

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION)	
OF HARDIN COUNTY WATER)	
DISTRICT NO. 2 FOR)	CASE NO.
ACCREDITATION AND)	2025-00269
APPROVAL OF)	
COMMISSIONER TRAINING)	

APPLICATION

Hardin County Water District No. 2 (“Hardin District No. 2”) and Stoll Keenon Ogden PLLC (“Joint Applicants”) apply for an Order from the Public Service Commission (“Commission”) accrediting and approving a proposed water district commissioner training program pursuant to KRS 74.020(6) and (7) and 807 KAR 5:070.

In support of its application, the Joint Applicants state:

1. The full name and post office address of Hardin District No. 2 is:
Hardin County Water District No. 2, P.O. Box 970, 1951 West Park Road,
Elizabethtown, Kentucky 42702-0970. Its electronic mail address is
lsims@hcwd2.org.

2. Pursuant to 807 KAR 5:001, Section 4(8),¹ copies of all orders, pleadings, and other communications related to this proceeding should be directed to:

Tina C. Frederick
Stoll Keenon Ogden, PLLC
300 West Vine Street, Ste 2100
Lexington, KY 40507-1801
(859) 231-3951
Fax: (859) 259-3517
tina.frederick@skofirm.com

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

Lea Ona Sims
Hardin County Water District No. 2
P.O. Box 970
1951 West Park Road
Elizabethtown, KY 42702
(270) 737-1056
lsims@hcwd2.org

3. Hardin District No. 2 is not a corporation, limited liability company, or limited partnership. It has no articles of incorporation or partnership agreements.

4. Hardin District No. 2 is a water district organized pursuant to KRS Chapter 74.

5. Hardin District No. 2's territory includes all of Hardin County, Kentucky, except for the city of Radcliff and the northern portion of Hardin County, and portions of Larue and Hart Counties.

6. Stoll Keenon Ogden PLLC is a Kentucky Limited Liability Company that was organized under the laws of the Commonwealth of Kentucky on December 28, 2005 and is currently in good standing. It provides legal services to local, regional, national, and international clients.

7. Stoll Keenon Ogden PLLC's mailing address is: 300 West Vine Street, Suite 2100, Lexington, Kentucky 40507-1801. Its email address for purposes of this Application is: tina.frederick@skofirm.com.

8. Joint Applicants propose to sponsor and conduct a water management training program on September 29, 2025, at Hardin District No. 2's office in Elizabethtown, Kentucky. The program is entitled "Hardin County Water Commissioner Training Seminar." A copy of the proposed agenda is attached to this Application as **Exhibit 1**.

9. As reflected in **Exhibit 1**, the proposed training program will consist of presentations that are designed to enhance the attendees' understanding of relevant legal, financial, and technical issues involved in the management, operation, and maintenance of water systems and calculated to improve the quality of the

management, operation and maintenance of the attendees' water systems. The proposed training program includes presentations on the following topics:

a. **Recent Developments in Utility Regulation.** This presentation reviews recent developments in public utility law and regulation. Topics include actions taken by 2025 General Assembly, borrowing money, compliance with PSC Orders, PSC Investigations, and maintaining minutes of Board proceedings. The presenter will also examine and discuss recent court and PSC decisions.

b. **Recovery from Financial Devastation.** Hurricane Katrina caused unprecedented devastation to the City of New Orleans, and while the physical destruction and emergency response dominated national headlines, the financial aftermath was equally severe. Behind the scenes, the city faced a cascade of economic challenges: cash flow disruptions, FEMA reimbursement delays, plummeting liquidity, and a bond rating downgrade to junk status. The city was on the brink of financial collapse. On the 20th anniversary of Katrina, this session will explore the critical steps New Orleans took to regain its financial footing and the difficult decisions made along the way. The Presenter will highlight valuable lessons learned by New Orleans that will assist water and wastewater utilities in navigating financial crises.

c. **Internal Controls.** This session will cover the importance of internal controls for utilities. Topics will include what utilities should do to protect

themselves against fraud and ensure transparency, accountability, and the safeguarding of assets. Presenters will also use a real-world example of a long-term fraud case within a city government and how internal controls broke down or were non-existent.

d. Things to Do in Anticipation of Filing a Rate Case

This presentation discusses some of the differences between General and Alternative Rate Filings, explores the role of the Rate Consultant, provides practical steps to take prior to filing a Rate Case, and provides some advice in the event a rate proceeding does not go as planned. Presenter will provide awareness of common mistakes made by utilities during rate proceedings and how to avoid such problems when filing a Rate Case.

e. Basic Procurement Law. Utilities governed by the PSC have rules they must follow when purchasing goods and services. This session will cover the requirements that governmental utilities have to comply with when making purchases. Topics covered in this presentation will include the bidding statute, including a discussion of professional services and the requirements for professional services versus other utility purchases. Other topics will include cooperative purchasing, statutory preferences, and procurement issues with state and federally funded projects.

f. **Legal Issues in the Operation & Management of Water Systems**

Panel Discussion. A panel of attorneys will entertain audience questions regarding frequently recurring legal issues faced by water districts. Discussion is expected to address KRS Chapter 74 and its effects on the management and operation of water districts, as well as other highly relevant statutory provisions, such as the Claims against Local Government Act, Bidding Requirements provision of KRS Chapter 424, Eminent Domain, Local Model Procurement Law, Whistle Blowers Act, and general laws related to special districts. PSC regulatory requirements will also be discussed.

10. The proposed training program consists of six hours of instruction and should be accredited and approved as water management training satisfying the requirements set forth in KRS 74.020(7) to establish a water district commissioner's eligibility for a maximum annual salary of \$6,000. **Joint Applicants are not requesting that the proposed training program be accredited as a program of instruction for newly appointed commissioners.**

11. A biographical statement containing the name and relevant qualifications and credentials for each presenter is attached at **Exhibit 2** of this application.

12. The written materials to be provided to each attendee are attached at **Exhibit 3**. Should any presenter revise or amend his or her presentation prior to the

presentation or provide additional written materials to the attendees, Joint Applicants will include a copy of the revised presentation with its sworn statement and report regarding the instruction. Should any presenter revise or amend his or her presentation prior to the presentation or provide additional written materials to the attendees, a copy of the revised presentation will also be submitted.

13. In addition to Hardin District No. 2's management staff and commissioners, the management staff and members of the Boards of Commissioners of the following water districts have been invited to attend the proposed training: Hardin County Water District No. 1; Larue County Water District No. 1; and Meade County Water District.

14. The Joint Applicants will retain a record of all water district commissioners attending the proposed training program.

15. Within 30 days of the proposed training program's completion, the Joint Applicants will file with the Commission a sworn statement:

- a. Attesting that the accredited instruction was performed;
- b. Describing any changes in the presenters or the proposed program curriculum that occurred after certification; and
- c. Containing the name of each attending water district commissioner, his or her water district, and the number of hours that he or she attended.

16. The Joint Applicants will include with the sworn statement documentary evidence of the program's certification by certifying authorities and a copy of any written material given to the attendees that has not been previously provided to the Commission.

17. The Joint Applicants will admit the Commission's representatives to the proposed training program at no charge to permit such representatives to assess the quality of the program's instruction, monitor the program's compliance with the Commission directives, regulations, or other requirements, or perform any other supervisory functions that the Public Service Commission deems necessary.

WHEREFORE, the Joint Applicants request that the Public Service Commission approve and accredit the proposed training program entitled "Hardin County Water Commissioner Training Seminar" for **six hours** of water district management training.

Dated: August 20, 2025

Respectfully submitted,

/s/ Tina C. Frederick
Tina C. Frederick
Stoll Keenon Ogden, PLLC
300 West Vine Street, Ste 2100
Lexington, KY 40507-1801
(859) 231-3951
Fax: (859) 259-3517
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Damon R. Talley
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P.O. Box 150
Hodgenville, KY 42748-0150
Telephone: (270) 358-3187
Fax:(270) 358-9560
damon.talley@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 August 20, 2025; and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.

/s/ Tina C. Frederick
Tina Frederick

Exhibit 1

Agenda



Hardin County Water Commissioner Training Seminar

Presented by

**Hardin County Water District No. 2 & Stoll Keenon Ogden PLLC
1951 West Park Road, Elizabethtown, Kentucky**

September 29, 2025

Morning Agenda

8:00 - 8:25 Registration and Refreshments

8:25 - 8:30 Program Overview and Welcome – Mike Bell

8:30 - 9:30 Recent Developments in Utility Regulation – Damon Talley

This presentation reviews recent developments in public utility law and regulation. Topics include actions taken by 2025 General Assembly, borrowing money, compliance with PSC Orders, PSC Investigations, and maintaining minutes of Board proceedings. The presenter will also examine and discuss recent court and PSC decisions.

9:40 - 10:40 Recovery from Financial Devastation – Robert K. Miller

Hurricane Katrina caused unprecedented devastation to the City of New Orleans and the financial aftermath was equally severe. Behind the scenes, the city faced a cascade of economic challenges: cash flow disruptions, FEMA reimbursement delays, plummeting liquidity, and a bond rating downgrade to junk status. The city was on the brink of financial collapse. On the 20th anniversary of Katrina, the Presenter will highlight valuable lessons learned by New Orleans that will assist water and wastewater utilities in navigating financial crises.

10:50 - 11:50 Internal Controls – Lacey Cunningham and Russ Rose, Oldham County Water District

This session will cover the importance of internal controls for utilities. Topics will include what utilities should do to protect themselves against fraud and ensure transparency, accountability, and the safeguarding of assets. Presenters will also use a real-world example of a long-term fraud case within a city government and how internal controls broke down or were non-existent.

11:50 - 12:30 **Lunch (provided on-site)**

Afternoon Agenda

12:30 - 1:30 **Things to Do in Anticipation of Filing a Rate Case – Tina Frederick**

This presentation discusses some of the differences between General and Alternative Rate Filings, explores the role of the Rate Consultant, provides practical steps to take prior to filing a Rate Case, and provides some advice in the event a rate proceeding does not go as planned. Presenter will provide awareness of common mistakes made by utilities during rate proceedings and how to avoid such problems when filing a Rate Case.

1:40 - 2:40 **Basic Procurement Law – Gerald Wuetcher**

Utilities governed by the PSC have rules they must follow when purchasing goods and services. This session will cover the requirements that governmental utilities have to comply with when making purchases. Topics covered in this presentation will include the bidding statute, including a discussion of professional services and the requirements for professional services versus other utility purchases. Other topics will include cooperative purchasing, statutory preferences, and procurement issues with state and federally funded projects.

2:45 - 3:45 **Legal Issues in the Operation & Management of Water Systems**

Panel Discussion – Tina Frederick, Damon Talley & Gerald Wuetcher

A panel of attorneys will entertain audience questions regarding frequently recurring legal issues faced by water districts. Discussion is expected to address KRS Chapter 74 and its effects on the management and operation of water districts, as well as other highly relevant statutory provisions, such as the Claims against Local Government Act, Bidding Requirements provision of KRS Chapter 424, Eminent Domain, Local Model Procurement Law, Whistle Blowers Act, and general laws related to special districts. PSC regulatory requirements will also be discussed.

3:45 **Closing Remarks & Administrative Announcements**

Exhibit 2

Presenter Information



Damon R. Talley

Direct Phone: 270.358.3187

damon.talley@skofirm.com

BAR & COURT ADMISSIONS

Kentucky

U.S. District Court, Eastern District Of Kentucky

U.S. District Court, Western District Of Kentucky

United States Supreme Court

EDUCATION

University of Kentucky College of Law
1975, J.D.

University of Kentucky College of Engineering
1972, B.S.M.E.

RECOGNITION

Best Lawyers®, Lawyer of the Year (Lexington),
Utilities Law, 2023

Best Lawyers®, Utilities Law, 2021-present

Sullivan Medallion, presented to Outstanding
Graduating Student, University of Kentucky

Moot Court Board, President, University of
Kentucky College of Law

Outstanding Student, University of Kentucky
College of Engineering

Omicron Delta Kappa, President, University of
Kentucky

Kentucky Association of Future Farmers of
America, President

Outstanding Citizen Award, LaRue County
Chamber of Commerce, 1990

Outstanding Citizen Award, Cave City Chamber of
Commerce, 1981

Outstanding Citizen Award, Horse Cave Chambers
of Commerce, 1979

Damon R. Talley

Damon joined Stoll Keenon Ogden's Utility & Energy practice as Of Counsel in 2015 and serves clients through the firm's Hodgenville, Lexington and Louisville offices.

Before his time at SKO, Damon worked for decades in private practice and has provided legal representation to public utilities throughout Kentucky. He has focused primarily on water utilities, and his deep expertise in drinking water has earned him a reputation statewide as a go-to legal resource in this area. Damon is general counsel of the Kentucky Rural Water Association and has served in this capacity since 1979.

Given his substantial experience, Damon is frequently called upon to speak at training sessions sponsored by the Kentucky Rural Water Association, Division of Water, Utility Management Institute and other utility groups in the state.

Damon is highly active in the local community and serves as a board member of several nonprofit organizations. He is a past board member of the Kentucky Infrastructure Authority. He was a charter member, long-time board member and two-term board chairman of the Kentucky FFA Foundation.

Utility & Energy: Damon represents public utility clients before federal and state courts at the trial and appellate levels. He handles matters such as rate adjustments, transfers of control, financing and construction applications, and consumer complaint proceedings.

Work Highlights

Damon serves as General Counsel of the Kentucky Rural Water Association and has served in this capacity since 1979.

Damon serves as General Counsel of the Kentucky Rural Water Finance Corporation and has served in this capacity since 1995.



Gerald E. Wuetcher

Direct Phone: 859.231.3017

gerald.wuetcher@skofirm.com

BAR & COURT ADMISSIONS

Kentucky

U.S. Court Of Appeals For The Armed Forces

U.S. District Court, Eastern District Of Kentucky

U.S. District Court, Western District Of Kentucky

EDUCATION

Emory University
1984, J.D.

Johns Hopkins University
1981, B.A.

RECOGNITION

Best Lawyers®, Utilities Law, 2021-present

Gerald E. Wuetcher

Jerry is Counsel to the Firm in Stoll Keenon Ogden's Lexington office and is part of the Utility & Energy practice. He joined the firm in 2014, after working for more than 26 years at the Kentucky Public Service Commission (PSC) as a staff attorney, deputy general counsel and executive advisor.

Over the course of his career, Jerry has frequently appeared before the PSC in administrative proceedings involving electric, natural gas, water and sewer utility issues and has represented the PSC in state and federal courts. He also served as the PSC's representative in several interagency groups addressing water and wastewater issues. He drafted amendments to various provisions of Kentucky's public utility statutes and revisions to the PSC's administrative regulations.

From 2009-2013, Jerry was PSC's representative on the board of the Kentucky Infrastructure Authority. He developed and implemented the PSC's training program for water utility officials and was an instructor for that program.

Jerry is a frequent speaker on utility and local government issues before such organizations as the Kentucky Rural Water Association, Kentucky League of Cities, Kentucky Association of Counties and Utility Management Institute.

Along with his significant experience in the realm of civilian law, Jerry served for 27 years in the U.S. Army as a judge advocate before retiring at the rank of colonel in 2011. He occupied numerous roles on active duty and in a reserve status.

