

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF  
COPLEY BUSINESS CENTER, LLC FOR AN  
INCREASE IN RATES AND CHARGES.

CASE NO. 22-489-WS-AIR

## OPINION AND ORDER

Entered in the Journal on February 22, 2023

### I. SUMMARY

{¶ 1} The Commission approves Copley Business Center, LLC's application for an increase in rates, subject to all of Staff's recommendations.

### II. PROCEDURAL HISTORY

{¶ 2} Copley Business Center, LLC (Copley or Applicant) is a waterworks company as defined by R.C. 4905.03(G), a sewage disposal system company as defined by R.C. 4905.03(M) and a public utility as defined by R.C. 4905.02, and as such, is subject to the jurisdiction of this Commission pursuant to R.C. 4905.04, 4905.05, and 4905.06.

{¶ 3} An application for an increase in rates is governed by, and must meet, the requirements of R.C. 4909.17, 4909.18, 4909.19, and 4909.42.

{¶ 4} On May 9, 2022, Applicant filed an abbreviated application to increase its rates for water and sewage disposal service, pursuant to R.C. 4909.18. The Applicant also seeks to set a new rate structure, changing from quarterly billing to monthly billing for both its water and sewage disposal services. In its application, Copley requested rate increases that would result in a 115.56 percent increase due to the proposed monthly water rates and a 115.20 percent increase due to the proposed monthly sewage disposal rates.

{¶ 5} On July 19, 2022, Staff filed a review and recommendation. The Commission Staff (Staff) indicated that it reviewed the May 9, 2022 application, and that the application substantively conforms to the Standard Filing Requirements (SFR) for rate increases as described in Ohio Adm.Code 4901-7-01. Accordingly, Staff recommended that the Commission accept the application for filing as of May 9, 2022.

{¶ 6} On July 27, 2022, the Commission found that (1) Applicant's application conformed to the SFR, (2) Applicant's request to establish the test period as January 1, 2021, to December 31, 2021, and the date certain as July 1, 2021, was reasonable and should be granted, (3) the application was accepted as of the filing date of May 9, 2022, and (4) Applicant's requested waivers of R.C. 4909.18(A) through (E) were reasonable and should be granted.

{¶ 7} On August 29, 2022, Copley filed proof of publication of its rate increase.

{¶ 8} On October 18, 2022, pursuant to R.C. 4909.19, Staff filed a report of its investigation of the facts, exhibits, and matters relating to Copley's application (Staff Report). Copies of the Staff Report were mailed to Copley and other persons the Commission deemed to be interested in the case.

{¶ 9} On November 16, 2022, Copley filed a notice of acceptance of the Staff Report.

{¶ 10} Pursuant to the Entry of October 28, 2022, a prehearing conference was scheduled for January 4, 2023, and an evidentiary hearing was scheduled to begin on January 25, 2023. As part of the same Entry, the attorney examiner established a procedural schedule, which required that any objection to the Staff Report or motions to intervene in the case were due on November 17, 2022.

{¶ 11} No person filed a formal objection to the Staff Report or motion to intervene in this case. Public comments in opposition to the application were submitted in the public comment section of the docket card in this case. By Entry dated December 5, 2022, the attorney examiner cancelled the January 4, 2023 prehearing conference and the January 25, 2023 evidentiary hearing due to the following: (1) Copley filed a notice of acceptance of the Staff Report, (2) no party moved to intervene, and (3) no objections to the Staff Report had been filed. As part of the same Entry, pursuant to R.C. 4903.083, the matter was scheduled for a local public hearing to occur on January 9, 2023, at the Fairlawn-Bath Branch of the Akron-Summit County Public Library, McDowell Community Room, 3101 Smith Road.

Akron, Ohio 44333. Legal notice publication was required to occur within the affected service territory. On December 29, 2022, Copley filed proof of legal notice publication.

### III. LOCAL PUBLIC HEARING

{¶ 12} The local public hearing was held on January 9, 2023, in accordance with the published notice. At the hearing, two public witnesses provided testimony. Both witnesses testified that, while they understand why the Company is seeking a rate increase, they believe that any approved increase should be accompanied by certain improvements to the quality of the water provided. Specifically, the witnesses expressed concern regarding the odor, taste, coloration, and hardness of the provided water. The witnesses also raised concern about the adverse effects of the current water supply on plumbing systems, and dishwashers (Local Public Hearing Tr. at 7, 13, 14).

{¶ 13} Witness White testified as a landlord of multiple properties in the Copley service territory. He explained that at Copley's request, his tenants are no longer billed directly for water and sewage disposal services but, instead, he, as the landlord, is billed for water service and the applicable leases include a flat-fee for these services. The witness noted that the leases will not expire until August 2023, and, therefore, any resulting increases will have to be absorbed by the landlord until the leases are renewed. (Local Public Hearing Tr. at 9-12.)

