

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF WATER )  
SERVICE CORPORATION OF KENTUCKY FOR A ) CASE NO. 2020-00160  
GENERAL ADJUSTMENT IN EXISTING RATES )

---

**ATTORNEY GENERAL’S POST-HEARING BRIEF**

---

The intervenor in this proceeding, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention (“Attorney General”), submits the following Post-Hearing Brief to the Public Service Commission (“Commission”) in the above-styled matter.

**STATEMENT OF THE CASE**

Water Service Corporation of Kentucky (“Water Service Kentucky” or the “Company”) is a Kentucky corporation whose stock is wholly owned by Corix Regulated Utilities, Inc., which is based in Chicago, Illinois.<sup>1</sup> Corix Regulated Utilities Inc. was previously known as Utilities, Inc.<sup>2</sup> Water Service Kentucky provides water service to approximately 5,530 customers in the city of Middlesboro and 572 customers in the city of Clinton, in Bell and Hickman counties, respectively.<sup>3</sup> Water Service Kentucky receives specific services such as accounting, engineering, finance, legal, and the like from various affiliates including Corix Corporate Services and WSC Shared Services.<sup>4</sup>

---

<sup>1</sup> Direct Testimony of Shawn EliceGUI. (“EliceGUI Testimony”), unnumbered page 3, footnote 1.

<sup>2</sup> *Id.*

<sup>3</sup> Water Service Kentucky’s response to the Attorney General’s First Request for Information, Item 8(b).

<sup>4</sup> Direct Testimony of Steven M. LubertoZZi (“LubertoZZi Testimony”) at 7 – 8.

Water Service Kentucky filed its notice of intent to file an application for an adjustment of rates on May 21, 2020, with the Commission. The Company subsequently filed its application on June 1, 2020, utilizing a historic test year ended March 31, 2020.<sup>5</sup> Specifically, the application requests an increase in revenues totaling \$1,080,300 per year, or 38.32% over current revenues.<sup>6</sup> Water Service Kentucky is also requesting to increase the residential monthly customer charge from \$11.45 to \$15.84,<sup>7</sup> or a 38.34% increase. The Company further proposes to implement a Qualified Infrastructure Program,<sup>8</sup> an opt-in, low-income volumetric rate for customers whose income falls below the poverty line, and a wholesale rate.<sup>9</sup>

The Commission found that the application met the minimum filing requirements and it was deemed filed on June 3, 2020. The Attorney General was granted intervention on June 16, 2020. The City of Clinton (“Clinton”) was granted intervention on August 7, 2020. On November 12, 2020, an evidentiary hearing was conducted, and on November 20, 2020, Water Service Kentucky filed responses to the post-hearing discovery requests.

## **ARGUMENT**

Pursuant to KRS 278.190(3), Water Service Kentucky bears the burden of proof to demonstrate “that an increase of rate or charge is just and reasonable.”<sup>10</sup> Water Service Kentucky has failed to meet its burden of proof to demonstrate that the requested revenue increase will result in fair, just, and reasonable rates.<sup>11</sup> The Attorney General recommends a downward adjustment to

---

<sup>5</sup> Direct Testimony of Robert Guttormsen (“Guttormsen Testimony”), at 7.

<sup>6</sup> Application at 3 – 4; On Friday, November 20, 2020, at 9:51:59 p.m., Water Service Kentucky filed a Notice of Filing – Corrected Exhibits, that potentially alters the requested rate increase; however, due to the late filing of this information, those changes are not reflected in this post-hearing brief.

<sup>7</sup> Application, Exhibits 2 and 3.

<sup>8</sup> Application at 2.

<sup>9</sup> Application at 5.

<sup>10</sup> *Kentucky-American Water Company v. Commonwealth ex rel. Cowan*, 847 S.W.2d 737,741 (Ky. 1993).

<sup>11</sup> See KRS 278.190. “At any hearing involving the rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the utility...”; See also *Energy Regulatory Commission v. Kentucky Power Co.*, 605 S.W.2d 46, 50 (Ky. App. 1980). (At such hearing and through the

the requested \$1,080,300 revenue increase because if the Company's application were accepted as is, then it would result in unjust, unfair, and unreasonable rates due to the following issues.