Utility & Energy: Jerry concentrates on public utility law in Kentucky, but also participates in general and commercial litigation, transactions, employment concerns, securities issues and mergers and acquisitions involving gas, electric and water companies. He handles all facets of regulatory matters, including the negotiation of complex agreements and representation before state agencies and courts.

Work Highlights

Attorney, Kentucky Public Service Commission (1987-2014). Served as a staff attorney, deputy general counsel and executive advisor. Frequently appeared before the Commission in administrative proceedings involving electric, natural gas, water and sewer utility issues and represented the Commission in state and federal courts. Responsible for drafting and revising the Commission's regulations. Served as the Commission's representative in various interagency groups addressing water and wastewater issues. Served as the Commission's representative on the Kentucky Infrastructure Authority's Board of Directors (2009-2014). Developed the Public Service Commission's water training program for water utility officials.

Judge Advocate, U.S. Army (1984 – 2011). Served as a judge advocate in the U.S. Army on active and reserve status in numerous roles. Retired at the rank of Colonel.

Adjunct Professor of Law, University of Louisville (2011)



Lacey Cunningham

**Finance and Administrative Manager
Oldham County Water District**

lcunningham@oldhamcountywaterky.gov

Lacey Cunningham is the Finance and Administrative Manager at Oldham County Water District. She has been with the district for 7 years. Prior to coming to work at Oldham County Water District, Lacey served a variety of roles with the most recent being the Director of Finance for a sewer utility, Regional Water Resource Agency, located in Owensboro, KY. Previously she worked as the Finance and HR Manager for a non-profit organization, Big Brothers Big Sisters of Kentuckiana, and an Auditor for KPMG Accounting firm. Lacey is a licensed Certified Public Accountant. She received her degree in Accounting and her Master's in Business Administration from Bellarmine University.



Russ Rose

**Chief Executive Officer
Oldham County Water District**

rrose@oldhamcountywaterky.gov

Russ Rose has been in the water industry since 1997. He served as Assistant Manager for the North Shelby Water Company and the U.S. 60 Water District, Director for the LaGrange Utilities Commission, and has been the Chief Executive Officer for the Oldham County Water District since 2006. Oldham County Water has 21 employees, a 13 million gallon per day water treatment plant, serving over 8400 customers, and wholesaling water to the City of LaGrange.

Russ is Past President and now serves as a Director for the Kentucky Rural Water Association Board of Directors. He is also on the Board for the KY Infrastructure Authority, chair of the KIPDA Regional Water Management Council, and is a member of the AWWA. He serves on several committees locally and statewide for the Division of Water, KY Rural Water Association, and the KY Chamber of Commerce, as well.

Russ holds a Utility Management Certification from the National Rural Water Association, and a Utility Management Professional designation from the Utility Management Institute (KRWA). He is a certified water operator, licensed in Kentucky.

TINA FREDERICK

TINA FREDERICK is Counsel to the Firm at Stoll Keenon Ogden PLLC and is a member of the firm's Utility and Energy Practice Group. She recently joined the firm after serving approximately five years with the Kentucky Public Service Commission ("Commission"), first as a Staff Attorney and then as an Assistant General Counsel. In those roles, she advised the Commission on various matters pending before the Commission involving the regulation of public utilities, including applications for rate adjustments, the construction of utility facilities, and the issuance of debt instruments. She represented Commission Staff in administrative hearings involving those issues as well those involving investigations of alleged violations of the Commonwealth's statutes and administrative regulations pertaining to utility service. Prior to her employment with the Commission, she maintained for five years a private practice that principally involved the representation of claimants asserting claims under the Social Security Act and Kentucky's Worker Compensation laws. Ms. Frederick is licensed to practice law in the Commonwealth of Kentucky. She holds a Juris Doctorate from Ohio Northern University College of Law, where she graduated *cum laude*, and a Bachelor of Science Degree in Family and Consumer Science from the University of Kentucky, where she graduated *summa cum laude*.

QUALIFICATIONS

EDUCATION

Bachelors–Management and Finance, University of Louisville, 1979
Masters-Business Administration and Finance, Indiana University 1982

YEARS OF EXPERIENCE: 38

SPECIALIZATION

Senior Executive in Drinking Water, Wastewater, and Stormwater Industry

PROFESSIONAL AFFILIATIONS

American Water Works Association QualServe Peer Reviewer

AWWA Business Practices Standards Committee Member Vice-Chair (past)

AWWA Utility Management Standards Committee Member (past)

AWWA Finance, Accounting, and Management Controls Committee Chair (past)

AWWA Management Controls Sub-Committee Chair (past)

AWWA Research Foundation Project Participating Utility Member (past)

National Association of Clean Water Agencies, Utility and Resource Management Committee (past)

Professional Profile

Senior utility executive with 38 years of experience in the drinking water, wastewater, and stormwater industry, including: executive management, strategic planning, policy development, customer service, information technology, and program management. Advocate for sustainability of water infrastructure and affordability for low-income customers. Education includes a Bachelors and Masters degrees in business management and finance.

Qualifications and Experience

StraightLine Kentucky, Louisville, KY 2021 – Present Consultant

Advisor to drinking water, wastewater, and stormwater utility managers, regulatory officials, elected officials, and service providers.

City of Jackson, Mississippi 2017 – 2020 Director of Public Works

Executive management of Drinking Water, Wastewater, Stormwater, Solid Waste, Streets, Facilities, Fleet, and Warehouse operations and maintenance.

Sewerage and Water Board of New Orleans, Louisiana 2009 – 2017 Deputy Director / Interim Executive Director

Administrative management of Strategic Planning, Accounting, Budgeting, Purchasing, Customer Service, Human Resources, Information Technology, Risk Management, Fleet Maintenance, Warehouse, Internal Audit, and other operations support services.

Municipal and Financial Services Group, Maryland 2008 – 2009 Senior Manager

Management consultant to water and wastewater utilities focusing on enterprise risk management, internal control, financial analysis, and rate studies.

Louisville Water Company, Kentucky 1991 – 2008 Vice President

Administrative management of Finance, Information Technology, Risk Management, Business Planning, Human Resources, and Board Relations

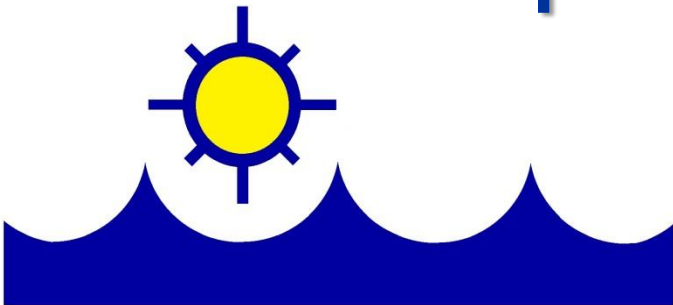
Exhibit 3

Presentations



HARDIN COUNTY WATER COMMISSIONER TRAINING SEMINAR

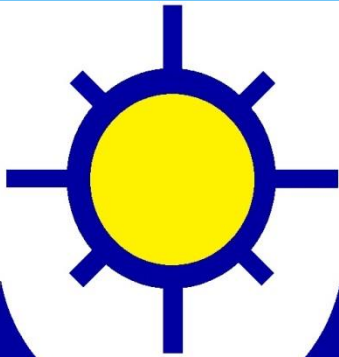
September 29, 2025



WELCOME

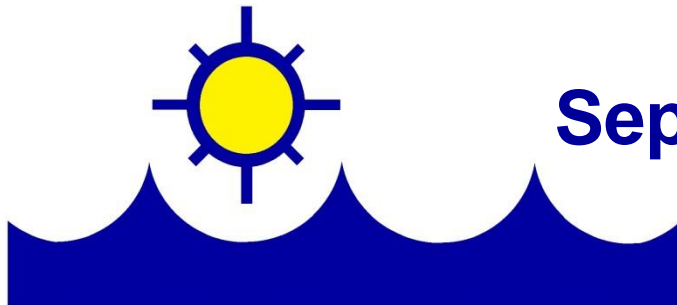
Michael L. Bell, Chairman

Hardin County Water District No. 2



HOT LEGAL TOPICS

Damon R. Talley
Stoll Keenon Ogden PLLC
damon.talley@skofirm.com



September 29, 2025



DISCUSSION TOPICS

1. PSC Filings
2. 2025 General Assembly
3. Notable PSC Orders
4. Minutes



DISCUSSION TOPICS

- 5. Comply with PSC Orders
- 6. Borrowing Money
- 7. Cases to Watch





DISCLAIMER



PSA for PSC



Reporting Requirements

- Must Notify PSC if . . .
 - Vacancy Exists
 - Appointment Made
- When? Within 30 Days
- Consequences



Vacancy

- Inform CJE 60 Days Before Term Ends (KRS 65.008)
- CJE / Fiscal Court – 90 Days
- Then, PSC Takes Over
 - CJE Loses Right To Appoint





E-Mail Address Regs.

- All PSC Orders Served by E-mail
- Duty to Keep Correct E-mail Address on file with PSC
 - Default Regulatory E-mail Address
- Duty to List E-mail Address in Application & All Other Papers
 - Utility Official
 - Its Attorney



E-Mail Address

- Who is Covered?
 - Water Districts
 - Water Associations
 - Investor Owned Utilities
 - **Municipal Utilities**



Why Municipals?

- Contract Filing
- Tariff Change (Wholesale Rate)
- Protest Supplier's Rate Increase
- Acquiring Assets of Another Utility
- Avoid Delays





Default Regulatory E-mail Address

- Send E-mail to PSC
 - psc.reports@ky.gov
 - PSCED@ky.gov
- Send Letter to PSC
 - Linda C. Bridwell,
Executive Director



PSC Case No. 2016 - 00310

Opened: 9-09-2016

Utility: Unlucky WD

Type: Show Cause Case

Issue: Ignored PSC Order &
Wrong Email Address

Settled: \$500 Fine



PSC Case No. 2023 - 00125

Opened: 6-07-2023

Utility: Uninformed WD

Type: Investigation Case

Issue: Board had no access to
Email Account. Manager did
not inform Board of Order.

Hearing: 1-18-24

Decided: 4-02-24



2025 General Assembly



Notable Bills – House

- HB 16 Fluoride
- HB 85 Sanitation Districts
- HB 345 Ky. Buy American Act
- HB 386 Bidding Threshold Increased



Notable Bills – Senate

- SB 8 PSC Commissioners
- SB 89 Waters of the Commonwealth
- SB 171 Eminent Domain (Condemnation)



HB 16 – Fluoride

- “Local Option”
 - Decision to Have Drinking Water Fluoridation Program is Now Optional
 - Local Control
 - Decision Made by Governing Board of Water Producer
- Current Program Continues Until Decision Made to Cease



HB 16 – Fluoride

- Passed House: 68 to 29
- Died in Senate
 - Health Services Committee



HB 85 – Sanitation Districts

- Sanitation District Cannot Charge Fee Unless Property Is:
 - Connected to Sewer Line;
 - Approved Plan to Extend Sewer Line within 5 years; or
 - Stormwater from Property Flows to Storm Sewer



HB 85 – Sanitation Districts

- Passed House: 68 to 23
- Died in Senate
 - Committee on Committees
(3-12-25)



HB 345 – Ky. Buy American Act

- State and Local Government Contracts for Public Works Shall:
 - Iron, Steel, and Aluminum to Be Manufactured in America
- Applies to Cities & Water Districts
- Water Associations Exempt



HB 345 – Ky. Buy American Act

- Died in House
 - State Government Committee
(2-7-25)



HB 386 - Bidding Threshold

- Raises Threshold from \$40,000 to \$60,000
- Amends KRS 424.260
- Vehicles - No Threshold
- Does Not Amend KRS 45A
- Provides for Alternate Publication



HB 386 - Bidding Threshold

- Died in House
 - Local Government Committee
(2-12-25)



SB 8 – PSC Commissioners

- Expands Number from 3 to 5
- Detailed Eligibility Criteria
- One Commissioner – Consumer Advocate
- Governor Appoints 3
- State Auditor Appoints 2
- Commissioners Elect Chair & Vice Chair



SB 8 – PSC Commissioners

- Introduced: 2-18-25
- Natural Resources & Energy Committee (2-21-25)
- Withdrawn by Senate President Stivers



SB 89 – Waters of the Commonwealth

- Changes Definition of “Waters of the Commonwealth” to Mean **Navigable** Waters as Defined under Federal Law
- Threatens Water Quality of:
 - Rivers, Streams & Creeks
 - Ground Water
 - Wells



SB 89 – Waters of the Commonwealth

- Sponsored by Ky. Coal Assoc.
- Passed Senate: 30 to 5
- Passed House: 69 to 26
(with House Committee Substitute 1)
- Senate Concurred: 31 to 7
- Governor's Action: Vetoed
- GA: Overrode Veto



SB 171 – Eminent Domain

- Prohibits Condemnation of Land to Construct Solar Facilities
- Limits Condemnation of Land Subject to Agricultural Conservation District
 - KYTC Exempt
 - Utilities Exempt

(continued)



SB 171 – Eminent Domain

- If Land is Subject to Agricultural Conservation District
 - Additional Hearing Before Soil Conservation Board
 - Must Prove No Feasible Alternative
 - Then File Action in Circuit Court

(continued)



SB 171 – Eminent Domain

- All Condemnation Actions
 - Utility Must Pay Landowner's Costs & Attorney Fees
 - Additional Notice Requirements
 - More Hurdles



SB 171 – Eminent Domain

- Agriculture Committee
 - 2 Readings
 - Sponsor Sen. West
“Unintended Consequences”
 - Died in Committee



Notable PSC Orders



PSC Case No. 2023-306

Filed: 11-08-2024

Utility: North Nelson WD

Type: Declaratory Order

Issue: Is CPCN Needed?

Decided: 01-28-2025

Answer: NO



North Nelson WD

- Facts: Construct 7.3 Miles Transmission Main
 - Supplemental Source for B-Town
 - Cost: \$16.6 Million
 - Grants: \$17.8 Million
- Problem: Net Utility Plant
= \$11.4 Million
- Concern: Depreciation Expense
= \$225,000



PSC Case No. 2024-286

Filed: 10-18-2024

Utility: Warren County WD

Type: CPCN – Construct
Headquarters

Decided: 02-18-2025

(continued)



Warren County WD

- Unique Features:
 - Design Build Contract
 - Emergency Operations Center Included in New Building



PSC Case No. 2023 - 252

Filed: 08-18-2023

Utility: Oldham Co. W.D.

Type: ARF Case

Issue: Full Recovery of Cost of
Employee Benefits

Hearing: 04-19-24

Decided: 06-18-24



Oldham Co. W.D. (OCWD)

PSC Order (50 Pages):

- Applied BLS Reduction %
- Disallowed Recovery of \$125,000 in Health Insurance Costs
(OCWD Pays 100%)

(continued . . .)



OCWD (continued)

PSC Order:

- OCWD Failed to Meet
Its Burden of Proof
 - Proof Insufficient to Overcome
PSC Precedents
 - 43 Cases Align with
BLS National Average

(cont . . .)



