

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

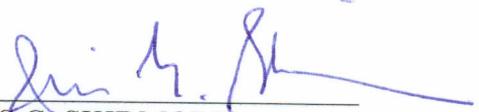
ADJUSTMENT OF RATES OF KENTUCKY-) CASE NO.
AMERICAN WATER COMPANY) 2010-00036

PRE-FILED TESTIMONY OF JACK E. BURCH ON BEHALF OF CAC

* * * * *

Comes the Community Action Council for Lexington-Fayette, Bourbon, Harrison and Nicholas Counties, Inc. (CAC), by counsel, and hereby tenders the pre-filed written testimony of Jack E. Burch in support of its position in this matter:

Respectfully submitted,



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COUNSEL FOR CAC

1 **Q. Please indicate your name, address and describe your current position and**
2 **professional background.**

3 A. My name is Jack E. Burch and I have served as Executive Director of Community Action
4 Council for Lexington-Fayette, Bourbon, Harrison, and Nicholas Counties since 1979. The
5 Council operates 33 neighborhood and community centers and child development centers in six
6 counties and its Administrative Support Services are located at 710 W. High Street, in
7 Lexington, Kentucky.

8 I graduated from Vanderbilt University with a Masters degree in economics and hold a Bachelors
9 degree from Rhodes College. I am also the founder and President of the WinterCare Energy
10 Fund.

11 **Q. Please describe the purpose of your testimony.**

12 A. The purpose of my testimony is to state the position of Community Action Council with
13 respect to the proposed Kentucky American Water Company rate increase and to provide
14 information in support of my position. In summary, we do not believe that a rate increase, as
15 currently proposed by Kentucky American Water Company, is a reasonable or appropriate
16 expectation for low-income customers, especially given the current economic climate in Central
17 Kentucky. My testimony will provide a perspective that represents issues that should be given
18 full consideration in rendering a decision on this case. I am an advocate on behalf of low-income
19 customers. Community Action Council is a low-income advocacy and services organization.

20 **Q. Please describe the organization of Community Action Council and give a brief**
21 **description of its activities.**

22 A. Community Action Council was established in 1965 as a not-for-profit community action
23 agency of the Commonwealth of Kentucky. The Council's governance includes a Board of

1 Directors representing low-income, public and private sectors of the community. Its mission is
2 to combat poverty.

3 There are approximately 280 employees operating and administering the Council's primary
4 programs and services including:

- 5 • self-sufficiency
- 6 • child development
- 7 • homeless programs
- 8 • volunteer programs
- 9 • youth development
- 10 • transportation services
- 11 • clothing banks
- 12 • housing
- 13 • energy assistance and conservation programs
- 14 • emergency assistance
- 15 • community outreach and referrals.

16 Although the Council's core service territory includes Lexington-Fayette, Bourbon, Harrison and
17 Nicholas counties, the Council also provides services in other Kentucky counties. For example,
18 the Council administers the WinterCare Energy Fund providing services across most of the state;
19 child development services extend into Scott and Madison counties; the Retired and Senior
20 Volunteer Program extends into Jessamine County. The Columbia Gas Energy Assistance
21 Program and WarmWise program and Kentucky Utilities' Home Energy Assistance Program and
22 WeCare Program each provide services throughout the service territory of their respective
23 utilities. Most notably, for this case, the Council operates the Kentucky American Water Help to
24 Others (H2O) Program throughout the Company's distribution area.

1 The Council is uniquely positioned to speak on behalf of low-income populations with utility-
2 related problems as staff members have extensive contact with and knowledge of this population.
3 Additionally, Council staff is able to help participants access other Council assistance programs
4 as well as other community resources to address the multiple obstacles and barriers that most
5 low-income households face. This comprehensive approach provides greater stability and self-
6 sufficiency to these households, supporting a family's ability to afford necessities such as utility
7 service.

