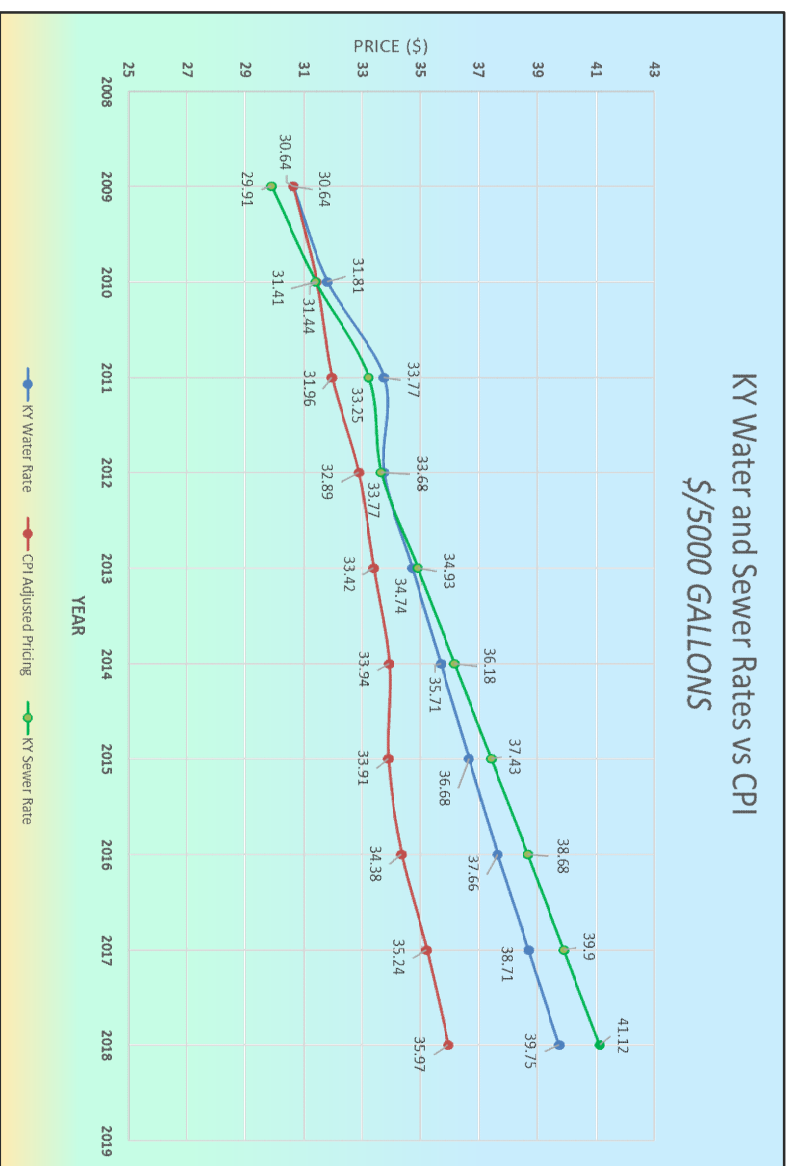
# Lead Compliance Record

- ✓ All 435 Public Water Systems are compliant with EPA Lead and Copper Rule
- ✓ Kentucky in generally in good shape if EPA sets “Target” Level at 10 parts per billion (ppb)
- ✓ EPA estimates KY has 53,000 Lead Service Lines
- ✓ **KY estimate is less than 25,000 Lead Service Lines, since Louisville has reduced lead service line inventory from 70,000 in 1940 to less than 500 in 2019**
- ✓ **Need State-wide Lead Inventory**



Source: KY Division of Water

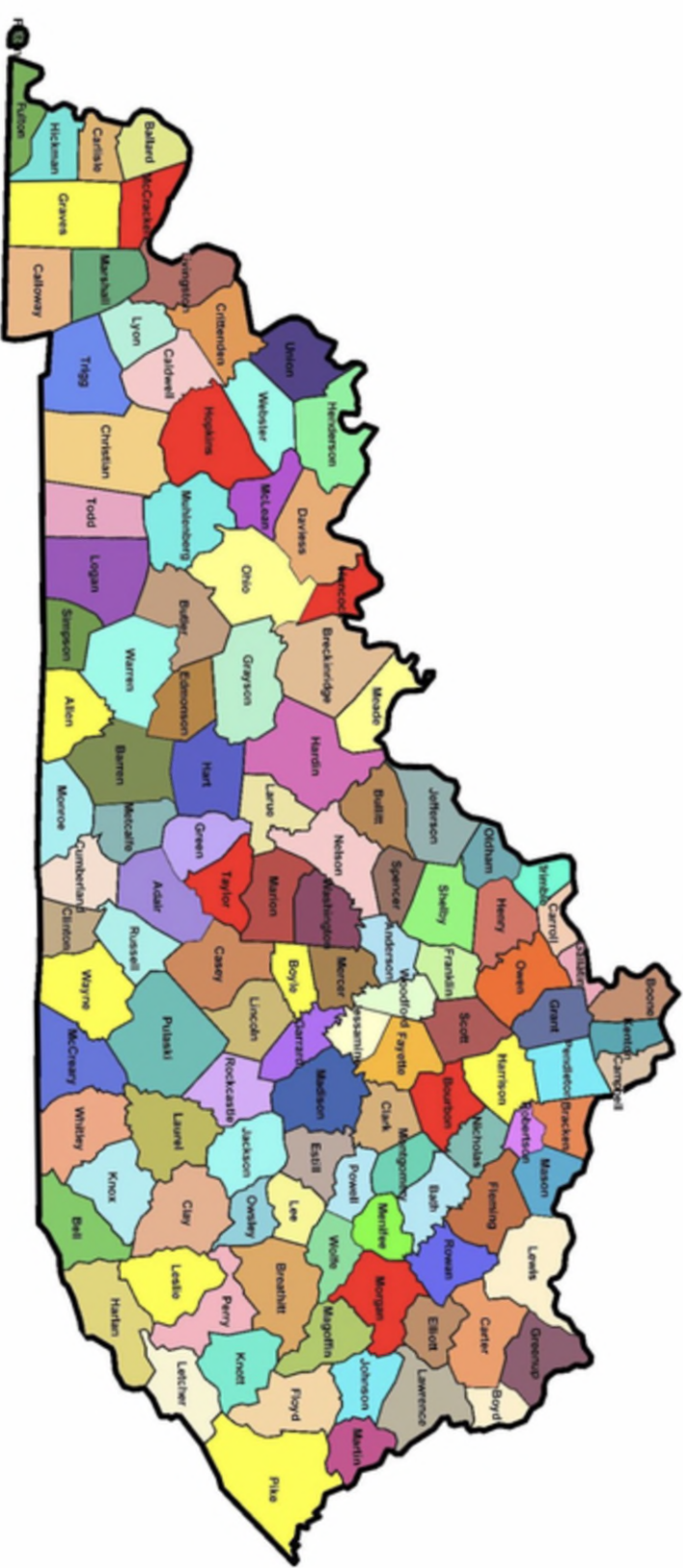
# KY WATER AND WASTEWATER RATES



Source: KY Rural Water/Cannon & Cannon Rate Survey

- Average KY Water Bill for 5,000 gallons/month
  - 2012 - \$33.77
  - 2018 - \$39.75
  - 2.75% average annual increase (CPI about 2%)
- Average KY Wastewater Bill for 5,000 gallons/month
  - 2012 - \$33.68
  - 2018 - \$41.12
  - 3.0% average annual increase (CPI about 2%)
- Total W/WW Bill Averages \$80.87/month or \$970/Year
  - Some KY communities exceed \$100 per month or \$1,200/Year
- Averages 2% of KY Median Household Income of \$48,375
  - Some KY communities at 2.5% of KY MIHI

# TOP CHALLENGES FOR KENTUCKY WATER SYSTEMS



# TOP CHALLENGES FOR KY WATER SYSTEMS



## #1 COMPLIANCE WITH REGULATIONS

### Especially Impacting Small Systems

- Disinfection By-Products (DBP) in drinking water
- Lead and Copper → Focus is now on Lead In Schools
- America's Water Infrastructure Act of 2018 (AWIA)
- Algal Toxins and PFAS (perfluoroalkyl) compounds
- Pesticides and Herbicides

# TOP CHALLENGES FOR KY WATER SYSTEMS

## # 2 AGING INFRASTRUCTURE

- Water - Aging treatment, storage, pumping, distribution
- Wastewater – Aging collections, storage, treatment, pumping, flood protection
- Growing deferred maintenance
- Slow adoption of Asset Management and Life Cycle Analysis
- Lack of capital planning (5,10,20 years)
- Funding and Procurement Cycle



48" Water Main Break



2" galvanized line



3/4" lead service line



Failed Treatment Clarifier



6" unlined cast iron pipe



6" main break



Flood Protection Pumps and Levees



Sewer Collapse

# TOP CHALLENGES FOR KY WATER SYSTEMS

- **\$8.2 Billion Funding Gap for KY Drinking Water (\$1,800/person) over next 20 years**
- **\$6.2 Billion Funding Gap for KY Wastewater (\$1,400/person)**