OCWD (continued)

PSC Order:

- OCWD Has Appealed Decision
 - When? July 18, 2024
 - Where? Franklin Circuit Court
 - Case No: 24-CI-00725



PSC Case No. 2023 - 247

Filed: 09-29-2023

Utility: Hardin Co. W.D. No. 2

Type: General Rate Case

Issue: Full Recovery of Cost of

- Employee Benefits
- Commissioners' Benefits

(cont. . .)



PSC Case No. 2023 - 247

Hearing: 01-11-2024

Brief: 02-16-2024

Decided: 07-29-2024



Hardin Co. W.D. No.2

- Holdings:
 - Denied All Commissioners' Benefits
 - No Mention of Unlawfulness
 - Oldham Declaratory Order
 - Allowed Full Recovery of Cost of Employee Benefits



Hardin Co. W.D. No.2

- Rationale:
 - HCWD Pays 94%
 - Blue Oval SK Plant
 - Found HCWD2 Package Reasonable



PSC Case No. 2023 - 257

Filed: 09-23-2023

Utility: Harrison Co. W. A.

Type: (1) Financing Approval
(2) CPCN – Rehab of 3 Tanks
or
(2A) Declaratory Order

Decided: 11-28-23



PSC Case No. 2023 - 257

Facts: Water Tank Maintenance Contract

- 3 Contracts with Utility Service
- Rehab 3 Tanks
- Cost: \$524,335
- Initial Term: 5 Years
- Level Payments for First 5 Years
- Auto Annual Renewal Thereafter
- Much Lower Annual Fee



PSC Case No. 2023 - 257

Issues:

1. Is the Tank Maintenance Contract an Evidence of Indebtedness ?

Answer: Yes

2. Is CPCN Needed ?

Answer: No



Evidence of Indebtedness

- Significant Work in Year 1 & 3
- Level Payment each Year for 5 Years
- Work Now; Pay Later
- If Terminated, Still Must Pay for 5 Years



Change the Facts

- Initial Term Still 5 Years
- Pay as Work is Performed
- No Longer an Evidence of Indebtedness

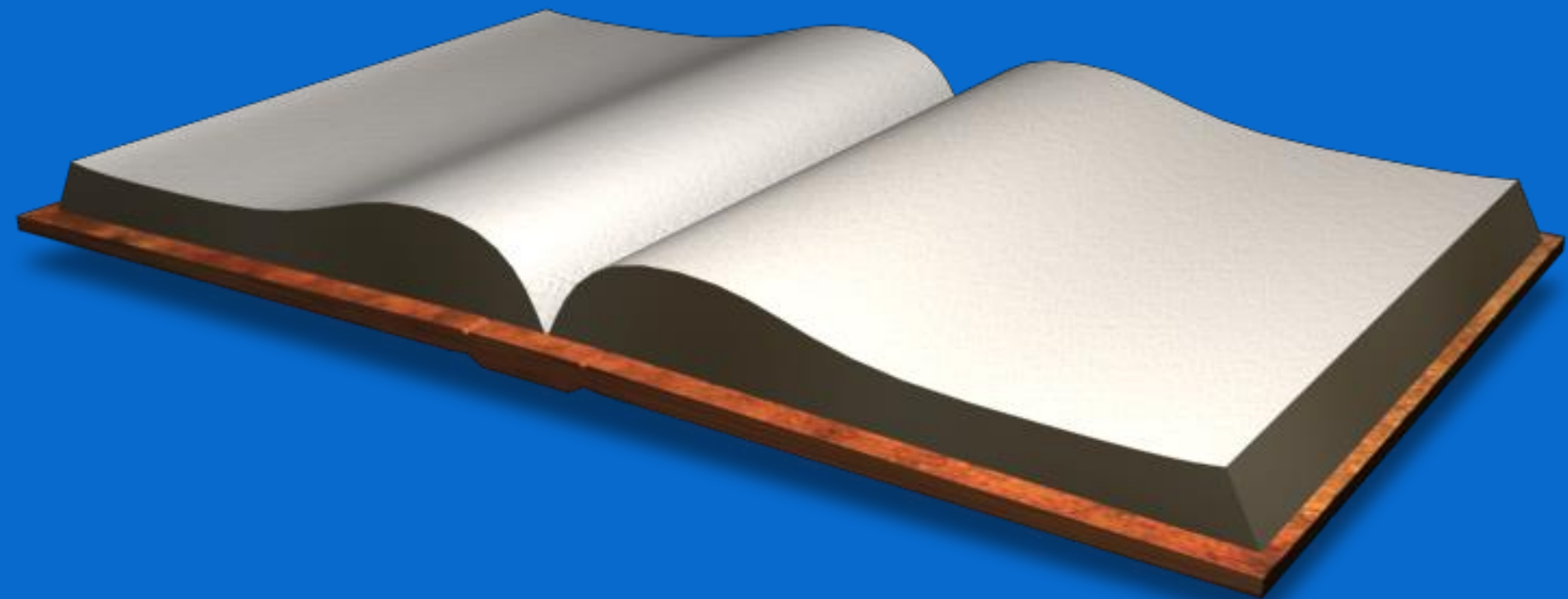


Is a CPCN Needed ?

- NO
- Why? Ordinary Extension in the usual course of Business
 - Looked at Each Tank Separately
 - Not a Sufficient Capital Outlay



MINUTES



What Are MINUTES?

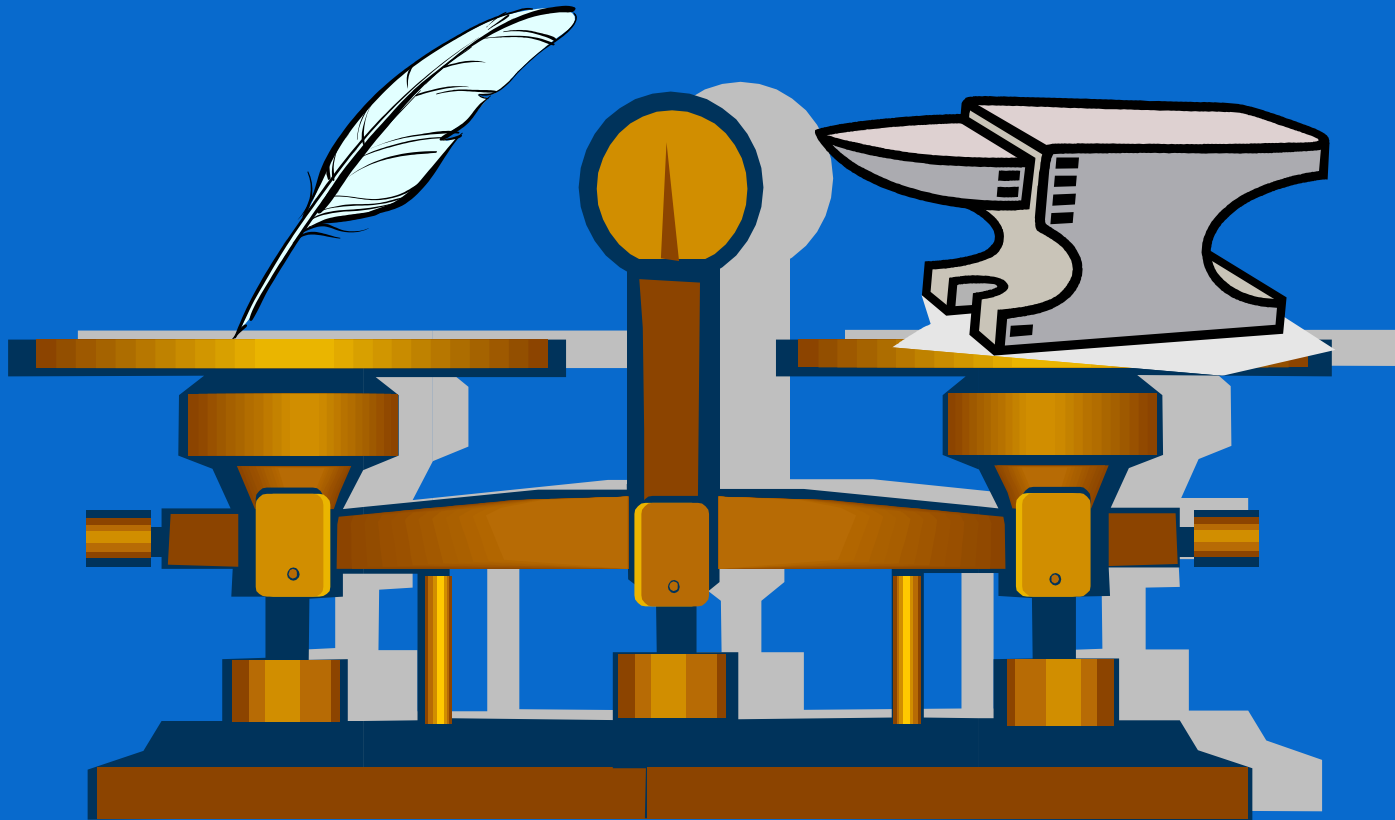
- Official Record
- Much, Much More . . .



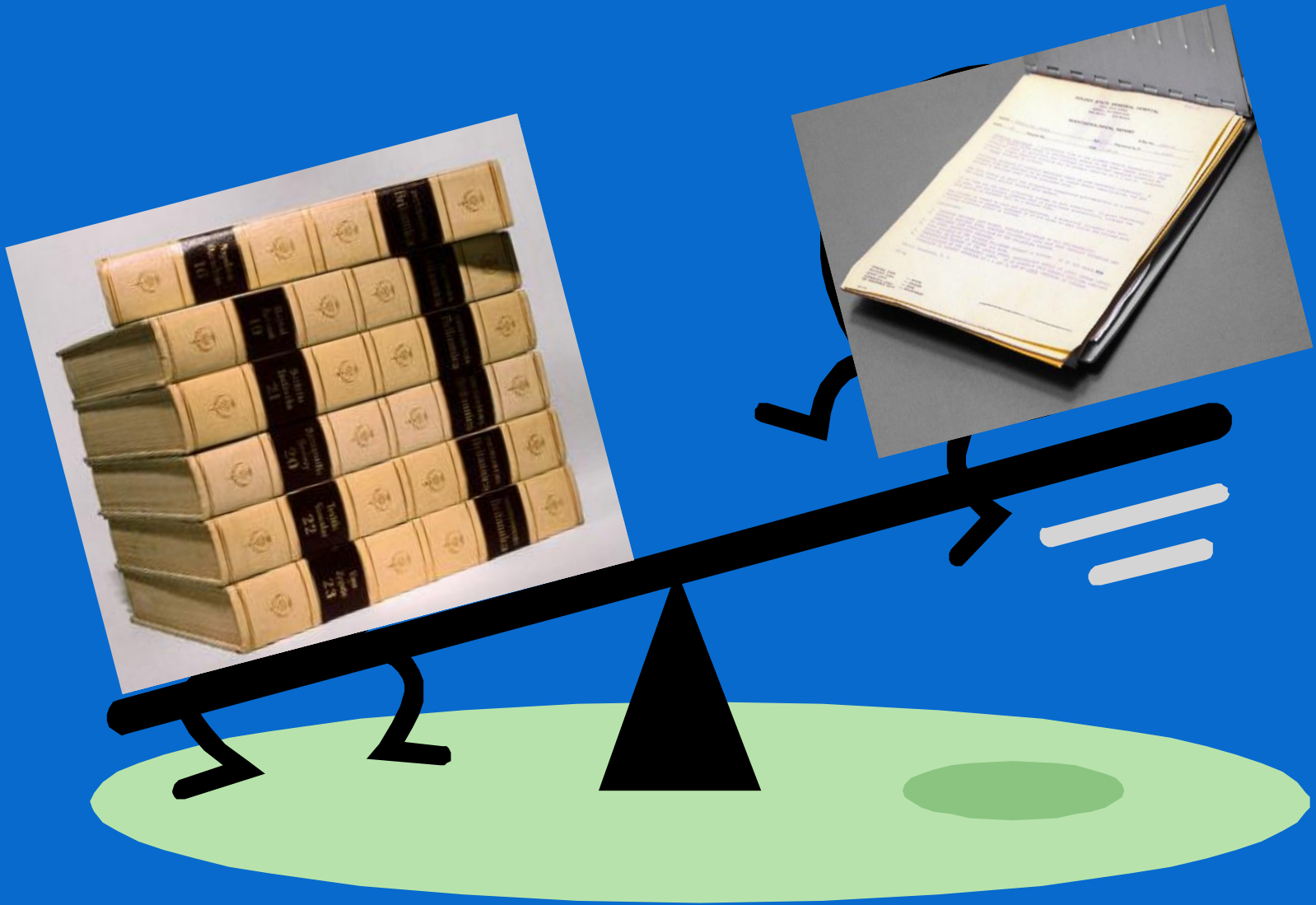
**AN OUNCE
OF
PREVENTION**

=

**A POUND
OF CURE**



How much information **SHOULD** be included in the **MINUTES**?



Minutes

How MUCH is too MUCH?

- No definitive answer
- Art not a science

Cont.



Minutes ...

How MUCH is too MUCH?

- Guidelines . . .
 - Minutes are **NOT** a transcript
 - Minutes are **NOT** the Congressional Record
 - Include rationale for action taken if it might avoid lawsuit



Excerpt From Minutes

“Motion was made by Commissioner X and seconded by Commissioner Y to hire Commissioner Z to perform water line inspections on the Knob Hill Project at an hourly rate of \$20.”



“Conversations are
NOT official actions of
the Board.”

Virginia W. Gregg
Former PSC Staff Attorney



WHY Include Summary of Conversations in Minutes?

- Document Board's Due Diligence (e.g. Water Loss)
- Document Board's Oversight Role (e.g. Compliance with PSC Orders)
- Avoid or Win Litigation





Talley's Tips

Prepare Minutes for a Reader...

1. Who did not attend the meeting.
2. Who will not read the Minutes until at least one year later.
3. Who is employed by PSC.
4. Who will access Minutes via www.



