

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF OLDHAM)	CASE NO.
COUNTY WATER DISTRICT FOR AN)	2023-00252
ALTERNATIVE RATE ADJUSTMENT)	

ORDER

On August 18, 2023, Oldham County Water District (Oldham District) filed its application with the Commission in compliance with the final Order in Case No. 2023-00118,¹ requesting an adjustment to its water service rates pursuant to 807 KAR 5:076, the Commission regulation governing alternative rate filings for small utilities (ARF). Oldham District did not initially meet the necessary qualifications to file for a rate increase pursuant to 807 KAR 5:076 because its revenue exceeded \$5,000,000. Instead, Oldham District would have been required to file an application for a general rate adjustment pursuant to 807 KAR 5:001. The expanded process would have required direct testimony from the district filed into the record, and no staff report would have been developed. However, in Case No. 2023-00118, Oldham District requested a deviation allowing it to file an application for a rate adjustment pursuant to 807 KAR 5:076 despite having gross annual revenues that exceeded the amount permitted by 807 KAR 5:076, Section 2. The Commission granted the requested deviation and allowed Oldham District to file the

¹ See Case No. 2023-00118, *Electronic Application of Oldham County Water District for a Deviation From 807 KAR 5:076, Section 2(1) to be Permitted to Use Alternative Rate Filing Procedures* (Ky. PSC May 25, 2023), Order at 1–2.

ARF.² Pursuant to 807 KAR 5:076, Section 9,³ Oldham District used the calendar year ended December 31, 2022, as the basis for its application.

In an alternative rate adjustment procedure for small utilities, the record upon which the decision shall be made shall be based upon the (1) applicant's annual report for the immediate past year and the annual reports for the two prior years, if the utility has been in existence that long; (2) application required by Section 4 of the administrative regulation; (3) information supplied by the parties in response to requests for information; (4) written reports submitted by Commission Staff; (5) stipulations and agreements between the parties and Commission Staff; (6) written comments and information that the parties to the proceeding submitted in response to the findings and recommendations contained in a written report that Commission Staff submitted; and (7) if a hearing is held, the record of that hearing.⁴

In its application, Oldham District requested its base rate revenue be increased by \$944,172, or 18.65 percent to pro forma present rate water sale revenues.⁵

PROCEDURAL HISTORY

To ensure the orderly review of the application, the Commission established a procedural schedule by Order dated September 28, 2023. Prior to issuing a procedural schedule, the Commission rejected for filing a request for intervention submitted by Robert Jefferson on behalf of Buckeye Trace Homeowners Association pursuant to 807

² See Case No. 2023-00118, May 25, 2023 Order at 1–2.

³ The reasonableness of the proposed rates shall be determined using a 12-month historical test period, adjusted for known and measurable changes, that coincides with the reporting period of the applicant's annual report for the immediate past year.

⁴ 807 KAR 5:076, Section 3.

⁵ Application, Attachment 4, Revenue Requirement Calculation.

KAR 5:001, Section 4(4).⁶ Commission Staff's First Request for Information (Staff's First Request) was issued as an Appendix to the procedural schedule issued on September 28, 2023, with a response due date of November 1, 2023. Oldham District filed its response to Staff's First Request on October 31, 2023. Commission Staff's Second Request for Information (Staff's Second Request) was issued on November 15, 2023, with a response due date of November 29, 2023. Oldham District filed its response to Staff's Second Request on November 20, 2023.

Oldham District proposed to increase its monthly retail and wholesale water service rates using a cost-of-service study (COSS) that it prepared in 2023.⁷ Commission Staff utilized the COSS provided by Oldham District and allocated the \$718,308 revenue increase to the monthly retail and wholesale water service rates. Commission Staff issued its report (Commission Staff Report) on January 2, 2024, summarizing its findings and recommendations regarding Oldham District's requested rate adjustment. In the Commission Staff Report, Commission Staff found that Oldham District's adjusted test-year operations supported an overall revenue requirement of \$6,300,186 and that a \$718,308 revenue increase, or 14.19 percent, to pro forma present rate revenues was necessary to generate the overall revenue requirement.⁸

On January 16, 2024, Oldham District filed its response to Commission Staff Report.⁹ In its written comments, Oldham District stated five objections: (1) Correction of

⁶ Order (Ky. PSC Sept. 25, 2023).

⁷ Oldham District's Response to Staff's First Request (filed Oct. 31, 2023), Item 19.

⁸ Commission Staff Report at 4.

⁹ Response to Commission Staff Report (filed Jan. 16, 2024).

the typographic error in Volumetric Retail Rate shown in Appendix B;¹⁰ (2) Failure to increase Tap Fee;¹¹ (3) Request to round-down certain non-recurring charges;¹² (4) Disallowance of certain employee benefit expenses from Oldham District's revenue requirement;¹³ and (5) Any other issue which Oldham District subsequently identifies and provides written notice to the Commission prior to any scheduled hearing.¹⁴ Finally, Oldham District also disagreed with the removal of labor expenses in the calculation of charges for non-recurring services provided during regular business hours, but for the purposes of this proceeding agreed to accept staff's recommendation.¹⁵ Oldham District waived its right to a conference with Commission Staff and requested a hearing.¹⁶

The Commission issued an Order¹⁷ dated March 14, 2024, granting a formal hearing on four of the five stated objections. The Commission's Order denied rehearing on Oldham District's fifth objection. The regulation is clear, parties have 14 days to file a "written response to the commission staff report."¹⁸ As part of its response, the utility is required to state "[a]ll objections to and other comments on the findings and recommendations of commission staff[.]"¹⁹ Therefore, "[i]f a party's written response fails

¹⁰ Response to Commission Staff Report at 1.

¹¹ Response to Commission Staff Report at 2.

¹² Response to Commission Staff Report at 2-3.

¹³ Response to Commission Staff Report at 3-4.

¹⁴ Response to Commission Staff Report at 4.

¹⁵ Response to Commission Staff Report at 1-2.

¹⁶ Response to Commission Staff Report at 5.

¹⁷ Order (Ky. PSC Mar. 14, 2024).

¹⁸ 807 KAR 5:076, Section 11(3)(a).

¹⁹ 807 KAR 5:076, Section 11(3)(b)(1).

to contain an objection to a finding or recommendation contained in the commission's staff report, it shall be deemed to have waived all objections to that finding or recommendation."²⁰ Additionally, the parties stipulated to the following issues: (1) Correction of the typographic error in Volumetric Retail Rate shown in Appendix B; and (2) Failure to increase Tap Fee.²¹ A formal hearing was held on April 19, 2024, at 9 a.m. Eastern Daylight Time. During the hearing, Commission Staff member, Noah Abner, provided testimony correcting the Commission Staff Report regarding the calculation of the adjustment for consideration of the single coverage as well as family coverage employer provided health plans, which resulted in an adjustment to reduce expenses by \$30,796.²² Consequently, the contested amount of employee benefit expenses disallowed from Oldham District's revenue requirement increased from \$94,445 to \$125,241.²³

LEGAL STANDARD

Alternative rate adjustment proceedings, such as this one, are governed by Commission regulation 807 KAR 5:076, which establishes a simplified process for small utilities to use to request rate adjustments, with the process designed to be less costly to the utility and the utility ratepayers. The Commission's standard of review of a utility's

²⁰ 807 KAR 5:076, Section 11(3)(c).

²¹ Stipulation (filed Apr. 10, 2024).

²² Hearing Video Transcript (HVT) of the April 19, 2024 Hearing at 10:55:00-10:56:30, Noah Abner's Testimony.

²³ HVT of the April 19, 2024 Hearing at 10:55:45-10:56:30, Noah Abner's Testimony.

request for a rate increase is well established. In accordance with KRS 278.030 and case law, the utility is allowed to charge its customers “only fair, just and reasonable rates.”²⁴ Further, the utility bears the burden of proof to show that the proposed rate increase is just and reasonable under KRS 278.190(3).

BACKGROUND

Oldham District is a water utility organized pursuant to KRS Chapter 74 that owns and operates a distribution system through which it provides retail water service to approximately 8,379 residential customers, and 677 commercial customers who reside in Oldham County, Kentucky. Additionally, Oldham District provides wholesale water service to one industrial customer and one wholesale customer in Oldham County, Kentucky.²⁵ Oldham District has never had a base rate increase pursuant to the alternative rate filing procedure. Instead, Oldham District has only adjusted its rates pursuant to financing approval, or in conjunction with an application for a Certificate of Public Convenience and Necessity (CPCN). Oldham District's retail water rates were last adjusted in 2009 in Case No. 2009-00436, a CPCN case.²⁶

UNACCOUNTED-FOR WATER LOSS

Oldham District reported a water loss of 10.6607 percent in its 2022 Annual Report. Commission regulation 807 KAR 5:066, Section 6(3), states that, for ratemaking

²⁴ *City of Covington v. Public Service Commission*, 313 S.W.2d 391 (Ky. 1958); and *Public Service Comm'n v. Dewitt Water District*, 720 S.W.2d 725 (Ky. 1986).

²⁵ *Annual Report of Oldham District to the Public Service Commission for the Calendar Year Ended December 31, 2022* (2022 Annual Report) at 12 and 49.

²⁶ Case No. 2009-00436, *Application of Oldham County Water District for a Certificate of Public Convenience and Necessity to Construct, Finance and Increase Rates Pursuant to KRS 278.023* (Ky. PSC Dec. 9, 2009).

purposes, a utility's water loss shall not exceed 15 percent of total water produced and purchased, excluding water consumed by a utility in its own operations. Oldham District produces all of its water supply. The table below shows that the 2022 total annual cost of water loss to Oldham District is \$75,718.

	Purchased Power	Chemicals	Total
Pro Forma Expense	\$ 526,196	\$ 184,062	\$ 710,258
Water Loss Percent	10.6607%	10.6607%	
Total Water Loss	\$ 56,096	\$ 19,622	\$ 75,718

TEST PERIOD

The calendar year ending on December 31, 2022, was used as the test year to determine the reasonableness of Oldham District's existing and proposed wastewater rates as required by 807 KAR 5:076, Section 9.

