

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION)
OF HARDIN COUNTY WATER)
DISTRICT NO. 2 FOR A) CASE NO. 2023-00247
GENERAL ADJUSTMENT OF)
RATES)

POST-HEARING BRIEF OF
HARDIN COUNTY WATER DISTRICT NO. 2

Filed: February 16, 2024

Table of Contents

I. Statement of the Case.....	1
II. Employee-Related Expenses.....	3
A. <i>Employee Wage And Salary Expense Adjustment</i>	5
B. <i>Employee Benefits</i>	8
C. <i>Commissioner Benefits</i>	14
III. Interest Income Adjustment.....	16
IV. Chemical Expenses Adjustment.....	18
V. Annual Principal and Interest and Additional Working Capital Adjustments	19
VI. Depreciation Expense Adjustment.....	20
VII. Rate Case Expense Adjustment.....	21
VIII. Wholesale Water Sales.....	23
IX. Conclusion.....	25

Appendices

<i>Post-Hearing Schedule of Adjusted Operations</i>	Appendix A
<i>Actual Rate Case Expense Summary</i>	Appendix B

I. STATEMENT OF THE CASE

Hardin County Water District No. 2 (“Hardin District” or “the District”) is a water district created under the provisions of KRS Chapter 74 that provides retail water service to approximately 29,932 customers¹ in Hardin, Hart, and Larue Counties; wholesale water service to Hardin County Water District No. 1; and wastewater collection service to 39 customers in Hardin County.²

On August 1, 2023, Hardin District filed a Notice with the Commission in conformity with 807 KAR 5:001, Section 16(2), expressing its intention to file an application for an increase of its water service rates supported by a historical test period. The District filed its Application and supporting materials on September 29, 2023. No parties intervened in the proceeding.

The Application was deemed filed as of September 29, 2023. The Commission’s October 13, 2023 Order suspended Hardin District’s proposed rates for five months, up to and including April 1, 2024. In addition, the Commission established a Procedural Schedule providing for two rounds of discovery. On November 3, 2023, the Commission scheduled an evidentiary hearing to take place on January 11, 2024.

¹ These customers include 3,066 commercial customers, 40 industrial customers, and 167 public authorities.

² These numbers are approximate as of the end of the District’s proposed test period, December 31, 2022.

In its Application, Hardin District initially requested an increase in operating revenues from base water rates of \$2,302,048, or 15.68 percent, compared to the operating revenue for 2022—the historical Test Year—under existing water rates. The District’s Application included written testimony from three witnesses: Vaughn Williams, a licensed professional engineer with Kenvirons, LLC; Shaun Youravich, General Manager of Hardin District; and Timothy Davis, member of the Hardin District Board of Commissioners.

A hearing on the merits of the requests presented in Hardin District’s Application was held at the Commission on January 11, 2024. Five witnesses for the District were presented and subject to cross examination: Shaun Youravich; Vaughn Williams; Michael Bell, Chairman of the Hardin District Board of Commissioners; Timothy Davis; and Mandy Isham, Finance Manager of Hardin District. Throughout the course of the hearing, several hearing data requests were issued to the District. Pursuant to the Commission’s Order dated January 16, 2024, Hardin District filed its responses to these requests on January 26, 2024.

Hardin District filed its application for an adjustment of rates pursuant to KRS 278.180 and 807 KAR 5:001. The District bears the burden, and has offered sufficient evidence throughout this proceeding, to prove that its proposed rates are fair, just, and reasonable. Hardin District employed the debt service coverage

method to determine its revenue requirement.³ Throughout the proceeding, Hardin District made certain revisions to its proposed adjustments to account for known and measurable changes that have occurred since the 2022 Test Year. These revisions resulted in a final revenue increase proposal of **\$2,098,401**, or **14.29 percent**.

This Brief summarizes the reasonableness of certain components of the District's proposed revenue requirement and provides an explanation for any revisions made to the District's proposed adjustments. For any particular issues that are not directly addressed in this Brief, Hardin District rests on the record evidence presented through its Application, written and live witness testimony, and responses to discovery.

To aid in the Commission's review of the District's proposed revenue increase, **Appendix A** provides a Post-Hearing Schedule of Adjusted Operations, which compares the District's initial proposed adjustments and its final proposed adjustments to the various components of the revenue requirement calculation.

II. EMPLOYEE-RELATED EXPENSES

The labor market in Hardin County, where the District operates, is increasingly competitive, with the U.S. Bureau of Labor Statistics ("BLS") reporting that approximately only 2,500 people were unemployed in the Hardin County area

³ See *Public Service Commission v. Dewitt Water District*, 720 S.W.2d 725, 731 (Ky. 1986).

at the end of 2023.⁴ The construction of a new battery plant has largely influenced the shifting labor market in Hardin County in recent years.

As announced in September 2021, Ford and SK On, through their joint venture BlueOval SK, have invested billions of dollars to build a new battery plant in Hardin County.⁵ This venture has provided thousands of new, well-paying job opportunities with alluring benefits for prospective job seekers living in and around Hardin County.⁶ For example, battery plant construction created approximately 3,500 jobs, and, once operational, the battery plant expects to employ approximately 5,000 full-time equivalent workers.⁷ With battery production at the new plant slated to begin in 2025, BlueOval SK will remain a large employer in the region for the foreseeable future. By 2026, Hardin County will be home to two of the largest ten manufacturers in Kentucky.⁸

⁴ See U.S. BUREAU OF LABOR STATISTICS, *Economy at a Glance Elizabethtown, KY*, available at https://www.bls.gov/eag/eag.ky_elizabethtown_msa.htm#eag_ky_elizabethtown_msa.f.p.

