

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION	)	
OF HARDIN COUNTY WATER	)	
DISTRICT NO. 2 FOR	)	CASE NO.
ACCREDITATION AND	)	2026-00239
APPROVAL OF	)	
COMMISSIONER TRAINING	)	

APPLICATION

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

In support of its application, the Joint Applicants state:

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

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

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

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

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

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

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

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

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

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

8. Joint Applicants propose to sponsor and conduct a water management training program on September 28, 2026, at Hardin District No. 2's office in Elizabethtown, Kentucky. The program is entitled "Hardin County Water Commissioner Training Seminar." A copy of the proposed agenda is attached to this Application as **Exhibit 1**.

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

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

a. **Recent Developments in Utility Regulation, Part I.** This presentation reviews recent developments in public utility law and regulation. Topics include actions taken by 2026 General Assembly, borrowing money, compliance with PSC Orders, PSC Investigations, and maintaining minutes of Board proceedings. The presenter will also examine and discuss recent court and PSC decisions.

b. **Risk and Resilience Assessments.** Federal law requires water utilities to develop or update risk and resilience assessments (RRA) and emergency response plans (ERP). The presenter will outline the requirements of the federal law and discuss best practices for developing and updating a utility's RRA and ERP. He will also discuss a standard methodology for risk identification and assessment developed by a Kentucky water utility.

c. **Tariff Filings: Practical Considerations for Water Utilities.** This presentation provides a review of what a tariff is, what it should contain, and how to update a tariff with the Kentucky Public Service Commission. This presentation will highlight various provisions that a water utility should have as part of its tariff to protect against financial and legal liability and to avoid common

customer disputes. The procedure for updating a tariff is discussed as are practical suggestions for improving a water utility's tariff.

d. **Recent Developments in Utility Regulation, Part II.** This is a continuation of the discussion in Part I.

e. **The Nuts & Bolts of Certificates of Public Convenience and Necessity.** This presentation reviews the statutory law surrounding the construction of utility facilities. It will focus on what utility actions require a certificate of public convenience and necessity and the exceptions to the general requirement for a certificate of public convenience and necessity. Additionally, the presentation includes a discussion of recent Commission decisions regarding when an application for a Declaratory Order may be appropriate in certain circumstances. The presentation will also provide practical suggestions on preparing applications for such relief to assist Commission review and minimize the time required to obtain Commission approval or a Declaratory Order.

f. **Legal Issues in the Operation & Management of Water Systems Panel Discussion.** A panel of attorneys will entertain audience questions regarding frequently recurring legal issues faced by water districts. Discussion is expected to address KRS Chapter 74 and its effects on the management and operation of water districts, as well as other highly relevant statutory provisions, such as the Claims against Local Government Act, Bidding Requirements provision

of KRS Chapter 424, Eminent Domain, Local Model Procurement Law, Whistle Blowers Act, and general laws related to special districts. PSC regulatory requirements will also be discussed.

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

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

12. The written materials to be provided to each attendee are attached at **Exhibit 3**. Should any presenter revise or amend his or her presentation prior to the presentation or provide additional written materials to the attendees, Joint Applicants will include a copy of the revised presentation with its sworn statement and report regarding the instruction. Should any presenter revise or amend his or her presentation prior to the presentation or provide additional written materials to the attendees, a copy of the revised presentation will also be submitted.

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

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

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

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

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

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

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

Dated: August 26, 2026

Respectfully submitted,

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

Damon R. Talley
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P.O. Box 150
Hodgenville, KY 42748-0150
Telephone: (270) 358-3187
Fax:(270) 358-9560
damon.talley@skofirm.com

*Counsel for Hardin County Water
District No. 2*

CERTIFICATE OF SERVICE

In accordance with the Commission's Order of July 22, 2021 in Case No. 2020-00085 (Electronic Emergency Docket Related to the Novel Coronavirus COVID-19), this is to certify that the electronic filing has been transmitted to the Commission on August 26, 2026; and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.

/s/ Tina C. Frederick
Tina Frederick

Exhibit 1

Agenda



Hardin County Water Commissioner Training Seminar

Presented by

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

September 28, 2026

Morning Agenda

8:00 - 8:25 Registration and Refreshments

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

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

This presentation reviews recent developments in public utility law and regulation. Topics include actions taken by 2026 General Assembly, borrowing money, compliance with PSC Orders, PSC Investigations, and maintaining minutes of Board proceedings. The presenter will also examine and discuss recent court and PSC decisions.

9:40 - 10:40 Risk and Resilience Assessments – Robert K. Miller

Federal law requires water utilities to develop or update risk and resilience assessments (RRA) and emergency response plans (ERP). The presenter will outline the requirements of the federal law and discuss best practices for developing and updating a utility's RRA and ERP. He will also discuss a standard methodology for risk identification and assessment developed by a Kentucky water utility.

10:50 - 11:50 Water Utility Tariffs: Practical Considerations – Tina Frederick

A water utility's tariff offers a unique opportunity for the water utility to structure its relationship with its customers. This presentation will highlight various provisions that a water utility should have as part of its tariff to protect against financial and legal liability as well as avoid common customer disputes. In the first portion of her presentation, the presenter will discuss the statutory and regulatory framework for utility tariffs and the process by which a tariff may be revised. The presentation will conclude with some practical suggestions for improving a utility's tariff.

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

Afternoon Agenda

12:30 - 1:30 Recent Developments in Utility Law Part II – Damon Talley

Continuation of Earlier Presentation.

1:40 - 2:40 The Nuts & Bolts of Certificates of Public Convenience and Necessity – Tina Frederick

This presentation reviews the statutory law surrounding the construction of utility facilities. It will focus on what utility actions require a certificate of public convenience and necessity and the exceptions to the general requirement for a certificate of public convenience and necessity. It will also include a discussion of recent decisions by the Commission concerning the necessity of seeking such a certificate or a Declaratory Order that one is not required. The presentation will also provide practical suggestions on preparing applications for such relief to assist Commission review and minimize the time required to obtain Commission approval.

**2:45 - 3:45 Legal Issues in the Operation & Management of Water Systems
Panel Discussion – Tina Frederick & Damon Talley**

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

3:45 Closing Remarks & Administrative Announcements

Exhibit 2

Presenter Information



Damon R. Talley

Direct Phone: 270.358.3187

damon.talley@skofirm.com

BAR & COURT ADMISSIONS

Kentucky

U.S. District Court, Eastern District Of Kentucky

U.S. District Court, Western District Of Kentucky

United States Supreme Court

EDUCATION

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

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

RECOGNITION

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

Best Lawyers®, Utilities Law, 2021-present

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

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

Outstanding Student, University of Kentucky
College of Engineering

Omicron Delta Kappa, President, University of
Kentucky

Kentucky Association of Future Farmers of
America, President

Outstanding Citizen Award, LaRue County
Chamber of Commerce, 1990

Outstanding Citizen Award, Cave City Chamber of
Commerce, 1981

Outstanding Citizen Award, Horse Cave Chambers
of Commerce, 1979

Damon R. Talley

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

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

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

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

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

Work Highlights

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

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

TINA FREDERICK

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

QUALIFICATIONS

EDUCATION

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

YEARS OF EXPERIENCE: 38

SPECIALIZATION

Senior Executive in Drinking Water, Wastewater, and Stormwater Industry

PROFESSIONAL AFFILIATIONS

American Water Works Association QualServe Peer Reviewer

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

AWWA Utility Management Standards Committee Member (past)

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

AWWA Management Controls Sub-Committee Chair (past)

AWWA Research Foundation Project Participating Utility Member (past)

