

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF BLUEGRASS	)	
WATER UTILITY OPERATING COMPANY, LLC	)	CASE NO.
FOR AN ADJUSTMENT OF WATER AND	)	2025-00354
SEWAGE RATES	)	

THE ATTORNEY GENERAL’S POST-HEARING BRIEF

The Attorney General of the Commonwealth of Kentucky (“Attorney General”), through his Office of Rate Intervention, submits the following Post-Hearing Brief to the Kentucky Public Service Commission (“Commission”) in the above-styled matter.

STATEMENT OF THE CASE

Bluegrass Water Utility Operating Company, LLC (“Bluegrass Water” or the “Company”) is a limited liability company organized under the laws of Kentucky.¹ The Company is a subsidiary of Central States Water Resources, LLC (“CSWR”), a Missouri-based company. Bluegrass Water is a utility subject to the rates and service jurisdiction of the Commission.²

Bluegrass Water serves wastewater and drinking water customers in Boyle, Bullitt, Calloway, Campbell, Franklin, Garrard, Graves, Hardin, Jessamine, Madison, Marshall, McCracken, Oldham, Scott, and Shelby counties.³ At the time of the application, Bluegrass Water had 2,490 wastewater connections and 322 drinking water connections.⁴ In an updated

¹ Application, paragraph 7.

² Application, paragraph 8.

³ *Id.*, paragraph 11.

⁴ *Id.*, paragraph 12.

response to Staff DR 4-8, the Bluegrass Water advised that it has 2,731 customer accounts.⁵ The business model of Bluegrass Water is to intentionally acquire systems that are in poor condition and perform needed rehabilitation.⁶ In this rate case, Bluegrass Water is requesting an increase of wastewater revenues from \$2,662,981 to \$5,346,144⁷ and an increase in water revenues of \$100,001 to \$361,378.⁸ To achieve this increase in revenue, the Company proposes increase in rates, along with an unification of rates of recently acquired systems.⁹ For residential sewer rates, the Company is requesting an increase of the monthly customer charge from \$77.77 to \$111.72.¹⁰ For drinking water rates, the Company seeks to increase the monthly customer charge from \$77.63 to \$105.85.¹¹ Additionally, the Company seeks to increase the monthly commercial charge from \$198.43 to \$279.31.¹²

In 2019, Bluegrass Water began operations in Kentucky.¹³ In 2020, the Company filed a request with the Commission seeking a unified monthly residential customer charge of \$96.14 for wastewater rates and \$105.84 per month for drinking water rates.¹⁴ Prior to the rate case, residential customers were paying flat rates that ranged from \$15.00 to \$55.85 per month.¹⁵ The Attorney General intervened in that rate case, contesting several of the requests by Bluegrass Water.¹⁶ In the Final Order, the Commission set the monthly residential charge to \$85.97.¹⁷

⁵ Exhibit PSC 4-8 Updated Exhibit PSC 1-28 & 1-29, filed July 2, 2026.

⁶ Application, paragraph 1,2.

⁷ Redlined Testimony of Brent Thies at 14.

⁸ *Id* at 15.

⁹ Application, paragraph 18.

¹⁰ Supplemental Response to AG 1-35.

¹¹ Supplemental Response to AG 1-38.

¹² Supplemental Response to AG 1-37.

¹³ Application, paragraph 8.

¹⁴ *Electronic Application of Bluegrass Water Utility Operating Company, LLC for an Adjustment of Rates and Approval of Construction, Case No. 2020-00290*, Order of August 2, 2021 at 5.

¹⁵ *Id*.

¹⁶ *Id* at 1.

¹⁷ *Id*, Appendix B, at 1. Barring the Delaplain, Herrington, Haven, Spingcrest, and Woodland Acres systems.

Subsequently, Bluegrass Water initiated another rate increase in 2022, which was decided on February 14, 2024. In that case, the Company requested an increase of monthly customer charges for residential wastewater rates from \$85.97 to \$99.37, a 15% increase along with unification of rates for other systems that were acquired.¹⁸ Again, the Attorney General intervened in the case, opposing the proposed rate increase.¹⁹ Ultimately, in the Final Order, the Commission *lowered* the monthly residential charge from \$85.97 to \$77.77.²⁰

Since the last rate case, Bluegrass Water has acquired three wastewater systems, Commonwealth Wastewater, Yung Farms Estates, and Magruder Village. Presently, the customers on these systems are still paying the rates in place at the time of purchase. As part of the application, Bluegrass Water is requesting that these rates be unified.²¹ The current monthly rate and the corresponding increase, if the new rates are approved for the systems, is as follows:

Yung Farms: \$60.00 fixed charged, a 86% increase²²

Magruder Viller: \$35.00 fixed charge, a 219% increase²³

Commonwealth Wastewater: \$34.92 fixed charge, 219% increase²⁴

As previously conveyed by the Attorney General's office, Bluegrass Water should be commended for rehabilitating troubled wastewater and drinking water systems. While those efforts are laudable, the Attorney General seeks to ensure that rates remain fair for ratepayers.

¹⁸ Case No. 2022-00432, Electronic Application of Bluegrass Water Utility Operating Company, LLC for an Adjustment of Sewage Rates (KY. PSC February 14, 2024) Final Order at 1,2.

¹⁹ *Id* at 1.

²⁰ *Id* at 96.

²¹ Application at 18.

²² Exhibit PSC 5-24 Consolidated Wastewater Tarff – Redlined, at 9.

²³ Exhibit PSC 5-24 Consolidated Wastewater Tarff – Redlined, at 10.

²⁴Case No. 2023-00181, *Electronic Joint Application of Bluegrass Water Utility Operating Company, LLC For Approval of Acquisition and Transfer of Ownership and Control of Assets of Commonwealth Wastewater Systems, LLC, Yung Farm Estate Homeowners' Association, Inc., And Moon River Marina and Resort, LLC* (Ky. PSC Sept. 22, 2023) Final Order at 2.

