

# **EXHIBIT 2**

## **EXHIBIT 2**

### **CHANGES TO PROPOSED AGENDA AND PRESENTATIONS**

The agenda found at Exhibit 1 of the Application was not revised. Two presenters made revisions to their presentation. Mr. Wuetcher revised the name of his presentation from “Ratemaking 101” to “Alternative Rate Filing Procedures: Rate Adjustments Made Easy.” Mr. Lange updated some of the statistical information in his presentation. A copy of the two revised presentations is included as part of Exhibit 2.

**UTILITY  
EMPLOYMENT  
OUTLOOK**

◀Andy Lange▶

Kentucky Rural Water Association  
Operator EXPO Commissioner/Management  
June 23, 2021

---

---

---

---

---

---

---

---

**UTILITY EMPLOYMENT OUTLOOK**

“Water and wastewater treatment plant and system operator jobs are expected to **grow much faster than the average** for all occupations.”

20% growth between 2008 and 2018

Source: U.S. Bureau of Labor Statistics, Employment Outlook Handbook, 2008-2018 Update

---

---

---

---

---

---

---

---

**UTILITY EMPLOYMENT OUTLOOK**

Reasons for growth

- ◆ The retirement of the baby-boomer generation
- ◆ Number of applicants usually low because work is physically demanding and sometimes unappealing
- ◆ New plant construction to meet expected increase in demand

Source: U.S. Bureau of Labor Statistics, Employment Outlook Handbook, 2008-2018 Update

---

---

---

---

---

---

---

---

**US NEWS & WORLD REPORT**

**50 BEST CAREERS**

- ◆ Emergency Management Specialist
- ◆ Civil Engineer
- ◆ Environmental Engineering Technician
- ◆ Environmental Science Technician
- ◆ Hydrologist

---

---

---

---

---

---

---

---

**UTILITY WAGES**

2010 - 2020

**Have salaries in the water and  
wastewater field kept up with  
general wage conditions?**

---

---

---

---

---

---

---

---

**2010 - 2020**

**Inflation**

**+22.2%**

---

---

---

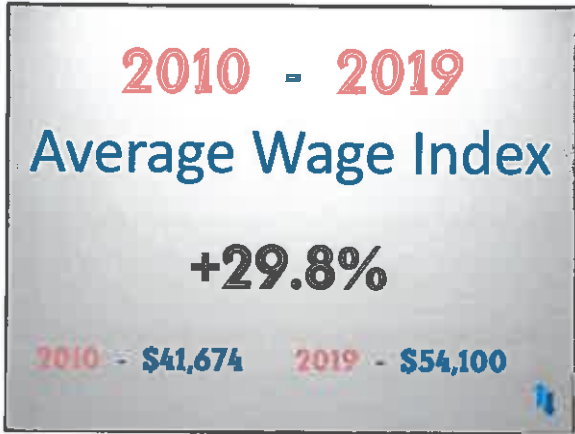
---

---

---

---

---




---

---

---

---

---

---

---

---

### National Average Wage Index

Source: Social Security Administration

<u>YEAR</u>	<u>AWI</u>	<u>+ or -</u>
1951	\$ 2,799	
1960	\$ 4,007	+ 43%
1970	\$ 6,186	+ 54%
1980	\$ 12,513	+ 102%
1990	\$ 21,028	+ 68%
2000	\$ 32,155	+ 53%
2010	\$ 41,674	+ 30%
2020	\$ 54,100	+ 30%

---

---

---

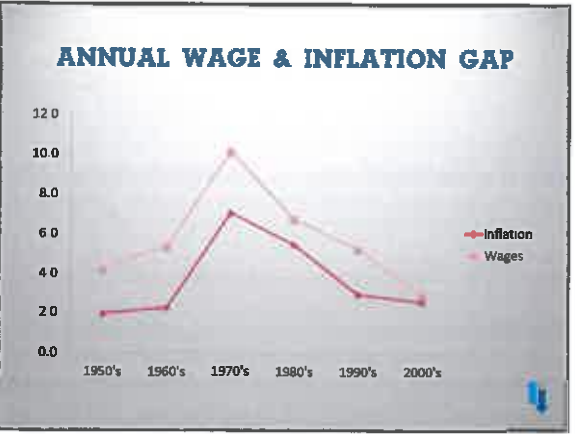
---

---

---

---

---




---

---

---

---

---

---

---

---



## KRWA Salary Survey Comparison

### Administrative Staff

Position	2010	2021	+ %
Manager/Supt	\$54,512	\$71,274	+30.7
Asst Manager	\$42,806	\$57,187	+34.2
Office Mgr./City Clerk	\$35,469	\$47,075	+32.7
CSR	\$21,314	\$33,735	+23.5
	AWI 28.8%	Inflation 22.2%	

