

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF BLUEGRASS)
WATER UTILITY OPERATING COMPANY, LLC)
FOR AN ADJUSTMENT OF WATER AND)
SEWAGE RATES)

CASE NO.
2025-00354

INITIAL BRIEF

Respectfully submitted,

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Notice And Certification For Filing

Undersigned counsel provides notice that the electronic version of the paper has been submitted to the Commission by uploading it using the Commission's E-Filing System on this 16th day of October, 2026. Pursuant to the Commission's Orders in Case No. 2020-00085, *Electronic Emergency Docket Related to Novel Coronavirus Covid-19*, the paper, in paper medium, is not required to be filed.

/s/ David E. Spenard

Notice And Certification Concerning Service

No party has been excused from the electronic filing procedures in the instant proceeding.

/s/ David E. Spenard

INTRODUCTION

On December 11, 2025, Bluegrass Water Utility Operating Company, LLC (“Bluegrass” or “Company”), tendered the *Application* in the instant case that proposes an adjustment of its water and sewage rates.¹ On April 2, 2026, the Kentucky Public Service Commission (“Commission” or “PSC”) entered an Order, upon the request of Bluegrass, to amend the procedural schedule; thereafter, on May 26, 2026, the Commission entered a subsequent Order deeming the application to have been amended and suspending the proposed rates up to and including December 7, 2026.²

The Kentucky Office of the Attorney General (“KY OAG” or “OAG”) was, upon motion, granted intervention into the proceeding by an Order entered on October 30, 2025.³ Scott County, Kentucky, through its County Judge/Executive and the Fiscal Court (“Scott County”) was, upon motion, granted intervention into the proceeding by an Order entered on January 27, 2026.⁴ Bluegrass, the OAG, and Scott County are the only parties to the instant case.

The evidentiary record includes the *Application* (containing written testimony, financial exhibits, and other document and as amended and supplemented by updates and revisions), written testimony submitted by a witness jointly sponsored by the OAG and Scott County, written testimony by a witness for Scott County, numerous responses by Bluegrass and the parties to requests for information (including post-hearing

¹ Application (tendered Feb. 27, 2023).

² See *generally* Order (Ky. PSC May 26, 2026).

³ Order (Ky. PSC Oct. 30, 2025).

⁴ Order (Ky. PSC Jan. 27, 2026).

requests for information), and the transcript of evidence for an evidentiary hearing which was held on September 21 and 22, 2026. The case record for the proceeding also includes numerous public comments submitted to the Commission and the video records for two (2) public comment meetings (one held in McCracken County and a second held in Scott County, Kentucky).

Pursuant to the Commission's Order concerning procedures for post-hearing briefing,⁵ Scott County submits its *Initial Brief* in support of its positions. Scott County acknowledges that its review and recommendations upon the *Application* are not as extensive as those offered by the OAG. Except as where expressly identified and discussed as differing from (or inconsistent with) the recommendations of Scott County, the recommendations of the OAG are adopted and endorsed by Scott County. Moreover, any lack of discussion of a Bluegrass proposal or recommendation should not be construed as an endorsement of a Bluegrass position or agreement by Scott County that Bluegrass has met its burden of proof.⁶

I. Bluegrass Has Not Justified Its Proposed Allocation of 40 Percent of the Wastewater Revenue Requirement to Delaplain's Non-Residential Customers.

Bluegrass proposes allocating 40 percent of its consolidated wastewater revenue requirement to Delaplain's non-residential customers, establishing a monthly fixed charge of \$279.31 and increasing their volumetric wastewater rate by 369.2 percent,

⁵ Order (Ky. PSC Sept. 29, 2026).

⁶ See KRS 278.190(3).

from \$11.67 to \$54.75 per thousand gallons.⁷ Together, these changes would increase the average monthly wastewater bill for Delaplain's non-residential customers by 315.4 percent.⁸ This allocation would require Delaplain's non-residential customers to contribute \$2,158,039 toward Bluegrass's proposed consolidated wastewater rate revenues of \$5,395,099.⁹ While Bluegrass revised its proposal through an amended filing, the percentage allocation of the wastewater revenue requirement remains the same as in the initial application.