⁵ Press Release, OFFICE OF THE GOVERNOR, *Gov. Beshear, Ford Motor Company, SK Innovation Announce Single Largest Economic Development Project in Kentucky History, Cementing Commonwealth's Status as Global Automotive Leader* (Sept. 27, 2021), <https://www.kentucky.gov/Pages/Activity-stream.aspx?n=GovernorBeshear&prId=981>.

⁶ See Hardin District's Response to Commission Staff's Post-Hearing Request for Information, Item No. 8.

⁷ See L.B. Schmidt & Associates, LLC, *Elizabethtown-Fort Knox MSA Transformation Project: Measuring the Impact of the BlueOval SK Battery Park on the Elizabethtown Metro Area* at 16-17 (Aug. 9, 2023), <http://hardinchamber.com/wp-content/uploads/2023/09/HCCC-Impact-Study-Final-Version-080723.pdf>.

⁸ BlueOval SK is projected to require 5,000 full-time equivalent employees, and Metalsa Structural Products in Elizabethtown employees approximately 2,000 workers. *Id.* at 17-18.

Accordingly, Hardin District prioritizes efforts to attract and retain a talented workforce—particularly since BlueOval SK entered the market in late 2022. The District must offer fair wages and benefits to its employees in order to remain competitive in a tight labor market. Retaining talented employees allows the District to provide safe and reliable water service to its customers, which enables its customers to benefit from an experienced workforce that is prepared to meet customer needs.

A. Employee Wage and Salary Expense Adjustment

The District incurs expenses related to wages paid to hourly employees, salaried employees, and its Board of Commissioners. Salaries for the District’s Board of Commissioners are set by statute and have not been adjusted since 1999.⁹

The District typically adjusts wages for its hourly and salaried employees annually to simultaneously implement a cost-of-living adjustment (“COLA”) and a merit-based increase.¹⁰ The COLA utilizes cost of living indices from the Social Security Administration—the Consumer Price Index for Urban Wage Earners and Clerical Workers—and from the BLS—the Consumer Price Index for All Urban Consumers.¹¹ Using these data sources as a guide, the District’s Board of

⁹ See KRS 74.020(6) (setting Commissioners’ annual salary at \$3,600, or \$6,000 for Commissioners who complete the requisite annual training); KRS 74.050 (allowing an additional \$200 of annual compensation for the treasurer of a Board of Commissioners).

¹⁰ 1/11/2024 Hearing, VR 9:38:54 - 9:39:20.

¹¹ See Hardin District’s Response to Commission Staff’s Post-Hearing Request for Information, Item No. 4.

Commissioners determines a flat hourly COLA rate, and the District applies the approved rate to the wages of all full-time hourly employees.¹² For its salaried employees, the District applies a flat percentage increase to account for the COLA.¹³ The merit-based wage increase is based upon individual evaluations of employee performance.¹⁴

In the 2022 Test Year, the District incurred \$4,415,847 in expenses related to employee salaries and wages. This amount was adjusted by \$958,935 in the District's Schedule of Adjusted Operations to reflect increases to employee wages and changes to the employee roster that occurred after the Test Year.¹⁵ During discovery, Hardin District acknowledged that \$40,500 attributable to year-end bonuses for employees should be removed from the adjustment to wages.¹⁶ Accordingly, Hardin District seeks to include **\$5,334,282** in its revenue requirement for employee salary expenses.

The adjustment in employee wage expenses from the Test Year is primarily a result of two wage increases that became effective during 2023. While the District

¹² *Id.*

¹³ See Hardin District's Response to Commission Staff's First Request for Information, Item No. 32, Exhibit 32_Rate_Study_Adjustments.xlsx.

¹⁴ 1/11/2024 Hearing, VR 9:46:10 - 9:46:26.

¹⁵ See Exhibit 8 to Application; Testimony of Vaughn Williams at 6; Hardin District's Response to Commission Staff's First Request for Information, Item No. 32, Exhibit 32_Rate_Study_Adjustments.xlsx, "Salary Adjust" tab.

¹⁶ See Hardin District's Response to Commission Staff's Second Request for Information, Item No. 2.

typically only increases employee wages once per year, Hardin District implemented an additional wage increase in January 2023 to raise employee wages to be more competitive in the region to job seekers (and to minimize the possibility of District employees seeking other employment due to higher wages).¹⁷ At the end of 2022, around the same time that Blue Oval SK broke ground on its new facility, the District was concerned that its wages were not competitive compared to similar utilities and regional employers. The District's General Manager reviewed wage ranges for various employee positions at four other utilities, and compared Hardin District's wage levels with the midpoint of the available wage ranges at those other utilities.¹⁸ In light of this information, and with the backdrop of the increasingly competitive Hardin County labor market, the Board of Commissioners voted at its December 2022 meeting to implement a wage increase effective January 2023. Hardin District then conducted the second wage increase in July 2023, in keeping with its standard practice to increase wages mid-year.