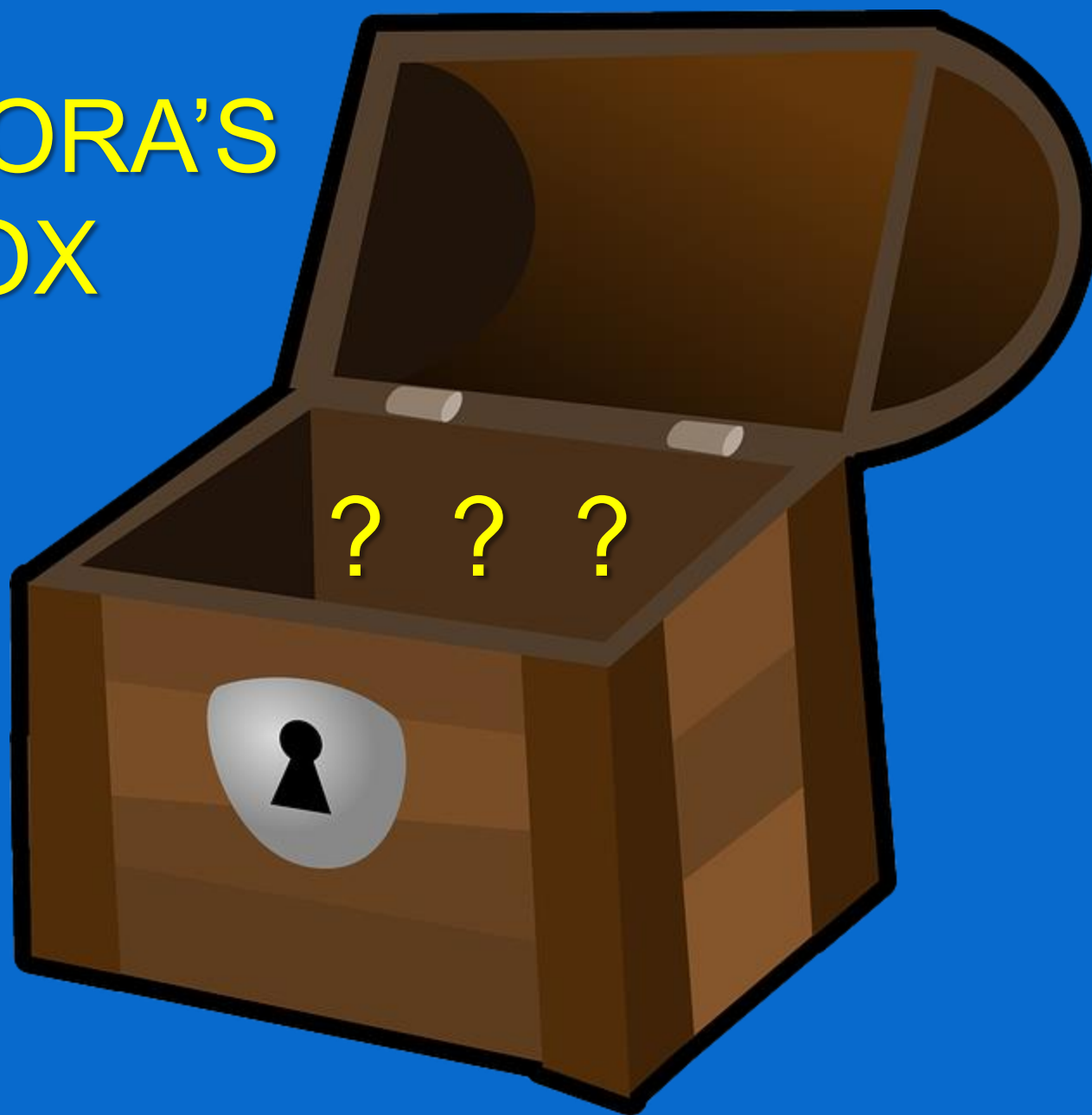
**Comply
With All
PSC
Orders**



“ . . . for allegedly failing to comply with the Commission’s March 10, 2020 Order in Case No. 2019-00458. The willful failure to comply presents prima facie evidence of incompetency, neglect of duty, gross immorality, or nonfeasance, misfeasance, or malfeasance in office sufficient to make [the District’s] officers and manager subject to the penalties of KRS 278.990 or removal pursuant to KRS 74.025. The Commission finds that a public hearing should be held on the merits of the allegations set forth in this Order.”



PANDORA'S BOX



Borrowing



Money

KRS 278.300(1)

No utility shall issue any securities or evidences of indebtedness . . . until it has been authorized to do so by order of the Commission.



Practical Effect

- Must Obtain PSC Approval Before Incurring Long-term Debt (Over 2 Years)
- Exception:
 - 2 Years or Less
 - Renewals
 - (3 X 2 = 6 Years)
 - (6 X 1 = 6 Years)





Violation

Show Cause Cases



Show Cause Cases Borrowing Money

First Case: 2022-252



Case # 1

Case No. 2022 - 252

Opened: 02-16-2023

Issue: KRS 278.300
(4 Violations)

Hearing: 08-01-2023

Decided: 10-17-2023



Case # 1

Facts: Leased 4 Trucks
4 & 5 Year Terms

Issue: Is Long Term Lease
An evidence of
Indebtedness ?

Holding: Yes



Case # 1

Outcome:

- GM & Directors (Water Assoc.)
 - Fined \$250 (Waived)
 - 12 Hours of Training
 - 6 More Hours Annually
- Future Directors
 - 6 Hours Training Annually



Cases To Watch



Oldham Co. W.D. VS Public Service Commission

What? Appeal

Where? Franklin Circuit Court

Case No: 24-CI-00725

(continued . . .)



Oldham Appeal (continued)

Filed: July 18, 2024

PSC Answer: Aug. 09, 2024

Briefing Schedule: Nov. 22, 2024
&
Jan. 10, 2025

Oral Arguments: May 20, 2025

(continued . . .)



Oldham (continued)

Issues on Appeal:

- PSC Acted Unlawfully
- BLS Reduction Not Supported by Substantial Evidence
- Denied Due Process
- PSC Violated KRS 13A.100



Oldham (continued)

Decision: ? ? ?





QUESTIONS?

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BASIC PROCUREMENT LAW FOR GOVERNMENTAL WATER UTILITIES

September 29, 2025

**Gerald Wuetcher
Stoll Keenon Ogden PLLC
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(859) 231-3017**



Role/Duties of Board of Commissioners

- Exercises all corporate powers of WD
- Directs/oversees WD's business & affairs
- Sole authority to make contracts
- Establishes policy/procedure for disbursement of WD funds

Standard of Care In Performance of Duties

Board Member must act:

- In good faith;
- On an informed basis; and
- In a manner he or she believes is in WD's best interest

What is “Informed Basis”?

- Inquiry made in same manner as an ordinary prudent person in similar position under similar circumstances
- Reliance upon reports/statements of employees, legal counsel, accountants, and others honestly believed to be reliable & competent in matter



Implications for Procurement Process

- Board must be actively involved in WD's procurement activities
- Board must understand proposed action's details and consequences
- Duty to monitor throughout procurement
- Need to develop & maintain a record of Board's actions re: procurement

Procurement Policy

- Vehicle for supervising procurement process
- Establishes procurement rules and procedures & the roles of WD employees and officers
- Establishes recordkeeping requirements
- Ensures greater transparency for public and potential vendors
- Relationship to Disbursement Policy



Contents of Procurement Policy

“Board Policy should include a transparent, competitive selection process for the procurement of goods and services. The policy should outline the circumstances under which quotes or competitive bids are required and the process to be followed. The Board should have policies that require a formal contract for purchases over a specified amount and that all contracts over a specified dollar amount require Board approval.”

Procurement Policy Provisions

- Purchases not requiring Board approval
- Competitive bidding requirements
- Use of price quotes in lieu of competitive bidding
- Need for formal contract
- Credit card purchases
- Information to support proposed procurement decisions
- Periodic reporting requirements (Contract management)

WHEN IS BIDDING REQUIRED?

No city or district may make a **contract, lease, or other agreement** for **materials; supplies** (except perishable foods); **equipment**; or **contractual services** other than professional involving an expenditure of **more than \$40,000** without first making **newspaper advertisement for bids.**

KRS 424.260(1)

What is a Professional Service?

IS	IS NOT
Legal Services Engineering Services Architectural Services Banking Services Insurance Broker Services Accounting Services Construction Manager Services	Computer Billing Services Construction Inspector Design-Build Contracts

Threshold Amount: \$40,000

- Bidding Required if total cost exceeds **\$40,000**
- Severing Contract/Project to avoid amount not permitted
- Supply Contracts: Estimated Need Should be Used Unless Extenuating Circumstances

Publication of Notice

- Published in newspaper of general circulation
- Not more than 21 days nor less than 7 days before bid deadline
- Must publish notice even if good faith belief that only one supplier exists
- Multicounty Districts: Published in Newspaper of Each County

Contract Award

- Not required to accept lowest bid
- Purpose of statute
 - Offering to the public
 - Opportunity for competition
 - Basis to compare bids
- Document reasons for not selecting lowest bid
- Preferences for Certain Bidders

Consequences of Failure to Comply

- Bid award is voidable
- Injunctive relief available
- Citizen suits permitted to void award and seek civil penalties
- Civil penalties against utility (\$50-\$500)
- Attorney Fees may be awarded against unsuccessful party



Exceptions To Bid Requirement

- Emergency Purchases
- Purchases from Federal Government
- State Contract Purchases
- Cooperative Purchases



Conflict of Interest Rules

- KRS 424.260: None
- KRS 65A.070: County/City Code of Ethics applicable to SPGE officers/employees
- Local Code of Ethics

Common Provisions in Code of Ethics: Prohibited Conduct

- Having any interest in business organization, business, or transaction in substantial conflict with proper discharge of duties
- Use of official position to secure unwarranted privileges or advantages
- Acting in official capacity in which O/E/FM/BO has direct or indirect financial or personal involvement might be reasonably expected to impair objectivity or independence of judgment



Common Provisions in Code of Ethics: Prohibited Conduct

- O/E/FM/B soliciting or accepting gift or favor, promise of future employment or other thing of value given or offered to influence discharge of duties
- Use of info not generally available to public & gained in the course of office to secure finance gain for the O/E/FM/B



Consequences of Violation of Code of Ethics

- Public Reprimand by County Ethics Commission
- Civil Penalty
- Removal by County Judge Executive for Conflict of Interest (KRS 65.007 and KRS 74.020)
- Removal by Public Service Commission (KRS 74.025)



Expenditures Less than \$40,000

- No bidding requirement
- No procurement procedures required
- Local Model Procurement Code: “Small Purchase Procedures”
 - Must be in writing
 - Available to public
- Examples



Preference for Resident Bidders

- KRS 45A.494 establishes reciprocal preference for resident bidders
- KY Residential bidders must be given a preference against nonresident bidders from states that give or require a preference to bidders from that state
- Preference is equal to preference given or required by the state of the nonbidder
- Purpose: Equalize competition with other states that provide preference to their residents



Preference for Resident Bidders

- Legislative Finding: “Public purpose served by providing preference to KY residents in contracts with its government bodies”
- Designed to equalize competition with other states that provide preference to their residents
- KRS 65.027: All contracts awarded by local government shall apply reciprocal preference for resident bidders in KRS 45A.494



Preference for Resident Bidders

- Resident Bidder: Any entity authorized to transact business in KY & filed KY corporate tax return, paid into KY unemployment insurance fund, & maintained KY workers compensation policy 1 year prior to bid announcement



Applying The Preference for Resident Bidders

- Residency affidavits submitted with bids
- Bids scored and ranked w/o reference to residency
- Residency of bidders established; if non-resident bidder from preference state, preference from the non-resident state is applied to responsive resident bids
- Bids rescored and re-ranked; resident bidder wins all ties



Other Statutory Preferences

- Products of Department of Corrections – Division of Prison Industries
- Products of Kentucky Industries for the Blind
- Qualified non-profit agency for individuals with severe disabilities

Sales Tax Considerations

- Water District's purchases are exempted from state sales tax
- Building materials/supplies purchased by a construction contractor to fulfill H₂O or sewer project exempted from sales tax
 - Contractor does not pay
 - Reduction in Costs should be factored into award decisions

Disposal of Surplus Property

- No provisions in KRS Chapter 74 or 424
- OAG 77-399: Not required to conduct bidding for disposal of surplus property; but should not be sold at less than appraised value and only if no longer necessary to the water district's functions
- Local Model Procurement Code and KRS 67.0802 provide model procedure

Disposal of Surplus Property: Suggested Model

- Written determination
 - Property description
 - Intended use at when acquired
 - Reason why disposal is in public's best interest
 - Method of disposition
- Transfer to another government agency
- Public auction
- If no bidders, any appropriate manner of disposal



LOCAL MODEL PROCUREMENT CODE



Local Model Procurement Code

- KRS 45A.345-.460
- Voluntary – Local Public Agencies **MAY** Adopt
- If Adopted Other purchasing statutes do not apply
- **Requires all contracts and purchases be awarded by competitive seal bidding**

Contract Award

- Not required to accept lowest bid
- Purpose of statute
 - Offering to the public
 - Opportunity for competition
 - Basis to compare bids
- Document reasons for not selecting lowest bid
- Preferences for Certain Bidders



Invitation to Bid: Contents

- Basis of Award
 - Lowest Price
 - Lowest Evaluated Price
- Objective Measurable Criteria For Award (if Lowest Evaluated Price)
- Reciprocal Preference for Resident Bidders

Notice of Invitation

- Adequate Public Notice Prior to Bid Opening
- Alternative Publication Methods:
 - Posting on Internet
 - Publication in Newspaper of General Circulation
- Notice: At least 7 days before bid opening
- Contain Time & Place of Bid Opening
- Contain Time & Place to Obtain Bid Specs

Bid Award

- Public opening
- Award to responsive bidder with lowest bid price or lowest evaluated bid
- Reciprocal preference applied to lowest evaluated bids
- If no responsive bids or all greater than available funds, **noncompetitive negotiations** may be used

Competitive Negotiations Permissible

- Unable to develop specs sufficiently specific to permit award based on LB or LEB
- Sealed Bidding is inappropriate:
 - Available sources limited
 - Time & Place of performance undetermine
 - Law regulates Price
 - Price cannot be fixed in advance
- Sealed Bid prices unresponsive/unreasonable

Competitive Negotiations: Notice

- Requests for Proposals
- Use Competitive Bidding Methods
- Any Other Means to Notify Adequate Number of Qualified Sources to Permit Reasonable Competition
- RFPs must indicate Factors Considered, Relative Importance & Reciprocal Preference

Competitive Negotiations: Discussions

- May be oral or written
- Held with ALL responsible offerors
- May not disclose any info derived from competing proposals
- Discussion of revised proposals must be discussed with all offerors



Competitive Negotiations: Award

- Must be based upon evaluation factors in RFP
- Standard: Most advantageous to the Agency
- Must be in Writing to responsible offerer

Noncompetitive Negotiations Permissible

- Emergency – Public Harm resulting from delay
- Single Source within reasonable geographic area
- Contract for services of licensed professional
- Purchase of perishable items
- Contract for replacement parts
- Purchase of proprietary items for resale

Noncompetitive Negotiations Permissible

- Purchase of supplies at public auction or by receiving sealed bids
- Insurance
- Contract for sale of supplies at reduced prices that will afford a purchase at savings
- Contract with private real estate developer w/ arrangements for sanitary sewer/stormwater

Small Purchases

- Purchase under \$40,000 may use small purchase procedures ILO bidding
- Agency must have developed such procedures
- Procedures must be in writing
- Procedures must be available for public inspection

Other LMPC Provisions

- Agency must make reasonable inquiry/written determination re: responsibility of bidder
- Bidder must submit sworn statement on non-violation of campaign finance laws
- Suppliers may be prequalified as responsible
- Agency has right to inspect contractor's plant or place of business



LMPC Conflict of Interest Rules: Breach of Ethical Standards

- Employee participation in procurement decision in which:
 - Employee/Family member has financial interest
 - Business or organization in which employee/family member is officer, director, trustee, partner or employee is a party
 - Any person, business, or organization w/whom employee or FM is negotiating employment is a party



LMPC Conflict of Interest Rules: Breach of Ethical Standards

- Offering or giving any agency employee or former employee a gratuity or offer of employment in connection with procurement or administration of contract
- Employee or former employee soliciting, demanding, or agreeing to accept gratuity or offer of employment in connection with procurement or administration of contract



LMPC Conflict of Interest Rules: Breach of Ethical Standards

- Making any payment, gratuity, or offer of employment by or on behalf of a subcontractor to the prime contractor or higher tier contractor or associated person as an inducement for the award of a subcontract or order
- Any current or former employee knowingly using confidential information for his actual or anticipated personal gain

LMPC Conflict of Interest Rules

- Conflict of Interest provisions must conspicuously set forth in every contract & solicitation
- Value of anything transferred or received in breach of ethical standards may be recovered
- Agency may recover value of any kickback may by subcontractor to prime contractor or higher tiered subcontractor

WHICH IS BETTER: KRS 424.260 OR LMPC?