{¶ 14} Finally, witness White requested that if billing is to be changed from a quarterly to a monthly basis, Copley should provide an online payment system in order to avoid the need for the sending of a check on a monthly basis.

### IV. COMMISSION REVIEW AND DISCUSSION

{¶ 15} This case comes before the Commission upon the application of Copley, pursuant to R.C. 4909.18, for authority to increase its rates and charges for water and sewage disposal services. Applicant's current rates include base rate charges approved in *In re the*

*Application of First Benefits Agency, Inc.*, Case No. 91-1393-WW-ACE, Finding and Order (July 20, 1995). Copley proposes to increase rates and establish a new rate structure. The new rate structure would see rates going from fixed quarterly rates to fixed monthly rates. Water service customers would see their bill increase approximately 116 percent under the proposed rates. Sewage disposal customers would see their bill increase approximately 115 percent. Staff proposed a lower revenue requirement and rates, as well as made various other recommendations addressed below. Copley did not file objections or express opposition to the Staff Report and filed a notice of acceptance of the Staff Report. The Commission shall adopt Staff's recommendations, which are supported by the record and consistent with Commission policy.

**A. Rate Base**

{¶ 16} The following information presents Staff's value of Copley's property used and useful in the provision of services as of the July 1, 2021 date certain. (Staff Report, Sched. B-1, B-2):

Plant in Service	\$2,250
Less: Depreciation Reserve	<u>11</u>
Net Plant in Service	\$2,239
Plus: Working Capital	3,322
Less: Rate Base Deductions	<u>0</u>
Rate Base	\$5,561

{¶ 17} The Commission finds the rate base recommended by Staff to be reasonable and proper and adopts the valuation of \$5,561 as the rate base for purposes of this proceeding.

**B. *Operating Income***

{¶ 18} The following information reflects Copley’s operating revenue, operating expenses, and net operating income for the 12 months ending December 31, 2021. (Staff Report, Sched. C-1):

Operating Revenue

Total Operating Revenue	\$19,666
Other Operating Revenue	0
Total Operating Revenue	<u>\$19,666</u>

Operating Expenses

Operation and Maintenance	\$39,866
Depreciation	45
Federal Income Taxes	0
Total Operating Expenses	<u>\$39,911</u>

Net Operating Income                      \$(20,245)

{¶ 19} The Commission finds Staff’s determination of Copley’s operating revenue, operating expenses, and net operating income to be reasonable and proper. The Commission will, therefore, adopt these figures for purposes of this proceeding.

**C. *Rate of Return and Authorized Increase***

{¶ 20} A comparison of Copley’s total operating revenue of \$19,666 with total operating expenses of \$39,911 indicates that, under its present rates, Copley would have net operating income of \$(20,245). Applying this figure to the rate base of \$5,561 results in a rate of return of negative 364.07 percent.

{¶ 21} The Commission's Staff has recommended that rates be approved that would enable Copley to earn a rate of return between 8.68 and 9.68 percent with a midpoint of 9.18 percent. As noted previously, no objections were filed to the Staff Report. The Commission believes the midpoint of the range recommended by Staff, 9.18 percent, is fair and reasonable to provide Copley with just and reasonable compensation and a return on the value of its property used and useful in furnishing the services described in the application. Therefore, we authorize a rate of return of 9.18 percent for purposes of this case and the adoption of the corresponding rates set forth in the Staff Report. (Staff Report at 7.)

{¶ 22} Applying this rate of return to the rate base of \$5,561 results in net operating income of \$510. Certain items must be adjusted if the revenue we authorized is to produce this dollar return. Adding the return to the operating expenses results in a finding that Copley is entitled to place tariffs in effect which will generate \$41,311 in total operating revenue. This represents an increase of \$21,645 in revenue over the revenue that would be realized under Copley's current rate schedules, an increase of approximately 110 percent. (Staff Report at 7, Schedule A-1.) The Commission notes that while the numbers in the above tables are shown in aggregate, the revenue requirement allocated to water and sewage disposal customers is based on the respective ratios of the current water and sewage disposal rates divided by both the current water and sewage disposal rates. The allocated amounts were then divided by the total number of units or instances of billing per year (324) to determine per-unit monthly rates.