Hardin District's adjustment to increase employee salary and wage expenses is a known and measurable change that is reasonable based on the evidence presented in this case. Hardin District must pay competitive wages to retain talented employees and remain competitive in a growing labor market. The District requests

¹⁷ See 1/11/2024 Hearing, VR 9:46:33 - 9:46:57.

¹⁸ See Hardin District's Response to Commission Staff's Post-Hearing Request for Information, Item No. 3.

that the Commission include **\$5,334,282** in employee expenses in the total revenue requirement.

B. Employee Benefits

The District proposes a proforma Employee Pension and Benefits expense of **\$2,629,080**.¹⁹ This expense includes Health and Dental Insurance Expense of \$1,117,198, Vision Insurance Expense of \$9,257, and Life Insurance Expense of \$84,895.²⁰ The District currently contributes the full cost for single dental and vision insurance coverage. District employees are required to pay a portion of the cost for health insurance coverage based upon the employee family's participation in the District's health insurance program and the employee's participation in the District's Wellness Program.²¹ The District currently pays approximately 94.07 percent of employee health insurance cost.²²

Unlike most water districts and water associations, the District is partially self-funded. Prior to 2017, the District had a fully insured health insurance plan with a traditional health insurance provider to provide health insurance coverage for its employees. Since January 2017, it has operated under a self-insured health insurance plan to control its health insurance costs. The District contracts with a third-party

¹⁹ Exhibit 12 to Application at 1.

²⁰ Hardin District's Response to Commission Staff's First Request for Information, Item No. 32, Exhibit_32_Rate_Study_Adjustments.xlsx.

²¹ *Id.* at Item No. 24.

²² $(\$1,183,556 - \$70,183) \div \$1,183,556 = .9407$.

administrator to administer its plan and to adjudicate employees' health insurance claims. The District assumes responsibility for paying the first \$35,000 per year of an employee's medical bills. It has acquired reinsurance to cover an employee's claims that exceed \$35,000 and has purchased aggregate insurance to protect its plan from an unusually high year claims event.²³

At the same time, the District implemented a Wellness Plan to promote and encourage its employees to engage in healthy activities, such as smoking cessation and the monitoring of blood pressure, weight, body mass index, and cholesterol, to improve their health and reduce their healthcare expenses. Participation in the program is voluntary, but all participating employees receive a credit, and participating employees who meet specific goals receive additional credits toward the cost of their health insurance.

The District's implementation of these programs has resulted in significant savings. In its first year as a partially self-insured operation, the District achieved approximately \$200,000 in savings on health insurance cost.²⁴ More importantly, the programs have reduced the trend in the District's health insurance costs. While traditional health insurance costs have generally increased as much as fourteen

²³ Exhibit 9C to Application, Written Testimony of Timothy R. Davis at 5.

²⁴ *Id.*

percent annually, the District has been able to keep the annual increase in its health insurance cost to five percent or less.²⁵

The District's share of its employees' health insurance costs exceeds the percentage that the Commission has generally allowed for ratemaking purposes. Since 2017 the Commission has presumed that any portion of a utility's share of employee health insurance cost exceeding the national average for private industry employers is unreasonable and should be disallowed for rate recovery. According to the most recent BLS survey, a private industry employer pays on average 79 percent of the cost for single coverage and 67 percent for family coverage.²⁶

As demonstrated in the comparative analysis set forth in Mr. Youravich's testimony, the District's assumption of a larger share of the cost of employee health insurance than the BLS national average is a more cost-effective means of employee compensation than a commensurate increase in wages, and results in a lower operating expense level. Mr. Youravich's analysis shows that the District's total expenses are less if the District continues to pay its current share of employee health insurance cost, rather than reduce its contribution to the BLS average employer share

²⁵ See 1/11/2024 Hearing, VR 11:39:50 - 11:40:06.

²⁶ U.S. BUREAU OF LABOR STATISTICS, *Employee Benefits in the United States – March 2023*, News Release at 11-14 (Sept. 21, 2023).

and offset the effect of this increase in the employee contribution by increasing the employee's wages.²⁷

Moreover, the assumptions upon which the Commission's presumption are based do not reflect the conditions under which the District presently operates and will likely operate for the foreseeable future. In creating the presumption, the Commission emphasized "market competitiveness." It found that a utility "should limit its contributions to its employees' health care plans to percentages that are marketplace competitive with other businesses."²⁸ The Commission assumed that, as utilities were monopolies, lacked competitors, and thus were not subject to market pressures to rein in labor costs, they were incurring excessive labor costs by assuming most or all of the cost of such benefits as health insurance.²⁹

In the District's case, use of the BLS national employer share to determine the reasonableness of the District's employee health insurance expense produces a perverse result that is contrary to the presumption's intended purpose and that

²⁷ Exhibit 9C to Application, Written Testimony of Michael Shaun Youravich at 16-21, App. D.

²⁸ *Application of Nolin Rural Electric Cooperative Corporation for a General Rate Increase*, Case No. 2016-00367, Order at 11 (Ky. PSC June 21, 2017). See also *Electronic Application of North Mercer Water District for Rate Adjustment Made Pursuant to 807 KAR 5:076*, Case No. 2016-00325, Order at 2-3 (Ky. PSC May 19, 2017).