SUMMARY OF REVENUE AND EXPENSES

The Commission Staff Report as modified herein Oldham District's pro forma income statement as follows:

	Commission Staff's Report		
	Test-Year Operations	Pro Forma Adjustments	Pro Forma Operations
Operating Revenues	\$ 5,200,445	\$ (37,277)	\$ 5,163,168
Operating Expenses	5,226,531	400,802	5,627,333
Net Utility Operating Income	(26,086)	(438,079)	(464,165)
Interest Income	176,710	0	176,710
Total Utility Operating Income	\$ 150,624	\$ (438,079)	\$ (287,455)

REVIEW AND MODIFICATIONS OF COMMISSION STAFF'S RECOMMENDATIONS

Oldham District proposed adjustments to its revenues and expenses to reflect current and expected operating conditions. In the Commission Staff Report, Commission

Staff proposed additional adjustments, which were modified and corrected in stipulations and Commission Staff testimony during the April 19, 2024 hearing. The following presents the Commission’s complete pro forma adjustments:

	Test Year	Oldham District Proposed Adjustments	Commission Staff Adjustments	Commission Adjustments	Total Adjustments	Pro Forma
Operating Revenues						
Sales of Water	\$4,302,238	\$ 29,044			\$ 29,044	\$4,331,282
Sales for Resale	732,373	(1)			(1)	732,372
Other Water Revenues	96,656	(51,005)			(51,005)	45,651
Forfeited Discounts	32,153				0	32,153
Miscellaneous Service Revenues	37,025		(15,688)	373	(15,315)	21,710
Total Operating Revenues	5,200,445	(21,962)	(15,688)	373	(37,277)	5,163,168
Operating Expenses						
Operation and Maintenance Expenses						
Salaries and Wages - Employees	1,504,974	311,754			311,754	1,816,728
Salaries and Wages - Officers	30,200				0	30,200
Employee Pensions and Benefits	1,106,773	43,948	(94,445)	(30,796)	(81,293)	1,025,480
Purchased Power for Pumping	526,196				0	526,196
Chemicals	184,062	197,664	(146,973)		50,691	234,753
Materials and Supplies	265,157	93,911			93,911	359,068
Contractual Services	162,691	38,870		16,949	55,819	218,510
Transportation Expense	104,167				0	104,167
Insurance	111,811				0	111,811
Advertising	9,496				0	9,496
Bad Debt Expense	10,083.00				0	10,083
Miscellaneous Expense	137,011	(2,680)	(133)		(2,813)	134,198
Total Operation and Maintenance Expenses	4,152,621	683,467	(241,551)	(13,847)	428,069	4,580,690
Depreciation	1,073,910	(27,267)			(27,267)	1,046,643
Total Operating Expenses	5,226,531	656,200	(241,551)	(13,847)	400,802	5,627,333
Net Operating Income	(26,086)	(678,162)	225,863	14,220	(438,079)	(464,165)
Interest Income	176,710				0	176,710
Income Available to Service Debt	\$ 150,624	\$ (678,162)	\$ 225,863	\$ 14,220	\$ (438,079)	\$ (287,455)

Monthly Water Service Rates. Oldham District proposed to increase its monthly retail and wholesale water service rates by the use of a cost-of-service study (COSS).²⁷

The Commission finds that the COSS as proposed by Oldham District to be acceptable. The COSS was developed by Alan Vilines, Kentucky Rural Water Association, and Mr. Vilines utilized a COSS methodology that has previously been

²⁷ Application, Attachment 4.

accepted by the Commission.²⁸ Commission Staff utilized the COSS provided by Oldham District and allocated the \$704,088 revenue increase to the monthly retail and wholesale water service rates.

The rates, which are set forth in the Appendix to this Order, are based upon the revenue requirement as calculated by Commission Staff and will produce sufficient revenues from water sales to recover the \$2,384,604 Revenue Required from Rates. The rates will increase a typical residential customer's monthly water bill from \$27.34 to \$28.99, an increase of \$1.65, or approximately 6.04 percent.²⁹

Billing Analysis. Oldham District proposed an adjustment to its test-year general retail water sales revenues of \$4,302,238 by \$29,044, for a normalized test-year sales revenue of \$4,331,282.³⁰ Oldham District further proposed an adjustment to its test-year general wholesale water sales revenues of \$732,373 by (\$1), for a normalized test-year's sales revenue of \$732,372.³¹ Oldham District filed a normalized billing analysis with the application,³² and Commission Staff reviewed this normalized billing analysis and recommended that the Commission accept these revenue adjustments to the test-year revenues.

²⁸ Case No. 2021-00475, *Electronic Application of Carroll County Water District #1 for an Adjustment of Rates Pursuant to 807 KAR 5:076*, (Ky. PSC Jun. 28, 2022).

²⁹ The typical residential customer uses approximately 5,000 gallons per month. Application, Attachment 1.

³⁰ Application, Exhibit 4.

³¹ Application, Exhibit 4.

³² Application, Exhibit 5.

The Commission finds Commission Staff's recommended adjustments are reasonable because the evidence provided shows that the adjustment accurately reflects the increases effect on the revenues of the test year.

Other Water Revenues. Oldham District proposed an adjustment to Other Water Revenues, which totaled \$96,656, this adjustment proposed the removal of \$51,005 of reimbursement to Oldham District for the expenses of Oldham District crews deployed to assist in recovery after the Eastern Kentucky floods of 2022.³³ Commission Staff recommended that the Commission approve this adjustment as this reimbursement was for an unusual event not likely to recur.

The Commission finds Commission Staff's recommended adjustment is reasonable because the evidence provided shows that the adjustment is necessary to properly classify Oldham District's revenue and to conform to general accounting principles.

Miscellaneous Service Revenues. In the Commission Staff Report, Commission Staff reviewed the responses to the information requests, including the cost justification sheets, and decreased Miscellaneous Service Revenues by \$15,688 by removing field labor costs and office/clerical costs to nonrecurring charges that are accomplished during normal office hours. As noted in the Commission Staff Report, the proposed adjustments to Miscellaneous Service Revenues result in a pro forma amount of \$21,337. Commission Staff followed Commission precedent and removed field labor and office clerical labor costs and recommended that the Commission accept these adjustments to Miscellaneous Service Revenues.

³³ Application, Exhibit 4, Adjustment B.

Oldham District filed an objection to Commission Staff not rounding down certain nonrecurring charges and requested rounding for the purpose of administrative ease.³⁴ The Commission finds that rounding the proposed nonrecurring charges to the nearest dollar amount results in an adjustment of \$373 to Commission Staff's original adjustment of (\$15,688). The revised adjustment of -\$15,315 results in a pro forma amount of \$21,710.

Oldham District's CEO stated that the main purpose of the request for rounding was for administrative ease and that rounding in either direction wouldn't cause detrimental impact to Oldham District.³⁵ This testimony, in conjunction with the supporting exhibit provided by Oldham District,³⁶ supports a finding that the charges may be rounded to the nearest dollar amount. The Commission finds Commission Staff's recommended adjustment is reasonable because the evidence provided shows that the adjustment is necessary to properly classify Oldham District's revenue and to conform to general accounting principles.

Salary and Wages - Employees. In its application, Oldham District proposed a \$311,754 increase to Salaries and Wages – Employees expense to reflect the District's 2023 salary increases and the removal of expenses associated with overtime worked in Eastern Kentucky assisting with flood damage.³⁷

³⁴ Response to Commission Staff Report.

³⁵ HVT of the April 19, 2024 Hearing, at 09:44:30–09:45:00, Russ Rose's Testimony.

³⁶ Oldham District Hearing Exhibit (filed Apr. 12, 2024).

³⁷ Application, Attachment 4, Schedule of Adjusted Operations, Adjustment C.

Commission Staff reviewed Oldham District's board minutes and confirmed that salary increases were approved.³⁸ Commission Staff reviewed Oldham District's 2022 general ledger³⁹ and adjustment calculation⁴⁰ and determined the proposed adjustment is an accurate representation of the increase in the annual labor expense to Oldham District. Commission Staff recommended that the Commission accept Oldham District's adjustment as known and measurable changes.

The Commission finds Oldham District's \$311,754 increase to Salaries and Wages – Employees expense is known and measurable because it reflects the current salaries of the Oldham District's employees with the nonrecurring flood assistance removed.

Employee Pensions and Benefits. In its application, Oldham District proposed a \$43,948 increase to Employee Pensions and Benefits expense to reflect the additional payroll taxes from new wages, additional County Employees Retirement System (CERS) contributions at the new contribution rate, and current insurance benefits with the removal of Oldham District Commissioner Benefits.⁴¹ Commission Staff compiled a table of each component of Oldham District's proposed adjustment in the table below⁴².

³⁸ Oldham District's Response to Staff's First Request, Item 7, Attachment 1-7.

³⁹ Oldham District's Response to Staff's First Request, Item 1-1(a), Attachment_1-1a_General_Ledger_2022.xls.

⁴⁰ Oldham District's Response to Staff's First Request, Item 11a, Attachment_1-11a_Cost_of_Service_Study.xlsx.

⁴¹ Application, Attachment 4, Schedule of Adjusted Operations, Adjustment D.

⁴² Oldham District's Response to Staff's First Request, Item 11a, Attachment_1-11a_Cost_of_Service_Study.xlsx.

	Oldham District's Adjustments
Payroll Taxes	\$ 22,996
CERS	72,798
Commissioner Benefits	(106,509)
Current Employee Insurance	54,663
Adjustment	<u>\$ 43,948</u>

Commission Staff reviewed Oldham District’s calculations for Payroll Taxes and CERS contributions with the new Salaries and Wages – Employees expense and determined that the proposed adjustments are an accurate representation of the increase in Payroll Taxes and CERS contributions.⁴³ Accordingly, Commission Staff increased Payroll Taxes by \$22,996 and increased CERS contributions by \$72,798.

Commission Staff reviewed Commissioner benefit information that Oldham District provided⁴⁴ and determined that the proposed adjustment is an accurate representation of the decrease in insurance benefits⁴⁵. Therefore, Commission Staff reduced Insurance Benefits by \$106,506.⁴⁶

Commission Staff reviewed Oldham District’s current employee insurance benefits adjustment calculation⁴⁷ and noted that Oldham District did not make an adjustment to reflect the appropriate average health insurance employer contribution based on the

⁴³ Oldham District’s Response to Staff’s First Request, Item 11a, Attachment_1-11a_Cost_of_Service_Study.xlsx.

⁴⁴ Oldham District’s Response to Staff’s First Request, Item 11a, Attachment_1-11a_Cost_of_Service_Study.xlsx.

⁴⁵ Oldham District’s Response to Staff’s First Request, Item 6.

⁴⁶ Oldham District’s Response to Staff’s First Request, Item 11a, Attachment_1-11a_Cost_of_Service_Study.xlsx.