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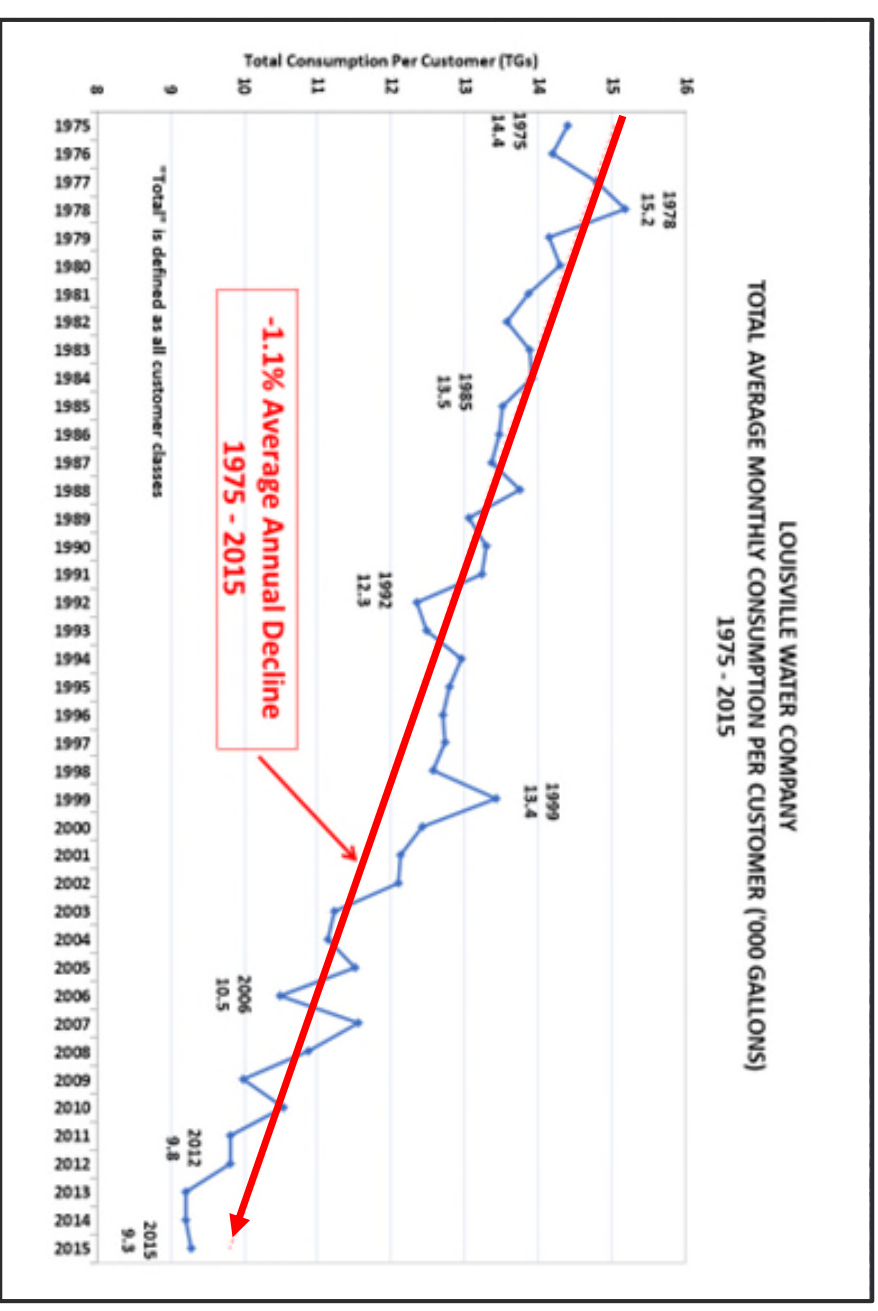
## #3 INFRASTRUCTURE FUNDING

- Current customer rate base is not adequate to fund infrastructure needs
- Funding focus has been on new infrastructure and not on repair, maintenance and replacement
- Loans are replacing grants (systems waiting on grants)
- Limited funds available for soft costs (planning, new technology, best practice, life cycle analysis)

# TOP CHALLENGES FOR KY WATER SYSTEMS

## #4 CONSUMPTION & RATES

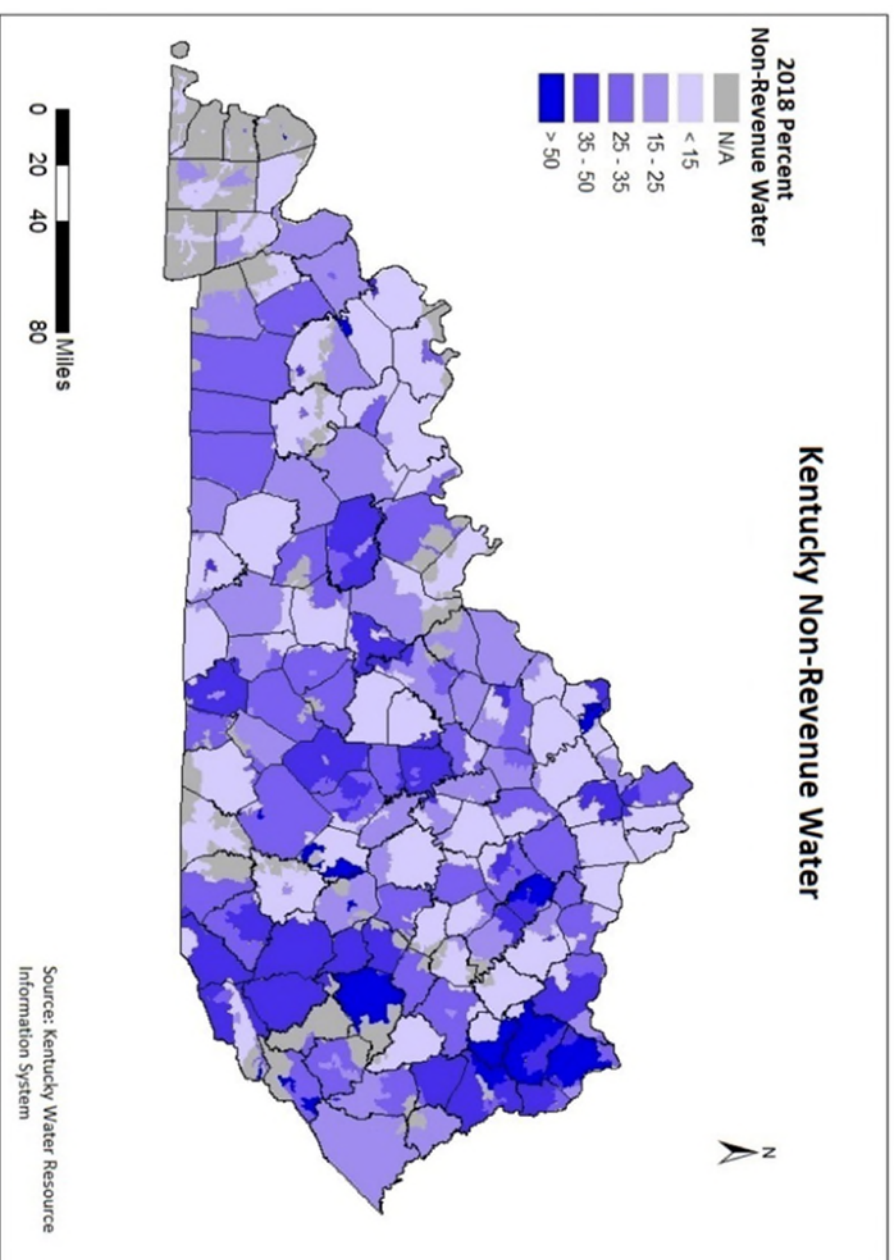
- Kentucky is generally a slow or no-growth economy
- Water consumption is declining:
  - transition to service economy
  - recycling/reuse
  - low-flow plumbing fixtures
  - therefore ... fixed costs are spread over fewer gallons sold
- Different rate approval methods (PSC -regulated vs Municipal)
- Reluctance by elected officials and appointees to raise rates due to public pressure
- Affordability of water becomes a concern in some communities when full-cost pricing is implemented



# TOP CHALLENGES FOR KY WATER SYSTEMS

## #5 Water Loss

- KY Water Loss averages over 30 percent
- Inconsistent methods of measuring water loss
- No statewide standard practice
- PSC method vs municipal methods
- Extensive use of estimates
- Percent water loss not industry best practice
- Need economic approach to water loss (\$ value of water)





# TOP CHALLENGES FOR KY WATER SYSTEMS



## #6 WORKFORCE

- Retiring Boomer workforce
- Projected gap in licensed operators and technical staff
- Non-competitive salary and benefits in robust economy
- State pension crisis impact on workforce and balance sheet
- Agency staff shortage (DOW, KIA, PSC)
- Changing expectations of millennial workforce
  - Teamwork
  - Mobility
  - Technology

# TOP CHALLENGES FOR KY WATER SYSTEMS

## #7 Planning & Best Practices

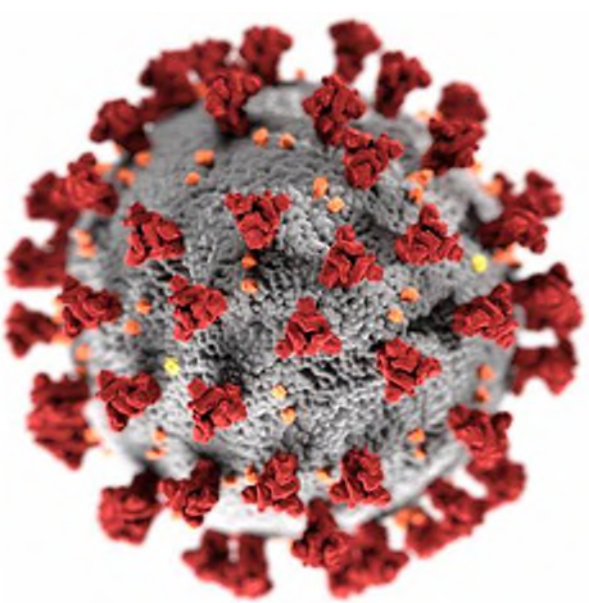
- Lack of Business/Strategic Planning
- Lack of Asset Management & Capital Planning
- Best Practices slow to adopt
- Slow to adopt new technology (IoT)
- Outdated procurement regulations (slow/inefficient)
- Life cycle costing rarely evaluated



# TOP CHALLENGES FOR KY WATER SYSTEMS

## #8 COVID19 Impacts on Water

- Major impact on economy, first since 2008 Economic Collapse
- Governor's Executive Order Suspending Shut offs for Non-Payment
- Decline in commercial water sales (increase in residential)
- Impact on customers who have lost jobs, ability to pay utility bills
- Impact of working remotely on productivity (to be determined)



# RECOMMENDATIONS BY BLUEWATER KENTUCKY

- 1. Continue Kentucky Drinking Water and Clean Water Advisory Councils.**
- 2. Continue to enhance water planning in Kentucky required under SB 409:**
  - Improve accuracy and consistency of WRIS data
  - Engage local Water Management Planning Councils
  - Fully fund staff and technology resources

# RECOMMENDATIONS BY BLUEWATER KENTUCKY

**3. Leverage federal funds with state funding (i.e. Indiana WIFIA approach).**

**4. Establish Kentucky Water Infrastructure Fund:**

- Provide an annual funding of \$25 million
- To assist water/wastewater/stormwater systems in planning, engineering, design and construction
- Revolving loan program with up to 30% annually for grants

# RECOMMENDATIONS BY BLUEWATER KENTUCKY

## 5. Develop Kentucky uniform performance criteria and rating system for water utilities:

- Include technical, managerial and financial criteria
- Collaborate with industry to develop rating system and key performance metrics
- Develop peer review process to improve performance
- Recognize and award and top-rated systems
- Publish water system ratings
- Take corrective action on failing water systems

## 6. Create financial incentives (principal forgiveness) for assessing capacity and achieving performance levels in areas of:

- Technical - regulatory compliance/operations
- Finance - financial capacity, cost of service rates, audits
- Managerial – asset management, planning, water loss, customer service, system reliability, consolidation, interconnects, risk management plans

# RECOMMENDATIONS BY BLUEWATER KENTUCKY

- 7. Adopt full cost pricing of water using industry standards (AWWA M1):**
  - Adopt rate indexing to W/WW based CPI
  - Use infrastructure surcharges to address funding gaps
  - Use system development charges to fund growth infrastructure
- 8. Adopt industry standard for water audits and loss control programs (AWWA M36)**
  - Utilize water balance methodology
  - Utilize an economic basis to set water loss targets
  - Water producer vs purchaser

# RECOMMENDATIONS BY BLUEWATER KENTUCKY

## **9. Establish “Centers for Excellence in Water” through partnerships with utilities, water industry associations and academic institutions:**

- Water quality/operations
- Infrastructure/asset management
- Water loss
- Finance
- Customer service
- Innovation/Best Practices in water

## **10. Conduct state-wide studies on the following:**

- Water loss
- Lead service/plumbing inventory
- System interconnections for reliability and drought relief
- Affordability of water/wastewater for low/fixed income households



# RECOMMENDATIONS BY BLUEWATER KENTUCKY

## 11. Revise administrative regulations to:

- Define technical, managerial and financial roles for KY PSC, DOW and KIA to eliminate duplication and streamline processes
- Provide authority to DOW/KIA/PSC to address failing water systems (technical, managerial financial) and ability to intervene and take corrective action
- Establish water and wastewater rate indexing allowing annual rate adjustments. (CPI or equivalent)

## 12. Require water systems to prepare Capital Improvement Plans for Asset Management and Infrastructure Renewal.

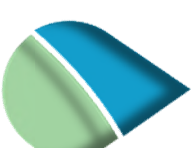
- 5-Year CIP for Small Systems serving <10,000 pop
- 10-Year CIP for Medium Systems 10,000 to 50,000
- 20-Year CIP for Large Systems > 50,000

# SOURCES AND REFERENCES

- **ASCE Infrastructure Report Card – Drinking Water 2019**
- **ASCE Infrastructure Report Card – Wastewater 2019**
- **2018 KY Rural Water/Cannon & Cannon Rate Survey**
- **Kentucky Division of Water**
- **Kentucky Infrastructure Authority/WRIS**
- **Kentucky Rural Water Association**
- **KY-TN AWWA**
- **Louisville Water Company**

# DISCUSSION AND QUESTIONS

**Greg C. Heitzman, PE, MBA**



BlueWater  
Kentucky

[www.bluewaterky.com](http://www.bluewaterky.com)

502-533-5073



# **ALL YOU EVER WANTED TO KNOW ABOUT DEPRECIATION ..... AND THEN SOME**

Katelyn Brown  
Stoll Keenon Ogden PLLC  
[katelyn.brown@skofirm.com](mailto:katelyn.brown@skofirm.com)  
(502) 568-5711

# ORDER OF PRESENTATION

- What is Depreciation?
- What Does it Mean to “Fully Fund” Depreciation?
- Consequences of Not Fully Funding Depreciation
- Reading Financial Statements

# ORDER OF PRESENTATION

- **PSC Concerns with Depreciation**
- **Analysis of Various WDs and Cities**
- **How to Increase or Improve Depreciation Funding**

# WHAT IS DEPRECIATION?



# Definition of Depreciation

- The process of allocating the cost of a utility plant asset to expense over its service (useful) life in a rational and systematic manner
- Think of initial capital investment as a prepaid expense with a portion of that expense systematically recorded as Depreciation Expense in subsequent accounting periods



# Depreciation Formula

Annual Depreciation Cost =

$$\frac{\text{(Cost – Salvage Value)}}{\text{Useful Life in Years}}$$





[https://www.deltacountyindependent.com/news/hotchkiss-new-water-tank-almost-ready-for-use/article\\_00b5dcd4-941b-11e9-8146-dfc6507f21ef.html](https://www.deltacountyindependent.com/news/hotchkiss-new-water-tank-almost-ready-for-use/article_00b5dcd4-941b-11e9-8146-dfc6507f21ef.html);  
[http://46nkzm3oppv3i369eknd4eouto.wpengine.netdna-cdn.com/wp-content/uploads/sites/3/2012/11/water\\_tank1.jpg](http://46nkzm3oppv3i369eknd4eouto.wpengine.netdna-cdn.com/wp-content/uploads/sites/3/2012/11/water_tank1.jpg)



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# Why is Depreciation Important?

- Although non-cash, depreciation expense creates cash flow in regulated entities (like WDs & WAs) and municipal utilities
- Informs management, creditors, investors, and others of the utility's cost of operating
- Helps to more accurately match revenues with expenses
- Who determines your utility's depreciation?

# Typical Ways that Useful Lives are Determined

- Rural Development (RD)
- Kentucky Infrastructure Authority (KIA)
- CPA
- Engineer
- PSC (NARUC Guidelines)
- Board

# **WHAT DOES IT MEAN TO “FULLY FUND” DEPRECIATION?**



# “Fully Funding” Depreciation means....

- Setting aside cash equivalent to the utility’s annual depreciation expense in order to purchase replacement assets in the future
- Set aside in a safe investment (CD or money market account)

# CONSEQUENCES OF NOT FULLY FUNDING DEPRECIATION



# **Not Fully Funding Depreciation will....**

- Cause the utility to have to borrow \$\$ to purchase the replacement asset
- Cause the utility to seek outside funding (added interest)
- Cause the utility to use funds budgeted for other purposes

# READING FINANCIAL STATEMENTS



# “Income Statement”

## STATEMENTS OF REVENUES, EXPENSES AND CHANGES IN FUND NET POSITION

### YEARS ENDED DECEMBER 31, 2018 AND 2017

	2018	2017
<b>OPERATING REVENUES:</b>		
Water sales	\$ 13,459,174	\$ 13,040,102
Other operating income	831,911	838,780
<b>TOTAL OPERATING REVENUES</b>	<b>14,291,085</b>	<b>13,878,882</b>
<b>OPERATING EXPENSES:</b>		
Power purchased	676,266	808,028
Purchased water	772,880	302,321
Pumping and treatment labor	1,383,163	1,291,392
Purification supplies and expense	333,777	336,357
Transmission and distribution labor	1,887,676	1,690,446
Transmission and distribution supplies and expense	245,756	224,722
Transmission and distribution maintenance and repairs	79,388	72,390
Equipment rental	17,235	5,014
Transportation expense	185,722	151,224
Water treatment maintenance and expense	197,691	176,574
General and administrative expenses	3,065,233	2,674,988
Depreciation	3,022,902	2,935,452
<b>TOTAL OPERATING EXPENSES</b>	<b>11,867,689</b>	<b>10,668,908</b>
<b>OPERATING INCOME</b>	<b>2,423,396</b>	<b>3,209,974</b>
<b>NON-OPERATING REVENUES (EXPENSES):</b>		
Investment income	359,866	558,735
Other income	192,026	146,768
Gain on disposal of capital assets	21,144	33,075
Bond issuance costs	(10,491)	-
Interest expense on long-term debt	(561,746)	(573,693)
Amortization of bond items and utility acquisition	(23,837)	(27,936)
<b>TOTAL NON-OPERATING REVENUES (EXPENSES)</b>	<b>(23,038)</b>	<b>136,947</b>
<b>CAPITAL CONTRIBUTIONS</b>	<b>10,612,183</b>	<b>631,228</b>
<b>CHANGE IN NET POSITION</b>	<b>13,012,541</b>	<b>3,978,149</b>
<b>NET POSITION, beginning of year</b>	<b>77,077,657</b>	<b>73,099,508</b>
<b>NET POSITION, end of year</b>	<b>\$ 90,090,198</b>	<b>\$ 77,077,657</b>

# “Balance Sheet”

## STATEMENTS OF NET POSITION

DECEMBER 31, 2018 AND 2017



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	2018	2017
<b>ASSETS</b>		
<b>CURRENT ASSETS:</b>		
Cash and cash equivalents	\$ 3,467,649	\$ 3,183,375
Investments	11,906,593	13,264,952
Accounts receivable, net	1,246,892	-
Repurchase agreement	1,716,598	1,661,803
Shop loss receivable	62,246	
State grants receivable	1,382,405	136,905
Materials and supplies	505,428	427,034
<b>TOTAL CURRENT ASSETS</b>	<b>20,287,781</b>	<b>18,580,989</b>
<b>NONCURRENT ASSETS:</b>		
Restricted cash and cash equivalents	7,398,174	4,805,847
Restricted investments	1,207,394	1,207,394
Regulatory asset on CERS pension	6,803,036	5,647,319
Regulatory asset on CERS OP&E	2,295,438	2,187,250
Non-depreciable capital assets	18,008,154	5,387,932
Depreciable capital assets, net of accumulated depreciation	66,102,619	60,011,561
<b>TOTAL NONCURRENT ASSETS</b>	<b>101,994,615</b>	<b>87,307,313</b>
<b>TOTAL ASSETS</b>	<b>122,282,596</b>	<b>105,888,292</b>
<b>DEFERRED OUTFLOWS OF RESOURCES</b>		
Deferred amount on debt refundings	158,824	187,324
Deferred amount on CERS pension	1,838,886	2,609,006
Deferred amount on CERS OP&E	529,889	564,929
Utility acquisition adjustments	155,686	155,417
<b>TOTAL DEFERRED OUTFLOWS OF RESOURCES</b>	<b>2,683,397</b>	<b>3,528,676</b>
<b>LIABILITIES</b>		
<b>CURRENT LIABILITIES:</b>		
Accounts payable	112,237	162,462
Construction projects payable	819,396	664,473
Elizabethtown sewer payable	243,026	749,478
Accrued taxes	58,471	62,754
Accrued liabilities	85,379	87,839
Accrued vacation	165,189	178,148
Customer deposits	44,182	45,713
Customer advances for construction	103,250	87,250
Bonds payable	880,000	860,000
Notes payable	259,352	252,423
Self-insurance payable	31,207	3,987
<b>TOTAL CURRENT LIABILITIES</b>	<b>2,811,679</b>	<b>3,074,597</b>
<b>NONCURRENT LIABILITIES:</b>		
Customer deposits	397,728	411,417
Net pension liability - CERS	8,146,209	7,558,254
Net OP&E liability - CERS	2,374,740	2,598,256
Bonds payable	15,234,575	12,738,989
Notes payable	4,864,452	8,123,804
<b>TOTAL NONCURRENT LIABILITIES</b>	<b>31,017,704</b>	<b>28,429,700</b>
<b>TOTAL LIABILITIES</b>	<b>33,829,383</b>	<b>31,504,297</b>
<b>DEFERRED INFLOWS OF RESOURCES</b>		
Deferred amount on CERS pension	595,725	697,071
Deferred amount on CERS OP&E	450,687	135,833
<b>TOTAL DEFERRED INFLOWS OF RESOURCES</b>	<b>1,046,412</b>	<b>833,004</b>
<b>NET POSITION</b>		
Net investment in capital assets	61,664,227	53,643,953
Restricted for debt service	2,386,791	2,408,756
Restricted for capital projects	4,351,396	3,464,030
Restricted for customers	445,987	432,193
Unrestricted	21,239,787	17,128,125
<b>TOTAL NET POSITION</b>	<b>\$ 90,080,198</b>	<b>\$ 77,077,657</b>