QUESTIONS?



Contact Information:

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The Importance of Effective Internal Controls

September 2025



Lacey Cunningham, Finance and Administrative Manager, Oldham County Water District
Russell Rose, Chief Executive Officer, Oldham County Water District



“Trust but Verify”

-Ronald Reagan

- Maintaining trust in others while also verifying the accuracy or truth of their statements or actions.
- Be cautious and do not blindly accept everything at face value.

This phrase can be applied to Internal Controls within organizations:

Internal controls are the cornerstone of organizational integrity, ensuring transparency, accountability, and the safeguarding of assets.

Outline

1. Story about internal controls failure
2. Fraud Facts
3. Internal Controls used by Oldham Co. Water District

1. Story about internal controls failure



Rita Crundwell's cautionary tale for small businesses, governments, and nonprofits.

- Rita was the Comptroller and Treasurer of the City of Dixon
- Stole \$53.7 Million over a twenty-year period (1991-2012)
- City of Dixon, Illinois 16,000 residents
- Ronald Reagan's hometown
- Annual budget between \$6 - \$8 million

Kelly Richard Pope captured Rita's story in the movie *All the Queens Horses*, available on Amazon.

FULL MOVIE

ALL THE
**QUEEN'S
HORSES**

PROPERTY OF THE

CITY OF DIX



How did this happen?

- Annual Audit never raised any red flags
- City's bank never reported anything suspicious
- Rita won the trust of those around her - especially that of mayor and council
- One council member praised Rita calling her "a big asset to the city as she looks after every tax dollar as if it were her own"
- City Clerk discovered mystery bank account while Rita was on vacation

FULL MOVIE

**ALL THE
QUEEN'S
HORSES**

PROPERTY OF THE

CITY OF DIX

FULL MOVIE

**ALL THE
QUEEN'S
HORSES**

PROPERTY OF THE

CITY OF DIX



The Control Weakness

Lack of Segregation of Duties, Rita could:

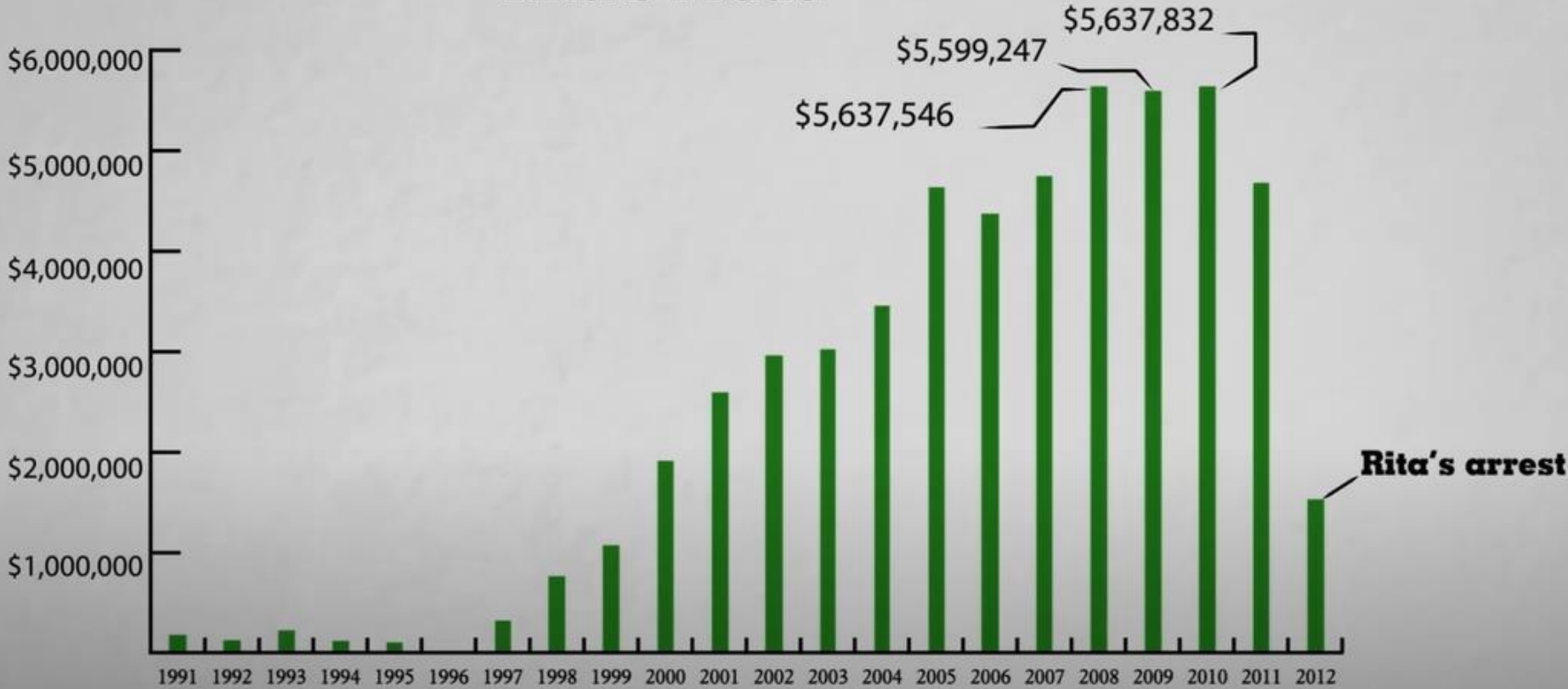
- Write Checks
- Approve payments
- Create and monitor the budget
- Enter transactions into system
- Reconcile the bank statements
- Set up a bank account

Multiple people should perform accounting duties, not just one.

- Rita provided auditors with fictitious invoices from the Illinois Dept. of Transportation. (Checks payable to Treasurer, State of Illinois)
- Auditors not independent

Source: All the Queen's Horses

Rita's Fraud



Why did Rita steal?

- She used the money to fund one of the top quarter horse ranches in the country.
- Her horses won lots of awards
- She owned around 300 quarter horses
- \$2.1 million motor coach vehicle

Did anyone ever mention her lifestyle?



What happened to Rita?



- Rita was arrested in 2012 and sentenced to 19 years in prison
- Judge ordered Rita to pay the City of Dixon Restitution \$53,740,394
+ Agreed Forfeiture Judgement in the same amount \$53,740,394
Total of \$107,480,788
- Fun Fact: Based on her \$65/per month prison salary = it would take over 120,000 years to pay back the city
- She spent less than 8.5 years (43% of her sentence) in prison before being released in mid-2021 to serve the remainder of her sentence in home confinement at her brother's 80 acres in Dixon.
- In December 2024, President Biden commuted her sentence in the largest single-day act of clemency in modern history.

What happened to the City of Dixon?



Various avenues to recover stolen funds

- Sale of Assets (Rita's property, horses & vehicles)
- Insurance Claims
- Civil Lawsuits (Rita, Auditors, Bank)
- Bankruptcy Proceedings

How much was paid in Attorney Fees?

Unknown Impact (Delayed Projects/Reputation)?

Dixon Civil Suit Settlement



CliftonLarsonAllen

\$35.15 million



\$3.85 million



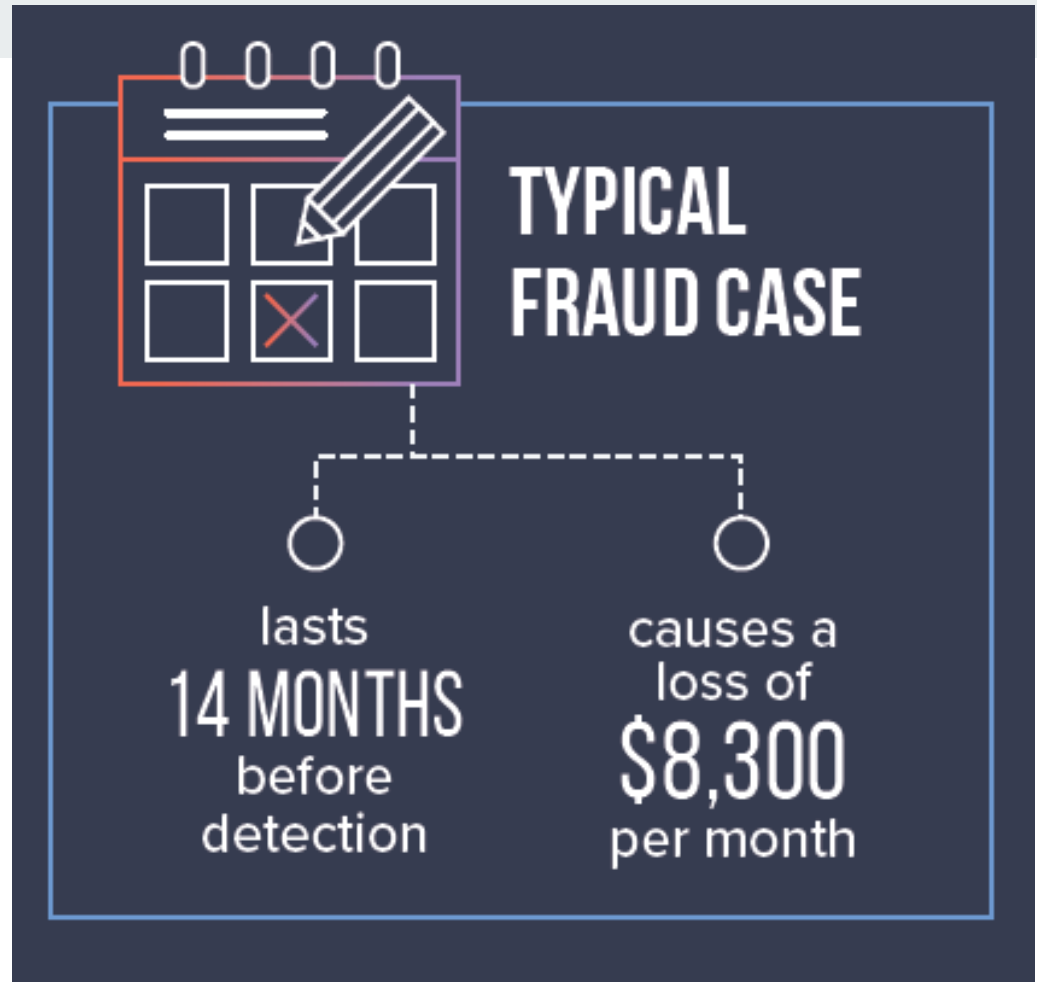
JANIS CARD & ASSOCIATES

\$1 million



2. Interesting Fraud Facts

2020 Global Study on Occupational Fraud & Abuse





**What do you believe
is the most common
initial detection of
fraud?**



Who do you think is responsible for internal controls within your organization?



2020 Global Study on Occupational Fraud & Abuse



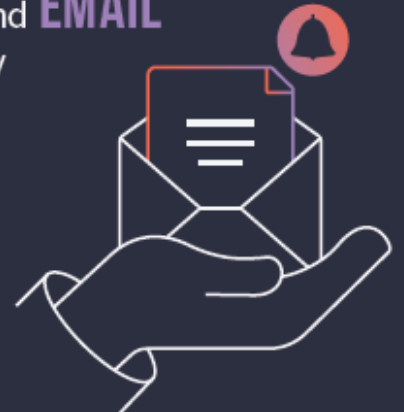
43%

OF SCHEMES WERE DETECTED BY TIP,
and half of those tips
came from employees



TELEPHONE HOTLINE and **EMAIL**
were each used by
whistleblowers in

33%
OF CASES





A lack of internal controls contributes to how many fraud cases?

A. All of them

B. $\frac{1}{2}$

C. $\frac{1}{3}$

D. $\frac{1}{4}$

2020 Global Study on Occupational Fraud & Abuse

A lack of internal controls
contributed to nearly



1/3 OF FRAUDS

CERTAIN FRAUD RISKS
WERE **MORE LIKELY IN**
SMALL BUSINESSES
THAN IN LARGE
ORGANIZATIONS:



Billing fraud 2X HIGHER

Payroll 2X HIGHER

Check and payment
tampering 4X HIGHER

2020 Global Study on Occupational Fraud & Abuse

MORE THAN HALF of all occupational frauds came from these four departments:



OPERATIONS 15%



ACCOUNTING 14%



**EXECUTIVE/UPPER
MANAGEMENT** 12%



SALES 11%



2020 Global Study on Occupational Fraud & Abuse



MALE
\$150,000
Median loss



FEMALE
\$85,000
Median loss

Men committed 72%
of all occupational fraud,
and also caused
larger losses than women

3. Internal Controls used by Oldham County Water District



Key Internal Controls Used by Oldham County Water District

Preventative Controls

Segregation of Duties and Authorization procedures

- 2 approvals of each invoice & 2 board members approve weekly payment batch prior to payment
- 2 signatures required on all checks

Above are different from the staff that can create checks or enter transactions in system



Key Internal Controls Used by Oldham County Water District

Preventative Controls (cont.)

Segregation of Duties and Authorization procedures

- Different person deposits checks & cash to bank
- Background Checks on employees (hiring & periodically)
- Bank requires a Resolution by governing body to set up account
- Required Vacation



Key Internal Controls Used by Oldham County Water District

Preventative Controls (cont.)

Segregation of Duties and Authorization procedures

- Insurance - Bonding employees/board
- User access rights and permissions in accounting/utility system
- Physical Security Measures (locks, cameras)
 - Lock Check Stock



Key Internal Controls Used by Oldham County Water District

Detective Controls

Reconciliations and audit

- Cash is reconciled each month by a separate person then who makes deposits
- Bank Statements are accessible by more than the person completing the reconciliation
- Board Treasurer reviews Reconciliation of approved payment batches to the Check Register each month.



Key Internal Controls Used by Oldham County Water District

Detective Controls (cont.)

Reconciliations and audit

- General Journal Entries are reviewed
- Independent Auditors



Key Internal Controls Used by Oldham County Water District

Corrective Controls

Correcting Entries and Process Improvements

- Password Reset
- Data Restoration from backups in event of a loss



**Who is responsible
for internal controls?**



What do you believe is the most common initial detection of fraud?

CONCLUSION

Trust but Verify

Good Internal Controls are VERY IMPORTANT,
poor Internal Controls are a HUGE RISK

Discussion/Questions?

Preparing for a Rate Case

Things to Do or to Avoid Prior to Filing



Tina C. Frederick
Stoll Keenon Ogden PLLC
Tina.frederick@skofirm.com
September 29, 2025

Order of Presentation

- First Things First
- Why not leave it all to the Rate Consultant?
- Good Habits are SO helpful
- Common “sticky” Issues
- What if you (or the PSC) discover a real problem

Get Those Ducks in A Row!