⁴⁷ Oldham District’s Response to Staff’s First Request, Item 11a, Attachment_1-11a_Cost_of_Service_Study.xlsx.

published United States Bureau of Labor Statistics' (BLS) national average for an employer's share of health insurance premiums and the Willis Benchmarking Survey for national average for an employer's share of dental insurance that is consistent with Commission precedent.⁴⁸ Commission Staff revised its health insurance premium adjustment from the Commission Staff Report to include both single and family health insurance coverage.⁴⁹ Using the tables below and Oldham District's current⁵⁰ employee insurance premiums, Commission Staff's revised calculation was a \$70,578 decrease for current contributions to employee health insurance.⁵¹

		Commission Staff's Calculated Employee Contribution						
		Health (Single)	Health (Family)	Dental	Vision	Life	LTD	Total
A	Proforma Monthly	\$ 3,468	\$ 21,386	\$ 1,218	\$ 316	\$ 571	\$ 1,338	\$ 28,297
B = A X 12	Proforma Yearly	41,619	256,635	14,612	3,786	6,848	16,059	339,560
C	Employer Cont. %	79%	67%	40%	100%	100%	100%	n/a
D = B X C	Employer Cont.	32,879	171,946	5,845	3,786	6,848	16,059	237,363
E	Test Year ()	(37,001)	(234,884)	(13,682)	(3,298)	(6,214)	(12,863)	(307,941)
F = D+E	Difference From Test Year	\$ (4,122)	\$ (62,938)	\$ (7,837)	\$ 488	\$ 634	\$ 3,196	\$ (70,578)

Commission Staff calculated a \$125,241 total decrease to Oldham District's total adjustment to reflect the decrease in health insurance premium costs for ratemaking

⁴⁸ See Case No. 2017-00263, *Electronic Application of Kentucky Frontier Gas, LLC for Alternative Rate Adjustment* (Ky. PSC Dec. 22, 2017), at 9-10, and The Willis Benchmarking Survey, 2015, at 62-63. (https://www.willis.com/Documents/publications/Services/Employee_Benefits/20151230_2015WillisBenefitsBenchmarkingSurveyReport.pdf).

⁴⁹ HVT of the April 19, 2024 Hearing at 10:54:53 –10:56:52, Noah Abner's Testimony.

⁵⁰ Oldham District's Response to Staff's First Request, Item 5, Attachment-1-5_Employee_Hours_Pay_Benefits.xlsx.

⁵¹ Bureau of Labor Statistics' Share of Premiums Paid by Employer and Employee for Single Coverage, 2023. (<https://www.bls.gov/news.release/ebs2.t03.htm>) and Bureau of Labor Statistics' Share of Premiums Paid by Employer and Employee for Family Coverage, 2023. (<https://www.bls.gov/news.release/ebs2.t04.htm>).

purposes along with Oldham District’s proposed adjustments to Payroll Taxes, CERS contributions, and Commissioners’ Benefits shown in the chart below⁵².

	Oldham District's Adjustments	Commission Staff's Adjustments	Difference
Payroll Taxes	\$ 22,996	\$ 22,996	\$ -
CERS	72,798	72,798	-
Commissioner Benefits	(106,509)	(106,509)	-
Current Employee Insurance	54,663	(70,578)	(125,241)
Adjustment	<u>\$ 43,948</u>	<u>\$ (81,293)</u>	<u>\$(125,241)</u>

Commission Staff recommended the Commission accept Oldham District’s adjustment as modified by Commission Staff to reflect additional payroll taxes from new wages, additional CERS contributions at the new contribution rate, and current insurance benefits with the removal of Oldham District Commissioner Benefits with the health insurance premium based on the BLS national average for an employer's share of health insurance premiums, because the adjustments meet the ratemaking criteria of being known and measurable as well as appropriate in following Commission precedent.⁵³

BLS Average of Employer's Share of Health Insurance. Oldham District objected to adjusting health insurance premiums based on the BLS national average. Oldham District offered the testimony of its CEO, Russ Rose, and its finance manager, Lacey Cunningham, in support of its argument against the BLS adjustment. However, Oldham District did not provide any evidence in the record regarding the insurance adjustment beyond the anecdotal evidence discussed above. Rather than putting on sufficient

⁵² Kentucky Public Pensions Authority, CERS Employer Contribution Rates, Contribution Rates - Kentucky Public Pensions Authority. (<https://www.kyret.ky.gov/Employers/Pages/Contribution-Rates.aspx>).

⁵³ Case No. 2019-00053, *Electronic Application of Jackson Purchase Energy Corporation for a General Adjustment in Existing Rates* (Ky. PSC June 20, 2019), Order at 9.

affirmative evidence of the employee market conditions Oldham District believed supported its choice to provide 100 percent health insurance coverage, it focused on its objections to the use of the BLS data in its post-hearing brief.⁵⁴ As evidenced by the Commission's Order in Case No. 2019-00053, the Commission's use of employer statistics to assess the appropriate level of health insurance contributions is reasonable, supported by evidence and is consistent with Commission precedent.⁵⁵ In the Commission's Order in Case No. 2019-00053, as it reaffirms here, employee benefits are unreasonable if they exceed benefits that are market competitive. The Commission's review of a utilities employee benefits, comparing those benefits to the market, including using the BLS published data, assists in the setting of fair, just and reasonable rates as well as ensuring adequate, efficient and reasonable service. As a guide for regulated entities, the Commission articulated that as long as the employee contribution rate for health insurance is at least 12 percent, no further adjustment to the national average would be made.⁵⁶ Although the Commission looks to the BLS published data as evidence of market conditions, as documented in prior orders, the Commission also considered evidence of a particular market's divergence from the published average.⁵⁷ This stance

⁵⁴ Oldham District's Post-Hearing Brief (filed May 15, 2024).

⁵⁵ Oldham District's Post-Hearing Brief (filed May 15, 2024) at 6-7, citing Case No. 2019-00053, *Electronic Application of Jackson Purchase Energy Corporation for a General Adjustment in Existing Rates* (Ky. PSC June 20, 2019), Order at 9.

⁵⁶ Case No. 2019-00053, *Electronic Application of Jackson Purchase Energy Corporation for a General Adjustment in Existing Rates* (Ky. PSC June 20, 2019), Order at 8-9, citing Case No. 2018-00291, *Electronic Application of Northern Kentucky Water District for an Adjustment of Rates; Issuance of Bonds; Financing; and Tariff Revisions*, (Ky. PSC Mar. 26, 2019) at 8. (Footnote omitted).

⁵⁷ Case No. 2019-00053, *Electronic Application of Jackson Purchase Energy Corporation for a General Adjustment in Existing Rates* (Ky. PSC June 20, 2019), Order at 8-9.

directly contradicts Oldham District's argument of a rigid, formulaic approach, instead demonstrating a level of flexibility allowing for the consideration of specific circumstances.

Furthermore, the Commission has consistently maintained that it does not expect every utility to offer identical benefit packages. Instead, the Commission expects compensation and benefits offered to employees to be aligned with those in competitive markets and justified through compensation and benefits studies or similar evidence.⁵⁸ This expectation highlights the Commission's commitment to ensuring that utilities provide a fair and competitive compensation package without relying solely on single data points and anecdotal evidence which, taken without proper context, do not provide whole and accurate representation of the utility's health and ability to provide reliable service to its customers.

In support of its position, Oldham District relies upon testimony. Specifically, Russ Rose, Oldham District's CEO, stated testified that Oldham District derived its position regarding the appropriate employer share of health insurance through its personal hiring experience.⁵⁹ While Mr. Rose's testimony has value commensurate with his experience, the testimony fails to provide a sufficient basis which would compel the Commission to determine that the employment market relevant to Oldham District is so unique that reliance on the BLS was inappropriate.

The Commission's policy is designed to ensure fairness and reasonableness in the recoverable costs related to employee benefits. Ultimately, without sufficient justification and robust evidence, Oldham District's reliance on personal hiring experiences fails to

⁵⁸ Case No. 2018-00129, *Application of Inter-County Energy Cooperative Corporation for a General Adjustment of Existing Rates* (Ky. PSC Jan. 25, 2019), Order at 9.

⁵⁹ HVT of the April 19, 2024 Hearing at 09:30:30—09:30:50, Russ Rose's Testimony.

meet the necessary criteria to deviate from the established national standard. The Commission's approach, while not without its complexities, strives to ensure that employee compensation packages are fair, just, and competitive, aligning with broader market practices and standards.

The Commission Finds that the Current Policy does not Violate Kentucky Law despite not having been Promulgated as an Administrative Regulation. Oldham District argued that the Commission's policy violates Kentucky law because it has not been promulgated as an administrative regulation under KRS Chapter 13A.⁶⁰ This argument is flawed for several reasons.

First, the necessity for an administrative regulation as outlined in KRS 13A.100(1) hinges on whether the policy in question is indeed a statement of general applicability that prescribes law or policy or describes organizational procedure.⁶¹ If the policy is instead an internal guideline or operational directive specific to the Commission's internal management and does not affect the public or external stakeholders, it does not fall within the requirements of KRS 13A.100(1). Internal policies that guide the behavior of agency employees or manage internal processes often do not require formal promulgation as administrative regulations.⁶²

Second, the long-standing enforcement of a policy without challenge implies that it is a well-accepted practice within the scope of the Commission's operational authority. The fact that this policy has been in place and enforced for years suggests a level of

⁶⁰ KRS Chapter 13A

⁶¹ KRS 13A.100(1).

⁶² KRS 13A.100(1)(a)-(c).

acceptance and integration, indeed reliance on, the Commission's standard operating procedures. Courts have long recognized this bedrock principle, that longstanding administrative interpretations are entitled to considerable weight.⁶³

Moreover, not every policy or procedure needs to be promulgated as an administrative regulation, if it falls within the discretionary authority granted to the agency. The Commission has broad authority to implement certain policies without going through the formal regulatory process if such actions are necessary for its administrative functions and do not extend beyond its statutory mandate. Agencies are often granted discretion to manage their internal operations, and such internal policies are typically not subject to the requirements of KRS Chapter 13A.⁶⁴

In addition, enforcement of policies not codified as administrative regulations are lawful if such policies are necessary for the efficient operation of the agency and do not contravene any existing laws or regulations. The Commission's authority to enforce certain internal policies are derived from its enabling statutes, which grant it the power to carry out its duties and responsibilities effectively.⁶⁵

The argument against the Commission's policy being unlawful due to its lack of formal promulgation as an administrative regulation under KRS Chapter 13A misunderstands the law in this area. Internal policies that do not prescribe general law or policy affecting the public, long-standing accepted practices, and discretionary

⁶³ *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 844 (1984).

⁶⁴ *Bowman v. Cabinet for Health and Family Services*, 2012-CA-000535-MR, 2013 WL 2450523 (Ky. App. June 7, 2013).

⁶⁵ KRS 13A.130.

authority granted to the Commission all justify the lawful enforcement of the policy without the need for formal codification as an administrative regulation.