**I. Water Service Kentucky's proposal to increase its residential monthly customer charge by 38.4% is unreasonable.**

As previously discussed, with respect to the residential class, Water Service Kentucky proposes to increase its monthly customer charge from \$11.45 to \$15.84,<sup>12</sup> which equates to a 38.34% increase. Water Service Kentucky recently received a rate increase of \$535,327 and an increase of the residential monthly customer charge from \$10.00 to \$11.45 on February 11, 2019.<sup>13</sup> In the present case, merely a year and nine months since the last rate increase, the Company is requesting to increase rates and the customer charge yet again. An increase of this magnitude to the residential charge will hinder the residential customers' ability to control their monthly bills, and will pose a financial hardship on those customers who are already struggling to make ends meet.

The Commission has always relied upon the principle of gradualism in ratemaking, which mitigates the financial impact of rate increases on customers.<sup>14</sup> Therefore, if the Commission approves Water Service Kentucky's requested increase in rates, the Attorney General recommends a two-phased approach for any increase in the residential customer charge. For example, if the

---

Commission proceeding, the municipal utility seeking the rate adjustment bears the burden of showing that the proposed adjustment is reasonable.)

<sup>12</sup> Application, Exhibits 2 and 3.

<sup>13</sup> Case No. 2018-00208, Electronic Application of Water Service Corporation of Kentucky for a General Adjustment in Existing Rates (Ky. PSC Feb. 11, 2019), Order at 18 and 23.

<sup>14</sup> Case No. 2014-00396, In the Matter of Application of Kentucky Power Company for: (1) A General Adjustment of its Rates for Electric Service; (2) An Order Approving its 2014 Environmental Compliance Plan; (2) An Order Approving its Tariffs and Riders; and (4) An Order Granting All Other Required Approvals and Relief, Order (Ky.PSC June 22, 2014) ("the Commission has long employed the principle of gradualism"); See also, Case No. 2000-00080, In the Matter of: The Application of Louisville Gas & Electric Company to Adjust its Gas Rates and to Increase its Charges for Disconnecting Service, Reconnecting Service and Returned Checks, Order (Ky. PSC Sept. 27, 2000) ("the Commission is adhering to the rate-making concepts of continuity and gradualism in order to lessen the impact of these increases on the customers that incur these charges.").

Commission were inclined to raise the residential monthly customer service charge from \$11.45 to \$15.84, then the first phase would allow for the customer service charge to increase to \$13.65 in the first year, and then under the second phase the customer charge would increase to \$15.84 in the second year. This would at least provide an opportunity for Water Service Kentucky's customers to absorb the higher monthly customer charge over the course of a longer period of time, rather than be immediately forced to pay a 38.4% increase. The Attorney General respectfully requests any increase in the residential monthly charge to be more gradual than Water Service Kentucky's one-time proposed 38.4% increase.

**II. The Commission should require Water Service Kentucky to utilize a return on equity approach instead of the 88% operating ratio methodology.**

Mr. Lane Kollen filed testimony on behalf of the Attorney General and Clinton recommending the Commission reject Water Service Kentucky's request to continue using an 88% operating ratio approach to calculate the return on the equity component of invested capital included in the base revenue requirement.<sup>15</sup> In Mr. Kollen's testimony, he explains that the operating ratio approach is driven by the level of operating expenses, which provides the Company with a ratemaking incentive to increase its operating expenses in order to increase its return, regardless of whether the return is justified based upon its rate base or invested capital.<sup>16</sup> The operating ratio approach also provides Water Service Kentucky with a ratemaking incentive to structure its spending so that it can record the costs as expenses for current ratemaking recovery rather than as plant eligible for extended recovery over many years.<sup>17</sup> Mr. Kollen concludes that both of these ratemaking incentives tend to drive up rates to customers while providing the

---

<sup>15</sup> Direct Testimony of Lane Kollen ("Kollen Testimony"), at 3.

<sup>16</sup> Kollen Testimony at 12.

