

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION)
OF OLDHAM COUNTY)
WATER DISTRICT FOR AN) CASE NO. 2023-00252
ALTERNATIVE RATE)
ADJUSTMENT)

POST-HEARING BRIEF OF
OLDHAM COUNTY WATER DISTRICT

Filed: May 15, 2024

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I. STATEMENT OF THE CASE

Oldham County Water District (“Oldham District” or “the District”) is a water district created under the provisions of KRS Chapter 74 that provides retail water service to approximately 9,118 customers in Oldham County¹ and wholesale water service to the LaGrange Utilities Commission.

On July 25, 2023, Oldham District filed a Notice with the Commission expressing its intention to file an application for an adjustment to its water rates pursuant to the alternative rate filing (“ARF”) proceedings set forth in 807 KAR 5:076. The District filed its ARF Application and supporting materials on August 18, 2023. No parties were granted intervenor status in the proceeding.

The ARF Application was deemed filed as of August 18, 2023. The Commission’s September 28, 2023 Order established a Procedural Schedule providing for two rounds of discovery and the filing of a Commission Staff Report. On March 14, 2024, the Commission scheduled an evidentiary hearing to take place, which was subsequently rescheduled for April 19, 2024 upon Oldham District’s motion.

In its ARF Application, Oldham District initially requested an increase in operating revenues from base water rates of \$944,172, or 18.65 percent, compared

¹ *Electronic Application of Oldham County Water District for an Alternative Rate Adjustment*, Case No. 2023-00252, Application, ARF Form-1 at 3 (filed Aug. 18, 2023).

to the operating revenue for 2022—the historical Test Year—under existing water rates. The District’s Application included the requisite material listed in 807 KAR 5:076, Section 4(1).

Commission Staff issued a Staff Report on January 2, 2024 containing Commission Staff’s findings and recommendations regarding the proposed rates.² Oldham District submitted a Response with its objections to and other comments on the findings and recommendations of Commission Staff on January 16, 2024.

On April 10, 2024, Oldham District filed a Stipulation, listing two points of agreement between Oldham District and Commission Staff regarding (1) a typographical error contained in the Staff Report³ and (2) an inadvertent omission from the Staff Report pertaining to Meter Connection/Tap Fee Charges.⁴

On April 19, 2024, the Commission held a hearing on the merits of two issues identified in Oldham District’s Response to the Staff Report—the request to round down certain non-recurring charges, and the disallowance of certain employee benefit expenses from Oldham District’s revenue requirement. Two witnesses for the District testified and were subject to cross examination: Russell D. Rose, Chief Executive Officer of Oldham District; and Lacey Cunningham, Finance and

² 807 KAR 5:076, Section 11(2)(b).

³ The Staff Report listed the “All Usage Rate” as \$0.405 per gallon, where the correct recommended “All Usage Rate” is \$0.00405 per gallon.

⁴ Oldham District and Commission Staff stipulated that the Meter Connection/Tap Fee Charge should be adjusted to \$2,200 to reflect the current cost of providing such service.

Administrative Manager of Oldham District. Throughout the course of the hearing, several hearing data requests were issued to the District. Pursuant to the Commission's Order dated April 24, 2024, Oldham District filed its responses to these requests on May 7, 2024.

The District bears the burden, and has offered sufficient evidence throughout this proceeding, to prove that its proposed rates are fair, just, and reasonable. Oldham District employed the debt service coverage method to determine its revenue requirement.⁵ Oldham District proposed certain adjustments to account for known and measurable changes that have occurred since the 2022 Test Year. Also, as discussed below, the District proposed an additional adjustment related to rate case expense during the course of the proceeding.⁶ These adjustments and revision resulted in a final revenue increase proposal of **\$829,702, or 16.39 percent.**

This Brief summarizes the reasonableness of certain components of the District's proposed revenue requirement. For any particular issues that are not directly addressed in this Brief, Oldham District rests on the record evidence presented through its ARF Application, live witness testimony, response to the Commission Staff Report, and responses to discovery.

⁵ See *Public Service Commission v. Dewitt Water District*, 720 S.W.2d 725, 731 (Ky. 1986).

⁶ Case No. 2023-00252, Oldham District's Motion for Recovery of Actual Rate Case Expenses in Authorized Rates and Submission of Proof of Rate Case Expense (filed May 13, 2024).

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 pro forma calculations and its final proposed adjustments to the various components of the revenue requirement calculation.

II. EMPLOYEE-RELATED EXPENSES

A. Employee Benefits

Oldham District strongly believes in both the necessity and reasonableness of the costs it incurs to provide benefits to its employees. As a known, measurable, and reasonable cost of providing adequate water service to customers, the District seeks to recover its full expense associated with employee compensation in rates.