The Commission finds that Water Utilities' Unique Classification as a Special Purpose Government Entity is more Aligned with that of a Private Entity for the Purpose of Benefits. Oldham District argued that the recommended adjustment based on private employer data rather than government employer data is incorrect. Oldham District stated that its non-profit, public service driven nature makes it more akin to a government entity than private employer.⁶⁶ The Commission has long recognized utilities as private employers for the purpose of benefits due to the nature of the jobs and the fact that, although utilities are formed under various chapters of the government, utilities are not operated by the government, which places public utilities under the classification of special purpose government entities.⁶⁷ This classification covers several non-profit, public service driven areas, such as library personnel and public hospital employees, which also have not been qualified as government employees through their employment with an entity formed under a chapter of the government and operated independently.⁶⁸

Under Kentucky Revised Statutes (KRS) 65A.010(9)(a)-(d), public utilities are classified as special purpose governmental entities rather than standard government entities.⁶⁹ This distinction arises from their specific operational scope and defined service areas.⁷⁰ According to the statute, special purpose governmental entities are created for

⁶⁶ Oldham District's Post-Hearing Brief at 11–12.

⁶⁷ KRS 65A.010(9)(a)-(d),

⁶⁸ KRS 65A.010(9)(c).

⁶⁹ KRS 65A.010(9)(a)-(d).

⁷⁰ KRS 65A.010(9)(a).

a specific function, operate within particular service areas, and maintain a significant degree of administrative and operational independence. Public utilities, such as water, align with this definition as it's established to deliver particular services within certain geographic boundaries and often operate autonomously from broader government oversight in day-to-day operations.⁷¹

One of the key characteristics of public utilities that supports their classification as special purpose governmental entities is their operational independence. Unlike standard government entities that are integrated into the general administrative framework of government operations, public utilities typically have their own governing boards and budgetary autonomy.⁷² This independence allows it to manage their operations and finances in a manner tailored to their specific service needs, further distinguishing it from standard government entities which are generally more interconnected in their administrative and financial structures. Moreover, under KRS 65A.010(9)(d)(7), a public utilities' budget, finances, and financial information are not fully integrated with and included as a part of the budget, finances, and financial reporting of the city, county, or cities and counties in which it operates in the same manner as government agency, further emphasizing their distinct operational procedures and differences between the two classifications.⁷³

Standard government entities often share comprehensive benefit plans due to their integrated nature, which can accommodate the diverse needs of a wide range of

⁷¹ KRS 65A.010(9)(c)(2).

⁷² KRS 65A.010(9)(a)(3-4) and KRS 65A.010(9)(d)(7).

⁷³ KRS 65A.010(9)(d)(7).

employees across various functions. However, public utilities' independent operation makes it more appropriate for it to provide private health insurance benefit packages tailored to their specific needs and circumstances. The Commission's approach ensures that the benefits are more closely aligned with the operational realities and financial structures of the utilities, reinforcing that their status as special purpose governmental entities is more closely associated with that of a private entity.

Public utilities' classification as special purpose governmental entities under KRS 65A.010(9)(a)-(d) underscores their unique operational and financial independence, specialized service focus, and administrative autonomy.⁷⁴ Furthermore, their exemption from reporting budgets and finances like government agencies under KRS 65A.010(9)(d)(7) highlights their distinct status.⁷⁵ Therefore, it is more fitting for these entities to be classified as private entities for the purpose of employee benefits and to offer private health insurance benefit packages to their employees, reflecting their distinct status and operational needs, rather than relying on government health benefits designed for standard government entities.

The Commission has used the private industry average for all adjustments to health insurance contributions under this methodology, including many utilities which are districts, associations, or cooperatives. Oldham District had ample notice that any adjustment would use the private sector averages but did not address this until the hearing. The BLS technical note stated that the type and nature of private sector jobs does not align with government jobs, noting specifically that the majority of private sector

⁷⁴ KRS 65A.010(9)(a)-(d).

⁷⁵ KRS 65A.010(9)(d)(7).

jobs are manufacturing and sales, and that the majority of government jobs are teaching positions, with more general office work.⁷⁶ However, Oldham District's jobs involve the production and distribution of water, which is the same whether the water utility is private sector or public sector. Thus, the BLS reasoning for the distinction is inapplicable.

The Commission finds that Oldham District did not meet its Burden of Proof in Providing Geographic Information to Justify Deviation. The argument that the Commission's policy is not specific to the utility job market, or the Kentucky geographic region overlooks a crucial aspect of its consistent application and precedent. Oldham District cited “at least 46 utilities in Kentucky that have offered 100 percent coverage of employee health insurance premiums in recent years.”⁷⁷ Since the BLS precedent was introduced, 43 of those cited cases have undergone rate adjustments before the Commission. In each of these cases, the final orders appropriately aligned with the national standard, adhering to the Commission's precedent.⁷⁸ This demonstrates a

⁷⁶ [Employee Benefits in the United States Technical Note - 2023 A01 Results \(bls.gov\)](#), paragraph 4.

⁷⁷ Oldham District's Post-Hearing Brief at 13–14.

⁷⁸ Case No. 2021-00315, *Electronic Application of Adair County Water District for an Alternative Rate Adjustment* (Ky. PSC Feb. 10, 2022), Order at 7-8. Case No. 2021-00454, *Electronic Application of Barkley Lake Water District for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Sept. 13, 2022), Order at 8. Case No. 2022-00404, *Electronic Application of Bath County Water District for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Aug. 10, 2023), Order at 8. Case No. 2022-00117, *Electronic Application of Bronston Water Association, Inc. for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Oct. 12, 2022), Order at 10. Case No. 2021-00205, *Electronic Application of Buffalo Trail Water Association, Inc. for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Dec. 10, 2021), Order at 7. Case No. 2022-00378, *Electronic Application of Bullock Pen Water District for an Alternative Rate Adjustment* (Ky. PSC July 5, 2023), Order at 15. Case No. 2021-00475, *Electronic Application of Carroll County Water District #1 for an Adjustment of Rates Pursuant to 807 KAR 5:076* (Ky. PSC June 28, 2022), Order at 8. Case No. 2020-00311, *Electronic Application of Cawood Water District for an Alternative Rate Adjustment* (Ky. PSC Apr. 8, 2021), Order at 8. Case No. 2020-00342, *Electronic Application of Citipower, LLC for a Rate Adjustment for Small Utilities Pursuant to 807 KAR 5:076* (Ky. PSC Apr. 27, 2021), Order at 7-9. Case No. 2020-00264, *Electronic Application of Cumberland Valley Electric, Inc. for a General Adjustment of Rates Pursuant to Streamlined Procedure Pilot Program Established in Case No. 2018-00407* (Ky. PSC Dec. 30, 2020), Order at 7-8. Case No. 2021-00013, *Electronic Application of Edmonson County Water District for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Aug. 4, 2021), Order at

6. Case No. 2023-00037, *Electronic Application of Edmonson County Water District for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Aug. 8, 2023), Order at 8. Case No. 2022-00377, *Electronic Application of Grant County Sanitary Sewer District for an Alternative Rate Adjustment* (Ky. PSC July 5, 2023), Order at 7-8. Case No. 2023-00088, *Electronic Application of Green River Valley Water District for Adjustment of Rates* (Ky. PSC Oct. 30, 2023), Order at 5-6. Case No. 2022-00246, *Electronic Application of Green-Taylor Water District for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC June 12, 2023), Order at 16-17. Case No. 2018-00272, *Application of Grayson Rural Electric Cooperative Corporation for an Adjustment of Rates* (Ky. PSC Mar. 28, 2019), Order at 10-16. Case No. 2018-00129, *Application of Inter-County Energy Cooperative Corporation for a General Adjustment of Existing Rates* (Ky. PSC Jan. 25, 2019), Order at 8-14. Case No. 2021-00410, *Electronic Application of Jonathan Creek Water District for an Alternative Rate Adjustment* (Ky. PSC Feb. 7, 2023), Order at 9-10. Case No. 2022-00436, *Electronic Application of Judy Water Association, Inc. for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Aug. 4, 2023), Order at 10. Case No. 2017-00263, *Electronic Application of Kentucky Frontier Gas, LLC for Alternative Rate Adjustment* (Ky. PSC Dec. 22, 2017), Order at 9-10. Case No. 2019-00268, *Application of Knott County Water and Sewer District for an Alternative Rate Adjustment* (Ky. PSC Jan. 31, 2020), Order at 29-31. Case No. 2022-00068, *Electronic Application of Lake Village Water Association, Inc. for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Oct. 4, 2022), Order at 10. Case No. 2021-00385, *Electronic Application of Laurel County Water District No. 2 for an Alternative Rate Adjustment* (Ky. PSC Nov. 1, 2022), Order at 11-13. Case No. 2022-00431, *Electronic Application of Letcher County Water and Sewer District for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Nov. 17, 2023), Order at 15-18. Case No. 2021-00391, *Electronic Application of Lyon County Water District for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC May 13, 2022), Order at 5-6. Case No. 2020-00131, *Electronic Application of Meade County Rural Electric Cooperative Corporation for an Adjustment of Rates* (Ky. PSC Sept. 16, 2020), Order at 7-8. Case No. 2016-00435, *Application for Rate Adjustment of Nebo Water District* (Ky. PSC June 5, 2017), Order at 3-4. Case No. 2016-00367, *Application of Nolin Rural Electric Cooperative Corporation for a General Rate Increase* (Ky. PSC June 21, 2017), Order at 10-11. Case No. 2021-00286, *Electronic Application of North Logan Water District #1 for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Dec. 14, 2021), Order at 6-7. Case No. 2016-00325, *Electronic Application of North Mercer Water District for Rate Adjustment Made Pursuant to 807 KAR 5:076* (Ky. PSC May 19, 2017), Order at 2-3. Case No. 2022-00317, *Electronic Application of North Shelby Water Company for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Dec. 15, 2023), Order at 13-15. Case No. 2022-00348, *Electronic Application of Sharpsburg Water District for a Rate Adjustment Pursuant 807 KAR 5:076* (Ky. PSC May 15, 2023), Order at 10. Case No. 2023-00050, *Electronic Application of South 641 Water District for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Dec. 13, 2023), Order at 10-11. Case No. 2023-00051, *Electronic Application of South 641 Water District for a Sewer Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Dec. 13, 2023), Order at 10-11. Case No. 2022-00122, *Electronic Application of South Hopkins Water District for an Alternative Rate Adjustment* (Ky. PSC Feb. 14, 2023), Order at 9-11. Case No. 2022-00129, *Electronic Application of Southern Madison Water District for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Mar. 9, 2023), Order at 8-9. Case No. 2022-00099, *Electronic Application of Southern Water and Sewer District for an Alternative Rate Adjustment* (Ky. PSC Dec. 20, 2022), Order at 13. Case No. 2022-00160, *Electronic Application of Union County Water District for an Alternative Rate Adjustment* (Ky. PSC May 5, 2023), Order at 11-12. Case No. 2021-00241, *Electronic Application of West Shelby Water District for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Feb. 24, 2022) Order at 7-8. Case No. 2021-00406, *Electronic Application of Western Fleming County Water District for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Sept. 19, 2022), Order at 9-10. Case No. 2023-00182, *Electronic Application of Western Mason County Water District for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Jan. 4, 2024), Order at 13-15. Case No. 2022-00321, *Electronic Application of Whitley County Water District #1 for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Mar. 30, 2023), Order at 14. Case No. 2022-00145, *Electronic Application of Wood Creek Water District for a General Adjustment of Rates* (Ky. PSC Dec. 20, 2022), Order at 8-10.

consistent and fair application of the policy across various utilities. The Commission assesses each utility and their competitive market independently and have a duty to set fair, just and reasonable rates. Citing to all these alleged examples exposes Oldham District's lack of evidence regarding deviating from the BLS for their particular situation.