²⁹ See, e.g., Robert Cicero, Vice Chairman, Kentucky Public Service Commission, Comments at Kentucky Chamber of Commerce Energy Conference (Jan. 18, 2018) ("[T]he 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. . . . Would utility management be so inclined to pay what is in effect an employee stability insurance premium if the costs were to be borne not by the ratepayers, but instead were funded by the shareholders out of their profits?").

severely restricts the District's ability to compete in the fiercely competitive marketplace for labor that now exists in the Hardin County area. While the District has no competitors for the provision of water service, it has numerous competitors seeking talented and qualified employees. As previously noted, BlueOval SK is building an electric vehicle battery factory in Hardin County that must fill **5,000 positions**.³⁰ Moreover, the supply chain necessary to service and supply the electric vehicle battery factory will create an additional **1,397 positions**.³¹ In total, the electric vehicle factory will result in the creation of **8,106 new jobs** in Hardin County.³² Currently, the unemployment rate in Hardin County is only 3.9 percent and **the number of unemployed is only 2,500**.³³ Competition for employees will be intense.

New employers to Hardin County will be offering benefits that are comparable to or exceed those that the District currently offers. For example, BlueOval SK human resources personnel advised Board Chairman Bell that BlueOval SK would provide prospective employees a generous health insurance plan at no or little cost to the employee.³⁴ BlueOval SK has publicly stated that its

³⁰ Press Release, OFFICE OF THE GOVERNOR, *Gov. Beshear, Ford Motor Company, SK Innovation Announce Single Largest Economic Development Project in Kentucky History, Cementing Commonwealth's Status as Global Automotive Leader* (Sept. 27, 2021), <https://www.kentucky.gov/Pages/Activity-stream.aspx?n=GovernorBeshear&prId=981>.

³¹ L.B. Schmidt & Associates, LLC, *supra* note 7 at 18.

³² *Id.*

³³ U.S. BUREAU OF LABOR STATISTICS, *supra* note 4.

³⁴ *See* 1/11/2024 Hearing, VR 11:04:23 - 11:06:00.

employees “can expect two pay raises each year plus low-cost medical premiums, 401(k) matching, Ford vehicle discount benefits, vision and dental insurance.”³⁵ News media have also reported that low- or no-cost health insurance will be provided to BlueOval SK employees.³⁶

While BlueOval SK is not a direct subsidiary of Ford Motor Company, it is a joint venture of Ford Motor Company and SK. Ford Motor Company currently provides health insurance (single and family coverage) to its employees at no cost. Ford employees can select a lower deductible plan but must contribute to that plan’s cost.³⁷ Ford Motor Company has publicly stated that it will remain neutral in any effort made by the United Automobile Workers Union to become the collective bargaining representative for workers at the BlueOval SK Glendale Battery Plant. To the extent that it does not wish to encourage the UAW’s efforts, it is reasonable to assume that BlueOval SK will provide benefits that are comparable to those currently offered Ford Motor Company employees. To the extent that BlueOval SK offers such benefits, other new businesses locating in Hardin County to supply or service the electric vehicle battery factory will attempt to match those offers.

³⁵ Hardin District’s Response to Commission Staff’s Post-Hearing Requests for Information, Item 8, Attachments PH-8A and PH-8B.

³⁶ See Brett Foote, *Ford BlueOval SK Starting Pay Pegged At \$21 Per Hour*, FORD AUTHORITY, (Aug. 1, 2023), <https://www.freep.com/story/news/2023/10/11/electric-vehicle-battery-plant-starting-salaries/71144505007/>; Olivia Evans, *Why Is BlueOval SK Already Raising Salaries At Kentucky Battery Park?*, COURIER JOURNAL at A3 (Oct. 11, 2023).

³⁷ Hardin District’s Response to Commission Staff’s Post-Hearing Request for Information, Item 8, Attachment PH-8E.

In light of the present condition of Hardin County's labor market, the District's current practice of bearing 94 percent of the cost of its employees' health insurance is reasonable and is consistent with the Commission's position that a utility's share of the cost of employees' health care plans should be at a percentage that is marketplace competitive with other businesses.³⁸ If the District fails to maintain employee benefits at a level competitive with other local employers, it will be unable to attract and retain quality employees. Without such employees the quality and adequacy of the water service that the District provides will suffer. At a time when great demands will be placed on the District to meet the growing needs of the Hardin County area resulting from new economic development activities, the District's ability to meet those demands will be impaired in a misguided and unnecessary attempt to apply a Commission policy that is intended to address a problem that, in the District's case, does not exist.

C. Commissioner Benefits

In addition to Hardin District's goal to attract and retain excellent employees, the District also strives to attract talented and dedicated members to serve on its Board of Commissioners. The District does this by offering an appealing total compensation package which adequately reflects the value that Hardin District

³⁸ See Case No. 2016-00367, Order at 11 (Ky. PSC June 21, 2017); Case No. 2016-00325, Order at 2-3 (Ky. PSC May 19, 2017).

Commissioners bring to the oversight of the District's operations. Hardin District offers its Commissioners fringe benefits pursuant to the District's authority under KRS 79.080(3) in addition to the Commissioners' salaries provided pursuant to 74.020(6). The District offers its Commissioners the same fringe benefits that it offers to all of its other employees (except that Commissioners are not offered short- and long-term disability insurance coverage).³⁹ KRS 79.080(3) provides that "political subdivisions of the state may provide disability, hospitalization, or other health or medical care coverage to their officers and employees."⁴⁰ Under Kentucky law, a water district like Hardin District is a political subdivision of the state,⁴¹ and the Hardin District Commissioners are officers.⁴² The District has compensated its Commissioners under this structure for nearly forty years, since before any of the current Commissioners were appointed.⁴³

Water district Commissioners are vested with great responsibility in KRS Chapter 74, such as the exercise of all corporate powers of a water district; oversight of a water district's business and affairs; and the authority to make contracts with municipalities and other persons, prosecute and defend lawsuits, and hire a chief

³⁹ Hardin District's Response to Commission Staff's First Request for Information, Item No. 27; Hardin District's Response to Commission Staff's Second Request for Information, Item No. 3.