Why?

- **Reduce Information Requests**
- **Avoid Embarrassment**
- **Possibly preempt an investigation**



First Things First

What is a “Rate Case?”

A proceeding in which the PSC examines a utility’s current revenues, along with its operations and maintenance expenses, and its debt service requirements, makes adjustments for known and measurable changes in expenses or debt service, and calculates a REVENUE REQUIREMENT.

For Our Purposes:

- *Not* a Purchased Water Adjustment
- *Not* a rate increase pursuant to federally financed construction (KRS 278.023)

First Things First

Revenue Requirement

- The reasonable level of revenue required for a utility to properly operate and maintain its system and meet its financial obligations.
- A revenue requirement provides a basis for determining the amount of revenue to be collected from rates.

Types of Rate Cases

General Rate Case

- Available to all utilities
- Requires an attorney to file
- May use either a future or historical test-year

Alternative Rate Filing

- Available to utilities having < \$5 Million in Annual Revenues
- No Attorney required unless a hearing is scheduled
- Must use prior calendar year as test-year (Historic)

Rate Consultant Who's That?

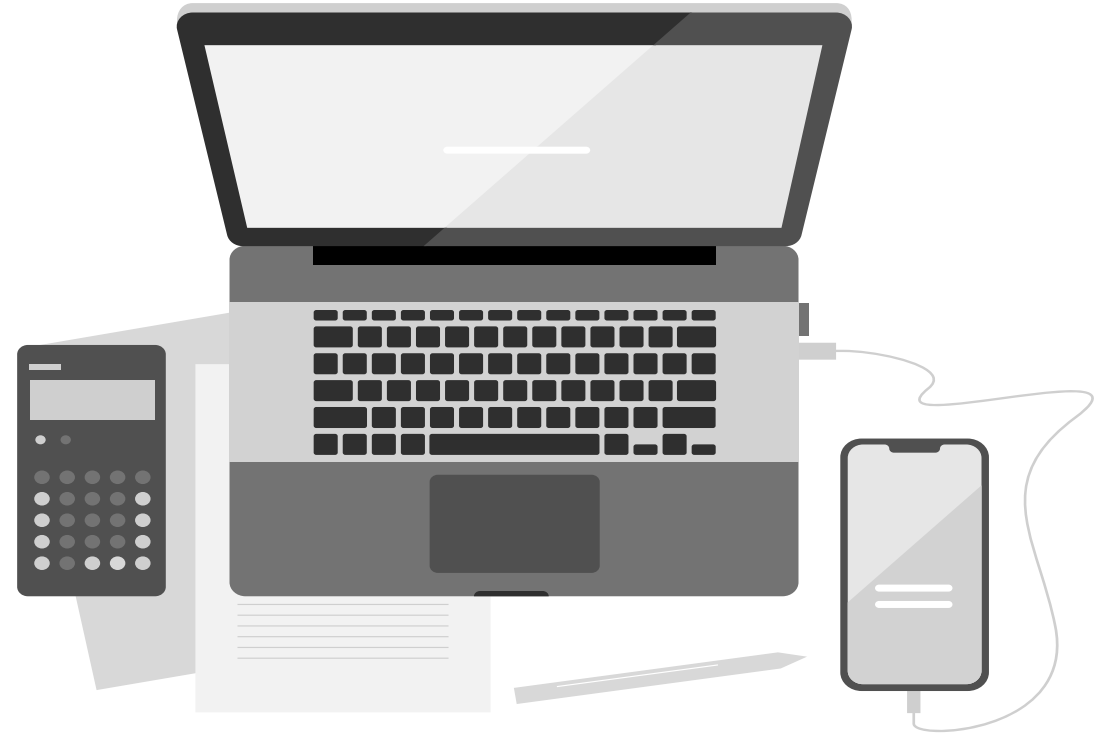
A Rate Consultant is a professional with experience in utility rate calculation and accounting procedures.

- **Kentucky Rural Water Association**
- **Engineering Firms**
- **Kentucky Rural Community Assistance Program**

What Does a Rate Consultant Do?

Reviews records of:

- Water Sales
- Other income
 - Late fees collected
 - Interest income
 - Tap fees paid
- Interest and principal payments
- Payroll Expenses
- Health Care expenses
- Other operations and maintenance expenses
- Depreciation Expense



What Does a Rate Consultant Do?

Rate Consultants also review a utility's records to identify "Known and Measurable" adjustments that should be made to accurately calculate a utility's revenues and operating expenses, and ultimately, they perform the calculations that produce a Revenue Requirement and distribute it across the rate design.

Why not just hire the Rate Consultant and leave them to do it all?

Records provide data, but not context

- If your records are in proper order the rate consultant will know what was spent, but not **why**.
- The PSC is often interested in why.
- The Rate Consultant does not know your needs or intentions regarding day-to-day operations.



Information Your Rate Consultant Needs

Prior to Hiring a Rate Consultant

Review your General Ledger for:

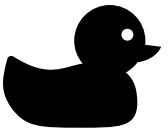
- Travel/hotel expenses
- Food and beverage related expenses
- Any expenses due to honorary or remembrance events
- Any amounts paid for clearly non-recoverable items such as donations or scholarships.



Why Is This Important

Adjustments can be made before filing

- Remove clearly non-recoverable items/amounts
- Correctly categorize recoverable expenses
- Enables clear explanation of adjustments



Information Your Rate Consultant Needs



Prepare a spreadsheet, table, or narrative document providing:

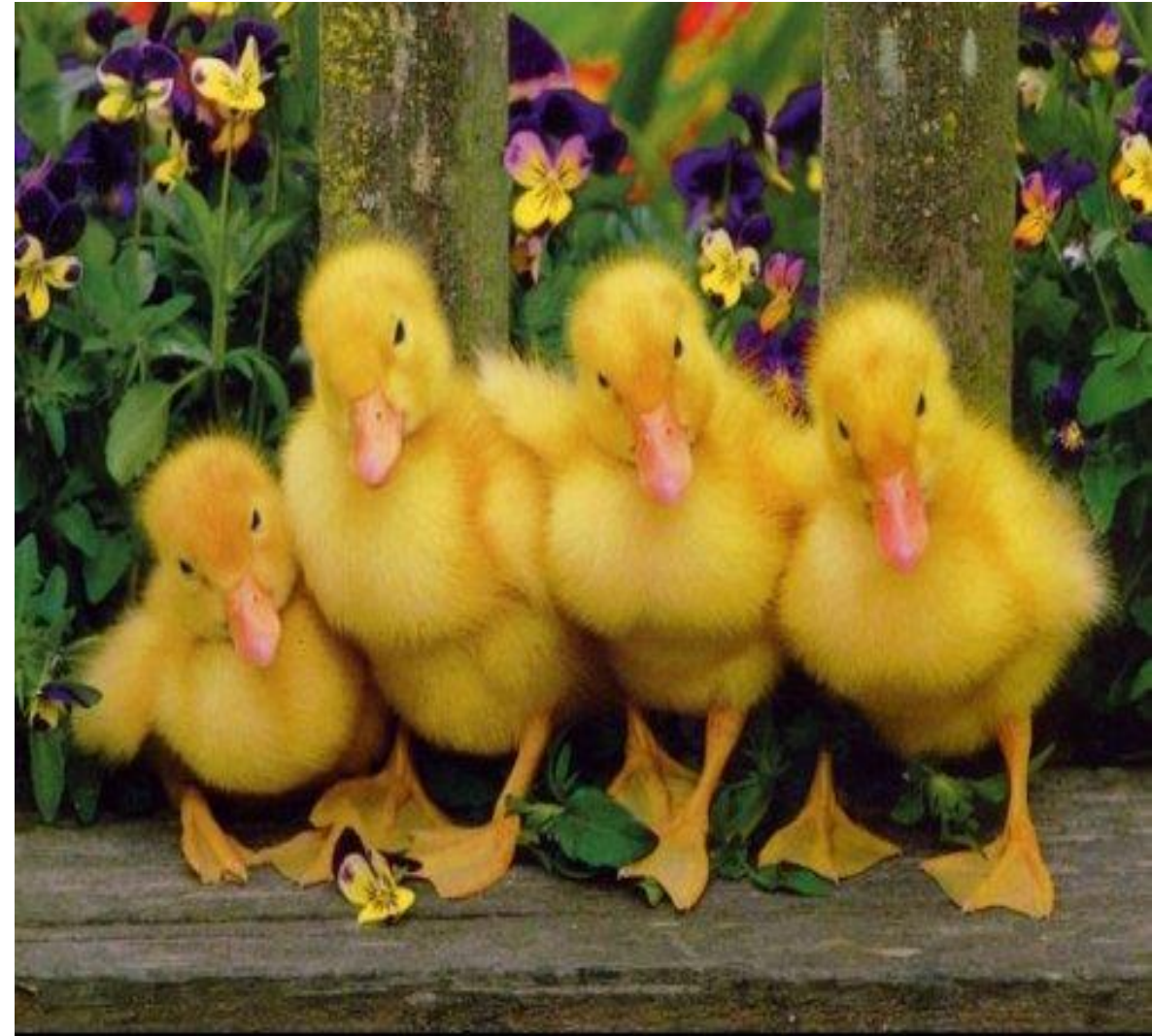
- The location of the expense in the general ledger and date it was incurred
- Whether the utility considers the expense recoverable
- A detailed explanation concerning the purpose of the expense regardless of its recoverability but include the business purpose if it is recoverable.



Information Your Rate Consultant Needs

Prior to Hiring A Rate Consultant

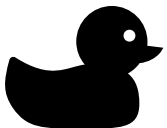
- Review your 3 most recent audit reports
 - ☐ “Clean” reports?
 - ☐ Meet with your auditor to explain anything you do not understand.
 - ☐ Let your auditor know you are hiring a Rate Consultant and will be filing a rate case.



Information Your Rate Consultant Needs

Prior to Hiring a Rate Consultant

- Review all of your debt
 - ☐ Was all debt for a term greater than 2 years approved by the PSC?
 - ☐ Identify the PSC Case Number for all approved debt



Information Your Rate Consultant Needs

- Inform your Rate Consultant of any unfilled open positions
- If you believe your utility needs additional employees, share this with your Rate Consultant and explain why

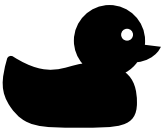


Information Your Rate Consultant Needs



Prior to Hiring a Rate Consultant

- Gather the Fiscal Court Orders appointing commissioners
- Gather Commissioner Training records for each commissioner
- Do you have documentation of the Fiscal Court setting commissioner salaries?



Commissioner Salaries

- The PSC has been denying recovery of the cost of Commissioner Salaries if no evidence that salaries have been approved by the Fiscal Court is filed into the case.
 - Check your records several months before filing the rate case; if you do not have an Order from the Fiscal Court:
 - ❖ Write a letter to County Judge Executive and ask to have the matter of your Commissioner's salaries placed on the agenda for the **next** meeting;
 - ❖ Include a copy of KRS 74.020(6).



How's That Billing Analysis Looking?

A few months prior to filing your rate case:

- Run your “Rate Analysis” report in your billing software, or a Usage by Rate report and a Revenue report
- Review it carefully
 - ☐ Does it provide the information needed to fill out the Billing Analysis for your rate case?

ARF Form 1, Attachment BA-DB

ARF Form 1, Attachment BA-FR



Revenue from Present/Proposed Rates
Test Period from 01-01-XX to 12-31-XX

USAGE TABLE
Usage by Rate Increment

Class: Residential

(1)	(2) Bills	(3) Gallons/Mcf	(4) First 2,000	(5) Next 3,000	(6) Next 10,000	(7) Next 25,000	(8) Over 40,000	(9) Total
First 2,000 Minimum Bill	432	518,400	518,400					518,400
Next 3,000 Gallons	1,735	4,858,000	3,470,000	1,388,000				4,858,000
Next 10,000 Gallons	1,830	16,268,700	3,660,000	5,490,000	7,118,700			16,268,700
Next 25,000 Gallons	650	15,275,000	1,300,000	1,950,000	6,500,000	5,525,000		15,275,000
Over 40,000 Gallons	153	9,975,600	306,000	459,000	1,530,000	3,825,000	3,855,600	9,975,600
Totals	4,800	46,895,700	9,254,400	9,287,000	15,148,700	9,350,000	3,855,600	46,895,700

REVENUE TABLE
Revenue by Rate Increment

(1)	(2) Bills	(3) Gallons/Mcf	(4) Rates	(5) Revenue
First 2,000 Minimum Bill	4,800	9,254,400	\$5.00 Minimum Bill	\$24,000.00
Next 3,000 Gallons		9,287,000	\$2.50 per 1,000 Gal.	\$23,217.00
Next 10,000 Gallons		15,148,700	\$2.00 per 1,000 Gal.	\$30,297.40
Next 25,000 Gallons		9,350,000	\$1.25 per 1,000 Gal.	\$11,687.50
Over 40,000 Gallons		3,855,600	\$0.75 per 1,000 Gal.	\$2,891.70
Totals	4,800	46,895,700		\$92,094.10

Instructions for Completing Revenue Table:

- (9) Complete Columns No. 1, 2, and 3 using information from Usage Tables.
- (10) Complete Column No. 4 using rates either present or proposed.
- (11) Column No. 5 is completed by first multiplying the bills times the minimum charge.
Then, starting with the second rate increment, multiply Column No. 3 by Column No. 4 and total.

Important Things to Remember

- The Rate Consultant is not your adversary, neither is the PSC Staff.
 - ☐ Don't attempt to "hide" things from your Rate Consultant.
 - ☐ Respond promptly to questions or requests from your Rate Consultant.
- You WILL receive Requests for Information from PSC Staff.
 - ☐ Consider designating a utility contact for the Rate Consultant
 - ☐ Management and Chairman should read the Request and review the Response.

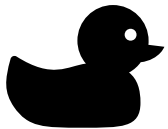
Good Habits!



The time to cultivate good habits is **LONG** before you file a Rate Case. Here are a few good habits to start **TODAY!**

▪Board Meeting Minutes:

- ☐ Include reports of positive things
- ☐ State clearly who was in attendance
- ☐ Close attention to recusals
- ☐ State who made and who seconded motions
- ☐ If a vote is not unanimous or if someone abstained, state it clearly.



Good Habits!

■ Board Meeting Minutes Cont'd:

- ☐ Don't include the names of customers or employees who are discussed at Board Meetings, but refer to them by address or other generality
- ☐ Do include the name and title of guests making presentations to the Board
- ☐ Don't forget to sign the Minutes once they are approved by the Board at the next meeting.



Good Habits!

- Resolutions
- Written Policies
- Avoid related-party transactions
 - If they can't be avoided, document reasonableness, fairness to the utility, and any benefits
- Consider alternatives to non-recoverable spending



“Sticky” Issues

- **Excessive or repeated non-recoverable expenses**
- **Related-party transactions**
 - ☐ Involving Board members
 - ☐ Involving employees
 - ☐ Involving Businesses (Employee/Family Member)
- **Failure to follow tariff**
- **Failure to follow statutes or regulations**
- **Failure to follow Commission Order or previous guidance**

What If There Is A Real Problem?