---

---

---

---

---

---

---

---

## KRWA Salary Survey Comparison

### Field Personnel

Position	2010	2021	+ %
Plant Superintendent	\$42,345	\$53,615	+26.6
Plant Operator	\$33,035	\$39,969	+21.0
Distribution/Collection	\$32,508	\$38,408	+18.1
Meter Reader/Laborer	\$25,210	\$31,697	+25.5
	AWI 28.8%	Inflation 22.2%	

---

---

---

---

---

---

---

---

## KRWA Salary Survey

### Benefits

	1999	2012	2021
Health Insurance	86%	92%	93%
Life Insurance	55%	68%	67%
Retirement	67%	85%	91%
Vacation Leave	94%	97%	98%
Sick Leave	81%	92%	92%
Incentive Pay	5%	17%	20%

All Utilities

---

---

---

---

---

---

---

---

## Andy's Salary Sin!

Percentages Lie and Cheat!

- \$75,000 Position w/ 3% increase gets \$2,250
- \$50,000 Position w/ 3% increase gets \$1,500
- \$25,000 Position w/ 3% increase gets \$750
- \$10 per hour Position w/ 3% increase gets \$0.30

---

---

---

---

---

---

---

---

## Andy's Salary Sin! Exposed!!!

Comparison over a 10-year period @ 3% annual raise

	Position A	Position B	% Diff
Year 1.....	\$75,000	\$25,000	3:1 ratio
Year 5.....	\$86,946	\$28,892	3:1 ratio
Year 10.....	\$100,794	\$33,598	3:1 ratio
Cumulative Raise:	\$257,594	\$73,198	

---

---

---

---

---

---

---

---

## OPERATOR ?

Is there a better term to describe the modern water and wastewater operator?

If so, what is it?

Operations System Specialist

OR

HydroTechnician

---

---

---

---

---

---

---

---



Questions?

---

---

---


---

---

---

---

---



**ALTERNATIVE RATE FILING PROCEDURES:  
RATE ADJUSTMENTS MADE EASY**

Gerald E. Wuestcher  
Stoll Keenon Ogden PLLC  
900 W. Vine Street, Suite 2100  
Lexington, Kentucky 40507  
gerald.wuestcher@skoffirm.com  
<https://twitter.com/gwuestcher>  
(502) 251-9017

---

---

---


---

---

---

---

---



**Order of Presentation**

- ◆ Overview
- ◆ Ratemaking Process: How Are Rates Set?
- ◆ Preparing the Application
- ◆ Alternative Rate Filing Procedures
- ◆ Practical Suggestions
- ◆ Resources

---

---

---

---

---

---

---

---



**OVERVIEW**

---

---

---

---

---

---

---

---



## Importance of Adequate Rates

- ❖ **Maintain Quality of Service**
  - Ensure Proper Maintenance/Operation Practices
  - Provide Wages/Salaries/Benefits Sufficient to Attract Competent Personnel
  - Replace Aging Infrastructure
  - Meet Demands to Extend/Expand Service
- ❖ **Send Proper Pricing Signals to Users**

---

---

---

---

---

---

---

---



## Methods for Adjusting Rates

- ❖ **Purchased Water Adjustments**
  - Reflect H<sub>2</sub>O Supplier Increases
  - KRS 278.012/KRS 278.015/807 KAR 5:068
- ❖ **RD-Financed Construction Project**
  - Required by RD Financing Agreement
  - KRS 278.023
- ❖ **General Rate Adjustment**
  - KRS 278.180-.190/807 KAR 5:001

---

---

---

---

---

---

---

---



## Reasons for Failing to Maintain Adequate Rates

- ❖ **Lack of Knowledge of Rate-Making Process**
- ❖ **PSC Procedures: Too Complex & Bureaucratic**
- ❖ **Time & Effort Required to Apply for Rate Adjustment**
- ❖ **Expense (Lawyers, Accountants, Engineers)**
- ❖ **Customer Resistance/Anger at Rate Increases**
- ❖ **Adverse Publicity**
- ❖ **Political Interference**

---

---

---

---

---

---

---

---



## Consequences of Inadequate Rates

- ◆ Insufficient Funds to Adequately Maintain and Operate System
- ◆ Unable to Attract & Retain Qualified Personnel
- ◆ Infrastructure Problems
  - Increased Non-revenue Water
  - Increased Expenses
- ◆ Large One-time Increases - Rate Shock

---

---

---

---

---

---

---

---



## Alternative Rate Filing Procedures

- ◆ Adopted in 1982 as 807 KAR 5:076
- ◆ Purpose: Provide for a **simplified & less expensive** procedure for a small utility to adjust its rates
- ◆ Pre-Printed Application Form That Relies on Utility's Annual Report
- ◆ Fewer Supporting Documents
- ◆ No experts required/Do-It-Yourself
- ◆ Designed to Encourage More Frequent Filings