Pursuant to KRS 278.030(1) and just as with all other utilities operating within the Commonwealth, Bluegrass is authorized to, “demand, collect and receive fair, just and reasonable rates.” While ratepayers deserve healthy systems, they must be shielded from unfair rates and rate shock.

In order to arrive at fair, just, and reasonable rates in this case, the Commission should:

- (1) reaffirm its commitment to gradualism and phase in any increase it approves;
- (2) limit the return on equity to a reasonable amount consistent with the Commission's recent decisions;
- (3) adopt the agreed amortization of the remaining balance of prior-case rate-case expense;
- (4) adopt the agreed increase of wastewater late-fee revenue to the 2025 actual level;
- (5) return the excess late fees collected since the last case to customers as a credit amortized over three years;
- (6) reflect the Company's water late-fee revenue in the revenue requirement;
- (7) allow recovery of only reasonable and adequately supported rate-case expenses;
- (8) adjust the allowed healthcare expense to reflect the current Bureau of Labor Statistics employer-contribution average;
- (9) reject the Company's assumption that allocated expenses will steadily increase;
- (10) reject the Company's unsupported one-percent bad-debt factor;
- (11) disallow unaccounted-for water loss expense above the fifteen-percent regulatory cap;
- (12) reject the 1/8 cash-working-capital method as neither known nor measurable;
- (13) disallow recovery of the Randview stranded investment;
- (14) exclude any improperly included expenses, including lobbying costs; and
- (15) direct an on-site inspection of the Company's systems before approving any increase, reserving a management audit under KRS 278.255 should the inspection warrant one.

ARGUMENT

- I. The Company has agreed to amortize the remaining balance of case expenses arising from the prior rate case.**

In his testimony, the Attorney General's expert witness, John Defever recommended that the remaining balance from the prior rate case be fully amortized over a three-year period.²⁵ In the rebuttal testimony of Company witness Caitlin O'Reilly, Bluegrass Water agreed with this recommendation.²⁶ Because this issue is no longer contested, the Attorney General respectfully requests the Commission to adopt the recommendation by Mr. Defever and allow for a three-year amortization for the adjusted balance at the time of the Final Order.

II. Bluegrass Water agrees that the wastewater late-fee revenue should be increased to the 2025 actual level.

In the forecasted test period, Bluegrass Water included only a normalized \$14,244 of wastewater late-fee revenue²⁷, which was the amount the Commission had previously authorized in the last rate case.²⁸ In his testimony, the Attorney General's witness, John Defever, recommended that the Commission instead use the late fees obtained by Bluegrass Water in 2025, which totaled \$57,708, as the wastewater revenue. Mr. Defever's adjustment as proposed raises the late-fee revenue reflected in the revenue requirement by \$43,464.²⁹ Per the rebuttal testimony of Company witness Brent Thies, Bluegrass Water accepted this calculation as appropriate.³⁰ Given this acceptance, the Attorney General respectfully requests the Commission to adopt this recommendation and adjustment.

III. Bluegrass Water's proposed increases contradict the principles of gradualism and risks rate shock.

Bluegrass Water's application proposed substantial increases to all customer classes.

²⁵ Redlined Errata Testimony of John Defever, CPA, at 13.

²⁶ Rebuttal Testimony of Caitlin O'Reilly, at 9.

²⁷ Response to AG 1-121.

²⁸ Response to AG 4-20.

²⁹ Errata Testimony of John Defever, at 8.

³⁰ Rebuttal Testimony of Brent Thies, at 10.

For residential wastewater customers, the Company has proposed increasing the monthly customer charge from \$77.77 to \$111.72 or 43.7%³¹. For residential drinking water customers, the company has proposed increasing the monthly customer charge from \$77.63 to \$105.84, or 36.3%.³² Nowhere is the risk of rate shock clearer than for the customers of the recently acquired Yung Farm Estates, Commonwealth Wastewater, and Magruder Village systems, for which the Company seeks to unify the monthly customer charges with those of its other systems.³³ Residents of Yung Farm Estates are currently paying \$60.00 a month for wastewater and would see their rates increase by over 86% if the Company's requested rate increase were granted.³⁴ Ratepayers belonging to Commonwealth Wastewater and Magruder Village have been paying \$34.92³⁵ and \$35.00³⁶ respectively for wastewater. If Bluegrass Water is granted their request, these rates will be increased by 219%.

It is the established practice of the Commission to follow the principles of gradualism in order to limit the financial impact rate increases will have on customers, and to prevent rate shock.³⁷ As already discussed earlier, as systems have been acquired by Bluegrass Water, ratepayers have seen significant increases to their rates. Wastewater and drinking water

³¹ Supplemental Response to AG 1-35.

³² Supplemental Response to AG 1-36.

³³ Application, paragraph 18.

³⁴ Exhibit PSC 5-24 Consolidated Wastewater Tarff – Redlined, at 9.

³⁵ Case No. 2023-00181, *Electronic Joint Application of Bluegrass Water Utility Operating Company, LLC For Approval of Acquisition and Transfer of Ownership and Control of Assets of Commonwealth Wastewater Systems, LLC, Yung Farm Estate Homeowners' Association, Inc., And Moon River Marina and Resort, LLC* (Ky. PSC Sept. 22, 2023) Final Order at 2.

³⁶ Exhibit PSC 5-24 Consolidated Wastewater Tarff – Redlined at 10.