Bluegrass offers two principal justifications for this allocation approach: that the volume, strength, and characteristics of wastewater discharged by these customers necessitated substantial capital improvements at the Delaplain facility, and that non-residential customers have the ability to pass increased wastewater costs along to their own customers. Neither justification supports the proposed allocation. The evidence does not establish that the characteristics of non-residential wastewater caused the capital improvements upon which Bluegrass relies, nor has Bluegrass demonstrated that the costs attributable to these customers warrants assigning them 40 percent of the consolidated revenue requirement. Moreover, the position of Bluegrass that the

⁷ Application, Direct Testimony of Aaron Silas (tendered Dec. 11, 2025) ("Silas Direct Testimony – Initial Application"), Exhibit AJS-4A [PDF 67 of 169]; revised increase numbers set forth through Supplemental Response to OAG First Request for Information ("OAG 1-35") (filed May 8, 2026) Item 1-35, Clean Consolidated Wastewater Tariff, Sheet No. 3.2 at page 7.

⁸ Bluegrass's Supplemental Response to OAG 1-35 (filed May 8, 2026) Tariff Sheet No. 3.2, at page 7; Intervenor Testimony of Michael P. Gorman on behalf of Scott County, Kentucky ("Gorman Intervenor Testimony") (filed Aug. 13, 2026), Exhibit MPG-1 ("Gorman Testimony").

⁹ Gorman Testimony, Exhibit MPG-1.

presumed ability of non-residential customers to pass increased costs along to their own customers does not independently justify the proposed allocation. The Commission has previously rejected income-based distinctions in utility rates, recognizing that such an approach would implicate the rates charged to commercial and industrial customers as well.¹⁰ Bluegrass therefore has not met its burden under KRS 278.190(3) to demonstrate that its proposed rates are fair, just, and reasonable.

A. Bluegrass's Proposed Allocation is not Supported by Evidence Establishing the Costs Attributable to Delaplain's Non-Residential Customers.

1. *Bluegrass Has Not Provided a Cost-of-Service Analysis Supporting Its Proposed 40 Percent Allocation.*

In evaluating whether a proposed allocation of a utility's revenue requirement among customer classes is just and reasonable, the Commission has consistently examined the evidence supporting the allocation, including cost-of-service analyses. In Bluegrass's most recent rate case, the Commission expressly recognized that "utility rates should be cost based, and that in most circumstances each class of utility ratepayers should pay the costs which the utility incurs to provide that class with utility service."¹¹ The Commission approved Bluegrass's unified wastewater rate structure in accordance with that principle, while recognizing that consolidated rates help distribute the costs of necessary capital investments and avoid significant rate shocks at

¹⁰ Case No. 91-066, *Application for Adjustment of Electric Rates of Kentucky Power Company* (Ky. PSC Oct. 31, 1991), Order at pages 7 and 8.

¹¹ Case No. 2022-00432, *Electronic Application of Bluegrass Water Utility Operating Company, LLC for an Adjustment of Sewage Rates* (Ky. PSC Feb. 14, 2024), Order at page 96.

individual systems.¹² In a proceeding involving the Kentucky-American Water Company, the Commission evaluated the utility's cost-of-service study, including the data underlying its allocation among customer classes, and accepted the study as a basis for allocating the approved revenue increase, while modifying the proposed rates based on other rate-design considerations.¹³ Conversely, in a wholesale water rate proceeding involving the City of Lancaster, the Commission declined to approve proposed differences in rate treatment where the utility had not supplied adequate supporting analysis and calculations.¹⁴ These decisions illustrate the importance of evidence establishing a reasonable basis for a proposed allocation. Although a new cost-of-service study is not necessarily required in every rate proceeding, a utility must provide sufficient evidence to justify its proposed allocation.

Bluegrass's proposed allocation presents precisely this evidentiary question. In its previous rate case, Bluegrass proposed allocating 22.72 percent of its consolidated wastewater revenue requirement to Delaplain's metered non-residential customers based on a surrogate cost-of-service study employing customer equivalencies.¹⁵ In this

¹² *Id.*, pages 93 through 96.

