

**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)**

REBUTTAL TESTIMONY

OF

TIMOTHY S. LYONS

ON BEHALF OF

BLUEGRASS WATER UTILITY OPERATING COMPANY, LLC

FILED: August 11, 2023

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1 **REBUTTAL TESTIMONY**

2 **OF**

3 **TIMOTHY S. LYONS**

4

5 **I. INTRODUCTION**

6 **Q. Please state your name and position.**

7 A. My name is Timothy S. Lyons. I am a Partner at ScottMadden, Inc. (“ScottMadden”). I
8 am testifying on behalf of Bluegrass Water Utility Operating Company, LLC (“Bluegrass
9 Water” or the “Company”).

10 **Q. Are you the same Timothy S. Lyons who previously sponsored direct testimony on**
11 **behalf of the Company in this proceeding?**

12 A. Yes, I am. I sponsored direct testimony (“Direct Testimony”) on behalf of the Company
13 before the Kentucky Public Service Commission (“Commission”) in this proceeding.

14 **Q. What is the purpose of your rebuttal testimony?**

15 A. The purpose of my rebuttal testimony (“Rebuttal Testimony”) is to address the Office of
16 the Attorney General (“AG”) witness David Dittmore recommendations regarding the
17 Company’s rate design. In addition, I address Scott County, Kentucky witness Ariel E.
18 Miller’s recommendations regarding rate design and phase-in schedules.

1 **Q. Prior to discussion of other rate design proposals, would you please summarize**
2 **Bluegrass Water’s rate design proposal?**

3 A. Yes. As noted in my direct testimony, the Company recommends the Commission
4 continue to consolidate the Company’s sewer rates across its various systems.¹ The
5 Company also recommends its proposed revenue requirement be apportioned 77.28
6 percent to unmetered service and 22.72 percent to metered service.² Based upon the relief
7 requested in the Application, this results in a fixed charge for unmetered residential sewer
8 service of \$99.37 per month; a fixed charge for unmetered commercial sewer service of
9 \$248.43 per month; and a fixed charge for unmetered multifamily sewer service of \$74.53
10 per month.³ For metered commercial customers, the Company proposed the same
11 commercial fixed charge of \$248.43 per month and a usage charge of \$14.91 per 1,000
12 gallons of usage.⁴

13
14 **II. RESPONSE TO AG RECOMMENDATIONS**

15 **Q. What is the AG’s proposed rate design?**

16 A. The AG recommends a consolidated rate design, consistent with the Company’s proposal.
17 The AG cites the Commission’s ruling in the Company’s prior rate case that a consolidated
18 rate structure is in the public interest and helps mitigate rate volatility concerns of uneven
19 deployment of system capital expenditures on individual systems.⁵

¹ Application Exhibit 11, Direct Testimony of Timothy S. Lyons, p. 3.

² *Id.* at 7-8.

³ *Id.*

⁴ *Id.*

⁵ Testimony of David N. Dittmore, p. 33.

1 The AG’s proposed rate design is based on the AG’s proposed revenue requirement
2 and results in a fixed charge of \$85.80 per month for unmetered, fixed-charge customers
3 and \$63.36 per month for unmetered, fixed-charge multi-family customers. The AG’s
4 proposed rate design for metered customers is a usage charge of \$8.87 per thousand gallons
5 with no fixed monthly charge.⁶ The AG’s proposed rate design reflects a decrease in the
6 usage charge from \$8.89 per thousand gallons to \$8.87 per thousand gallons.

7 **Q. Do you agree the AG’s proposed rate design results in fair, just, and reasonable rates?**

8 A. In part. I believe the AG’s proposal for a consolidated rate design will allow for a fair,
9 just, and reasonable rate. It is generally consistent with the Company’s proposal.
10 However, I have four concerns with the AG’s proposed rate design.

11 First, the AG’s proposed rate design does not recover the Company’s proposed
12 revenue requirement. I recommend that the Commission approve a rate design based on
13 the Company’s revenue requirement, as set forth in the Rebuttal Testimony of Brent Thies.

14 Second, the AG’s rate design for metered customers does not include a fixed
15 monthly charge. I recommend the rate design include a fixed monthly charge for metered
16 customers in the Delaplain service area. The proposed fixed charge, in conjunction with
17 the current usage charge, better aligns the Company’s charges and its cost of service across
18 the Kentucky systems and better stabilizes the Company’s revenues. This is supported by
19 the Company’s recent application for a CPCN to expand the Delaplain system⁷ which is

⁶ *Id.* at 34.