³⁷ Case No. 2014-00396, *In the Matter of Application of Kentucky Power Company for: (1) A General Adjustment of its Rates for Electric Service; (2) An Order Approving its 2014 Environmental Compliance Plan; (2) An Order Approving its Tariffs and Riders; and (4) An Order Granting All Other Required Approvals and Relief*, (Ky. PSC June 22, 2015) (“the Commission has long employed the principle of gradualism”); See also Case No. 2000-00080, *In the Matter of: The Application of Louisville Gas & Electric Company to Adjust its Gas Rates and to Increase its Charges for Disconnecting Service, Reconnecting Service and Returned Checks* (Ky. PSC Sept. 27, 2000) (“the Commission is adhering to the rate-making concepts of continuity and gradualism in order to lessen the impact of these increases on the customers that incur these charges.”)

ratepayers will be paying over \$100 a month, if Bluegrass Water's request is awarded. The Attorney General is concerned that the increase proposed by Bluegrass Water will have significant impact on ratepayers, particularly with fixed incomes or those looking to sell their property. The effects of this increase could also negatively impact commercial and industrial customers, hindering economic development.

In its Final Order in Case No. 2014-00342, the Commission determined Mountain Water District ratepayers would suffer rate shock if a requested 169% increase to wastewater customers was implemented.³⁸ To lessen the impact, the Commission ordered the increase phased in over a two-year period in three phases.³⁹ The Attorney General requests that the Commission implement a similar phase-in if it awards any increase to Bluegrass Water. The Attorney General urges that consideration be given to the ratepayers of the recently acquired Magruder Village and Commonwealth Wastewater systems, whose bills may be increased by approximately 219%. A jump of 219% in rates is not in line with gradualism. The Attorney General also recommends that the Commission consider the total increases all Bluegrass Water ratepayers have received since 2019, including the rates they previously paid before their systems were acquired. Phasing in any increase for these customers would honor the Commission's commitment to gradualism and shield the Company's most vulnerable customers from rate shock, while still allowing Bluegrass Water to recover the revenue the Commission ultimately finds reasonable.

Bluegrass Water has stated that its ratepayers have benefited from economies of scale.⁴⁰ According to the Company, the economies of scale have allowed for rates to be

³⁸ Case No. 2014-00342, *Application of Mountain Water District for an Adjustment of Water and Sewer Rates*; (Ky. PSC October 9, 2015), Order at 32.

³⁹ *Id* at 32, 33.

⁴⁰ Redlined Testimony of Brent Thies at 27.

smaller than if their services were provided by smaller utilities.⁴¹ Nonetheless, the Attorney General believes that the benefits of the economies of scale are not being adequately reflected in the rates proposed by Bluegrass Water. If Bluegrass Water's economies of scale are producing the cost savings the Company claims, increases of 43% and 36% are difficult to reconcile with the Company's representations that those efficiencies translate into lower rates. At a minimum, the magnitude of the proposed increases demonstrates that the Company has not shown that its claimed economies of scale have sufficiently mitigated the rate shock facing its customers. If Bluegrass Water's claimed economies of scale are insufficient to prevent rate increases of this level now, the Commission should be mindful of the potential for even greater rate shock in future rate proceedings. If insufficient economies of scale continue to prevent further rate increases, it might become prudent for the Commission to order a management audit pursuant to KRS 278.255 to identify this failed materialization. This would be an extraordinary and costly step as discussed below; it should not be taken unless the Commission determines it could, in the end, be cost-effective.⁴²

The Attorney General urges the Commission to measure the rate increase with the impact it will have on ratepayers. Bluegrass Water customers should only be required to pay for rates that are fair, just and reasonable, not rates that create an undue burden. It is undeniable that the ratepayers can benefit from improved systems that are brought into compliance but the Commission must also weigh the impact of what the increased rates will have on all ratepayers and consider what rates are too high. The Commission should further

⁴¹ *Id* at 30.

⁴² KRS 278.255(2) authorizes the Commission to "provide for management or operations audits, or both, of any utility under its jurisdiction on a regular or irregular schedule to investigate all or any portion of the management and operating procedures or any other internal workings of the utility." Subsection (3) further provides that the cost of any such audit is borne by the utility and included in its cost of service. (Ky. Rev. Stat. Ann. § 278.255)

compare the average monthly rates paid by non-Bluegrass Water customers. The Attorney General respectfully requests the Commission to continue to rely upon the principles of gradualism when determining what increase, if any, to grant.

IV. The Commission should limit the Return on Equity to a reasonable amount.

Bluegrass Water has requested the Commission authorize an 11.50% return on equity. This figure sits well above the returns this Commission has awarded Kentucky water utilities in recent years, including the 10.10% awarded in the previous Bluegrass Water rate case⁴³ or the 9.70% awarded in the 2025 Kentucky American Water rate case.⁴⁴

Company witness Matthew Howard built his recommendation on three standard models. His Discounted Cash Flow analysis yielded results between 9.34% and 9.68%,⁴⁵ and his remaining models placed the reasonable cost of equity, in his own summary, in a range of 10.00% to 11.00%. Additionally, he further added a “risk premium” of 1.00, which lifted his range to 11.00% to 12.00%. According to Howard, this premium is based upon the size of Bluegrass Water and risks.⁴⁶

The Commission has already addressed and rejected the argument for risk premiums in the last Bluegrass Water case. In 2022-00432, Bluegrass Water sought an 11.65% return on equity that contained a “specific additional 1.00 percent adjustment for business risk.”⁴⁷ The Commission declined to adopt it, explaining that it “continues to reject the use of flotation cost adjustments, financial risk adjustments and explicit size adjustments in the ROE

⁴³ Case No. 2022-00432, *Electronic Application of Bluegrass Water Utility Operating Company, LLC for an Adjustment of Sewage Rates* (KY. PSC February 14, 2024) Final Order at 91.

⁴⁴ Case No. 2025-00122, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates* (KY. PSC December 16, 2025) Final Order at 65.

⁴⁵ Testimony of Matthew Howard, at 7.

⁴⁶ *Id* at 8.