“Problems”

- Hearing Scheduled in an ARF
- Investigation Opened
 - ☐ Unapproved debt
 - ☐ Failure to follow
 - ❖ Tariff
 - ❖ Commission Order

What If There Is A Real Problem?

- Don't Panic.
- Don't Resign.
- Do **STOP** the behavior or practice that caused the problem.
- Do seek appropriate, professional assistance before taking further action.

What If There Is A Real Problem?

- Be honest and candid in all communication with the PSC.
- Timely file all Responses.
- Follow all Commission Orders and guidance.
- Consider adopting written policies to avoid the problem in the future.

Questions?



Recovery From Financial Devastation: Sewerage & Water Board of New Orleans After Hurricane Katrina

**NO WATER...
NO SEWER...
NO DRAINAGE...
NO NEW ORLEANS.**



Robert K. Miller
Kentucky Rural Water Association
Straightline Kentucky LLC

Dedication



2

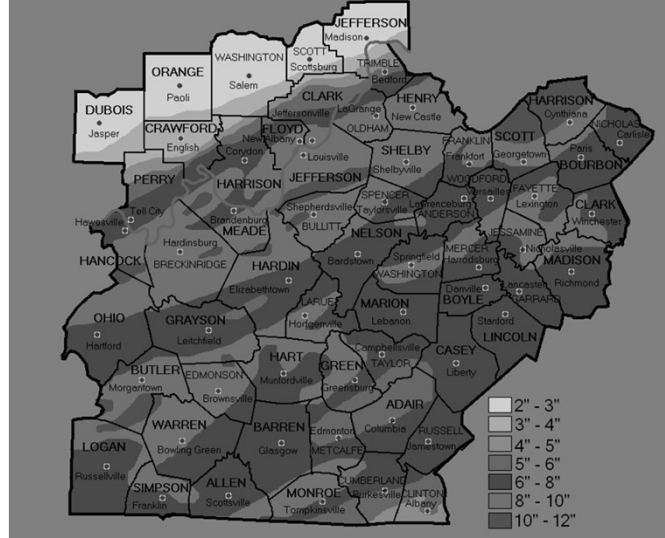
This presentation is dedicated to the employees of utilities across the United States who have risked their lives by continuing to remain on duty during and following disasters, working to get water, sewer, and drainage systems back up and running.

Kentucky is no stranger to disasters. Disasters here in Kentucky have occurred throughout our careers.

Disasters in Kentucky

March 1997 Floods

Rainfall Totals During the Flood of March 1997



The Kentucky flood of 1997 stands as one of the most significant natural disasters in the state's recent history, leaving a lasting impact on communities across the region.

Beginning in late February and continuing into March, torrential rainfall inundated Kentucky, triggering widespread flooding and causing rivers to swell to record levels.

There were 19 deaths in Kentucky, with damages of \$400 million. It was the deadliest weather event in the Ohio Valley since 1974 tornado outbreak and the worst flooding event since 1964.

Disasters in Kentucky January 1994 Blizzard



On the evening of January 16, 1994, a cold front associated with a mid-latitude cyclone moved into the Commonwealth. With the mid-latitude cyclone, snow came in full force.

15 inches in Jackson
16 inches in Louisville
21 inches in Cynthiana
22 inches in Shelbyville

Louisville saw its coldest reported temperature of 22 degrees below zero while Shelbyville reached temperatures 37 below. It was Kentucky's coldest recorded temperature ever. There were 42,000 customers without power for a week due to the arctic blast, and 46 counties were declared a federal disaster.

There were over 50 million dollars of damages across the entire state of Kentucky, with the central and southeastern portions being affected the most.

Disasters in Kentucky February 2008 Tornadoes



5

The 2008 Super Tuesday Tornado outbreak, coinciding with the Super Tuesday primaries in several states, was one of the most devastating and widespread tornado outbreaks in recent history.

It occurred on February 5 and 6, 2008, affecting multiple states across the Southern United States, including Alabama, Arkansas, Georgia, Kentucky, Mississippi, and Tennessee. The outbreak produced numerous tornadoes, including several powerful and long-track ones, causing extensive damage to homes, businesses, and infrastructure.

The event resulted in significant loss of life, with over 50 fatalities and hundreds of injuries reported. Here in Kentucky, Muhlenberg, Monroe, Cumberland, and Allen counties were hit the hardest.

Disasters in Kentucky January 2009 Ice Storm



The 2009 Ice Storm in Kentucky stands out as one of the most significant natural disasters to hit the region in recent memory. Beginning in late January and continuing for several days, the ice storm coated much of Kentucky in a thick layer of ice, causing widespread devastation to infrastructure, power lines, and trees.

The storm resulted in extensive power outages, leaving hundreds of thousands of residents without electricity for days or even weeks in some areas.

Weight became too much and led to the destruction of 145 miles of power lines. By Tuesday, January 27, over 90 percent of southwestern Kentucky was without power.

Water and sewer utilities in those areas were left without power.

24 people died in Kentucky.

Disasters in Kentucky December 2021 Tornadoes



7

Beginning on December 10 and persisting for several days, a series of powerful tornadoes tore through multiple counties, leaving a path of destruction in their wake. The outbreak occurred during an unusually active period for severe weather in December and caught many residents by surprise.

It mainly hit Western and Central Kentucky, but also hit Tennessee, Illinois, Arkansas, and Mississippi, and spawned 66 confirmed tornadoes

Here were the Death Totals:

Graves County	57
Hopkins County	24
Muhlenberg County	15
Caldwell County	11
Other Counties in Kentucky	7

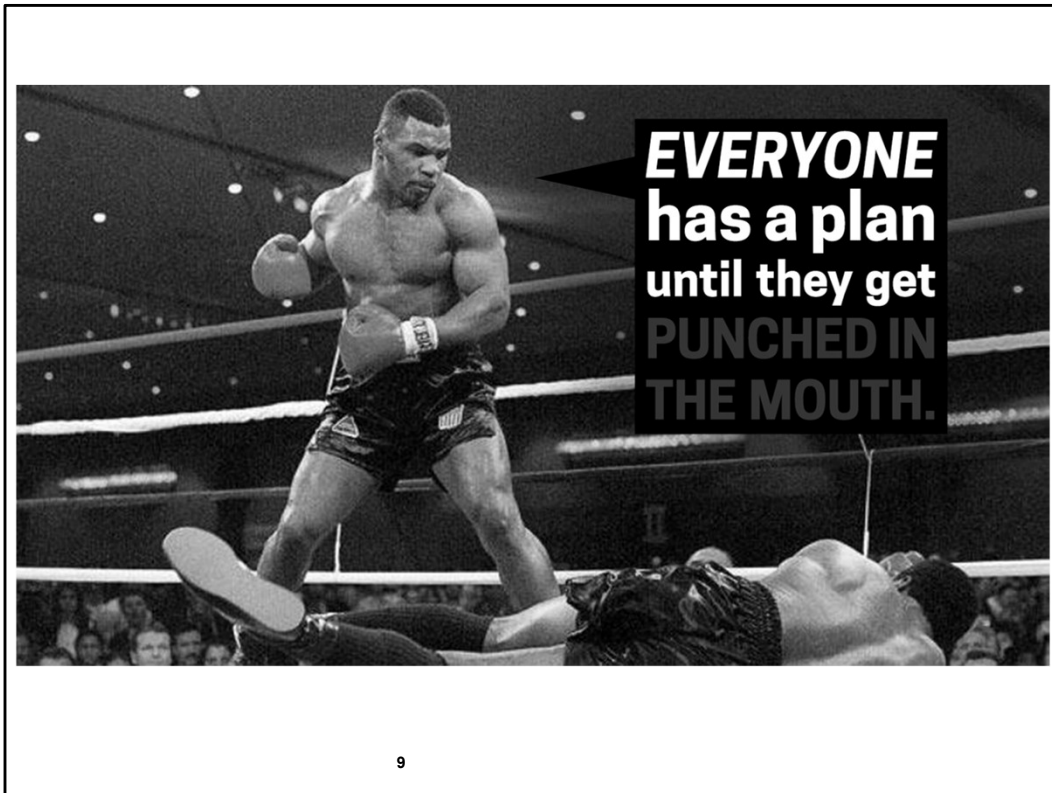
Disasters in Kentucky July 2022 Floods



The 2022 Eastern Kentucky floods marked a catastrophic event that profoundly impacted the region. The flood lasted 5 days total, between July 25th and 30th. Many places had record high levels of flooding, including 21' in Whitesburg, Kentucky and 43.47' in Jackson, Kentucky. There were a total of 24 flash flood warnings that were sent out over the 5 day period and the rainfall totals observed across Eastern Kentucky were over 600% of normal. Due to most of the region being much drier than normal during this time, this amount of rainfall would be devastating to the area.

There were 39 confirmed deaths and damages of more than \$150 million.

It required about 600 helicopter rescues.



You may have risk management plans. And you may have emergency response plans. But as Mike Tyson said, “Everyone has a plan until they get punched in the mouth”.

Think about what types of events would financially devastate your community and your utility:

- A flash flood
- A tornado
- A train derailment with a toxic chemical spill
- An explosion at a local factory
- Or, God forbid, a terrorist attack

Some of you have already gone through this. Most of you may never go through this. But for some of you, it just hasn’t happened yet.

Here’s my story. I moved to New Orleans in 2009 to help rebuild the business side of the Sewerage and Water Board. Now let me take you back in time.



Visiting New Orleans in July 2005, standing on the river levee, seeing that the river level was above the ground level of the French Quarter.

Now imagine travelling with me to a scene unfolding in a bedroom in a small shotgun house in the Lower Ninth Ward:

An older man says to his son, "I'm dying".

When I die this house will become yours.

I don't have a title to the house, because my mother did not get one when she was given the house.

But this house has been in our family for several generations.

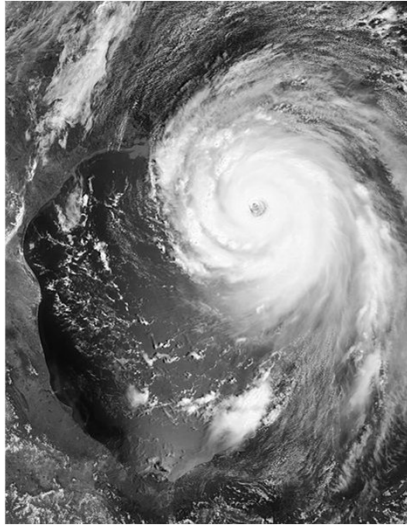
When you move in, be sure to do right by your neighbors. They're just like family.

Someday, the levees will fail and the floodwaters will fill this house up to the eaves..

When the levees do fail, you'll have one or two minutes to get into the attic and wait out the storm.

There is a hatchet up there to bust a hole in the roof once the storm has passed. When the storm has passed, look to help out the neighbors. Remember, they're your family too.

Play video link. <https://youtu.be/YtHdvtShPBI>



Background

August 29, 2005

"New Orleans will forever exist as two cities: The one that existed before that date, and the one after."

11

For persons who lived in New Orleans on August 29, 2005, New Orleans will forever exist as two cities; the one that existed before that date and the one after.

Destruction



The workers fought valiantly against the floodwaters at locations throughout the City. They were eventually evacuated, by boat and by helicopter, but only after the waters had overwhelmed their facilities.

Helicopters carried giant 3,000-pound bags of filter sand and gravel from the Carrollton Water Plant, where it had been stored for planned use in rebuilding water treatment filters, instead to be used to plug the breaches in the levee walls.



Devastation

Hurricane Katrina made landfall in Southeastern Louisiana, with storm surge overwhelming the federal levee system and destroying 80%³ of New Orleans with floodwaters.

Hurricane Katrina made landfall in Southeastern Louisiana on that fateful date, with storm surge overwhelming the federal levee system and destroying 80% of New Orleans with floodwaters.

Sewerage and Water Board had its own power plant. That power plant and water pump station had been severely damaged. The water distribution and sewage collection systems had been shattered by the crushing weight of several feet of floodwaters bearing down on the soft soil.

The primary sewage treatment plant had been essentially destroyed by an eighteen-foot surge of floodwaters. Most of the dozens of sewage pump stations and drainage pump stations throughout New Orleans had been severely damaged or destroyed.

And The Central Yard, where field work crews are based, was also destroyed along with over 500 vehicles and pieces of equipment, approximately 65% of the fleet. It completely disrupted normal communication channels and put the lives of many employees who were on duty in jeopardy.

Recovery Begins



14

Within three days of the storm's passing, the Board began to dry the motors and begin the re-winding process.

This enabled the Board to dewater the City in 11 days after the levees were stabilized.

The nightmare scenario of months and months of the city soaked in a toxic gumbo had not occurred.

That was truly the beginning of the recovery for the City.

After weeks of long, hot, humid days and short sleepless nights, their efforts to have the systems back up and running were rewarded when citizens were able to return to a city with drinking water, sewer services, fire protection and stormwater drainage.

Financial Challenges, Key Stakeholders, Critical Assistance and Improvised Solutions

15

We can look back through the lens of history to see the **financial challenges** that arose,

the **key stakeholders** with whom we communicated,

the **critical assistance** that was provided,

and the **solutions that were improvised** to support the utility's recovery.

Challenge: Liquidity Diminished

Emergency expenditures totaling more than \$60 million were authorized in the weeks following Katrina, depleting cash reserves.



16

Financial advisors to water and wastewater utilities emphasize the need for adequate liquidity reserves for emergencies. Most emergencies are typically viewed as large unexpected maintenance expenditures.

But what if your entire community nearly destroyed by a devastating flood or other disaster? And your utility facilities are significantly damaged?

A single event can wipe out six months of working capital in a moment. The Sewerage and Water Board was a strong A credit with healthy reserves before Katrina.

But then, emergency expenditures totaling more than \$60 million were authorized in the weeks following Katrina, completely depleting cash reserves.

Challenge: Bonds Downgraded



The image shows a financial table titled 'MOST WIDELY HELD STOCKS' and 'MOST WIDELY HELD' with columns for stock symbols, last prices, and percentage changes. A large, dark, downward-pointing arrow with the word 'WALL' written on it is superimposed over the table, pointing towards the text on the right.

Revenue bonds were quickly downgraded to near “junk” status due to concerns about ability to meet debt service payments.

17

Revenue bonds were quickly downgraded to near “junk” status due to concerns about ability to meet debt service payments.

Here is a quote from one of the rating agencies:

“This action in response to the unprecedented damage produced by Hurricane Katrina to the New Orleans area and the likely long-term impact on population, tax base, and commercial activity. In the short term, the hurricane and subsequent flooding has had a significant impact on the operations of the utility.

The Board has experienced a total interruption of its revenue stream and extensive damage to its facilities and is expected to exhaust existing operating reserves within the next several months, which may hamper reconstruction efforts.

While various proposals have been put forward that would provide external sources of financial support, the timing, amount, and duration of such support is unknown currently.”

Everyone loves New Orleans. But when disaster struck, there was not much hesitation in downgrading the debt.