<sup>17</sup> *Id.*

Company's owner an enhanced return on equity.<sup>18</sup>

Mr. Kollen contends that the return on equity approach is used by the Commission to determine the revenue requirement for all other large and sophisticated investor-owned utilities.<sup>19</sup> Mr. Kollen conveys that if Water Service Kentucky's requested rate increase were granted, and the Company were allowed to continue to utilize an 88% operating ratio approach, then it would result in a return on equity of 14.1%, all else equal.<sup>20</sup> This return on equity is excessive when compared to returns on equity recently granted by this Commission to water, gas, and electric utilities.<sup>21</sup> For example, in Case No. 2019-00271, the Commission granted a 9.25% return on equity to Duke Energy Kentucky on April 27, 2020.<sup>22</sup> In Case No. 2020-00061, the Commission awarded a 9.20% return on equity to Louisville Gas and Electric Company in an environmental surcharge proceeding on September 29, 2020.<sup>23</sup> Based upon these recent decisions, Mr. Kollen recommends that the Commission award a return on equity to Water Service Kentucky of 9.25%, or less.<sup>24</sup>

Mr. Kollen reasons that the Commission should consider a lower return on equity than it authorized for Duke Energy Kentucky due to the lower risk associated with a water utility.<sup>25</sup> For example, Mr. Kollen asserts that the Commission could consider a decrement of 0.50% to recognize the lower risk.<sup>26</sup> In the alternative, if the Commission were inclined to allow Water Service Kentucky to continue using the operating ratio approach, then Mr. Kollen recommends

---

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 4.

<sup>20</sup> *Id.* at 3.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 4; Case No. 2019-00271, Electronic Application of Duke Energy Kentucky, Inc. for 1) An Adjustment of the Electric Rates; 2) Approval of New Tariffs; 3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and, 4) All Other Required Approvals and Relief (Ky. PSC April 27, 2020), Order at 46.

<sup>23</sup> *Id.* at 8.

<sup>24</sup> *Id.* at 4.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

increasing it from 88% to 91.78% or greater to ensure that the return on equity is 9.25%, or less.<sup>27</sup>

If the Commission accepts Mr. Kollen's recommendation then Water Service Kentucky's revenue requirement and requested rate increase would be reduced by at least \$205,652.<sup>28</sup>

In rebuttal testimony, Water Service Kentucky argues that the Company used the 88% operating ratio methodology in the pending case due to the Commission and the Attorney General encouraging Water Service Kentucky to use this methodology in its 2008 rate case.<sup>29</sup> The Company also contends that the customers will save approximately \$50,000 in rate case expense due to not hiring a rate of return expert witness.<sup>30</sup> During cross-examination, Mr. Lubertoizzi acknowledged that more than a decade had passed since the Commission and the Attorney General had initially recommended Water Service Kentucky to use an operating ratio methodology, and since that time, returns on equity have drastically been lowered.<sup>31</sup> For example, in the final Order of Water Service Kentucky's 2008 rate case, the Commission stated that the Company had requested a return on equity of 11.85%, from a range of 11.60% to 12.1%.<sup>32</sup> The Commission found that a reasonable return on equity range was 10.1% to 11.1%, with a mid-point of 10.6%.<sup>33</sup> When comparing these prior returns on equity to the most recently awarded returns on equity by the Commission of 9.25% and 9.20%, it is obvious that returns on equity have become significantly lower in the past decade. Thus, even if it was reasonable for Water Service Kentucky to utilize the 88% operating ratio methodology over a decade ago, with an equivalent of a 14.1% return on equity, it clearly is no longer leading to fair, just, and reasonable rates.

---

<sup>27</sup> *Id.* at 14.

<sup>28</sup> *Id.* at 5.

<sup>29</sup> Rebuttal Testimony of Steven M. Lubertoizzi ("Lubertoizzi Rebuttal Testimony") at 2.

<sup>30</sup> *Id.*

<sup>31</sup> Video Transcript of Evidence ("VTE") at 16:31:35 - 16:44:25.

<sup>32</sup> Case No. 2008-00563, Application of Water Service Corporation of Kentucky for an Adjustment of Rates (Ky. PSC Nov. 9, 2009), Order at 21.

<sup>33</sup> *Id.* at 24.