⁴⁰ KRS 79.080(3).

⁴¹ See *Louisville Extension Water Dist. v. Diehl Pump & Supply Co.*, 246 S.W.2d 585, 586 (Ky. 1952); *Pub. Serv. Comm'n of Ky. v. Dewitt Water Dist.*, 720 S.W.2d 725, 727 (Ky. 1986).

⁴² *Commonwealth v. Howard*, 379 S.W.2d 475, 477 (Ky. 1964).

⁴³ Hardin District's Response to Commission Staff's Second Request for Information, Item No. 3a.

executive officer.⁴⁴ The District is the third largest water district in Kentucky. During 2022, it had Operating Revenues in excess of \$15,000,000, and it had over \$100,000,000 in assets. It is reasonable and fair to compensate Commissioners at a level that reflects their critical role in ensuring that a water district is operating with the ability to provide safe and adequate water service to customers twenty-four hours per day, every day of the year. If providing fringe benefits to Commissioners were not a reasonably incurred cost of providing water service, then Kentucky law would not explicitly grant water districts like Hardin District the authority to do so.

Accordingly, the District requests that the Commission approve the inclusion of expenses associated with Commissioners' benefits in the calculation of the District's total revenue requirement.⁴⁵

III. INTEREST INCOME ADJUSTMENT

Over the past few years, the interest rate environment has been particularly volatile. During the 2022 Test Year, Hardin District earned \$292,443 in Interest and Dividend Income. For comparison, the District earned \$249,134 in 2021 and earned \$571,271 in 2023.⁴⁶

⁴⁴ KRS 74.070.

⁴⁵ See Hardin District's Response to Commission Staff's First Request for Information, Item No. 1h, Attachment 1h, Item No. 24, Item No. 27; Hardin District's Response to Commission Staff's Second Request for Information, Item No. 3; Hardin District's Response to Commission Staff's Post-Hearing Request for Information, Item No. 12.

⁴⁶ See Hardin County Water District No. 2 2021 Annual Report, Ref Page 11 (filed July 13, 2022); Hardin District's Response to Commission Staff's Post-Hearing Request for Information, Item No. 14.

At the evidentiary hearing, the District was asked to explain the fact that its 2022 Annual Report notes a \$2,327,904 loss for its Interest and Dividend Income in Account No. 419.⁴⁷ To be clear, the District is not asking for recovery of the \$2,327,904 loss.⁴⁸ The District explained that this reported loss was due to the District closing several investment accounts and using the funds to purchase Treasury Bills and Certificates of Deposit. The District's investment activities in 2022 resulted in both realized and unrealized gains and losses. However, the Commission's reporting mechanisms for Account No. 419—as reflected on its Annual Reports filed with the Commission—do not allow the District to differentiate between realized and unrealized gains and losses. The District had Interest and Dividend Income of \$292,443 in 2022.⁴⁹

For the purposes of calculating Hardin District's required revenue increase in this proceeding, the District proposes using a three-year average of Interest and Dividend Income to normalize the amount due to the wide fluctuations in interest rates in recent years. Hardin District received substantially more Interest and Dividend Income in 2023 compared to 2021 and 2022, due in part to a sharp rise in interest rates. A three-year average is appropriate because the District cannot predict

⁴⁷ See Hardin County Water District No. 2 2022 Annual Report, Ref Page 11 (filed Mar. 30, 2023); 1/11/2024 Hearing, VR 10:28:57 - 10:30:33, 11:16:40 - 11:21:45, 11:59:15 - 12:12:53, 12:16:28 - 12:18:35.

⁴⁸ 1/11/2024 Hearing, VR 12:15:40 - 12:16:23.

⁴⁹ Hardin District's Response to Commission Staff's First Request for Information, Item No. 1(a), Attachment 1a-2.

how long it will earn heightened interest rates like it experienced during 2023, nor can the District predict when it will need to use some of its unrestricted investments to pay for capital improvements. A three-year average is consistent with previous and current Commission practice as it relates to principal and interest payments⁵⁰ and revenues from late fee collections. The District’s three-year average Interest and Dividend Income amount is **\$370,949**:

Realized Interest and Dividend Income	
2021	\$249,134
2022	\$292,443
2023	\$571,271
Total	\$1,112,848
Three-Year Average (Total ÷ 3)	\$370,949

Accordingly, the District requests that the Commission utilize the three-year average of **\$370,949** in calculating Hardin District’s overall required revenue increase.

IV. CHEMICAL EXPENSES ADJUSTMENT

Hardin District incurred \$678,241 for chemical expenses during the 2022 Test Year. The District’s Application requested an adjustment of \$177,092 to account for increases in chemical expenses based on pricing estimates that were provided in early 2023.⁵¹ During discovery in this proceeding, Commission Staff asked the

⁵⁰ See, e.g., Hardin District’s Response to Commission Staff’s Second Request for Information, Item No. 4.