---

---

---

---

---

---

---

---



## ARF Procedures: Eligibility Requirements

- ◆ Gross annual revenues < \$5M
  - Combined Utilities: PSC considers only the revenues of Division seeking increase
  - Case No. 2014-00390 (Kentucky-American Water Co.)
- ◆ Maintain Adequate Financial Records
- ◆ Must Have File Annual Report for Immediate Past Year and Prior 2 Years

---

---

---

---

---

---

---

---



# RATEMAKING PROCESS

---

---

---

---

---

---

---

---



## Steps of Cost-based Rate Making

Revenue-Requirement Analysis

Cost-of-Service Analysis

Rate-Design Analysis

---

---

---

---

---

---

---

---



## What is a Revenue Requirement?

- ◆ The reasonable level of revenue required for a utility to properly operate and maintain its system and meet its financial obligations.
- ◆ A revenue requirement provides a basis for determining the amount of revenue to be collected from rates.

---

---

---

---

---

---

---

---



## Revenue Collected From Rates

### TOTAL REVENUE REQUIREMENT

- Miscellaneous Operating Revenues
- Unrestricted Interest Income
- = **Operating Revenue from Rates**

---

---

---

---

---

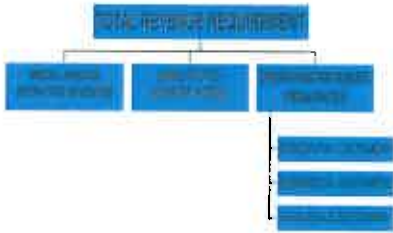
---

---

---



## Allocating Revenue Requirement: Revenue Sources



---

---

---

---

---

---

---

---



## Methods of Determining Revenue Requirements

- ◆ Debt Service
- ◆ Operating Ratio
- ◆ Rate of Return

---

---

---


---

---

---

---

---



**Debt Service Method**

Adjusted Operating Expenses  
+  
Average Annual Debt Service Requirement  
+  
Debt Service Coverage  
=  
**Total Revenue Requirement**

---

---

---


---

---

---

---

---



**Average Annual Debt Service Requirement**

- Principal + Interest payable on long-term debt
- ARF Form uses a 3-year average
- PSC will use a 5-year average if greater time between rate cases

---

---

---


---

---

---

---

---



**Debt Service Coverage  
"Cash Needs Method"**

Debt service coverage (DSC) is calculated based on the DSC required to issue bonds. This requirement is usually stated in the bond indenture.

▫ RD Debt	120% or 1.2x
▫ KIA Debt	110% or 1.1x
▫ Private Debt	Varies

---

---

---

---

---

---

---

---



### Operating Ratio Method

$$\begin{aligned} & \text{Adjusted Operating Expenses} \\ \div & \text{.88 Operating Ratio} \\ = & \text{Total Revenue Requirement} \end{aligned}$$

---

---

---

---

---

---

---

---



### Rate of Return Method "Utility Method"

**Total Revenue Requirement** = Adjusted Operating Expenses + Return on Rate Base

Where **RATE BASE** = Net Plant in Service\* + Working Capital - Contributions in Aid of Construction

\*(Original Cost of Plant - Accumulated Depreciation)

---

---

---

---

---

---

---

---



### Test Year

- ⋄ A consecutive 12-month period
- ⋄ Generally the 12 month-period reflected in the utility's most recent annual report or audit.
- ⋄ **ARF Rate Applications must use most recent annual report**

---

---

---

---

---

---

---

---





## Review of Test Year

- ❖ Reconciliation of books to test year
- ❖ Review accountant's adjusting journal entries
- ❖ Review for proper accrual accounting
- ❖ Review of test year expenses

---

---

---

---

---

---

---

---



## Adjustments to Test Year

- ❖ Test year revenues and expenses are adjusted to reflect 12 months representative of the utility's on-going, normal operations
- ❖ Adjustments must be **BOTH** known and measurable
- ❖ Adjustments must be **adequately documented**

---

---

---

---

---

---

---

---



## Types of Adjustments

- ❖ Pro forma
- ❖ Normalizing

---

---

---

---

---

---

---

---



### Pro forma Adjustments

- ◆ **Known or anticipated** increases or decreases in revenues and expenses **after test period ends**
  - Wage rate increases
  - Insurance Premium increases
  - Taxes
  - CERS Contribution Rate
- ◆ Supporting documentation required

---

---

---

---

---

---

---

---



### Normalizing Adjustments

- ◆ Adjustments made to reflect a full 12 months of operations for revenue and expense items that changed **during the test period**
  - Electric Rate Increase
  - PWA (Revenues & Expenses Changed)
  - New Facilities Placed Into Service
- ◆ Supporting Evidence Required

---

---

---

---

---

---

---

---



### Operation & Maintenance Expenses

- ◆ Salaries & Wages
- ◆ Employee benefits
- ◆ Purchased Power
- ◆ Purchased Water
- ◆ Chemicals
- ◆ Materials & supplies
- ◆ Insurance