Additionally, three of the named utilities have not had a rate adjustment since the BLS precedent was established but currently have cases before the Commission.⁷⁹ Notably, one of these utilities explicitly states in its application that it requires employees to contribute to their benefit premiums.⁸⁰ This further illustrates that the policy is being applied uniformly, with considerations given to employee contributions and adjustments made accordingly. One named utility is a municipality, which falls outside of the Commission's jurisdiction, and therefore should not be used as a comparable example.⁸¹

The opposition's argument that the BLS provides utility industry-specific data that offers a more accurate comparison is valid, yet it fails to recognize that the Commission's use of nationally compiled and published employee benefit data ensures fairness and reasonableness. Pursuant to this evidence, employee benefit packages in line with the competitive market, where employees make at least a 12 percent contribution to their health insurance premiums, no further adjustment to the national average needs to be

⁷⁹ Case No. 2023-00247, *Electronic Application of Hardin County Water District No. 2 for a General Adjustment of Rates* (filed Sept. 29, 2023). Case No. 2022-00252, *Electronic Application of Rowan Water, Inc. for an Alternative Rate Adjustment and an Investigation into Rowan Water, Inc. and its Individual Directors, Larry Johnson, Randall Cox, Mike Collins, Enoch Blair, and its Manager, Jerry Patrick, for Allegedly Failing to Comply with KRS 278.300 and a Commission Order* (filed Sept. 6, 2022). Case No. 2024-00085, *Electronic Application of Jackson Purchase Energy Corporation for a General Adjustment of Rates and Other General Relief* (filed May 1, 2024).

⁸⁰ Case No. 2024-00085, *Electronic Application of Jackson Purchase Energy Corporation for a General Adjustment of Rates and Other General Relief* (filed May 1, 2024), Application at Direct Testimony of Meredith Kendall at 9.

⁸¹ Princeton Water & Wastewater.

made unless justified by sufficient evidence, ensuring flexibility in the policy.⁸² This reliance upon evidence of nationally compiled and published employee benefit data it is neither rigid nor arbitrary.

The Commission's approach ensures that all utilities under its jurisdiction are held to the same standard, promoting equity and consistency across the board, with appropriate adjustments made if and when utilities put on affirmative evidence proving that the BLS data standards should not apply. The requirement for empirical evidence to justify deviations ensures that utilities are held to a competitive and equitable standard, aligning with the broader goals of fair rate development.

The Commission finds that the Standard of Evidence is Well Established and Oldham District did not meet its Burden. In its brief, Oldham District raised concerns regarding the alternative rate filing (ARF) process. It's important to highlight that Oldham District specifically requested a deviation to file this application under the ARF process. Oldham District did not qualify for the ARF process under 807 KAR 5:076 due to the fact that its revenue exceeded \$5,000,000, which is the threshold.⁸³ Instead of filing a general rate case—which would have allowed Oldham District to conduct a wage study and recover the associated costs as part of the rate case expense—it sought a deviation to utilize the lower-cost option.

By opting for the ARF process, Oldham District must accept its inherent standards or be willing to incur additional costs to meet the burden of proof required to deviate from

⁸² Case No. 2019-00053, *Electronic Application of Jackson Purchase Energy Corporation for a General Adjustment in Existing Rates* (Ky. PSC June 20, 2019), Order at 9.

⁸³ See Case No. 2023-00118, *Electronic Application of Oldham County Water District for a Deviation From 807 KAR 5:076, Section 2(1) to be Permitted to Use Alternative Rate Filing Procedures* (Ky. PSC May 25, 2023).

those standards. This choice implies a trade-off: while the ARF process is designed to be simpler and less expensive for small utilities, it also comes with limitations. The requirements to justify a deviation from the standard are clear and Oldham District had full opportunity to present affirmative information when they became aware of the objections to Staff's recommendations and presented their evidence during the hearing. The ARF application does not typically require a wage and benefit survey, but without such empirical evidence, proving the reasonableness of a 100 percent employer-paid health insurance premium plan becomes more challenging.

Oldham District argues that the requirement for a wage and benefit survey is inconsistent with the purpose of the ARF process. However, it's essential to recognize that Oldham District's annual revenue exceeds the threshold for ARF eligibility. Therefore, their decision to request a deviation and proceed with the ARF process obligates Oldham District to adhere to the simplified standards of this process. Oldham District cannot bypass the necessary comprehensive evidence required in a general rate case while still expecting the Commission to accept deviations without substantial proof.

In essence, Oldham District's situation underscores the principle that one cannot "have their cake and eat it too." By choosing the ARF process, Oldham District must either conform to its simplified standards or bear the additional costs associated with providing sufficient justification to deviate from those standards, which Oldham District had full opportunity to do in their objections to the staff report and in their presentation of evidence at the hearing of this matter. This approach ensures that the ARF process remains fair and accessible while maintaining the integrity and consistency of the Commission's regulatory framework.

The Commission finds that Oldham District's Full Employer Contribution to Benefit Premiums does not meet the National Standard. While Oldham District's intention to keep customer rates low by managing operating expenses is in line with their duty to charge fair, just and reasonable rates, but the argument that paying 100 percent of employee health and dental insurance premiums justifies lower wages and salaries is problematic. The Commission's policy is designed to ensure fairness and competitiveness in employee compensation, and this includes adhering to standards that reflect broader market practices.

If Oldham District required employees to contribute according at the BLS and Willis Average percentages, the additional \$115,000 per year in employee-related expenses cited⁸⁴ is not necessarily a burden that should fall directly on customers. The district has the opportunity to restructure its compensation package to align with national standards without significantly impacting overall costs. Moreover, the potential \$1.00 per month increase in customer rates,⁸⁵ when viewed in the context of maintaining equitable and competitive employee benefits, is a reasonable adjustment to ensure compliance with the national standards.

Furthermore, the argument that adjusting wages to offset insurance contributions would increase expenses such as CERS contributions, payroll taxes, and federal and state income tax liabilities does not outweigh the need for standardized compensation practices. These adjustments are part of maintaining a fair and competitive compensation

⁸⁴ See Oldham District's Response to Staff's First Request, Item No. 6, Attachment 1-6.

⁸⁵ See Oldham District's Response to Staff's First Request, Item No. 6 and Attachment 1-6.

package, which ultimately benefits both employees and customers by promoting a stable and motivated workforce.

The Commission's policy on the recovery of 100 percent employer insurance contribution expense is not intended to inflate customer rates needlessly. Instead, it aims to balance the cost of employee benefits with the need to provide just and reasonable rates. By adhering to these standards, Oldham District ensures that its compensation practices are aligned with those of other competitive businesses and utilities, promoting fairness and transparency.

The Commission finds that the Burden of Proof Lies with Oldham District rather than Commission Staff, and Oldham District did not Provide Sufficient Evidence to Justify Deviation. The argument that Commission Staff failed to provide evidence to support their recommendation for reducing Oldham District's employee insurance benefits expense overlooks the critical principle that the burden of proof lies with the applicant,⁸⁶ not the Commission Staff.

First, it is established regulatory practice that the burden of proof in rate cases rests with the utility seeking the rate adjustment. According to KRS 278.190(3), the applicant must demonstrate that its proposed rates are just and reasonable. This means Oldham District must provide sufficient evidence to support its claimed expenses, including employee insurance benefits. The Commission Staff's role is to review the evidence provided and ensure it aligns with established regulatory standards and precedents.

⁸⁶ KRS 278.190(3).

Commission Staff noted that Oldham District did not make the necessary adjustments to reflect the health insurance premiums based on the BLS and Willis Benchmark Survey averages, which are consistent with Commission precedent.⁸⁷ This observation is crucial because it highlights a deviation from the standard practice that has been deemed reasonable and measurable by the Commission in past cases. The onus was on Oldham District to present evidence showing that its higher insurance expenses were justified and competitive within the local labor market.

Furthermore, while Oldham District argues that the Commission Staff Report did not consider local labor market conditions or perform detailed cost comparisons,⁸⁸ this does not absolve the district of its responsibility to provide such information. The applicant must present comprehensive evidence to support its expense levels, including detailed cost comparisons, analyses of local market competitiveness, and justifications for any deviations from established benchmarks. As seen in other cases, the failure to provide adequate evidence can result in the rejection of the proposed rates.⁸⁹

Moreover, regulatory precedent often serves as a guideline to ensure consistency and fairness in rate determinations. By recommending adjustments based on established benchmarks like the BLS Average and Willis Average, the Commission Staff is upholding a methodical approach to ratemaking that is known and measurable. This methodology ensures that all utilities are held to consistent standards, promoting fairness and

⁸⁷ Commission Staff Report at 9—10.

⁸⁸ Oldham District's Post-Hearing Brief.

⁸⁹ *Public Service Commission of Kentucky v. Commonwealth ex rel. Conway*, 324 S.W.3d 373, 383 (Ky. 2010).

preventing excessive rates. The use of established benchmarks is a common practice to ensure objectivity and fairness.⁹⁰

Lastly, the argument that Commission Staff's reliance on their policy stands on shaky ground is unfounded. Regulatory policies are developed to create a structured and predictable framework for decision-making. Unless Oldham District can provide substantial evidence that its specific circumstances warrant a departure from these established benchmarks, the Commission is justified in adhering to its precedent. The burden is on the applicant to justify any deviation from standard practice.⁹¹

Oldham District bears the burden of proving that its proposed rates, including employee benefits expenses, are just and reasonable. The Commission Staff's recommendation is based on established benchmarks and consistent regulatory practices. Without sufficient evidence from Oldham District to justify its higher expenses, the recommendation for a downward adjustment is both appropriate and necessary to ensure fair and reasonable rates for consumers.

Oldham District also discussed the issue of funding their commissioner benefits. Oldham District stated that it removed the cost of commissioner benefits from their application, however, testimony during the hearing raised concern. Oldham District's approach to funding the cost of commissioners' health insurance benefits is potentially financially imprudent, as evidenced by the testimonies presented during the April 19, 2024 hearing.