⁴⁷ Case No. 2022-00432, *Electronic Application of Bluegrass Water Utility Operating Company, LLC for an Adjustment of Sewage Rates* (KY. PSC February 14, 2024) Final Order at 87.

analyses.”⁴⁸ Though the Commission noted that it would account for Bluegrass Water’s acquisitions of distressed systems, it awarded the Company an ROE of 10.10%; this was not an acceptance of the practice of adding risk premiums.⁴⁹ As of 2025, the Commission echoed this sentiment, when in its final order for the 2025 Kentucky-American Water case, it rejected the proposed 10.75% ROE request. Per the order, “the Commission reiterates that it continues to reject the use flotation cost adjustments, financial risk adjustments, and size adjustments in the ROE analyses.”⁵⁰ Taken together, the Commission’s recent determination place reasonable returns for Kentucky water utilities in the vicinity of 9.70% to 10.10%, a range that does not include the high 11.50% requested by Bluegrass Water.

The Attorney General therefore urges the Commission to decline Bluegrass Water’s requested 11.50% ROE. Instead, the Commission should approve a reasonable, market-based return on equity that is fair and just for ratepayers.

V. The Commission should return the excess late fees to customers as an amortized credit.

In Bluegrass Water's last rate case, the Commission ordered that any late fees invoiced in excess of the \$14,244 included in the test period be recorded as a regulatory asset or liability.⁵¹ Per the testimony of Company witness Brent Thies, Bluegrass Water late fees exceeded the benchmark by \$32,671 in 2024 and \$43,464 in 2025.⁵² The Company further provided documentation showing the additional late-fee overcollection for 2026, bringing the

⁴⁸ *Id* at 91.

⁴⁹ *Id.*

⁵⁰ Case No. 2025-00122, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates* (KY. PSC December 16, 2025) Final Order at 63.

⁵¹ Case No. 2022-00432, *Electronic Application of Bluegrass Water Utility Operating Company, LLC for an Adjustment of Sewage Rates* (KY. PSC February 14, 2024) Final Order at 44.

⁵² Redlined Testimony of Brent Thies at 52

total amount tracked as a regulatory liability to \$87,394.⁵³ This amount was confirmed by Mr. Thies in his rebuttal testimony.⁵⁴

Based on the information provided, the Attorney General's expert witness, John Defever, recommended that the excess late fees be amortized and returned to ratepayers as a credit over a three-year period.⁵⁵ Bluegrass Water rejected this recommendation and instead requested that the excess fees be kept, arguing that they were appropriately collected and consistent with the tariff.⁵⁶ This position is inconsistent with the Commission's previous order which states the following:

Bluegrass Water should track **all** late fees and record them as a regulatory asset or liability to the extent that they **exceed the \$14,244** in late fee revenue Bluegrass Water included in the test period. Within 60 days after the 12-month period following the effective date of the rates approved in this case, Bluegrass Water shall report to the Commission the monthly amount of late fees invoiced (less any refund required by this order), the monthly number of occurrences of late fees, and the monthly total number of Bluegrass Water customers for the 12-month period, and **shall propose a method for timely distribution of the accumulated amount to its customers.**⁵⁷

Bluegrass Water's response does not answer the order. Whether the late fees were collected appropriately under the tariff is beside the point; the Commission already determined that every dollar of late-fee revenues above the \$14,244 collected in rates is a regulatory liability which must be returned to ratepayers, not retained by Bluegrass Water. More fundamentally, the Commission did not merely request Bluegrass Water to track late fees past the benchmark, it also required them to provide a method to timely distribute the

⁵³ Response to AG DR 4-18, Exhibit OAG 4-18 – Late Payment Fee Revenue Update.

⁵⁴ Rebuttal Testimony of Brent Thies, at 11.

⁵⁵ Redlined Errata Testimony of John Defever, at 8.

⁵⁶ Rebuttal Testimony of Brent Thies, at 11.

⁵⁷ Case No. 2022-00432, *Electronic Application of Bluegrass Water Utility Operating Company, LLC for an Adjustment of Sewage Rates* (KY. PSC February 14, 2024) Final Order at 100.

accumulated amount to ratepayers. Bluegrass Water now argues that it should not have to. Respectfully, this issue has already been decided by the Commission. Bluegrass Water requests entitlement to retain funds that the Commission has already designated for return to ratepayers.

The appropriate remedy is to return the \$87,394 to ratepayers as an amortized credit. Amortizing the excess as a customer credit honors the prior order's distribution directive, returns the overcollection to the customers who paid it, and does so in a measured manner that avoids any single-year rate impact. The Attorney General respectfully requests that the Commission reject the Company's proposal to retain the excess late fees and order the \$87,394 returned to ratepayers as a credit amortized over three years.

VI. Water late-fee revenue must be reflected in the revenue requirement.

Bluegrass Water asks the Commission to approve a new ten-percent late payment fee for its drinking water customers⁵⁸, but it did not count any revenue from that fee in its forecasted test period.⁵⁹ Nonetheless, the Bluegrass Water estimated that it would have collected \$5,023 in late fees from November 2024 through October 2025 had the fee been in place.⁶⁰ And in response to the Attorney General's Fourth Request for Information, No. 21, the Company calculated that it would have received \$5,120 in late fees in 2025.⁶¹

Using the information available, the Attorney General's witness, John Defever, recommended that the Commission reflect the 2025 estimate, \$5,120, as an increase to water revenue in the forecasted test period.⁶² Bluegrass Water, however, contests this adjustment.

⁵⁸ Redlined Testimony of Brent Thies, at 48.

⁵⁹ Response to AG DR 1-121.

⁶⁰ Redlined Testimony of Brent Thies, at 53.

⁶¹ Response to AG DR 4-21.

⁶² Redlined Errata Testimony of John Defever, at 8.

In his rebuttal testimony, Company witness Brent Thies argues that water late-fee revenue should be excluded because the fee is not yet in effect, and because, in his view, the past absence of a late fee gave customers no financial incentive to pay on time, so historical payment patterns are the product of different circumstances.⁶³ Neither point withstands scrutiny. That the fee is “not yet in effect” is no answer. The purpose of the adjustment is precisely to reflect the forecasted revenue the new fee will generate, and Bluegrass Water itself asks the Commission to approve that fee in this very case. A charge a company is actively seeking cannot be dismissed as too hypothetical to quantify. Nor is the estimate a mere guess. It applies the proposed ten-percent fee to the actual balances of the water customers who in fact paid late during the measured period, which remains the most known and measurable evidence in the record, with Bluegrass providing nothing in the record that suggests otherwise.