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

Professional Profile

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

Qualifications and Experience

StraightLine Kentucky, Louisville, KY **2021 – Present Consultant**

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

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

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

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

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

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

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

Louisville Water Company, Kentucky **1991 – 2008 Vice President**

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

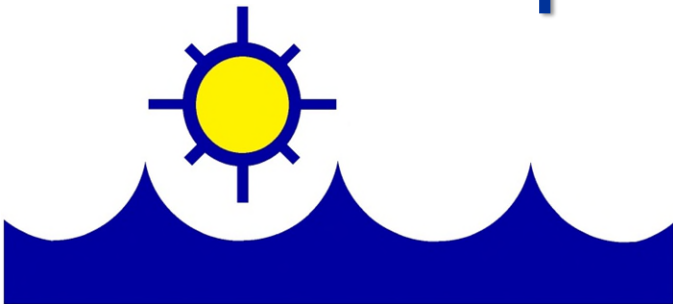
Exhibit 3

Presentations



HARDIN COUNTY WATER COMMISSIONER TRAINING SEMINAR

September 28, 2026



WELCOME

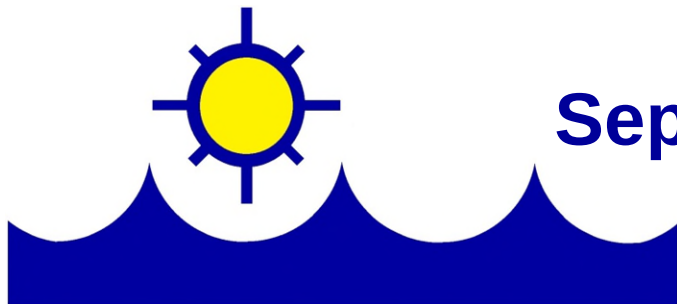
Michael L. Bell, Chairman

Hardin County Water District No. 2



HOT LEGAL TOPICS

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



September 28, 2026



DISCUSSION TOPICS

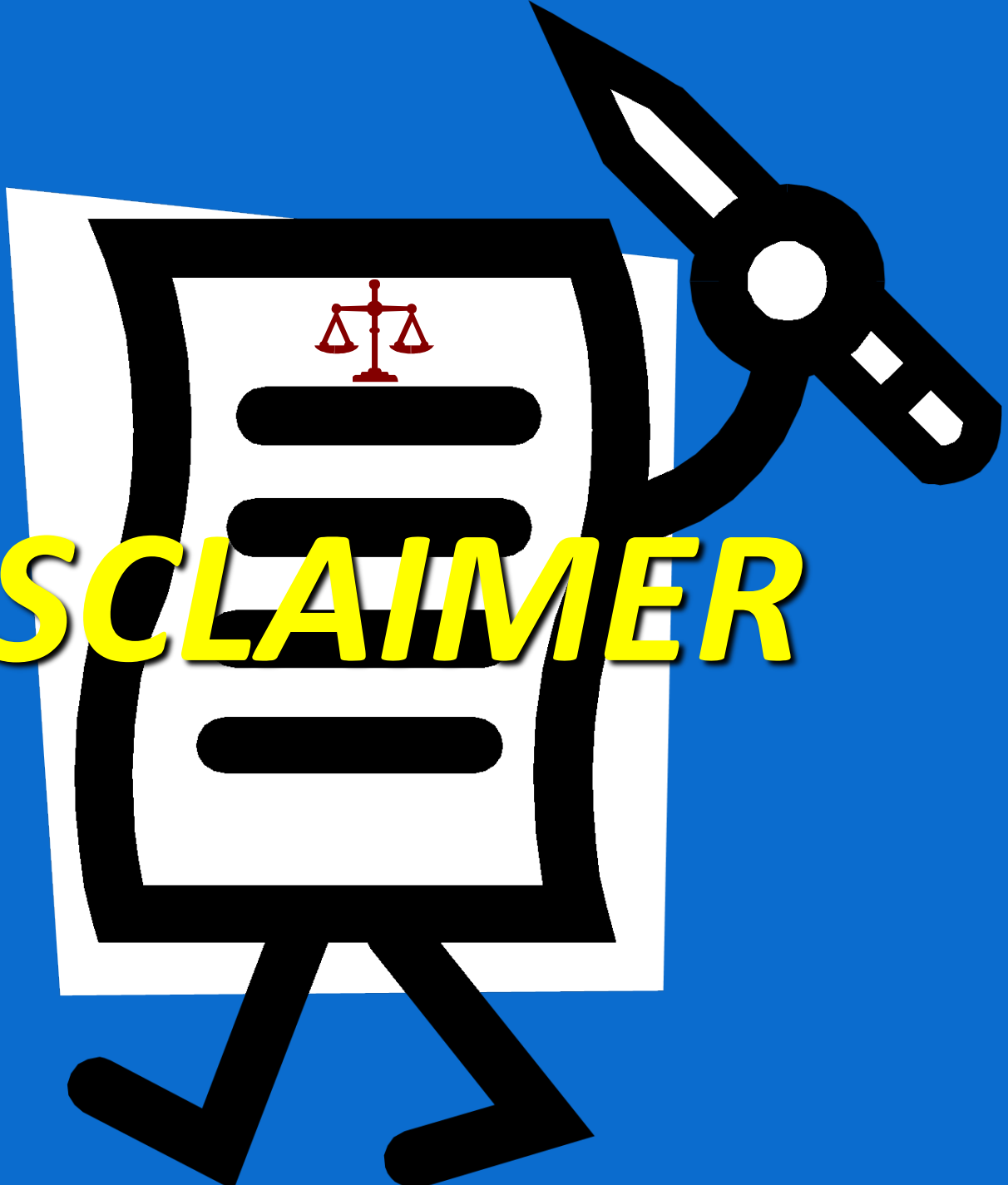
1. PSC Filings
2. 2026 General Assembly
3. Notable PSC Orders
4. Minutes
5. CPCN



DISCUSSION TOPICS

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





DISCLAIMER



PSA for PSC



New Executive Director

- Linda Bridwell Retired 7-31-26
- Justin M. McNeil
 - New Executive Director
 - Former Executive Advisor at PSC
- Email: justin.mcneil@ky.gov



2026 General Assembly



Notable Bills - House

- HB 103 Fluoride
- HB 392 Bidding Threshold
Increased
- HB 542 Eminent Domain
(Condemnation)



Notable Bills - Senate

- SB 8 PSC Changes
- SB 344 Mergers
- SJR 75 Affordability Study



HB 103 - Fluoride

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



HB 103 - Fluoride

- Immunity Granted to Water Producer
- Passed House: 67 to 29 (2-5-26)
- Senate: Died
- Committee on Committees (2-6-26)



HB 392 - Bidding Threshold

- Raises Threshold from \$40,000 to \$50,000
- Amends KRS 424.260 & KRS 45A
- Threshold Increases By \$10,000 on 1-1-30 and Every Five Years After



HB 392 - Bidding Threshold

- Passed House: 97 to 0
- Passed Senate: 38 to 0
- Governor Signed: 4-7-26



HB 542 - Eminent Domain

- Limits Condemnation of Land Subject to Conservation Easement or Agricultural District
 - Utilities Exempt from Portions of these Requirements
 - If:
Does Not Interfere with
Agricultural Operations or
Infrastructure

(continued)



Eminent Domain



Eminent Domain vs. Condemnation



Eminent Domain

- Eminent Domain
 - Right of Government or Statutorily Authorized Party (Utility) to “Take” Private Property for Public Use
- Condemnation
 - Legal Process Used for such a “Taking”



HB 542 - Eminent Domain

- All Condemnation Actions
 - Independent Appraisal – 60 Days
 - Utility May Be Required to Pay Landowner's Costs & Attorney Fees
 - Additional Notice Requirements
 - More Hurdles



HB 542 - Eminent Domain

- Passed House: 90 to 0
- Passed Senate: 38 to 0
- Governor Signed: 4-13-26
- Emergency Declared: 4-13-26



SENATE BILLS



SB 8 - PSC Changes

What Does It Do?

- From 3 to 5 Commissioners
 - Governor – Appoints All 5
- Chair Elected by Commissioners
 - Four Year Term
- Specific Qualifications
 - Must Have 2 Attorneys

(cont.)



SB 8 - What Does It Do?

- Political Diversity
- Term Limits: 3 Terms
- Executive Director
 - Before: Appointed by Gov.
 - SB8: Appointed by Commissioners
 - SB8: Senate Confirmation
- Many Other Administrative Changes

(cont.)



SB 8 - What Does It NOT Do?

- Attorney Gen. Still Has Statutory Right to Intervene
- Intervention by Others
 - Does **Not** Curtail this Right
 - “Special Interest” Not Otherwise Adequately Represented
 - Original Bill Almost Abolished Right to Intervene

(cont.)



SB 8 - PSC Changes

- Emergency Provision
- Effective: 4-14-26
- Governor Has Appointed
One (1) New Commissioner
 - Barry Mayfield



SB 344 - Mergers

- Gives Fiscal Courts Right to Request PSC to “Study” Merger of Water Districts Within Its County
 - PSC Then Required to
 - Conduct Study
 - Prepare Feasibility Report
 - PSC Already Has This Authority



SB 344 - Mergers

- Introduced: 03-02-26
By Senator Gex Williams
- Status: C on C 03-02-26
 - Never Assigned to Committee
- Died w/o Committee Hearing



SJR 75 - Affordability

What Does It Do?

- Requires PSC to Study Affordability
 - Low & Fixed Income Individuals
 - Reduce Disconnections
- PSC Open Administrative Case
 - All Utilities
 - Data Requests
- Report to Legislature: 9-1-27



SJR 75 - Affordability

- Introduced: 3-02-26
- Passed Senate: 36 to 0
(3-13-26)
- No Vote in House



PSC Assessment Increase

- PSC Financed by Assessment on Utility Revenues
- Current Rate: 1.595 mills
(\$1,590 per \$1,000,000 Revenue)
- New Rate: 2.300 mills
(\$2,300 per \$1,000,000 Revenue)
- 45% Increase



Notable PSC Orders



PSC Case No. 2024-286

Filed: 10-18-2024

Utility: Warren County WD

Type: CPCN – Construct
Headquarters

Decided: 02-18-2025



Warren County WD

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



PSC Case No. 2023 - 252

Filed: 08-18-2023

Utility: Oldham Co. W.D.

Type: ARF Case

Issue: Full Recovery of Cost of
Employee Benefits

Hearing: 04-19-24

Decided: 06-18-24



Oldham Co. W.D. (OCWD)

PSC Order (50 Pages):

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

(continued . . .)



OCWD (continued)

PSC Order:

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

(cont . . .)



OCWD (continued)

PSC Order:

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



Oldham Co. W.D. VS Public Service Commission

What? Appeal

Where? Franklin Circuit Court

Case No: 24-CI-00725

(continued . . .)



Oldham Appeal (continued)

Filed: July 18, 2024

PSC Answer: Aug. 09, 2024

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

Oral Arguments: May 20, 2025

Decided: Sept. 24, 2025



Oldham (continued)

Issues on Appeal:

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



Oldham (continued)

Decision: PSC Order Reversed

Basis:

- PSC Violated
KRS 13A.100
- BLS Reliance
Was Arbitrary
- PSC Acted Unlawfully

(continued . . .)



Oldham (continued)

Holding:

Oldham Can Include 100% of
Its EE Health Insurance Costs
In Its Rates

➤ \$125,241 Per Year

(continued . . .)



Oldham (continued)

Rationale:

Oldham Demonstrated That:

- Paying 100% of Health Insurance Benefits
 - Fair, Just & Reasonable
 - In the Market That It Served
 - Best Interest of Its Customers

(continued . . .)