⁵¹ See Williams Testimony at 8-9; Hardin District’s Response to Commission Staff’s First Request for Information, Item No. 32, Exhibit_32_Rate_Study_Adjustments.xlsx, “Chemical Adjust” tab.

District to produce invoices to support the District's proposition that it experienced increases in chemical expenses.⁵² Based on actual invoice amounts from 2023, the District discovered that chemical costs were even higher than it had originally estimated. As a result, the District revised its adjustment for chemical expenses to \$188,472.⁵³

The adjustment to chemical expenses in 2023 is known and measurable, and it is reasonable for the District to incur these costs as a necessary expense of providing safe and adequate water service. The District requests that the Commission include a total of **\$866,713** attributable to chemical expenses in the revenue requirement calculation.

V. ANNUAL PRINCIPAL AND INTEREST AND ADDITIONAL WORKING CAPITAL ADJUSTMENTS

Hardin District paid \$1,490,260 in principal and interest on bonds and loans during the 2022 Test Year and maintained a debt service coverage ratio of 1.2.⁵⁴ For purposes of calculating the total revenue requirement in this proceeding, the District made an initial adjustment to produce the three-year Average Annual Principal and Interest amount of \$1,763,124 for the years 2023, 2024, and 2025.⁵⁵ The District made an initial adjustment to the Additional Working Capital component of the

⁵² See Hardin District's Response to Commission Staff's Second Request for Information, Item No. 1, Attachments 2-1A, 2-1B, and 2-1C.

⁵³ *Id.*

⁵⁴ See Exhibit 12 to Application at 3.

⁵⁵ *Id.*

revenue requirement to allow for twenty percent coverage—\$352,625—of the adjusted three-year Average Annual Principal and Interest amount.⁵⁶

During discovery, Commission Staff requested that the District submit an updated Debt Service Schedule that includes 2024 through 2026.⁵⁷ After updating the Debt Service Schedule, the District revised its three-year Average Annual Principal and Interest amount to equal **\$1,659,863**, with an Additional Working Capital amount of **\$331,973**. Accordingly, the Hardin District requests that the Commission include these known and measurable, updated amounts in the total revenue requirement calculation.

VI. DEPRECIATION EXPENSE ADJUSTMENT

Hardin District reported a depreciation expense of \$3,211,425 during the 2022 Test Year.⁵⁸ In the District’s application, it made a \$286,381 downward adjustment to the depreciation expense to align the service life of several asset classes with the midpoint of the service life range set forth in the National Association of Regulatory Commissioners’ (“NARUC”) *Depreciation Practices for Small Water Utilities*.⁵⁹ This adjustment is known, measurable, and in line with accepted Commission

⁵⁶ *Id.*

⁵⁷ Hardin District’s Response to Commission Staff’s Second Request for Information, Item No. 4, Attachment 2-4.

⁵⁸ Exhibit 8 to Application at 3. See Exhibit 15 to Application for a table listing Hardin District’s assets as of December 31, 2022 and those assets’ in-service date, cost, estimated service life, accumulated depreciation and depreciation for the year ending December 31, 2022.

⁵⁹ Williams Testimony at 9-10.

practice. The District requests that **\$2,925,044** of depreciation expense be included in the total revenue requirement.

The District acknowledges that it inadvertently omitted to capitalize its labor costs associated with new meter installation (tap fee labor) for the Test Year. As Hardin District stated in its response to a request from Commission Staff, the District's tap fee labor costs totaled \$92,293 in 2022.⁶⁰ The District intends to capitalize its tap fee labor going forward using a 2.5 percent capitalization rate, guided by the District's use of the NARUC midpoint, which is forty years, for its meter asset class.⁶¹

VII. RATE CASE EXPENSE ADJUSTMENT

The District's Application included \$515,746 in 2022 Test Year expenses related to "Contractual Services-Other."⁶² Hardin District initially proposed an adjustment of \$37,500 to reflect the two-year amortized cost of preparing a comprehensive cost-of-service study and a Water Rate Analysis report (the "Rate Study").⁶³ During the course of the proceeding, the District realized that its original Schedule of Adjusted Operations did not include a rate case expense category, which would more appropriately encompass the cost of preparing a Rate Study and the

⁶⁰ Hardin District's Response to Commission Staff's Post-Hearing Request for Information, Item No. 13.

⁶¹ *Id.*

⁶² Exhibit 12 to Application at 1.

⁶³ *See* Williams Testimony at 9.

other necessary expenses incurred to prepare, file, and implement a general rate adjustment, such as legal and publication expenses. The District also realized that a two-year amortization period for the rate study cost was no longer appropriate, because the District now intends to file its next rate case within the next three years.

In response to a request from Commission Staff, the District provided a detailed schedule of incurred rate case expense and an estimate of the total rate case expense.⁶⁴ Hardin District has also supplied monthly updates of the actual rate case expense incurred since November 2023.⁶⁵ Attached as **Appendix B** is a summary of all actual rate case expense that has been incurred by the District through February 14, 2024.

The District initially estimated that the total rate case expense would be \$235,500 when it responded to Commission Staff's request in October 2023.⁶⁶ The actual amount incurred is \$196,176, and the District proposes to amortize the expense over a three-year period, recovering **\$65,392** each year. Hardin District requests that the Commission include the **\$65,392** adjustment for rate case expense in the overall revenue requirement.