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STATEMENTS OF CASH FLOWS

YEARS ENDED DECEMBER 31, 2018 AND 2017

	2018	2017
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>		
Receipts from customers	\$ 14,143,320	\$ 13,743,491
Payments to suppliers	(5,705,524)	(4,261,175)
Payments to employees	(3,657,685)	(3,317,443)
<b>NET CASH PROVIDED BY OPERATING ACTIVITIES</b>	<b>4,780,111</b>	<b>6,164,873</b>
<b>CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES:</b>		
Principal payments on bonds	(860,000)	(855,000)
Proceeds from bonds	3,389,509	-
Principal payments on notes	(252,423)	(245,679)
Contributions of capital assets	(13,723,690)	(4,072,151)
Contributions in aid of construction	9,382,583	980,425
Interest on long-term debt	(561,746)	(573,693)
Sale of capital assets	21,144	34,949
<b>NET CASH USED BY CAPITAL AND RELATED FINANCING ACTIVITIES</b>	<b>(2,604,623)</b>	<b>(4,731,149)</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>		
Purchase of investments	(111,817)	(454,762)
Other income	129,780	146,768
Investment income	583,150	553,862
<b>NET CASH PROVIDED BY INVESTING ACTIVITIES</b>	<b>601,113</b>	<b>245,868</b>
<b>NET INCREASE IN CASH AND CASH EQUIVALENTS</b>	<b>2,776,601</b>	<b>1,679,592</b>
<b>CASH AND CASH EQUIVALENTS, beginning of year</b>	<b>8,089,222</b>	<b>6,409,630</b>
<b>CASH AND CASH EQUIVALENTS, end of year</b>	<b>\$ 10,865,823</b>	<b>\$ 8,089,222</b>
<b>RECONCILIATION OF OPERATING INCOME TO NET CASH PROVIDED BY OPERATING ACTIVITIES:</b>		
Operating income	\$ 2,423,396	\$ 3,209,974
Adjustments to reconcile net operating income to net cash provided by operating activities:		
Depreciation	3,022,902	2,935,452
Provision for bad debts	46,037	48,006
(Increase) in accounts receivable	(147,765)	(135,391)
Increase (decrease) in accounts payable	(50,225)	3,709
Increase (decrease) in Elizabethtown sewer payable	(506,452)	29,121
Increase (decrease) in customer deposits	(15,210)	27,050
Increase (decrease) in accrued taxes payable	(4,283)	8,051
Increase (decrease) in accrued liabilities	(2,560)	12,041
Increase (decrease) in accrued vacation	(12,979)	22,903
Increase in self-insurance payable	27,250	3,957
<b>NET CASH PROVIDED BY OPERATING ACTIVITIES</b>	<b>\$ 4,780,111</b>	<b>\$ 6,164,873</b>



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# Financial Statements

- Depreciation Expense is an Income Statement account
  - Income Statement only accounts for Interest Expense, does not take into account the principal of loans/bonds that must be paid
- Accumulated Depreciation is a Balance Sheet account
  - Shown on Statement of Net Position
- Statement of Cash Flows
  - Reflects principal payments

# PSC CONCERNS WITH DEPRECIATION



# **The PSC is concerned with:**

- Long-term financial health of utilities
- Utility's aging infrastructure
- Frequency of rate cases



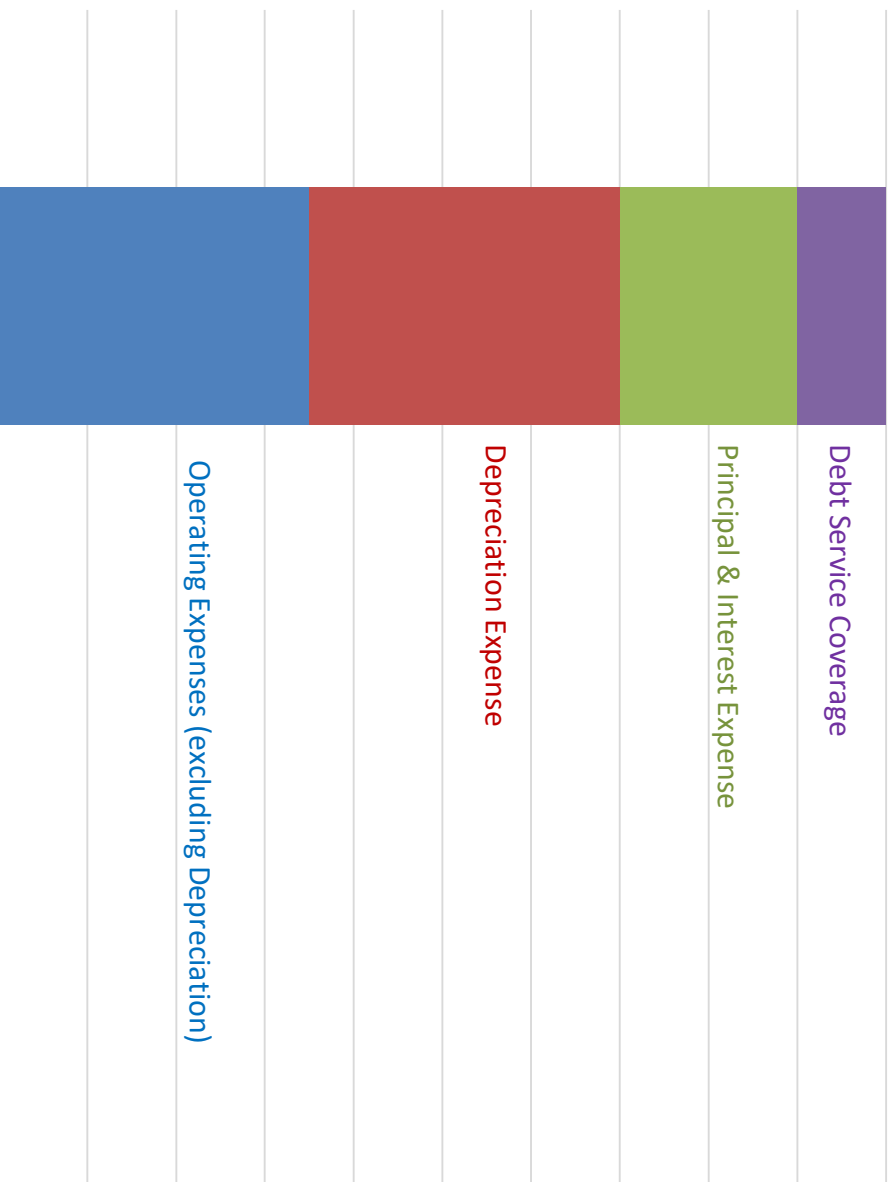
# **ANALYSIS OF VARIOUS WATER DISTRICTS AND CITIES**

# Revenue Requirement

The total amount of money a utility must collect from its customers in a calendar or fiscal year:

- (1) To pay all non-capital costs, including operating expenses, depreciation, and debt service expense (principal & interest); and
- (2) To enable the utility to meet the debt service coverage requirement set forth in the utility's covenants to its bondholders and other lenders.

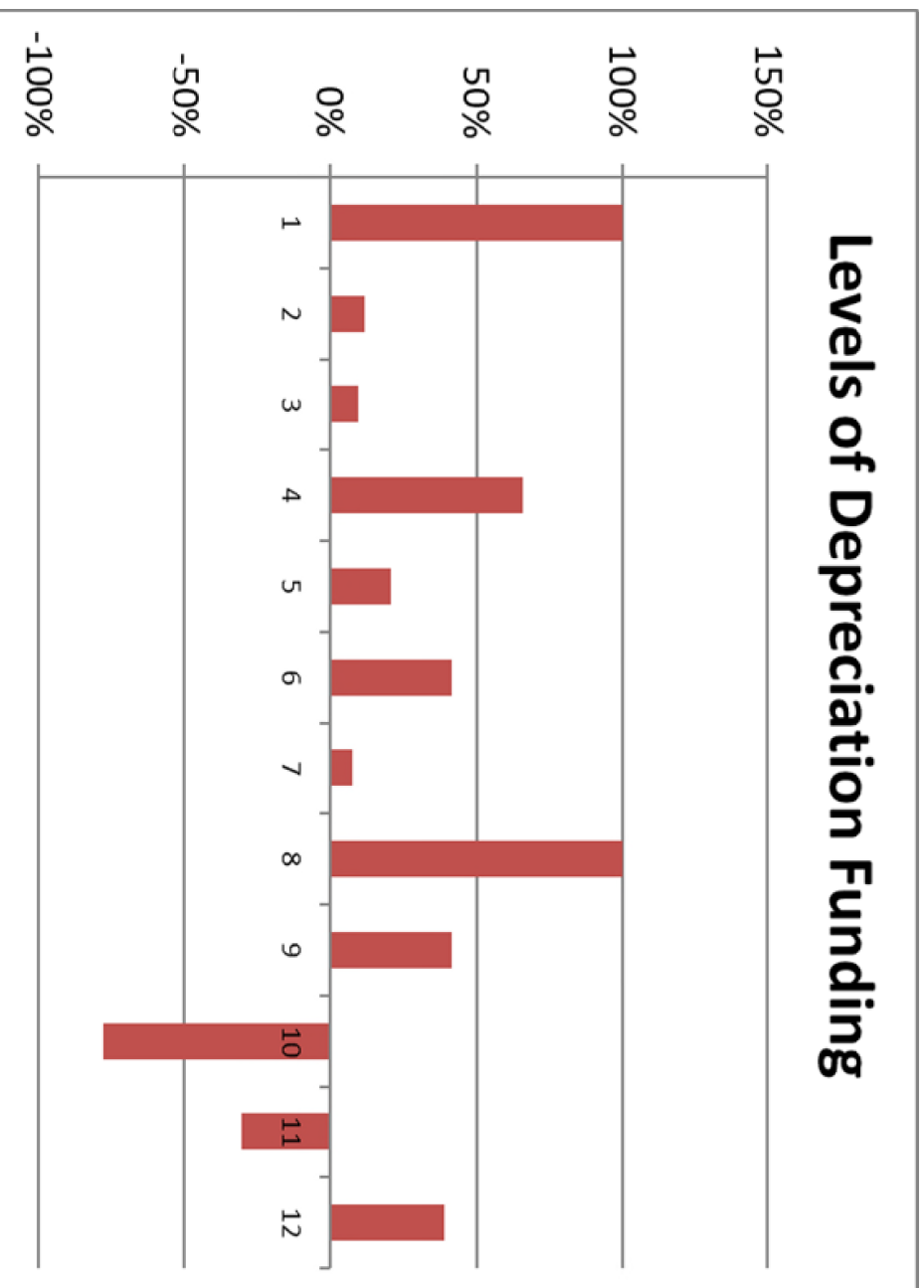
# Revenue Requirement Components



# Analyzed 12 WDS and Cities

- Labeled utilities #s 1-12 for anonymity
- Based on 2018 numbers
- Looked at:
  - Level of Depreciation Funding (% and \$)
  - # of customers
  - Depreciation Expense compared to other operating expenses
  - \$ of Debt Service Expense (P & I) and Debt Service Coverage

