

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

**ELECTRONIC APPLICATION OF)
HARDIN COUNTY WATER DISTRICT)
NO. 2 FOR ACCREDITATION) CASE NO. 2021-00331
APPROVAL OF COMMISSIONER)
TRAINING)**

APPLICATION

Hardin County Water District No. 2 (“Hardin District No. 2”) and Stoll Keenon Ogden PLLC (“Joint Applicants”) apply for an Order from the Public Service Commission accrediting and approving a proposed water district commissioner training program for continuing education credit pursuant to KRS 74.020(6) and (7) and 807 KAR 5:070.

In support of its application, the Joint Applicants state:

1. The full name and post office address of Hardin District No. 2 is: Hardin County Water District No. 2, P.O. Box 970, Elizabethtown, Kentucky 42702-0970. Its electronic mail address is lsims@hcwd2.org.

2. Pursuant to 807 KAR 5:001, Section 4(8),¹ copies of all orders, pleadings, and other communications related to this proceeding should be directed to:

Katelyn L. Brown
Stoll Keenon Ogden PLLC
500 West Jefferson Street, Suite 2000
Louisville, KY 40202
(502) 568-5711
Fax: (502) 333-6099
katelyn.brown@skofirm.com

Damon R. Talley
Stoll Keenon Ogden PLLC
P.O. Box 150
Hodgenville, KY 42748-0150
(270) 358-3187
Fax: (270) 358-9560
damon.talley@skofirm.com

Lea Ona Sims
Hardin County Water District No. 2
P.O. Box 970
360 Ring Road
Elizabethtown, KY 42702
(270) 737-1056
lsims@hcwd2.org

3. Hardin District No. 2 is not a corporation, limited liability company, or limited partnership. It has no articles of incorporation or partnership agreements.

¹ On August 23, 2021, Hardin District No. 2 gave notice pursuant to 807 KAR 5:001, Section 8, of its intent to file this application and of its use of electronic filing procedures.

4. Hardin District No. 2 is a water district organized pursuant to KRS Chapter 74.

5. Hardin District No. 2's territory includes all of Hardin County, Kentucky, except for the city of Radcliff and the northern portion of Hardin County, and portions of Larue and Hart Counties.

6. Stoll Keenon Ogden PLLC is a Kentucky Limited Liability Company that was organized under the laws of the Commonwealth of Kentucky on December 28, 2005 and is currently in good standing. It provides legal services to local, regional, national, and international clients.

7. Stoll Keenon Ogden PLLC's mailing address is: 500 West Jefferson Street, Suite 2000, Louisville, Kentucky 40202. Its email address for purposes of this Application is: katelyn.brown@skofirm.com.

8. Joint Applicants propose to sponsor and conduct a water management training program on September 27, 2021 at Hardin District No. 2's offices in Elizabethtown, Kentucky. The program is entitled "Hardin County Water Commissioner Training Seminar." A copy of the proposed agenda is attached to this Application as **Exhibit 1**.

9. This program is expected to be conducted in-person, with the possibility that some or all presenters may present virtually if the COVID-19 pandemic continues to worsen. The presenters, all water district commissioners, and staff in

attendance at Hardin District No. 2's office will abide by all COVID-19 safety protocols and social distancing measures.

10. As reflected in **Exhibit 1**, the proposed training program will include presentations on recent developments in utility regulatory law, including a general overview of recent Kentucky court and Public Service Commission decisions; the major challenges facing water districts today, including 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 regulatory and accounting aspects of depreciation for utilities; the regulatory aspects of customer relations; an overview of the Public Service Commission's ratemaking process for water districts; and a panel discussion on recurring legal issues present in the operation and management of water and wastewater systems. These presentations will enhance the attendees' understanding of relevant legal, financial, and technical issues involved in the management, operation, and maintenance of water and wastewater systems and are calculated to enhance and improve the quality of the management, operation, and maintenance of the attendees' water and wastewater systems.

11. The proposed training program consists of six hours of instruction and should be accredited and approved as water management training satisfying the

requirements set forth in KRS 74.020(7) to establish a water district commissioner's eligibility for a maximum annual salary of \$6,000. **Joint Applicants are not requesting that the proposed training program be accredited as a program of instruction for newly appointed commissioners.**

12. A biographical statement containing the name and relevant qualifications and credentials for each presenter is attached at **Exhibit 2** of this application.

13. The written materials to be provided to each attendee are attached at **Exhibit 3**. Should any presenter revise or amend his or her presentation prior to the presentation or provide additional written materials to the attendees, Joint Applicants will include a copy of the revised presentation with its sworn statement and report regarding the instruction.

14. In addition to Hardin District No. 2's management staff and commissioners, the management staff and members of the Boards of Commissioners of the following water district have been invited to attend the proposed training: Grayson County Water District; Hardin County Water District No. 1; Larue County Water District No. 1; Meade County Water District, and North Nelson Water District.

15. The Joint Applicants will retain a record of all water district commissioners attending the proposed training program.

16. Within 30 days of the proposed training program's completion, the Joint Applicants will file with the Public Service Commission a sworn statement:

- a. Attesting that the accredited instruction was performed;
- b. Describing any changes in the presenters or the proposed program curriculum that occurred after certification; and
- c. Containing the name of each attending water district commissioner, his or her water district, and the number of hours that he or she attended.

17. The Joint Applicants will include with the sworn statement documentary evidence of the program's certification by certifying authorities and a copy of any written material given to the attendees that has not been previously provided to the Public Service Commission.

18. The Joint Applicants will admit representatives of the Public Service Commission to the proposed training program at no charge to permit such representatives to assess the quality of the program's instruction, monitor the program's compliance with the Public Service Commission directives, regulations, or other requirements, or perform any other supervisory functions that the Public Service Commission deems necessary. If the proposed training program is conducted virtually, the Joint Applicants will grant access to the online platform to representatives of the Public Service Commission upon request.

WHEREFORE, the Joint Applicants request that the Commission approve and accredit the proposed training program entitled “Hardin County Water Commissioner Training Seminar” for six hours of water district management training.

Dated: August 27, 2021

Respectfully submitted,



Katelyn L. Brown
Stoll Keenon Ogden PLLC
500 West Jefferson Street, Suite 2000
Louisville, KY 40202
Telephone: (502) 568-5711
Fax: (502) 333-6099
katelyn.brown@skofirm.com

*Counsel for Hardin County Water District
No. 2*

CERTIFICATE OF SERVICE

In accordance with the Commission's Order of July 22, 2021 in Case No. 2020-00085 (Electronic Emergency Docket Related to the Novel Coronavirus COVID-19), this is to certify that the electronic filing has been transmitted to the Commission on August 27, 2021; and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.



Katelyn L. Brown

EXHIBIT 1



Hardin County Water Commissioner Training Seminar

Presented by

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

September 27, 2021

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 – Damon Talley**
This presentation reviews recent developments in public utility law and regulation. Topics include unaccounted water loss, revisions to the Open Meetings Act and Open Records Act, borrowing money, keeping Minutes, wholesale water purchase agreements, and laws enacted by the 2021 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 PSC Consumer Services – Rosemary Tutt

This presentation will focus on the regulatory aspects of customer relations. Topics include the Customer Bill of Rights, customer billing disputes, installation and termination of utility service, and the PSC’s informal and formal complaint processes. The presenter will also address landlord-tenant utility service issues, imputation of utility bills to family members, and the importance of tariffs and water user agreements.

1:40 - 2:40 Rate Adjustments Made Easy – Gerald Wuetcher

This presentation is an overview of the Public Service Commission’s ratemaking process for water districts. Topics include cost-based rates, revenue requirement calculation, cost-of-service study, Alternative Rate Filing procedures, and customer notice requirements. The presentation also discusses specific terms used in ratemaking such as known and measurable, pro forma, normalizing revenues and expenses, and test year. The speaker will also offer practical suggestions for streamlining the rate making process.

**2:45 - 3:45 Legal Issues in the Operation & Management of Water Systems
Panel Discussion – Katelyn Brown, Damon Talley & Gerald Wuetcher**

A panel of attorneys will entertain audience questions regarding frequently recurring legal issues faced by water utilities. Discussion is expected to address KRS Chapter 74 and its effects on the management and operation of water districts, as well as other highly relevant statutory provisions, such as the Claims against Local Government Act, Bidding Requirements provision of KRS Chapter 424, Eminent Domain, Local Model Procurement Law, Whistle Blowers Act, and general laws related to special districts. PSC regulatory requirements will also be discussed.

3:45 Closing Remarks & Administrative Announcements

EXHIBIT 2



Damon R. Talley

Direct Phone: 270.358.3187

damon.talley@skofirm.com

BAR & COURT ADMISSIONS

Kentucky

U.S. District Court, Eastern
District Of Kentucky

U.S. District Court, Western
District Of Kentucky

United States Supreme Court

EDUCATION

University of Kentucky College of
Law
1975, J.D.

University of Kentucky College of
Engineering
1972, B.S.M.E.

RECOGNITION

Best Lawyers in America®, 2021-
present

Sullivan Medallion, presented to
Outstanding Graduating Student,
University of Kentucky

Damon R. Talley

Damon joined Stoll Keenon Ogden's Utility & Energy practice as Of Counsel in 2015 and serves clients through the firm's Hodgenville, Lexington and Louisville offices.

Before his time at SKO, Damon worked for decades in private practice and has provided legal representation to public utilities throughout Kentucky. He has focused primarily on water utilities, and his deep expertise in drinking water has earned him a reputation statewide as a go-to legal resource in this area. Damon is general counsel of the Kentucky Rural Water Association and has served in this capacity since 1979.

Given his substantial experience, Damon is frequently called upon to speak at training sessions sponsored by the Kentucky Rural Water Association, Division of Water, Utility Management Institute and other utility groups in the state.

Damon is highly active in the local community and serves as a board member of several nonprofit organizations. He is a past board member of the Kentucky Infrastructure Authority. He was a charter member, long-time board member and two-term board chairman of the Kentucky FFA Foundation.

Utility & Energy: Damon represents public utility clients before federal and state courts at the trial and appellate levels. He handles matters such as rate adjustments, transfers of control, financing and construction applications, and consumer complaint proceedings.

Work Highlights

Damon serves as General Counsel of the Kentucky Rural Water Association and has served in this capacity since 1979.

Damon serves as General Counsel of the Kentucky Rural Water Finance Corporation and has served in this capacity since 1995.

Moot Court Board,
president, University of Kentucky
College of Law

Outstanding Student, University
of Kentucky College of
Engineering

Omicron Delta Kappa,
president, University of Kentucky

Kentucky Association of Future
Farmers of America, president

Outstanding Citizen Award,
LaRue County Chamber of
Commerce, 1990

Outstanding Citizen Award, Cave
City Chamber of Commerce,
1981

Outstanding Citizen Award,
Horse Cave Chambers of
Commerce, 1979

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Biography

**Greg C. Heitzman, PE, MBA
President
BlueWater Kentucky
Louisville, KY**

2016

Greg Heitzman is President of BlueWater Kentucky, a management consulting firm serving the water and wastewater industry. From 2011 to 2015, he served as Executive Director/CEO of the Louisville Metropolitan Sewer District (MSD). Prior to MSD, he worked 31 years with the Louisville Water Company serving as Chief Engineer from 1991 to 2007 and President/CEO from 2007 to 2013.

In his executive roles for Louisville MSD and Louisville Water, Greg provided leadership for Mayor Fischer's One Water Partnership to consolidate water services and administrative functions of Louisville MSD and Louisville Water. Greg also led strategic initiatives to expand water and wastewater services in the region, develop high performance teams, establish model programs for corporate controls (policy, procedures and work instructions), and develop new lines of business and technology to enhance revenue and reduce costs.

Greg obtained his Bachelor and Master's degrees in Civil Engineering from the University of Kentucky and an MBA from the University of Louisville. He is a licensed Professional Engineer in Kentucky and recipient of AWWA George Warren Fuller Award. He is an active member in both AWWA and the Water Environment Federation/Association. He currently serves on the following industry and community boards: Water Research Foundation; Water Information Sharing and Analysis Center (Water ISAC); Louisville Water Foundation; Better Business Bureau; and Tree Louisville Commission.

He and his wife, Linda, reside in Louisville. Their daughter, Claire, is married and teaches high school in Lexington, KY.



**625 Myrtle Street
Louisville, Kentucky
502-533-5073**



Katelyn L. Brown

Direct Phone: 502.568.5711
katelyn.brown@skofirm.com

BAR & COURT ADMISSIONS

Kentucky

EDUCATION

University of Kentucky College of
Law

2018, J.D., cum laude

University of Kentucky

2014, B.S. in Accounting

RECOGNITION

Faculty Cup Award, UK College
of Law, 2018

Student Bar Association
President, UK College of Law,
2017-2018

Student Representative on the
College of Law Building
Committee, UK College of Law,
2016-2018

Pro Bono Award (for 50 or more
hours of pro bono work during
law school), UK College of Law,
2018

Katelyn L. Brown

Katelyn Brown joined Stoll Keenon Ogden in 2018 as an Associate in the Louisville office, following completion of the firm's Summer Associate program in Lexington. She is part of the Utility & Energy and Public Finance practice groups at SKO.

Katelyn graduated from the University of Kentucky, where she went on to earn her J.D. with a cum laude distinction. She is also a Certified Public Accountant. During her time in law school she served as president of the Student Bar Association at UK College of Law and was the student representative on the Building Committee there. She also volunteered with the VITA (Volunteer Income Tax Assistance) Clinic. Katelyn has been recognized with several awards related to her achievements as a law student.

Utility & Energy Services: Katelyn is part of a team that represents utility companies on a wide range of issues before the state commissions in Indiana, Kentucky, Tennessee and Virginia, the Federal Energy Regulatory Commission and the Federal Communications Commission, local governments and trial and appellate courts. As part of her work with this practice group, she drafts pleadings for the largest electric utilities in Kentucky and researches regulations and drafts agreements between local water districts and cities.

Public Finance: Katelyn has a strong accounting background and recently received her CPA license, which assists her work in providing strategic counsel to clients. She joins an expert legal team at SKO in representing financial institutions and companies in their taxable and tax-exempt bond matters.

Volunteer Income Tax Assistance
clinic volunteer, UK College of
Law, 2016-2018

Staff Editor, *Kentucky Law
Journal*, UK College of Law,
2016-2018

Singletonary Scholar, University of
Kentucky, 2010-2014

CALI awards: Legal Research &
Writing (Rutledge Club),
International Business
Transactions

Best Brief for the Appellant
(Rutledge Club)

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ROSEMARY TUTT

Ms. Tutt is the manager of the Kentucky Public Service Commission's Consumer Services Branch. This branch is responsible for investigating consumer complaints against the 1,500 utilities the Commission regulates, as well as handling the public's inquiries regarding those utilities rates, rules and services. She oversees a staff of two utility investigators. Ms. Tutt began her employment with the Commission in 2009. She was selected as Manager of the Consumer Services Branch in 2017.



Gerald E. Wuetcher

Direct Phone: 859.231.3017
gerald.wuetcher@skofirm.com

BAR & COURT ADMISSIONS

Kentucky
U.S. Court Of Appeals For The
Armed Forces
U.S. District Court, Eastern
District Of Kentucky
U.S. District Court, Western
District Of Kentucky

EDUCATION

Emory University
1984, J.D.
Johns Hopkins University
1981, B.A.

RECOGNITION

Best Lawyers in America®, 2021-
present

Gerald E. Wuetcher

Jerry is Counsel to the Firm in SKO's Lexington office and is part of the Utility & Energy practice. He joined the firm in 2014, after working for more than 26 years at the Kentucky Public Service Commission (PSC) as a staff attorney, deputy general counsel and executive advisor.

Over the course of his career, Jerry has frequently appeared before the PSC in administrative proceedings involving electric, natural gas, water and sewer utility issues and has represented the PSC in state and federal courts. He also served as the PSC's representative in several interagency groups addressing water and wastewater issues. He drafted amendments to various provisions of Kentucky's public utility statutes and revisions to the PSC's administrative regulations.

From 2009-2013, Jerry was PSC's representative on the board of the Kentucky Infrastructure Authority. He developed and implemented the PSC's training program for water utility officials and was an instructor for that program.