The deterrence theory fails on its own terms, as it is merely speculation and in fact cuts against Bluegrass Water. If the new fee causes some customers to begin paying on time, that behavioral change benefits ratepayers by reducing the collection costs the fee is meant to address, and therefore it is no reason to omit it from rates. Furthermore, Bluegrass Water has offered no data estimating how many customers would change their payment behavior once the fee applies. It has only offered speculation. Bluegrass Water cannot invoke this deterrence theory to resist the most recent, full year estimates it has provided.

Finally, the \$5,120 figure Mr. Defever recommends is more appropriate than the zero Bluegrass Water included in the forecasted test period, and it is the only figure the record will support. The Company offered no competing estimate of the revenue the fee will generate. Faced with a choice between a figure derived from actual customer payment data and

⁶³ Rebuttal Testimony of Brent Thies, at 11.

nothing, the Commission should use the figure. Given this, the Attorney General respectfully requests the Commission to adopt the adjustment made by Mr. Defever.

VII. Ratepayers should only be responsible for reasonable and accurate total case expenses.

It is the Commission's precedent that recovery of rate expenses is not guaranteed, and there must be sufficient evidence to support a finding that the expense is just and reasonable.⁶⁴ Bluegrass has received an ongoing request to provide updated case invoices, which show an accurate amount of expenses paid by the Company.⁶⁵ Additionally, in response to the Attorney General's Third Request for Information, question 92, Bluegrass Water noted that certain rate expenses have been identified as "non-recoverable."⁶⁶ The Attorney General requests that the Commission review the information provided in these data request responses and only grant recovery of rate case costs that are deemed reasonable and necessary, supported by sufficient evidence.

VIII. The Commission should only allow what is reasonable when evaluating Bluegrass Water's healthcare plan.

Bluegrass Water seeks recovery of health insurance premiums, reflecting 99% employer funding, with only 1% paid by employees.⁶⁷ In the previous Bluegrass Water rate case, the Commission ordered an adjustment for healthcare coverage that reflected the Bureau of Labor Statistics average at that time, finding the 99% employer coverage too high.⁶⁸ The

⁶⁴ Case No. 2022-00372, *Electronic Application of Duke Energy Kentucky, Inc. for 1) An Adjustment of the Electric Rates; 2) Approval of New Tariffs; 3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and 4) All Other Required Approvals and Relief* (Ky. PSC Dec. 13, 2022), Order at 4.

⁶⁵ Response to Staff DR 1-32.

⁶⁶ Bluegrass Water's Response to AG 3-92.

⁶⁷ Response to AG 1-39.

⁶⁸ Case No. 2022-00432, *Electronic Application of Bluegrass Water Utility Operating Company, LLC for an Adjustment of Sewage Rates* (KY. PSC February 14, 2024) Final Order at 70-71.

current BLS average supports employer funding of approximately 80%.⁶⁹ Applying that benchmark here, the Attorney General's expert witness, John Defever, calculated a corresponding reduction of \$1,635 to water operations and \$13,283 to wastewater operations.⁷⁰

Bluegrass War did not provide a study showing why employer coverage should exceed the BLS average. In response to AG 1-95(b), the Company offered narrative assertions recruitment and retention, but no study. Ms. O'Reilly's rebuttal argues that the "Company competes for employers in a much broader labor market than regulated utilities alone."⁷¹ That argument does not help Bluegrass Water, as the Attorney General's adjustment is tied to the BLS averages employer contribution, which is itself a nation-wide all-industry benchmark, not just for utilities alone. The BLS benchmark demonstrates that 99% employer funding is not reasonable when the national average employer contribution is approximately 80%.

The Attorney General respectfully requests the Commission to adjust the allowed health care expense to the most current BLS average. The Commission should hold Bluegrass Water to the same standard set in the previous rate case and provide the reduction recommended by Mr. Defever.

IX. The historical data refutes Bluegrass Water's assumption that allocated expenses will steadily increase.

Bluegrass Water included \$454,097 in allocated costs for wastewater services and \$54,318 for drinking water services in the test year⁷², calculating those amounts by applying inflation to the levels of prior years.⁷³ As highlighted by Mr. Defever, an assumed upward

⁶⁹ <https://www.bls.gov/news.release/ebs2.t03.htm>, Table 3.

⁷⁰ Redlined Errata Testimony of John Defever, at 11.

⁷¹ Rebuttal Testimony of Caitlin O'Reilly, at 6.

⁷² Response to AG DR 1-115.

⁷³ Response to AG DR 4-23.

inflation trend is not a known and measurable change; it is a projection, and it is contradicted by Bluegrass Water's own historical data.⁷⁴ The allocated costs reported in response to AG 1-115 do not trend upward at all:

	Sewer	Water
2021		\$40,153
2022		\$37,219
2023	\$439,737	\$38,906
2024	\$553,661	\$66,504
2025	\$437,160	\$52,414

(Source: Response to AG DR 1-115)

As observable in the chart above, the costs increased in half of the year-over-year periods and decreased in the other half for both wastewater and drinking water services. In other words, the costs fluctuate, instead of clearly climbing. In her rebuttal testimony, Ms. O'Reilly argues that the Attorney General's approach assumes historical cost levels remain representative of the costs expected during the rate-effective period and does not adequately account for growth, inflation, additional compliance obligations, and changes in operational requirements.⁷⁵ The historical data suggests otherwise. The Company's premise that growth, inflation, and added obligations will drive allocated expenses higher, is not fully reflected by the data available. The increase assumed is not guaranteed nor is the product of known and measurable data presented in this case.