8 The Council is also a member of Community Action Kentucky (CAK), a membership
9 organization which represents Kentucky's 23 community action agencies throughout the state.
10 While CAK has not intervened in this case, as a member of the organization the Council is able
11 to communicate regularly and as needed to discuss matters impacting low-income customers
12 served by other organizations and thus representing a broader geographic area.

13 **Q. Please describe in detail the Council's programs and services, especially those which**
14 **partner with public utilities.**

15 A. The Council creates opportunities for individuals and families to become self-sufficient
16 members of the community. Created in 1965, the Council is the designated community action
17 agency for Lexington-Fayette, Bourbon, Harrison, and Nicholas counties in Central Kentucky
18 and serves the low-income population through advocacy, service delivery and community
19 involvement. The mission of the Council is to combat poverty.

20 The Council operates **Head Start**, **Early Head Start** and **Migrant Head Start** child
21 development programs that have been recognized nationally. The organization also operates
22 several housing programs, including two **Continuum of Care** projects funded by the
23 Department for Housing and Urban Development and a supportive housing and substance
24 abuse/mental health treatment program funded by the Substance Abuse and Mental Health

1 Services Administration. These projects help homeless families reconstruct their lives by
2 working with the families to determine and address the causes of homelessness. Another housing
3 program offered is **Tenant Based Rental Assistance (TBRA)**, which provides assistance to
4 Section 8-eligible households throughout the Council's service area. A homelessness prevention
5 and rapid re-housing program called **Kentucky HEARTH** provides additional resources for
6 families who are homeless or in danger of becoming homeless.

7 Other programs include senior volunteerism projects **Retired and Senior Volunteer Program**
8 **(RSVP)** and the **Foster Grandparents Program (FGP)**. To support economic independence,
9 the Council offers a **Financial Fitness** consumer education program that provides training on
10 financial management and offers families the chance to save for a home, small business or higher
11 education. Also, the Council works each year with community partners to provide tax
12 preparation and education on the **Earned Income Tax Credit (EITC)** and how to apply.

13 The Council also operates a number of utility assistance programs in partnership with local
14 utilities, public and private funding sources, and other community action agencies across the
15 state. These programs are described below.

16 In 1983, Community Action Council initiated, with Kentucky Utilities, the establishment of the
17 **WinterCare Energy Fund**. The Council has provided administrative services, financial
18 management and marketing support for the Fund since that time. The Council has also managed
19 the federal **LIHEAP** program (Low-Income Home Energy Assistance Program) serving low-
20 income customers in Fayette, Bourbon, Harrison and Nicholas counties since its inception.

21 Since 1978, the Council has operated a **Weatherization Assistance Program** designed to help
22 low-income individuals and families conserve energy. Weatherization services include caulking,
23 weather-stripping, replacement of thresholds and door sweeps, re-glazing windows and replacing
24 broken glass, outside wall repair, minor roof repair, attic insulating, repairing and replacing

1 skirting around the foundation, under-floor insulation including wrapping pipes and insulating
2 heat ducts, venting the attic and crawl spaces, and repairing or replacing heating equipment and
3 venting system. The Council operates several additional weatherization and furnace replacement
4 programs including the **Kentucky Clean Energy Corps** project and Columbia Gas of
5 Kentucky's **WarmWise** high-efficiency furnace replacement program for its low-income
6 customers.

7 The Council currently administers a utility funded energy subsidy program serving 850 low-
8 income households in partnership with **Columbia Gas of Kentucky** and the network of
9 community action agencies serving the Columbia Gas service territory. Also, in cooperation
10 with Columbia Gas, the Council formerly operated a "Buyers Club" for the purchase of natural
11 gas, aggregating low-income and other customers for collective buying power within the
12 Columbia Gas Choice Program.

13 The Council also implemented and administers the **Kentucky Utilities Home Energy**
14 **Assistance (HEA) Program**, which serves 2,600 KU customers whose primary heat source is
15 KU electricity by providing regular monthly subsidies throughout the winter and summer peak
16 usage months.