# 2018



Utility	Depreciation Expense
1	\$ 958,570
2	\$ 392,152
3	\$ 635,761
4	\$ 455,008
5	\$ 274,374
6	\$ 315,697
7	\$ 908,262
8	\$ 3,022,902
9	\$ 190,955
10	\$ 404,363
11	\$ 227,638
12	\$ 217,039

**High – Utility 8 at  
\$3,022,902**

**Median - \$398,258**

**Low – Utility 9 at  
\$190,955**

Utility	Customer Count
1	8,401
2	3,573
3	4,969
4	3,425
5	5,168
6	7,452
7	7,029
8	28,620
9	3,523
10	3,712
11	2,655
12	1,180

**High – Utility 8 at  
28,620**

**Median – 4,341**

**Low – Utility 12 at  
1,180**

# **Depreciation Expense Compared to Other Operating Expenses**

- For 8 of 12 of the WDs and cities analyzed, Depreciation Expense was either the highest operating expense or 2<sup>nd</sup> highest operating expense



# Debt Service Expense vs. Debt Service Coverage

- Bond Ordinance or Bond Authorizing Resolution dictates the DSC
- Different funding agencies have different DSC requirements
  - KIA: 1.1
  - RD: 1.2
  - Some cities: 1.25 or higher
  - LWC: 1.5

Utility	Debt Service Expense <sup>X 0.2 =</sup>		Debt Service Coverage
	Expense	Coverage	
1	\$ 1,177,701	\$ 235,540	
2	\$ 186,750	\$ 37,350	
3	\$ 515,223	\$ 103,045	
4	\$ 210,206	\$ 42,041	
5	no debt	no debt	
6	no debt	no debt	
7	\$ 1,004,459	\$ 200,892	
8	\$ 1,674,169	\$ 334,834	
9	\$ 94,563	\$ 18,913	
10	\$ 314,767	\$ 62,953	
11	\$ 79,281	\$ 15,856	
12	\$ 95,231	\$ 19,046	

**Debt Service Coverage**

**High – Utility 8 at  
\$334,834**

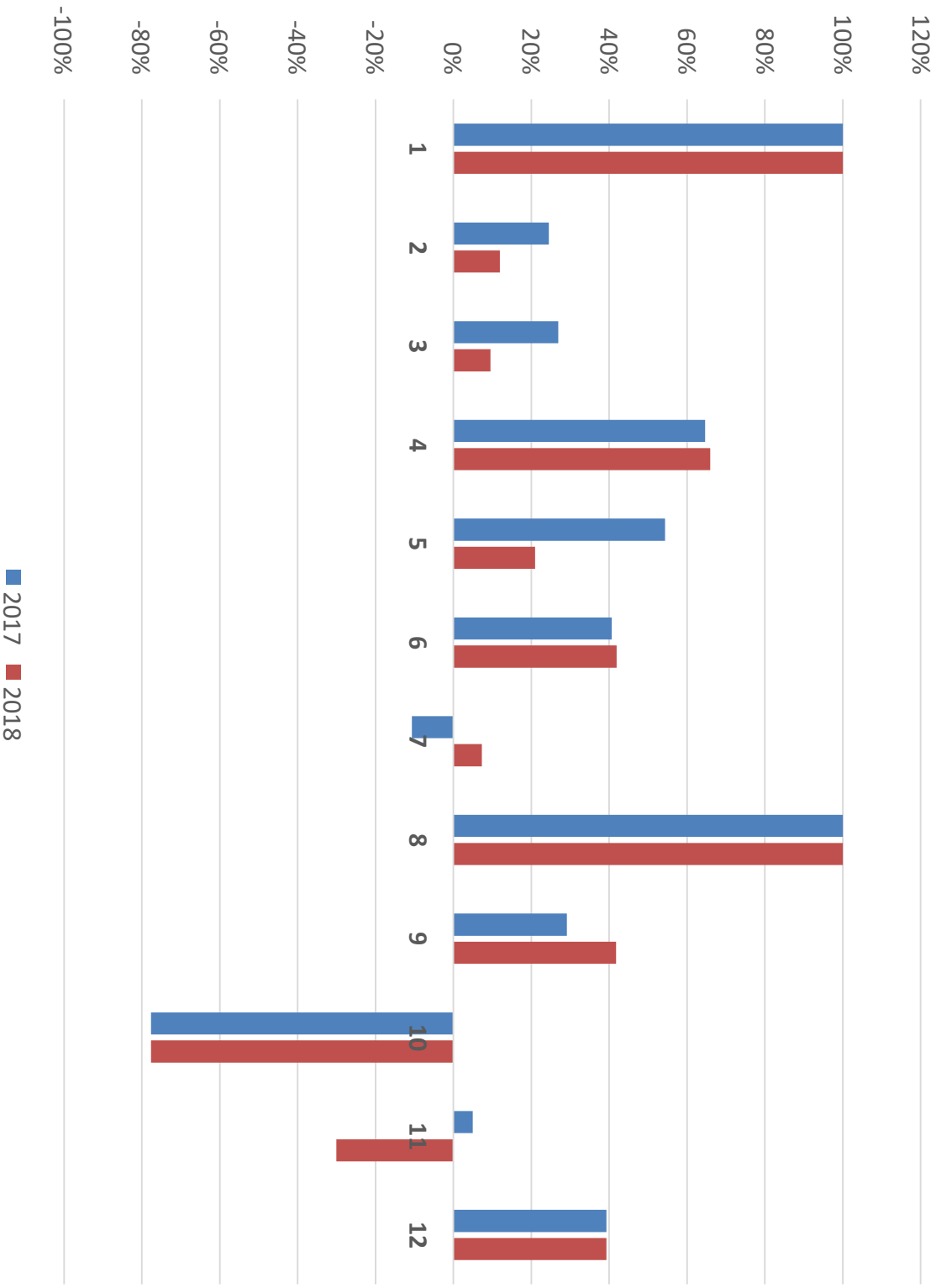
**Median - \$52,497**

**Low – Utility 11 at  
\$15,856**



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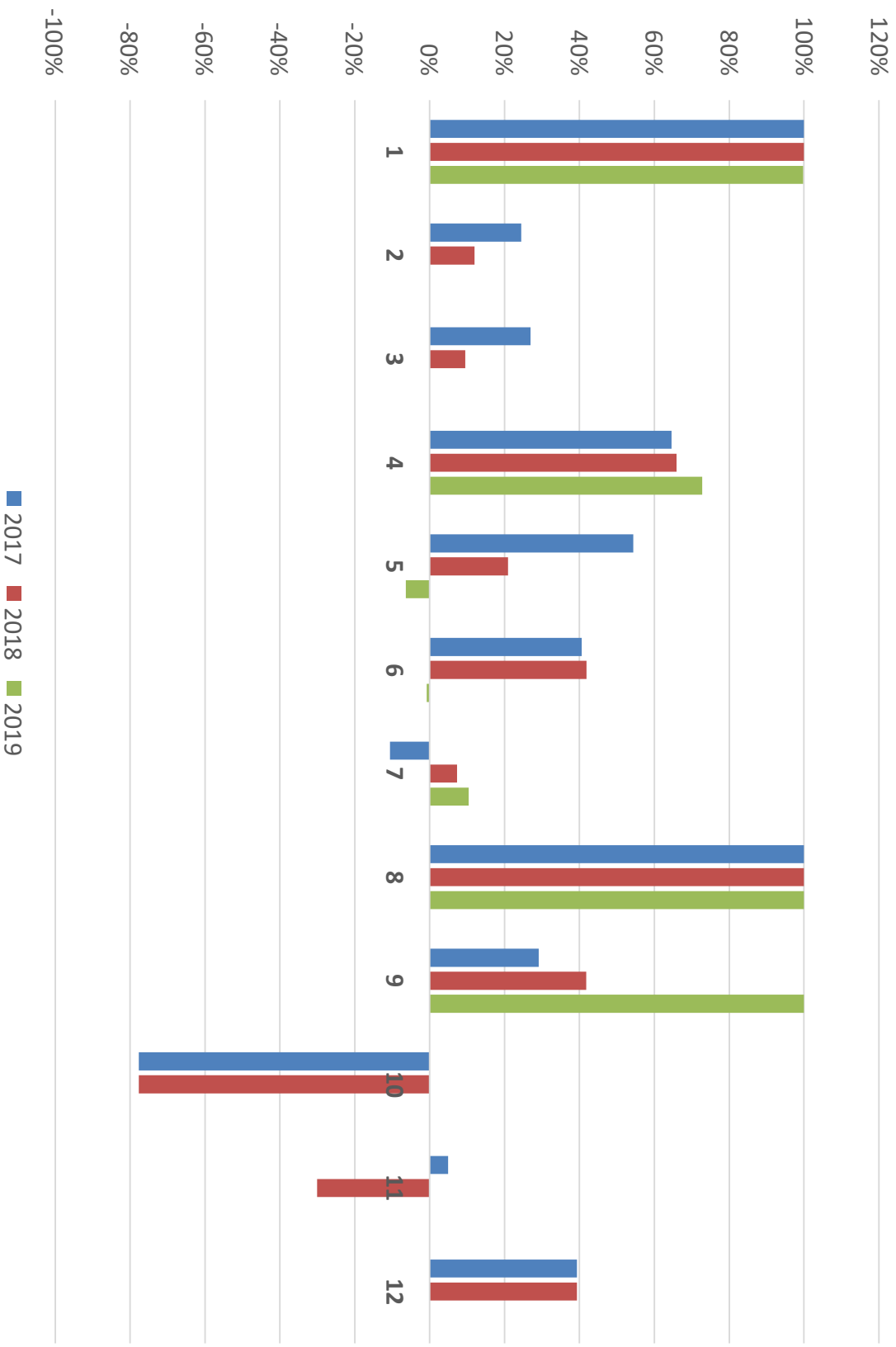
# 2017 vs. 2018 Depreciation Funding