#### *D. Rates and Tariffs*

{¶ 23} As part of its investigation in this matter, Staff reviewed the various rates, charges, and provisions governing terms and conditions of service as set out in Copley's proposed tariffs. Staff, for the most part, found Copley's existing tariff provisions to be reasonable; however, in certain areas, Staff recommended tariff revisions, including the updating of the title page; the updating of tariff headers and footers; the updating of the Definitions Section; the updating of the General Rules and Regulations Section to reflect

revisions, including the change from quarterly to monthly billing; and the inclusion of the most current service application. Staff also recommended the revision to the bill format, including the updating of the Commission and the Office of the Ohio Consumers' Counsel contact information. Staff also proposed revisions to the Copley's Notice of Rights and Responsibilities. (Staff Report at 8-12.) Copley did not object to any of the recommendations in the Staff Report and the Commission shall adopt those recommendations. Copley, in preparing its revised tariffs, should carefully review the tariff recommendations set forth in the Staff Report at pages 8 through 12, and should work with Staff to ensure that the revised tariffs are consistent with Staff's recommendations prior to filing. Additionally, the Commission notes that the possibility of electronic bill payment was raised at the local public hearing. Copley is directed to explore the feasibility of this option and report its analysis to Staff. Finally, the Commission notes that Copley's last rate case was filed in more than 30 years ago. The Applicant is encouraged to continually monitor its financial situation and to consider filing rate case applications on a more regular basis in order to reduce the impact of any resulting rate changes on customers.

*E. Miscellaneous Charges*

{¶ 24} Staff determined that Copley should be permitted to recover the bank's charged fee when a check is dishonored. Therefore, Staff recommends that the dishonored check charge be increased from the current rate of \$10 to \$35. Additionally, Copley proposed that the reconnection charge for water be increased from \$10 to \$40 and that the reconnection charge for sewer service be reduced from \$10 to \$0.00. Staff supports these tariff revisions. The Commission finds that the proposed revisions are reasonable and should be approved. Copley should prepare revised tariff sheets reflecting these revisions.

*F. Customer Service and Facility Operations*

{¶ 25} As part of its investigation, Staff also conducted a review of Copley's plant facilities and operations. Staff notes that its last customer service audit was conducted in 2017. As a result of the audit, Staff determined that the overall customer service practices

and policies of Copley comply with applicable rules and regulations. Further, Staff's customer service contact assessment determined that, between January 1, 2021, through July 31, 2022, Copley had one contact with the Commission. Staff's review of facility operations documented that there were no violations of Ohio's environmental rules and regulations during the Commission's last audit of Copley's water and sewer facilities, which was conducted on May 5, 2022. Staff's review of Copley's compliance history noted inspection results from 2016, 2017, 2018, and 2019. Notably, Staff found that the Ohio Environmental Protection Agency conducted inspections in December 2017 and December 2019, issuing a violation to Copley in December 2019. Summit County Public Health conducted inspections in November 2016, October 2018, and March 2019. Summit County Public Health did not issue any violations. (Staff Report at 13-15.)

{¶ 26} While the Commission recognizes that concerns regarding water quality were raised at the local public hearing and the Staff Report noted that the source water in the area tends to be moderately hard to hard, overall drinking water compliance, the reliability of service, and quality has been satisfactory (Staff Report at 14). The Commission notes that Copley did not object to any of the recommendations in the Staff Report. Therefore, the Commission shall adopt those recommendations. When implementing Staff's recommendations, Copley should carefully review the recommendations set forth in the Staff Report at pages 13 through 15.

#### *F. Management and Operations*

{¶ 27} As part of its investigation, Staff also completed a management and operations audit on Copley's bookkeeping practices. As a result of the investigation, Staff made certain recommendations regarding Copley's general accounting procedures, expense bookkeeping, and income bookkeeping. (Staff Report at 16, 17.) Copley did not object to any of the recommendations in the Staff Report. The Commission finds that the proposed recommendations are reasonable and proper and should be adopted. Copley is ordered to comply with the Staff recommendations as outlined in this Opinion and Order. In revising



its bookkeeping practices, Copley should carefully review the recommendations set forth in the Staff Report at pages 16 through 17.

*G. Effective Date*

{¶ 28} The Commission finds that revised tariff sheets in accordance with both the Staff Report and this Opinion and Order are reasonable and proper. Consequently, Copley should file final tariffs consistent with the Staff Report and this Opinion and Order. The revised tariff sheets will become effective on a bills rendered basis on or after April 1, 2023. Copley should prepare to notify its customers of the changes to its tariff, the rate increase authorized in this Opinion and Order and the change in the applicable billing cycle from a quarterly to monthly basis. Copley may mail the approved customer notice to its customers via a bill message, bill insert, or separate mailing. The notification should occur on or before the receipt of the first bill reflecting the new rates. Copley should share the proposed customer notice with Staff prior to its issuance.