Challenge: Cash Flow Disrupted



**Lack of utilities (water, sewer, electricity)
required immediate evacuation of remaining
population.**

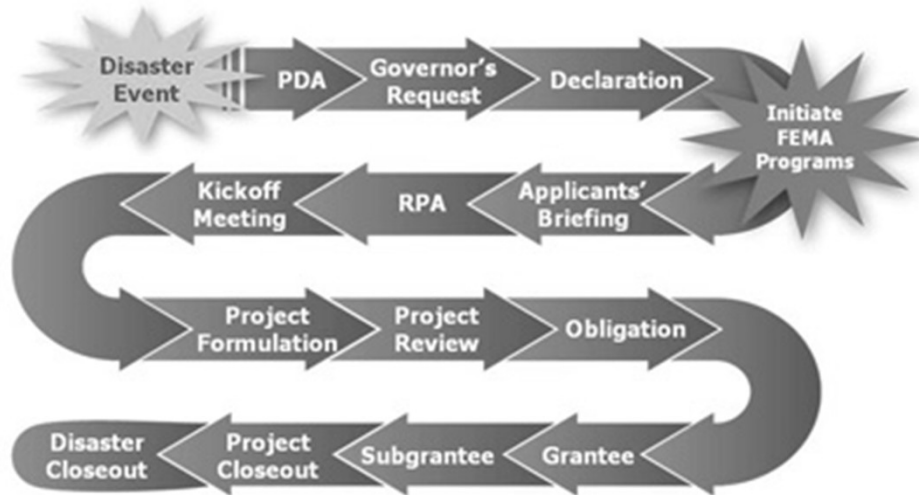
18

A public health emergency was declared and a mandatory evacuation was ordered for all those remaining in New Orleans except for emergency workers.

Census Bureau estimates that between July 2005 and January 2006, New Orleans's population had fallen by 64%, from more than 440,000 to less than 160,000 people.

Revenues were disrupted completely.

Challenge: Time Between Expenditures and FEMA Reimbursements



19

This snake-like chart is a much-abbreviated representation of the FEMA disaster reimbursement process. *(Walk the audience through the steps.)*

PDA Preliminary Damage Assessment

RPA Request for Public Assistance

The FEMA reimbursement process takes considerable time before expenditures are reimbursed.

First, there are significant delays between the disaster event and obtaining an obligated project worksheet.

And once FEMA obligated the project funds, there was another significant delay before expended funds were reimbursed.

The entire time from disaster to the first reimbursement can take six months to more than a year to occur. And the entire time from disaster to project closeout can take more than two decades. In New Orleans, FEMA is still involved with post-Katrina issues.



Stakeholders: Vendors

Primary providers of construction services and materials wanted to know about recovery projects and reimbursement timelines.

20

With those challenges in mind: diminished liquidity, downgraded bonds, disrupted cash flow, and FEMA reimbursement delays, it was important to keep stakeholders informed.

The primary providers of construction services and materials wanted to know about recovery projects. They knew the water, sewer, and drainage systems well and were able to help with the recovery. But they were very concerned about reimbursement timelines and when they could expect to be paid.

Stakeholders: Rating Agencies



Rating agencies and bond trustees were interested in immediate (likelihood of next debt service payments) and future (multi-year forecasts) impacts.

21

And the rating agencies were keenly interested in the latest news, both in the short term about the likelihood of upcoming debt service payments and in the long term about the pace of customers returning to New Orleans.

Stakeholders: Elected Officials

Federal, state, and local elected officials wanted to be engaged in identifying and pursuing opportunities for recovery funding.



22

And the federal, state and local elected officials were actively engaged in identifying and pursuing opportunities for recovery funding. This made for frequent trips to Washington and the state capitol of Baton Rouge to explain the needs and the urgency.

And of course, the regulators needed information in order to allow for a Force Majeure extension of the deadlines contained on the Federal Consent Decree for the sewer system.

Stakeholders: FEMA Processes



FEMA regulations and processes needed to be adhered to for prior approval of expenditures, proper documentation, and auditing of projects.

23

Keep in mind that, in a large-scale disaster, New Orleans was dealing with a mix of FEMA full-time professionals and FEMA contractors, and that they had differing interpretations to FEMA regulations. FEMA regulations contain extensive requirements for gaining approval before expenditures occur, maintaining proper documentation of expenditures, and auditing of projects after completion.

These different personnel with their differing interpretations of regulations made for long meetings and monumental amounts of documentation.

And all the while, they're hearing discussions in the background where people were even questioning whether New Orleans should even be rebuilt.

Stakeholders: Citizens, Businesses, and Media

Citizens, business and the media needed to be informed of the situation and to understand the magnitude of the effort.



24

And, of course, we are talking about a living breathing community of people who wanted to return to normal as quickly as possible. If normal was even a possibility. These citizens, business owners, and media outlets from around the world wanted to be informed of the situation so that they could understand the magnitude of the effort involved.

Assistance: Operating Funds



**Operating funds were provided by
FEMA Special Community Disaster
Loans.**

25

In order to meet those challenges, New Orleans needed assistance from outside.

Although the tax base was severely depleted, communities such as New Orleans still had to provide essential services such as police, medical personnel, teachers, and firefighters. Those costs are not eligible for Stafford Act funding from FEMA. Further, the traditional CDL program cap of \$5 million per individual loan was too small for the catastrophic and long term nature of these disasters.

But, FEMA could cancel a loan if it determined that *“the revenues of the local government during the full three fiscal year period following the disaster are insufficient to meet the operating budget for the local government, including additional unreimbursed disaster-related expenses.”* However, that was easier said than done.

Assistance: Debt Service Funds

Committee on Ways and Means

H.R. 4440, *THE GULF OPPORTUNITY ZONE ACT OF 2005*, as Amended by the Senate

TITLE I: GULF OPPORTUNITY ZONE TAX INCENTIVES

Creates a "Gulf Opportunity (GO) Zone" (the "Zone") comprised of the counties and parishes in Louisiana, Mississippi and Alabama that were designated as warranting individual or public and individual assistance by reason of Hurricane Katrina. The bill creates tax incentives to help revitalize and rebuild communities in the Zone.

Housing

- **Increases incentives to rebuild housing.** Expands the allocation and size of the low-income housing tax credit in the Zone.
 - ⇒ Provides an emergency allocation of low-income housing tax credits in 2006, 2007 and 2008. The emergency allocation is \$18.00 multiplied by each State's population in the Zone (based on 2004 Census estimates). This amount is more than nine times larger than the current-law allocation of \$1.90 per capita. The increased allocation must be used to build housing in the Zone and may not be carried forward from year to year. In addition, a further allocation of low-income housing tax credits in the amount of \$3.5 million is provided to both Texas and Florida in 2006.
 - ⇒ Increases the size of the credit from 100 percent of qualifying project costs to 130 percent of such costs by designating the GO Zone, Rita Zone and Wilma Zone each as a "Difficult Development Area" in 2006, 2007 and 2008. The increased credit would also apply to historic buildings, which are already eligible for the Rehabilitation Credit under current law.
 - ⇒ The operator of a qualified residential rental project may rely on the representations of prospective tenants displaced by reason of Hurricane Katrina for purposes of determining whether such individuals satisfy the income limitations for qualified residential rental projects. This rule only applies if the individual's tenancy begins during the six-month period beginning on the date when such individual was displaced by Hurricane Katrina.
- **Increases the Rehabilitation Tax Credit to help restore commercial buildings.** Increases the credit from 10 percent of qualified expenditures to 13 percent for qualified rehabilitated buildings in the Zone. The credit is increased from 20 percent to 26 percent for certified historic structures. This provision applies to qualifying expenses incurred through December 31, 2008.

Chairman Bill Thomas (R-CO)
Committee on Ways and Means
12/16/2005 10:20 a.m.

Page 1 of 1

Debt service payments were made with funds from Gulf Opportunity Zone Loan.

The Gulf Opportunity Zone Act of 2005 contained economic incentives to rebuild the Gulf Coast following Hurricanes Katrina and Rita. Modeled after the Liberty Zone incentives created after the 9-11 disaster, these incentives were intended to stimulate private investment within the GO Zone. Gulf Opportunity Zone Bonds were issued by the State of Louisiana for projects approved by the Governor of the State and the State bond commission.

The GOZone loan funds allowed Sewerage and Water Board to make debt service payments on a timely basis for 2005, 2006, and 2007.

Assistance: GOSHEP Funds for FEMA Cash Flow



The State of Louisiana Governor's Office of Homeland Security and Emergency Preparedness provided a \$100 million revolving loan to fund projects to be reimbursed from FEMA.

27

The State of Louisiana Governor's Office of Homeland Security & Emergency Preparedness appropriated \$100 million from the Community Disaster Loan Program to provide a revolving loan to fund projects to be reimbursed from FEMA.

This provided a critical liquidity facility to allow us to pay contractors upon completion of their work while waiting for the Federal paperwork processes to work through.

Improvised Solutions: Making Payroll

Monitored cash flow to ensure ability to make payroll every time. And required direct deposit.



28

Even with all of that assistance, improvised solutions were still needed. Cash flow was scrupulously monitored to ensure the ability make payroll every time. And direct deposit was required to lessen the requirements for employees making bank deposits.

Improvised Solutions: Ensuring Customer Service

Kept customer service in focus because with fewer resources, internal coordination and external customer service were strained.



29

With the extensive damage to the distribution system from the crushing weight of the flood waters on the soft sandy soil, there were extensive leaks and breaks that affected customers.

And with fewer employees, the leaks ran for longer periods of time. Attention was focused on customer service so that as our field capabilities were decimated and internal communications were strained, we worked to maintain the highest levels of customer service.

This eventually meant leaving services on to residences long after the traditional turn-off dates had been passed. So that when customers eventually returned home, they would have running water and sewer service for basic sanitation needs as they went about the business of gutting their houses and discarding their personal possessions that had been ruined by floodwaters, mold and mildew.

Improvised Solutions: Keep Billing

Continued billing using estimated readings to supplement actual readings.

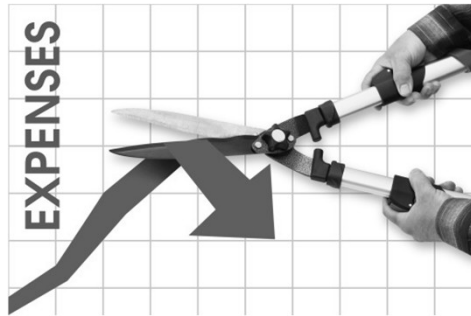


30

Sewerage and Water Board continued billing, using estimated readings to supplement actual reading. Many streets were inaccessible due to fallen trees and debris. And we had significantly fewer meter readers. But we kept billing.

As you might imagine, uncollected accounts receivable balances grew and grew. Although we kept accounts on for as long as we could, we eventually began turning accounts off for non-payment in 2007. And we kept those balances our books for three more years. That made for significant write-downs of accounts receivable when they were finally deemed to be uncollectable.

Improvised Solutions: Cut Expenses



Eliminated all activities and expenses that could be cut for five to seven years.

31

Sewerage and Water Board eliminated all expenses that can be avoided for five to seven years, understanding that necessary rates would be several years away.

This meant reducing the workforce by more than 200 employees.

And deferring all non-emergency capital projects.

And eliminating investments in information technology training.

And managing succession planning on an ad hoc basis.

Improvised Solutions: File Insurance Claims



Ensured all insurance policies were reviewed for possible claim opportunities.

32

We filed the insurance claims. And began buying insurance on replacement assets in order to comply with FEMA requirements.

Improvised Solutions: Long-Term Financial Plans



Focus on long-term sustainability

- ✓ Target liquidity
- ✓ Debt service coverage
- ✓ O&M adequacy
- ✓ Full funding of capital program
- ✓ Bond rating

33

Each of these items will have suffered significantly following the disaster.

To determine the amount of revenues needed to fully restore the system, the Board of Directors approved a comprehensive financial planning and rate study. The Rate Study has expanded in scope and increased in duration due to the challenge in gaining approval for the proposed rate increases.

The Board of Directors authorized a comprehensive study of financial requirements in December 2009 and selected a consultant in April 2010 after failing to meet bond covenants for debt service coverage on water revenue bonds in 2008 and on sewer revenue bonds in 2009. The purpose of the analysis was to identify the financial requirements for the systems over the next ten years and to develop recommended approaches for fully funding the requirements while achieving financial results consistent with a bond rating of AA. Over the next two plus years, the project took many twists and turns.

Demand patterns have been disrupted, number of customers and businesses have been reduced, and significant future rate increases will have a drag on future demand.

34

The Board could not continue to defer necessary operating and capital initiatives without seriously and adversely affecting its ability to deliver services. This condition would continue to worsen unless additional financial resources were provided.

- What pace would our customer come back?
- Would they use less water because of the higher rates?
- Could we count on future federal funding;
- How much financial reserves should we create?
- How fast could we ramp up our operations and maintenance budgets

Improvised Solutions: Stakeholder Involvement

Create a sense of shared destiny.



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The plan was to complete the study internally and then go through an external consensus-building and approval process. This approach had been considered successful at preventing groups within the City from side tracking studies while they were underway. The city leaders identified a preference for a process that incorporated stakeholder feedback. To provide this feedback, a Citizens Advisory Task Force was created. It originally consisted primarily of business leaders, but expanded to include various stakeholders. SWBNO held workshops to provide key members of the community with a better understanding of the reasons for the needs and the magnitude of the needs.

Rate hearing story.

After five years into the implementation of eight 10% annual rate increases, their bonds had moved out of junk to an A- rating. They had 200 days of cash on hand and their water and sewer capital programs were fully funded through the remainder of their planning horizon. They had successfully recovered from financial devastation. The business side of New Orleans water and sewer and drainage utilities had been restored.

Not Every Crisis Brings Devastation

**... but every
crisis requires
communications
from public
officials.**



Three Phases of a Crisis



- ✓ Acknowledge that a crisis has begun.
- ✓ Manage through the crisis.
- ✓ Close out the crisis.

1. Get the Community's Attention

Define the problem.

**Identify the
spokesperson.**

**Communicate the
facts.**

**Maintain message
discipline.**



2. Keep the Community Informed Via Media

- **Gather information at the start of the day by 10:30 AM for 12 PM news.**
- **Gather information at the end of the day by 3:30 PM for the 5 PM news.**
- **Identify problems to be solved and resources being applied.**
- **Discuss strategies in plain non-technical terms.**
- **Be interesting.**

2. Keep Key Stakeholders Informed Via Direct Communications

- **Make sure that they have access to top leadership and facts.**
- **Listen for the challenges that they are experiencing.**
- **Be prepared to forecast how long the crisis will last.**
- **Understand that the crisis is costing them more than 10 times what it is costing your organization.**

3. Wrap It Up



- **Anticipate the ending of the crisis.**
- **Acknowledge the workforce.**
- **Provide final statistics and costs.**
- **Crisis are expensive. Explain the budget impact.**
- **Prepare to provide lessons learned.**

Keep In Mind

- **This is not about you, it's about your citizen customers.**
- **Nobody is interested in your feelings.**
- **Tell the truth.**
- **The media is not your friend or your enemy.**
- **You are always on the record.**
- **Feed the media with information regularly.**

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Keep In Mind

- **Be available at all times and return calls.**
- **Be professionally courteous.**
- **Give the media opportunities to shoot video on site.**
- **Provide facts in a consistent manner to provide continuity of storyline.**
- **Don't blame or speculate.**
- **Know that things can always get worse.**

Contact Information

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We're now ready to take questions.