⁹⁰ *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 844 (1984).

⁹¹ KRS 278.190(3).

Lacey Cunningham, Oldham District's Finance and Administrative Manager, testified that the cash to pay for the commissioners' health insurance benefits could come from Additional Working Capital or Depreciation Expense, categorizing these funds as unrestricted.⁹² However, Cunningham also indicated that the funds in Additional Working Capital are dictated by the covenants in the loan documents.⁹³ This implies that these funds are not truly unrestricted, as their usage is governed by specific covenants designed to ensure financial stability and compliance with debt obligations.

Furthermore, Russ Rose, Oldham District's Chief Executive Officer, testified that the cost of the commissioners' health insurance benefits would likely come from Additional Working Capital.⁹⁴ Oldham District's post-hearing brief categorized this response as speculative because no firm decision has been made on how to cover this expense.⁹⁵ The reliance on speculative sources for funding raises significant concerns about the financial planning and sustainability of this approach.

The covenants in the bond documents, specifically Section 501 of the Bond Resolution, require Oldham District to maintain rates and charges equal to 120 percent of the average annual debt service requirements for principal and interest of all outstanding Rural Development Bonds and any other outstanding bonds.⁹⁶ Additionally,

⁹² HVT of the April 19, 2024 Hearing at 10:21:45-10:23:00 and 10:42:45-10:43:30 and 10:46:50-10:47:10, Lacey Cunningham's Testimony.

⁹³ HVT of the April 19, 2024 Hearing at 10:48:50-10:49:10, Lacey Cunningham's Testimony.

⁹⁴ HVT of the April 19, 2024 Hearing at 9:35:10-9:36:35, Russ Rose's Testimony.

⁹⁵ Oldham District's Post-Hearing Brief at 17-18.

⁹⁶ Application at Attachment 4, Statement of Adjusted Operations, Ref. K; Application at Attachment 8, Bond Resolution, Section 501 (filed Aug. 18, 2023); see also HVT of April 19, 2024 Hearing at 10:48:10 - 10:49:08, Lacey Cunningham Testimony.

Section 603(c) of the Bond Resolution restricts Oldham District from issuing additional bonds unless their net revenues are at least 120 percent of their average annual debt service requirements.⁹⁷ These covenants ensure that the utility maintains a robust financial position to meet its debt obligations and operational costs.

Using funds from Additional Working Capital or Depreciation Expense to cover the health insurance benefits without proper adjustments to the revenue requirement could jeopardize Oldham District's ability to comply with these covenants. If Oldham District chooses to continue providing a benefit costing over \$100,000 without securing a stable and appropriate funding source, it risks creating a financial shortfall that could affect its debt service coverage ratio and overall financial health.

Oldham District's current approach of potentially using Additional Working Capital or Depreciation Expense to fund commissioners' health insurance benefits, without firm decisions or adjustments to the revenue requirement, is speculative and risky. This method could compromise their financial stability and compliance with debt covenants. This situation puts Oldham District on notice that using funds not designated for covering such expenses could trigger an investigation into whether this practice is unjust and unreasonable in the future, pursuant to KRS 278.260 and necessitate more rigorous financial planning to ensure compliance with KRS 278.260 and the terms of their bond covenants. The statute grants the Commission the authority to investigate and determine if any rates or practices are unjust, unreasonable, or in violation of any provisions of law.⁹⁸

⁹⁷ Application at Attachment 8, Bond Resolution, Section 603.

⁹⁸ KRS 278.260(1).

For the reasons described above, the Commission finds that Oldham District has not met its burden of proof to justify a deviation from the nationally recognized BLS standard. The Commission further finds that Commission Staff's corrected adjustments as made during the April 19, 2024 hearing are aligned with the BLS standard and, without sufficient evidence to the contrary, this adjustment is reasonable and accepted.

Chemicals. Oldham District proposed a \$197,664 increase to its Chemicals expense in its application, asserting that expenses increased by 107 percent for the first four months of 2023 compared to the first four months of 2022.⁹⁹

Commission Staff reviewed Oldham District's 2022 and 2023 general ledgers for the January through September periods¹⁰⁰ along with invoices from Oldham District's chemical treatment suppliers.¹⁰¹ Commission Staff concluded that, while costs had increased, the amount of increase asserted by Oldham District for the first four months was partially due to timing and that, based on Commission Staff's nine month comparison of chemical spending, a \$50,691, or 27.45 percent, increase from Oldham District's chemical suppliers is appropriate. Commission Staff calculated a \$146,973 decrease to Oldham District's proposed \$197,664 increase to its Chemicals expense for a total increase of \$50,691 as shown below. Commission Staff recommended the Commission accept Oldham District's adjustment as modified by Commission Staff to reflect Chemical cost increases.

⁹⁹ Application, Attachment 4, Schedule of Adjusted Operations, Adjustment E.

¹⁰⁰ Oldham District's Response to Staff's First Request, Item 1-1(a), Attachment_1-1a_General_Ledger_2022.xls, and Attachment_1-1a_General_Ledger_YTD_09.30.23.xls.

¹⁰¹ Oldham District's Response to Staff's Second Request, Item 11c.

Month	2022	2023	Percent Change
Jan	4,127	6,555	58.84%
Feb	9,281	32,428	249.39%
Mar	21,001	57,393	173.29%
Apr	26,251	64,211	144.61%
May	51,086	73,530	43.93%
Jun	57,218	99,068	73.14%
Jul	98,153	107,308	9.33%
Aug	104,332	132,995	27.47%
Sep	117,122	149,380	27.54%
Test Year Chemical Cost			\$ 184,062
Commission Staff Calculated Increase			\$ 50,691
Increase Proposed by Oldham District ()			(197,664)
Commission Staff Adjustment			<u>\$ (146,973)</u>

The Commission finds Commission Staff's \$146,973 decrease to Oldham District's proposed \$197,664 or a total increase of \$50,691 to Chemicals expense is reasonable because it accurately reflects a normalized known and measurable increase in Chemicals expense.

Materials and Supplies. In its application, Oldham District proposed a \$93,911 increase to Materials and Supplies expense to reflect increased costs.¹⁰² Commission Staff reviewed Oldham District's 2022 and 2023 materials and supplies expense¹⁰³ and determined that Oldham District's proposed \$93,911 increase is an accurate representation of increased materials and supplies expense. Commission Staff concluded that the increase is a combination of cost increases and a higher frequency of repairs.¹⁰⁴

¹⁰² Application, Attachment 4, Schedule of Adjusted Operations, Adjustment F.

¹⁰³ Oldham District's Response to Staff's First Request, Item 1-1(a), Attachment_1-1a_General_Ledger_2022.xls, and Attachment_1-1a_General_Ledger_YTD_09.30.23.xls.

¹⁰⁴ Commission Staff Report at 12-13.

The Commission finds Oldham District's \$93,911 increase to Materials and Supplies expense is known and measurable.

Contractual Services. In its application, Oldham District proposed a \$38,870 increase to Contractual Services expense to reflect new meter reading software, outsourced billing, and one third of the legal fees associated with this rate case.¹⁰⁵ After Commission Staff's review of Oldham District's 2022 and 2023 general ledgers,¹⁰⁶ along with invoices from Oldham District's new meter reading software provider, Commission Staff determined that Oldham District's proposed \$38,870 increase to Contractual Services expense is accurate. Commission Staff recommended accepting the adjustment as known and measurable changes to the test period expenses.¹⁰⁷

After Oldham District's objections to Commission Staff's report and request for a hearing, Oldham District subsequently incurred additional fees for legal services associated with representing it's during the hearing in the amount of \$65,848.20, which includes fees for legal services totaling \$64,348.20 and publication of notice costs of \$1,500.¹⁰⁸ On May 13 2024, Oldham District filed a Motion requesting recovery of actual rate case expenses pursuant to 807 KAR 5:076, Section 16 and 807 KAR 5:001, Section 5.¹⁰⁹ Oldham District further requested recovery of these expenses over a three-year period; Oldham District requested that the Commission include an additional \$21,949.40

¹⁰⁵ Application, Attachment 4, Schedule of Adjusted Operations, Adjustment G.

¹⁰⁶ Oldham District's Response to Staff's First Request, Item 1-1(a), Attachment_1-1a_General_Ledger_2022.xls, and Attachment_1-1a_General_Ledger_YTD_09.30.23.xls.

¹⁰⁷ Staff Report at 13.

¹⁰⁸ Notice of Substitution of Exhibit (filed May 14, 2024).

¹⁰⁹ Motion to Recover Rate Case Expense (filed May 13, 2024).

in the authorized revenue requirement for rate case expense.¹¹⁰ Oldham District further argued that permitting recovery of the utility's actual expenses will not result in rates that are higher than those proposed in the its application and does not require the application to be amended.¹¹¹ The resulting increase in revenue is \$829,702, which is \$114,470 less than the revenue increase that the Oldham District's proposed rates would have produced.¹¹²

The Commission evaluates the prudence of rate case expense on a case-by-case basis.¹¹³ Oldham District initially estimated rate expenses of \$15,000 amortized over three years, which was included in the \$38,870 increase to Contractual Services expense reflected in the Commission Staff Report.¹¹⁴ Oldham District did not raise an objection to this recommendation in its written response, although a hearing was requested at that time and an Order dated March 14, 2024 put Oldham District on notice that pursuant to 807 KAR 5:076, Section 11(3), parties have 14 days to respond to the Commission Staff Report with written objections or those objections are deemed waived.¹¹⁵ However, the purpose of allowing for recovery of rate case expense is to encourage utilities to come in for rate adjustments as needed without legal fees becoming a barrier, but the Commission would note that future objections should be made within the correct timeframe. The

¹¹⁰ $\$65,848.20 \div 3 = \$21,949.40$.

¹¹¹ Oldham District's Post-Hearing Brief at 20.

¹¹² Oldham District's Post-Hearing Brief at 3.

¹¹³ Case No.2009-00373, *Proposed Adjustment of the Wholesale service Rates of Hopkinsville Water Environment Authority* (Ky. PSC July 2, 2010)

¹¹⁴ Commission Staff Report at 13.

¹¹⁵ Order (Ky. PSC Mar. 14, 2024).

Commission also reiterates that, had Oldham District not filed an ARF, Oldham District would have been able to provide the information as part of a general rate case, without issue and review of reasonableness would have been conducted. Oldham District chose to request a deviation and then failed to raise the objection or notice that objection to the Staff Report would affect the contractual services revenue requirement calculation.