Jerry is a frequent speaker on utility and local government issues before such organizations as the Kentucky Rural Water Association, Kentucky League of Cities, Kentucky Association of Counties and Utility Management Institute.

Along with his significant experience in the realm of civilian law, Jerry served for 27 years in the U.S. Army as a judge advocate before retiring at the rank of colonel in 2011. He occupied numerous roles on active duty and in a reserve status.

Utility & Energy: Jerry concentrates on public utility law in Kentucky, but also participates in general and commercial litigation, transactions, employment concerns, securities issues and mergers and acquisitions involving gas, electric and water companies. He handles all facets of regulatory matters, including the negotiation of complex agreements and representation before state agencies and courts.

Work Highlights

Attorney, Kentucky Public Service Commission (1987-2014). Served as a staff attorney, deputy general counsel and executive advisor. Frequently appeared before the Commission in administrative proceedings involving electric, natural gas, water and sewer utility issues and represented the Commission in state and federal courts. Responsible for drafting and revising the Commission's

regulations. Served as the Commission's representative in various interagency groups addressing water and wastewater issues. Served as the Commission's representative on the Kentucky Infrastructure Authority's Board of Directors (2009-2014). Developed the Public Service Commission's water training program for water utility officials.

Judge Advocate, U.S. Army (1984 – 2011). Served as a judge advocate in the U.S. Army on active and reserve status in numerous roles. Retired at the rank of Colonel.

Adjunct Professor of Law, University of Louisville (2011)

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EXHIBIT 3

**HARDIN COUNTY
WATER COMMISSIONER
TRAINING SEMINAR**

September 27, 2021



WELCOME

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



HOT LEGAL TOPICS

Damon R. Talley
Stoll Keenon Ogden PLLC
damon.talley@skofirm.com

September 27, 2021



DISCUSSION TOPICS

1. Notice to PSC
2. Minutes
3. 2021 General Assembly
4. Filed - Rate Doctrine 101
5. Open Meetings Act

Continued . . .



DISCUSSION TOPICS

6. Borrowing Money
7. Surcharges
8. Recent PSC Orders
9. Cases to Watch





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 Regs.

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

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



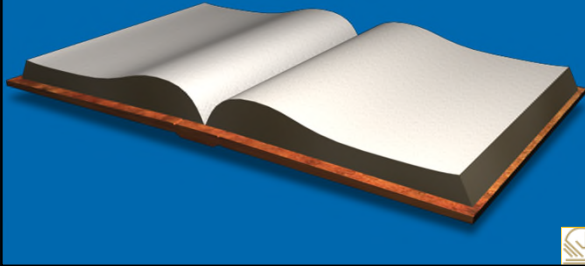


Default Regulatory E-mail Address

- Send E-mail to PSC
 - psc.reports@ky.gov
 - PSCED@ky.gov
- Send Letter to PSC
 - Linda C. Bridwell,
Executive Director



MINUTES

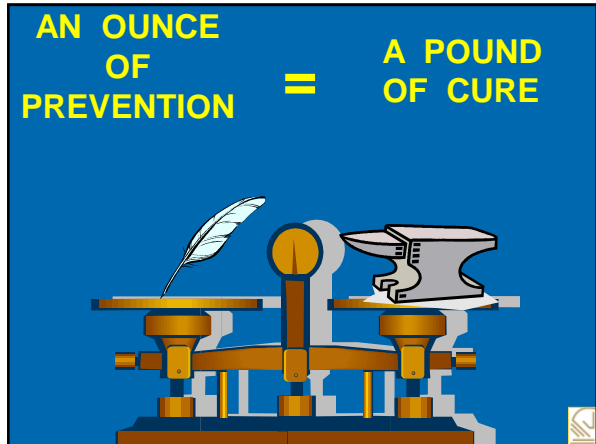


What Are MINUTES?

- Official Record
- Much, Much More

Excerpt From Minutes

“Motion was made by Commissioner X and seconded by Commissioner Y to hire Commissioner Z to perform water line inspections on the Knob Hill Project at an hourly rate of \$20.”



Board Minutes

- A Board “speaks only through its minutes.”
- War Stories:
 - Ownership of water line and service of disputed territory
 - Careless Conversations

Preparation of Minutes

- Who prepares minutes?
 - Board Secretary or Staff
- Who edits minutes?
 - Staff or legal counsel
- Are meetings recorded on audio and/or video?
- Signing of Minutes
- Approval of Minutes

ADJOURNMENT

There being no further business to come before the meeting, motion was made by Commissioner Steven Douglas and seconded by Commissioner Henry Clay to adjourn the meeting. Motion carried unanimously.

Respectfully submitted,

BY: _____

**Henry Clay, Secretary
ABRAHAM LINCOLN WATER
DISTRICT**

DATE APPROVED: _____

BY: _____
Jefferson Davis, Chairman



Approval Of Minutes

I hereby certify that the foregoing Minutes were duly approved by the Board of Commissioners of the Abraham Lincoln Water District at a meeting held on the date shown below:

ABRAHAM LINCOLN WATER DISTRICT

BY: _____

JEFFERSON DAVIS, CHAIRMAN

DATE APPROVED: _____



Board Minutes

A complete set of APPROVED Minutes SHALL be maintained at the utility office for inspection by the general public, regulators, customers, and the media.



Board Minutes

When are the Minutes considered in “final form” and available for public inspection?



Minutes

What **MUST** Be Included?

- Board Member Attendance
- Official Actions



Minutes

What **SHOULD** Be Included?

- Board Member Attendance
- Acknowledge Guests (Visitors)
- Official Actions
- Acknowledge Receipt of Reports
 - PSC Inspection Report

Cont.



Minutes
What **SHOULD** Be Included?

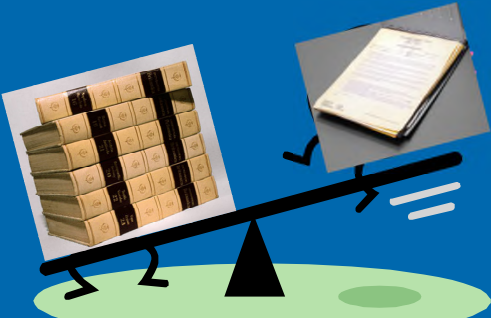
- Summarize **Some** Discussions
- Provide Context
- Toot Your Own Horn



Minutes
Tooting Your Own Horn

- Give Yourself Credit
 - > "Best Tasting Water"
 - > Wooden Bucket Award
 - > AWOP Award
 - > Governor's Safety Award

How much information **SHOULD** be included in the MINUTES?



Minutes

How MUCH is too MUCH?

- No definitive answer
- Art not a science

Cont.



Minutes ...

How MUCH is too MUCH?

- Guidelines . . .
 - > Minutes are **NOT** a transcript
 - > Minutes are **NOT** the Congressional Record
 - > Include rationale for action taken if it might avoid lawsuit



“Conversations are
NOT official actions
of the Board.”

Virginia W. Gregg
Former PSC Staff Attorney



WHY Include Summary of Conversations in Minutes?

- Document Board's Due Diligence
(e.g. Use of safety equipment; Training of Staff re confined space entry)
- Document Board's Oversight Role
(e.g. Cyber Security)
- Avoid or Win Litigation



TALLEY'S TIPS



Talley's Tips

Prepare Minutes for a Reader...

1. Who did not attend the meeting.
2. Who will not read the Minutes until at least one year later.
3. Who is employed by PSC.
4. Who will access Minutes via www.



2021 General Assembly

- ### Notable Bills
- HB 272 – Late Payment Fees
 - HB 312 – Open Records Act
 - HB 393 – Commissioner Training

- ### Notable Bills
- HB 570 – Interlocal (2020) Cooperation Act
 - SB 465 – Acquisition of Water & Sewer Asset
 - SB 36 – ARPA Funds \$250,000,000

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







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



2018 Show Cause Cases

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



2018 Show Cause Cases

- WD # 2
 - Commissioners Settled with PSC
 - \$500 Fine (suspended)
 - 12 Hours Training Per Year
 - WD 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









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



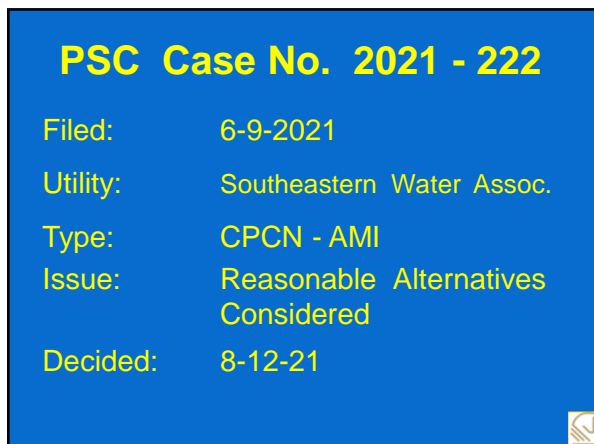
How to Get Surcharge

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









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








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

Holding:

- 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 ½ 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. 2020 - 137

Filed: 6-8-2020
Utility: West Daviess Co.
Type: Deviation
Issue: 15 Year Meters
Sample Testing
Decided: 12-02-20



PSC Case No. 2020 - 138

Filed: 6-8-2020
Utility: Southeast Daviess Co.
Type: Deviation
Issue: 15 Year Meters
Sample Testing
Decided: 12-02-20





QUESTIONS?

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Presented by
Greg C. Heitzman
BlueWater Kentucky
And
Robert K Miller
StraightLine Kentucky



BlueWater
Kentucky

StraightLine Kentucky



CHALLENGES AND RECOMMENDATIONS FOR KENTUCKY WATER SYSTEMS

Stoll Keenon and Ogden
COMMISSIONER TRAINING SEMINAR
September 27 and October 27, 2021

2019 Kentucky Infrastructure Report Card

“Mediocre”