⁷ See generally *In the Matter of: Electronic Application of Bluegrass Water Utility Operating Company, LLC for Certificates of Convenience and Necessity for Projects at the Delaplain Site*, Case No. 2022-00104.

1 necessitated by economic growth and development in the service area, a significant portion
2 of which is due to expansion of metered commercial users.

3 Third, the AG's rate design eliminates the higher fixed charge for non-residential
4 customers in Persimmon Ridge, as shown in Exhibit DND-13. Specifically, Exhibit DND-
5 13 shows elimination of the higher fixed charge for Persimmon Non-Residential
6 customers.⁸ The higher fixed charge is based on an equivalency factor of 2.5 times that of
7 the residential class. As noted in my direct testimony, it is my understanding the
8 equivalency was approved by the Commission in the Company's last rate case.⁹ Further, it
9 is my understanding that the non-residential customers in the Persimmon Ridge service
10 area are expected to utilize more wastewater services than residential customers. As a
11 result, I do not believe the AG's proposal to eliminate the higher fixed charge for non-
12 residential customers results in fair, just, and reasonable rates because it does not
13 appropriately reflect a higher utilization of wastewater services than residential customers.

14 Fourth, the AG's proposed rate design decreases the revenues recovered from
15 metered customers through a decrease in the usage charge from \$8.89 per thousand gallons
16 to \$8.87 per thousand gallons. I recommend that metered customers be apportioned 22.72
17 percent of the proposed revenue requirement, as discussed below.

18 **Q. DOES THE AG PROPOSE PHASE-IN RATES?**

19 **A.** No. The AG does not propose a phase-in of approved rates.
20

⁸ Exhibit DND-13 also shows elimination of the lower fixed charge for Brooklyn Multifamily; however, the AG's testimony appears to support continuation of the lower fixed charge. *See* Testimony of David N. Dittmore, p. 34.

⁹ Application Exhibit 11, Direct Testimony of Timothy S. Lyons, p. 5.

1 **III. RESPONSE TO SCOTT COUNTY RECOMMENDATIONS**

2 **Q. What are Scott County’s recommendations regarding the Company’s rate design?**

3 A. Scott County proposes two changes to Company’s proposal:

4 1. Scott County recommends maintaining the current allocation percentages for
5 unmetered service and metered service. Scott County states the Company has not
6 provided quantifiable basis for the changes in allocation percentages from 81.51
7 percent to 77.28 percent for unmetered service and 18.49 percent to 22.72 percent
8 for metered service.¹⁰

9 2. Scott County recommends the Commission authorize three phase-in rates in the
10 final rate design. In addition, Scott County recommends rate increases for
11 Delaplain’s flat rate residential customers be capped at \$25.00 per month in Phase
12 1 (the rates immediately resulting from this case), \$50.00 per month in Phase 2,
13 before moving to a unified rate in Phase 3.¹¹ The Phase 3 rates reflect additional
14 revenues from amortization of unrecovered revenues associated with Phase 1 and
15 Phase 2.

16 **Q. Do you agree with Scott County’s concern regarding the changes in allocation
17 percentages for unmetered and metered service?**

18 A. No. The Company’s proposed approach of apportioning the revenue requirement 77.28
19 percent to unmetered customers and 22.72 percent to metered customers reflects bill impact
20 and cost of service considerations.

¹⁰ Direct Testimony of Ariel E. Miller, p. 9-10.

¹¹ *Id.* at 11-12.

1 First, the Company presently recovers 81.51 percent of current revenues from
2 unmetered service customers and 18.49 percent from metered service customers. Thus, as
3 an initial matter, the proposed approach reflects a shift of only 4.2 percent (81.51 percent
4 – 77.28 percent) in the revenue requirement from unmetered to metered service.

5 Second, rates for most unmetered service customers approximately doubled in the
6 Company’s recent rate increase in Docket No. 2020-00290. At the same time, rates for
7 metered service customers remained unchanged by that case. Thus, the proposed approach
8 helps mitigate the proposed increase on most unmetered service customers whose rates
9 would otherwise increase to 21.9 percent without the shift rather than the proposed 15.6
10 percent with the shift.¹²

11 Third, the Company plans to expand its wastewater treatment facilities in Delaplain
12 to meet a growing demand for wastewater treatment services, a significant portion of which
13 is for metered service, commercial and industrial customers.¹³ As a result, the proposed
14 change in the allocation of the revenue requirement is appropriate to ensure the cost of
15 service is appropriately allocated to those customers causing the costs.