Based upon its review of the record, the Commission finds that Oldham District has provided documentary evidence to support reasonable rate case expense in an actual amount of \$65,848.20, which includes fees for legal services totaling \$64,348.20 and publication of notice costs of \$1,500. The Commission further concludes that the amount of the actual rate case expense does not appear excessive and appears reasonable in relation to the complexity of issues presented in this case. Oldham District argued to recover its rate case cost over a period of three-year period. When there is no evidence to support an alternative amortization period, the Commission amortizes an intangible regulatory asset or liability identified in a rate proceeding over the anticipated life of the utility rates approved in that proceeding.¹¹⁶ Oldham District has never had a base rate increase pursuant to the alternative rate filing procedure. Oldham District has only adjusted its rates pursuant to financing approval, or in conjunction with an application for a CPCN, that last increase being by Order dated December 9, 2009.¹¹⁷

¹¹⁶ Case No. 2013-00314, *Alternative Rate Adjustment Filing of Par-Tee LLC Oba Perry Park Resort Sewer Utility* (Ky. PSC Dec. 6, 2013), Commission Staff Report; (Ky. PSC Feb. 19, 2014), final Order; Commission Staff's finding at 13–14 of its report (ordering that “[t]he findings contained in the Staff Report are adopted and incorporated by reference into this Order as if fully set out herein.”).

¹¹⁷ Case No. 2009-00436, *Application of Oldham County Water District For a Certificate of Public Convenience and Necessity to Construct, Finance and Increase Rates Pursuant to KRS 278.023* (Ky. PSC Dec. 9, 2009), Order.

It is the Commission's opinion that the rates approved in this proceeding will not become obsolete within the requested three-year time period due to changes that will likely occur to Oldham District's cost of providing water service. Accordingly, absent a more reasonable amortization period and given the frequency of Oldham District's historic rate filings, the Commission finds that Oldham District should recover its allowable rate case expense of \$65,848.20 over a three-year period.

The Commission finds that Oldham District's total increase of \$55,819 to Contractual Services expense to reflect new software and rate case expense amortized over three years is known and measurable.

Miscellaneous Expenses. In its application, Oldham District proposed a \$2,680 decrease to Miscellaneous Expenses to reflect lodging and per diem related to the work performed in Eastern Kentucky assisting with flood repairs.¹¹⁸

After Commission Staff reviewed Oldham District's invoices and Oldham District's 2022 general ledger, Commission Staff noted that the total expense for lodging and per diem related to work performed in Eastern Kentucky assisting with flood repairs was \$2,813. Commission Staff made a \$133 adjustment to Oldham District proposed \$2,680 decrease to Miscellaneous Expenses for a total decrease of \$2,813. Commission Staff recommended that this adjustment be accepted to reflect the actual total lodging and per diem expense related to the work performed in Eastern Kentucky assisting with flood repairs.

The Commission finds that these adjustments are reasonable based on the evidence filed in the record that has been analyzed and evaluated by Commission Staff

¹¹⁸ Application, Attachment 4, Schedule of Adjusted Operations, Adjustment H.

and adjusted to reflect the actual total lodging and per diem expense related to the work performed in Eastern Kentucky assisting with flood repairs.

Depreciation. In its application, Oldham District proposed a \$27,267 decrease to Depreciation Expense to reflect adjustments of asset service lives to the midpoint of service life range set forth in the National Association of Regulatory Utility Commissioners (NARUC) publication titled, *Depreciation Practices for Small Water Utilities (NARUC Study)*.¹¹⁹

To evaluate the reasonableness of the depreciation practices of small water utilities, the Commission has historically relied upon the NARUC Study. When no evidence exists to support a specific life that is outside the NARUC ranges, the Commission has historically used the midpoint of the NARUC ranges to depreciate the utility plant. In this proceeding, Commission Staff found no evidence to support depreciable lives that vary significantly from the midpoint of the NARUC ranges. Therefore, Commission Staff agreed with Oldham District's proposed adjustment and recommends accepting the increased pro forma Depreciation expense \$27,267 as appropriate.

The Commission finds Commission Staff's recommendation is reasonable and accepting the increased pro forma Depreciation expense \$27,267 is appropriate to align with the NARUC recommended useful lives consistent with prior precedent.¹²⁰

¹¹⁹ Application, Attachment 4, Schedule of Adjusted Operations, Adjustment M.

¹²⁰ Case No. 2023-00154, *Electronic Application of Harrison County Water Association, Inc. For an Alternative Rate Adjustment* (Ky. PSC Jan. 11, 2024); Case No. 2023-00134, *Electronic Application of North Marshall Water District for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Dec. 22, 2023); Case No. 2022-00436, *Electronic Application of Judy Water Association, Inc. for a Rate Adjustment Pursuant to 807 KAR 5:076* (Ky. PSC Aug. 4, 2023).

Grant Income. In its application, Oldham District proposed a \$32,500 decrease to Grant Income to reflect a grant of \$32,500 that is not going to recur outside of the test year.¹²¹

Commission Staff reviewed Oldham District's 2022 general ledger and noted a Head, Peyton Samuel Family Grant of \$32,500.¹²² Commission Staff determined that Oldham District's proposed \$32,500 decrease to Grant Income is appropriate.

The Commission finds a \$32,500 decrease to Grant Income to reflect a grant of \$32,500 is reasonable, as the grant is not going to recur outside of the test year.

Gains from Disposition of Property and Net Amortization. In its application, Oldham District proposed a \$48,115 decrease to Gains from Disposition of Property and a \$2,177 increase to Net Amortization because the Gains from Disposition of Property and net amortization should not be considered as an offset to operating expenses and are removed.¹²³

Commission Staff reviewed Oldham District's 2022 general ledger¹²⁴ and determined that the \$48,115 decrease to Gains from Disposition of Property and a \$2,177 increase to Net Amortization is appropriate.

The Commission finds that these adjustments are reasonable because the evidence filed into the case record has been analyzed and evaluated by Commission Staff.

¹²¹ Application, Attachment 4, Schedule of Adjusted Operations, Adjustment L.

¹²² Oldham District's Response to Staff's First Request, Item 1-1(a), Attachment_1-1a_General_Ledger_2022.xls.

¹²³ Application, Attachment 4, Schedule of Adjusted Operations, Adjustment M.

¹²⁴ Oldham District's Response to Staff's First Request, Item 1-1(a), Attachment_1-1a_General_Ledger_2022.xls.

REVENUE REQUIREMENT

The Commission has historically applied a Debt Service Coverage (DSC) method to calculate the Overall Revenue Requirement of water districts and water associations. This method allows for recovery of (1) cash-related pro forma operating expenses; (2) recovery of depreciation expense, a noncash item, to provide working capital;¹²⁵ (3) the average annual principal and interest payments on all long-term debts; and (4) working capital in addition to depreciation expense. Based upon the Commission's findings and determinations herein Oldham District requires an increase in revenues from water sales of \$704,088 or 13.9 percent above pro forma present water rate revenues as shown below.

¹²⁵ The Kentucky Supreme Court has held that the Commission must permit a water district to recover its depreciation expense through its rates for service to provide internal funds for renewing and replacing assets. *Public Serv. Comm'n of Kentucky v. Dewitt Water Dist.*, 720 S.W.2d 725, 728 (Ky. 1986). Although a water district's lenders require that a small portion of the depreciation funds be deposited annually into a debt reserve/depreciation fund until the account's balance accumulates to a required threshold, neither the Commission nor the Court requires that revenues collected for depreciation be accounted for separately from the water district's general funds or that depreciation funds be used only for asset renewal and replacement. The Commission has recognized that the working capital provided through recovery of depreciation expense may be used for purposes other than renewal and replacement of assets. See Case No. 2012-00309, *Application of Southern Water and Sewer District for an Adjustment in Rates Pursuant to the Alternative Rate Filing Procedure for Small Utilities* (Ky. PSC Dec. 21, 2012).

Pro Forma Operating Expenses	\$	5,627,333
Average Annual Principal and Interest Payments		549,172
Additional Working Capital		109,834
		<hr/>
Overall Revenue Requirement		6,286,339
Less: Other Operating Revenue		(99,514)
Rents from Water Property		(132,384)
Billing Services Fee		(60,262)
Grant Income		(3,035)
Other Income		(46,692)
Interest Income		(176,710)
		<hr/>
Revenue Required from Rates		5,767,742
Less: Pro Forma Present Rate Service Revenues		(5,063,654)
		<hr/>
Required Revenue Increase	\$	<u>704,088</u>
		<hr/>
Percentage Increase		<u>13.90%</u>

Average Annual Principal and Interest Payments. At the time of Commission Staff's review, Oldham District had one Kentucky Infrastructure Authority (KIA) loan and two bonds. Oldham District requested recovery of the average annual principal and interest on its indebtedness based on a five-year average of the annual principal, and interest and fee payments for the years 2023 through 2027.¹²⁶ Commission Staff agreed with the methodology Oldham District proposed and included \$549,172 in the calculation of the revenue requirement.

The Commission finds that Oldham District's requested recovery of the average interest expense on its indebtedness based on a five-year average of the annual interest expense for the years 2023 through 2027 of \$549,172 is known and measurable and should be included in the overall revenue requirement formula.

¹²⁶ Application, Table B, Debt Service Schedule.

Additional Working Capital. The DSC method, as historically applied by the Commission, includes an allowance for additional working capital that is equal to the minimum net revenues required by a district's lenders that are above its average annual debt payments. Oldham District requested recovery of an allowance for working capital that is equal to 120 percent of its average annual debt payments.¹²⁷

Following the Commission's historic practice of including additional working capital, Commission Staff included \$109,834 in the revenue requirement.

The Commission finds that Oldham District's requested recovery of Additional Working Capital of \$109,834 or 120 percent of its average annual debt payments to be in compliance with its debt lenders is known and measurable and should be included in the overall revenue requirement formula.

RATE DESIGN

Oldham District proposed to increase its monthly retail and wholesale water service rates through a cost-of-service study (COSS) performed by Alan Vilines (Mr. Vilines), Kentucky Rural Water Association. Mr. Vilines followed the guidelines and procedures recommended in the American Water Works Association's (AWWA) Water Rates Manual M-1. The Commission has long accepted the AWWA guidelines as a reasonable method to ratemaking and a reasonable method of designing rates for small water utilities.¹²⁸

Oldham District calculated its general retail and wholesale water service rates by using the COSS filed in the application. Oldham District calculated the rate for its

¹²⁷ Application, Table B, Debt Service Schedule.

¹²⁸ Case No. 2021-00021, *Electronic Alternative Rate Adjustments Filing of Farmdale Water District* (Ky. PSC July 7, 2020).

wholesale customers and reduced the total revenue requirement by the proposed revenue to be generated by this proposed rate. Oldham District then calculated the retail increase in rates using the COSS designed by Mr. Vilines.