Talley's Tips

1. Demonstrate That Total Compensation Package Is Fair, Just & Reasonable
 - Salary
 - Benefits
2. Market Area
3. Recruit & Retain Employees
4. Robust Evidence
 - May Require Consultant



Case No. 2025-226

Opened: 12-13-2025

Type: Investigation

Issue: City Charging Water
District Unapproved
Wholesale Rate

Outcome: Settled
07-08-26

(continued . . .)



Case No. 2025-226

Facts:

- City's Wholesale Rate: \$2.10
(Approved by PSC: 09-03-2009)
- Rate Increased to: \$2.92
 - Increased Gradually Since 2018
 - Water District Did Not Notice or Object to Increase

(continued . . .)



Case No. 2025-226

Facts (continued):

- Nothing Filed by City With PSC Since 2009
- PSC Discovered in ARF Case Filed by Water District
- PSC Disallowed Recovery of Unapproved Rate by W.D.

(continued . . .)



Case No. 2025-226

Facts (continued):

- W.D. May Be Entitled to Refund of Approx. \$165,000
- How Could This Happen?
 - City's Bill Not Easy to Understand
 - Turnover in W.D. Staff



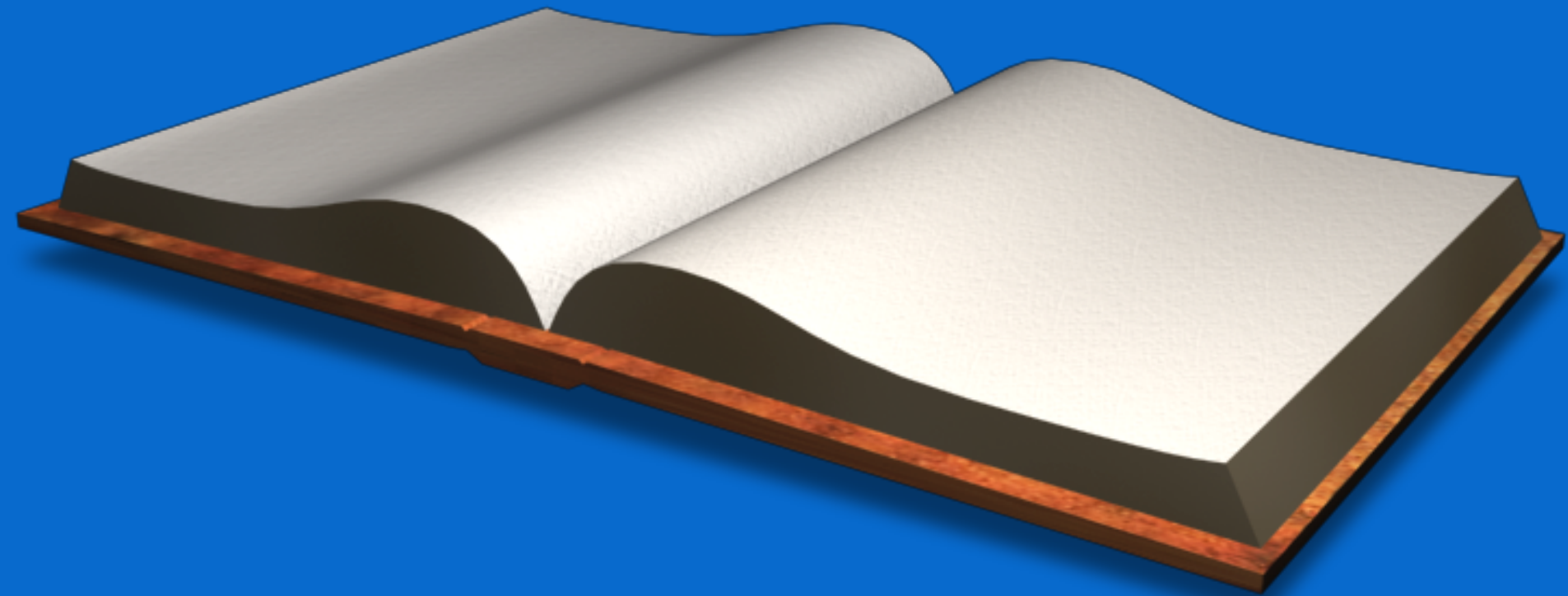
Case No. 2026-194

Outcome:

- Settled for \$130,000
- City Officials Not Fined



MINUTES



What Are MINUTES?

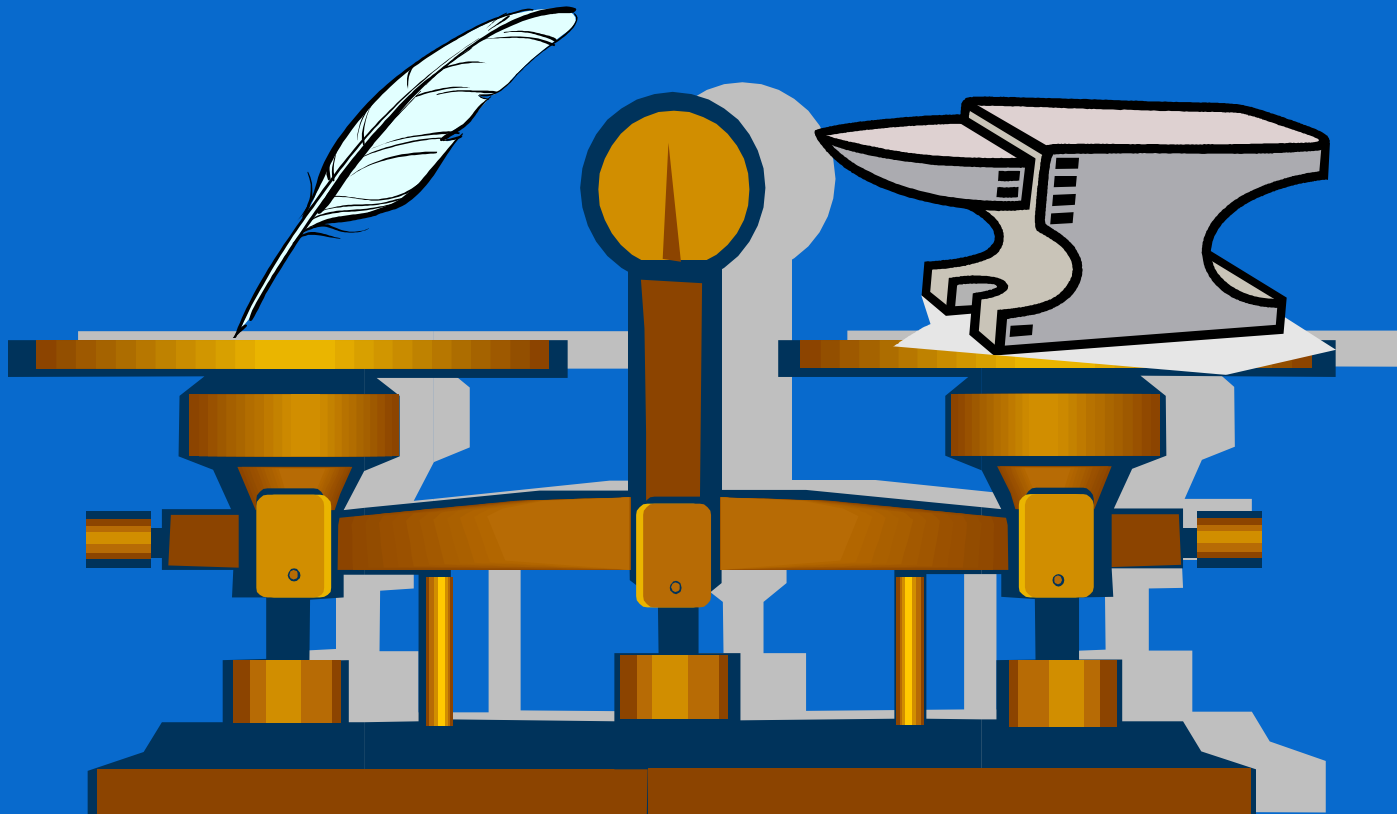
- Official Record
- Much, Much More . . .