16 **Q. Do you oppose Scott County’s recommendation regarding phase-in rates?**

17 A. Yes. Scott County’s recommendation regarding phase-in rates is a concern to the Company
18 and its customers.

19 First, Scott County’s proposal is a concern to the Company since it would not
20 provide for full recovery of the revenue requirement authorized by the Commission in this

¹² Bluegrass Water’s Response to Scott County Discovery Request No. 2-5.

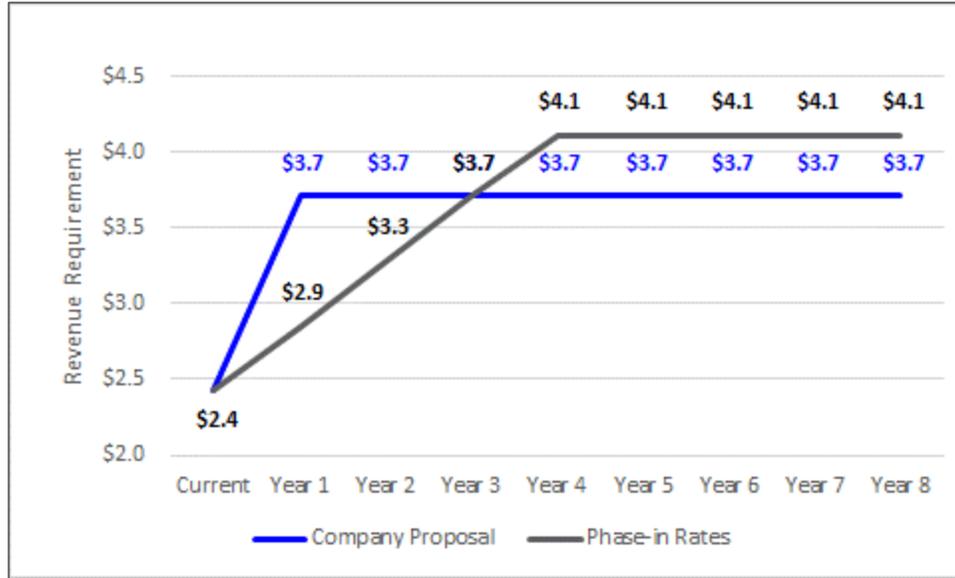
¹³ See generally Case No. 2022-00104.

1 proceeding. Specifically, Scott County's proposal does not reflect carrying costs
2 associated with the unrecovered portion of the authorized revenue requirement. Carrying
3 costs are necessary to ensure the Company's revenues under a phase-in of rates are the
4 same as under no phase-in of rates. In the event the Commission ordered a phase-in of
5 rates, I recommend that such carrying costs be authorized based on the Company's pre-tax
6 weighted cost of capital authorized by the Commission in this rate case. Application of
7 carrying costs at the Company's pre-weighted cost of capital will help ensure the Company
8 is not penalized for any proposed phase-in of rates.

9 Second, when phase-in rates are properly designed to reflect carrying costs
10 associated with unrecovered portion of the authorized revenue requirement, phase-in rates
11 may be a concern to customers, subject to certain rate design objectives, since they recover
12 more revenues from customers than no phase-in of rates. This is illustrated by Figure 1
13 (below), which depicts Scott County's phase-in rate proposal modified to reflect a uniform
14 increase in rates over three years, carrying costs at the Company's pre-tax weighted cost
15 of capital, and recovery of deferred revenues beginning in Year 4.

1

Figure 1: Comparison of Phase-in Rates to No Phase-in of Rates



2

3 Specifically, utilizing the Scott County proposal as modified above as an example, the
 4 Figure shows phase-in rates result in total revenues collected of \$30.4 million during the
 5 3-year phase-in period and 5-year amortization period. By comparison, no phase-in results
 6 in total revenues collected of \$29.7 million, or cumulative savings of \$0.7 million.

7 The Figure also shows phase-in rates result in higher rates during the 5-year
 8 amortization period. Specifically, phase-in rates recover \$4.1 million during the 5-year
 9 amortization period. By comparison, no phase-in of rates recovers \$3.7 million during the
 10 5-year amortization period, or an annual savings of \$0.4 million.

11

12 **IV. CONCLUSION**

13 **Q. Does this conclude your Rebuttal Testimony?**

14 **A. Yes, it does.**

