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

RESPONSE 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 27th 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

RESPONSE TO BLUEGRASS WATER

Scott County submits this reply to address Bluegrass Water's arguments concerning the proposed allocation of 40 percent of its consolidated wastewater revenue requirement to Delaplain's non-residential customers. As discussed below, the engineering testimony cited by Bluegrass Water does not establish that the strength and characteristics of non-residential wastewater were primarily responsible for the capital improvements undertaken at Delaplain. Moreover, Bluegrass Water's post-hearing brief fails to explain how the evidence concerning those discharges and the resulting treatment difficulties supports assigning $2,158,039 of its consolidated wastewater revenue requirement to those customers. Bluegrass Water has therefore failed to establish a reasonable basis for its proposed allocation.

1. *Bluegrass's Engineering Evidence Does Not Establish That Industrial Wastewater Necessitated the Delaplain Rehabilitation.*

In its post-hearing brief, Bluegrass Water contends that the substantial capital improvements at Delaplain were necessitated primarily by the strength and characteristics of wastewater discharged by non-residential customers.[1] In support of that position, Bluegrass Water emphasizes that Delaplain's original treatment process was designed for residential wastewater, that commercial and industrial customers discharge oil, grease, and other substances into the system, and that those discharges have interfered with the facility's treatment processes.[2] The question, however, is

[1] Bluegrass Water Post-Hearing Brief (filed October 16, 2026) ("Bluegrass Water Post-Hearing Brief"), at pages 54 through 56.

[2] *Id*.; Application Exhibit 8, Direct Testimony of Jake Freeman ("Freeman Direct Testimony"), (filed Dec.11, 2025), at page 58.

whether Bluegrass Water has established that those discharges were primarily responsible for the capital improvements undertaken at the facility.

Bluegrass Water's own engineering testimony does not establish that non-residential wastewater discharges necessitated the Delaplain rehabilitation. Although Jacob Freeman acknowledged that improper chemical discharges can disrupt biological treatment and impose additional operating costs, he distinguished those effects from the facility's deteriorating infrastructure.[3] Freeman testified that the "lack of reinvestment, the corrosion, [and] the equipment not operating" were separate from improper chemical discharges, which "wouldn't necessarily cause those issues."[4] When asked whether chemical discharges had affected the cost of the Delaplain construction project, Freeman stated that he was not aware of any such impact.[5] Finally, when asked whether the repairs and upgrades described in his direct testimony were driven by the strength and characteristics of the wastewater treated at Delaplain, Freeman answered, "No."[6]

Freeman also identified similar conditions at Herrington Haven and Woodland Acres, two wastewater systems serving exclusively residential customers.[7] He attributed deterioration and treatment deficiencies at those facilities to inadequate reinvestment,

[3] Transcript of Evidence (Sept. 21, 2026), Day 1, at 4:19:41–4:21:02 ("Transcript Day 1").

[4] *Id*. at 4:20:30–4:21:03

[5] *Id*. at 4:21:55–4:22:38.

[6] *Id*. at 4:23:27–4:23:45.

[7] *Id*. at 4:16:55–4:18:36.

poor maintenance, corrosion, and inflow and infiltration, and expressly acknowledged that Woodland Acres experienced problems similar to those at Delaplain.[8] These conditions demonstrate that the infrastructure and treatment deficiencies requiring rehabilitation at Delaplain were not unique to facilities receiving industrial wastewater.

Bluegrass Water's post-hearing brief repeatedly draws conclusions about the necessity of the Delaplain improvements that are not established by the testimony it cites. Bluegrass Water first asserts that the improvements were necessary to accommodate commercial and industrial customers because the original treatment process was designed for residential wastewater.[9] However, the cited testimony establishes only that the original process was designed for residential wastewater and that Delaplain now serves commercial and industrial customers; Freeman did not testify that those customers necessitated the improvements.[10] Bluegrass Water similarly asserts that the strength and characteristics of non-residential wastewater necessitated the capital improvements, citing Freeman's testimony concerning the effects of improper discharges on biological treatment.[11] As discussed above, however, Freeman expressly distinguished those operational effects from the infrastructure deficiencies addressed by the rehabilitation. Although non-residential customers contribute substantial wastewater

[8] *Id*.