The Attorney General respectfully requests the Commission to adopt Mr. Defever's recommendation to use the 2025 calendar year amounts, which are known and measurable. This will result in a revenue requirement reduction of \$14,937 for wastewater services, and

⁷⁴ Redlined Errata Testimony of John Defever, CPA at 19.

⁷⁵ Rebuttal Testimony of Caitlin O'Reilly, at 10.

\$1,904 for water services.⁷⁶

X. Bluegrass Water's 1% bad-debt factor is admittedly undocumented and was already rejected by the Commission in the previous rate case.

Bluegrass Water calculated uncollectible expense by applying a flat 1% of gross revenues to its test year. This includes \$2,614 for drinking water services and \$26,979 for wastewater services.⁷⁷ In rebuttal testimony, the Company advised that the 1% methodology, was "reviewed by management and determined to be reasonable and sufficient as a conservative, normalized estimate."⁷⁸ However earlier in response to AG 3-71, Bluegrass Water stated that it does not maintain formal documentation supporting the selection of the 1% bad debt ratio. A projected expense resting on an undocumented rule of thumb cannot satisfy the Company's burden to prove that the cost it seeks to recover is reasonable.

This is not the first time Bluegrass Water has tried, and failed, to support the same 1% methodology. In their previous rate case, the Company used the same 1% method for gross revenues of bad debt.⁷⁹ In that rate case, the Attorney General argued that Bluegrass Water did not provide significant analytical support for this methodology.⁸⁰ Instead, the Attorney General proposed using a methodology using prior written-off accounts.⁸¹ In the Final Order of that rate case, the Commission adopted the Attorney General's position and determined that a 1% allowance was not appropriate. Instead, the Commission reviewed the last three years of actual write-offs, and made adjustments based upon those figures.⁸² Bluegrass Water

⁷⁶ Redlined Errata Testimony of John Defever, CPA at 20.

⁷⁷ Redlined Testimony of Caitlin O'Reilly, at 13, Exhibit 14.

⁷⁸ Rebuttal Testimony of Caitlin O'Reilly, at 10.

⁷⁹ Case No. 2022-00432, *Electronic Application of Bluegrass Water Utility Operating Company, LLC for an Adjustment of Sewage Rates* (KY. PSC February 14, 2024) Final Order at 59.

⁸⁰ *Id* at 60.

⁸¹ *Id* at 59.

⁸² *Id* at 61.

offers no reason for a different outcome in the present-day case.

Mr. Defever recommends the same corrective approach in this case: a three-year average of the ratio of actual net write-offs to revenues, applied to forecasted test-period revenues. For drinking water, he uses 2021, 2022, and 2025, excluding both 2024 and 2023 as anomalies; for wastewater, he uses 2022, 2023, and 2025, excluding the anomalous 2024 figure. This methodology yields reductions of \$2,461 for drinking water and \$26,945 for wastewater, for a combined reduction of \$29,406.⁸³ Attorney General respectfully requests that the Commission adopt Mr. Defever's methodology, consistent with its ruling in the prior rate case and reflective of known and measurable write-off experience rather than the previously rejected 1% estimate.

XI. The Commission should adjust water production expenses to reflect unaccounted-for water loss above fifteen percent.

Under 807 KAR 5:066, Section 6(3), "a utility's unaccounted-for water loss shall not exceed fifteen (15) percent of total water produced and purchased," and a utility seeking recovery above that level "shall have the burden of demonstrating that the alternative level is more reasonable than the level prescribed in this section."⁸⁴ Bluegrass Water has not carried that burden.

Bluegrass Water made no adjustments to reduce its water-production expenses for unaccounted-for water loss above 15%.⁸⁵ The Company's explanation is that it "does not have water meters to measure the water sold to calculate unaccounted for water."⁸⁶ The Company is unable to quantify its own loss. Per 807 KAR 5:066, Section 6(3), a utility is not excused

⁸³ Redlined Errata Testimony of John Defever at 18.

⁸⁴ Redlined Errata Testimony of John Defever at 20.

⁸⁵ *Id.*

⁸⁶ Response to AG DR 1-173.

from the 15% standard simply because it has chosen not to, or cannot, measure its losses. Instead, a utility that cannot meet the standard must apply to the Commission to establish an alternative level.⁸⁷ The Attorney General is unaware of Bluegrass Water ever seeking such an alternative.

A company's failure to track its unaccounted-for water loss should not be shifted to ratepayers. If a utility could escape the 15% cap by failing to measure its losses, every utility would have an incentive to avoid tracking altogether.⁸⁸ The burden of establishing a reasonable loss level rests with the Company, not the ratepayers.

Because Bluegrass Water provided no data from which to calculate the adjustment, the Attorney General's expert witness, John Defever, derived a reasonable proxy from the unaccounted-for water loss in excess of 15% reported by five other Kentucky Water utilities, which resulted in an average of 6.93%. Applying his average results in reduction for accounted for water of \$2,481.⁸⁹

Bluegrass Water's rebuttal does not cure its failure of proof. Mr. Silas argues that Mr. Defever's adjustment based on a proxy is not appropriate.⁹⁰ However, Mr. Defever's high-level calculations are more than what was provided by Bluegrass Water. The absence of necessary metering equipment does not erase the burden of proof to support these costs. Bluegrass Water has not provided an alternative loss figure and has no application to establish a reasonable alternative level, instead requesting that Defever's adjustment be rejected outright.⁹¹

⁸⁷ See 807 KAR 5:066, Section 6(3) (alternative level "may be established by the commission" upon application by the utility).

⁸⁸ Redlined Errata Testimony of John Defever, CPA at 21.

⁸⁹ *Id* at 21, 22.

⁹⁰ Rebuttal Testimony of Aaron Silas, at 5-8.

⁹¹ *Id* at 8.

As Bluegrass Water has failed to meet the burden of proof to support its costs, the Attorney General respectfully requests the Commission to accept adjustments offered by Mr. Defever.