17 The Council's **Summer Cooling** program serves seriously ill and disabled customers with the
18 provision and installation of air conditioners.

19 Beginning in 2003 through 2005, the Council operated a demand-side management program
20 through the Department of Health and Human Services, Office for Community Services, called
21 REACH (Residential Energy Assistance Challenge). Also in 2003, the Council contracted with
22 Honeywell to assist in carrying out the Kentucky Utilities "We Care" demand side management
23 program in its four core counties. That partnership continued through 2004, though the Council
24 continues to provide energy conservation services, such as furnace replacement, through its

1 Weatherization programming. The Council currently serves as the lead agency in a partnership of
2 community action agencies that provide intakes and energy audits for KU's We Care demand
3 side management program.

4 **Q. Are there initiatives through which Community Action Council partners with**
5 **Kentucky American Water Company? Please discuss.**

6 A. The Council administers Help to Others (H2O) through contributions from Kentucky
7 American Water shareholder funds and customer donations. The funds are available throughout
8 the Kentucky American Water service territory for customers with household incomes up to 150
9 percent of federal poverty guidelines. Assistance is provided for water service, activation fees
10 and reactivation fees. Participants may receive up to \$100 in benefits per fiscal year if they are in
11 danger of having their water disconnected. Intake staff provides information to participants about
12 saving water and detecting leaks.

13 The Council has operated Help to Others since 2006, when its name was changed from Water for
14 Life. The Water for Life program began in 2000.

15 **Q. Please describe the low-income population in the Kentucky American Water**
16 **Company service territory.**

17 A. Based on Census data and customer counts provided by the Company, the following chart
18 provides poverty status by county for KAWC service counties. The chart shows an estimated
19 number of KAWC low-income customers based on the poverty rate by county. All poverty rates
20 used are the most recent county-level data available from the U.S. Census 2006-2008 three-year
21 estimates for Fayette, Clark, Scott, Woodford, and Grant counties and 2000 data for Bourbon,
22 Harrison, Owen and Gallatin counties.

23

24

KAWC County	Service	Poverty Rate	KAWC Customers by County	Estimate of KAWC Customers in Poverty
Fayette		16.1%	98,980	15,936
Bourbon		14.0%	798	112
Harrison		12.0%	97	12
Clark		17.6%	1,367	241
Scott		11.5%	4,473	514
Woodford		11.3%	197	22
Owen		15.5%	3,378	524
Grant		15.7%	70	11
Gallatin		13.4%	176	24

1

2 Census Data indicates that there are approximately 17,396 KAWC customers in poverty
3 throughout its service territory. The percent of KAWC customers who are in poverty, according
4 to these estimates, is at least 15.9 percent of the total customer base of 109,536. It is important to
5 note here that these figures represent only 100% of the Federal Poverty Guideline. This guideline
6 is an outdated measure which is currently being redeveloped by federal officials. In recognition
7 of this inaccurate capture of the number of poor in the United States, many assistance programs –
8 including the Company’s Help to Others program – actually serve families at higher incomes
9 such as 150 percent of the federal poverty guidelines. Were it possible to calculate using these
10 thresholds, it is highly likely that a substantially larger percentage of the Company’s customers
11 would be living in poverty.

12 The Census Bureau uses income and family size as the basis for determining poverty. Poverty
13 and need affordability is an economic equation of income versus basic needs of a family
14 depending on the size of a family. Families in poverty, based on the limits of their income,
15 cannot meet their basic needs.

16 Focusing on current water rates, thousands of families cannot meet their basic water needs as
17 evidenced by data the Company provided in response to Council information requests.
18 According to those responses, 30,621 residential accounts were shut off due to non-payment in

1 calendar year 2009 and that trend was continuing in 2010 (see chart below). This rate was similar
2 to calendar years 2007 and 2008, when 27,550 residential accounts were shut off for non-
3 payment. In fact, the number of annual shutoffs more than doubled in 2007-2009 from 2005
4 (12,457 shutoffs) and 2006 (12,930 shutoffs) figures.

