

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of

Electronic Application of Bluegrass)
Water Utility Operating Company, LLC) Case No. 2020-00290
for an Adjustment of Rates and Approval)
of Construction)

**Statement of Non-Existence/Inapplicability of Certain Rate-Application Requirements
or, in the alternative, Request for Waiver of Requirement(s)**

Bluegrass Water Utility Operating Company, LLC (“Bluegrass”) herewith files an Application for, *inter alia*, a general increase in water and sewage rates pursuant to KRS 278.180 and KRS 278.190, using a full-forecasted test period. The requirements for the information to be included in such an application generally are contained in 807 KAR 5:001 §§ 12, 14, and 16, and the additional requirements when the applicant is a sewer utility are contained in 807 KAR 5:071 § 3(2). As an attachment to its Application, Bluegrass has included an index of these requirements, citing the particular regulation and indicating where in the Application or the supporting filings the required information is provided or that the information does not exist or is inapplicable to Bluegrass or under the circumstances and referring to this Statement/Waiver request.

1. Section 16(7) of 807 KAR 5:001 requires that a forecasted-test-year rate application include certain information (subparts (a) – (w)) “or a statement explaining why the required information does not exist and is not applicable to the utility’s application.” Such explaining statements are made in the Application or other filings with respect to some of the inapplicable requirements, and they are repeated here. Furthermore, Bluegrass here applies the sub§ (7) standard to all the rate application requirements even if they are listed in a regulation other than 807 KAR 5:001 § 16(7).

2. Many of the requirements in the rate-application regulations are categorically inapplicable to Bluegrass or to a rate application supported, as is the Application, by a fully forecasted test period. For example, the requirements in §16(4) and §16(5) apply only to an application supported by a historical test year. In such circumstances, it is obvious that the regulation imposes no requirement on Bluegrass relating to this Application. Information “absent” from the Application because it is obviously inapplicable can be grouped in the following categories:

Category	Regulation	Explanation
Requirement applies only <i>if</i> ...	807 KAR 5:001 §14(2), (3) §12(1)(a) §16(2), (7)(v) 807 KAR 5:071 §3(2)(h)	Bluegrass is not a corporation or limited partnership or a utility with \$5 million or more in gross revenue Bluegrass does not have billing and collection services provided by the Louisville Water Co.
Bluegrass does not provide relevant service type	807 KAR 5:001 §16(7)(h)5,6,7,8,15, 16, (i), (k), (w) §16(7)(h)13, 14	Bluegrass does not provide energy (electric or gas) or telecommunications services and is not subject to FERC or FCC jurisdiction. Bluegrass’s sewer operations are not covered by these requirements, which apply only to its water operations.

3. Under Bluegrass’s particular circumstances, the requirement is inapplicable or it necessarily follows that the information sought or the subject of the requirement does not exist. For example, the 807 KAR 5:001 § 12(2)(a)-(c) requests for information about Bluegrass stock authorized, issued, and outstanding are simply irrelevant to a non-stock entity like Bluegrass (an LLC). This type of explanation for the non-existence and inapplicability of requested information the Application covers the following:

Regulation	Explanation of Non-existence/ Inapplicability
806 KAR 5:001 §16(1)(b)2	Bluegrass does not do business under an assumed name.

Regulation	Explanation of Non-existence/ Inapplicability
807 KAR 5:001 §12(2)(a)-(c), (h) §16(7)(l), (p), (r)	Bluegrass is a non-stock, single-member LLC that is not regulated by the SEC, does not have share- or stock-holders or pay dividends or provide annual reports/statistical supplements to them.
807 KAR 5:001 §16(7)(p), (8)(i), (k)	Bluegrass was organized on March 21, 2019, and began operating as a utility under the Commission’s jurisdiction on September 16, 2019; it does not have five or 10 years of data to report.