Drinking Water = C+

Waste Water = C-

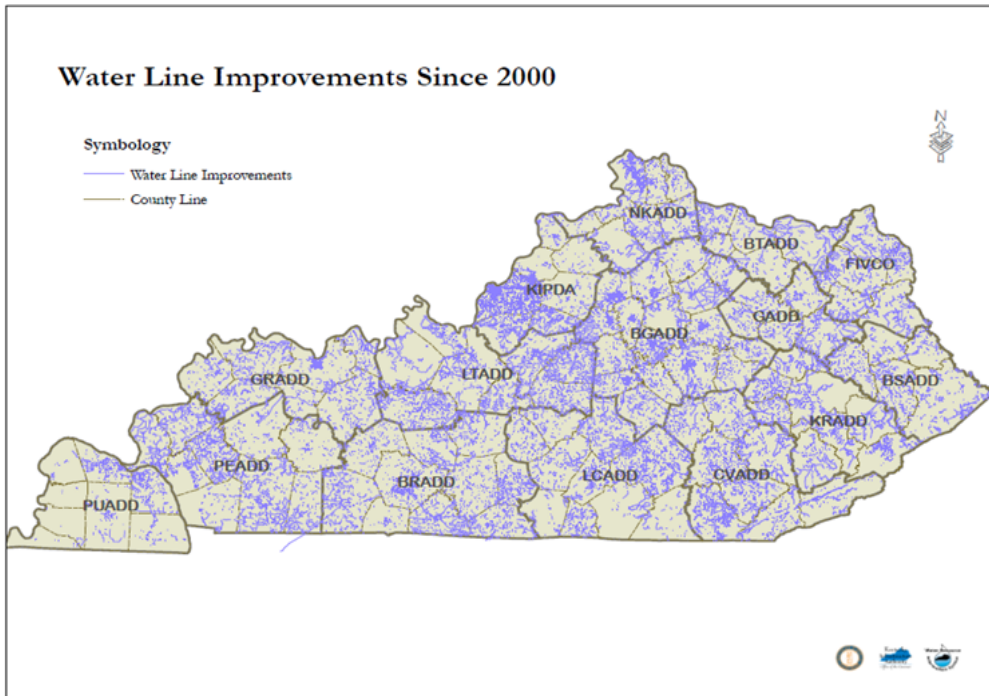


<https://www.infrastructurereportcard.org/state-item/kentucky/>

**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

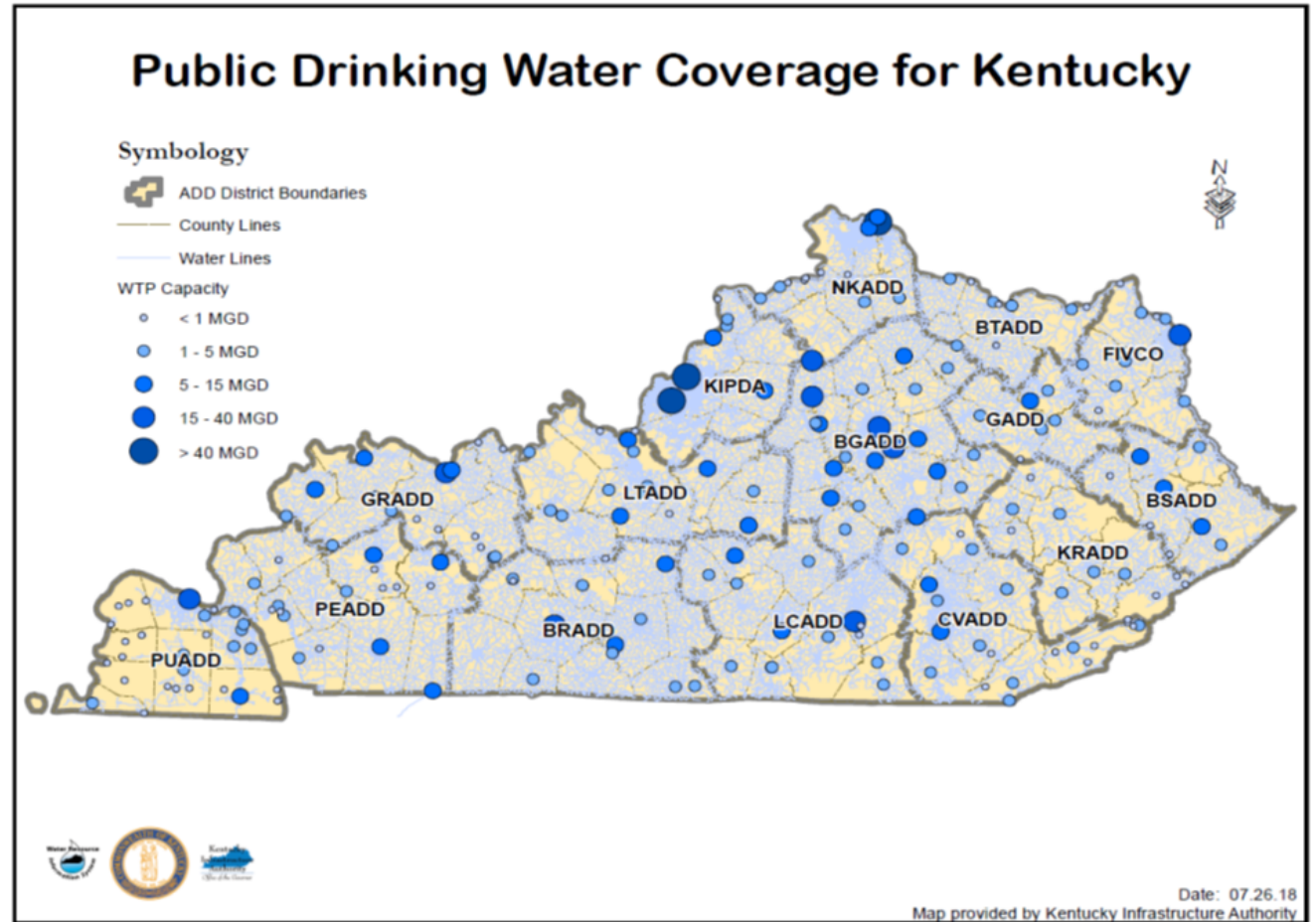


Source: KY Infrastructure Authority and KY Division of Water

- ✓ **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

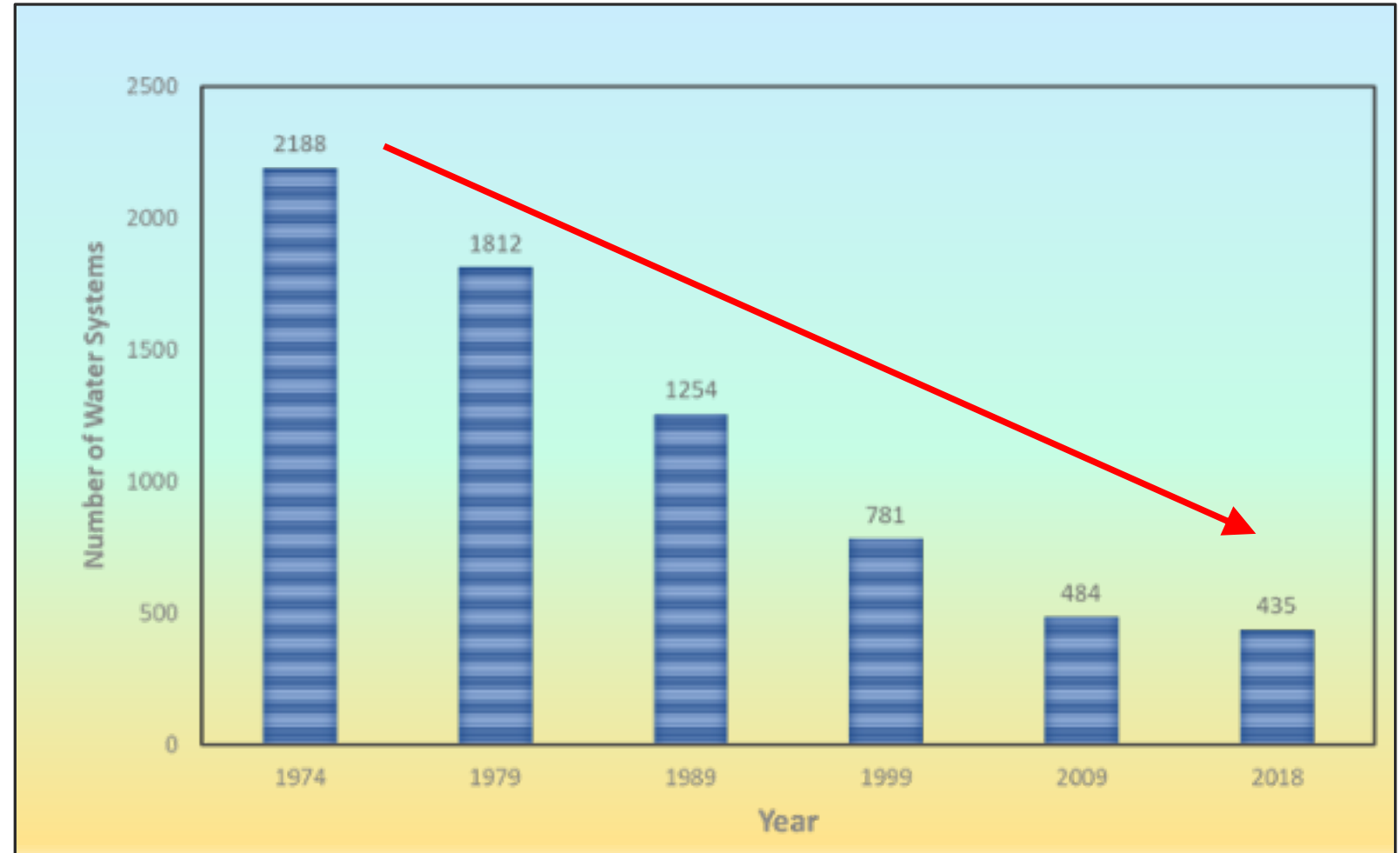
- ✓ 2000 - Governor Paul Patton's 2020 Water Vision thru Senate Bill 409
- ✓ 435 Kentucky Public Water Systems serve 4.5 million people
- ✓ 95% of Kentuckians have access to public water system (top 5 in US)
- ✓ Recognized nationally for regional planning and consolidation



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

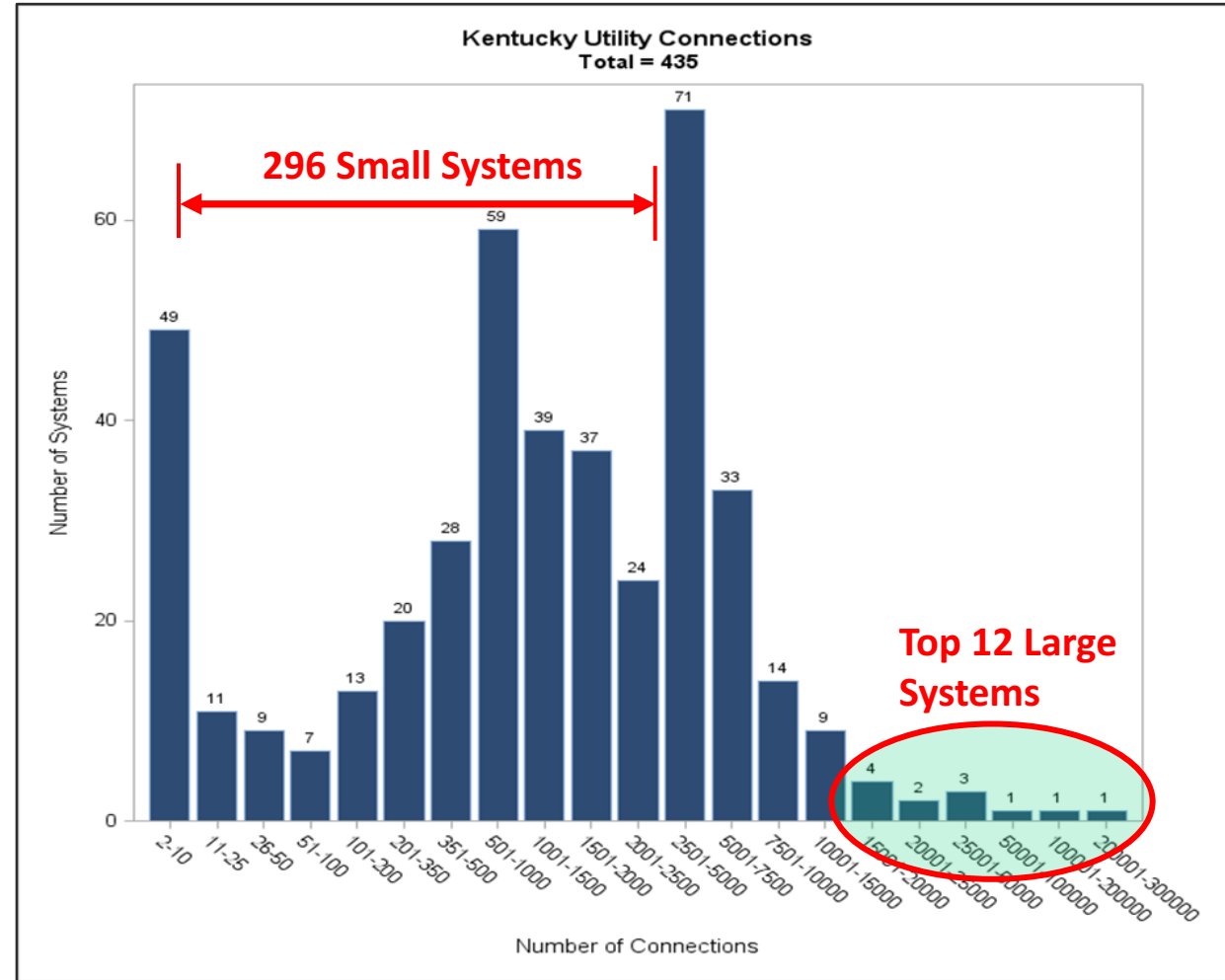
Kentucky Water System Profile

Top 12 Systems Serve:

✓ 37 % of KY Population

✓ 54% of Water Produced

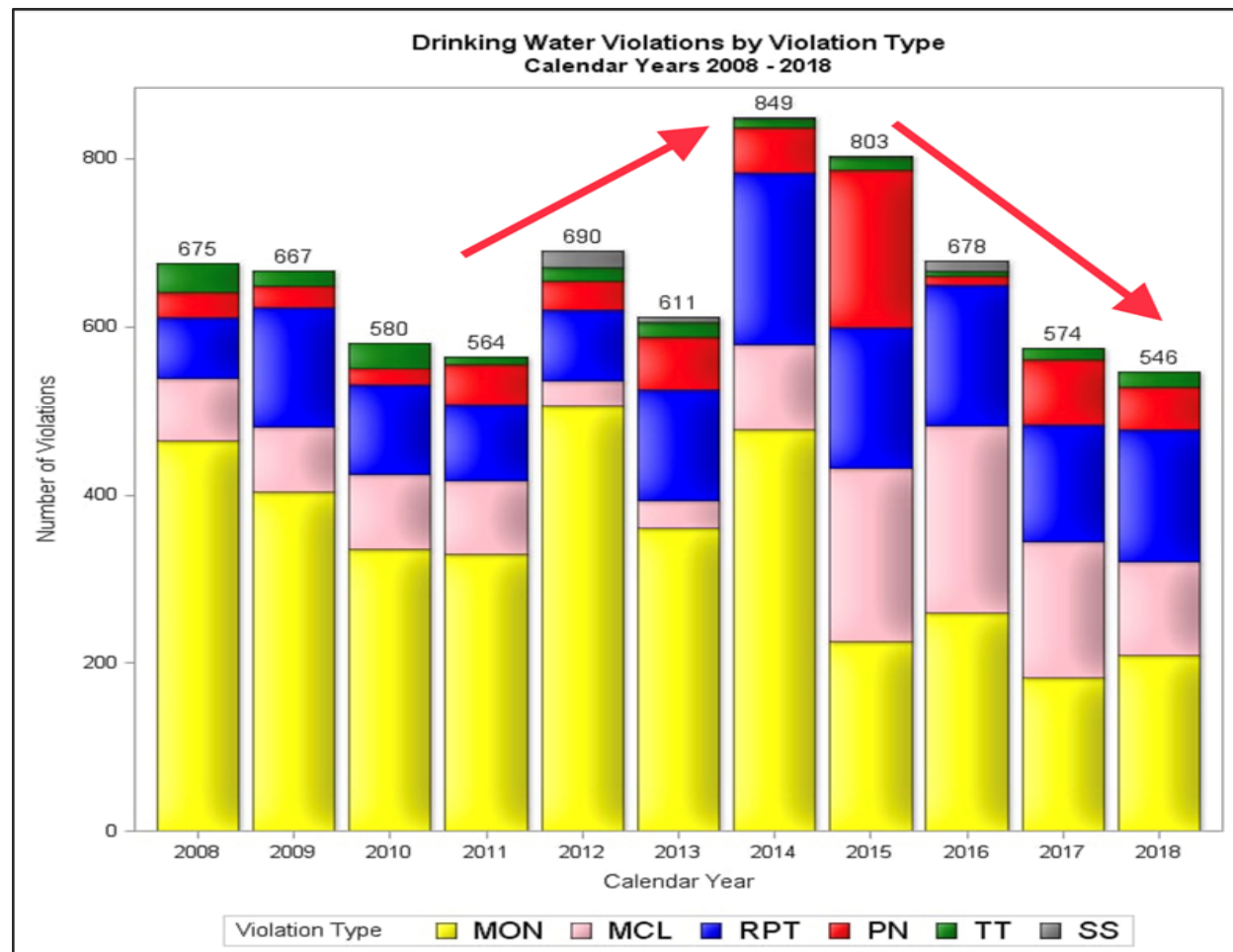
1. Louisville Water Company
2. Kentucky-American Water Co
3. Northern Kentucky Water District
4. Bowling Green Municipal Utilities
5. Owensboro Municipal Utilities
6. Ashland Water Works
7. Paducah Water Works
8. Frankfort Plant Board
9. Somerset Water Service
10. Logan-Todd Regional Commission
11. Glasgow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



Source: KY Division of Water

KY Drinking Water Regulations

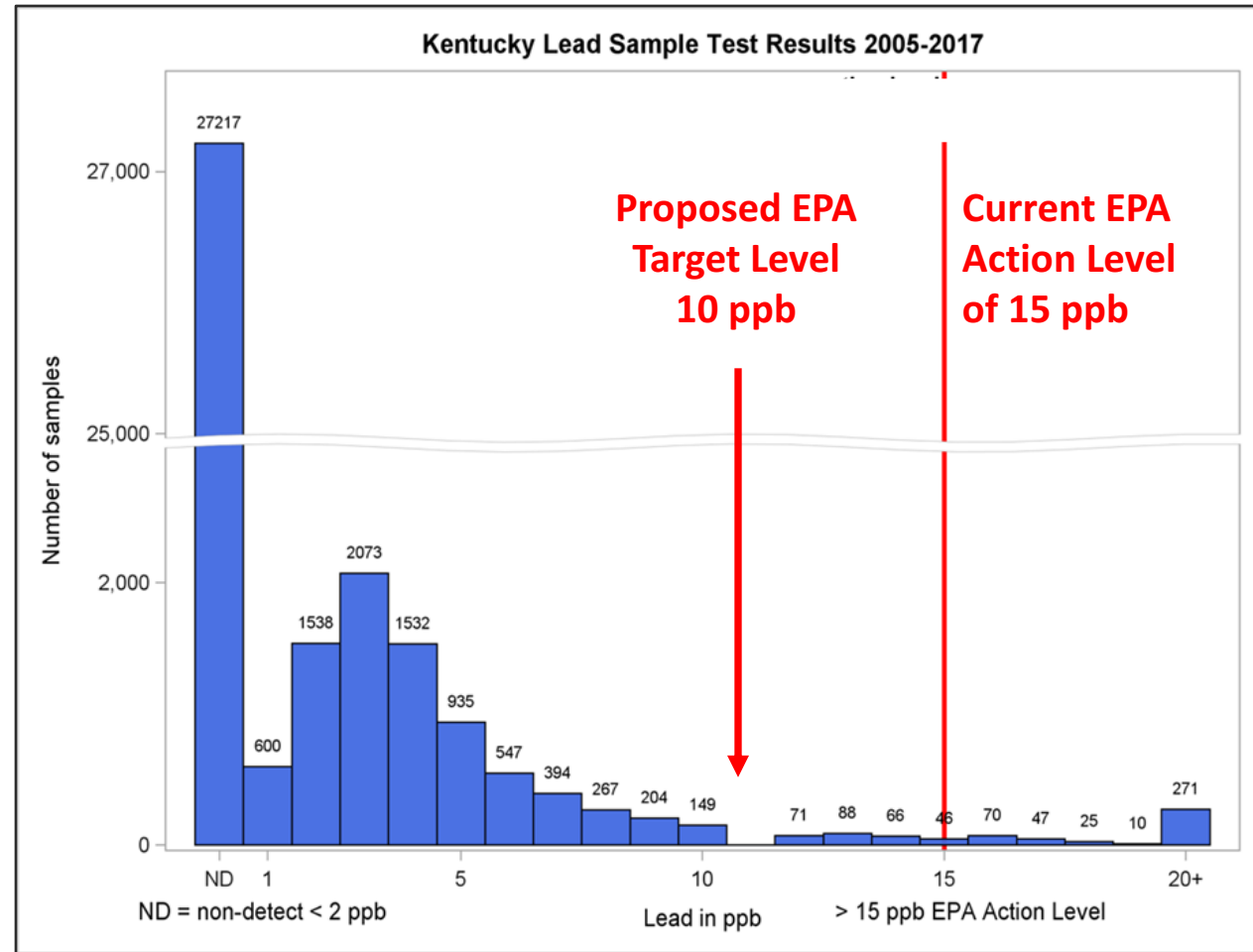
- ✓ Decline in Violations last 5 years from 849 in 2014 to 546 in 2018
- ✓ Increase in 2014 for Disinfection By-Product Violations
- ✓ DBPs have declined through 2018 with technical assistance from KY DOW and KY Rural Water
- ✓ Expect improvement again in 2019