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# 2017 vs. 2018 vs. 2019 Depreciation Funding





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# How to Increase or Improve Depreciation Funding

- Create a separate fund in which to deposit depreciation expense for future replacement of utility assets
  - FDIC concerns
- Evaluate whether or not you need to request a rate increase
- Discuss useful life of assets with the person/entity who decides your annual Depreciation Expense

# CONCLUSION/SUMMARY

- Evaluate your own water utility's depreciation practices
- Determine whether or not current rates are sufficient
- Board Commissioners/Members must be good stewards

# QUESTIONS?



# **WATER UTILITY TARIFFS: PRACTICAL CONSIDERATIONS**

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# ORDER OF PRESENTATION

- Legal Framework
- Process for Revising Tariff
- Tariff Provisions To Consider
- Managing Your Tariff

# LEGAL FRAMEWORK



# KRS 278.030

(1) Every utility **may demand, collect and receive fair, just and reasonable rates** for the services rendered or to be rendered by it to any person.

(2) Every utility shall furnish adequate, efficient and reasonable service, and **may establish reasonable rules governing the conduct of its business and the conditions under which it shall be required to render service.**

# KRS 278.160(1)

Under rules prescribed by the commission, **each utility shall file with the commission**, within such time and in such form as the commission designates, schedules showing **all rates and conditions for service established by it and collected or enforced**. The utility shall keep copies of its schedules **open to public inspection** under such rules as the commission prescribes.

## KRS 278.160(2)

No utility shall **charge, demand, collect or receive** from any person **a greater or less compensation** for any service rendered or to be rendered than that **prescribed in its filed schedules**, and no person **shall receive any service** from any utility for **a compensation greater or less** than that **prescribed in such schedules**.

# WHAT IS A RATE?

Any individual or joint **fare, toll, charge, rental, or other compensation for service** rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement, or privilege in any way relating to such fare, toll, charge, rental, or other compensation, and **any schedule or tariff or part of a schedule or tariff thereof.**

# EXAMPLES OF A “RATE”

- Commodity Charge
- Water Meter Installation Charge
- Billing Recalculation Policy
- Length of Time to Pay Bill
- Minimum Contract Period
- Rule/Regulation

# WHAT IS A CONDITION OF SERVICE?

Requirement, action or task that must be met or taken by applicant for service as a prerequisite for receiving or continuing to receive service.



# EXAMPLES OF A “CONDITION OF SERVICE”

- Completing Application Form
- Providing Evidence of Inspections
- Deposit Requirement
- Easement Requirement
- Technical Specifications for Connection

# EFFECT OF KRS 278.160

- Tariff Has The Status of Law
- Only Filed Rates May Be Charged
- Only Filed COS May Be Imposed
- Filed Rates/COS **MUST** Be Enforced
- Tariff Governs Utility's Relationship With Customer

# **FAILURE TO COMPLY WITH KRS 278.160**

- Refund/Backbilling
- Assessment of Penalties
- Removal of WD Commissioners
- Compensatory and Punitive Damages

# REVISING TARIFFS: PROCEDURE



# GENERAL PROCEDURES

- 30 Days Prior Notice To PSC
- Notice Is Filing of New Tariff Sheet
- Submit Cover Letter & Tariff Sheet
- Tariff Sheet Must Comply With PSC Regulations

# GENERAL PROCEDURES

- Tariff Sheet Should State Effective Date
- Attorney Is **NOT** Required
- Public Notice Must Be Provided

# **PUBLIC NOTICE**

- **Three Methods to Provide Notice**
- **Notice Contents - 807 KAR 5:011**
- **Post Copy of Notice at Office**
- **Post Notice on Utility's Website and Social Media Accounts**

# PSC RESPONSE TO FILING

- *No Action – Rate/Rule Becomes Effective 30 days from Filing*
- *Request Minor Modifications*
- *Suspend and Investigate*
- *Final Action Within 10 Months of Filing*



# NONRECURRING CHARGES

A charge designed to recover customer-specific cost incurred that would otherwise result in monetary loss to the utility or increased rates to other customers to whom no benefits accrue from the service provided or action taken.

# **NONRECURRING CHARGES: EXAMPLES**

- **Meter Connection Fees**
- **Inspection Fees**
- **Returned Check Charges**
- **Turn-off/Turn-on Charge**
- **Field Collection Charge**
- **Meter Resetting Charge**

# NONRECURRING CHARGES

- Letter Filing
- No Attorney Required
- Specific Cost Justification
- Income Statement & Balance Sheet
- Statement Why Not Filed in Rate Case
- Tariff Sheet

# TARIFF PROVISIONS TO CONSIDER



# REQUIRED PROVISIONS

- Deposit Requirements
- Special Charges
- Monthly Budget Plan Availability
- Reconnection Charge
- Requested Meter Test Charge

# REQUIRED PROVISIONS

- Rules and Administrative Regulations
- Rules Re: Size, Design, Material and Installation of Service Lines
- Rules Re: Service Line Installation and Maintenance
- Customer Usage Monitoring Procedures

# APPLYING FOR SERVICE

- Is Customer Required to Complete Application or Agreement?
- Are **ALL** Contents Listed in Tariff?
- Case No. 2013-00309: All Conditions/Requested Info In Application Must Be in Tariff or Form Must Be Filed

# APPLICATION: CUSTOMER INFO

- Name and Address
- Social Security Number - **NO**
- Driver's License No. \*
- Presentation of Photo ID \*
- E-mail Address
- Mobile Telephone No.



# APPLICATION: CUSTOMER INFO

- Employer's Name & Address
- Marital Status
- Spouse's Name
- Own or Rent?
- Rental Agreement

# APPLICATION: CUSTOMER INFO

- Adults Living In Household
- “Do You or Any Household Members Owe The Utility For Unpaid Water Service Or Other Tariff Charges?”



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## **APPLICATION:**

# **CONDITIONS FOR SERVICE**

- Comply With Rules and Regulations
- Release of Liability If Not Present At Service Turn-On
- Duty to Maintain Current Info
- Pay All Charges and Fees
- Attorney Fees/Collection Fees

# APPLICATION: CONDITIONS FOR SERVICE

- Electronic Delivery of Bills
- Electronic Delivery of Notices
- Permission to Send Text Messages
- Easements

# DEPOSITS

- Utility May Require Deposit
- Must State Method For Calculating Deposit Amount
- Criteria for Requiring Deposit
- Policy/Rules on Refunding
- Policy on Interest

# RENTER ISSUES

- Deposit Requirement Based On Status as Renter **Prohibited**
- Deposit Requirement on Landlord for Renter's Benefit **Disfavored**
- Required Payment Guaranty from Landlord **Disfavored**

# PAYMENT

- Form of Payment
- Fees For Credit Card/ACH Payment
- Returned Check Fee
- Payment Date
- “Dropbox” Payment
- Multiple Structures/Single Meter

# LATE PAYMENT FEES

- Assessed if no payment by due date
- Assessed only once on any bill
- No penalty on unpaid penalties
- Payments applied 1<sup>st</sup> for service
- Late Postings/Delays in Transit
- Federal/State Agencies



# LEAK ADJUSTMENTS

- No Duty to Make Adjustment
- Tariff Provision Necessary To Make Adjustments
- Uniform Application of Provision
- Utility Must Recover At Least The Variable Cost of Water

# COMPONENTS OF LEAK ADJUSTMENT CLAUSE

- Average Use @ Regular Rate + Excess @ Leak Adjustment Rate
- Written Request From Customer
- Evidence of Leak/Repairs
- Use Limited: Number/Time Period
- Board Oversight

# REFUSING SERVICE: PSC GROUNDS

- Violation of PSC or Utility Rules\*
- Dangerous Conditions\*\*
- Refusal of Access\*
- Outstanding Indebtedness
- Noncompliance with Gov't Codes\*
- Nonpayment of Bills\*
- Illegal Use/Theft of Service\*\*

# **REFUSING SERVICE: ADDITIONAL GROUNDS**

- **Waste of Water**
- **Tampering/Interfering W/Facilities**
- **Misrepresentation**
- **Obtaining Service By Fraud**



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# REFUSING SERVICE FOR NONPAYMENT

- May Refuse Service for **Any Debt For Service Or Tariff Charges**
- May Discontinue Service Only for **Debt Incurred at Present Location**
- 5 Days Notice Prior to Termination
- No Termination Before 20 days After Mailing Date of Original Unpaid Bill

# IMPUTED LIABILITY

- Family/Household Member Requests Service After Termination
- No Prior Contract With Utility
- PSC Regs Requires Utility to Provide Service To New Applicant

**UNLESS**

# IMPUTED LIABILITY

- **Tariff Provides That Liability for Unpaid Bills Is Imputed to Each Adult Member of Household**
- **Uses Benefit of Service Theory**
- **Not Sufficient to Obtain Judgment**
- **Adequate Basis to Deny Service**



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# **BILLING FOR SEWER SERVICE**

- Utility Provides Both Services - Follow PSC Regs
- City/Water District Provides Service - Follow KRS 96.930-.943
- Sanitation Dist - Follow KRS 220.510
- Private Sewer Utility – PSC Approval Required



# **BILLING FOR GARBAGE COLLECTION**

- **Cities May Discontinue H2O Service For Failure to Pay Garbage Bill**
- **PSC Utilities: Not Permitted Unless PSC expressly approves**
- **OAG 17-30: City May Delegate Its Authority to Water District**

# BILLING FOR OTHER SERVICES

- 911 Fees
- Service Line Warranty Programs
- Establish **Priority of Payment**  
Tariff
- Bill Format Must Reflect All Other  
Billed Services

# **FIRE PROTECTION SERVICES**

- Free H2O To Fire Depts Permitted
- Fire Protection/Fire Training Only
- Fire Dept Must Keep Usage Estimates & Report Quarterly
- Penalty If Reports Not Timely Filed
- Tariff Provision Required