5

Year	# of Shutoffs for Nonpayment
2005	12,457
2006	12,930
2007	27,569
2008	30,220
2009	30,621
2010	9,371

6

7

8 Recent trends show that shutoffs increase dramatically and more customers must go without life-
9 sustaining water each time KAWC rate increases are approved. The number of residential
10 accounts shut off for non-payment increased 189 percent from 2004 to 2005 following a 2004
11 increase. In fact, the 2004 increase nearly doubled the number of customers who could not afford
12 to pay their water bill. The larger number of shut-offs has continued each year since that increase
13 from about 6,000 to exceeding 12,000 until again more than doubling in 2007 following another
14 rate increase. The company has indicated in testimony from prior cases that shut-off data is not
15 available prior to November 1, 2003.

16 The trend continued with the rate increase approved by the Commission in 2007 as a result of a
17 settlement agreement. Data provided by KAWC for that rate case indicated that about 6,100
18 accounts had been shut off through June 5, 2007, indicating a trend toward approximately 12,000
19 shutoffs. However, by the end of 2007, the Company had shut off 27,550 customers, indicating
20 the burden placed on customers by the approved rate increase. Again in 2008 there were more
21 than 30,000 shutoffs indicating a new, higher trend line for shutoffs.

1 The Company again increased rates in 2009 and, while the number of shutoffs has thus far
 2 increased only marginally and more time would be needed to develop a trend line, still more than
 3 30,000 households had their water service shut off because they could not afford to pay the bill.
 4 Data clearly indicates that the number of customers who cannot afford water increases with each
 5 approved KAWC rate increase.

6 Despite 2007 and 2009 increases in the annual shareholder contribution, the Help to Others
 7 Program severely lacks resources to keep up with the increase in shut-offs. The table below
 8 illustrates the Company's contribution to this program, its customers' contributions and the
 9 number of residential accounts receiving benefits from the program in each of the past four
 10 years.

11

Year	KAWC Contribution	Customer Contributions	Total Program Contributions	Number of Approved Applications for Assistance	Number of Accounts Shut Off
2007	\$21,500	\$996	\$22,496	442	27,569
2008	\$50,000	\$1,114	\$51,114	907	30,220
2009	\$50,000	\$1,108	\$51,108	906	30,621
2010*	\$60,000	\$380	\$60,380	631	9,371

12 * Data from only available through 6/4/2010 for accounts served and 4/2010 for shutoffs

13
 14 As seen in the table above, the Help to Others Program, at its peak in 2008 (with 2010 data still
 15 incomplete), was able to provide benefits to 907 of 30,220 accounts disconnected for non-
 16 payment. That amounts to only 3 percent of shut-off accounts.

17 This data effectively illustrates the water affordability aspect of the economic equation for low-
 18 income families who cannot meet basic needs. Water services are not only a basic need, but a
 19 survival need. This does not include an assessment of other basic needs that households require
 20 like food, shelter, medication, and much more. The stress of these demands stretches a family's

1 resources beyond what it can sustain. Unfortunately with a rate increase, the affordability gap
2 will greatly widen.

3 The Commission should also consider the current state of the economy in the Commonwealth.
4 Fayette County, for example, traditionally has a low unemployment rate in the 4 to 5 percent
5 range but that rate at last report was 7.7 percent, according to the Kentucky Office of
6 Employment and Training. That same office reports the state unemployment rate at more than 10
7 percent, a figure more reflective of the Kentucky American Water service area than the Fayette
8 County figure alone. Customers are faced with rising costs for food, gasoline, health care and
9 other expenses and must not be forced into a situation of choosing whether to have life-giving
10 water or life sustaining medications. I would encourage the Commissioners to look at all of the
11 cases filed with them, such as recent increases in electric rates in many of these same counties
12 when deciding on this burdensome proposal.

