

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

**In the Matter of:**

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

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**BLUEGRASS WATER UTILITY OPERATING COMPANY, LLC’S  
RESPONSE OPPOSING INTERVENOR SCOTT COUNTY’S  
MOTION TO EXCUSE ITS PARTY REPRESENTATIVES FROM THE HEARING**

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Bluegrass Water Utility Operating Company, LLC (“Bluegrass Water” or the “Company”), by counsel, hereby files its Response Opposing Intervenor Scott County’s Motion to Excuse Certain Witnesses from the Evidentiary Hearing. The Commission should deny Scott County’s motion and hold Scott County to its commitment as a party who asked for and was granted intervention. That includes requiring all of its witnesses to participate in – and be subject to cross-examination at – the hearing, in accordance with the Commission’s May 18, 2023 Order.

Scott County made no effort to confer with the Company prior to filing its motion. Instead, Scott County alleged a number of premature evidentiary objections that it claims insulate the local elected officials who authorized intervention in this matter from testifying in public about matters of clear public interest, such as a decision to support rate protections for commercial customers on the backs of residential customers.

Although it is true that Ariel Miller sponsored responses to data requests and is therefore also subject to cross-examination, she is not employed by Scott County, is not elected by its constituents, and does not have authority to speak on its behalf; rather, her role in this matter is as an expert witness. Scott County adopted Ms. Miller’s testimony as its own, and representatives of

Scott County – including its chief executive, the Scott County Judge Executive – should be subject to cross-examination on the positions taken by Scott County.<sup>1</sup>

As the Commission emphasized less than a year ago, “excusing witnesses from testifying at a Commission hearing is at odds with developing a robust record upon which the Commission reaches a decision and therefore such requests will not be considered lightly.” *In the Matter of Electronic Application of Water Service Corporation of Kentucky for a General Adjustment in Existing Rates and a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure*, Case No. 2022-00147, 2022 Ky. PUC Lexis 906 \*3-\*4 (Nov. 7, 2022).<sup>2</sup> Consistent with this principle, the public interest clearly demands Scott County’s elected officials attendance at and availability for the hearing.

Ultimately, what Scott County asks for is to have the rights of a party (issuing data requests to Bluegrass Water and having the ability to cross-examine Bluegrass Water’s witnesses at the hearing), but without any corresponding responsibilities of a party (participating in the hearing and being subject to cross-examination). Its elected officials have presented evidence under oath in this matter; the Commission should not shield them from cross-examination about those facts. The Commission should deny Scott County’s motion to excuse its party representatives from participating in the hearing and being subject to cross-examination.

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<sup>1</sup> If the Company determines that it will have no questions for any Scott County elected official, the Company will inform Scott County of that fact at that time, in which case Scott County may renew its motion as unopposed.

<sup>2</sup> See also *Turrell v. Bd. of Educ.*, 441 S.W.2d 767, 770 (Ky. 1969) (determining that due process at a public hearing includes “the right to hear and examine the witnesses whose testimony is presented by opposing parties” (citing *Mayfield Gas Co. v. Public Serv. Comm’n*, 259 S.W.2d 8, 10 (Ky. 1953))).

Respectfully submitted,

/s/ Edward T. Depp

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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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