# **FIRE PROTECTION SERVICES**

- *Free Service Without Tariff Provision*  
*Violates KRS 278.170(3)*
- *Allowing Fire Dept to Withdraw H2O*  
*Without Reports Violates KRS 278.160*
- *Failure to assess penalty against Fire Dept*  
*violates KRS 278.160*

# FIRE PROTECTION SERVICES

- Limit Amount Of “Free H<sub>2</sub>O” Per Fire Event
- Example: No More Than 4 Hours – Then Property Owner Responsible
- Avoids Potential Financial Hardship For Water Utility

# LIMITING TORT LIABILITY

- Disclaimer of Liability
- Low H<sub>2</sub>O Pressure – Damage to Customer Equipment/Facilities
- Lack of Adequate Fire Flows
- Interruptions in Water Supply
- Hydrant Usage

# PENALTIES

- Potential Deterrent Effect
  - Theft
  - Property Destruction
- PSC: Penalties Must be Cost-Based
- Permitted for Late Payment/Fire Dept Failure to Report H2O Use

# MISCELLANEOUS

- Water Main Extension Policies
- Incentive/Discount Tap-on Fees
- Water Priority/Water Shortage Response Plans
- Special Contracts
- Forms



# MANAGING YOUR TARIFF



# MANAGING YOUR TARIFF

- Know the Contents of Your Tariff
- Review Annually
- Involve Utility Staff in Review
- Tariff is **NOT** Internal Management and Practices Manual

# MANAGING YOUR TARIFF

- Do Not Repeat PSC Regulations
- Provide For Widest Utility Discretion
- Annual Review of NRCs
- Make NRC and Tariff Changes Part of Rate Adjustment Applications

# **MANAGING YOUR TARIFF: FILINGS WITH PSC**

- Explain In Detail Purpose/Reasons For Filing In Cover Letter
- Provide Supporting Evidence
- Research/Anticipate Expected Questions/Issues
- Address Those Issues In Advance

# QUESTIONS?



<https://psc.ky.gov/Home/Library?type=TariffSamples>



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# **EXTENDING METER SERVICE LIFE**

*Mary Ellen Wimberly*

**Stoll Keenon Ogden PLLC**





# Overview

1. Meter Testing Requirements
2. Meter Accuracy
3. Utilities Achieving Extended Service Life
4. Sample Testing
5. Case No. 2016-00432
6. Case No. 2019-00115



# Meter Testing Requirements



# 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**)



# 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.”



# 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



## 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%



## 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)



# 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





# 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



# 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



# Meter

# Accuracy

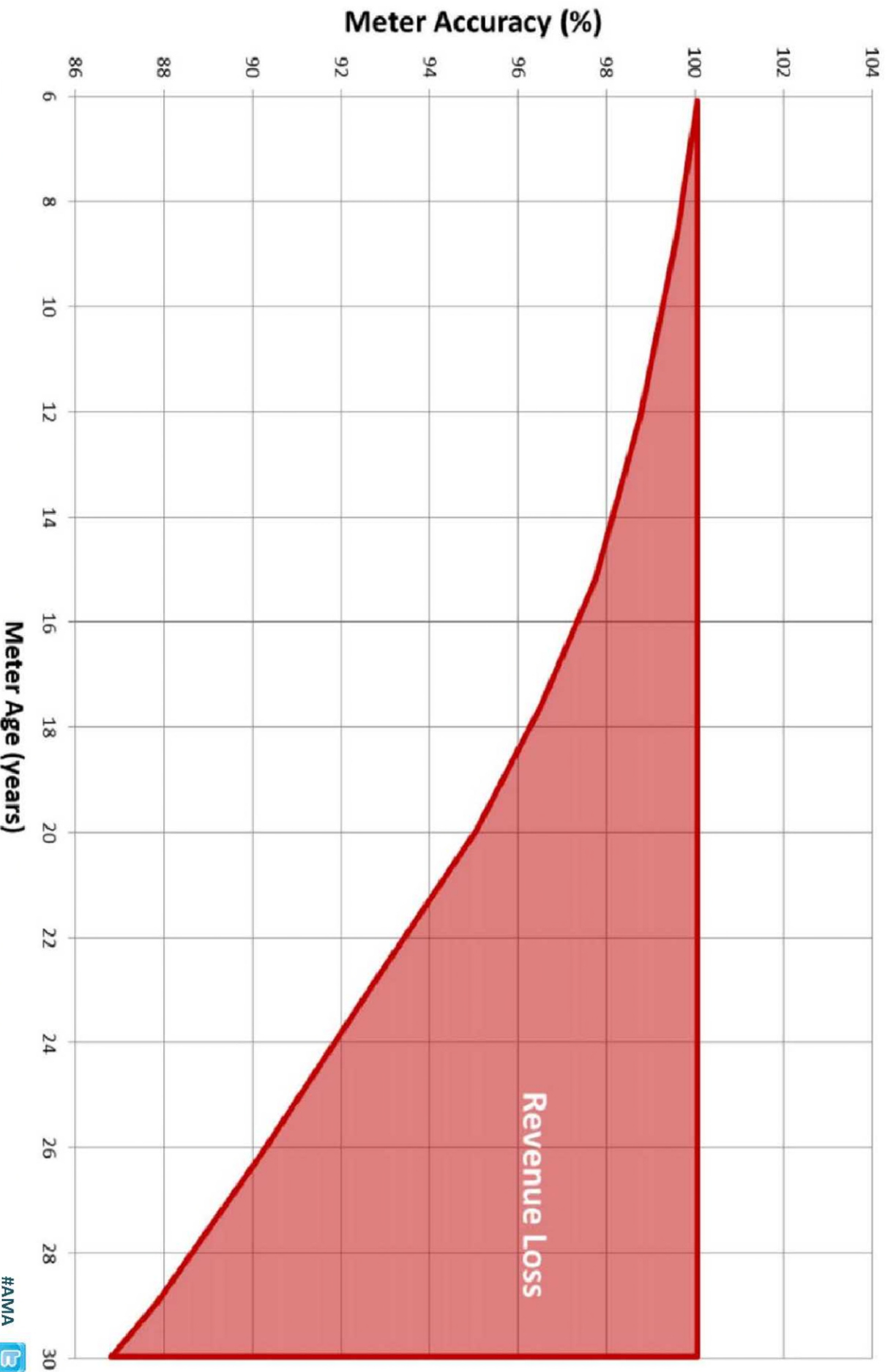


# Meter Accuracy

- 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



# Meter Accuracy Over Time



# Meter Accuracy

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



**Utilities *Achieving***

**Extended**

**Service Life**



# *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





# *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)



## 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



# Sample Testing



# Sample Testing

- Sample = subset containing characteristics of a larger population
- Statutes and regulations acknowledge sample testing



# 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)



# 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



# 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

# 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





# ANSI Standard

- Three Inputs
  - 3. Lot Size
    - Size of entire group
    - Example: Total number of meters of a certain age
  - Based on inputs, ANSI Standard provides sample size
- Must randomly select sample!
  - PSC has approved selections by Excel, billing software, or other computerized process



# ANSI Standard

Lot Size	Sample Size
Less than 16	3
16 to 25	4
26 to 50	5
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



# 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		



## ANSI Standard Acceptance for Maximum Flow

1	Sample Size: n	35
2	Sum of Measurements	3482.9
3	Sum of Squared Measurements	346596.6
4	Correction Factor (CF)	346588.4
5	Corrected Sum of Squares (SS)	8.235429
6	Variance (V)	0.242218
7	Estimate of Lot Standard Deviation	0.492157
8	Sample Mean	99.51143
9	Upper Specification Limit	101.5
10	Lower Specification Limit	98.5
11	Quality Index: QU (Upper)	4.040523
12	Quality Index: QL (Lower)	2.055093
ANSI Standard Table B-5 used to derive values below		
13	Estimate of Lot Percent Nonconforming above Upper	0.000%
14	Estimate of Lot Percent Nonconforming below Lower	1.720%
15	Total Estimate Percent Nonconforming in Lot (P)	1.720%
16	Maximum Allowable Percent Nonconforming (M)	5.580%
17	Acceptability Criterion (to accept, $P < M$ )	<b>Accepted</b>



# Low Flow Calculation

- Commission approved using a lower level of scrutiny for low flow test
  - AQL: 10
  - Inspection Level I



Case No.

2016-00432



## Case No. 2016-00432

- Request: Sample testing satisfies 807 KAR 5:066, Section 16(1)
  - “Each utility shall test periodically all water meters . . . .”
  - Does sample testing satisfy this requirement?
- Alternatively: Deviation from regulation requirements



# Case No. 2016-00432

- Request for deviation → GRANTED
  - Lots must be divided by installation year, manufacturer, and type of mechanism used to measure water usage
  - Only damaged meters can be removed
  - Low flow testing method approved
  - Commission found cost savings significant
  - Additional protections for customers are important