Also, as previously discussed, if the Commission adopts Mr. Kollen's recommendation to award a return on equity of 9.25%, or less, then the customers will save at least \$205,652 annually. Therefore, even if the Company spends up to \$50,000, which appears to be a high estimate, in rate case expense to hire a rate of return expert witness every few years, there will still be significant savings for the customers. The Attorney General respectfully requests that the Commission adopt Mr. Kollen's recommendation and award a return on equity to Water Service Kentucky of 9.25%, or less.

### **III. Miscellaneous expenses that should be removed from Water Service Kentucky's revenue requirement.**

Water Service Kentucky admitted in discovery responses and at the evidentiary hearing that it erroneously included higher preventative maintenance and repair costs for hydrants in the city of Middlesboro in the pending rate case.<sup>34</sup> The Company states that to correct this error a revenue reduction of approximately \$26,585 would be appropriate.<sup>35</sup> The Attorney General requests the removal of all monetary amounts associated with the improper inclusion of the higher preventative maintenance and repair costs for the Middlesboro hydrants.

Water Service Kentucky also acknowledged in discovery responses and at the evidentiary hearing that it erroneously included fully depreciated vehicles in the proposed depreciation expense in the pending rate case.<sup>36</sup> The Company admitted that it should have only included vehicle depreciation for assets that have not been fully depreciated.<sup>37</sup> According to Water Service Kentucky, in order to correct this error, \$101,230 should be removed from the revenue

---

<sup>34</sup> Water Service Kentucky's response to the Attorney General's First Request for Information, Item 34; Water Service Kentucky's response to the Attorney General's Second Request for Information, Item 39; VTE at 11:17:00 – 11:19:00.

<sup>35</sup> *Id.*

<sup>36</sup> Water Service Kentucky's response to the Attorney General's First Request for Information, Item 40; Water Service Kentucky's response to the Attorney General's Second Request, Item 40; VTE at 11:19:30 – 11:20:35.

<sup>37</sup> *Id.*

requirement.<sup>38</sup> The Attorney General requests the removal of all monetary amounts from the Company's proposed depreciation expense associated with the improper inclusion of fully depreciated vehicles.

The Company confirmed in discovery responses and at the evidentiary hearing that if the Commission held a virtual hearing, instead of an in person hearing, due to the Covid-19 pandemic, then \$7,400 should be removed from the rate case expense.<sup>39</sup> This monetary amount is reflective of the travel expenses such as airfare, hotel, meals, and transportation costs that would be saved by having a virtual hearing. On November 12, 2020, the Commission conducted a virtual hearing; therefore, the Attorney General requests that \$7,400 in travel expenses be removed from the Company's proposed revenue requirement.

Water Service Kentucky is requesting to include expenses associated with Project Phoenix and JD Edwards software systems in the pending rate case.<sup>40</sup> The Commission has repeatedly denied recovery of expenses associated with Project Phoenix and JD Edwards in the prior rate cases due to Water Service Kentucky being unable to demonstrate that the software system benefitted its ratepayers.<sup>41</sup> The Attorney General requests all costs related to Project Phoenix and JD Edwards be removed from the Company's revenue requirement. Additionally, Water Service Kentucky is requesting inclusion of expenses associated with a new project called FUSION, which is an internally branded implementation of Oracle Cloud.<sup>42</sup> Water Service Kentucky states that FUSION is a multi-functional platform that will replace the JD Edwards system.<sup>43</sup> Mr. Perry

---

<sup>38</sup> Water Service Kentucky's response to the Attorney General's Second Request for Information, Item 40(c).

<sup>39</sup> Water Service Kentucky's response to the Attorney General's First Request for Information, Item 24(b); VTE at 16:31:35 - 16:44:25.

<sup>40</sup> Water Service Kentucky's response to the Attorney General's First Request for Information, Item 3.

<sup>41</sup> Case No. 2010-00476, Application of Water Service Corporation of Kentucky for an Adjustment of Rates (Ky. PSC Nov. 23, 2011), Order at 13; Water Service Kentucky's response to the Attorney General's Second Request for Information, item 8(a), (d), and (e).