13 **Q. Kentucky American Water has been unable to provide information and has**
14 **objected to questions regarding the number of accounts which are paid late. What are the**
15 **implications of this?**

16 A. The Council has tried to get a picture of how many of the Company's customers are
17 struggling to pay their bills by examining the number of accounts which are paid late. While
18 shutoff data is helpful in this regard, it is necessary to also consider how many accounts are paid
19 late but do not result in a shutoff (i.e. payment is late but reaches the Company before a shutoff
20 takes place). This information would be helpful in further examining the burden the Company's
21 rates place on low-income and other customers.

22 It is disturbing that the Company says it is unable or unwilling to provide this information as it
23 could indicate the Company is out of touch with its customers, especially those who struggle the
24 most to pay their bills. It seems the Company would want to know how many past-due payments

1 are received in order to determine whether its rates are reasonable or an undue burden on its
2 customers.

3 **Q. Please describe how the proposed rate increase will affect low-income people.**

4 A. Kentucky American Water Company reports in filings that the current, average, total
5 monthly cost for residential customers is \$25.46. Based on the requested residential rate increase,
6 the company reports the real dollar increase for the average customer will be \$113.28 annually or
7 \$9.44 per month. The proposed increase would therefore change the average residential monthly
8 rate to \$34.90, a cost that represents as much as 3.9 percent of monthly income for a family at the
9 federal poverty level. The chart below illustrates the cost to low-income customers as a
10 percentage of their monthly income. Of note is that some low-income customers may exceed the
11 average monthly cost of water, especially larger households. Also, as with the Council's other
12 programs, many low-income participants' incomes fall well below the federal poverty guideline,
13 making the monthly KAWC bill an even larger portion of their income.

14

# in Household	Federal Poverty Level Annual Income	Federal Poverty Level Monthly Income	Average KAWC Bill as % of Monthly Income (assuming increase approved as proposed)
1	\$10,830	\$902.50	3.9%
2	\$14,570	\$1,214.17	2.9%
3	\$18,310	\$1,525.83	2.3%
4	\$22,050	\$1,837.50	1.9%
5	\$25,790	\$2,205	1.6%

15

16 If the affordability gap continues to widen as a result of the outcome of this case, families will be
17 forced to make choices about which basic needs they will attempt to satisfy. Families have to do
18 this now at current rates, as seen on page 7 by the number of annual shutoffs. With a rate

1 increase, the magnitude of having to negotiate basic needs will increase and the impact will
2 become greater. The stress of stretching resources will continue to act as a barrier to increasing
3 opportunity and reaching self-sufficiency. For those who have made strides in increasing their
4 incomes, they will have to take two or three steps back and some back to where they started in
5 the income versus basic needs equation. The rate increase will create a barrier but it will also
6 create a situation where relief agencies will not be able to come close to providing assistance that
7 will really matter.

8 In the case of the rate increase, this proposal is too high and cannot be afforded by those with
9 limited or fixed incomes. This is evident in that at current rates and fees, the affordability gap
10 already exists. I am encouraging Kentucky American Water Company and the Commission to
11 reconsider the increase set forth in this filing.

12 **Q. What do you propose the solution in this case?**

13 A. Regardless of the size of the increase in rates, low-income people already experience an
14 affordability gap. While asking for the Company's rate increase proposal to be denied in full or
15 in part, I am encouraging Kentucky American Water Company and the Commission to
16 restructure the Company's rates to reflect customer usage. A graduated or tiered rate structure,
17 which provides an initial amount of water at free or very low cost and then charges more as
18 consumption levels increase would benefit all customers – especially those on low or fixed-
19 incomes – by giving them more control over their monthly water costs. These rates would
20 determine a minimum amount of life-sustaining water a household needs and then customers
21 would receive that basic amount of water at a free or substantially reduced rate. A next tier of
22 consumption would cost more followed by third or more tiers at which the cost increases in
23 proportion to usage. The Council would be glad to work closely with the Commission, the

1 Company, the Attorney General and any other appropriate parties in order to design such a
2 graduated rate program and has previously proposed this solution informally.