---

---

---

---

---

---

---

---



## Allocation of Common Costs

- PSC will allocate common or shared costs
- Necessary to prevent one operation from subsidizing another
- Utility should have system for allocating common costs
- If none, PSC will determine a basis for allocation

---

---

---

---

---

---

---

---



## Depreciation Expense

"[D]epreciation is the loss, not restored by current maintenance, which is due to all the factors causing the ultimate retirement of the property. These factors embrace wear and tear, decay, inadequacy, and obsolescence. **Annual depreciation** is the loss which takes place in a year. In determining reasonable rates for supplying public service, it is proper to include . . . an allowance for consumption of capital . . ."

*Lindheimer v. Illinois Bell Tele. Co., 292 U.S. 151, 167 (1934)*

---

---

---

---

---

---

---

---



## Depreciation Expense

- Depreciation Permits Recovery of the Cost of A Capital Asset
- Depreciation expense included in revenue requirements
- Depreciation schedules **must be submitted** with ARF Application

---

---

---

---

---

---

---

---



## Depreciation Expense

- Annual Depreciation Expense =  $(\text{Asset Cost} - \text{Salvage Value}) \div \text{Useful Life}$  (years)
- Two Critical Components
  - Asset Cost
  - Useful Life
- NARUC *Depreciation Practices for Small Water Utilities* used to determine useful lives

---

---

---

---

---

---

---

---



## Depreciation Expense: Importance of Useful Life Selection

Assume \$10 Million Water Mains

Useful Life (Years)	Annual Depreciation Expense
25	\$400,000
30	\$333,334
40	\$250,000
50	\$200,000
62.5	\$160,000
75	\$133,334

---

---

---

---

---

---

---

---



## Significance of Depreciation Expense

**CASH NEEDS METHOD (Rural Development)**

Operating Expenses + Principal + Interest + WC

**PSC METHOD – Water Districts**

Operating Expenses + Principal + Interest +  
Depreciation Expense + WC

**UTILITY METHOD (IOUs)**

Operating Expenses + Interest + Depreciation Expense  
+ ROI

---

---

---

---

---

---

---

---



### Significance of Depreciation Expense

- ❖ Cash Needs Approach: CapEx recovered through Principal Payments (**No Depreciation Recovery**)
- ❖ Utility Approach: CapEx recovered through Depreciation
- ❖ PSC Method (WD): CapEx recovered **2X** thru Principal Payments **& Depreciation**

---

---

---

---

---

---

---

---



### Significance of Depreciation Expense

	Cash Needs (NI)	PSC Method (WD)	Utility
Operating Expenses	\$3,509,584	\$3,509,584	\$3,509,584
Principal	340,666	340,666	
Interest	379,102	379,102	379,102
Depreciation		978,744	978,744
Working Capital	143,954	143,954	143,954
Revenue Requirement	\$3,994,204	\$5,353,050	\$5,011,384

---

---

---

---

---

---

---

---



### Implications of Depreciation Expense Treatment

- ❖ Fairness? Equity?
- ❖ Does It Promote Infrastructure Replacement?
- ❖ Does It Hinder or Assist State/Federal Policies to Promote Affordability?
- ❖ Effect of PSC's Ability to Regulate
- ❖ Rate Case Strategy

---

---

---

---

---

---

---

---



### Other Adjustments to O&M Expenses

- **Non-recurring expenses** such as tank painting or rate case expense may be amortized over the life of expense
- **Capitalization** of improperly classified expenses such as meters or pumps

---

---

---

---

---

---

---

---



### Other Considerations

- Other requirements specified in any applicable bond ordinance (e.g., funding of specified reserves)
- Other requirements specified in any applicable purchased water agreement or other contracts or agreements (e.g., requirement to finance a capital expenditure)

---

---

---

---

---

---

---

---



### PREPARING THE APPLICATION

---

---

---

---

---

---

---

---



## Application Form

- ❖ Standardized Printed Forms
- ❖ Available at <http://psc.ky.gov/Home/UtilForms>
- ❖ Fillable Forms
- ❖ Check-the-Box/Fill-in the Blank
- ❖ Application Form consists of 7 Parts

---

---

---

---

---

---

---

---



## Required Forms

- ❖ Application for Rate Adjustment (**ARF Form-1**)
- ❖ Statement of Adjusted Operations (**Attachment SAO-W**)
- ❖ Revenue Requirement Calculation (**Attachment RR-DC**)
- ❖ Billing Analysis (**Attachment BA-DB**)
- ❖ Reasons For Application (**Attachment SR**)
- ❖ Current and Proposed Rates (**Attachment CPR**)
- ❖ Statement of Disclosure of Related Transactions (**ARF Form-3**)