Since 2017, the Commission has mechanically implemented and enforced a policy—limiting the recoverability through rates of a utility’s cost for employee health insurance and dental insurance premiums to a percentage of the total premium cost—when a utility pays for employee health or dental insurance premiums in an amount that exceeds national averages.⁷ For health insurance, this “national average” is based on a News Release from the Bureau of Labor Statistics, updated annually (“BLS Average”). Meanwhile, the dental insurance “national average” is

⁷ *Application of Cumberland Valley Electric, Inc. for a General Adjustment of Rates*, Case No. 2016-00169, Order at 10-13 (Ky. PSC Feb. 6, 2017). See, e.g., Case No. 2016-00169, Order (Ky. PSC Feb. 6, 2017); *The Application of Jackson County Water Association, Inc. for Approval of a Proposed Increase in Rates*, Case No. 2006-00467, Order (Ky. PSC Apr. 13, 2007); *Electronic Application of North Mercer Water District for Rate Adjustment Made Pursuant to 807 KAR 5:076*, Case No. 2016-00325, Order (Ky. PSC May 19, 2017); *Application for Rate Adjustment of Nebo Water District*, Case No. 2016-00435, Order (Ky. PSC June 5, 2017); *Application of Nolin Rural Water Electric Cooperative Corporation for a General Rate Increase*, Case No. 2016-00367, Order (Ky. PSC June 21, 2017).

sourced from a nine-year-old Survey Report from Willis Towers Watson (“Willis Average”). This Commission policy prohibits a utility from recovering through its rates for service any cost that exceeds the national private industry employer’s average contribution for such premiums.

As context for this policy, the Commission has explained that it “is placing greater emphasis on evaluating employee total compensation packages, including both salary and benefits programs, for market and geographic competitiveness to ensure fair rate development and has determined that **in most cases**, 100 percent employer-funded health and dental care does not meet that criteria.”⁸ This once rebuttable presumption has transformed into a policy of prohibition, with a 2019 Commission Order stating: “the Commission has been consistent ... in prohibiting Kentucky utilities from recovering expenses for the payment of 100 percent of health insurance premiums.”⁹

In a recent order, the Commission acknowledged that this policy is uniformly applied to all utilities seeking a general adjustment:

In every general rate case filed since 2016 in which a utility sought to recover its expenses for the payment of 100 percent of its employees' health insurance premiums, the Commission has reduced test year expenses for health insurance premiums to levels based on national average

⁸ *Application of Citipower, LLC for a Rate Adjustment for Small Utilities Pursuant to 807 KAR 5:076*, Case No. 2017-00160, Order at 10 (Ky. PSC Oct. 27, 2017); *Electronic Application of Kentucky Frontier Gas, LLC for Alternative Rate Adjustment*, Case No. 2017-00263, Order at 9 (Ky. PSC Dec. 22, 2017) (emphasis added).

⁹ *Application of Inter-County Energy Cooperative Corporation for a General Adjustment of Existing Rates*, Case No. 2018-00129, Order at 11 (Ky. PSC Jan. 25, 2019).

employee contribution rates. It is Commission practice that, in the absence of any compensation policy or benefits study regarding insurance benefits, an adjustment should be made to employee insurance expense to bring the employee contributions in line with the BLS average employer contribution percentages for health insurance and the Willis Benefits Benchmarking Survey for dental insurance.¹⁰

Moreover, Commission Staff in reviewing applications for rate adjustments filed under 807 KAR 5:076 has obediently applied this policy in rendering its findings and recommendations.¹¹ Some utilities proactively propose a pro forma adjustment to the expense level because they perceive the Commission policy as a requirement.¹²

The policy has also been applied to utilities who pay slightly less than 100 percent of employee health insurance premium costs.¹³ In a 2019 Order, the Commission made it clear that the policy would be applied to any utility with an employer contribution rate of more than 88 percent:

The Commission, due to the varied nature in which it has made adjustments to health insurance contributions, now finds that it should establish a policy delineating when a

¹⁰ *Electronic Application of Bluegrass Water Utility Operating Company, LLC for an Adjustment of Sewer Rates*, Case No. 2022-00432, Order at 70 (Ky. PSC Feb. 14, 2024).

¹¹ *But see Electronic Application of Monroe County Water District for Rate Adjustment Pursuant to 807 KAR 5:076*, Case No. 2017-00070, Staff Report at 13-16 (Ky. PSC June 30, 2017) (recommending no adjustment to the cost associated with the utility's 100 percent contribution to each employee's single health insurance benefit).