¹³ Case No. 2025-00122, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates* (Ky. PSC Dec. 16, 2025), Order at pages 67 through 72.

¹⁴ Case No. 2023-00424, *Electronic Tariff Filing of the City of Lancaster to Increase the Wholesale Rate Charged to Garrard County Water Association* (Ky. PSC Sept. 26, 2024), Order at pages 7 and 8.

¹⁵ Redlined Direct Testimony of Aaron Silas (CLEAN) ("Silas Redlined Testimony") (filed June 8, 2026) at page 22 *citing* Case No. 2022-00432, *Electronic Application of Bluegrass Water Utility Operating Company, LLC For an Adjustment of Sewage Rates*, PSC Case No. 2022-00432, Direct Testimony of (Bluegrass witness) Timothy S. Lyons, in support of the application for that proceeding, at pages 4 and 5.

proceeding, however, Bluegrass proposes increasing that allocation to 40 percent, an increase of 17.28 percentage points, without performing a new cost-of-service study or comparable analysis to support the change.¹⁶

Bluegrass's rate-design witness, Aaron Silas, explained that the Company elected not to perform another cost-of-service study because of the recency of its previous rate case and the expense of retaining a consultant.¹⁷ Instead, Silas justified the proposed allocation by reference to the capital improvements undertaken at Delaplain, stating that "[t]hese are specialized, high-cost improvements that are needed primarily because of the strength and characteristics of the wastewater from these non-residential users."¹⁸ Silas further asserted that allocating 40 percent of the consolidated wastewater revenue requirement to Delaplain's non-residential customers is consistent with principles of cost causation, prevents residential customers from subsidizing industrial treatment costs, and reflects the benefits those customers receive from improved service.¹⁹

Silas's testimony does not explain how Bluegrass determined that 40 percent of its consolidated wastewater revenue requirement should be allocated to Delaplain's non-residential customers. When Scott County specifically requested an analysis demonstrating how Delaplain's investments and expenses support the 40 percent

¹⁶ Silas Redlined Testimony at pages 22 and 23.

¹⁷ Silas Redlined Testimony at page 23.

¹⁸ Silas Redlined Testimony at page 23.

¹⁹ Silas Redlined Testimony at page 23.

allocation, Bluegrass provided no supporting calculation, explaining instead that the allocation reflected its judgment concerning the hydraulic loading, treatment demands, and capacity requirements imposed by non-residential customers.²⁰ Indeed, the proposed allocation rests principally on the assertion that capital improvements at Delaplain were necessitated by the strength and characteristics of those customers' wastewater. As discussed below, that assertion is not supported by the testimony of Bluegrass's own engineering witness, and the Company has not otherwise demonstrated a reasonable or reliable cost basis for its proposed allocation.

2. Bluegrass's Engineering Evidence Does Not Support Its Asserted Cost Justification.

Scott County does not dispute that substantial capital improvements were necessary to rehabilitate the Delaplain wastewater treatment facility. The question is whether those improvements were necessitated primarily by the strength, characteristics, or volume of wastewater discharged by Delaplain's non-residential customers, as Bluegrass contends.

Delaplain serves both residential and non-residential customers, and the engineering testimony establishes that the facility suffered from deteriorated infrastructure, inadequate maintenance, and deficient treatment processes. As discussed below, Bluegrass encountered similar conditions requiring substantial rehabilitation at other wastewater facilities serving exclusively residential customers. The evidence therefore does not support Bluegrass's assertion that the capital

²⁰ Bluegrass Response to Scott County's Third Request for Information, (filed July 2, 2026), Item 3-2(b).

improvements at Delaplain were primarily attributable to the strengths and characteristics of the wastewater discharged by its non-residential customers.

