

**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 )**

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**BLUEGRASS WATER UTILITY OPERATING COMPANY, LLC’S  
RESPONSE TO SCOTT COUNTY, KENTUCKY’S MOTION TO COMPEL**

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Bluegrass Water Utility Operating Company, LLC (“Bluegrass Water” or the “Company”), by counsel, and pursuant to 807 KAR 5:001 Section 5(2), and other applicable law, hereby responds to the motion to compel (“Motion”) filed by Scott County, Kentucky (“Scott County”). As explained below, the Public Service Commission (“Commission”) should deny Scott County’s Motion because Scott County’s Motion does not comply with Commission regulations and the information sought is unduly complicated, overly burdensome, and not relevant to this proceeding.

First and foremost, the Commission should deny Scott County’s Motion to Compel because it fails to comply with the procedural requirements for filing a Motion to Compel set out in 807 KAR 5:001 § 4(12)(e). Scott County’s Motion does not state the reasons why any of the information it seeks is relevant to any issue in this proceeding or otherwise explain why Scott County needs the information. *See* 807 KAR 5:001 § 14(12)(e)(2) (“A party shall compel compliance with the party’s request for information by motion to the commission, which shall include: (2) the reasons why it is relevant to the issues in the case.”). This cannot be corrected in a Reply brief. *See* 807 KAR 5:001 § 5(3) (“The reply shall be confined to points raised in the responses to which they are addressed . . .”).

Similarly, Scott County made no attempt to resolve any of the issues raised in its Motion prior to filing the Motion, blatantly violating Commission regulations. *See* 807 KAR 5:001 § 4(12)(e)(3) (“A party shall compel compliance with the party’s request for information by motion to the commission, which shall include: (3) The efforts taken to resolve any disagreement over the production of the requested information.”). Thus, there was no opportunity to avoid or limit the issues presented to the Commission, as recently occurred with respect to the Attorney General’s Motion to Compel, which was a direct result of the Attorney General’s compliance with the regulation. Instead, Scott County has continued to unduly complicate and disrupt this proceeding by resorting to additional motion practice before the Commission without complying with the Commission’s regulations.

In addition to the failure to follow the explicit procedural rules for filing a Motion to Compel, Scott County’s Motion to Compel lacks substantive merit. As an initial matter, Scott County’s Motion merely sets forth examples of similar requests for information in other proceedings. The relevance and need for information varies based upon the particular facts and issues in each proceeding. Scott County makes no effort to explain why any of its examples from other proceedings are grounds for compelling information or somehow show that similar information is relevant to this proceeding (it is not).

Scott County’s Motion to Compel a response to SC 1-18 only proves that the information it seeks regarding prior testimony of Timothy S. Lyons is properly incorporated by reference into Exhibit TSL-1 and available in the public record. TSL-1 lists the name of the utility, the relevant state regulatory commission, and the docket number in which Mr. Lyons sponsored testimony, which properly identifies the public record from which the requested information may be obtained. *See Ohio Graphco, Inc. v. RCA Capital Corp.*, Case No. (W.D. Ky. Jan. 27, 2010) (denying a

Motion to Compel because parties are “not entitled to the production of pleadings, court files, or other court records, where such records are available as public record” (emphasis added)). That Scott County cannot review Exhibit TSL-1 and discern that a rate case on behalf of “Missouri Gas Energy” does not involve water/wastewater rates is implausible, and proven by its own admission that it does not desire testimony from the proceeding “in Rhode Island (Providence Gas Company, Docket No. 3100).” Scott County Motion to Compel, at 2. Instead of obtaining and reviewing the public records properly incorporated and identified in Exhibit TSL-1, Scott County seeks to force Bluegrass Water, its legal counsel, or its expert to do that work on behalf of Scott County – all at the expense of Bluegrass Water’s ratepayers. This is improper.

Moreover, Scott County seeks to pass blame to Bluegrass Water for not identifying its intention to object to this data request in an email indicating Bluegrass Water needed additional time to formulate a response. (SC’s Motion to Compel, at n.10). Not only is that nonsensical, in response to whether Scott County had an objection to a one-week extension of time, Bluegrass Water received an almost 500 word email response. Respectfully, it was apparent that further attempts at cooperation on an extension of time would not be fruitful.

Scott County 1-19 also seeks information that is not relevant to this proceeding. Subsection (a) seeks information regarding CSWR, LLC entities that have performed a traditional class cost of service study. As the testimony of Timothy S. Lyons explained, a traditional class cost of service study requires that demand information be available for all classes of customers. *See* Application Exhibit 11, Direct Testimony of Timothy S. Lyons, Page 4, lines 14-15. As a result of the majority of the systems acquired by Bluegrass Water being unmetered, demand information is unavailable for all classes. Information about utilities in different jurisdictions that do have demand information available is not relevant, because whether or not another utility in a different

jurisdiction has demand information will not change the undeniable fact that Bluegrass Water does not. Similarly, subsection (b) seeks information regarding customer equivalencies, as though Mr. Lyons was recommending or creating customer equivalencies. The customer equivalency utilized in this proceeding is the equivalency set by the Commission. Any equivalency that may have been ordered by a different utility commission based upon different facts, class sizes, revenues, and number of customers is not relevant to this proceeding.

Request No. 1-20 likewise seeks evidence that is irrelevant to this proceeding, and, unlike the other subjects of the Motion to Compel, Scott County's Motion to Compel is notably devoid of any examples that the substance of the question was even arguably relevant in other proceedings. Request No. 1-20 seeks information regarding implementation of legal principles in other jurisdictions by different regulated entities, subject to different laws, regulations, and utility commission decisions. Thus, not only does Request No. 1-20 seek to ask questions inconsistent with Kentucky's legal principles, *see* KRS 278.030, there is also no foundation that it seeks information about correct legal principles in any other jurisdiction. The requested relief of different utilities in different jurisdictions based upon different laws, regulations, and rules is not relevant to whether Bluegrass Water has proposed a fair, just and reasonable rate in this proceeding. The information requested by SC 1-20 is unduly burdensome, overly broad, and not proportional to the needs of this case.<sup>1</sup>

WHEREFORE, Bluegrass Water respectfully asks the Commission to deny Scott County's motion to compel further responses to SC 1-18, SC 1-19, and SC 1-20.

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<sup>1</sup> The Commission should ignore Scott County's Response to the Attorney General's Motion to Compel. The Motion concerns a request from the Attorney General and a response by Bluegrass Water; Scott County has no standing to Respond.

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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