¹² *See, e.g., Electronic Application of Green River Valley Water District for Adjustment of Rates*, Case No. 2023-00088, Application at Exhibit 8, Ref. D (filed May 1, 2023) ("The District pays 100 percent of its employees' health insurance premiums. The PSC requires that these expenses be adjusted to be consistent with the Bureau of Labor Statistics' national average for an employer's share of premiums."); *Electronic Application of Cawood Water District for an Alternative Rate Adjustment*, Case No. 2020-00311, Application at Attachment 4, Ref. G (filed Sept. 28, 2020).

¹³ *See Electronic Application of Daviess County Water District for an Adjustment of Rates*, Case No. 2022-00142, Order (Ky. PSC Feb. 10, 2023); *Electronic Application of Bluegrass Water Utility Operating Company, LLC for an Adjustment of Sewer Rates*, Case No. 2022-00432, Order (Ky. PSC Feb. 14, 2024).

utility's employees' insurance contribution levels are sufficient to avoid Commission adjustment of the contributions to the national average. Accordingly, the Commission finds that as long as the employee contribution rate for health insurance is at least 12 percent, it will not make a further adjustment to the national average. If a utility's employees' health insurance contribution is less than 12 percent, the Commission will adjust all contributions to the national average.¹⁴

While the Commission initially contemplated the possibility of a 100 percent employer-funded health and dental care plan that is fair, market-competitive, and in line with a utility's geographic region, the Commission has yet to make such a finding. Oldham District is not aware of any Commission Order issued in a general rate case or alternative rate filing proceeding since 2017 where the Commission opted *not* to use the BLS Average and Willis Average to reduce rate recoverable expenses for 100 percent employer-funded health and dental insurance premiums.

For the following reasons, Oldham District respectfully disagrees with the application of this Commission policy to this proceeding, and requests that its full employee benefit expense level be included in the revenue requirement calculation:

- 1. The Commission's policy requires application of an arbitrary formula rather than a review of the reasonableness of insurance costs.**

The Commission's policy follows a formulaic approach that, while relatively straightforward to apply across utilities, creates the possibility of arbitrary results.

¹⁴ *Electronic Application of Jackson Purchase Energy Corporation for a General Adjustment in Existing Rates*, Case No. 2019-00053, Order at 9 (Ky. PSC June 20, 2019).

The Commission's current practice is to review (a) the percentage that the utility contributes to its employee's insurance premiums, and (b) the percentage that the utility's employees contribute to their own insurance premiums. If the employer contribution percentage exceeds the BLS Average, the Commission reduces the dollar value of the "excess" employer contribution percentage from the overall revenue requirement calculation.

By way of a simplified hypothetical, imagine that Utility A incurred \$10,000 in expenses to provide 100 percent coverage of single employee health insurance premiums in 2023. Meanwhile, Utility B, a similarly situated utility with the same number of employees as Utility A, incurred \$20,000 in expenses to provide 100 percent single coverage during the same time period. Under the Commission's policy, Utility A could recover 79 percent of its employer contribution expense, or \$7,900. Utility B could also recover 79 percent of its employer contribution expense, or \$15,800. Without analyzing the reasonableness of the insurance plan itself, the underlying costs associated with the plan, or the insurance benefits in the context of employee total compensation, the Commission policy fails to ensure that the recoverable costs result in rates that are fair, just, and reasonable.

This issue is not merely hypothetical. In a 2017 Commission Staff Report in an ARF proceeding involving Monroe County Water District ("Monroe District"), Staff discussed Monroe District's contribution rate of 100 percent to single

employee health insurance plans.¹⁵ Commission Staff reviewed two prior cases where the Commission applied the BLS Average to decrease the level of recoverable insurance expense.¹⁶ Then, Staff compared the per-employee average cost of wages and benefits of Monroe District to the two prior cases. Commission Staff found that Monroe District's unadjusted per-employee average cost was less than the *adjusted* costs that the Commission authorized in the two prior cases using the BLS Average.¹⁷ Accordingly, Staff made the following findings:

Staff finds that the reasonableness of the cost of an employee compensation package provided by any entity, regulated or not, should be evaluated in its totality recognizing that the combination of the individual components included in an employee benefit package often vary widely from one business entity to another. One entity may provide higher wages with limits on other benefits when compared to another entity that offers lower wages while providing better insurance coverages or retirement benefits to remain competitive for employee services. As a result, evaluating the level of one benefit of a compensation package in isolation, such as wages or health insurance, without giving consideration to the level of all other benefits included with the package is neither fair, just, nor reasonable.