Bluegrass's engineering witness, Jake Freeman, described the Delaplain wastewater treatment facility as being in poor condition when Bluegrass acquired it in February 2021.²¹ According to Freeman, many of the facility's components were aging and had reached the end of their useful lives, and portions of the treatment process had been bypassed rather than properly repaired.²² The facility's steel tanks, catwalks, piping, and other equipment exhibited substantial rust and deterioration, which Freeman attributed to a failure to properly maintain protective coatings.²³

Freeman identified numerous additional deficiencies in the facility's treatment processes.²⁴ The comminutor was not operating, and accumulated trash and other solids obstructed piping and interfered with treatment operations.²⁵ The aeration system suffered from deteriorated diffusers, leaking piping, and an inadequate configuration, contributing to violations of the facility's discharge limits.²⁶ The clarifier failed to adequately prevent solids from entering the effluent, while deficiencies in the disinfection system contributed to violations of E. coli and residual chlorine limits.²⁷

²¹ Application Exhibit 8, Direct Testimony of Jake Freeman ("Freeman Direct Testimony"), (filed Dec. 11, 2025), at page 53.

²² Freeman Direct Testimony at pages 52 and 53.

²³ Freeman Direct Testimony at page 53.

²⁴ Freeman Direct Testimony at pages 54 through 57.

²⁵ Freeman Direct Testimony at page 54.

²⁶ Freeman Direct Testimony at page 55.

²⁷ Freeman Direct Testimony at page 55.

Freeman also described accumulated sludge, vegetation growth, damaged fencing, and other conditions reflecting inadequate maintenance and operation.²⁸ The facility's influent lift station and collection-system lift stations also required rehabilitation because of their deteriorated condition.²⁹

During cross-examination, Freeman confirmed that the deterioration of Delaplain's steel components was attributable to corrosion over time and inadequate maintenance of protective coatings.³⁰ He likewise explained that blowers and other mechanical equipment required regular maintenance, and that accumulated sludge and vegetation reflected failures to perform routine maintenance.³¹ Freeman also acknowledged significant infiltration and inflow into the Delaplain system.³² Although the facility was designed to treat approximately 240,000 gallons per day, flows during substantial rain events had reached approximately one million gallons per day, overwhelming the treatment process and carrying solids out of the facility.³³

Freeman described similar conditions at two of Bluegrass's other wastewater treatment facilities, Herrington Haven and Woodland Acres, both of which serve *exclusively* residential customers. Herrington Haven, which serves 24 single-family residential connections, suffered from corroded equipment, deteriorated aeration

²⁸ Freeman Direct Testimony at pages 54 through 57.

²⁹ Freeman Direct Testimony at page 64.

³⁰ Transcript of Evidence (Sept. 21, 2026), Day 1, at 4:12:05–4:13:17 (“Transcript Day 1”).

³¹ Transcript Day 1, 4:12:05–4:13:17.

³² Transcript Day 1, 4:09:12–4:09:50.

³³ Transcript Day 1, 4:09:38–4:11:07.

components, accumulated sludge, infiltration and inflow, and repeated violations of its discharge permit.³⁴ To address these deficiencies, Bluegrass undertook substantial capital improvements, including installation of a moving bed biofilm reactor (“MBBR”) treatment system, aeration improvements, and modifications to other treatment equipment to achieve compliance with applicable effluent limits.³⁵

Woodland Acres, which serves 91 single-family residential connections, likewise suffered from deteriorated tanks and equipment, inadequate aeration, infiltration and inflow, and recurring violations of its discharge permit.³⁶ Freeman explained that repairing or replacing the facility’s existing equipment would not have been sufficient to meet applicable ammonia limits, necessitating improvements to the treatment process itself.³⁷ Bluegrass therefore undertook a substantial overhaul of the facility, including tank rehabilitation, installation of an MBBR treatment system, aeration improvements, and other equipment upgrades.³⁸

During cross-examination, Freeman acknowledged that Herrington Haven and Woodland Acres exhibited many of the same deficiencies as Delaplain, including corrosion, deteriorated equipment, inadequate reinvestment, and infiltration and

³⁴ Freeman Direct Testimony at pages 15 through 19.

³⁵ Freeman Direct Testimony at pages 19 through 20.

³⁶ Freeman Direct Testimony pages 26 through 34.

³⁷ Freeman Direct Testimony at page 35.