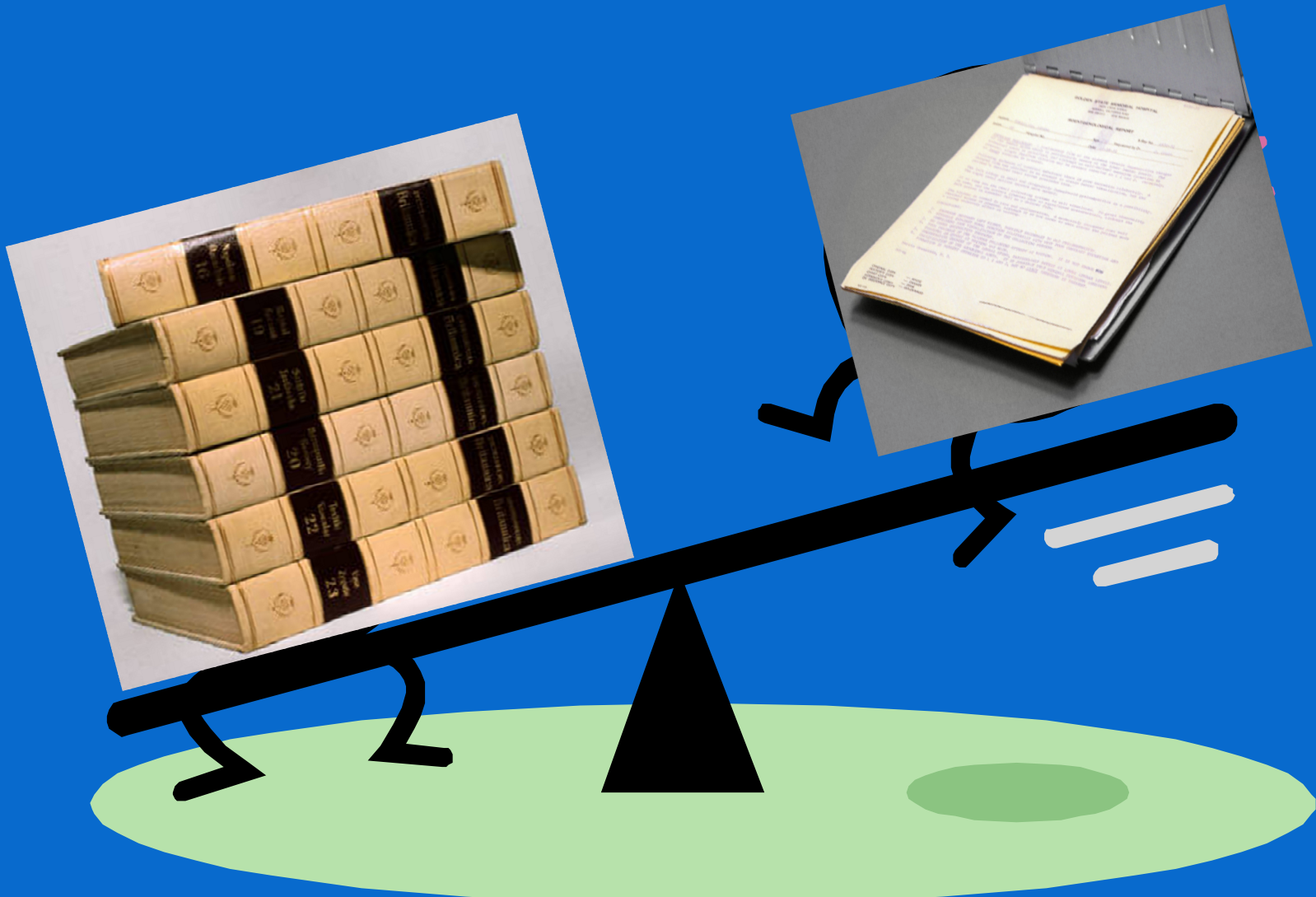
**AN OUNCE
OF
PREVENTION**

=

**A POUND
OF CURE**



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



Minutes

How MUCH is too MUCH?

- No definitive answer
- Art not a science

Cont.



Minutes ...

How MUCH is too MUCH?

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



Excerpt From Minutes

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



“Conversations are
NOT official actions of
the Board.”

Virginia W. Gregg
Former PSC Staff Attorney



WHY Include Summary of Conversations in Minutes?

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





Talley's Tips

Prepare Minutes for a Reader...

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



ADJOURNMENT

There being no further business to come before the meeting, motion was made by Commissioner Steven Douglas and seconded by Commissioner Henry Clay to adjourn the meeting. Motion carried unanimously.

Respectfully submitted,

By: _____

Henry Clay, Secretary

ABRAHAM LINCOLN WATER DISTRICT

DATE APPROVED: _____

By: _____

Jefferson Davis, Chairman



CPCN



Certificate of Public Convenience and Necessity



CPCN

- KRS 278:020(1)(a)
 - “Thou Shall Not Commence Constructing . . . (Anything) without First Obtaining a CPCN from the PSC.”
 - Limited Exceptions



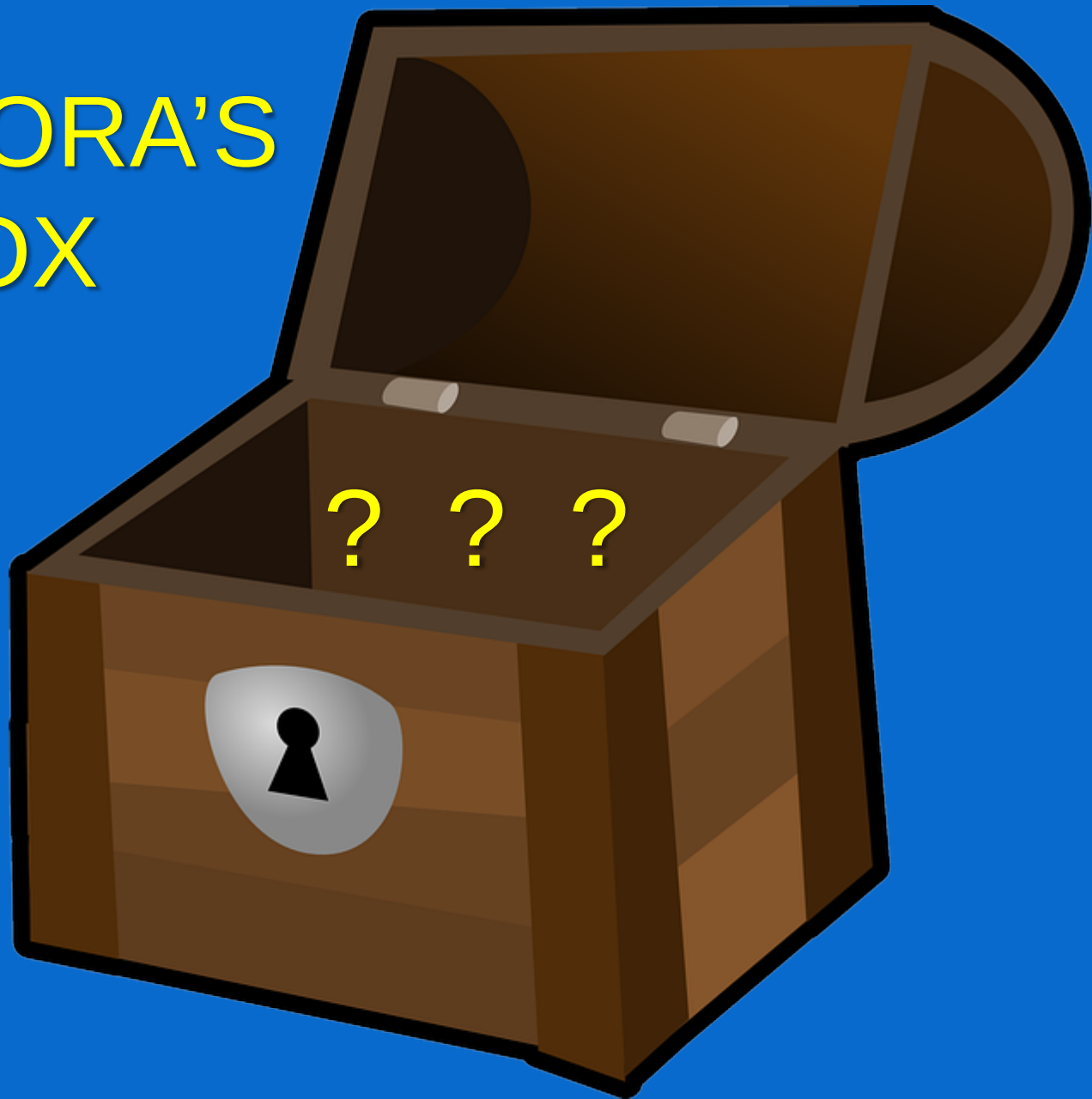
**Comply
With All
PSC
Orders**



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



PANDORA'S BOX



Borrowing

LOANS



Money

KRS 278.300(1)

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



Practical Effect

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





Violation

Show Cause Cases



Show Cause Cases Borrowing Money

First Case: 2022-252



Case # 1

Case No. 2022 - 252

Opened: 02-16-2023

Issue: KRS 278.300
(4 Violations)

Hearing: 08-01-2023

Decided: 10-17-2023



Case # 1

Facts: Leased 4 Trucks
4 & 5 Year Terms

Issue: Is Long Term Lease
An evidence of
Indebtedness ?

Holding: Yes



Case # 1

Outcome:

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



Cases To Watch



Case No. 2026-194

Opened: 07-31-26

Type: Investigation –
Reasonableness of
Wholesale Increase

Issue: Wholesale Rate Increase
\$3.59 to \$4.59 per 1,000

Outcome: Still Pending



Case No. 2026-194

Facts:

- City Wholesales Water to 5 Water Districts
- Notified WD's that Rates Would be Increased by \$1.00 (\$3.59 to \$4.59) per 1,000
- Filed Revised Tariff with PSC



Case No. 2026-194

City Provided WDs (06-12-26)

- Letter
- Customer Notice
- Revised Tariff Sheet
- Ordinance



Case No. 2026-194

City Provided PSC (06-18-26)

- Same Information Provided to WDs
- City Audit Report
- Rates to Become Effective:
 - 08-01-26

WDs Filed Letter Objecting



Case No. 2026-194

PSC Order of 07-31-26

- Suspended Rates for 5 Months
- Adapted Procedural Schedule
- Invited WDs to File Motion to Intervene





QUESTIONS?

damon.talley@skofirm.com

270-358-3187



Risk Identification, Assessment, and Mitigation for Rural Water Utilities

Understanding EPA's AWIA Risk & Resilience Assessment Requirements

Kentucky Rural Water Association

Learning Objectives

Explain EPA requirements under AWIA Section 2013 / SDWA §1433.

Determine whether your utility is subject to the requirement.

Describe the six statutory RRA areas.

Explain the relationship between the RRA and Emergency Response Plan.

Identify risks that deserve management attention.

Understand board and manager responsibilities.

Start With a Question

What could stop your water system tomorrow?