Similarly, as a matter of fact, Bluegrass’s operations or corporate history have been such that some typical activities or documents do not exist for it. Thus:

- Bluegrass does not employ people, and so has no payroll costs to be analyzed for 807 KAR 5:001 §16(8)(g); furthermore, it provides information required by §16(7)(u) regarding personnel costs allocated to it.
- At this point, Bluegrass’s rate base is identical to the capital used to determine revenue requirements; therefore, there are no differences between them to reconcile as requested in § 16(6)(f).
- It uses the Uniform Systems of Accounts chart as its chart of accounts for water and for sewer; therefore, its chart is not more detailed than the Uniform System of Accounts chart (*see* 807 KAR 5:001 §16(7)(g)).
- Bluegrass has offered no stock or bonds, and so has no prospectuses therefore to provide (*see* §16(7)(j)).
- It is consolidated with its owners/parents for certain reporting purposes, and so has no auditor’s annual opinion report (§16(7)(q)) or “latest” filed tax returns (807 KAR 5:071 § 3(2)(i)) to provide; however, Bluegrass has filed as part of its Application the auditor’s opinion letter to consolidated 2019 financial statements of its indirect parent, CSWR, LLC

(App. Exh. 7) and consolidated 2019 state and federal tax returns with its direct parent, Bluegrass Water Utility Holding Company, LLC (App. Exh. 18).¹

4. The remaining two types of required or requested information which have not been provide as part of its Application are not normally maintained by Bluegrass or reasonably available to it from information it does maintain, and are of low relevance or unlikely to significantly improve upon using industry-wide or standard factors for Bluegrass’s calculation of revenue requirement or design of rates. The first type is water usage/consumption data for sewer rate adjustment applications (807 KAR 5:071 § 3(2)(g) – average water consumption) and for water-service rate adjustment applications (807 KAR 5:001 § 7(h)(13) – gallons projected to be sold). Bluegrass’s present and proposed water tariff charge customers a flat monthly rate and nearly all of its customers are un-metered. In a real sense, Bluegrass sells water service rather than water by the gallon. It does not routinely collect water usage data about its water customers, and differences in projected gallons sold will have little or no forecasted effect on revenues and have no simple relationship to expected costs. Similarly, Bluegrass’s present and proposed sewer tariff charge all residential and most commercial customers a flat monthly rate for service. Bluegrass does not collect and has no routine access to data about its sewer customers’ average water consumption.

5. Second, Bluegrass has not conducted a depreciation study with respect to any of its utility service facilities, and so does not have a “latest” such study to summarize as part of its Application as required in 807 KAR 5:001 § 16(7)(s). Its earliest acquisition of utility assets was only a little over a year ago and its system count and facilities mix have increased and are

¹ Both exhibits contain confidential information for which Bluegrass is requesting confidential treatment in a motion filed concurrently with the Application.

expected to further increase during the base year. It has had little time for a depreciation study, and any study it would have conducted could not be reliably extrapolated to system assets owned and operated in the base year or in the fully-forecasted test year.

6. In sum, Bluegrass submits that there is a good explanation for the non-existence of information required in the regulations for rate applications generally and that such information is not applicable to or of little relevance to its Application in this case. The Commission should find that the information is not required or that the Application as filed is otherwise sufficient.

7. In the alternative, Bluegrass requests a waiver of any applicable requirement for information that it has not provide as a part of its Application. Section 16(10) of 807 KAR 5:001 provides that “a request for a waiver from the requirements of this section [§16] shall include the specific reasons for the request.” In determining whether there has been “good cause shown” to grant a waiver, “the commission shall consider”: (a) if other information that would be provided “is sufficient to allow the commission to effectively and efficiently review” the application; (b) if the subject information “is normally maintained by the utility or reasonably available to it from the information that it maintains”; and (c) “expense to the utility in providing the information” Considerations (a) and (c) weigh in favor of waiver; (b), against.

8. Although § 16(10) is expressly applicable only to §16 requirements, Bluegrass submits that its use with respect to all rate-application regulation requirements is appropriate. The information provided in the Application and the accompanying Exhibits, Schedules, and other filings is sufficient to allow the Commission to effectively and efficiently review the Application. None of the “absent” information is normally maintained by Bluegrass, reasonably available from information it does maintain, or obtainable at an expense that would be

reasonable in the light of its inapplicability or low relevance to Bluegrass's rate adjustment request.

WHEREFORE, Bluegrass requests that the Commission find that any unmet requirements are inapplicable to Bluegrass or its rate application and therefore, no waiver is needed from the regulations. In the alternative, Bluegrass requests a waiver from any such requirement.

Respectfully submitted,

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