---

---

---

---

---

---

---

---



## ARF Form-1

- ❖ General Information Regarding Utility
- ❖ Requested Information Includes:
  - POC's Info
  - Year of Last Annual Report Filed with PSC
  - Number of Customers as of Date of Filing
  - Attached Schedules
- ❖ Must be Signed/Made under Oath
- ❖ Checklist

---

---

---

---

---

---

---

---



## Attachment SAO-W

- Statement of Adjusted Operations
- Reflects Total Operating Revenues & Expenses
- Test Year Info Can Be Taken From **PSC Annual Report**
- Adjustments Noted On Center Column
- References Refer to Explanation of Adjustments on Page 3
- Form Performs All Calculations

---

---

---

---

---

---

---

---



## Attachment SAO-W

- Adjustments Reflect Known & Measurable Changes
- Adjustments Must Be Supported By Documentary Evidence
- "Matching Principle" Applies

---

---

---

---

---

---

---

---



## Attachment SAO-W

- Non-Recurring/Extraordinary Expenses may not be fully Recovered **BUT** may be Amortized
  - Tank Painting
  - Storm Damage
- Capital Expenditures Are Not Expensed **BUT** Depreciated
- **Rate Case Expense** Should Be Included As An Adjustment to Amortization Expense

---

---

---

---

---

---

---

---





### Attachment RR-DC

- ◆ Revenue Requirement Calculation Based on Debt Service
  - ◁ Debt Service = P&I Payment + Debt Service Coverage
  - ◁ Form uses 3-year average of P&I Payments
- ◆ Amortization Schedule (P&I) found in Debt Instruments or Audit Reports
- ◆ Debt Instruments Will Specify Coverage Requirement
- ◆ Coverage Is Generally Percentage of P&I Payment

---

---

---

---

---

---

---

---



### Attachment RR-DC

- ◆ RR-DC uses Debt Service Info & Info from SAO to Calculate
  - Total Revenue Requirement
  - Revenue Required from Rates
  - Percentage of Rate Increase
- ◆ RR-DC will perform the calculations automatically
- ◆ Percentage of Rate Increase can be applied to present rates

---

---

---

---

---

---

---

---



### Attachment BA-DB

- ◆ Billing Analysis
- ◆ Billing Analysis Must Be Prepared for Current and Proposed Rates
- ◆ Reflects Customer Usage
- ◆ Reflects Revenues From Rates
- ◆ Detailed Instructions for Preparing Billing Analysis With Attachment
- ◆ Not A Fillable Form

---

---

---

---

---

---

---

---





### ARF Form-3

- ❖ Statement of Related Transactions
- ❖ Lists All Related Transactions > \$25
- ❖ Lists All Family Members Employed by Utility
- ❖ All Commissioners/Directors/CEOs must complete & sign under oath
- ❖ Transaction between Utility and:
  - Commissioners/Directors
  - Utility Employees/Former Employees
  - Employees' Businesses or Family Members

---

---

---

---

---

---

---

---



### Why ARF FORM-3?

- ❖ Law Presumes Past Transactions are Reasonable (B/P on Challenging Party)
- ❖ Exception: Transactions with Related Party (B/P on Utility to Show Reasonableness)
- ❖ Better Informs PSC Staff Reviewers
- ❖ Benefits Utility
  - Focus on Controversial Expenditures
  - Possible Inoculation from Critics

---

---

---

---

---

---

---

---



### Other Required Documents

- ❖ Mortgages/Loan Agreements/Bond Resolutions
- ❖ Amortization Schedule For Debt Instruments
- ❖ Documentary Evidence For Adjustments
- ❖ Depreciation Schedule
- ❖ Customer Notice

---

---

---

---

---

---

---

---



### Contents of Notice

- ❖ Date of Filing
- ❖ Present Rates/Proposed Rates *(Affected Rates Only)*
- ❖ Amount of Increase *(Actual Dollars and Percentage)*
- ❖ Amount of Average Usage/Effect on Average Customer's Bill – Each Affected Rate Class

---

---

---

---

---

---

---

---



### Contents of Notice

- ❖ Required Statements
  - May Examine at PSC Office or PSC Website
  - Comments May be Submitted to PSC
  - PSC may order different rates
  - Right of Intervention
  - If no request for intervention w/i 30 days of filing, PSC may take final action

---

---

---

---

---

---

---

---



### Common Mistakes

- ❖ Failure to Submit ARF Form-3 For Chief Executive Officer & **ALL** Directors/Commissioners
- ❖ Application Not Signed/Sworn Under Oath
- ❖ Failure to Check All Boxes On Application Form
- ❖ Failure to Include Amortization Schedule/Debt Instruments
- ❖ Notice Missing
- ❖ Notice Contents Not Complete