- Prolonged power outage
- Major water main break
- Loss of a critical pump
- Flooding
- Cyber incident
- Chemical supply interruption
- Key operator unavailable

How long could you continue providing safe drinking water?

What Is Risk?

Risk is more than “what could happen.”

THREAT — What could happen?

VULNERABILITY — How susceptible are we?

CONSEQUENCE — What happens if we are affected?

RISK = THREAT × VULNERABILITY × CONSEQUENCE

What Is Resilience?

Prepare — Know what could happen.

Withstand — Maintain essential functions.

Respond — Act effectively and quickly.

Recover — Restore normal operations.

Adapt — Learn and improve.

Resilience is the ability to keep operating or recover.

AWIA Section 2013

America's Water Infrastructure Act of 2018 amended Safe Drinking Water Act §1433.

Covered community water systems must:

1. Conduct a Risk & Resilience Assessment (RRA).
2. Certify completion to EPA.
3. Prepare/revise an Emergency Response Plan (ERP).
4. Certify completion of the ERP.
5. Review and recertify on the required five-year cycle.

Who Is Covered?

COMMUNITY WATER SYSTEMS > 3,300 PEOPLE — Required

Community Water Systems $\leq$ 3,300 — Not required to certify to EPA

Non-community systems — Not required

Wastewater systems — Not required under SDWA §1433

EPA encourages smaller systems and wastewater utilities to use risk and resilience practices voluntarily.

Where Are We Now? — 2026

For systems serving 3,301–49,999 people:

RRA certification deadline: June 30, 2026

ERP certification deadline: December 31, 2026

The ERP deadline is six months after the RRA certification date.

RRA and ERP requirements repeat on a five-year cycle.

What EPA Requires

Six statutory areas:

1. Threats — malevolent acts and natural hazards
2. Infrastructure resilience
3. Monitoring practices
4. Financial infrastructure
5. Chemicals — use, storage and handling
6. Operations & maintenance

Infrastructure to Consider

Pipes and constructed conveyances

Physical barriers

Source water

Collection/intake

Pretreatment and treatment

Storage and distribution

Electronic, computer and automated systems

Security of electronic systems

Threats: Natural Hazards

Flooding

Tornadoes and severe thunderstorms

Ice storms and extreme cold

Extreme heat and drought

Fire

Earthquake

Landslide

Kentucky example: flooding + power loss + access problems can create a much larger event than any one hazard.

Threats: Malevolent Acts

Cyberattack

Unauthorized access

Vandalism

Theft

Tampering

Physical attack

Intentional contamination

Sabotage

Focus on realistic threats, vulnerabilities, and consequences.

Cybersecurity Is Part of the RRA

SCADA

PLCs / HMIs

Remote access

Telemetry and communications

Business IT and networks

Automated treatment/distribution controls

Ask: If the computer system went down, could we still operate?

Infrastructure Resilience

For each critical asset, ask:

Can it fail?

How likely is failure?

What happens if it fails?

Do we have redundancy?

Can we operate manually?

Do we have spare parts?

How quickly can we repair or replace it?

Interactive Exercise #1 — The One-Pump Problem

Scenario: Your largest high-service pump fails at 8:00 Monday morning.

Discuss for 3 minutes:

1. What happens first?
2. How long can you maintain service?
3. What equipment/people do you need?
4. Do you have the parts?
5. What would reduce this risk?

Monitoring Practices

How quickly will you know something is wrong?

Water quality monitoring

Tank levels and pressure

Flow and pump status

Chemical feed

Alarms / SCADA

Security alarms

Communications

Manual inspections

What happens if the monitoring system fails?

Financial Infrastructure

Can you afford to respond?

Cash reserves

Emergency purchasing

Insurance

Emergency contracts / mutual aid

Spare equipment

Capital reserves

Debt capacity

Replacement planning

Board question: If our biggest critical asset failed tomorrow, could we afford to respond?

Chemicals & Supply Chain

What happens if you cannot get a critical chemical?

Primary and backup suppliers

Delivery time and on-site inventory

Storage capacity

Transportation disruptions

Emergency purchasing

Mutual aid

Alternative treatment options

Scenario: Your normal supplier cannot deliver for 14 days.

Operations & Maintenance

People are infrastructure, too.

Preventive maintenance

Critical equipment and spare parts

Generator maintenance and fuel

Operator coverage and cross-training

Emergency call-out procedures

Contractors and mutual aid

Documentation

What happens if the person who knows how to operate or repair something is unavailable?

Risk Ranking

Not every risk deserves the same investment.

High likelihood + high consequence = Immediate attention

High likelihood + low consequence = Monitor / reduce

Low likelihood + high consequence = Prepare carefully

Low likelihood + low consequence = Accept / monitor

EPA does not require a particular scoring system.

From Risk to Countermeasure

For malevolent acts: Deter → Delay → Detect → Respond

For natural hazards: Prepare → Respond → Recover

Countermeasures can include:

Backup power • Redundant equipment • Physical security • Cybersecurity

Spare parts • Inventory • Alternate suppliers • Emergency contracts • Training • Mutual aid

RRA vs. ERP

RRA = What can go wrong?

Identifies threats, vulnerabilities, consequences, critical assets, risks, and resilience gaps.

ERP = What will we do about it?

Translates findings into strategies, procedures, equipment, resources, emergency actions, detection, response, and recovery.

EPA ERP Requirements

The ERP must include:

1. Strategies/resources to improve resilience, including physical and cybersecurity.
2. Plans/procedures for malevolent acts and natural hazards.
3. Actions, procedures and equipment to reduce impacts.
4. Strategies for detecting malevolent acts and natural hazards.

Include alternative source-water options where appropriate.

Make the ERP Usable

WHO? — Who is responsible?

WHAT? — What happens?

WHEN? — What happens first?

HOW? — What resources and procedures are needed?

WHO ELSE? — Who must be contacted?

WHAT IF? — What if the first plan does not work?

Board vs. Manager Responsibilities

MANAGER: Identify risks, vulnerabilities, emergency needs, backup systems, training, supplies and improvements.

BOARD: Ask about top risks, funding priorities, acceptable risk, and decisions needed.

The board should not operate SCADA or design treatment systems. Its role is governance, policy, resources, and oversight.

Risk Management & Capital Planning

Instead of: “We need a new pump.”

Ask: “What risk does the new pump reduce?”

Examples:

Backup generator → power-outage risk

Second high-service pump → single-point-of-failure risk

Tank rehab → storage failure risk

SCADA improvements → control-system risk

Risk assessment should influence the Capital Improvement Plan.

Five-Year Review

RRA and ERP are living documents.

Review: What has changed? What new threats exist? What infrastructure changed? Have vulnerabilities changed? Have countermeasures been implemented? Are priorities still correct?

Then review/revise the ERP and complete required EPA certification.

Update sooner when major changes or significant events occur.

What Should Your Utility Do Next?

FIRST 30 DAYS: Confirm applicability; locate RRA/ERP; confirm certification dates; identify five critical assets and five major risks.

DAYS 31–60: Review vulnerabilities, backup power, spare parts, chemical supply, cybersecurity basics, emergency contacts.

DAYS 61–90: Prioritize countermeasures; assign responsibility; estimate costs; update ERP; brief board; schedule an exercise.

Five Questions Every Board Should Ask

1. What are our five greatest risks?
2. What could cause us to lose water service?
3. What are we doing about those risks?
4. What investments would reduce the greatest risks?
5. What decisions do you need from the board?

RESILIENCE IS A MANAGEMENT RESPONSIBILITY.

Key Takeaways

AWIA applies to community water systems serving more than 3,300 people.

The RRA identifies threats, vulnerabilities, consequences and resilience gaps.

EPA requirements cover infrastructure, monitoring, finances, chemicals, and O&M.

Cybersecurity is part of risk and resilience.

The ERP turns RRA findings into practical response capabilities.

The objective is not the document — it is keeping the water flowing.

Questions?

TARIFFS

Practical Considerations for Water Utilities

September 28, 2026

Tina Frederick

Stoll Keenon Ogden PLLC

tina.frederick@skofirm.com

Adapted from a presentation developed by Gerald Wuetcher

Under Discussion

1. Legal Framework
2. Process of Revising Tariff
3. Tariff Provisions to Consider
4. Managing Your Tariff



A stylized illustration on a blue background. In the center is a white document with a thick black border. At the top of the document is a red icon of a scale of justice. Below the icon are three thick black horizontal bars representing text. To the right of the document is a black pen with a white nib. The word "DISCLAIMER" is written in large, bold, yellow, italicized capital letters across the middle of the document.

DISCLAIMER



Legal Framework

KRS 278.160(1)

Under rules prescribed by the commission, each utility shall file with the commission, within such time and in such form as the commission designates, schedules showing all rates and conditions for service established by it and collected or enforced. The utility shall keep copies of its schedules open to public inspection under such rules as the commission prescribes.

Legal Framework

KRS 278.160(2)

No utility shall charge, demand, collect or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules.

What Is A Rate?

[A]ny individual or joint fare, toll, charge, rental, or other compensation for service rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement, or privilege in any way relating to such fare, toll, charge, rental, or other compensation, and any schedule or tariff or part of a schedule or tariff thereof.

KRS 278.010(12).

Examples of a “Rate”

- Commodity Charge
- Meter Tap Fee
- Billing Recalculation Policy
- Length of Time to Pay Bill
- Minimum Contract Period
- Rule/Regulation

What is A Condition of Service?

Requirement, action or task that must be met or taken by an applicant for service as a **prerequisite** for receiving or continuing to receive service.

