

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

In the Matter of:

**ELECTRONIC APPLICATION OF)
BLUEGRASS WATER UTILITY)
OPERATING COMPANY, LLC FOR AN) Case No. 2022-00432
ADJUSTMENT OF SEWAGE RATES)**

**MOTION FOR DEVIATION FROM FILING REQUIREMENTS FOR
APPLICATION FOR ADJUSTMENT OF SEWAGE RATES
BY
BLUEGRASS WATER UTILITY OPERATING COMPANY, LLC**

Bluegrass Water Utility Operating Company, LLC (“Bluegrass Water” or the “Company”), by counsel, and pursuant to 807 KAR 5:001 and other applicable law, hereby applies for a waiver of certain requirements for Bluegrass Water’s application for an adjustment of sewage rates. The specific requirements for which Bluegrass Water seeks a waiver are narrow in scope such that the absence of that information will not materially affect the Commission’s review of the relief sought in the Application. In this Motion, Bluegrass Water respectfully asks the Commission to waive certain limited requirements and as grounds therefore states as follows.

I. INTRODUCTION

1. 807 KAR 5:001 Section 16 sets forth requirements for requesting a waiver from the Commission’s regulations for rate change applications. A waiver request “shall include the specific reasons for the request.” 807 KAR 5:001 Section 16(10). The Commission “shall grant” the waiver request if the applicant shows good cause. 807 KAR 5:001 Section 16(10). First, the Commission “shall consider” whether the utility’s other information provided “is sufficient to allow the commission to effectively and efficiently review the rate application.” 807 KAR 5:001 Section 16(10)(a). Second, the Commission “shall consider” whether the information subject to

the request “is normally maintained by the utility or reasonably available to it from the information it maintains[.]” 807 KAR 5:001 Section 16(10)(b). Third, the Commission “shall consider” the expense the utility will incur in providing the information subject to the request. 807 KAR 5:001 Section 16(10)(c).

II. REQUEST FOR WAIVER OF 807 KAR 5:071 SECTION 3(2)(d)

2. To the extent the Commission believes it is necessary, Bluegrass Water seeks a waiver of 807 KAR 5:071 Section 3(2)(d).

3. 807 KAR 5:001 Section 16(4)(n) requires a utility to file a “summary of the utility’s latest depreciation study with schedules by major plant accounts[.]” 807 KAR 5:001 Section 16(4)(n). In accordance with that requirement, Bluegrass Water respectfully submitted as an exhibit to the Direct Testimony of John Spanos, Gannett Fleming Valuation and Rate Consultants, LLC (Application Exhibit 14), a detailed depreciation study.

4. However, in addition to the depreciation study described in the previous paragraph, 807 KAR 5:071 Section 3(2)(d) also requires a wastewater utility seeking a rate adjustment to file a “detailed depreciation schedule of all treatment plant, property and facilities, both existing and proposed, listing all major components of ‘package,’ treatment plants separately.” 807 KAR 5:071 Section 3(2)(d).

5. Bluegrass Water has attached as Exhibit JJS-2 to the Direct Testimony of John J. Spanos a depreciation schedule of all treatment plant, property and facilities, listing all major components in as detailed a fashion as can be provided. As is explained in the testimony of Mr. Spanos, he prepared this Exhibit in the most detailed manner possible. However, because many of the utilities Bluegrass Water has acquired in the Commonwealth did not maintain detailed records

that could be provided to Bluegrass Water, Bluegrass Water cannot provide a more detailed schedule than what Mr. Spanos prepared in conjunction with his Depreciation Study.

6. Moreover, because Spanos’s testimony and depreciation study comply with 807 KAR 5:001 Section 16(4)(n), the absence of the 5:071 Section 3(2)(d) information will not prohibit the Commission from conducting a thorough review of the Application. Instead, coupled with the Application’s other testimony and Exhibits, Spanos’s testimony and report “is sufficient to allow the commission to effectively and efficiently review the rate application.” 807 KAR 5:001 Section 16(10)(a).