# Proceed With Caution . . .

- Line loss must be low



## 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.”**

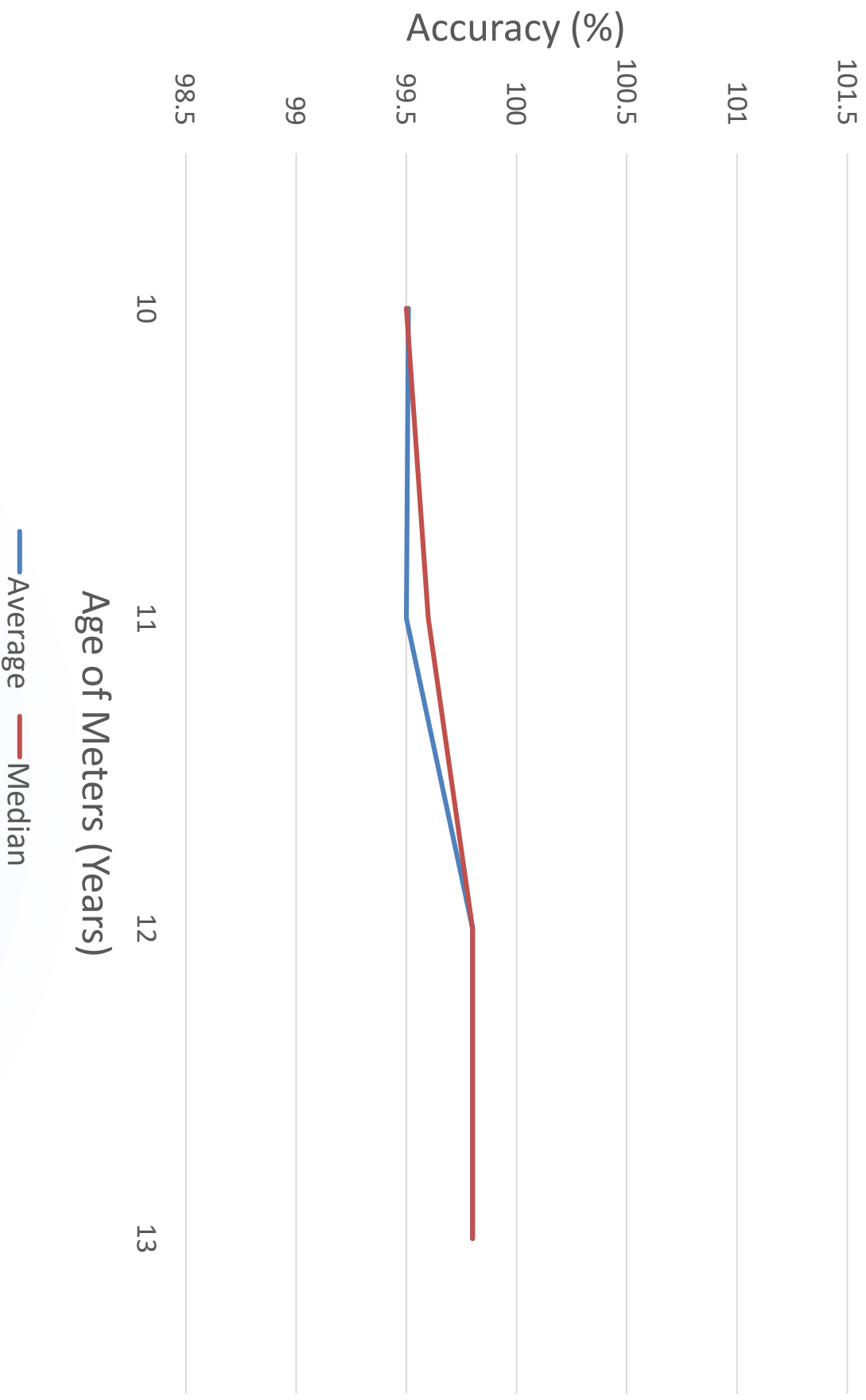


# Accuracy of Meters

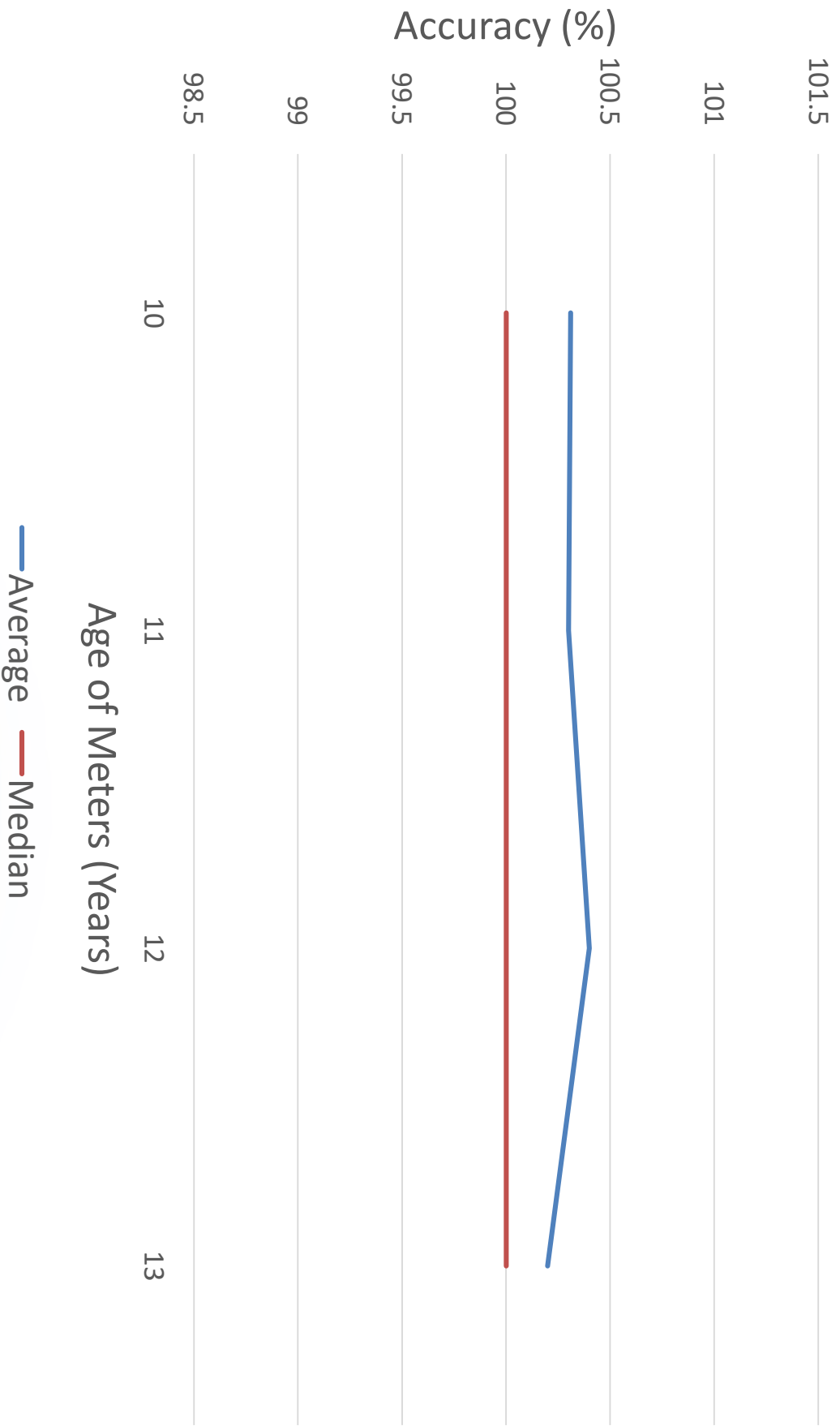
- Have Hardin County Water District's meters remained accurate after 10 years?



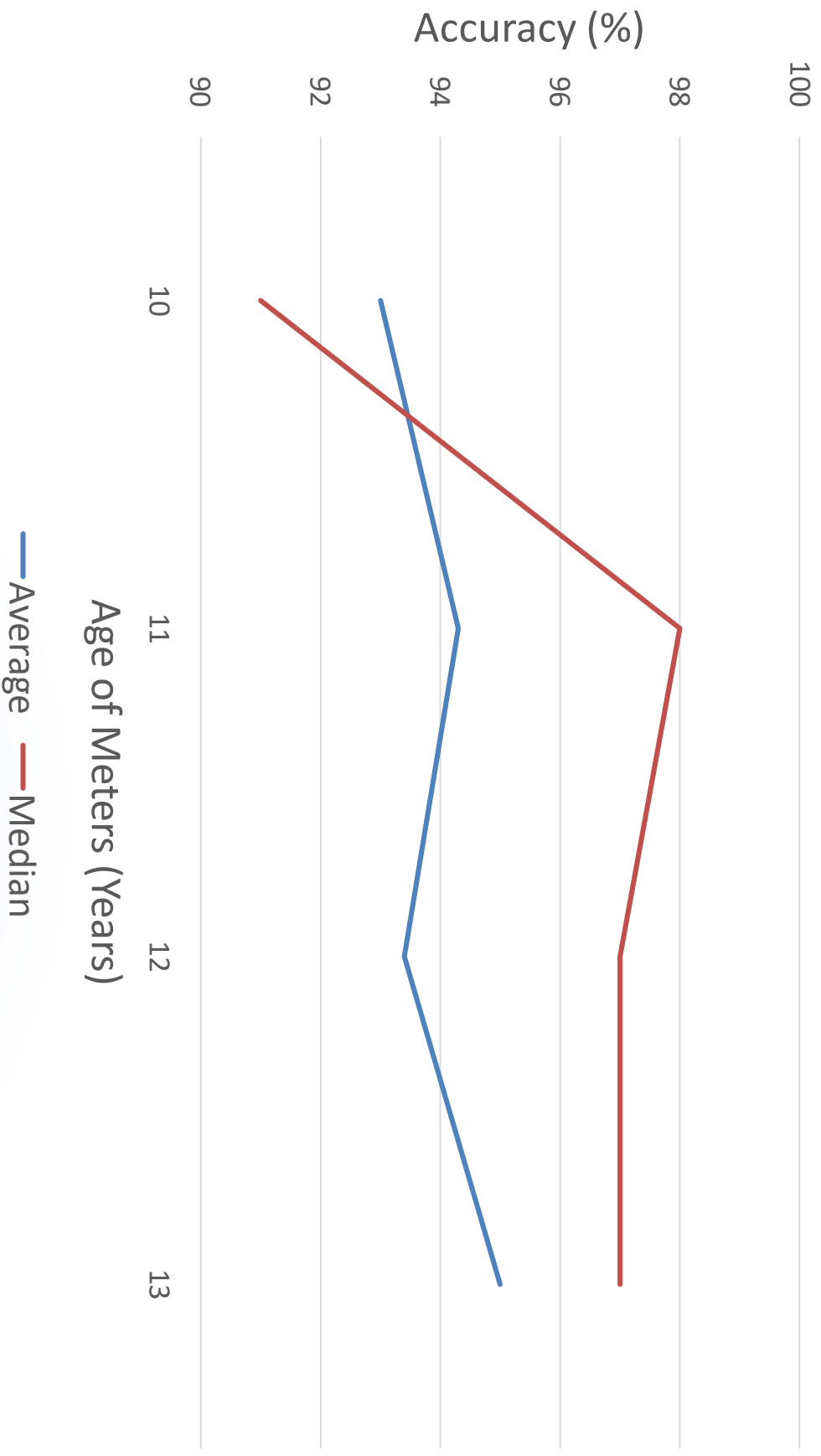
# HCWD2 Meter Accuracy - Maximum Flow



# HCWD2 Meter Accuracy - Intermediate Flow



# HCWD2 Meter Accuracy - Minimum Flow



Case No.

2019-00115



## Case No. 2019-00115

- Grayson County Water District requested deviation from 807 KAR 5:066, Section 16(1)
  - Badger Model 25: 13 years → 15 years
- Approved with same restrictions as Case No. 2016-00432
- Commission stated Grayson District should test all meters in the sample at low flow rates





# Case Nos. 2020-00137 & 2020-00138

- Filed June 8, 2020
- Final Order requested by October 1, 2020



# Questions?

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