³⁸ Freeman Direct Testimony at pages 36 through 38.

inflow.³⁹ Bluegrass thus undertook similar capital improvements, including installation of MBBR treatment systems, at facilities serving exclusively residential customers.⁴⁰

It is also true that Freeman identified evidence of improper discharges by some of Delaplain's commercial customers, including oil or paint thinner in the influent wastewater, automotive maintenance rags, trash, and an oil sheen.⁴¹ During cross-examination, Freeman explained that chemical discharges can disrupt the biological treatment process, requiring Bluegrass to remove the chemicals, restart treatment processes, and incur additional operating expenses.⁴² However, Freeman distinguished these operational impacts from the physical deterioration and deferred maintenance that necessitated Delaplain's rehabilitation.⁴³ He explained that the facility's lack of reinvestment, corrosion, and malfunctioning equipment were separate from the effects of improper chemical discharges, which primarily affected the daily operation of the plant and the biological treatment process.⁴⁴ Freeman further testified that he was unaware of improper chemical discharges affecting the cost of Delaplain's capital construction project.⁴⁵

³⁹ Transcript Day 1, 4:16:55–4:18:36.

⁴⁰ Freeman Direct Testimony at pages 19, 20, 36 through 38, 59, and 60.

⁴¹ Freeman Direct Testimony at page 58.

⁴² Transcript Day 1, 4:19:14–4:21:55.

⁴³ Transcript Day 1, 4:20:13–4:21:03.

⁴⁴ Transcript Day 1, 4:20:30–4:20:55.

⁴⁵ Transcript Day 1, 4:22:09–4:22:38.

Freeman acknowledged that improper chemical discharges can disrupt biological treatment processes and impose additional operating expenses, but he could not recall how frequently such incidents had occurred at Delaplain.⁴⁶ Bluegrass does not track the costs attributable to noncompliant discharges by individual customers or conduct customer-specific sampling to measure biochemical oxygen demand (BOD), total suspended solids (TSS), or ammonia concentrations.⁴⁷ Bluegrass tracks individual customers' water usage.⁴⁸

Finally, when asked whether the repairs and upgrades discussed in his direct testimony were driven by the strength and characteristics of the wastewater being treated at Delaplain, Freeman answered, "No."⁴⁹ This testimony directly contradicts Silas's explanation that Delaplain's capital improvements were needed primarily because of the strength and characteristics of wastewater discharged by non-residential customers.⁵⁰

The cost of Delaplain's rehabilitation also increased for other reasons likewise unrelated to the strength or characteristics of the wastewater being treated. Freeman explained that construction bids substantially exceeded Bluegrass's original estimates and that unforeseen subsurface conditions required modifications to the project.⁵¹ After

⁴⁶ Transcript Day 1, 4:21:03–4:22:44.

⁴⁷ Bluegrass Response to Scott County's Third Request for Information, (filed July 2, 2026), Item 3-4(c).

⁴⁸ *Id.*

⁴⁹ Transcript Day 1, 4:23:27–4:23:45.

⁵⁰ Silas Redlined Testimony at page 23.

⁵¹ Freeman Direct Testimony at pages 65 and 66.

the initial low bidder withdrew, Bluegrass was required to solicit new bids, resulting in a higher construction price.⁵² During cross-examination, Freeman also identified storm-related construction delays, muddy excavation conditions, additional electrical work, and other necessary repairs as contributing to the project's increased cost.⁵³

When Scott County specifically requested an analysis demonstrating how Delaplain's investments and expenses support the proposed 40 percent allocation, Bluegrass provided no calculation connecting the costs of those improvements to the proposed percentage.⁵⁴ Instead, Bluegrass explained that the allocation reflected its judgment that non-residential customers impose greater hydraulic loading, treatment demands, and capacity requirements on the Delaplain system.⁵⁵ Bluegrass further acknowledged that it had not developed formal analyses, models, or workpapers evaluating alternative allocation percentages.⁵⁶ The Company's assessment of greater treatment demands does not establish that Delaplain's non-residential customers are responsible for 40 percent of its consolidated wastewater revenue requirement.

Bluegrass has not demonstrated that its proposed allocation of 40 percent of the consolidated wastewater revenue requirement to Delaplain's non-residential customers is supported by the costs attributable to serving that class. Despite the substantial rate increase that would result, Bluegrass conducted no updated cost-of-service study or

⁵² Freeman Direct Testimony at pages 65 and 66.