7. Finally, as the Commission recognized in Case No. 2018-00208,¹ due to the cost, deviations from the requirement to present a traditional depreciation study are routinely granted and the absence of such a traditional study does not prevent the Commission’s review of a utility’s depreciation practices. Here, Bluegrass Water has provided the Commission with a depreciation study and has provided as detailed a depreciation schedule required by 807 KAR 5:071 Section 3(2)(d) as is possible.

8. Accordingly, to the extent the Commission believes a deviation is necessary, Bluegrass Water respectfully asks for a waiver of 807 KAR 5:071 Section 3(2)(d) and respectfully submits that good cause has been shown therefore.

III. REQUEST FOR WAIVER OF 807 KAR 5:001 SECTION 16(4)(u)

9. To the extent the Commission believes it is necessary, Bluegrass Water seeks a waiver of 807 KAR 5:001 Section 16(4)(u).

¹ *In the Matter of: Electronic Application of Water Service Corporation of Kentucky for a General Adjustment in Existing Rates*, Case No. 2018-00208, Order, at 9 (Feb. 11, 2019), (“Due to the detailed information and expense required to perform a traditional depreciation study using general accepted practices, no water utility operating under the Commission’s jurisdiction, with the exception of Kentucky-American Water Company, has ever filed such a study for review. The absence of such a study does not prevent Commission review of depreciation practices of those utilities.”), *available at*: https://psc.ky.gov/pscscf/2018%20Cases/2018-00208//20190211_PSC_ORDER.pdf.

10. 807 KAR 5:001 Section 16(4)(u) requires a sewer utility with annual gross revenues greater than \$5,000,000 to file a “cost of service study based on a methodology generally accepted within the industry and based on current and reliable data from a single time period.” 807 KAR 5:001 § 16(4)(u). As is exhibited in Bluegrass Water’s Application, Bluegrass Water does not have annual gross revenues in excess of \$5,000,000, and respectfully submits that the applicable regulation does not apply.

11. Further, as is explained in the Direct Testimony of Timothy Lyons (Application Exhibit 11), due to the lack of demand information for the vast majority of Bluegrass Water’s sewer customers, it is not feasible to conduct a traditional class cost of service study using methodologies generally accepted in the industry.

12. Accordingly, to the extent applicable, Bluegrass Water respectfully asks for a waiver of 807 KAR 5:001 Section 16(4)(u) and respectfully submits that good cause has been shown therefore.

IV. REQUEST FOR WAIVER OF 807 KAR 5:001 SECTION 16(4)(q)

13. Finally, to the extent the Commission deems it necessary, Bluegrass Water seeks a waiver of the requirement to provide the annual report to shareholders or members and statistical supplements covering the two (2) most recent years from the utility’s application, pursuant to 807 KAR 5:001 Section 16(4)(q).

14. Bluegrass Water seeks this waiver because Bluegrass Water has not provided any such annual reports to its members for the last two years, and therefore has no such documents to provide.

15. Bluegrass Water respectfully submits that good cause is shown for the requested waiver because the waiver is sought only because no such annual reports were provided to its members.

16. Accordingly, to the extent the Commission believes a deviation is necessary, Bluegrass Water respectfully asks for a waiver of 807 KAR 5:001 Section 16(4)(q) and respectfully submits that good cause has been shown therefore.

V. RELIEF SOUGHT

17. For the foregoing reasons, Bluegrass Water respectfully asks that the Commission grant a deviation for the following requirements for its Application:

- a. 807 KAR 5:071 Section 3(2)(d);
- b. 807 KAR 5:001 Section 16(4)(u); and
- c. 807 KAR 5:001 Section 16(4)(q).

Respectfully submitted,

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Certification

I hereby certify that a copy of this filing has been served electronically on all parties of record through the use of the Commission's electronic filing system, and there are currently no parties that the Commission has excused from participation by electronic means. Pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085, a paper copy of this filing has not been transmitted to the Commission.

/s/Edward T. Depp
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Operating Company, LLC*