Source: KY Division of Water

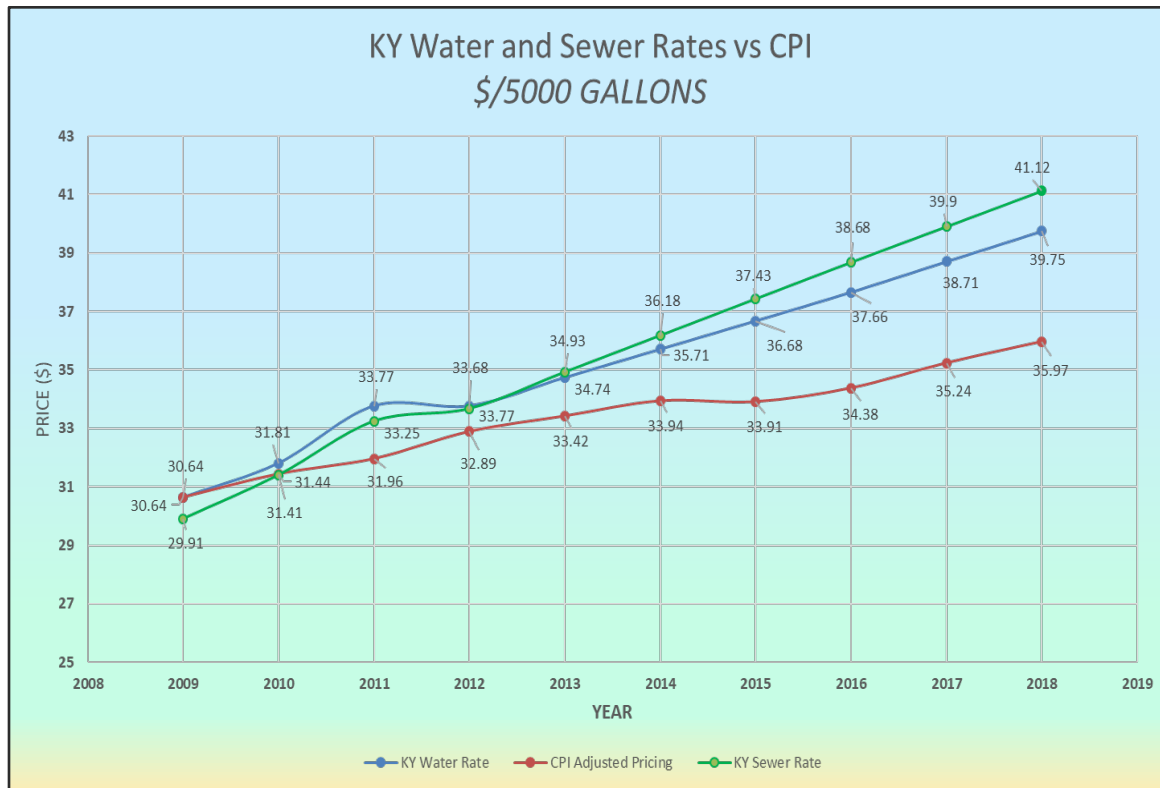
Lead Compliance Record

- ✓ All 435 Public Water Systems are compliant with EPA Lead and Copper Rule
- ✓ Kentucky is 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

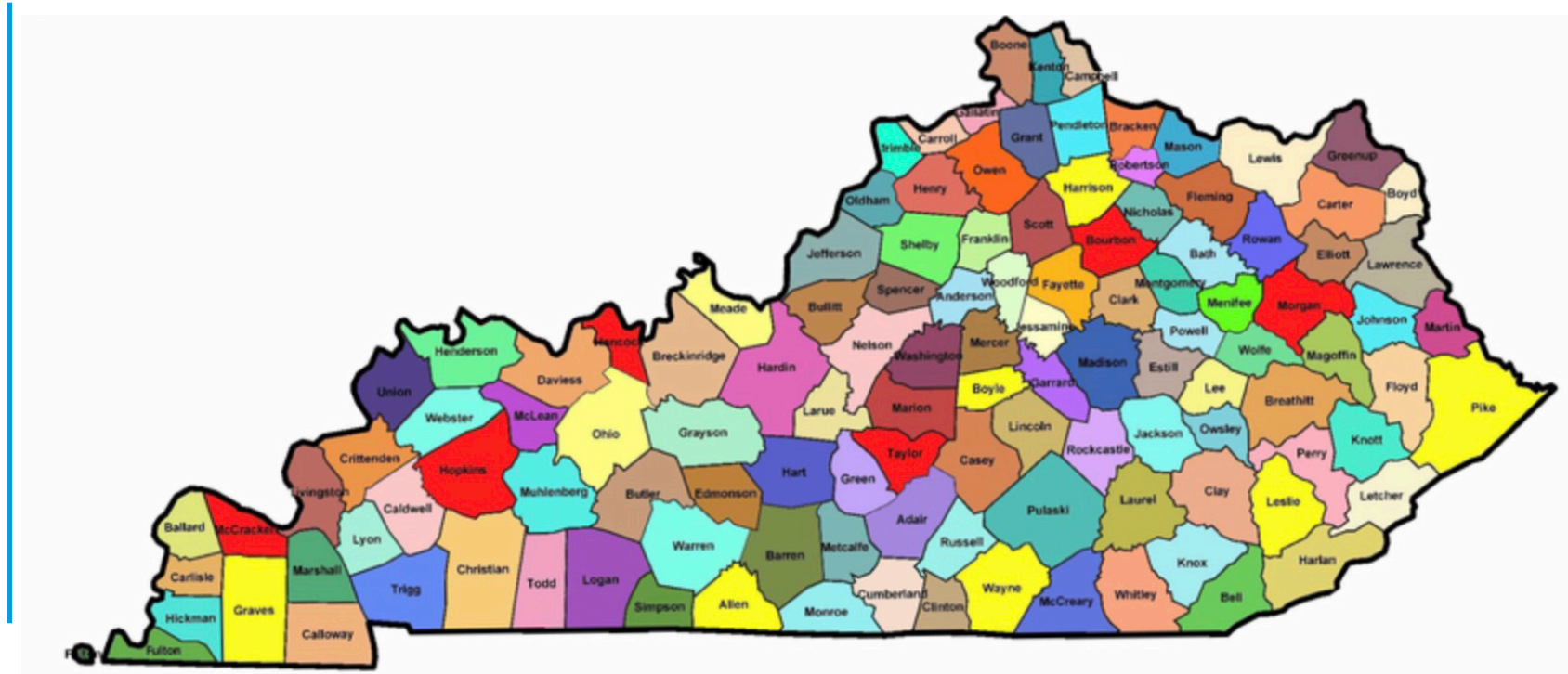
- **Average KY Water Bill for 5,000 gallons/month**
 - 2012 - \$33.77
 - 2018 - \$39.75
 - 2.75% average annual increase (CPI about 2%)

- **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 MHI

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) substances
- 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



Flood Protection Pumps and Levees



2" galvanized line



3/4" lead service line



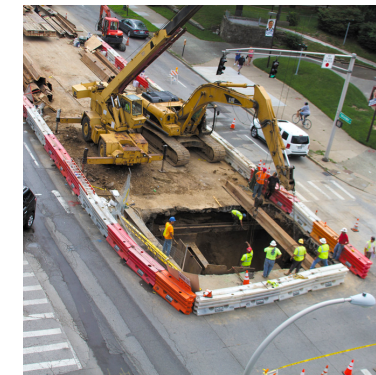
Failed Treatment Clarifier



6" unlined cast iron pipe



6" main break



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)**

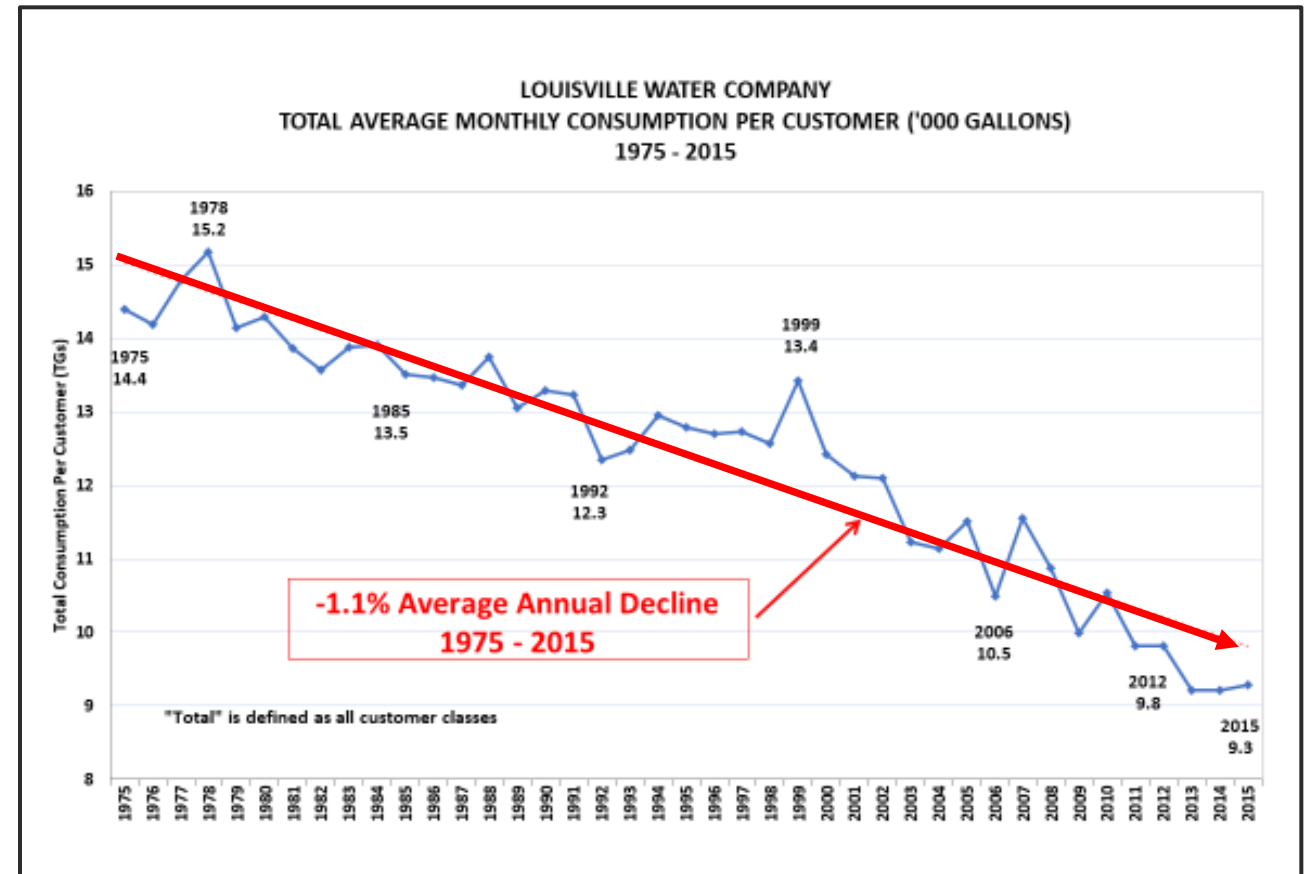
#3 INFRASTRUCTURE FUNDING

- 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

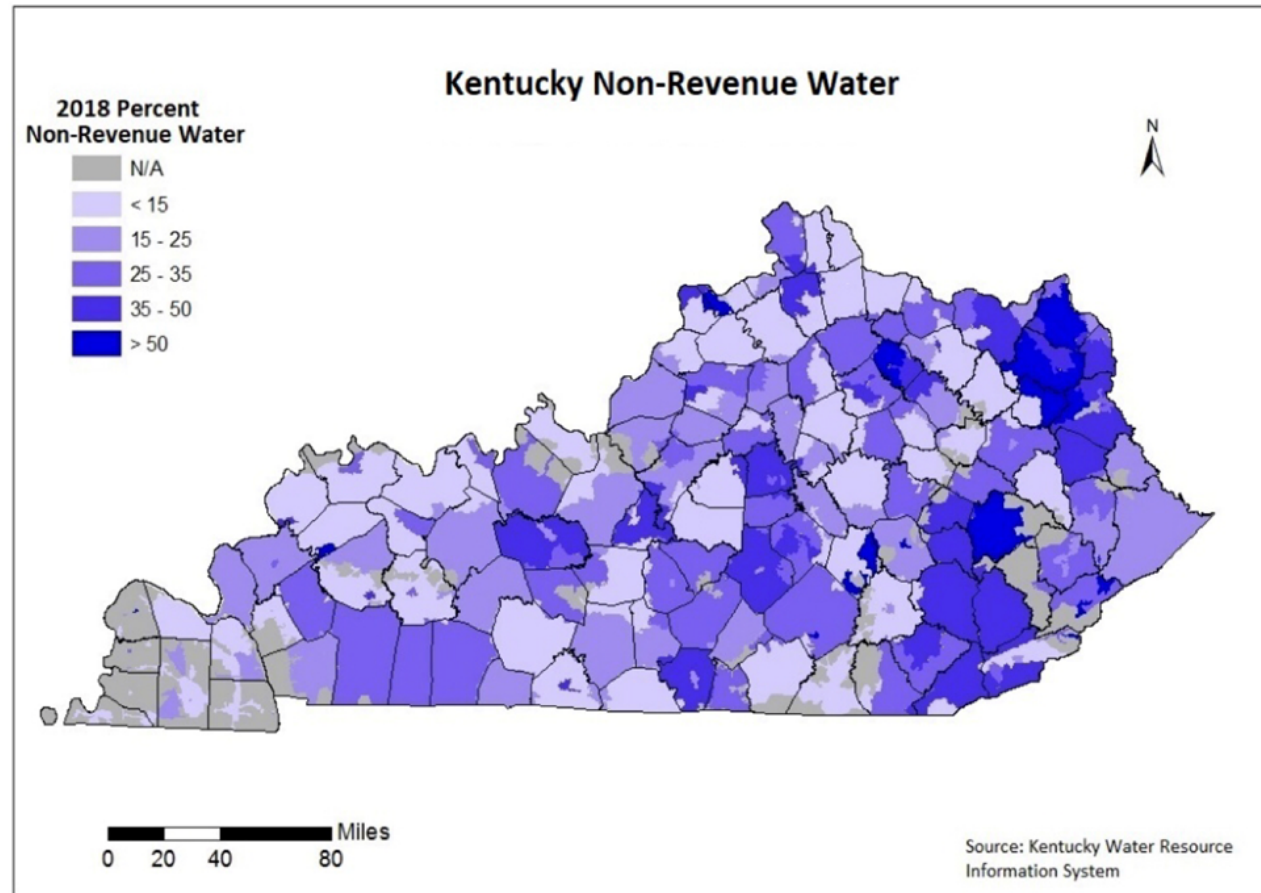
- Kentucky is generally a slow or no-growth economy
- Water consumption is declining:
 - transition to service economy
 - recycling/reuse
 - low-flow plumbing fixtures
 - therefore fixed costs are spread over fewer gallons sold
- Different rate approval methods (PSC -regulated vs Municipal)
- Reluctance 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



RECOMMENDATIONS FOR KENTUCKY WATER SYSTEMS

- 1. 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
- 2. Leverage federal funds with state/local funding**
 - SRF Loans through KIA
 - ARPA Grants to Cities/Counties
 - KY Senate Bill 36 - \$250 million
 - Biden's Infrastructure Proposal

RECOMMENDATIONS BY BLUEWATER KENTUCKY

- 3. Establish Kentucky Water Infrastructure Fund:**
 - Provide annual funding of \$25 million
 - To assist water/wastewater/stormwater systems in planning, engineering, design and construction
 - Revolving loan program with up to 50% annually for grants

RECOMMENDATIONS BY BLUEWATER KENTUCKY

4. 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

5. 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**

- 6. 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

- 7. Develop standard practice for Customer Assistance/Water Affordability Programs**

- 8. Adopt industry standard for water audits and loss control programs (AWWA M36)**

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**

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StraightLine Kentucky






**STOLL
KEENON
OGDEN
P.L.L.C.**

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


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



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ORDER OF PRESENTATION


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




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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