---

---

---

---

---

---

---

---



## Privacy Protection

- ◆ Review Application for and **Redact**:
  - Social Security No./Fed Taxpayer ID No.
  - Dates of Birth
  - Driver’s License/Other State ID No.
  - Bank Account No.
  - 3d Party’s Telephone No., Address, E-mail Address
- ◆ Results of Failure to Redact
  - Rejection of Filing (**Delay – Lost \$**)
  - Penalty
- ◆ **807 KAR 5:001, Section 4(10)**

---

---

---

---

---

---

---

---



## Who Signs Application?

- ◆ **807 KAR 5:076, §4(1)(a)** - Signatory must
  - Be “duly designated by the applicant”
  - Have “knowledge of the matters established in the application”
- ◆ Likely Candidates
  - Manager
  - Chairman
  - Attorney
- ◆ Board Should Authorize Filing by Resolution
- ◆ Resolution Should Include the Requested Rates

---

---

---

---

---

---

---

---



## ALTERNATIVE RATE FILING PROCEDURES

---

---

---


---

---

---

---

---



## Order of Events

1. Pre-filing Notices
2. Filing of Application
3. PSC Order Designating Procedures
4. Staff Field Visit
5. Staff Report
6. Response to Staff Report
7. Conference
8. Hearing
9. Final Order

---

---

---

---

---

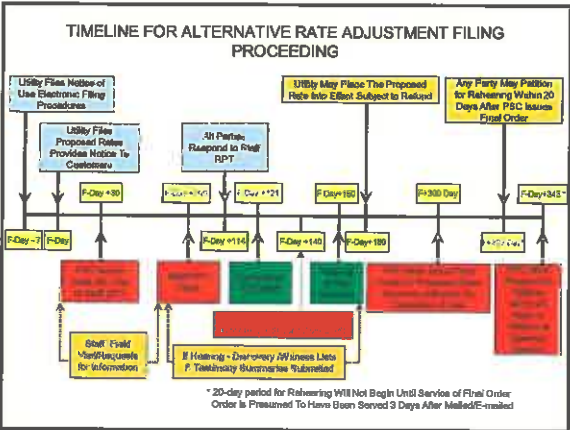
---

---

---

---

---




---

---

---

---

---


---

---

---

---

---



## Pre-filing Notices

- ❖ Notice of Intent Use Electronic Filing Procedures (At Least 7 Days Before Filing)
- ❖ Notice to Attorney General
  - Serve Copy of Application By Mail or E-Mail
  - Before or At Time of Filing
  - E-mail Address: [rateintervention@ag.ky.gov](mailto:rateintervention@ag.ky.gov)
- ❖ Provide Notice to Customers
- ❖ Public Posting Of Notice

---

---

---

---

---

---

---

---

---

---



### Notice: Customer Notice

- ❖ If 20 customers or less – Must be Mailed
- ❖ More than 20 customers:
  - Mail with Customer Bills (NLT Date of Filing)
  - Mail Separately to each customer by Date of Filing
  - Publish in Newspaper of General Circulation weekly for 3 weeks (1<sup>st</sup> publication by Date of Filing)
  - Combining Methods Permitted
- ❖ Copy of Notice Must Be **Attached to Application**
- ❖ **Proof of Notice** Must be Filed w/i 45 days of the filing of the application

---

---

---

---

---

---

---

---



### Notice: Public Posting

- ❖ Post Notice At Utility's Place of Business NLT Date of Filing with PSC
- ❖ Web Sites – If Utility maintains Web Site:
  - Post Notice on Its **Website**
  - Post **Link to documents' location** on PSC Web Site
  - Utility's Facebook Page considered Website
- ❖ Postings May Not Be Removed Until Final Decision

---

---

---

---

---

---

---

---



### Filing Application

- ❖ Mail/Personal Delivery of **Original & 5 Copies**
- ❖ Electronic Procedures
  - Establish Account At PSC
  - Timely Notice of Use Electronic Procedures
  - Upload Electronic Version
  - File **1 Copy** of Paper Version W/i 2 Business Days
- ❖ PSC Reviews Application – Issues Letter Re: Acceptance Within 7 – 10 days
- ❖ Application Not Deemed Accepted Until All Deficiencies Cured

---

---

---

---

---

---

---

---



## Significance of Application's Acceptance

- ❖ Filing Starts the Clock
- ❖ PSC has **30 days** from date of filing to decide on use of Staff Report (*Procedural Schedule*)
- ❖ Utility May Not Place Proposed Rates Into Effect for **6 months from Filing** - 807 KAR 5:076, §7
- ❖ If No Decision Within 6 Months, Proposed Rates May Be Placed Into Effect Subject To Refund
- ❖ PSC Must Issue Final Decision within **10 Months**