<sup>42</sup> Water Service Kentucky's response to the Attorney General's Second Request for Information, Item 25(c).

<sup>43</sup> *Id.*



Brown stated in discovery that the FUSION project would cost \$14,290,000,<sup>44</sup> and \$333,496 would be allocated to Water Service Kentucky.<sup>45</sup> However, at the evidentiary hearing Mr. Guttormsen stated that the cost of the FUSION project was still increasing, and that the total cost could end up being around \$15,000,000, which would increase the allocated amount to Water Service Kentucky.<sup>46</sup> The Attorney General recommends that costs associated with the FUSION project should only be allocated to Water Service Kentucky if the Commission deems it as beneficial to the Company's customers, and reasonable for a company with approximately 6,102 customers.

Water Service Kentucky requested inclusion of an estimated \$871,000 for the Middlesboro Tank Reconditioning Project and an estimated \$164,000 for the Clinton Tank Reconditioning Project in the revenue requirement,<sup>47</sup> each to be amortized over 10 years.<sup>48</sup> However, in discovery responses and Mr. Stephen R. Vaughn's supplemental testimony, the Company confirmed that the total cost of the bids received on June 5, 2020, were lower than the estimated amount contained in the application.<sup>49</sup> The actual cost for the Middlesboro Tank Reconditioning Project will be \$703,062, while the Clinton Tank Reconditioning Project will be \$171,740.<sup>50</sup> At the evidentiary hearing, Mr. Vaughn stated that there was approximately \$200,000 difference between the initial estimated proposed costs versus the actual costs for the projects, and he agreed that the excess amounts need to be removed from the requested revenue requirement.<sup>51</sup> The Attorney General

---

<sup>44</sup> Water Service Kentucky's response to the Attorney General's Second Request for Information, Item 25(a).

<sup>45</sup> Water Service Kentucky's response to the Attorney General's Second Request for Information, Item 25(b).

<sup>46</sup> VTE at 13:29:30 - 13:33:00.

<sup>47</sup> Direct Testimony of Stephen R. Vaughn Testimony ("Vaughn Testimony") at 9 – 12; Vaughn Testimony, Exhibit SV-1A.

<sup>48</sup> Vaughn Testimony at 9 – 12; Water Service Kentucky's response to the Attorney General's Second Request for Information, Item 38(c).

<sup>49</sup> Water Service Kentucky's response to the Attorney General's Second Request for Information, Item 38.

<sup>50</sup> Stephen R. Vaughn Supplemental Testimony ("Vaughn Supplemental Testimony") at 1 – 4.

<sup>51</sup> VTE at 15:42:45 – 15:44:10.

requests the estimated costs that Water Service Kentucky proposed in the application to be excluded, and only include the actual costs for the Middlesboro and Clinton Tank Reconditioning Projects.

**IV. Water Service Kentucky’s wholesale water rate should be \$2.214 per 1,000 gallons, if not higher.**

In the pending case, Water Service Kentucky is proposing to add a wholesale rate to its tariff.<sup>52</sup> According to the Company, even though it has not sold wholesale water in recent history, it does have an interconnection with the city of Pineville.<sup>53</sup> Water Service Kentucky averred that when taking into consideration electric costs, purchased water costs, and chemical costs, the average cost to produce additional water per 1,000 gallons is \$2.214.<sup>54</sup>

The first concern with the proposed wholesale water rate is that in certain areas of the application the Company states that the proposed wholesale water rate will be \$2.214 per 1,000 gallons, while in other areas of the record it specifies \$2.20 per 1,000 gallons.<sup>55</sup> If Water Service Kentucky sells wholesale water at \$2.20 per 1,000 gallons, then its own customers would be subsidizing the cost to sell water to Pineville. To prevent Water Service Kentucky’s customers from providing a subsidy to any potential wholesale customer, the wholesale rate needs to at least cover all costs to produce and transport the water. The second concern is that Water Service Kentucky did not allow for even a small amount of profit in the wholesale water tariffed rate, which could have benefitted Water Service Kentucky’s system and its customers. The Attorney General respectfully requests that the Commission analyze the Company’s proposed wholesale water rate and determine whether it is reasonable. However, to ensure that Water Service

---

<sup>52</sup> Application at 5.