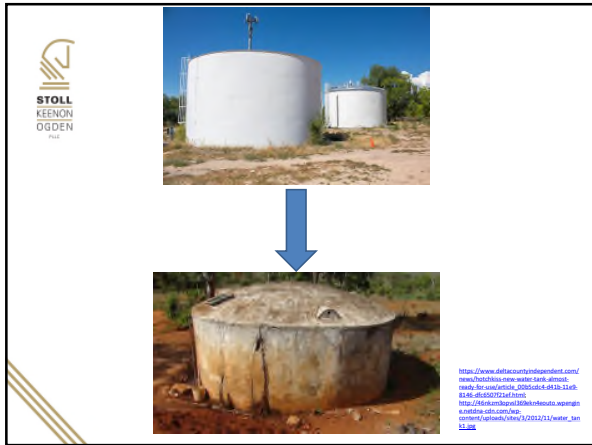



Depreciation Formula

Annual Depreciation Cost =


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





 **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	
OPERATING REVENUES:			
Water sales	\$ 13,469,174	\$ 13,040,102	
Other operating income	931,911	938,703	
TOTAL OPERATING REVENUES	14,201,085	13,978,805	
OPERATING EXPENSES:			
Power purchased	676,286	608,028	
Purchased water	772,889	762,221	
Account receivable, net	1,345,153	1,201,382	
Pumping and treatment labor	302,777	306,937	
Purification supplies and expense	1,847,679	1,900,146	
Transmission and distribution labor	246,756	204,722	
Transmission and distribution maintenance and repairs	76,388	72,260	
Equipment rental	17,235	5,014	
Transportation expense	183,722	151,224	
Water treatment maintenance and expense	197,591	176,574	
General and administrative expenses	3,295,233	2,874,906	
Depreciation	3,622,932	2,956,482	
TOTAL OPERATING EXPENSES	11,867,899	10,666,938	
OPERATING INCOME	2,433,186	3,296,974	
NON-OPERATING REVENUES (EXPENSES):			
Investment income	359,093	558,735	
Other income	182,039	146,708	
Gain on disposal of capital assets	21,144	23,075	
Bond issuance costs	(10,491)	-	
Interest expense on long-term debt	(261,746)	(373,603)	
Amortization of bond terms and utility acquisition	(23,637)	(27,836)	
TOTAL NON-OPERATING REVENUES (EXPENSES)	(23,036)	136,847	
CAPITAL CONTRIBUTIONS	10,612,163	611,228	
CHANGE IN NET POSITION	13,012,541	3,976,149	
NET POSITION, beginning of year	77,077,657	73,099,608	
NET POSITION, end of year	\$ 90,090,198	\$ 77,075,757	

"Balance Sheet"			
STATEMENTS OF NET POSITION			
DECEMBER 31, 2018 AND 2017			
	2018	2017	
CURRENT ASSETS			
Cash and cash equivalents	\$ 1,847,049	\$ 2,163,070	
Investments	17,066,682	15,974,489	
Accounts receivable, net	1,746,869	1,648,463	
Prepaid expenses	6,148	6,148	
Due from payables	389,405	348,649	
Intangible assets	386,463	427,206	
TOTAL CURRENT ASSETS	22,977,717	21,668,195	
NON-CURRENT ASSETS			
Investment in debt securities	7,262,226	6,743,475	
Investment in equity securities	1,297,048	1,297,048	
Investment in CIP program	1,285,821	1,285,821	
Non-debt utility capital assets	18,108,134	17,947,257	
Non-current receivable, net of accumulated depreciation	16,762,576	16,622,139	
TOTAL NON-CURRENT ASSETS	34,715,805	33,935,735	
TOTAL ASSETS	57,693,522	55,603,930	
DEFERRED OUTFLWS OF RESOURCES			
Deferred amount on debt capitalization	166,624	167,134	
Deferred amount on CIP program	2,638,069	2,638,069	
Deferred amount on CIP CIP	589,369	589,369	
Long-term liabilities	3,688	3,688	
TOTAL DEFERRED OUTFLWS OF RESOURCES	3,497,150	3,497,150	
LIABILITIES			
Current liabilities	112,227	148,442	
Compensation payable	276,266	269,471	
Accrued interest payable	188,201	184,453	
Accrued salaries	66,579	67,268	
Accounts payable	391,167	371,142	
Other payables	48	174	
Customer advances for construction	163,120	87,202	
Bonds payable	398,929	388,452	
Deferred liabilities	11,257	1,367	
TOTAL CURRENT LIABILITIES	1,812,473	1,665,997	
MANAGEMENT LIABILITIES			
Net pension liability - OASD	197,415	161,447	
Net pension liability - CSRS	4,146,248	3,898,294	
Net PERS liability - OTRS	4,239,741	3,996,046	
Other liabilities	1,889,432	1,733,624	
TOTAL MANAGEMENT LIABILITIES	10,272,836	9,791,411	
TOTAL LIABILITIES	12,085,309	11,457,408	
DEFERRED OUTFLWS OF RESOURCES			
Deferred amount on CIP program	166,624	167,134	
Deferred amount on CIP CIP	2,638,069	2,638,069	
TOTAL DEFERRED OUTFLWS OF RESOURCES	2,804,693	2,805,203	
NET POSITION			
Net investments in capital assets	\$ 18,264,217	\$ 18,264,217	
Reserve for bond issuance	2,330,141	2,330,141	
Reserve for capital projects	1,411,160	1,411,160	
Reserve for pension liability	5,665,073	5,285,067	
Unassigned	21,229,004	21,229,004	
TOTAL NET POSITION	\$ 49,399,558	\$ 47,527,832	

"Statements of Cash Flows"			
STATEMENTS OF CASH FLOWS			
YEARS ENDED DECEMBER 31, 2018 AND 2017			
	2018	2017	
CASH FLOWS FROM OPERATING ACTIVITIES:			
Receivables from customers	\$ 14,143,329	\$ 13,743,601	
Payments to suppliers	(5,705,924)	(4,281,179)	
Payments to employees	(3,587,685)	(3,217,142)	
NET CASH PROVIDED BY OPERATING ACTIVITIES	4,789,720	6,185,280	
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES:			
Principal payments on bonds	(860,000)	(865,000)	
Proceeds from bonds	3,389,605	-	
Principal payments on notes	(252,423)	(248,879)	
Acquisition of capital assets	(13,722,680)	(4,072,191)	
Contributions in net of construction	9,382,383	980,425	
Interest on long-term debt	(951,746)	(573,893)	
Sale of capital assets	21,144	34,949	
NET CASH USED BY CAPITAL AND RELATED FINANCING ACTIVITIES	(2,604,622)	(4,731,148)	
CASH FLOWS FROM INVESTING ACTIVITIES:			
Investment income	(111,817)	(654,782)	
Other income	129,739	146,708	
NET CASH PROVIDED BY INVESTING ACTIVITIES	17,922	53,926	
NET INCREASE IN CASH AND CASH EQUIVALENTS	2,202,020	1,508,058	
CASH AND CASH EQUIVALENTS, beginning of year	8,089,222	6,409,830	
CASH AND CASH EQUIVALENTS, end of year	\$ 10,291,242	\$ 7,917,888	
RECONCILIATION OF OPERATING INCOME TO NET CASH PROVIDED BY OPERATING ACTIVITIES:			
Operating income	\$ 2,433,186	\$ 3,296,974	
Adjustments to reconcile net operating income to net cash provided by operating activities:			
Depreciation	3,622,902	2,956,482	
Provision for bad debts	46,037	48,006	
Increases (decreases) in accounts receivable	(147,765)	(130,961)	
Increases (decreases) in accounts payable	(36,225)	3,709	
Increases (decreases) in Establishments sewer payable	(248,452)	29,117	
Increases (decreases) in customer deposits	(18,210)	27,090	
Increases (decreases) in accounts taxes payable	15,203	8,541	
Increases (decreases) in account facilities	(2,660)	12,041	
Increases (decreases) in account retention	(10,979)	22,860	
Increases in self-insurance payable	77,290	3,982	
NET CASH PROVIDED BY OPERATING ACTIVITIES	\$ 4,789,720	\$ 6,185,280	




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



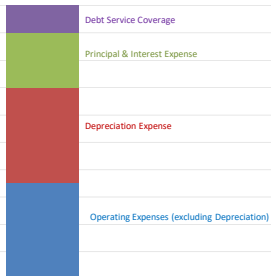
Revenue Requirement

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

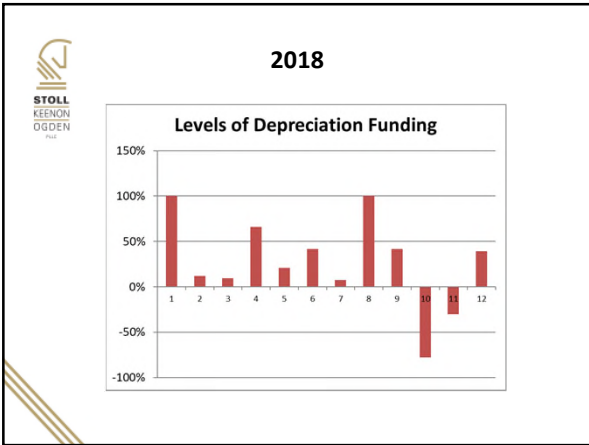



Component
Debt Service Coverage
Principal & Interest Expense
Depreciation Expense
Operating Expenses (excluding Depreciation)



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






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 2nd highest operating expense



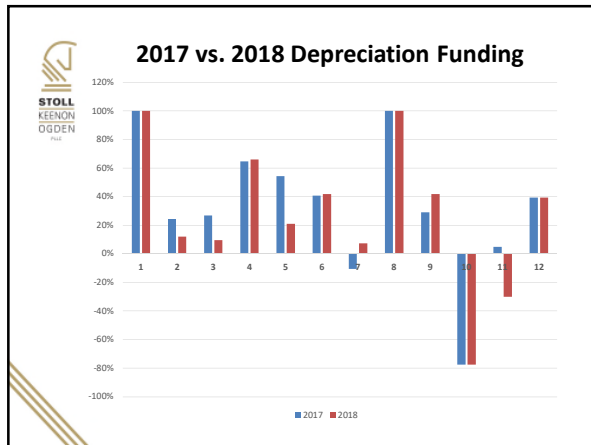
Debt Service Expense vs. Debt Service Coverage

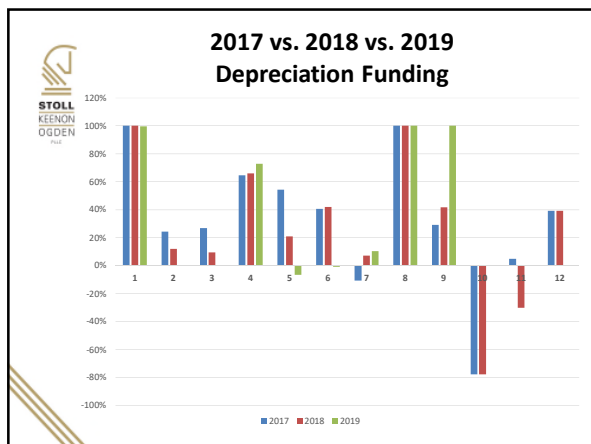
- Bond Ordinance or Bond Authorizing Resolution dictates the DSC
- Different funding agencies have different DSC requirements
 - KIA: 1.1
 - RD: 1.2
 - Some cities: 1.25 or higher
 - LWC: 1.5




Utility	Debt Service Expense	Debt Service 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








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?



KENTUCKY PUBLIC
SERVICE COMMISSION

Customer Relations:

- Ratepayer rights and responsibilities
- Utility obligations
- The PSC complaint process

THE CUSTOMER BILL OF RIGHTS

PURPOSE:

TO EDUCATE CUSTOMERS OF THEIR RIGHTS AND OF THE UTILITY'S BASIC SERVICE OBLIGATIONS UNDER KENTUCKY LAW AND COMMISSION'S ADMINISTRATIVE REGULATIONS.

CUSTOMER BILL OF RIGHTS

- RESIDENTIAL CUSTOMERS IN KENTUCKY ARE GUARANTEED RIGHTS SUBJECT TO KENTUCKY REVISED STATUTES AND THE PROVISIONS OF THE KENTUCKY PUBLIC SERVICE COMMISSION ADMINISTRATIVE REGULATIONS.
- CUSTOMER RIGHTS ARE LISTED IN 807 KAR 5:006 SECTIONS 14 AND 16.

CUSTOMER BILL OF RIGHTS

- RIGHT TO SERVICE (IF YOU DON'T OWE THE UTILITY MONEY)
- RIGHT TO BE PRESENT AT ANY ROUTINE UTILITY INSPECTION OF YOUR PREMISES
- SEPARATE, DISTINCT DISCONNECT NOTICE
- RIGHT TO DISPUTE THE TERMINATION OF YOUR SERVICE
- RIGHT TO NEGOTIATE A PARTIAL PAYMENT PLAN
- RIGHT TO MAINTAIN YOUR UTILITY SERVICE FOR UP TO THIRTY (30) DAYS UPON PRESENTATION OF A MEDICAL CERTIFICATE ISSUED BY A HEALTH OFFICIAL.
- YOU HAVE THE RIGHT TO PROMPT (WITHIN 24 HOURS OR CLOSE OF NEXT BUSINESS DAY) RESTORATION OF YOUR SERVICE
- RIGHT TO CONTACT THE PUBLIC SERVICE COMMISSION REGARDING ANY DISPUTE THAT YOU HAVE BEEN UNABLE TO RESOLVE WITH YOUR UTILITY.

TARIFFS



TARIFFS — WHAT IS A TARIFF?

SCHEDULE(S) SHOWING ALL LEGALLY BINDING

RATES AND CONDITIONS OF SERVICE

ESTABLISHED AND ENFORCED BY A UTILITY

AND APPROVED BY THE PSC

TARIFFS — PURPOSE

1. ENSURES PSC REVIEW OF A UTILITY'S RATES, RULES, CONDITIONS OF SERVICE, AND ANY OTHER POLICIES.
2. PREVENTS DISCRIMINATION BY MANDATING UNIFORM TREATMENT TO SIMILARLY SITUATED CUSTOMERS.

TARIFFS — EFFECT

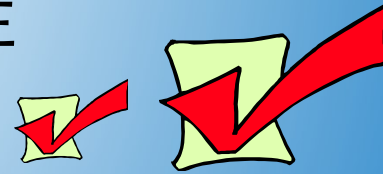
1. UTILITY'S TARIFF HAS THE STATUS OF LAW.
2. UTILITY MAY FILE NEW TARIFFS TO CHANGE ITS RATES, BUT THE UTILITY LACKS THE LEGAL AUTHORITY TO DEVIATE FROM ITS FILED TARIFF WITHOUT PSC APPROVAL.

TARIFFS – SUMMARY

1. IF A FEE IS NOT IN YOUR TARIFF, YOU CANNOT CHARGE IT.
2. IF A REQUIREMENT IS NOT IN YOUR TARIFF, YOU CANNOT IMPOSE IT.
3. IF A RULE IS NOT IN YOUR TARIFF, YOU CANNOT ENFORCE IT.
4. IF IT IS IN YOUR TARIFF, YOU MUST DO IT.

TARIFFS — REMINDERS

- EVERY COMMISSIONER AND EMPLOYEE SHOULD REVIEW THE TARIFF AT A MINIMUM OF EACH AND EVERY YEAR.
- CHECK WITH ALL STAFF TO MAKE SURE THAT EVERY RATE, RULE, POLICY, AND CONDITION OF SERVICE IS INCLUDED IN YOUR TARIFF.