* * * * *

Staff finds that the cost of Monroe District's employee compensation package is reasonable and does not warrant adjustment.¹⁸

¹⁵ Case No. 2017-00070, Staff Report at 13-16 (Ky. PSC Jan. 12, 2018).

¹⁶ *Id.*

¹⁷ *Id.* at 15-16.

¹⁸ *Id.*

In the Commission’s Final Order—without commenting on the per-employee cost analysis provided in the Staff Report—it disagreed with Staff’s finding and reduced Monroe District’s health insurance premium expense to align with the BLS Average.¹⁹

Because rote application of the BLS Average and Willis Average to health and dental insurance premiums produces arbitrary results and fails to evaluate the underlying costs of employee benefits and an employee’s total compensation package, it is not reasonable to apply these national averages to determine the reasonableness of Oldham District’s employee benefit expense level.

2. The Commission’s policy violates Kentucky law because it has not been promulgated as an administrative regulation.

The consistent and uniform application of this policy is contrary to KRS Chapter 13A. KRS 13A.100(1) provides that an administrative agency authorized to promulgate administrative regulations must place “[e]ach statement of general applicability, policy, procedure, memorandum, or other form of action that implements; interprets; prescribes law or policy; describes the organization, procedure, or practice requirements of any administrative body” into an administrative regulation. This policy is not found in any administrative regulation. Notwithstanding that this policy has been in place and enforced for more than seven

¹⁹ Case No. 2017-00070, Order at 13-14 (Ky. PSC Jan. 12, 2018).

years, no attempt has been made to codify it in the Commission’s administrative regulations. Unless set forth in an administrative regulation, enforcement of this policy is unlawful and unenforceable.

3. The Commission’s policy, as applied to Kentucky water districts, incorrectly uses a national average based on private employer data rather than government employer data.

The Commission’s policy applies the same private employer national average to all Kentucky utilities, regardless of whether the utility is a governmental entity like a water district, or an investor-owned utility. The BLS Average provides data for both the private industry and for state and local government. The average private industry employer share in March 2023 was 79 percent, while the average state and local government employer share was 86 percent. Oldham District—like the approximately 115 other water districts in Kentucky—is a nonprofit political subdivision of the county government and of the Commonwealth.²⁰

The nature of government employment distinguishes Oldham District from a private sector employer.²¹ Private sector employers are profit-driven; government employers are public service driven. A private sector employer can include profit-based incentive compensation for employees when creating a competitive total compensation package. Government employers, like OCWD, must utilize other

²⁰ See *Pub. Serv. Comm’n of Ky. v. Dewitt Water Dist.*, 720 S.W.2d 725, 727 (Ky. 1986); *N. Ky. Area Planning Comm’n v. Cloyd*, 332 S.W.3d 91, 94 (Ky. Ct. App. 2010).

²¹ *But see Electronic Application of Northern Kentucky Water District for an Adjustment of Rates; Issuance of Bonds; Financing; and Tariff Revisions*, Case No. 2022-00161, Order on Motion for Reconsideration at 6 (Ky. PSC Mar. 16, 2023) (finding the distinction between private sector jobs and government jobs inapplicable to a water district).

strategies to create a total employee compensation package that reasonably compensates employees and attracts talented workers. One way that government employers can supply a competitive total compensation package is by providing more robust benefits to government employees. Because water districts are nonprofit entities, the employee compensation structure fundamentally differs from that which private sector employers can offer to private employees.

Oldham District is more akin to a state and local government employer than a private industry. If the current Commission policy is applied using the BLS Average, then the employer share of 86 percent should be used to acknowledge the unique nature of water districts as subdivisions of governmental entities.

4. The Commission's policy should evaluate employer contribution rates based on the utility sector job market and the Kentucky geographic area to determine competitiveness, instead of using a national average.

The Commission has previously stated that its policy is intended to evaluate “for market and geographic competitiveness to ensure fair rate development,”²² but the BLS Average is neither specific to the utility job market nor to the Kentucky geographic region.

The Bureau of Labor Statistics does provide utility industry-specific data that provides a more accurate comparison of the reasonableness of employee benefit

²² Case No. 2017-00160, Order at 10 (Ky. PSC Oct. 27, 2017); Case No. 2017-00263, Order at 9 (Ky. PSC Dec. 22, 2017).

expenses. In a recent BLS News Release on *Employer Costs for Employee Compensation — December 2023*, the BLS reported average total compensation employer costs for private workers by industry group. The average utilities industry employer cost for total employee compensation was \$76.91 per hour (including wages and salaries, total benefits, paid leave, supplemental pay, insurance, retirement and savings, and legally required benefits).²³ In comparison, Oldham District’s average cost for employee compensation from 2022 to 2023 was approximately \$62.06 per hour.²⁴

Looking at geographic area competitiveness, Oldham District is aware of at least 46 utilities in Kentucky that have offered 100 percent coverage of certain employee health insurance premiums in recent years.²⁵ This is an indicator of the reasonable nature of the offering of these benefits to Kentucky utility employees.