<sup>53</sup> Direct Testimony of Andrew Dickson (“Dickson Testimony”) unnumbered page 6, paragraph 9.

<sup>54</sup> *Id.*; Application, Exhibit 2.

<sup>55</sup> Application, Exhibit 3, Customer Notice of Proposed Increase; Vaughn Testimony at 12.

Kentucky's customers are not subsidizing wholesale water sales, the Attorney General requests a minimum wholesale rate of \$2.214 per 1,000 gallons.

**V. The Commission should review Water Service Kentucky's proposed opt-in low-income rate and determine whether it produces fair, just, and reasonable rates.**

Water Service Kentucky states that to increase affordability for its customers, it is proposing an opt-in low-income rate for customers whose income falls below the poverty line.<sup>56</sup> The Company asserts that approximately 36% of its customers are assumed to live below the poverty line.<sup>57</sup> Water Service Kentucky further states that the median income in the service area is approximately \$24,455.<sup>58</sup> The Company explains that it will seek the assistance of a third-party income verifier who will inform Water Service Kentucky if a particular customer is eligible for the low-income rate, at which point the customer would qualify for the lower rate for twelve months.<sup>59</sup> The proposed rate for the first 100,000 gallons is \$7.548 per 1,000 gallons, whereas the proposed low-income rate would be \$5.926 per 1,000 gallons.<sup>60</sup> However, Water Service Kentucky's shareholders or parent company will not be subsidizing the low-income rate.<sup>61</sup> Instead, the rest of the Company's customers will be paying a higher rate to subsidize the low-income rate.<sup>62</sup>

The Attorney General's concerns with the proposed low-income rate are two-fold. The first concern is for the customers who fall outside of the eligibility for the low-income rate, but who are nevertheless financially struggling. For example, if hypothetically \$24,455 is the maximum income that Water Service Kentucky determines a customer can earn and still qualify for the low-

---

<sup>56</sup> Dickson Testimony, unnumbered page 4, paragraph 9.

<sup>57</sup> Dickson Testimony, unnumbered page 5, paragraph 9.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> Application, Exhibit 2.

<sup>61</sup> VTE at 13:08:00 – 13:10:00.

<sup>62</sup> *Id.*

income rate, then the customer making \$24,456 will not qualify. Not only will the customer who is making one dollar over the maximum allowed income not receive the low-income rate, but that customer will also have to pay a higher water rate to subsidize the low-income rate. This type of scenario does not appear to lead to fair, just, and reasonable rates for the Company's customers.

The Attorney General is also concerned that the proposed low-income rate violates KRS 278.170(1), which prohibits a utility from providing a rate with any unreasonable preference or advantage to any person, or to establish any unreasonable difference between classes of service for doing a like and contemporaneous service. For these reasons, the Attorney General requests that the Commission analyze Water Service Kentucky's low-income rate to determine if it leads to fair, just, and reasonable rates for all customers.

#### **VI. The Commission should deny Water Service Kentucky's request for a Qualified Infrastructure Program.**

Water Service Kentucky proposes a Qualified Infrastructure Program ("QIP") surcharge in the pending case.<sup>63</sup> If implemented, the QIP surcharge would be applied to all customer classifications for qualified infrastructure investments.<sup>64</sup> The surcharge would be calculated annually based on qualified infrastructure costs and applied to each customer's monthly bill.<sup>65</sup> The QIP surcharge would be annually updated until the next rate case, at which time the investment costs would be incorporated into base rates and the surcharge reset to zero.<sup>66</sup> Water Service Kentucky argues that the QIP is necessary because its water infrastructure is nearing the end of its useful life, and the Company must take a proactive approach to remediating infrastructure issues.<sup>67</sup> Conversely, Water Service Kentucky stated in response to discovery that if the Commission

---

<sup>63</sup> Application at 2.

<sup>64</sup> Application, Exhibit 2, Customer Notice of Proposed Increase.