**V. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

{¶ 29} On May 9, 2022, Applicant filed an abbreviated application to increase its rates for water and sewage disposal service, pursuant to R.C. 4909.18. In its application, Copley requested a test year of January 1, 2021, to December 31, 2021, and a date certain of July 1, 2021. By Commission Entry issued July 27, 2022, we accepted the application for filing as of May 9, 2022, the test year and date certain were approved, and certain waivers from the standard filing requirements contained within R.C. 4909.18(A) through (E) were granted.

{¶ 30} On July 19, 2022, Staff filed its written report of investigation with the Commission.

{¶ 31} By Entry dated October 28, 2022, persons wishing to file objections to the Staff Report or intervene in the case were directed to file appropriate pleadings by November 17, 2022. The Entry also scheduled an evidentiary hearing to commence on January 25, 2023.

{¶ 32} There were no motions to intervene filed in the case, nor any objections to the Staff Report. Further, Copley filed a notice of acceptance of the Staff Report on November 16, 2022.

{¶ 33} By Entry dated December 5, 2022, the evidentiary hearing in this matter was cancelled, and the local public hearing was scheduled for January 9, 2023. Notice of the local public hearing was published in accordance with R.C. 4903.083, and proof of such publication was filed on December 29, 2022. The local public hearing occurred as scheduled, and two witnesses appeared to offer testimony.

{¶ 34} The value of Copley's property used and useful for the rendition of water and sewage treatment services to customers affected by this application, determined in accordance with R.C. 4909.15, is not less than \$2,239.

{¶ 35} The current net annual compensation of a net loss of \$20,245 represents a rate-of-return of negative 364.07 percent on the jurisdictional rate base of \$5,561.

{¶ 36} A rate-of-return of negative 364.07 percent is insufficient to provide Copley with reasonable compensation for the water and sewage treatment services rendered to its customers.

{¶ 37} A rate-of-return of not more than 9.18 percent is fair and reasonable under the circumstances of this case and is sufficient to provide Copley just compensation and return on its property used and useful in the provision of water and sewage treatment services to its customers.

{¶ 38} An authorized revenue increase of \$21,645 will result in a net income of approximately \$510 which, when applied to the rate base of \$5,561, yields a rate-of-return of approximately 9.18 percent.

{¶ 39} The allowable gross annual revenue to which Copley is entitled for purposes of this proceeding is \$41,311.

{¶ 40} Copley's application was filed, and this Commission has jurisdiction of the application, pursuant to R.C. 4909.17, 4909.18, and 4909.19, and the application complies with these statutes.

{¶ 41} A Staff investigation was conducted and a report duly filed and mailed.

{¶ 42} A public hearing was held and written notice provided in accordance with the requirements of R.C. 4909.19 and 4903.083.

{¶ 43} The Staff Report findings relating to the rate base, reasonable rate-of-return, pro forma operating income statement, tariff analysis, and management and operations review are reasonable and should be adopted in their entirety.

{¶ 44} Copley is authorized to file final revised tariffs and provide the requisite customer notice.

## VI. ORDER

{¶ 45} It is, therefore,

{¶ 46} ORDERED, That the application of Copley for authority to increase its rates and charges for water and sewage treatment services be granted to the extent provided in this Opinion and Order. It is, further,

{¶ 47} ORDERED, That Copley be authorized to change its billing cycle from a quarterly to monthly basis. It is, further,

{¶ 48} ORDERED, That Copley be authorized to file, in final form, complete copies of its revised tariffs in this case docket, consistent with the determinations adopted in this Opinion and Order. It is, further,

{¶ 49} ORDERED, That the final revised tariffs shall become effective on a bills rendered basis on or after April 1, 2023. It is, further,

{¶ 50} ORDERED, That Copley shall immediately commence notifying its customers of the changes to its tariff via bill message or bill insert, or separate mailing. The notification should occur on or before the receipt of the first bill reflecting the new rates. It is, further,

{¶ 51} ORDERED, That Copley shall comply with the directives and determinations adopted in this Opinion and Order. It is, further,

{¶ 52} ORDERED, That nothing in this Opinion and Order shall be binding upon the Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

{¶ 53} ORDERED, That a copy of this Opinion and Order be served upon all parties of record.

**COMMISSIONERS:**

*Approving:*

Jenifer French, Chair

Lawrence K. Friedeman

Dennis P. Deters

JMD/JSA/dr

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**Case No(s). 22-0489-WS-AIR**

Summary: Opinion & Order that the Commission approves Copley Business Center, LLC's application for an increase in rates, subject to all of Staff's recommendations electronically filed by Ms. Donielle M. Hunter on behalf of Public Utilities Commission of Ohio