²³ BUREAU OF LABOR STATISTICS, News Release, *Employer Costs for Employee Compensation – December 2023* at Table 4 (Mar. 13, 2024), available at <https://www.bls.gov/news.release/ecec.t04.htm>.

²⁴ Total Employee Compensation Cost ÷ Total Employee Hours Worked = Average Hourly Employer Cost

- \$1,816,728 (Pro Forma Wages & Salaries) + \$1,106,773 (Test Period Employee Benefits) + \$43,948 (OCWD Proposed Adjustment to Test Period Employee Benefits) = **\$2,967,449** Total Compensation Cost
- 46,384 Regular Hours + 1,434.5 Overtime Hours = **47,818.5** Employee Hours Worked
- \$2,967,449 ÷ 47,818.5 hours = \$62.06/hour

See OCWD Response to Commission Staff’s First Request for Information, Item 11(a), Attachment 1-11a, Tab Adj_EE (filed Oct. 31, 2023) for the data inputs utilized in the calculation.

²⁵ These utilities include Adair County Water District; Barkley Lake Water District; Bath County Water District; Breathitt County Water District; Bronston Water Association, Inc.; Buffalo Trail Water Association, Inc.; Bullock Pen Water District; Carroll County Water District #1; Cawood Water District; Citipower, LLC; Cumberland Valley Electric, Inc.; Edmonson County Water District; Grant County Sanitary Sewer District; Green River Valley Water District; Green-Taylor Water District; Grayson Rural Electric Cooperative Corporation; Hardin County Water District No. 2; Inter-County Energy Cooperative Corporation; Jackson Purchase Energy Corporation; Jonathan Creek Water District; Judy Water Association; Kentucky Frontier Gas, LLC; Knott County Water and Sewer District; Lake Village Water Association, Inc.; Laurel County Water District No. 2; Letcher County Water and Sewer District; Lyon County Water District; Meade County Rural Electric Cooperative Corporation; Nebo Water District; Nolin Rural Electric Cooperative Corporation; North Logan Water District #1; North Mercer Water District; North Shelby Water Company; Princeton Water and Wastewater; Rowan Water, Inc.; Sharpsburg Water District; South 641 Water District;

5. The Commission’s policy, as applied to the alternative rate filing process, is unwieldy and burdensome.

The alternative rate filing process, outlined in 807 KAR 5:076, is intended to provide a “simplified and less expensive procedure for small utilities to use to apply to the commission for rate adjustments.”²⁶ The Commission has previously implied that the only way to prove the reasonableness of a 100 percent employer-paid health insurance premium plan is to provide a wage and benefit survey.²⁷

This evidentiary burden is inconsistent with the purpose of the ARF process. In an ARF proceeding, a small utility provides only the information required in the ARF application. The application can be filed by a non-attorney, and counsel involvement is only required if a hearing is conducted on the application.²⁸ A small utility utilizing the ARF process does not submit written witness testimony. The ARF application form, provided on the Commission’s website for small utilities, does not request or require a wage and benefit survey.²⁹

The Commission’s practice requiring a wage and benefit survey to justify a 100 percent employer contribution rate is too rigid in the context of a simplified ARF proceeding. Oldham District urges the Commission to consider evidence outside of

South Hopkins Water District; Southern Madison Water District; Southern Water and Sewer District; Union County Water District; West Shelby Water District; Western Fleming County Water District; Western Mason County Water District; Whitley County Water District #1; and Wood Creek Water District.

²⁶ 807 KAR 5:076, *Necessity, Function, and Conformity Statement*.

²⁷ *Electronic Application of Bluegrass Water Utility Operating Company, LLC for an Adjustment of Sewer Rates*, Case No. 2022-00432, Order at 70 (Ky. PSC Feb. 14, 2024).

²⁸ 807 KAR 5:076, Section 13.

²⁹ See <https://psc.ky.gov/Home/UtilForms> under Utility Forms > Forms For All Utilities > Alternative Rate Filing Forms > ARF Form 1 – Alternative Rate Filing Application.

a wage and benefit survey to determine that Oldham District's employee benefit expense level is reasonable.

6. Oldham District's provision of full health and dental insurance premium coverage to employees is more financially prudent than a corresponding increase to employee wages.

Oldham District aims to keep customer rates as low as possible by prudently managing its operating expenses. Paying 100 percent of employee health and dental insurance premiums allows the District to offer comparatively lower employee wages and salaries, to produce an overall fair and reasonable employee compensation package.