DEPOSIT POLICY



DEPOSITS — TARIFF REQUIREMENTS

- METHOD OF DEPOSIT -- FLAT OR CALCULATED
- CRITERIA FOR WHEN A DEPOSIT WILL BE REQUIRED OR WAIVED
- DEPOSIT AMOUNT FOR EACH CUSTOMER CLASS IF IT IS FLAT
- POLICY ON REFUNDING THE DEPOSIT; WHEN AND WHAT CONDITIONS
- POLICY ON INTEREST; ACCRUED AND REFUNDED OR CREDIT TO BILL

807 KAR 5:006 Sec 8(7)

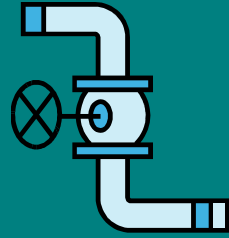
DEPOSITS — MAXIMUM AMOUNTS

- MONTHLY 2/12
- BIMONTHLY 3/12
- QUARTERLY 4/12



OF THE CUSTOMER'S ACTUAL OR ESTIMATED AVERAGE ANNUAL
BILL

807 KAR 5:006 Sec 8



DISCONNECTION/ TERMINATION OF SERVICE

CUSTOMER REQUESTED TERMINATION OF SERVICE

- CUSTOMER DESIRING TERMINATION OF SERVICE OR ADDRESS CHANGE MUST GIVE 3 DAYS NOTICE, SUBJECT TO OTHER CONTRACTUAL OBLIGATIONS OR TARIFF PROVISIONS.
- THE CUSTOMER IS NOT RESPONSIBLE FOR CHARGES FOR SERVICE BEYOND THE THREE-DAY NOTICE PERIOD IF THE CUSTOMER PROVIDES REASONABLE ACCESS TO THE METER DURING THE NOTICE PERIOD.

TERMINATION OF UTILITY SERVICE

Utility service may be terminated under some conditions.

- **NON-PAYMENT OF BILL**

- DISCONNECT CANNOT OCCUR FOR WATER OR SEWER SERVICE **BEFORE 20 DAYS AFTER** THE ORIGINAL MAILING DATE OF THE UNPAID BILL.
- THE DISCONNECT NOTICE **5 DAYS PRIOR TO DISCONNECTION OF WATER OR SEWER SERVICE.**
- **PAYMENT PLANS MAY BE NEGOTIATED** TO KEEP SERVICE FROM TERMINATION.

TERMINATION OF UTILITY SERVICE

- **VIOLATION OF RULES**

- DISCONNECTION IS PERMITTED ONLY **AFTER WRITTEN NOTICE** OF PROBLEM AND AFTER A GRACE PERIOD TO CORRECT SITUATION.

- **DANGEROUS SITUATION**

- **IMMEDIATE DISCONNECTION** IS PERMITTED WITH A FOLLOW-UP OF A WRITTEN EXPLANATION. ACTION IS REQUIRED BY CUSTOMER BEFORE RECONNECTION.

LEAK ADJUSTMENT POLICY



LEAK ADJUSTMENTS

- A UTILITY MAY CHOOSE TO OFFER A LEAK ADJUSTMENT.
- LEAK ADJUSTMENTS ARE NOT REQUIRED BY THE PSC.
- ABSOLUTELY NO LEAK ADJUSTMENT MAY BE MADE WITHOUT A WRITTEN POLICY IN THE TARIFF.
- EVERYONE MUST TREATED EQUALLY IN ACCORDANCE TO THE TARIFFED POLICY

LEAK ADJUSTMENTS

- FOR LINE LOSS CONSIDERATIONS, THE AMOUNT OF GALLONS FLOWING THROUGH THE METER SHOULD NEVER BE ADJUSTED.
- INSTEAD, ADJUSTMENTS SHOULD BE DONE ON THE MONETARY SIDE.
- THE ADJUSTMENT MUST COVER THE COST OF THE WATER.

LEAK ADJUSTMENTS

SUGGESTED INCLUSIONS

- THE CUSTOMER SHOULD MAKE THE REQUEST IN WRITING.
- THE BILL SHOULD BE THE AVERAGE MONTHLY BILL PLUS THE ADDITIONAL WATER THAT FLOWED THRU THE METER CHARGED AT A REDUCED RATE.
- THE NUMBER OF ADJUSTMENTS OVER A PERIOD OF TIME SHOULD BE LIMITED.



MONITORING CUSTOMER USAGE

MONITORING USAGE

807 KAR 5:006 Sec 11 (3)

- EACH UTILITY MUST INCLUDE PROCEDURE IN ITS TARIFF FOR MONITORING CUSTOMERS USAGE AT LEAST ANNUALLY
- THE PROCEDURES MUST BE DESIGNED TO DRAW THE UTILITY'S ATTENTION TO UNUSUAL DEVIATIONS IN A CUSTOMER'S USAGE AND PROVIDE FOR REASONABLE MEANS BY WHICH THE UTILITY CAN DETERMINE THE REASONS FOR THE UNUSUAL DEVIATION.

MONITORING USAGE

807 KAR 5:006 Sec 11 (3)

- IF THE USAGE IS UNDULY HIGH AND CANNOT BE EXPLAINED, THE UTILITY MUST TEST THE METER TO DETERMINE WHETHER THE METER SHOWS AN AVERAGE ERROR GREATER THAN TWO (2) PERCENT FAST OR SLOW

BILL ADJUSTMENTS

807 KAR 5:006 GENERAL RULES SECTION 11 BILL ADJUSTMENT FOR WATER UTILITIES

- ADDRESSES THE ISSUE OF METERS THAT ARE FOUND TO BE RUNNING EITHER FAST OR SLOW AND SETS THE RULES FOR DETERMINING THE SIZE OF THE ERROR
- ADDRESSES SITUATIONS IN WHICH A METER ERROR HAS LED TO OVERBILLING OR UNDERCOLLECTION – INCLUDING TERMS FOR REPAYMENT OR REFUND
- SETS THE RULES FOR FURTHER TESTING OF METERS BY THE PSC

CONSUMER RELATIONS

CUSTOMER SERVICE

- CUSTOMER SERVICE REPRESENTATIVES ARE THE FIRST CONTACT (AND SOMETIMES THE ONLY CONTACT) THE CUSTOMER HAS WITH THE UTILITY.
- HOW YOU DEAL WITH CUSTOMERS SHAPES THE PUBLIC IMAGE OF YOUR UTILITY.
- SERVICE REPRESENTATIVES SHOULD ALWAYS:
 1. *LISTEN ATTENTIVELY.*
 2. *MAINTAIN A POSITIVE ATTITUDE.*
 3. *SPEAK CLEARLY.*
 4. *AVOID TECHNICAL TERMS OR FANCY WORDS.*
 5. *MAKE EVERY CUSTOMER FEEL IMPORTANT.*

CUSTOMER SERVICE

- UTILITY REPRESENTATIVES SHOULD RECEIVE THE COMPLAINT WITH CARE AND COURTESY, RESEARCH THE COMPLAINT WITH DILIGENCE, AND RESOLVE THE COMPLAINT WITH EFFICIENT CUSTOMER SERVICE SKILLS.
- BENEFITS OF A COMPLAINT TO THE UTILITY ARE:
 1. THE OPPORTUNITY TO GAIN THE CUSTOMER'S TRUST AND LOYALTY.
 2. THE OPPORTUNITY TO TURN AN ANGRY CUSTOMER INTO A LOYAL CUSTOMER.

WHEN A CUSTOMER CALLS

- ISSUES TO ADDRESS UPON RECEIPT OF A CUSTOMER'S CALL:
 1. WHO IS CALLING?
 2. WHY ARE THEY CALLING?
 3. WHAT DO THEY EXPECT THE UTILITY TO DO?
 4. WHEN WILL CUSTOMER BE CONTACTED?
- HIGH BILL COMPLAINTS REQUIRE MORE RESEARCH, DOCUMENTATION, AND EXPLANATION TO THE CUSTOMER AND THE PSC. THE UTILITY PERSONNEL SHOULD PROVIDE THE NECESSARY INFORMATION TO THE CUSTOMER SO THE CUSTOMER (AS WELL AS THE UTILITY PERSONNEL) CAN UNDERSTAND AND CALCULATE THE BILL.

WHAT TO TELL A CUSTOMER

- CUSTOMER SHOULD BE PROVIDED WITH A BILLING AND PAYMENT HISTORY THAT IS VERY SIMPLE. (SEE EXAMPLE.) IF THE CUSTOMER IS OF THE OPINION THE HIGH BILL IS DUE TO A METER CHANGE, CUSTOMER SHOULD BE PROVIDED WITH THE METER HISTORY.
- IF THE UTILITY REPRESENTATIVE HAS PROVIDED THE CUSTOMER WITH ALL THE APPROPRIATE INFORMATION AND THE CUSTOMER IS STILL NOT SATISFIED, GIVE THEM THE PSC'S TOLL-FREE NUMBER, 1-800-772-4636. CALL A CONSUMER SERVICES STAFF MEMBER OR ME AND GIVE A "HEADS UP" ON THE POSSIBLE COMPLAINT. THIS PROVIDES ALL OF OUR STAFF THE OPPORTUNITY TO ASK THE CORRECT QUESTIONS.

IF A CUSTOMER CONTACTS THE PSC

- IF THE CUSTOMER DOES CONTACT THE PSC, THE UTILITY WILL ALREADY HAVE ALL THE NECESSARY INFORMATION AVAILABLE FOR THE PSC STAFF. ON HIGH BILL COMPLAINTS, CONSUMER SERVICES WILL REQUEST THE BILLING, PAYMENT, AND METER HISTORY ALONG WITH INFORMATION ABOUT ANY PREMISE VISITS THAT HAVE BEEN MADE TO THE CUSTOMER'S LOCATION.

PSC CONSUMER SERVICES

PSC COMPLAINT PROCESS

CONSUMER SERVICES

Rosemary Tutt
Branch Manager/
Complaint Investigator

Carol Cummins
Complaint
Investigator

Stacey Varney
Complaint
Investigator

CONSUMER SERVICES

- INVESTIGATORS ROUTINELY ANSWER MORE THAN **1,500 TELEPHONE CALLS EACH MONTH**. MOST CALLERS ARE REQUESTING INFORMATION REGARDING REGULATIONS, TARIFFS, AND UTILITY COMPANY PRACTICES.
- REFUNDS, SAVINGS, AND CREDITS TO CONSUMERS ARE TRACKED. IN 2018, CONSUMER SERVICES HELPED CONSUMERS RECEIVE \$118,403.

COMPLAINT ACTIVITY

- REPORTS ARE CREATED IN-HOUSE ON A MONTHLY BASIS. IF YOU ARE INTERESTED IN MONTHLY COMPLAINT ACTIVITY, YOU CAN CONTACT CONSUMER SERVICES.
- UTILITIES CAN VIEW QUARTERLY REPORTS RELATED TO COMPLAINT ACTIVITY BY VISITING THE FOLLOWING WEB SITE:

[HTTP://PSC.KY.GOV/HOME/CONSUMER_INTRA](http://PSC.KY.GOV/HOME/CONSUMER_INTRA)

2019 Water Utility Complaints

Investor-owned Utilities: 84

Water Districts: 154

Water Associations: 22

Top reasons:

Billing: 123

Service quality/repairs: 51

Rates/policies: 43

Disconnection: 29

WATER UTILITY COMPLAINTS 2019

Water Districts:

• Billing	(54)
• Service quality/repair	(39)
• Disconnection	(25)
• Rates/Policies	(24)
• Refusal to provide service	(6)
• Line extension/upgrade charge	(4)
• Safety	(1)
• Deposits	(1)
Total	154

Water Associations:

• Billing	(11)
• Rates/Policies	(7)
• Service quality/repair	(1)
• Safety	(1)
• Other	(2)
Total	22

TOP 5 COMPLAINT REASONS

- BILLING
- SERVICE QUALITY/OUTAGE
- DISCONNECTION
- RATES/POLICIES
- REFUSAL TO PROVIDE SERVICE

TOOLS

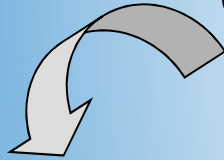
- Customer's Bill of Rights
- Utilities' Filed Tariff
- PSC Rules and Regulations
- Kentucky State Statutes
- Past Commission Decisions

INFORMAL COMPLAINTS

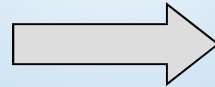
- CUSTOMER FIRST TALKS TO THE UTILITY AND ATTEMPTS TO RESOLVE THE DISPUTE.
- IF UNRESOLVED, THE UTILITY ADVISES THE CUSTOMER OF THE OPPORTUNITY TO CONTACT THE PSC FOR REVIEW OF THE DISPUTE.
- CUSTOMER MAY CONTACT THE PSC BY TELEPHONE, FAX, E-MAIL, LETTER, OR IN PERSON. USE OF THE TOLL-FREE NUMBER OR E-MAIL ALLOWS THE COMPLAINT TO BE HANDLED WITH THE GREATEST SPEED AND EFFICIENCY. MOST COMPLAINTS ARE HANDLED OVER THE TELEPHONE.
- COMMISSION STAFF ACTS AS A MEDIATOR, USING INFORMATION FROM THE CUSTOMER, THE UTILITY, TARIFFS, LAWS, ORDERS, ETC. WHEN ATTEMPTING TO RESOLVE THE DISPUTE.

COMPLAINT PROCESS

Complaint received by phone,
fax, mail, e-mail, or walk-in



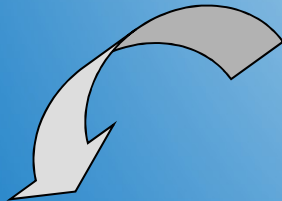
Investigator enters
complaint into CIS system
and identifies problem



Investigator reviews
utility's tariff,
applicable regulations,
and state statutes



Investigator forwards complaint
to utility and requests account
information and documentation



Utility contacts
Complainant, resolves
complaint, and sends
response to PSC



Investigator confirms utility's
response with customer. If customer
is not satisfied, we inform him
that he can file a formal complaint

FORMAL COMPLAINTS

- CUSTOMERS HAVE THE RIGHT TO FILE A FORMAL COMPLAINT. THIS DOES NOT NECESSARILY MEAN THAT THE COMPLAINT WAS NOT RESOLVED AT THE INFORMAL PROCESS. IT MAY MEAN THAT THE CONSUMER REFUSED TO ACCEPT THE MEDIATION RESULTS.

FORMAL COMPLAINTS

- CUSTOMER REQUEST FOR A FORMAL INVESTIGATION OF A COMPLAINT MUST BE MADE IN WRITING. A BUSINESS FILING A FORMAL COMPLAINT MUST BE REPRESENTED BY AN ATTORNEY.
- THE COMPLAINT IS ASSIGNED A CASE NUMBER AND MADE PART OF THE COMMISSION'S DOCKET OF CASES.
- THE COMMISSION STAFF REVIEWS THE COMPLAINT TO DETERMINE WHETHER IT STATES A PRIMA FACIE CASE (WHETHER THERE IS ENOUGH EVIDENCE TO ALLOW THE COMPLAINT TO GO FORWARD)

FORMAL COMPLAINTS

- IF THE COMPLAINT DOES NOT STATE A PRIMA FACIE CASE, THE COMPLAINING PARTY IS GIVEN AN OPPORTUNITY TO PROVIDE ADDITIONAL EVIDENCE. IF NO ADDITIONAL EVIDENCE IS PROVIDED, OR IF THE ADDITIONAL EVIDENCE IS INSUFFICIENT TO MAKE A PRIMA FACIE CASE, THE COMPLAINT IS DISMISSED.
- IF A PRIMA FACIE CASE IS MADE BY THE COMPLAINANT, THE COMMISSION ISSUES AN ORDER TO THE UTILITY TO SATISFY THE COMPLAINANT'S REQUEST OR TO FILE AN ANSWER TO THE COMPLAINT.

FORMAL COMPLAINTS

- UTILITY AND CUSTOMER MAY NEGOTIATE A SETTLEMENT TO RESOLVE THE DISPUTE.
- SETTLEMENT PROPOSAL MUST BE SUBMITTED TO THE COMMISSION FOR REVIEW AND APPROVAL.

FORMAL COMPLAINTS

- WITHOUT A COMMISSION-APPROVED SETTLEMENT, THE COMMISSION HOLDS A HEARING AT WHICH THE UTILITY AND COMPLAINANT PRESENT THEIR POSITIONS.
- COMMISSION ISSUES AN ORDER WITH ITS DECISION ON THE CASE.