⁵³ Transcript Day 1, 4:15:17–4:16:22.

⁵⁴ *Id.*, Item 3-2(b).

⁵⁵ *Id.*, Item 3-2(b).

⁵⁶ *Id.*, Item 3-2(a).

comparable analysis explaining its departure from the 22.72 percent allocation proposed in its previous rate case. Nor does the explanation offered by Silas provide an independent justification for the proposed allocation. Although Silas attributed the need for substantial capital improvements at Delaplain primarily to the strength and characteristics of non-residential wastewater, Freeman's engineering testimony establishes that the facility required extensive rehabilitation because of deteriorated infrastructure, inadequate maintenance, and deficient treatment processes, conditions also present at Bluegrass's residential-only facilities. The evidence therefore does not establish that the costs of rehabilitating Delaplain justify assigning 40 percent of Bluegrass's consolidated wastewater revenue requirement to its non-residential customers.

B. Bluegrass's Reliance on Non-Residential Customers' Perceived Ability to Pass Along Increased Costs Does Not Justify its Proposed Allocation.

Bluegrass's proposed rate design would substantially increase wastewater charges for Delaplain's non-residential customers. The volumetric rate would increase from \$11.67 to \$54.75 per thousand gallons, an increase of 369.2 percent.⁵⁷ The proposed rate design also establishes a monthly fixed charge of \$279.31 for these customers.⁵⁸ Together, these charges would increase the average monthly non-residential wastewater bill from \$1,211.31 to approximately \$5,032.00, an increase of \$3,820.69 per month, or 315.4 percent.⁵⁹

⁵⁷ Bluegrass's Supplemental Response to OAG 1-35 (filed May 8, 2026) Item 1-35, Clean Consolidated Wastewater Tariff, Sheet No. 3.2, at page 7.

⁵⁸ *Id.*

⁵⁹ *Id.*; Gorman Testimony, Exhibit MPG-1.

The proposed increase for Delaplain's non-residential customers is substantially greater than the increase proposed for residential wastewater customers. Bluegrass proposes increasing the consolidated residential wastewater flat rate from \$77.77 to \$111.72 per month, an increase of approximately 43.7 percent.⁶⁰ The proposed rate design would therefore increase the average monthly bill for Delaplain's non-residential customers by more than four times its current amount, while increasing the residential wastewater rate by less than half.

During the hearing, Silas was asked to explain how allocating 40 percent of Bluegrass's consolidated wastewater revenue requirement to Delaplain's non-residential customers was consistent with principles of cost causation.⁶¹ In response, Silas cited the capital investment at Delaplain, the volume of wastewater discharged by industrial customers, and their ability to pass increased costs along to their own customers.⁶² He contrasted industrial customers' ability to raise prices with residential customers' inability to increase their salaries to offset higher utility bills.⁶³ Silas expressly acknowledged that industrial customers' ability to pay was a consideration in the proposed allocation.⁶⁴

⁶⁰ Bluegrass's Supplemental Response to OAG 1-35 (filed May 8, 2026) Item 1-35, Clean Consolidated Wastewater Tariff, Sheet No. 1.3, at page 4.

⁶¹ Transcript of Evidence (Sept. 22, 2026), Day 2, at 49:29–49:38 (“Transcript Day 2”).

⁶² Transcript Day 2, 50:32–50:57.

⁶³ Transcript Day 2, 50:10–50:32.

⁶⁴ Transcript Day 2, 49:29–50:55. (“And so, uh, part of the, the kind of principles of ratemaking is that commercial entities who have the ability to raise their costs to generate more revenue to, to pay for their, uh, portion of the revenue requirement, um, should be considered, right?”).

KRS 278.030(1) requires utility rates to be fair, just, and reasonable, while KRS 278.170(1) prohibits unreasonable preferences or disadvantages in rates and services. Although KRS 278.030(3) permits reasonable classifications of customers and rates based on the nature, quality, quantity, and other characteristics of utility service, Silas's assumption concerning industrial customers' ability to pass along increased expenses does not establish the cost of providing wastewater service to those customers. Nor does it provide a basis for assigning them 40 percent of Bluegrass's consolidated wastewater revenue requirement.