---

---

---

---

---

---

---

---



## Staff Visit/Report

- ❖ PSC Establishes Procedural Schedule - Orders Staff To Prepare Report (Generally 10 weeks)
- ❖ Staff Conducts Field Visit
  - Inspects Records
  - Gathers Documents
  - Interviews Utility Personnel
- ❖ Visit Least Costly Means to Gather Evidence
- ❖ **Alternative Approach:** Written Requests for Info
- ❖ Staff Issues Written Report of Findings and Recommendations
- ❖ Report May Address Issues Other than Proposed Rates

---

---

---

---

---

---

---

---



## Response to Staff Report

- ❖ Generally 14 days to Response to Report & Request Hearing
- ❖ Failure to Respond Deemed Acceptance of Staff's Findings & Recommendations & Waiver of Hearing
- ❖ Evidence May Be Submitted with Response
- ❖ **Utility Response Required** If Staff Recommends Rates Higher than Proposed Rates

---

---

---

---

---

---

---

---





## If Higher Rates Are Recommended

- ❖ Utility Must Expressly Accept Or Decline Staff Recommendation
- ❖ Notice Of Higher Rates Must Be Published If Recommended Rates Are Accepted & Exceed 110% Of Requested Revenue Increase
- ❖ PSC Order Specifies Contents of Notice
- ❖ Purpose: Permit Customers the Opportunity to Object/Comment on Higher Rates

---

---

---

---

---

---

---

---



## Conference With PSC Staff

- ❖ Generally 14 days After Responses to Report
- ❖ Informal – No Attorney Required
- ❖ Applicant May Question Staff
- ❖ Opportunity to Present Additional Evidence or Explanation
- ❖ Settlement Discussions

---

---

---

---

---

---

---

---



## Hearing

- ❖ Formal Hearing
- ❖ Utility Must Be Represented By Attorney
- ❖ Must Present Witnesses In Support of Its Application
- ❖ Opportunity To Present Additional Evidence/Rebut Staff
- ❖ PSC Staff Will Testify
- ❖ AG/Other Parties May Participate
- ❖ Recorded/Streamed Over Internet
- ❖ Upon Completion – Case Stands Submitted

---

---

---

---

---

---

---

---



## Final Decision

- ❖ PSC Must Issue Order NLT 10 Months Of Filing
- ❖ PSC Generally Issues Order Within 150 days of Filing
- ❖ Requests for Rehearing must be Filed Within 23 Days of Order
- ❖ PSC has 20 days from Request to Deny or Grant Rehearing
- ❖ Any Party May Bring Action For Review in Franklin Circuit Court 23 days after Order Denying Rehearing or 30 days after Final Order

---

---

---

---

---

---

---

---



## PRACTICAL SUGGESTIONS

---

---

---

---

---

---

---

---



## Preparing the Application

- ❖ **Key Objectives:**
  - Compliance with ARF Regulation
  - Ensure Prompt and Uneventful Review
  - Avoid Adverse Publicity
  - Avoid Embarrassment to Utility & Commissioners
  - Maximize Revenue Requirement

---

---

---

---

---

---

---

---



### Preparing the Application

- ❖ Review all test year expenses for improper or unlawful expenditures
  - Donations
  - Non-mission related – Gifts/Promotional Items
  - Commissioner Fees/Expenses
- ❖ Remove unlawful/unreasonable expenses

---

---

---

---

---

---

---

---



### Preparing the Application

- ❖ Check All Existing Debt Instruments For PSC Authorization
- ❖ Examine current billing practices to ensure utility tariff supports
- ❖ Review Board Minutes for any embarrassing/harmful information or comments

---

---

---

---

---

---

---

---



### Commissioner Salaries/Benefits

- ❖ Fiscal Court Approval of Salaries
- ❖ Evidence of Attendance at Approved Training
- ❖ PSC Skeptical of Fringe Benefits (Esp. Health Insurance)
- ❖ Fringe Benefits should not be greater than employee benefits
- ❖ No free service
- ❖ **Remove** Fringe Benefit Expenses

---

---

---

---

---

---

---

---



## Wage Increases

- ❖ Provide Support for Wage Increase
  - Consumer Price Index
  - Bureau of Labor Statistics
  - Local Surveys
  - Employee Evaluations
- ❖ Annual Increases in Excess of Cost of Living
  - Written Performance Evaluations
  - Other factors: Labor Market/Location
  - Total Salary Comparison

---

---

---

---

---

---

---

---



## Wage Increases

- ❖ Document Wage Decisions: Bd Minutes should reflect Bd's reasoning
- ❖ Implement Evaluation System to better support selective wage/salary increases
- ❖ Avoid across-the-board performance raises
- ❖ Adopt increases before filing application

---

---

---

---

---

---

---

---



## Bonuses

- ❖ PSC has historically disallowed bonuses
  - Salary adequate
  - Non-recurring
  - Discretionary
- ❖ Question of Lawfulness
  - KY Constitution Section 3
  - OAG 62-1
- ❖ Alternative: Incentive Compensation Policy

---

---

---

---

---

---

---

---



## Health Insurance

- ❖ PSC reducing Employer Portion to reflect national average based upon BLS studies
  - 78% of Single-Person Coverage Cost
  - 66% of Family Coverage
- ❖ Any Costs in Excess will be disallowed
- ❖ Safe Harbor Rule: If Employees pay at least 12% of Health Insurance Cost – No Disallowance
- ❖ Should Utility Self-Disallow?