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> Guttormsen Testimony at 31.

approved the QIP, the Company only anticipated replacing one mile of pipeline every calendar year.<sup>68</sup> Further, Water Service Kentucky has quite low water loss percentages,<sup>69</sup> which indicates that the water system is in good working order. Normally a pipeline replacement program is used when a utility needs to replace the pipeline in its system at an accelerated rate. However, in the instant case, given that the Company only anticipates replacing one mile of pipeline every calendar year, there does not appear to be any urgency by the Company to replace the pipeline in its system. Also, if Water Service Kentucky only anticipates that one mile of pipeline will be replaced each year under the proposed QIP, then there is no reason to segregate those costs into a separate QIP surcharge, but instead the associated costs should continue to be included in base rates. The Attorney General respectfully recommends that the Commission deny Water Service Kentucky's request for a QIP surcharge.

In the alternative, if Water Service Kentucky's request for a QIP surcharge is granted, then the Attorney General requests a reasonable cap on the allowed costs that will flow through the QIP surcharge. These cost caps would ensure that infrastructure replacement, and the associated cost would be incremental and more affordable for Water Service Kentucky's customers.

**VII. The Commission should deny all of Water Service Kentucky's requested post-test year adjustments, including two new vacant positions.**

Water Service Kentucky contends that it is proposing certain adjustments to expenses and rate base grounded upon known and measurable post-test year changes.<sup>70</sup> For example, Water Service Kentucky added four new positions since its last base rate case, but only two of the new

---

<sup>68</sup> Water Service Kentucky's response to the Attorney General's First Request for Information, Item 9(c).

<sup>69</sup> Water Service Kentucky's response to the Attorney General's First Request for Information, Item 17; Water Service Kentucky's response to the Commission Staff's Second Request for Information, Item 5. Water Service Kentucky's water loss percentages are as follows for the years 2010 – 2019: 2010 – 17.20%, 2011 – 9.79%, 2012 – 8.33%, 2013 – 6.34%, 2014 – 6.48%, 2015 – 11.53%, 2016 – 7.43%, 2017 - .3.37%, 2018 – 13.97%, 2019 – 13.98%.

<sup>70</sup> Guttormsen Testimony at 7.

positions have been filled – the Business Development Manager and the Director of Engineering and Asset Management.<sup>71</sup> Even though Water Service Kentucky has not filled the Vice President of Regulatory Affairs and Business Development or the Midwest Project Manager positions, the Company is seeking to include all expenses associated with these positions in the rates.<sup>72</sup> As previously discussed, the Company filed the pending rate case utilizing a historic test year ending March 31, 2020.<sup>73</sup> Based upon Commission precedent, these post-test year adjustments do not appear to meet the ratemaking criteria of being known and measurable and therefore should be disallowed.<sup>74</sup> It would be inherently unfair to force Water Service Kentucky’s customers to pay a water rate that includes two vacant positions. At this time, these costs are not sufficiently known and measurable, but merely speculative, and there is no guarantee that the positions will be filled.

The Attorney General requests removal of all costs associated with the two new vacant positions from the requested rate increase, as well as any other post-test year adjustment that falls outside of the test year, that are not properly known and measurable. Additionally, the Attorney General recommends only including costs for the two new filled positions if the Commission finds that the positions are necessary, the costs are reasonable, and the positions directly benefit Water Service Kentucky’s customers.

**VIII. The Commission should evaluate Water Service Kentucky’s compensation and benefit plan and only allow what is reasonable.**

Water Service Kentucky made pro forma changes to the salary and wage expense to include projected salaries, taxes, and benefits for employees, which resulted in an increase of \$191,415 to

---

<sup>71</sup> *Id.* at 17 – 21.

<sup>72</sup> *Id.*; Water Service Kentucky’s response to the Attorney General’s First Request for Information, Items 22 – 23; Water Service Kentucky’s response to the Attorney General’s Second Request for Information, Item 30.

<sup>73</sup> Guttormsen Testimony at 7.