If Oldham District required employees to contribute the BLS Average and Willis Average percentages to health and dental insurance premiums, then in order to fairly compensate its employees at the same overall rate, the District would incur an additional \$115,000 per year in employee-related expenses.³⁰ Increasing employees' wages so that employees could afford to contribute to health or dental insurance premiums without a decrease their current take-home pay would: result in corresponding increases in the District's CERS contribution expense, cause the District to incur additional payroll taxes for Social Security and Medicare, and create additional taxable federal and state income tax liability for employees.³¹ The

³⁰ Approximately. *See* Oldham District's Response to Commission Staff's First Request for Information, Item No. 6, Attachment 1-6 (filed Oct. 31, 2023).

³¹ *See* Oldham District's Response to Commission Staff's First Request for Information, Item No. 6 and Attachment 1-6 (filed Oct. 31, 2023).

increase in these expenses would cost customers approximately \$1.00 more each month when recovered through rates.³² When applied to Oldham District, the Commission policy prohibiting recovery of 100 percent employer insurance contribution expense could result in needlessly inflated customer rates.

7. Commission Staff’s recommendation in this proceeding is not supported by any evidence.

Commission Staff failed to provide any evidence to support its recommendation that Oldham District’s employee insurance benefits expense level be reduced. Staff simply noted that “Oldham District did not make an adjustment to reflect the allowable health insurance premium based on the [BLS Average and Willis Average] that is consistent with Commission precedent.”³³ As a result, Commission Staff recommended a downward adjustment “because the adjustments meet the ratemaking criteria of being known and measurable as well as appropriate in following Commission precedent.”³⁴

Commission Staff conducted no cost comparisons to determine whether the actual costs underlying Oldham District’s insurance plans were reasonable. The Staff Report does not consider local labor market conditions or discuss competitiveness within the market or the geographic region. The Staff Report did not examine the terms of Oldham District’s health or dental insurance policy or

³² *Id.*

³³ Case No. 2023-00252, Staff Report at 9-10 (Ky. PSC Jan. 2, 2024).

³⁴ *Id.* at 11.

compare the terms to those of any similarly situated employers competing for the same class of employees within the local job market.

Commission Staff rely on a policy that stands on shaky ground. For all of the reasons stated above, Oldham District requests that the Commission not apply its general policy to the District. Oldham District's total expense for employee compensation, including employee benefits like health and dental insurance, is reasonable and should be fully included in the revenue requirement calculation.

B. Commissioner Benefits

Oldham District is not requesting to recover the cost of providing health insurance to its commissioners in its rates. In preparing its Application, Oldham District removed the cost of its commissioners' health insurance from its Statement of Adjusted Operations.³⁵ Oldham District's Finance and Administrative Manager testified that the test-year expense to provide commissioner's health insurance was approximately \$106,000, and it was removed from the test-year expenses.³⁶ Oldham District has not amended its Application to seek inclusion of the cost of providing these benefits. When Oldham District's Chief Executive Officer, Russ Rose, was asked in the April 19, 2024 hearing how the district would pay the cost of commissioner's health insurance benefits if the district was not seeking to recover

³⁵ Application at Attachment 4, *Statement of Adjusted Operations*, Ref. D (filed Aug. 18, 2023); *see also* Staff Report at 9 (Ky. PSC Jan. 2, 2024) (stating the actual cost of commissioner benefits in the test year as \$106,509).

³⁶ Lacey Cunningham, Hearing Video Testimony of the April 19, 2024 Hearing, VR 10:40:25 - 10:41:42; 10:45:30 - 10:45:52.

the cost in its rates, he testified that the cost would likely come from Additional Working Capital, as that fund is not restricted as to its use.³⁷ This response was speculative because no decision as to how to cover this expense has been made. Further, the District's Finance and Administrative Manager, Lacey Cunningham, testified that the cash with which to pay the cost of providing commissioners' health insurance benefits could come from Additional Working Capital or Depreciation Expense, as those accounts are unrestricted.³⁸

Oldham District has not decided how to fund commissioners' health insurance benefits, but it did not increase the amount of Additional Working Capital in its calculation of the revenue requirement in its Application in an attempt to fund this expense as was suggested at the hearing.³⁹ Oldham District included in its revenue requirement calculation only the amount of Additional Working Capital that it is required to maintain by the terms of the Debt Service Coverage covenant made in Section 501 of its Bond Resolution.⁴⁰ This covenant requires Oldham District to maintain rates and charges equal to 120 percent of the average annual debt service requirements for principal and interest of all outstanding Rural Development Bonds and any other Outstanding Bonds. Additionally, unless Oldham District's net

³⁷ Russ Rose, Hearing Video Testimony of the April 19, 2024 Hearing, VR 9:35:09 - 9:36:05.