3 While such a rate structure is favorable for all customers as a way to control costs and
4 incentivize conservation, it is especially preferable for low-income customers because of the
5 impossible decisions they often face when choosing whether to pay for housing, medicine, food
6 and other basic necessities. With graduated rates, the customer could reduce his water costs
7 substantially and control those costs more easily.

8 **Q. Is it Kentucky American Water Company's responsibility to work toward solutions**
9 **that impact the lives of low-income people for the positive?**

10 A. As a public utility, Kentucky American Water Company has an obligation to its low-
11 income customers. It is the only choice for water service. Low-income people cannot shop
12 around for a better deal.

13 **Q. How does Kentucky American Water Company's current safety net assistance**
14 **program work?**

15 A. The current Help to Others Program is available to households with incomes up to 150%
16 of federal poverty guidelines and provides assistance for water service, activation fees and
17 reactivation fees. Applicants must provide proof of income for all adults in the home and the
18 Kentucky American Water Company bill must be in the applicant's or a household member's
19 name.

20 Participants currently can receive up to \$100 per fiscal year to pay water portion of the bill if
21 they are in danger of having their water disconnected. Staff provides information on saving water
22 and detecting leaks. In some cases, the \$100 annual limit is inadequate because low-income
23 customers in aging homes or rental units have had an undetected water leak.

1 Under Help to Others, Kentucky American Water customers also may contribute to the program
2 through their monthly bills. (The program does not pay sewage and landfill expenses, though
3 some communities (Fayette especially) have other assistance available for that portion of their
4 bill).

5 **Q. Are resources for water service assistance sufficient to meet the needs of the**
6 **population in the Kentucky American Water Company service territory? Please discuss.**

7 A. No, resources are not sufficient to meet the needs of the population. Unlike energy
8 assistance, for which federal LIHEAP funding, local public and private funding, and utility-
9 supported programs are available, there are few options available to households needing
10 assistance with their water bill. The Council has access to only a few thousand dollars in private
11 donor funds that could be used each year for water assistance and these funds must serve the
12 needs of all of the organization's more than 30,000 annual program participants. No significant
13 resource is available beyond the Help To Others Program described earlier in this testimony.

14 In order to increase from serving only a fraction of the number of households unable to pay their
15 bills, the Council would need a substantial increase in funds available for the Help to Others
16 program. The Council has proposed a change in the rate structure as an alternative to increased
17 contributions from the Company and its customers.

18 **Q. In summary, please state your position regarding Kentucky American Water**
19 **Company's proposed rate increase and your recommendations regarding the same.**

20 A. The rate increase is too high and will negatively affect the ability of low-income
21 customers to pay for essential services. Without additional means of support like graduated
22 rates, the affordability gap will be greater and continue to grow.

23 **Does this end your direct testimony?**

24 Yes

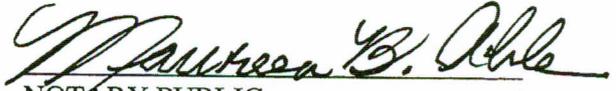
VERIFICATION

I have read the above questions and answers and I affirm that they are correct to the best of my information and belief.


JACK E. BURCH

COMMONWEALTH OF KENTUCKY)
COUNTY OF FAYETTE)

Subscribed to and sworn to before me by Jack E. Burch on the 9th day of June, 2010.


NOTARY PUBLIC
My commission expires: 6/25/2013

CERTIFICATE OF SERVICE

I hereby certify that CAC's June 10, 2010 electronic filing is a true and accurate copy of the Pre-Filed Testimony of Jack E. Burch on Behalf of CAC to be filed in paper medium; and that on June 10, 2010 the electronic filing has been transmitted to the Commission, an original and one copy of the filing will be delivered to the Commission, and electronic mail notification of the electronic filing is provided to the following:

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