<sup>74</sup> Case No. 2018-00208, Electronic Application of Water Service Corporation of Kentucky for a General Adjustment in Existing Rates (Ky. PSC Feb. 11, 2019), Order at 4.

the test-year expense.<sup>75</sup> The Company asserts that it performed a comparative salary analysis that compared Water Service Kentucky's salary expense to similar utility company's salary expense in Kentucky, as well as a comparison of Water Service Kentucky's salary levels to market cost of services available by outside service providers.<sup>76</sup> However, the Company does not state that the salary and wage expense was ever compared to local wage and benefit information for the geographic area where Water Service Kentucky operates in order to determine if the levels are reasonable. Further, Water Service Kentucky appeared to provide unreasonable average raises to its employees in both 2017 and 2018. In 2017, the Company awarded an average raise of 12.78% and in 2018 an average raise of 7.50%.<sup>77</sup> The Attorney General respectfully requests the Commission to review the salary and wage expense and only allow what is reasonable to be included in the rates.

Water Service Kentucky also includes \$52,465 in incentive compensation during the test year.<sup>78</sup> The incentive compensation is comprised of a long-term compensation plan that is 100% related to financial objectives and an employee annual deferred incentive plan that is 50% related to financial objectives.<sup>79</sup> The Commission has consistently disallowed recovery of the cost of employee incentive compensation plans that are tied to financial measures because such plans benefit shareholders while ratepayers receive little to no benefit.<sup>80</sup> Customers should not be forced to pay for incentive compensation that is directly tied to financial metrics, but instead these costs should be borne by the shareholders. The Attorney General requests the exclusion of all incentive

---

<sup>75</sup> Guttormsen at 16.

<sup>76</sup> *Id.* at 17.

<sup>77</sup> Water Service Kentucky's response to the Attorney General's First Request for Information, Item 20(b).

<sup>78</sup> Water Service Kentucky's response to the Attorney General's Second Request for Information, Item 27(a).

<sup>79</sup> Water Service Kentucky's response to the Attorney General's Second Request for Information, Item 27(b).

<sup>80</sup> Case No. 2018-00358, Electronic Application of Kentucky-American Water Company for an Adjustment of Rates (Ky. PSC June. 27, 2019), Order at 43.

compensation that is exclusively tied to financial performance, and does not directly benefit the customers.

Additionally, with respect to benefits packages including health insurance, dental insurance, life insurance and the like, the Attorney General respectfully requests that the Commission fully evaluate the benefits offered by Water Service Kentucky to its employees to ensure that they comply with Commission precedent.

### CONCLUSION

WHEREFORE, the Attorney General requests that the Commission set fair, just, and reasonable rates for the customers of Water Service Kentucky. If the Commission is inclined to grant a rate increase, then it should be limited to what the Company has proven with known and measurable evidence that will result in fair, just, and reasonable rates for the Company's ratepayers.

Respectfully submitted,

DANIEL J. CAMERON  
ATTORNEY GENERAL



---

ANGELA M. GOAD  
J. MICHAEL WEST  
LAWRENCE W. COOK  
JOHN G. HORNE II  
ASSISTANT ATTORNEYS GENERAL  
1024 CAPITAL CENTER DRIVE, SUITE 200  
FRANKFORT, KY 40601-8204  
PHONE: (502) 696-5421  
FAX: (502) 573-1005  
[Angela.Goad@ky.gov](mailto:Angela.Goad@ky.gov)  
[Michael.West@ky.gov](mailto:Michael.West@ky.gov)  
[Larry.Cook@ky.gov](mailto:Larry.Cook@ky.gov)  
[John.Horne@ky.gov](mailto:John.Horne@ky.gov)



*Certificate of Service and Filing*

Pursuant to the Commission's Orders dated March 16, 2020 and March 24, 2020, in Case No. 2020-00085, and in accord with all other applicable law, Counsel certifies that an electronic copy of the foregoing was served by e-mail to the following. A physical copy of the filing will be submitted to the Commission once the State of Emergency has ceased.

Todd Osterloh  
[tosterloh@sturgillturner.com](mailto:tosterloh@sturgillturner.com)

James Gardner  
[jgardner@sturgillturner.com](mailto:jgardner@sturgillturner.com)

Mary B. Potter  
[marybpotter@bellsouth.net](mailto:marybpotter@bellsouth.net)

This 23<sup>rd</sup> day of November, 2020.



---

Assistant Attorney General