The Commission has previously rejected proposals to establish utility rates based on customers' income. In a proceeding involving Kentucky Power Company, the Commission considered a proposal to establish different residential rates based on household income.⁶⁵ In rejecting that approach, the Commission observed that applying income-based distinctions consistently would require similar treatment of other customer classes: "Similarly, commercial and industrial customers' rates would have to be set based on income levels."⁶⁶ The Commission's reasoning is equally relevant to Bluegrass's reliance on commercial and industrial customers' perceived ability to pass increased wastewater expenses along to their customers. Such assumptions about customers' financial circumstances do not establish the costs attributable to providing

⁶⁵ Case No. 91-066, *Application for Adjustment of Electric Rates of Kentucky Power Company* (Ky. PSC Oct. 31, 1991), Order at pages 1 and 2.

⁶⁶ *Id.*, at pages 7 and 8.

utility service or justify assigning a disproportionate share of the revenue requirement to a particular customer class.

The Commission reaffirmed these principles in *Water Service Corp. of Kentucky*, where it rejected a proposed discounted rate for low-income residential customers as a matter of law. Applying KRS 278.030(3) and KRS 278.170(1), the Commission concluded that it lacked statutory authority to establish a separate residential rate classification based on income. The Commission further observed that it had routinely rejected income-based residential rate distinctions, citing its earlier decisions in *Kentucky Power* and *Kentucky Utilities*.⁶⁷

Bluegrass has presented no evidence establishing that Delaplain's non-residential customers possess the financial capacity to absorb the proposed increases or can recover those expenses through higher prices. (In fact, the obvious risk is that such a pricing approach will result in a scaling back of operations or the relocation of some of the customers out of the Bluegrass service territory.) In any event, their presumed ability to do so does not establish the costs attributable to their wastewater service. Bluegrass's reliance on that consideration provides no evidentiary support for assigning these customers 40 percent of its consolidated wastewater revenue requirement.

The Commission has consistently recognized rate continuity and gradualism as important considerations in establishing reasonable utility rates. In *Kentucky Power Co.*,

⁶⁷ Case No. 2020-00160, *Electronic Application of Water Service Corporation of Kentucky for a General Adjustment in Existing Rates* (Ky. PSC Dec. 8, 2020), Order at pages 38 and 39 & footnote 162.

the Commission explained that “[s]etting rates equal to cost-of-service is the Commission’s goal, but this goal must be tempered by the equally important principles of rate continuity and gradualism.”⁶⁸ The Commission thus recognized that even adjustments supported by cost-of-service considerations must account for the magnitude of the resulting changes in customer rates.

The Commission applied these principles more recently in *Kentucky-American Water Company*. In evaluating the proposed allocation of the utility’s revenue requirement among customer classes, the Commission gave “substantial weight to the evidence from the COSS” while recognizing “the importance of gradually moving towards the cost-based rates.”⁶⁹ The Commission ultimately approved the proposed allocation with modifications, balancing cost-of-service evidence with considerations of gradualism and rate design.⁷⁰ Similarly, in *Licking Valley Rural Electric Cooperative Corp.*, the Commission gave substantial weight to the results of a cost-of-service study but nevertheless rejected the utility’s proposed revenue allocation as unreasonable. The Commission recognized that gradualism is an appropriate ratemaking principle that “mitigates the financial impact of rate increases on customers while providing reasonable rates,” and modified the allocation between residential and small

⁶⁸ Case No. 91-066, *Application for Adjustment of Electric Rates of Kentucky Power Company* (Ky PSC Oct. 31, 1991), Order at page 13.

⁶⁹ Case No. 2025-00122, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates* (Ky. PSC Dec. 16, 2025), Order at page 71

⁷⁰ Case No. 2025-00122, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates* (Ky. PSC Dec. 16, 2025), Order at page 71.

commercial customers accordingly.⁷¹ These decisions establish that cost-of-service evidence is an important consideration in rate design, but they do not displace the Commission's responsibility to evaluate the reasonableness of the resulting increases.