³⁸ Lacey Cunningham Testimony, 4/19/2024 Hearing, VR 10:46:00 - 10:47:50.

³⁹ Russ Rose Testimony, 4/19/2024 Hearing, VR 9:34:07 - 9:35:03; 10:45:10 - 10:47:22.

⁴⁰ Application at Attachment 4, *Statement of Adjusted Operations*, Ref. K; Application at Attachment 8, *Bond Resolution*, Section 501 (filed Aug. 18, 2023); *see also* Lacey Cunningham Testimony, 4/19/2024 Hearing, VR 10:48:10 - 10:49:08.

revenues are at least 120 percent of its average annual debt service requirements for principal and interest of all Outstanding Bonds, Section 603(c) of the Bond Resolution restricts Oldham District from issuing any additional bonds.⁴¹ Oldham District's revenue requirement calculation was based upon the minimum net revenues it is required by the covenants contained in its bond documents to maintain. The Staff Report cited the Commission's historical practice of including an allowance for Additional Working Capital that is equal to the minimum net revenues required by a utility's lenders and did not contain any recommended adjustment to Oldham District's pro forma Additional Working Capital expense.⁴²

III. ROUNDING OF NON-RECURRING EXPENSES

Upon request, Oldham District provided Commission Staff with updated cost justification sheets for all non-recurring charges listed in its current tariff.⁴³ The District accepted the Staff's recommended adjustments to non-recurring charges for purposes of this proceeding, but requested that the non-recurring charge amount of \$19.65 be rounded down to \$19.00 for the following charges: Connection/Turn On Charge; Field Collection Charge; Meter Reread Charge; Meter Test Charge; Reconnect Charge; and Service Call/Investigation Charge.⁴⁴

⁴¹ Application at Attachment 8, *Bond Resolution*, Section 603 (filed Aug. 18, 2023).

⁴² Staff Report at 16-17 (Ky. PSC Jan. 2, 2024).

⁴³ Oldham District's Response to Commission Staff's First Request for Information, Item No. 16 (filed Oct. 31, 2023).

⁴⁴ Oldham District's Response to Commission Staff Report at 2-3 (filed Jan. 16, 2024).

At the evidentiary hearing District witness Russ Rose explained that the District strives to make each customer's experience as seamless as possible.⁴⁵ A non-recurring charge rounded to a whole dollar amount provides administrative ease and customer satisfaction, as it makes it simpler to remember the charge amount and easier to pay (especially for customers who pay using cash, and can then avoid having to use change). Oldham District requests that the Commission round the \$19.65 nonrecurring charge to the nearest whole dollar amount.

IV. RATE CASE EXPENSE ADJUSTMENT

The District's Application included \$201,561 of pro forma Contractual Services expense for purposes of calculating the revenue requirement, which included \$5,000 of amortized rate case expense.⁴⁶ The District initially underestimated that the total rate case expense, amortized over three years, would be \$15,000.

The actual rate case expense amount incurred through May 3, 2024 is \$65,848.20, and the District proposes to amortize this expense over a three-year period, recovering **\$21,949.40** each year. **Appendix B** provides a summary of the actual rate case expense incurred.⁴⁷ Oldham District requests that the Commission include a total adjustment of **\$55,819** (\$55,819.40 rounded down) to the Test Year

⁴⁵ Russ Rose Testimony, 4/19/2024 Hearing, VR 9:41:15 - 9:43:04.

⁴⁶ Application at Attachment 4, *Statement of Adjusted Operations*, Ref. G (filed Aug. 18, 2023).

⁴⁷ See also Case No. 2023-00252, Oldham District's Motion for Recovery of Actual Rate Case Expenses in Authorized Rates and Submission of Proof of Rate Case Expense (filed May 13, 2024).

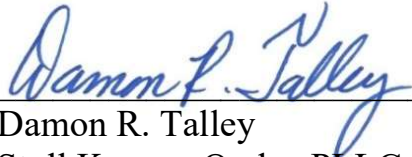
Contractual Services expense in the overall revenue requirement to account for the increased rate case expense.

V. CONCLUSION

The District has satisfied its burden to demonstrate that its proposed rates are fair, 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 pro forma calculations and its final proposed adjustments to the various components of the revenue requirement calculation. Oldham County Water District respectfully requests that the Commission enter an order approving rates to reflect a revenue increase of **\$829,702** and granting all other relief to which the District may be entitled.