---

---

---

---

---

---

---

---



## Other Suggestions

- ❖ Review Depreciation Schedule with NARUC's *Depreciation Practices for Small Water Utilities*
  - Note any service lives that vary from Guide
  - Make adjustment to reflect Guide's service life **OR**
  - Explain why utility's service life is appropriate
- ❖ Use Electronic Filing Procedures

---

---

---

---

---

---

---

---



## Other Suggestions

- ❖ Provide Documents Likely to be Requested
  - General Ledger
  - Board Meeting Minutes
  - Historical Labor Costs/Breakdown of Employee
  - Audit Adjusting Entries
- ❖ Include Estimated Rate Case Expense – **BE LIBERAL IN ESTIMATE**

---

---

---

---

---

---

---

---



### Is A Lawyer Needed?

- ❖ 807 KAR 5:076, §13
- ❖ No Attorney is required to:
  - File application
  - Respond to information requests
  - Appear at conferences
  - Submit Response to Staff Report
- ❖ Attorney Required Only for Hearings

---

---

---

---

---

---

---

---



### Is A Lawyer Needed?

- ❖ How Familiar Is Utility With Process?
- ❖ Opposition/Intervenors Expected?
- ❖ Complicated Issues?
  - Depreciation
  - Debt Service
  - Rate Design
  - Unusual Expenses
- ❖ Likelihood of Hearing?
- ❖ Cost – How much can Utility afford?

---

---

---

---

---

---

---

---



### Is A Lawyer Needed?

- ❖ Purposes for Retaining Lawyer:
  - Identify/Address Potential Ratemaking Problems
  - Avoid Procedural Delays (Delay = \$\$\$)
  - Counterweight to PSC Staff/AG/Other Intervenors
  - Prepare for Hearing
- ❖ How much lawyer is needed?
  - Standby/limited oversight
  - Full Participation
- ❖ How Familiar is Lawyer with the PSC Process?

---

---

---


---

---

---

---

---



## Is A Lawyer Needed?

- Fees:
  - Fixed Fee for Expected Services
  - Fixed Fee/Retainer: Max Fee but Charge Per Hour until Max
  - Contingency: Hourly Rate if Hearing
  - County Attorney (No Fee)
  - Lower Rate/Lesser involvement in Later Cases
- Fees Recoverable as Rate Case Expense

---

---

---


---

---

---

---

---



## Review and Response to Staff Report

- Review the Entire Report
- Accountant & Attorney should also review
- Note Overall Rate Recommendation – Are the recommended rates acceptable?
- Review specific findings & recommendations
  - Does the Utility disagree with any specific finding or recommendation?
  - What is the basis for disagreement?
- Give Attention to Non-Rate Specific Recommendations

---

---

---


---

---

---

---

---



## Review & Response to Staff Report

- Consider the future effect of accepting Staff finding or recommendation
- Response:
  - Provide additional evidence/statement to request reconsideration
  - Consider the Use of a Conditional Acceptance
  - Note all objections
  - Acceptance of Higher Rates
  - Phasing In Higher Rates
- Board Should Formally Approve Response/Acceptance

---

---

---

---

---

---

---

---



## ARF Application & Planning

- ❖ Incorporate Attachments SAO-W & RR-DC Into Planning
- ❖ Annually Review the Need For Rate Increase
- ❖ Rate Review Includes Non-Recurring Charges & Fee
- ❖ Consider More Frequent Filings To Reduce Rate Shock & Increase Customer Acceptance

---

---

---

---

---

---

---

---



## RESOURCES

---

---

---

---

---

---

---

---



## Resources

- ❖ Compilation of Public Utility Laws and Regulations
- ❖ PSC Web Site – [psc.ky.gov](http://psc.ky.gov)
- ❖ *Depreciation Practices for Small Water Utilities*
- ❖ 807 KAR 5:076
- ❖ Presentation – KRWA Website
- ❖ PSC Checklist – PSC Website

---

---

---

---

---

---

---

---





Questions?

---

---

---

---

---

---

---



**Contact information:**

Gerald E. Wuetcher  
Stoll Keenon Ogden PLLC  
300 W. Vine Street, Suite 2100  
Lexington, Kentucky 40507  
[gerald.wuetcher@skofirm.com](mailto:gerald.wuetcher@skofirm.com)  
<https://twitter.com/gwuetcher>  
(859) 231-3017

---

---

---

---

---

---

---