⁶⁴ Hardin District's Response and Supplemental Responses to Commission Staff's First Request for Information, Item No. 12.

⁶⁵ *Id.*

⁶⁶ Hardin District's Response to Commission Staff's First Request for Information, Item No. 12c, Attachment 12c.

VIII. WHOLESALE WATER SALES

For two months during 2018, Hardin County Water District No. 1 (“District No. 1”) purchased wholesale water in small amounts from Hardin District No. 2 at a rate of \$2.20—a rate that had been singlehandedly established through the acts of the former Hardin District No. 2 General Manager, James Jeffries.⁶⁷ District No. 1 did not purchase wholesale water from Hardin District No. 2 in 2019 or in 2020. Beginning in 2021, District No. 1 started to purchase substantially more water from Hardin District No. 2, as demonstrated in the chart⁶⁸ below:

Year	Gallons	Revenue at \$2.20 Per 1,000 Gallons
2018	19,132,000	\$ 42,090
2019	0	\$ 0
2020	0	\$ 0
2021	209,496,000	\$ 462,972
2022	430,643,000	\$ 947,415

In 2020, the former Hardin District No. 2 General Manager who had established this wholesale rate with District No. 1 was relieved of his position, and the current General Manager, Shaun Youravich, stepped into the role. While in the process of filing this rate case, Hardin District discovered that the wholesale rate in place was not present in Hardin District’s tariff. Hardin District acknowledges that

⁶⁷ Hardin District’s Response to Commission Staff’s Post-Hearing Request for Information, Item No. 7.

⁶⁸ The chart data was sourced from Hardin District’s Annual Reports, Ref Page 30, which are on file with the Commission for years 2018 through 2022. Note that the 2021 and 2022 Annual Reports include a typographical error for the average rate charged per 1,000 gallons. The rate charged should read \$2.20 instead of \$0.22.

this constitutes a technical violation of the filed rate doctrine, and the District acknowledges that such an oversight should not have occurred. Had the District's General Manager, Board of Commissioners, or legal counsel been made aware of this deficiency prior to the current proceeding, the District would have acted quickly to come into compliance. The District has provided the Commission all of the records in its possession that document the actions of the former General Manager in establishing the currently charged wholesale rate. The District respectfully requests that any inquiry into this matter be considered in a separate proceeding outside of this general rate case. Moving forward, the District has proposed to establish a tariffed wholesale water rate of **\$2.89 per 1,000 gallons**.⁶⁹

In this proceeding, Hardin District included **\$947,415** of operating revenue attributable to District No. 1's wholesale purchases during the Test Year.⁷⁰ Without undercutting the importance of compliance with the filed rate doctrine, the District believes that it is reasonable for the Commission to include this wholesale revenue of **\$947,415** in the calculation of the total revenue requirement for two primary reasons. First, any adjustment to wholesale revenue would require the assumption of too many unknown variables. If Hardin District had to charge District No. 1 under one of its filed rate structures during the Test Year, then District No. 1 would have

⁶⁹ Exhibit 3 to Application at Fifth Revised Tariff Sheet No. 3.

⁷⁰ Exhibit 12 to Application at 1.

had to pay substantially more for its water. If District No. 1 had to pay substantially more than the reasonable wholesale rate of \$2.20, then it likely would not have purchased the same volume of water from Hardin District No. 2. Second, to use any other rate retroactively would punish District No. 1 and its customers. The unintentional and unknowing error of Hardin District No. 2 to ensure that its reasonable wholesale rate was on file with and approved by the Commission should not result in a financial burden on District No. 1. The District requests that the Commission include the **\$947,415** wholesale revenues as part of the revenue requirement calculation without any adjustment because it produces the most reasonable result.

IX. CONCLUSION

The District has satisfied its burden to demonstrate that its proposed rates are just and reasonable through the record of evidence in this proceeding. To aid in the Commission's review of the District's proposed revenue increase, **Appendix A** provides a Post-Hearing Schedule of Adjusted Operations, which compares the District's initial proposed adjustments and its final proposed adjustments to the various components of the revenue requirement calculation. Hardin District No. 2 respectfully requests that the Commission enter an order (1) approving the District's proposed wholesale water rate of \$2.89 per 1,000 gallons; (2) approving rates to

reflect a revenue increase of **\$2,098,401**; and (3) granting all other relief to which the District may be entitled.

Respectfully submitted,



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

Gerald E. Wuetcher
Stoll Keenon Ogden PLLC
300 West Vine Street, Suite 2100
Lexington, Kentucky 40507-1801
Telephone: (859) 231-3017
Fax: (859) 259-3597
gerald.wuetcher@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 February 16, 2024; and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.