XII. The cash working capital 1/8 method is not known and measurable.

For determining its cash working capital allowance, Bluegrass Water relied upon the 1/8 method, which multiplies operating expenses by one-eighth.⁹² As highlighted by the testimony of John Defever, this method is crude and insufficient for determining an accurate figure. The method does not account for a potential negative cash working capital, nor does it provide a more accurate determination that can be produced with a lead lag study.⁹³ Based upon the adjustments made by Mr. Defever, he recommended a reduction of cashing working capital by \$1,102 for water and \$26,100 for wastewater.⁹⁴

In his rebuttal testimony on page 9, CSWR's Vice President and Chief Financial Officer, Brent Thies concedes that, "Bluegrass Water does not dispute the proposition that a lead-lag study would yield a better mathematical result." His only objection is cost, stating: "there is little chance that any change would offset the increase to rate case expenses that could come from using an outside consultant to perform such a study."⁹⁵ This assertion fails on two grounds. First, Bluegrass Water provided no supporting analysis, calculation, or evidence that would show that the savings from an accurate study would be smaller than the study's cost. Second, the rebuttal addresses only the cost of an outside consultant and ignores the presumably lower cost of performing the study in-house. An unsupported cost-benefit assertion cannot discharge the Company's burden of proof on this matter.

⁹² Redlined Testimony of Brent Thies at 35.

⁹³ Redlined Errata Testimony of John Defever, CPA at 5.

⁹⁴ *Id.*

⁹⁵ Rebuttal Testimony of Brent Thies at 9.

Due to the inferior nature of the 1/8 method and the potential harm to ratepayers, it should not be treated as known and measurable. The Company bears the burden of supporting the costs for which it seeks recovery, which it has failed to do so on this specific issue. Accordingly, the Attorney General respectfully requests the Commission to adopt Mr. Defever's flow-through reductions. The Attorney General further urges the Commission to order that a lead-lag study be performed in the next rate case, consistent with Mr. Defever's recommendation.⁹⁶

XIII. The Commission should disallow recovery of Randview stranded investments.

Bluegrass Water seeks to recover \$173,410 of unrecovered investment costs in the Randview System. To achieve this, it has requested \$17,341 per year through a ten-year amortization and \$15,181 as a return on investment in wastewater revenue.⁹⁷ The Attorney General urges the Commission to deny the recovery of these costs.

Bluegrass Water obtained control over the Randview Wastewater system in 2020 following its purchase.⁹⁸ In 2023, the Commission approved the sale of the Randview system to the Electric Plant Board of Mayfield for \$100,000, which did not cover the invested costs spent on the system.⁹⁹ Bluegrass Water argues recovery of its costs would align with public interests as ordering otherwise would discourage other third parties from acquiring and investing in systems.¹⁰⁰

Bluegrass Water's arguments regarding this matter do not meet the burden required. Per the principle of cost causation, ratepayers should pay for their usage and demand on the

⁹⁶ Redlined Errata Testimony of John Defever, CPA at 5.

⁹⁷ Redlined Testimony of Brent Thies, at 42, 45.

⁹⁸ *Id* at 40,41.

⁹⁹ *Id* at 42.

¹⁰⁰ *Id* at 45.

system. Presently, none of Bluegrass Water's ratepayers place any demand on, or draw any benefit from, the Randview system. Furthermore, it is not the obligation of ratepayers to risk-proof Bluegrass Water's investments decisions for the benefit of other would-be acquirers. Bluegrass Water chose to purchase the Randview system and bore the risk of the later sale at a loss, with no input or agreement by current ratepayers.

If anything, disallowance better serves the public interest. Placing the risk of such a loss on Bluegrass Water rather than on ratepayers encourages utilities to set rates and maintain customer relationships in a manner that fosters community confidence and reduces the likelihood that local governments will find it necessary to step in and acquire the system. Shifting that risk to ratepayers would create the opposite incentive in other similar situations.

On this issue, the Company has failed to justify that allowance of this recovery would result in just and reasonable rates. The Attorney General requests that Commission adopt Mr. Defever's recommendation and disallow recovery of Randview stranded costs.¹⁰¹

XIV. The Commission should determine whether Bluegrass Water's governmental-affairs expenses are recoverable.

In his testimony, the Attorney General's witness, John Defever, identified expenses which he believed to be related to lobbying. Because lobbying is a below-the-line cost that is not recoverable from ratepayers, Mr. Defever recommended that these costs be disallowed in full.¹⁰²

Bluegrass Water disagrees with that characterization. In her rebuttal testimony, Company witness Caitlin O'Reilly described the expenses as pertaining to "public policy, regulatory affairs, and strategic communications" functions which she states do not include

¹⁰¹ Errata Testimony of John Defever, at 4.

¹⁰² Errata Testimony of John Defever, at 12; Exhibit JD-1 Schedule C-3, Exhibit JD-2, Schedule C-4.

lobbying. On that basis, she recommended that the Commission reject Mr. Defever's adjustment.¹⁰³

The Attorney General respectfully requests the Commission to examine the underlying governmental-affairs costs and determine whether they constitute non-recoverable lobbying expenses or recoverable operating expenses. To the extent the Company cannot demonstrate that these costs were incurred for purposes other than lobbying, they should be disallowed, consistent with the principle that lobbying expense is not recoverable from ratepayers and that the Company bears the burden of proving every cost for which it seeks recovery.

XV. The volume of public comments warrants verification of Bluegrass Water's operations before any rate increase is approved.

Bluegrass Water reports that it has invested approximately \$18.6 million in infrastructure upgrades across its Kentucky systems.¹⁰⁴ The Attorney General does not dispute the fact that some of the systems acquired by Bluegrass Water needed improvements and had to be brought into compliance. At the same time, this rate case has generated an extraordinary degree of public engagement, with almost 150 public comment filings and two public comment sessions held in McCracken and Scott County. For comparison, the Attorney General recommends contrasting the number of public comments filed in this rate case with others, including the much larger Kentucky-American Water or utilities of similar size.