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Respectfully submitted,



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Counsel for Oldham County Water District

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 May 15, 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

Oldham County Water District
Post-Hearing Schedule of Adjusted Operations

	Initial Pro Forma	Staff Proposed Adjustments	OCWD Post-Hearing Adjustments	Final Proposed Calculations
Total Metered Water Revenues	4,331,283			4,331,283
Sales for Resale	732,372			732,372
Other Water Revenues				
Forfeited Discounts	32,152			32,152
Miscellaneous Service Revenues	37,025	(15,688)	(15,688)	21,337
Other Water Revenues	45,651			45,651
Total Operating Revenues	\$ 5,178,483			\$ 5,162,795
Operation and Maintenance				
Salaries and Wages - Employees	1,816,728			1,816,728
Salaries and Wages - Officers	30,200			30,200
Employee Pensions and Benefits	1,150,721	(125,241)		1,150,721
Purchased Power	526,196			526,196
Chemicals	381,726	(146,973)	(146,973)	234,753
Materials and Supplies	359,068			359,068
Contractual Services	201,561		16,949	218,510
Transportation Expenses	104,167			104,167
Insurance - Gen. Liability & Other	89,313			89,313
Insurance - Workers Comp	22,498			22,498
Advertising	9,496			9,496
Bad Debt	10,083			10,083
Miscellaneous Expenses	134,331	(133)	(133)	134,198
Total Operation and Mnt. Expenses	4,836,088			4,705,931
Depreciation Expense	1,046,643			1,046,643
Total Operating Expenses	\$ 5,882,731			\$ 5,752,574
Net Utility Operating Income	\$ (704,248)			\$ (589,779)

REVENUE REQUIREMENTS				
Total Operating Expenses	5,882,731	(272,347)	(125,157)	5,752,574
Plus: Avg. Principal and Interest Payments	549,172			549,172
Additional Working Capital	109,834			109,834
Total Revenue Requirement	\$ 6,541,738			\$ 6,411,580
Less: Other Operating Revenues	114,828	(15,688)	(15,688)	99,140
Rents from Water Property	132,384			132,384
Billing Services Fee	60,262			60,262
Grant Income	3,035			3,035
Gains from Disposition of Property	0			0
Interest Income	176,710			176,710
Other Income	46,692			46,692
Net Amortization	0			0
Revenue Required from Water Sales	\$ 6,007,826			\$ 5,893,357
Less: Revenue from Sales with Present Rates	5,063,655			5,063,655
Required Revenue Increase	\$ 944,172			\$ 829,702
Percent Increase	18.65 %			16.39 %

Appendix B

Actual Rate Case Expense Summary

**Oldham County Water District
Case No. 2023-00252**

Analysis of Cost of Case No. 2023-00252

As of May 3, 2024

Line No.	Item	Amount
1.	Accounting	\$0.00
2.	Engineering	\$0.00
3.	Legal	\$64,348.20
4.	Consultants	\$0.00
5.	Other Expenses	\$ 1,500.00
6.	Total	\$65,848.20

Individual Expenses to Date:

Invoice	Date	Vendor	Nature of Expense	Check No.*	Amount	Account No.
1018512	08/14/2023	Stoll Keenon Ogden PLLC	Legal Services	46266	\$ 1,951.50	633-00
1021373	09/12/2023	Stoll Keenon Ogden PLLC	Legal Services	46359	\$ 2,438.00	633-00
1024315	10/09/2023	Stoll Keenon Ogden PLLC	Legal Services	46448	\$ 666.00	633-00
1027290	11/07/2023	Stoll Keenon Ogden PLLC	Legal Services	46538	\$12,006.50	633-00
1030142	12/05/2023	Stoll Keenon Ogden PLLC	Legal Services	46621	\$ 301.50	633-00
1035813	02/12/2024	Stoll Keenon Ogden PLLC	Legal Services	46846	\$ 4,939.50	633-00
1038477	03/04/2024	Stoll Keenon Ogden PLLC	Legal Services	46919	\$ 212.50	633-00
1041316	04/09/2024	Stoll Keenon Ogden PLLC	Legal Services	47037	\$ 2,415.50	633-00
1043832	05/03/2024	Stoll Keenon Ogden PLLC	Legal Services	47114	\$39,417.20	633-00
70033835	09/06/2023	The Oldham Era	Notice Publication	46320	\$ 960.00	660-00
70746594	09/27/2023	The Oldham Era	Notice Publication	46401	\$ 480.00	660-00
70922686	05/03/2024	The Oldham Era	Notice Publication	47115	\$ 60.00	660-00
TOTAL					\$65,848.20	

* If blank, check number is not available as payment has not yet been made