Damon R. Talley

Appendix A

Post-Hearing Schedule of Adjusted Operations

Post-Hearing Schedule of Adjusted Operations — Hardin County Water District No. 2

	Test Year	Initial Proposed Adjustments	Final Proposed Adjustments	Initial Pro Forma	Final Pro Forma
Operating Revenues					
Metered Water Revenues					
Sales to Residential Customers	8,972,015			8,972,015	8,972,015
Sales to Commercial Customers	2,955,031			2,955,031	2,955,031
Sales to Industrial Customers	1,180,821			1,180,821	1,180,821
Sales to Public Authorities	625,371			625,371	625,371
Sales thru Bulk Loading Stat.	4,745			4,745	4,745
Total Retail Metered Sales	13,737,983			13,737,983	13,737,983
Sales for Resale	947,415			947,415	947,415
Other Water Revenues					
Misc. Service Revenues	494,895			494,895	494,895
Other Water Revenues	<u>295,136</u>			<u>295,136</u>	<u>295,136</u>
Total Other Water Revenues	790,031			790,031	790,031
Total Operating Revenues	\$ 15,475,429			\$ 15,475,429	\$ 15,475,429
Operating Expenses					
Operation and Maintenance (O&M)					
Salaries and Wages-Employees	4,415,847	958,935	918,435	5,374,782	5,334,282
Salaries and Wages-Officers	29,964			29,964	29,964
Employ. Pension and Benefit	2,391,618	237,462	237,462	2,629,080	2,629,080
Purchased Water	989,113	30,087	30,087	1,019,200	1,019,200
Purchased Power	981,788			981,788	981,788
Chemicals	678,241	177,092	188,472	855,333	866,713
Materials and Supplies	375,398			375,398	375,398
Contractual Services-Engineering	0			0	0
Contractual Services-Accounting	48,528			48,528	48,528
Contractual Services-Legal	62,318			62,318	62,318
Contractual Services-Other	515,746	37,500	0	553,246	515,746
Rate Case Expense	0	0	65,392	0	65,392
Rental of Equipment	15,838			15,838	15,838
Transportation Expenses	294,401			294,401	294,401
Insurance	152,958			152,958	152,958
Advertising Expenses	4,396			4,396	4,396
Bad Debt	74,476			74,476	74,476
Miscellaneous Expenses	<u>401,332</u>			<u>401,332</u>	<u>401,332</u>
Total O&M Expenses	11,431,962			12,873,038	12,871,810
Depreciation Expense	3,211,425	(286,381)	(286,381)	2,925,044	2,925,044
Amort. of Utility Plant Acquisition Adjust.	9,731			9,731	9,731
Taxes Other than Income	<u>351,305</u>			<u>351,305</u>	<u>351,305</u>
Total Operating Expenses	\$ 15,004,423			\$ 16,159,118	\$ 16,157,890
Net Utility Operating Income	\$ 471,006			\$ (683,689)	\$ (682,461)

REVENUE REQUIREMENTS					
Total Operating Expenses	15,004,423			16,159,118	16,157,890
Plus: Avg. Annual Principal & Interest	1,490,260	272,864	169,603	1,763,124	1,659,863
Additional Working Capital (Coverage)	<u>298,052</u>	54,573	33,921	352,625	331,973
Total Revenue Requirement	\$ 16,792,735			\$ 18,274,867	\$ 18,149,726
Less: Other Operating Revenues	790,031			790,031	790,031
Interest Income	0	292,443	370,949	292,443	370,949
Non-Utility Income	204,947			204,947	204,947
Revenue Required from Water Sales	\$ 15,797,757			\$ 16,987,446	\$ 16,783,799
Less: Revenue from Current Rates	<u>14,685,398</u>			<u>14,685,398</u>	<u>14,685,398</u>
Required Revenue Increase	\$ 1,112,359			\$ 2,302,048	\$ 2,098,401
Percent Increase	7.57%			15.68%	14.29%

Appendix B

Actual Rate Case Expense Summary

**Hardin County Water District No. 2
Case No. 2023-00247**

Analysis of Cost of Case No. 2023-00247

As of February 15, 2024

Line No.	Item	Amount
1.	Accounting	\$ 0.00
2.	Engineering	\$ 0.00
3.	Legal	\$156,303.97
4.	Consultants	\$ 34,273.00
5.	Other Expenses	\$ 5,599.46
6.	Total	\$196,176.43

Individual Expenses to Date

Invoice	Date	Vendor	Nature of Expense	Check No.	Amount	USoA Account
20230914	09/13/2023	Kenvirons	Rate Study	8568	\$ 26,465.00	631
20240127	02/07/2024	Kenvirons	Rate Study	8958	\$ 7,808.00	631
1021360	09/05/2023	Stoll Keenon Ogden PLLC	Legal Services	8559	\$ 11,133.50	633
1024305	10/04/2023	Stoll Keenon Ogden PLLC	Legal Services	8631	\$ 33,872.00	633
1027289	11/03/2023	Stoll Keenon Ogden PLLC	Legal Services	8711	\$ 23,677.50	633
1030108	12/04/2023	Stoll Keenon Ogden PLLC	Legal Services	8799	\$ 8,626.50	633
1033115	01/04/2024	Stoll Keenon Ogden PLLC	Legal Services	8871	\$ 15,286.50	633
1035811	02/05/2024	Stoll Keenon Ogden PLLC	Legal Services	8950	\$ 41,823.97	633
1037427	02/15/2024	Stoll Keenon Ogden PLLC	Legal Services		\$ 21,884.00	633
23953	09/30/2023	Jobe Publishing Inc.	Public Notice	8643	\$ 2,025.00	660
24467	12/31/2023	Jobe Publishing Inc.	Public Notice	8848	\$ 72.00	660
339405	10/29/2023	Paxton Media Group	Public Notice	8703	\$ 3,394.05	660
12312023	12/27/2023	Paxton Media Group	Public Notice	8791	\$ 108.41	660
TOTAL					\$196,176.43	