A recurring theme in those comments is not simply the cost of the proposed increase, but a genuine uncertainty among ratepayers about whether the improvements Bluegrass Water describes have reached their neighborhood. Some ratepayers reported persistent odors,

¹⁰³ Rebuttal Testimony of Caitlin O'Reily, at 8.

¹⁰⁴ Application, paragraph 3.

backups, and a limited on-the-ground presence.¹⁰⁵ Whatever the merits of those individual observations, the breadth of the concern is itself significant, and it reflects an erosion in customer confidence that serves neither ratepayers nor Bluegrass Water.

Several of the ratepayers asked the Commission for an independent verification of the work performed by Bluegrass Water. In some public comments, ratepayers requested an audit or confirmation of how prior rate-increase revenues were spent and what improvements resulted. Brandy and Colby Middleton asked the Commission to “require a full, independent audit of previous rate hike revenues.”¹⁰⁶ Billie and Greg Belter asked it to “mandate a full, independent audit of how revenues from prior rate increases have been spent.”¹⁰⁷ Bradley Moulden, Don Barger, Micah Wheeler, Eric Isbell, and Thomas Colbert, among others, have made the same request.¹⁰⁸

The Commission certainly has the power to order an audit. Per KRS 278.255(2) the Commission “may provide for management or operations audits, or both, of any utility under its jurisdiction on a regular or irregular schedule to investigate all or any portion of the management and operating procedures or any other internal workings of the utility.” However, the Attorney General is concerned that a full audit would result in substantial economic costs that will ultimately be recovered from ratepayers. Furthermore, there is not enough evidence to suggest that Bluegrass Water has not performed system upgrades as it has reported. Nevertheless, the Commission has the authority to determine if the numerous complaints regarding the upgrades have merit and it should determine if the upgrades

¹⁰⁵ See, e.g., Public Comment of Bradley Moulden (“Foul odors continue to be a regular issue near the treatment plant. In addition I have personally observed sewage overflows in my area!!”); Public Comment of Matthew Renfrow (“Bluegrass Water presence for our utility in our area is almost non-existent”).

¹⁰⁶ Public Comment of Brandy Middleton

¹⁰⁷ Public Comment of Billie and Greg Belter.

¹⁰⁸ See Public Comments of Bradley Moulden, Don Barger, Micah Wheeler and Eric Isbell.

purported by Bluegrass Water meet the fair, just and reasonable standard required for recovery. As such, the Attorney General recommends a less costly alternative. Per KRS 278.250, “the commission may investigate and examine the condition of any utility subject to its jurisdiction. In conducting such investigation, the commission may proceed with or without a hearing as it deems best, but shall make no order without giving a hearing to the parties affected thereby.”

The Attorney General therefore respectfully recommends that before any rate increases are granted, the Commission direct an on-site inspection of each Bluegrass Water’s systems, conducted by Commission Staff, and that the Commission include the Energy and Environment Cabinet’s Division of Water on the inspections, with the inspectors’ findings reported back to the Commission. Such inspections would benefit everyone. If it confirms Bluegrass Water has made improvements as it describes, the independent confirmation will do more to restore ratepayer confidence than mere filings by Bluegrass Water before the Commission. These inspections will answer definitively the issue of what has or has not been done at each facility, allowing the Commission to properly determine a fair, just and reasonable rate. Should the inspections reveal something concerning, the Commission should then consider a management and operations audit under KRS 278.255. However, since the audits carries costs that ratepayers may ultimately bear, the Attorney General recommends reserving the audit as a second step, only to be used if deemed exceptionally warranted by the Commission Staff or Division of Water.

Bluegrass Water customers are already paying high rates, and the Company is requesting even more significant increases. As discussed prior, the Attorney General is concerned customers will suffer rate shock, and this concern is heightened by the significant number of

public comments filed in this case. That being said, the Attorney General recognizes the need for system improvements and the poor condition that many systems were at the time of their acquisition. If the Commission deems any rate increase necessary, the Attorney General strongly recommends these steps be taken in order to ensure ratepayers that their systems have been improved. Ensuring the improvements represented by Bluegrass Water have indeed been made is owed to the ratepayers.

CONCLUSION

WHEREFORE, the Attorney General requests that the Commission deny Bluegrass Water's requested rate increase. If the Commission is inclined to grant a rate increase, the Attorney General respectfully requests that the Commission adopt the adjustments recommended by John Defever, make any additional adjustments that it believes are fair and reasonable to ratepayers, set the Company's return on equity within a reasonable range consistent with the Commission's previous authorizations, direct the Company to credit its \$87,394 late-fee overcollection back to ratepayers, and withhold any approved increase until the Company's system repairs and improvements have been independently verified.

Bluegrass Water's ratepayers have seen substantial rate increases since 2019. This request by the Company would bring with it yet another large increase that could significantly impact low income and fixed income ratepayers. The Commission should exercise its discretion to protect ratepayers. While improvements and repairs to systems may be necessary, increases to rates should follow the principles of gradualism and protect against rate shock.

Respectfully submitted,

RUSSELL COLEMAN
ATTORNEY GENERAL



T. TOLAND LACY
J. MICHAEL WEST
ANGELA M. GOAD
JOHN G. HORNE II
ASSISTANT ATTORNEYS GENERAL
1024 CAPITAL CENTER DRIVE, STE. 200
FRANKFORT, KY 40601-8204
PHONE: (502) 696-5433
FAX: (502) 564-2698
Thomas.Lacy@ky.gov
Michael.West@ky.gov
Angela.Goad@ky.gov
John.Horne@ky.gov

Certificate of Service and Filing

Pursuant to the Commission's Orders and in accord with all other applicable law, Counsel certifies that, on October 16, 2026 an electronic copy of the foregoing was served via the Commission's electronic filing system.

This 16th day of October, 2026.



Assistant Attorney General