Commission Staff followed the same methods utilized by Oldham District in the setting of rates through that would equal the revenue requirement as determined to be reasonable by the Commission.

In response to the Commission Staff Report, Oldham District discussed the typographical error in Appendix B attached to the Commission Staff Report. The typographical error is in the “All Usage Rate” where the rate is stated as \$0.405, this should be stated as \$0.00405.¹²⁹ The Commission agrees with the assessment that the rate in the Appendix has a typographical error and should be corrected. The rates in Appendix B of this Order reflects the revised revenue required from rates of \$5,767,742.

The Commission finds that due to the revision in the revenue requirement the above stated “All Usage Rate” has been modified to \$0.00407 per gallon and is reflected in Appendix B of this Order. The Commission finds that the revised revenue requirement and rates in Appendix B are fair, just and reasonable.

Nonrecurring Charges. Following the Commission’s recent decisions,¹³⁰ Commission Staff has reviewed Oldham District’s nonrecurring charges. The Commission found that because district personnel are currently paid during normal

¹²⁹ Oldham District’s Response to Commission Staff Report, Item 1 at 1.

¹³⁰ Case No. 2020-00141, *Electronic Application of Hyden-Leslie County Water District for an Alternative Rate Adjustment* (Ky. PSC Nov. 6, 2020) and Case No. 2020-00167, *Electronic Application of Ohio County Water District for an Alternative Rate Adjustment* (Ky. PSC Dec. 3, 2020), Case No. 2020-00196, *Electronic Application of West Daviess County Water District for an Alternative Rate Adjustment* (Ky. PSC Dec. 30, 2020), and Case No. 2020-00195, *Electronic Application of Southeast Daviess County Water District for an Alternative Rate Adjustment*, (Ky. PSC Dec. 30, 2020).

business hours and the labor costs are recovered in rates, estimated labor costs previously included in determining the amount of Nonrecurring Charges should be eliminated to avoid double recovery of the same expense. Commission Staff reviewed the cost justification information provided by Oldham District and adjusted these charges by removing Field Labor Costs of approximately \$50 per hour and Office/Clerical Labor Costs of approximately \$20 per hour from those charges which occur during normal business hours.¹³¹

In its response to the Commission Staff Report, Oldham District requested that the Commission consider for purposes of administrative ease and convenience, rounding down the Commission Staff Report rates for the nonrecurring charges from \$19.65 to \$19 for the Connection/Turn-On Charge, Field Collection Charge, Meter Reread Charge, Meter Test Charge, Reconnect Charge and the Service Call/Investigation Charge.¹³² The Commission has decided that these charges shall be rounded to the nearest dollar and have been rounded up accordingly.

The breakdown of cost for each nonrecurring charge and any Commission Staff and Commission adjustment can be found in Appendix A of this Order. These adjustments result in the following revised nonrecurring charges.

Connection/Turn On Charge	\$20.00
Connection/Turn On Charge	\$132.00
Field Collection Charge	\$20.00
Meter Reread Charge	\$20.00
Meter Test Charge	\$19.00

¹³¹ Oldham District's Response to Commission Staff's First Request, Item 16.

¹³² Oldham District's Response to Commission Staff Report, Item 2, at 2-3.

Returned Check Charge	\$10.00
Reconnect Charge	\$20.00
Reconnect Charge After Hours	\$132.00
Service Call/Investigation Charge	\$20.00
Service Call/Investigation Charge After Hours	\$132.00

The Commission finds that the adjustments are consistent with past Commission precedent in removing field labor and office/clerical labor costs,¹³³ and rounding to the nearest dollar for administrative ease and is reasonable with the evidence in the record and for the reasons set forth in the Miscellaneous Service Revenues section above.

Tap Fees. In Oldham District’s response to the Commission Staff Report, Oldham District stated that it believed the Commission Staff Report failed to consider the requested increase in the Tap Fee for its 5/8” x 3/4” Meter.¹³⁴ In the response to Commission Staff’s First Request, Oldham District, provided updated cost justification sheets detailing the costs associated with providing a metered service connection.¹³⁵

The Commission, having reviewed the request by Oldham District in its response to the Commission Staff Report and taking note of the stipulation filed on the record on April 10, 2024,¹³⁶ the Commission finds that the current cost to make a 5/8-inch x 3/4- inch

¹³³ Case No. 2020-00141, *Electronic Application of Hyden-Leslie County Water District for an Alternative Rate Adjustment* (Ky. PSC Nov. 6, 2020) and Case No. 2020-00167, *Electronic Application of Ohio County Water District for an Alternative Rate Adjustment* (Ky. PSC Dec. 3, 2020), Case No. 2020-00196, *Electronic Application of West Daviess County Water District for an Alternative Rate Adjustment* (Ky. PSC Dec. 30, 2020), and Case No. 2020-00195 *Electronic Application of Southeast Daviess County Water District for an Alternative Rate Adjustment* (Ky. PSC Dec. 30, 2020).

¹³⁴ Oldham District’s Response to Commission Staff Report, Item 3, at 2.

¹³⁵ Oldham District’s Response to Commission Staff’s First Request, Item 16.

¹³⁶ Stipulation.

service connection to Oldham District's water mains is \$2,200, and Oldham District's current Meter Connection/Tap Charge for such connection, which is \$1,020, should be adjusted to \$2,200 to reflect the current cost of providing such service.

SUMMARY

After consideration of the evidence of record and being otherwise sufficiently advised, the Commission finds that the recommendations contained in the Commission Staff Report are supported by the evidence of record and are reasonable. By applying the Debt Service Coverage method to Oldham District's pro forma operations results in an Overall Revenue Requirement of \$6,286,339 and that a \$704,088 revenue increase, or 13.9 percent, to pro forma present rate revenues is necessary to generate the overall revenue requirement.

IT IS THEREFORE ORDERED that:

1. The recommendations contained in the Commission Staff Report are adopted and incorporated, as modified, by reference into this Order as if fully set out herein.
2. The water service rates proposed by Oldham District are denied.
3. The stipulations filed on April 10, 2024, are accepted and adopted as set out in this Order.
4. Oldham District's Motion for Recovery of Actual Rate Case Expense in the amount of \$65,848.20, which includes fees for legal services totaling \$64,348.20 and publication of notice costs of \$1,500, amortized over a three-year period is granted.
5. The general water service rates set forth in Appendix B to this Order are approved for service rendered by Oldham District on or after June 18, 2024.

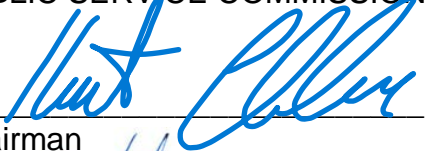
6. The nonrecurring rates set forth in Appendix B to this Order are approved for service rendered by Oldham District on or after June 18, 2024.

7. Within 20 days of the date of service of this Order, Oldham District shall file with this Commission, using the Commission's electronic Tariff Filing System, new tariff sheets setting forth the rates and charges approved herein and its effective date, and stating that the rates and charges were authorized by this Order.

8. This case is closed and removed from the Commission's docket.

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PUBLIC SERVICE COMMISSION



Chairman



Vice Chairman



Commissioner

ATTEST:



Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2023-00252 DATED JUN 18 2024

Nonrecurring Charges Adjustments

Connection/Field Collection/Meter Reread/Meter
Test/Reconnection//Service Call Charge

	Oldham Revised Charge	Staff Revised Charge
Field Labor at \$40.49 for 1.0 hour	\$40.49	\$0.00
Supplies	0.00	0.00
Office Labor at \$52.10 for 0.25 hour	13.03	0.00
Transportation Expense	19.65	19.65
Total Nonrecurring Charge Expense	\$73.17	\$19.65
Rounded Up/Down to	\$73.00	\$20.00
Current Rate	\$25.00	

Connection After Hours Charge

	Oldham Revised Charge	Staff Revised Charge
Field Labor Overtime at \$56.26 for 2.0 hours	\$112.52	\$112.52
Supplies	0.00	0.00
Office Labor at \$52.10 for 0.5 hour	26.05	0.00
Transportation Expense	19.65	19.65
Total Nonrecurring Charge Expense	\$158.22	\$132.17
Rounded Down to	\$158.00	\$132.00
Current Rate	\$00.00	

Reconnect/Service Call After Hours Charge

	Oldham Revised Charge	Staff Revised Charge
Field Labor Overtime at \$56.26 for 2.0 hours	\$112.52	\$112.52
Supplies	0.00	0.00
Office Labor at \$52.10 for 0.25 hour	13.03	0.00
Transportation Expense	19.65	19.65
Total Nonrecurring Charge Expense	\$145.20	\$132.17
Rounded Down to	\$145.00	\$132.00
Current Rate	\$0.00	

Meter Test Charge

	Oldham Revised Charge	Staff Revised Charge
Field Labor Overtime at \$40.49 for 1.0 hour	\$37.02	\$0.00
Meter Tester Labor at \$52.86 for 2.0 hours	105.72	0.00
Supplies	0.00	0.00
Office Labor at \$52.10 for 0.5 hour	26.05	0.00
Transportation Expense	19.65	19.65
Total Nonrecurring Charge Expense	\$191.90	\$19.65
Rounded Down to	\$192.00	\$19.00
Current Rate	\$10.00	

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2023-00252 DATED JUN 18 2024

The following rates and charges are prescribed for the customers in the area served by Oldham County Water District. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under the authority of the Commission prior to the effective date of this Order.

Monthly Water Rates

Retail Rates

All Usage	\$0.00407	Per Gallon
<u>5/8-Inch Meter</u>	\$8.64	Per Month
<u>3/4-Inch Meter</u>	\$13.02	Per Month
<u>1-Inch Meter</u>	\$21.74	Per Month
<u>1 1/2-Inch Meter</u>	\$43.46	Per Month
<u>2-Inch Meter</u>	\$69.52	Per Month
<u>3-Inch Meter</u>	\$139.04	Per Month
<u>4-Inch Meter</u>	\$217.25	Per Month
<u>6-Inch Meter</u>	\$434.50	Per Month
<u>8-Inch Meter</u>	\$695.20	Per Month
<u>10-Inch Meter</u>	\$1,824.90	Per Month
<u>12-Inch Meter</u>	\$2,302.85	Per Month

<u>Wholesale Rates</u>	\$0.00268	Per Gallon
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Nonrecurring Charges

Connection/Turn On Charge	\$20.00
Connection/Turn On Charge	\$132.00
Field Collection Charge	\$20.00
Meter Reread Charge	\$20.00
Meter Test Charge	\$19.00
Returned Check Charge	\$10.00
Reconnect Charge	\$20.00
Reconnect Charge After Hours	\$132.00
Service Call/Investigation Charge	\$20.00
Service Call/Investigation Charge After Hours	\$132.00

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