Examples of A “Condition of Service”

- Completing an Application Form
- Providing Evidence of an Inspection
- Deposit Requirement
- Easement Requirement
- Technical Specifications for Connection

Tariff Has The Status of Law

- PSC has adopted a regulation to implement the provisions of KRS 278.160.
- **807 KAR 5:006, Section 6 provides that:**
 - A utility shall not establish a special rule or requirement without obtaining PSC approval;
 - Unless specifically authorized by the PSC a utility shall not deny service to someone who has complied with all conditions of service in the utility's tariff.

Effect of KRS 278.160 & 807 KAR 5:006

- Only Filed Rates May Be Charged
- Only Filed C of S May Be Imposed
- All Filed Rates and C of S **MUST** be enforced
- Tariff Governs Utility's Relationship With Customer



If its **in** your tariff,
you **MUST** do it!

If its **not in** your
Tariff, you
Can Not do it!



Failure to Comply with KRS 278.160

The “Filed Rate Doctrine”

- Refund/Back billing
- Assessment of Civil Penalties Against:
 - o Utility
 - o Manager
 - o Water District Commissioners
- Removal of Water District Commissioners



Where Can I Find Our Tariff

- Should have a hard copy in the Utility's files
- Official Tariff is on the PSC Website:

Ky.gov An Official Website of the Commonwealth of Kentucky

 **Kentucky Public Service Commission**

psc.ky.gov General **Commission Records** For Consumers Utility Information SiteMap Employment Contact Us

Register Login

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KY PSC Records

Cases	Financial	Tariffs
Search All Cases	Annual Reports	Current Tariffs
Browse All Cases	Audit Reports	Proposed Tariff Changes Under Review
Docket Reports	Annual Report Statistics	Proposed Tariff Changes Post-Review
Hearing Videos	Annual Reports Electronic Filing Instructions	Tariff Monitoring Instructions
Hearing Calendar	Gross Operating Revenue Reports	Tariff Filing Instructions
Sign up for Case Notification	Uniform System of Accounts	

Orders		Other
Current Orders	Filers Login/Register	Managements Audits
Orders Vault	Filers Create an Account (video)	Staff Opinions
	Open Records Request Information	Utility Master Search
		Fuel Contracts
		Fuel Adjustment Clause



Register Login

Q ENHANCED BY Google

Tariffs Library

Folder Name
Electric
Natural Gas
Sewer
Telecommunications
Water
Xtra Info



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[Parent Folder](#)

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[Municipals](#)

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Email EECPSCIT@ky.gov

Page being reported:

<https://psc.ky.gov/Home/Library?type=Tariffs&folder=Water>.



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Tariffs Library

[Parent Folder](#)

Folder Name
Allen County Water District
Barkley Lake Water District
Bath County Water District
Beech Grove Water System
Big Sandy Water District
Black Mountain Utility District
Bluegrass Water Operating Company
Boone County Water District
Bracken County Water District
Breathitt County Water District
Bronston Water Association
Buffalo Trail Water Association
Bullock Pen Water District
Butler County Water System
Caldwell County Water District
Cannonsburg Water District
Carroll County Water District #1
Cawood Water District
Christian County Water

[Columbia-Adair Utilities District](#)

Procedure for Revising Tariffs

- General Procedures:
 - o 30 days Notice to PSC
 - o “Notice” is filing of New Tariff Sheet
 - o Submit Cover Letter & Tariff Sheet
 - o Tariff Sheet must comply with PSC Regs
 - PSC provides Tariff Sheet Templates on its website.



Revising Tariffs Continued

- General Procedures:
 - Tariff Sheet Should State the Effective Date
 - Attorney Is Not Required
 - Public Notice Must be Provided

PUBLIC NOTICE

- Three options for providing “Customer” Notice:
 - o Mail Notice with customer bills mailed no later than the date the tariff is filed with the PSC
 - o Mail written notice to each customer
 - o Publish notice one a week for 3 consecutive weeks in local newspaper

Public Notice

- Must Make Public Postings
 - o At Utility's Office
 - o On The Utility's Website
 - o On Any Social Media Page Maintained by the Utility
 - o Follow **807 KAR 5:11, Section 8(4)** concerning the Requirements for Notice Content

Possible PSC Responses to Tariff Filings

- Take No Action: Tariff becomes effective 30 days from filing
- Request Minor Modifications
- Suspend and Investigate (now an attorney is required)
- Final Action from PSC: within 10 months of filing



Nonrecurring Charges

A charge designed to recover customer-specific cost incurred that would otherwise result in monetary loss to the utility or increased rates to other customers to whom no benefits accrue from the service provided or action taken.



Examples of Nonrecurring Charges

- Connection Fees
- Inspection Fees
- Returned Check Fees
- Turn-off/Turn-on Charges
- Service Call/Investigation Charges



Nonrecurring Charges

Documents That Must be Filed with a Nonrecurring Charge Tariff Filing in Addition to Cover Letter & Tariff Sheet:

- Specific Cost-Justification Sheets & Supporting Documentation
- Income Statement & Balance Sheet for 12-month Period ending no more than 90 days before filing
- Statement about Why Not Filed in a Rate Case



Common Mistakes Tariff Filings

- No Signature On Tariff Sheets
- No Effective Date
- Failure to Use Correct Tariff Format
- Failure To Give Proper Notice
- Failure to Adequately Explain Reasons for Proposed Rule or Rate **AND** to Document Those Reasons **GOAL: AVOID SUSPENSION**



To Avoid Tariff Filing Mistakes

- Download/Use PSC Forms
- Provide Signature/**Effective Date**
- Notice – Timing (Provide at least 30 days Notice)
- Cover Letter Should Provide Lengthy Explanation for Rate/Rule
- Provide Supporting Documents (What Would Staff Want/Need To Know?)



Tariff Provisions To Consider

- **Required Provisions:**
 - Deposit Requirements
 - Budget Payment Plans
 - Reconnect Charge
 - Requested Meter Test Charge
 - All other “special” or nonrecurring charges
 - Rules regarding size, design, material & installation of service lines
 - Rules regarding service line installation & maintenance
 - Customer Usage Monitoring procedures

Tariff Provisions to Consider

- **Provisions Your Utility May Need or Want:**
 - o Leak Adjustments
 - o “Hit Rock” provision in meter tap fee language
 - o Turn-on/Turn-off provisions for seasonal residences
 - o Billing provision for service to more than one residence from a single meter
 - o Line Extension provision that reduces or eliminates refunds to Real Estate Developers

Tariff Provisions to Consider

- **Provisions Your Utility May Need or Want:**
 - Service Disconnection for waste of water
 - Service Disconnection for tampering or interfering with facilities
 - Imputed Liability to adults at service address
 - Utility Liability Disclaimer for service interruption, failure to provide flows adequate for fire suppression, damage to customer facilities caused by water pressure fluctuation

Managing Your Tariff

- Know the contents of the tariff
- Bylaws do not belong in the tariff
- Review at least annually
- Encourage utility Staff involvement in review
- Realize that the tariff is not an internal Management & Practices Manual
- Sample bills, applications for service, and other forms required by the tariff should be included as attachments to the tariff

Managing Your Tariff

- How **old** are some of the provisions?
 - How many decades are represented in your tariff?
- Have the regulations applicable to a particular provision changed?
- What is the general appearance of the tariff?
- Do you follow policies and practices that are Not in your tariff?
- Are there issues you are facing regularly that your tariff does not address?

Examples of Tariff Language to Address Specific Concerns

Long Service Line Across Adjacent Property:

“A service line running from the point of connection to the water main to the point of delivery shall not be located on any private property other than the Applicant’s property. No service line running from the point of delivery to the point of consumption shall be located on property other than the Applicant’s property unless the Applicant has obtained from the other property owners a private utility easement for the service line and recorded such easement with the County Clerk’s office.”

Examples of Tariff Language to Address Specific Concerns

Cost of Encountering Rock When Making a Meter Tap:

“An additional charge shall be made for meter connections where rock is encountered, such rock condition being defined as limestone or other hard stratified material in continuous volume of at least one cubic yard or more and which cannot be removed using ordinary excavation equipment. The charge shall be applied per linear trench foot and shall not exceed the actual cost of excavation.”

Examples of Tariff Language to Address Specific Concerns

Cost of Encountering Rock When Making a Meter Tap:

“Meter Connection Fee does not include any expense for boring in rock areas or any expense for rock removal. Customer will be assessed an additional charge for any rock boring or removal. The charge for rock removal shall be applied per linear trench foot and shall not exceed the actual cost of excavation. Fee also does not include the exceptional directional bore costs in which the directional bore exceeds 35 feet. In such case, the actual cost incurred for directional boring in excess of 35 feet not reflected in the Meter Connection Fee will be added to the Fee”

Does Your Tariff Look Like This?

Or worse. . .

Maybe Consider Revising It

Hand-Written Information ?

FOR South Eastern Pulaski Co.
Community, Town or City

P.S.C. KY. NO. _____

_____ SHEET NO. _____

CANCELLING P.S.C. KY. NO. _____

_____ SHEET NO. _____

SOUTH EASTERN WATER
(Name of Utility) ASSOCIATION, INC

RULES & REGULATIONS

Distorted or Crooked Print?