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Kentucky Public Service Commission

Orders Press Releases

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- Environmental Surcharge
- Big Rivers Management Audit
- Call 811
- IMPORTANT NOTICE
- Electronic Filing
- Request PSC Records

- Consumer Information**
- Frequently Asked Questions
- Problems With Your Service?
- Outage Information
- Fuel Adjustment Clause Past Filings
- Fuel Adjustment Clause Questions and Answers
- Purchased Gas Adjustment
- Purchased Water Adjustment

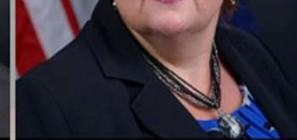
Search All Files Search



Chairman
Michael J. Schmitt



Vice Chairman
Robert Cicero



Commissioner
Talina R. Mathews

Latest Press Releases

- September 07, 2017 - Kentucky Power Co. Fined \$2,500 for Tree Trimmer Death
- August 29, 2017 - Martin County Water District 8/29/2017 Public Meeting Presentation
- August 24, 2017 - PSC to Conduct Natural Gas Safety Training for City Officials
- August 08, 2017 - PSC to Hold Public Meeting in Martin County Water Case
- August 02, 2017 - PSC Grants Rate Increase to Shelby Energy

Latest Orders

- *New!*** Case: 2017-00199, Central City Municipal Water & Sewer - Wholesale Rate Adjustment
- *New!*** Case: 2017-00179, Kentucky Power Company - General Rates
- *New!*** Case: 2017-00248, East Kentucky Network, LLC dba Appalachian Wireless - Construct Cell Site - No P&Z Commission
- *New!*** Case: 2017-00199, Central City Municipal Water & Sewer - Wholesale Rate





Consumer Information

- [Customer Bill of Rights](#)
- [Fuel Adjustment Clause \(FAC\): Frequently asked questions](#)
- [Purchased Gas Adjustment \(PGA\): Frequently asked questions](#)
- [Columbia Gas of Kentucky -- Customer CHOICE Program](#)
- ▾ **Reports**
 - [Second Quarter 2017 Inquiry Summary](#)
 - [First Quarter 2017 Inquiry Summary](#)
 - ▷ 2016
 - ▷ 2015
 - ▷ 2014
 - ▷ 2013
 - ▷ 2012
 - ▷ 2011
 - ▷ 2010
 - ▷ 2009
 - ▷ 2008
 - ▷ 2007
- ▷ **Brochures**
 - [Kentucky No Call Telemarketing Signup Page](#)
 - [National Do Not Call Registry](#)
 - [Information on the February 19, 2009 Switch to Digital Television](#)
 - [Problems with Your Utility Service?](#)
 - ▷ [Request for Utility Related Education Materials](#)
 - [BellSouth Neighborhood Watch](#)
 - [Energy Savings Tips](#)
 - [Energy Savers - U.S. Department of Energy](#)
 - [TRAC - Telecommunications Research & Action Center](#)
 - ▷ [Net Metering and Interconnection Guidelines](#)



FINAL POINTS

**THE BEST ADVICE TO
TAKE FROM THESE
SEMINARS IS TO
ALWAYS CALL THE
PSC WHEN YOU
HAVE QUESTIONS.**



P S C

CONSUMER SERVICES

1-800-PSC-INFO

1-800-772-4636

Fax: 502-564-7397

**211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40602**

<http://psc.ky.gov>

psc.consumer.inquiries@ky.gov

psc.info@ky.gov

Reports: psc.ky.gov/Home/Consumer_Intra



STOLL | KEENON | OGDEN
PLLC

RATE ADJUSTMENTS MADE EASY

PRESENTATION TO

HARDIN COUNTY WATER DISTRICTS

TRAINING SEMINAR

SEPTEMBER 27 , 2021

Gerald Wuetcher

Stoll Keenon Ogden PLLC

gerald.wuetcher@skofirm.com

<https://twitter.com/gwuetcher>

(859) 231-3017



Order of Presentation

- Overview
- Ratemaking Process: How Are Rates Set?
- Preparing the Application
- Rate Case Procedure
- Common Issues
- Practical Suggestions
- Resources



OVERVIEW



Importance of Adequate Rates

- Necessary to Maintain Service Quality
 - Ensure Proper Maintenance/Operation Practices
 - Provide Wages & Benefits to Attract/Retain Competent Personnel
 - Replace Aging Infrastructure
 - Meet Demands to Extend/Expand Service
- Send Proper Pricing Signals to Users



Methods For Adjusting Rates

- Purchased Water Adjustments
 - Adjustments to Reflect H₂O 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 Not Filing General Rate Adjustments

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



Alternative Rate Filing Procedures

- Adopted in 1982 as 807 KAR 5:076
- Purpose: Provide a **simplified & less expensive** procedure for small utilities to adjust rates
- Use of Pre-Printed/Fill-in Blank Application Form
- Key Document: Utility's Annual Report
- Few Supporting Documents Required
- No Experts/Attorneys Needed
- Designed to Encourage More Frequent Filings



Alternative Rate Filing Procedures: Eligibility Requirements

- Gross annual revenues < \$5M
 - Only 9 of 136 H₂O Utilities Ineligible
 - Only 1 of 43 Sewer Utilities Ineligible
 - Combined Utilities: Only Division Revenues considered
- Maintain Adequate Financial Records
- Must Have File Annual Report for Immediate Past Year and Prior 2 Years



General Rate Adjustment Procedures (Non-Alterative Rate Filing)

- Utility Specific Application Must Be Prepared
- Written Testimony/Cost-of-Service Study
- Extensive Info Re: Operations Required
- Advanced Notice To PSC/Attorney General
- Greater Flexibility in Establishing Test Period
- Application May Request Non-Rate Relief
- Attorney Required



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**
- Provides basis for determining the amount of revenue **collected from rates**



Revenue Collected from Rates

TOTAL REVENUE REQUIREMENT

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



Methods of Determining Revenue Requirements

- Debt Service
- Operating Ratio
- Rate of Return



Determining Revenue Requirements: 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
- PSC generally uses a 3-year average
- **Exception:** 5-year average if greater time between rate cases



Debt Service Coverage

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

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



Determining Revenue Requirements: Operating Ratio

Adjusted Operating Expenses

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= **Total Revenue Requirement**



Determining Revenue Requirements: Rate of Return

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

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

*(Original Cost of Plant - Accumulated Depreciation)



Test Period

- A consecutive 12-month period
- Generally period used in utility's most recent annual report or audit
- ARF Application: Must use Calendar Yr for most recent annual report
- 807 KAR 5:001: Appliant's choice of any consecutive 12-month period



Review of Test Period

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



Adjustments to Test Year

- Test year is adjusted to reflect 12 months that are **representative of on-going, normal operations**
- Adjustments must be:
 - **known and measurable**
 - **adequately documented**



Types of Adjustments

- Pro forma
- Normalizing



Pro forma Adjustments

- **Known** or **anticipated** increases or decreases in revenues and expenses
 - Increase in wage rates **after end of test period**
 - Changes in Insurance/Taxes/CERS Contributions **effective prior to date of PSC decision**
- Adjustments require evidentiary support



Normalizing Adjustments

- Adjustments made to reflect a full 12 months of operations for revenue and expense items that changed during the test period.
 - Example: Electric Rates Increased During Test Period
- Adjustments require evidentiary support



Operation & Maintenance Expenses

- Salaries & Wages
- Employee Benefits
- Purchased Power
- Purchased Water Rent
- Chemicals
- Materials & Supplies
- Repairs & Maintenance
- General Overhead



Allocation of Common Costs

- Allocations are necessary to ensure that the water department is not subsidizing other utility divisions or vice-versa.
- Some type of system should be in place for allocating the appropriate level of each expense to the water utility.
- If a system is not currently in place, a basis for logical estimates must be determined.



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
- Annual Depreciation Expense = (**Asset Cost** – Salvage Value) ÷ **Useful Life** (years)
- Two Critical Components
 - Asset Cost
 - Useful Life



Depreciation Expense

- Depreciation expense included in revenue requirement determination
- Utility should maintain depreciation schedules
- Separate schedules for each Utility division
- Depreciation schedules **required**



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 (RD)	PSC Water District	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

- Fairness/Equity?
- Promotes Infrastructure Replacement?
- Effect on State/Federal Policies to Promote Affordability?
- Effect on PSC's Ability to Regulate?
- Effect on 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

- Requirements specified in any applicable bond ordinance (e.g., funding of specified reserves)
- Provisions in Water Supply Agreement or other contracts or agreements
 - Financing costs of specific capital improvement
 - Exclusion of depreciation expense in rate calculation



PREPARING THE APPLICATION



RATE CASE PROCEDURE



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



Order Of Events

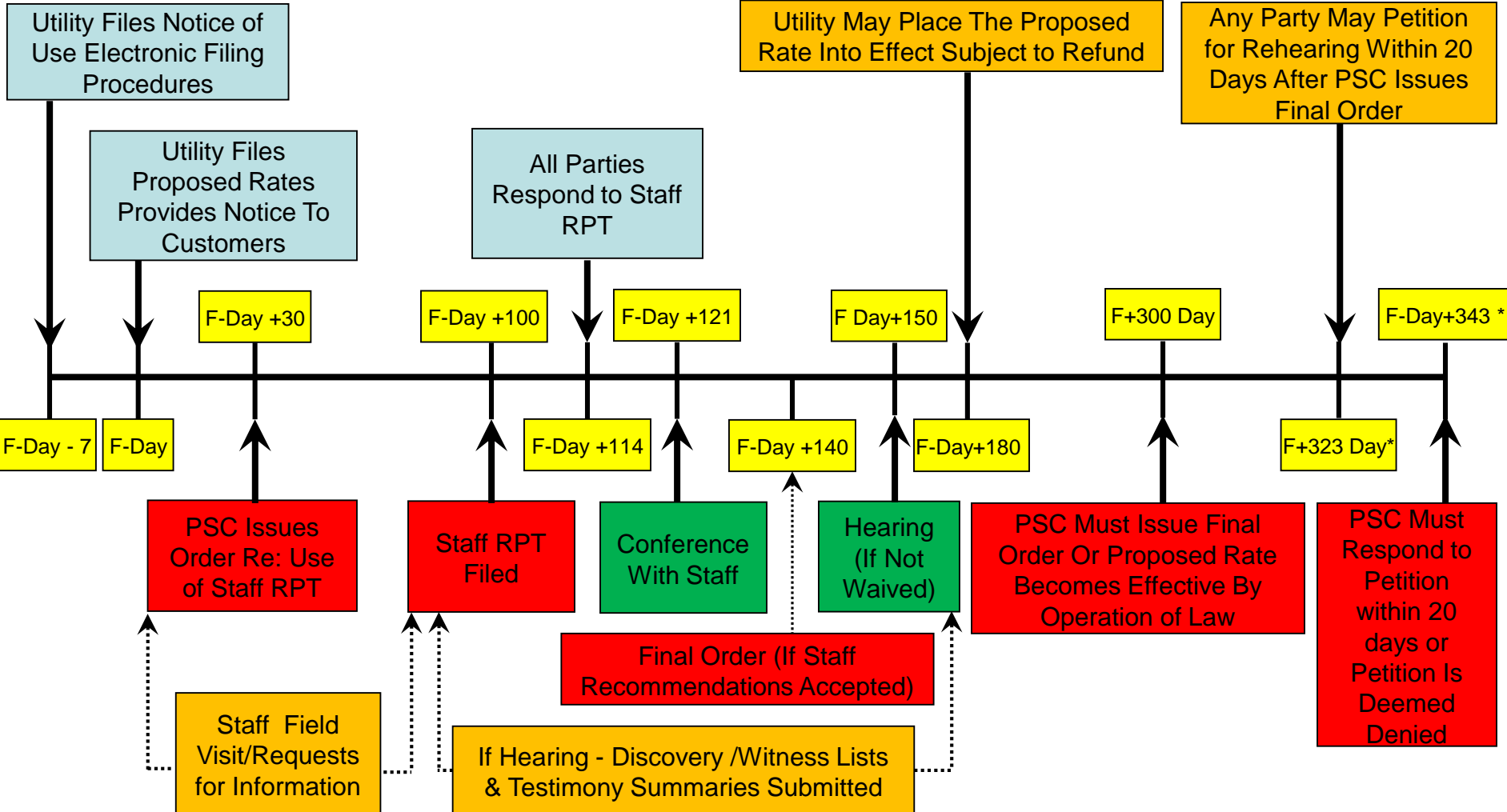
ARF Procedures

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

General Rate Filing

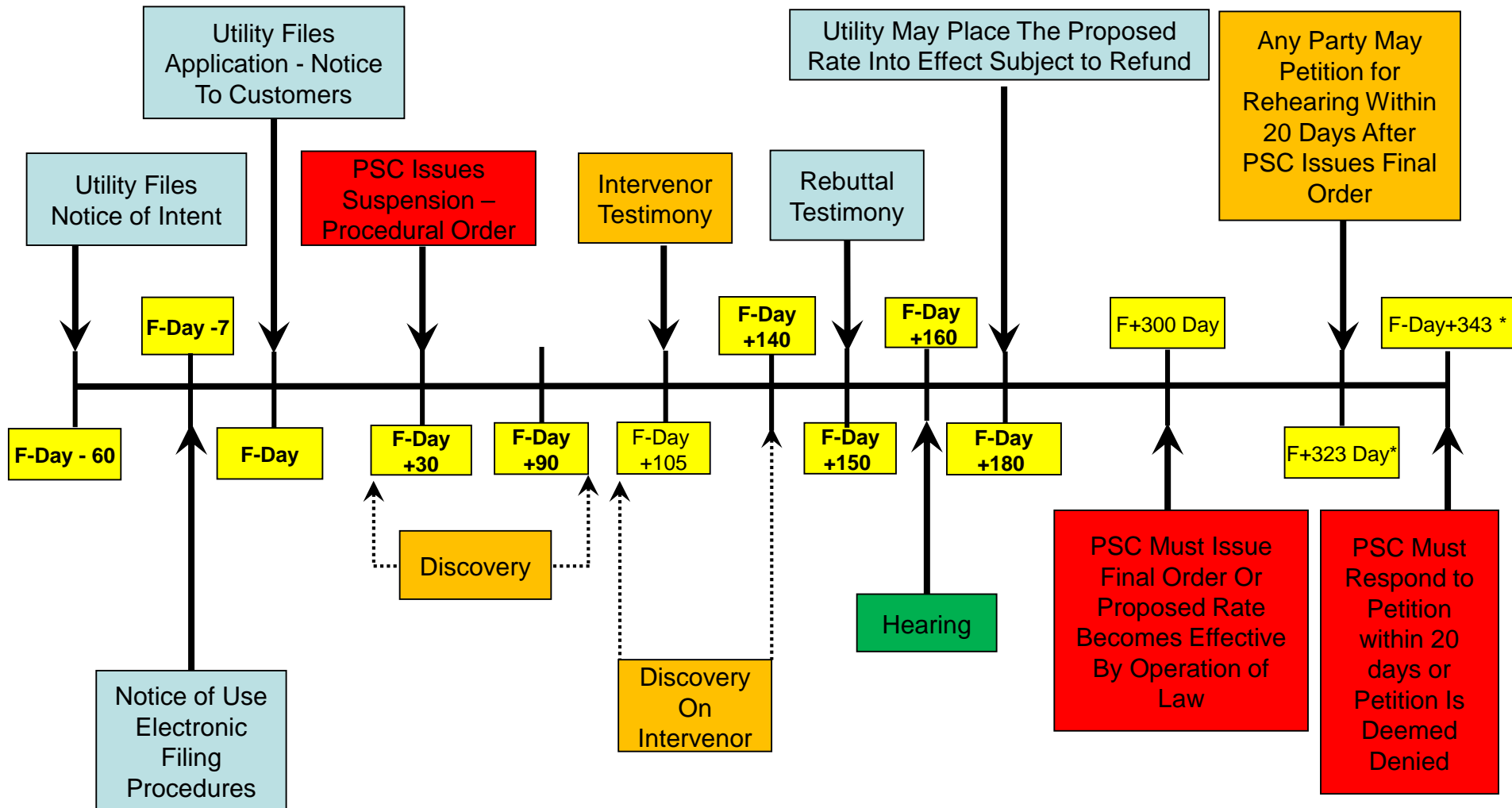
1. Pre-filing Notices
2. Filing of Application
3. Rate Suspension/Procedural Schedule
4. Discovery
5. Intervenor Testimony
6. Rebuttal Testimony
7. Hearing
8. Final Order

TIMELINE FOR RATE ADJUSTMENT FILING PROCEEDING (ALTERNATIVE RATE FILING)



* 20-day period for Rehearing Will Not Begin Until Service of Final Order Order Is Presumed To Have Been Served 3 Days After Mailed/E-mailed

TIMELINE FOR RATE ADJUSTMENT FILING PROCEEDING (GENERAL RATE ADJUSTMENT PROCEDURES)



* 20-day period for Rehearing Will Not Begin Until Service of Final Order
Order Is Presumed To Have Been Served 3 Days After Mailed/E-mailed



Pre-filing Notices

- Notice of Intent to File Application
 - 30 - 60 days before filing of Application
 - PSC and Attorney General Served
- Notice of Intent Use Electronic Filing Procedures (At Least 7 Days Before Filing)
- 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 (1st 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 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 & 10 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

- Starts the Clock
- PSC has **30 days** from date of filing to suspend the proposed rates
- Utility May Not Place Proposed Rates Into Effect for **5 months from Proposed Effective Date**
- If No Decision Within 5 Months, Proposed Rates May Be Placed Into Effect Subject To Refund
- PSC Must Issue Final Decision within **10 Months**



Procedural Schedule

- PSC Establishes Procedural Schedule
- Generally 2 rounds of Discovery on Applicant
- Intervening Parties May Conduct Discovery
- Intervenor May File Written Testimony
- Discovery on Intervenors Permitted
- Rebuttal Testimony Permitted
- No Settlement Agreements with PSC Staff



Hearing

- Formal Hearing
- Utility Must Be Represented By Attorney
- Witness Must Testify Re: Written Testimony
- PSC Staff/Commissioners Will Cross-Examine
- 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 140 days of Filing (ARF)/180 days (General Rate Procedures)
- 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



COMMON ISSUES



Employee Compensation

- Employee Compensation
 - Wages/Salaries
 - Health Insurance
 - Special Allowances
- Previously Accepted with limited PSC review
- PSC considered expenditures controlled by competitive forces
- Scope of Review: Is compensation excessive?