[9] Bluegrass Water Post-Hearing Brief at page 15.

[10] Transcript Day 1 at 4:52:10–4:52:52.

[11] Bluegrass Water Post-Hearing Brief at pages 55 and 56.

volumes, Freeman also acknowledged that excessive flows resulted from both customer discharges and inflow and infiltration.[12]

2. *Bluegrass Still Has Not Explained How Its Evidence Supports Allocating 40 Percent of the Consolidated Wastewater Revenue Requirement to Delaplain's Non-Residential Customers.*

Bluegrass Water argues that because the Delaplain rehabilitation is a primary driver of its proposed rate increase, principles of cost causation support allocating the costs of that project to Delaplain's non-residential customers.[13] Even assuming that non-residential wastewater contributed to the need for the improvements, however, Bluegrass Water has not explained how that contribution supports assigning 40 percent of its entire consolidated wastewater revenue requirement, or $2,158,039, to those customers. The evidence that Delaplain's non-residential customers discharge substantial volumes of wastewater and may have contributed to treatment difficulties does not establish what portion of the rehabilitation costs they caused, much less how those costs translate into 40 percent of the consolidated revenue requirement. As discussed in Scott County's opening brief, Bluegrass Water performed no formal analysis or modeling to derive that allocation.[14] Its post-hearing brief supplies no explanation for the selection of that percentage.

[12] Transcript Day 1 at 4:09:38–4:11:07.

[13] Bluegrass Water Post-Hearing Brief at pages 55 and 56.

[14] Bluegrass Water Responses to Scott County's Third Request for Information, (filed July 2, 2026), Item 3-2(a)–(b).

Bluegrass Water also criticizes Michael Gorman's recommended allocation on the ground that it would impose excessive costs on residential customers.[15] But the residential rate impact of Gorman's recommendation does not establish the reasonableness of Bluegrass Water's proposed allocation. Although the Commission may consider rate impacts in determining an appropriate rate design, Bluegrass Water must still demonstrate a reasonable basis for assigning 40 percent of the consolidated wastewater revenue requirement to Delaplain's non-residential customers. Under KRS 278.190(3), the burden of proving that its proposed rates are fair, just, and reasonable rests with Bluegrass Water. Criticism of Gorman's alternative does not satisfy that burden.

Bluegrass Water also relies on the Commission's prior approval of the Delaplain improvements to argue that it should recover the full cost of its investment.[16] Scott County does not challenge the Commission's determination that the improvements were necessary or contend that Bluegrass Water should be denied recovery of prudently incurred capital costs. The Commission's CPCN Orders address the need for the improvements and whether the proposed construction represented a reasonable alternative for achieving regulatory compliance.[17] Those determinations do not establish what portion of the resulting revenue requirement should be assigned to Delaplain's

[15] Bluegrass Water Post-Hearing Brief at page 56.

[16] Bluegrass Water Post-Hearing Brief at pages 15 through 20.

[17] *In the Matter of: Electronic Application of Bluegrass Water Utility Operating Company, LLC*, Case No. 2022-00104, Order (Ky. PSC Mar. 30, 2023) (granting Bluegrass Water's request for a CPCN for the proposed improvements at Delaplain); *see also* Order (Ky. PSC May 9, 2024) (granting Bluegrass Water's request for a deviation from the originally approved plans at Delaplain)

non-residential customers. Accordingly, the prior CPCN approvals do not resolve the allocation question presented in this rate case.

CONCLUSION

For these reasons, Scott County respectfully requests that the Commission reject Bluegrass Water's proposed allocation of 40 percent of its consolidated wastewater revenue requirement to Delaplain's non-residential customers. Bluegrass Water has not established that the capital improvements at Delaplain were primarily necessitated by non-residential wastewater discharges or demonstrated a reasonable basis for assigning $2,158,039 of its consolidated wastewater revenue requirement to those customers. Accordingly, the proposed allocation has not been shown to be fair, just, and reasonable under KRS 278.190(3).