The Commission has also declined to approve differential rate treatment without adequate supporting analysis. In *City of Lancaster*, Case No. 2023-00424, the Commission addressed the absence of sufficient calculations supporting proposed differences in customer rates and considered a phased approach to implementing rate changes.⁷² That decision further illustrates the Commission's consideration of both the evidentiary support for proposed rates and the manner in which rate changes are implemented.

Bluegrass proposes increasing the average monthly wastewater bill for Delaplain's non-residential customers by 315.4 percent, without a cost-of-service study or other quantitative analysis demonstrating that those customers are responsible for 40 percent of its consolidated wastewater revenue requirement. The magnitude of that increase, coupled with the absence of evidence substantiating the underlying allocation, is inconsistent with the Commission's established consideration of rate continuity and gradualism.

Bluegrass has not demonstrated that the proposed 315.4 percent increase in the average monthly wastewater bill for Delaplain's non-residential customers is just and

⁷¹ Case No. 2024-00211, *Electronic Application of Licking Valley Rural Electric Cooperative Corporation for a General Adjustment of Rates and Other General Relief* (Ky. PSC June 6, 2025), Order at pages 16 through 20.

⁷² Case No. 2023-00424, *Electronic Tariff Filing of the City of Lancaster to Increase the Wholesale Rate Charged to Garrard County Water Association* (Ky. PSC Sept. 26, 2024), Order at pages 7 and 8.

reasonable. The Company has not provided a cost-of-service study or other quantitative analysis establishing that these customers are responsible for 40 percent of its consolidated wastewater revenue requirement. Instead, Bluegrass relies on capital improvements that its engineering testimony does not attribute primarily to non-residential wastewater characteristics and assumptions concerning industrial customers' ability to pass increased expenses along to their own customers.

Under KRS 278.190(3), Bluegrass bears the burden of demonstrating that its proposed rates are just and reasonable. The Commission's established consideration of cost-of-service principles, rate continuity, and gradualism provides further grounds for rejecting an increase of this magnitude without adequate supporting evidence. Scott County therefore requests that the Commission reject Bluegrass's proposed 40% allocation and instead distribute the wastewater revenue requirement more broadly across the consolidated wastewater customer base, consistent with the requirements of KRS 278.030 and KRS 278.170.

CONCLUSION

In its most recent prior application, Bluegrass sought rate design allocation percentages between unmetered and metered service (with the only customers then receiving metered service being commercial customers in the Delaplain service area) to an allocation of 77.28 percent for unmetered service and 22.72 percent for metered service.⁷³ When asked to provide the evidentiary support for the above allocation percentages, the Company stated, in that proceeding and at pertinent part, "[T]he

⁷³ Case No. 2022-00432, Application, Lyons Direct Testimony (filed Feb. 27, 2023), at page 7.

Company plans to **expand** its wastewater treatment facilities in Delaplain to meet a growing demand for wastewater treatment services, a significant portion of which is from metered service, commercial and industrial customers (emphasis added)."⁷⁴ In the instant case, the narrative concerning the revenues necessary to support the Delaplain service area have changed with Bluegrass advancing different and competing rationales regarding the Delaplain facilities. However, looking beyond the various reasons, then and now, the substance of the Bluegrass position in the instant case is that Delaplain non-residential customers' ability to pay and pass-along any rate increase is the pole star. As discussed above, this is not a lawful or reasonable ratemaking approach. Scott County seeks fair, just, and reasonable rates for all customers within Scott County, both residential and nonresidential. The affordability-based approach sought by Bluegrass is a very dangerous animal to unleash. There is a remarkable risk that customers who are called upon to pay rates that do not have a reasonable basis in the cost of their service will reduce operations or relocate. There is likewise the difficulty this approach poses in terms of attracting any new nonresidential customers to the Delaplain service area. The potential impact on the revenues of Bluegrass of such events is both material and harmful to Bluegrass and the remaining customers.

⁷⁴ Case No. 2022-00432, Bluegrass Water Response to Office of the Attorney General First Request for Information (May 12, 2023), Item 65.