WATER LEAK ADJUSTMENT POLICY

In the event of a Water Leak, which the system deems is beyond the reasonable control of the customer, there may be adjusted as follows:

A. Water Leak will be adjusted using the following formula:

1. The average usage of the customer for the previous twelve months shall be determined plus 10,000 gallons over the average. Then the excess of the current period shall be charged at the current wholesale rate, with the

PUBLIC SERVICE COMMISSION

Older Tariff Forms

This Sheet:

1. Crooked Print
2. Inconsistent
Stamp Location
3. Prior to 807 KAR
5:011 Section
3(4)

Form for filing Rate Schedules		For <u>Community, Town or City</u>
		P.S.C. NO. _____
		SHEET NO. <u>1</u>
Name of Issuing Corporation _____		CANCELLING P.S.C. NO. _____
		SHEET NO. <u>1</u>
CLASSIFICATION OF SERVICE		
		RATE PER UNIT
ALL BILLS ARE SENT OUT ON THE LAST WORKING DAY OF EACH MONTH. ALL BILLS ARE DUE ON THE 10th OF EACH MONTH. PENTALEY OF 10percent IS ADDED TO THE UNPAID BALANCE ON THE 12th OF EACH MONTH. DELINQUENT NOTICES ARE SENT OUT ON THE 12th DAY OF THE MONTH. DISCONTINUANCE OF SERVICE SHALL BE EFFECTED NOT LESS THAN twenty (20) DAYS AFTER THE MAILING DATE OF THE ORGINAL BILL.		
PUBLIC SERVICE COMMISSION OF KENTUCKY EFFECTIVE OCT 02 1997 PURSUANT TO 807 KAR 5011. SECTION 9(1) BY: <u>Stephen O. Bui</u> SECRETARY OF THE COMMISSION		
DATE OF ISSUE _____	DATE EFFECTIVE _____	
ISSUED BY <u>Joe Richards, Jr.</u> Name of Officer	TITLE <u>President</u>	
Issued by authority of an Order of the Public Service Commission of Kentucky in Case No. _____ dated _____		

All From One Current Tariff

1984

Charges on
PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE
regular tariff schedule
on file in the office
NOV 27 1984
, Kentucky. PURSUANT TO 807 KAR 5.011,
SECTION 9 (1)
BY: *Jordan C. Neal*

1994

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tension and may be
ear refund period
to the extension
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quired to make
ccordance with

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE
SEP 11 1994
PURSUANT TO 807 KAR 5.011,
SECTION 9 (1)
BY: *Jordan C. Neal*
FOR THE PUBLIC SERVICE COMMISSION

DATE EFFECTIVE Nov. 27, 1984
TITLE Chairman

2004

DATE OF ISSUE March 2 2004
Month / Date / Year
DATE EFFECTIVE _____
Month / Date / Year
ISSUED BY *Don H. Daulton*
(Signature of Officer)
TITLE Chairman
BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE
COMMISSION
IN CASE NO. _____ DATED _____

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE
APR 04 2004
PURSUANT TO 807 KAR 5.011
SECTION 9 (1)
BY: *Charles R. Daulton*
EXECUTIVE DIRECTOR

Delete Language No Longer Effective

Don't Issue Strike-Through Sheets

~~Temporary Emergency Tariff~~ (T)

~~Due to the recent catastrophic floods in late July of 2022, Southern has instituted~~ (T)

~~a temporary emergency tariff for the purpose of assisting the community in its~~ (T)

~~flood relief and clean-up efforts:~~

~~If a customer's water usage is greater than 25 percent more/above said customer's~~ (T)

~~six-month water usage average during the August 2022 or September 2022 billing~~ (T)

~~cycles, Southern will issue bills based upon said customer's six-month average~~ (T)

~~usage, rather than the actual metered usage.~~ (T)

Don't Skip The Cover Page

- Does it have accurate information?
- Does it comply with 807 KAR 5:011, §3(2)
 - Mailing Address
 - Street Address
 - Web Address
 - Service Area

Cover Pages

Does not comply w/Reg

P.S.C. Ky. No. 10422.....
Cancels P.S.C. Ky. No. 3021.....

OF
Grayson, Carter County, KY.

Rates, Rules and Regulations for Furnishing
Water Service

AT
Rural portions of Carter, Elliott and Lawrence Counties KY.

PUBLIC SERVICE COMMISSION
OF KENTUCKY

JAN 20 1989

PURSUANT TO KAR 5:011,
SECTION 9 (1),
BY: [Signature]
PUBLIC SERVICE COMMISSION MANAGER

Filed with PUBLIC SERVICE COMMISSION OF
KENTUCKY

ISSUED January 20, 19 89 EFFECTIVE January 20, 19 89

ISSUED BY.....
(Name of Utility)
BY [Signature]
Chairman

Does comply w/Reg

PSC KY NO. 14
CANCELLING PSC KY NO. 13

HARDIN COUNTY WATER DISTRICT NO. 2

1951 WEST PARK RD
ELIZABETHTOWN, KENTUCKY 42701

P.O. Box 970
ELIZABETHTOWN, KENTUCKY 42701

www.hc wd2.org

RATES – CHARGES – RULES – REGULATIONS
FOR FURNISHING
WATER SERVICE
IN

HARDIN COUNTY, AND PORTIONS OF LARUE AND HART COUNTIES
KENTUCKY

FILED WITH THE
PUBLIC SERVICE COMMISSION
OF
KENTUCKY

DATE OF ISSUE March 25, 2025
MONTH / DATE / YEAR

DATE EFFECTIVE June 13, 2025
MONTH / DATE / YEAR

ISSUED BY /s/ Shaun Youravich
SIGNATURE OF OFFICER

TITLE General Manager

BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE COMMISSION IN
CASE NO. _____ DATED _____

**KENTUCKY
PUBLIC SERVICE COMMISSION**
Linda C. Bridwell
Executive Director
[Signature]
EFFECTIVE
6/13/2025
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)



QUESTIONS?

Tina.frederick@skofirm.com





THE NUTS & BOLTS OF CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

Tina Frederick
Stoll Keenon Ogden
Tina.frederick@skofirm.com

Adapted from a presentation
created by Gerald Wuetcher



ORDER OF PRESENTATION

- Certificate Basics
- Holdings of Recent Cases
- Applying for A Certificate



CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY: THE BASICS



KRS 278.020(1)

No person, partnership, public or private corporation, or combination thereof shall commence providing utility service or . . . **begin the construction of any plant, equipment, property,** or facility for furnishing to the public any of the services enumerated in KRS 278.010 . . . until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction.



PURPOSE OF STATUTE

- Mitigate Counter Incentives That Encourage Inefficient Investment for Investor-Owned Utilities
- Avoid Wasteful Duplication
- Prevent Water District Mistakes
- Ensure Project's Technical Feasibility



WHAT REQUIRES A CERTIFICATE?

- Construction of Any Plant, Facility, Equipment, or Property
- Commencing Service
- Purchase/Acquisition of Another Utility



WHAT IS CONSTRUCTION?

- Constructing Building/Structure
- Remodeling or Repurposing Existing Structure
- Construction of Equipment (e.g. Turbine)
- Purchase & Installation of Equipment



DOES **NOT** REQUIRE A CERTIFICATE

- Purchase of Land
- Maintenance Projects
- Demolition/Destruction of Existing Facility

CAUTION

- Purchase of Building?
 - What are you *doing* with the building?
 - Waiting to demolish it or demolishing it prior to construction?
 - Using it as an office/storage facility with no remodeling? Consider asking for a declaratory order before using.

CAUTION

- Purchase of a Building & Remodeling?

Cases Holding a CPCN is Required:

Case No. 2022-00197 Water Association

Case No. 2023-00120 Water District

Case Holding a CPCN may be Required:

Case No. 2023-00415 Electric Utility*

**Size of the utility operation is important to the analysis of whether this is an extension in the ordinary course*



KRS 278.020(1): EXCEPTIONS

- Service Connections to Electric Consuming Facilities By Retail Electric Suppliers
- Water District/Association Exception
- Ordinary Extensions of Existing Systems in the usual course of Business



“WATER DISTRICT EXCEPTION”

- KRS 278.020(1) amended in 2018
- Applies to **Class A & B** Water District & Assn
- Applies to “**water line extension or improvement project**”
- No Certificate required if:
 - Total Cost < \$500,000 **OR**
 - **NO** long-term debt AND **NO** rate increase
- Not applicable to Sewer Projects



“WATER DISTRICT EXCEPTION”

- PSC Initially Limited Applicability To Construction of Water Mains
- Case No. 2016-00255: “[T]he proposed installation of the new metering system is not a ‘waterline extension or improvement project,’ as it **does not extend or improve an existing waterline**”
- Adopts PSC Staff Opinion No. 2012-024



“WATER DISTRICT EXCEPTION”

- PSC Staff Opinion No. 2017-002
- Water Association proposes to construct water booster station, including 300 feet of 2" water line, & install pressure reducing valve
- PSC Staff: “[T]he project improves existing water lines and qualifies as a ‘water line extension or improvement project.’”
- Project involving non-mains may qualify if beneficial effect on existing water mains



“WATER DISTRICT EXCEPTION”

- PSC Case No. 2018-00355
- WD to construct booster station, 31,300 LF of 6” and 8” water line, & 2 ground storage tanks
- Tanks’ cost (\$544,000) = 28% of total project cost
- Project totally financed through AML money
- PSC: Project is “waterline extension or improvement project”
- Exception applies; No certificate required



EXTENSIONS IN THE ORDINARY COURSE

“A certificate of public convenience and necessity shall not be required for extensions that do not create wasteful duplication of plant, equipment, property or facilities, or conflict with the existing certificates or service of other utilities operating in the same area and under the jurisdiction of the commission that are in the general or contiguous area in which the utility renders service, and that do not involve sufficient capital outlay to materially affect the existing financial condition of the utility involved, or will not result in increased charges to its customers.”