Employee Compensation: Case No. 2015-00312

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



Employee Compensation: Case No. 2015-00312

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

Order of 9/15/2016 at 15



Employee Compensation: Case No. 2016-00054

- Water District Sought Rate Increase
- PSC Staff challenges annual increases for select employees who receive percentage increases greater than other employees
- PSC **disallowed** higher increases:
“The annual wage rate increase for all employees should be comparable **unless there is evidence demonstrating a reasonable basis for a different increase amount**, such as when an employee receives a promotion for accepting additional responsibilities.”



Employee Compensation: Case No. 2016-00054

- AG challenged wage expense related to annual wage increase of 3% for all employees & health, life & vision insurance (at no cost)
- PSC rejected challenges and found wage increase & fringe benefit package reasonable
- PSC subsequently granted rehearing to consider AG's objections but eventually affirmed its decision



Employee Compensation: Supporting Compensation Package

- Closer review of Wage/Salary & Fringe Benefits packages
- Include support in Applications for Rate Adjustment
- Compare with other utilities and general community
 - KRWA Salary Survey
 - Kentucky League of Cities' Wage and Salary Survey
 - AWWA Wage/Salary Survey
 - Bureau of Labor Statistics
 - PSC Annual Reports



Employee Compensation: Supporting Compensation Package

- Support for Wage/Salary Increases
 - Consumer Price Index
 - Bureau of Labor Statistics
- Identify factors that affect compensation
 - Utility's Location
 - Local Labor Pool
- Annual Increases: Provide the basis for any percentage increases that are greater than most employees



Employee Compensation: Supporting Compensation Package

- Document Wage/Benefit Decisions
 - Bd Minutes should reflect Bd's reasoning for increases
 - Specific, detailed reasons preferred over general
- Fringe Benefits
 - Use State Government Fringe Benefits As Baseline
 - Explain the need for benefits packages that exceed the baseline
- Consider Implementing Evaluation System to provide better support for selective wage/salary increases



Employee Compensation: Bonuses

- PSC has historically disallowed bonuses
 - Salary adequate
 - Non-recurring
 - Discretionary
- Question of Lawfulness
 - KY Constitution Section 3
 - OAG 62-1
- Consider Implementing Incentive Compensation Policy to Overcome PSC Objections



Employee Health Insurance

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



BLS: Estimate of National Average

Coverage	Average	Private Industry	State & Local Government
Family	67/33	66/34	71/29
Single	80/20	78/22	86/14



PSC Orders: Common Characteristics

- No discussion health insurance plan specifics
- No comparison of utility's health costs with other utilities
- Ignores Utility arguments and evidence
- No finding that utility's cost for health insurance is unreasonable
- No explanation for use of the private firm standard or why other standards are inappropriate



Commissioner Cicero: PSC Policy On Health Insurance Benefits

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



Commissioner Cicero: PSC Policy On Health Insurance Benefits

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



Commissioner Cicero: PSC Policy On Health Insurance Benefits

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



Commissioner Cicero's Policy On Health Insurance Benefits

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



Commissioner Cicero's Policy On Health Insurance Benefits

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



What Is A Reasonable Level?

“As long as the employee contribution rate for health insurance is **at least 12 percent**, [the Commission] will not make a further adjustment to the national average. If a utility's employees' health insurance contribution is less than 12 percent, the Commission will adjust all contributions to the national average.”

Case No. 2019-00053, June 20, 2019



Problems With PSC Approach

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



Problems With PSC Approach

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



PROBLEMS WITH PSC APPROACH

- Disallowance is not based upon the cost of insurance but employees' share of cost
- PSC refuses to consider:
 - Insurance Policies of Utility
 - Local Labor Markets
 - Utilities' Efforts to contain/reduce health insurance costs
 - Reputable/recognized studies on issue



Responses To PSC Approach

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



Responses To PSC Approach

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



Responses To PSC Approach

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



PSC Authority To Mandate Employee Contribution

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



Donations

- PSC has historically disallowed as an expense unrelated to provision of utility service
- Water District donations view as unlawful, inconsistent with statutory purpose
- 1956 OAG 36,219
- OAG 92-043
- Recommended Response: Do not request recovery/Implement Policy Prohibiting



Commissioners' Salaries/Benefits

- Submit Fiscal Court Ordinances re: salary level as exhibit to Application
- Submit proof of training attendance if compensation > \$3,600 awarded
- No free or reduced service
- Insurance benefits should not exceed those provided employees
- Why are benefits other than salary needed?



Commissioners' Health Insurance

- Case No. 2019-00268
- WD sought recovery of health insurance provided to WD Commissioners
- Cost: \$50,500
- Procedural Irregularities in Authorizing Health Insurance for Commissioners
- Value of Total Package (Salary + Benefits) termed “excessive”



Commissioners' Health Insurance

- KRS Chapter 74 limits Commissioner Compensation limited to salary
- Notes that only County Judge & Fiscal Court can fix compensation level
- Unlawful for WD to provide health insurance coverage at no cost to Commissioners



Commissioners' Health Insurance

- PSC Staff Opinion 2013-012:
 - KRS 79.080(3) permits WD to provide health insurance coverage to employees & officers
 - *Caldwell County Fiscal Court v. Paris*, 945 S.W.2d 952,954 (Ky.App. 1997), providing health insurance under a group policy does not constitute "compensation" or "salary" to public officials as the terms are used in the Kentucky Constitution or statutes.



Commissioners' Health Insurance

- Court likely to hold provision of health insurance coverage lawful
- PSC likely to find expenses to be unreasonable & deny recovery
- Recommendation: Do not request recovery
- **BEWARE:** PSC may use provision of health insurance as a basis to remove water district commissioners



Depreciation

“**[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

- Depreciation Permits Recovery of the Cost of A Capital Asset
- Annual Depreciation Expense = (**Asset Cost** – Salvage Value) ÷ **Useful Life** (years)
- Two Critical Components
 - Asset Cost
 - Useful Life



Useful Life: Effect On Revenue Requirement

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



Effect Of Useful Life On Revenue Requirement

- Increases/Decreases Revenue Requirement
- Erroneous Useful Life creates
 - Generational Inequities (Earlier Generation pays for Asset that a Later Generation Uses)
 - Inadequate Revenue for Infrastructure Replacement
 - “Money Left on Table” That Utility Never Recovers (PSC Staff)



Methods For Determining Asset's Useful Life

- Engineering Estimate/Judgment
- Depreciation Study
- NARUC's *Depreciation Practices for Small Water Utilities*



Depreciation Studies: Generally

- Involves an analysis of past performance and engineering estimates of future
- Requires detailed historical records (30 Years) re: plant additions and retirements
- Survivor Curves plotted
- Supplemented with information from management and operating personnel re: current plant operations & practices
- Interpretation



PSC Re: Use of Depreciation Studies For Smaller Utilities

Detailed property records specific to historic plant additions, plant retirements, and salvage practices are required to complete a depreciation study. Generally, “small” water utilities, such as Pendleton District, do not maintain property records with enough detail to properly complete a formal study. Furthermore, even if adequate records were maintained, “small” utilities do not have the financial resources to fund a formal study.

Case No. 2012-00412, PSC Staff Report at 9-10



Depreciation Practices For Small Utilities

- National Association of Regulatory Utility Commissioners (NARUC) Publication (Aug. 15, 1979)
- Intended to address the needs of regulatory commissions to establish realistic depreciation rates for small H₂O utilities
- Provided in table format a range of average service lives then in use by H₂O utilities throughout the US for H₂O facilities designed & installed & maintained in accordance with good H₂O works practice



Depreciation Practices For Small Utilities

“The commission has previously used . . . [the NARUC] survey when establishing the appropriate depreciable lives for water utilities such as Rattlesnake Ridge when historic property records are not maintained in the manner necessary to perform a formal depreciation study or the utility does not have the financial resources to fund a formal study. Application of the NARUC Study is appropriate in this instance.”

Case No. 2013-00338, Order of 02/07/2014 at 4.



PSC Treatment Of Useful Lives

- Recent Focus on Useful Lives (Mains/Meters)
- PSC Staff Routinely Recommending Changes To Conform to NARUC Guide
- PSC has consistently accepted Staff Recommendations



Response To Staff Recommendation

- Only 1 Utility has contested recommendation
- Why?
 - Contest would delay rate increase
 - Cost of contesting
 - Surprise
 - Limited time to respond/Lack of expertise
 - Limited benefit: Staff recommended rate increase near requested amount



PSC Decisions Re: Depreciation

- Utility bears Burden of Proof to Demonstrate Why Its Current Useful Life Is Appropriate
- In absence of evidence to the contrary, NARUC Guide will be used to establish useful lives
- PSC has not required PSC Staff proposals to be supported by engineering/technical evidence when maximum range recommended
- Staff Recommendations adopted in **ALL** Cases
- Adopted for Ratemaking & **Accounting** Purposes



Steps To Avoid Or Reduce Disallowance In Rate Case: Pre-application

- Review Useful Lives – Are they within NARUC range? (Emphasize Mains/Meters)
- Revise for Compliance with Lower Range (Unless basis for variance)
- Estimate effect of Revision on Revenue Requirement at Mid-Point & Higher Range
- If Effects of Mid-Point/Higher Range Revision Significant, Include **Supporting Evidence** for Useful Lives in Application



Supporting Evidence

- Past PSC Treatment of Depreciation Expense
- Depreciation Study
 - Adequate Records?
 - Potential Cost
- Engineer Testimony
 - Sworn Affidavit
 - Greater Weight



Arguments to Support A Lower Useful Life

- Prior PSC Position on Depreciation in Prior Cases
- Legal Objections to Use of NARUC Guidelines
- Policy/Fact Objections to Use or Application of NARUC Guidelines
- Met Standard (Within Range And Produced Evidence)



Depreciation: Summary

- **Major Issue** in Water Utility Rate Proceedings
- Examine Useful Lives **NOW**/Determine if Valid
- **(BEFORE FILING APPLICATION)** Assess the Effects on Revenue Requirement of Major Revisions in Useful Lives
- Address in Application for Rate Adjustment
- Start Maintaining the Records to Perform Depreciation Study



Late Payment Fees

- Case No. 2020-00141: PSC held Late Payment Fees Unreasonable – Directed Collection Cease
- Rationale:
 - Fees are not cost based
 - Fees do not serve as an incentive to pay bills on time
 - Creates a hardship on customers already unable to timely pay for service



Late Payment Fees

- PSC has struck down 5 other utilities' late payment fees
- Problems With PSC Order
 - Lack of Due Process
 - Lack of Evidence to Support Holding
 - Failure to Consider Cost of Late Payment Customers
 - Effect: Increases Rates for Timely Paying Customers



Non-Recurring Charges

- Case No. 2020-00141: PSC announced new method for calculating NRCs
- No longer consider the cost of labor in charges for services provided during business hours
- Contrary to long-serving methodology & accepted industry practice
- Shifts cost to general water service



PRACTICAL SUGGESTIONS



Strategic Considerations

- What are the limits to your request?
- What are your time constraints for recovery of additional revenue?
- What is the cost of delaying implementation of proposed rates?
- What are the utility's priorities for using additional revenues?
- How much revenue increase does utility need to meet objectives?



Practical Suggestion: Application & Planning

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



Practical Suggestion: Preparing Application

- Review all test year expenses for:
 - Improper or unlawful expenditures
 - Non-mission related expenses
 - Expenditures contrary to PSC Policy
 - Embarrassing Expenditures
- Make Adjustments to remove these expenses before filing
- Correct the Problem & Note the Correction



Practical Suggestion: Preparing Application

- Incorporate By Reference Any Documents Already Filed with PSC (e.g., bond ordinances)
- Use Electronic Filing Procedures
- Provide Non-required Documents
 - General Ledger
 - Minutes of Board Meetings
 - Accountant's Adjusting Entries
 - Commissioner Compensation Documents



Practical Suggestion: Non-Recurring Charges

- NRC: Charge or fee assessed to a customer to recover the specific cost of an activity
- Examples:
 - Tap-on Fee
 - Reconnection Charge
 - Service Visit



Practical Suggestion: Non-Recurring Charges

- Application provides opportunity to ensure NRCs reflect cost of service
- Revision ensures NRCs are not resulting in net losses
- Reduces the Cost of Updating
- Avoids limits placed upon revisions when made outside of general rate case



Practical Suggestions

- Review Utility for potential non-rate issues
 - Unauthorized Charges
 - Unauthorized Loans
 - Litigation/Disputes with State/Local Agencies
 - Excessive Water Loss
 - Problems identified in PSC Inspection Reports
- Identify & Contact Potential Intervenors



Practical Suggestions

- Begin a public education program on need for rate adjustment well before application filing
 - Public Officials
 - News Media
 - Local Businesses
 - General Public
- Select lawyer with PSC/ratemaking experience



Practical Suggestions

- Lawyer should be involved in all phases of planning and preparing application
- Identify major issues and address in written testimony – confront problems
- Use Responses to Requests for Information as opportunity to emphasize the utility's arguments for rate adjustment
- Overestimate Rate Case Expenses



RESOURCES



AVAILABLE RESOURCES

- PSC Website (psc.ky.gov)
 - PSC Orders since 1980 **SEARCHABLE**
 - All Active Utility Tariffs **SEARCHABLE**
 - All Utility Tariff Filings since 2005 **SEARCHABLE**
 - Staff Opinions **SEARCHABLE**
 - Audits
 - Annual Reports since 1990
 - PSC Case Records Since 2005 **SEARCHABLE**
 - PSC Video Transcripts (Available online from 2011)
 - Listing of Daily Filings & Orders



AVAILABLE RESOURCES

- Statutes (<https://bit.ly/3ccGRGi>)
- Regulations (<https://bit.ly/2MYZHbn>)
- Compilation of Utility Laws App (<https://bit.ly/3v6MDSA>)
- PSC Staff Directory
(http://psc.ky.gov/agencies/psc/reports/psc_staff.pdf)
- Kentucky Water Utility Law Twitter Feed
(<https://twitter.com/gwuetcher>)



Questions?



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