807 KAR 5:001, §16(3)



EXTENSIONS IN THE ORDINARY COURSE: THE FACTORS

- No **Wasteful** Duplication of Plant or Facilities
- **No Conflict** With Existing Certificates or Service of Other Utilities
- Capital Outlay Is Insufficient to **Materially Affect** Existing Financial Condition of Utility
- Will Not Result In **Increased Charges** to Customers



EXTENSIONS IN THE ORDINARY COURSE: WASTEFUL DUPLICATION

- “Excess of Capacity Over Need”
- “Excessive Investment In Relation To Productivity” – Investment’s Cost-effectiveness
- Unnecessary Multiplicity of Physical Properties
- Premature Replacement
- Thorough Review of **ALL ALTERNATIVES**
- **Any Duplication Requires Formal Review**



EXTENSIONS IN THE ORDINARY COURSE: “MATERIALLY AFFECT” - TESTS

- Percentage of Existing Net Utility Plant
- Debt Issued to Finance Project
- Project Cost Borne By Utility
- Financial Impact of Depreciation Expense



EXTENSIONS IN THE ORDINARY COURSE: PERCENTAGE OF UTILITY PLANT TEST

- $\text{Percentage} = \text{Total Project Cost} \div \text{Net Utility Plant (Total Plant - Depreciation)}$
- Trigger for Certificate
 - 10 Percent Rule (**Abandoned**)
 - 3 Percent Rule — Case No. 2019-00257
 - 1 Percent Rule — Case No. 2014-00171
- Funding Source Not Considered



EXTENSIONS IN THE ORDINARY COURSE: DEBT FINANCED CONSTRUCTION

- Case No. 98-079: Projects financed through Utility Debt have a Material Effect on Utility's Finances
- Case No. 2000-481: "The method used to finance the cost of proposed facilities does not determine whether those facilities require a Certificate of Public Convenience and Necessity"



EXTENSIONS IN THE ORDINARY COURSE: DEBT FINANCED CONSTRUCTION

- Case No. 2022-00284: Notes that how project is financed is a factor; absence of long-term debt suggests no material affect on finances
- **Bottom Line:** Use of debt financing will be factor in whether project has a material affect on utility's finances



EXTENSIONS IN THE ORDINARY COURSE: PROJECT COSTS BORNE BY UTILITY

- Projects Financed With Others' Funds
 - Case No. 2014-00368
 - Case No. 2018-00164
 - Case No. 2017-00195
 - Cases No. 2019-00067/No. 2020-00344
- **No Material Effect** if Customer financed
- **No Effect** on Utility's Financial Condition



PROJECTS FINANCED WITH OTHERS' FUNDS: CASE NO. 2014-00368

- IOU to construct gas line to serve industrial customer
- Gas Line = 55% of Net Utility Plant
- Customer pays cost
- No increase to Utility Plant
- No Rate Increase
- **NO MATERIAL EFFECT – NO CPCN**



PROJECTS FINANCED WITH OTHERS' FUNDS: CASE NO. 2017-00195

- IOU to relocate gas line running through landfill
- Landfill requests, pays most of relocate costs
- IOU's share of cost deemed too small to materially affect its financial condition
- No Rate Increase
- **NO MATERIAL EFFECT – NO CPCN**



PROJECTS FINANCED WITH OTHERS' FUNDS: CASES NO. 2019-00067 & NO. 2020-00344

- \$16.5 Million Projects at Fort Knox
- Projects = 31.1% of Net Utility Plant
- US Govt funding entire project cost
- No increase to other customers' rates
- No affect on utility's financial condition
- **NO MATERIAL EFFECT – NO CPCN**

CAUTION

The Holding in Case Nos 19-67 & 20-344 includes:

“The Commission would again note that there could be a situation where the size of a project in relation to the size of a utility might materially affect the existing financial condition of the utility or potentially result in increases charges to customers, as those terms are used in 807 KAR 5:001, Section 15(3), despite an agreement by a customer to cover all costs”

Bottom Line

A Customer providing **100%** of the funding needed for construction is a **strong indication** that a CPCN will not be required,

BUT

The PSC has expressed an **expectation** that utilities will seek Declaratory Orders for these projects, especially if they are large in relation to the utility's size (net utility plant).



GOVERNMENT GRANTS AND “MATERIAL EFFECT”

- Case No. 2022-00284
- W&S District to construct sewer main to serve new industry; sought Declaratory Order
- Cost: \$1,751,352 (14.5% of net utility plant)
- Funding Source: EDA, ARC Grants
- Holding: No debt incurred – No material effect on financial condition – No certificate required

CAUTION

Case Nos. 2024-00336 & 2024-00347

Water District planned to construct 24-inch water main to provide secondary source of water to City. The project was **100%** funded by government grants and direct appropriations.

CAUTION

Case Nos. 2024-00336 & 2024-00347

Water District filed a tariff establishing a wholesale rate and WPA with City

Result:

PSC opened a formal investigation into the reasonableness of the wholesale rate.

CAUTION

Case Nos. 2024-00336 & 2024-00347

PSC's opening Order contained language indicating that "additional regulatory steps" were needed or Water District risked **"willfully violating applicable portions of KRS Chapter 278 and Chapter 005 of Title 807 of the Kentucky Administrative Regulations."**

CAUTION

Case Nos. 2024-00336 & 2024-00347

Result:

Water District applied for a Declaratory Order.

PSC found no CPCN required

BUT

There are two (2) aspects of the Order that indicate great caution is needed.

CAUTION

Case No. 2024-00347

(1) PSC relied greatly on the “ordinary extension” analysis despite the fact that Water District argued “water district exception.”

CAUTION

Case No. 2024-00347

(2) Order stated: “this Order should not be construed as to relieve any similar project or utility of its obligations pursuant to KRS 278.020; a CPCN may be required even if the project does not result in Indebtedness.”

The PSC Expects utilities to seek at least a Declaratory Order for “large” projects.



ALWAYS CONSIDERED NOT IN THE ORDINARY COURSE

- Construction of Office Building
- Purchase and Installation of Advance Metering Infrastructure (AMI)



ANALYTICAL FRAMEWORK

- Is Construction or Installation of Equipment Involved?
- Does Action Fall Within An Exception?
 - Water District Exception?
 - Water Main Extension or Improvement?
 - Less than \$500,000?
 - No long-term debt or no rate increase?
 - Ordinary Extension In Usual Course?
 - Wasteful Duplication?
 - Interferes with Another Utility's Certificate?
 - Any Material Effect on Utility's Financial Condition?



WHEN IN DOUBT

- CYA: Private Attorney Opinion Letter
 - Thorough Analysis Essential
- Request Declaratory Order
- Avoid Requests for Staff Opinion
- DO **NOT** Request A Deviation - Not Permitted Under Statute
- Apply for a Certificate



ADVANTAGES/DISADVANTAGES OF NO CERTIFICATE

- **Advantages:**
 - No delay for PSC proceedings
 - No litigation expense
- **Disadvantages:**
 - No presumption of reasonableness
 - No benefit if Long-Term Debt Required
 - Subject to Future Review & Disallowance

Possible Investigation Proceeding & Civil Penalties!



CONSTRUCTING WITHOUT CERTIFICATE: CONSEQUENCES

- Assessment of \$2,500 Penalty To:
 - Utility
 - Utility Management
 - Engineering Firm/Contractors
- Injunctive Relief
- Does Not Affect Rate Recovery



PREPARING AN APPLICATION FOR CERTIFICATE



CONTENTS OF APPLICATION

- Facts to Show Public Convenience & Necessity Require Project
- Franchises/Permits
- Full Description of Proposed Location/Route of Facilities
- Description of Manner of Construction
- Maps/Drawings/Specifications
- Method For Financing the Proposed Project

807 KAR 5:001, § 15



DEMONSTRATING NECESSITY

- Condition of Existing Facilities
- Ability to Meet Existing Demand/Future Demand
 - Adequate Service: Sufficient Capacity to meet the maximum estimated requirements during the year
- Alternatives
- Technical Feasibility
- Economic Feasibility
 - Least Cost vs. Most Reasonable
 - Duplication of Facilities Not Necessarily Fatal



DEMONSTRATING NECESSITY

- Full and Complete Narrative in Application
- Preliminary/Final Engineering Reports
- Written Testimony
 - Historical Background
 - Opportunity to Address Critical Issues
 - Explain Engineering Aspects of Application
 - Best Opportunity to Present Case for Certificate
- Other Studies (e.g. hydraulic studies)



PERMITS

- List /Provide Evidence of Required Permits
 - Division of Water Approval of Plans & Specifications
 - Discharge Permits
 - Army Corp of Engineer Permits
 - Highway Encroachment Permits
 - Historical/Preservation Permits
- Note Status of Obtaining Easements
- PSC is **Last Stop**: Request Deviation from Filing Requirements if Any Permits Not Yet Obtained



PROCEDURE

- Application
- Discovery
- Interested Parties May Intervene, But Generally No Intervenors
- Hearing on Application Seldom Held
- Final Order: 90 – 120 Days from filing of Application



TIMING

- Obtain PSC Approval Prior to Executing Construction/Materials Contract
- File Application after selecting winning bid if possible
- Alert PSC to Timing Requirements for Final Decision (Remind Frequently)
- If Selecting Contract Prior to Final PSC Order, Make Contract Contingent on Grant of Certificate



OBTAINING PSC APPROVAL



EXPEDITING PSC REVIEW

- Advise PSC of Critical Dates
- Advise PSC Staff of Willingness to Accept Informal Discovery Procedures
- Post-Filing Conference



EXPEDITING PSC REVIEW

- Use Filing Checklists
- Include Written Testimony with Application
- Ensure Any Document Prepared By Professional Engineer Are Stamped/Signed



QUESTIONS?

